

Docket Item #6
VACATION #2006-0003

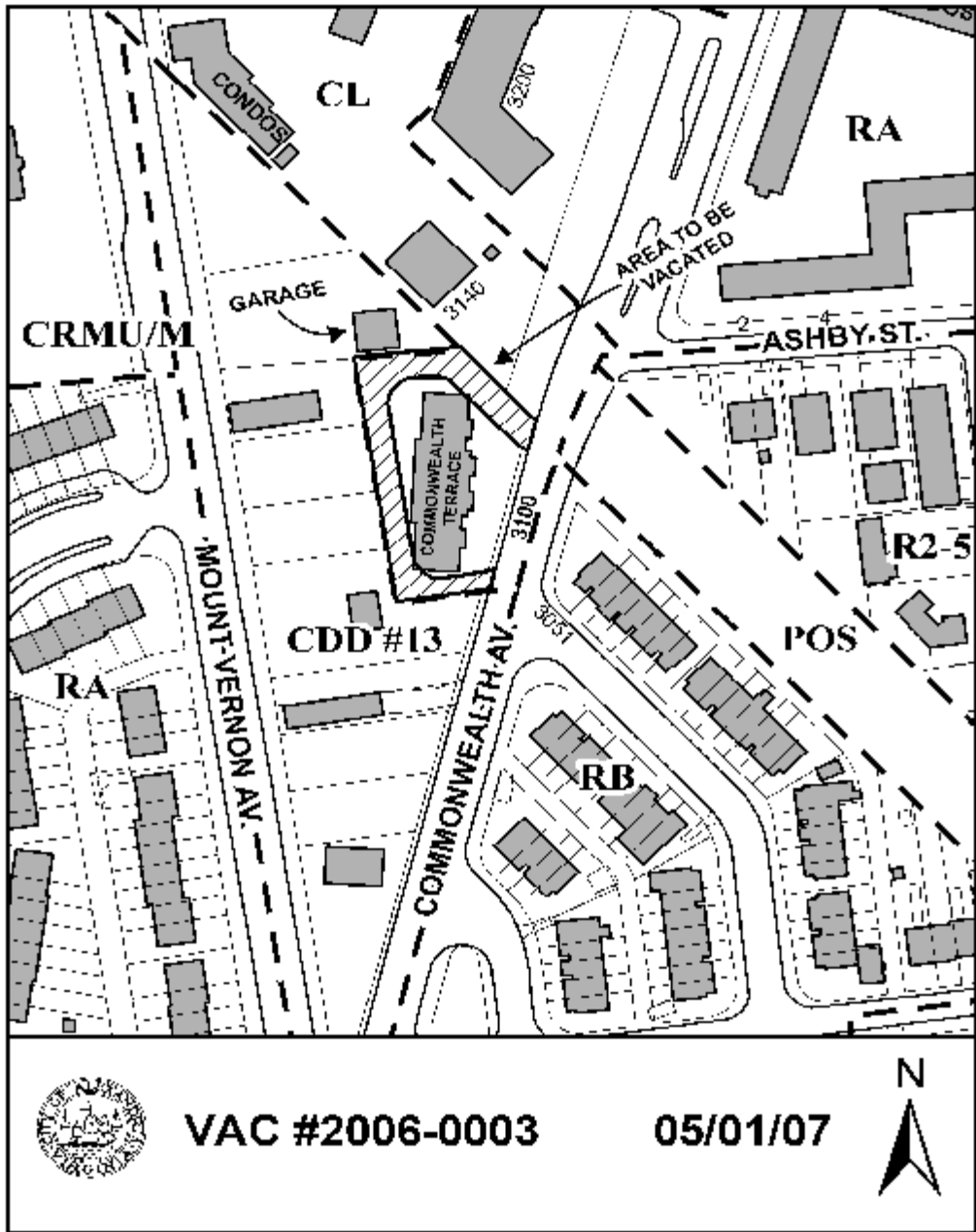
Planning Commission Meeting
May 1, 2007

ISSUE: Consideration of a request for vacation of a public right of way at 3100 Commonwealth Avenue.

APPLICANT: Commonwealth Terrace, LLC
By David Chamowitz, attorney

LOCATION: 3100 Commonwealth Avenue

ZONE: CL/Commercial Low



I. DISCUSSION

REQUEST

The applicant, Commonwealth Terrace, LLC, requests vacation of the public alley that borders the Commonwealth Terrace apartments at 3100 Commonwealth Avenue.

SITE DESCRIPTION

The subject property is a public alley with two frontages on Commonwealth Avenue, 16.55 feet to the north of Commonwealth Terrace and 17.08 feet to the south. The total area requested for vacation is 7,783 square feet. The applicant owns the apartment complex surrounded by the public alley, with 115 feet of frontage on Commonwealth Avenue, an average depth of approximately 95 feet and 15,086 square feet of lot area. The subject property is surrounded by a mix of residential and office uses. To the north is a professional office complex. To the east is the Auburn Village residential community. The area to the south and west, known as the Triangle Site, is currently in the process of being redeveloped as a mixed use residential and retail development.

PROPOSAL

The applicant requests a vacation of 7,783 square feet of public alley to consolidate it with the existing property at 3100 Commonwealth Avenue. If the vacation request is approved, the applicant's total lot area will be approximately 22,869 square feet.

The applicant uses and maintains the subject property, which is currently occupied by an asphalt alley. According to the applicant, there are no immediate plans to redevelop the property. The applicant has agreed not to use the vacated land area to derive any increased development rights for the property.

BACKGROUND

The area to be vacated is a public alley that surrounds the applicant's apartment building on three sides. An encroachment was approved by Council in 1999 (ENC #99-0004) that allows exclusive parking by the tenants of Commonwealth Terrace. There is an Emergency Vehicle Easement on the alley and a portion of 3100 Commonwealth Avenue. A private garage, located at the northwest corner, is accessible from the alley, hence the need for a public access easement if the alley should be vacated. The proposed redevelopment of the Triangle Site has no plans for access to this alley.

ZONING / MASTER PLAN

Master Plan/Zoning: The subject property is zoned CL, Commercial Low, and is located in the Potomac West Small Area Plan.

II. STAFF ANALYSIS

Staff has no objection to the proposed vacation of this public alley. The alley already serves as the parking lot for the apartment building. The alley is completely paved and therefore is not considered open space. Staff recommends retention of a public access easement, which will allow the City to retain the ability to plan for any future development of the site. The emergency access easement ensures access to the rear of the apartment for emergency personnel. This alley has been controlled and maintained by the applicant since the parking encroachment was granted in 1999. According to the Department of Real Estate Assessments, the value of the land to be vacated is \$475,400 dollars. In the past, land has been vacated by the City with the condition that the applicant agree to derive no development potential and retain the vacated area as open space. In these cases, the City has discounted the price of the vacated land to reflect the restrictions on land use. Since the applicant utilizes this area for parking and the right of way is not considered open space, staff feels that the applicant should be required to pay the full assessed value.

III. RECOMMENDED CONDITIONS

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 show all easements on the plat of consolidation. (T&ES)
3. The applicant shall pay the fair market value for the vacated right-of-way, as determined by the director of Real Estate Assessments. (T&ES)
4. If approved, the vacated area must include a public access easement in perpetuity; no building or development of the area shall be permitted. (RP&CA)
5. The property owners 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: Richard Josephson, Acting Department of Planning and Zoning;
Richard Bray, Urban Planner.

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 Comment

Recreation, Parks & Cultural Activities (Arborist):

- R-1 If approved, the vacated area must include a public access easement in perpetuity; no building or development of the area shall be permitted.

Police:

- F-1 The Police Department has no comments or objections to the vacation of a public alley surrounding its apartment building.

Real Estate Assessments:

- F-1 See attached memo