

ORDINANCE NO. 3738

AN ORDINANCE to vacate a portion of the public right-of-way of Fern Street, between Kenwood Avenue and Osage Street, in the City of Alexandria, Virginia.

WHEREAS, the Lindsay Cadillac Company ("Applicant"), which owns the property at 1525 Kenwood Avenue, Alexandria, Virginia, has applied for the vacation of a portion of the public right-of-way of Fern Street, between Kenwood Avenue and Osage Street, which lies between properties owned by Applicant, with the exception of a small portion near Osage Street which abuts the Blessed Sacrament Church property; and

WHEREAS, the portion of the Fern Street public right-of-way to be vacated by this ordinance is shown on the plat prepared by Holland Engineering and dated February 15, 1994 ("Plat") (attached hereto); and

WHEREAS, this vacation has been recommended for approval by the Planning Commission of the City of Alexandria at one of its regular meetings; and

WHEREAS, the procedures required by law, including the publication of notice in a newspaper of general circulation in the City of Alexandria, have been followed in conjunction with this vacation; and

WHEREAS, viewers duly appointed by the Council of the City of Alexandria have made their report in conjunction with this vacation; and

WHEREAS, the city's real estate assessor has determined that the fair market value of the portion of the Fern Street public right-of-way to be vacated by this ordinance to be \$211,300; and

WHEREAS, the Applicant has agreed to permit customers and employees of Ernie's Crab House to park along the portion of the Fern Street right-of-way being vacated by this ordinance, in accordance with the agreement signed by both parties and dated April 4, 1994; and

WHEREAS, Blessed Sacrament Church, which owns property that is immediately adjacent to segment of the portion of the Fern Street public right-of-way being vacated by this ordinance, has agreed to convey approximately 7,800 square feet of such property to the Applicant and, as a result, does not wish to purchase the portion of the public right-of-way being vacated by this ordinance that lies between its property and the center line of Fern Street; and

WHEREAS, Blessed Sacrament Church, in a letter dated May 13, 1994, from the Most Reverend John R. Keating, has stated that

the Church consents to the vacation being effected by this ordinance; and

WHEREAS, pursuant to § 15.1-366 of the Code of Virginia (1950), as amended, the City of Alexandria has required that, as a condition of this vacation, the portion of the Fern street public right-of-way to be vacated by this ordinance be purchased by the Applicant for \$211,300; and

WHEREAS, in consideration of the report of the viewers recommending the vacation, of other evidence relative thereto and of the Applicants' agreement to comply with the conditions set forth below and the condition that it purchase the portion of the Fern Street public right-of-way to be vacated by this ordinance for \$211,300, the Council of the City of Alexandria has concluded that said portion of the public right-of-way, as shown on the Plat, is no longer needed for public use and that it is in the public interest that it be vacated; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the hereinafter described portion of the public right-of-way of Fern Street, between Kenwood Avenue and Osage Street, as shown on the Plat, be and the same hereby is vacated:

Beginning at a point on the easterly line of Fern Street (variable width), said point being the southeast corner of Lot 603 of the re-subdivision of Garrett vs. Duncan and the southwest corner of Lot 807 of the re-subdivision of Garrett vs. Duncan; thence with said easterly line of Fern Street the following two courses and distances: South 41° 29' 30" East, 262.49 feet to a point; and South 09° 06' 00" West, 276.03 feet to a point; thence departing said easterly line of Fern Street North 80° 54' 00" West, 69.00 feet to a point on the northerly line of Osage Street (40' right-of-way), said point being the southeast corner of Lot 1, Block 8, Section 1 West Braddock Heights; thence running with Osage Street, North 54° 06' 00" East, 28.28 feet to a point on the westerly line of Fern Street (variable width); thence with said westerly line of Fern Street the following four courses and distances: North 09° 06' 00" East, 95.00 feet to a point; North 80° 54' 00" West, 1.00 foot to a point; North 09° 06' 00" East, 137.40 feet to a point; and North 41° 29' 30" West, 238.86 feet to a point; thence running through said Fern Street North 48° 30' 30" East, 50.00 feet to the point of beginning, and containing 25,830 square feet or 0.5930 acres.

Section 2. That this vacation is subject to the Applicant complying with the condition that it purchase the above-described public right-of-way for \$211,300 and with each of the conditions set forth below:

(a) The Applicant shall consolidate the portion of the Fern Street public right-of-way vacated by this ordinance with its properties on both sides of Fern Street (1525 Kenwood Avenue and 1601 Fern Street), and provide a plat of consolidation for approval by the city director of planning and community development.

(b) The Applicant shall reserve, in the portion of the Fern Street right-of-way being vacated by this ordinance, and provide to the city, a 22-foot-wide emergency vehicle and city vehicle easement from Osage Street to Kenwood Avenue, to the satisfaction of the director of transportation and environmental services and the city fire marshal.

(c) The Applicant shall reserve and provide to the city a minimum 10-foot-wide easement over all public sewers located in the portion of the Fern Street right-of-way being vacated by this ordinance, to the satisfaction of the director of transportation and environmental services.

(d) The Applicant shall reserve, and provide to the city, a fire hydrant maintenance easement, from the emergency vehicle easement provided pursuant to subsection (b) to all fire hydrants located in the portion of the Fern Street right-of-way being vacated by this ordinance, to the satisfaction of the director of transportation and environmental services and the city fire marshal.

(e) The Applicant shall reserve and provide easements to each of the private utility companies having utilities within the portion of the Fern Street right-of-way being vacated by this ordinance, to the satisfaction of the director of transportation and environmental services.

(f) All street lights located in the portion of the Fern Street right-of-way being vacated by this ordinance shall be converted to private ownership.

(g) The Applicant shall, at the Kenwood Avenue entrance to the portion of the Fern Street right-of-way being vacated by this ordinance, provide notice to the public that said right-of-way is private, which notice could be accomplished through modification of the entrance and landscaping, and shall be to the satisfaction of the director of transportation and environmental services.

(h) The Osage Street end of the portion of the Fern Street right-of-way being vacated by this ordinance may be

closed, subject to the continued provision of emergency vehicle access, to the satisfaction of the director of transportation and environmental Services and the city fire marshal.

(i) The Applicant shall provide written acknowledgement from Blessed Sacrament Church indicating that the Church's rights, concerns and questions regarding this vacation have been adequately addressed by Applicant.

Section 3. That no recordation of this ordinance shall have any force or effect unless and until the conditions set out in Section 2 above have been satisfied, and the treasurer of the city has received the payment of \$211,300 referenced in section 2 above and such receipt is noted on the face of the ordinance prior to its recordation.

Section 4. That the city manager be and hereby is authorized to do on behalf of the City of Alexandria all things necessary or desirable to carry into effect this vacation, including the execution of documents.

Section 5. That the city clerk be and hereby is authorized to attest the execution by the city manager of all documents necessary or desirable to carry into effect this vacation, and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 6. That this ordinance shall be deemed to be enacted on the date of its final passage, but shall not be effective until the conditions set forth in Section 2 have been satisfied, including the payment of \$211,300 to the city by the Applicant, and thereafter a copy of this ordinance has been certified by the city clerk and has been recorded among the city land records as deeds are recorded. Certification by the clerk shall constitute conclusive evidence that the conditions set forth in Section 2 have been satisfied. Recordation of the certified ordinance shall be indexed in both the name of the CITY OF ALEXANDRIA and the name of THE LINDSAY CADILLAC COMPANY, and such recordation shall be done by the Applicant at its own expense.

PATRICIA S. TICER
Mayor

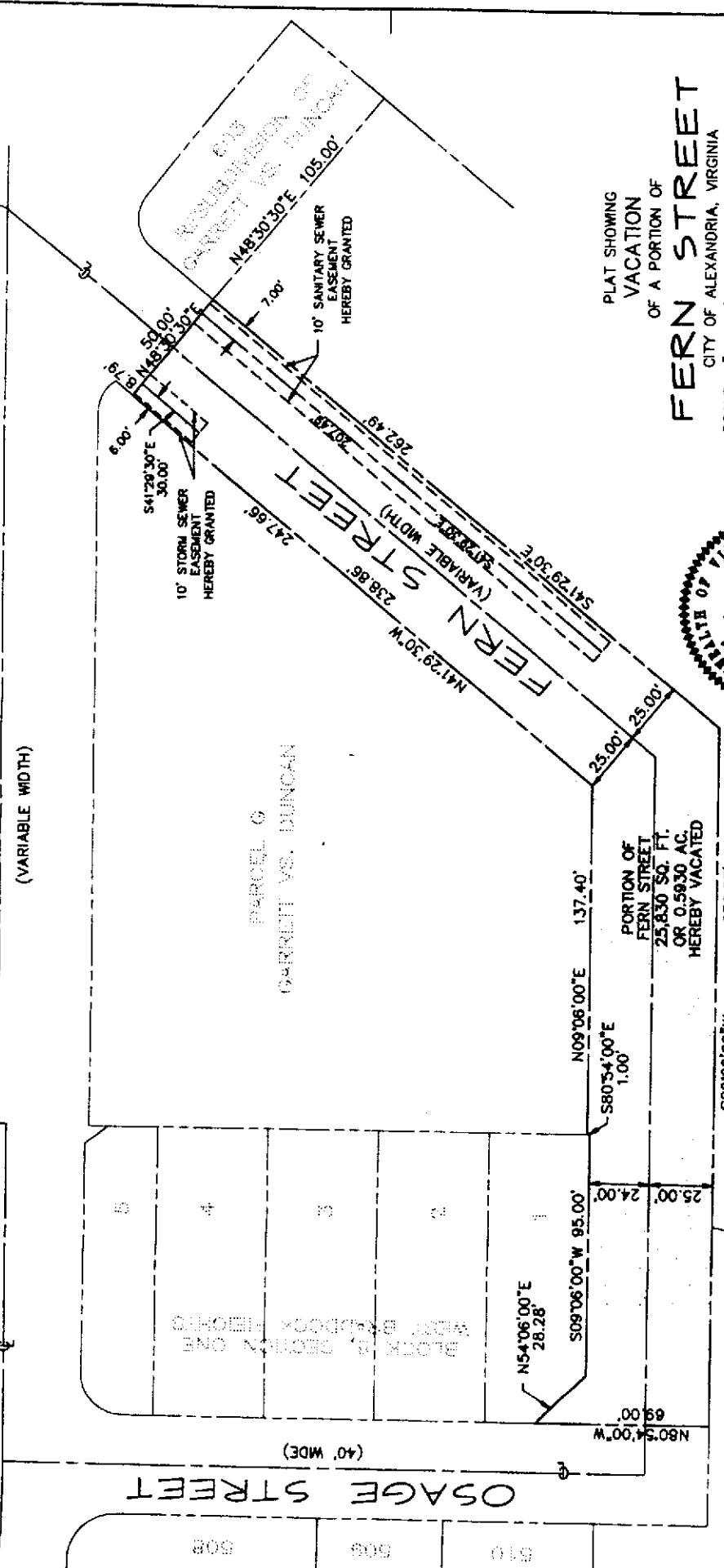
Attachment: Vacation Plat

Final Passage: June 18, 1994

NOTES

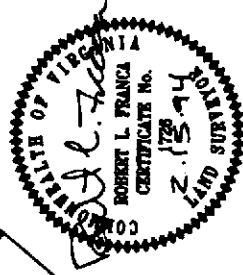
- 1.) NO TITLE REPORT FURNISHED. PLAT SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
- 2.) THE PROPERTY DELINEATED HEREON IS SHOWN ON CITY OF ALEXANDRIA TAX MAPS 22.04 AND 32.00.

KENWOOD AVENUE
(VARIABLE WIDTH)



PLAT SHOWING
VACATION
OF A PORTION OF
FERN STREET
CITY OF ALEXANDRIA, VIRGINIA
SCALE: 1" = 40' DATE: FEBRUARY 15, 1994

HOLLAND ENGINEERING
2111 EISENHOWER AVENUE
ALEXANDRIA, VIRGINIA 22314
(703) 548-2188



DRAWN BY: RLF	SCALE: 1" = 40'	SHEET NO. 1 OF 1	JOB NO. VAS-136-3
CHECKED BY: MF	DATE: 2-15-94		