

ORDINANCE NO. 4700

AN ORDINANCE to vacate a portion of the public right-of-way at 3110 Mount Vernon Avenue (VAC No. 2009-0001).

WHEREAS, UDR Developers, Inc., on behalf of UDR Calvert, LLC (Owner) has applied for the vacation of a portion of the public right-of-way adjacent to the property at 3110 Mount Vernon Avenue in the City of Alexandria, Virginia; and

In Vacation No. 2009-0001, the planning commission recommended approval to the City Council on September 7, 2010 of a vacation of public right of way, which recommendation was approved by the City Council at public hearing on September 25, 2010; and

WHEREAS, viewers, Dak Harwick, C.E. Palmer-Johnson, and Sandy Murphy have been, and again by this ordinance are, duly appointed by the Council of the City of Alexandria, to make their report in conjunction with this vacation; 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, in consideration of the report of the viewers, of other evidence relative to this vacation and of compliance with the conditions set forth in this ordinance, the Council of the City of Alexandria, has determined that the portion of the public right-of-way to be vacated is no longer desirable for public use and that the public interest will not be harmed by this vacation; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the vacation of the public right-of-way to Owner, as shown on the plat of vacation title "Plat Showing Abandonment and Vacation of a Portion of Mount Vernon Avenue" attached hereto as Exhibit A and incorporated herein by reference and as described in the metes and bounds titled "Description of Mount Vernon Avenue (Portion to be abandoned and vacated)", attached hereto as Exhibit B and incorporated herein by reference, be, and the same hereby is, approved.

Section 2. That the vacation made and provided by the preceding section of this ordinance, be, and the same hereby is, subject to the conditions set forth below:

1. The vacated right-of-way shall be consolidated with the adjoining lot, and the plat of consolidation approved by the Directors of P&Z and T&ES prior to release of the final site plan. The approved plat shall be recorded in the Land Records of the City of Alexandria.

2. Utility easements for all public and private utilities shall be provided within the vacated right-of-way and such easements are to be shown on the plat of consolidation.

3. The sanitary sewer lateral upstream of the existing sanitary manhole located in the existing right-of-way that will be located in the future sanitary easement shall be maintained by the applicant.

4. The applicant shall be responsible for perpetual ownership, development and maintenance of the improvements constructed in the vacated right-of-way.

5. The property owners may not use the vacated land area to derive any increased above and below grade development rights for the lands adjacent to the vacated area, including increased floor area, subdivision rights or additional dwelling units; however, the property owner may construct the planters and steps as shown on the Preliminary Site Plan. The above and below grade restrictions 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 Directors of P&Z and T&ES.

6. The City shall own and maintain the sidewalk constructed in the public right-of-way and the property owner shall own and maintain the improvements constructed in the vacated right of way. This area shall be covered by a public access easement that allows the public to use the improvements constructed in the vacated public right-of-way.

Section 3. The term "Owner" shall be deemed to include UDR Developers, Inc., and UDR Calvert, LLC and their respective successors in interest.

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 effective upon the date and at the time of its final passage; provided, however, that no recordation of this ordinance shall have any force or effect unless and to the extent annexed to a deed, executed by the city manager and attested by the city clerk, conveying the property vacated to Owner. The execution of such deed shall constitute conclusive evidence of compliance with the provisions of this ordinance. Such deed shall be recorded and indexed in the name of the City of Alexandria, as grantor, and Owner as

grantee, and such recordation shall be done by the grantee at his or her own expense. In the event no such deed is recorded within 18 months of the effective date, this ordinance shall be void and of no effect.

WILLIAM D. EUILLE
Mayor

Final Passage: December 18, 2010