

EXHIBIT NO. 1

5
10-13-01

Docket Item # 8
VACATION #2001-0004

Planning Commission Meeting
October 2, 2001

ISSUE: Consideration of a request for vacation of the public street right-of-way.

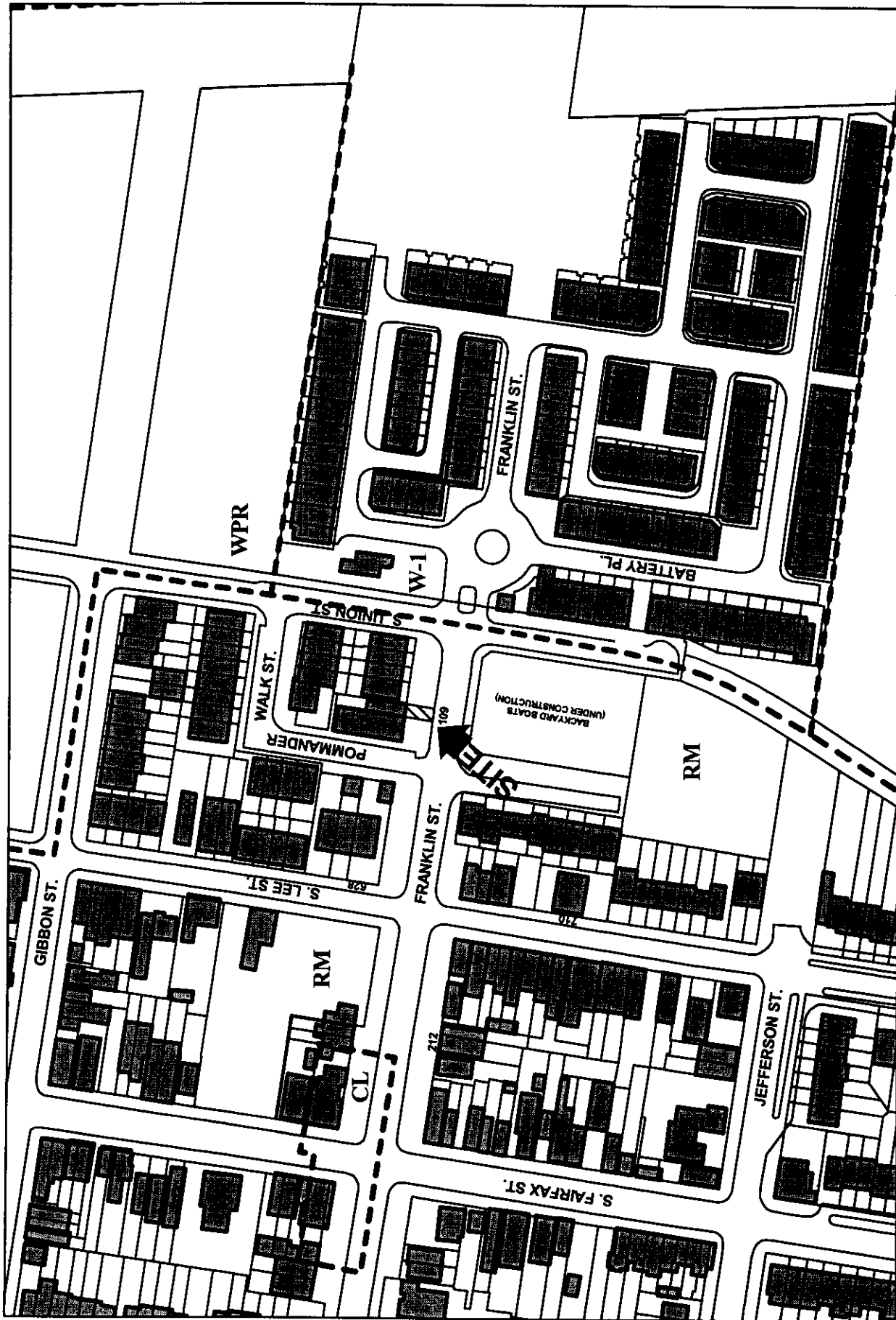
APPLICANT: Paul I. Kaplan
by Duncan W. Blair, attorney

LOCATION: 109 Franklin Street

ZONE: RM/Townhouse Zone

PLANNING COMMISSION ACTION, OCTOBER 2, 2001: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.



10/02/01

VAC #2001-0004



STAFF RECOMMENDATION:

Staff recommends **approval** 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 by recording a plat and deed of consolidation in the land records of the City of Alexandria, VA. (T&ES)
2. The applicant shall pay for the area to be vacated per City Council action of December 12, 1987. The Director of the Department of Real Estate Assessments has estimated the fair market value of the fee simple interest in the proposed area to be vacated (302 square feet of land) at \$5,800. (REA)
3. The applicant shall reserve an easement for the public sidewalk. (P&Z)
4. The applicant shall reserve easements for all existing public and private utilities within the area to be vacated. (T&ES)
5. No curb cuts or off-street parking shall be provided within the vacated area. (P&Z)

DISCUSSION:

1. The applicant, Mr. Paul I. Kaplan, represented by Mr. Duncan Blair, requests vacation approval for a portion of the public right-of-way located adjacent to 109 Franklin Street.
2. The subject property is a public right-of-way that abuts the applicant's property. His property is one lot of record with 15 feet of frontage on Franklin Street, a lot depth of 83 feet, and a total lot area of approximately 1,245 square feet. The site is developed with a two-story wood frame residential building. The property is located within the Old and Historic Alexandria District.
3. The applicant requests a vacation of approximately 302 square feet of Franklin Street located immediately to the south of the existing building (see attached plat). If the vacation request is approved, the private lot at 109 Franklin Street will extend to the south an additional 20.16 feet. The applicant's attorney advised staff that the applicant has no immediate plans to build upon the vacated area.
4. Master Plan/Zoning: The subject property is zoned RM/Townhouse, and is located in the Old Town Small Area Plan.
5. The City Council adopted a policy in 1979 stating that the vacation of the public right-of-way along Franklin Street be done individually as requested by the adjacent property owners (Ordinance #2425). Since that time, the City Council has approved some requests for vacations and denied others. Most recently in 1999, City Council granted a request by Michelle Boggs at 111 Franklin Street for a vacation of 599 square feet immediately adjacent to the subject site (VAC 99-008).

STAFF ANALYSIS:

Staff supports the applicant's request for a vacation of the public right-of-way located adjacent to 109 Franklin Street, and notes that the proposed vacation request is similar to other vacations that the City Council has previously granted along Franklin Street. Most recently City Council granted a similar request for Michelle Boggs, the owner of the lot immediately adjacent to the subject site. The proposed vacation will leave 66 feet of public right-of-way as required by the 1979 ordinance. Finally, the vacation will not interfere with public use of the sidewalk, traffic or other public uses along Franklin Street, as the requested land is currently used as a front yard for the applicant's residence and has a public sidewalk.

However, staff is concerned about the potential use of the front yard for off-street parking. Staff has visited the site and observed that the subject property has no off-street parking. Although the applicant's attorney has indicated to staff that the applicant has no plans for construction in the vacated area, staff is concerned that future owners may want to provide off-street parking spaces in the front yard. Although the zoning ordinance prohibits new curb cuts within the Old and Historic Alexandria District, an applicant could seek approval for a curb cut through the variance process.

Staff is concerned about a curb cut in the vacated area for several reasons. The subject lot is only 15 wide and the standard 10 foot curb cut would consume the majority of the street frontage. In addition, staff has observed that curb cuts and driveways are not the predominant development pattern of residential property fronting Franklin Street from South Union to Washington Streets. Few curb cuts and driveways interrupt the length of front yards maintained along Franklin Street in this area. Though the block in which the subject property is located is unique when compared to the remainder of Franklin Street in that all but one of its lots has curb cuts, staff does not support the conversion of green open front yards for parking. In fact, the subject right-of-way and its existing landscaping provide the only relief in this block face.

Therefore, staff supports the applicant's request for vacation so long as the vacated area remains open and free of parking spaces and curb cuts.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning
Barbara Ross, Deputy Director
Mary Hashemi, Urban Planner

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-2 Easements must be reserved for all existing public and private utilities within the area to be vacated.
- R-3 The vacated area shall be consolidated into the adjoining property.

Code Enforcement:

- F-1 No comments.

Police Department:

- F-1 No objections.

Historic Alexandria (Archaeology):

- F-1 No comments.

Recreation, Parks & Cultural Activities (Arborist):

No comments were received from this department.

Real Estate Assessments:

R-1 The Director of the Department of Real Estate Assessments has estimated the fair market value of the fee simple interest in the proposed area to be vacated (302 square feet of land) at \$5,800.

Commentary: The recommendation by T&ES that the applicant pay for the area to be vacated per City Council action of June 12, 1982 (at a rate of is \$33.63 per square foot of are to be vacated as of July 1, 2001) is inconsistent with current practice. City Council adopted a general process for estimating the fair market value of right-of-way to be vacated on December 12, 1987, after holding a public hearing on the matter on November 10, 1987. The process adopted applies to all locations throughout the City where public right-of-ways may be vacated. All findings and recommendations as to the valuation of right-of-way to be vacated should generally come from the Department of Real Estate Assessments or from an appraisal provided by the applicant or abutting property owner.

APPLICATION for VACATION

VAC # 2001-0004

PROPERTY LOCATION: 109 FRANKLIN STREET, ALEXANDRIA, VIRGINIA

TAX MAP REFERENCE: 81.01 02 38 ZONE: RM

APPLICANT Name: PAUL I. KAPLAN
Address: 109 FRANKLIN STREET
ALEXANDRIA, VIRGINIA 22314

PROPERTY OWNER
Name: PAUL I. KAPLAN
Address: 109 FRANKLIN STREET
ALEXANDRIA, VIRGINIA 22314

VACATION DESCRIPTION: THE APPLICANT, PAUL I. KAPLAN, THE OWNER OF THE PROPERTY AT 109 FRANKLIN STREET, ALEXANDRIA, VIRGINIA ("PROPERTY") IS REQUESTING THE VACATION OF THREE HUNDRED TWO (302) SQUARE FEET OF THE FRANKLIN STREET PUBLIC RIGHT-OF-WAY ADJACENT TO THE PROPERTY. THE REQUESTED VACATION IS CONSISTENT WITH THE ADOPTED CITY COUNCIL POLICY ON VACATING EXCESS FRANKLIN STREET RIGHT OF WAY.

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 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.

Land, Clark, Carroll, Mendelson & Blair, P.C.

Duncan W. Blair, Esquire

Print Name of Applicant or Agent



Signature

112 South Alfred Street, Suite 300

Mailing/Street Address

(703) 836-1000

Telephone #

(703) 549-3335

Fax #

Email: dblair@landclark.com

Alexandria, Virginia 22314

City and State

Zip Code

July 24, 2001

Date

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

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

ALEXANDRIA SURVEYS INTERNATIONAL, LLC
6343 SOUTH KINGS HIGHWAY • ALEXANDRIA, VIRGINIA 22306
(703) 660-6615 • FAX (703) 768-7764

June 15, 2001

**DESCRIPTION OF A
PORTION OF
FRANKLIN STREET
CITY OF ALEXANDRIA, VIRGINIA**

Beginning at a point on the easterly right-of-way line of Franklin Street, 53.11 feet from the monument line thereof and 30.00 feet south of the easterly right-of-way line of Pommander Walk Street; thence running with the northerly right-of-way of Franklin Street S81°09'00"E 15.00 feet to the southwest corner of Lot 637, Pommander Square; thence running through the right-of-way of Franklin Street S09°30'00"W 20.16 feet to a point and N80°49'00"W 15.00 feet to the southeast corner of a portion of Franklin Street vacated by City Ordinance number 4113; thence running with a line common to the vacated portion of Franklin Street N09°30'00"E 20.07 feet to the point of beginning, containing 302 square feet.

LAND, CLARK, CARROLL, MENDELSON & BLAIR, P.C.

Attorneys & Counsellors at Law
112 SOUTH ALFRED STREET
SUITE 300
ALEXANDRIA, VA 22314

5
10-13-01

H. CARTER LAND, III
JAMES C. CLARK
F. ANDREW CARROLL, III
RICHARD S. MENDELSON
DUNCAN W. BLAIR

.....
(703) 836-1000

FACSIMILE
(703) 549-3335

MAILING ADDRESS:
P.O. BOX 19888
ALEXANDRIA, VIRGINIA 22320-0888

July 24, 2001

Andrea Smith
Alexandria Gazette-Packet
Connection Publishing Inc.
7913 Westpark Drive
McLean, Virginia 22102

In re: Publication of Legal Notice

Dear Ms. Smith:

I enclose a Notice of Public Hearing to be published in the Alexandria Gazette-Packet on September 13, 2001 and September 20, 2001.

I would appreciate your returning the proof of publication and statement for cost of publication to the undersigned after the last date of publication.

If you have any questions concerning the enclosed, please do not hesitate to call.

Very truly yours,



Duncan W. Blair

DWB:ejfSmith-GazetteKaplan.072001

Enclosure

cc: Mr. Paul I. Kaplan
Mrs. Beverly I. Jett, City Clerk & Clerk of Council
Ms. Eileen P. Fogarty, Director, Planning & Zoning

NOTICE OF PUBLIC HEARING
ON
VACATION TO VACATE A PUBLIC RIGHT OF WAY

Pursuant to the requirements of Section 15.2-2006 of the Code of Virginia, 1950, as amended, the undersigned on behalf of Paul I. Kaplan, gives notice that the City Council of the City of Alexandria, Virginia, will hold a Public Hearing on Saturday, October 13, 2001, at 9:30 A.M., or as soon thereafter as it may be heard, in the City Council Chambers, City Hall, 301 King Street, Alexandria, Virginia, on his application requesting the City of Alexandria, Virginia, to vacate a portion of the Franklin Street public right-of-way located on the north side of Franklin Street in front of the property known as 109 Franklin Street. The area to be vacated contains approximately 302 square feet of land.

Duncan W. Blair, Esquire
Attorney for Paul I. Kaplan

TO BE PUBLISHED September 13, 2001 and September 20, 2001:

Mayor

5
10-13-01

~~PLEASE SELECT VIEWERS AND NAME ONE AS CHAIR~~

VIEWERS LIST

Mr. Donald Allen
102 Monroe Avenue
Alexandria, VA 22301
703-836-0094

Mr. Ross Bell
820 S. Washington Street, #B-329
Alexandria, VA 22314
703-836-2001 [cme-10/00]

Ms. Amoret Bunn
607 Melrose Street
Alexandria, VA 22302
703-683-1836

Mr. Rodger Digilio
1900 Mt. Vernon Avenue
Alexandria, VA 22301
703-548-6066 [cme-10/00]

Ms. Katrine Fitzgerald
307 East Mason Avenue
Alexandria, VA 22301
703-683-1617

Ms. Gila Harris
5435 Richenbacher Avenue
Alexandria, VA 22304
703-671-9055 [wde-7/00]

Mr. John Hines
13 East Myrtle Street
Alexandria, VA 22301
703-683-9659

Mrs. Judy Lowe
14 West Mount Ida Avenue
Alexandria, VA 22305
703-548-1713 [wde-9/00]

Ms. Kellie Meehan
801 West View Terrace
Alexandria, VA 22301
703-836-1787

Mr. Lee Roy Steele
516 North Patrick Street
Alexandria, VA 22314
703-549-7737 [wde-9/00]

Mr. Warren Almquist
201 East Monroe Street
Alexandria, VA 22302
703-684-3657

Mr. Bill Brandon
727 Upland Place
Alexandria, VA 22314
703-683-0927 [cme-10/00]

Ms. Libby Cooperman
205 Yoakum Parkway, #215
Alexandria, VA 22304
703-370-9064

Ms. Marilyn Doherty
12 West Mount Ida Avenue
Alexandria, VA 22301
703-548-3095

Mrs. Ruby Fitzgerald
305 Summers Drive
Alexandria, VA 22301
703-548-7088

Ms. Debbera Hayward
5911-303 Edsall Road
Alexandria, VA 22304
703-370-7360

Mr. Jesse Jennings
1019 Oronoco Street
Alexandria, VA 22314
703-549-5229 [wde-9/00]

Ms. Cathy Major
1431 Oronoco Street
Alexandria, VA 22314
703-836-2521

Mr. Paul Smedberg
975 Powhatan Street
Alexandria, VA 22314
703-684-8795

Ms. Ruby Tucker
254 Lynhaven Drive
Alexandria, VA 22305
703-549-7754

PLEASE SELECT 3 VIEWERS AND NAME ONE AS CHAIR

5
10-13-01

VIEWERS LIST

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13 East Myrtle Street
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703-683-9659

Chair

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14 West Mount Ida Avenue
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703-548-1713 [wde-9/00]

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801 West View Terrace
Alexandria, VA 22301
703-836-1787

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Alexandria, VA 22314
703-684-8795

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254 Lynhaven Drive
Alexandria, VA 22305
703-549-7754

#5 10/13/01



City of Alexandria, Virginia
301 King Street, Suite 2300
Alexandria, Virginia 22314



Kerry J. Donley
Mayor

Beverly I. Jett, CMC
City Clerk and
Clerk of Council

beverly.jett@ci.alexandria.va.us

William C. Cleveland
Vice Mayor

October 15, 2001

(703) 838-4550

Fax: (703) 838-6433

Members of Council
Claire M. Eberwein
William D. Euille
Redella S. Pepper
David G. Speck
Joyce Woodson

Mr. John Hines
13 East Myrtle Street
Alexandria, Virginia 22301

Re: Consideration of a request for vacation of the public street right-of-way

Dear Mr. Hines:

Pursuant to authorization given to Mayor Donley by the City Council at its Public Hearing Meeting on October 13, 2001, you as Chairperson, together with Mr. Ross Bell, and Mr. Lee Roy Steele, were appointed as viewers to view the public right-of-way property described in the attached pages and to report in writing whether in the viewers' opinion any inconvenience or harm to the public would result from discontinuing and vacating the public right-of-way use of this property. I have enclosed a sample viewers' report. For further information concerning this matter, you may contact the Director of the Department of Planning and Zoning.

If possible, would you please have your report, signed by all three viewers, in the Office of the City Clerk on or before Friday, November 2, 2001. If this date is not convenient, please call my office.

Please bill Duncan Blair, Esquire, Land, Clark, Carroll, Mendelson & Blair, P.C., 112 South Alfred Street, Suite 300, Alexandria, Virginia 22314. If payment is not made within thirty (30) days, please advise the City Clerk at 838-4550.

Sincerely,

Beverly I. Jett, CMC
City Clerk and Clerk of Council

Enclosures: Docket Item No. 5
Sample Viewers' Report
Mr. Ross Bell, 703-836-2001
Mr. Lee Roy Steele, 703-549-7737



City of Alexandria, Virginia
301 King Street, Suite 2300
Alexandria, Virginia 22314



Kerry J. Donley
Mayor

William C. Cleveland
Vice Mayor

Members of Council
Claire M. Eberwein
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David G. Speck
Joyce Woodson

October 15, 2001

Beverly I. Jett, CMC
City Clerk and
Clerk of Council
beverly.jett@ci.alexandria.va.us

(703) 838-4550
Fax: (703) 838-6433

Mr. Ross Bell
820 South Washington Street
Alexandria, Virginia 22314

Re: Consideration of a request for vacation of the public street right-of-way

Dear Mr. Bell:

Pursuant to authorization given to Mayor Donley by the City Council at its Public Hearing Meeting on October 13, 2001, you, together with Mr. John Hines as Chairperson, and Mr. Lee Roy Steele, were appointed as viewers to view the public right-of-way property described in the attached pages and to report in writing whether in the viewers' opinion any inconvenience or harm to the public would result from discontinuing and vacating the public right-of-way use of this property. I have enclosed a sample viewers' report. For further information concerning this matter, you may contact the Director of the Department of Planning and Zoning.

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Sincerely,

Beverly I. Jett, CMC
City Clerk and Clerk of Council

Enclosures: Docket Item No. 5
Sample Viewers' Report
Mr. John Hines, 703-683-9659
Mr. Lee Roy Steele, 703-549-7737



City of Alexandria, Virginia
301 King Street, Suite 2300
Alexandria, Virginia 22314



Kerry J. Donley
Mayor

William C. Cleveland
Vice Mayor

October 15, 2001

Beverly I. Jett, CMC
City Clerk and
Clerk of Council
beverly.jett@ci.alexandria.va.us

Members of Council
Claire M. Eberwein
William D. Euille
Redella S. Pepper
David G. Speck
Joyce Woodson

(703) 838-4550
Fax: (703) 838-6433

Mr. Lee Roy Steele
516 North Patrick Street
Alexandria, Virginia 22314

Re: Consideration of a request for vacation of the public street right-of-way

Dear Mr. Steele:

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Sincerely,

Beverly I. Jett, CMC
City Clerk and Clerk of Council

Enclosures: Docket Item No. 5
Sample Viewers' Report
Mr. John Hines, 703-683-9659
Mr. Ross Bell, 703-836-2001

APPLICATION for VACATION

VAC # 2001-0004

PROPERTY LOCATION: 109 FRANKLIN STREET, ALEXANDRIA, VIRGINIA

TAX MAP REFERENCE: 81.01 02 38 ZONE: RM

APPLICANT Name: PAUL I. KAPLAN
Address: 109 FRANKLIN STREET
ALEXANDRIA, VIRGINIA 22314

PROPERTY OWNER
Name: PAUL I. KAPLAN
Address: 109 FRANKLIN STREET
ALEXANDRIA, VIRGINIA 22314

VACATION DESCRIPTION: THE APPLICANT, PAUL I. KAPLAN, THE OWNER OF THE PROPERTY AT 109 FRANKLIN STREET, ALEXANDRIA, VIRGINIA ("PROPERTY") IS REQUESTING THE VACATION OF THREE HUNDRED TWO (302) SQUARE FEET OF THE FRANKLIN STREET PUBLIC RIGHT-OF-WAY ADJACENT TO THE PROPERTY. THE REQUESTED VACATION IS CONSISTENT WITH THE ADOPTED CITY COUNCIL POLICY ON VACATING EXCESS FRANKLIN STREET RIGHT OF WAY.

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 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.

Land, Clark, Carroll, Mendelson & Blair, P.C.

Duncan W. Blair, Esquire

Print Name of Applicant or Agent



Signature

112 South Alfred Street, Suite 300

Mailing/Street Address

(703) 836-1000

Telephone #

(703) 549-3335

Fax #

Email: dblair@landclark.com

Alexandria, Virginia 22314

City and State

Zip Code

July 24, 2001

Date

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

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

ACTION - PLANNING COMMISSION: 10/02/2001 RECOMMENDED APPROVAL UC

ACTION - CITY COUNCIL: 10/13/01PH-- See attached.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR¹ (3-5)

Planning Commission

3. SPECIAL USE PERMIT #2001-0063
410 S VAN DORN ST
EL PASO OF LANDMARK
Public Hearing and Consideration of a request for a special use permit to offer on-premise alcohol sales and live entertainment at an existing restaurant; zoned CG/Commercial General. Applicant: El Paso of Landmark, by Rigoberto Gomez.

COMMISSION ACTION: Recommend Approval 6-0

4. SPECIAL USE PERMIT #2001-0091
706-708 MONTGOMERY ST;
831, 837 N COLUMBUS ST
Public Hearing and Consideration of a request for a special use permit for off-street parking located within 300 feet of a church use; zoned CD-X/Commercial Downtown. Applicant: Scripture Church, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend Approval 6-0

5. VACATION #2001-0004
109 FRANKLIN ST
Public Hearing and Consideration of a request for vacation of the public street right-of-way; zoned RM/Townhouse. Applicant: Paul I. Kaplan, by Duncan W. Blair, attorney, and appointment of viewers for same.

COMMISSION ACTION: Recommend Approval 6-0

END OF ACTION CONSENT CALENDAR

City Council approved the Action Consent Calendar as presented and deferred the public hearing on docket item no. 9 until November. The Planning Commission recommendations are as follows:

3. City Council approved the Planning Commission recommendation.
 4. City Council approved the Planning Commission recommendation.
 5. City Council approved the Planning Commission recommendation. John Hines, chair, Ross Bell and Lee Roy Steele were appointed as Viewers.
- Council Action: _____

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

6. Public Comment on the Design, Plantings and Programs at King Street Gardens Park.

City Council closed the public hearing and asked the Mayor to appoint a work group to consider the information received and make a recommendation.
Council Action: _____