



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of April 25, 2009**

**DATE:** April 1, 2009

**SUBJECT:** Enactment of an Ordinance to Permit an Encroachment of a Subsurface Electric Vault into a Portion of the County Right of Way for South Greenbrier Street, Such Portion Being Located Adjacent to the Southwest Corner of Parcel "A" Columbia Village, RPC No. 28004004, with Conditions.

**Applicants/Owners:** West Columbia Pike, LLC

**By:** M. Catharine Puskar, Esquire  
Walsh Colucci Lubeley Emrich and Walsh, PC  
2200 Clarendon Boulevard, Suite 1300  
Arlington, Virginia 22201

### **C. M. RECOMMENDATIONS:**

1. Enact the attached Ordinance ("Ordinance") to Permit an Encroachment of a Subsurface Electric Vault into a Portion of the County Right of Way for South Greenbrier Street ("Encroachment"), Such Portion Being Located Adjacent to the Southwest Corner of Parcel "A" Columbia Village, RPC No. 28004004, with Conditions ("Attachment 1").
2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, all documents necessary to effectuate the Ordinance, subject to approval of such documents as to form by the County Attorney.

**ISSUE:** This request for Encroachment into the County right of way is to facilitate development of property which is the subject of Use Permit #U-3126-05-1, which was approved by the County Board at its regular meeting on July 9, 2005. There are no issues identified with this request for Encroachment.

**SUMMARY:** The Applicant/Owner has requested the County Board to enact an Ordinance to permit encroachment of a portion of a subsurface electric vault into a portion of the dedicated public right of way for South Greenbrier Street. If enacted, the requested Ordinance would

County Manager: \_\_\_\_\_

County Attorney: \_\_\_\_\_

Staff: Linda Collier, DES, Real Estate Bureau

permit the Encroachment to continue in effect until the underground electric transformer vault is destroyed, removed, no longer in use, or not continuously and promptly maintained by the Applicant/Owner. The Encroachment is consistent with Use Permit #U-3126-05-1, Columbia Village, which was approved by the County Board on July 9, 2005.

**BACKGROUND:** The Columbia Village Use Permit, Use Permit #3126-05-1 (“Use Permit”) provides for construction of a 10-story building containing 235 dwelling units and 7,544 square feet of ground floor retail (“Columbia Village”) under the Columbia Pike Form Based Code (“Form Based Code”). Columbia Village is located adjacent to the southern side of Columbia Pike between the recently dedicated South Greenbrier Street to the west and the Carlyle Condominium on the east. (See Attached Exhibit B, Vicinity Map I.) The Encroachment is located in the dedicated public right of way for South Greenbrier Street, adjacent to the southwestern property line of Columbia Village (RPC No. 28004004). The Encroachment will be physically located partially under in an area designated for sidewalk (6 feet) and partially under South Greenbrier Street (5.9 feet from the western edge of the Encroachment to the face of curb). (See Attached Exhibit C, Vicinity Map II.)

**DISCUSSION:** In conjunction with the construction of the Use Permit, the Applicant/Owner has requested enactment of the Ordinance to permit the location of a portion of an underground electric transformer vault (“Vault”) adjacent to the southwestern property boundary for Columbia Village into an area designated for sidewalk and for South Greenbrier Street. The dimensions of the Encroachment would be 25 feet deep, 11.88 feet wide and 77.33 feet long, consisting of approximately 919 square feet. The encroachment is more specifically shown on a plat entitled, “Exhibit Showing the Encroachment of an Underground Transformer Vault into a Portion of South Greenbrier Street Deed Book 4255, Page 2621, Arlington County, Virginia”, Sheet 1 of 2 and Sheet 2 of 2, prepared by VIKA Incorporated, dated August 19, 2008, revised November 20, 2008, December 9, 2008, March 25, 2009 and April 1, 2009, attached hereto as Exhibit A-1 and Exhibit A-2 (collectively, “Plats”).

The Encroachment is necessitated by the County’s request to have the new roadway (South Greenbrier Street) dedicated to the County. A portion of the Vault is located on the developer’s property and a portion of the Vault is located under sidewalk easement. However, because the building restriction line requirements of the Form Based Code, the remaining portions of the Vault are constructed under the dedicated public right of way for South Greenbrier Street. Staff has no objections to the location of the Encroachment in this instance.

**Legal and Physical Description:** The dedicated public right of way was established by Deed of Dedication recorded among the land records of Arlington County, Virginia (“Land Records”) on March 31, 2009 at Deed Book 4255, Page 2621. The Applicant/Owner obtained the property upon which Columbia Village is constructed by Special Warranty Deed recorded in the Land Records on October 28, 2005 at Deed Book 3917, Page 2293.

**Public Notice:** Public notice was given in accordance with the Code of Virginia. Notices were placed in the March 31, 2009 and April 7, 2009 issues of the Washington Times for the April 25, 2009 County Board Meeting.

**Compensation:** In keeping with the County’s current practice of not requiring compensation to be paid to the County for underground electric transformer vault encroachments, if the Ordinance

is enacted, then there would be no compensation required for the Encroachment into and under the dedicated public right of way for South Greenbrier Street.

**FISCAL IMPACT:** There is no fiscal impact for the Encroachment of the Vault.

**CONCLUSION:** It is recommended that the County Board enact the attached Encroachment Ordinance in Attachment 1.

## ATTACHMENT 1

### **ORDINANCE TO ALLOW THE ENCROACHMENT OF A SUBSURFACE ELECTRIC VAULT INTO A PORTION OF THE COUNTY RIGHT OF WAY FOR SOUTH GREENBRIER STREET, SUCH PORTION BEING LOCATED ADJACENT TO THE SOUTHWEST CORNER OF PARCEL "A" COLUMBIA VILLAGE, RPC NO. 28004004, WITH CONDITIONS.**

BE IT ORDAINED by the County Board of Arlington County, Virginia, that the Applicant/Owner, West Columbia Pike, LLC ("Applicant/Owner"), being the owner of the project known Columbia Village, Use Permit #U-3126-05-1, is hereby permitted to construct a portion of an underground electric transformer vault, to serve the building authorized by Use Permit #U-3126-05-1, into a portion of the existing dedicated public right of way for South Greenbrier Street located adjacent to the southwest corner of Parcel "A", Columbia Village, RPC No. 28004004, with conditions set forth herein. The dimensions (length, width and depth (by elevations)), and spatial location of the permitted encroachment ("Encroachment") are depicted in Exhibit A-1 and Exhibit A-2 attached to the County Manager's April 1, 2009 Report, entitled "Exhibit Showing the Encroachment of an Underground Transformer Vault into a Portion of South Greenbrier Street Deed Book 4255, Page 2621, Arlington County, Virginia", Sheet 1 of 2 and Sheet 2 of 2, prepared by VIKA Incorporated, dated August 19, 2008, revised November 20, 2008, December 9, 2008, March 25, 2009 and April 1, 2009 (collectively, "Plats").

BE IT FURTHER ORDAINED that this permission for the Encroachment shall continue until such time as that portion of the underground electric transformer vault, encroaching within the dedicated public right of way is destroyed, removed, no longer in use, or not continuously and promptly maintained by the Applicant/Owner. Nothing in this Ordinance shall be construed either: to allow the installation by Applicant/Owner, or permit to exist, any structure whatsoever other than the underground electric transformer vault within the Encroachment shown on the Plats; or, to allow any greater encroachment beyond the dimensions and spatial area shown on the Plats.

BE IT FURTHER ORDAINED that the Applicant/Owner, its successors and assigns, shall continuously and promptly maintain the underground electric transformer vault, and maintain, restore, repair, and replace all County owned facilities, within and adjacent to the public right-of-way, including any sidewalk, curb and gutter, landscaping and paved surface, which are damaged by the installation, maintenance, destruction, continued existence, repair or removal of the underground electric transformer vault, in accordance with Use Permit #U-3126-05-1, and all applicable County standards, codes and ordinances.

BE IT FURTHER ORDAINED that this Ordinance shall not be construed to release the Applicant/Owner, its successors in title and interest and assigns, of negligence on their part on account of such Encroachment, and the Applicant/Owner, by constructing, or causing to be constructed, and by continuing to have the underground electric transformer vault encroach within the dedicated public right of way public right-of-way, thereby agrees for itself, its successors in title and interest, and assigns, to indemnify and hold harmless the County Board of Arlington County, Virginia and County officials, officers, employees, and agents from all claims, negligence, damages, costs and expenses arising out of the location, construction, maintenance, repair and removal of the underground electric transformer vault, and the permission for the

underground electric transformer vault to encroach within the dedicated public right of way permitted by this Ordinance.

BE IT FURTHER ORDAINED that on or before April 25, 2010, the Applicant/Owner, at its sole cost and expense, shall cause a certified copy of this Ordinance and the Plat, approved by the Director of the Department of Environmental Services or his designee, to be recorded in the Land Records and a copy thereof shall be promptly delivered by the Applicant/Owner to the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services.





**EXHIBIT B  
VICINITY MAP I**

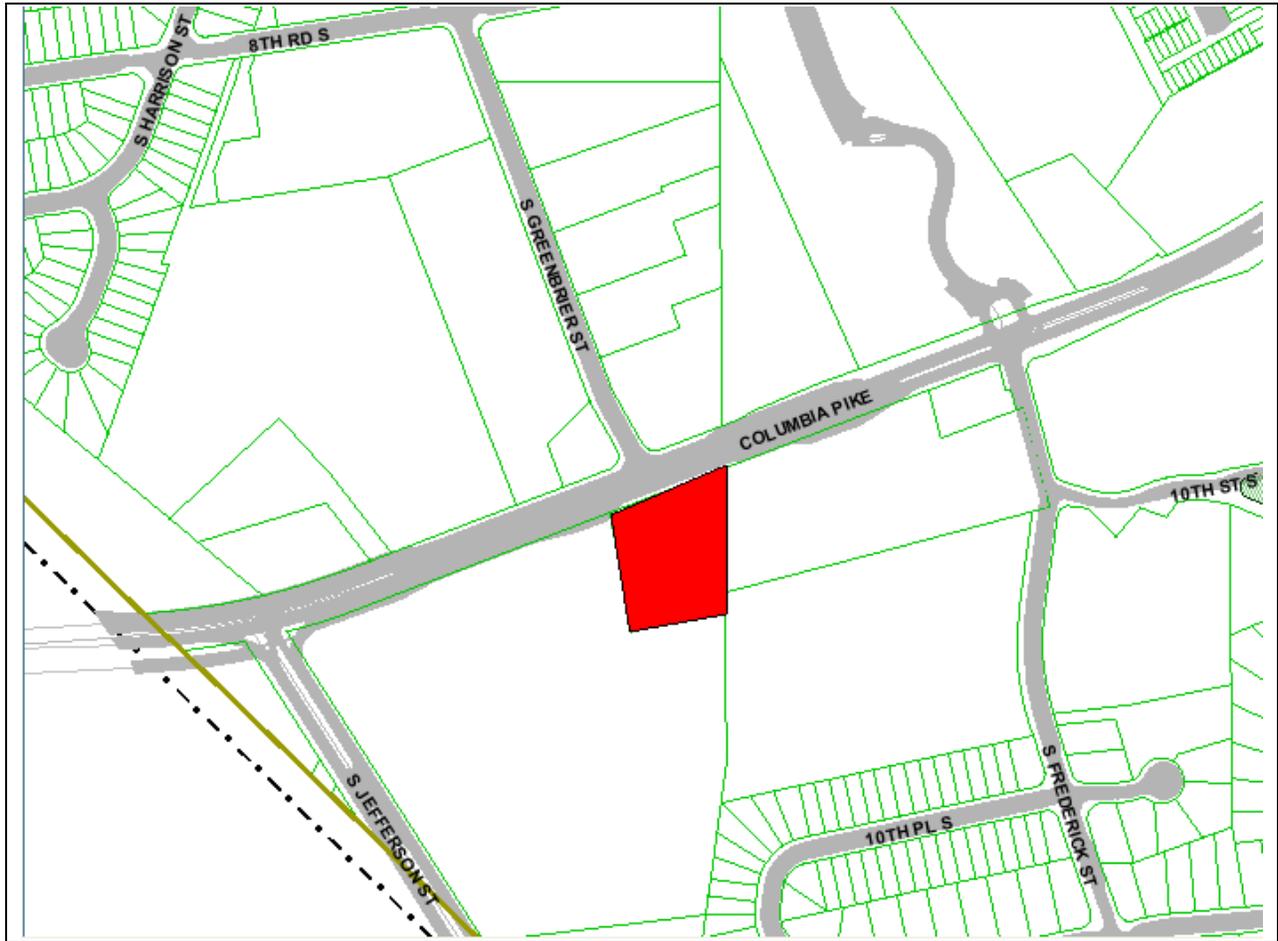


EXHIBIT C – VICINITY MAP II

# Vicinity Map

## Columbia Village

