



City of Fairfax, Virginia
City Council Regular Meeting

Agenda Item # 8b

City Council Meeting 1/11/2022

TO: Honorable Mayor and Members of City Council

FROM: Robert A. Stalzer, City Manager *RA Stalzer*

SUBJECT: Consideration of an ordinance permanently vacating, discontinuing, and closing a portion of City public rights-of-way (part of Cedar Avenue and Walnut Street)

ISSUE(S): Whether to enact an ordinance to vacate a portion of the Cedar Avenue and Walnut Street rights-of-way in connection with the proposed Pulte Homes, LLC redevelopment of the “Breezeway Motel” property (Rezoning Application Z-18-00539).

SUMMARY: Pulte Homes, LLC, the applicant under the above-referenced rezoning application, is requesting that the City vacate approximately 4,558 square feet of existing Cedar Avenue at Walnut Street in order to facilitate the proposed redevelopment as planned. Vacation requires the enactment of an ordinance and the finalization of the terms of such vacation. Both the applicant and the City obtained appraisals of the proposed vacation area and have worked cooperatively on achieving a negotiated value for the vacation.

The proposed ordinance would, as a condition of the vacation becoming final, require the City and the applicant to enter into an agreement governing the payment of the compensation amount, as well as other requirements, including compliance with any applicable provisions from the final approved rezoning and other matters, within a period of three years following approval of the rezoning (otherwise the vacation would become null and void). Approval of this ordinance requires the affirmative vote of five Councilmembers.

FISCAL IMPACT: The final approved compensation (recommended at \$268,922.00).

RECOMMENDATION: Conduct the public hearing and enact the ordinance.

ALTERNATIVE
COURSE OF ACTION: Not enact the ordinance.

RESPONSIBLE STAFF/
POC: Community Development and Planning; Public Works; City Attorney

COORDINATION: Real Estate.

ATTACHMENTS: Draft Ordinance; Sample Motion

ORDINANCE NO. 22- _____

AN ORDINANCE PERMANENTLY VACATING, DISCONTINUING AND CLOSING A PORTION OF CITY PUBLIC RIGHTS-OF-WAY (PART OF CEDAR AVENUE AND WALNUT STREET).

WHEREAS, Pulte Homes Company, LLC, by its agent, filed an application with the City requesting that the City permanently vacate, discontinue, and close a portion of the City's Cedar Avenue and Walnut Street public rights-of-way, as more completely hereinafter described; and

WHEREAS, the required advertising of this ordinance has been effected, proper notice has been given, and all other requirements of applicable law have been satisfied; and

WHEREAS, a public hearing was held on the application by the City Council on January 11, 2022, after due and timely notice thereof, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on the application; and

WHEREAS, the City Council has determined that no inconvenience will result to any individual or to the public from permanently vacating, discontinuing, and closing the portion of such public right-of-way.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fairfax, Virginia, that, subject to full satisfaction of each of the elements of this ordinance, the following portion of the Cedar Avenue and Walnut Street public rights-of-way situated in the City of Fairfax, Virginia, be, and is hereby permanently vacated, discontinued, and closed, and that all right and interest of the public in and to the same be, and hereby is, released insofar as the City Council is empowered so to do with respect to the closed portion of the rights-of-way:

Beginning at a point of curvature on the easterly right of way of Walnut Street, having a 50 foot right of way width, as shown on a plat of subdivision recorded among the Land Records of Fairfax County, Virginia at Deed Book E-12, Page 396, said point being a common corner to Lots 43 & 55A, Section 2, Fairfax Heights as shown on a plat of subdivision recorded among said land records at Deed Book Q-13, Page 180, Thence with the easterly right of way line, said line also being the northerly line of Cedar Avenue, having a 50 foot right of way width, as shown on said plat of subdivision recorded among said land records at Deed Book E12 Page 396:

1. 140.31 feet along the Arc of a Curve, deflecting to the left, having a radius of 125.20 feet, and having a Chord Bearing and Distance of South 59°26'58" EAST, 133.08 feet to a point of non-tangency on said northerly right of way line; thence departing the existing right of way line and running through the dedicated right of way the following three (3) courses:
2. South 88°26'45" West, 72.41 feet to a point of curvature, thence

3. 35.27 feet along the Arc of a Curve, deflecting to the right, having a radius of 25.00 feet, and having a Chord Bearing and Distance of North 51°08'08 West, 32.42 feet to a point of reverse curvature; thence
4. 52.29 feet along the Arc of a Curve, deflecting to the left, having a radius of 180.44 feet, and having a Chord Bearing and Distance of North 19°01'10" West, 52.11 feet to the point of beginning.

Containing an area of 1,350 square feet or 0.0310 acres of land, more or less.

AND

Beginning at a point of curvature on the southerly right of way line of Cedar Avenue, having a 50 foot right of way width, as shown on a plat of subdivision recorded among the Land Records of Fairfax County, Virginia at Deed Book E-12, Page 396, said point also being the common corner of Lots 81A & 83, Section 2, Fairfax Heights as shown on a plat of subdivision recorded among the land records of Fairfax County at Deed Book Q-13, Page 180 and Deed Book E-12, Page 396; thence with said southerly right of way line, said line also being the easterly right of way line of Walnut Street, having a 50' right of way width, as shown on said plat of subdivision recorded among the land records at Deed Book E-12, Page 396,

1. 250.74 feet along the Arc of a Curve, deflecting to the left, having a radius of 234.69 feet, and having a Chord Bearing and Distance of South 57°50'11" West, 238.98 feet to a point of non-tangency on said easterly right of way line; thence departing the right of way line and running through the existing right of way the following four (4) courses:
 2. North 27°13'45" East, 87.96 feet to a point of curvature; thence
3. 30.44 feet along the Arc of a Curve, deflecting to the left, having a radius of 180.44 feet, and having a Chord Bearing and Distance of North 22°23'46" East, 30.40 feet to a point of reverse curvature; thence
4. 30.93 feet along the Arc of a Curve, deflecting to the right, having a radius of 25.00 feet, and having a Chord Bearing and Distance of North 53°00'16" East, 28.99 feet to a point tangency, thence
 5. North 88°26'45" East, 127.37 feet to the point of beginning.

Containing an area of 3,208 square feet or 0.0736 acres of land, more or less.

BE IT FURTHER ORDAINED that the City Manager is hereby authorized to execute a separate agreement with the applicant, such agreement to be prepared by the City Attorney, governing the payment of any required cash compensation to the City in the amount contained in the motion approving this ordinance and such other matters to be contained in such agreement regarding the proper timing for the consummation of the vacation transaction, including but not limited to the satisfaction of any applicable conditions and requirements associated with Rezoning Application Z-18-00539, as determined by City staff.

BE IT FURTHER ORDAINED that this ordinance, and the vacation authorized hereby, shall be null and void and no longer operative if each of the conditions contained herein, specifically including but not limited to the execution of the separate agreement between the applicant and the City as noted above and full satisfaction of the requirements that may be contained therein, are not satisfied by the date that is three (3) years following

the effective date of this ordinance. Further, this ordinance shall be null and void, and no longer operative, if Rezoning Application Z-18-00539 is not approved by the City Council.

BE IT FURTHER ORDAINED that the applicant shall, upon meeting all other conditions to the granting of the application and this ordinance, and upon final approval by the City Attorney, deliver to the Clerk of the Circuit Court for Fairfax County, Virginia, a certified copy of this ordinance for recordation where deeds are recorded in such Clerk’s Office, indexing the same in the name of the City of Fairfax, Virginia, as Grantor, and in the name of the applicant, and the names of any other parties in interest who may so request, as Grantees, and pay such fees and charges as are required by the Clerk to effect such recordation.

BE IT FINALLY ORDAINED that the applicant shall, upon recording a certified copy of this ordinance with the Clerk of the Circuit Court for Fairfax County, Virginia, file with the City Attorney, the Clerk’s receipt, demonstrating that such recordation has occurred.

This Ordinance shall become effective as provided by law.

INTRODUCED:
PUBLIC HEARING:
ADOPTED:

Mayor

Date

ATTEST:

City Clerk

VOTE:
Councilmember Harmon _____
Councilmember Lim _____
Councilmember Miller _____
Councilmember Ross _____
Councilmember Stehle _____
Councilmember Yi _____

SAMPLE MOTION

“I MOVE TO ENACT AN ORDINANCE VACATING A PORTION OF THE CITY’S CEDAR AVENUE AND WALNUT STREET PUBLIC RIGHTS-OF-WAY, AS DESCRIBED AND ON THE TERMS SET FORTH IN THE ORDINANCE.

I FURTHER MOVE TO ESTABLISH THE REQUIRED COMPENSATION FOR THE VACATED PROPERTY AT \$268,922.00.”