

September 11, 2024

Dear Members of the City Council,

On behalf of the residents of the City of Alexandria, thank you for your leadership of this City. I also appreciate your consideration of the following recommendations and concerns as you discuss Docket #8 (25-2430) of the Alexandria City Council agenda on September 14, 2024, particularly as I cannot offer verbal testimony due to a scheduling conflict.

I ask that you **accept** Vacation Requests #2024-00001, #2024-00002, and #2024-00003 that were discussed together as Docket #7 on the Thursday, September 5, 2024, agenda of the Planning Commission. Given the competing interests, I also **support** the proportional vacation of Right-Of-Way that was proposed as a compromise depicted in Figure 4 of Alexandria's Transportation and Environmental Services (T&ES) report. After attending the Planning Commission meeting, I also recommend that you **do not follow the recommendations** to reject all three Vacation Requests.

I make those recommendations based on the a) existing state of this Right-of-Way, b) commitment by two neighbors to incur the increased costs and tax burden, yet give up their rights to develop if vacated, and c) deliberation by the Planning Commission on September 5.

#### **Current state of the unimproved right-of-way**

Although our property is not directly affected by these Vacation Requests, I wanted to share my perspectives on the unimproved Right-of-Way that borders our immediate neighbors. We have lived in our townhome since 2018 and since at-least then, this land has been ignored by City services and voluntarily maintained by two neighbors who mow the grass, trim the trees, and clean up fallen limbs to keep up the lot's appearance so that it blends with the rest of the neighborhood. Without their maintenance, the lot would surely be overgrown and unsightly.

As Commissioner McMahon pointed out on September 5, there is no current use or reasonable future use for this Right-of-Way. Commissioners McMahon and Koenig further shared that this land cannot serve as a rectangular pocket park because there is only one point of entry and it is not accessible on three sides. Del Ray also has a wealth of accessible open space, while other neighborhoods such as West Alexandria urgently need (and have opportunity to plan) accessible green space. I recommend that the City continue pursuing plans in neighborhoods that clearly lack parks and recreational facilities, rather than trying to imagine something that is unnecessary.

Also discussed in the Planning Commission meeting was the informal use of this Right-of-Way by one of the neighbors. This neighbor would be left landlocked if this was taken away, particularly given that there is a side-load garage on this property that continues to be accessed exclusively via the Right-of-Way since the early 1900's. Notably, there is no other way to access their garage as the alley that runs between E. Alexandria Ave and E. Nelson Ave: a) runs behind this structure, b) does not provide direct access to the garage entry, and c) still requires a portion of the Right-of-Way for a vehicle to go in-and-out of the side entry. As Mr. Rice pointed out in his verbal testimony, getting in-and-out of the garage from the existing "gravel" pathway along the Right-of-Way requires, at-minimum, 20 feet clearance of Right-of-Way at the garage's access point to accommodate a turning

radius for maneuvering his vehicle into and out of the garage. Based on Mr. Rice's testimony, there is clear historical precedent in Virginia's regulations to ensure "functional" use of the driveway that is on the Right-of-Way to get to, and in-and-out of, his garage. It seems that this requirement would be satisfied by a vacation to the midpoint from his property into this land as T&ES proposes (50-25-25%), but this requirement cannot be met if this land was considered as one continuous lot or in Mr. Teran's equal division proposal (33-33-33%) that was presented to the Planning Commission.

I am still confused why Commissioner Brown spent significant time during the public hearing to question the current use of the garage, rather than deliberate on the State and City Right-of-Way policies relevant to this specific Vacancy request. I am also disheartened that Chairman Macek ended the discussion sharing his opposition without substantive deliberation, and instead justified his vote on the basis that applicants should be paying the City more for the vacancies.

### **Vacancy would result in a public good while reducing obligations by the City**

As mentioned earlier, this Right-of-Way has been neglected by the City for over a century. Fortunately, this hasn't been apparent because of the voluntary maintenance by the two abutting landowners. Approving the vacancies or the compromise suggested in the T&ES report would provide clarity on the status of this land and remove the City's burden for maintenance, while also meeting the wish of the City Staff to keep the space "status quo" since two of the neighbors do not wish to develop this land. I also agree with the City Staff recommendation that a proportional 25% vacation be granted to Mr. Teran so that all portions of this land can be accounted for.

As mentioned in the applications, letters, and testimony, two of the neighbors are committed to a) incurring the increased tax burden, b) not developing on the space, and c) maintaining the space so that it continues to blend seamlessly within the neighborhood. Approving all three Vacancy Requests or the proportional vacation of Right-of-Way compromise in the T&ES report seems to be solutions that are a net-positive for Alexandria.

I welcome any questions about this letter and please let me know if you want me to expand on any of my perspectives. I hope you consider these suggestions and recommendations related to Vacation Requests #2024-00001, #2024-00002, and #2024-00003, with apologies that I cannot contribute to the discussions at the City Council meeting on September 14, 2024.

Sincerely,

Mark Lim (and Yashin Lin, who sent a separate letter)

1407 Mount Vernon  
markdim@gmail.com

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[EXTERNAL]Vacation #2024-00001,00002,00003

8  
9-14-24

AR Angela Rice<riceangie@gmail.com>

😊 ⬅️ ⬅️ ➡️ ...

To: CouncilComment@alexandriava.gov; Justin Wilson; Amy Jackson; Canel Wed 9/11/2024 8:27 AM

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Mayor and City Councilors,

I live at 408 E. Alexandria Ave, with my husband, Brett, and our three children. I am writing in support of all three vacation requests proportionally from the abutting property lines to the midpoint of the right-of-way. We previously requested this ROW (a portion of it) be vacated to us in 2013 and it was not objected to by T&ES and or Planning & Zoning. The previous Director of T&ES agreed to vacate the portion. There were no Staff reports as we withdrew the application before their release, however, we have emails and handwritten notes from the T&ES director Rich Baer, agreeing that the ROW should be vacated per our application. The previous Vacation application was withdrawn before any hearings because of non-related issues, but we are asking now again for your consideration of our request to allow functional access to our property.

The T&ES/Planning Staff report suggests how to vacate. We support the proportionate vacations as presented in the Staff report to the City Council (half of the ROW to 408 E. Alexandria Ave, a quarter to 406, and a quarter to 404 A) if the City Council were to approve it. This is equitable and proportionate to vacate the unimproved and unused ROW to the properties that are abutting the ROW. This is a common law principle in Virginia Vacations that has been adjudicated and made part of judicial decisions for over 100 years and continues today. This equitable vacation will codify the access to our property that has always been there, and been the exclusive access to our garage for approximately 100 years. While we are aware we have the right to use the driveway that is on the right-of-way, the City has requested in writing, several times, that the previous owners and us pay for the improvements in the curb cut, apron, and the driveway itself. The City has taken no responsibility for doing this while saying it is the City's property. This is an untenable position as it gets more difficult to use from neglect, and as we look to the future concerning property value loss due to access limitations.

By approving the vacation, there will be a public benefit for this unused ROW. With our continued maintenance of the land and now taxable land and the recurring income from that to help alleviate the burden on Alexandria taxpayers. We have not asked for any development rights. The community at large likes it as is and we intend to maintain the status quo while protecting our only access to our garage.

Thank you for taking the time to consider this request. I am unable to attend the City Council meeting this Saturday.

**Angela Rice, PT, DPT, NCPT**

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## [EXTERNAL]Item 25-2430 Neighbor Comments

8  
9-14-24

IA Ingrid Allen<ingridsallen@gmail.com> ...  
 To: CouncilComment@alexandriava.gov; Justin Wilson; Amy Jackson; Cane Wed 9/11/2024 12:48 PM  
 Cc: Jud Allen <jud@expresshomebuyers.com>; angela rice <riceangie@gm

Flagged

Mayor and City Councilors,

I live at 416 E. Alexandria Ave and am writing to support all three vacation requests proportionally from the abutting property lines to the midpoint of the right-of-way. Our neighbors at 408 E. Alexandria Brett and Angela Rice previously requested this ROW (a portion of) be vacated to them in 2013 and it was not objected to by T&ES and or Planning & Zoning. The previous Director of T&ES agreed to vacate the portion. There were no Staff reports as we withdrew the application prior to their release, however the Rices have emails and handwritten notes from the T&ES director Rich Baer, agreeing that the ROW should be vacated per their application. The previous Vacation application was withdrawn prior to any hearings because of non related issues, but we as a united group of supporters in the 400 block of E. Alexandria Ave. are asking now again for your consideration of our request to allow functional access to the property at 408 E. Alexandria Ave.

The T&ES/Planning Staff report suggests how to vacate. We support the proportionate vacations as presented in the Staff report to City Council (half of the ROW to 408 E. Alexandria Ave, a quarter to 406 and a quarter to 404 A) if City Council were to approve it. This is equitable and proportionate to vacate the unimproved and unused ROW to the properties that are abutting the ROW. This is a common Law principle in Virginia Vacations that has been adjudicated and made part of judicial decisions for over 100 years and continues today. This equitable vacation will codify the access to the property at 408 that has always been there, and has been the exclusive access to their garage for approximately 100 years. While we are aware we have the right to use the driveway that is on the right-of-way, the City has requested in writing, several times, that the previous owners and the Rices pay for the improvements in the curb cut, apron and the driveway itself. The City has taken no responsibility to do this while saying it is the City property. This is an untenable position as it gets more difficult to use from neglect, and as the Rices look to the future with regards to property value loss with regard to the access limitations.

By approving the vacation, there will be a public benefit for this unused ROW. With the neighbors' continued maintenance of the land and now taxable land and the recurring income from that to help alleviate the burden on Alexandria taxpayers. The community at large likes it as is and the neighbors in the 400 Block of E. Alexandria Ave. intend to maintain the status quo while protecting the Rice's access to their garage at 408 E. Alexandria Ave.

Thank you, Ingrid and Jud Allen  
416 E. Alexandria Ave.

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[EXTERNAL]OCH at Nelson, LLC Subdivision #2024-0007 - 415 E. Nelson Avenue

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9-14-24

VA

Vmail account<vmail777@comcast.net>

To: PlanComm; CouncilComment@alexandriava.gov

Mon 9/2/2024 7:56 PM

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As a neighboring homeowner, we are writing to express our thoughts on the request for subdivision of the property at 415 E. Nelson Avenue.

We do not have any issue with the property being subdivided and a duplex built where there is currently a single family house, if it is being built as in the documents filed which shows front off street parking driveways for each house, which appear to accommodate two vehicles.

We do however, want to speak to the notice that was posted in the rear alley behind our houses, the row houses of the block beside this property. We have lived at our home, 427 E. Nelson, for 47 years. The alley in back of these two rows of houses dead ends at the side of the rear yard of 415, the property in question. There has always been a fence at the back of that yard which prohibited any access from the alley to the single family homes. Their trash pickup has always been at the curb on E. Nelson. This alley was dedicated by the owners of the row houses to the City for trash removal and fire and emergency use and access for the homeowners to park in the rear of our houses, which is currently 14 parking places. The City installed NO PARKING IN ALLEY SIGNS many years ago. The alley, over time, deteriorated and it took many years of us calling the City to have it repaired. Finally, we got it replaced and do not want it destroyed by heavy equipment or trucks which have full access to the property from the front on East Nelson. My point in this is to have a stipulation on this building permit that the alley will not be used as access to this property or for construction workers during the new building process, but that the alley will remain in tact as it is now.

With the opening of new restaurants on Mt. Vernon Avenue at E. Nelson, street parking almost does not exist for homeowners some days, so the alley is very important for us.

To add to this, we had a kitchen fire some 30 years ago and the fire department had to get to us from the alley. Our trash is picked up weekly from the alley.

We very much respect owners' rights and have no problem with them changing their property as long as it does not interfere with us or our neighbors rights to use and enjoy our property.

Respectfully submitted,  
William & Vicky Garrett  
427 East Nelson Avenue  
Alexandria, VA 22301

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9-14-24

September 10<sup>th</sup>, 2024

RE: VAC2024-00003

Mayor Wilson and Council Members,

Thank you for your time and consideration for our application. My name is Eric Teran and I along with my wife are the owners of 404A E. Alexandria Ave. We have been residents of the city for eleven years and hope for many more.

If you recall we were here in March with a SUP request to develop our lot which was denied. At that meeting Mayor Wilson pondered the idea of a vacation request on the vacant lot. The other two applicants and I jumped on our feet and quickly applied. That is why we are all here today. Our application was the first to be deemed complete by the city staff.

There are four options in front of you and I want to briefly discuss each one.

Option 1

The city keeps the vacant lot. This is what staff recommends as RPCA has identified this site for re-purposing as Open Space per the Open Space Master Plan. The City's Park and open spaces lists 312 spaces which range from schools, private spaces, parks, right of way, and a few more categories. This lot is specified as a Right of Way along with 79 more. The majority of them do not have an address or lot number as this lot. My understanding is the city would classify this space as a Pocket Park due to its size of 0.15 acres.

There are currently 24 pocket parks in the city which are under 0.5 acres and service an area of half a mile or less. The average size of these parks is 0.26 acres with the majority being corner lots. Please see Exhibit A which provides six pocket parks of similar size. As can be seen four of these parks are corner lots, one is in a commercial zone, and only one is similar, which is Woodbine Tot Lot Park. However, this park has 134 homes within the same block. The subject lot only has 34 homes within the same block. In addition, the subject lot is only 1,500 feet from Simpson Park, 1,000 feet from George Washington Middle School, and less than half a mile from two other pocket parks at 5 W Braddock and Mason Avenue Mini Park. Does it make sense for the city to use their budget on creating a pocket park in this location? Does it benefit Alexandria residents or the city?

Option 2

The other two applicants VAC2024-00001 of 408 E. Alexandria Ave. and VAC 2024-00002 of 406 E. Alexandria Ave. propose the same thing. To divide the lot in half and each keep the half adjacent to their lot. They have requested non-development rights which means the space will remain open and create large side yards for both owners. They can leave the area open or fence it in. The majority of vacant lots left in the city are actually owned by adjacent property owner to create larger yards. The city has valued one half at roughly \$33,000 and the other half at \$46,000 for non-development lots giving the city \$79,000. That is not a lot of money for this size of a yard in this neighborhood. It will be nice for these applicants to raise their property value but how does it benefit the residents and the city of Alexandria?

Option 3

The staff has provided a diagram on page 8 on how they feel the lot should be divided if the Council decides to vacate the lot. It gives 50% to the applicant at 408 E. Alexandria and 25% for myself



and the owner at 406 E. Alexandria. This seems to be determined by dividing the property at the center. However, I don't feel this is fair to myself or the owner of 406 E. Alexandria. Instead, please see Exhibit B which provides each applicant with 2,140 SF. This would be fair. However, the land would only be used to maintain as open space. All our property values will go up with bigger yards but how does this benefit the residents and the city of Alexandria?

#### Option 4

My application, VAC2024-00003. It is good for me but also for the residents and city of Alexandria. Let me explain.

There are fewer than 50 vacant residential lots in the city that are privately owned. The majority of those are owned by the adjacent property owners to create larger yards or are substandard lots. This lot should not sit empty or solely be used to create larger yards. Rather it should create homes for the city which will bring in additional tax dollars for the community. I believe this is one of the reasons why Zoning for Housing passed at the end of last year. There is no other way because there is no more land available. There must be creative solutions to build new housing in the city.

Our application is requesting development rights and due to that request, the cost to purchase the land is \$453,960 or \$70.75 per square foot per the city's appraisal evaluation. This is a lot more money going to the city than the \$79,000 from the other two applicants which is only \$12.31 per square foot.

By combining this lot of 6,416 square feet and our lot of 2,661 square feet we will have a 9,077 square foot lot. Per the zoning regulations this allows a house of 4,085 square feet to be built. The massing characteristics would be of similar size and scale of the homes along E. Alexandria Ave. With the new guidelines passed for Zoning for Housing one-to-four-unit dwellings may be built on the site. We are proposing to build homes in a residential community which conforms to the zoning map and will bring much needed housing to the city.

This development is not a one-time bonus to the city for adding new homes and paying \$453,960 for development rights. It will also benefit the community on a yearly basis from the money collected by the property taxes. We have provided Exhibit C which shows comparable single-family homes sold in the vicinity in the last two years and how much those homes are taxed from their sale. The average home sales are \$2,124,941, creating an average property tax of \$24,118.08. However, this being a new development to create one to four dwellings, it would have a higher selling price creating more property tax dollars and bringing new families to the neighborhood.

According to the Economic Policy Institute a family of four in Alexandria spends \$11,996 per month. Breaking that amount down to only include the costs of local expenses such as food, childcare, and other necessities, this comes out to \$4,189 per month. This is an additional \$50,268 to local businesses every year which according to an American Express study 0.67 cents of every dollar spent stays in the community by businesses paying their employees, buying local products, and reinvesting in their business.

The development of this property will bring in one lump sum of \$453,960, will bring in yearly tax dollars of at least \$24,000, and the new residents will be spending around \$4,189 every month at Alexandria businesses. The lot is now making money for the city rather than sitting empty or having the city spend money on it.

Lastly, I want to discuss the vehicle access that 408 E. Alexandria Ave uses to enter their detached garage. There seems to be some ambiguity if this can be used as a driveway, as parking, and with safety concerns on public property. The city maps currently show an alley from Mount Vernon Ave. to

Dewitt Ave which means the owners of 408 E. Alexandria Ave. could access their detached garage from here. However, from our property at 404A to 416 E. Alexandria Ave it is not maintained and doesn't even look to exist. Rather than requesting the city to provide this alley as shown on the city maps, we have prepared Exhibit D to resolve this issue. With this vacation request approval, we request that the City Council requires us to provide an easement on our property from the alley entering from Mount Vernon Ave. The exhibit provides what I believe is an accessible route. The final route and easement will be worked on with the Transportation and Environmental Services during permitting.

By granting us this vacation request we are bringing housing to the city, bringing in money to the city, and resolving the access for 408 E. Alexandria to their detached garage. This is why I believe our application is a better solution.

The city staff does not believe that our application satisfies the 2002 Vacation Memo criteria. However, I believe it does.

1. Existing Public Use: This right of way is not used by the public and as the other two applicants have stated the city does not maintain it. It is through their efforts that it is maintained. This is not classified as a pocket park. It is a right of way and is not being used by the public. As the public does not use this space then our application satisfies this requirement.
2. Reasonable Future Use: The city has had this right of way for 130 years. There are 312 locations in the city currently classified for public use in the Open Space Master Plan. I agree with planning commissioner McMahon when she stated that she doesn't see this being developed any time soon. Why would the city allocate funds for this lot in the future when there are better locations that could serve more residents in need of park space and take funds away from maintaining the current locations. The pocket park could cost the city \$100,000 with a playground to build if we use Woodbine Tot Lot as an example plus the yearly maintenance. It doesn't serve the city if the lot sits vacant for another 100 years or cost residents their tax dollars, which is why our application satisfies this requirement.
3. Landlocked Public Property: Approval of this vacation would not create a situation where public property would be landlocked which is why our application satisfies this requirement.
4. Landlocked Private Property/Impaired Access: Approval of this vacation request will not impair access to 408 E. Alexandria because they can still enter their home from the street. What is being impaired is the access to the detached garage. If the Council agrees to the proposed easement requirement as I previously discussed and show in Exhibit D, then there is no impairment. This allows continued use of the detached garage with paved access and safer conditions, which is why our application satisfies this requirement.
5. Public Benefit: The space is currently not being used by the public, from what I've been told it never has been, there is no mention of when and if ever this space would be developed for public use. It is not in the public benefit for this property to sit empty with no enjoyment from kids or taking advantage of tax dollars. As I stated, this property would produce around \$24,000 of property taxes each year as a conservative estimate. I think the creative solution is for the council to approve our vacation request and if possible, allocate the property taxes produced from this lot to go towards building new pocket parks in the future. After four years the property taxes collected would be around \$100,000. Enough to pay for the development of a pocket park and its playground. After another four years, another pocket park and so on and so on. Rather than benefiting only a tiny population that doesn't require another park in this area why not benefit residents from all parts of the city. In addition, the local businesses would have another family spending money in their stores and restaurants, benefiting the public again. This is why our application satisfies this requirement.



As we reviewed, we satisfy the five requirements from the 2002 Vacation Memo criteria.

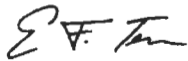
If we are granted this vacation request to develop the property,

1. The city gets \$453,960,
2. Every year the city gets at least another \$24,000 in property taxes,
3. Local businesses have additional clients,
4. This home will fit the character of the neighborhood,
5. With minimal vacant land to build in the city this is a creative solution to provide much needed housing and the public and city benefits.

I believe this is the best solution for this property.

Thank you, Council Members and Mr. Mayor for your time. I'm happy to answer any questions and I look forward to your discussion.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Teran".

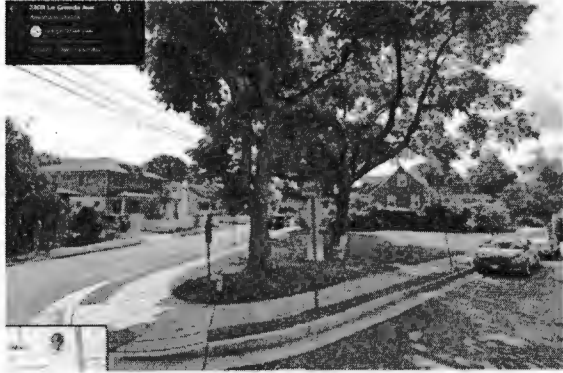
Eric Teran

## EXHIBIT A

1. 2304 Randolph Ave

0.09 Acres

Corner lot



4. Sunset Mini Park at 4 Sunset DR

0.16 Acres

Corner lot



2. Lynhaven Gateway at 101 Lynhaven Dr.

0.12 Acres

Corner lot



5. Washington Way at 120 N Pitt ST

0.05 Acres

An alley runs through the park



3. Portner Park at 1301 Powhatan ST

0.04 Acres

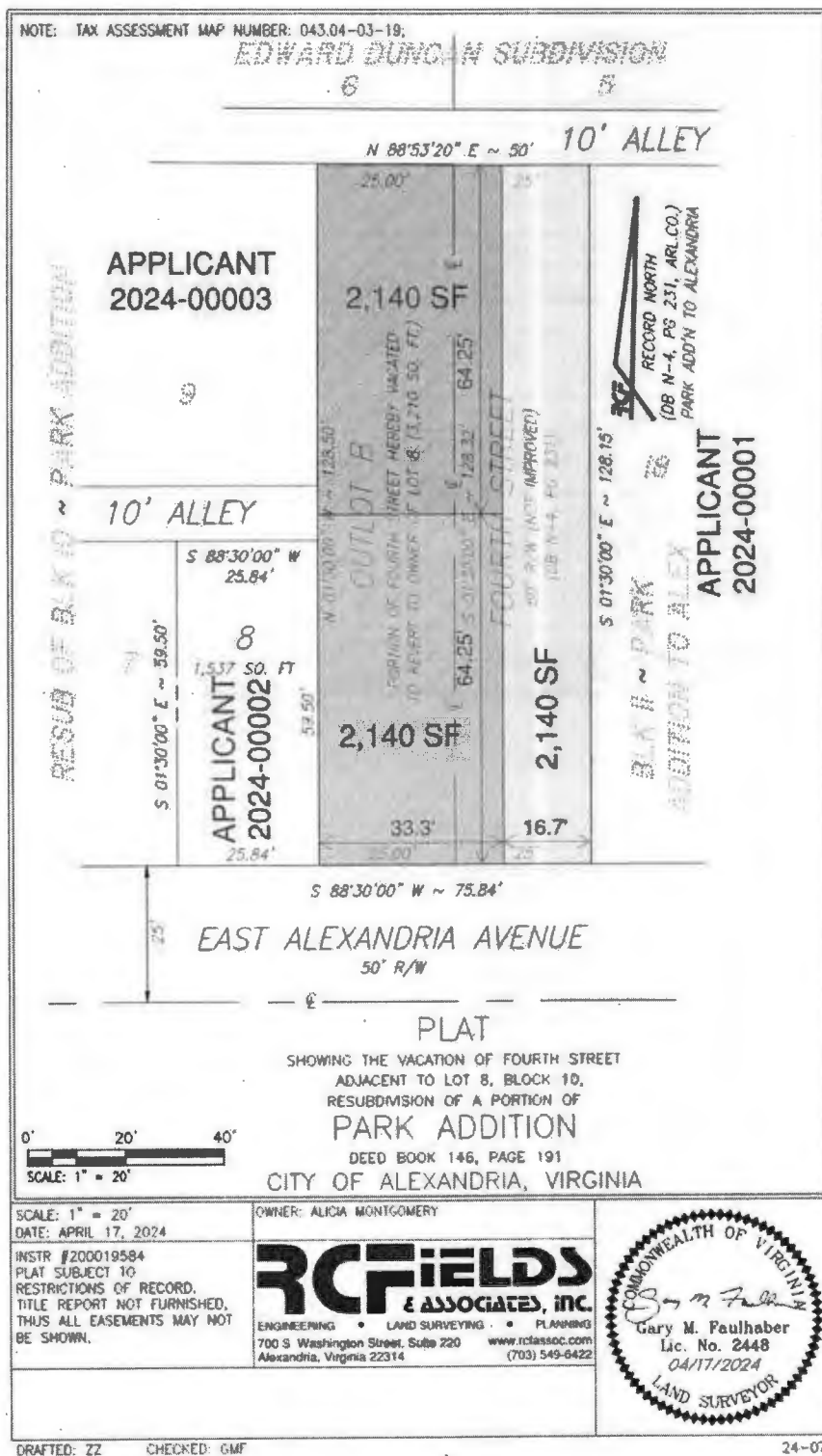
Corner lot

6. Woodbine Tot Lot at 1509 Woodbine ST  
0.13 Acres

Most similar. However, the density is greater  
with 134 townhomes within a block



**EXHIBIT B**





**EXHIBIT C**

COMPARABLE PROPERTIES						
ADDRESS	SALE DATE	SALE	SQUARE FEET	COST PER SF	TAX RATE	PROPERTY TAX
412 E. BELLEFONTE AVE.	5/17/2023	\$1,750,000	3,690	\$474.25	\$1.135	\$19,862.50
116 W. MASON AVE.	8/11/2023	\$1,800,000	3,094	\$581.77	\$1.135	\$20,430.00
4 E. ALEXANDRIA AVE.	4/12/2024	\$1,825,000	3,156	\$578.26	\$1.135	\$20,713.75
10 W. CANTON AVE.	7/5/2024	\$1,870,000	3,094	\$604.40	\$1.135	\$21,224.50
215 E. MONROE AVE.	1/31/2023	\$1,900,000	4,250	\$447.06	\$1.135	\$21,565.00
220 E. MONROE AVE.	6/30/2023	\$1,945,000	3,800	\$511.84	\$1.135	\$22,075.75
217 E. CUSTIS AVE.	2/17/2023	\$2,000,000	3,858	\$518.40	\$1.135	\$22,700.00
1803 NICHOLSON LN.	3/15/2023	\$2,000,000	3,914	\$510.99	\$1.135	\$22,700.00
206 E. RANDOLPH AVE.	7/21/2023	\$2,095,000	3,829	\$547.14	\$1.135	\$23,778.25
317 E. HOWELL AVE.	10/19/2023	\$2,149,000	4,367	\$492.10	\$1.135	\$24,391.15
2507 TERRETT AVE.	6/28/2024	\$2,215,000	4,000	\$553.75	\$1.135	\$25,140.25
111 W. MASON AVE.	5/31/2023	\$2,300,000	3,511	\$655.08	\$1.135	\$26,105.00
217 E. MASON AVE.	1/30/2024	\$2,325,000	4,799	\$484.48	\$1.135	\$26,388.75
109 E. UHLER AVE.	4/12/2024	\$2,350,000	4,500	\$522.22	\$1.135	\$26,672.50
1512 STONEWALL RD.	8/15/2023	\$2,350,000	4,012	\$585.74	\$1.135	\$26,672.50
209 E. DEL RAY AVE.	6/7/2024	\$2,600,000	4,195	\$619.79	\$1.135	\$29,510.00
109 W. ALEXANDRIA AVE.	1/26/2024	\$2,650,000	4,956	\$534.71	\$1.135	\$30,077.50
AVERAGE		\$2,124,941	3,943	\$542.47		\$24,118.08

**LOT 7**  
**DIVIDED DUNCAN SUBD.**  
Parcel ID #043.03-03-03  
1413 MT VERNON AVE  
Owner: MATTHEW A. KIAM  
Zoned: RB

**LOT 8**  
**DIVIDED DUNCAN SUBD.**  
Parcel ID #043.03-03-04  
405 E. NELSON AVE  
Owner: GREGORY BASHEDA  
Zoned: RB

**LOT 5**  
**DIVIDED DUNCAN SUBD.**  
Parcel ID #043.03-03-05  
407 E. NELSON AVE  
Owner: DAVID OR SUSAN HELLMAN  
Zoned: RB

**LOT 9**  
**MOMA**  
ZONE: RB  
2,661 SF

**PARCEL A**  
6,416 SF

**LOT 16, 17 & 18**  
**BLOCK 11, PHIN AGEN TO ALBANY**

**Parcel ID #043.03-04-17C**  
408 E. ALEXANDRIA AVE  
Owner: BRETT DAVID RICE &  
ANGELA MARIE TRS.  
Zoned: RB

**Parcel ID #043.03-04-19**  
406 E. ALEXANDRIA AVE  
Owner: ALICIA MONTGOMERY  
Zoned: RB

**EAST ALEXANDRIA AVENUE**  
(R/W VARIES)

**10' ALLEY**

**10'-0"**

**NAL SET**

**RS**

**PF**

**50'**

**20'-0"**

**GARAGE**

**FOURTH STREET**

**128.50'**

**128.15'**

**50'**

**PFF**

**LOT 7 BLDG.**

**LOT 8 BLDG.**

**RESUB BLOCK 10, PHIN AGEN TO ALBANY**

**EASEMENT GRANTED TO 408 E. ALEXANDRIA AVE FOR GARAGE ACCESS**

**STAR**

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[EXTERNAL]For your consideration in regards to Docket Item #8 on 09/14/24

152 KB

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8  
9-14-24

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Dear Mayor, Vice-Mayor, and City Council Members:

First and foremost, I want to take the time to thank you for your service to our community in your positions and thank you for taking the time to review my enclosed materials. I understand that your job can oftentimes be a thankless one - and embarrassingly, while looking up your email addresses to send this to you today, I have found that I never completed my thank you email following our last encounter in March. An egregious oversight on my part, and I apologize for that - not out of convenience here, but out of complete embarrassment in my prior neglect. As you may recall, I had sent several lengthy letters to you between January and March & eventually spoke at a City Council meeting in regards to a SUP development proposal adjacent to my property in Del Ray. I sure learned a lot about local government in those months - and clearly am continuing to do so as I continue my journey working with you all in this matter. I thank you all for your patience with me then, and now, as I navigate this new adventure!

I do understand the time constraints that come with the completion of my letter. It has been hard for me to organize my thoughts in a coherent way over the last week. I am available today if you have any questions for me after reviewing my materials.

Thank you,

--  
**Alicia Montgomery**  
406 E. Alexandria Ave.  
[lishmo.202@gmail.com](mailto:lishmo.202@gmail.com)  
202-689-9617

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09/12/2024

To: Alexandria City Council Members  
Alexandria, VA

Subject: Requests to vacate an unimproved right-of-way between 404A, 406 and 408 E.  
Alexandria to add area to residential yards: VAC2024-00001, VAC2024-00002,  
VAC2024-00003.

Dear Mayor, Vice-Mayor, and City Council Members:

I am one of the adjacent property owners who is seeking approval for vacation of the right-of-way (ROW) in the 400 block of E. Alexandria Avenue. I know that the staff's report and recent Planning Commission meeting did not seem to go in favor of our collective requests for vacation, but I would like to plead my case (or more, truthfully, *our* case) to each of you ahead of your deliberation of this item at the upcoming City Council Public Hearing on Saturday. I'd first like to address the typical "what, when, and why" questions about my request for vacation, then I'll jump into why I disagree with city staff's assessment that our proposals do not meet the City's previously established criteria required for ROW vacation, and finally, I have outlined lingering questions that I feel remain important to consideration of our collective vacation requests & the staff's stated reasons for recommending disapproval.

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**WHY:** I wasn't sure what to expect when I began this process, but at the very least, I expected someone to ask *why* I was requesting the vacation - no one ever did, so I'll begin my letter with a little background story: I moved into my home at the end of 2020; I knew very minimal details about the open spaces beside and behind my home, but this certainly was a huge draw for me in moving here. Being outside with yard work that first spring, I finally met my neighbors, Brett & Angela Rice - COVID hadn't really allowed much socializing prior to that. Seeing that the wooded area next to my driveway (in the lot between us) was not being maintained by the city, I asked them what the deal was and learned that they had taken over responsibility for mowing the lawn of this area as the city had failed to provide routine maintenance for several years, despite periodic 311 requests to do so. Brett then explained to me the background on the ROW, the potential complexity of having the functional driveway to his garage be on a public right-of-way, and how he suspected that at some point, probably years from now, he would likely end up having to purchase the land to preserve his access along that driveway - as this was something that had come up several years prior. Because the allure of the "greenspace" was a big part of what I loved about my new neighborhood, I told them that if it ever came to it I would be happy to be included in any plans to vacate the ROW on this land. Angela told me that I could submit a service request to the city about the overgrown brush, but that it was unlikely that it would help matters. I offered to include the front portion of the area's lawn with my mowing from time to time - and actually even mowed the back lot (404A) for my first 2 summers because I had mistakenly thought that lot was city property as well (as they were both left un-maintained



year-round and I was still unclear on the details of that property back then). As expected, my requests for city maintenance of the overgrown wooded/brush area beside my driveway did not yield any results, so when my trees required trimming, I paid a company to trim back the underbrush in that area, too, as I still did not have the lawncare equipment to do so myself. However, I was not interested in continuing to pay for this service regularly and have thus only maintained the hand-weeding along my fence line hoping that the city would eventually note the overgrowth and do something about it. Each year, however, I eventually get things cleared back, out of sheer frustration.

**WHEN:** In terms of timing - as I presumed that this would also come up as a logical question regarding my request (but did not) - it became very apparent even from early discussions in the Planning Commission meeting in January 2024 (regarding Mr. Teran's 404A SUP proposal) that the future of this area was coming into question & that a potential for vacation was going to soon become a reality. It was at that point that the Rices and I began to talk about this more seriously as a "what-if" situation. After learning that the city staff was indeed looking into how the ROW lot could be merged with the 404A property to provide a "solution" to some of the "issues" that the 404A proposal faced, we decided to go ahead and file for vacation in February, even before the final City Council decision against the 404A development was made in March. At the time of filing, we asked if any other vacations had been submitted for this ROW - and confirming that there were not, we submitted a proposal that would divide the ROW in half between the Rices and myself as we had previously discussed. Later, Mr. Teran submitted a vacation request for the entire ROW in March. I only learned of this in May, when after multiple requests to the city for a status update, they emailed an official letter stating that there were, in fact, 3 vacation requests submitted for the ROW. Furthermore, despite earlier indications that the city would support a vacation request if submitted, staff was recommending denial of all 3 vacation applications, but with no clear details why at that time beyond "future plans". At this point, no one had asked me anything about why I had requested vacation, why I did so when I did, or even what I hoped to do with the land following vacation (it was not until August that Mr. Dofflemeyer contacted me to ask whether or not I was requesting development rights for the land, if the vacation were to be approved by City Council). To my surprise, these questions were also not asked at the Planning Commission meeting last week. I am still confused by this, as it seems logical to me that these would be important questions in terms of considering whether or not to support my vacation request.

**WHAT:** Lastly, neither myself, Mr. Rice, nor Mr. Teran were contacted by city staff prior to their decision letter to discuss with us any alternatives to resolve our competing vacation requests (nor a suggestion for us to do so) - but fortunately, one was included in their staff report, which was released nearly 6 weeks later. Now knowing that Mr. Teran was interested in vacation of the ROW as well, I contacted city staff 3 days later to officially request an amendment to my vacation request, in accordance with the 25-25-50% land division that they proposed (which I understand to be the existing & historic common-law legal standard in these matters) - with my vacation request thus being reduced to 25% of the land vs my original 50%. I was told that because this was an option outlined in the staff report as a plausible alternative if vacation were to be approved, there was nothing more that I needed to do to formalize my request. The day after I met with city staff to discuss this, I contacted Mr. Teran to notify him of this & learned that

he was open to this split as a third option if his primary request for vacation of the full lot en bloc was denied (with his 2nd preference being a new 33.3% proportional split that he had just sent in to city staff as another proposal). I was quite discouraged, then, when at the Planning Commission meeting last week, the requested amendment to my vacation application was not even mentioned in the staff's presentation. **To be clear: my preference for vacation would be for a proportional division of the area between all 3 applicants (25-25-50%, as proposed in Figure 4 of the staff report).**

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Again, this whole process is uncharted territory for me, so I admit that I was quite uneducated in how these proposals are handled & what legally matters in terms of making a recommendation and decision. This may be why city staff never asked what seemed to me to be the "logical" questions about my vacation request - because their interpretation of this area in relation to the established criteria for considering ROW vacation(s) had led them to conclude that these criteria were not satisfied and that no further discussions need be had. Now that I understand things more, and especially after hearing thoughtful deliberation on this at the Planning Commission meeting last week, my conclusion aligns with that of the commissioners who specifically expressed their disagreement with the staff on these points (outlined below from my meeting notes). As such, I feel that there is no reason that our vacation requests should not be considered, especially when all 3 of us agree that some form of a division of the lot would be a reasonable and acceptable outcome.

1. THERE IS NO CURRENT USE FOR THE ROW.

- Staff claimed that this criteria was not satisfied based on their assessment that it "currently exists as a pocket park" but also as a ROW in regards to the Rice's previously granted garage access (which was in existence before they lived there - although rebuilt, the garage exists in the same position that the prior garage had been with it's access point being on the "4th street ROW") ... Commissioner Brown pointed out the contradictions in staff's reasoning, as they can't claim it as BOTH open space & a ROW simultaneously.
- Vice-Chairman McMahon pointed out that she considers the current use by 408 for access to the garage as an *informal* use of the ROW (specifically since the ROW was not developed into an access road that has been continually maintained by the city for this purpose), that the 2017 Open Space plan referenced by the staff does not outline any actual current or future use for this property (the property shows up on a list documenting current unimproved ROWs that the committee counted towards the city's open space acreage calculations, but with no future or prioritized plans for any of these undeveloped/unmaintained sites), and that the fact that it currently exists as greenspace does not qualify it as being "open space" by the city's own definitions.
  - Relevant here - The RPAC contact provided to me by city staff has not provided me with anything more than general and vague answers in regards

to the city's responsibility in maintaining their "open spaces", nor about what the specific future "open space" plan for this lot entails.

- I argued that if the land were considered "in use" in any way by the city, there should be an expectation for them to maintain it. There has been no regular maintenance in terms of lawn care provided by the city for decades.

2. THERE IS NO REASONABLE FUTURE USE FOR THE ROW.

- Vice-Chairman McMahon said, elaborating further on some of her earlier comments above, "I do not think that this is expected to be ROW that is improved & maintained by the city in the future and I don't expect it to be improved & maintained as open space in the future by the city". Furthermore, she pointed out that "It's not a practical addition to the network - even if we want to make it a pocket park, we can't connect it to a trail, we can't make it accessible on 3 sides... it's just private property."
- Commissioner Koenig said that it's "virtually impossible to consider a scenario as a useful pocket park due to its intrinsic limit in size, based on its location, and a discernible and defensible right of access based on the history of use of the site. I don't see how you take a 50-foot wide property and continue to have vehicular access from front to back & combine that in any plausible way as a pocket park that would work."

3. NO PORTION OF THE ROW SHALL BECOME LANDLOCKED BY THE VACATION OF THE ROW.

- Staff & commissioners agree that this criteria is met.

4. NO ABUTTING PROPERTIES SHALL BECOME LANDLOCKED BY THE VACATION OF THE ROW.

- Staff listed this as "conditionally satisfied" based on the Rice & Montgomery vacation requests OR based on the staff's proposed division of land between all 3 abutting owners (figure 4, or plausibly Mr. Teran's proposal to split into 1/3rds) – but confirmed that the original vacation of the entire area for development as requested by Mr. Teran (2024-00003) would NOT satisfy this criteria (as it would leave the 408's garage access landlocked if the property was vacated as a whole to Mr. Teran or anyone else for that matter, save the owners of 408).
- All commissioners that spoke (except one who didn't find the need for maintaining garage access to 408 relevant as he proposed that the city simply take the land themselves and sell it to the highest bidder - essentially, Mr. Teran) also agreed that Mr. Teran's request for the full lot would NOT meet this criteria.

5. VACATION OF THE ROW SHALL PROVIDE A PUBLIC BENEFIT.

- Commissioner Koenig said "In regards to the 5th criteria, it seems to be that one public benefit is that we take this currently unmaintained ROW that's been in existence for over a century as a burden to the adjacent property owners & remove it from the rolls. At minimum we get the public benefit that the owner of 406 had mentioned as being a good steward of the space, all the way to the potential benefits of Mr. Teran's proposal to redevelop it as housing."

- Vice-Chairman McMahon said "The drawback for the ones that are not development proposals [Rice & Montgomery] is that the city only gets a little bit of money for it & there aren't the other benefits associated with a development version [added housing, increased taxes]. The development version [Teran] cannot meet [criteria] #4, but would [otherwise] provide a substantial amount of money to the city."
- In agreement with the above, I would argue that not granting a vacation would provide zero public benefit, given that there are no actual plans to establish and maintain this land as official open space (as was discussed in #1 & #2) - and would, in fact, provide an ongoing, albeit relatively small cost to the city in committing to actually maintaining the land regularly vs continuing to rely on the charity and pride in the community that has resulted in its upkeep by the adjacent neighbors for many years.

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Finally, because the public meeting format does not provide room for questions, feedback, or ongoing discussions, I hope to submit some questions ahead of Saturday's meeting & address a couple of concerns arising from the discussions from last week's Planning Commission meeting:

Throughout this vacation process, I have repeatedly submitted questions to various members of the city staff who have been involved in this particular project. However, nearly all of these questions remain unanswered as only general, vague answers to my very specific questions have been provided. I do hope to get some clarity on the following:

- The staff report states that the land was dedicated as a potential future ROW (prior to being acquired by the City of Alexandria from Arlington County), but was never used as such. Forgive my lack of knowledge on this subject, but by what process is a dedication made? If dedicated, shouldn't there also be a formal acceptance of the intended dedication documented? I understand from Mr. Moritz's explanation back in February (in regards to the writing on a old plat map of the area now known as 404A E. Alexandria as "reserved for parking") that what is written on a plat map can't be translated as intent or plans for an area - if that's the case, how is a ROW dedication documented legally, if not formally accepted as indicated on the plat map? Does a dedication transfer over when the land is annexed from one jurisdiction to another?
- While I understand that this parcel shows up on one appendix in the City's 2017 Open Space Plan document, there is no mention of actual plans for this/these open space(s) for city development or plans for appropriate land stewardship/maintenance of these areas. What does "preservation" of open spaces entail, aside from documenting their existence on a chart? Who is responsible for maintenance of these open spaces?
- The staff report for the current vacation requests notes that RPCA has a public purpose for retaining this property, but does not provide further information on this. To date, there has been no discussion with the neighbors or local community regarding options for use



of this land. Can you elaborate on what plans might be in place for this ROW as a public open space?

While I greatly appreciated the knowledge & insights provided by most commissioners' reasonable, rational, and relevant discussions in last week's meeting, there were certainly some comments that I wish to address which were nothing more than argumentative, dismissive, or simply just opinionated assertions which are not in alignment with already established city protocols.

- Commissioner Brown specifically led with a long line of questions for Mr. Rice which seemed very charged and targeted, for lack of a better descriptor. These were questions about the current use of the Rice's garage & their subsequent use of the gravel driveway provided along the east side of the ROW - whether or not the garage even had space for a vehicle (it does - I've seen it), whether there was a vehicle currently housed in the garage (there is - I've seen it), and if they own a white SUV (but then not being able to confirm if he was asking about his specific make/model of vehicle when Mr. Rice stated what he drives & asked for clarification if this was the vehicle he was referencing). Eventually, Commissioner Brown got to the ultimate point in his questions, being that if Mr. Rice is using the driveway as a right-of-way to his adjacent property, there ought to be some compensation provided to the city for that.
  - Whether or not the owner currently regularly uses the full length of the driveway (arguing that there does not appear to be gravel all the way back to the garage, so it did not seem to be in use to access the garage as claimed) & whether or not the garage currently houses a car (or is used for storage or anything else the owners see fit) holds no relevance on the fact that this property's garage doors cannot be accessed without use of the ROW in some capacity. The timeline of past vs current vs future use of the garage is not relevant, unless a garage would no longer be in existence at this location. I encourage you to come out and look at this ROW in relation to their garage; the fact that this is the only access to the garage doors along the west of the garage is very obvious.
  - Arguably, the most obvious way in which the city could make the owner pay for access (via the dedicated public right of way - i.e. a right to utilize this land for movement between 2 points), would be to vacate this area (and therein make the owner purchase the land at market value). This is literally the sole reason for the Rices' vacation request.
- Commissioner Brown stated (in reference to my concerns voiced in the meeting about the area being unmaintained and overgrown) that his impression of the land when he came out to see it was that it was, in fact, not overgrown.
  - While it may not be clear from my public comments, the area I had referred to as overgrown and unsightly is specifically the southwest corner of the ROW along my driveway, which is in fact overgrown with brush, weeds, and a large tree that has been almost completely overtaken by climbing ivy over several years of neglect (causing branches to die off and fall intermittently onto my driveway & vehicle). I submit to you my photos of this area in its current state for reference as an attachment.

- Also, I thank Commissioner Brown for confirming that overall, the Rices and I have done a great job of caring for this lot so that it does not appear to be unmaintained and does not stick out as a blemish in our beautiful neighborhood. I'd be happy to submit invoices to the city for our continued services, at market value for the area, if the determination is that the land is unsuitable for vacation.
- Commissioner Brown also proposed that the area "might well be a useful small park" and suggested that the area be submitted to RPCA to repurpose as open space.
  - Staff pointed out that this was indeed a consideration that influenced their recommendations in their report & determination. Mr. Dofflemeyer mentioned that someone from RPCA was there to talk more about it, but that person was never called upon for questions/clarification on the matter.
  - This opinion regarding suitability for developing this area into a small park was not supported by fellow commissioners who spoke (see notes above regarding items #1 & #2) & was seemingly also invalidated by Commissioner Brown's own prior line of questioning (when he pointed out that the area cannot be concurrently considered as "open space" and a ROW providing easement for one adjacent owner).
- Chairman Macek concluded the meeting with some very personal feelings on the matter: "I cannot support vacation because I don't think this is the appropriate vehicle for a distribution of land; it's privileging 3 landowners with some division of this land because they just happen to be adjacent to a city ROW. It's a large amount of land to give away for peanuts... it's larger than my lot in Rosemont [...] I think the appropriate disposition of this would be to convert this into a standard lot by the city & use the city's surplus land policy to accept proposals/bids for it as a lot. I don't think this [vacation] makes any sense, I can't support this, I don't think it's the right process for this, I don't know why vacation was suggested by the Mayor, but I can't support this."
  - Vacation is the legal vehicle for distributing land in regards to a ROW. The City's position is and always has been that this land is an unused ROW, so vacation therefore is the appropriate vehicle for distributing the land.
  - Commonwealth law and historical precedence on this matter, as I understand it, is that the land be divided between adjacent property owners to the midpoint of the land. This is why this was the option put forth as a possible solution by city staff in their report.
  - There are already established guidelines for how vacated land is to be valued by the city; these guidelines were used by the city's assessor in their report of valuation.
  - The size of Chairman Macek's personal property holds no relevance here.
  - What he is recommending sounds like a "taking" of land, in regards to removing a previously & historically established use of the ROW, however formal or informal, by an adjacent landowner as the only means to access a building on their property.
  - As a public servant, I would expect that the Chairman would come to a determination based on its merits in consideration of the existing laws and

regulations on the issue, rather than his personal feelings on the matter. It is, frankly, appalling to me that this was not the case here.

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In conclusion, city staff has recommended disapproval of our requests based on a biased interpretation of the required criteria for consideration of a ROW vacation. This criteria was put in place by the city decades ago for the very purpose of helping the city be more subjective vs. objective in making these decisions. Instead, their easily argued reasonings have made an otherwise straightforward checklist into a much more complex and drawn out process. The recommendations by the Planning Commission to deny vacations based on the opinion that the city should be paid more money for the land rights is in direct violation of the specific process already outlined for how ROW vacation lots are to be assessed by the city. Furthermore, the Planning Commission's assertions of a desire to vacate the land only to someone who wants to develop it falls in direct contrast with the community's & staff's clear wishes to keep the land as "open space". While it certainly is a difficult task to come to terms with a fair evaluation on a vacation case of competing property owners' proposals, I want to remind you that all of us have agreed to a division of the lot as a reasonable outcome which we will all support.

I do sincerely appreciate your consideration, and humbly ask you to reconsider this matter on its own merits, rather than on concepts of a plan that does not exist.

Sincerely,

Alicia Montgomery  
406 E. Alexandria Ave.  
Applicant, VAC#2024-00002















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[EXTERNAL]Item #8 tomorrow (VAC2024-00001, VAC2024-00002, VAC2024-00003) Support  
for staff recommendation of vacating land per Figure 4

8  
9-14-24

CR Catharine Rice <catharine.rice@gmail.com>  
To: CouncilComment@alexandriava.gov

    ...  
Fri 9/13/2024 3:39 PM

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Dear Council Members:

I am a resident living at the opposite end of the 400 block where the parcel is located under consideration. I support the alternative 25/25/50 proposition offered by TE&S staff in its report at Figure 4 [ 25% to Ms. Montgomery (406), 25% to Mr. Teran (404a) and 50% to Brett Rice (408) (btw, not a relative). This is a common-sense approach that meets the needs of the neighborhood. The City has abandoned maintenance of this parcel for years, leaving it to Ms. Montgomery & Brett Rice to maintain the greenery and beautiful trees so overgrowth does not visually detract from their adjoining land. This 25/25/50 approach will also provide Brett Rice access to the right of way serving his garage.



Many neighbors on my end of the block have told me they have always supported keeping the parcel as green space, but could never get it treated as a park. Some told me that it was treated as a park by the city in years past, but the city abandoned maintaining it, and then someone took the sign down for dog owners to keep their pets on a leash. With no signs or structures indicating otherwise, it has all the trappings of privately owned land and so the public does not walk on it or even use it to cut through to Mt. Vernon.

Comments made by some of the Planning Commissioners indicate the city does not have the resources to maintain this parcel as open space, and yet they voted to leave it as open space. Alicia Montgomery & Brett Rice are not asking for development rights because they too want to see it left green; they just want to own the land so they have an investment in the land they are maintaining (and for Mr. Rice, so that he can access his garage and park permanently next to his house).

In sum, folks who live on this street (and even on E. Nelson) want to see it left green, except Mr. Teran, who does not live in the neighborhood and just wants to make rentable tenant profit from it. So the question is how to keep it green? With the city effectively abandoning it, and not having resources to even cut the grass, I say the 25/25/50 solution offered by City staff meets the bill.

Many thanks for all you do,  
Catharine

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