

Docket Item #6
VACATION #2006-0001

Planning Commission Meeting
April 4, 2006

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

APPLICANT: Cynthia Caples Trust
by John Richards, attorney

LOCATION: 100 Uhler Terrace

ZONE: R-8/Residential

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.

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

I. DISCUSSION:

REQUEST

The applicant, Cynthia Caples Trust, requests the vacation of an area of right-of-way at the terminus of Uhler Terrace.

SITE DESCRIPTION

The area proposed to be vacated is a 692 square foot portion of right-of-way at the terminus of Uhler Terrace. The applicant is the owner of the adjacent property at 100 Uhler Terrace, which is one lot of record with approximately 100 feet of frontage on Uhler Terrace, and a total lot area of 9,079 square feet. The property is occupied by a single family home, which is consistent with the surrounding residential uses. To the north, east and west of the applicant's residence are single family residences. To the south is the Del Ray Baptist Church.

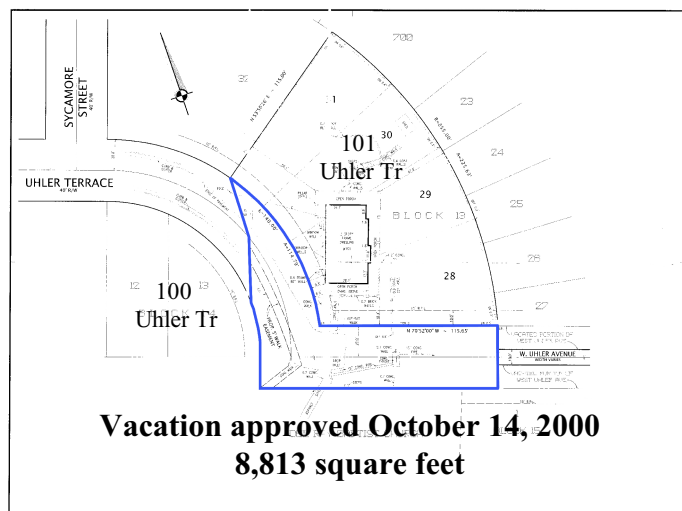


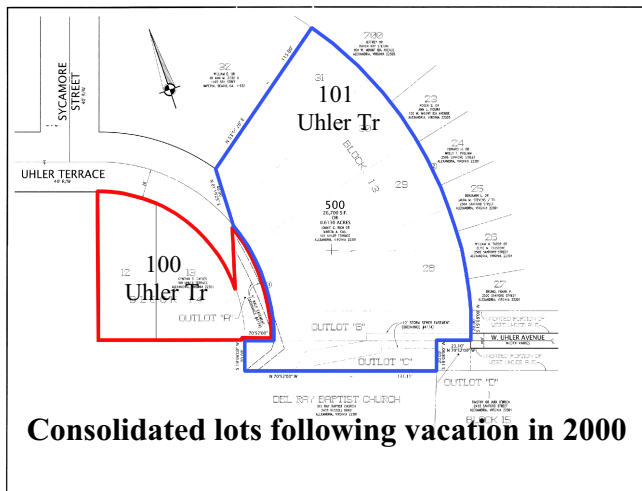
PROPOSAL

The applicant requests a vacation of approximately 692 square feet of Uhler Terrace (see attached plat). This area is currently the terminus of Uhler Terrace. The area proposed to be vacated is currently maintained as the applicant's yard, and is also occupied by a drop inlet, a portion of curb, and a narrow concrete drive that turns into a pedestrian pathway that leads to the Del Ray Baptist Church to the south. The applicant would like to add on to existing residence, and the irregular shape of the lot drastically limits the design opportunities of such an addition because of the front setback requirement. The applicant has agreed that the vacated area would not add to the development potential of the property.

PREVIOUS VACATION

On October 14, 2000, City Council approved the vacation of 8,813 square feet at the then terminus of Uhler Terrace (VAC#2000-0006). The resident at 101 Uhler Terrace requested the vacation to remove the existing asphalt and to regrade the area in order to redirect the flow of storm water into the existing storm sewer inlet rather than onto his property, which was experiencing some flooding. There is a steep grade change from what was the





terminus of Uhler Terrace to West Uhler Avenue located to the east, and a street connection would not have been feasible. There is a footpath located over the previously vacated area that leads to the Del Ray Baptist Church to the south. The path was unimproved prior to the vacation, but is now a concrete sidewalk. An easement was required for the footpath as part of the previous vacation approval to maintain pedestrian access to the church. While the vacation was requested by the resident at 101 Uhler Terrace, the property at 100 Uhler Terrace was entitled to 50% of the vacated area immediately adjacent to it. This portion

of the vacated area was consolidated with the applicant's property, creating the irregularly shaped lot seen today.

MASTER PLAN/ZONING

The subject property is zoned R-8/Single-family zone, and is located in the Potomac West small area plan chapter of the Master Plan.

II. STAFF ANALYSIS:

Staff does not object to the proposed vacation. A prior vacation of Uhler Terrace left an irregular configuration of the right-of-way and of the applicant's property. The current vacation request of a small portion of the right-of-way will create a more regularly shaped lot.

Staff is concerned generally about the loss of public land, and about creating additional development opportunities through the sale of public land to private owners. Two years ago, 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 has agreed to a condition that specifically prevents the creation of any additional development rights as a result of this vacation. 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 policy, staff recommends approval. Because of an existing pedestrian path to access the Del Ray Baptist Church, staff has included a condition requiring an easement for the walkway. The prior vacation on Uhler provided an easement for the majority of the trail. Staff has also included a condition requiring an easement for utilities, which includes the existing inlet.

With these conditions, staff recommends approval.

III. 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 lot, and the plat of consolidation filed with the Departments of Planning and Zoning and Transportation and Environmental Services. (P&Z)
2. Easements must be reserved for all existing public and private utilities within the area to be vacated. (T&ES)
3. The vacated right-of-way shall be consolidated with the existing lot. (T&ES)
4. The applicant shall provide a 5' wide walk easement to connect with the existing walk easement which provides access to the parking lot of the Del Ray Baptist Church. (T&ES)
5. The applicant shall show all easements on the plat of consolidation. (T&ES)
6. The property owners may not construct any buildings, or improvements, including driveways and parking spaces, 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;
Valerie Peterson, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 Easements must be reserved for all existing public and private utilities within the area to be vacated.
- R-2 The vacated right-of-way shall be consolidated with the existing lot.
- R-3 The applicant shall provide a 5' wide walk easement to connect with the existing walk easement which provides access to the parking lot of the Del Ray Baptist Church.
- F-1 T&ES has no objection to the vacation of this excess right-of-way.

Code Enforcement:

- F-1 No Comment

Police Department

- F-1 The Police Department has no objections to the vacation.

Real Estate Assessments:

- F-1 Separate document attached.