

ARLINGTON COUNTY, VIRGINIA

<p>County Board Agenda Item Meeting of June 12, 2021</p>

DATE: May 11, 2021

SUBJECT: Ordinance(s) of Vacation to vacate: 1) portion of an easement for public street purposes for S. Clark Street running south from 20th Street South, parallel to the east side of Richmond Highway and on the west side of Parcel A-45, RPC #34-020-267; and 2) portion of an easement for public street and utilities purposes for S. Clark Street running west from Richmond Highway on the northern side of Parcel A-45, RPC #34-020-267, both of the above, with conditions.

Owner/Applicant: CESC Plaza Limited Partnership

Agent/Attorney: Kedrick Whitmore, Venable LLP
8010 Towers Crescent Drive, Suite 300
Tysons, Virginia 22182

C. M. RECOMMENDATION:

1. Enact the attached Ordinance of Vacation to vacate: 1) portion of an easement for public street purposes for S. Clark Street running south from 20th Street South, parallel to the east side of Richmond Highway and on the west side of Parcel A-45, RPC #34-020-267; and 2) portion of an easement for public street and utilities purposes for S. Clark Street running west from Richmond Highway on the northern side of Parcel A-45, RPC #34-020-267, both 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 other documents or deeds necessary to effectuate the attached Ordinance of Vacation, subject to approval as to form by the County Attorney.

<p>County Manager:</p>
<p>County Attorney:</p>
<p>Staff: Linda Eichelbaum Collier, REB, DES</p>

TRANSPORTATION COMMISSION RECOMMENDATION:

Find that the vacation of: 1) a portion of an easement for public street purposes for S. Clark Street running south from 20th Street South, parallel to the east side of Richmond Highway and on the west side of Parcel A-45, RPC #34-020-267; and 2) a portion of an easement for public street and utilities purposes for S. Clark Street running west from Richmond Highway on the northern side of Parcel A-45, RPC #34-020-267, both of the above, with conditions is substantially in accord with the Comprehensive Plan, including the Master Transportation Plan, of Arlington County Virginia.

ISSUES: This is a request by the Owner/Applicant for vacation of portions of public street and public street and utilities easements for S. Clark Street (“Street Easements”) to permit the Owner/Applicant to redevelop the site in accordance with a proposed new major site plan amendment, SP #458 (“Site Plan”), currently under consideration by the County Board. There are no outstanding issues related to the proposed vacations.

SUMMARY: The Owner/Applicant has requested that the County Board enact the Ordinance of Vacation (“Ordinance”) to vacate the Street Easements located within the property of the proposed Site Plan. 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 Street Easements would be extinguished.

BACKGROUND: The proposed Site Plan and associated items, approved by the County Board at its May 15, 2021 meeting, would allow for the redevelopment of 2001 S. Clark Street with up to 6.9 FAR total density, including approximately 701,101 sq. ft. of residential and 22,250 sq. ft. of commercial gross floor area (GFA). The residential density is split between two (2) towers, with a total of 758 dwelling units; while the retail uses are located on the ground floor of each tower. The project would also provide a new segment of South Bell Street (Clark-Bell Street), a replacement segment of The Underground pedestrian concourse beneath the site, and a new 7,200 sq. ft. open space. Parking for the new site plan would be provided in a new underground garage (302 spaces total), while parking for the remainder of the block (SP #11), totaling 1,386 spaces, is accommodated in the existing underground parking structure to remain. The Street Vacations are requested to facilitate such development.

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 “Portion of Existing 68’ Easement for Public Street Purposes D.B. 1537, PG. 486 7,404 S.F. or 0.16997 AC. Hereby Vacated” and “Portion of Existing Easement for Public Street and Utilities Purposes D.B. 1677, PG. 216 40 S.F. or 0.00091 AC. Hereby Vacated” on a plat entitled “Plat Showing the Vacation of a Portion of an Existing Easements for Public Street and Utilities Purposes on Parcel A-45 Crystal Plaza Arlington County, Virginia,” dated June 1, 2020, last updated April 13, 2021, and prepared by Bowman Consulting Group, Ltd. (“Plat”).

Legal and Physical Descriptions: The property upon which the Street Easements are located is owned by CESC Plaza Limited Partnership by virtue of a deed recorded among the Arlington County Land Records in Deed Book 4282 at Page 1281. The Public Street and Utilities

Easement was conveyed to the County by Deed of Easement recorded among the Land Records in Deed Book 1677 at Page 216. The Public Street Easement was conveyed to the County as part of a Deed of Resubdivision recorded among the Land Records in Deed Book 1537 at Page 486.

Compensation: Staff recommends \$1,491,330.96 in compensation based upon a fair market 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 Board's consideration of the vacations at its June 12, 2021 meeting twice, in the May 25, 2021 and the June 1, 2021 editions of the *Washington Times*.

Comprehensive Plan: The GLUP designation for the Site Plan area is High- Office Apartment Hotel.

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

Master Transportation Plan: The vacation of the portions of the Street Easements, along with the new streets provided by the Site Plan, further the Master Transportation Plan goals.

Neighborhood/Civic Association: The Site Plan area is located within the Crystal City Civic Association.

Master Utility Plans: The proposed Ordinance requires the relocation of all utilities located within the Street Easements 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 as well.

PUBLIC ENGAGEMENT:

Level of Engagement:

- Communicate – this level of engagement is appropriate because the request for the vacation of the Street Easements 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 Board's consideration of the vacations at its June 12, 2021 meeting twice, in the May 25, 2021 and the June 1, 2021 editions of the *Washington Times*.
- The Owner/Applicant sent notices dated March 1, 2021 of the Board's consideration for the vacation of the Street Easements 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 one favorable response to the notices sent out by the Owner/Applicant and no other feedback.

FISCAL IMPACT: The \$1,491,330.96 received in compensation for the vacation of the Street Easements will be deposited into the County's general fund.

DRAFT

ATTACHMENT 1

ORDINANCE OF VACATION TO VACATE: 1) PORTION OF AN EASEMENT FOR PUBLIC STREET PURPOSES FOR S. CLARK STREET RUNNING SOUTH FROM 20TH STREET SOUTH, PARALLEL TO THE EAST SIDE OF RICHMOND HIGHWAY AND ON THE WEST SIDE OF PARCEL A-45, RPC #34-020-267; AND 2) PORTION OF AN EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES FOR S. CLARK STREET RUNNING WEST FROM RICHMOND HIGHWAY ON THE NORTHERN SIDE OF PARCEL A-45, RPC #34-020-267, BOTH OF THE ABOVE, WITH CONDITIONS.

BE IT ORDAINED that, pursuant to an application by CESC Plaza Limited Partnership (“Owner/Applicant”), on file in the offices of the Department of Environmental Services (“DES”), the following: 1) portion of an Easement for Public Street Purposes for S. Clark Street created as part of a Deed of Resubdivision and recorded among the Arlington County land records (“Land Records”) in Deed Book 1537 at Page 486 and shown as “Portion of Existing 68’ Easement for Public Street Purposes D.B. 1537, PG. 486 7,404 S.F. or 0.16997 AC. Hereby Vacated” on a plat entitled “Plat Showing the Vacation of a Portion of an Existing Easements for Public Street and Utilities Purposes on Parcel A-45 Crystal Plaza Arlington County, Virginia,” dated June 1, 2020, last updated April 13, 2021, and prepared by Bowman Consulting Group, Ltd. (“Plat”) and 2) portion of an Easement for Public Street and Utilities Purposes for S. Clark Street created by Deed of Easement recorded among the Land Records in Deed Book 1677 at Page 216 and shown on the Plat as “Portion of Existing Easement for Public Street and Utilities Purposes D.B. 1677, PG. 216 40 S.F. or 0.00091 AC. Hereby Vacated,” (collectively the areas being vacated, “Street Easements”) 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 Easements vacated by this Ordinance of Vacation. 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 Street Easements 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 Easements, whether such location is temporary or permanent. Utility easements for the continued location of utilities in the areas of the Street Easements 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 Easements and related County facilities within the boundaries of the Street Easements, subject to any reservations for easement required for any County facilities designated to remain in place within the areas of the Street 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 \$1,491,330.96 in compensation for the vacation of the Street Easements.

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.