



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of January 23, 2010

DATE: January 12, 2010

SUBJECT: Enactment of Ordinances to Vacate: 1) Portions of an Easement for Ingress, Egress, Emergency Vehicle Access, and Public Utilities, Over, Under, Across and Through Lot 17A and Lot 18A, Section 3, Shirlington Crest (RPC Nos. 31033231 and 31033232, Respectively), with Conditions; and 2) A Portion of an Easement for Public Sanitary Sewer Over, Under, Across and Through Lots 1, 2, 3, and 4, Section 3, Shirlington Crest (RPC Nos. 31033215, 31033216, 31033217, and 31033218, Respectively), with Conditions.

Applicant/Owner: Shirlington Neighborhoods, LLC

C. M. RECOMMENDATIONS:

1. Enact the attached Ordinance to Vacate Portions of an Easement for Ingress, Egress, Emergency Vehicle Access, and Public Utilities (the "Access Easement"), Over, Under, Across and Through Lot 17A and Lot 18A, Section 3, Shirlington Crest (RPC Nos. 31033231 and 31033232, Respectively), with Conditions;
2. Enact the attached Ordinance to Vacate a Portion of an Easement for Public Sanitary Sewer (the "Sanitary Sewer Easement") Over, Under, Across and Through Lots 1, 2, 3, and 4, Section 3, Shirlington Crest (RPC Nos. 31033215, 31033216, 31033217, and 31033218, Respectively), with Conditions; and,
3. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, the Deeds of Vacation and all documents necessary to effectuate the Ordinances of Vacation, subject to approval as to form by the County Attorney.

ISSUES: The Applicant has requested: 1) the vacation of portions of an Access Easement, totaling 16.5 square feet; and 2) the vacation of a portion of a Sanitary Sewer Easement, totaling 119 square feet. These portions of the Access Easement and Sanitary Sewer Easement conflict with newly-constructed townhouses. There are no issues identified with this request.

SUMMARY: The Applicant has requested: 1) the vacation of three portions of the Access Easement, totaling 16.5 square feet, which portions are located over, under, across and through the front of Lot 17A, and the rear and side of Lot 18A, Section 3, Shirlington Crest (currently

County Manager: BMD/GA

County Attorney: PAK/SAM

Staff: Linda Collier, Michael Halewski, Real Estate Bureau, DES

RPC No. 31033231 and 31033232, respectively); and 2) the vacation of a 119 square foot portion of the Sanitary Sewer Easement, which portion is located over, under, across and through the rear of Lots 1, 2, 3, and 4, Section 3, Shirlington Crest. These vacations are necessary because the Access Easement and the Sanitary Sewer Easement conflict with small portions of newly-constructed townhouses. These vacations are collectively referred to herein as the “Ordinances of Vacation”.

With the enactment of the Ordinances of Vacation, and upon satisfaction of the conditions contained therein and recordation of the Deeds of Vacation, the County’s interest in the vacated portions of the Access Easement and the Sanitary Sewer Easement will be extinguished.

BACKGROUND: The subject sites, 2551 S. Kenmore Court (Lot 17A, Section 3, Shirlington Crest, currently RPC No. 31033231), 2553 S. Kenmore Court (Lot 18A, Section 3, Shirlington Crest, currently RPC No. 31033232), 2650 Shirlington Road (Lot 1, Section 3, Shirlington Crest, RPC No. 31033215), 2648 Shirlington Road (Lot 2, Section 3, Shirlington Crest, RPC No. 31033216), 2646 Shirlington Road (Lot 3, Section 3, Shirlington Crest, RPC No. 31033217), and 2644 Shirlington Road (Lot 4, Section 3, Shirlington Crest, RPC No. 31033218), (collectively, “Property”), are located in the subdivision known as Shirlington Crest, a townhouse development located at the northwest corner of South Four Mile Run Drive and Shirlington Road. (See Vicinity Maps One through Five, attached hereto as Exhibits B-1 through B-5). As part of the by-right redevelopment process, the Applicant resubdivided the underlying property, as reflected in the following documents: 1) a Deed of Resubdivision, Vacation, Rededication, Easement, and Vacation of Easements, dated February 25, 2009, and recorded on February 27, 2009 among the land records of the Arlington County Circuit Court (the “Land Records”) in Deed Book 4247 at Page 474 (the “First Resubdivision”); and 2) a Deed of Resubdivision, dated January 12, 2010, and recorded on January 12, 2010 among the Land Records in Deed Book 4337 at Page 1578 (the “Second Resubdivision”). The First Resubdivision included the Applicant’s dedication of certain easements to the County, including the Access Easement and the Sanitary Sewer Easement. The Second Resubdivision changed the lot lines for Lot 17 and Lot 18 (and thereby created the new Lot 17A and Lot 18A) but did not alter the Access Easement and the Sanitary Sewer Easement. However, as a result of the Second Resubdivision changing the lot lines for Lot 17 and Lot 18, the Access Easement is now located three inches into the front of the townhouse on Lot 17A, six inches into the rear of the townhouse on Lot 18A, and one inch into the east side of the townhouse on Lot 18A. Additionally, the Applicant constructed the sanitary sewer line one and one half feet north of its original planned location, but failed to move the Sanitary Sewer Easement to reflect the relocated line. Therefore, the existing Sanitary Sewer Easement is located one and one half feet into the rear of the townhouse structures on Lots 1 through 4 of Section 3, and the Applicant has requested that such portion of the Easement be vacated.

The portions of the Access Easement and the Sanitary Sewer Easements for which this vacation request was filed are depicted on a schematic entitled “Exhibit Showing Vacation of a Portion of Sanitary Sewer Easement Across Lots 1 Through 4 and Vacation of a Portion of Easement for Ingress, Egress, Emergency Vehicle Access and Public Utilities on Proposed Lots 17A and 18A, Section 3, Shirlington Crest, Deed Book 4247, Page 474, Arlington County, Virginia,” dated December 14, 2009, revised December 30, 2009, prepared by Bowman Consulting Group, Ltd. (“Plat”), and attached hereto as Exhibit A. County staff has determined that the vacation of the

16.5 total square foot portions of the Access Easement located under, over, across and through the front of Lot 17A, and the rear and side of Lot 18A, Section 3, Shirlington Crest (RPC Nos. 31033231 and 31033232, respectively), and the vacation of the 119 square foot portion of a Sanitary Sewer Easement located over, under, across and through the rear of Lots 1, 2, 3, and 4, Section 3, Shirlington Crest, will not detrimentally affect the County's use of the Access Easement or the Sanitary Sewer Easement.

DISCUSSION: The townhouses located on Lot 17A and Lot 18A currently exist within the boundaries of the Access Easement, and the townhouses located on Lots 1 through 4 currently exist within the boundaries of the Sanitary Sewer Easement. Thus, the Applicant cannot obtain a certificate of occupancy for the townhouses constructed upon those lots without first obtaining these Ordinances of Vacation and satisfying the conditions of such Ordinances of Vacation. By vacating the 16.5 total square foot portions of the Access Easement, and the 119 square foot portion of the Sanitary Sewer Easement, these conditions will be corrected. Staff does not object to the vacations as outlined because the proposed Ordinances of Vacation will not impact the use of the Access Easement and will not impact the operation or maintenance of the existing sanitary sewer infrastructure installed within the Sanitary Sewer Easement. The proposed Ordinance(s) of Vacation are attached to this report as "Attachment 1" and "Attachment 2".

Legal and Physical Description: The Access Easement and the Sanitary Sewer Easement that are the subject of these requests are described on the Plat attached to this report as Exhibit A. The Property is located at 2551 S. Kenmore Court (Lot 17A, Section 3, Shirlington Crest, RPC No. 31033231), 2553 S. Kenmore Court (Lot 18A, Section 3, Shirlington Crest, RPC No. 31033232), 2650 Shirlington Road (Lot 1, Section 3, Shirlington Crest, RPC No. 31033215), 2648 Shirlington Road (Lot 2, Section 3, Shirlington Crest, RPC No. 31033216), 2646 Shirlington Road (Lot 3, Section 3, Shirlington Crest, RPC No. 31033217), and 2644 Shirlington Road (Lot 4, Section 3, Shirlington Crest, RPC No. 31033218), and is part of the subdivision known as Shirlington Crest, a townhouse development located at the northwest corner of South Four Mile Run Drive and Shirlington Road. The County acquired the Access Easement and the Sanitary Sewer Easement by a Deed of Resubdivision, Vacation, Rededication, Easements, and Vacation of Easements dated February 25, 2009, recorded at Deed Book 4247, Page 474, among the land records of Arlington County, Virginia on February 27, 2009.

Compensation: The value of the portion of the Access Easement being vacated has been calculated as \$742.50. Because the County typically does not charge for the vacation of utility easements located wholly upon an applicant's property, and because the portion of the Sanitary Sewer Easement being vacated is small and does not impact the operation or maintenance of the existing sanitary sewer infrastructure within the Easement, staff recommends that no compensation be required from the Applicant for the requested vacation of the Sanitary Sewer Easement.

Public Notice: Public notice of the enactment of the proposed Ordinances of Vacation was given in accordance with the Code of Virginia. Notices were placed in the January 8, 2010 and January 15, 2010 issues of the Washington Times for the County Board Meeting of January 23, 2010.

FISCAL IMPACT: Once received, the \$742.50 being charged for the vacation of the Access Easement will be deposited into the General Fund. Otherwise, there will be no fiscal impact arising from the enactment of the Ordinances of Vacation.

CONCLUSION: It is recommended that the County Board enact the attached Ordinances to Vacate: 1) Portions of an Easement for Ingress, Egress, Emergency Vehicle Access, and Public Utilities, Over, under, Across and Through Lot 17A and Lot 18A, Section 3, Shirlington Crest (RPC Nos. 31033231 and 31033232, Respectively), with Conditions; and 2) A Portion of an Easement for Public Sanitary Sewer Over, Under, Across and Through Lots 1, 2, 3, and 4, Section 3, Shirlington Crest (RPC Nos. 31033215, 31033216, 31033217, and 31033218, Respectively), with Conditions.

ATTACHMENT 1

ENACTMENT OF AN ORDINANCE TO VACATE PORTIONS OF AN EASEMENT FOR INGRESS, EGRESS, EMERGENCY VEHICLE ACCESS, AND PUBLIC UTILITIES OVER, UNDER, ACROSS AND THROUGH LOT 17A AND LOT 18A, SECTION 3, SHIRLINGTON CREST (RPC NOS. 31033231 AND 31033232, RESPECTIVELY), WITH CONDITIONS.

BE IT ORDAINED that, pursuant to a request by Shirlington Neighborhoods, LLC (“Applicant/Owner”), on file in the offices of the Department of Environmental Services, portions of an Easement for Ingress, Egress, Emergency Vehicle Access, and Public Utilities (“Access Easement”), over, under, across and through Lot 17A and Lot 18A, Section 3, Shirlington Crest (RPC Nos. 31033231 and 31033232, Respectively), such Access Easement being created by a Deed of Resubdivision, Vacation, Rededication, Easements, and Vacation of Easements dated February 25, 2009, recorded at Deed Book 4247, Page 474, among the land records of Arlington County, Virginia on February 27, 2009, and shown on a schematic entitled “Exhibit Showing Vacation of a Portion of Sanitary Sewer Easement Across Lots 1 Through 4 and Vacation of a Portion of Easement for Ingress, Egress, Emergency Vehicle Access and Public Utilities on Proposed Lots 17A and 18A, Section 3, Shirlington Crest, Deed Book 4247, Page 474, Arlington County, Virginia,” dated December 14, 2009, revised December 30, 2009, prepared by Bowman Consulting Group, Ltd., (“Plat”), and attached to the County Manager’s January 12, 2010 Board Report as Exhibit A, are hereby vacated, subject to the following conditions:

1. The Applicant/Owner shall prepare and submit to the County for review and approval the Deed of Vacation and all required plats, subject to approval thereof by the County Manager, or his designee, and approval of the Deed as to form by the County Attorney.
2. The Applicant/ Owner shall record the Deed of Vacation and all plats required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
3. The Applicant/Property Owner shall pay the County \$742.50 as compensation for such vacation.
4. The Applicant/Property Owner shall pay all fees, including the fees for review, approval, and recordation of the required documents associated with the Ordinance of Vacation.
4. All conditions of the Ordinance of Vacation shall be met by noon on January 23, 2013 or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

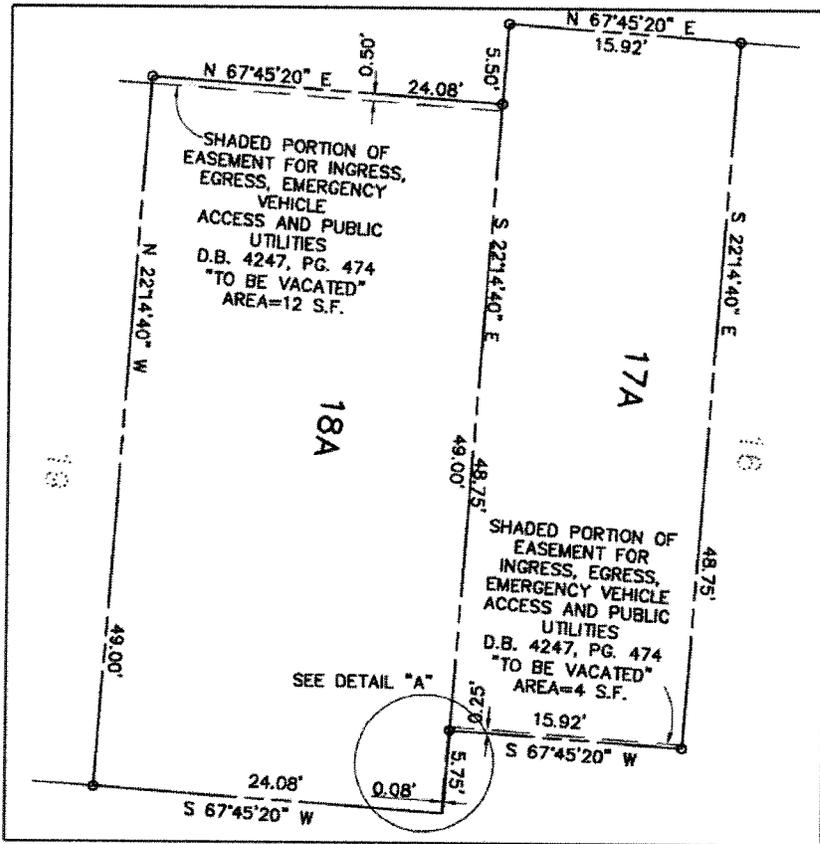
ATTACHMENT 2

ENACTMENT OF AN ORDINANCE TO VACATE A PORTION OF AN EASEMENT FOR PUBLIC SANITARY SEWER OVER, UNDER, ACROSS AND THROUGH LOTS 1, 2, 3, AND 4, SECTION 3, SHIRLINGTON CREST (RPC NOS. 31033215, 31033216, 31033217, AND 31033218, RESPECTIVELY), WITH CONDITIONS.

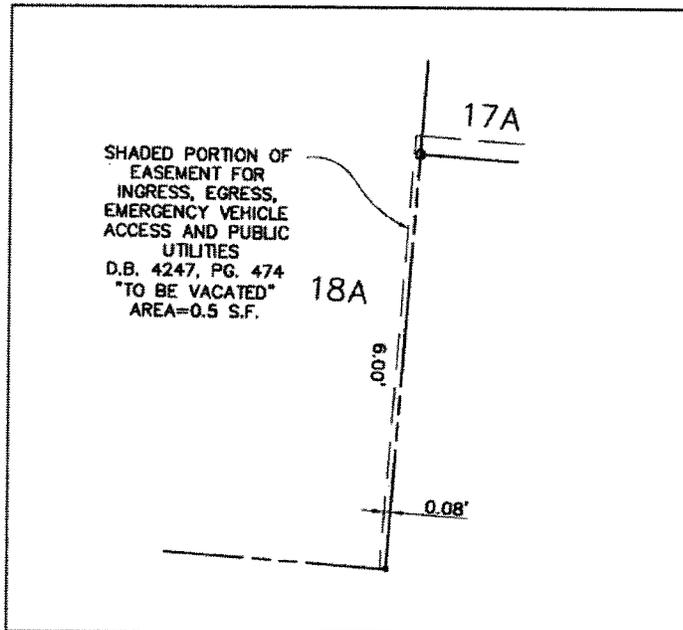
BE IT ORDAINED that, pursuant to a request by Shirlington Neighborhoods, LLC (“Applicant/Owner”), on file in the offices of the Department of Environmental Services, a portion of an Easement for Public Sanitary Sewer Purposes (“Sanitary Sewer Easement”), on Lots 1, 2, 3, and 4, Section 3, Shirlington Crest (RPC Nos. 31033215, 31033216, 31033217, and 31033218, Respectively), such Sanitary Sewer Easement being created by a Deed of Resubdivision, Vacation, Rededication, Easements, and Vacation of Easements dated February 25, 2009, recorded at Deed Book 4247, Page 474, among the land records of Arlington County, Virginia on February 27, 2009, and shown on a schematic entitled “Exhibit Showing Vacation of a Portion of Sanitary Sewer Easement Across Lots 1 Through 4 and Vacation of a Portion of Easement for Ingress, Egress, Emergency Vehicle Access and Public Utilities on Proposed Lots 17A and 18A, Section 3, Shirlington Crest, Deed Book 4247, Page 474, Arlington County, Virginia,” dated December 14, 2009, revised December 30, 2009, prepared by Bowman Consulting Group, Ltd., (“Plat”), and attached to the County Manager’s January 12, 2010 Board Report as Exhibit A, is hereby vacated, subject to the following conditions:

1. The Applicant/Owner shall prepare and submit to the County for review and approval the Deed of Vacation and all required plats, subject to approval thereof by the County Manager, or his designee, and approval of the Deed as to form by the County Attorney.
2. The Applicant/ Owner shall record the Deed of Vacation and all plats required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
3. The Applicant/Property Owner shall pay all fees, including the fees for review, approval, and recordation of the required documents associated with the Ordinance of Vacation.
4. All conditions of the Ordinance of Vacation shall be met by noon on January 23, 2013 or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

EXHIBIT A



DETAIL
SCALE: 1"=10'



DETAIL "A"
SCALE: 1"=5'

EXHIBIT A

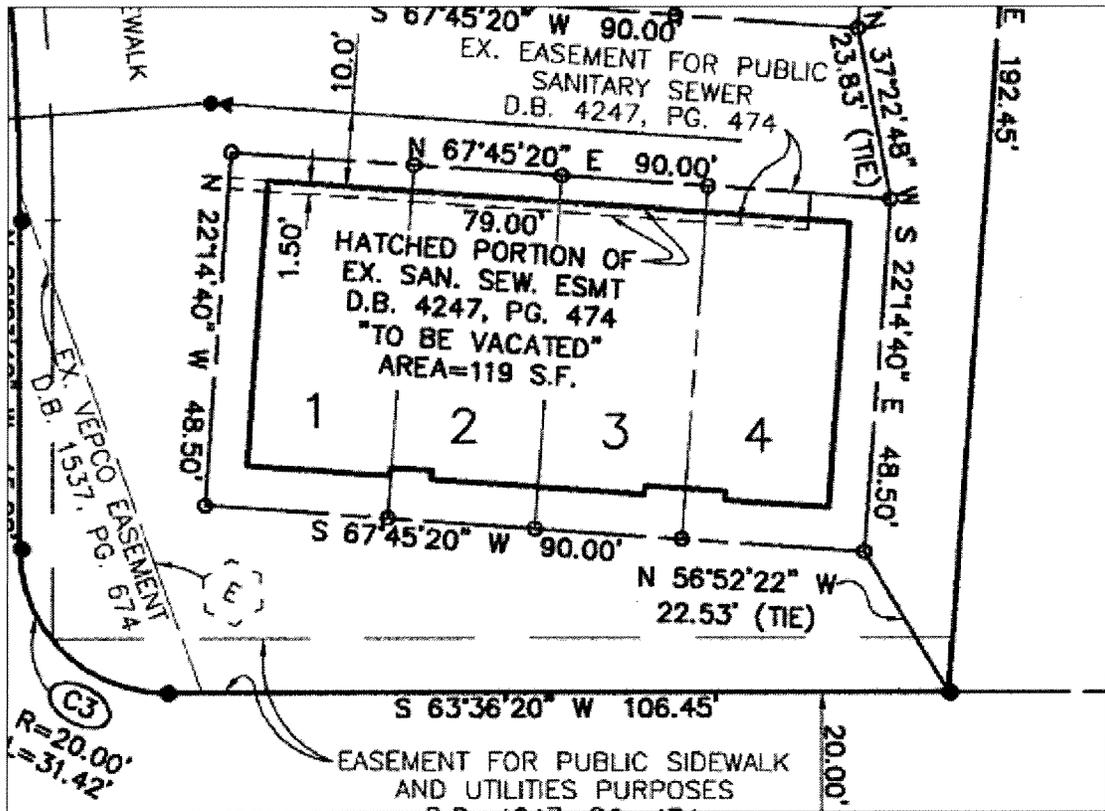


EXHIBIT B-1

Vicinity Map
Shirlington Crest
RPC # 31033231 & RPC# 31033232
2551 & 2553 S Kenmore CT

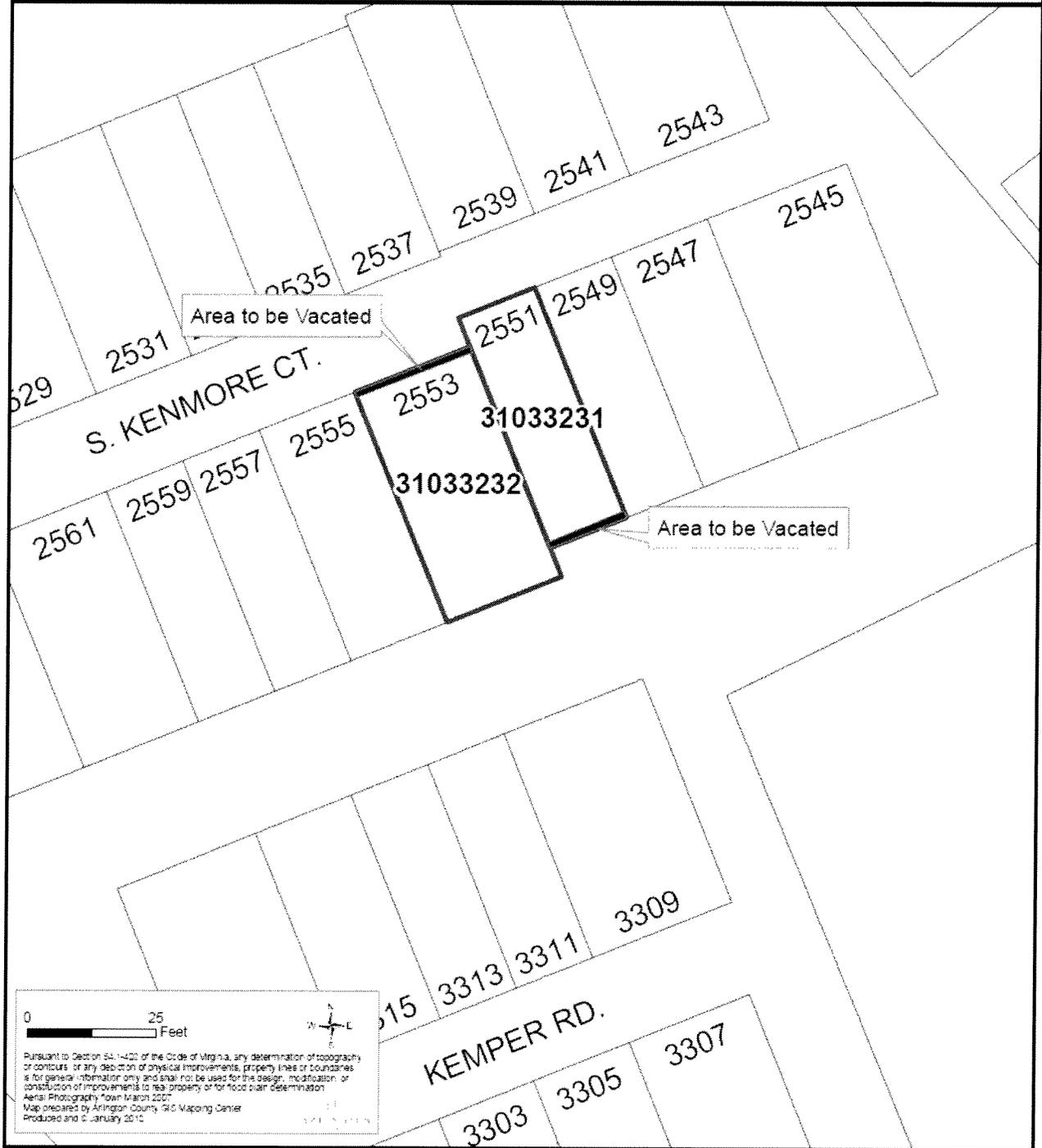


EXHIBIT B-2

Vicinity Map
Shirlington Crest
RPC # 31033231 & RPC# 31033232
2551 & 2553 S Kenmore CT

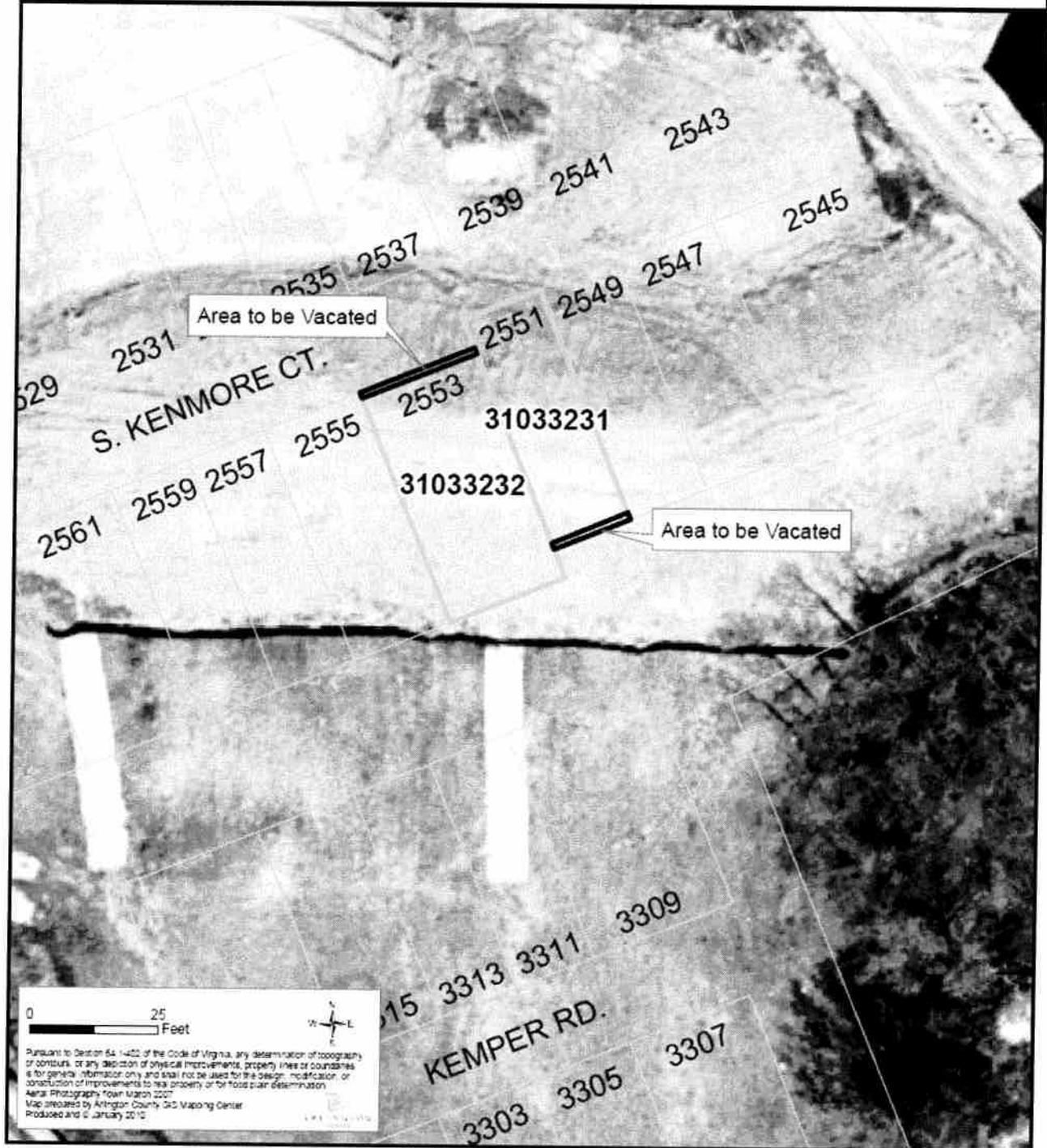


EXHIBIT B-3

Vicinity Map
Shirlington Crest
RPC # 31033215, 31033216, 31033217, 31033218
2644, 2646, 2648, 2650 Shirlington RD

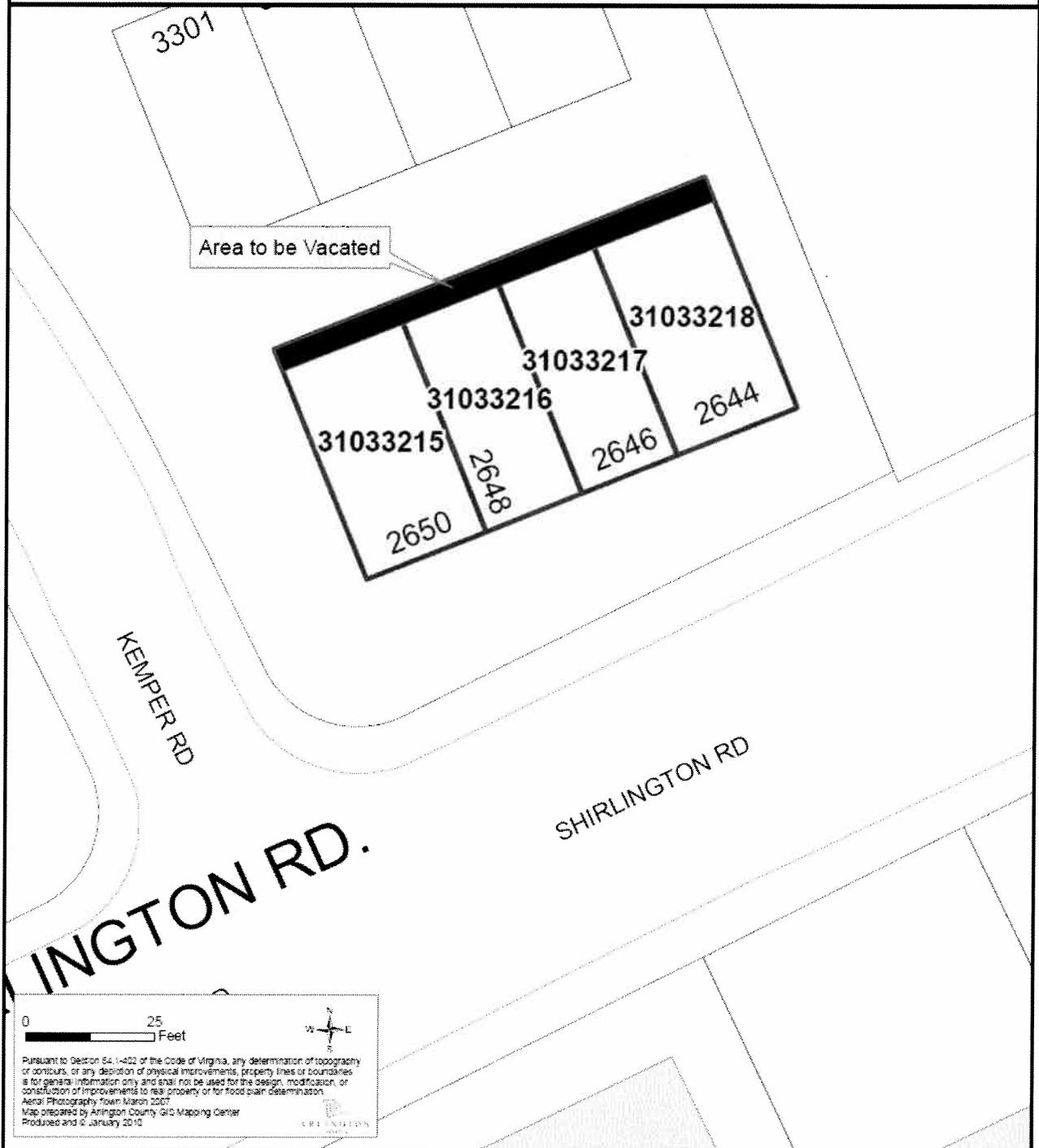


EXHIBIT B-4

Vicinity Map
Shirlington Crest
RPC # 31033215, 31033216, 31033217, 31033218
2644, 2646, 2648, 2650 Shirlington RD

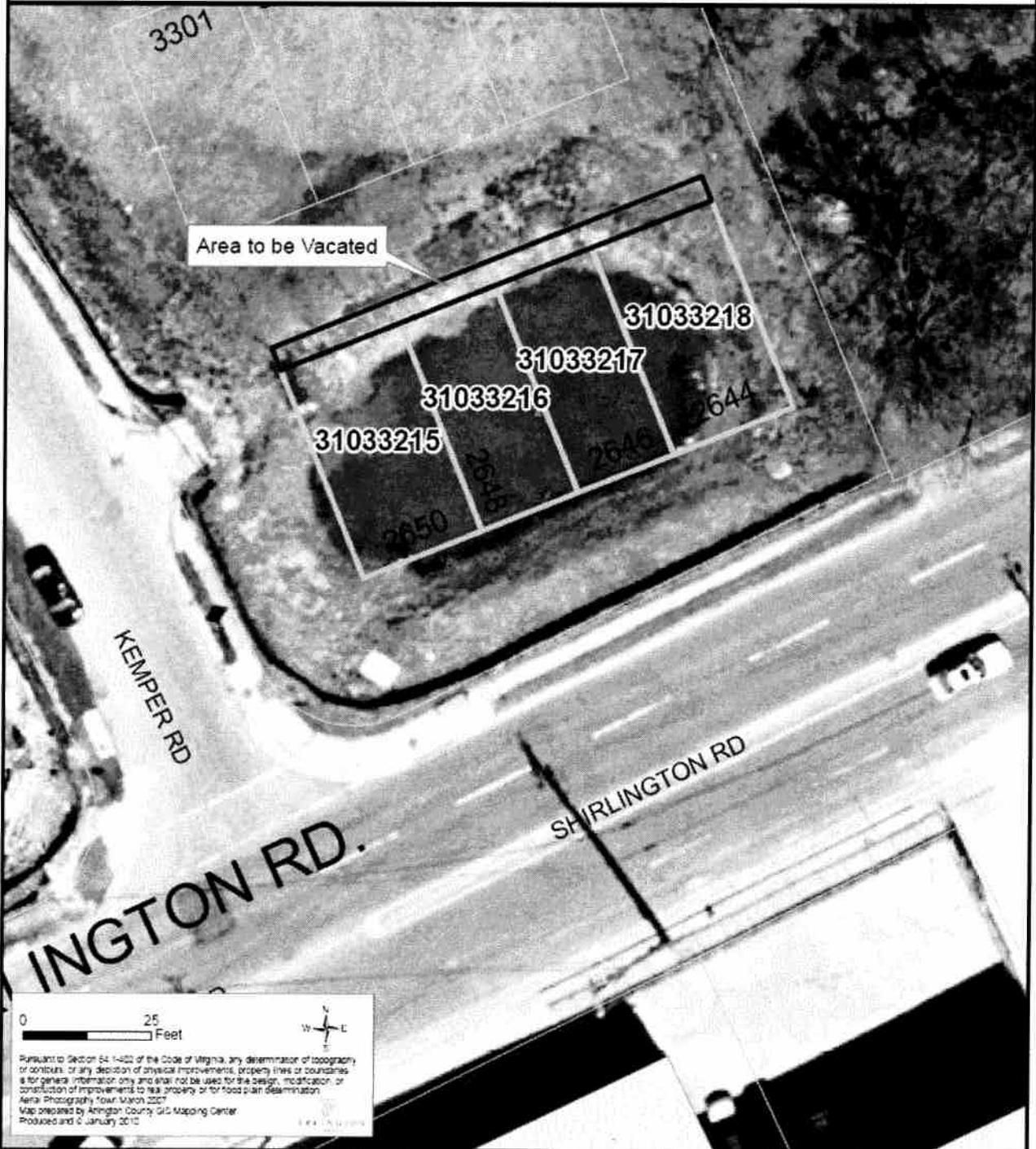


EXHIBIT B-5

**Vicinity Map
Shirlington Crest
RPC # 31033231 & RPC# 31033232
2551 & 2553 S Kenmore CT
RPC# 31033215,31033216,31033217,31033218
2644, 2646, 2648, 2650 Shirlington RD**

