

Docket Item # 13
VACATION #2003-0004

Planning Commission Meeting
January 6, 2003

ISSUE: Consideration of a request for vacation of a public alley.

APPLICANT: Brett Rugo
by Gaver Nichols, agent

LOCATION: 116 West Alexandria Avenue

ZONE: R-5/Residential

STAFF RECOMMENDATION: Staff recommends **denial** of the vacation request. However, if the application is approved, staff recommends that the approval be subject to compliance with all applicable codes and ordinances and the permit conditions found in Section III of this report.

PLANNING COMMISSION ACTION, JANUARY 6, 2003: On a motion by Mr. Komoroske, seconded by Mr. Leibach the Planning Commission voted to recommend denial of the request. The motion carried on a vote of 5 to 2.

Summary: A majority of the Planning Commission supported the denial stating that the vacation does not provide a clear public benefit, and that the alley area can be improved by the applicant without purchasing it and used to access the rear of the property and the applicant's proposed garage. Commissioners also expressed concern about the negative precedent that vacating the alley would establish, and discussed the importance of preserving the few remaining city-owned properties in the city, particularly if there is not a compelling reason to sell it.

Speakers:

Gaver Nichols, the applicant's architect, spoke in support of the request stating that the applicant agreed to give up the development potential of the vacated alley.

Brett Rugo, the applicant, stated that the alley vacation would give him additional side setback area for his proposed garage, which would allow him to locate his garage further to the west, providing more open space in the private rear yard.

PLANNING COMMISSION ACTION, DECEMBER 2, 2003: On a motion by Mr. Komoroske, and seconded by Mr. Dunn, the Planning Commission deferred the request on a vote of 7 to 0.

Summary:

The Planning Commission expressed concern about vacating the alley to allow the applicant to build a private driveway. The Planning Commission deferred the request and asked staff to investigate the feasibility of accessing the rear of both the applicant's and adjacent owner's properties from Braddock Road without having to use the subject alley, and to verify if the applicant can improve the subject alley to gain vehicular access without having to vacate it.

Speakers:

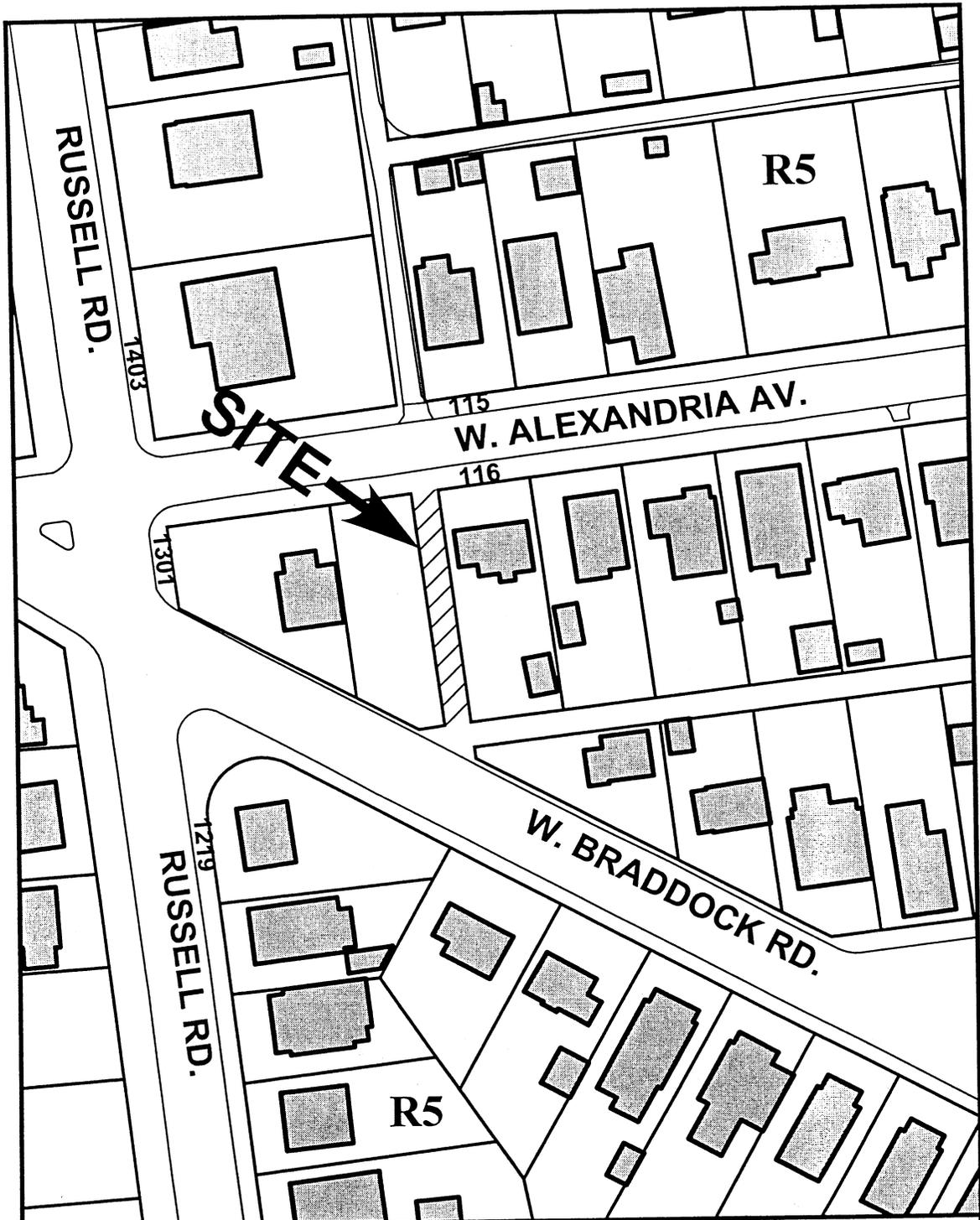
Brett Rugo, the applicant spoke in support of the application. Vacating the alley would allow him to install a driveway to access the back of his property where he is proposing to build a two-car garage. Although there is another alley that borders the rear of the property, he stated that it would be difficult to access his property from it because it is narrow, overgrown, and not well lit.

Gaver Nichols, the applicant's architect, spoke in support of the application. He discussed some of the details of the proposed garage and driveway and stated that not vacating the alley would continue to be a maintenance issue for the applicant. He said that the applicant would agree to a condition to not increase the development rights of the property if the vacation were granted.

Gina DiNicolo, property owner of 118 W. Alexandria Avenue and resident at 1301 Russell Road, spoke in support of the application, and agreed to a restriction that the vacated area not increase the development potential of the lot, including that it not create a developable lot at 118 W. Alexandria.

Amy Slack, representing the Del Ray Citizens Association Land Use Committee, stated that the committee did not take a position on the application, but did discuss how the city frequently approved vacation cases.

Marilyn Doherty, resident of Del Ray, spoke in opposition of the request stating that it is important for the city to maintain its stock of undeveloped land, and that the alley area provides open space.



VAC #2003-0004

12/02/03



I. DISCUSSION

Request:

The applicant, Brett Rugo, by Gaver Nichols, architect, requests the vacation of an alley immediately to the west of 116 West Alexandria Avenue.

Site Description:

The subject area has 15 feet of frontage on West Alexandria Avenue, is 130 feet deep, and totals approximately 1,950 square feet. The alley is currently occupied by trees and tall grass, and is partially fenced off. Curb cuts on West Braddock Road and West Alexandria Avenue provide theoretical ingress and egress to the alley. The applicant's property is one lot of record, immediately east of the land area to be vacated, with 50 feet of frontage along West Alexandria Avenue, a depth of 130 feet and a lot area totaling 6,500 square feet.

Project Description:

The applicant requests vacation of an alley of 1,950 square feet. The City's vacation policy provides for the vacation of right of way equally to adjoining property owners, unless there is a waiver by one of them, in which case the entire area may be purchased by the other. The applicant proposes to consolidate half of the vacated area with his property and his neighbor on the other side of the alley property has represented her willingness and interest in acquiring the other half. (see attached letter).

Applicant's Property:

The applicant is planning an addition and renovation to his home (see attached drawings) and has approved building plans (BLD#2003-01571) for a new two story addition, all of which complies with zoning. The R-5 zoning district allows a maximum floor area ratio of .45 which would allow up to 2,925 square feet of building on the property. The floor area of the existing house is 1,231 square feet, and the floor area ratio is .19. The proposed floor area will total 2,652 square feet, with a floor area ratio of .41. As part of the renovation, the Alexandria Board of Zoning Appeals recently granted the applicant a variance to construct a new front entry that projects 5.6 feet into the front setback area. (BZA Case #2003-0046)

If the requested vacation is approved, the applicant's lot size will increase by 975 square feet, for a total 7,475 square feet. The applicant plans to build a driveway in the vacated land area and a garage in the rear yard of the house. The additional vacated land area would allow for approximately 438.75 additional square feet to be built on the property.

118 West Alexandria Avenue:

The land to the west of the alley to be vacated consists of two lots in common ownership.

The vacant lot immediately adjacent to the alley, 118 West Alexandria Avenue, is one lot of record with 45 feet of frontage on West Alexandria Avenue, 130 feet of depth, and a total lot area of 5,450 square feet. The lot is currently vacant and contains several trees. It is assessed as an unbuildable

lot because it does not meet the 50 feet lot width (at the front building line) requirement of the R-5 zone. If the alley is vacated, the lot frontage will increase to 52.5 feet, which will allow it to be occupied with a single family dwelling. With the vacated alley land, the lot at 118 West Alexandria Avenue will total 6,425 square feet, with a maximum building envelope of 2,938.5 square feet.

The current owner of the property at 118 West Alexandria Avenue purchased that lot in 1994 and also owns the adjacent property at 1301 Russell Road, at the corner of Russell Road, West Alexandria Avenue and Braddock Road. That lot contains 6,629 square feet of land. Together, both lots total 12,079 square feet, and will total 13,054 square feet if half of the vacated area is consolidated with the property. The property at 118 West Alexandria Avenue now functions as the backyard of the owner's home at 1301 Russell Road.

Assuming no additional home is built at 118 West Alexandria Avenue, and the two lots are used and considered as one, then the existing home, with a floor area of approximately 1,530 square feet, has a floor area ratio of .13. Under current conditions and zoning, 3,158 square feet of building space can be added to the existing home. If the alley is vacated, the owner could add 438.75 square feet more, for a grand total of 5,874 square feet of building permitted on the combined land area. The property owner, who is interested in acquiring half of the alley land, states that her interest in half of the vacated alley is to preserve the trees and greenery now growing there.

On November 10, 1994, the Board of Zoning Appeals denied a request for a taller than permitted fence that enclosed the rear yard of the two properties, finding no hardship in complying with the fence height limits of the zoning ordinance. (BZA#94-0038)

History:

There have been several attempts in the past to build on the substandard lot at 118 West Alexandria Avenue, each of which has failed. On October 9, 1984, and again on September 14, 1985, City Council denied a prior owner's requests to vacate the alley. On November 16, 1985, City Council denied a request for a special use permit to construct a house on the substandard lot under the substandard lot provisions of the ordinance. (SUP#1848)

In 1992, the Planning Commission recommended denial of another vacation request for the alley, again by a prior owner, stating that it "would be bad public policy. The lot is needed, it's wrong and makes this an unliveable neighborhood." Council denied the vacation request on November 14, 1992. (VAC#92-004)

Master Plan/Zoning:

The subject property is zoned R-5/Single-family, and is located in the North Ridge/Rosemont Small Area Plan.

II. STAFF ANALYSIS

Staff cannot support the proposed vacation of the alley at West Alexandria Avenue. Staff is concerned generally about vacating City properties, and this vacation case raises fundamental issues about infill development and open space because it would allow increases in the development potential and opportunities of both adjacent properties, while removing valuable green area. Most significantly in this case, the vacation of the alley will lead to the potential to develop the lot at 118 West Alexandria Avenue with an additional house, where now there is green space, trees and yard area. That effort has been attempted unsuccessfully several times in the past. For the same reasons that the proposal was denied in the 1980s, and again in the 1990s, staff recommends that the request be denied now. Although the current owner states that she is not interested in building on the lot at 118 West Alexandria Avenue, the vacated alley will make that possible for her or for future owners.

At 116 West Alexandria Avenue, there is already a plan to increase the size of the existing home. Vacating the alley will allow the addition of a driveway and a two story garage structure, which now cannot be achieved.

Here, on an already fully developed block of North Ridge, there is no need for additional development, and the vacation does not facilitate some desirable public benefit. Whether the result is an additional house or merely added floor area and a driveway, the increase in development is not warranted and should not be facilitated by the City. The unused alley land, while not currently used for city purposes, adds a valuable green buffer and visual respite to a developed block of the residential neighborhood. To allow either of these infill projects deprives the area neighbors of existing green area, the loss of which adds to the densification of a residential neighborhood.

If City Council supports the vacation request, but wishes to add restrictions, staff has provided condition language that restricts future development on the vacated area and prohibits the use of the area land to add to the development potential of the adjacent properties. In addition, staff has included a condition requiring the payment of fair market value for the land. Staff has not made a determination of the method of determining fair market value in this case (which may be significant given the additional development it allows), however, because City Council has requested that staff provide it with information about the City's longstanding and future possible valuation policies in vacation cases, and staff plans to make recommendations on the subject to Council for its December 8, 2003 meeting. If this vacation request is approved, it is recommended that the appropriate value would be determined in a manner consistent with Council's policy direction provided on December 8 for cases such as this one.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

III. PERM IT CONDITIONS

1. The applicant shall pay fair market value for the area to be vacated as determined by the Office of Real Estate Assessments. (T&ES)
2. The vacated area is to be consolidated into the adjoining properties, with a plat to be approved by the Director of Planning and Zoning prior to recordation. (T&ES)(P&Z)
3. Easements must be reserved for all existing public and private utilities within the area to be vacated. (T&ES)
4. The property owners may not construct any buildings or improvements on the vacated area other than approved perimeter fencing and may not use the vacated land area to derive any increased development rights for the lands adjacent to the vacated area. 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 and Zoning prior to recordation. (P&Z)
5. This vacation shall not be effective until an application for vacation for the same land area is received by the owner of the adjacent property at 118 West Alexandria Avenue, indicating her agreement to the terms of these conditions and development restrictions, and including specifically a prohibition on the construction of an additional house on the land at 118 West Alexandria Avenue. (P&Z)

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- F-1 Property owner on west side of alley has rights to one half of the vacated alley and must provide letter indicating whether he will participate in the vacation or waive rights to the portion of the alley adjoining his property.
- R-1 The applicant shall pay fair market value for the area to be vacated as determined by the Office of Real Estate Assessments.
- R-2 The vacated area is to be consolidated into the adjoining property.
- R-3 Easements must be reserved for all existing public and private utilities within the area to be vacated.

Code Enforcement:

- F-1 No comments.

Police Department:

- F-1 No objections.

Real Estate Assessments:

- F-1 Value will be determined at a later date, consistent with City Council policy direction.

Recreation, Parks and Cultural Activities

- R-1 Recommend denial of vacation. This land is part of an alley system and is now open space.

APPLICATION for VACATION # 2003-0004

[must use black ink or type]

PROPERTY LOCATION: 110 WEST ALEXANDRIA AVENUE, ALEX. VA.

TAX MAP REFERENCE: MAP 43.03 BLOCK 8 LOT 2 ZONE: R-5

APPLICANT'S NAME: BRETT RUEO

ADDRESS: 110 WEST ALEXANDRIA AVE. ALEX. VA. 22301

PROPERTY OWNER NAME: CITY OF ALEXANDRIA (CITY OWNED ALLEY)

(Owner of abutting area to be vacated)

ADDRESS: ALEXANDRIA, VA.

VACATION DESCRIPTION: WE REQUEST A VACATION OF CITY OWNED ALLEY

DIRECTLY TO THE WEST OF 110 W. ALEXANDRIA AVENUE. ALLEY RUNS

NORTH & SOUTH ALONG PROPERTY - THE ALLEY IS CURRENTLY UNUSED AND TREADED W/ MATURE TREES & SHRUBS. ADDITIONALLY THE ALLEY IS NOT MAINTAINED BY THE CITY.

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.

GAVIN NICHOLS, AGENT
Print Name of Applicant or Agent

Gavin Nichols
Signature

P.O. BOX 2921
Mailing/Street Address

703-836-5209 703-836-7224
Telephone # Fax #

ALEXANDRIA, VA. 22301
City and State Zip Code

JULY 21, 2003
Date

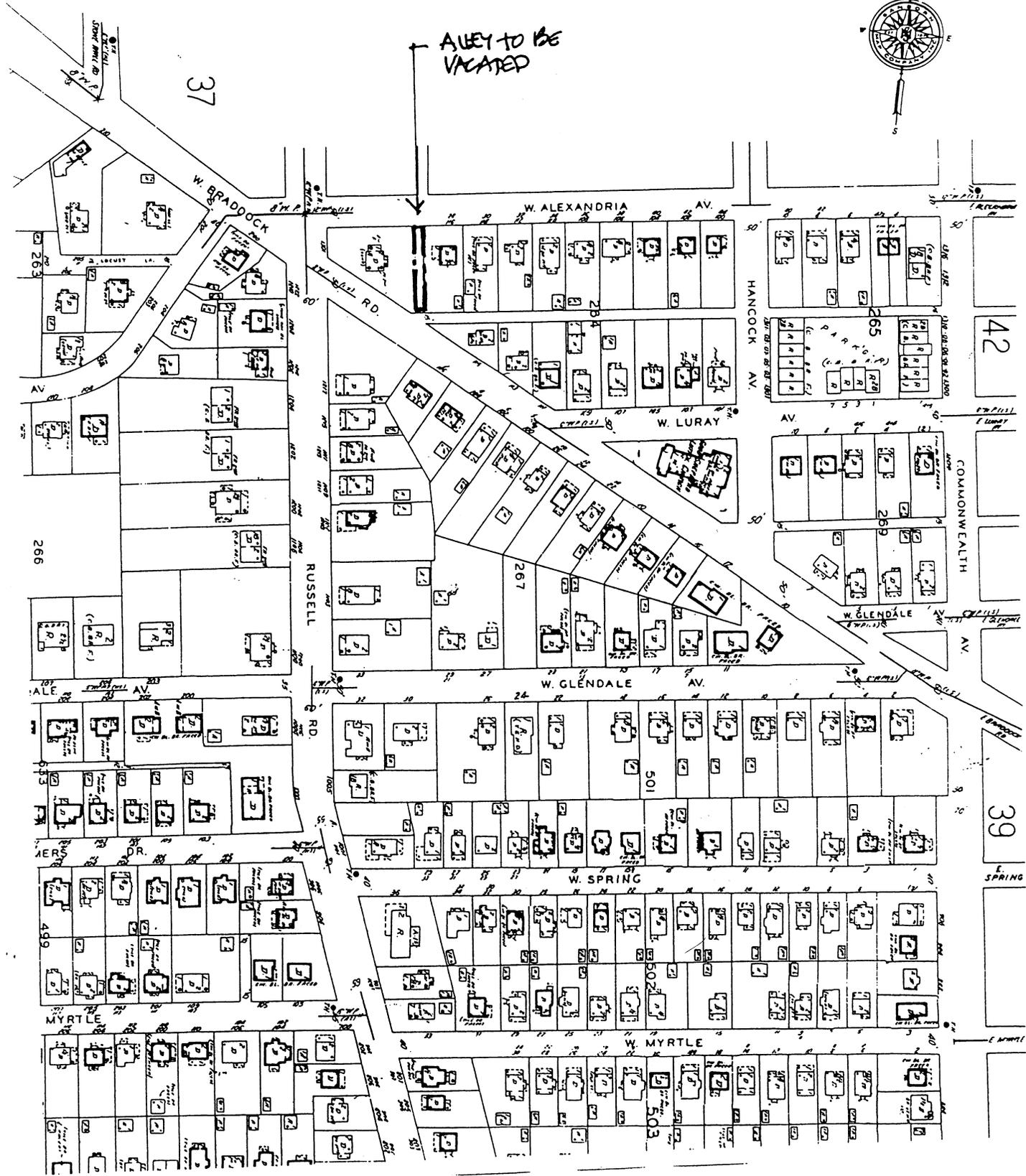
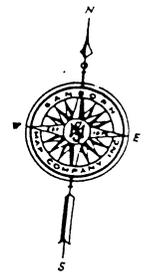
=====DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY=====

Application Received: _____ Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: 12/02/03 DEFERRED 7-0

ACTION - CITY COUNCIL: _____

VAC 2003-0004



ALLEY TO BE VACATED

37

42

39

10
REQUEST FOR VACATION OF ALLEY NEXT TO 116 WEST ALEXANDRIA AVE.

October 20, 2003

Ms. Valerie Petersen
City of Alexandria
Department of Planning & Zoning
301 King Street, Room 2100
PO Box 178
Alexandria, Virginia 22313

RE: Alley Vacation #2003-004

Dear Ms. Petersen:

This letter shall serve to confirm that the below parties each agree to purchase one half of the vacant alley which lies between 116 & 118 West Alexandria Avenue.

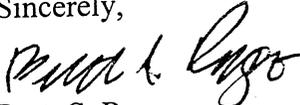
Brett Rugo wishes to confirm his intent to purchase ½ of the alley for \$2,500.00, this ½ is the Eastern portion of the alley adjacent to the 116 West Alexandria Avenue parcel.

Gina DiNicolo wishes to confirm her intent to purchase the remaining ½ of the alley, this is the Western portion adjacent to 118 West Alexandria Avenue, the price is also \$2,500.00.

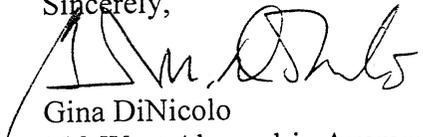
The combined price for the alley is \$5,000.00 as outlined in the Department of Real Estate Assessments memo dated July 30, 2003, faxed to Rugo on 10/15/03'

We both assume that this letter satisfies our joint requirement to commit in writing our desire to purchase the vacant alley from the City of Alexandria. Please make best efforts to place this "right of way vacation" in the November hearing schedule. Please feel free to contact both parties with any questions.

Sincerely,


Brett S. Rugo
116 West Alexandria Avenue
Alexandria, Va. 22301
703-706-5348

Sincerely,

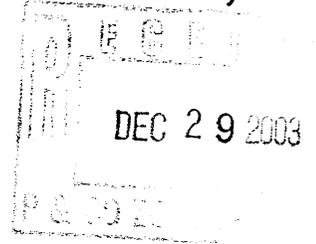

Gina DiNicolo
118 West Alexandria Avenue
1301 Russell Road(residence)
Alexandria, Va. 22301
703-836-8197



House approved at 116 W. Alexandria Avenue

#13 VAC-2003-0004

12 W. Mt. Ida Ave.
Alexandria, Va. 22305
Dec. 14, 2003



Chairman Eric Wagner and Members of the Planning Commission
c/o Department of Planning and Zoning,
Alexandria City Hall
P.O. Box 178
Alexandria, Va. 22313

Dear Mr. Chairman and Members of the Commission:

Re: Vacation 2003-0004 116 W. Alexandria Ave.

Thank you for deferring this item at the December Planning Commission meeting.

To clarify my testimony, I believe we should start from the understanding that the City is not REQUIRED to sell off part of the small amount of land it owns simply because the adjoining landowners request it.

In this case, the adjoining landowners already hold pieces of property that are quite a bit larger than the minimum required in the zone, and certainly quite large enough, as noted by staff, to accommodate any reasonable additional structure such as a garage. In fact, the applicant has a garage accessible from the rear of the property.

I encourage you to support the staff recommendation and recommend denial of the vacation.

Sincerely,

Marilyn Doherty

15' ALLEY
 S 88°30' W ~ 50.00'

GENERAL PROP. LINE

NEW PROPERTY LINE AFTER VACATION OF ALLEY

* DEMO EXIST. GARAGE

OFF 1.5'

50' 30" E ~ 130.00'

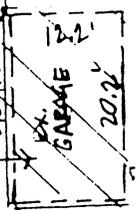
GARAGE OFF 4.0'

OFF 0.8'

OFF 0.1'

OFF 0.1'

I.P.

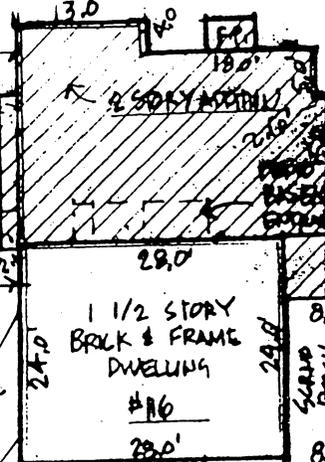


LOT 16
 6500 #

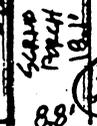


TUMBLER PAVES

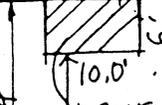
N 01° 30' W ~ 130.00'



1 1/2 STORY BRICK & FRAME DWELLING #16



8.0' x 18.1'



NEW ENTRY 1 STORY VAR. REQ.

GRASS

TUMBLER PAVES FOR DRIVEWAY

4.8'

1/2 ALLEY TO NEIGHBOR
 1/2 ALLEY TO 110 W. ALEXANDRIA

150.00' TO P.L. RUSSELL ROAD

OFF 2.4' CONC. APRON

CONCRETE WALK

OFF 3.4' CONC. APRON

N 88°30' E ~ 50.00'

116 WEST ALEXANDRIA AVENUE

50' R/W

1" = 30'



DEPARTMENT OF PLANNING AND ZONING

301 King Street, Room 2100
P. O. Box 178
Alexandria, Virginia 22313

ci.alexandria.va.us

Phone (703) 838-4666
Fax (703) 838-6393

DATE: DECEMBER 23, 2003

TO: CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: EILEEN FOGARTY, DIRECTOR, PLANNING AND ZONING 

SUBJECT: VAC#2003-0004
116 WEST ALEXANDRIA AVENUE

On December 2, 2003, the Planning Commission deferred the subject case, expressing concerns about vacating the subject alley to allow the applicant to build a private driveway and asking staff to investigate the feasibility of alternatives for access to the applicant's and his neighbor's property, without vacating the alley. Staff has determined that this is alternative access available.

Use of Alley Without Vacating the Right of Way

The applicant, or the applicant and his neighbor, could, if they desire, use the subject alley for access to their properties without vacating the right of way as requested in this case. The owners would have to submit a proposal to the Department of Transportation and Environmental Services for its review. If the proposed improvements are approved, the work could be undertaken at the property owners' expense. Once improved, the alley would theoretically be open to the public, although as a practical matter there would likely be no other users.

Use of Braddock Road Access

If the alley is neither vacated nor improved as described above, then there remains still another option for access to the two properties. You directed staff to investigate accessing the rear of both the applicant's and the adjacent owner's properties from Braddock Road if the alley were not vacated, and the process for improving the alley without vacating it. There is a curbcut on Braddock Road that provides access for both the subject alley, and a perpendicular alley that borders the rear of both properties (see attached aerial photograph). The applicant could technically use this entrance on Braddock Road to access the rear of his property using only the perpendicular alley. The adjoining property owner may have some difficulty accessing her property from the perpendicular alley, but she already has a curb cut access to her lot at 118 West Alexandria Avenue. If she decides to build a garage in the future, that access can be used.

If access from Braddock Road were desired, however, it too would have to be improved because only about half of the width of the perpendicular alley is currently usable, as shown in the attached photo

#1. The half of the alley abutting the applicant's property is overgrown with weeds and would need to be cleared in order for the applicant to use it, but the applicant may do so, subject to the same procedure outlined above for improving the subject alley.

At last month's hearing, the applicant indicated his reluctance to pursue access from Braddock Road, although staff believes part of his reasoning is that he wishes to use the alley land area as setback for his new garage. In any event, staff finds that there are alternative ways to access both properties without vacating city right of way. For this reason, and for those outlined in the attached staff report, staff continues to recommend that the request to vacate the alley be denied

Vicinity of 116 West Alexandria Avenue

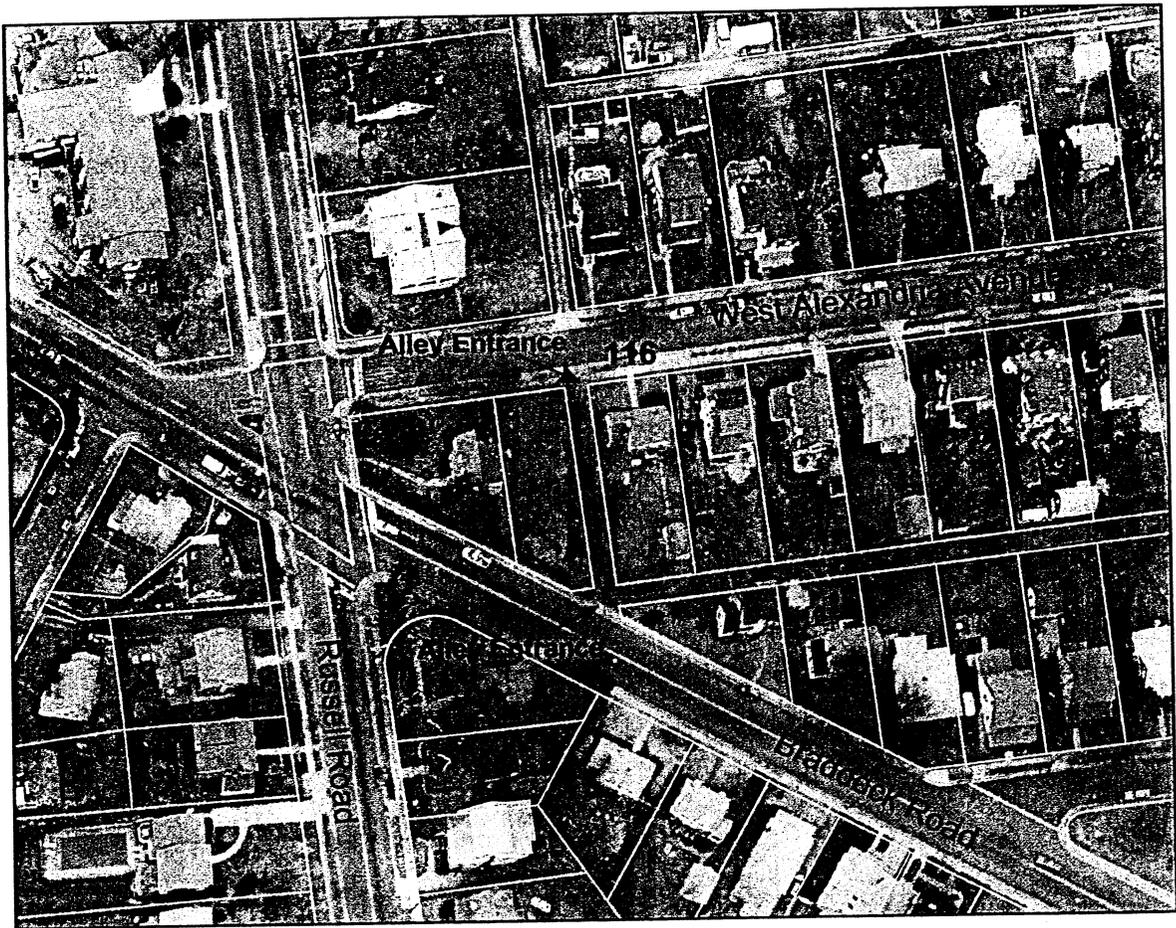
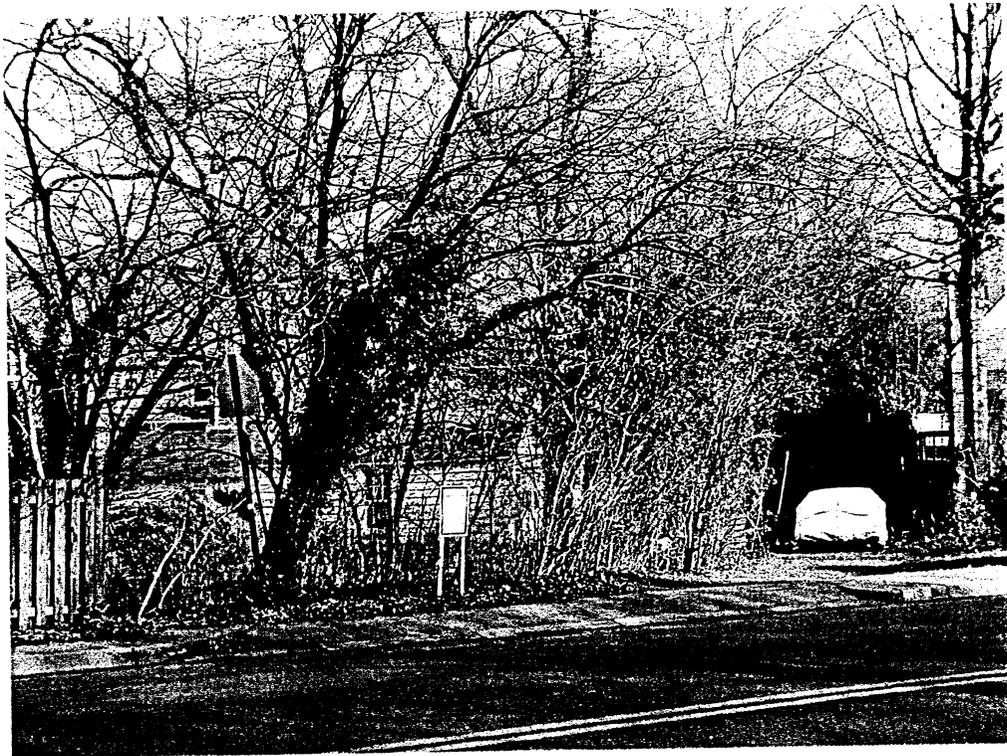


Photo #1
Braddock Road Entrance to Alley



VAC 2003-0004



VAC 2003-0004



VAC 2003-0004



1-24-04

DATE: JANUARY 22, 2004

TO: MR. BILL EVILLE,
MAYOR, CITY OF ALEXANDRIA.



RE: VACATION OF ALLEY CASE APPEAL.
CASE NO. 2003-004

DEAR MR. EVILLE,

IF YOU WOULD BE INCLINED TO ASSIST US IN
THE RESOLUTION OF AN APPEAL OF A PLANNING
COMMISSION DECISION WE WOULD GREATLY
APPRECIATE IT. WE ASK FOR YOUR PERMISSION
TO DEFER OUR CASE UNTIL WE HAVE HAD TIME
TO WORK FURTHER WITH CITY STAFF ON THIS
ISSUE.

WE THANK YOU FOR CONSIDERING OUR DEFERRAL
AND LOOK FORWARD TO A SOLUTION ALL PARTIES
FIND ACCEPTABLE.

RESPECTFULLY,

BRETT RUGO BY GAVEN NICHOLS, ARCHITECTS, AGENT
110 WEST ALEX. AVE. 703.836.5209