

*City of Alexandria, Virginia*12-13-05

MEMORANDUM

DATE: DECEMBER 7, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: DESIGNATION OF 403 WEST MASONIC VIEW AS VALUABLE OPEN SPACE FOR A VOLUNTARY PERPETUAL OPEN SPACE CONSERVATION EASEMENT

ISSUE: Designation of the property at 403 West Masonic View as valuable open space in the City of Alexandria to be considered for a voluntary open space conservation easement status.

RECOMMENDATION: That City Council:

- (1) At the request of its owner, designate the property at 403 West Masonic View as valuable open space that should be preserved in the City of Alexandria.
- (2) Request that the Department of Recreation, Parks and Cultural Activities work with the Northern Virginia Conservation Trust and the property's owner to pursue a voluntary conservation easement to be placed on this property.

BACKGROUND: In 2004, City Council approved the Open Space Steering Committee's report and recommendations which included a list of "oversize lots" that the City should consider for open space preservation. The properties on this list were and are considered ideal for the voluntary conservation easement program the City operates in conjunction with the Northern Virginia Conservation Trust (NVCT). The property owner of one property on that list, 403 West Masonic View, has recently been working with NVCT to secure such an easement. In order to proceed with the action and so the owners can take advantage of federal and State tax open space conservation incentives, the property is recommended to be deemed by Council as valuable open space within the City.

In 2004, the Open Space Steering Committee (OSSC) recommended that a series of private properties be recognized for their conservation value, as important open spaces in the City which contribute to the green space, climate control, beauty and tree canopy of the City. The OSSC did not recommend these properties for acquisition. Instead, it suggested that staff and NVCT approach the owners about the possibility of placing conservation easements on the properties. The easements would be voluntary, and no other action with regard to the properties would be taken by the City. The properties where the easements were proposed are primarily single family homes on large lots, which in some cases theoretically could be subdivided or further developed. These sites are not always publicly accessible and would not be required to be so in the future.

The purpose of a conservation easement is to preserve and protect the natural environment of a property and to maintain forever the conservation values of the Property, and to prevent any use of a property that will significantly impair or interfere with the conservation values of a property. In 1966, the General Assembly declared that the preservation of land as open space serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by encouraging more desirable and economical development of natural resources, and authorized the use of conservation easements to maintain the character of open space land (Open Space Land Act of 1966, Acts 1966, C.451; Va. Code Ann. §§10.1-1700 - 10.1-1705).

The City has been working for three years with NVCT to encourage landowners to preserve their property with conservation easements. In 2004 NVCT participated in the City's Easement Seminar, and continues its relationship with the City as open space implementation continues. Mike Nardolilli, President and General Counsel of NVCT, attends OSSC meetings and is an important contributor regarding the technicalities of easements. Over the last year, the Trust has finalized the easements for Battery Heights and 1900 Russell Road (at Lloyd's Lane), and is in specific discussions with eight additional property owners regarding potential voluntary easements. The Virginia Conservation Easement Act (Va. Code Ann. §§10.1-1009 - 10.1-1016) authorizes certain tax exempt charitable organizations (such as NVCT) to be holders of conservation easements for the purposes of retaining or protecting natural or open space values of real property, protecting natural resources, or maintaining or enhancing air or water quality.

The owners of 403 West Masonic View have been working with the NVCT and are prepared to grant a perpetual open space conservation easement on their property. The 83,200 square foot property (almost 2 acres) at 403 West Masonic View (Property) contains significant conservation values. The woodlands and mature tree canopy on the property provide important air quality values as well as a significant habitat for a variety of birds and other wildlife. The pervious surfaces - which would be lost if the property were to be developed further - help improve the water quality of nearby Timber Branch, a tributary of the Potomac River and the Chesapeake Bay. Finally, the Property abuts large open spaces along King Street making it possible to view the trees from that busy roadway. All of these conservation values were identified in the Alexandria Open Space Plan and would be advanced by placing this property under an open space easement. Moreover, Council's Strategic Plan lists "A City that Respects, Protects and Enhances the Natural Environment" as a goal which this conservation easement will help to achieve.

The specific conservation values of the Property are further documented in an inventory of relevant features of the Property, the "Baseline Study," to be prepared by the Grantee (the property owner) and signed and acknowledged by the Grantor (NVCT) and to be maintained on file at the offices of the Grantee, and the Baseline Study is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this easement if granted. Under the proposed easement plan, only one single-family residence may exist on the Property and the location of the residence may not be changed from the existing site of the single-family residence. Under the easement as currently contemplated, the existing

structures and improvements on the Property, including, without limitation, the existing single-family residence and gravel driveway, may be maintained, repaired, removed, rebuilt, enlarged, or replaced, and new normal and customary accessory structures and improvements may be built, placed, or maintained on the Property to serve the single-family residence, subject to the limitations designated in the legal documentation for the easement, as well as subject to all other City land use and building codes and regulations.

Of the 82,947 square foot lot, 52,729 square feet of wooded area would be preserved, with the remaining 30,218 square foot area reserved for a single family house and related structures. The easement will allow for no more than the single family house and up to 5,000 square feet of additional impervious area will be permitted under the easement. A plat showing the property, its current structures and the reserved area are shown on Attachment 1.

This conservation easement is intended to constitute a "Perpetual Conservation Restriction" held exclusively for conservation purposes as set forth in the Internal Revenue Code, as amended at Title 26, U.S.C.A., Section 170(h)(1)-(6) and Sections 2031c, 2055, and 2522, and under Treasury Regulations at Title 26, C.F.R. 1.170A-14 et seq., as amended, and is intended to be a "Qualified Donation" pursuant to the Virginia Land Conservation Incentives Act of 1999 (Chapter 3, Title 58.1, Sec. 58.1-510 to 58.1-513). The Grantor agrees to incorporate in whole or by reference the terms of this conservation easement in any deed or other legal instrument by which it divests itself of any interest in the Property, including, without limitation, a leasehold interest. Moreover, in any deed conveying all or any part of the Property, this Conservation Easement shall be referenced by Deed Book and Page Number in the deed of conveyance.

FISCAL IMPACT: There would be about a \$5,000 annual direct fiscal impact to the City of this open space conservation easement as this property has been assessed for real estate tax purposes as potentially sub-dividable into more than one lot. In 2006 after the easement is placed on the property the City would reduce this property's assessment accordingly to reflect the fact that the property's market value has been reduced by the creation of an open space easement. While the open space easement will result in a small real estate tax reduction, the presence of the opens space easement will continue to enhance the value of adjacent properties. A fiscal impact would also occur to the State and federal governments who have created tax incentives to encourage the creation of open space and other similar easements.

ATTACHMENTS:

- Attachment 1. Survey Map of Property
- Attachment 2. Aerial Map of Property

STAFF:

Mark Jinks, Deputy City Manager
Kirk Kincannon, Director, RP&CA
Laura Durham, Open Space Coordinator
Aimee Vosper, Supervisor Landscape Architect

403 West Masonic View



- Legend**
- Metrorail Stations
 - Road Centerlines
 - Roads
 - Metrorail Tracks
 - Railroads
 - Parcels
 - Aerial Photos

Map Produced: 10/28/2005

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Aimee Vosper/Alex
12/13/2005 11:52 AM

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Subject Updated information on Docket Item No. 23

Dear Mayor and Members of City Council:

As of late last night, we received new information on Docket Item No. 23. The Northern Virginia Conservation Trust and the owner of 403 W. Masonic View notified us that they have agreed to a change in the amount of "allowable additional impervious surface" that is listed in the Docket. This increase in square footage from 5,000 sf to 8,000 sf of allowable impervious surface, within the area reserved for future development, does not change the total conservation easement square footage for the entire site. This does not change staff's recommendation.

Thank you,

Aimee Vosper, ASLA, RLA
Landscape Architect Supervisor
Department of Recreation, Parks and Cultural Activities