



Legislation Text

File #: 18-928, **Version:** 1

Subject:

Request to appoint viewers for alley vacation for property adjacent to 211-213 Mill Street NE and 156 Church Street NE

EXPLANATION AND SUMMARY :

Between Mill Street NE and Park Street NE, an alley runs behind the residential property located at 156 Church Street NE and the commercial properties located at 146 Church Street NE and 211-213 Mill Street NE. The Town has received requests and applications from Mill Street Development One, LLC, owner of 211-213 Mill Street NE, and from Jonathan and Alicia Downs, owner of 156 Church Street NE, to vacate half of the alley immediately adjacent to each property.

Pursuant to Virginia Code Section 15.2-2006, the Town may consider vacation of public rights-of-way at a public hearing. If Town Council is inclined to entertain the proposals, it must appoint three (3) to five (5) people to view the public right-of-way and report in writing any inconveniences that would result from discontinuing the right-of-way. Based upon the viewers' report and other evidence, if any, and after landowners affected along the public right-of-way that is proposed to be altered or vacated have been notified, the governing body may discontinue the public right-of-way.

Staff notes that the owner of 156 Church Street NE requests the half alley vacation along the entire length of the property to Church Street NE. Staff recommends vacating only the portion of the alley that matches the request from 211-213 Mill Street, leaving the remaining full 20-foot alley in place behind 146 Church Street NE to serve as public access to that property. All Town departments and utility companies verified that they had no objections to the alley vacation as recommended. If Town Council is interested in starting the vacation process, it is recommended that a panel of three viewers be appointed to determine that there is no inconvenience to the public and if there is a need to keep any piece of the alley. It is recommended that the Town Attorney be authorized to secure an independent appraisal and the applicant be required to dedicate the area occupied by the Church Street sidewalk to the Town. To provide enough time, it is recommended that Town Council set a public hearing for its September 17, 2018 meeting.

As a condition to vacation or abandonment, Town Council may require the fractional portion of its public right-of-way be purchased by any abutting property owner. The price shall be no greater than the property's fair market value or its contributory value to the abutting property, whichever is greater, or the amount agreed upon by the parties. No such vacation shall be concluded until the agreed price has been paid. If any abutting property owner does not pay for such owner's fractional portion within one year, or other time period made a condition of the vacation, of the local government's action to vacate, then the vacation shall be void as to any such property owner.

Departmental Recommendation : Recommend vacating only the portions of the alley behind 211-213 Mill Street NE and the corresponding half alley adjacent to 156 Church Street NE, leaving the entire 20-foot alley width behind 146 Church Street NE.

Finance Recommendation : N/A

Purchasing Recommendation : N/A

Town Attorney Recommendation : Town Council may appoint viewers to prepare a report on the public necessity of the alley and set a public hearing in its discretion.

Town Manager's Recommendation : I recommend the Town Council appoint viewers for possible vacation of the public alley adjacent to 211-213 Mill Street NE and 156 Church Street NE as presented.

Cost and Financing: N/A

Account Number: N/A

Decision Needed by This date: N/A

PROPOSED/SUGGESTED MOTION

“I move to authorize the Mayor to appoint a panel of three viewers from citizens serving on the Planning Commission or Board of Zoning Appeals to determine if there exists an inconvenience to the public or need to retain the alley.”

Or

Other action deemed necessary by Council.