



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of March 19, 2022

**DATE:** February 17, 2022

**SUBJECT:** Ordinance of Vacation to vacate a portion of an easement for street and public purposes running between Wilson Boulevard and Clarendon Boulevard along the eastern side of N. Courthouse Road on property known as Lot 24, Washington View, Land of GS DIV Clarendon Property Owning, LLC, RPC #17-011-011, with conditions.

**Owner/Applicant:** GIS DIV Clarendon Property Owning, LLC

**Agent/Attorney:** Nicholas V. Cumings  
Walsh, Colucci Lubeley & Walsh, P.C.  
2200 Clarendon Boulevard, Suite 1300  
Arlington, Virginia 22201

#### **C. M. RECOMMENDATION:**

1. Approve the attached ordinance of vacation to vacate a portion of an easement for street and public purposes running between Wilson Boulevard and Clarendon Boulevard along the eastern side of N. Courthouse Road on property known as Lot 24, Washington View, Land of GS DIV Clarendon Property Owning, LLC, RPC #17-011-011, 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 of Vacation, and all other documents or deeds necessary to effectuate the attached Ordinance of Vacation, subject to approval as to form by the County Attorney.

#### **TRANSPORTATION COMMISSION RECOMMENDATION:**

**Find** that the vacation of a portion of an easement for street and public purposes running between Wilson Boulevard and Clarendon Boulevard along the eastern side of N. Courthouse Road on property known as Lot 24, Washington View, Land of GS DIV Clarendon Property Owning, LLC, RPC #17-011-011, with conditions, is substantially in accord with the adopted comprehensive plan, or applicable portion thereof, of Arlington County, Virginia.

County Manager:

County Attorney:

Staff: Linda Eichelbaum Collier, DES, Real Estate Bureau

**ISSUES:** This is a request by the Owner/Applicant for vacation of a portion of an easement for street and public purposes (“Easement”) running between Wilson Boulevard and Clarendon Boulevard along the eastern side of N. Courthouse Road on property known as Lot 24, Washington View, Land of GS DIV Clarendon Property Owning, LLC, RPC #17-011-011 (“Property”) in order to construct a proposed Major Amendment to Site Plan No. 435, Wendy’s Residential (“Site Plan”), currently under consideration by the County Board. There are no outstanding issues.

**SUMMARY:** The Owner/Applicant has requested that the County Board enact the Ordinance of Vacation (“Ordinance”) to vacate the Easement 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 and relocation of any utilities, the County’s interests in the areas of the Easement would be extinguished.

**BACKGROUND:** The Owner/Applicant is proposing to develop the Property with a 16-story mixed-use building, consisting of ground floor retail and residential dwelling units above. The Applicant also proposes a public pedestrian plaza at the intersection of N. Courthouse Road, Wilson Boulevard, and Clarendon Boulevard of approximately 1,497 square feet. The County Board previously approved and extended a similar vacation in relation to the County Board’s prior approval of a site plan for office on the Property. This request is related to the new proposal for residential and is slightly different in square footage.

**DISCUSSION:** To permit construction of the Site Plan, the Owner/Applicant is requesting approval of the attached Ordinance to vacate the County’s property interests in the Easement shown as “Easement for Street and Public Purposes Deed Book 688 Page 335 390 S.F. or 0.00895 AC. Hereby Vacated” on a plat attached hereto entitled, “Plat Showing Vacation of an Easement for Street and Public Purposes Lot 24 Washington View Deed Book K-4 Page 335 Arlington County, Virginia,” dated September 3, 2021, revised February 16, 2022 and prepared by Bowman Consulting Group, Ltd. (“Plat”). Once the Ordinance is passed, the conditions contained therein satisfied, including payment of compensation and relocation of all utilities that may need to be relocated as required by an approved relocation plan, and the Deed of Vacation recorded, the County’s rights in the Easement area will be extinguished.

**Legal and Physical Description:** The Easement was created by a Deed of Easement recorded among the Arlington County land records (“Land Records”) in Deed Book 688 at Page 335. The underlying Property was conveyed to the Owner/Applicant by virtue of a Special Warranty Deed recorded among the Land Records as Instrument No. 20210100000888.

**Compensation:** Based upon an appraisal by a certified appraiser, staff has recommended and the Owner/Applicant has agreed to pay \$80,527.20 in compensation for the vacation of the Easement.

**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 March 19, 2022 meeting twice, in the February 22, 2022 and March 1, 2022 editions of the *Washington Times*.

**Comprehensive Plan:** The Property is designated as Office/Apartment/Hotel Medium on the GLUP.

**Zoning:** The Zoning for the Property is C-O-2.5.

**Master Transportation Plan:** The vacation of the Easement is consistent with the goals of the Master Transportation Plan.

**Neighborhood/Civic Association:** The Property is located within the Radnor/Ft. Myer Heights Civic Association.

**Master Utility Plans:** The proposed Ordinance requires the relocation of all utilities located within the Easement area and the provision of new easements to the County for any relocated utilities as necessary. All relocation of utilities must comply with a County approved relocation plan as well.

#### **PUBLIC ENGAGEMENT:**

##### *Level of Engagement:*

- Communicate – this level of engagement is appropriate because the request for the vacation of the Easement 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 March 19, 2022 meeting twice, in the February 22, 2022 and March 1, 2022 editions of the *Washington Times*.
- The Owner/Applicant sent notices of the County Board's consideration of the Easement vacation dated February 2, 2022.
- The REB sent an e-mail to Stan Karson, President of the Radnor/Ft. Myer Heights Civic Association notifying him of the County Board's consideration of the Easement vacation on February 14, 2022.
- 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 negative responses to the requested vacation of the Easement.

**FISCAL IMPACT:** The \$80,527.20 in compensation for the vacation of the Easement will be deposited into the County's general fund.

## ATTACHMENT

### **ORDINANCE OF VACATION TO VACATE A PORTION OF AN EASEMENT FOR STREET AND PUBLIC PURPOSES RUNNING BETWEEN WILSON BOULEVARD AND CLARENDON BOULEVARD ALONG THE EASTERN SIDE OF N. COURTHOUSE ROAD ON PROPERTY KNOWN AS LOT 24, WASHINGTON VIEW, LAND OF GS DIV CLARENDON PROPERTY OWNING, LLC, RPC #17-011-011, WITH CONDITIONS.**

BE IT ORDAINED that, pursuant to an application by GIS DIV Clarendon Property Owning, LLC (“Owner/Applicant”), on file in the offices of the Department of Environmental Services (“DES”), a portion of an easement for street and public purposes (“Easement”) running between Wilson Boulevard and Clarendon Boulevard along the eastern side of N. Courthouse Road on property known as Lot 24, Washington View, Land of GS DIV Clarendon Property Owning, LLC, RPC #17-011-011, shown as “Easement for Street and Public Purposes Deed Book 688 Page 335 390 S.F. or 0.00895 AC. Hereby Vacated” on a plat attached hereto entitled, “Plat Showing Vacation of an Easement for Street and Public Purposes Lot 24 Washington View Deed Book K-4 Page 335 Arlington County, Virginia,” dated September 3, 2021, revised February 16, 2022 and prepared by Bowman Consulting Group, Ltd. (“Plat”), is 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 private and public utilities located, in whole or in part, within the areas of the Easement being vacated hereby. 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, relocate, leave in place, abandon and/or reconstruct, or cause to be removed, relocated, left in place, abandoned and/or reconstructed, at its sole cost and expense, all utilities of the County, or of others, existing within the areas of the Easement 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 Easement, whether such location is temporary or permanent. Utility easements for the continued location of utilities in the area of the Easement 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 the 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 portion of the area of the Easement and related County facilities within the boundaries of the Easement, subject to any reservations for easement required for any County facilities designate to remain in place within the areas of the Easements 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 \$80,527.20 in compensation for the vacation of the Easement.
9. All conditions of this Ordinance of Vacation shall be met by noon on March 19, 2025, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.