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## Memorandum

**To:** Town Council  
**From:** Andrea West, Zoning Administrator  
**Meeting Date:** January 6, 2025  
**Re:** 348 Windover Avenue NW – Necessity of Public Improvements

### Request

Request for a **determination of the necessity of Public Improvements adjacent to the property located at 348 Windover Avenue NW, per Town Code Sec. 18-237.2.**, in the RS-16, single-unit detached residential zoning district; filed by Davis Chau, project engineer with GeoEnv Engineers and property owner.

### Description of Proposed Project

The applicant, Davis Chau, the property owner and project engineer with GeoEnv Engineers, is proposing to demolish the existing single-unit detached house and construct a new single-unit detached house.

On such projects throughout Vienna, *Section 18-402, Frontage Improvements*, requires the construction of certain public improvements. Within the Windover Heights Historic Overlay District (WHHD), however, such public improvements require a decision by Town Council on whether such improvements are necessary, after having received a recommendation from the Windover Heights Board of Review (WHBR).

The owner has provided a preliminary site plan showing the public improvements that are typically required per Town Code *Section 18-402, Frontage Improvements*.

### Property Description

The property known as 348 Windover Avenue NW is in the middle of the block between Lewis Street NW and Pleasant Street NW, and across from the intersection of Windover Avenue NW with Knoll Street SW. The property is zoned RS-16 and is 16,000 square feet. The existing single-story brick home was constructed in 1964 per Fairfax County records.

## Required Public Improvements

Were the Town Council to decide that this property should be treated in a similar manner as properties outside of the WHHD, the owner would be required to complete the following tasks related to public improvements:

- **Dedication of right-of-way width on Windover Avenue and Pleasant Street.** When required, additional land would be deeded to the Town to meet the standard road width and contain all public improvements.
- **Design of curb, gutter, sidewalk, and storm drain on Windover Avenue.** The developer would provide an engineered plan showing the design of all public improvements that the Town of Vienna determines is required. The Town of Vienna would approve this plan prior to construction of the house.
- **Construction of sidewalks on Windover Avenue.** Prior to the completion of the project, and to the issuance of a Certificate of Occupancy, the developer would need to construct the sidewalk in accordance with the approved site plan. After construction, the Department of Public Works would then inspect the sidewalk for conformance with the approved plan. If, before project approval, the Department of Public Works were to determine that construction of the sidewalks is not appropriate at that time (for example, if there is a broader plan to build a sidewalk on an entire block), the developer could be required to place funds in a Town escrow account that, later, would be used for construction of the sidewalk.

In this case, if the property were outside of the WHHD, a payment to the sidewalk escrow account would be required. The property is in the middle of the block and there are no other sidewalk segments on the block. It would be in the Town’s best interest to design a sidewalk for an entire block face, rather than building it one segment at a time.

Once a sidewalk is planned for construction, the Town of Vienna would be responsible for constructing the associated curb, gutter, and storm drain, or “*frontage improvements*,” prior to the completion of the sidewalk. Improvements constructed by the Town within Windover Heights are subject to the same review and approval by the Town Council, after review by the Windover Heights Board of Review, as the improvements required of the developer.

## Public Improvements within Windover Heights

As indicated above, the Town Code requires that public improvements within the WHHD be reviewed for their necessity by the Town Council (Sec. 18-237). The Town Code also requires, however, that public improvements be built when there is development of a single unit detached home. The relevant code sections are:

**Sec. 18-237. - Windover Heights Historic Overlay (WH-O).**

**2. Public Improvements Controls.**

A. No new construction projects, the purpose of which shall be the installation of new public improvements and publicly-owned utilities not in existence at the time of the adoption of the ordinance, shall be commenced in the Windover Heights Historic Overlay District until the Town Council shall first conduct an advertised public hearing concerning the necessity of the improvement, at which hearing the recommendations of the Windover Heights Board of Review, if available, shall be included in the record.

B. The provisions of this section shall not be applicable to maintenance or repair of existing public improvements or utilities.

**Sec. 18-402. - Frontage Improvements.**

1. The developer of any lot shall dedicate land along the lot frontage for sidewalk, curb, and gutter improvements as shown in the adopted Town Pedestrian Plan. Dedication of such improvements shall be in accordance with the standards set forth in this Chapter.
2. The developer of any lot that fronts an existing street shall dedicate land, construct a sidewalk, and connect such new sidewalk to the existing adjacent sidewalks, if any. Such new sidewalk shall be constructed in accordance with the standards set forth in this Chapter.
3. Upon application by the developer to the Town, the Town Council designates the Director of Public Works to waive, in exceptional circumstances, in consultation with the Town Attorney and Town Manager, in his or her discretion, the construction of such new sidewalk and permit the deposit of designated funds for such construction.

**Other Relevant Documents for Consideration**

**Comprehensive Plan:**

The Comprehensive Plan states that walking is a fundamental form of transportation and is integral to the health and livability of the community of Vienna. The Town’s pedestrian network not only depends on accessible and usable sidewalks; it encourages stronger social connections, exercise and recreation, environmental quality, and economic growth. When safe facilities are not available, people may be forced to engage in risky behavior to walk along or cross streets at dangerous crossings or take an automobile for very short trips.

The Comprehensive Plan lays out three objectives to improve the pedestrian network:

- Objective 1 - Improve the pedestrian network throughout the Town by connecting and expanding the existing sidewalk networks.
- Objective 2 - Make the Town a pedestrian-friendly community as a means of encouraging a healthy lifestyle and promoting a cleaner environment.
- Objective 3 - Support businesses, residents, and visitors by enhancing pedestrian access to Town amenities.

**Pedestrian Master Plan:**

The Pedestrian Master Plan states the goals outlined are designed to help achieve the Town’s vision for an integrated network of pedestrian routes. The Town of Vienna will achieve its pedestrian vision by focusing on five goals.

1. Provide high-quality, safe, and convenient pedestrian access and facilities.
2. Complete walkway network with sidewalks on both sides of all streets in Vienna.
3. Create opportunities for and increased use of walking, bicycling, and public transit as an alternative to vehicle trips.
4. Promote benefits of walkable neighborhoods and a vibrant pedestrian-driven local economy.
5. Work toward Walk Friendly community designation.

**Public Infrastructure Manual and Typical Street Section:**

Roadway improvements are built per the Town’s Public Infrastructure Manual and the Town’s Typical Street Section. Installing a curb & gutter roadway along property frontage achieves three objectives:

- Objective 1 – Allows pedestrian improvements to meet the American Disabilities Act (ADA).
- Objective 2 – Provide adequate emergency vehicles, such as fire engines, access to traverse the roadway safely and quickly.
- Objective 3 – Provides adequate storm drain improvements to mitigate negative downstream impacts on private and public properties.

**Recent Similar Project and Follow-Up**

In late 2023 and early 2024, the same process for review occurred in response to proposed redevelopment at 288 Windover Avenue NW. The WHBR recommended against the construction of the public improvements; and, in March 2024, the Town Council decided not to approve such construction. However, the property owner agreed to address stormwater on site at a level greater than what is normally required.

As follow-up to that decision, the Town Council requested that staff research alternative processes and procedures for the WHHD related to the requirements for public improvements for single-lot redevelopments. Specifically, the Town Council asked that there be an exemption for the requirement of public infrastructure in the WHHD until such time as a broader infrastructure plan is prepared and approved, and that such plan would be prepared in a community consultative process.

In response, the Department of Planning and Zoning has proposed a zoning code text amendment to exempt redevelopments within the Windover Heights Historic District overlay zone from the requirements of *Sec. 18-402. - Frontage Improvements*. The Town Council has authorized that this proposed zoning

change move forward through the process. The Planning Commission held a hearing on this proposed zoning change (and many others) on December 11, 2024. The Planning Commission recommended that the Town Council adopt this exemption, with the exception of properties on Lawyers Road NW. The Town Council is scheduled to hold its public hearing on January 27, 2025, followed by a decision in either that meeting or a future meeting. As such, the zoning provisions that were in effect during the case of 288 Windover Avenue NW remain in effect and will remain so until the amendments are approved and adopted by Town Council.

### Windover Heights Recommendation

On December 3, 2024, the Windover Heights Board of Review met and reviewed the impacts of public improvements related to the redevelopment of 348 Windover Avenue NW. The Windover Heights Board of Review made a motion to recommend that public improvements not be required, with the condition that tree preservation on the frontage of the lot be explored closely when working with the project arborist. The memorandum from the Chair is Attachment 6.

### Town Council Action

The Town Council has the option of considering the following recommendations:

- **Option 1:** Recommending the installation of all the Town’s standard public improvements, including frontage improvements and sidewalks,
  - Potential motion:  
I move that all the standard public improvements are necessary adjacent to 348 Windover Avenue NW, in association with the proposed redevelopment plan per the requirements of Town Code Section 18-402, Frontage Improvements, and the Town’s standard street profile for a street of this kind.
- **Option 2:** Recommending that some of the standard public improvements are necessary adjacent to 348 Windover Avenue NW, in association with the proposed redevelopment plan per the requirements of Town Code Section 18-402; but that other public improvements are not necessary.  
Potential motion: I move that the following public improvements are necessary adjacent to 348 Windover Avenue NW, in association with the proposed redevelopment plan per the requirements of Town Code Section 18-402, Frontage Improvements, but that others are not necessary:  
  
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- **Option 3:** Recommending that no public improvements, including frontage improvements or sidewalks, be constructed on this property at this time, OR,
  - Potential motion:  
I move that public improvements are *not* necessary adjacent to 348 Windover Avenue NW, in association with the proposed redevelopment plan per the requirements of Town Code

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Section 18-402, Frontage Improvements, and that staff may approve a site plan without the standard street profile design.

- **Option 4:** Other option that the Town Council may choose.

**Attachments**

1. Public Improvements within the Windover Heights Historic District
2. Application
3. Preliminary Site Plan
4. Site and Right-of-Way Photos
5. Plat, 1986
6. Windover Heights Board of Review Recommendation Memo, December 3, 2024