

ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of June 12, 2021

DATE: May 17, 2021

SUBJECT: Ordinance of Vacation to vacate: 1) portion of North Moore Street running north from 19th Street North to 20th Street North, adjacent to and on the west side of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; 2) portion of 20th Street North running west from North Moore Street to North Lynn Street, adjacent to Lot 1, Block 6, Rosslyn, RPC 16-019-005; 3) a portion of North Lynn Street running north from 19th Street North to 20th Street North, adjacent to and on the east side of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; and 4) a portion of an Easement for Public Street and Utility Purposes, running around the periphery of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; all of the above, with conditions.

Owner/Applicant: Rosslyn Building East Limited Partnership (“Owner”)
JAG DMV Development Company LLC (“Applicant”)

Agent/Attorney: Nan E. Walsh, Andrew A. Painter, Esqs.
Walsh, Colucci, Lubeley & Walsh, P.C.
2000 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201

C. M. RECOMMENDATION:

1. Enact the attached Ordinance of Vacation to vacate: 1) portion of North Moore Street running north from 19th Street North to 20th Street North, adjacent to and on the west side of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; 2) portion of 20th Street North running west from North Moore Street to North Lynn Street, adjacent to Lot 1, Block 6, Rosslyn, RPC 16-019-005; 3) a portion of North Lynn Street running north from 19th Street North to 20th Street North, adjacent to and on the east side of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; and 4) a portion of an Easement for Public Street and Utility Purposes, running around the periphery of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; all of the above, with conditions.
2. Authorize the Real Estate Bureau Chief, Department of Environmental Services, or his designee, to execute, on behalf of the County Board, the Deed(s) of Vacation, and all

County Manager:

County Attorney:

Staff: Linda Eichelbaum Collier, DES. REB

other documents or deeds necessary to effectuate the attached Ordinance of Vacation, subject to approval as to form by the County Attorney.

PLANNING COMMISSION RECOMMENDATION:

Find that the vacation of : 1) portion of North Moore Street running north from 19th Street North to 20th Street North, adjacent to and on the west side of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; 2) portion of 20th Street North running west from North Moore Street to North Lynn Street, adjacent to Lot 1, Block 6, Rosslyn, RPC 16-019-005; 3) a portion of North Lynn Street running north from 19th Street North to 20th Street North, adjacent to and on the east side of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; and 4) a portion of an Easement for Public Street and Utility Purposes, running around the periphery of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005; all of the above, with conditions, is substantially in accord with the Comprehensive Plan of Arlington County, Virginia.

ISSUES: This is a request by the Owner/Applicant for vacation of portions of North Moore Street, 20th Street North, North Lynn Street and an easement for public street and utilities running around the periphery of Lots 1 - 6, Block 6 Rosslyn, RPC 16-019-005 (“Property”), with conditions (collectively, “Street Vacations”) to permit the Owner/Applicant to redevelop the Property in accordance with a proposed new major site plan amendment, SP #66 (“Site Plan”), currently under consideration by the County Board. There are no outstanding issues related to the proposed Street Vacations.

SUMMARY: The Owner/Applicant has requested that the County Board enact the Ordinance of Vacation (“Ordinance”) to vacate the Street Vacations located within the Property in order to construct the Site Plan as proposed. Upon approval and enactment of the Ordinance, and satisfaction of the conditions of the Ordinance, including the payment of compensation, the County’s interests in the areas of the Street Vacations would be extinguished.

BACKGROUND: The applicant, JAG DMV Development Company, LLC, has submitted a rezoning application and a major site plan amendment (SP #66) application to redevelop the existing RCA office building site at 1901 N. Moore Street. The development proposal includes a rezoning from C-O to C-O Rosslyn, to demolish the existing office building, and to construct a 26-story, 423-unit residential apartment building with a total density of 10.0 FAR, 12,130 square feet of retail on the ground floor, and a total of 286 parking spaces located in a below-grade and above-grade parking garage. The proposal also includes the removal of existing internal loop roads on the site as well as the removal of an existing skywalk that connects to the building to the west of the site over N. Moore Street.

The Property is located within the North Rosslyn Civic Association boundaries and is directly adjacent to Gateway Park and Interstate 66 to the north. The site is comprised of one parcel that is currently zoned C-O and is developed with a 13-story office building with retail on portions of the ground floor and the second-floor promenade. The proposed Street Vacations would enable the Site Plan to be developed as proposed.

DISCUSSION: To permit construction of the proposed Site Plan, the Owner/Applicant is requesting approval of the attached Ordinance to vacate the County's property interests shown as: 1) "Portion of North Moore Street (D.B. 105 PG. 275) Hereby Vacated 4,114 S.F. or 0.09444 AC.;" 2) "Portion of 20th Street North (D.B. 105 PG. 275) Hereby Vacated 7,721 S.F. or 0.17724 AC.;" 3) "Portion of North Lynn Street (D.B. 105 PG. 275) Hereby Vacated 4,590 S.F. or 0.0537 AC.;" and 4) "Portion of Existing Easement for Public Street and Utility Purposes D.B. 1681 PG. 568 7,406 S.F. or 0.17001 AC. Hereby Vacated" on a plat entitled, "Plat Showing the Vacation of a Portion of 20th Street North and a Portion of North Moore Street and a Portion of North Lynn Street Deed Book 105, Page 275 and the Vacation of Various Easements Deed Book 1681, Page 568 Deed Book 1691, Page 462 Deed Book 1691, Page 472 on Lots 1 – 6 Block 6 Rosslyn Deed Book 105, Page 275 Arlington County, Virginia," Sheets 1 and 2 of 2, dated June 4, 2020 and prepared by Bowman Consulting Group, Ltd. ("Plat").

In addition, there is a private air space easement over North Moore Street from the County to the Owner for an overhang for garage, parking and commercial areas at the second floor level of the Rosslyn Building East (RCA Building), at least 16 feet, eight inches above the sidewalk level, recorded among the Land Records in Deed Book 1691 at Page 462 and Deed Book 1691 at Page 472, which will terminate according to its terms once the RCA building no longer exists. There also is a private air space easement for the construction and maintenance of a pedestrian bridge from the County to the Owner over North Moore Street, recorded among the Land Records in Deed Book 1691 at Page 462 and Deed Book 1691 at Page 472, which terminates according to its terms once the RCA building and the building across the street (the Rosslyn North Building) no longer exist. As part of the proposed conditions for the Site Plan, the owner has agreed to obtain consent for such termination from the owners of the Rosslyn North building across North Moore Street to which the pedestrian bridge attaches. Neither of these easements are being vacated by this action as they terminate according to their own terms.

Legal and Physical Descriptions: The rights-of-way for North Moore Street, 20th Street North and N. Lynn Street were created by a Deed of Dedication and accompanying plat recorded among the Arlington County land records ("Land Records") in Deed Book 105, Page 275. The Property upon which the easement for public street and utility purposes is located is owned by Rosslyn Building East Limited Partnership and is recorded among the Land Records in Deed Book 2461 at Page 495. The easement for public street and utility purposes was conveyed to the County by Deed of Easement recorded among the Land Records in Deed Book 1681 at Page 568.

Compensation: Staff recommends that the Owner/Applicant pay \$8,296,143.36 in compensation for the vacation of the Street Vacation areas based upon a fair market value appraisal. The Owner/Applicant has agreed to this amount of compensation.

Public Notice: Public notice was given in accordance with the *Code of Virginia* by publishing notice of the County Board's consideration of the vacations at its June 12, 2021 meeting twice, in the May 25, 2021 and June 1, 2021 editions of the *Washington Times*.

Comprehensive Plan: The GLUP designation for the Property is Office-Apartment-Hotel High. It also is within the Rosslyn Coordinated Redevelopment District.

Zoning: The area of the Site Plan is currently zoned C-O.

Master Transportation Plan: The proposed Site Plan includes the removal of existing internal loop roads on the site as well as the removal of an existing skywalk that connects to the building to the west of the site over N. Moore Street. The Street Vacations would help accomplish this design and are consistent with the Master Transportation Plan goals.

Neighborhood/Civic Association: The proposed Site Plan is located within the North Rosslyn Civic Association.

Master Utility Plans: The proposed Ordinance requires the relocation of all utilities located within the Street Vacations areas and the provision of new easements to the County for any relocated utilities as necessary. Any relocation of utilities must comply with a County approved relocation plan.

PUBLIC ENGAGEMENT:

Level of Engagement:

- Communicate – this level of engagement is appropriate because the request for the Street Vacations is associated with a major Site Plan amendment concurrently being considered by the County Board.

Outreach Methods:

- Public notice was given in accordance with the *Code of Virginia* by publishing notice of the County Board's consideration of the vacations at its June 12, 2021 meeting twice, in the May 25, 2021 and June 1, 2021 editions of the *Washington Times*.
- The Owner/Applicant sent notices dated May 7, 2021 of the County Board's consideration of the Street Vacations to the surrounding property owners.
- The subject Site Plan has been the subject of an extensive review process conducted by the County presenting multiple opportunities for public review and input.

Community Feedback:

- As of the date of this Board Report, staff has received no responses to the notices sent out by the Owner/Applicant.

FISCAL IMPACT: The \$8,296,143.36 in compensation for the vacation of the Street Vacation areas will be deposited into the County's general fund.

ATTACHMENT 1

ORDINANCE OF VACATION TO VACATE: 1) PORTION OF NORTH MOORE STREET RUNNING NORTH FROM 19TH STREET NORTH TO 20TH STREET NORTH, ADJACENT TO AND ON THE WEST SIDE OF LOTS 1 - 6, BLOCK 6 ROSSLYN, RPC 16-019-005; 2) PORTION OF 20TH STREET NORTH RUNNING WEST FROM NORTH MOORE STREET TO NORTH LYNN STREET, ADJACENT TO LOT 1, BLOCK 6, ROSSLYN, RPC 16-019-005; 3) A PORTION OF NORTH LYNN STREET RUNNING NORTH FROM 19TH STREET NORTH TO 20TH STREET NORTH, ADJACENT TO AND ON THE EAST SIDE OF LOTS 1 - 6, BLOCK 6 ROSSLYN, RPC 16-019-005; AND 4) A PORTION OF AN EASEMENT FOR PUBLIC STREET AND UTILITY PURPOSES, RUNNING AROUND THE PERIPHERY OF LOTS 1 - 6, BLOCK 6 ROSSLYN, RPC 16-019-005; ALL OF THE ABOVE, WITH CONDITIONS.

BE IT ORDAINED that, pursuant to an application by Rosslyn Building East Limited Partnership (“Owner”), and JAG DMV Development Company LLC (“Applicant”) (collectively, “Owner/Applicant”), on file in the offices of the Department of Environmental Services (“DES”), the following: 1) a portion of North Moore Street running north from 19th Street North to 20th Street North, created as part of a Deed of Dedication recorded among the Arlington County land records (“Land Records”) in Deed Book 105 at Page 275 and shown as “Portion of North Moore Street (D.B. 105 PG. 275) Hereby Vacated 4,114 S.F. or 0.09444 AC.” on a plat entitled, “Plat Showing the Vacation of a Portion of 20th Street North and a Portion of North Moore Street and a Portion of North Lynn Street Deed Book 105, Page 275 and the Vacation of Various Easements Deed Book 1681, Page 568 Deed Book 1691, Page 462 Deed Book 1691, Page 472 on Lots 1 – 6 Block 6 Rosslyn Deed Book 105, Page 275 Arlington County, Virginia,” Sheets 1 and 2 of 2, dated June 4, 2020 and prepared by Bowman Consulting Group, Ltd. (“Plat”); 2) a portion of 20th Street North running west from North Moore Street to North Lynn Street, created as part of a Deed of Dedication recorded among the Land Records in Deed Book 105 at Page 275 and shown as “Portion of 20th Street North (D.B. 105 PG. 275) Hereby Vacated 7,721 S.F. or 0.17724 AC.” on the Plat; 3) a portion of North Lynn Street running north from 19th Street North to 20th Street N, 296,143.36th, created as part of a Deed of Dedication recorded among the Land Records in Deed Book 105 at Page 275 and shown as “Portion of North Lynn Street (D.B. 105 PG. 275) Hereby Vacated 4,590 S.F. or 0.0537 AC.” on the Plat; and 4) a portion of an Easement for Public Street and Utility Purposes, running around the periphery of Lots 1 - 6, Block 6 Rosslyn, created by Deed of Easement recorded among the Land Records in Deed Book 1681 at Page 568 and shown as “Portion of Existing Easement for Public Street and Utility Purposes D.B. 1681 PG. 568 7,406 S.F. or 0.17001 AC. Hereby Vacated” on the Plat (collectively the areas being vacated in 1 – 4, “Street Vacations”), are hereby vacated, subject to the following conditions:

1. The Owner/Applicant shall submit, for review and approval, to DES, a utility relocation and engineering design plan (“Plan”) for the construction, abandonment, relocation, continued location in place, removal, and/or replacement of all utilities located, in whole or in

part, within the areas of the Street Vacations. The Plan shall be subject to approval by the Director of DES, or his designee.

2. After approval of the Plan and before commencing the work described therein, the Owner/Applicant shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, acceptable to the County Manager, in an amount and in a form as determined by and acceptable to the County Manager, or his designee, to secure the construction, abandonment, relocation, continued location, removal and/or replacement of any and all existing utilities pursuant to the approved Plan.

3. The Owner/Applicant shall remove, relocated, leave in place, abandon and/or reconstruct, or cause to be removed, relocated, left in place, abandoned and/or reconstruction, at its sole cost and expense, all utilities of the County, or of others, existing within the areas of the Street Vacations and required to be removed, relocated, left in place abandoned and/or reconstructed by the approved Plan. Such utilities shall include, but not be limited to, all water lines, sewer lines and any and all infrastructure and appurtenances thereto. All utilities removed or abandoned shall be relocated or reconstructed with new utilities and related facilities and appurtenances of size, dimension and location acceptable to the County, in accordance with the approved Plan and in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies, and as required by the Site Plan, as approved by the County Board.

4. The Owner/Applicant shall convey to the County Board, without payment of any compensation, all new utility easements required by the County Manager, by deed, in substance acceptable to the County Manager and approved as to form by the County Attorney. Such utility easements shall include easements for any utilities permitted in the approved Plan to continue to be located in the areas of the Street Vacations, whether such location is temporary or permanent. Utility easements for the continued location of utilities in the areas of the Street Vacations may be accomplished by reservation of easement rights by the County Board in the Deed of Vacation. In addition, and if applicable, the Owner/Applicant shall obtain all required right-of-way permits at the Owner/Applicant's sole cost and expense, needed to perform any work required therein.

5. The Owner/Applicant shall prepare and submit to the County, for review and approval, the Deed of Vacation and all other deeds required by this Ordinance of Vacation, along with all required plats. Such deeds and plats shall be subject to the approval by the County Manager, or his designee, as to substance, and such deeds shall be subject to approval as to form by the County Attorney. The Real estate Bureau Chief is authorized to execute the Deed of Vacation and to accept, on behalf of the County Board, any deeds related to or required by this Ordinance of Vacation. The Owner/Applicant shall be responsible for recordation of all deeds and plats in the Land Records.

6. The Deed of Vacation shall be in recordable form. The Deed of Vacation shall, among other things, convey by quitclaim, all right, title and interest, if any, of the County Board to and in the portions of the areas of the Street Vacations and related County facilities within the boundaries of the Street Vacations, subject to any reservations for easement required for any

County facilities designated to remain in place within the areas of the Street Vacations as set forth in the approved Plan.

7. The Owner/Applicant shall pay all fees, including the fees for plat review, approval and recordation of the Deed of Vacation and all other fees associated with this Ordinance of Vacation.

8. The Owner/Applicant shall pay to the County Board \$8,296,143.36 in compensation for the vacation of the Street Vacations.

9. All conditions of this Ordinance of Vacation shall be met by noon on June 12, 2024, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

DRAFT