



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of July 11, 2009**

**DATE:** July 10, 2009

**SUBJECT:** Adoption of a Resolution Requesting the Commonwealth Transportation Board to Transfer and Convey to the County Board of Arlington County, Virginia Certain Sections of Primary and Secondary Roads, known as Columbia Turnpike (State Route 244), South Joyce Street, and Army Navy Drive.

**C. M. RECOMMENDATION:**

Adopt the Resolution attached hereto as Exhibit A (the "Resolution"), requesting that the Commonwealth Transportation Board transfer and convey to the County Board of Arlington County, Virginia certain sections of primary and secondary roads, known as Columbia Turnpike (State Route 244), South Joyce Street and Army Navy Drive.

**ISSUES:** County Board action is needed by means of a request to the Commonwealth Transportation Board in order to transfer and convey certain sections of primary and secondary roads, known as Columbia Pike (State Route 244), South Joyce Street and Army Navy Drive, to the Arlington County local road system.

**SUMMARY:** The attached Resolution requests the Commonwealth Transportation Board ("CTB") to transfer and convey from the State road system to the County Board's local road system certain sections of public road known as Columbia Turnpike (State Route 244), South Joyce Street and Army Navy Drive. Upon the County Board's adoption of the Resolution, it will be forwarded to the Commonwealth Transportation Board for consideration and subsequent action. If the County Board's request is approved by the CTB, additional action will be needed to authorize execution of required deeds and agreements, satisfaction of all conditions in the Resolution, and approval of the specific areas and rights to be conveyed. Gaining control of Columbia Pike is essential to achieving the County's long-range plan for the revitalization of Columbia Pike.

**BACKGROUND:** During the last fifteen years, citizens and the County Board have embarked upon implementing the infrastructure for an "urban village" design. In March 2002, the Columbia Pike Initiative, a revitalization plan, was adopted by the County Board. This plan, developed with extensive community input, recommended a vision for pedestrian-friendly,

County Manager: RC

County Attorney: SA

53.

Staff: Penny Newquist, Department of Environmental Services, Director's Office  
Tim O'Hora, Department of Environmental Services, Real Estate Bureau

transit-oriented development along the Columbia Pike corridor. The adopted plan is an example of the County's efforts to emphasize multimodal travel and enhanced safety and movement for all users along Columbia Pike. Projects include adding transit services and bus facilities, widening sidewalks, adding traffic signals for pedestrian crossings, undergrounding of overhead utilities along pedestrian routes, and implementing transit-priority and emergency vehicle preemption at traffic signals.

A street car system has been identified as a solution to address the increasing transit demand along Columbia Pike. Currently, Arlington supports over \$11.3 million in annual bus service operations on Columbia Pike (cost before fares and state aid) with over 117,000 bus service hours operating seven (7) days a week 365 days per year and carrying over 4.7 million annual passengers. Two of the highest ridership growth routes in the County, the ART 41 (760,000 annual passengers) and the 16Y (327,000 annual passengers), operate on Columbia Pike. These numbers are expected to continue to increase and a street car system will provide the significant additional capacity needed to support the increased demand.

In the past ten years the County has expended approximately \$12 million on capital projects including undergrounding of overhead utilities, utility upgrades, streetscape/sidewalk projects, pedestrian safety and transit-related improvements. These projects required design approval and permits from VDOT. Arlington maintains all bus shelters, specialty streetscapes and decorative street lighting in the corridor and funds the cost of power for all street lights and signals. Arlington maintains and operates all traffic signals in the corridor, and on all state primary routes through a contract with VDOT. Another \$9.5 million for capital projects have been allocated for planned streetscape and utility undergrounding improvements as Columbia Pike continues to transform from a suburban highway to an urban street. Over one million square feet of redevelopment is underway in three mixed use projects, along with over 10 million square feet of potential redevelopment in established Form-Based Code overlay districts and additional development potential elsewhere on the Pike. The street car system will encourage land owners and developers to continue to invest in development along Columbia Pike.

Currently, with Columbia Pike classified as a primary road under VDOT ownership or control, the County must go through an extensive review process with VDOT for all construction projects, even if the projects are locally funded. Since many of the County's projects on Columbia Pike, including the proposed street car system, utilize urban standards that are not typical of VDOT plans, this often requires the County to obtain design exceptions in order to implement the County's projects. This cumbersome design-exception process adds additional time, expense, and delays to each project. Removing Columbia Pike within Arlington County from the State road system, and transferring substantially all of it to the County's local road system, would eliminate or reduce VDOT involvement in road-related County projects on Columbia Pike. It should be said, however, that any project that utilizes federal or state funding would require VDOT review. A number of projects currently underway and programmed for Columbia Pike use state and federal funding and will continue to require VDOT review and approval even if legal rights in Columbia Pike are conveyed to Arlington County.

Unlike many other counties in Virginia, the County performs the full range of road maintenance functions on the 960 lane-miles of road (including South Joyce Street and Army Navy Drive). By the transfer and conveyance of Columbia Pike and the other rights-of-way described in the

Resolution, the County would accept responsibility for the maintenance of the roadbed and additional related facilities, including landscaping, curb, gutter and sidewalk repair, snow removal, street sweeping, signage, signalization and pavement markings.

**DISCUSSION:** The process by which localities, including the County, request the transfer and conveyance of roads from the Commonwealth's State road system to the local road system maintained by the locality is through a resolution adopted by the local governing body pursuant to § 33.1-35 of the Code of Virginia, as amended ("State Code").

By the attached Resolution, the County Board requests that the Commonwealth's legal interests in certain portions of the Columbia Pike rights-of-way from the Fairfax County line to the eastern side of the intersection of Columbia Pike and South Joyce Street; South Joyce Street, from Columbia Pike to Army Navy Drive (under Interstate 395); and Army Navy Drive, from the western side of South Joyce Street to South Hayes Street, be transferred and conveyed by the CTB from the State road system to the County Board's local road system. The Virginia Department of Transportation ("VDOT") has indicated that it would not agree to transfer of fee simple title to the segment of Columbia Pike that crosses the intersection with South Glebe Road (Route 120), and the segment that crosses Washington Boulevard (Route 27), so those segments are not included in the County's request. Glebe Road - Route 120, and Washington Boulevard - Route 27 are State primary routes and will remain under Commonwealth ownership in the State primary road system. In addition, a portion of South Joyce Street under the I-395 corridor will remain a part of the Commonwealth-owned I-395 corridor. For the areas retained by the Commonwealth, the County must be provided with an irrevocable right or irrevocable permission, and a transfer of any rights or easements from the United States of America for the portion of South Joyce Street on U.S. property, for the County to use those segments for its projected transportation purposes. The approximate total length of rights-of-way to be conveyed to the County Board is 14.4 lane miles.

County staff is working to perform due diligence to reduce the risks inherent in such a large and complex real estate acquisition. Central to this effort is a determination of the precise boundaries of what the Commonwealth owns and the nature of the Commonwealth's property interest. Given the scope of the conveyance, age, and the complexity of ownership interests along Columbia Pike, S. Joyce Street and Army Navy Drive, extensive documentation and information is required and being sought from VDOT. As with any proposed real estate conveyance, the grant to the County must include or address: a description of the exact boundaries of the land to be conveyed; the types of interests which the grantor (the Commonwealth) has in the land (i.e., fee simple title, easement, permissions); rights of others in the land; title defects, encumbrances; claims; and restrictions that would adversely affect the legal interests to be acquired by the County, the County's proposed use of the land, and the County's ability to operate, maintain and regulate the area conveyed. If the County does not obtain complete, accurate information on these matters, the County may either: 1) not obtain the types of legal interest it needs; 2) not be able to use the land for the intended purposes; and/or 3) incur legal liability. All of the information which the County would expect to obtain in any "normal" real estate transaction may not be available from VDOT. This is due, in large part, to the manner in which the Commonwealth traditionally acquires its interests in State roads such as Columbia Pike, as well as the manner in which acquisition of additional rights of way along Columbia Pike are documented in the County's land records.

Discussions with VDOT staff to review details of the proposed transaction and to obtain required documents continue. County staff is undertaking research to obtain information to identify, assess, and attempt to minimize risks to the County, so as to arrive at a comprehensive and accurate description of the land, and an understanding of all prior and current obligations of the Commonwealth. A boundary and topographic survey of Columbia Pike from the Fairfax County boundary line to S. Oak Street was completed by a County contractor in 2008. A boundary survey from S. Oak Street to S. Joyce and S. Joyce to Army Navy Drive is underway. A Phase I environmental assessment (document search/review) of the entire length of the rights-of-way, which is required for the street car system, is being prepared by a County contractor. Depending on the results of the Phase I assessment, a Phase II environment assessment (invasive testing) may be necessary on some portions of the rights-of-way. A title report is being prepared for the County by a title contractor.

The above due diligence will not be concluded by the time the Resolution is adopted. Rather, the due diligence will continue until the County Board, by future action(s), approves the conveyance of the requested rights-of-way and all related transfer documents. This due diligence research is also necessary for the implementation of planned capital projects, including the street car.

The Commonwealth proposes to convey its legal interests to the County Board by a Quitclaim Deed. The deed would convey to the County Board, all of the Commonwealth's right, title and interest, if any, in the land. This type of conveyance is without any warranty, representations, or assurances whatsoever.

In light of the County's proposed use of the rights-of-way, the type of deed by which the rights-of-way will be conveyed by the Commonwealth to the County, the inherent risks in such a conveyance, and the necessary due diligence to be completed before the conveyance occurs, the conveyance will be conditioned upon the following matters occurring on or before closing:

1. Receipt by the County of title reports or title commitments, surveys, deeds, and environmental studies, acceptable to the County Board, concerning the portions of the Columbia Pike (State Route 244), portions of Army Navy Drive rights-of-way and portions of the Joyce Street rights-of-way proposed to be conveyed (collectively "Rights-of-way") by the Commonwealth to the County Board.
2. A determination by the County Board that the final spatial description of the Rights-of-way to be conveyed, the corresponding status of title, and the corresponding environmental condition of the Rights-of-way are acceptable to the County Board. The spatial description of the Rights-of-way shall be identifiable on the ground and shall include references to all known source deeds, orders, certificates, and other documents by which the Commonwealth acquired title to the Rights-of-way.
3. Approval by the County Board of Deeds of Easement from the Commonwealth conveying to the County Board, irrevocable, permanent easements for all portions of the Rights-of-way which will not be conveyed to the County Board in fee simple. Such Deeds of Easement shall address, without limitation, the following:

- Spatial descriptions of the easement areas (“Easement Areas”);
  - Permitted uses;
  - Ownership of, and responsibility for, installation, construction, operation, maintenance, alteration, extension, repair, replacement, relocation, and removal of facilities located within the Easement Areas.
4. Assignment by the Commonwealth to the County Board of all right, title and interest in the existing easement between the United States of America and the Commonwealth in the applicable portion of the South Joyce Street rights-of-way, subject to approval by the United States.
  5. Approval by the County Board of mutually acceptable agreements between the County Board and the Commonwealth, which agreements identify all publically-owned structures, facilities, and equipment located within the Rights-of-way, and address the ownership, maintenance, repair, relocation and removal thereof.
  6. Assignment by the Commonwealth and acceptance by the County Board of all rights-of-way use and other permits issued by the Commonwealth, and all existing licenses, insurance policies, guarantees, monetary deposits, and other agreements between the Commonwealth and third parties, concerning the existence, ownership, installation, construction, use, operation, maintenance, alteration, extension, repair, replacement, relocation, and removal from the Rights-of-way of all structures, facilities, and equipment located within the Rights-of-way.
  7. Approval of a Bill of Sale between the Commonwealth and the County Board conveying all personal property, described therein, which the Commonwealth will convey to the County Board.
  8. Each of the above-referenced deeds and agreements shall be acceptable in substance to the County Manager and approved as to form by the County Attorney.
  9. Receipt by the County Board of all design documents, as-built plans or plats, maintenance, rehabilitation, inspection and reconstruction agreements, reports and other documents concerning facilities and structures proposed to be conveyed by the Commonwealth to the County Board.

VDOT staff has indicated their willingness to conduct research and provide critical documentation, but only if the County pays for the cost of the work. An interdepartmental team of County staff, along with the use of contractors, is being utilized to accomplish this effort.

Upon adoption of the Resolution, it is anticipated that VDOT staff would place the Resolution on the September CTB agenda for action at the Board’s October or November meeting. Upon approval of the Resolution by the CTB, VDOT will prepare documents required for the deed, easements, and related documents. Given the complexity of this transaction, this phase may require several months to complete.

When the necessary due diligence is completed, all required documents and agreements have been negotiated and approved by the County Board and the Commonwealth, and the conditions precedent have been met, then the conveyances can occur. Every effort will be made to accomplish this no later than July 1, 2010.

**FISCAL IMPACT:** Costs for pre-transfer due diligence research (survey, title work, and Phase I environmental assessment) in FY 2010 is estimated to be \$140,000. Funding of the pre-transfer due diligence research will be funded from the Transportation Investment Fund (331.47001). Assuming a July 1, 2010, takeover of Columbia Pike, the annual operating and maintenance costs for street paving, snow removal, signage, markings, and storm water are estimated at \$180,000 to \$450,000 depending upon the level of service provided. The level of service and associated costs will be determined during the FY 2011 budget deliberations.

**EXHIBIT A**

**RESOLUTION OF THE COUNTY BOARD OF  
ARLINGTON COUNTY, VIRGINIA  
REQUESTING COMMONWEALTH TRANSPORTATION BOARD  
TO TRANSFER COLUMBIA PIKE AND OTHER STATE ROADS FROM THE  
STATE ROAD SYSTEM TO THE ARLINGTON COUNTY ROAD SYSTEM**

WHEREAS, the County Board has undertaken a review of the benefits of transferring certain roads in the State road system to the local road system operated and maintained by the County; and

WHEREAS, the County Board currently maintains and constructs improvements on 960 lane miles of roads in the County's local road system; and

WHEREAS, among other transportation corridors in Arlington County, the County Board has invested and will continue to invest significant financial resources of the County in improving and expanding Columbia Pike(Route 244), an existing State primary system highway, consistent with the County's plans for revitalization of Columbia Pike, including the implementation of a street car program along Columbia Pike; and

WHEREAS, the County Board has determined that conveyance of title to the right of way and various easements for portions of Columbia Pike, as well as property interests in portions of various other streets in the State road system ancillary to Columbia Pike, as further described herein, would facilitate the County's revitalization plans for Columbia Pike and development of the street car program on Columbia Pike; and

WHEREAS, it would be advantageous for both the traveling public and the County for the County Board to obtain title to Columbia Pike and property interests in portions of the ancillary roads described herein, and to thereafter improve and maintain such sections of public road and right-of-way as part of the County's local road system in accordance with the aforesaid County plans for revitalization of Columbia Pike and development of the street car program on Columbia Pike; and

WHEREAS, the County Board has determined that, before the right of way for Columbia Pike and property interests in the other streets ancillary thereto can become part of the County's local road system, efforts currently underway to determine, survey, and plat the precise limits of the right of way and easements to be transferred or assigned, as well as that right of way and those interests to be retained by the Commonwealth, must be completed, the title thereto examined, other necessary due diligence concluded, and related agreements prepared, and the County Board must approve the deeds and such related agreements and documents necessary and required by the Commonwealth of Virginia and the County Board to effect a transfer, including, but not limited to, the legal description of the right of way being transferred; and

WHEREAS, in accordance with § 33.1-35 of the Code of Virginia 1950, as amended, a local governing body that receives payments pursuant to § 33.1-23.5:1 or § 33.1-41 can request that the Commonwealth Transportation Board transfer roads from the primary system of State highways to the local road system operated by the locality.

NOW, THEREFORE, BE IT RESOLVED, that the County Board of Arlington County, Virginia, pursuant to §§ 33.1-35 and 89 of the Code of Virginia 1950, as amended, hereby requests that the Commonwealth Transportation Board transfer to the County Board Columbia Pike from the primary system of State highways to the County's local road system, for the entire length of Columbia Turnpike within the County limits, and approve conveyance of the right of way and easements for Columbia Pike, and the ancillary streets of South Joyce Street, and Army Navy Drive, as appropriate, and further described in Attachment A, for the said development and improvement or operation and maintenance of public roads or right of way; and

BE IT FURTHER RESOLVED, that the aforesaid transfer is subject to development of a final description of the spatial areas to be transferred and conveyed in fee simple, development of the spatial areas, permitted uses, rights and responsibilities of the Commonwealth of Virginia and the County Board in the easements to be transferred and conveyed; and the County Board's approval, by resolution, of the deeds, agreements, and other documents necessary and required by the Commonwealth of Virginia and the County Board to effect the transfer.

## ATTACHMENT A

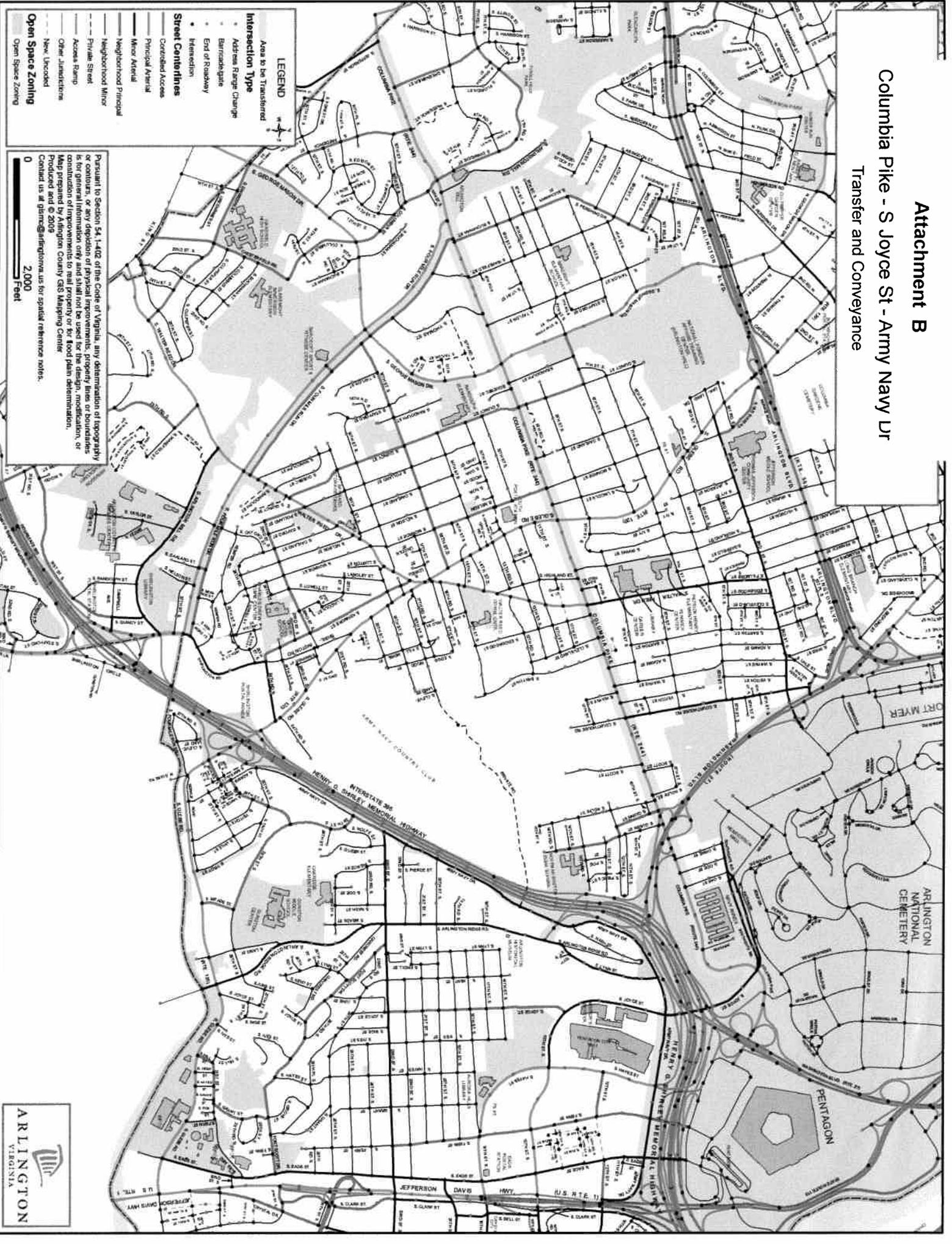
1. All property rights, fee and easements, that the Commonwealth has acquired and possesses for Colombia Pike from the Fairfax County line to a point just northeast of the Colombia Pike – S. Joyce Street intersection.
  - a. Less and except, the intersection of Colombia Pike – S. Glebe Road (Route 120) and the west interchange of Colombia Pike – Washington Boulevard (Route 27), where the Commonwealth will retain ownership and grant the County a non-exclusive permanent easement.
  - b. Less and except, the east interchange of Colombia Pike – Washington Boulevard (Route 27), where the Commonwealth will retain ownership.
  
2. All property rights, fee and easements, that the Commonwealth has acquired and possesses for South Joyce Street from the Colombia Pike – S. Joyce Street intersection to the S. Joyce Street – Army Navy Drive intersection.
  - a. Less and except, a section from a point just southeast of the Colombia Pike – S. Joyce Street intersection to a point just north of the Interstate Route 395 crossing of S. Joyce Street, where the Commonwealth only has a permanent easement from the United States of America and must retain ownership.
  - b. Less and except, a section from a point just north of the Interstate Route 395 crossing of S. Joyce Street a point just south of the Interstate Route 395 crossing of S. Joyce Street, where the Commonwealth will retain ownership and grant the County a non-exclusive permanent easement.
  
3. All property rights, fee and easements, that the Commonwealth has acquired and possesses for Army Navy Drive from the Army Navy Drive - South Lynn Street intersection to a point just east of Army Navy Drive – South Eads Street intersection.

The exact limits of the less and except points will be determined by VDOT, on behalf of the Commonwealth Transportation Board and the Commonwealth, and the County.

# Attachment B

## Columbia Pike - S Joyce St - Army Navy Dr

### Transfer and Conveyance



**LEGEND**

**Area to be Transferred**

- Address Range Change
- Barricade gate
- End of Roadway
- Intersection

**Street Centuries**

- Cancelled Access
- Principal Arterial
- Minor Arterial
- Neighborhood Principal
- Neighborhood Minor
- Private Street
- Access Street
- Other Intersections
- New, Unrecorded

**Open Space Zoning**

- Open Space Zoning

Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for food plain determination.

Map prepared by Arlington County GIS Mapping Center  
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 Contact us at [gis@arlingtonva.us](mailto:gis@arlingtonva.us) for spatial reference notes.

