

ORDINANCE NO. 4182

AN ORDINANCE to vacate portions of public street rights-of-way and public street easements which comprise access roads in Sections 1, 2 and 3, KMS Townhouses, located in the City of Alexandria, Virginia, along North Van Dorn, Vail, Terrill and North Pelham Streets, and Richenbacher Avenue.

WHEREAS, the City of Alexandria, Department of Transportation and Environmental Services ("Applicant") has applied for the vacation of portions of public street rights-of-way (generally shown on the attached plat as "8' WIDE PUBLIC STREET R/W (HEREBY VACATED)") and portions of public street easements (generally shown on the attached plat as "6' WIDE PUBLIC STREET ESMT. (HEREBY VACATED)"), which comprise service roads along North Van Dorn Street, Richenbacher Avenue, Vail Street, Terrill Street and North Pelham Street, in Sections 1, 2 and 3, KMS Townhouses, located in the City of Alexandria, Virginia; and

WHEREAS, the portions of the public street rights-of-way and public street easements to be vacated by this ordinance were dedicated to the City of Alexandria in 1968, by deed of dedication which is recorded in Deed Book 680, at page 427, among the land records of the City of Alexandria, in 1968, by deed of dedication which is recorded in Deed Book 689, at page 584, among the aforesaid land records, and in 1969, by deed of dedication which is recorded in Deed Book 696, at page 606, among the aforesaid land records; and

WHEREAS, the portions of the public street rights-of-way and public street easements to be vacated by this ordinance are shown on the "Drawing Showing Vacation of Street Right-of-Way and Vacation of a Portion of Easement for Public Street Purposes Originally Dedicated as Part of KMS Townhouses Subdivisions," prepared by Transportation & Environmental Services, Engineering & Design Division - Survey Section, and last modified November 9, 2000 (the "Plat") (attached hereto); and

WHEREAS, the vacation of the portions of the public street rights-of-way and public street easements has been approved 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, Donald Allen, Chair; Katrine Fitzgerald and Judith L. Lowe, have been, and again by this ordinance are, duly appointed by the Council of the City of Alexandria, and have made their report in conjunction with this vacation; and

WHEREAS, in consideration of the report of the viewers recommending the vacation, of other evidence relative thereto and of the obligation of the owners of the lots within Sections 1, 2 and 3, KMS Townhouses, to comply with the conditions set forth below, the Council of the City of Alexandria has concluded that the portions of the public street rights-of-way and public street easements are no longer needed for public use as public street rights-of-way and public street easements and that it is in the public interest that they be vacated; and

WHEREAS, it is the desire of the Council of the City of Alexandria that the owners who will acquire title to the property vacated by this ordinance will cooperate with one another and work together to maintain such property for their mutual benefit; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the portions of public street rights-of-way and public street easements that are shown on the Plat as being vacated, be, and the same hereby are, vacated.

Section 2. That title to each of the parcels created by such vacation, as shown on the Plat, (a) shall vest in the current owner of the immediately contiguous lot within Sections 1, 2 and 3, KMS Townhouses, as such lot is shown on the Plat and such owner is identified on Exhibit A attached hereto and incorporated herein by this reference, (b) shall be deemed consolidated with such immediately contiguous lot for purposes of the application of city, state and federal laws and regulations, and (c) may only be conveyed with such immediately contiguous lot.

Section 3. That this vacation is further subject to the conditions set forth below:

(1) The City of Alexandria ("City") expressly reserves, for the use and benefit of the public, public vehicular and pedestrian access easements over the portions of the public street rights-of-way vacated by this ordinance, further subject to the following conditions:

(a) No parking shall be permitted in the areas subject to this reserved easement.

(b) The owner of each lot within Sections 1, 2 and 3, KMS Townhouses shall be responsible for the reasonable maintenance, repair and replacement of the street improvements and facilities (including, without limitation, pavement) located within the portions of the public street rights-of-way and public street easements vacated by this ordinance which are immediately contiguous to such owner=s lot.

(c) The City shall continue to maintain the public street rights-of-way and public street easements outside of the portions of the public street rights-of-way and public street easements vacated by this ordinance, including areas in which sidewalks, curbs and gutters are located, according to the same standards and intervals as it does elsewhere in the City.

(d) The City shall have no obligation to maintain, repair or replace any street improvements and facilities located within the portions of the public street rights-of-way and public street easements vacated by this ordinance. In furtherance, but not in limitation, of the foregoing, the City shall not be obligated, within such vacated portions (i) to stripe, clean, plow, salt, pave or repave, or (ii) to erect new signs, or maintain, repair or replace existing signs.

(2) The City expressly reserves emergency vehicle easements over the portions of the public street rights-of-way vacated by this ordinance for the purpose of ingress and egress by emergency and police vehicles.

(3) The City expressly reserves, for its own benefit and the benefit of public and private utilities, underground utility easements for existing facilities beneath the portions of the public street rights-of-way and public street easements vacated by this ordinance, provided the exercise by any public or private utility of any such easement rights shall be subject to the terms of such utility=s franchise issued by the City, or, absent such a franchise, other applicable authority pursuant to which such utility occupies public streets in the City.

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 the city attorney be and hereby is authorized, prior to recordation of the certified ordinance, as provided in section 7 below, to make such corrections to Exhibit A as are necessary to reflect the record ownership of the lots within Sections 1, 2 and 3, KMS Townhouses at the time of recordation, and to make conforming amendments to the Plat, as may be necessary.

Section 7. That this ordinance shall be deemed to be enacted on the date of its final passage, but shall not be effective until 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. The City of Alexandria, at its expense, shall cause recordation of the certified ordinance, indexed in the name of the CITY OF ALEXANDRIA, as grantor, and the names identified on Exhibit A, as grantees.

KERRY J. DONLEY
Mayor

Attachments: Vacation Drawing
Exhibit A - Owners of Lots

Introduction: 01/09/01
First Reading: 01/09/01
Publication: 01/11/01
Public Hearing: 01/13/01
Second Reading: 01/13/01
Final Passage: 01/13/01