

DOCKET ITEM #12

**Vacation #2013-0002**  
**1000-1002 Pendleton Street**

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| Application   | General Data                        |                              |
|---|-------------------------------------|------------------------------|
| <b>Request:</b><br>Consideration of a request to vacate a portion of public right-of-way. | <b>Planning Commission Hearing:</b> | May 7, 2013                  |
|   | <b>City Council Hearing:</b>        | May 18, 2013                 |
| <b>Address:</b><br>1000-1002 Pendleton Street   | <b>Zone:</b>                        | CSL / Commercial Service Low |
| <b>Applicant:</b><br>Classic Cottages, LLC, by Duncan Blair, attorney                     | <b>Small Area Plan:</b>             | Braddock Road Metro          |

**Staff Recommendation:** APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

**Staff Reviewers:** Nathan Randall [nathan.randall@alexandriava.gov](mailto:nathan.randall@alexandriava.gov)

**PLANNING COMMISSION ACTION, MAY 7, 2013:** On a motion by Ms. Lyman, seconded by Mr. Dunn, the Planning Commission recommended approval of the request, with the addition of Condition #6 to address a neighbor's concerns and subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 7 to 0.

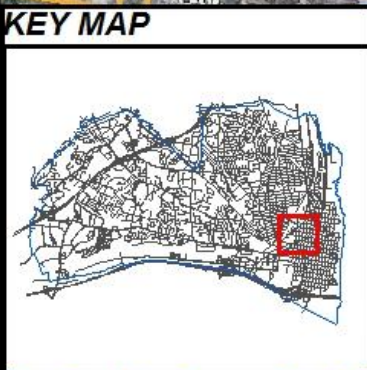
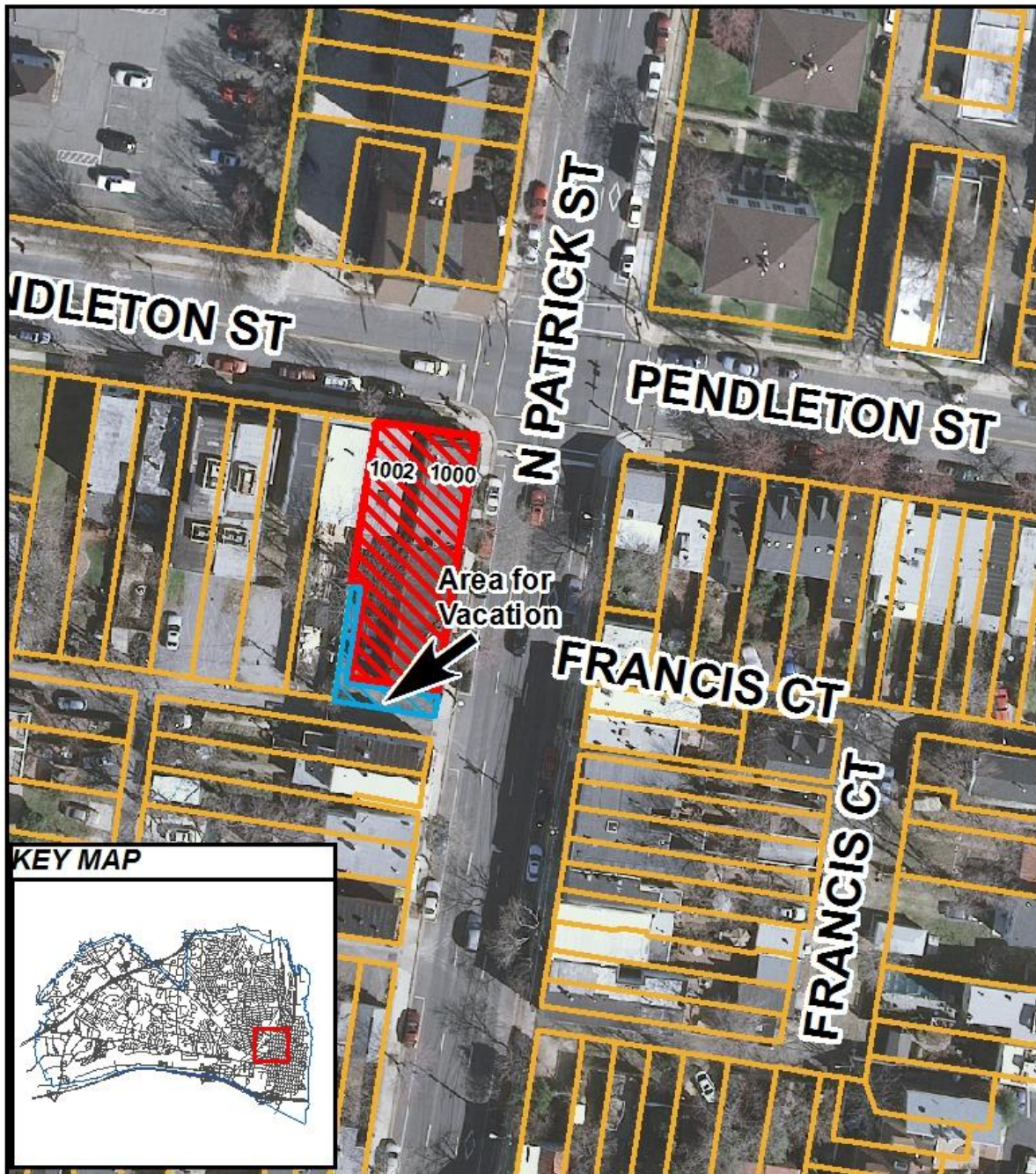
Reason: The Planning Commission agreed with the staff analysis.

Speakers:

Duncan Blair, attorney representing the applicant, spoke in support of the request.

Rick Pullen, 1004 Pendleton Street, raised concerns about the possibility of the applicant erecting a fence on its property that extends farther than his fence, the location of a utility pole, and the encroachment of the existing dwelling at 1002 Pendleton on his property.

Jeremy Purtell, 518 North Patrick Street, expressed concern about the possibility of future encroachments from 1000-1002 Pendleton in the 10-foot alley that will remain between his property and the applicant's property.



**VAC #2013-0002**  
**1000 - 1002 Pendleton St.**

5/7/2013 N



## I. DISCUSSION

The applicant, Classic Cottages, LLC, contract purchaser, represented by Duncan Blair, attorney, requests approval to vacate public right-of-way adjacent to 1000 and 1002 Pendleton Street.

### SITE DESCRIPTION

The subject site is an L-shaped portion of City-owned, asphalt-surfaced right of way measuring a total of 685 square feet (as shown on the following page). It is immediately adjacent to land under contract for purchase by the applicant at 1000-1002 Pendleton Street. That property is one lot of record with 43 feet of frontage on Pendleton Street, 121 feet of frontage on North Patrick Street and a total lot area of 4,601 square feet. The lot is developed with two separate structures. The building at 1000 Pendleton is a two-story commercial building that is currently vacant. The building at 1002 Pendleton is a two-story residence.



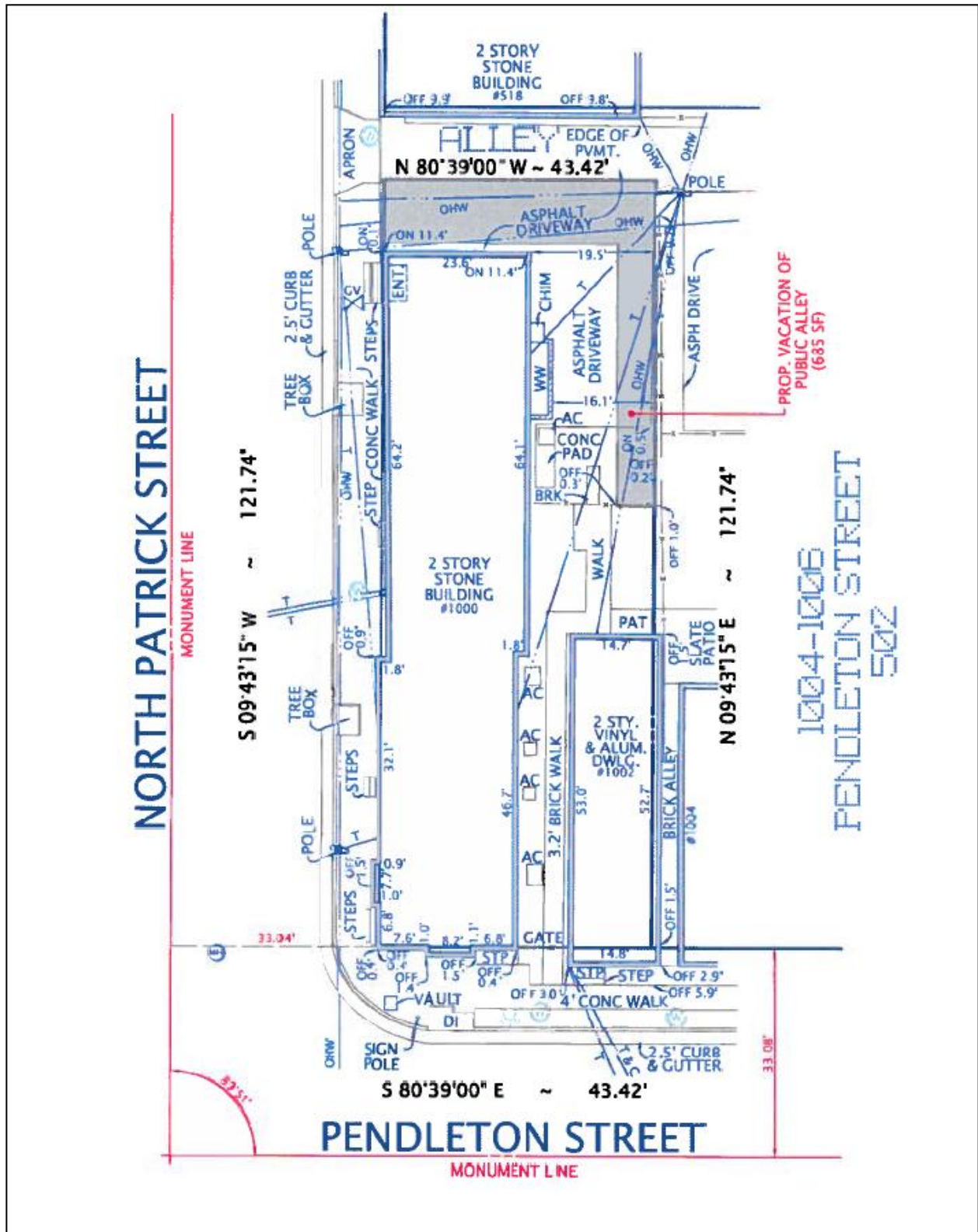
The immediate vicinity is surrounded primarily by residential townhouses. A surface parking lot used by United States Postal Service employees is located at the western end of the 1000 block of Pendleton Street. Commercial uses, including a Starbucks restaurant in the Monarch/Henry building, are located about a block to the west on North Henry Street.



### BACKGROUND

The subject property was originally two lots of record. The area of public right-of-way in question in this case is believed to have been dedicated to the City by the property owner in 1949 as part of a subdivision of the property that moved the property lines between the lots. The same property owner consolidated the two lots by deed of consolidation in 1976.

The applicant has also applied for a subdivision request to divide the one existing lot into two lots to allow each building on the property to be located on its own lot. The request, SUB#2013-0004, is expected to be docketed for Planning Commission consideration in June.



PROPOSAL

The applicant requests that the City vacate the 685 square-foot public right-of-way located immediately south of the existing office building and residence at 1000-1002 Pendleton. The property in question would be consolidated with the existing lot to the north, from which the public right-of-way was dedicated nearly 65 years ago. A 10-foot wide, City-owned alley would remain between the applicant's new southern property line and the property located immediately to the south at 518 North Patrick Street.

VACATION POLICY

In 2004, City Council approved a City policy related to vacating public rights-of-way. The policy clarified administrative processes, including how land proposed to be vacated should be valued and that proceeds from vacated land should be directed to the City's Open Space Fund. It also included staff guidelines for evaluating future vacation requests with an emphasis on consideration and preservation of open space. More specifically, staff reviews vacation requests based on the following criteria:

1. There is no public use of the right-of-way at the time that the application is submitted;
2. No reasonable use of the right-of-way could exist in the future, either for its original purpose or for some other public purpose. Reasonable use includes but is not limited to future roads, bike paths/trails, recreational facilities, open space, utilities, or environmental protection;
3. No portion of public right-of-way shall become landlocked;
4. No abutting property owners shall be become landlocked or have access substantially impaired, and
5. The vacation shall provide a public benefit.

ZONING/MASTER PLAN DESIGNATION

The property is zoned CSL / Commercial Service Low and is located within the Parker Gray Historic District.

The request to vacate the 685 square-foot parcel of land is consistent with the Braddock Metro Neighborhood Plan, which does not contemplate public uses for the land in question.

DEVELOPMENT POTENTIAL

As one lot, the structures at 1000-1002 Pendleton would continue to exceed the maximum allowable FAR for the property upon approval of the vacation request. If both the vacation and the forthcoming subdivision requests are approved, the applicant would continue to exceed the maximum allowable FAR for the commercial building at 1000 Pendleton but may be able to construct up to a 308 square-foot addition to the residential building at 1002 Pendleton before reaching its 0.75 maximum FAR pursuant to Section 4-306(B) of the Zoning ordinance.

No structures or additions are anticipated either connection with the current vacation request or the upcoming subdivision proposal.

#### VALUE OF VACATED RIGHT-OF-WAY

The Department of Real Estate Assessments has valued the 685 square feet of land in question in this vacation application at a price of \$15,410, which would be payable to the City upon final approval of the request and prior to deed recordation. Staff has attached to this report a memorandum dated March 26, 2013 from Real Estate which discusses the process used to arrive at this value. Most significantly, the value of the property has been discounted from fair market value because the development rights for the 685 square-foot area have been extinguished as a condition of this vacation (Condition #5).

## **II. STAFF ANALYSIS**

Staff does not object to the requested vacation of public right-of-way in this unique case because the property was dedicated to the City in 1949 but has not been actually used by the City at any time since then. This request, the first non-development-related vacation request docketed for Planning Commission and City Council consideration in many years, will return to the land in question to the property with which it has been historically associated. Certain characteristics of the proposal and the land in question, namely that it is relatively small in area, is awkwardly-shaped, and is asphalt-surfaced, also present a strong case for its vacation by the City.

In its review of the request, staff has found that the application meets all five approval criteria endorsed by City Council as follows:

### 1. Existing Public Use

The property does not currently contain any public uses, and it does not appear to have ever contained a public use since it was dedicated in 1949. As a practical matter it is used for private parking, primarily for the uses at 1000-1002 Pendleton Street.

### 2. Reasonable Future Use

In staff's view the land in question does not present an opportunity for any reasonable public uses in the future. Its asphalt surface and lack of greenery does not lend itself toward use as open space. Although the City could remove the current surface and replace it with grass or other landscaping, the small size of the property, its awkward shape and its location immediately next to a functional alley all significantly limit its usefulness for public purposes.

3. Landlocked Public Property
4. Landlocked Private Property/Impaired Access

Approval of the vacation request will not landlock any public or private property nor will it impair access to neighboring properties. A 43-foot long portion of public right-of-way will remain immediately south of the 685 square-foot area to be vacated and will continue to function as alley to allow access to the back portions of several neighboring properties on the block. At ten feet wide, this portion of alley will match the maximum width of the rest of the larger, existing alley that continues west to North Henry Street. To ensure that this smaller, 43 by 10-foot section public alley will remain accessible to vehicles as a practical matter, staff has included condition language in this report (Condition #2) to require the applicant to maintain a minimum alley width of 10 feet at all times.

5. Public Benefit

If approved and executed, the City stands to receive \$15,410 as consideration for selling the land to the applicant. Consistent with City policy, staff intends to place that money into the Open Space Fund to be used toward the purchase of other properties for open space preservation purposes. The current request offers the public benefit of funding the preservation of higher-quality and higher-priority open spaces in the City compared to the subject property, which is not truly useable open space.

Most vacation requests approved in recent years outside of development projects have included condition language which extinguishes any development rights that the applicant may gain from the additional land that the City has vacated. The applicant in this case already would not be allowed to add new floor area to the existing buildings upon approval of the vacation because the buildings, on one lot, already exceed the maximum allowable FAR. If the proposed subdivision is approved, the residential building at 1002 Pendleton Street may be able to add additional floor area to the structure as a direct result of this vacation request. The City does not generally wish to vacate property that results in additional density. Staff has therefore included condition language (Condition #5) in this report to extinguish any future development rights, as it has done in other cases.

Subject to the conditions contained in Section III of this report, staff recommends approval of the vacation request.

### III. RECOMMENDED CONDITIONS

Staff recommends **approval** of the request to vacate public right-of-way subject to compliance with all applicable codes and ordinances and the following conditions:

1. The vacated right-of-way shall be consolidated with the adjoining property at 1000-1002 Pendleton Street and the plat of consolidation shall be filed with the Departments of Planning and Zoning and Transportation and Environmental Services. The approved plat shall be recorded in the Land Records of the City of Alexandria. (P&Z)(T&ES)
2. A minimum 10' clear width must be maintained in the alley at all times. (T&ES)
3. The applicant shall pay fair market value for the area to be vacated as determined by the Director of Real Estate Assessments. (T&ES)
4. The applicant shall provide utility easements for all public and private utilities within the vacated right-of-way. Such easements shall be shown on the plat of consolidation. (T&ES)
5. The property owner shall not construct any buildings or improvements, including any additional parking spaces, on the vacated area and may not use the vacated land area to derive any increased development rights for the lands adjacent to the vacated area, including increase floor area, subdivision rights or additional dwelling units. This restriction shall appear as part of the deed of vacation and shall also appear as a note on the consolidation plat, both of which shall be approved by the Director of Planning & Zoning prior to recordation. (P&Z)
6. **CONDITION ADDED BY PLANNING COMMISSION:** The applicant shall allow for the relocation of an existing utility pole at 1004 Pendleton to a location adjacent to the common property line between 1000/1002 Pendleton and 1004 Pendleton if such relocation is approved by Dominion Virginia Power. The applicant shall also not erect any new fencing that extends farther toward the remaining public alley than the existing fence at 1004 Pendleton Street. (PC)

**STAFF:** Joanna Anderson, Acting Deputy Director, Department of Planning and Zoning;  
Nathan Randall, Urban Planner.

#### IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

##### Transportation & Environmental Services:

- F-1 T&ES has no objections to vacate the right of way as shown on the submitted plat with the following conditions. (T&ES)
- R-1 A minimum 10' clear width must be maintained in the alley at all times. (T&ES)
- R-2 The applicant shall pay fair market value for the area to be vacated as determined by the Director of Real Estate Assessments. (T&ES)
- R-3 Submit a plat and deed of consolidation to consolidate the vacated right-of-way with the adjoining subdivided lots 700 and 701 shown on SUB2013-0004. The approved plat shall be recorded in the Land Records of the City of Alexandria. (T&ES)
- R-4 Provide utility easements for all public and private utilities within the vacated right-of-way. Such easements shall be shown on the plat of consolidation. (T&ES)

##### Archeology

- F-1 This undertaking is not expected to cause an impact to the ground surface.
- F-2 There is low potential for significant archaeological resources to be disturbed by this project. No archaeological action is required.
- C-1 All required archaeological preservation measures shall be completed in compliance with Section 11-411 of the Zoning Ordinance.

##### Code Enforcement:

- F-1 No comments

##### Health Department:

- F-1 No comments received

##### Parks and Recreation:

- F-1 The subject portion of public right-of-way does not provide valuable public open space benefit, and therefore RPCA does not object to the vacation. Funds received shall be directed to the City's Open Space Fund.

Police Department:

F-1 The Police Department has no objection to the request

Fire Department:

F-1 No comment

# City of Alexandria, Virginia

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## MEMORANDUM

**DATE:** MARCH 26, 2013

**TO:** FAROLL HAMER, DIRECTOR  
DEPARTMENT OF PLANNING AND ZONING

**FROM:** WILLIAM BRYAN PAGE, SRA, ACTING DIRECTOR  
DEPARTMENT OF REAL ESTATE ASSESSMENTS

**SUBJECT:** VACATION OF RIGHT-OF-WAY WITH NO ADDITIONAL  
DEVELOPMENT RIGHTS (VAC#: 2013-0002)

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Based on a review of current assessment data conducted by the Department of Real Estate Assessments (DREA) and subject to the limiting conditions stated in this memorandum, it is my opinion that the public alleyway to be vacated had an assemblage value to the adjacent property owner as of the date of application for vacation (March 22, 2013) of:

**Fifteen Thousand Four Hundred Ten Dollars (\$15,410)**

Per your request, I have reviewed the proposed vacation of City owned property adjacent to 1000 – 1002 Pendleton Street. According to a plat submitted by the applicant, the proposed alleyway is L-shaped and extends westward a distance of 37.42 feet from a point located 111.79 feet south of the intersection of N. Patrick and Pendleton Streets. From there, the proposed vacated area turns northward a distance of 41.74 feet, westward six feet, southward a distance of 51.74 feet, eastward 43.42 feet, and finally northward a distance of 10 feet to the point of origin. Overall, the proposed vacated area contains 685 square feet, or 0.01573 acres.

The adjacent property is zoned CSL, (Commercial Service Low). DREA has been informed by the Department of Planning and Zoning that the vacated area cannot be used as a basis for additional development rights. The value of the vacated alleyway is estimated based on the latest published real estate land assessments (CY 2013) of adjoining and other nearby corner properties of similar size. All of the properties used in the analysis are zoned CSL.

The January 1, 2013 land assessments for the adjoining and nearby similarly zoned parcels in the immediate vicinity of the subject property ranged from \$105.85 to \$127.93 per square foot. Under traditional economic theory, unit prices tend to increase as size decreases. Therefore, we have estimated an assemblage value of \$112.50 per square-foot, which for 685 square feet equals \$77,063 (685 SF x \$112.50/SF).

In accordance with current City policy involving vacations of publicly owned land with no additional development rights, we have discounted the total value by 80 percent ( $\$77,063 \times 0.20$ ), which results in an indicated value of **\$15,410 (rounded)**.

The discounted value above is contingent upon the recordation of the restrictions placed by the City that there will be no development on the vacated area and that no additional density will accrue to the consolidated parcel commensurate with the additional square footage gained as a result of this vacation.

APPLICATION for VACATION # VAC 2013-00002

[must use black ink or type]

PROPERTY LOCATION: 1000 Pendleton Street, Alexandria, Virginia

TAX MAP REFERENCE: 064.01-04-10 ZONE: CSL

APPLICANT'S NAME: Classic Cottages, LLC

ADDRESS: 5417 A Backlick Road, Springfield, VA 22151

PROPERTY OWNER NAME: Mary Raby Stafford  
(Owner of abutting area to be vacated)

ADDRESS: 1000 Pendleton Street, Alexandria, Virginia

VACATION DESCRIPTION: Request to vacate 685 square feet of a public alley  
dedicated to the City in Deed Book 291 page 315 among the land records  
for the City of Alexandria, Virginia

**THE UNDERSIGNED** hereby applies for a Vacation Ordinance in accordance with the provisions of Chapter 10 of the Code of the State of Virginia, the Alexandria City Charter and City Code, and the Alexandria Zoning Ordinance.

**THE UNDERSIGNED** having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED** also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

**Duncan W. Blair**  
\_\_\_\_\_  
*Print Name of Applicant or Agent*

  
\_\_\_\_\_  
*Signature*

**524 King Street**  
\_\_\_\_\_  
*Mailing/Street Address*

**703-836-1000 703-549-3335**  
\_\_\_\_\_  
*Telephone # Fax #*

**Alexandria, VA 22314**  
\_\_\_\_\_  
*City and State Zip Code*

**2/26/2013**  
\_\_\_\_\_  
*Date*

email: [dblair@landcarroll.com](mailto:dblair@landcarroll.com)

===== **DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY** =====

ACTION - PLANNING COMMISSION: \_\_\_\_\_

ACTION - CITY COUNCIL: \_\_\_\_\_

## OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

**1. Applicant.** State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

|    | Name          | Address | Percent of Ownership |
|----|---------------|---------|----------------------|
| 1. | David Tracy   |         | More than 10%        |
| 2. | Paul Lawrence |         | More than 10%        |
| 3. |               |         |                      |

**2. Property.** State the name, address and percent of ownership of any person or entity owning an interest in the property located at \_\_\_\_\_ (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

|    | Name | Address | Percent of Ownership |
|----|------|---------|----------------------|
| 1. |      |         |                      |
| 2. |      |         |                      |
| 3. |      |         |                      |

**3. Business or Financial Relationships.** Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are require to disclose **any** business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. **All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicated each person or entity below and "None" in the corresponding fields)**

|    | Name of person or entity | Relationship as defined by Section 11-350 of the Zoning Ordinance | Member of the Approving Body (i.e. City Council, Planning Commission, etc.) |
|----|--------------------------|---|---|
| 1. | David Tracy              |   | PC and CC   |
| 2. | Paul Lawrence            |   | PC and CC   |
| 3. |                          |   |   |

**NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.**

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

2/26/2013

Date

Printed Name

Signature

## OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

**1. Applicant.** State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

| Name | Address | Percent of Ownership |
|------|---------|----------------------|
| 1.   |         |                      |
| 2.   |         |                      |
| 3.   |         |                      |

**2. Property.** State the name, address and percent of ownership of any person or entity owning an interest in the property located at 1000 Pendleton Street, Alexandria, Virginia (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

| Name                       | Address                      | Percent of Ownership |
|----------------------------|------------------------------|----------------------|
| 1. <b>Mary R. Stafford</b> | <b>1000 Pendleton Street</b> | <b>100%</b>          |
| 2.                         |                              |                      |
| 3.                         |                              |                      |

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| Name of person or entity   | Relationship as defined by Section 11-350 of the Zoning Ordinance | Member of the Approving Body (i.e. City Council, Planning Commission, etc.) |
|----------------------------|---|---|
| 1. <b>Mary R. Stafford</b> |   | <b>PC and CC</b>  |
| 2.                         |   |   |
| 3.                         |   |   |

**NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.**

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

2/26/2013

Date

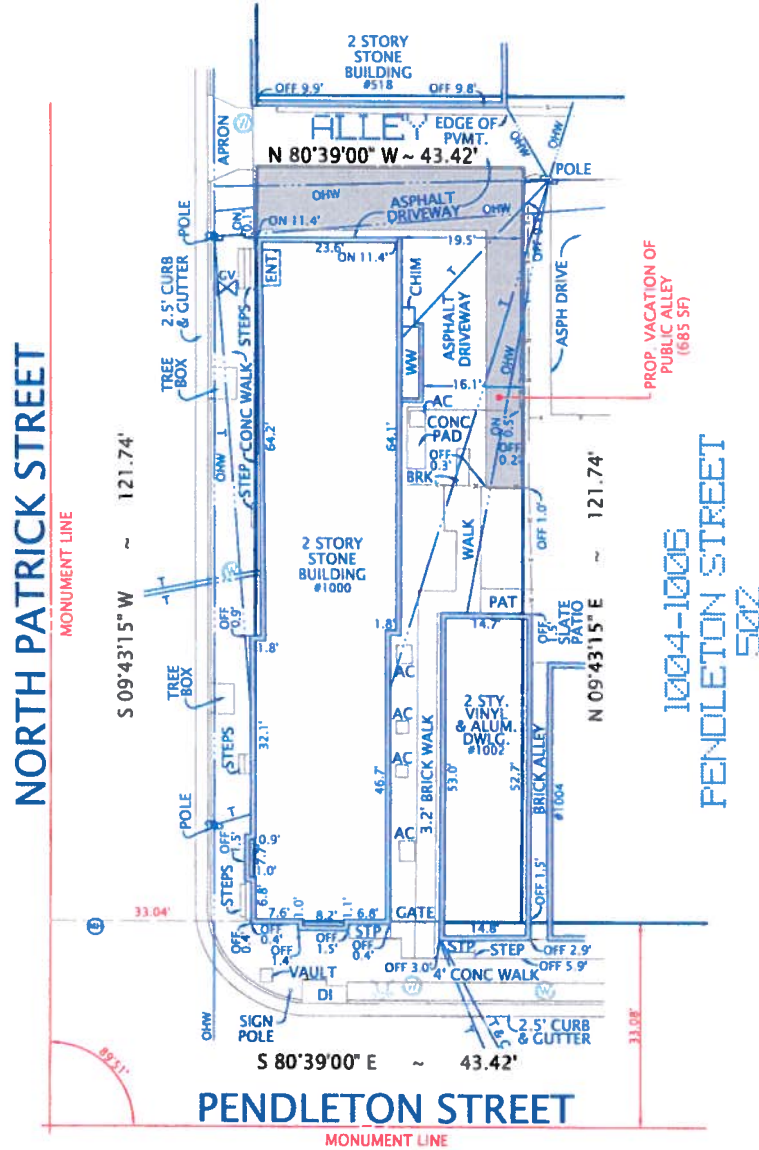
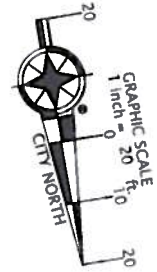
*Mary R. Stafford*

Printed Name

*Mary R. Stafford*

Signature

- NOTES: 1. FENCES ARE FRAME.  
 2. UTILITIES ARE UNDERGROUND UNLESS NOTED.  
 3. TOTAL AREA = 5,286 SF.



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**EXHIBIT PLAT**  
 SHOWING THE PROPOSED VACATION OF AN ALLEY  
 (DEED BOOK 291, PAGE 315)  
 AND  
 SHOWING BUILDING LOCATION ON  
 LOT 600  
 OF A RESUBDIVISION OF LOTS 500 & 501  
**JAMES H. RABY PROPERTY**  
 (DEED BOOK 834, PAGE 229)  
 CITY OF ALEXANDRIA, VIRGINIA  
 SCALE: 1" = 20'      NOVEMBER 08, 2012

**DOMINION** Surveyors Inc.  
 8808-H PEAR TREE VILLAGE COURT  
 ALEXANDRIA, VIRGINIA 22309  
 703-619-6555  
 FAX: 703-799-6412

**Vacation**  
 VAC2013-00002  
 1000 Pendleton St

February 27, 2013

**DESCRIPTION  
OF A PORTION OF A  
PUBLIC ALLEY TO BE VACATED  
ADJOINING 1000-1002 PENDLETON STREET**

**CITY OF ALEXANDRIA, VIRGINIA**

Beginning at a point in the westerly right of way line of North Patrick Street said point bearing S 09° 43' 15" W 111.79 feet from the intersection of the southerly right of way line of Pendleton Street and a corner common to Lot 600, James H. Raby Resubdivision (Deed Book 834, Page 229); thence running with North Patrick Street S 09° 43' 15" W 10.00 feet to a point; thence running through an alley that runs from North Patrick Street to North Henry Street N 80° 39' 00" W 43.42 feet to a point; thence continuing through the alley in part and running with the line of #1004 Pendleton Street N 09° 43' 15" E 51.74 feet to a point in the terminus of a 6 foot public alley and a corner common to Lot 600; thence running with Lot 600 S 80° 39' 00" E 6.00 feet, S 09° 43' 15" W 41.74 feet and S 80° 39' 00" E 37.42 feet to the point of beginning containing 685 square feet.