DATE: November 10, 2015

SUBJECT: Ordinance of Vacation to vacate portions of an Easement and Right of Way (Street and Utilities Easement), located along the southern side of Wilson Boulevard and along the western side of North Randolph Street, on Parcel A-1 Ballston Common, RPC #14-059-028, property of Ballston Acquisition Company, LLC (RPC #14-059-028), with Conditions.

Owner/Applicant:
Ballston Acquisition Company, LLC

Agent:
G. Evan Pritchard
Walsh, Colucci, Lubeley & Walsh, P.C.
2200 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201

C. M. RECOMMENDATION:

1. Enact the attached Ordinance to Vacate Portions of an Easement and Right of Way (Street and Utilities Easement), located along the southern side of Wilson Boulevard and along the western side of N. Randolph Street, on Parcel A-1 Ballston Common, RPC #14-059-028, property of Ballston Acquisition Company, LLC (RPC #14-059-028), with Conditions.

2. Authorize the Real Estate Bureau Chief, Department of Environmental Services, or his designee, to execute, on behalf of the County Board, the Deed of Vacation, and all other documents or deeds necessary to effectuate the Ordinance of Vacation, subject to approval as to form by the County Attorney.

ISSUES: This is a request for approval of an Ordinance of Vacation for the vacation of portions of an Easement and Right of Way (Street and Utilities Easement) to permit construction of a project that is the subject of a major amendment to Site Plan #193. There are no outstanding issues identified with this request.
SUMMARY: The Owner/Applicant has requested the vacation of three small portions of an Easement and Right of Way (Street and Utilities Easement) (“Easement”) along Wilson Boulevard and North Randolph Street that are necessary for the construction of improvements proposed by a major amendment to Site Plan #193 (“Site Plan”), concurrently being considered by the County Board. Upon enactment of the proposed Ordinance of Vacation and satisfaction of all conditions of the Ordinance of Vacation, the County’s interest in the areas of the Easement to be vacated will be extinguished.

BACKGROUND: The Owner/Applicant has requested that three small areas of the Easement be vacated to permit construction of a project that is the subject of a major amendment to the Site Plan. The Site Plan, as proposed, would redevelop portions of Ballston Mall with improvements that would include the construction of 406 residential units and approximately 66,475 square feet of retail space. The requested vacations would allow small portions of the proposed residential building to be constructed within the existing Easement and are located at or near the intersection of Wilson Boulevard and North Randolph Street.

DISCUSSION: To facilitate construction of the Site Plan, as amended, the Owner/Applicant has requested enactment of the attached Ordinance of Vacation. The three areas proposed to be vacated are designated as: 1) “Portion of Existing Easement for Public Street and Utilities Purposes DB 2178 PG 1438 4 SQ. FT. (Hereby Vacated);” 2) “Portion of Existing Easement for Public Street and Utilities Purposes DB 2178 PG 1438 3 SQ. FT. (Hereby Vacated);” and 3) “Portion of Existing Easement for Public Street and Utilities Purposes DB 2178 PG 1438 6 SQ. FT. (Hereby Vacated)” on a plat attached hereto as Exhibit A and labeled “Plat Showing the Vacation of Portions of an Existing Easement for Public Street and Utilities Purposes Deed Book 2178, Page 1438 Parcel “A-1” Ballston Common Deed Book 2149 Page 467 Arlington County, Virginia”, prepared by VIKA Virginia LLC, dated October 23, 2015, Sheet 2 of 2 (“Plat”). The areas requested to be vacated are hereinafter, collectively referred to as the “Vacated Areas.”

Legal and Physical Description: The County acquired the Easement by Easement Agreement recorded among the land records of the Circuit Court of Arlington County, Virginia in Deed Book 2178, page 1438 on May 31, 1985.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices for the vacations were placed in the September 30, 2015 and the November 6, 2015 issues of The Washington Times for the November 14, 2015 County Board Meeting.

Compensation: The compensation to be paid by Owner/Applicant for the vacation of the Vacated Areas (a total area of 13 SQ. FT.) has been calculated to be $2,600.00.

FISCAL IMPACT: Compensation, in the amount of $2,600.00, to be received for the vacation of the Vacated Areas, will be deposited into the County’s General Fund.
ORDINANCE TO VACATE PORTIONS OF AN EASEMENT AND RIGHT OF WAY (STREET AND UTILITIES EASEMENT), LOCATED ALONG THE SOUTHERN SIDE OF WILSON BOULEVARD AND ALONG THE WESTERN SIDE OF N. RANDOLPH STREET, ON PARCEL A-1 BALLSTON COMMON, RPC NO. 14-059-028, PROPERTY OF BALLSTON ACQUISITION COMPANY, LLC (RPC NO. 14-059-028), WITH CONDITIONS.

BE IT ORDAINED that, pursuant to a request on file with the Department of Environmental Services by Ballston Acquisition Company, LLC (“Owner/Applicant”), Owner/Applicant of the parcel known as Parcel A-1 Ballston Common, RPC No. 14-059-028, those portions of a County Easement and Right of Way (“Easement”) created by Easement Agreement recorded among the land records for Arlington County Circuit Court (“Land Records”) in Deed Book 2178 at Page 1438 and depicted and described as: 1) “Portion of Existing Easement for Public Street and Utilities Purposes DB 2178 PG 1438 4 SQ. FT. (Hereby Vacated);” 2) “Portion of Existing Easement for Public Street and Utilities Purposes DB 2178 PG 1438 3 SQ. FT. (Hereby Vacated);” and 3) “Portion of Existing Easement for Public Street and Utilities Purposes DB 2178 PG 1438 6 SQ. FT. (Hereby Vacated)” on a plat attached to the County Manager’s Report for this agenda item labelled “Plat Showing the Vacation of Portions of an Existing Easement for Public Street and Utilities Purposes Deed Book 2178, Page 1438 Parcel “A-1” Ballston Common Deed Book 2149 Page 467 Arlington County, Virginia”, prepared by Vika Virginia LLC, dated October 23, 2015, Sheet 2 of 2 (“Plat”), are hereby vacated, subject to the following conditions:

1. The Owner/Applicant shall submit, for review and approval, to the Department of Environmental Services (“DES”), a utility relocation and engineering design plan (“Plan”) for the construction, abandonment, relocation, removal, and/or replacement of all utilities located, in whole or in part, if any, within the portions of the Easement vacated by the Ordinance of Vacation (collectively, “Vacated Areas”). The Plan shall be subject to approval by the Director of DES, or his designee.

2. After approval of the Plan and before commencing the work described therein, the Owner/Applicant shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, acceptable to the County Manager, in an amount and in a form as determined by and acceptable to the County Manager, or his designee, to secure the construction, abandonment, relocation, removal, and/or replacement of any and all existing utilities required to be constructed, abandoned, relocated, removed, and/or replaced pursuant to the approved Plan.

3. The Owner/Applicant shall remove, relocate, abandon and/or reconstruct, or cause to be removed, relocated, abandoned and/or reconstructed, at its sole cost and expense, all utilities of the County and of others existing, required by the approved Plan, within the Vacated Areas including, but not limited to, sanitary sewer lines, storm sewer lines, water lines and any electric, gas and communication lines. All utilities removed or abandoned shall be relocated or reconstructed with new utilities and related appurtenant facilities of size, dimension and location acceptable to the County, in accordance with the approved Plan and in strict accordance with Arlington County
Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies, and as provided in Site Plan #193, as approved and as may be amended by the County Board.

4. The Owner/Applicant shall dedicate and convey to the County Board, without compensation, all new utility easements, required by the County Manager, by deed, in substance acceptable to the County Manager and approved as to form by the County Attorney. Such new utility easements, if any, shall be recorded among the Land Records. In addition, and if applicable, the Owner/Applicant shall obtain all required right-of-way permits at the Owner/Applicant’s sole cost and expense, needed to perform any work required herein.

5. The Owner/Applicant shall prepare and submit to Arlington County (“County”) for review and approval, the Deed(s) of Vacation and all required plat(s), subject to approval thereof by the County Manager, or his designee, as to substance, and approval of the deed(s) as to form, by the County Attorney.

6. The Owner/Applicant shall pay all fees, including the fees for review, approval, and recordation of the required documents associated with the Ordinance of Vacation.

7. The Owner/Applicant shall pay to the County compensation for the vacation of the Vacated Areas in the amount of $2,600.00.

8. No sooner than thirty (30) days after enactment of this Ordinance of Vacation, the Owner/Applicant shall record a certified copy of this Ordinance of Vacation among the Land Records. The Owner/Applicant also shall record, at the Owner/Applicant’s sole cost and expense, the Deed(s) of Vacation and all other required deed(s) and plat(s). All conditions of the Ordinance of Vacation shall be met before recordation of the Deed of Vacation.

9. All conditions of the Ordinance of Vacation shall be met by November 14, 2018, or the Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.
Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

Aerial Photography © 2013 Commonwealth of Virginia.

Easement Locations are Approximate.

Map prepared by Arlington County GIS Mapping Center. Produced and © August 2015.

Contact us at gismc@arlingtonva.us for spatial reference notes.
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