

Docket Item #19
VACATION #2004-0001

Planning Commission Meeting
September 9, 2004

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

APPLICANT: Ruby R. Schropp

LOCATION: 700 South Lee Street

ZONE: RM/Residential Medium

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the permit conditions found in Section III of this report.

SITE GRAPHIC
(AVAILABLE IN THE PLANNING AND ZONING OFFICE)

I. DISCUSSION

REQUEST

The applicant, Ruby R. Schropp, requests the vacation of an area at the corner of Franklin and South Lee Streets.

SITE DESCRIPTION

The subject property is right of way land with 17 feet of frontage on South Lee Street, 62.50 feet of frontage on Franklin Street, and a total area of 1,062.5 square feet. The applicant is the owner of the adjacent property, 700 South Lee Street, which is one lot of record with approximately 18.25 feet of frontage on South Lee Street, 62.50 feet of depth, and a total lot area of 1,143 square feet. The property is occupied by a residential three-story dwelling unit of approximately 1,217 square feet. The surrounding area is occupied by residential townhouses.

PROJECT DESCRIPTION

The applicant requests a vacation of the 1,062.5 square feet of Franklin Street to consolidate it with her existing property at 700 South Lee Street (see attached plat). If the vacation request is approved, the applicant's total lot area will be approximately 2,205.5 square feet, adding 17 feet of frontage on South Lee Street.

The applicant uses and maintains the vacant property, which is currently planted with grass, shrubs, and one crabapple tree. She has no immediate plans to build on the vacated area; however, the applicant has considered building a driveway at the existing curb cut along Franklin Street and working with the city on constructing a sidewalk to fill in the gap between the sidewalk to the east side of the property and to the west, across from Lee Street.

DEVELOPMENT POTENTIAL

According to Section 3-1106 (C) of the zoning ordinance, the maximum permitted floor area ratio in the RM zone is 1.5. The private lot at 700 South Lee Street now includes 1,143 square feet of land and 1,217 square feet of building area, resulting in a building with a floor area ratio of 1.06. Technically, an additional 497.5 square feet could be added to the existing building under the zoning regulations for a maximum building area of 1,714.5 square feet. If the proposed vacation is approved and the additional land consolidated into the existing lot, the current building will amount to a .55 floor area ratio. In that case, theoretically, an additional 2,091.3 square feet of building area would be allowed to be built for a maximum total building area of 3,308.3 square feet.

BACKGROUND

From a right-of-way perspective, City Council adopted a policy in 1979 stating that the City would entertain requests to vacate the public right-of-way along Franklin Street by the adjacent property owners (Ordinance #2425). Since that time, the City Council has approved a number of requests for vacations along Franklin Street (see attached map). Some recent approvals include: 1,245 square

feet at 109 Franklin Street (VAC#2001-0004), 50 square feet at 108 Franklin Street, at South Union (VAC #2000-0002), 599 square feet at 111 Franklin Street (VAC#99-0008), and a very similar case last winter on the south east corner of Royal and Franklin Streets (VAC2003-0006). In 1988, Ordinance No. 3348 approved the vacation of the same size land adjacent to the subject site, located on the corner of Franklin and Potomac Streets. In that case, no specific development limitations were attached to the vacation so that the property owner had permission to build structures in accordance with the applicable zoning regulations. Today, a driveway and townhouse is located on the consolidated lot, encroaching into a portion of the vacated land, and therefore extending beyond the building line of the applicant's house located at 700 S. Lee Street.

ZONING / MASTER PLAN

The subject property is zoned RM/Townhouse zone, and is located in the Old Town Small Area Plan.

II. STAFF ANALYSIS

Staff supports the applicant's request for a vacation of the public right-of-way located adjacent to 700 South Lee Street, and notes that the proposed vacation request is similar to other vacations that the City Council has previously granted along Franklin Street. The proposed vacation will leave 66 feet of public right-of-way as required by the 1979 ordinance.

Staff is concerned about the loss of public land, especially green areas, and about creating additional development opportunities through the sale of public land to private owners. Last year, when a similar case seeking to vacate right of way at South Royal Street was before the City, Council discussed its policy in terms of open space and with regard to the valuation of the land to be vacated. As a result of its discussion of vacation policy, Council acted in two ways. First, it approved the South Royal Street vacation application, but required that the approval include the condition recommended by staff that precluded future development potential from the vacated public land. Second, on February 10, 2004, Council adopted a new valuation policy for vacated city land, essentially distinguishing between those cases where development rights accrue to the purchaser of city land and those where they do not. In addition, Council asked that staff advise about new vacation cases early in the process, and directed that the proceeds from right of way vacations be allocated to the City's Open Space Fund.

In this case, Planning staff provided Council with a copy of the vacation case when it was filed. In addition, the applicant is agreeable to a condition that specifically prevents the creation of any additional development rights as a result of this vacation and has been told by staff that they are unlikely to achieve approval of a driveway and parking space (see Condition #3) because it would interfere with the existing green space and would run afoul of Condition #3. Finally, the office of Real Estate Assessments has calculated the value of the land pursuant to Council's adopted policy, given the limitation on future development.

Therefore, consistent with Council's action on the last Franklin Street vacation case, and consistent with its policy discussions last year, Staff recommends approval.

III. PERM IT CONDITIONS

1. The vacated area is to be consolidated into the adjoining property, and the plat of consolidation filed with the Departments of Planning and Zoning and Transportation and Environmental Services. (T&ES) (P&Z)
2. Easements must be reserved for all existing public and private utilities within the area to be vacated. (T&ES)
3. The property owners may not construct any buildings, or improvements, including driveways and parking spaces, 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, including increased 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 and Zoning prior to recordation. (P&Z)

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Bettina Irps, Urban Planner.

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 The vacated right-of-way shall be consolidated with the existing lot, and the plat of consolidation shall be filed with Planning and Zoning Department.
- R-2 Easements shall be retained for all public and private utilities located within the vacated street right-of-way.

Code Enforcement:

- F-1 No comments.

Recreation, Parks & Cultural Activities (Arborist):

- F-1 If there is a condition restricting development on the proposed land, and consistent with Council policy, we support the vacation application.

Real Estate Assessments:

- F-1 On February 10, 2004 City Council adopted a general policy for the valuation of vacated city right-of-ways. The applicant for vacation of the portion of Franklin Street adjacent to 700 South Lee Street has agreed to place a restriction on the deed prohibiting additional development on the land to be vacated, and not to utilize any density or other development rights associated with the vacated land area. As such, and following the general policy adopted by City Council, the indicated market value based on abutting assessments and with the restrictions on the use of the vacated area is \$32,100.

This was determined by applying the 2004 assessed value of the abutting property which is \$151.22 per square foot times the square footage to be vacated (1,062 square feet) equals \$161,600. This value is then reduced by 80% to adjust for the restrictions in use placed on the property. The remaining value at 20% is \$32,100. This consistent with the valuation of other open space parcels in the city and is reduced based on the property rights that the owner has agreed to give up in order to acquire this property pursuant to this vacation.

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Police Department:

F-1 No objections.

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AREAL OF SUBJECT SITE AND GRANTED VACATIONS IN THE IMMEDIATE AREA



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**OTHER REPORT ATTACHMENTS
AVAILABLE IN THE PLANNING AND ZONING OFFICE**