



**WINCHESTER COMMON COUNCIL
ROUSS CITY HALL
15 NORTH CAMERON STREET, WINCHESTER
NOVEMBER 10, 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 for the October 27, 2015, Regular Meeting and October 27, 2015, Work Session.

REPORT OF THE MAYOR

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

1. PUBLIC HEARINGS

- 1.1. **O-2015-26:** Second 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). **(REQUIRES ROLL CALL VOTE)**

2. PUBLIC COMMENTS

3. CONSENT AGENDA

- 3.1. **R-2015-37:** Resolution for Support by the Winchester Common Council for the Utilization of Industrial Access Railroad Track Funds for Trex Company Inc.

4. AGENDA

4.1. Motion to accept the In-House Viewers Report for O-2015-25: AN ORDINANCE TO VACATE A PORTION OF WEST COMMERCIAL STREET RIGHT OF WAY AND CONVEY IT TO THE OWNERS OF 143 WEST COMMERCIAL STREET AND 206 WEST WYCK STREET SV-15-448

4.2. **O-2015-25:** Second Reading - 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 **(REQUIRES ROLL CALL VOTE)**

4.3. **R-2015-38:** Resolution Regarding Board of Architectural Review Appeal Bar 15-336 210 S. Washington Street

4.4. Motion to nominate Ralph Grim as a Ward 3 member of the Winchester School Board to an unexpired four year term commencing December 8, 2015, and ending June 30, 2017.

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: November 10, 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: November 10, 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: 540-667-1815, x. 1433
Fax: 540-667-2259

Eden Freeman
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: November 10, 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.

Facility Type	Production Capacity
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.

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: November 10, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: Resolution for Support by the Winchester Common Council for the Utilization of Industrial Access Railroad Track Funds for Trex Company Inc.

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:

Kimberly L. Murray	Completed	10/21/2015 3:17 PM
Perry Eisenach	Completed	10/21/2015 3:23 PM
Anthony Williams	Completed	10/22/2015 2:39 PM
Eden Freeman	Completed	10/22/2015 3:02 PM

Approved as to form:

Kimberly L. Murray

Kimberly L. Murray, Economic Redevelopment Director 10/21/2015

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 10/22/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Kimberly Murray, Economic Redevelopment Director
Date: November 10, 2015
Re: Resolution for Support by the Winchester Common Council for the Utilization of Industrial Access Railroad Track Funds for Trex Company Inc.

THE ISSUE: Trex Company, Inc. and the Commonwealth of Virginia's Department of Rail and Public Transportation are requesting a resolution of support from the Winchester City Council for an application to the Industrial Access Railroad Track Funds for \$300,000 toward the installation of a sidetrack and two additional tracks for storage, loading, and unloading of materials. The estimated total project cost of the rail project is \$2,713,000 with the goal to be operational in 2016.

RELATIONSHIP TO STRATEGIC PLAN: Goal 1: Encourage Sustainable Economic Growth and Partnerships through Business and Workforce Development

BACKGROUND: Trex Company, Inc. is expanding its manufacturing operations in the City as well as in Frederick County and it has now become feasible to construct a rail spur at the Frederick County facility located at 3229 Shawnee Drive to support their composite decking sales and recycled plastic pellet sales. The Department of Rail and Public Transportation desires support of the application from both the City and the County as Trex's expansion plans of capital investment and job creation encompasses both facilities. Trex has already invested \$12.3 million in capital investment at the city location at 181 Battaile Drive and has already begun hiring the additional 89 jobs spanning the next two years. The installation of the rail spur is a critical piece of their expansion.

BUDGET IMPACT: None.

OPTIONS: Council may approve the resolution to support the Industrial Access Railroad Tracks Program Application, decline the resolution, or provide comments to Trex and the Virginia Department of Rail and Public Transportation.

RECOMMENDATIONS: City Staff recommends the approval of the attached Resolution to support the growth and expansion of Trex Company, Inc.

**RESOLUTION FOR SUPPORT BY THE WINCHESTER COMMON COUNCIL
FOR THE UTILIZATION OF INDUSTRIAL ACCESS RAILROAD TRACK
FUNDS FOR TREX COMPANY INC.**

WHEREAS, the Winchester Common Council desires to create a positive business environment and encourages sustainable economic growth and partnerships through business and workforce development;

WHEREAS, Trex Company, Inc. has expressed its intent and desire to the Winchester Common Council to expand its manufacturing operations in the City as well as in Frederick County and grow its workforce over the next three years, and has invested \$12.3 million in the 181 Battaile Drive facility located in the City, and has begun hiring the additional 89 jobs at that location over the next two years;

WHEREAS, Trex and its operation will require rail access and intends to install a side track and two additional tracks for storage, loading, and unloading of materials located at 3229 Shawnee Drive in Frederick County as part of their expansion with an approximate investment of \$2,713,000;

WHEREAS, Trex has reported to the Winchester Common Council their intent to apply for Industrial Access Railroad Track Funds from the Commonwealth of Virginia's Department of Rail and Public Transportation in the amount of \$300,000;

WHEREAS; Trex has requested that the Winchester City Council provide a resolution supporting its application for said funds which are administered by the Virginia Department of Rail and Public Transportation; and

WHEREAS, the Department of Rail and Public Transportation has requested support from both localities due to the cross jurisdiction of this project.

NOW THEREFORE BE IT RESOLVED, that the Winchester Common Council of the City of Winchester hereby endorses and supports the application of Trex Company, Inc. for \$300,000 in Industrial Access Railroad Track Funds.

**Department of Rail and Public Transportation
Industrial Access Railroad Tracks Program Application**

Application Date: September 3, 2015

Applicant: Trex Company, Inc.

Description of Applicant's Organization (City, County, Economic Development Authority, Etc.): Corporation with headquarters and a manufacturing plant in the City of Winchester, Frederick County

Industry/Business to be served by the proposed Industrial Access Track: Trex Company, Inc. in support of composite decking sales and recycled plastic pellet sales

Contact Person

Name: Frank Klepeisz

Title: Director of Logistics

Phone Number: 540-542-6334

Email Address: fklepeisz@trex.com

Address: 160 Exeter Drive
Winchester, VA 22603

Proposed or Existing Location:

Trex Winchester Plant

3229 Shawnee Drive

Winchester, VA 22602

Project Description:

This project will provide for the installation of a sidetrack and two additional tracks for storage, loading, and unloading of materials. This will include the installation of three rail switches – one installed on the mainline and two on our tracks. The project will include all the earthwork, Sub-Ballast, and Ballast required to install the rails.

Additionally, the project will provide for rain and storm water runoff control, as well as paving around the rails to allow for access and staging of materials.

Length of proposed Track: 4438 ft center line Estimated Cost: \$2,713,000

Requested amount of Industrial Rail Access Funds: \$300,000

The approximate capital outlay to construct and equip the proposed new facility:

\$3,000,000

Estimated annual number of carloads already handled on existing tracks:

95

Estimated annual number of carloads to be handled on the proposed new track:

250

Rail carloads as percentage of overall inbound/outbound traffic (forecasted estimated for first three years after project completion): 6%

If a new industry, the estimated number of people to be employed:

If an existing industry, the number of people currently employed: 361

And the estimated additional employment to be created by the expansion: 125

Railroad that will serve the business/industry: CSX

Planning, Design, and Engineering Completion: 6/15/15

Construction Start Date: 12/15/15

Construction Completion Date: 7/1/16

The following documentation is to be included with the application:

1. Resolution from the Local Governing Body supporting the project and requesting the Rail Industrial Access Funds.
2. Location sketch showing the location of the site on an area map.
3. Drawing of the proposed track project showing the clear point(s).
4. Signed applicant/industry certification.
5. A company W-9 with federal ID number/EIN.
6. Documentation that the railroad owning the main line to which the proposed access track will connect has agreed to:
 - A. Serve the industry or business;
 - B. Approve and/or participate in the construction of the proposed access track;
 - C. Making the facilities available for use by all common carriers using the railway system to which the industrial access track connects;
7. Background information about the business

Trex Company, Inc. Summary

Trex Company is the world's number one decking and railing company, and leader in high-performance, low-maintenance outdoor living products with more than 20 years of experience. Recognized for its quality, aesthetics and green principles by industry professionals, Trex® is sold in more than 6,700 retail locations in 42 countries worldwide. The wood-alternative decking is high-performance, capped composite made from 95% recycled materials and comes with a 25-Year Fade and Stain Warranty. In addition to decking and railing, Trex also offers Elevations Steel Deck Framing, Outdoor Lighting, Outdoor Storage, Pergolas, Furniture and Fencing. All Trex products are designed to be high-performance, low maintenance and environmentally responsible. Trex decking and railing are made in the U.S. in Winchester, Virginia, where the company is headquartered, and in Fernley, Nevada.

In the 20 years the Trex Company has been located in Winchester, VA, customer orders for our decking product requested to be shipped via railcars have been loaded via a third party transloader. This was done at a fairly significant cost to our customers, however, due to the volume, it was decided to be the best course of action.

In 2015, Trex entered into a new business in which plastic pellets are produced from recycled plastic. These plastic pellets are then sold to customers to use in place of virgin plastic thereby providing an economical and environmentally beneficial alternative. These customers, however, are accustomed to receiving their product via railcar.

Looking at our total business, it now becomes feasible to construct a rail spur at our Winchester plant to accommodate both of these businesses. We expect the following benefits from this rail spur...

- Support to our new pellet business which will add 80 jobs over the next two years
- A less expensive rail alternative to our decking customers which should increase the number of rail car orders and expand the area we service via rail (expectation is we will service our Midwestern US customers more via rail when the transloading cost is eliminated)

The goal is to have the rail spur operational in 2016.

Applicant/Industry Certification *Trex Company, Inc.*

Trex Company, Inc. hereby certifies to the Commonwealth of Virginia that the Applicant will provide the Right-of-Way for and assume liability of any railroad tracks and associated facilities, financed by the Railroad Industrial Access Fund, that are built on its Frederick County plant site and subsequent operations. This includes any claims or attempts to hold liable the Commonwealth of Virginia, for any matter concerning the tracks, as a result of the Commonwealth's Contingent Interest in the tracks.

Also, Trex Company, Inc. agrees to assume sole responsibility for the continuous maintenance of tracks financed by the Railroad Industrial Access Fund.



Signature

J. E. Cline

Printed Name

President and CEO

Title

August 25, 2015

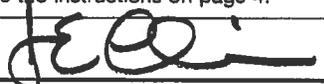
Date

Form W-9 (Rev. October 2007) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification	Give form to the requester. Do not send to the IRS.
--	---	---

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) Trex Company Inc	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input checked="" type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see Instructions) ▶	
	Address (number, street, and apt. or suite no.) 160 Exeter Drive	Requester's name and address (optional)
	City, state, and ZIP code Winchester VA 22603	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)	
Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.	Social security number
	or
Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.	Employer identification number
	54 : 1910453

Part II Certification
Under penalties of perjury, I certify that:
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶ 	Date ▶ 1/13/15
------------------	--	-----------------------

<p>General Instructions</p> <p>Section references are to the Internal Revenue Code unless otherwise noted.</p> <p>Purpose of Form</p> <p>A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.</p> <p>Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:</p> <ol style="list-style-type: none"> 1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued), 2. Certify that you are not subject to backup withholding, or 3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income. <p>Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.</p>	<p>Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:</p> <ul style="list-style-type: none"> • An individual who is a U.S. citizen or U.S. resident alien, • A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, • An estate (other than a foreign estate), or • A domestic trust (as defined in Regulations section 301.7701-7). <p>Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.</p> <p>The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:</p> <ul style="list-style-type: none"> • The U.S. owner of a disregarded entity and not the entity,
---	--

CSX
TRANSPORTATION
Todd Faulkner
Reg. Mgr. Site Design
Regional Development

1610 Forest Ave, Suite 120
Richmond, VA 23288
(804)226-7509
E-mail: Todd_Faulkner@CSX.com

Sept. 1, 2015

Mr. Jeremy Latimer
Manager of Rail Industrial Access Programs
Department of Rail and Public Transportation
600 East Main Street, Suite 2102
Richmond, Virginia 23219

Dear Mr. Latimer

Trex Company, Inc. will apply for the Virginia Industrial Access Railroad Fund for the construction of industrial railroad tracks in Winchester, Virginia. A preliminary sidetrack design has been discussed and when the final drawings are submitted and approved by CSX Transportation, Inc. (CSXT) a sidetrack agreement between Trex Company, Inc. and/or its nominee and CSXT will be executed.

CSXT is aware of the provision of the Code of Virginia, Section 33.1-22.1:1F which provides for common carrier access of tracks constructed or rehabilitated with Industrial Access Railroad Funds. Currently, CSXT will be the only railroad connecting with the track to serve Trex Company, Inc.. However, it is understood that if, in the future, another common carrier constructs trackage to connect with the sidetrack or obtains trackage rights over CSXT's mainline tracks that would enable it to provide service to Trex Company, Inc.'s facility, it will have access to and be entitled to use the sidetrack.

CSXT recommends the use of Industrial Access Railroad funds for the construction of the sidetrack facility to serve Trex Company, Inc. in Winchester, Frederick County, Virginia. CSXT will serve Trex Company, Inc., on this sidetrack once the site plan is approved, constructed, inspected and a sidetrack agreement is duly executed.

Respectfully,



Todd Faulkner
Regional Mgr. Site Design

CONSTRUCTION PLAN FOR TREX COMPANY RAIL EXTENSION FREDERICK COUNTY, VA SHAWNEE MAGISTERIAL DISTRICT

Attachment: Trex Rail app ddp 2015 (R-2015-37 : Trex Rail Spur Resolution)

DEVELOPER

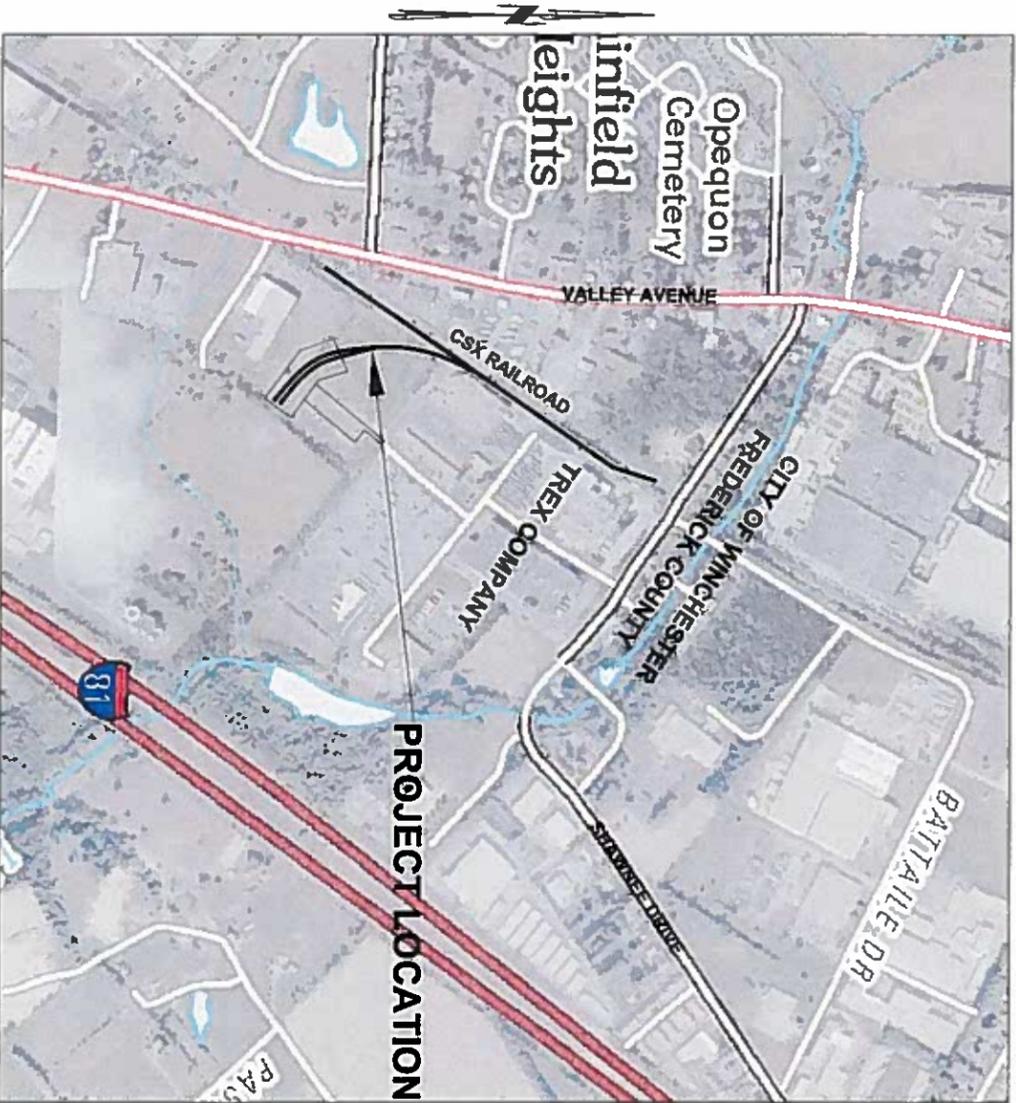
TREX COMPANY, INC.
3229 SHAWNEE DRIVE
WINCHESTER, VA 22602
PHONE (540) 542-6852

LAND OWNER

TREX COMPANY, INC.
3229 SHAWNEE DRIVE
WINCHESTER, VA 22602
PHONE (540) 542-6852

ENGINEER

STOWE ENGINEERING, PLC
103 HEATH COURT
WINCHESTER, VA 22655
PHONE (540) 686-7373



SCALE 1" = 2000'

LEGEND

PROPERTY INFORMATION

Utility Service Providers	Property Information	Trex Company, Inc. Rail siding and rail storage	Trex Company, Inc. Composite decking manufacturing and rail siding
WATER AND SEWER FREDERICK CO. SANITATION AUTH. P.O. BOX 1877 WINCHESTER, VA 22604-8377 540.868.1061	Proposed Project Description Property Identification Number (PIN) Total Area (Ac) Developed Area (Existing Ac) Developed Area (after this project Ac) Woodlands Disturbed (K) Zoning Existing Use Proposed Use	63 A 87 11.83 0.00 5.49 0.00 M2 Industrial	63 A 110 56.02 56.02 56.02 0.00 M2 Industrial
ELECTRICITY RAPPAHANNOCK ELECTRIC COOP 137 KELLEY COURT FRONT ROYAL, VA 22630 800.552.3904			
TELEPHONE VERIZON 404 HILLDALE LANE WINCHESTER, VA 22602 540.665.3153			

EXISTING FEATURES

BEAR COUNTRY	PROPOSED BEAR COUNTRY
COUNTY	PROPOSED COUNTY
WATER LETTER	WATER LETTER
WATER LINE	WATER LINE
SANITARY MANHOLE	SANITARY MANHOLE
SANITARY PIPE	SANITARY PIPE
FENCE	FENCE
GAS LINE	GAS LINE
OVERHEAD W/ LINES	OVERHEAD W/ LINES
POLE	POLE
TREE	TREE
TREELINE	TREELINE
GRAVEL	GRAVEL
PAVEMENT	PAVEMENT
	LIMITS OF CONSTRUCTION

PROPOSED FEATURES

PROPOSED BEAR COUNTRY	PROPOSED COUNTY
WATER LETTER	WATER LETTER
WATER LINE	WATER LINE
SANITARY MANHOLE	SANITARY MANHOLE
SANITARY PIPE	SANITARY PIPE
FENCE	FENCE
GAS LINE	GAS LINE
OVERHEAD W/ LINES	OVERHEAD W/ LINES
POLE	POLE
TREE	TREE
TREELINE	TREELINE
GRAVEL	GRAVEL
PAVEMENT	PAVEMENT
	LIMITS OF CONSTRUCTION

SHEET INDEX

- 1 TITLE SHEET
- 1A SURROUNDING PROPERTIES, ROADS AND LAND USES
- 2-2A TYPICAL SECTIONS AND NOTES
- 3 SITE PLAN
- 4 TRACK PLAN STATION 0+00 - 11+00
- 4A GRADING PLAN STATION 0+00 - 11+00
- 4B & C PH 1 & 2 EROSION & SEDIMENT CONTROL
- 5 TRACK PLAN STATION 11+00 - 21+44.81
- 5A GRADING PLAN STATION 11+00 - 21+44.81
- 5B & C PH 1 & 2 EROSION & SEDIMENT CONTROL
- 6 RAIL PROFILE - TRACK 2
- 7 RAIL PROFILE - TRACKS 3 AND 4
- 8 STORM COMPUTATIONS
- 9 STORM PROFILES
- 10 STORM WATER MANAGEMENT PLAN
- 11 BIORETENTION PLAN AND DETAILS
- 11A BIORETENTION DETAILS
- 12 EROSION & SEDIMENT CONTROL NARRATIVE AND DETAILS
- 13 EROSION AND SEDIMENT CONTROL DETAILS
- 14 DETAILS

TITLE SHEET

TREX COMPANY, INC.
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA



FREDERICK CO., VA APPROVAL

APPROVED BY:	DATE:
DESIGNED BY: TS	MAR 24, 2014
DRAWN BY: TS	SCALE: AS SHOWN
CHECKED BY: TS	PROJECT #: 1100.0
SHEET 1	

REVISIONS

NO.	DATE	DESCRIPTION	BY
1	6/15/15	agency review comments	

STOWE ENGINEERING, PLC

103 Heath Court
Winchester, VA 22602
(540) 686-7373
fax (540) 301-1100

PLAN VALID FOR FIVE YEARS FROM APPROVAL DATE.

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: November 10, 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: November 10, 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: November 10, 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 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 Manager and City Attorney are 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.

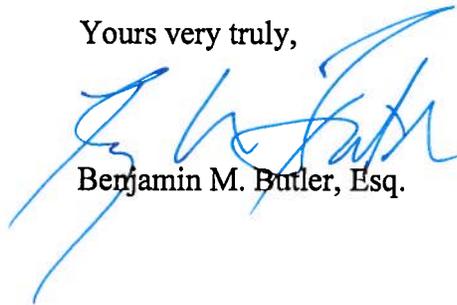
It is therefore proposed that the City of Winchester vacate and transfer to Green Inc. the land containing 0.0216 acres along and contiguous with the northern boundary of Tax Parcel 153-01-I-4, as well as the 0.0090 acres contiguous along the northern boundary of Green Inc., Tax Parcel 153-01-I-6, and 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

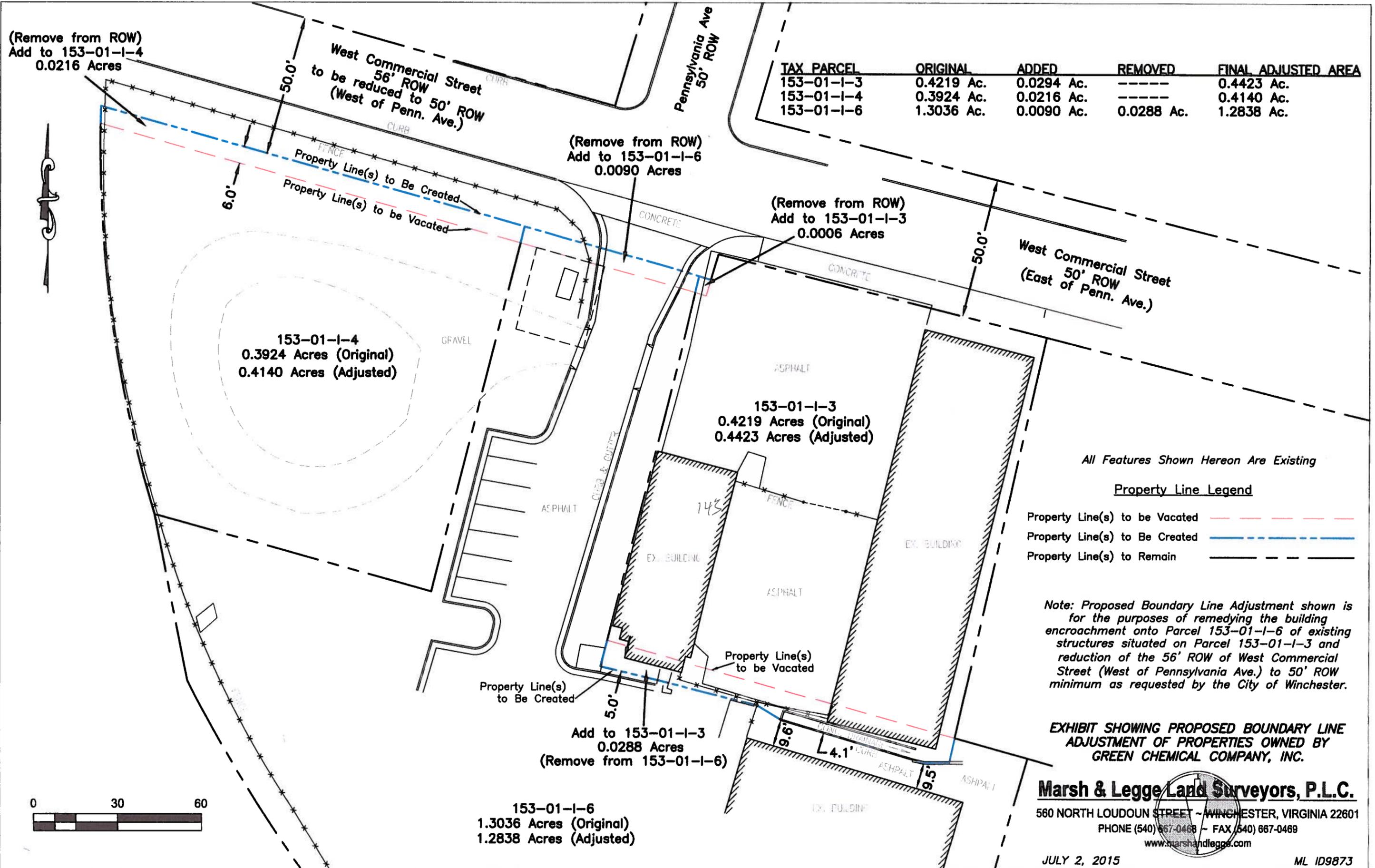
Attached hereto as Exhibit #2 is the letter from the surveyors, Marsh & Legge Land Surveyors, P.L.C., dated May 21, 2015 which made the determination that the land is owned by the City of Winchester. Also attached as Exhibit #3 are the Deeds upon which the surveyor relies to make the determination of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

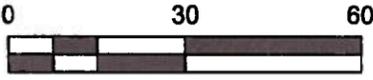
Property Line Legend

- 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.

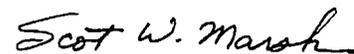
Based on our meeting with Tim Youmans of the City of Winchester and Ron Mislowsky, P.E., we have completed additional deed research and survey for the Commercial Street right of way line and for the property line adjustment along the rear of the Doyle's Equipment property. We have adjusted the property 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

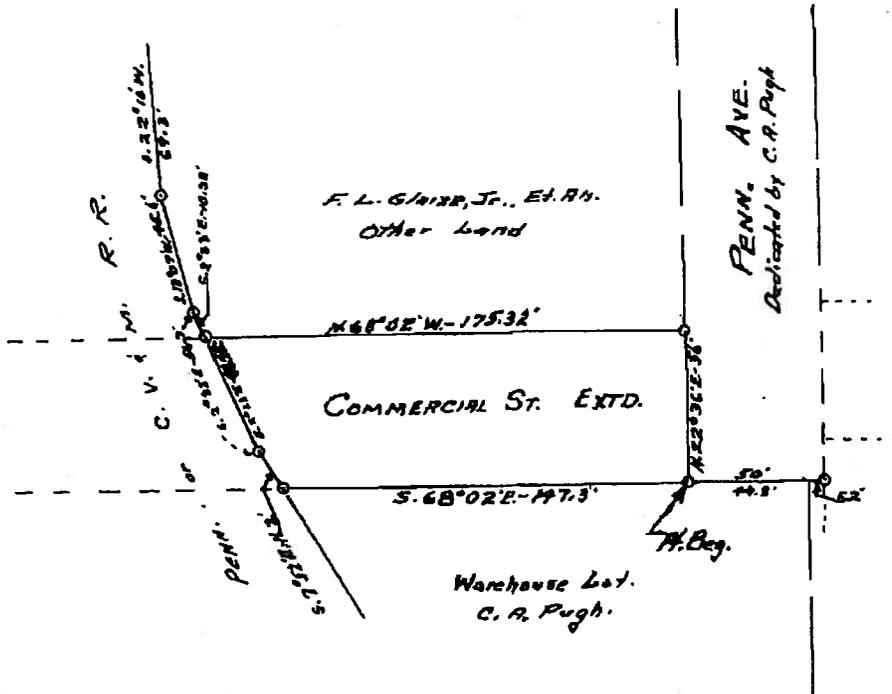
BOOK 91 PAGE 74

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.

J. M. Menhace 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))

DB 82 - PG 504

Witness the following signatures and seals this day and year first above written.

Approved by Common Council, City of Winchester, Va. March 8, 1955 S. L. Grant, City Manager	Thomas G. Scully (SEAL) Bentley T. Scully (SEAL) James R. Wilkins (SEAL) Mary O'B. Wilkins (SEAL)
---	--

State of Virginia,
County of Frederick, to-wit:

I, Wanda M. Riley, a Notary Public for the County aforesaid in the state of Virginia, do certify that Thomas G. Scully, Bentley T. Scully, James R. Wilkins and Mary O'B. Wilkins whose names are signed to the writing above bearing date on the 19th day of February, 1955, have acknowledged the same before me in my County aforesaid.

Given under my hand this 19th day of February, 1955.

Wanda M. Riley, Notary Public

My commission expires May 5, 1958.

Virginia, City of Winchester, Set:

This instrument of writing bearing date on the 19th day of February, 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.

<i>DB 82 p. 504</i>	<i>Wanda M. Riley</i> Deputy Clerk.
---------------------	-------------------------------------

Clayton A. Pugh, et al	"	
To Deed	"	<i>Spanner</i>
	"	NO. 174
City of Winchester	"	
No Tax	<i>Delivered to City of Winchester</i>	

THIS DEED made and dated this 4th day of March, 1955, by and between Clayton A. Pugh and Violet D. Pugh, his wife, parties of the first part; and the City of Winchester, a municipal corporation, created and existing under and by virtue of the laws of the Commonwealth of Virginia, party of the second part.

WITNESSETH: THAT for and in consideration of One Dollar (\$1), and other valuable consideration, paid by the party of the second part to the parties of the first part on or before the delivery of this deed, the receipt of which is hereby acknowledged, the parties of the first part do hereby grant, sell and convey unto the party of the second part, and its successors in title, a certain parcel of land, situate west of Loudoun Street, in the northern section of the City of Winchester, Virginia, containing 0.65 Acres, designated as Parcel "B", and more particularly described by metes and bounds as follows, to-wit:

"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 Lot 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".

The Plat and Survey, dated February 21, 1955, referred to in the above description

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:

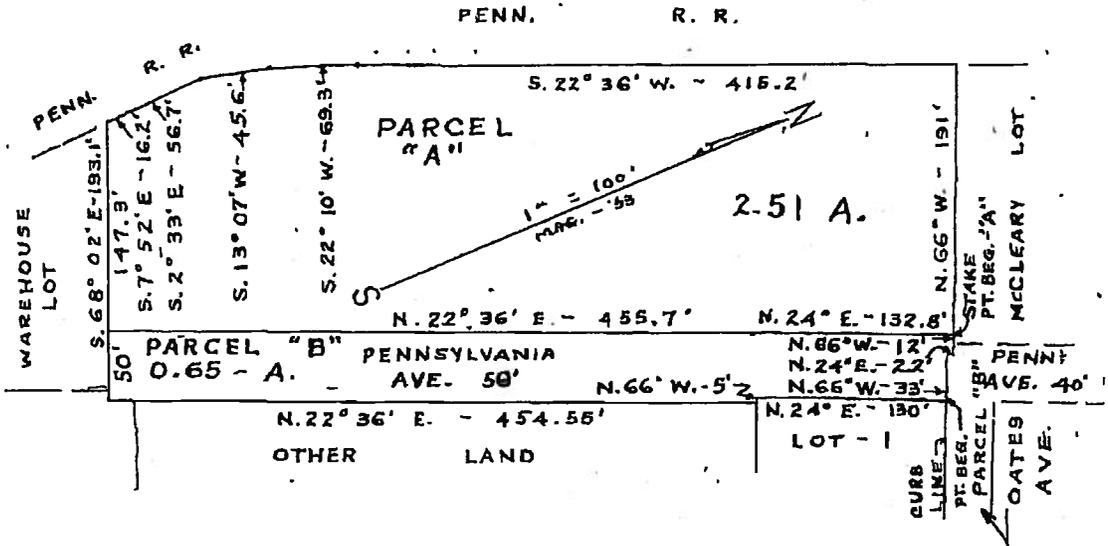
I, Irene H. Clark, a Notary Public in and for the County of Frederick, State of Virginia, hereby certify that Clayton A. Pugh, Violet D. Pugh, his wife, J. Sloan Kuykendall, Trustee, Henry H. Whiting, Trustee, and Charles H. Harper, and C. Vernon Eddy, President and Secretary, respectively, of The Handley 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.

James Paul Ray
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

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

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

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

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

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

25'x6' Water Meter Easement Hereby Created

Ex. 25'x30' Water Meter Easement DB 251 PG 254

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

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

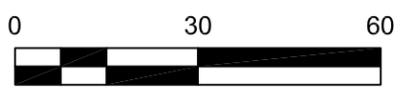
EXHIBIT SHOWING PROPOSED BOUNDARY LINE ADJUSTMENT OF PROPERTIES OWNED BY GREEN CHEMICAL COMPANY, INC.

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

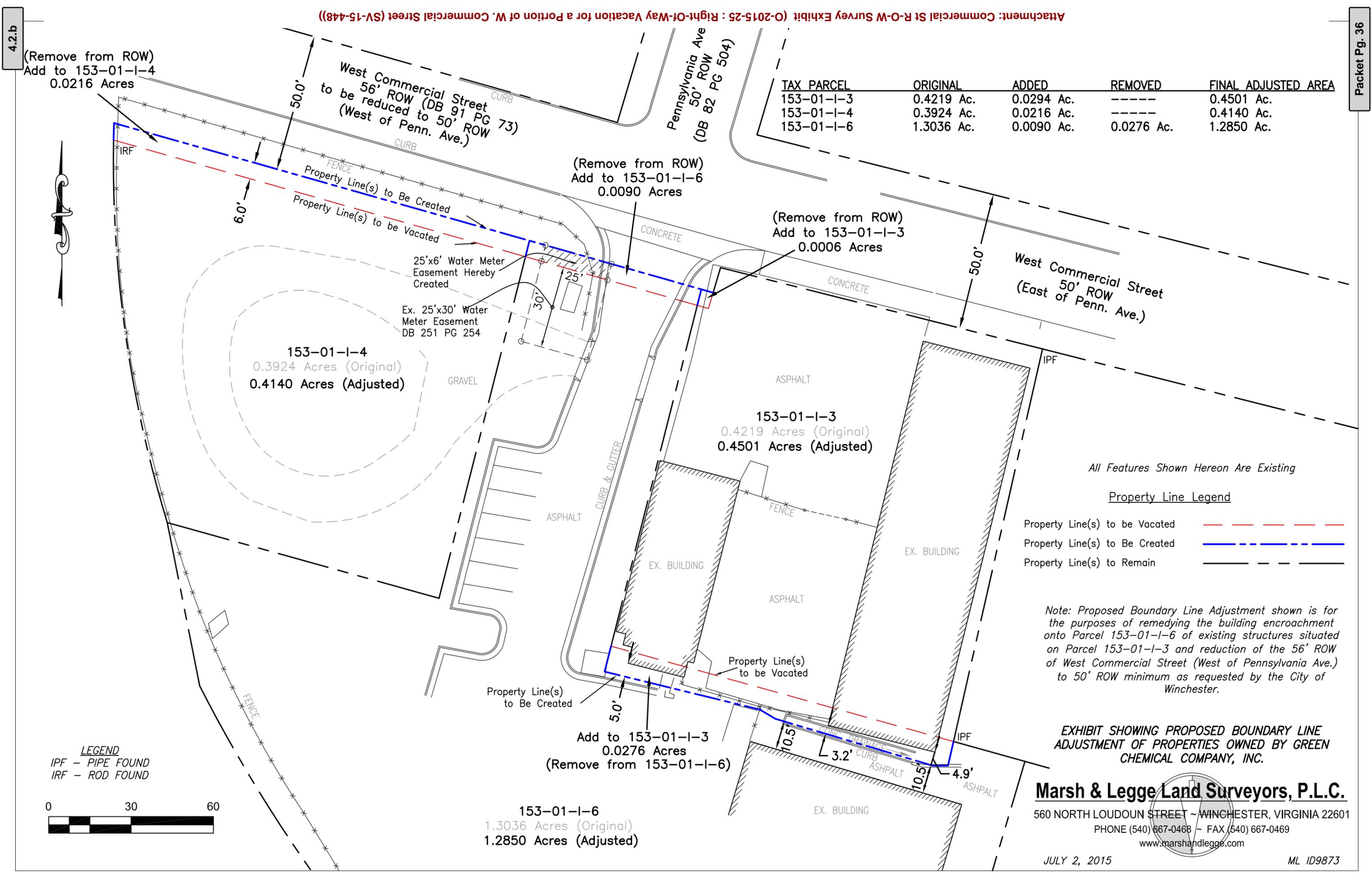
ML ID9873

LEGEND
IPF - PIPE FOUND
IRF - ROD FOUND



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

Add to 153-01-1-3
0.0276 Acres
(Remove from 153-01-1-6)





Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

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

VIEWERS REPORT

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

O-2015-25: 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 Viewers have reviewed the request by Mr. Benjamin Butler on behalf of Green Chemical Company, Inc., owners of 143 W. Commercial Street and 206 W. Wyck Street to have excess public street right-of-way vacated and conveyed to them; and,

Whereas, the Viewers have reviewed the request and have viewed the subject area including the presence of city utilities which will require the applicant to establish necessary easements to the City of Winchester, it is,

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

Kimberly Murray *Kimberly Murray* (Seal)

Perry Eisenach *Perry Eisenach* (Seal)

Allen Baldwin *Allen Baldwin (by Tim Youmans)* (Seal)

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: November 10, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: Resolution Regarding Board of Architectural Review Appeal Bar 15-336 210 S. Washington Street

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:

Josh Crump	Completed	11/05/2015 3:20 PM
Anthony Williams	Completed	11/05/2015 3:21 PM
Eden Freeman	Completed	11/05/2015 3:32 PM

Approved as to form:

Josh Crump

Josh Crump, Planner

11/5/2015

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 11/5/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Josh Crump, Planner
Date: November 10, 2015
Re: Resolution Regarding Board of Architectural Review Appeal Bar 15-336 210 S. Washington Street

THE ISSUE:

An appeal of a BAR decision pertaining to window replacement at 210 S. Washington Street. City Council must hold a public hearing within 60 days of the date of appeal filed on July 17, 2015. The Public Hearing was held on September 22, 2015.

RELATIONSHIP TO STRATEGIC PLAN:

Vision: To be a beautiful, vibrant city with a historic downtown, growing economy, great neighborhoods with a range of housing options and easy movement.

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

BACKGROUND:

See Attached Resolution.

BUDGET IMPACT:

None

OPTIONS:

1. Uphold the decision of the Board of Architectural Review to approve the request, in full based upon a finding that the applicant undertook the work without BAR approval and that the Board properly applied the standards for window replacement and gave the applicant reasonable amount of time to complete the work;
2. Modify the decision of the Board of Architectural Review to allow the replacement of wooden windows with vinyl for only the sides of the house; or,
3. Partial Reversal of the decision of the Board of Architectural Review, in full based upon a finding that the BAR erred in applying the standards established for the BAR.

RECOMMENDATIONS:

Option 1. See Attached Resolution.

RESOLUTION REGARDING BOARD OF ARCHITECTURAL REVIEW APPEAL BAR 15-336 210 S. WASHINGTON STREET

WHEREAS, SECTION 14-3 of the Winchester Zoning Ordinance requires that the erection, reconstruction, structural alteration, restoration, or demolition of a building or structure within the Historic District requires the issuance of a Certificate of Appropriateness; and

WHEREAS, Section 14-9 of the Winchester Zoning Ordinance provides for appeals from decisions of the Board of Architectural Review (hereinafter "BAR") concerning the issuance of a Certificate of Appropriateness to Common Council; and

WHEREAS, the applicants in this matter are the owners of the property located at 210 S. Washington Street (hereinafter "the building") which is located in the Historic District; and

WHEREAS, it was discovered during a city inspection after a citizen complaint that many of the original wooden windows of the building had been replaced with new vinyl windows as well as other exterior changes without having first obtained a Certificate of Appropriateness (hereinafter "COA"); and

WHEREAS, the owner (at the time of issuance of the Notice of Violation) was issued a Notice of Violation for performing such work without first having obtained a COA; and

WHEREAS, this matter came before the BAR as a single matter - Case No.: BAR15-310 on June 4, 2015 wherein the BAR split its consideration of the issuance of the COA into two motions - (1) approving the exterior changes for the roof materials and door and shutter colors, and (2) denying the replacement vinyl windows due to being an inappropriate use in the Historic District and providing options for the applicant to resubmit a request for the issuance of a COA upon mitigation of the nonconforming window installation as memorialized in a June 5, 2015 disposition letter issued concerning BAR-15-310 and

WHEREAS, the applicant re-applied for a COA without having mitigated the nonconforming windows claiming that replacement would be a financial hardship; and

WHEREAS, the BAR considered this matter as BAR 15-336 and issued its determination as memorialized in a June 25-2015 letter (**Exhibit A**); and whereas the applicant then appealed this matter to Common Council in accordance with Section 14-9 of the Winchester Zoning Ordinance; and

WHEREAS, Common Council did properly review all materials associated with this BAR appeal and did receive presentations, public hearing, and comment from City Staff and the applicant in compliance with all requirements of Section 14-9; and

WHEREAS, in consideration of and in applying the current Historic District Standards as required under Section 14-9-1.3

BE IT hereby RESOLVED that Common Council does affirm and uphold the determination made by the BAR in BAR 15-336 as memorialized in (**Exhibit A**) and summarized requiring that the owner act forthwith as follows:

- Replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application;
- the one vinyl window on the side of the house to be left as is;
- the windows on the back of the house to be replaced with vinyl windows with simulated divided lights;
- the windows in the front of the house to be replaced within one year;
- the windows on the side of the house to be replaced within two years.

BE it FURTHER RESOLVED that the applicant shall be appraised by City Staff of his rights under 14-9-2.1 of the Winchester Zoning Ordinance to appeal this final decision of Common Council to the Circuit Court for review as follows:

14-9-2.1 Any applicant or any of the petitioners aforesaid aggrieved by a final decision of the City Council, or any opponents to the final decision of the City Council, shall have the right to appeal such decision to the Circuit Court for a review; provided, such appeal is filed within a period of thirty (30) days after the rendering of the final decision by the City Council, and that, in the case of opponents to the final decision of City Council, there is filed with the appeal a petition in writing signed by at least twenty-five persons owning real estate within the Historic Winchester District. Such appeal shall be taken by filing a petition at law, setting forth the alleged illegality of the action of the governing body. The filing of said petition shall stay the decision of the Council pending the outcome of the appeal to Circuit Court, except that the filing of such petition shall NOT stay the decision of the Council if such decision denies the right to raze or demolish a building which existed in the Historic Winchester District seventy-five (75) years ago or prior thereto. (12/11/79, Ord. No. 030-79).