

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	August 17, 2020
Action Required:	Public Hearing - First Reading of Proposed Ordinance
Presenter:	John Blair, City Attorney
Staff Contacts:	Lisa Robertson, City Attorney's Office Allyson Manson-Davies, City Attorney's Office Roy Nester, Utilities Engineer Brian Haluska, NDS Planner
Title:	Easement to International School of Charlottesville, Inc. (Linden Avenue)

Background/Discussion: The International School of Charlottesville, Inc. ("ISC") submitted a site plan to construct a preschool. Construction of the preschool will require a new storm drainage easement from the City. The location of the proposed easement is located through a small corner of Rives Park which is City owned property.

The proposed easement will allow a new storm pipe to connect to the existing drain at Rives Park. This easement will not impact City services or operations. The proposed easement is for a period of forty years in accordance with the requirements of Va. Const. Art. VII, § 9.

City Staff recommends the following requirements for ISC:

1. Maintain the easement;
2. Protect specimen trees and replace any trees requiring removal;
3. Restore any surface grass damaged by construction to its original condition.

Alignment with City Council's Vision and Priority Areas: This agenda item and recommendation aligns with Council's vision for Charlottesville to be a Center for Lifelong Learning.

Community Engagement: A public hearing is required by law to give the public an opportunity to comment on the proposed conveyance of the drainage easement.

Budgetary Impact: There is no budget impact for the City.

Recommendations: City Staff recommends approval of the Ordinance authorizing the Mayor to execute the attached Deed of Easement conveying the new drainage easement subject to the conditions referenced above.

Alternatives: Council could deny the request by the International School of Charlottesville. The denial will prohibit construction of the pre-school under the current plan.

Attachments: Proposed Ordinance;
Proposed Deed of Easement and Plat.

**AN ORDINANCE
GRANTING DRAINAGE EASEMENT TO THE
INTERNATIONAL SCHOOL OF CHARLOTTESVILLE, INC.**

WHEREAS, the International School of Charlottesville, Inc. (“ISC”) has requested the City of Charlottesville (“City”) grant a drainage easement across a portion of 1011 Linden Avenue, located in the City of Charlottesville, (portion of Rives Park), as shown on the attached plat dated January 24, 2020; and,

WHEREAS, the proposed drainage easement will allow for the installation and maintenance of a new drainage pipe to connect to the existing drain at Rives Park; and,

WHEREAS, in accordance with Virginia Code Secs. 15.2-1800 (B) & 15.2-2101(A), an advertised public hearing was held to give the public an opportunity to comment on the conveyance of this easement; and,

WHEREAS, City staff have reviewed the request and have no objection to the conveyance of said easement to ISC.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Easement located at 1011 Linden Avenue in Charlottesville, Virginia and as shown on a plat dated January 24, 2020, and such other documents as may be required, in a form approved by the City Attorney, to convey the above-described easement to the International School of Charlottesville, Inc.

City Tax Map Parcel 61-56 (1011 Linden Avenue)

This deed is exempt from state recordation taxes imposed by Virginia Code Sec. 58.1-801 pursuant to Virginia Code Sec. 58.1-811(A)(3).

THIS DEED OF EASEMENT made this ____ day of _____, 2020, by and between **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation, P.O. Box 911, Charlottesville, Virginia 22902, Grantor; and the **INTERNATIONAL SCHOOL OF CHARLOTTESVILLE, INC.**, a **Virginia non-stock corporation**, 830 Monticello Avenue, Charlottesville, Virginia, 22902, Grantee.

WITNESSETH:

That for and in consideration of the sum of ONE DOLLAR AND 00/100 (\$1.00), receipt of which is hereby acknowledged, Grantor does hereby GRANT and CONVEY unto the Grantee the following described easement:

New private twenty foot (20') drainage easement to be centered on the City accepted and approved location of the constructed storm sewer, shown and labeled "New Drainage Easement tax Map 61 Parcels 56 and 61, #1011 Linden Avenue, City of Charlottesville, Virginia" on a plat made by Roudabush, Gale & Associates, dated January 24, 2020, which plat is attached hereto and made a part of this deed;

Said drainage easement and right-of-way cross a portion of the property conveyed to Grantor by deed dated February 11, 2016, of record in the Charlottesville Circuit Court Clerk's Office as Instrument #201600000615. Reference is hereby made to the aforesaid deed for a more complete description of the property over which this easement and right-of-way cross.

The Grantee shall have the right to trim, cut, and remove all trees, limbs, undergrowth,

shrubbery, landscape plantings of any kind, fences, buildings, structures, paving, or other obstructions or facilities within said easement which interferes with construction, operation, and maintenance of the storm drain facilities in or on said easement.

The Grantee shall restore, repair or replace ground cover (pavement, gravel, or grass) located within the easement which is disturbed, damaged, or removed as a result of the construction or repair of any of the Grantee's facilities, shall remove all trash and other debris of construction or repair from the easement area, and shall restore the surface thereof to its original condition as nearly as reasonably possible, all subject, however, to this exception, to-wit: that the Grantee shall not be so obligated when it would be inconsistent with the proper operation, maintenance or use of its drainage facilities.

Grantor, its successors and assigns, reserves the right to make use of the land subject to the rights herein granted, which use shall not be inconsistent with the rights herein conveyed or interfere with the use of the said easement by the Grantee for the purposes aforesaid; provided, however, that all such use shall be at Grantee's risk unless prior written approval of Grantor is obtained.

The conveyance of the drainage easement and right-of-way includes the right of ingress and egress across Grantor's property at Rives Park, (formerly addressed as 942 Rives Street), (City Tax Map Parcel 610061000) for a period of forty (40) years, for the above-mentioned purposes. This easement shall be in effect for a period of forty (40) years; however, if Grantee at any time discontinues use of all or any portion of the easement herein conveyed for a period of one (1) year, all Grantee's rights and interest in said easement or portion thereof shall terminate and revert to Grantor, its successors and assigns, and Grantee shall at its own expense remove any Facilities and restore Grantor's property as nearly to its original condition as practicable, and

on written request by Grantor, Grantee shall quit claim and release same.

As evidenced by its acceptance and recordation of this deed, the Grantee covenants that it will perform the installation of the new storm drain facilities in a proper and careful manner, shall maintain the easement, protect specimen trees, replace any trees requiring removal and restore any surface grass damaged by construction to its original condition.

Both Grantor and Grantee agree and attest that no other agreement, either written or implied, has been entered into by either or both parties except as expressed hereinabove.

Grantor covenants that it is seized of and has the right to convey this easement, that Grantee shall have quiet possession, use and enjoyment of this easement, and that Grantor shall execute such further assurances thereof as may be required.

IN TESTIMONY WHEREOF, the City of Charlottesville, Virginia, pursuant to an ordinance adopted by the Council on the _____ day of _____, 2020, has authorized this deed to be executed by Nikuyah Walker, its Mayor.

WITNESS the following signatures and seals:

**THE INTERNATIONAL SCHOOL OF
CHARLOTTESVILLE, VIRGINIA, INC.**

Authorized Representative

(Printed Name of Representative)

STATE OF VIRGINIA
COUNTY/CITY OF _____, to wit:

The foregoing instrument was acknowledged before me this ___ day of _____, 2020, by _____, authorized representative for the International School of Charlottesville, Virginia, Inc.

My commission expires: _____

Registration Number: _____

NOTARY PUBLIC

**CITY OF CHARLOTTESVILLE,
VIRGINIA**

Nikuyah Walker, Mayor

STATE OF VIRGINIA
CITY OF CHARLOTTESVILLE, to wit:

The foregoing instrument was acknowledged before me this ___ day of _____, 2020, by Nikuyah Walker, Mayor, on behalf of the City of Charlottesville.

My commission expires: _____

Registration Number: _____

NOTARY PUBLIC

Approved as to Form:

John C. Blair, II, City Attorney

NEW DRAINAGE EASEMENT TAX MAP 61 PARCELS 56 AND 61

#1011 LINDEN AVENUE
CITY OF CHARLOTTESVILLE, VIRGINIA

NOTES:

1. EASEMENTS AND UTILITIES OTHER THAN THOSE SHOWN MAY EXIST.
2. NO TITLE REPORT USED IN THE PREPARATION OF THIS PLAT.
3. THIS PLAT BASED ON A RECORDED SURVEY BY THIS OFFICE DATED JANUARY 24, 2019 AND RECORDED AT INSTRUMENT #2019-0000441 IN THE CITY OF CHARLOTTESVILLE CLERKS OFFICE.
4. SUBJECT PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
5. SUBJECT PROPERTY APPEARS TO LIE IN FLOOD INSURANCE RATE MAP ZONE 'X', "AREAS OF MINIMAL FLOOD HAZARD" AS SHOWN ON COMMUNITY PANEL NUMBER 51003C0288 D, EFFECTIVE DATE: FEBRUARY 04, 2005.
6. THE NEW PRIVATE 20' DRAINAGE EASEMENT SHOWN ON TAX MAP 61 PARCEL 61 IS TO BE CENTERED ON THE CITY ACCEPTED AND APPROVED LOCATION OF THE CONSTRUCTED STORM SEWER.
7. THE NEW PRIVATE 20' DRAINAGE EASEMENT SHOWN ON TAX MAP 61 PARCEL 61 IS TO BE CONSTRUCTED AND MAINTAINED BY THE OWNERS OF TAX MAP 61 PARCEL 56.

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ROUDABUSH, GALE & ASSOCIATES, INC.

ENGINEERS, SURVEYORS AND LAND PLANNERS



A PROFESSIONAL CORPORATION
SERVING VIRGINIA SINCE 1956



914 MONTICELLO ROAD - CHARLOTTESVILLE, VIRGINIA 22902
PHONE 434-977-0205 - FAX 434-296-5220 - EMAIL INFO@ROUDABUSH.COM

LEGAL REFERENCE:

TAX MAP 61 PARCEL 56
(ZONED HW)

OWNER

INTERNATIONAL SCHOOL OF CHARLOTTESVILLE INC.
830 MONTICELLO AVE
CHARLOTTESVILLE, VA. 22902

SOURCE OF TITLE/PLAT REFERENCE

INSTR. #2019: 441
D.B.304 P.214
D.B.97 P.352 (county) Plat

LEGAL REFERENCE:

TAX MAP 61 PARCEL 61
RIVES PARK
(ZONED R-1S)

OWNER

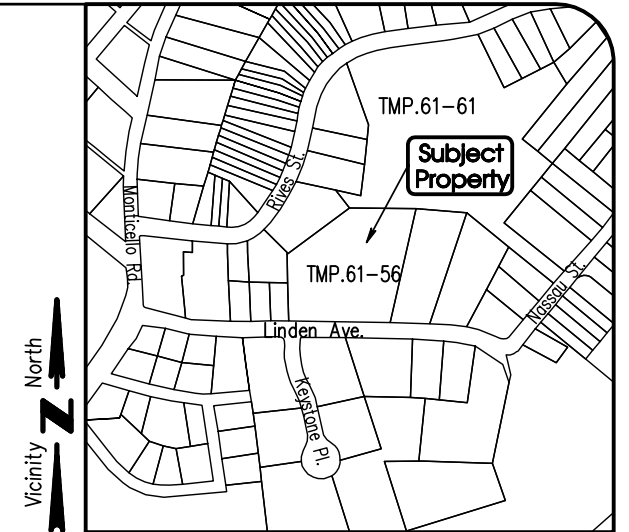
CITY OF CHARLOTTESVILLE VIRGINIA
PO BOX 911
CHARLOTTESVILLE, VA. 22902

SOURCE OF TITLE/PLAT REFERENCE

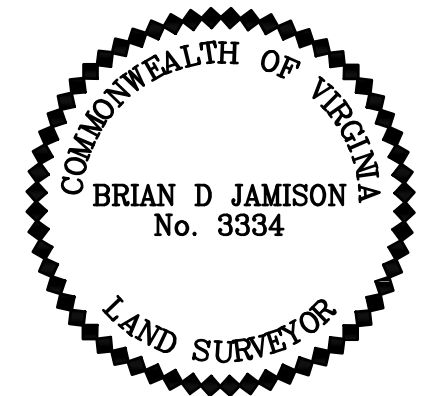
Instr. #2016: 615

CURRENT SETBACKS(HW)

PRIMARY STREET FRONTAGE: 5' MINIMUM, 30' MAXIMUM
LINKING STREET FRONTAGE: 5' MINIMUM, 20' MAXIMUM
SIDE AND REAR MINIMUM: NONE REQUIRED
SIDE AND REAR (ADJACENT TO LOW RES. DISTRICT): 20'



VICINITY MAP
1"=500'+/-



SHEET INDEX

SHEET 1 - COVER SHEET
SHEET 2 - EASEMENT PLAT

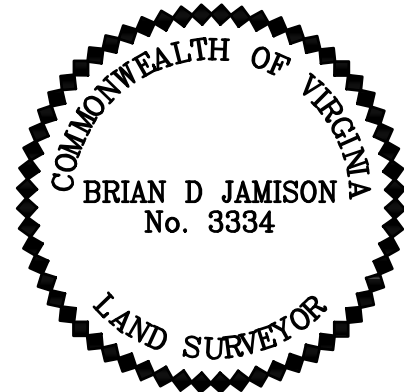
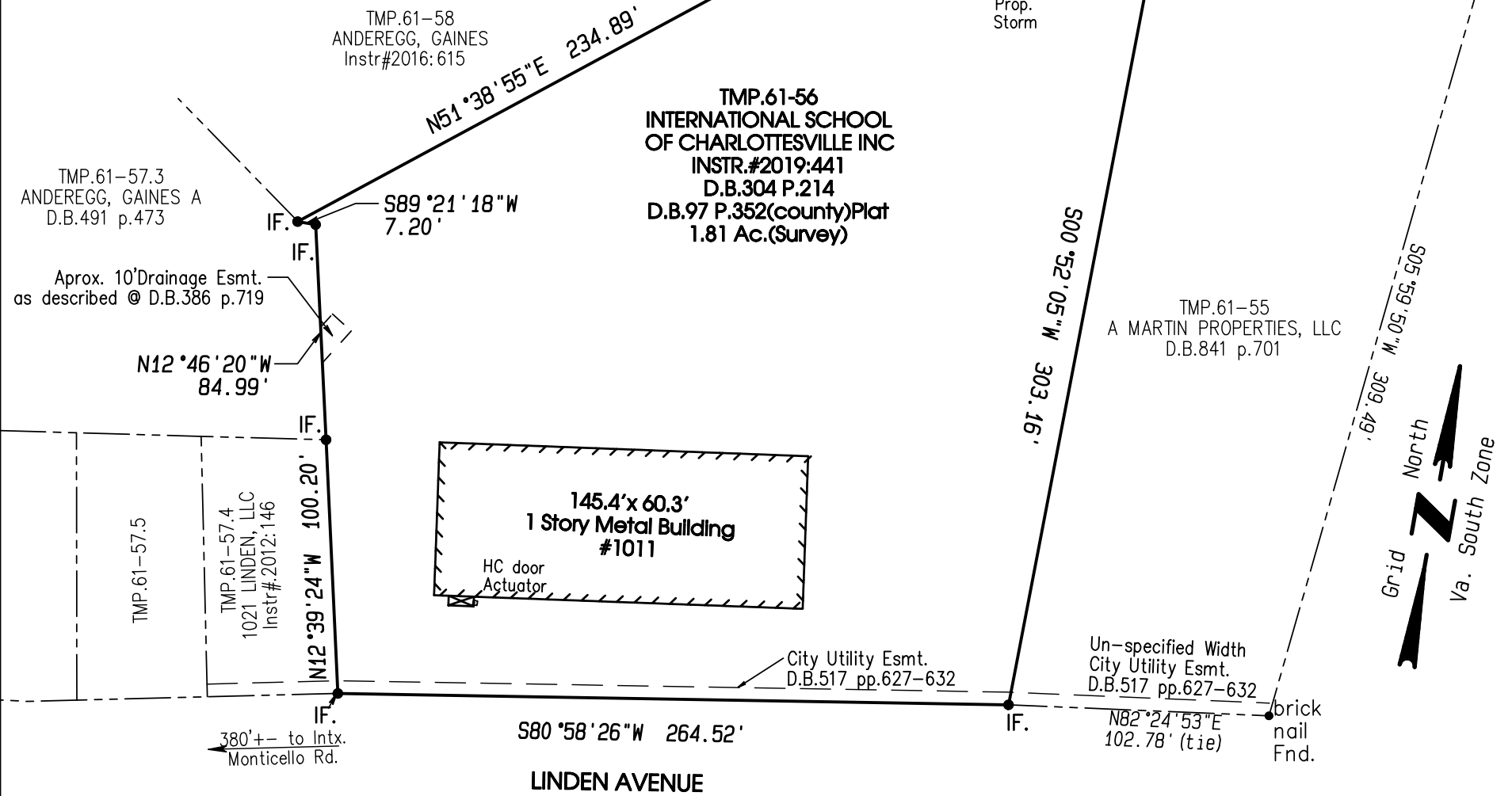
JANUARY 24, 2020

SCALE: N/A
FILE: 7342
SHEET 1 of 2

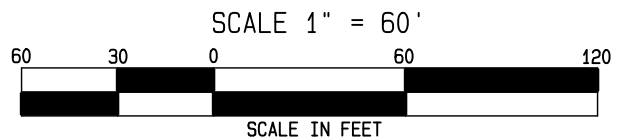
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NEW DRAINAGE EASEMENT
TAX MAP 61 PARCELS 56 AND 61
 #1011 LINDEN AVENUE
 CITY OF CHARLOTTESVILLE, VIRGINIA

TMP.61-61
 RIVES PARK
 CITY OF CHARLOTTESVILLE
 Instr# 2016:615
 Zoned: R1S(per GIS)



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JANUARY 24, 2020
 SCALE: 1" = 60'
 FILE:7342
 SHEET 2 of 2

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