



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 24, 2010**

DATE: March 25, 2010

SUBJECT: Amendment and Reenactment of an “Ordinance to Vacate a 5’ Water Distribution Easement and a Portion of a 5’ Sanitary Sewer Easement, on Buckingham Section Nine, Said Easements Running Generally Along the Westerly Side of the Property at 4406 Henderson Road, Southward and Eastward Towards North Pershing Drive, (RPC #20024004), with Conditions,” Enacted on June 9, 2007, to be Hereafter Entitled an “Ordinance to Vacate a 5’ Water Distribution Easement and a Portion of a 5’ Sanitary Sewer Easement on Parcel A (RPC #20024240), and on Parcel D (RPC #20024243), Buckingham Commons Village 1, Arlington, Virginia, with Conditions.”

Original Applicant/Owner: 4319 North Pershing Drive Apartments Investors, LLC

Present Applicant: Buckingham Parcel D Associates, LLC, c/o Paradigm Development Company

Owners: Buckingham Parcel D Associates LLC (Parcel D) and The County Board of Arlington County, Virginia (Parcel A)

By: Tad Lunger, Esq.
Bean, Kinney & Korman, P.C.
2300 Wilson Boulevard, 7th Floor
Arlington, VA 22201

C. M. RECOMMENDATIONS:

1. Enact the attached Ordinance to Amend and Re-enact an “Ordinance to Vacate a 5’ Water Distribution Easement and a Portion of a 5’ Sanitary Sewer Easement, on Buckingham Section Nine, said Easements Running Generally Along the Westerly Side of the Property at 4406 Henderson Road, Southward and Eastward Towards North Pershing Drive, RPC #20024004, with Conditions,” Enacted on June 9, 2007, to be Hereafter Entitled an “Ordinance to Vacate a 5’ Water Distribution Easement and a Portion of a 5’ Sanitary Sewer Easement on Parcel A (RPC #20024240) and on Parcel D (RPC #20024243), Buckingham Commons Village 1, Arlington, Virginia, with Conditions.”
2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, or his designee, to execute, on behalf of the

County Manager: BMD/ma

County Attorney: BAC/SAM

Staff: Betsy Herbst, DES, Real Estate Bureau

15.

County Board, the Deed(s) of Vacation, and to accept on behalf of the County Board all dedications required by conditions of the Ordinance, subject to approval as to form by the County Attorney.

ISSUE: The Present Applicant has requested an extension from the existing June 9, 2010 deadline of a previously approved Ordinance of Vacation until April 24, 2013 to allow for time to construct the relocated public water and sanitary sewer facilities. There are no issues identified in this request.

SUMMARY: The Present Applicant, Buckingham Parcel D Associates, LLC, which is a related entity of the Original Applicant (“Applicant”), has requested an amendment and reenactment of a vacation ordinance (“Amended Ordinance”) associated with phased development Site Plan #405 (“Site Plan”), for the purpose of extending the expiration of the vacation ordinance originally enacted by the County Board on June 9, 2007, with conditions (“2007 Ordinance”). As provided in the conditions of the 2007 Ordinance, the Applicant has until noon on June 9, 2010, to complete all conditions of the 2007 Ordinance. However, because of construction phasing, the Applicant has been unable to complete the required conditions of the 2007 Ordinance for all phases of construction and has requested an amendment of the 2007 Ordinance to extend the expiration date. The Amended Ordinance to reenact and amend the 2007 Ordinance is attached to this report as Attachment 1.

Upon enactment of the Amended Ordinance, the Applicant would be required to satisfy the Ordinance conditions by April 24, 2013. Except for the expiration date, all other conditions of the 2007 Ordinance are incorporated into, and made part of, the Amended Ordinance. The Applicant is also being required to remove and relocate the existing utilities located within the portions of the easements being vacated, and rededicate new utility easements as provided in the approved Site Plan. With completion of the conditions specified in the Amended Ordinance and recordation of the Deed of Vacation by the Applicant before the expiration date of the Amended Ordinance, the County’s interests in the vacated portion of the 5’ water distribution easement and a portion of the 5’ sanitary sewer easement on Parcels A and D will be extinguished.

BACKGROUND: The Site Plan provides for phased construction of a mixed residential development, including two rental apartment buildings and 68 townhouses (“Project”). The Site Plan area is bounded by Culpeper Garden senior living community to the west, by a portion of the new Buckingham Village II district to the east, by Barrett Elementary School to the north, and by a portion of the Arlington Forest neighborhood and the Arlington Oaks condominium to the south. Vicinity Maps are attached hereto as Exhibits B and C.

The Applicant has completed construction of the first phase, including one of the rental apartment buildings in the Project, and is in the process of beginning construction of the second rental apartment building. The Applicant has not yet begun construction of the townhouses.

In conjunction with construction of the first apartment building, the Applicant recorded a Deed of Vacation in Deed Book 4151, Page 1869 among the land records of Arlington County, Virginia (“Land Records”), vacating a portion of the 5’ Sanitary Sewer Easement included in the

2007 Ordinance. The remaining portions of the easements have not been vacated because the conditions of the 2007 Ordinance have not yet been fully satisfied.

DISCUSSION: The Applicant requests that the County amend and reenact the 2007 Ordinance to vacate the remaining portions of an existing 5' water distribution easement and a 5' sanitary sewer easement, as designated on the plat entitled "Plat Showing The Vacation of a Portion of a 5' Sanitary Sewer Easement and The 5' Water Distribution Easement, Deed Book 1105, Page 387, Parcels A and D, Village 1, Buckingham Commons, Deed Page 4141, Page 803, Arlington County, Virginia", prepared by Urban Engineering & Associates, Inc., dated May, 2009, and attached hereto as Exhibit A, to permit redevelopment of the next phase of the Site Plan. Under the Site Plan, the Applicant proposes to dedicate new utility easements to serve the proposed improvements in the next phase.

The existing water distribution easement and sanitary sewer easement are internal to the site and presently serve only the subject property. The existing easements run generally along the westerly side of the property from southward to eastward towards North Pershing Drive. The Applicant shall pay all costs and fees associated with removal of the existing water line and sanitary sewer, and relocation of the new utilities. As provided in the conditions of the Site Plan, the Applicant shall dedicate and convey new utility easements to serve the proposed improvements.

Since enactment of the 2007 Ordinance, the property known as Buckingham, Section Nine, RPC #20024004, was resubdivided into Parcels A-E, Buckingham Commons Village 1, by Deed of Vacation, Rededication and Resubdivision dated October 11, 2007 and recorded October 12, 2007 in Deed Book 4141 at Page 803 among the Land Records. Parcel D was acquired by Buckingham Parcel D Associates LLC by Special Warranty Deed dated October 30, 2007, and recorded October 30, 2007, in Deed Book 4146 at Page 66 among the Land Records. Parcel A was acquired by the County by Deed dated October 13, 2009, and recorded October 13, 2009, in Deed Book 4316 at Page 1274 among the Land Records.

Legal and Physical Description: The existing water distribution easement and sanitary sewer easement were dedicated to the County by Deed of Dedication dated June 3, 1953, and recorded in Deed Book 1105 at Page 387 among the Land Records.

Public Notice: Public notice of the proposed vacations was given in accordance with the Code of Virginia. Notices were placed in the March 30, 2010 and April 6, 2010 issues of the Washington Times for the County Board Meeting of April 24, 2010.

Compensation: In keeping with current practice, staff recommends that no compensation be required from the Owner for vacating the water distribution easement and a portion of a sanitary sewer easement located on the Owners' property, which easements will be vacated for redevelopment and replaced with new easements dedicated to serve the proposed new improvements, as provided in the Site Plan.

FISCAL IMPACT: None.

CONCLUSION: It is recommended that the County Board enact the attached Amendment and Reenactment of an Ordinance to Vacate as set forth in Attachment 1 hereto.

AMENDMENT AND REENACTMENT OF AN "ORDINANCE TO VACATE A 5' WATER DISTRIBUTION EASEMENT AND A PORTION OF A 5' SANITARY SEWER EASEMENT, ON BUCKINGHAM SECTION NINE, SAID EASEMENTS RUNNING GENERALLY ALONG THE WESTERLY SIDE OF THE PROPERTY AT 4406 HENDERSON ROAD, SOUTHWARD AND EASTWARD TOWARDS NORTH PERSHING DRIVE, (RPC #20024004), WITH CONDITIONS," ENACTED ON JUNE 9, 2007, TO BE HEREAFTER ENTITLED AN "ORDINANCE TO VACATE A 5' WATER DISTRIBUTION EASEMENT AND A PORTION OF A 5' SANITARY SEWER EASEMENT ON PARCEL A (RPC #20024240) AND PARCEL D (RPC #20024243), BUCKINGHAM COMMONS VILLAGE 1, ARLINGTON, VIRGINIA, WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by Buckingham Parcel D Associates, LLC, c/o Paradigm Development Company (the "Applicant") in the Office of the Department of Environmental Services, a 5' Water Distribution Easement and a portion of a 5' Sanitary Sewer Easement on Parcel A (RPC #20024240) and Parcel D (RPC #20024243), Buckingham Commons Village 1, Arlington, Virginia, both established by a Deed of Dedication dated June 3, 1953, and recorded in Deed Book 1105 at Page 387 among the land records of Arlington County, Virginia, together with an attached plat dated August, 1951, prepared by Basil M. DeLashmutt, Certified Land Surveyor, entitled "Buckingham Community (Section-Nine)", which easements are designated on a plat entitled "Plat Showing The Vacation of a Portion of a 5' Sanitary Sewer Easement and The 5' Water Distribution Easement, Deed Book 1105, Page 387, Parcels A and D, Village 1, Buckingham Commons, Deed Page 4141, Page 803, Arlington County, Virginia", prepared by Urban Engineering & Associates, Inc., dated May, 2009, and attached to the County Manager's Report dated March 25, 2010, as Exhibit A are hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall prepare and submit to the County for review and approval, all Deed(s) of Vacation, all required plats, and all required Deed(s) of Easement, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.
2. The Applicant/Property Owner shall dedicate, grant and convey to the County new water distribution and sanitary sewer easements as provided in Site Plan # 405, approved by the County Board on June 9, 2007.
3. The Applicant/Property Owner shall record all plats, Deed(s) of Vacation, and Deed(s) of Easement, subject to the approval of the County Manager, or his designee, and approval as to form by the County Attorney.
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.
5. All conditions of the Ordinance of Vacation must be met by noon on April 24, 2013, or the Ordinance of Vacation shall become null and void.

SURVEYOR'S CERTIFICATE

I, PHILLIP A. BLEVINS, A FULLY CERTIFIED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT THE LAND EMBRACED WITHIN THIS PLAT OF VACATION IS NOW IN THE NAMES OF BUCKINGHAM PARCEL A ASSOCIATES LLC AS RECORDED IN DEED BOOK 4146 AT PAGE 0058, AND BUCKINGHAM PARCEL D ASSOCIATES LLC, AS RECORDED IN DEED BOOK 4146 AT PAGE 0066, AMONG THE LAND RECORDS OF THE COUNTY OF ARLINGTON, VIRGINIA AND THAT THIS PLAT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Phillip A. Blevins
PHILLIP A. BLEVINS LS# 1364 DATE 5-21-09

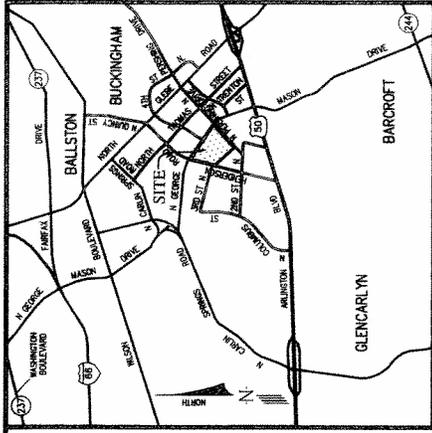


MATCH LINE

NOTES

1. THE PROPERTIES DELINEATED HEREON ARE LOCATED ON ARLINGTON COUNTY TAX MAP AS RPC #20024240 AND RPC #20024243 AND ARE CURRENTLY ZONED RAB-1B.
2.  INDICATES PORTION OF EXISTING 5' SANITARY SEWER EASEMENT HEREBY VACATED.
3.  INDICATES EXISTING 5' WATER DISTRIBUTION EASEMENT HEREBY VACATED.
4. THIS PARCEL IS SUBJECT TO THE CONTROL OF SITE PLAN SP#405 APPROVED BY THE COUNTY BOARD ON JUNE 9, 2007, AND THE APPROVAL OF THIS PLAT NEITHER ENLARGES NOR REDUCES THE OBLIGATIONS IMPOSED BY THE SITE PLAN AS THEY RELATE TO THIS PARCEL. SITE PLAN SP#405 IS ON FILE IN THE OFFICE OF THE ZONING ADMINISTRATOR OF ARLINGTON COUNTY, VIRGINIA.
5. THIS PROPERTY IS SUBJECT TO AN ORDINANCE TO VACATE A 5' WATER DISTRIBUTION EASEMENT AND A PORTION OF A 5' SANITARY SEWER EASEMENT ON BUCKINGHAM SECTION NINE, SAID EASEMENTS RUNNING GENERALLY ALONG THE WESTERLY SIDE OF THE PROPERTY AT 4406 HENDERSON ROAD, SOUTHWARD AND EASTWARD TOWARDS NORTH PERSHING DRIVE. (RPC#20024004), WITH CONDITIONS, ENACTED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ON JUNE 9, 2007.
6. OWNER(S):
 RPC# 20024240
 PARCEL A
 BUCKINGHAM PARCEL A ASSOCIATES LLC
 DB. 4146 PG. 0058
 RPC# 20024243
 PARCEL D
 BUCKINGHAM PARCEL D ASSOCIATES LLC
 DB. 4146 PG. 0066

MATCH LINE



VICINITY MAP
SCALE: 1" = 2000'

MATCH LINE

PLAT SHOWING
THE VACATION OF A PORTION OF
A 5' SANITARY SEWER EASEMENT AND
THE 5' WATER DISTRIBUTION EASEMENT
DEED BOOK 1105, PAGE 387
PARCELS A AND D

**BUCKINGHAM COMMONS
VILLAGE 1**

DEED PAGE 4141, PAGE 803

ARLINGTON COUNTY, VIRGINIA

SCALE: N/A

DATE: MAY, 2009



Urban, Ltd.
7712 Lake River Turnpike
Arlington, Virginia 22206
Tel: 703.652.0880
www.urban-ll.com

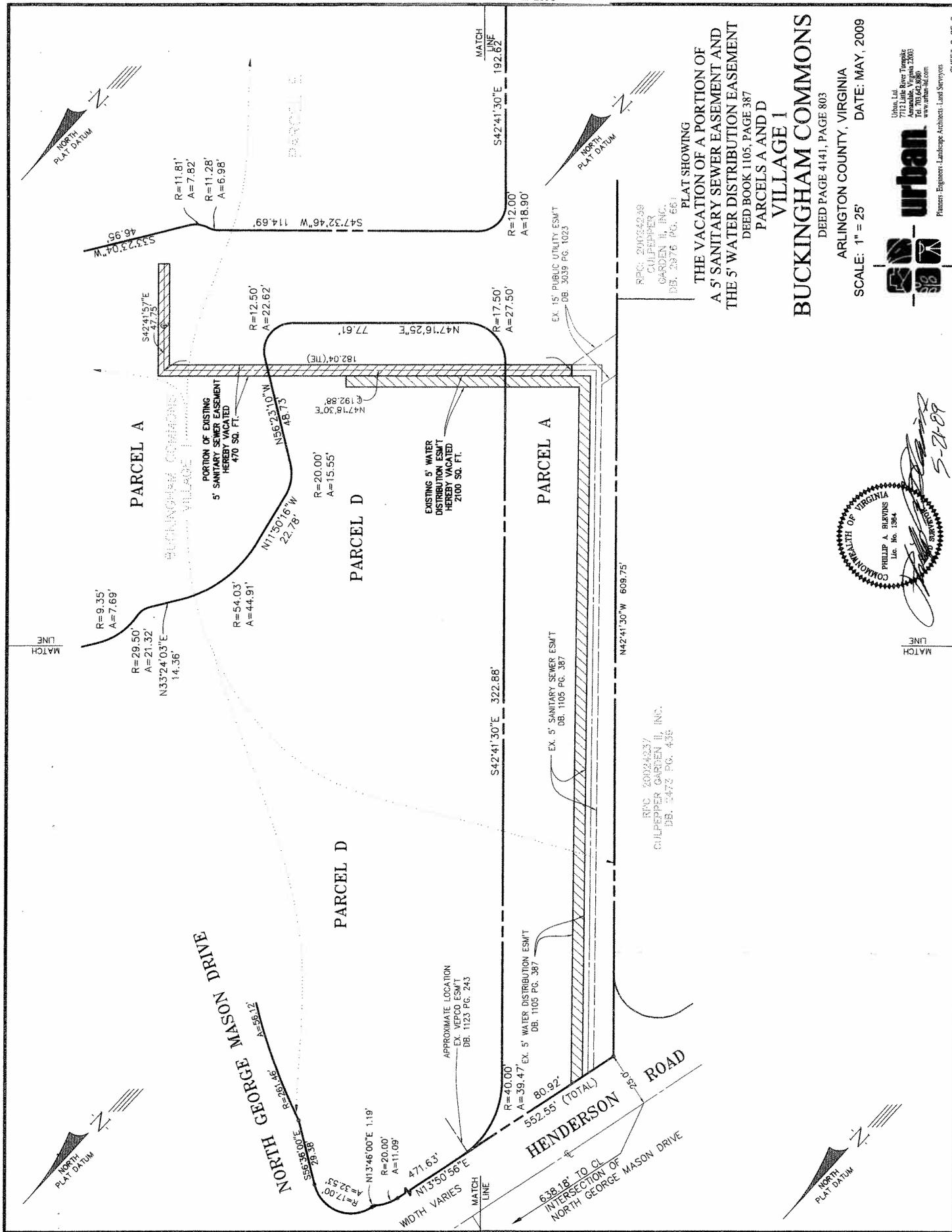
Planners - Baggett - Landscape Architects - Land Surveyors

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES	
DIVISION OF TRANSPORTATION	
RECOMMENDED FOR APPROVAL:	APPROVED:
PLAT EXAMINER	SUBDIVISION AND BONDS ADMINISTRATOR

MATCH LINE

Exhibit A - Sheet 2 of 2
Vacation Plat

RP# 1680-VAC2



PLAT SHOWING
THE VACATION OF A PORTION OF
A 5' SANITARY SEWER EASEMENT AND
THE 5' WATER DISTRIBUTION EASEMENT
DEED BOOK 1105, PAGE 387
PARCELS A AND D
VILLAGE I
BUCKINGHAM COMMONS
DEED PAGE 4141, PAGE 803
ARLINGTON COUNTY, VIRGINIA
DATE: MAY, 2009

SCALE: 1" = 25'



5-21-09

D:\Jobs\BUCKINGHAM APTS\PLAT\SVILLAGE 1\RP-1680-VAC2.dwg, dshes

EXHIBIT B

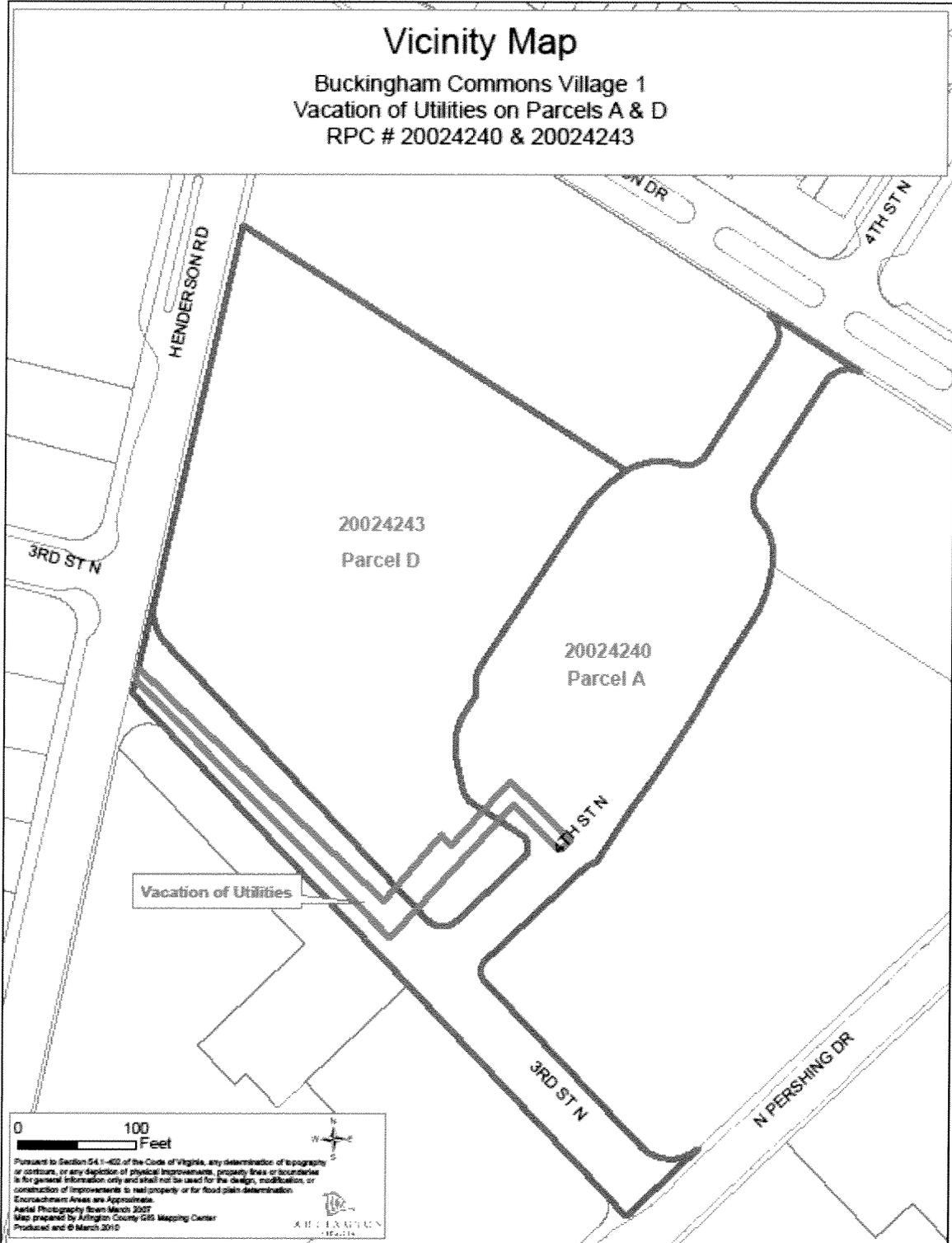


EXHIBIT C

