

Docket Item #20
VACATION #2005-0003

Planning Commission Meeting
September 8, 2005

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

APPLICANT: Richard and Elizabeth Tonner

LOCATION: 418 West Braddock Road

ZONE: R-8/Single-family zone

STAFF RECOMMENDATION: Staff recommends **denial** of this application. If Council approves the request, staff recommends approval subject to compliance with all applicable codes and ordinances and the Permit Conditions found in Section III of this report.

VAC #2005-0003
418 West Braddock Road

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

I. DISCUSSION

REQUEST

The applicant, Richard and Elizabeth Tonner, requests the vacation of an area of right-of-way at the northwest corner of West Braddock and Ruffner Roads, on the west side of Braddock Road.

SITE DESCRIPTION

The subject property is a portion of right-of-way with 85.7 feet of frontage on West Braddock Road, approximately 25 feet of frontage along Ruffner Road, and a total area of 1,455 square feet. The applicant is the owner of the adjacent property at 418 West Braddock Road, which is one lot of record with approximately 99 feet of frontage on West Braddock Road, approximately 186 feet of depth, and a total lot area of 32,036 square feet. The property is occupied by a single family home, which is consistent with the surrounding residential uses.

PROJECT DESCRIPTION

The applicant requests a vacation of 1,455 square feet of Braddock Road to consolidate it with the existing property at 418 West Braddock Road (see attached plat). If the vacation request is approved, the applicant's total lot area will be approximately 33,491 square feet.

When the applicant purchased the property, the subject and adjacent properties were planted with a continuous hedge, giving the area the appearance that it was part of the property at 418 West Braddock Road. The applicant uses and maintains the subject property, which is currently planted with



grass and contains a guy wire to a telephone/electric pole. The applicant has requested the vacation in order to add landscaping at the corner and has agreed not to use the vacated land area to derive any increased development rights for the adjacent property.

DEVELOPMENT POTENTIAL

According to Section 3-306 (B) of the Zoning Ordinance, the maximum permitted floor area ratio in the R-8 zone is .35. The private lot at 418 West Braddock Road now includes 32,036 square feet of land and approximately 2,250 square feet of building area, resulting in a building with a floor area ratio of .07. Technically, an additional 8,900 square feet could be added to the existing building under the zoning regulations for a maximum building area of 11,200 square feet. If the proposed vacation is approved and the additional land consolidated into the existing lot, the current building floor area ratio will remain virtually unchanged. In that case, theoretically, an additional 509 square

feet of building area would be allowed to be built for a maximum total building area of 11,700 square feet. The development potential is ample without the minor additional potential from the vacation.

BACKGROUND

An 1896 subdivision of the area shows a road named Summit Avenue connecting Braddock Road to Alexandria Avenue in the approximate location of the current Orchard Street. It appears that this portion of Braddock Road did not exist at that time, and that the area requested in the vacation was the curved transition to Ruffner Road on the north side of Braddock Road. Since that time, Summit Avenue was changed to Orchard Street. In 1969, Ordinance #1597 vacated portions of Orchard Street immediately southeast of Ruffner Road at 406, 410, and 414 West Braddock Road as the street was deemed not needed for public use.

ZONING / MASTER PLAN

The subject property is zoned R-8/Single-family zone, and is located in the Northridge/Rosemont Small Area Plan.

II. STAFF ANALYSIS

Staff recommends denial of the applicant's request for a vacation of the public right-of-way located adjacent to 418 West Braddock Road.

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 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.

Despite the limitation on future development, staff is cognizant of the general concern over the vacation of right-of-way and therefore recommends denial of this application.

III. PERMIT CONDITIONS

Staff recommends **denial** of this application. If Council approves the request, 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 lot, and the plat of consolidation filed with the Departments of Planning and Zoning and Transportation and Environmental Services. (T&ES) (P&Z)
2. The applicant shall pay fair market value for the area to be vacated as determined by the Office of Real Estate Assessments. (T&ES)
3. Easements must be reserved for all existing public and private utilities within the area to be vacated (guy wire for pole, overhead utility wires, there may be others). The applicant shall show all easements on the plat of consolidation. (T&ES)
4. The property owners may not construct any buildings, or improvements, including driveways, parking spaces, or fencing, on the vacated area 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;
Richard Josephson, Deputy Director;
Lorrie Pearson, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- 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 Easements must be reserved for all existing public and private utilities within the area to be vacated (guy wire for pole, overhead utility wires, there may be others). The applicant shall show all easements on the plat of consolidation.
- R-3 The vacated area is to be consolidated into the adjoining property.
- F-1 T&ES has no objection to the vacation of this excess right-of-way. The applicant will have to submit a plat that describes the area to be vacated as well as a plat showing consolidation of the vacated right-of-way with lot 520.

Code Enforcement:

- F-1 No comments.

Real Estate Assessments:

- F-1 Should Planning Commission recommend approval and City Council approve the vacation, staff requests that it be directed to determine the market value either by relying on assessment comparables or acquiring a fee appraisal. As market values continue to escalate at the rapid pace of the last several years, assessment comparables may not reflect the market value at the time of the vacation.

Police:

- F-1 No objections.