

Docket Item #15  
SUBDIVISION #2004-0013

Planning Commission Meeting  
December 7, 2004

This subdivision would have been automatically approved if not acted on by November 13, 2004, except that the applicant has waived the right to automatic approval.

**ISSUE:** Consideration of a request to subdivide one lot into two lots and for a variation to reduce the rear yard from 16 feet to 5.1 feet.

**APPLICANT:** Mr. David Ginsburg  
by Richard Hobson, attorney

**LOCATION:** 207 Franklin Street and 619 South Lee Street (Parcel Add. 617 S. Lee Street)

**ZONE:** RM/Residential (Townhouse)

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

SUB 2004-0013  
207 Franklin and 619 S. Lee Street

**SITE GRAPHIC**  
**AVAILABLE IN THE PLANNING AND ZONING OFFICE**

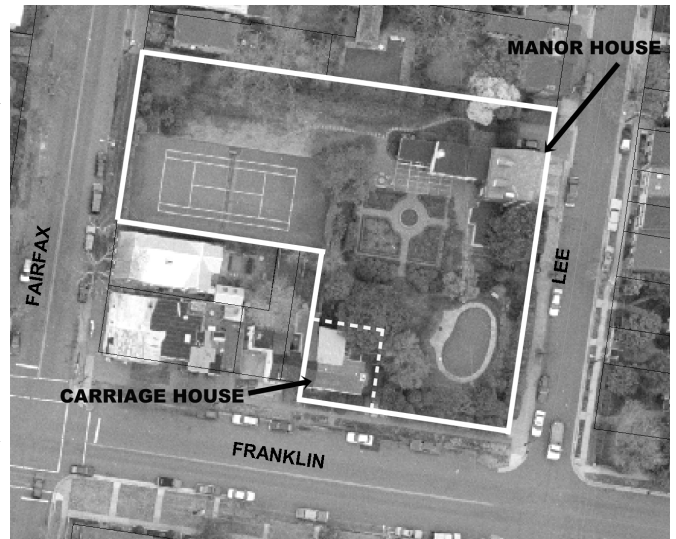
## I. DISCUSSION

### REQUEST

The applicant, David Ginsburg represented by Richard Hobson, attorney, requests approval for a subdivision of one lot at 207 Franklin Street and 619 South Lee Street into two lots.

### SITE DESCRIPTION

The subject property is one lot of record with 188 feet of frontage on Lee Street, 123 feet of frontage on Franklin Street, 100 feet of frontage on Fairfax Street, and a total lot area of 35,502 square feet. The property is occupied by a manor house facing Lee Street, a carriage house facing Franklin Street, a tennis court, a swimming pool, and two parking spaces, accessed from Lee Street. Brick walls, ivy-covered chain link fencing, and thick vegetation are present around most of the perimeter of the property, screening it from the street. Additionally, a wood fence with brick columns separates the carriage house from the manor house.



Site Aerial

### SURROUNDING USES

The surrounding neighborhood is developed predominantly with townhouses and detached single-family residences. Some apartments can also be found in the area, and neighborhood retail uses are located at the corner of Fairfax and Franklin Streets.

### PROJECT DESCRIPTION

The applicant is proposing to subdivide the existing lot into two separate lots. One lot would include the manor house, the tennis court, the swimming pool, the parking spaces, and would be comprised of the bulk of the lot – 33,567 square feet. The other lot would include the carriage house and would be comprised of 1,935 square feet.

### BACKGROUND / HISTORIC EASEMENT

The manor house was built in 1800 by Thomas Vowell, Jr., a prominent Alexandria merchant. The precise date of the construction of the carriage house is not known, but in 1817 the property was advertised for sale, and the advertisement noted that the site included a carriage house. The property was at one time owned by Edgar Snowden, the editor and owner of the Alexandria Gazette, who purchased the property in 1842. In 1939, the property was purchased by Hugo Black, a Supreme Court Justice. Justice Black lived on the property until his death in 1971.



Carriage House and Adjoining Townhouses

In 1969, Justice Black granted to the Virginia Historic Landmarks Commission an easement over the property. The easement is described as an open space easement, with the right to restrict the use of the property. The easement prohibits the construction of any additional buildings or structures on the property and requires approval by the Virginia Historic Landmarks Commission for any alteration, restoration, renovation, or extension of existing buildings or structures. The easement was amended in 1973 to allow the construction of a swimming pool. In 1976, with approval by the Historic Landmarks Commission, the carriage house was enlarged and converted to a residence.

The easement also includes a clause which specifically prohibits the subdivision of the property. Therefore, the easement must be amended if the subdivision is to be permitted. The Virginia Department of Historic Resources (DHR) has indicated that they would be willing to amend the easement if the subdivision meets City of Alexandria requirements.

COMPLIANCE WITH RM ZONE REGULATIONS

In the typical subdivision case, staff's concern with zoning relates primarily to the land area involved. In this case, because there are buildings already existing on the site, additional zoning regulations, such as setbacks and floor area ratio (FAR), are also relevant. The RM standards and the corresponding information for the subject property can be found in the following table:

<b>RM STANDARDS</b>			
<b>Standard</b>	<b>RM Requirement</b>	<b>Lot 600 Proposed</b>	<b>Lot 601 Proposed</b>
Lot Area	1,452 s.f.	33,567 s.f.	1,935 s.f.
Lot Width - SFR	25'	188.2	N/A
Lot Width - Townhouse	18'	N/A	40.7'
Front Yard	0	0	9.1'
Side Yard	5'	30'	10.9'
Rear Yard	16'	156'	5.1' *
Open Space	35%	91%	45%
FAR	1.50	0.14	0.99

\*Variation requested

Both lots in the proposed subdivision meet all of the requirements of the RM zone, with the exception of the required rear yard for the carriage house lot (Lot 601). Approval of the subdivision can only occur if a rear yard variation is granted as well.

ZONING/MASTER PLAN

The subject property is located in the RM/Townhouse zone and identified in the adopted Old Town Small Area Plan chapter of the Master Plan for medium-density residential.

## II. STAFF ANALYSIS

Staff recommends approval of the proposed subdivision and rear yard variation. While the open space easement must be amended to allow the subdivision to take place, the subdivision will not impact the function of the property and will not compromise the easement's original purpose – to preserve open space and to protect the historic character of the buildings on the site. The proposed configuration of the property ensures that the current function of the property is maintained, and the rear yard variation is necessary to minimize the impact on the open space that remains associated with the manor house.

There are two primary issues staff considered in analyzing the proposed subdivision: 1) Should any subdivision of the property be approved, given that the existing historic easement must be amended to allow that subdivision? 2) If a subdivision is approved, should it fully comply with zoning, or is a rear yard variation acceptable?

### HISTORIC EASEMENT ISSUE

The manor house was constructed in 1800, and the carriage house was constructed in or before 1817. For at least 187 years, the two buildings have occupied the same property. Supreme Court Justice Hugo Black granted to the State of Virginia an easement over the property, which specifically stated that the property was not to be subdivided. However, at the time that the easement was created, the carriage house was already physically separated from the rest of the property by a fence. While the date of the fence's construction is unknown, a visual analysis of the brick supports suggests that it was constructed in the 1920s or 1930s. Additionally, in 1976, just 7 years after the easement was created, the carriage house was converted to a residence. This conversion, which included a building addition, was approved both by the Alexandria Old and Historic District BAR and the Virginia Historic Landmarks Commission. Therefore, for 70 or 80 years the carriage house has been physically separated from the manor house by a fence, and for 28 years has not served an accessory function to the manor house.

To approve a subdivision of the property today does not change the function of the carriage house or its relationship to the manor house. Those were changed long ago when the carriage house was physically separated from the manor house by a fence and when the carriage house was converted to a residence. Approving the subdivision continues a physical arrangement and uses that have long existed.

The primary argument against approving the subdivision is one of principle – the original easement specified that subdivisions are not permitted. However, the sole effect of the subdivision will be to allow separate owners for the property instead of one owner and a tenant. The use of the property as two separate residences will not change, and the proposed subdivision does not permit additional buildings or allow a change in the historic resources of the property. The original intent of the easement was to respect and protect the historic character of the buildings on the site, and to preserve open space on the site and the historic “campus” of the manor house. The proposed subdivision does not compromise those goals.

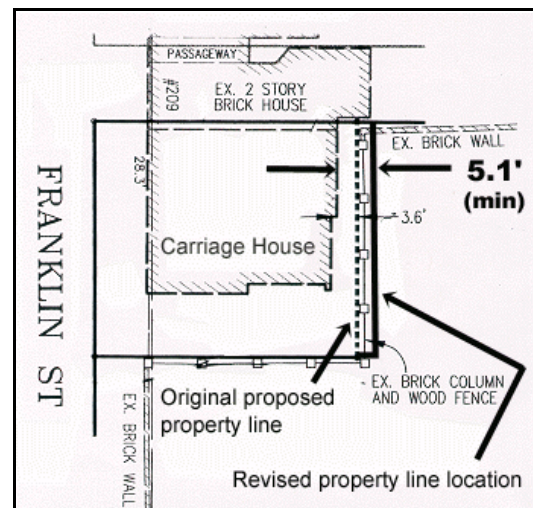
An argument can even be made that the subdivision reinforces the goal of limiting physical changes to existing buildings on the property. The existing site is so large that FAR limits and minimum open space provisions are essentially meaningless. At present, the zoning would allow the non-open space areas on the site to be tripled in size, and the total floor area on the site to be increased eight-fold. Confining the carriage house to a 1,935 square foot lot will significantly limit the amount of development that would be allowed on that lot, thereby making expansion of the carriage house much more difficult.

Staff's support for this subdivision does not mean that it would support others. The proposed subdivision will partition an area of the property that already is physically and functionally separate from the rest of the property. The same could not be said for any further subdivision of the property. If, for example, the tennis court were subdivided from the manor house and sold to an adjoining property owner, the "campus" of the manor house would be dramatically changed. Staff has therefore added as a condition that further subdivision of the property not be permitted. Additionally, the easement will remain in effect for both the carriage house lot and the manor house lot.

#### VARIATION FOR REAR YARD SETBACK

The applicant is requesting a variation to allow a building to be located 5.1 feet from the rear property line, rather than the 16 feet that is required by the RM Zone. Under section 11-1713 of the Zoning Ordinance, variations to the zoning requirements are permitted by the Commission when, in its opinion, a strict adherence to zoning provisions would result in substantial injustice and when one of five circumstances exists. The pertinent circumstance in this case allows subdivision where, "because of existing structures or gross area of land involved, the subdivided lots would not conform to all of the requirements of the zone in which the subdivision is located." While the land area on the site is more than adequate for both lots to fully comply with all zoning requirements, the proposed new property lines are collinear with an existing fence which is already separating the carriage house from the manor house. Not only does this create lot lines which coincide with the existing physical boundaries between the two lots, but it also maximizes the land and open space that are associated with the historic manor house. This ensures that the subdivision will not compromise the intent of the easement.

It should be noted that the extent of the variation that is being requested has changed slightly since the application was originally filed. The applicant had originally proposed to place the new property line 3.6' to the north of the carriage house, along the south side of the fence. However, in order to meet Virginia building code requirements, the new property line must be a minimum of 5.1' from the north wall of the carriage house, since that wall does not meet 1-hour fire rating requirements. This will mean that the new property line will be located on the north side of the existing fence (and columns) rather than on the south side of the fence.



**Revised Property Line Location**

CONCLUSION

Staff recommends approval of the subdivision and the rear yard variation, subject to the condition that the easement be amended to allow the subdivision before the subdivision is recorded. Staff also recommends that when the easement is amended, it still apply to both lots, and that further subdivision of the property be prohibited.

**III. STAFF RECOMMENDATION:**

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The final plat shall be amended to provide a setback of at least 5.1' at the rear of the carriage house. (Code) (P&Z)
2. Approval of the subdivision is contingent upon approval by the Virginia Department of Historic Resources of an amendment to the historic easement to allow this subdivision. The subdivision shall not be recorded until the easement has been amended. (P&Z)
3. When amended, the historic easement that is applicable to the property shall apply to both proposed lots and shall prohibit the further subdivision of the property. (P&Z)
4. Final subdivision plat shall comply with the provisions of Section 11-1709 of the City's Zoning Ordinance (T&ES)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;  
David Sundland, Urban Planner III.

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Staff Notes: The final subdivision plat shall meet the standards for land surveying set forth in the Virginia State Code and shall comply with the requirements of Section 11-1700 of the Zoning Ordinance.

#### IV. CITY DEPARTMENT COMMENTS

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

##### Transportation & Environmental Services:

No comments.

##### Code Enforcement:

- F-1 The proposed interior lot line of Lot 601 creates a fire separation problem for the existing structure. The interior lot line separation from the North side exterior wall is shown as 3 foot 6 inches. All exterior walls within 5 feet from an interior property line shall have a fire resistance rating of 1 hour, from both sides, with no openings permitted within the wall. As alternative, a 2 hour fire wall may be provided. The lot line shall be redefined to avoid potential code conflicts.

##### Police Department:

No comments.

##### Historic Alexandria Commission (Archaeology):

- F-1 According to historical documents, the structure at 619 S. Lee Street was constructed by Thomas Vowell, Jr., a prominent Alexandria merchant, prior to 1800. In September 1817, an advertisement for the sale of the property indicated the presence of the house “28 feet front and 40 feet deep, with covered way, pantry, a large kitchen, a smoke house and ... a brick stable, carriage house, etc.” The building at 207 Franklin Street is the stable/carriage house mentioned in the advertisement. The property therefore has the potential to yield archaeological resources that could provide insight into residential activities in late 18<sup>th</sup> and 19<sup>th</sup>-century Alexandria.
- F-2 The current subdivision does not call for any ground disturbance. If development is planned on either of these properties, archaeological actions will be recommended.



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