



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of March 13, 2010**

**DATE:** March 1, 2010

**SUBJECT:** Amendment and Re-enactment of an Ordinance to Vacate: 1) a Fifteen (15) Foot Public Sidewalk and Utilities Easement Which Runs North to South on Parcels Known as 2207 N. Pershing Drive and 2211 N. Pershing Drive, RPC No. 18038019, with Conditions; and 2) a Five (5) Foot Sanitary Sewer Easement Which Runs East to West Along the Northern Portion on Parcels Known as 2207 through 2233 N. Pershing Drive, RPC No. 18038019, With Conditions.

**Original Applicant and Extension Applicant:** Arlington Pershing, LLC c/o Abbey Road Property Group, LLC

**Owner:** Arlington Pershing, LLC

**By:** Nan E. Walsh, Agent/Attorney  
Walsh Colucci Lubeley Emrich & Walsh PC  
2200 Clarendon Boulevard, 13<sup>th</sup> Floor  
Arlington, Virginia 22201

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

1. Enact the attached Ordinance to Amend and Re-enact an Ordinance to Vacate: 1) a Fifteen (15) Foot Public Sidewalk and Utilities Easement Which Runs North to South on Parcels Known as 2207 N. Pershing Drive and 2211 N. Pershing Drive, RPC No. 18038019, with Conditions; and 2) a Five (5) Foot Sanitary Sewer Easement Which Runs East to West Along the Northern Portion on Parcels Known as 2207 through 2233 N. Pershing Drive, RPC No. 18038019, With Conditions

2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, the Deed or Deeds of Vacation and all documents necessary to effectuate the Ordinance of Vacation, subject to approval as to form by the County Attorney.

**ISSUES:** The Applicant has requested an extension from the existing January 26, 2011 deadline until July 1, 2014 of a previously approved Ordinance of Vacation. The reason for the extension request is to make the extended vacation deadline coincide with extension of a special exception

County Manager: BMD/GA

County Attorney: BAK/SAA

Staff: Linda Collier, Real Estate Bureau, DES

site plan provided by recently enacted Virginia Code Section 51.2-2209.1. There are no outstanding issues.

**SUMMARY:** The Applicant has requested the amendment and re-enactment of an Ordinance of Vacation associated with Site Plan #406 (“Site Plan”), for the purpose of extending the expiration date of the original ordinance, enacted on January 26, 2008 (“2008 Ordinance”). As provided for in the 2008 Ordinance, the Applicant has until noon on January 26, 2011 to complete all conditions of the Ordinance of Vacation. However, given current market conditions, the Applicant has not begun construction of the Site Plan. In March 2009, an amendment to Virginia Code Section 15.2-2209.1 was enacted providing for an extension of special exceptions, approved by localities on or before January 1, 2009, until July 1, 2014. The Applicant has indicated that the extension of the Site Plan and associated vacations would improve the Applicant’s ability to obtain financing for the Site Plan because the time to vest the Site Plan and satisfy the vacation ordinance conditions would be considered more favorable to potential lenders given the present economic situation.

The 2008 Ordinance provided for the vacation of a fifteen (15) foot public sidewalk and utilities easement and a five (5) foot sanitary sewer easement, with conditions, for a property located at 2207 N. Pershing Drive. The Amended Ordinance to reenact and amend the 2008 Ordinance is attached to this report as Attachment 1. The conditions of the 2008 Ordinance have not yet been satisfied.

With the amendment and re-enactment of the Ordinance of Vacation, and upon satisfaction of the conditions contained therein, and recordation of the Deed or Deeds of Vacation, the County’s interests in the vacated portions of the sidewalk and utilities easement and the sanitary sewer easement will be extinguished.

**BACKGROUND:** The subject site is located at the northwest corner of North Pershing Drive and Arlington Boulevard (“Property”). (See Vicinity Maps attached hereto as Exhibits B and C). In conjunction with plans for redevelopment of the Property, the Applicant filed Site Plan #406 to allow construction of two mixed use (residential and retail) buildings, separated by a private driveway, and construction of an underground garage located beneath both of the buildings and the driveway. To accomplish the proposed development, the Applicant requested the vacation of a fifteen (15) foot sidewalk and utilities easement of 3,146 square feet (“Sidewalk and Utilities Easement”) and a five (5) foot sanitary sewer easement of 1,333 square feet (“Sanitary Sewer Easement”) (collectively, “Easements”). The Easements are depicted on the attached plat entitled “Plat Showing the Vacation of Various Easements on the Property Now in the Name of Arlington Pershing LLC. (Deed Book 4173, Page 135), Arlington County, Virginia,” dated April 15, 2008, prepared by Bowman Consulting Group, Ltd. (“Plat”), and attached hereto as Exhibit A. The current storm and sanitary facilities within the Easements will be constructed and relocated in new easements which the Applicant/Owner will be required to grant to the County as conditions of the proposed Ordinance of Vacation. In addition, the Applicant/Owner will be required to provide a new sidewalk easement in the general location of the current sidewalk easement as a condition of the proposed Ordinance of Vacation.

The County acquired the Easements by a Deed, dated February 15, 1949, recorded at Deed Book 871, Page 7, among the land records of Arlington County, Virginia on March 11, 1949 and a plat attached thereto.

**DISCUSSION:** The Easements, in their current locations, prevent the Applicant from constructing the proposed buildings and improvements that are the subject of Site Plan #406. The Applicant proposes to relocate the storm sewer line, currently located in the Sidewalk and Utilities Easement, in North Pershing Drive and the sanitary sewer line, currently located in the Sanitary Sewer Easement, to the northern edge of the Property. County staff has concurred with such relocation. The conditions of the Ordinance of Vacation will require the Applicant/Owner to grant all necessary easements to encompass any relocated public sanitary and storm sewer facilities on the Property. In addition, the Applicant/Owner has agreed to grant the County a sidewalk easement in the same general location as the current location of the Sidewalk and Utilities Easement. (See Attachment 1 for the proposed Ordinance of Vacation).

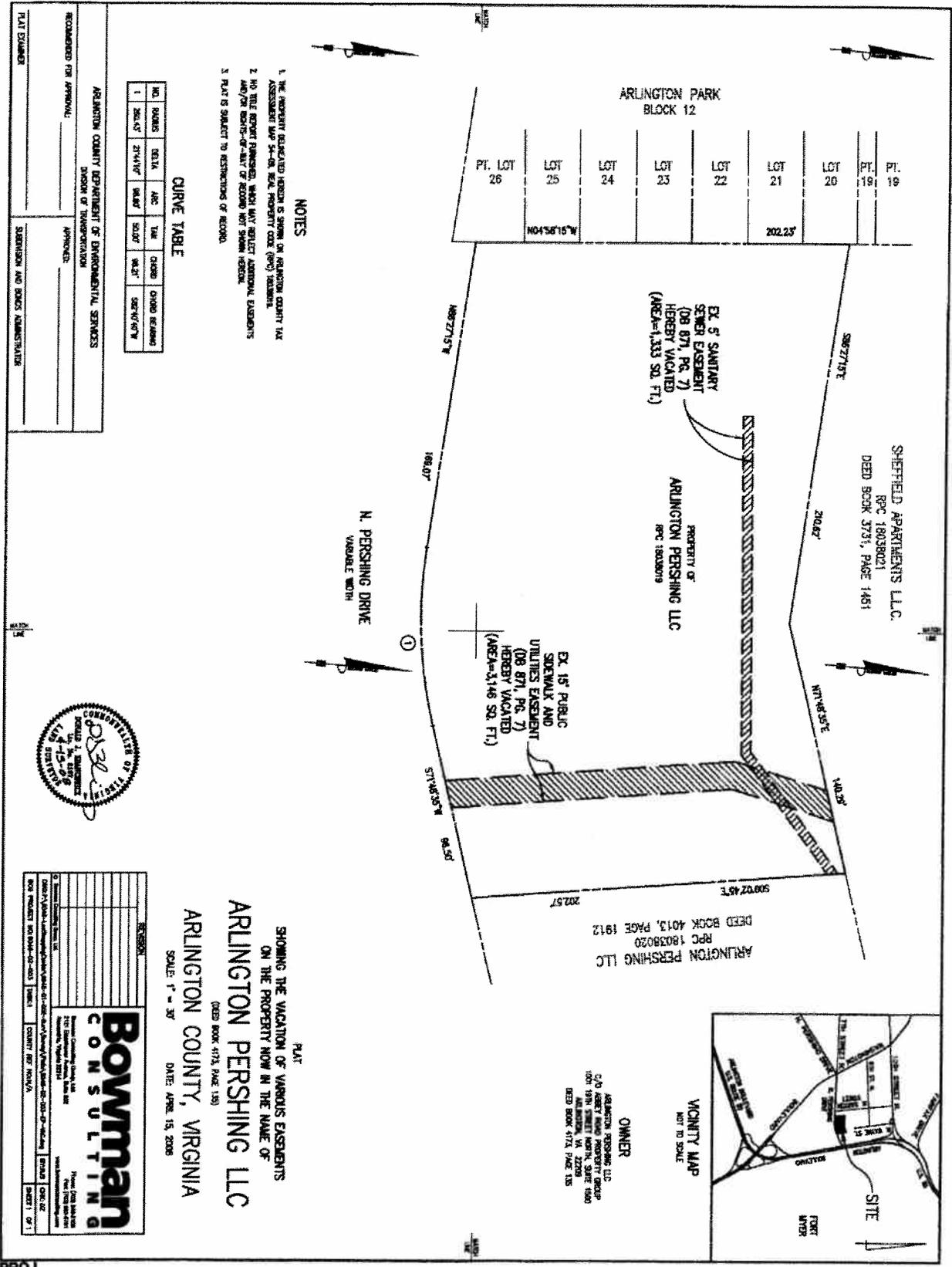
Legal and Physical Description: The Easements that are the subject of this vacation request are described on the Plat attached as Exhibit A. The subject property is located at the northwest corner of North Pershing Drive and Arlington Drive and is identified in the Arlington County Real Estate Records by RPC #18038019. The County acquired the Easements by a Deed, dated February 15, 1949, recorded at Deed Book 871, Page 7, among the land records of Arlington County, Virginia on March 11, 1949 and a plat attached thereto.

Compensation: In keeping with current County policy and practice, and because the Applicant, as a condition of the Ordinance of Vacation, will be required to grant to the County public storm and sanitary easements, and a sidewalk easement, staff recommends that no compensation be required from the Applicant for the requested vacation of the Sidewalk and Utilities Easement and the Sanitary Sewer Easement. The Easements, and all utilities or facilities located therein, will be relocated at Applicant's expense.

Public Notice: Public notice of the proposed vacation was given in accordance with the Code of Virginia. Notices were placed in the February 26, 2010 and March 5, 2010 issues of the Washington Times for the County Board Meeting of March 13, 2010.

**FISCAL IMPACT:** None.

**CONCLUSION:** It is recommended that the County Board enact the attached Ordinance to Amend and Re-enact an Ordinance to Vacate: 1) a Fifteen (15) Foot Public Sidewalk and Utilities Easement Which Runs North to South on Parcels Known as 2207 N. Pershing Drive and 2211 N. Pershing Drive, RPC No. 18038019, with Conditions; and 2) a Five (5) Foot Sanitary Sewer Easement Which Runs East to West Along the Northern Portion on Parcels Known as 2207 through 2233 N. Pershing Drive, RPC No. 18038019, With Conditions



**CURVE TABLE**

NO.	POINTS	DELTA	ARC	TAN	CHORD	CHORD BEARING
1	SHEPHERD	274.147'	164.64'	104.07'	164.07'	S27.07°E

- NOTES**
1. THE PROPERTY DELINEATED HEREON IS SHOWN ON ARLINGTON COUNTY TAX ASSESSMENT MAP 54-08, REAL PROPERTY CODE (RPC) DISTRICT.
  2. NO TITLE REPORT FURNISHED, WHICH MAY REVEAL ADDITIONAL EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD NOT SHOWN HEREON.
  3. PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF INSPECTION

RECOMMENDED FOR APPROVAL: \_\_\_\_\_

APPROVED: \_\_\_\_\_

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF INSPECTION

PLAT NUMBER: \_\_\_\_\_

SUBMISSION AND BOOK ADMINISTRATION



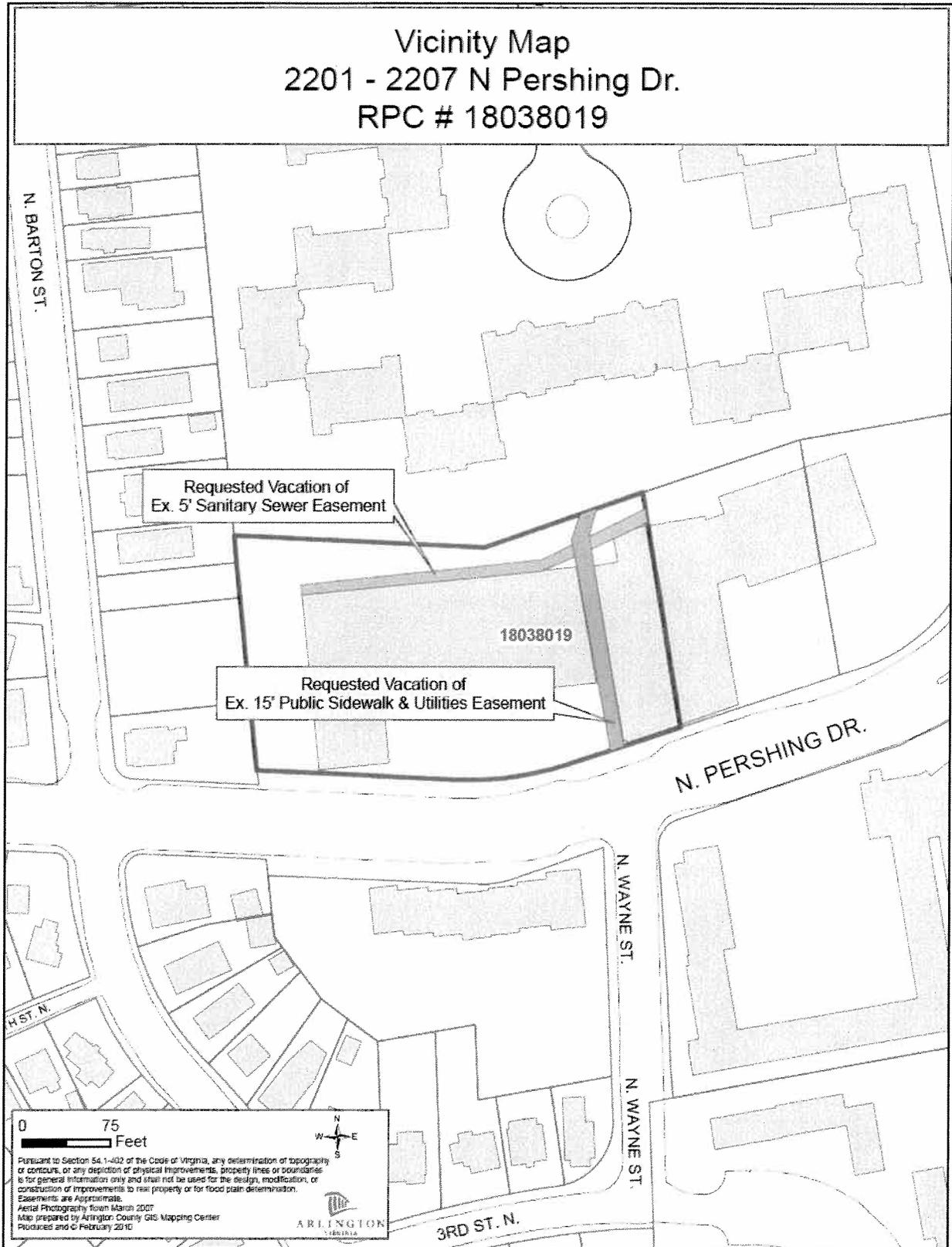
**Bowman CONSULTING**

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RESUBMITTER

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SHOWING THE VACATION OF VARIOUS EASEMENTS  
ON THE PROPERTY NOW IN THE NAME OF  
**ARLINGTON PERSHING LLC**  
(DEED BOOK 4713, PAGE 130)  
ARLINGTON COUNTY, VIRGINIA  
SCALE: 1" = 30'  
DATE: APRIL 15, 2008





## ATTACHMENT 1

**ORDINANCE TO AMEND AND RE-ENACT AN ORDINANCE TO VACATE: 1) A FIFTEEN (15) FOOT PUBLIC SIDEWALK AND UTILITIES EASEMENT WHICH RUNS NORTH TO SOUTH ON PARCELS KNOWN AS 2207 N. PERSHING DRIVE AND 2211 N. PERSHING DRIVE, RPC NO. 18038019, WITH CONDITIONS; AND 2) A FIVE (5) FOOT SANITARY SEWER EASEMENT WHICH RUNS EAST TO WEST ALONG THE NORTHERN PORTION ON PARCELS KNOWN AS 2207 THROUGH 2233 N. PERSHING DRIVE, RPC NO. 18038019, WITH CONDITIONS.**

**BE IT ORDAINED** that, pursuant to a request by Arlington Pershing, LLC (“Applicant/Owner”), on file in the offices of the Department of Environmental Services, that: 1) a fifteen (15) foot public sidewalk and utilities easement which runs north to south on parcels known as 2207 N. Pershing Drive and 2211 N. Pershing Drive, RPC No. 18038019; and 2) a five (5) foot sanitary sewer easement which runs east to west along the northern portion on parcels known as 2207 through 2233 N. Pershing Drive, RPC No. 18038019, both easements being located on a portion of the Harriet R F Vinson Estate, and both easements created by a Deed, dated February 15, 1949, recorded at Deed Book 871, Page 7, among the land records of Arlington County, Virginia on March 11, 1949, and shown on a plat attached thereto, entitled “Plat Showing Property of the Arlington Bldg. & Dev’t. Corp, Arlington County Virginia,” and both easements which are all shown on a plat entitled “Plat Showing the Vacation of Various Easements on the Property Now in the Name of Arlington Pershing LLC (Deed Book 4173, Page 135), Arlington County, Virginia”, dated April 15, 2008, prepared by Bowman Consulting Group, Ltd. (“Plat”), and attached to the County Manager’s March 1, 2010 report as Exhibit A, are hereby vacated, subject to the following conditions:

1. The Applicant/Owner shall, at its own cost and expense, remove, relocate and reconstruct the existing storm and sanitary sewer facilities, located within the easements herein vacated, with new storm sewers, sanitary sewers and related appurtenant facilities of size, dimension and location acceptable to Arlington County (“County”), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
2. The Applicant/Owner shall dedicate, grant and convey to the County public storm and sanitary easements, at locations and of dimensions necessary to accommodate the relocated facilities as required by the County. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the storm and sanitary sewer easements on behalf of the County, subject to approval thereof as to form by the County Attorney.
3. The Applicant/Owner shall submit, for review and approval, to the Department of Environmental Services (“DES”), a utility relocation and engineering design plan for the construction, relocation, removal, replacement and/or abandonment of the storm and sanitary sewer facilities located, in whole or in part, within the portions of the easements vacated by this Ordinance of Vacation (“Plan”) in compliance with the Arlington County Construction

Standards and Specifications. The Plan shall be subject to approval by the Director of DES, or his designee.

4. The Applicant/Owner shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or his designee, to secure the proper construction, relocation, removal, replacement or abandonment of the storm and sanitary sewer facilities pursuant to the approved Plan.

5. The Applicant/Owner shall dedicate, grant and convey to the County, the Sidewalk Easement required by Condition #85 of the site plan conditions approved as part of Site Plan #406. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the Sidewalk Easement on behalf of the County, subject to approval thereof as to form by the County Attorney.

6. The Applicant /Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deeds of easement, subject to approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.

7. The Applicant/Owner shall record all plats, the Deed(s) of Vacation, and all deeds of easement required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.

8. The Applicant/Owner shall pay all fees, including the fees for review, approval, and recordation of the required documents associated with the Ordinance of Vacation.

9. All conditions of the Ordinance of Vacation shall be met by the earlier of: a) noon on July 1, 2014; or b) the date, if any, when the County Board amends Site Plan #406, if such amendment changes, deletes or modifies any requirement addressed by this Ordinance of Vacation or the time period for fulfilling the same. In either instance, this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.