

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	June 21, 2022
Action Requested:	Approval of Ordinance (1 reading only, no public hearing)
Presenter:	Lisa Robertson, City Attorney
Staff Contacts:	Lisa A. Robertson, City Attorney
Title:	Approval of Encroachment Agreement (1622 East Market Street)

Background:

John and Mary Winter are the owners of a building located in the City at 1622 East Market Street (“Building”). A recent survey undertaken during the process of a proposed sale of this property revealed portions of the Building encroach into the public street right of way for East Market Street.

The Winters purchased this property in 2004 and they represent that they were unaware of the Building encroachment until the recent survey. The Owner has requested City Council to approve these encroachments, to facilitate a future sale of the property and to cure any issues that might affect a purchaser’s ability to obtain title insurance/ clear title. Attached is a copy of the recent survey plat of the property showing the area of East Market Street affected by the Building encroachment (“Encroachment Area”).

Discussion:

Sections 15.2-2009 and 15.2-2011 of the Virginia Code permit the City Council to authorize encroachments upon public rights-of-way, subject to requirements of those statutory sections and such other terms and conditions as City Council may prescribe.

Alignment with City Council’s Vision and Strategic Plan:

Approval of the Building encroachment is consistent with Goal 3.1 of the Strategic Plan (Engage in Robust and Context Sensitive Urban Planning and Implementation).

Community Engagement:

Not applicable.

Budgetary Impact:

There is no budgetary impact for approval of this agreement.

Recommendation:

Staff recommends approval of the Ordinance

Alternatives:

If Council decides not to approve the Ordinance, the owner may encounter future difficulty when trying to sell the property.

Attachments (3):

- Proposed Ordinance

Suggested Motion: "I move the ORDINANCE authorizing encroachment of a building constructed on property identified on City Tax Map 56 as Parcel 117, having an address of 1622 E. Market Street"

- Physical Survey Plat
- Email Request from the Owner

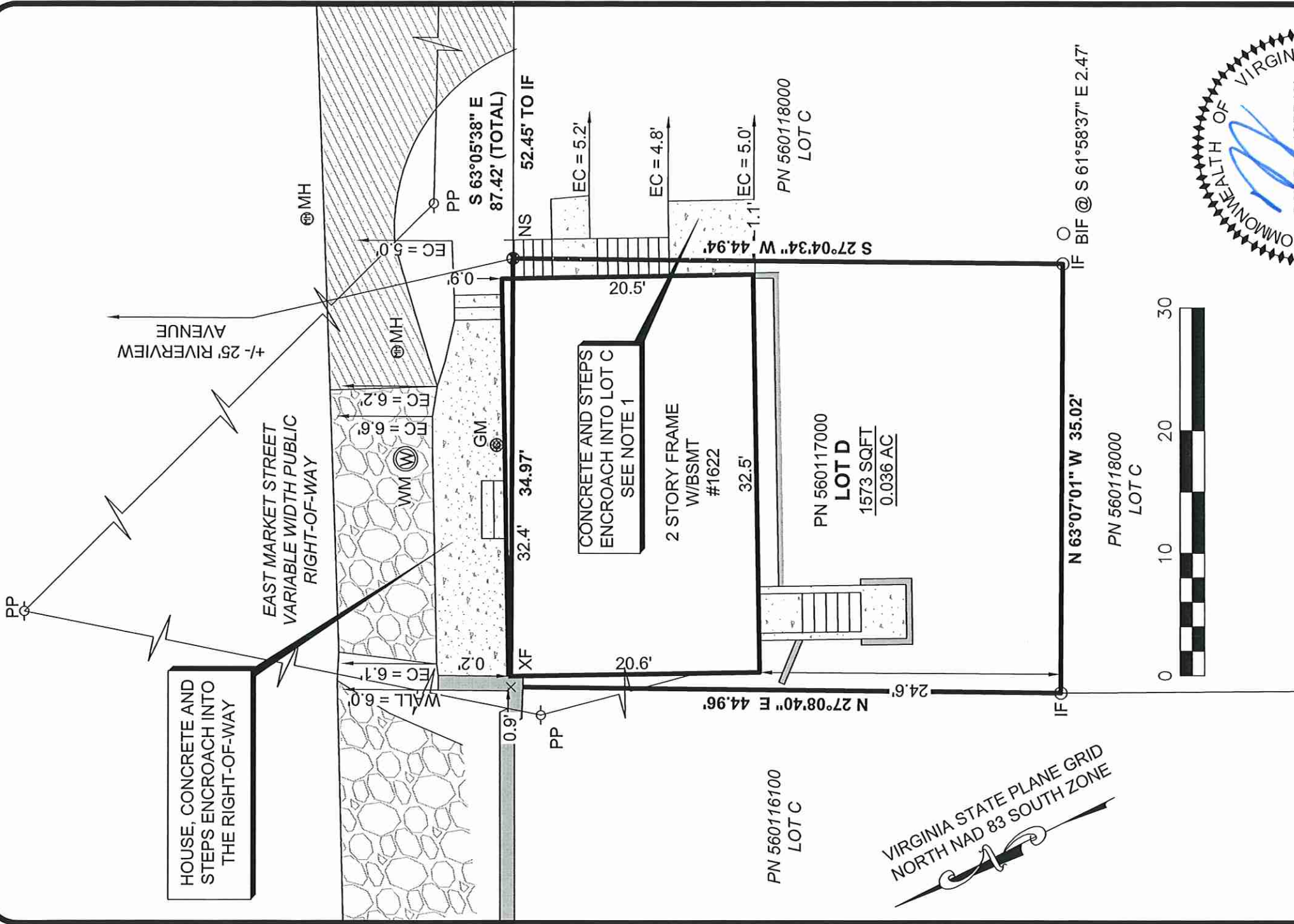
ORDINANCE
AUTHORIZING ENCROACHMENT OF A BUILDING
CONSTRUCTED ON PROPERTY IDENTIFIED ON CITY TAX MAP 56 AS PARCEL 117
HAVING THE ADDRESS OF 1622 EAST MARKET STREET

WHEREAS John and Mary Winter, the owners of certain property located at 1622 East Market Street, identified on City Tax Map 56 as Parcel 117 (City Real Estate Parcel Identification No. 560117000) (the “Property”), has requested City Council to authorize an existing encroachment of the building constructed on the Property in 1920 into the public right-of-way of East Market Street (the “Encroachment”); and

WHEREAS the City Engineer has reviewed a physical survey plat prepared by Commonwealth Land Surveying, LLC, dated April 14, 2022, titled Physical Survey Lot D J.W. & Ethel H.A. Garrison Subdivision (“Plat”), showing the Encroachment area. Seeing no apparent detrimental effect of City Council agreeing to the Encroachment, the City Engineer has confirmed that he has no objection to the request; and

WHEREAS Sections 15.2-2009 and 15.2-2011 of the Code of Virginia (1950), in effect as of the date this Ordinance is approved, permit the City Council to authorize encroachments upon public rights-of-way, subject to the requirement that the Property owner shall not be relieved of negligence on account of the Encroachment(s), and further subject to other terms and conditions as City Council may prescribe;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that the Mayor is hereby authorized to execute a deed or other instrument(s), in a form approved by the City Attorney and suitable for recording among the land records of the City of Charlottesville, to authorize the Encroachment of the Building within the East Market Street right-of-way, subject to the provisions of Sections 15.2-2009 and 15.2-2011 of the Code of Virginia (1950) in effect as of the date this Ordinance is approved.



Q:\SURVEYS OF PROPERTIES\CHARLOTTESVILLE\TM 56\PN 560117000\DWG\C-PN 560117000 Physical.dwg, 5/17/2022 3:20:20 PM, IR-ADV 4725



PHYSICAL SURVEY
LOT D
J.W. & ETHEL H.A.
GARRISON SUBDIVISION
 CITY OF CHARLOTTESVILLE, VIRGINIA
 SCALE: 1" = 20'
 DATE: APRIL 14, 2022
 PREPARED BY: DAJ
 SHEET 2 OF 2
 JOB: C-56-117-PS

COMMONWEALTH
LAND
SURVEYING, LLC
 1484 GREENBRIER PLACE
 CHARLOTTESVILLE, VIRGINIA 22901
 PH: 434-973-0513

VIRGINIA STATE PLANE GRID
 NORTH NAD 83 SOUTH ZONE

Robertson, Lisa

Subject: 1622 E Market Street

From: Brodhead, Read <BRODHEAD@charlottesville.gov>

Sent: Tuesday, May 10, 2022 9:56 AM

To: '4347602345@pm.sprint.com' <4347602345@pm.sprint.com>; Willard, Deborah D <willardd@charlottesville.gov>;

Creasy, Missy <CreasyM@charlottesville.gov>

Subject: 1622 E Market Street

Mr. Winter,

I read through the correspondence that you sent Ms. Willard and I would like to add some clarifying information. Your home, located at ____ is partially located within the City Right of Way, not within an easement. I suggested that you may try to purchase a small piece of the right of way so that the entire footprint of the home is located on your property. The City Attorney's Office is the department that would be able to help you with this request. The City does not like to give up ROW, but under the circumstances, they may be willing to accommodate your request.

-Read



From: 4347602345@pm.sprint.com <4347602345@pm.sprint.com>

Sent: Tuesday, May 10, 2022 9:39 AM

To: Willard, Deborah D <willardd@charlottesville.gov>; Brodhead, Read <BRODHEAD@charlottesville.gov>; Creasy, Missy <CreasyM@charlottesville.gov>

Subject:

Mr. Winter's Email from 5/10/22

Good morning Debra I don't know if you've heard from Kyle Miller yet or not I have an issue with my property down on 1622 E. Market St. I'm trying to close on it I am the seller I have ownethe property for 20 some years the day of closing I found out that the city has an easement that runs through 6 inches of the front ofThe Home Reed over at zoning said he did not have a problem with that he would grant any permits for remodeling or whatever I think what Kyle wants is a variance or a reverse easements or something it's kind of putting a financial burden on me because I have not rented out the downstairs because he wants that vacant so he can remodel I guess not that it makes any difference but I have typicallyRented to single moms and I've tried to keep the rent fairly reasonable but I'm getting to retire and this is a major portion of my retirement I'm not a Charles hurt by any means this is like the only piece of property any help would be vastly appreciated sorry to go on and on my phone number is 760-2345If you can't reach me leave a message please

WARNING: This email has originated from **outside of the organization**. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my mobile.

I can't seem to get through on the city of Charlottesville line have you heard from Mr. broadhead? This is Mr. Winter 434-760-2345 if you can't reach me please leave a message