



**WINCHESTER COMMON COUNCIL
ROUSS CITY HALL
15 NORTH CAMERON STREET, WINCHESTER
OCTOBER 27, 2015
AGENDA
6:00 PM**

CALL TO ORDER AND ROLL CALL

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Motion to approve the minutes from the October 13, 2015, Regular Meeting and the October 13, 2015, Work Session.

REPORT OF THE MAYOR

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

1. PUBLIC HEARINGS

- 1.1. **O-2015-23:** Second Reading - AN ORDINANCE TO AMEND ARTICLE IX OF THE WINCHESTER CITY CODE PERTAINING TO ASSEMBLIES, DEMONSTRATIONS AND PARADES **(REQUIRES ROLL CALL VOTE)**
- 1.2. **O-2015-22:** Second Reading - 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. RZ-15-421 **(REQUIRES ROLL CALL VOTE)**
- 1.3. **O-2015-25:** Public Hearing - AN ORDINANCE TO VACATE A PORTION OF WEST COMMERCIAL STREET RIGHT OF WAY AND CONVEY IT TO THE OWNER(S) OF 143 WEST COMMERCIAL STREET AND 206 WEST WYCK STREET SV-15-448

2. PUBLIC COMMENTS

3. CONSENT AGENDA

- 3.1.R-2015-35:** Approval of Tevis Street Extension Project
- 3.2.R-2015-36:** Resolution Approving the Design of the New Welcome to Winchester Gateway Signs
- 3.3.**Motion to reappoint Kevin Wolfe as a member of the Frederick-Winchester Service Authority for a three year term ending August 31, 2018.
- 3.4.**Motion to reappoint Bill Pifer as a member of the Winchester Regional Airport Authority to a four year term ending June 30, 2019.
- 3.5.**Motion to reappoint David Cavallaro as a member of the Old Town Development Board for a three year term ending October 31, 2018.

4. AGENDA

- 4.1.O-2015-26:** First Reading - 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. (The Amendment Creates Additional Definitions, Use Allowances, Parking Requirements, and Operational Standards for Breweries, Distilleries, Wineries and Related Uses).
- 4.2.**Motion to appoint _____, _____, and _____ as In House Viewers for O-2015-25: AN ORDINANCE TO VACATE A PORTION OF WEST COMMERCIAL STREET RIGHT OF WAY AND CONVEY IT TO THE OWNER(S) OF 143 WEST COMMERCIAL STREET AND 206 WEST WYCK STREET SV-15-448

5. EXECUTIVE SESSION

- (1) 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 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 Specifically including but not limited to current Winchester Circuit Court cases Jennifer Joyce Courtenay v. City of Winchester, and Henschel et. al. v. City of Winchester, AND
- (2) PURSUANT TO §2.2-3711(A)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT,

APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS, Specifically including but not limited to a disciplinary matter involving a City employee based on performance concerns and employment of a public officer, AND

- (3) PURSUANT TO 2.2-3711(A)(29) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION OF THE AWARD OF A PUBLIC CONTRACT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING INTERVIEWS OF BIDDERS OR OFFERORS, AND DISCUSSION OF THE TERMS OR SCOPE OF SUCH CONTRACT, WHERE DISCUSSION IN AN OPEN SESSION WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE PUBLIC BODY. Specifically including but not limited to RFP #201423

6. ADJOURNMENT

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 27, 2015

RESOLUTION ___ ORDINANCE DESCRIPTION/PRESENTATION ___

ITEM TITLE: An Ordinance to Amend Article Ix of the Winchester City Code Pertaining to Assemblies, Demonstrations and Parades

PUBLIC HEARING DATE:

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. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Kevin Sanzenbacher	Completed	09/03/2015 3:17 PM
Anthony Williams	Completed	09/10/2015 12:37 PM
Eden Freeman	Completed	09/15/2015 5:44 PM

Approved as to form:

Kevin Sanzenbacher
Kevin Sanzenbacher, Chief of Police 9/3/2015

By: 
Winchester office of the city attorney Virginia
 Anthony C. Williams, City Attorney
 Office of the City Attorney
 15 N. Cameron Street, Suite 313
 Winchester, VA 22601
 Phone: 540-667-1815, x 1433
 Fax: 540-667-2259


Eden Freeman, City Manager 9/15/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Kevin Sanzenbacher, Chief of Police
Date: October 27, 2015
Re: An Ordinance to Amend Article IX of the Winchester City Code Pertaining to Assemblies, Demonstrations and Parades

THE ISSUE: Currently there is no means to regulate film and video production that occurs on City streets or property to insure that the interests of the public are not disrupted due to traffic interruptions or unsafe behavior. The proposed change in Article IX - Assemblies, Demonstrations and Parades will require that film/video companies seek a Special Event permit from the Police Department prior to starting activity.

RELATIONSHIP TO STRATEGIC PLAN: Goal 2: Promote and Accelerate Revitalization of catalyst and other areas throughout the City AND Goal 3: Advance the Quality of Life for Winchester Residents.

BACKGROUND: The City has recently received several requests to be the location for filming of TV shows or movies. These productions have the potential to consume City resources, especially if they require road closures and police protection as part of the production. The proposed change in Article IX will require that film/video companies seek a Special Event permit from the City prior to starting activity.

Through this process we can insure that all impacted City entities are aware of the issues and that proper resources can be allocated to deal with any potential disruptions. This process also insures that adequate insurance is provided to the City by the requester to make sure the City is covered for any damages that may ensue.

BUDGET IMPACT: The impact on the budget is unknown until we see what sort of activity is generated from these productions. However, if the City bills for services provided then the impact should be negligible.

OPTIONS: Leave the ordinance as is and take no action to regulate these activities or seek other means of controlling this activity.

RECOMMENDATIONS: Staff recommends the Council adopt the changes as proposed.

**AN ORDINANCE TO AMEND ARTICLE IX OF THE WINCHESTER CITY CODE
PERTAINING TO ASSEMBLIES, DEMONSTRATIONS AND PARADES**

WHEREAS, Winchester Police Department recognizes that current ordinance, Article IX may not be adequate to deal with TV and film productions; and

WHEREAS, it is the belief of the City that the proposed amendments will allow the City to control this activity through the Special Event process; and

WHEREAS, implementation of the proposed changes will help protect the City and its residents from disruption and liability; and

WHEREAS, Common Council for the City of Winchester believes that the implementation of such changes will be of benefit to the citizens of the City of Winchester.

NOW therefore be it ORDAINED that Article IX of the Winchester City Code is hereby adopted as follows:

**ARTICLE IX. ASSEMBLIES, DEMONSTRATIONS
AND PARADES**

SECTION 14-146. PURPOSE.

14 - 46 MOTOR VEHICLES AND TRAFFIC

Pursuant to the authority granted to the city by the Code of Virginia and its general police powers, the city does hereby adopt the following sections in order to provide for the public health, safety and general welfare in the city, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public and otherwise to regulate and control the time, place and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the city while also encouraging the exercise of the rights to free speech and assembly in the city. The City Manager and their designee, including but not limited to the Winchester Police Department, are hereby authorized to administer the provisions of this Ordinance including the authority to authorize the limited use of City property for video or film production conducted for commercial purposes. (Ord. No.19-2006, 5-3-2006)

SECTION 14-147. DEFINITIONS.

The following terms shall have the meanings set out herein:

(a) Parade means any march, demonstration, procession or motorcade consisting of people, animals, or vehicles, or a combination thereof upon the streets, sidewalks or other public areas within the city with an intent or likely effect of attracting public attention that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property.

(B) Public assembly means any meeting, demonstration, picket line, rally or gathering of

more than ten (10) people for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property within the city or that interferes with or has a tendency to interfere with the normal use of any public property in a place open to the general public.

- (C) “Spontaneous event” shall mean an unplanned or unannounced coming together of people, animals or vehicles in a parade or public assembly which was not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs first coming into public knowledge within five (5) days of such parade or public assembly.
- (D) “Special Event” means any “Public Assembly” which occurs upon City property or that requires the closure of City streets, sidewalks or parks or where it is anticipated that over twenty-five (25) people may gather and participate, or which requires licenses and permits by City departments beyond the assembly permit required by this Section or where video or film production are conducted for commercial purposes. This may include but is not limited to fairs, festivals, carnivals, sporting events, foot runs, markets, dances, and exhibitions.

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 27, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: 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.

PUBLIC HEARING DATE: October 27, 2015 at 12:00 AM

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. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Josh Crump	Completed	09/15/2015 4:22 PM
Anthony Williams	Completed	09/17/2015 10:21 AM
Eden Freeman	Completed	09/17/2015 12:24 PM

Approved as to form:

Josh Crump

Josh Crump, Planner

9/15/2015

By: _____



Winchester
office of the city attorney Virginia

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Winchester, VA 22601
Phone: 540-667-1815, x 1433
Fax: 540-667-2259


Eden Freeman, City Manager 9/17/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Josh Crump, Planner
Date: October 27, 2015
Re: 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.

THE ISSUE:

This is a city-initiated rezoning to establish the boundaries of the National Avenue Corridor Enhancement District that was created by City Council in 2005.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #2: Promote and accelerate revitalization of catalyst and other areas throughout the city

BACKGROUND:

See Attached Staff Report

BUDGET IMPACT:

N/A

OPTIONS:

1. Approve as recommended by Planning Commission
2. Table request
3. Deny request

RECOMMENDATIONS:

Approve as recommended by Planning Commission

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.

WHEREAS, the Planning Commission resolved at its August 18, 2015 meeting to initiate the rezoning of this land as a publicly sponsored rezoning; and,

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.

WHEREAS, the Planning Commission forwarded the request to Council on September 15, 2015 recommending approval of the rezoning as depicted on an exhibit entitled

“NATIONAL AVE PROPOSED CE DISTRICT” PREPARED BY WINCHESTER PLANNING DEPARTMENT ON 6/23/2015” because the request is consistent with the Comprehensive Plan and protects and promotes the aesthetic character and functionality of a major tourist access corridor leading into the designated local (HW) and National Historic Winchester District, and as such, represents good planning practice ; and,

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.

City Council Work Session
 September 22, 2015

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.

REQUEST DESCRIPTION

This publicly sponsored rezoning request is to apply the Corridor Enhancement (CE) District to approximately 16.4 acres (part or all of 96 parcels) comprising land along National Avenue, a key tourist entry route connecting to Virginia State Route 7 Corridor and Exit 315 of Interstate 81. The standards and guidelines for the National Avenue CE Overlay District were unanimously approved by Council on April 12, 2005, and are intended to protect and promote major tourist access routes in the City.

AREA DESCRIPTION

The area of this rezoning (depicted within the blue outline in the image below) is primarily along National Avenue corridor beginning at the intersection of North Pleasant Valley Rd and Berryville Avenue and continues westward along both sides of National Avenue including the new traffic circle to East Piccadilly Street.



The underlying zoning of the affected area is majority zoned Limited High Density (HR-1) Residential District with a mix of Highway Commercial (B-2) District and Central Business (B-1) District. The corridor is mostly residential use, with single family, single family attached, and multifamily dwellings. A large stretch of National Avenue also includes EIP zoned land which is the Winchester National Cemetery.

The following parcels are to be rezoned:

Number	Street	Current	Proposed
209	N EAST LANE	B1	B1(CE)
211-213	N EAST LANE	B1	B1(CE)
212	N EAST LANE	HR1	HR1(CE)
214	N EAST LANE	HR1	HR1(CE)

Attachment: Staff Report RZ-15-421 (O-2015-22 : RZ-15-421 National Avenue Corridor Enhancement)

Number	Street	Current	Proposed
215	N EAST LANE	HR1	HR1(CE)
219	N EAST LANE	HR1	HR1(CE)
221	N EAST LANE	HR1	HR1(CE)
223	N EAST LANE	HR1	HR1(CE)
255	EAST STREET	HR1	HR1(CE)
208	E FAIRFAX LANE	HR1	HR1(CE)
232	E FAIRFAX LANE	HR1	HR1(CE)
236	E FAIRFAX LANE	HR1	HR1(CE)
237	E FAIRFAX LANE	HR1	HR1(CE)
238	E FAIRFAX LANE	HR1	HR1(CE)
239	E FAIRFAX LANE	HR1	HR1(CE)
241	E FAIRFAX LANE	HR1	HR1(CE)
243	E FAIRFAX LANE	HR1	HR1(CE)
245	E FAIRFAX LANE	HR1	HR1(CE)
247	E FAIRFAX LANE	HR1	HR1(CE)
300	NATIONALAVE	HR1	HR1(CE)
301-303	NATIONALAVE	HR1	HR1(CE)
302	NATIONALAVE	HR1	HR1(CE)
305	NATIONALAVE	HR1	HR1(CE)
306	NATIONALAVE	HR1	HR1(CE)
307	NATIONALAVE	HR1	HR1(CE)
310	NATIONALAVE	HR1	HR1(CE)
311	NATIONALAVE	HR1	HR1(CE)
314	NATIONALAVE	HR1	HR1(CE)
315	NATIONALAVE	HR1	HR1(CE)
316	NATIONALAVE	HR1	HR1(CE)
317	NATIONALAVE	HR1	HR1(CE)
319	NATIONALAVE	HR1	HR1(CE)
320	NATIONALAVE	HR1	HR1(CE)
321-323	NATIONALAVE	HR1	HR1(CE)
322	NATIONALAVE	HR1	HR1(CE)
324-326	NATIONALAVE	HR1	HR1(CE)
325	NATIONALAVE	HR1	HR1(CE)
327	NATIONALAVE	HR1	HR1(CE)
329-331	NATIONALAVE	HR1	HR1(CE)
333-335	NATIONALAVE	HR1	HR1(CE)
339	NATIONALAVE	HR1	HR1(CE)
340	NATIONALAVE	HR1	HR1(CE)
342	NATIONALAVE	HR1	HR1(CE)
344	NATIONALAVE	HR1	HR1(CE)
346-348	NATIONALAVE	HR1	HR1(CE)
347	NATIONALAVE	HR1	HR1(CE)
349	NATIONALAVE	HR1	HR1(CE)

Number	Street	Current	Proposed
350-352	NATIONALAVE	HR1	HR1(CE)
351	NATIONALAVE	HR1	HR1(CE)
355	NATIONALAVE	HR1	HR1(CE)
356	NATIONALAVE	HR1	HR1(CE)
357-359	NATIONALAVE	HR1	HR1(CE)
358	NATIONALAVE	HR1	HR1(CE)
360	NATIONALAVE	HR1	HR1(CE)
364	NATIONALAVE	HR1	HR1(CE)
365	NATIONALAVE	HR1	HR1(CE)
366	NATIONALAVE	HR1	HR1(CE)
368	NATIONALAVE	HR1	HR1(CE)
370	NATIONALAVE	HR1	HR1(CE)
371	NATIONALAVE	HR1	HR1(CE)
374	NATIONALAVE	HR1	HR1(CE)
375	NATIONALAVE	HR1	HR1(CE)
377	NATIONALAVE	HR1	HR1(CE)
378	NATIONALAVE	HR1	HR1(CE)
381	NATIONALAVE	HR1	HR1(CE)
382	NATIONALAVE	HR1	HR1(CE)
384	NATIONALAVE	HR1	HR1(CE)
386	NATIONALAVE	HR1	HR1(CE)
388	NATIONALAVE	HR1	HR1(CE)
401	NATIONALAVE	EIP	EIP(CE)
402	NATIONALAVE	HR1	HR1(CE)
406	NATIONALAVE	HR1	HR1(CE)
410	NATIONALAVE	HR1	HR1(CE)
416	NATIONALAVE	B2	B2(CE)
421	NATIONALAVE	HR1	HR1(CE)
422	NATIONALAVE	B2	B2(CE)
423	NATIONALAVE	HR1	HR1(CE)
425	NATIONALAVE	HR1	HR1(CE)
428-432	NATIONALAVE	B2	B2(CE)
440-442	NATIONALAVE	B2	B2(CE)
446	NATIONALAVE	B2	B2(CE)
501	NATIONALAVE	HR1	HR1(CE)
503	NATIONALAVE	HR1	HR1(CE)
505	NATIONALAVE	HR1	HR1(CE)
507	NATIONALAVE	HR1	HR1(CE)
509	NATIONALAVE	HR1	HR1(CE)
511	NATIONALAVE	HR1	HR1(CE)
212-214	E PICCADILLY STREET	B1	B1(CE)
216	E PICCADILLY STREET	B1	B1(CE)
222	E PICCADILLY STREET	B1	B1(CE)

Number	Street	Current	Proposed
226	E PICCADILLY STREET	B1	B1(CE)
228-232	E PICCADILLY STREET	B1	B1(CE)
231	E PICCADILLY STREET	B1	B1(CE)
236	E PICCADILLY STREET	B1	B1(CE)
302	E PICCADILLY STREET	HR1	HR1(CE)
304	SMITHFIELD AVE	HR1	HR1(CE)

COMMENTS FROM THE PLANNING DEPARTMENT

The Comprehensive Plan calls for guiding the physical form of development along key tourist entry corridors leading into the City's core historic district by utilizing a combination of standards and guidelines. In 2013, City Council adopted a Strategic Plan which called for City Gateway Beautification in order to improve designated "city gateways" and to meet the goal of Creating a More Livable City for All. One gateway that was identified was the National/Piccadilly/East Lane intersection. A realignment project for this intersection was proposed and approved in 2014 for a roundabout design as a traffic calming device and gateway enhancement for the corridor. Work began on the roundabout in May 2015 and completed in August 2015, the National Avenue roundabout was completed. City staff felt with the opening of the roundabout, this was an opportune time to implement the National Avenue Corridor Enhancement.

Council has previously approved CE Districts for Berryville Avenue, Valley Avenue, Amherst Street, Cedar Creek Grade, and portions of S. Pleasant Valley Rd and E. Cork Street. Other CE Districts for which standards and guidelines are already adopted, but for which the overlay rezoning has not taken place include: Millwood Avenue, Fairmont Avenue, and N. Loudoun Street. The overlay CE zoning for the northernmost section of Valley Avenue has not been adopted yet either.

THE DISTRICT

Corridor Enhancement Overlay Districts provide guidelines and regulations for building aesthetics and site features; **it does not change the underlying zoning that regulates land use**. Some examples of CE standards include: building orientation, roof treatments, wall treatments, and placement of mechanical units. It guides any proposed exterior changes or new construction on a mixture of commercial and residentially-used land. The attached map depicts the specific boundaries of the district. Information outlining the standards and guidelines specific to National Avenue are available in the Planning Office as well as on the City's website. There is also a matrix offering a general overview of the CE District provisions citywide.

DEVELOPING THE BOUNDARY

The boundary was developed to include all properties fronting upon the State Route 7 corridor between the portion already included in the Berryville Avenue CE district on the east end and the existing Historic Winchester (HW) District on the west end. Some properties along E. Fairfax Lane were included as well since they are within the viewshed for tourists entering into the historic district along the Rte 7 corridor.

Along the north side of National Avenue, the proposed CE districts extends back between 150 and 160 feet from National Avenue in most areas. This generally coincides with the rear lot line of most parcels although the rear area of the commercially-zoned Smalts property is not included as well as two deeper residential lots further to the west of Smalts.

Along the south side of National Avenue, the proposed district extends approximately 116 feet which is generally in line with the rear property lines adjoining rear alleys in most cases, including those adjoining

Jolley Lane (a public alley). The portion of National Cemetery included within the district coincides with the 116 foot depth applicable to the residential properties to the east and west. This places the cemetery office building within the district, but only a small portion of the cemetery otherwise. National Cemetery itself is a National Register historic resource which draws visitors to the community and further warrants protections offered with the CE district overlay zoning. A state historic marker on the opposite side of the street denotes the location of the Out-lot purchased by George Washington in conjunction with his purchase of an In-lot in the downtown area.

CITIZEN COMMENTS

Staff held a public information session on Thursday August 13, 2015 and received a couple of inquiries, but nobody has expressed either strong support or opposition to the specific overlay zoning request.

RECOMMENDATION

At its September 15, 2015 meeting, the Commission forwarded Rezoning **RZ-15-421** to City Council recommending approval because the request is consistent with the Comprehensive Plan and protects and promotes the aesthetic character and functionality of a major tourist access corridor leading into the designated local (HW) and National Historic Winchester District, and as such, represents good planning practice.

RESOLUTION RZ-15-421
NATIONAL AVENUE CORRIDOR ENHANCEMENT DISTRICT

September 15, 2015

WHEREAS, the Planning Commission resolved at its August 18, 2015 meeting to initiate the rezoning of this land as a publicly sponsored rezoning; and,

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,

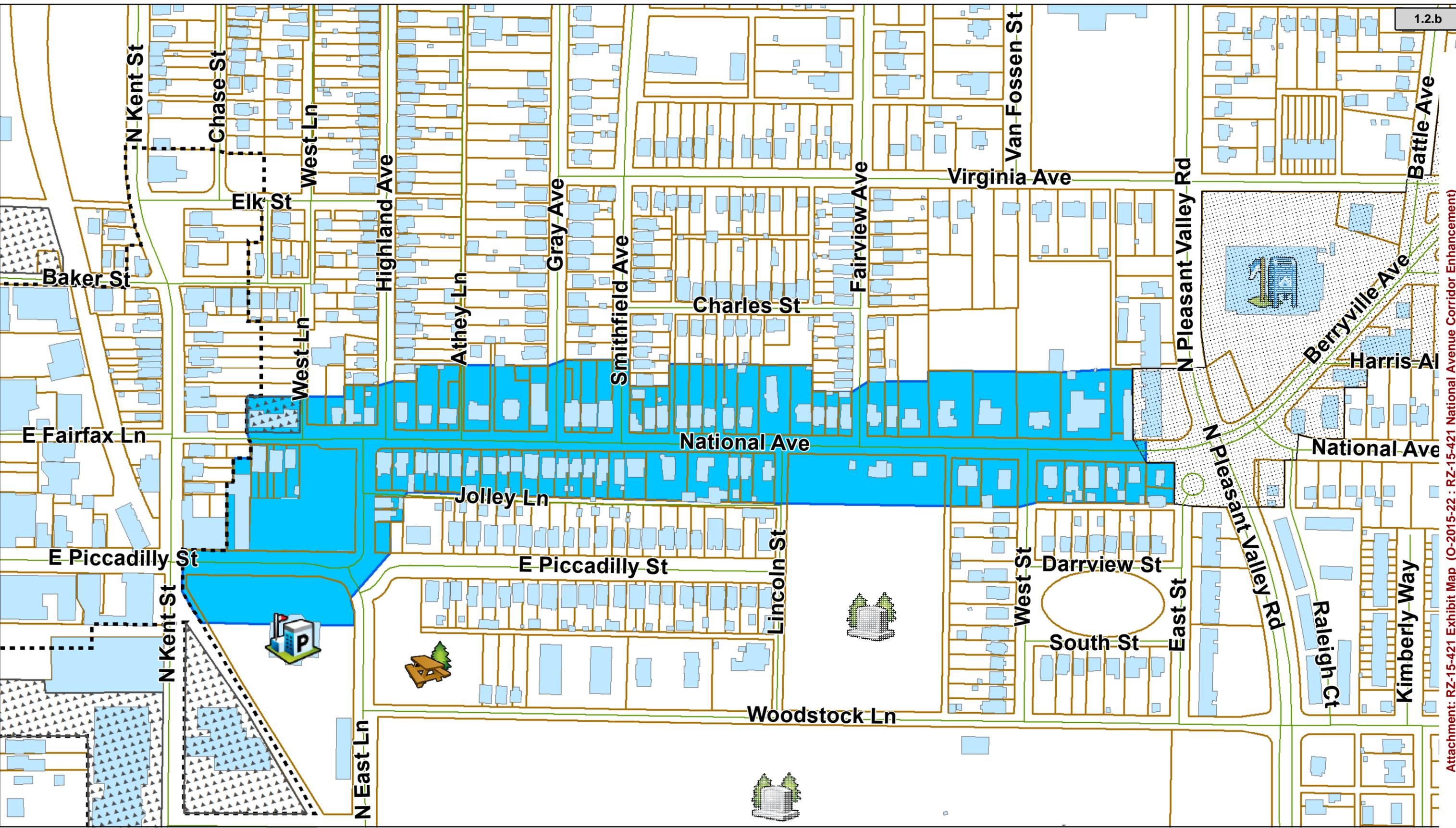
WHEREAS, the Planning Commission has identified properties along the National Avenue Corridor from North Kent Street to East Street that are suitable for inclusion in the Corridor Enhancement District; and,

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

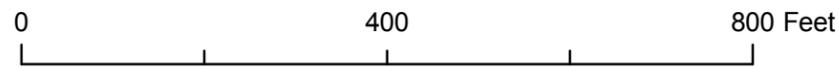
WHEREAS, the Planning Commission forwarded the request to Council on September 15, 2015 recommending approval of the rezoning as depicted on an exhibit entitled "*NATIONAL AVE PROPOSED CE DISTRICT*" PREPARED BY WINCHESTER PLANNING DEPARTMENT ON 6/23/2015" because the request is consistent with the Comprehensive Plan and protects and promotes the aesthetic character and functionality of a major tourist access corridor leading into the designated local (HW) and National Historic Winchester District, and as such, represents good planning practice ; and,

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.



Attachment: RZ-15-421 Exhibit Map (O-2015-22 : RZ-15-421 National Avenue Corridor Enhancement)



National Ave Proposed CE District

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



CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 27, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: An Ordinance to Vacate a Portion of West Commercial Street Right of Way and Convey it to the Owner(S) of 143 West Commercial Street and 206 West Wyck Street Sv-15-448

PUBLIC HEARING DATE: October 27, 2015 at 6:00 PM

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. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Josh Crump	Completed	09/16/2015 12:00 PM
Anthony Williams	Completed	09/17/2015 1:55 PM
Eden Freeman	Completed	09/17/2015 4:35 PM

Approved as to form:

Josh Crump

Josh Crump, Planner

9/16/2015

By:



Winchester
office of the
city attorney
Virginia

Anthony C. Williams, City Attorney
Office of the City Attorney
15 N. Cameron Street, Suite 313
Winchester, VA 22601
Phone: 540-667-1015, x 1433
Fax: 540-667-2259


Eden Freeman, City Manager

9/17/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Josh Crump, Planner
Date: October 27, 2015
Re: An Ordinance to Vacate a Portion of West Commercial Street Right of Way and Convey it to the Owner(S) of 143 West Commercial Street and 206 West Wyck Street Sv-15-448

THE ISSUE:

The request from Green Chemical Company, Inc is to vacate and convey a short segment of public right-of-way off West Commercial Street.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #2- Promote and accelerate revitalization of catalyst and other areas throughout the city

BACKGROUND:

See attached staff report

BUDGET IMPACT:

Nominal revenue from sale of vacated right of way.

OPTIONS:

1. Approve as recommended by Planning Commission
2. Approve with modifications
3. Deny

RECOMMENDATIONS:

Recommend Option 1

**AN ORDINANCE TO VACATE A PORTION OF WEST COMMERCIAL STREET
RIGHT OF WAY AND CONVEY IT TO THE OWNER(S) OF 143 WEST
COMMERCIAL STREET AND 206 WEST WYCK STREET SV-15-448**

WHEREAS, the Common Council has received a request of Mr. Benjamin M. Butler on behalf of Green Chemical Company, Inc., for the City of Winchester, owners of certain public right-of-way along West Commercial Street, to vacate and convey a portion of public right-of-way along West Commercial Street to Green Chemical Company, Inc. depicted on the July 2, 2015 exhibit entitled "Exhibit Showing Proposed Boundary Line Adjustment of Green Chemical Company, Inc."; 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 September 15, 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 143 West Commercial Street and 206 West Wyck Street immediately adjacent to the north side of the public right of way proposed to be vacated and conveyed; and,

WHEREAS, the City of Winchester, owner of the public right-of-way along West Commercial Street proposed to be vacated and conveyed has no objection to the vacation and conveyance to the owner at 143 West Commercial Street and 206 West Wyck Street; and,

WHEREAS, the Common Council has agreed to convey the vacated alley right of way to the applicant for **Two Dollars and Fifty Cents (\$2.50)** per square foot subject to the applicant establishing necessary easements to the City of Winchester to be depicted upon a survey plat and subject to landscape improvements being undertaken along the Commercial Street frontages of 143 W. Commercial Street and 206 W. Wyck Street by the grantee.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that the public alley right of way depicted on the July 2, 2015 exhibit entitled "Exhibit Showing Proposed Boundary Line Adjustment of Green Chemical Company, Inc." be vacated and conveyed to Green Chemical Company, Inc. subject to the applicant establishing necessary easements to the City of Winchester and subject to landscape improvements being undertaken along the Commercial Street frontages of 143 W. Commercial Street and 206 W. Wyck Street by the grantee.

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 143 West Commercial Street and 206 West Wyck Street , with the sale price for the vacated 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.

Benjamin M. Butler, P.L.C.

112 South Cameron Street
P. O. Drawer 830
Winchester, Virginia 22604-1297
(540) 662-3486
Facsimile (540) 722-3787
E-Mail: bmblaw1@comcast.net
bmblaw2@comcast.net

Peter K. McKee (1934-1967)
Benjamin M. Butler

August 4, 2015

Attn: Timothy Youmans, City Planner
City of Winchester Planning Department
Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

IN RE: Green Inc.
MY FILE NO. 2014-0017

Dear Mr. Youmans:

This letter is written in support of the right-of-way vacation application made by Green Inc. for other property along the south side of West Commercial Street near its intersection with Fairmont Avenue in the City of Winchester, Virginia.

It has been determined by surveyor, Marsh & Legge Land Surveyors, PLC, that Tax Parcel 153-01-1-4 does not front on West Commercial Street but rather there is a strip of land, six feet in width, not needed by the City of Winchester for Commercial Street, which is generally 50 feet wide at all locations until it fronts on Tax Parcel 153-01-1-6 and Tax Parcel 153-01-1-4.

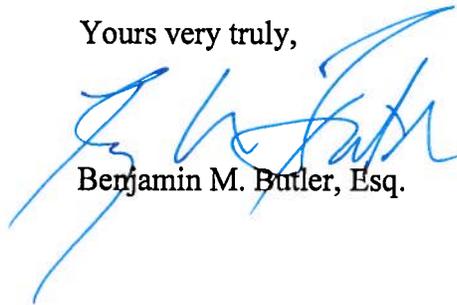
It is therefore proposed that the City of Winchester vacate and transfer to Green Inc. the land containing 0.0216 acres along and contiguous with the northern boundary of Tax Parcel 153-01-I-4, as well as the 0.0090 acres contiguous along the northern boundary of Green Inc., Tax Parcel 153-01-I-6, and a third piece, which is 0.0006 acres along northwest Tax Parcel 153-01-I-3. All of the above tax parcels are owned by Green Inc. and will assist it in becoming less non-conforming with reference to its property known as Tax Parcels 13-01-I-3 and 153-01-I-6.

Attached hereto is the plat drawn by Marsh & Legge dated July 2, 2015, which shows in red the line of the property to be determined to be excess lands for the City of Winchester and the blue line which indicates the line to be created. If the City of Winchester agrees to convey these three small strips of land totaling 0.0212 acres, Green Inc. will then be in a position to boundary adjust tax parcels 153-01-I-3 and 153-01-I-6 to allow Green Inc. to sell the property at 143 and 151 West Commercial Street to the Whittington's who operate the Doyle's Equipment Company.

Mr. Timothy Youmans
August 4, 2015
Page 2

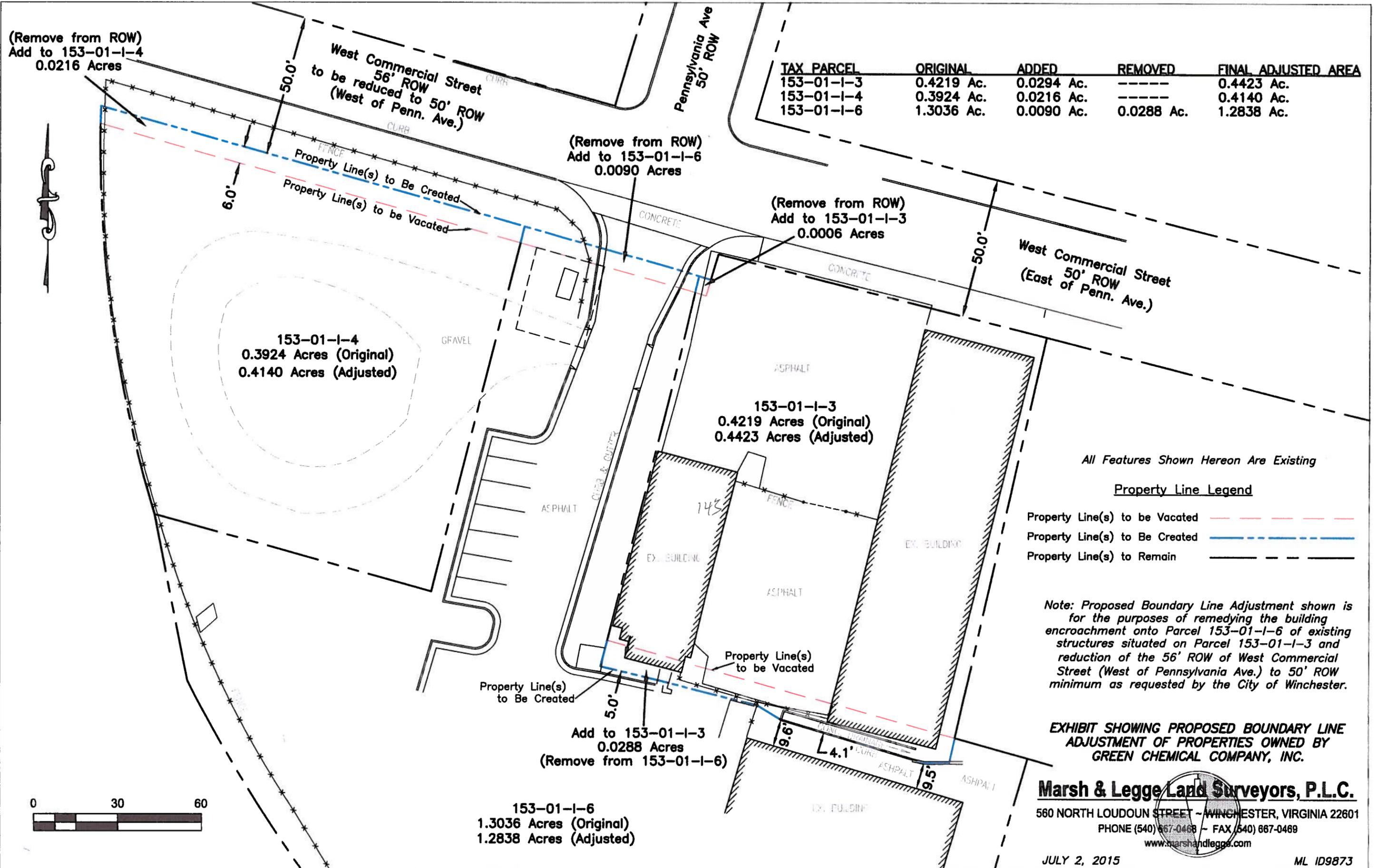
Attached hereto as Exhibit #2 is the letter from the surveyors, Marsh & Legge Land Surveyors, P.L.C., dated May 21, 2015 which made the determination that the land is owned by the City of Winchester. Also attached as Exhibit #3 are the Deeds upon which the surveyor relies to make the determination of title in the City of Winchester.

Yours very truly,

A handwritten signature in blue ink, appearing to read "B. M. Butler", is written over the typed name.

Benjamin M. Butler, Esq.

BMB/hp
Enclosures
cc: Green Inc. c/o Liz White via email



TAX PARCEL	ORIGINAL	ADDED	REMOVED	FINAL ADJUSTED AREA
153-01-1-3	0.4219 Ac.	0.0294 Ac.	-----	0.4423 Ac.
153-01-1-4	0.3924 Ac.	0.0216 Ac.	-----	0.4140 Ac.
153-01-1-6	1.3036 Ac.	0.0090 Ac.	0.0288 Ac.	1.2838 Ac.

153-01-1-4
0.3924 Acres (Original)
0.4140 Acres (Adjusted)

153-01-1-3
0.4219 Acres (Original)
0.4423 Acres (Adjusted)

153-01-1-6
1.3036 Acres (Original)
1.2838 Acres (Adjusted)

All Features Shown Hereon Are Existing

Property Line Legend

- Property Line(s) to be Vacated ---
- Property Line(s) to Be Created ---
- Property Line(s) to Remain ---

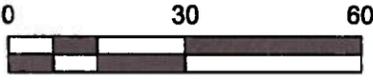
Note: Proposed Boundary Line Adjustment shown is for the purposes of remedying the building encroachment onto Parcel 153-01-1-6 of existing structures situated on Parcel 153-01-1-3 and reduction of the 56' ROW of West Commercial Street (West of Pennsylvania Ave.) to 50' ROW minimum as requested by the City of Winchester.

EXHIBIT SHOWING PROPOSED BOUNDARY LINE ADJUSTMENT OF PROPERTIES OWNED BY GREEN CHEMICAL COMPANY, INC.

Marsh & Legge Land Surveyors, P.L.C.
560 NORTH LOUDOUN STREET - WINCHESTER, VIRGINIA 22601
PHONE (540) 667-0468 - FAX (540) 667-0469
www.marshandlegge.com

JULY 2, 2015

ML ID9873



MARSH & LEGGE LAND SURVEYORS, P.L.C.

560 North Loudoun Street, Winchester, VA 22601 ■ 540-667-0468 ■ Fax: 540-667-0469 ■ E-mail: office@marshandlegge.com

May 21, 2015

Benjamin M. Butler, Esquire
Attorney at Law
112 South Cameron Street
Winchester, Virginia 22601

Re: Green Chemical – Doyle's Equipment
City of Winchester, Virginia
M & L Project No. 9873

Dear Mr. Butler:

Enclosed with this letter you will find one copy of our exhibit plat showing the Green Chemical Company properties that are being conveyed to the Whittington's known as Doyle's Equipment Company.

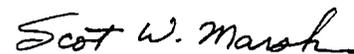
Based on our meeting with Tim Youmans of the City of Winchester and Ron Mislowsky, P.E., we have completed additional deed research and survey for the Commercial Street right of way line and for the property line adjustment along the rear of the Doyle's Equipment property. We have adjusted the property line of the Doyle's Equipment Company lot to provide for a minimum of a four-foot offset from the building. This adjusted boundary line provides for adequate spacing as required by the building inspector for the fire code. The exhibit also presents the distance from the existing Green Chemical Company building to the new adjusted property line which is, at its closest distance, 9.5 feet.

The second item that was discussed with Tim Youmans was the unusual right of way line along West Commercial Street that fronts the property designated as 151 West Commercial Street and the parcel that will be retained by Green Chemical Company. Our deed research revealed that the right of way for Commercial Street is dedicated to the City of Winchester by two separate deeds (see attached deeds and plats). The first deed created Pennsylvania Avenue, which was created prior to Commercial Street (Deed Book 82 – Page 504). The second deed is that portion of Commercial Street from Pennsylvania Avenue west to the railroad and is 56 feet wide (Deed Book 91 – Page 73). Based on this information, we understand that the City would require only a 50-foot wide right of way and, therefore, we have shown a proposed right of way adjustment along the subject parcels that would allow for a 50-foot wide right of way of Commercial Street.

Your review of this information would be helpful. We understand that Ron Mislowsky will be coordinating with you to provide the application for this variance and adjustment of the property line. After the variance has been approved, we will proceed with completing the actual boundary line adjustment plat for the subject parcels.

Should you have any questions, please do not hesitate to call.

Sincerely,



Scot W. Marsh, L.S.

SWM/clh
Enclosures

Copy to: Ronald A. Mislowsky, P.E. (via e-mail)

DB 91 - PG 73

Fred L. Glaize, Jr., et al

TO: DEED

No. 303

City of Winchester, Va.

No Tax

BOOK 91 PAGE 73

THIS DEED made and dated this 12th day of May, 1955, between Fred L. Glaize, Jr. and Elizabeth P. Glaize, his wife; and Philip B. Glaize and Dorothy H. Glaize, his wife, of the one part, hereinafter called the Grantors, and the City of Winchester, Virginia, of the other part, hereinafter called the Grantee.

WITNESSETH: That for and in consideration of the cash sum of Ten (\$10.00) Dollars, and other valuable consideration, receipt whereof is hereby acknowledged, the Grantors do hereby grant and convey with general warranty of title, unto the Grantee, in fee simple, all of that certain strip or parcel of land lying and being situate in the City of Winchester, Virginia, known as Commercial Street, Extended, and more particularly described by plat and survey herewith attached and made a part hereof as if fully incorporated herein, as follows:

"Beginning at a stake at the southwest corner of Pennsylvania Avenue as dedicated by C.A. Pugh; thence with the West property line of Pennsylvania Avenue reversed, N. 22° 36' E. 56 feet to a corner to said Glaize's other land in the West property line of said Avenue; thence with said Glaize's other land N. 68° 02' W. 175.32 feet to a point in the East right of way line of the Pennsylvania Railroad; thence with the East right of way line of said Railroad, S 2° 33' E. 46.42 feet; thence S. 7° 52' E. 16.2 feet to a corner to the warehouse lot; thence with the North line of said lot, S 68° 02' E. 117.3 feet to the beginning," and being a portion of a larger tract of land conveyed to Fred L. Glaize, Jr. and Philip B. Glaize, by Clayton Pugh, et ux, by Deed dated March 4, 1955, recorded in the Clerk's office of the Corporation Court of the City of Winchester, Virginia, in Deed Book 82, page 511, to which reference is made.

Said Grantors covenant that they have a right to convey said property to the Grantee; that said Grantee shall have quiet possession of said land free from all encumbrances and that they will execute such further assurances of said land as may be requisite.

J. RANDOLPH LARRICK

Witness the following signatures and seals this date above written:

Handwritten signatures and seals for Fred L. Glaize, Jr., Elizabeth P. Glaize, Philip B. Glaize, and Dorothy H. Glaize.

Attachment: Additional Materials for SV-15-448 (O-2015-25 : Right-Of-Way Vacation for a Portion of W. Commercial Street (SV-15-448))

DB91-74

STATE OF VIRGINIA,
COUNTY OF Winchester

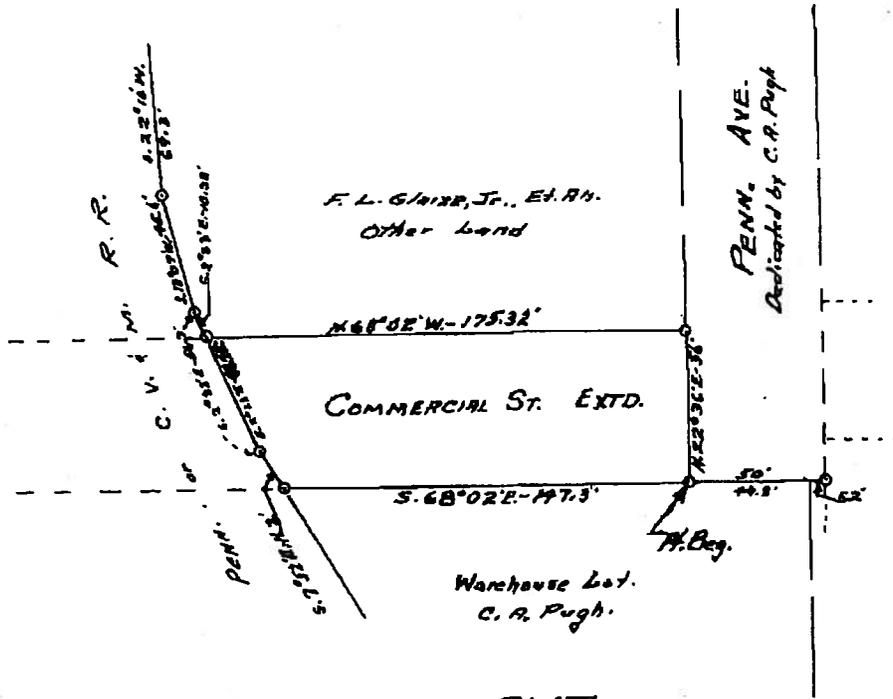
BOOK 91 PAGE 74

I, Ernest M. Turner, a Notary Public in and for the State and County aforesaid, do hereby certify that Fred L. Glaize, Jr. and Elizabeth P. Glaize, his wife, Philip S. Glaize and Dorothy H. Glaize, his wife, whose names are signed to the foregoing writing, bearing date May 12th, 1955, have personally appeared before me and acknowledged the same in my County and State aforesaid.

My commission expires July 12, 1955

Given under my hand this 12th day of May, 1955.

Ernest M. Turner
Notary Public



PLAT
OF
COMMERCIAL ST. EXTD.
MARCH, 1956 - SCALE - 1" = 50'

The following is a description of the above piece or parcel of land now owned by Fred L. Glaize, Jr. et al, and being a part of said land purchased by said Glaize from C. A. Pugh. Said strip of land is for the purpose of extending Commercial Street from Pennsylvania Avenue west to the Pennsylvania Railroad right of way.

"Beginning at a stake at the southwest corner of Pennsylvania Avenue as dedicated by C. A. Pugh, thence with the west property line of Pennsylvania Avenue reversed, N. 22° 36' E. 56 feet to a corner to said Glaize's other land in the west property line of said Avenue; thence with said Glaize's other land N. 68° 02' W. 175.32 feet to a point in the east right of way line of the Pennsylvania Railroad; thence with the east right of way line of said Railroad, S. 20° 33' E. 46.42 feet; thence S. 7° 52' E. 16.2 feet to a corner to the warehouse lot; thence with the north line of said lot, S. 68° 02' E. 147.3 feet to the beginning."

VIRGINIA,
CITY OF WINCHESTER.
This instrument of writing was produced to me on the 23rd day of July, 1958
at 11:30 A.M. and with certificate of acknowledgment thereto annexed was admitted
to record.
[Signature] Clerk.

Attachment: Additional Materials for SV-15-448 (O-2015-25 : Right-Of-Way Vacation for a Portion of W. Commercial Street (SV-15-448))

DBBZ - P6505

was prepared by Lee A. Ebert, Certified Land Surveyor, and is attached to and made a part of this deed.

This is a part of the real property known as the Old Fair Grounds, land, and a part of the land conveyed to Clayton A. Pugh by deed of The Commercial and Savings Bank, of Winchester, Virginia, Administrator, c.t.a. of the estate of Arthur C. Oates, deceased, bearing date January 12, 1954, and of record in the Office of the Clerk of the Corporation Court for the City of Winchester, Virginia, in Deed Book 80, at page 176. Reference is here made to the plat and survey above mentioned, the aforesaid deed, and the references therein contained, for a further and more particular description of the property herein conveyed.

WHEREAS, Clayton A. Pugh and wife executed a deed of trust, bearing date January 14, 1954, of record in the aforesaid Corporation Clerk's Office in Deed Book 80, at page 180, conveying seven parcels of realty (the land herein conveyed being a portion of Parcel 6) to J. Sloan Kuykendall and Henry H. Whiting, Trustees, in trust to secure the payment, principal and interest, of one bond, of even date with the deed of trust, in the principal sum of \$47,000.00, payable to The Handley Board of Trustees, Winchester, Virginia.

IN CONSIDERATION of the payment of One Dollar (\$1) to The Handley Board of Trustees, Winchester, Virginia, and J. Sloan Kuykendall and Henry H. Whiting, Trustees, the receipt of which they do hereby acknowledge, The Handley Board of Trustees, and J. Sloan Kuykendall and Henry H. Whiting, Trustees, at the request and direction of the Handley Board of Trustees, join in the execution of this deed for the purpose of releasing the property hereby conveyed from the lien of said deed of trust, expressly retaining the lien of said deed of trust on the other property therein described.

Witness the signatures and seals of Clayton A. Pugh and Violet D. Pugh; witness the signatures and seals of J. Sloan Kuykendall, Trustee, and Henry H. Whiting, Trustee, and Witness the signature of The Handley Board of Trustees, Winchester, Virginia, by its President, Charles H. Harper, and the Seal of said Board, duly affixed and attested by its Secretary, C. Vernon Eddy.

Clayton A. Pugh (SEAL)

Violet D. Pugh (SEAL)

J. Sloan Kuykendall, Trustee (SEAL)

Henry H. Whiting, Trustee (SEAL)

Corporate seal.

Attest: C. Vernon Eddy, Secretary

The Handley Board of Trustees,
Winchester, Virginia

By Charles H. Harper, President

Approved by Common Council, City of Winchester, Va. March 8, 1955.

S. L. Grant, City Manager.

State of Virginia,

County of Frederick, to-wit:

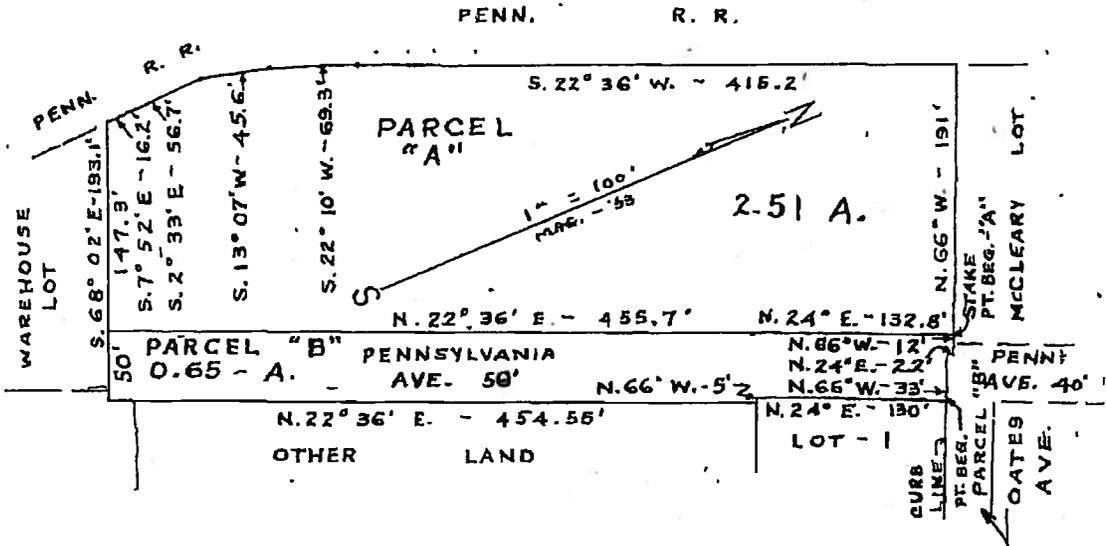
I, Irene H. Clark, a Notary Public in and for the County of Frederick, State of Virginia, hereby certify that Clayton A. Pugh, Violet D. Pugh, his wife, J. Sloan Kuykendall, Trustee, Henry H. Whiting, Trustee, and Charles H. Harper, and C. Vernon Eddy, President and Secretary, respectively, of The Handley Board of Trustees, Winchester, Virginia, whose names are signed to the foregoing and annexed writing bearing date on the 4th day of March, 1955, each has this day personally appeared before me and acknowledged the same in my County and State aforesaid.

My commission as Notary Public expires August 18, 1957.

Attachment: Additional Materials for SV-15-448 (O-2015-25 : Right-Of-Way Vacation for a Portion of W. Commercial Street (SV-15-448))

Given under my hand this 4th day of March, 1955.

Irene H. Clark, Notary Public.



The above plat is a survey of Two Parcels of the Old Fairgrounds land.

The said land lies in the northern section of the city of Winchester, Virginia;

PARCEL "A"-2.51 Acres: Beginning at a stake in the southern line of the McCleary Lot fronting Pennsylvania Avenue, the said stake being located by measuring 25 ft. westwardly along the said line from the center line of Pennsylvania Avenue, running with the said line N 66° W-191 ft. to a stake in the eastern right-of-way line of the Pennsylvania Railroad; thence with the five following Right-of-Way lines S 22° 36' W- 415.2 ft; thence S. 22° 10' W-69.3 ft; thence S. 13° 07' W-45.6 ft; thence S. 2° 33' E-56.7 ft; thence S. 7° 52' E -16.2 ft to a stake corner to the Warehouse Lot; thence with a line of the said Lot S. 68° 02' E- 147.3 ft. to a stake corner to Parcel "B"; thence with the two following lines of the said Parcel N 22° 36' E-455.7 ft; thence N. 24° E -132.8 ft to the beginning.

PARCEL "B"-0.65 Acres: Beginning at a point in the southern curb line of Oates Avenue, the said point being located by measuring 20 ft. eastwardly along the said line from the center line of Pennsylvania Avenue, running with the said line N 66° W- 33 ft; thence N. 24° E-2.2 Ft; thence N 66° W; 12 ft to a stake corner to Parcel "A"; thence with the two following lines of the said Parcel S 24° W- 132.8 ft; thence S 22° 36' W -455.7 ft to a stake in the northern line of the Warehouse Lot; thence with the said line S 68° 02' E-45.8 ft to a stake corner to the said Lot, and continuing with a line of the remaining Portion of the said Fairgrounds Tract, S 68° 02' E- 50 ft. IN ALL, to a stake; thence with another line of the said other land N 22° 36' E. 454.55 ft, to a stake in the southern line of Lot -1 fronting Oates Avenue; thence with the said line N 66° W. 5 ft to a stake corner to the said Lot; thence with the Western line of the said Lot N 24° E. 120 ft. to a stake corner in the southern property line of Oates Avenue, and continuing N 24° E- 130 ft., IN ALL, to the beginning.

Surveyed---February 21, 1955

Lee A. Ebert

Certified Land Surveyor

Comm. of Virginia #484.

Virginia, City of Winchester, Set;

This instrument of writing bearing date on the 4th day of March, 1955 was produced to me on the 9th day of March, 1955 at 10 A.M. and with certificate of acknowledgement thereto annexed was admitted to record.

Deputy Clerk.

Attachment: Additional Materials for SV-15-448 (O-2015-25 : Right-Of-Way Vacation for a Portion of W. Commercial Street (SV-15-448))

(Remove from ROW)
Add to 153-01-1-4
0.0216 Acres

(Remove from ROW)
Add to 153-01-1-6
0.0090 Acres

(Remove from ROW)
Add to 153-01-1-3
0.0006 Acres

TAX PARCEL	ORIGINAL	ADDED	REMOVED	FINAL ADJUSTED AREA
153-01-1-3	0.4219 Ac.	0.0294 Ac.	-----	0.4501 Ac.
153-01-1-4	0.3924 Ac.	0.0216 Ac.	-----	0.4140 Ac.
153-01-1-6	1.3036 Ac.	0.0090 Ac.	0.0276 Ac.	1.2850 Ac.

West Commercial Street
56' ROW (DB 91 PG 73)
to be reduced to 50' ROW
(West of Penn. Ave.)

West Commercial Street
50' ROW
(East of Penn. Ave.)

Property Line(s) to Be Created
Property Line(s) to be Vacated

153-01-1-4
0.3924 Acres (Original)
0.4140 Acres (Adjusted)

153-01-1-3
0.4219 Acres (Original)
0.4501 Acres (Adjusted)

153-01-1-6
1.3036 Acres (Original)
1.2850 Acres (Adjusted)

All Features Shown Hereon Are Existing

Property Line Legend

- Property Line(s) to be Vacated - - - - -
- Property Line(s) to Be Created - - - - -
- Property Line(s) to Remain - - - - -

Note: Proposed Boundary Line Adjustment shown is for the purposes of remedying the building encroachment onto Parcel 153-01-1-6 of existing structures situated on Parcel 153-01-1-3 and reduction of the 56' ROW of West Commercial Street (West of Pennsylvania Ave.) to 50' ROW minimum as requested by the City of Winchester.

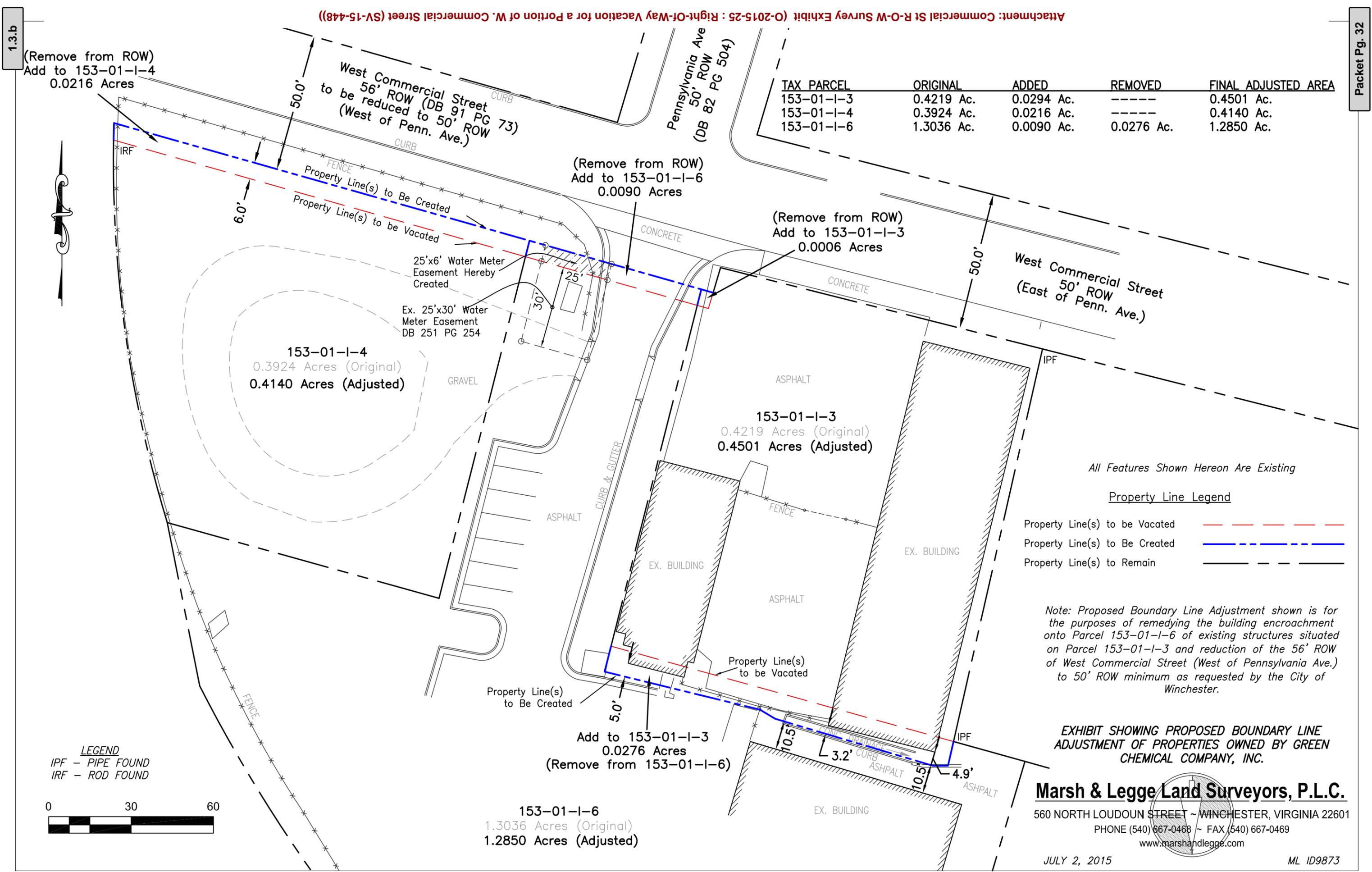
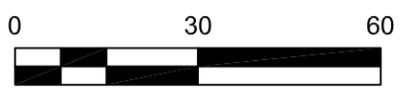
EXHIBIT SHOWING PROPOSED BOUNDARY LINE ADJUSTMENT OF PROPERTIES OWNED BY GREEN CHEMICAL COMPANY, INC.

Marsh & Legge Land Surveyors, P.L.C.
560 NORTH LOUDOUN STREET ~ WINCHESTER, VIRGINIA 22601
PHONE (540) 667-0468 ~ FAX (540) 667-0469
www.marshandlegge.com

JULY 2, 2015

ML ID9873

LEGEND
IPF - PIPE FOUND
IRF - ROD FOUND



City Council Work Session
October 13, 2015

SV-15-448 AN ORDINANCE TO VACATE A PORTION OF COMMERCIAL STREET RIGHT OF WAY AND CONVEY IT TO THE OWNER(S) OF 143 WEST COMMERCIAL STREET AND 206 WEST WYCK STREET.

REQUEST DESCRIPTION

The request from Green Chemical Company, Inc is to vacate and convey a short segment of public right-of-way off West Commercial Street.

AREA DESCRIPTION

The subject vacation and property to the south of W. Commercial St is zoned Limited Industrial (M-1) District. The adjoining properties to the north of W. Commercial Street is zoned Commercial Industrial (CM-1) District and use a commercial brewery.



STAFF COMMENTS

Mr. Ben Butler, applicant for the property owner, has provided a letter dated August 4, 2015 addressed to the Planning Director, Tim Youmans, outlining the request for the right-of-way vacation. Since there is no significant public safety issues, staff is agreeable to the proposed vacation and conveyance and find it would be acceptable for City Council to consider vacating the small portion of public right-of-way and conveying it to the owners of the subject property.

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 excess right-of-way.

Land conveyances in commercial district have typically been associated with alternative land being dedicated as public right of way (e.g. Spring Street) or have been offered for sale in the range of two dollars and fifty cents (\$2.50) per square foot of land conveyed. The recently approved Roberts Street conveyance to Mr. Pifer was at \$2.50. That conveyance was associated with a commercial development project that was pending site plan approval at the time of the request and has since been approved. The Green Chemical Company adjoining the proposed vacation area is currently assessed at \$5.00 per square foot. No development proposal is pending for the Green Chemical or Doyle's site. Staff suggested that the Council consider a conveyance at an amount less than assessed value in return for the grantees (i.e. the property owners undertake nominal frontage improvements at Doyle's). At the September 22nd work session, Council recommended conveyance at \$0.00 in return for the property owners undertaking nominal frontage improvements at Doyle's as shown on the exhibit.

A Minor Subdivision would also be required to assemble the vacated area into the adjoining property and depict needed easements to the City.

RECOMMENDATION

Based upon the input from relevant City officials, the Planning Commission forwarded **SV-15-448** to City Council recommending approval of vacation and conveyance of the subject right-of-way to the owner of 143 West Commercial Street and 206 West Wyck Street to be assembled into that property because the request does not conflict with the comprehensive plan.

AN ORDINANCE TO VACATE A PORTION OF COMMERCIAL STREET RIGHT OF WAY
AND CONVEY IT TO THE OWNER(S) OF 143 WEST COMMERCIAL STREET
AND 206 WEST WYCK STREET.

SV-15-448

WHEREAS, the Common Council has received a request of Mr. Benjamin M. Butler on behalf of Green Chemical Company, Inc., for the City of Winchester, owners of certain public right-of-way along West Commercial Street, to vacate and convey a portion of public right-of-way along West Commercial Street to Green Chemical Company, Inc. depicted on the July 2, 2015 exhibit entitled "Exhibit Showing Proposed Boundary Line Adjustment of Green Chemical Company, Inc."; 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 September 15, 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 143 West Commercial Street and 206 West Wyck Street immediately adjacent to the north side of the public right of way proposed to be vacated and conveyed; and,

WHEREAS, the City of Winchester, owner of the public right-of-way along West Commercial Street proposed to be vacated and conveyed has no objection to the vacation and conveyance to the owner at 143 West Commercial Street and 206 West Wyck Street; and,

WHEREAS, the Common Council has agreed to convey the vacated alley right of way to the applicant for **Zero Dollars (\$0.00)** per square foot subject to the applicant establishing necessary easements to the City of Winchester to be depicted upon a survey plat and subject to landscape improvements being undertaken along the Commercial Street frontages of 143 W. Commercial Street and 206 W. Wyck Street by the grantee.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that the public alley right of way depicted on the July 2, 2015 exhibit entitled "Exhibit Showing Proposed Boundary Line Adjustment of Green Chemical Company, Inc." be vacated and conveyed to Green Chemical Company, Inc. subject to the applicant establishing necessary easements to the City of Winchester and subject to landscape improvements being undertaken along the Commercial Street frontages of 143 W. Commercial Street and 206 W. Wyck Street by the grantee.

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 143 West Commercial Street and 206 West Wyck Street, with the sale price for the vacated area being **Zero Dollars (\$0.00)** 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.

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 27, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: Approval of Tevis Street Extension Project

PUBLIC HEARING DATE:

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. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Perry Eisenach	Completed	09/11/2015 12:00 PM
Anthony Williams	Completed	10/08/2015 3:01 PM
Eden Freeman	Completed	10/08/2015 4:13 PM

Approved as to form:

Perry Eisenach

Perry Eisenach, Public Services Director 9/11/2015

By:



Winchester
office of the city attorney Virginia

Anthony C. Williams, City Attorney
Office of the City Attorney
15 N. Cameron Street, Suite 313
Winchester, VA 22601
Phone: 540-667-1815, x 1433
Fax: 540-667-2259


Eden Freeman, City Manager 10/8/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: October 27, 2015
Re: Approval of Tevis Street Extension Project

THE ISSUE: Approval of Tevis Street Extension Project.

RELATIONSHIP TO STRATEGIC PLAN: Goal #2 - Promote and accelerate revitalization of targeted areas throughout the City.

BACKGROUND: The extension of Tevis Street between Legge Blvd and the future bridge that will be constructed over Interstate-81 has long been a very high priority for the City. The City has been awarded \$800,000 in Revenue Sharing Funds from VDOT to pay for half of the construction of the project and the property owner, Glaize Developments, has agreed to pay for the other half of the project. The City will manage and oversee the design and construction of the project. If approved, the goal would be to complete the construction of the project during the summer of 2016.

BUDGET IMPACT: This project is included in the adopted FY16 budget. No City funds will be used as one half of the cost of the project is being paid for by VDOT and the other half of the cost is being paid for by Glaize Developments.

OPTIONS: Either approve the resolution to proceed with the project or not approve the resolution.

RECOMMENDATIONS: Approve the resolution and proceed with the project.

APPROVAL OF TEVIS STREET EXTENSION PROJECT

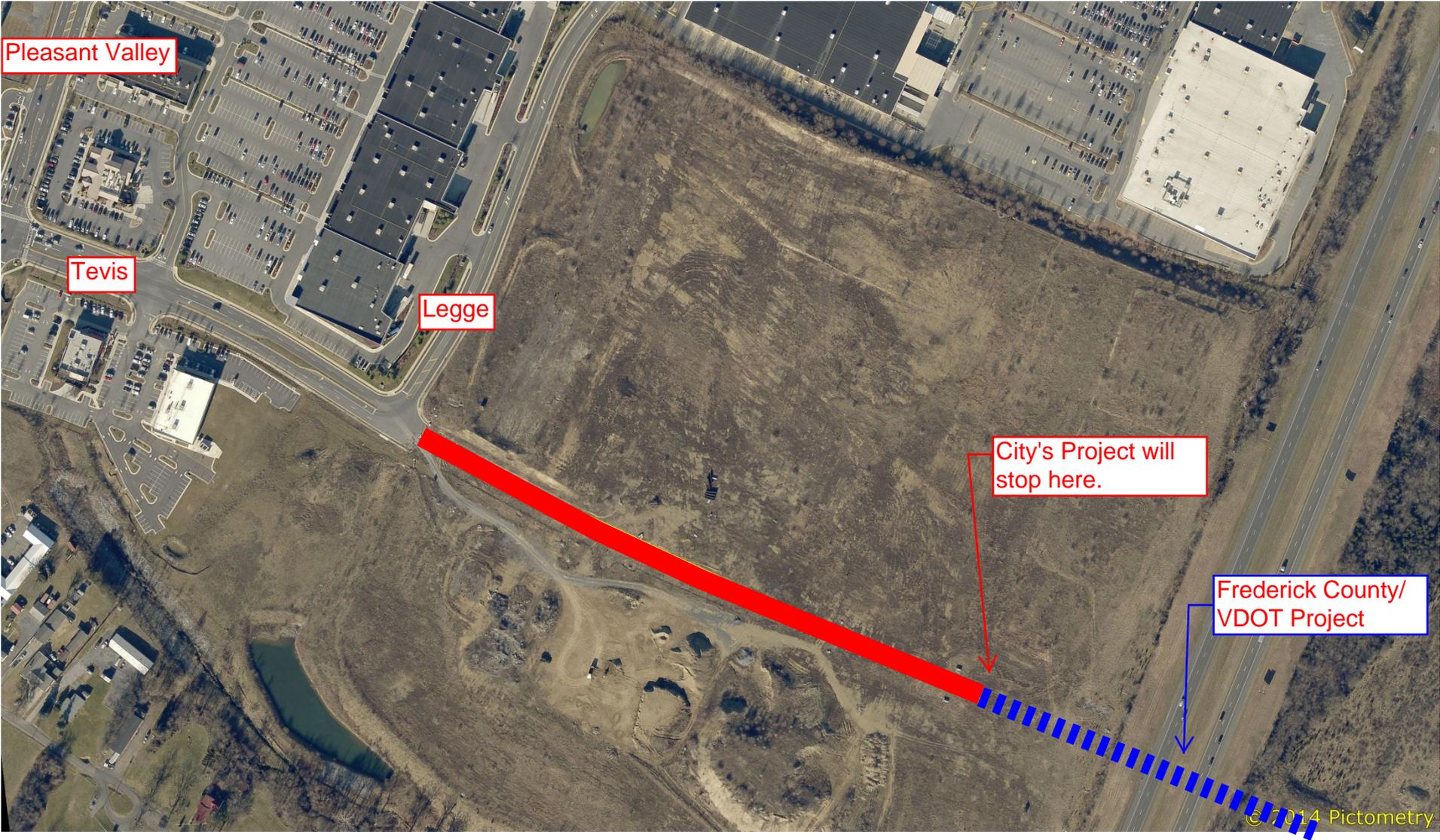
WHEREAS, the extension of Tevis Street between Legge Boulevard and a future bridge that will be constructed over Interstate-81 is a high priority for City Council; and

WHEREAS, the City has been awarded \$800,000 in Revenue Sharing Funds from the Virginia Department of Transportation to pay for one-half of the cost of constructing this extension of Tevis Street; and

WHEREAS, Glaize Developments owns the property adjacent to where this extension of Tevis Street will be constructed and has agreed to pay for the other half of constructing the project; and

WHEREAS, the City has agreed to manage and oversee the design and construction of Tevis Street extension.

NOW, THEREFORE, BE IT RESOLVED BY the Common Council of the City of Winchester hereby approves and authorizes the City Manager to execute the Road Construction and Funding Agreement (Agreement) between the City and Glaize Developments and authorizes City staff to proceed with the design and construction of the project following the execution of the Agreement.



Pleasant Valley

Tevis

Legge

City's Project will stop here.

Frederick County/VDOT Project

© 2014 Pictometry

Tevis Street Extension Project

Attachment: Tevis Extension (R-2015-35 : Approval of Tevis Street Extension Project)

Road Construction and Funding Agreement

Tevis Street Extension Project

THIS AGREEMENT, made and dated this _____ day of _____, 2015 is made by and between the **CITY OF WINCHESTER, VIRGINIA** (hereinafter, "the City"), a political subdivision of Virginia, and **GLAIZE DEVELOPMENTS, INCORPORATED.** (hereinafter "Glaize").

RECITALS:

- A. At all times herein mentioned, Glaize, whose principal office is located at 112 E. Piccadilly Street, Winchester, VA, was and remains a Virginia Corporation formed and operating under the laws of the Commonwealth of Virginia.
- B. At all times herein mentioned, the City, whose principal offices are located at 15 N. Cameron Street, Winchester, VA, was and remains a municipal corporation formed and operating under the laws of the Commonwealth of Virginia.
- C. Glaize is the owner of the property on both sides of the proposed Tevis Street Extension Project between Legge Blvd. and Interstate-81.
- D. Both the City and Glaize desire to arrange for the design and construction of Tevis Street Extension between Legge Blvd. and Interstate-81 (Project).
- E. The City and Glaize desire to finance the Project using funds from Glaize and matching funds that the City will receive from Virginia Department of Transportation (VDOT) from the Commonwealth's Revenue Sharing Program.
- F. All commitments made herein are conditioned upon the appropriation of funding by the State and/or City respectively which shall be a condition precedent to the performance of any of the parties' obligations pursuant to this Agreement.

NOW, THEREFORE, WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid by each of the parties hereto unto the other, the receipt and sufficiency of which is hereby acknowledged, and for the mutual benefits, covenants, and promises to perform herein described, the parties do agree as follows:

1. **RECITALS:** The Recitals are made a material part hereof and incorporated herein by reference as if set out in full.

2. **THE PROJECT:** The Project shall consist of the design and construction of certain roadway improvements and facilities related to the extension of Tevis Street, which shall be as particularly set forth in the final plans and specifications for the Project (the “Scope of Work”), once completed, and which Scope of Work shall provide for the following:
- a. The extension of Tevis Street between the current terminus at Legge Boulevard to a point that is the beginning of the bridge ramp for the bridge that will be constructed by Frederick County over Interstate-81 (Station 29+50 on the previous roadway design plans from PHRA dated February 2007).
 - b. The roadway extension will consist of four lanes with a center median to be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements.
 - c. Two commercial, full-access entrances (with left-hand turn lanes) shall be constructed and located east of the intersection with Legge Boulevard and a west-bound, right-hand turn lane shall be constructed and located at the intersection of Tevis Street and Legge Boulevard.
 - d. A minimum five-foot wide concrete sidewalk will be constructed on both sides of Tevis to be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements.
 - e. A new traffic signal will be constructed at the intersection of Tevis/Legge.
 - f. Drainage improvements in conformity with the original, approved design set forth in the plans currently available as of the date of entry of this Agreement.
 - g. Streetlights to be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements.
 - h. Trees and grass will be placed in the center median where feasible.
 - i. A City of Winchester monument sign with accompanying landscaping shall be placed in the center median on the eastern edge of the Project. Such signage shall not be included in the calculation of permitted signage available for use on any property owned by Glaize, its successors or assigns, pursuant to all applicable laws, ordinances or regulations.
 - j. Conduit for the placement of utilities and connections servicing the contiguous Glaize properties (except sanitary sewer facilities) will be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements. Glaize’s consent to the number, size and location of conduit for utilities and connections shall be obtained by the City from Glaize before including the same in the Scope of Work for the Project. Glaize’s consent to the same shall not be unreasonably conditioned, delayed or withheld.
 - k. Sanitary sewer facilities servicing the contiguous Glaize properties and located within the boundaries of the right of way currently dedicated by Glaize for Tevis

Street and its appurtenant improvements may be specified by Glaize, at Glaize's cost, as part of the Scope of Work.

- l. Installation of a VDOT approved entrance and/or access on the south side of the intersection of Legge Boulevard and Tevis Street accessing the Glaize property which shall be designed to complete the fourth section of the intersection of Legge Boulevard and Tevis Street.
- m. Installation of a private entrance and/or access between the Glaize property and the adjoining Target store property approved by all applicable governmental authorities and the respective property owners. This work shall be completed at the sole cost of Glaize.
- n. Glaize will pay the cost of any sand filter which may be included in the Scope of Work due to specifications requested by Glaize.

3. PROJECT FUNDING:

- a. The estimated total cost of the Project is \$1.6 million. The Project shall be paid for utilizing up to \$800,000 in Glaize funds and \$800,000 in Revenue Sharing funds that the City will receive from VDOT. If such funds are not received by the City from VDOT, the City must provide notice of the same to Glaize and, thereafter, may utilize other funding sources and commence work within six (6) months of providing notice to Glaize that funds are not received from VDOT or at its discretion, discontinue the project.
- b. In the event that reasonably necessary, unforeseen costs are encountered in the performance of the Scope of Work for the Project, Glaize agrees to expend such additional funds as are reasonable and necessary to complete the Project within the Scope of Work and the City agrees to match these additional funds with state Revenue Sharing funds if available.
- c. The City and Glaize will work cooperatively to try to complete the project within the allocated budget as reflected in the Scope of Work and to minimize and mitigate any possible unforeseen additional Project costs.

4. CITY RESPONSIBILITIES:

- a. The City shall act as the fiscal agent and project manager for the Project. The City's responsibilities as fiscal agent and project manager shall include the management and oversight of all roadway design, environmental approvals and permitting, and construction in a commercially reasonable manner.
- b. The City shall not be responsible for expending any City funds, other than funds provided to the City through VDOT Revenue Sharing for the Project

- c. The City shall issue a task order for the final engineering design of the project within 30 days of full execution of this Agreement.
- d. The City shall supervise the design, engineering, and environmental phases of the Project which shall be done in accordance with all applicable standards, including all City and VDOT standards.
- e. The City shall give written notice to Glaize for any unforeseen design, engineering, or environmental issue encountered within forty-eight (48) hours of discovery of such issues. The City shall reasonably assist Glaize with the remediation of any environmental issues caused by Glaize or discovered on the Glaize property (to the extent such environmental issues were not caused by any work performed under the Scope of Work on the Project), the remediation of which is necessary to performance of the Scope of Work for the Project. Notwithstanding the foregoing, all costs associated with any environmental remediation caused by Glaize or discovered on the Glaize property (to the extent such environmental issues were not caused by any work performed under the Scope of Work on the Project), the remediation of which is necessary to performance of the Scope of Work for the Project, shall be the sole responsibility of Glaize.
- f. The City shall be responsible for advertising the project for construction bids and for awarding a construction contract to the lowest, qualified, responsive bidder.
- g. The City shall be responsible for inspecting the Project throughout construction and ensuring that the construction is completed in accordance with the Scope of Work and all Project specifications.
- h. The City shall give written notice to Glaize for any unforeseen issues encountered during the performance of the Scope of Work within forty-eight (48) hours of discovery of such issues. The City will use its best efforts to minimize the costs of any unforeseen conditions.
- i. The City shall pay all invoices for performance of the Scope of Work for the Project.
- j. The City shall be responsible for all coordination required with VDOT and all other authorities having jurisdiction over the performance of any aspects of the Scope of Work and for requesting and receiving reimbursement from VDOT for Commonwealth Revenue Sharing funds.
- k. The City shall submit invoices to Glaize for Glaize's share of the costs incurred for the performance of the Scope of Work not more than once per month. In the event that Glaize fails to timely reimburse the City for Glaize's share of the actual costs, after receiving written notice of such failure and the opportunity to cure the same, the City may file a lien on the subject property and property owned by Glaize contiguous to the Project.

1. Upon completion of the Project, the City shall be solely responsible for the ongoing repair and maintenance of the improvements constructed under the Scope of Work, with the exception of those improvements specified and paid for solely by Glaize under the terms of this Agreement.

5. GLAIZE RESPONSIBILITIES:

- a. Glaize shall provide reasonable and customary access to its property to the City, its employees and representatives, and all approved contractors, subcontractors, materialmen and suppliers, their employees and representatives, engaged to perform any of the Scope of Work for the Project.
- b. Glaize shall reimburse the City for Glaize's share of the costs incurred for the performance of the Scope of Work within thirty (30) days of receipt of properly documented invoices from the City for the same.
- c. Glaize shall provide the City with all previous surveys and design plans for the roadway in Glaize's possession.
- d. All costs associated with any environmental remediation caused by Glaize or discovered on the Glaize property (to the extent such environmental issues were not caused by any work performed under the Scope of Work on the Project), the remediation of which is necessary to performance of the Scope of Work for the Project, shall be the sole responsibility of Glaize.
- e. As a condition precedent to the performance of any of the City's responsibilities herein, and within ten (10) days after the City has delivered to Glaize written documentation that the City has received \$800,000.00 in Revenue Sharing funds from VDOT (or that the City has obtained \$800,000.00 in funds from some other source) together with all requisite authority to expend said \$800,000.00 in funds on the Project, Glaize shall provide a bond or letter of credit in a form and from an issuer deemed acceptable by the City to cover the full amount of the funds committed by Glaize pursuant to this Agreement (\$800,000.00), which shall become immediately payable to the City upon default by Glaize of any of the terms recited in this Agreement.

6. PROJECT SCHEDULE:

- a. The City will issue a task order to complete the engineering design of the project within thirty (30) days of full execution of this Agreement.
- b. The City will use its best efforts to complete the design of the Project and advertise the Project for construction bids as quickly as possible.

- c. The City will use its best efforts to initiate construction on the project in the spring of 2016 and complete the construction of the Project by the end of the summer of 2016.

7. NOTICES:

- a. All notices, demands, or other communications that may be necessary or proper hereunder shall be deemed duly given if personally delivered, or when deposited in the United States mail, postage pre-paid, first class, registered or certified, return receipt requested, addressed respectively as follows:
- b. City:
 City of Winchester
 Attention: Perry Eisenach, Public Services Director
 15 N. Cameron Street
 Winchester, VA 22601
- c. Glaize:
 Glaize Developments, Inc.
 Attention: J.P. Carr
 P.O. Box 888
 Winchester, VA 22604

8. ENTIRE AGREEMENT; AMENDMENTS; TIME:

- a. This Agreement constitutes the entire agreement of the parties and supersedes any prior understandings, whether oral or written, of the parties regarding the subject matter of the Agreement and no amendment to this Agreement shall be effective unless made in writing and signed by both parties.
- b. Time is of the essence with respect to all matters set forth in the Agreement.
- c. This Agreement shall be binding upon and the obligations and benefits hereof shall accrue to the parties hereto and their successors and assigns.
- d. The parties hereby warrant and represent, each to the other, that the person signing this Agreement on behalf of each party has all requisite authority to do so, and that each party has all requisite authority to enter into this Agreement, which Agreement is acknowledged to be the valid and binding obligation of each party, enforceable under its terms.

9. **GOVERNING LAW AND VENUE:** This Agreement shall be governed by and interpreted according to the laws of the Commonwealth of Virginia and any dispute hereunder shall be heard only in the Circuit Court of the City of Winchester, Virginia.

WITNESS the following signatures and seals:

CITY OF WINCHESTER, VIRGINIA

By: City Manager

ATTEST:

GLAIZE DEVELOPMENTS, INC.

[Handwritten Signature]

By:

ATTEST:

[Handwritten Signature]

Attachment: Road Construction and Funding Agreement (R-2015-35 : Approval of Tevis Street Extension Project)

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 27, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: Resolution Approving The Design of the New Welcome to Winchester Gateway Signs

PUBLIC HEARING DATE:

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. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Perry Eisenach	Completed	10/07/2015 3:09 PM
Anthony Williams	Completed	10/08/2015 2:59 PM
Eden Freeman	Completed	10/08/2015 4:50 PM

Approved as to form:

Perry Eisenach

Perry Eisenach, Public Services Director 10/7/2015

By: 



Anthony C. Williams, City Attorney
Office of the City Attorney
15 N. Cameron Street, Suite 313
Winchester, VA 22601
Phone: 540-667-3815, x 1433
Fax: 540-667-2259


Eden Freeman, City Manager 10/8/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: October 27, 2015
Re: Resolution Approving The Design of the New Welcome to Winchester Gateway Signs

THE ISSUE: Selecting the design for new "Welcome to Winchester" gateway signs.

RELATIONSHIP TO STRATEGIC PLAN: Goal 2 - Promote and accelerate revitalization of catalyst and other areas throughout the City, and Goal 3 - Advance the quality of life for all Winchester residents.

BACKGROUND: City Council has established a goal of installing new "Welcome to Winchester" signs at all the major gateways into the City. The first sign will be installed on Millwood Avenue just east of Interstate-81 as a part of Shenandoah University's project of landscaping and beautifying Millwood Avenue coming into the City.

BUDGET IMPACT: The cost of the first sign on Millwood Avenue will be paid for by Shenandoah University as per the agreement that was made for the overall Millwood Avenue project. The City has budgeted \$150,000 in the FY16 Capital Improvement Plan to begin installing these signs on other major gateways entering the City.

OPTIONS: Staff has developed three options (Options A, B, and C) for the design of the sign for City Council's consideration.

RECOMMENDATIONS: Approval of the option preferred by City Council.

**RESOLUTION APPROVING THE DESIGN OF THE NEW WELCOME TO
WINCHESTER GATEWAY SIGNS**

WHEREAS, the City desires to install new “Welcome to Winchester” signs at all the major gateways into the City; and

WHEREAS, the first of these new signs will be installed on Millwood Avenue just west of Interstate-81 as a part of Shenandoah University’s Millwood Avenue gateway beautification project; and

WHEREAS, three different designs for the new sign (Options A, B, and C) have been developed for City Council’s consideration.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Winchester hereby selects and approves Option [A][B][C] as the design for the new “Welcome to Winchester” signs.



Attachment: Option A (R-2015-36 :



Attachment: Option B (R-2015-36 : Design Options for

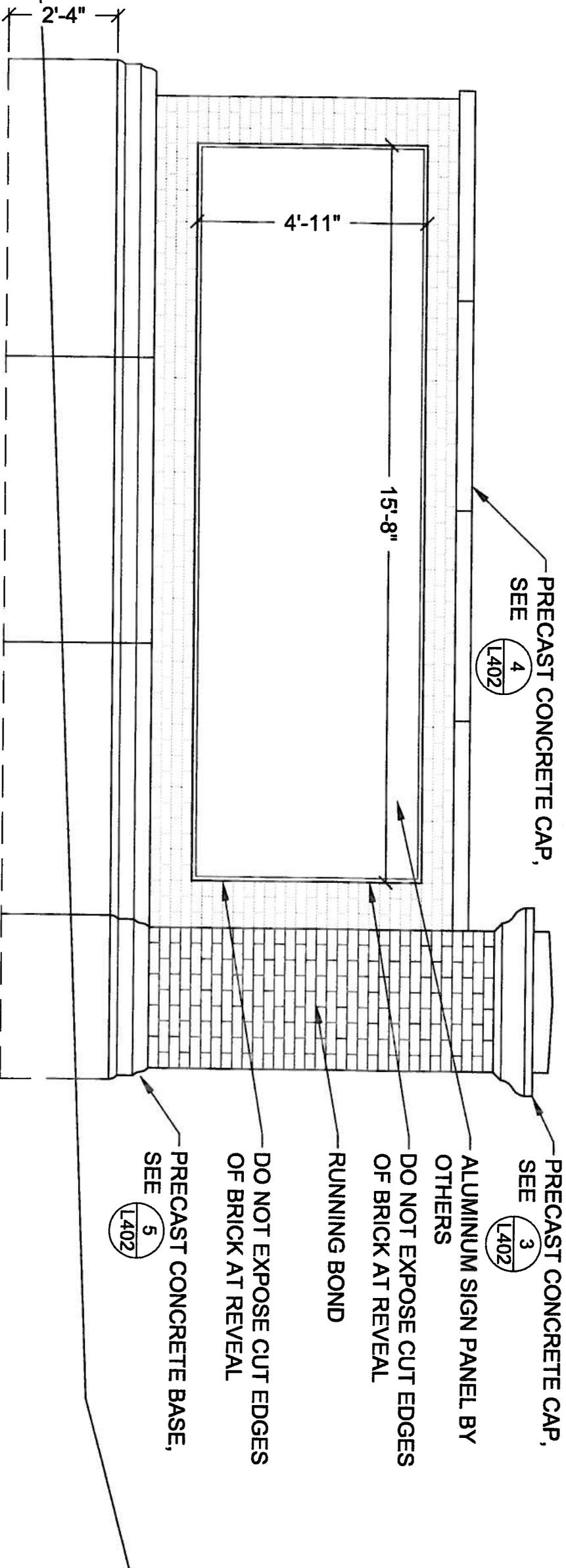


Attachment: Option C (R-

WELCOME SIGN - PLAN

SCALE: 3/8" = 1'-0"

Attachment: Sign Base (R-2015-36 : Design Options for Welcome to Winchester Gateway Signs)



WELCOME SIGN - EAST ELEVATION

SCALE: 3/8" = 1'-0"

2

402

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 27, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: 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. (The Amendment Creates Additional Definitions, Use Allowances, Parking Requirements, and Operational Standards for Breweries, Distilleries, Wineries and Related Uses).

PUBLIC HEARING DATE: October 27, 2015 at 6:00 PM

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. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Aaron Grisdale	Completed	09/15/2015 4:22 PM
Timothy A. Youmans	Completed	09/15/2015 5:08 PM
Anthony Williams	Completed	10/08/2015 3:00 PM
Eden Freeman	Completed	10/08/2015 4:23 PM

Approved as to form:

Aaron Grisdale

Aaron Grisdale, Zoning and Building Inspections Director 9/15/2015

By: 

Winchester
office of the city attorney Virginia

Anthony C. Williams, City Attorney
Office of the City Attorney
15 N. Cameron Street, Suite 313
Winchester, VA 22601
Phone: 540-667-3815, x 1433
Fax: 540-667-2259


Eden Freeman, City Manager 10/8/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Zoning and Building Inspections Director
Date: October 27, 2015
Re: 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. (The Amendment Creates Additional Definitions, Use Allowances, Parking Requirements, and Operational Standards for Breweries, Distilleries, Wineries and Related Uses).

THE ISSUE: This is a publicly initiated Zoning Ordinance amendment to expand permitted uses related to various types and intensities of breweries, distilleries and wineries. City staff has received several inquiries over the past two years about the permissibility of smaller scale breweries and distilleries, especially in the downtown. This amendment proactively establishes ordinance provisions to allow for expanded uses beyond the current allowances of *Breweries*, which are limited to the CM-1, M-1, and M-2 districts.

RELATIONSHIP TO STRATEGIC PLAN: Goal 2 - Promote and accelerate revitalization of targeted areas throughout the city.

BACKGROUND:

See attached staff report.

BUDGET IMPACT:

None

OPTIONS:

- 1) Adopt the ordinance amendment as presented.
- 2) Adopt the ordinance amendment with revisions.
- 3) Decline to adopt the ordinance amendment.

RECOMMENDATIONS:

The Planning Commission unanimously recommended approval at their September 15, 2015 meeting.

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. (THE AMENDMENT CREATES ADDITIONAL DEFINITIONS, USE ALLOWANCES, PARKING REQUIREMENTS, AND OPERATIONAL STANDARDS FOR BREWERIES, DISTILLERIES, WINERIES AND RELATED USES).

Draft 2 - (10/20/15)

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 (as defined within §4.1-100, Code of Virginia, as amended) 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 - A distillery, as defined in Section 1-2-83, where production does not 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 brewery, as defined in Section 1-2-12.1, which 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 brewery, as defined in Section 1-2-12.1, 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. Outdoor storage of materials shall only be permitted in the M-1 and M-2 districts. Such permitted outdoor storage shall meet the requirements provided in Section 18-20-5.**
- 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**

City Council
September 22, 2015

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 publicly initiated 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	-	-	-	-	-	-	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.

October 27, 2015 Update

Revisions were made to each of the definitions in the amendment to ensure that they are reflecting the definitions of beer, spirits and wine as provided in the Code of Virginia. This will allow the local Zoning Ordinance to be flexible with the definitions provided at the state level.

Additionally, changes were made to the general provisions in Section 18-25 to allow for outdoor storage of materials in the M-1 (Limited Industrial) and M-2 (Intensive Industrial) districts. Outdoor storage, when permitted, must meet the screening requirements provided in Section 18-20-5 of the Ordinance.

RECOMMENDATION

At their September 15th meeting, the Planning Commission unanimously forwarded **TA-15-441** with a favorable recommendation because the ordinance as presented provides for good planning practice by providing clear definitions, use parameters and additional use allowances providing for increased business opportunities.