

# Memorandum and Report of Viewers

**TO:** Mayor and Town Council

**CC:** Town Manager and Town Attorney

**FROM:** Emil D. Attanasi, Robert W. Dowler and Robert B. Petersen

**RE:** Viewing Report: Proposed vacation of all or Portion of Alley between Ayr Hill Avenue, N.W. and Wilmer Place, N.W.

**DATE:** February 20, 2013

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The viewers met at the subject property (survey of "15 Alley Wilmar Place" and aerial photo attached) at 4:30p.m. on February 15, 2013.

**A. Viewers' description of area:** Wilmar Place NW has no sidewalks, curbs, or connection to a sub-surface storm water sewer system. Ayr Hill Avenue NW has a sidewalk on one side but does not have curb or connection to subsurface storm water sewer system. Both Wilmar Place NW and Ayr Hill Avenue NW have very shallow culverts along the street. The elevation of the alley at Center Street is substantially below the elevation at Lawyer's Road. The elevation of Ayr Hill Avenue NW is also quite a bit below Wilmar Place NW. Alley right-of-way appears to be densely wooded in some areas and in other areas it is in use by abutting homeowners.

**B. We find no obvious immediate inconvenience to the general public of vacating a portion** of the alley right-of-way abutting 112 Ayr Hill Avenue NW (listed as owned by J.D.A. Custom Homes, Inc. on the Survey). The viewers cite the following points in support of their finding of no public inconvenience:

1. Since its creation in 1926 the alley has never been used by the public for any purpose, and there are no plans for establishing any type of public use of the alley.
2. There are no utilities that use the alley space, and there are no plans to use the alley for utilities.
3. The alley is not being used for any recreational purposes, and there are no plans to establish any sort of recreational use. See paragraph C (1) below vis a vis use as a bike trail.
4. It is assumed that the Town has certain obligations and expenses to maintain and insure the alley, which are incurred with no benefit to the public
5. **The viewers find no obvious inconvenience to the general public to vacating the entire alley right-of-way and feel that they can report this finding.** However, there is some ambiguity as to the extent of the Viewer's responsibilities. At the public hearing on this matter, the town attorney indicated that the viewers could be asked to consider the entire alley for vacation. The motion appointing the viewers did not specifically limit the view and opinion to that portion of the alley abutting 112 Ayr Hill Avenue NW. On the other hand, the newspaper advertisement to the public and the agenda item for the public hearing refers only to the vacation of that portion of the alley directly behind 112 Ayr Hill Avenue NW.

C. Viewers, however, have several concerns that should be considered by Council if the Town vacates the entire alley.

1. The vacation of the public right-of-way forecloses the possibility of its use as a bicycle and pedestrian access to Center Street that would lead to the bike trail. The terrain and width of Ayr Hill Avenue NW and Wilmar Place NW are not conducive to bicyclists. Bicycle lanes cannot be added to Church Street because parking is permitted on both sides of Church Street.

2. As noted in the description, the topography is steeply grading and the existing storm water management structures are only shallow culverts. The vacation of alley and redevelopment, by developers or individual property owners, could lead to increased flows of storm water runoff that could result in standing water at properties along and east of Center Street.

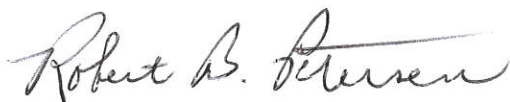
3. The sales of the alley parcels to individuals other than abutting property owner would create landlocked parcels under third party ownership. If the Town refuses to sell parcels to individuals other than the abutting property owners and retains ownership of some of the alley, the Town should require access easements of all properties it has sold so it can trim vegetation and remove dead trees on parcels of the alley left unsold.



Emil D. Attanasi, Retired Member-Planning Commission  
605 Thelma Circle, S.W.  
Vienna, VA 22180



Robert W. Dowler, Member – Board of Zoning Appeals  
206 Harmony Drive, S.W.  
Vienna, VA 22180



Robert B. Petersen, Member – Board of Zoning Appeals  
430 West Court, N.W.  
Vienna, VA 22180