

**LYNCHBURG CITY COUNCIL
PHYSICAL DEVELOPMENT COMMITTEE
Tuesday, October 8, 2013
1:30 p.m.**

Information Items

Recent/Pending Contract Awards: – None

Update on priority projects – see attached.

General Business

- | | | |
|-----|---|--------------|
| 1. | Right of Way Vacation- Manton Drive Property | Kevin Henry |
| 2. | Community Gardens Water Fee | Tim Mitchell |
| 3. | Right of Way Vacation- Old Forest Road | Lee Newland |
| 4. | Transportation Alternatives Application | Don DeBerry |
| 5. | Roll Call | |
| Pc: | Kimball Payne, City Manager
Bonnie Svrcek, Deputy City Manager
Council Members
Gaynelle Hart, Director of Public Works
News & Advance
File | |

Next Meeting: November 12, 2013

Lynchburg Capital Projects (General Fund)

October 8, 2013

Projects of Interest	Status		Notes
Timberlake / Logan's Lane Intersection	Design	July 2014	Preliminary Design - Public Meeting Held Last Week
Wards Road Pedestrian X-ing 2B	Construction	May 2014	Trail Phase 2B - Project Will Be Re-Advertised - Only One Bid and Was Over Budget
Midtown Connector	Construction	March 2015	Under Construction - Restarting Work After Shutdown - Park Avenue to Open Late November
Greenview Drive Phase 2	R/W	August 2014	Project Schedule is Dependent on Available Funds - Revenue Sharing Funds Awarded - Moving Towards R/W Acquisition
Kemper Street Bridge / Interchange	Design	March 2013	Received Design Exception Approval From VDOT - Plan to Bid in November.
Signal Improvements - Edgewood/Fort, University/Evans & Oak/Rivermont	Construction	December 2013	Under Construction and Waiting on Steel Pole Delivery
Lower Bluffwalk Phase 2	Construction	October 2014	Underway
Memorial - Park - Lakeside Intersection	R/W	April 2013	Acquiring R/W - Construction Authorization Requested From VDOT - Utility Relocations Starting Soon
Miller Center Renovations	Construction	August 2014	Slightly Behind Schedule. Construction Going Well.
Odd Fellows Road - P3	Advertising	February 2014	Proposal Being Considered By VDOT
Wards Road Bridge Repairs	Construction	October 2013	On Schedule to Open Late October
Fifth Street Phase 2 Utilities w/ Streetscapes	Construction	November 2013	Working on Final Two Blocks - Two Way Traffic Open to Court Street

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 8, 2013 (PDC)**

AGENDA ITEM NO.:

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Vacate unopened right-of-way between 3600 and 3607 Manton Drive**

RECOMMENDATION: Vacate the unopened right-of-way.

SUMMARY: Mr. Thomas P. McCann is petitioning to vacate a right of way between 3600 Manton Drive and 3607 Manton Drive. The right of way is two hundred forty (240) feet in length and fifty (50) feet wide.

There are unique circumstances involving this right of way. First, in the case of Donald A. Minner v. City of Lynchburg (March 4, 1963), the Supreme Court of Virginia ruled the City is not allowed to use this property for right of way. Also, although right of way vacations in the City typically result in adjoining property owners splitting the vacated property, this particular right of way was created after the subdivision out of the property at 3600 Manton Drive. As such the entire area would revert back to 3600 Manton Drive which is currently owned by the petitioner.

There is no expected impact with the proposed vacation given the City cannot use the property as right of way and there are residential dwellings blocking access to Willow Lawn Drive.

PRIOR ACTION(S):

August 9, 2013: The Technical Review Committee [TRC] reviewed the petition. The TRC comments have been incorporated into the proposed ordinance.

FISCAL IMPACT: None

CONTACT(S):

Kevin Henry, Planner II – 455-3900
Tom Martin, City Planner - 455-3900
Kent White, Director of Community Development – 455-3900

ATTACHMENT(S):

- Ordinance
- Maps
- Application
- Lexis Nexis Summary
- Deed

REVIEWED BY:

AN ORDINANCE VACATING RIGHT OF WAY BETWEEN 3600 MANTON DRIVE AND 3607 MANTON DRIVE.

WHEREAS, Mr. Thomas P. McCann is petitioning to vacate a right of way located between the properties of 3600 Manton Drive and 3607 Manton Drive, which extends two hundred forty (240) feet; and

WHEREAS, City Council finds that no public inconvenience will result from vacating a portion of the right of way

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 36-77 of the City Code, 1981, as amended, the following described right of way be, and the same hereby is, discontinued and vacated, namely:

The right of way located between 3600 Manton Drive and 3607 Manton Drive, which extends two hundred forty (240) feet.

Said vacation is contingent upon the following: (1) that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, relocate, repair, replace, maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division.

BE IT FURTHER ORDAINED that the Clerk of the Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:

Certified:

Clerk of Council

3600 Manton Drive

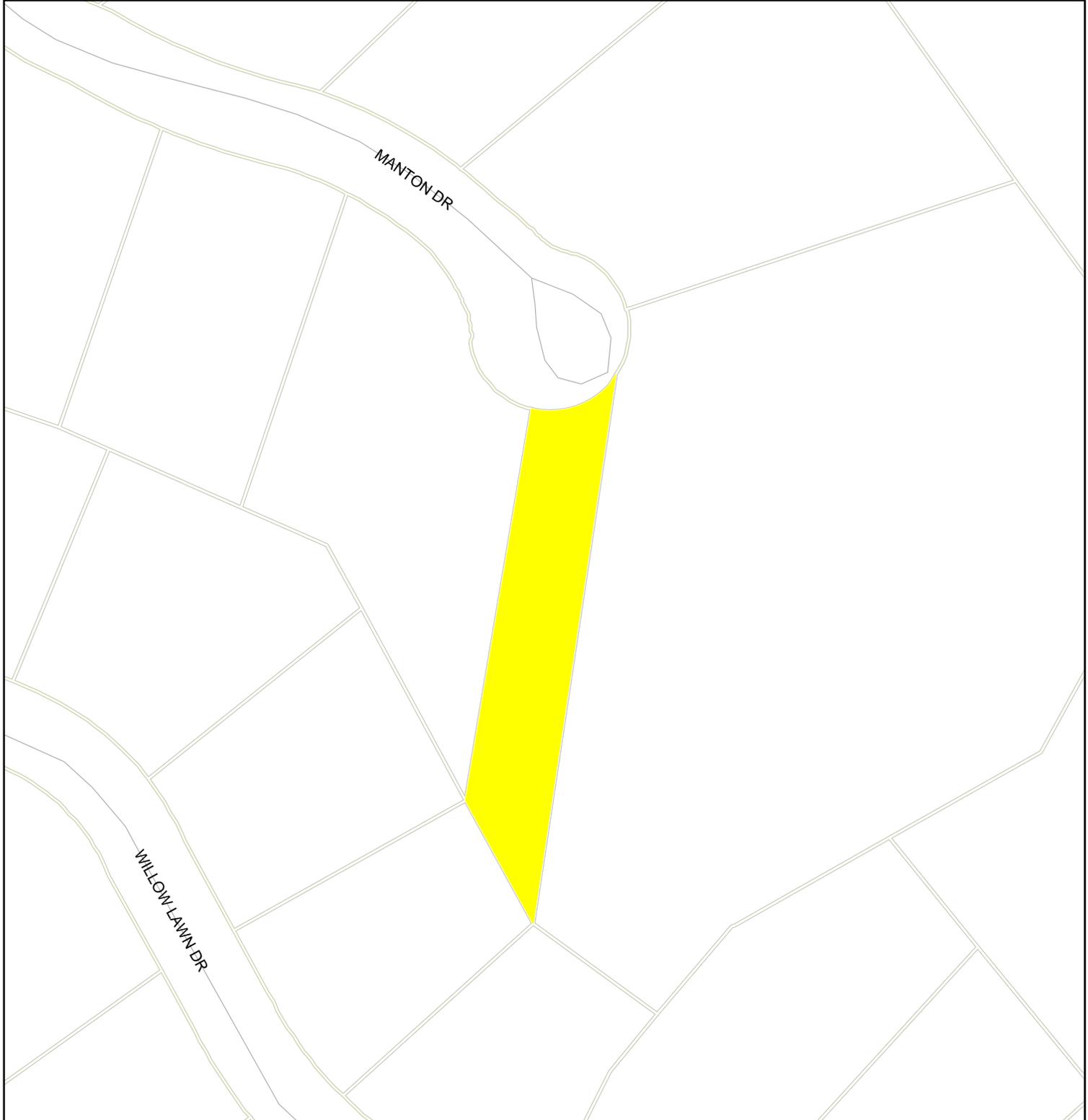
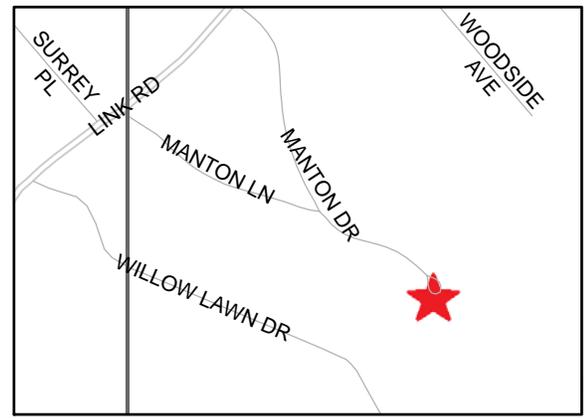
Right-of-Way Vacation



Location



Area of Right of Way to be vacated



3600 Manton Drive

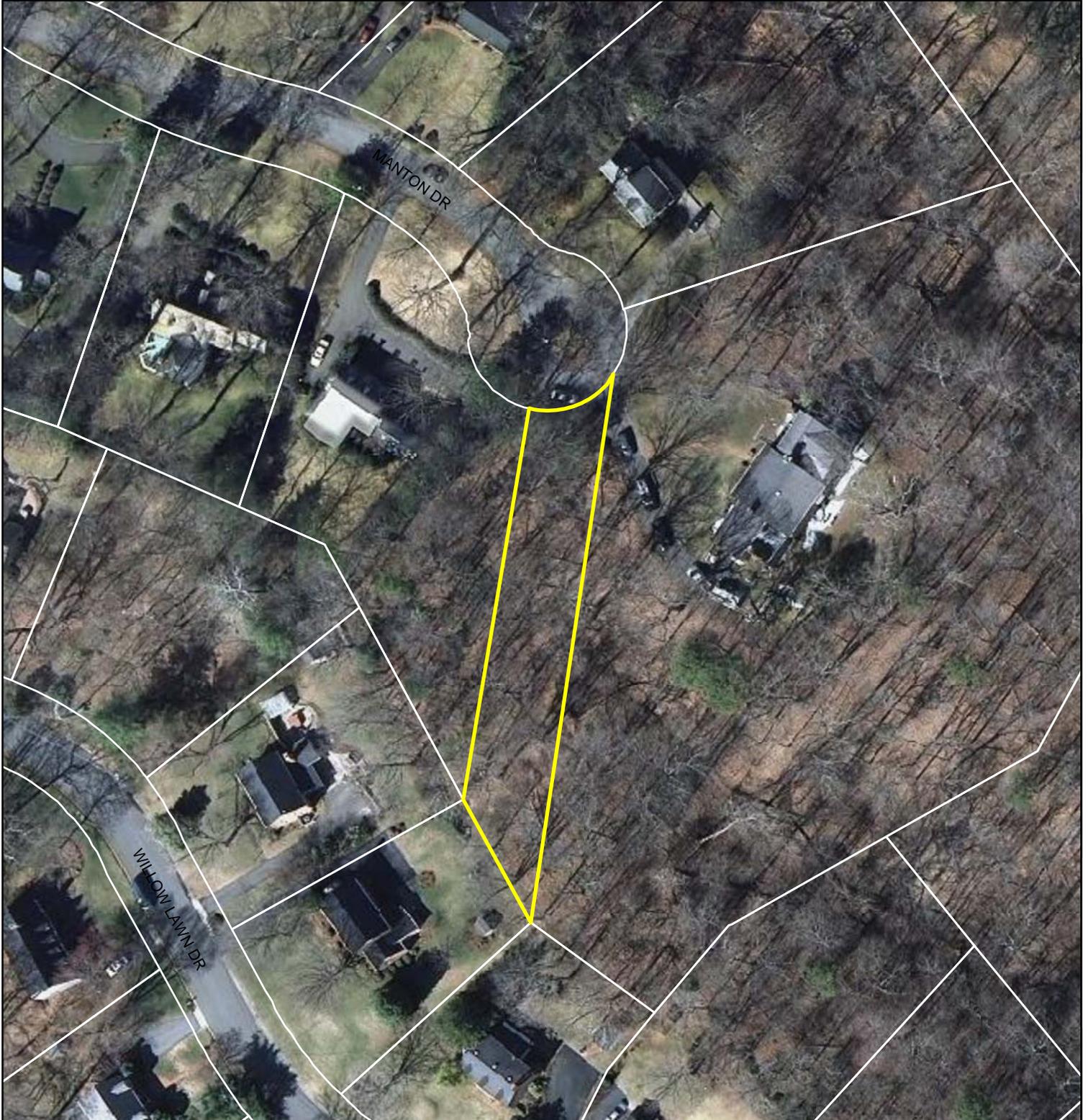
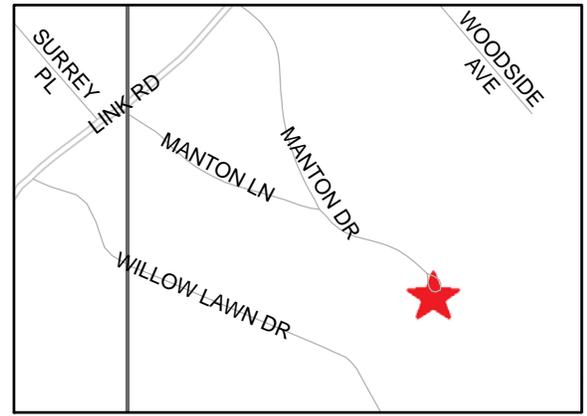
Right-of-Way Vacation



Location



Area of Right of Way to be vacated



APPLICATION FOR THE VACATION OF A

Right-of-way

Street/Alley/Right-of-way

LOCATED BETWEEN

3600 Manton Dr. and 3607 Manton Dr.

The undersigned applicant, Thomas P. McCann

pursuant to the provisions of Section 51.1-364 of the Code of Virginia, 1950, as amended, and Sections 35-71 to 35-77, both inclusive, of the Lynchburg City Code, 1981, as amended, respectfully makes application to the Lynchburg City Council for the vacation of that certain Right-of-way described as follows:

3603 Manton Dr.

Manton Wood, PT LOT 13

Parcel ID 03704084

The applicant further requests the Lynchburg City Council to hold a public hearing on this application at its meeting to be held in the Council Chamber, City Hall, 900 Church Street, Lynchburg, Virginia, on _____, 20____, at 7:30 p.m., or as soon thereafter as the matter may be heard, and at the conclusion of which hearing to consider whether or not to vacate the above described Right-of-way.

Given under my hand this 25 day of July,
20 13.



Applicant

3600 Manton Dr.
Lynchburg, VA 24503

Address

434-444-5466

Telephone Number

Adjoining Property Owner

Adjoining Property Owner

Adjoining Property Owner

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[View Tutorial](#)Source: [Legal > / ... / > VA State Cases, Combined](#) [i](#)Terms: **name(donald a. minner and city of lynchburg)** (Suggest Terms for My Search)

204 Va. 180, *; 129 S.E.2d 673, **;
1963 Va. LEXIS 132, ***

DONALD A. MINNER, ET AL. v. CITY OF LYNCHBURG, ETC., ET AL

Record No. 5535

Supreme Court of Virginia

204 Va. 180; 129 S.E.2d 673; 1963 Va. LEXIS 132

March 4, 1963

PRIOR HISTORY: [***1] Appeal from a decree of the Circuit Court of the city of Lynchburg. Hon. Charles E. Burks, judge presiding.

DISPOSITION: *Decree reversed and remanded with directions.*

CASE SUMMARY

PROCEDURAL POSTURE: Appellant lot owners sought review of the judgment of the Circuit Court of the City of Lynchburg (Virginia), which held that uniform restrictions contained in the deeds of the lot owners in a subdivision were not binding on a lot conveyed to appellee City of Lynchburg (city), and denied the lot owners' request for injunctive relief against the city for using a strip of another lot for a public street.

OVERVIEW: The lot owners filed an action against the city and appellee developer's heirs to have the uniform restrictions contained in their deeds, as well as other deeds to lots in the subdivision, declared binding on the lot conveyed to the city for use as a public street and to enjoin the city from the use of a strip of another lot as a street. The restrictions were not contained in the deed of the property to the city. On appeal, the court reversed the circuit court's judgment and remanded with instructions to enjoin the city from building a street across the lots. The court held that the grantors of the property in the subdivision intended to create a scheme of development for the benefit of themselves and the owners of the lots in the subdivision. There was an implied reciprocal covenant that the restrictions prohibiting the construction of a street across the lots would apply to sold lots and land retained by the grantors and their grantees with notice. The court found that the city had actual and constructive notice, was bound by the restrictions and covenants, and could not build the street. The court noted that the city could acquire the right to build the street by eminent domain.

OUTCOME: The court reversed the judgment of the circuit court and remanded with

instructions to enjoin and restrain the city from constructing a street across lots in the subdivision.

CORE TERMS: deed, heirs, street, strip, covenant, conveyed, plat, grantor, restrictive covenants, purchaser, constructive notice, notice, mutual, adjacent, drive, lot owners, equitable, grantee's, conveyance, real property, chancellor, tract, general plan, constructing, binding, residential, reserved, feet, general scheme, present case

LEXISNEXIS® HEADNOTES

 Hide

Contracts Law > Types of Contracts > Covenants 

Real Property Law > Priorities & Recording > Bona Fide Purchasers 

Real Property Law > Restrictive Covenants > Covenants Running With Land 

HN1  The rights and obligations established by the doctrine of restrictive covenants in equity are known as equitable easements and equitable servitudes. The doctrine is, in brief, that when, on a transfer of land, there is a covenant or even an informal contract or understanding that certain restrictions in the use of the land conveyed shall be observed, the restrictions will be enforced by equity, at the suit of the party or parties intended to be benefited thereby, against any subsequent owner of the land except a purchaser for value without notice of the agreement. More Like This Headnote | *Shepardize: Restrict By Headnote*

Contracts Law > Types of Contracts > Covenants 

Real Property Law > Restrictive Covenants > General Overview 

HN2  While the burden of proof is on one claiming the benefit of an implied restrictive covenant, if the uniform scheme of development or improvement is proved to have been the intention of the parties, equity will carry it out at the suit of any of the lot holders; provided, of course, he has not by his own conduct shut the doors of the court, and if the party against whom the restrictions are sought to be enforced had notice, actual or constructive, of the restrictions, conditions and covenants, even though they were not contained in his deed. More Like This Headnote | *Shepardize: Restrict By Headnote*

Contracts Law > Types of Contracts > Covenants 

Real Property Law > Limited Use Rights > Easements > Affirmative & Negative Easements 

Real Property Law > Restrictive Covenants > General Overview 

HN3  Where a common grantor develops a tract of land for sale in lots and pursues a course of conduct which indicates that he intends to inaugurate a general scheme or plan of improvement for the benefit of himself and the purchasers of the various lots, and by numerous conveyances inserts in the deeds substantially uniform restrictions, conditions and covenants against the use of the property, the grantees acquire by implication an equitable right, variously referred to as an implied reciprocal negative easement or an equitable servitude, to enforce similar restrictions against that part of the tract retained by the grantor or subsequently sold without the restrictions to a purchaser with actual or constructive notice of the restrictions and covenants. More Like This Headnote | *Shepardize: Restrict By Headnote*

Real Property Law > Restrictive Covenants > General Overview 

Real Property Law > Subdivisions > General Overview 

HN4  Where it is provided in deeds conveying lots in a subdivision that restrictions can only be waived by a specific number of lot owners, it shows an intention on the part of the common grantor to create a general scheme of development for the mutual benefit of all of the lot owners and not solely for his own benefit. More Like This Headnote | *Shepardize*: Restrict By Headnote

Contracts Law > Contract Interpretation > General Overview 

Real Property Law > Deeds > Construction & Interpretation 

HN5  Inasmuch as the parties must have intended all the provisions and terms of a deed to have some meaning and be given some import, from the fact that the terms and provisions were actually inserted in the deed, a deed will be so interpreted as to make it operative and effective in all its provisions, if its terms are susceptible of such interpretation. Every word, if possible, is to have effect, for, it has been said, the deed, as the witness to the contract between the parties, should speak the truth, the whole truth, and nothing but the truth. More Like This Headnote

Contracts Law > Statutes of Frauds > General Overview 

Real Property Law > Limited Use Rights > Easements > General Overview 

Real Property Law > Restrictive Covenants > General Overview 

HN6  An equitable servitude or easement is an interest in land. More Like This Headnote | *Shepardize*: Restrict By Headnote

HEADNOTES / SYLLABUS

 Hide

HEADNOTES

- (1) Real Property -- Implied Restrictive Covenants -- Doctrine Held Applicable.
- (2) Real Property -- Implied Restrictive Covenants -- Rules Stated.
- (3) Real Property -- Implied Restrictive Covenants -- Doctrine Applicable where Provision for Waiver of Restrictions by Lot Owners.
- (4) Real Property -- Implied Restrictive Covenants -- Party With Knowledge of Restrictions Bound Thereby.

1. The appellants, owners of 21 of the 31 lots in a subdivision established by recorded plat in 1937, filed the instant suit to enjoin the city of Lynchburg and others from using a 50-foot strip of Lot 13 of the subdivision as a public road. The city had taken title to this strip from the subdivider in 1958, for the purpose of constructing a road across it to connect the main road in the subdivision with adjacent properties. At this date most of the lots had been sold under deeds containing restrictions which were stated to run with the land and to be subject to

change with the consent in writing of all lot owners. Among [***2] the restrictions was one against use of any lot for a road or public way. The appellants contended unsuccessfully in the court below that there had been a general plan of development for the benefit of all lot owners, as well as the subdivider, therefore the restrictions applied to all lots. On appeal it was held that the doctrine of implied restrictive covenants in equity urged by appellants is recognized in Virginia and applied in the present case.

2. The intent of the common grantor in imposing the restrictions is an essential factor; if the one claiming the benefit of the implied restrictive covenant proves a uniform scheme of development to have been intended, equity will carry out this intent against a party who had notice of the restrictions, even though not contained in his deed. The doctrine is applicable where a common grantor develops a tract for sale in lots and by his conduct, such as inserting substantially inform restrictions in numerous deeds, indicates an intent to carry out a general plan of improvement for himself and the lot owners.

3. A provision in deeds to subdivision lots that restrictions can be waived only by a specific number of lot owners shows [***3] an intention on the part of the common grantor to adopt such a general plan. The inclusion of such provision in the restrictions and the imposition of uniform restrictions in the deeds showed such intent and made the doctrine of implied restrictive covenants applicable in the instant case.

4. The city had both actual and constructive notice of the restrictions, hence was bound by them. But it was left free, of course, to acquire a right to construct the road by use of its power of eminent domain, paying just compensation to the lot owners affected.

SYLLABUS

The opinion states the case.

COUNSEL: *Edward R. Feinman*, for the appellants.

William Rosenberger, Jr. (C. Shepherd Nowlin, City Attorney, on brief), for the appellees.

JUDGES: Present, All the Justices.

OPINION BY: I'ANSON

OPINION

[*181] [**674] I'ANSON, J., delivered the opinion of the court.

This suit was instituted by the appellants, Donald A. Minner and others, owners of twenty-one lots in the Manton Wood subdivision in the city of Lynchburg, against Louise G. Raphael, Sidney A. Goodman, A. Leonard Goodman, and Fannie G. Ries, heirs of Emanuel Goodman, deceased, developers of the subdivision and hereinafter referred [***4] to as the Goodman heirs; the city of Lynchburg; John Stewart Walker, Inc., and George C. Walker, agents for the Goodman heirs; and George C. Walker, Ione McK. Walker, Gertrude Cook and Otto Cook, owners of real property adjacent to the subdivision; seeking to have the uniform restrictions contained in their deeds, or the deeds of their predecessors in title, and in all other deeds to lots in the subdivision declared binding upon lot 31, which is unsold and still owned by the Goodman heirs, and upon a 50-foot strip of lot 13, conveyed by the Goodman heirs to the city of Lynchburg for use as a public street to the adjoining property. They also sought injunctive relief against the city of Lynchburg and the owners of the adjacent property from the use of the 50-foot strip of lot 13.

The chancellor sustained demurrers filed by agents of the Goodman heirs and the owners of the property adjacent to Manton **[**675]** Wood **[*182]** and the bill was dismissed as to them. They are not parties to this appeal. A demurrer filed by the city was overruled and it thereupon filed its answer to the appellants' bill of complaint.

The Goodman heirs, being non-residents, were duly proceeded **[***5]** against by an order of publication but they made no appearance in the court below or here.

After an *ore-tenus* hearing on the merits the chancellor held, in a written opinion, that the restrictions in appellants' deeds, or of their predecessors in title, and in the deeds to other lots in the subdivision were not binding on lot 31, which was retained by the Goodman heirs, and upon the 50-foot strip of lot 13 conveyed to the city of Lynchburg for use as a public street; that the deed to the city contained no restrictions against its use as a street and the city had neither actual nor constructive notice that it could not be so used; that the evidence showed that representations were made by an agent of the Goodman heirs to two purchasers of lots in the subdivision that no street would be opened across lot 13, but the representations were oral promises purporting to create an interest in real property and were not enforceable under the statute of frauds (§§ 11-1 and 11-2, Code of 1950, 1956 Replacement Volume; § 55-2, Code of 1950, 1959 Replacement Volume); and that to enjoin the city from constructing a street over the 50-foot strip would "be a futile thing * * * and benefit **[***6]** no one" because the city could condemn it for street purposes under its power of eminent domain.

From the decree dismissing appellants' bill and denying the injunction we granted appellants an appeal.

The appellants contend that the chancellor erred (1) in not holding that the Goodman heirs adopted a general plan or scheme of development of Manton Wood and that it was their intent to insert uniform restrictions in all their deeds of conveyance, which would be for the mutual benefit of all the owners of the lots in the subdivision, and that the purchaser of each lot acquired a right to have substantially the same uniform restrictions contained in his deed imposed upon all the lots retained by the Goodman heirs, or by a grantee from them who took title with notice, actual or constructive, of the general plan and the uniform restrictions; (2) in holding that the city of Lynchburg did not have actual or constructive notice of the general plan of development and of the uniform restrictions; (3) in holding that the statute of frauds barred them from the relief sought; and (4) in not enjoining the city of Lynchburg from constructing a street over the 50-foot strip of land.

[*183] **[***7]** On the other hand, the city says that the restrictions were limited to and applied only to the particular lot "hereby conveyed"; that they were for the sole benefit of the Goodman heirs; and that the oral promises of the agents of the common grantor were merely sales talk, made without authority, and were unenforceable under the statute of frauds.

[1] In 1937 the Goodman heirs owned a tract of land containing approximately 25 acres bordering on Link road in the city of Lynchburg, which they, under the supervision of their agents, John Stewart Walker, Inc., and George C. Walker, subdivided into thirty-one residential lots, which subdivision they named "Manton Wood." A plat of the subdivision was recorded on August 14, 1937, and an amended plat, with only negligible changes, was recorded on May 11, 1938. Both plats showed a "Y" shaped street with the principal part designated as Manton drive. The arms of the "Y" connected with Link road, and Manton drive terminated at the base of the "Y" in a dead-end circle in front of lot 13. The street did not extend to any adjacent land, nor did the plats show provision for any future street to connect Manton drive to the adjoining land. There **[***8]** were three provisions written on these plats relating to building line restrictions only.

[676]** After recording the amended plat, the Goodman heirs proceeded to sell the lots and at the time this suit was instituted they had sold all except lot 31. With negligible exceptions in

their first three deeds and the deed conveying to the city of Lynchburg the 50-foot strip reserved from lot 13, all the deeds from the Goodman heirs contained the uniform covenants and restrictions set out in their deed of July 18, 1940, to Irene J. Tucker, hereinafter referred to as the "Tucker restrictions."

The Tucker restrictions limited the use of the property conveyed to residential purposes and there were eight other provisions. The other restrictions and covenants here material are these:

"7. That no street, avenue, alley or thoroughfare of any sort to be used by the public shall be laid out through or upon any portion of the lot hereby conveyed.

* * *

"9. That all of the covenants and agreements above expressed shall be held to run with and bind the real estate hereby conveyed and subsequent owners and occupants thereof until January 1, 1999, and the acceptance of this deed shall [***9] have the same force and binding [*184] effect upon the party of the second part, her heirs, personal representatives and assigns, as if this deed was signed and sealed by the party of the second part, provided that any of the covenants, agreements and restrictions contained herein shall at any time and in any manner be changed with the mutual consent in writing of all of the owners of all of the lots shown upon the plat heretofore referred to."

When the lots were first offered for sale newspaper advertisements referred to Manton Wood as a "restricted community."

On December 3, 1941, the city of Lynchburg, holder of a lien on lot 18 in Manton Wood as security for the performance of a contract for the construction of two sewer mains in the subdivision, joined in a deed with the Goodman heirs, owners of lots, and others having liens on property in the subdivision to release a particular violation of the restriction against building more than one residence on each lot.

In a deed from the Goodman heirs dated April 9, 1943, releasing the requirement of submitting building plans and specifications for approval by their agent, which was required by the restrictions in the first [***10] deed conveying lot 9, it was stated that the provision was eliminated because they did not deem it any advantage to themselves or the subdivision.

In 1951 the city of Lynchburg, through its city manager, recognized that there was a possibility that the lands adjacent to Manton Wood would be developed and the interest of the city might be affected, and inquired of the city attorney whether Manton drive could be extended across lot 13 to the adjoining tracts of land.

In a letter dated February 9, 1951, addressed to the city manager, a copy of which was sent to the city's director of public works, the city attorney advised that there were no restrictions on the plats of Manton Wood which would prevent a street from being constructed over any of the lots. He quoted restriction No. 7, and stated that although it had been placed in the deeds to all the lots sold, in his opinion it applied only to the lot conveyed in each deed and did not apply to any of the unsold lots, and that the proposed street could be placed entirely on lot 13 as it was still owned by the Goodman heirs.

The city attorney's letter did not mention the covenants and agreements contained in No. 9 of the Tucker [***11] restrictions, which appeared, with only negligible exceptions in the first three deeds, in all of the conveyances by the Goodman heirs.

[*185] On October 30, 1952, the Goodman heirs, by deed incorporating the Tucker restrictions, conveyed lot 13 to Frank B. Wright, Jr., but expressly reserved and excepted [*677] from said lot a strip 50 feet wide adjacent to lot 14 "with the right to use or dedicate

said strip for a right of way into adjoining property or for any other purpose consistent with" the Tucker restrictions. Prior to this reservation twenty of the thirty-one lots in Manton Wood had been sold subject to the uniform restrictions.

On May 5, 1958, pursuant to an agreement between the Goodman heirs, the city of Lynchburg, and the owners of lands adjacent to Manton Wood, George C. Walker, et ux., and Gertrude Cook, et vir, the Goodman heirs conveyed to the city of Lynchburg the 50-foot strip of land reserved from lot 13. This 50-foot strip was to be used by the city for a street to connect with a strip of the same width across the lands of Cook into the lands of Walker. At the time of this conveyance twenty-six of the thirty-one lots in the subdivision had been [***12] conveyed subject to the uniform restrictions.

In early 1961 Walker submitted to the city planning commission a proposed plan for the development of his property which showed the use of the 50-foot strip of lot 13 as a through street from Manton drive. When this proposed plan to use the strip as a street was approved by the planning commission, and funds were appropriated by the city council for construction of the street, the appellants instituted this suit.

Seven lot owners in Manton Wood testified that when they were prospective purchasers the salesmen showed them a copy of the plat showing Manton drive as a dead-end street, told them that the restrictions to be placed in their deeds were binding on all the lots of the subdivision, and assured them that Manton drive would not become a public thoroughfare.

Walker testified that he may have expressed the opinion to two of the purchasers that Manton drive would remain dead-end but he gave them no assurances that a street would not be opened through any of the lots to connect Manton drive with adjacent properties; that it was the intention of the Goodman heirs to develop Manton Wood as a restricted residential subdivision and [***13] that the Tucker restrictions were inserted in the deeds of all thirty lots sold to enhance their value and to aid in making sales; and that Manton Wood had developed into a high class residential community.

The appellants argue that the plats, the restrictions, covenants and [*186] agreements in their deeds, the newspaper advertisements, and the oral representations of the sales agents, show that it was the intention of the Goodman heirs to adopt a general scheme of development of Manton Wood for the mutual benefit of the Goodman heirs and all the grantees and that they acquired an implied equitable right to enforce the restrictions against all the lots as shown on the plats, including those retained by the common grantors or sold by them without restrictions where the grantee had notice of the uniform restrictions; and that the city of Lynchburg had actual and constructive notice of the restrictions, covenants and agreements and is bound by them even though they did not appear in its deed from the Goodman heirs. Thus they say that the opening of a street across lot 13 violates Nos. 7 and 9 of the Tucker restrictions and the chancellor erred in denying the injunction and dismissing [***14] their bill.

The appellants rely on the principle of implied restrictive covenants in equity which they say was adopted by this Court in the case of *Cheatham v. Taylor*, 148 Va. 26, 138 S.E. 545.

In the *Cheatham* case, Rivermont Company subdivided a large tract of land for development as a residential neighborhood. The recorded plat of the property did not show any building line restrictions, but the board of directors of the corporation passed a resolution declaring that all lots on Rivermont avenue within a certain area would have a building set-back line of 20 feet from the street, and that each deed of conveyance should contain a covenant to that effect. Newspaper advertisements for the sale of lots pointed out that there were building [**678] line restrictions on the Rivermont avenue lots. Cheatham and Taylor bought lots in the restricted area. Cheatham's deed and that of his predecessors in title contained the building line restriction and provided that the restriction was a covenant running with the land. Cheatham built a drug store 20 feet from the street, and later added 15 feet to the front of the store. In a suit brought by Taylor to require Cheatham [***15] to remove the addition, the lower court

decreed that the restriction had been violated and ordered him to remove that portion of the building within 20 feet of the street line.

In denying an appeal from the decree of the trial court, this Court, in a written opinion, held that it was the intention of the parties that the restrictive provisions in the deeds were for the mutual benefit of the Rivermont Company and the purchasers of lots; that when the common grantor made the conveyances to the grantee's [*187] predecessors in title there was an implied promise on its part, especially in view of the resolution of its board of directors, the provisions in the deeds stating that the restrictions were covenants running with the land, the newspaper advertisements, and the surrounding circumstances, that the entire property covered by the resolution would be subject to the restrictive covenants; and that for a violation of its promise it could be enjoined by a purchaser of one of the lots, because an equity attached to the lots sold which the common grantor could neither violate nor alienate to a purchaser with notice.

In the above case, 148 Va. at pp. 37, 38, 138 S.E. at p. 548, [***16] this Court quoted with approval the following from Northrup on the "Law of Real Property":

"A purely equitable doctrine, of great importance in growing cities and entirely distinct from the common law doctrine of covenants running with the land, has arisen in modern times. It is often referred to, from the English case that is its foundation, as the doctrine of *Tulk v. Moxhay* (2 Phillips 774). It is also called the ^{HN1} doctrine of restrictive covenants in equity, and the rights and obligations established by it are known as *equitable easements* and *equitable servitudes*. The doctrine is, in brief, that when, on a transfer of land, there is a covenant or even an informal contract or understanding that certain restrictions in the use of the land conveyed shall be observed, the restrictions will be enforced by equity, at the suit of the party or parties intended to be benefited thereby, against any subsequent owner of the land except a purchaser for value without notice of the agreement. * * *"

The above statement was also quoted in *Springer v. Gaddy*, 172 Va. 533, 540, 2 S.E.2d 355, 358, and [***17] *Renn v. Whitehurst*, 181 Va. 360, 366, 367, 25 S.E.2d 276, 278, 279.

While *Cheatham v. Taylor, supra*, *Springer v. Gaddy, supra*, and *Renn v. Whitehurst, supra*, are all distinguishable on the facts from the present case, the doctrine of implied restrictive covenants in equity was recognized as a well-settled principle and it is applicable in the present case.

[2] Although there are no Virginia cases dealing with precisely the same factual situations as in the present case, it may be safely said that the intent of the common grantor in imposing restrictions in such cases is an essential factor. *Cheatham v. Taylor, supra*; *Springer v. Gaddy, supra*; *Renn v. Whitehurst, supra*; *Whitehurst v. Burgess*, 130 Va. 572, 107 S.E. 630; *Stevenson v. Spivey*, 132 Va. 115, 110 S.E. 367, 21 A.L.R. 1276.

[*188] ^{HN2} While the burden of proof is on one claiming the benefit of an implied restrictive covenant, if the "uniform scheme of development or improvement is proved to have been the intention of the parties, equity will carry it out at the suit of any of the lot holders; provided, of course, he has not by his own conduct shut the doors of the court," and if the party against [***679] whom the restrictions [***18] are sought to be enforced had notice, actual or constructive, of the restrictions, conditions and covenants, even though they were not contained in his deed. *Stevenson v. Spivey, supra*, 132 Va. at pp. 119, 121, 110 S.E. at pp. 368, 369, 21 A.L.R. 1276; *Cheatham v. Taylor, supra*.

It is generally held that ^{HN3} where a common grantor develops a tract of land for sale in lots and pursues a course of conduct which indicates that he intends to inaugurate a general scheme or plan of improvement for the benefit of himself and the purchasers of the various lots, and by numerous conveyances inserts in the deeds substantially uniform restrictions, conditions and covenants against the use of the property, the grantees acquire by implication

an equitable right, variously referred to as an implied reciprocal negative easement or an equitable servitude, to enforce similar restrictions against that part of the tract retained by the grantor or subsequently sold without the restrictions to a purchaser with actual or constructive notice of the restrictions and covenants. *Sanborn v. McLean*, 233 Mich. 227, 206 N.W. 496, 60 A.L.R. 1212; **[***19]** *Denhardt v. De Roo*, 295 Mich. 223, 294 N.W. 163; *Turner v. Brocato*, 206 Md. 336, 111 A.2d 855; *Grange v. Korff*, 248 Iowa 118, 79 N.W.2d 743; *Waterhouse v. Capital Investment Co.*, 44 Haw. 235, 289, 311, 353 P.2d 1007, 1014; 26 C.J.S., Deeds, § 167 (1), pp. 1143, 1144; 14 Am. Jur., Covenants, Conditions and Restrictions, §§ 199, 200, 319, pp. 612, 613, 656, 657; Annotations: 60 A.L.R. 1216, 144 A.L.R. 916, and 4 A.L.R.2d 1364, 1366.

[3] **HN4** Where it is provided in deeds conveying lots in a subdivision that restrictions can only be waived by a specific number of lot owners, it shows an intention on the part of the common grantor to create a general scheme of development for the mutual benefit of all of the lot owners and not solely for his own benefit. *Armstrong v. Leverone*, 105 Conn. 464, 136 A. 71, 74; 26 C.J.S., Deeds, § 167(2), p. 1151.

In the instant case the deeds to all land in the subdivision conveyed by the Goodman heirs, except that to the 50-foot strip reserved from lot 13 which was conveyed to the city for the construction **[*189]** of a street, contain a restriction that no street shall be laid out through or upon the lot conveyed. Restriction No. 9 provides that all **[***20]** the restrictions imposed on the land conveyed "*shall be held to run with and bind the real estate * * * and subsequent owners * * * thereof,*" their heirs and assigns, until January 1, 1999; and further, provides that any of the covenants, agreements and restrictions contained therein could "*at any time and in any manner be changed with the mutual consent in writing of all the owners of all the lots shown upon the plat heretofore referred to.*" (Italics supplied.)

In *Conner v. Hendrix*, 194 Va. 17, 25, 26, 72 S.E.2d 259, 265, we quoted with approval the following:

"It is a well-settled rule of construction that **HN5** inasmuch as the parties must have intended all the provisions and terms of a deed to have some meaning and be given some import, from the fact that the terms and provisions were actually inserted in the deed, a deed will be so interpreted as to make it operative and effective in all its provisions, if its terms are susceptible of such interpretation. Every word, if possible, is to have effect, for, it has been said, the deed, as the witness to the contract between the parties, should speak the truth, the whole truth, and nothing but the truth."

Without giving **[***21]** any effect to the oral representations of the agents of the Goodman heirs, which are of doubtful weight when considered in the light of the statute of frauds (see Annotation, 5 A.L.R.2d 1316, 1321-1345) since **HN6** an equitable servitude or easement is an interest in land (*Springer v. Gaddy, supra; Cheatham v. Taylor, supra*), the language of restriction No. 9, coupled with the insertion of the **[**680]** uniform restrictions in all the deeds to the lots sold, shows that it was the intent of the Goodman heirs to create a scheme of development for the mutual benefit of themselves and the owners of all the lots shown on the plats, and there was an implied reciprocal covenant that the restrictions would apply not just to the lots sold but to all the land retained by them and would be binding on their grantees with notice. Although the Goodman heirs were the owners of all the unsold lots, changes in the restrictions could not be made on any of the lots at any time unless all of the owners of all of the lots shown on the plats joined in a deed releasing or changing them. No other construction can be placed on the language used in restriction No. 9. Since restriction No. 9 does **[***22]** not give the Goodman heirs alone the right to change the restrictions, it negates the contention that the restrictions were solely for the benefit of the grantors and **[*190]** supports the conclusion that they were for the mutual benefit of the common grantors and the grantees. An equity attached to all the unsold lots which the Goodman heirs could neither violate nor negate by alienation to a purchaser with notice. Thus the conveyance of the 50-foot strip to the city without restrictions violated the implied reciprocal covenant with the owners of lots in the

subdivision. Even though the deed to the city did not contain restriction No. 7, the 50-foot strip was impressed with the restriction against the construction of a street if the city had notice.

[4] The next question is whether the city had either actual or constructive notice of the restrictions, covenants and conditions. The evidence shows that the city did have both actual and constructive notice. In 1951 the city attorney of the city of Lynchburg advised the city manager and the director of public works that there was a restriction in all of the deeds to the lots that had been conveyed by the Goodman heirs prohibiting [***23] the construction of a street across any of the lots conveyed.

Moreover, on December 3, 1941, the city, having a lien on lot 18 in the subdivision, joined in a deed of release of a violation of a restriction.

The deed from the Goodman heirs to Frank B. Wright, Jr., conveying lot 13, dated November 9, 1952, conveyed subject to the Tucker restrictions and reserving the 50-foot strip across lot 13, was in the city's chain of title, thereby giving it constructive notice of the restrictions and covenants. See Annotation, 4 A.L.R.2d, 1364, 1371-1373, and the cases there cited.

We do not agree with the argument of the city that the language "hereby conveyed," used in the restrictions, shows an intent to limit the restrictions and covenants to the particular lot conveyed in the light of other language used in restriction No. 9 and the insertion of the uniform restrictions in all the deeds except the one to the city.

We hold that it was the intention of the Goodman heirs to create a general scheme of development; that the Tucker restrictions were for the mutual benefit of the Goodman heirs, their grantees and successors in title; and that all the owners of the lots shown on the [***24] plats of Manton Wood acquired an implied reciprocal negative easement in all the lots in the subdivision, including lot 31 retained by the Goodman heirs, and all except Frank B. Wright, Jr., whose deed reserved the 50-foot strip for street purposes, have the right to enforce restriction No. 7 against the city of Lynchburg, which acquired the [*191] 50-foot strip with actual and constructive notice of the restrictions and covenants. Thus the chancellor erred in dismissing the appellants' bill of complaint and not enjoining the city from constructing a public street across the 50-foot strip of lot 13.

This does not mean, however, that the city cannot construct the street across the 50-foot strip. It may acquire this right by eminent domain (Code §§ 25-232 and 25-8), but subject to the protection of § 58 of [***681] the Constitution of Virginia that the equitable rights of the appellants, except Frank B. Wright, Jr., and all the other owners of lots may not be taken or damaged for public use without just compensation. *Meagher v. Appalachian Power Co.*, 195 Va. 138, 146, 77 S.E.2d 461, 465, 466.

The decree of the lower court is reversed, and the chancellor is hereby [***25] directed to reinstate the cause and enter his decree in accordance with the opinion of this Court and to enjoin and restrain the city of Lynchburg from constructing a street across the 50-foot strip of lot 13 in the Manton Wood subdivision.

Source: [Legal > / . . . / > VA State Cases, Combined](#) 

Terms: **name(donald a. minner and city of lynchburg)** (Suggest Terms for My Search)

View: Full

Date/Time: Monday, May 13, 2013 - 11:21 AM EDT

* Signal Legend:

-  - Warning: Negative treatment is indicated
-  - Questioned: Validity questioned by citing refs
-  - Caution: Possible negative treatment
-  - Positive treatment is indicated
-  - Citing Refs. With Analysis Available

 - Citation information available

* Click on any *Shepard's* signal to *Shepardize*® that case.

In

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6.00 tax
 1.00 trans.
 3.50 fee
 \$10.50

Virginia: In the clerk's office of the corporation court for the city of Lynchburg on the 9th day of May, 1958. This deed was presented and upon the annexed certificate of acknowledgment admitted to record at 3:40 o'clock P. M., with \$4.00 in U.S. Revenue Stamps thereon.

Tests: *Hubert W. Martin* Clerk.

Examined and Delivered to

G. W. Moore

JUN 10 1958

962

THIS DEED, made this 5th day of May, 1958, by and between LOUISE G. RAPHAEL, Widow, SIDNEY A. GOODMAN AND ETHEL W. GOODMAN, His Wife, A. LEONARD GOODMAN AND ELAINE L. GOODMAN, His Wife, and FANNIE G. RIES AND ELKAN L. RIES, Her Husband, parties of the first part, GERTRUDE E. COOK AND OTTO COOK, Her Husband, parties of the second part, and the CITY OF LYNCHBURG, VIRGINIA, party of the third part.

W I T N E S S E T H :

That for and in consideration of the sum of \$5.00 and other considerations, cash in hand paid to the parties of the first and second parts, receipt of which is hereby acknowledged, the said parties of the first and second parts do hereby give, grant, sell and convey, with General Warranty of title, unto the party of the third part, the respective parcels of land situate in the Rivermont section of Lynchburg, Virginia, in and adjacent to the subdivision known as Manton Wood, more particularly described as follows:

1. The parties of the first part convey that certain strip or parcel of land, in said Manton Wood Sub-division, 50 feet in width and extending from the turnaround at the end of Manton Drive along and easterly from the dividing line between Lot 14 and Lot 13, as shown on the amended plat of Manton Wood, made by Edley Craighill, C. E., dated May, 1938, and which is of record in the Lynchburg Clerk's Office in Deed Book 219, page 394. The said 50 foot strip is the westerly portion of said Lot 13 adjoining Lot 14, and which was expressly reserved in the conveyance of said Lot 13 to Frank B. Wright and wife by the parties of the first part, by deed dated October 9, 1952, and duly recorded in said Clerk's Office, and said 50 foot strip is more particularly shown as Parcel 1 on a plat prepared by Dept. of Public Works, Lynchburg, Virginia, designated "Manton Wood Right-of-Way for Proposed Street", dated 5/2/58, and which plat is hereto attached as a part hereof, and to which reference is made for a more particular description of the said parcel 1.

2. The parties of the second part convey that certain strip or parcel of land adjoining in part the southwest end of Parcel 1, above conveyed, and is a continuation of the said proposed street above referred to, and which said strip is 50 feet wide and lies southwest of the Manton Wood property, and is shown as Parcel 2 on the aforesaid plat "Manton Wood Right-of-Way for Proposed Street", hereto attached as a part hereof. The said Parcel 2 is a part of the property owned by said Gertrude E. Cook.

*See decree in
 suit of Donald H.
 Munner et al.
 vs. City of Lbg.
 et al. in 2nd
 Circuit Court
 Vol. D. B. 25,
 Page 518,
 May 20-1943.
 Tests:
 H. H. Martin, Clerk*

Reference is made to the aforesaid plat of the "Manton Wood Right-of-Way for Proposed Street" for a fuller and more accurate description of said Parcels 1 and 2.

The covenants and warranties herein shall apply to the parties of the first part as to Parcel No. 1 and the parties of the second part as to Parcel No. 2, and shall not be construed as applying to the said parties jointly as to both of said parcels.

It is understood that the above conveyances are to the City of Lynchburg for use of said property as a public street and for customary purposes incident thereto.

As to the properties conveyed, the parties of the first and second parts, respectively, covenant that they are seized in fee of the said properties and have the right to convey the same; that they have done no act to encumber the same; that the grantee herein shall have quiet and peaceable possession of the same, free of all encumbrances; and that they will execute such other and further assurances of title as may be requisite.

WITNESS the following signatures and seals this day and year first above written:

Louise G. Raphael (SEAL)
Louise G. Raphael

Vinney A. Goodman (SEAL)
Sidney A. Goodman

Ethel W. Goodman (SEAL)
Ethel W. Goodman

A. Leonard Goodman (SEAL)
A. Leonard Goodman

Elaine L. Goodman (SEAL)
Elaine L. Goodman

Fannie G. Ries (SEAL)
Fannie G. Ries

Elkan L. Ries (SEAL)
Elkan L. Ries

Gertrude E. Cook (SEAL)
Gertrude E. Cook

Otto Cook (SEAL)
Otto Cook



COMMONWEALTH OF MASSACHUSETTS,

To-wit: County Norfolk

I, Thomas D. Ford, a Notary Public in and for the Commonwealth and County aforesaid, do certify that Louise G. Raphael, widow, whose name is signed to the foregoing Deed dated the 5th day of May, 1958, has personally appeared before me in my County aforesaid and acknowledged the same.

My commission expires on the 15th day of October, 1964

Given under my hand and official seal this 15th day of May, 1958.

Thomas D. Ford
NOTARY PUBLIC
THOMAS R. FORD
NOTARY PUBLIC



STATE OF MARYLAND,
CITY OF BALTIMORE,

To-wit:

Commonwealth of Massachusetts
My Commission expires October 21, 1964

I, Samuel R. Davis, a Notary Public in and for the State and City aforesaid, do certify that Sidney A. Goodman and Ethel W. Goodman, his wife, A. Leonard Goodman and Elaine L. Goodman, his wife, and Fannie G. Ries and Elkan L. Ries, her husband, whose names are signed to the foregoing Deed dated the 5th day of May, 1958, have personally appeared before me in my City aforesaid and acknowledged the same.

My commission expires on the 4th day of May, 1959

Given under my hand and official seal this 12th day of May, 1958.

Samuel R. Davis
NOTARY PUBLIC



STATE OF VIRGINIA,
CITY OF LYNCHBURG,

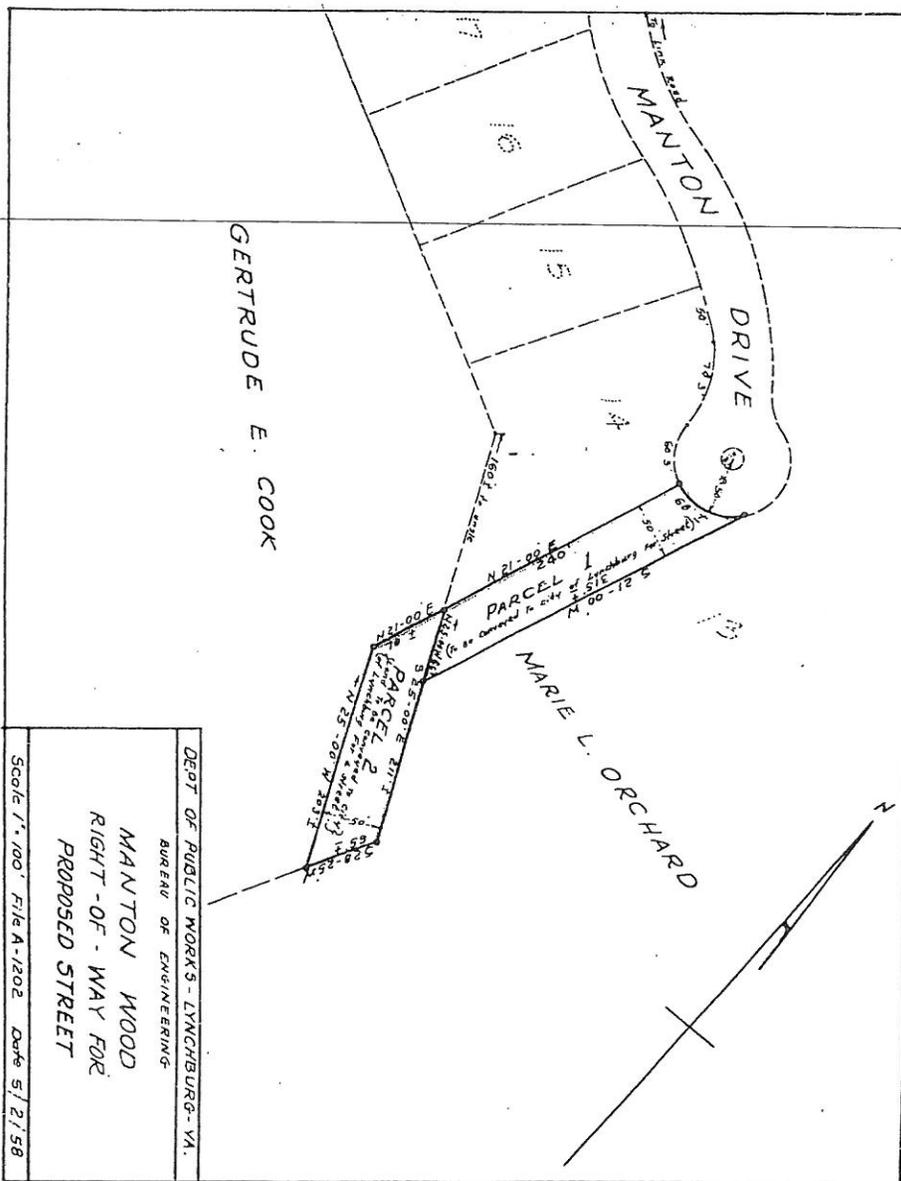
To-wit:

I, Madelise H. Thongson, a Notary Public in and for the State and City aforesaid, do certify that Gertrude E. Cook and Otto Cook, her husband, whose names are signed to the foregoing Deed dated the 5th day of May, 1958, have personally appeared before me in my City aforesaid and acknowledged the same.

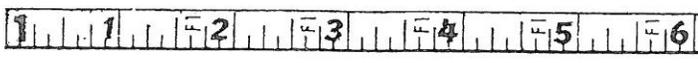
My commission expires on the 15th day of September, 1968

Given under my hand this 28th day of May, 1958.

Madelise H. Thongson
NOTARY PUBLIC



DEPT. OF PUBLIC WORKS - LYNCHBURG - VA.
 BUREAU OF ENGINEERING
 MANTON WOOD
 RIGHT-OF-WAY FOR
 PROPOSED STREET
 Scale 1" = 100' File A-1202 Date 5/2/58



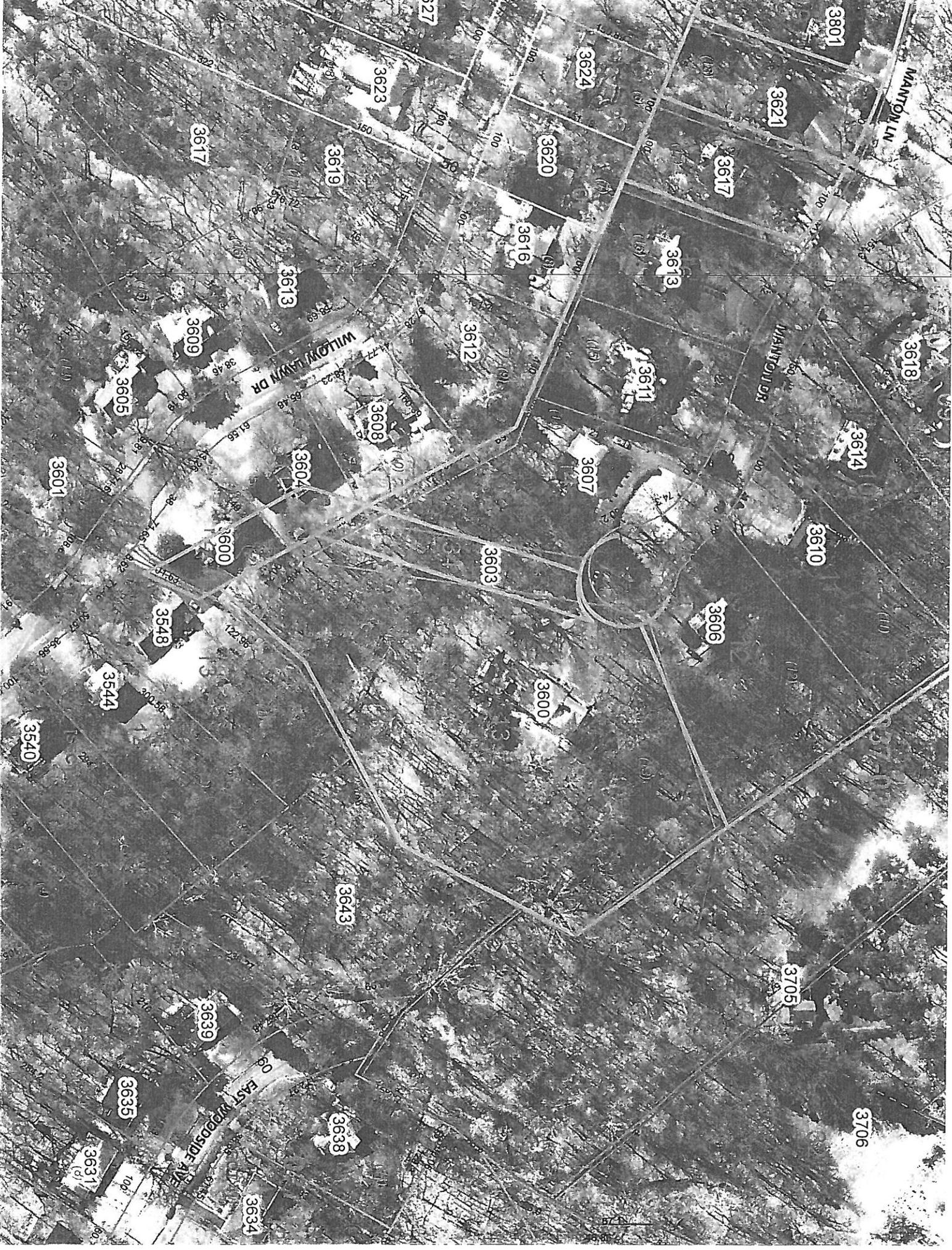
Examined and delivered to Grant by Attorney
 JUN 10 1958

.00 Tax
 1.00 Trans.
 4.50 Fee ^{per}
 # 5.50 ^{per}

Virginia: In the clerk's office of the corporation court for the city of Lynchburg on the 29th day of May, 1958.

This deed was presented and upon the annexed certificates of acknowledgment admitted to record at 4:15 o'clock P. M., with \$1.10 in U.S. Revenue Stamps thereon.

Teste: Hubert H. Martin Clerk.



3801

MANTON LN

3621

3617

3613

3624

3620

3616

3612

3608

3604

3600

3548

3544

3540

3610

3614

3618

MANTON DR

3606

3600

3603

3643

3705

3706

3639

3635

3631

3638

3634

80 EAST WOODSIDE AVE

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 8, 2013 (PDC)**

AGENDA ITEM NO.:

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Lynchburg Area Food Council request to have water connection fee waived at 904 Cabell St.

RECOMMENDATION: It is recommended that the connection fee of \$1,045 not be waived.

SUMMARY: The Lynchburg Area Food Council desires to have a water service installed at 904 Cabell Street in the Daniels Hill neighborhood to a property owned by Lynchburg Grows. The purpose of which is to supply water to meet the needs of a community garden. The connection fee covers the cost of the actual water service installation and therefore staff recommends that it not be waived. Similar requests from other non-profit organizations have been denied in the past due to the precedent of the water rate payers subsidizing these installations. This property previously had a water service and therefore will not be charged an availability fee.

Leslie Hoglund will attend to represent the Lynchburg Area Food Council.

PRIOR ACTION(S): None

FISCAL IMPACT: \$1,045 impact to the Water Fund.

CONTACT(S): Tim Mitchell, Director of Water Resources, 455-4252

ATTACHMENT(S): Attachment 1, Map of 904 Cabell Street

REVIEWED BY: lkp

Lynchburg Grows
1342 Englewood St
Lynchburg, Va 24501



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 8, 2013 PDC**

AGENDA ITEM NO.:

CONSENT: REGULAR: **X** WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: Right-of-Way Vacation – Old Forest Road Between Dandridge Drive & Ardmore Drive

RECOMMENDATION: Forward to full Council through the public hearing process for consideration of vacating excess right-of-way to allow for the construction of Bojangles.

SUMMARY: GOBO Properties, LLC is petitioning to vacate excess right-of-way and add it to the adjoining parcels along Old Forest Road. This land was included in the rezoning in April, as there has been confusion amongst the property owners as to who the area belongs to. The City Attorney's office has determined that it is indeed Public Right of Way and the City is retaining enough of the area for the traffic control equipment to be located on.

PRIOR ACTION(S):

April 9, 2013: City Council for Rezoning

FISCAL IMPACT: None

CONTACT(S):

Lee Newland, City Engineer – 455-3947
Gaynelle Hart, Director of Public Works – 455-4406

ATTACHMENT(S):

- Plats

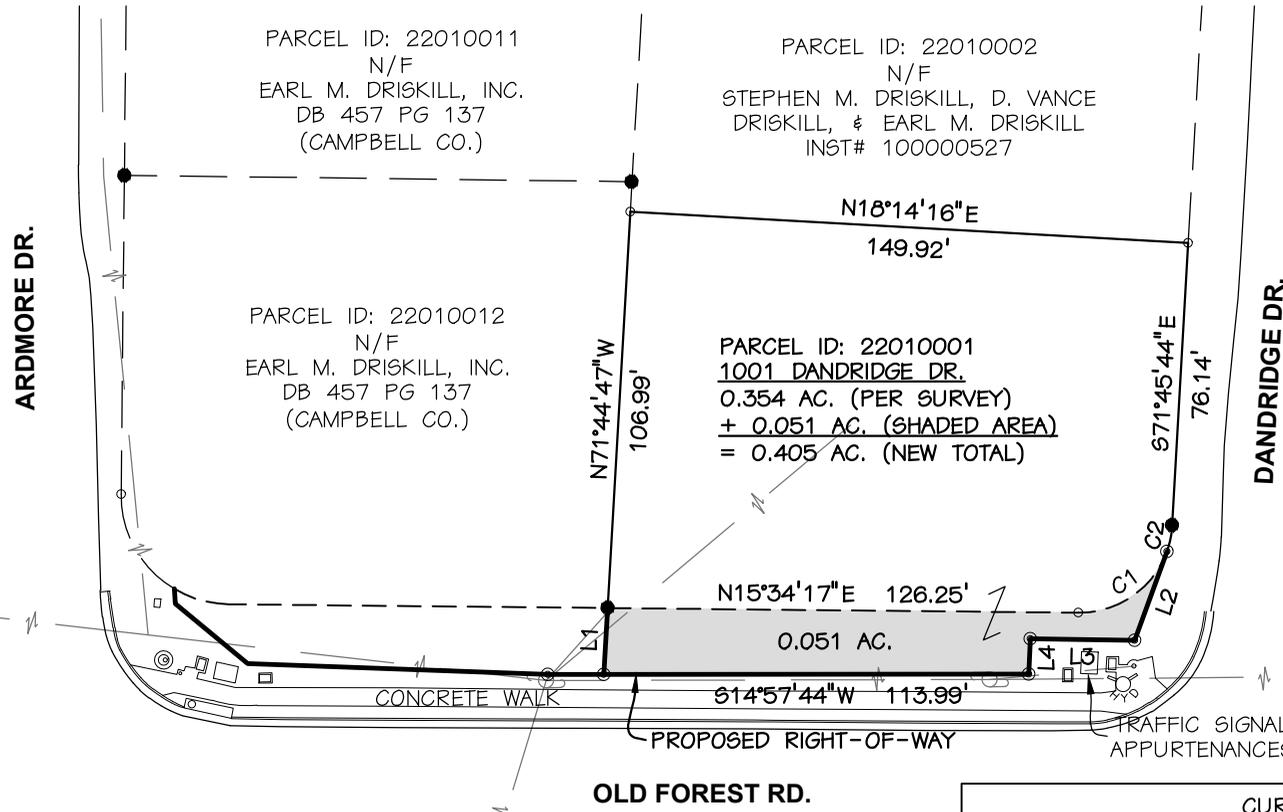
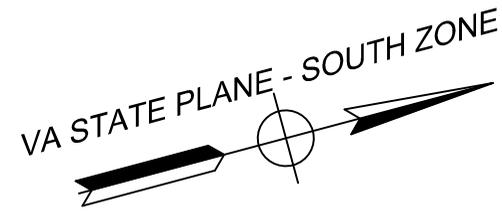
REVIEWED BY:

NOTES:

1. THIS PLAT HAS BEEN PREPARED FROM A CURRENT FIELD SURVEY PER THE DATE OF THIS PLAT.
2. THIS PLAT IS FOR THE SOLE PURPOSE OF SHOWING RIGHT-OF-WAY VACATION.
3. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
4. AS DETERMINED BY GRAPHIC SCALING ONLY, THIS PROPERTY IS NOT WITHIN THE 100 YEAR FLOOD ZONE ACCORDING TO FEMA PANEL NUMBER 5100930037D DATED JUNE 3, 2008.
5. PHYSICAL IMPROVEMENTS WITHIN THIS LOT ARE NOT SHOWN.

SOURCE OF TITLE:

KENNETH & SARAH B. BAKER
 PARCEL ID: 22010001
 DB 304 PG 582 (CAMPBELL CO.)



LINE TABLE		
LINE	BEARING	LENGTH
L1	N71°44'47"W	17.93'
L2	S55°11'18"E	25.46'
L3	S15°45'47"W	27.99'
L4	S72°26'12"E	9.53'

LEGEND

- ⊙ — IRON PIN SET
- — IRON PIN FOUND (IPF)
- N/F — NOW OR FORMERLY
- ▬ — VACATED RIGHT-OF-WAY
- ⊕ — UTILITY POLE
- ⚡ — OVERHEAD UTILITY

CURVE TABLE					
CURVE	LENGTH	RADIUS	BEARING	CHORD	DELTA
C1	30.87'	25.00'	N19°48'31"W	28.95'	70°45'35"
C2	7.23'	25.00'	S63°28'31"E	7.21'	16°34'26"

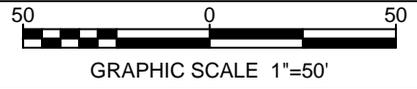


PLAT ACCEPTED: _____
 CITY ENGINEER _____ DATE _____

PLAT SHOWING RIGHT-OF-WAY VACATION
 ADJOINING THE PROPERTY OF
 KENNETH & SARAH B. BAKER
1001 DANDRIDGE DR.
 CITY OF LYNCHBURG, VIRGINIA

27 Green Hill Drive
 Forest, Virginia 24551

Office: 434-525-5985
 Fax: 434-525-5986
 E-Mail: pno@perkins-orrison.com
 WEBSITE - <http://www.perkins-orrison.net>



DATE: 8/8/2013

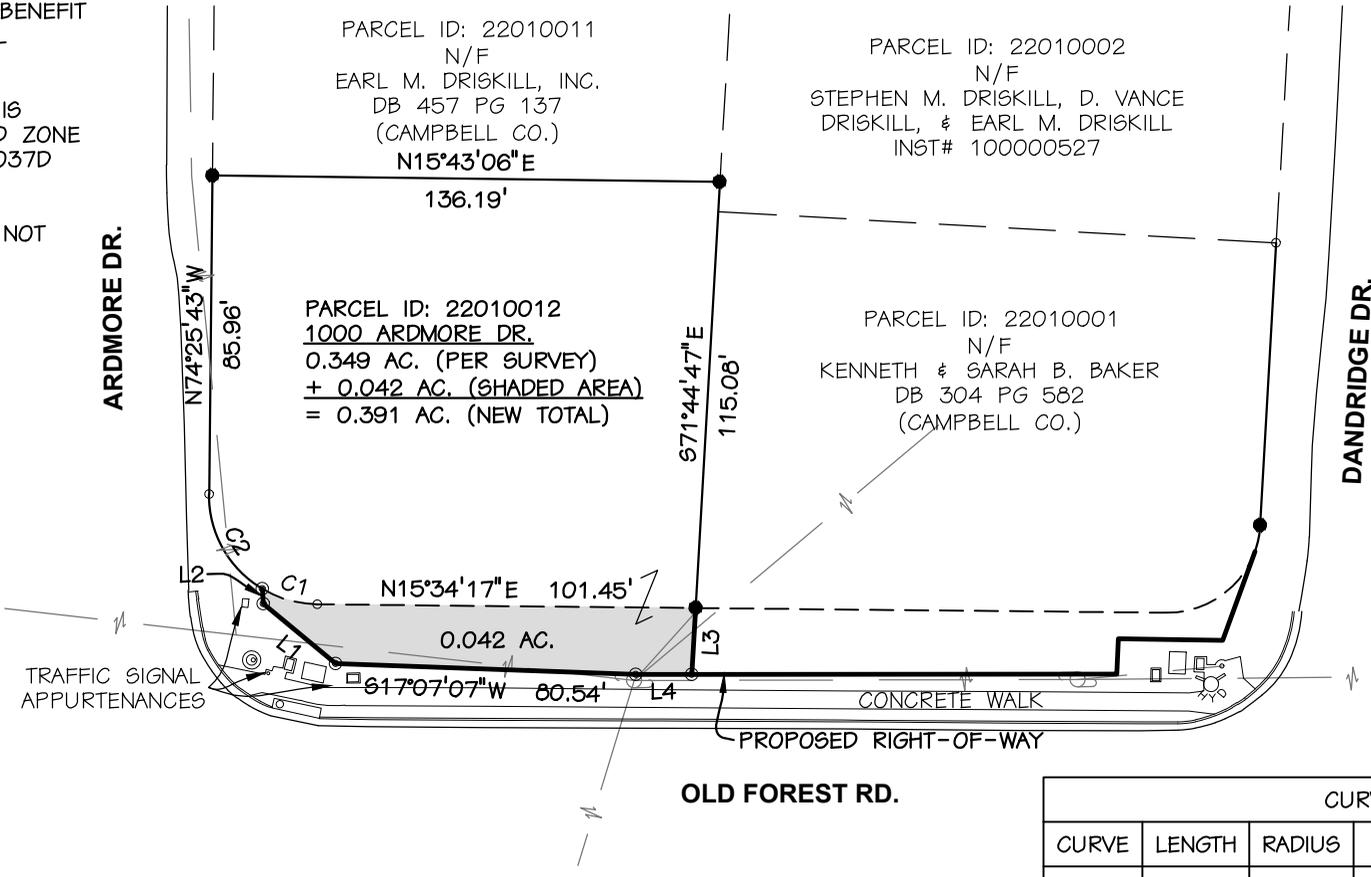
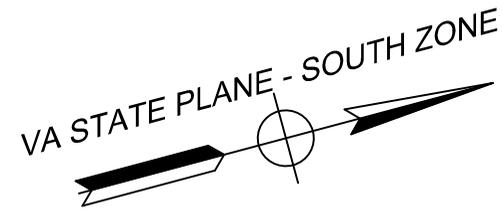
JOB#: 12409
 DWG: V-RP-12409-BAKER
 DWN: AAD

NOTES:

1. THIS PLAT HAS BEEN PREPARED FROM A CURRENT FIELD SURVEY PER THE DATE OF THIS PLAT.
2. THIS PLAT IS FOR THE SOLE PURPOSE OF SHOWING RIGHT-OF-WAY VACATION.
3. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
4. AS DETERMINED BY GRAPHIC SCALING ONLY, THIS PROPERTY IS NOT WITHIN THE 100 YEAR FLOOD ZONE ACCORDING TO FEMA PANEL NUMBER 5100930037D DATED JUNE 3, 2008.
5. PHYSICAL IMPROVEMENTS WITHIN THIS LOT ARE NOT SHOWN.

SOURCE OF TITLE:

EARL M. DRISKILL, INC.
 PARCEL ID: 22010012
 DB 457 PG 137 (CAMPBELL CO.)



LINE TABLE		
LINE	BEARING	LENGTH
L1	S54°35'35"W	25.22'
L2	N78°12'38"W	4.05'
L3	S71°44'47"E	17.93'
L4	S14°57'44"W	15.07'

LEGEND

- ⊙ — IRON PIN SET
- ● — IRON PIN FOUND (IPF)
- N/F — NOW OR FORMERLY
- [shaded] — VACATED RIGHT-OF-WAY
- ⊕ — UTILITY POLE
- ⚡ — OVERHEAD UTILITY

CURVE TABLE					
CURVE	LENGTH	RADIUS	BEARING	CHORD	DELTA
C1	15.54'	29.35'	N30°44'16"E	15.36'	30°19'52"
C2	30.57'	29.35'	S75°44'14"W	29.20'	59°40'06"

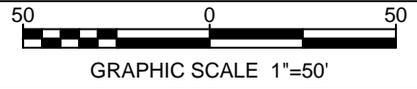


PLAT ACCEPTED: _____
 CITY ENGINEER _____ DATE _____

PLAT SHOWING RIGHT-OF-WAY VACATION
 ADJOINING THE PROPERTY OF
 EARL DRISKILL, INC.
1000 ARDMORE DR.
 CITY OF LYNCHBURG, VIRGINIA

27 Green Hill Drive
 Forest, Virginia 24551

Office: 434-525-5985
 Fax: 434-525-5986
 E-Mail: pno@perkins-orrison.com
 WEBSITE - <http://www.perkins-orrison.net>



DATE: 8/8/2013

JOB#: 12409
 DWG: V-RP-12409-DRISKILL
 DWN: AAD

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 8, 2013 (PDC)**

AGENDA ITEM NO.:

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **TAP application for sidewalk in Lynchpin Industrial Park**

RECOMMENDATION:

Approve the application for Transportation Alternatives Program funding for construction of a sidewalk on one side of Jefferson Ridge Parkway. Item will be scheduled for the next Finance Committee, then full Council on November 12, 2013.

SUMMARY:

There have been numerous requests for sidewalk access to Ivy Creek Park off Jefferson Ridge Parkway. This application requests 80% federal reimbursement through the Transportation Alternatives Program to construct this sidewalk. Design is under way and should be complete prior to receiving the funding authorization next October.

Cost estimate for the project is \$200,000.

PRIOR ACTION(S):

None

FISCAL IMPACT:

Requires 20% local match in the amount of \$40,000.

CONTACT(S):

Don DeBerry – City Traffic Engineer – 455-3935

Lee Newland – City Engineer – 455-3947

Gaynelle Hart – Public Works Director – 455-4469

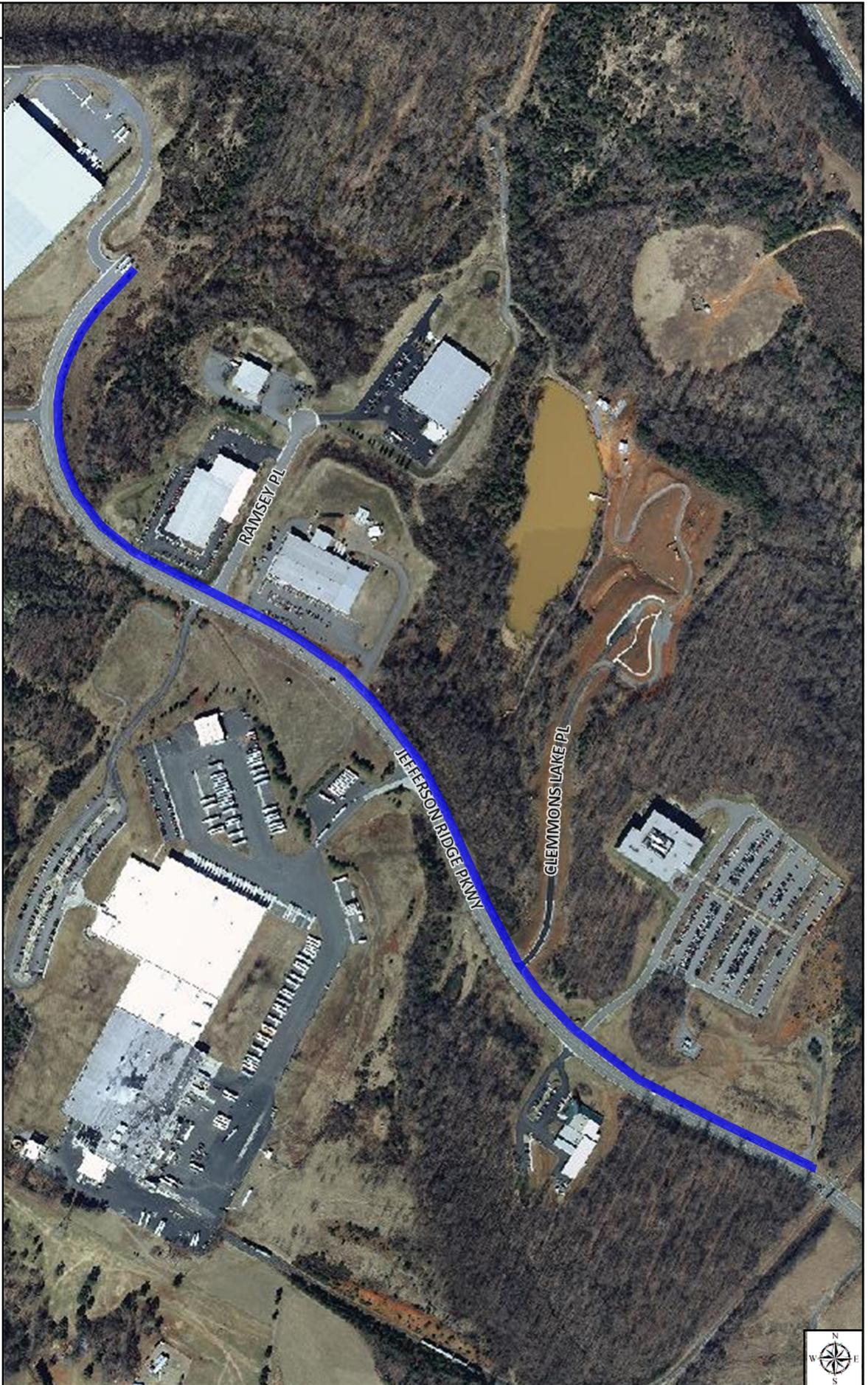
ATTACHMENT(S):

Aerial

REVIEWED BY:

Legend

Streets



Feet

0 100 200 300 400
1:6,000 / 1"=500 Feet

9/30/2013

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and the city of Lynchburg is not responsible for its accuracy or how current it may be.