



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of June 12, 2010**

DATE: June 1, 2010

SUBJECT: Amendment to Extend an Ordinance to Vacate Certain Easements at Liberty Center, 875 North Randolph Street, 888 North Quincy Street, 818 North Quincy Street, and 4075 Wilson Boulevard (RPC# 14044018, 14044PCA, 14044021 and 14044022).

Applicant: Ballston Investor Group I, LLC, Ballston Investor Group II, LLC, Unit Owners Association of The Residences at Liberty Center, A Condominium, Ballston Investor Group III, LLC, and Ballston Investor Group IV, LLC

By: Tim Sampson, Agent/Attorney
Walsh Colucci Lubeley Emrich & Walsh PC
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

C. M. RECOMMENDATION:

1. Enact the Ordinance to Amend and Re-enact an Ordinance of Vacation (Attachment 1) to Vacate Easements for Public Street and Utilities Purposes, and Easements for Public Sidewalk and Utilities Purposes on Parcels 1, 2A, 3, and 4, Liberty Center, 875 North Randolph Street, 888 North Quincy Street, 818 North Quincy Street, and 4075 Wilson Boulevard, such parcels bounded on the North by 9th Street North, on the East by North Quincy Street, on the South by Wilson Boulevard and on the West by North Randolph Street, (RPC# 14044018, 14044PCA, 14044021 and 14044022), with Conditions.
2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, or his designee, to execute, and to accept, on behalf of the County Board, all documents necessary to effectuate the Ordinance of Vacation, subject to approval as to form by the County Attorney.

ISSUES: The Applicant and County staff are requesting this Ordinance Amendment and Re-enactment to extend, from the existing June 13, 2010 to June 12, 2011, the deadline by which the Applicant must satisfy all of the conditions of a previously enacted Ordinance of Vacation. The reason for the extension is to permit the timely and adequate review and revision of the Deeds of Vacation, the Deeds of Dedication and all plats related thereto. There are no outstanding issues.

County Manager: MB/GA

County Attorney: BARC/SAM

Staff: Linda Eichelbaum Collier and Lynne Porfiri, Real Estate Bureau, DES

17.

SUMMARY: Applicant has requested the amendment and re-enactment of an Ordinance of Vacation to vacate Easements for Public Street and Utilities Purposes and Easements for Public Sidewalk and Utilities Purposes on Parcels 1, 2A, 3, and 4, Liberty Center, 875 North Randolph Street, 888 North Quincy Street, 818 North Quincy Street, and 4075 Wilson Boulevard, such parcels bounded on the North by 9th Street North, on the East by North Quincy Street, on the South by Wilson Boulevard and on the West by North Randolph Street, (RPC# 14044018, 14044PCA, 14044021 and 14044022), with Conditions (“Ordinance of Vacation”), to eliminate existing underground parking garage encroachments in exchange for the Applicant’s dedication in fee simple of certain portions of street and utilities easements where the vehicular travel way of the streets rebuilt by the Applicant are physically located. The conditions of the Ordinance of Vacation require the Applicant to grant to the County the specified fee dedication(s) and all necessary sidewalk and utilities easements. As a result of these actions, all existing sidewalk and utilities easements also will be consolidated into one continuous and contiguous easement.

The amendment and re-enactment is being requested to extend the deadline for the Applicant to fulfill the conditions of the previously enacted Ordinance of Vacation, including recordation of the four Deed(s) of Vacation and four plats related thereto and recordation of the four Deeds of Dedication and four plats related thereto. Under the Amended and Re-enacted Ordinance of Vacation, the deadline would be extended from June 13, 2010 to June 12, 2011. The extension will provide staff and the Applicant sufficient time to timely and adequately review and revise the multiple deeds and plats.

With the enactment of the Ordinance of Vacation and upon satisfaction of the conditions contained therein, including recordation of the Deed(s) of Vacation, the County’s interests in the vacated easements for public street and utilities purposes and easements for public sidewalk and utilities purposes will be extinguished.

BACKGROUND: The subject site is located in Ballston, bounded on the North by 9th Street North, on the East by North Quincy Street, on the South by Wilson Boulevard and on the West by North Randolph Street (“Property”). (See Vicinity Maps attached hereto as Exhibits A and B). In conjunction with plans for redevelopment of the Property, the Applicant filed a major site plan amendment to Site Plan #20 (“SP 20”). SP 20 was approved by the Board on January 22, 2002 and provided for the demolition of the then existing office buildings on the Property that had been constructed in the 1960s and the redevelopment of the Property with four new buildings; two high rise offices and two residential buildings along with underground parking garage. At the time the Liberty Center project was completed, the County recognized the historic public street easements, but did not require dedication of the land for the public street in fee simple. While the redevelopment reduced the physical area of previously existing underground garage encroachment, areas where the underground garage encroaches into portions of adjacent County public street easements remain. The Ordinance of Vacation and the grant to the County of specified fee dedication(s) and all necessary sidewalk and utility easements will eliminate the existing underground parking garage encroachments, further the County’s practice of owning the vehicular travel way portions of County streets in fee simple, and consolidate the existing sidewalk and utilities easements into one continuous and contiguous easement.

DISCUSSION: The effect of enactment of the Ordinance of Vacation, and satisfaction of the conditions will be that the recently-built underground parking garage encroachments into various portions of existing public street and utilities easements will be eliminated, and be allowed to remain under the proposed consolidated easement for public sidewalk and utilities purposes. The County will own, in fee simple, the portions of the property improved for vehicular travel ways as approved for the reconstruction of the four streets along the frontages of the new development. In addition, this will result in the consolidation of the various public sidewalk and utilities easements on the property that are improved with public sidewalks. Any existing County utility facilities or lines located within the area proposed to be vacated, including four water meter vaults, will also be covered by the conveyance of sidewalk and utilities easements or other easements required to be dedicated by the Applicant as a condition of the 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 C. The County acquired the Easements by seven instruments as follows:

- 1) 6,402 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated January 27, 1965, recorded at Deed Book 1576, Page 252 among the land records of Arlington County (“Land Records”);
- 2) 12,975 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated April 27, 1967, recorded at Deed Book 1647, Page 417 among the Land Records;
- 3) 3,011 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated February 8, 1968, recorded at Deed Book 1668, Page 662 among the Land Records;
- 4) 14,697 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated August 13, 1968, recorded at Deed Book 1682, Page 166 among the Land Records;
- 5) 1,887 square feet of Easement for Public Sidewalk and Utilities Purposes, created by a Deed, dated November 20, 2002, recorded at Deed Book 3410, Page 2140 among the Land Records;
- 6) 4,553 square feet of Easement for Public Sidewalk and Utilities Purposes, created by a Deed, dated July 18, 2005, recorded at Deed Book 3877, Page 517 among the Land Records; and
- 7) 235 square feet of Easement for Public Sidewalk and Utilities Purposes, created by a Deed, dated April 10, 2006, recorded at Deed Book 4002, Page 1599 among the Land Records.

The areas proposed for Fee Dedication for Public Street and Utilities Purposes and for Easement for Public Sidewalk and Utilities Purposes are on the Plat attached as Exhibit D.

Compensation: In exchange for vacations of 43,760 square feet (37,085 sq. ft. in public street and utilities easements and 6,675 sq. ft. in public sidewalk and utilities easements), Applicant will dedicate to the County 18,477 square feet in fee simple, for public street and utilities purposes; and grant and convey 23,300 square feet as an easement for public sidewalk and utilities purposes. Based upon the relative square footage and the nature of the interests to be vacated, the value of the fee simple public street dedication and of the consolidated easement for public sidewalk and utilities purposes from the Applicant is of equal or greater value than the value of the easements to be vacated by the County.

Public Notice: Public notice of the proposed vacation was given in accordance with the Code of Virginia. Notices were placed in the May 19, 2010 and the May 26, 2010 issues of The Washington Times for the County Board Meeting of June 12, 2010.

FISCAL IMPACT: None. The costs of the vacation process, the preparation and recordation of all associated and required documents will be paid by the Applicant.

CONCLUSION: It is recommended that the County Board enact the Ordinance to Amend and Re-enact an Ordinance to Vacate certain easements at Liberty Center (RPC# 14044018, 14044PCA, 14044021 and 14044022), as set forth in Attachment 1.

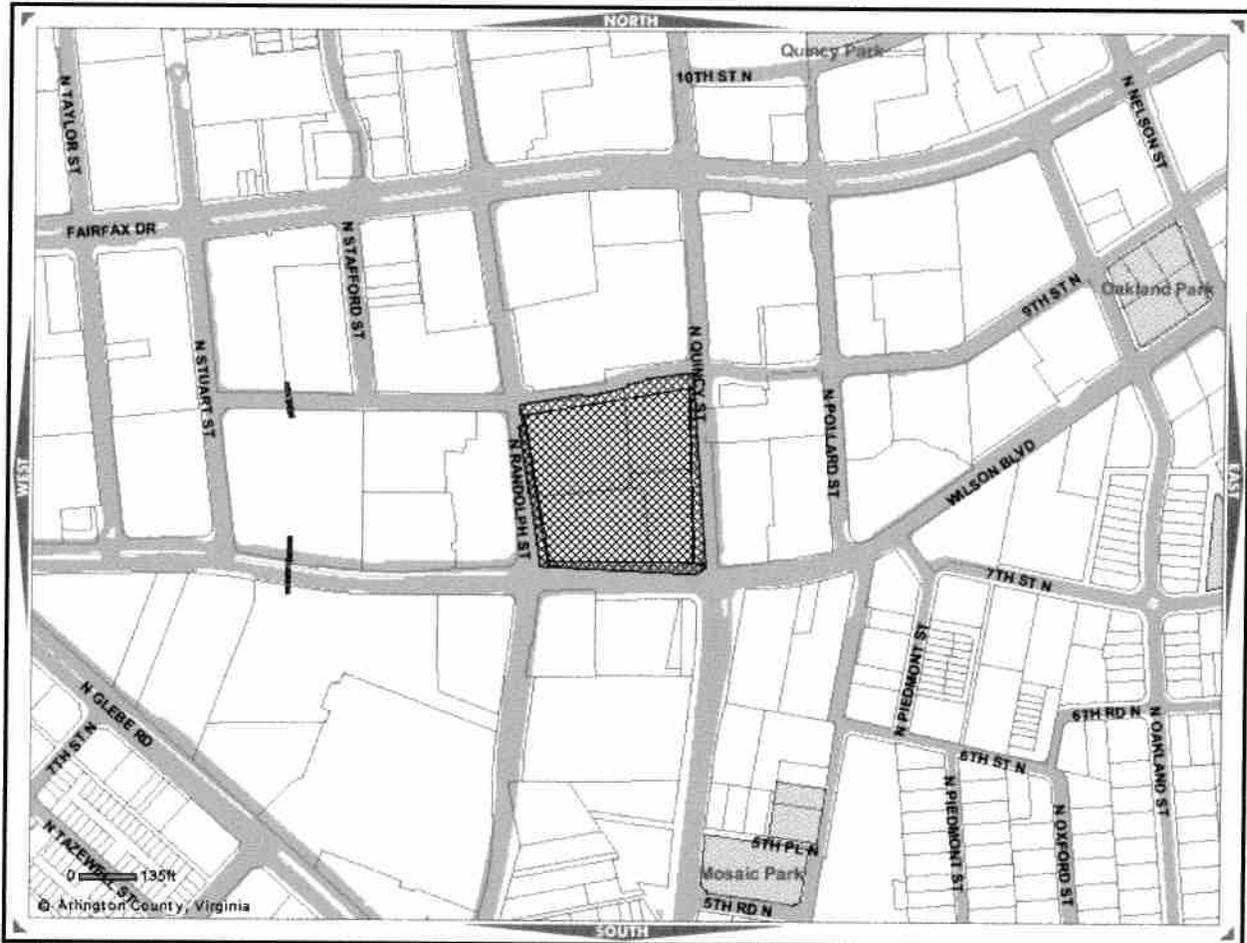
ATTACHMENT 1

ENACTMENT OF AN ORDINANCE TO AMEND AND RE-ENACT AN ORDINANCE TO VACATE EASEMENTS FOR PUBLIC STREET AND UTILITIES PURPOSES, AND EASEMENTS FOR PUBLIC SIDEWALK AND UTILITIES PURPOSES ON PARCELS 1, 2A, 3, AND 4, LIBERTY CENTER, 875 NORTH RANDOLPH STREET, 888 NORTH QUINCY STREET, 818 NORTH QUINCY STREET, AND 4075 WILSON BOULEVARD, SUCH PARCELS BOUNDED ON THE NORTH BY 9TH STREET NORTH, ON THE EAST BY NORTH QUINCY STREET, ON THE SOUTH BY WILSON BOULEVARD AND ON THE WEST BY NORTH RANDOLPH STREET, (RPC# 14044018, 14044PCA, 14044021 AND 14044022), WITH CONDITIONS.

BE IT ORDAINED that, pursuant to a request by Ballston Investor Group I, LLC, Ballston Investor Group II, LLC, Unit Owners Association of The Residences at Liberty Center, A Condominium, Ballston Investor Group III, LLC, and Ballston Investor Group IV, LLC (collectively known as “Applicant/Property Owner”), on file in the offices of the Department of Environmental Services: 1) 6,402 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated January 27, 1965, recorded at Deed Book 1576, Page 252 among the land records of Arlington County (“Land Records”); 2) 12,975 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated April 27, 1967, recorded at Deed Book 1647, Page 417 among the Land Records; 3) 3,011 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated February 8, 1968, recorded at Deed Book 1668, Page 662 among the Land Records; 4) 14,697 square feet of Easement for Public Street and Utilities Purposes, created by a Deed, dated August 13, 1968, recorded at Deed Book 1682, Page 166 among the Land Records; 5) 1,887 square feet of Easement for Public Sidewalk and Utilities Purposes, created by a Deed, dated November 20, 2002, recorded at Deed Book 3410, Page 2140 among the Land Records; 6) 4,553 square feet of Easement for Public Sidewalk and Utilities Purposes, created by a Deed, dated July 18, 2005, recorded at Deed Book 3877, Page 517 among the Land Records; and, 7) 235 square feet of Easement for Public Sidewalk and Utilities Purposes, created by a Deed, dated April 10, 2006, recorded at Deed Book 4002, Page 1599 among the Land Records (collectively “Easements”), which Easements are located on Parcels 1, 2A, 3, and 4, Liberty Center, 875 North Randolph Street, 888 North Quincy Street, 818 North Quincy Street, and 4075 Wilson Boulevard, RPC# 14044018, 14044PCA, 14044021 and 14044022, and which Easements are shown on an exhibit entitled “Exhibit Showing Proposed Vacation of Easements for Public Street and Utilities Purposes Deed Book 1576, Page 252, Deed Book 1647, Page 417, Deed Book 1668, Page 166, Deed Book 1682, Page 662, and Easements for Public Sidewalk and Utilities Purposes Deed Book 3410, Page 2140, Deed Book 3877, Page 517, Deed Book 4002, Page 1599 on Parcels 1, 2A, 3 and 4 Liberty Center Arlington County, Virginia”, dated March 25, 2008 and revised March 10, 2009, prepared by VIKA Incorporated and attached to the County Manager’s June 1, 2010 report as Exhibit C, are hereby vacated, subject to the following conditions:

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

2. 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.
3. As a condition of this Ordinance of Vacation, the Applicant/Property Owner shall: 1) dedicate, to the County 18,477 square feet, in fee simple, for Public Street and Utilities Purposes; 2) grant and convey, to the County, 23,300 square feet in Easement for Public Sidewalk and Utilities Purposes, as such fee simple and easement areas are designated on an exhibit entitled "Exhibit Showing Proposed Fee Dedication for Public Street and Utilities Purposes and Proposed Easement for Public Sidewalk and Utilities Purposes on Parcels 1, 2A, 3 and 4 Liberty Center Arlington County, Virginia" dated March 25, 2008, revised March 10, 2009, prepared by VIKA Incorporated ("Dedication and Easement Plat") and attached to the County Manager's June 1, 2009 Report as Exhibit D; and, 3) to grant and convey, to the County, areas required for four existing water meter vaults as shown on the site design plans for One Liberty Center approved by the Director of the Department of Public Works on July 19, 2004 and the site design plans for Liberty Center approved by the Director of the Department of Environmental Services on January 2, 2007, and not included in the above easement area.
4. The Applicant /Property Owner shall prepare and submit to the County for review and approval: (1) the Deed(s) of Dedication and Deed(s) of Easement required to dedicate, grant and convey the areas designated on the Dedication and Easement Plat and any other additional required areas; and (2) all required plats for such Deed(s) of Dedication and Deed(s) of Easement (the "Plats"). The Deeds and Plats shall be subject to approval thereof by the County Manager, or his designee, as to substance, and the Deed(s) of Dedication and Deed(s) of Easement shall be subject to approval, as to form, by the County Attorney.
5. The Applicant/Property Owner shall record all plats and the Deed(s) of Vacation, Deed(s) of Dedication and Deed(s) of Easement required by this Condition among the Land Records.
6. All conditions of this Ordinance of Vacation shall be met by noon on June 12, 2011, or the Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

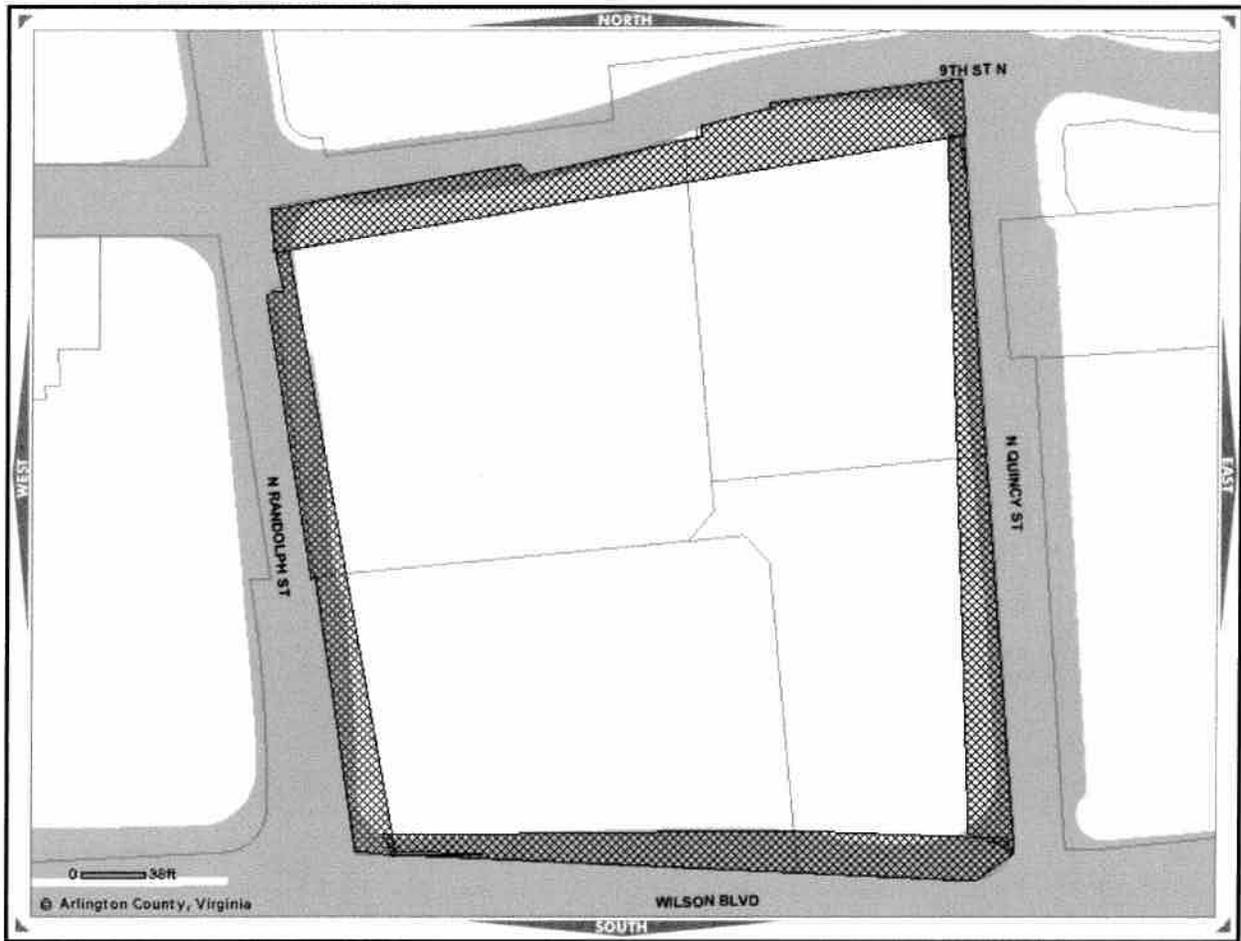


Vicinity Map #1

PARCELS 1, 2A, 3, AND 4, LIBERTY CENTER, 875 NORTH RANDOLPH STREET, 888 NORTH QUINCY STREET, 818 NORTH QUINCY STREET, AND 4075 WILSON BOULEVARD

VACATION OF EASEMENTS

June 1, 2010



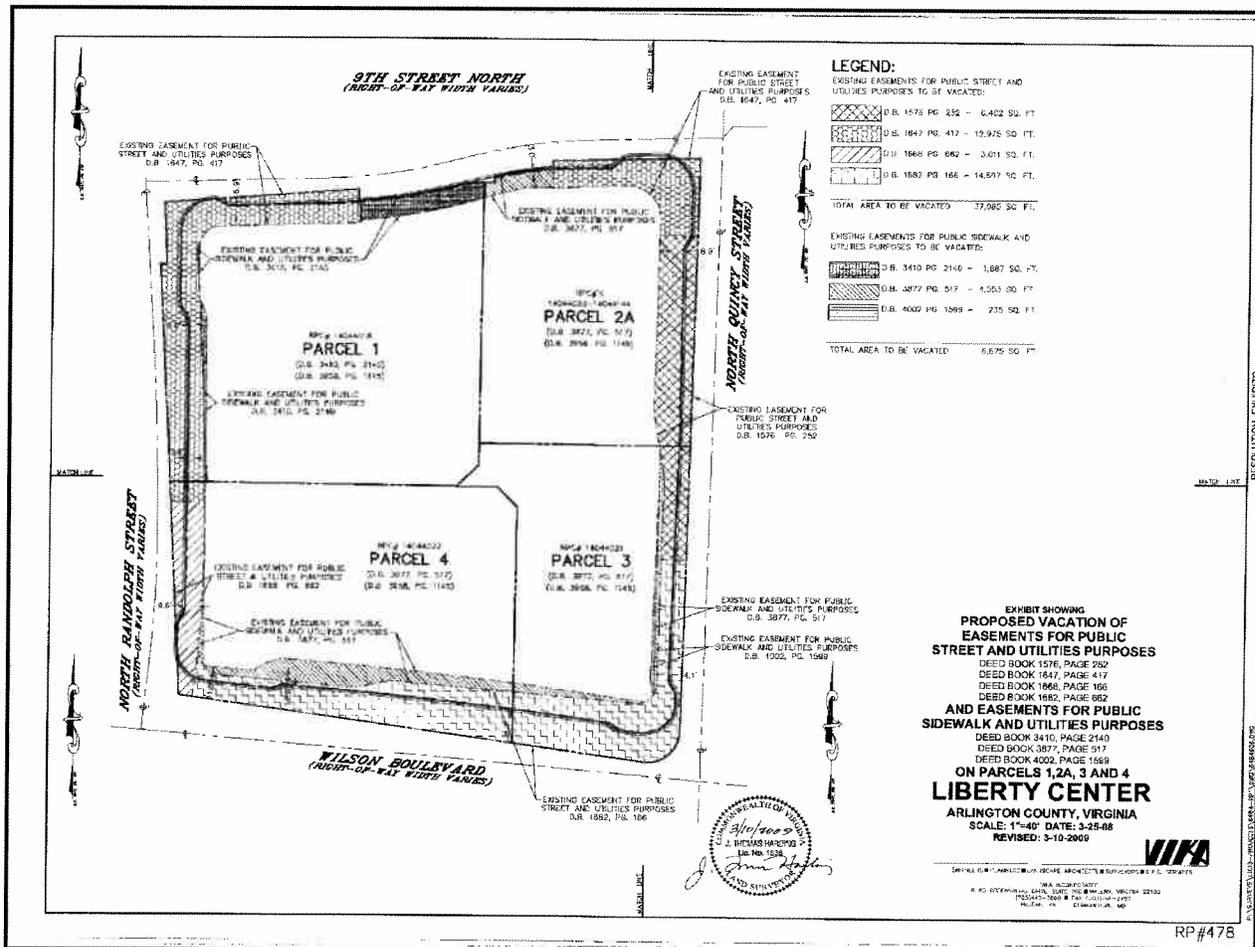
Vicinity Map #2

PARCELS 1, 2A, 3, AND 4, LIBERTY CENTER, 875 NORTH RANDOLPH STREET, 888
NORTH QUINCY STREET, 818 NORTH QUINCY STREET, AND 4075 WILSON
BOULEVARD

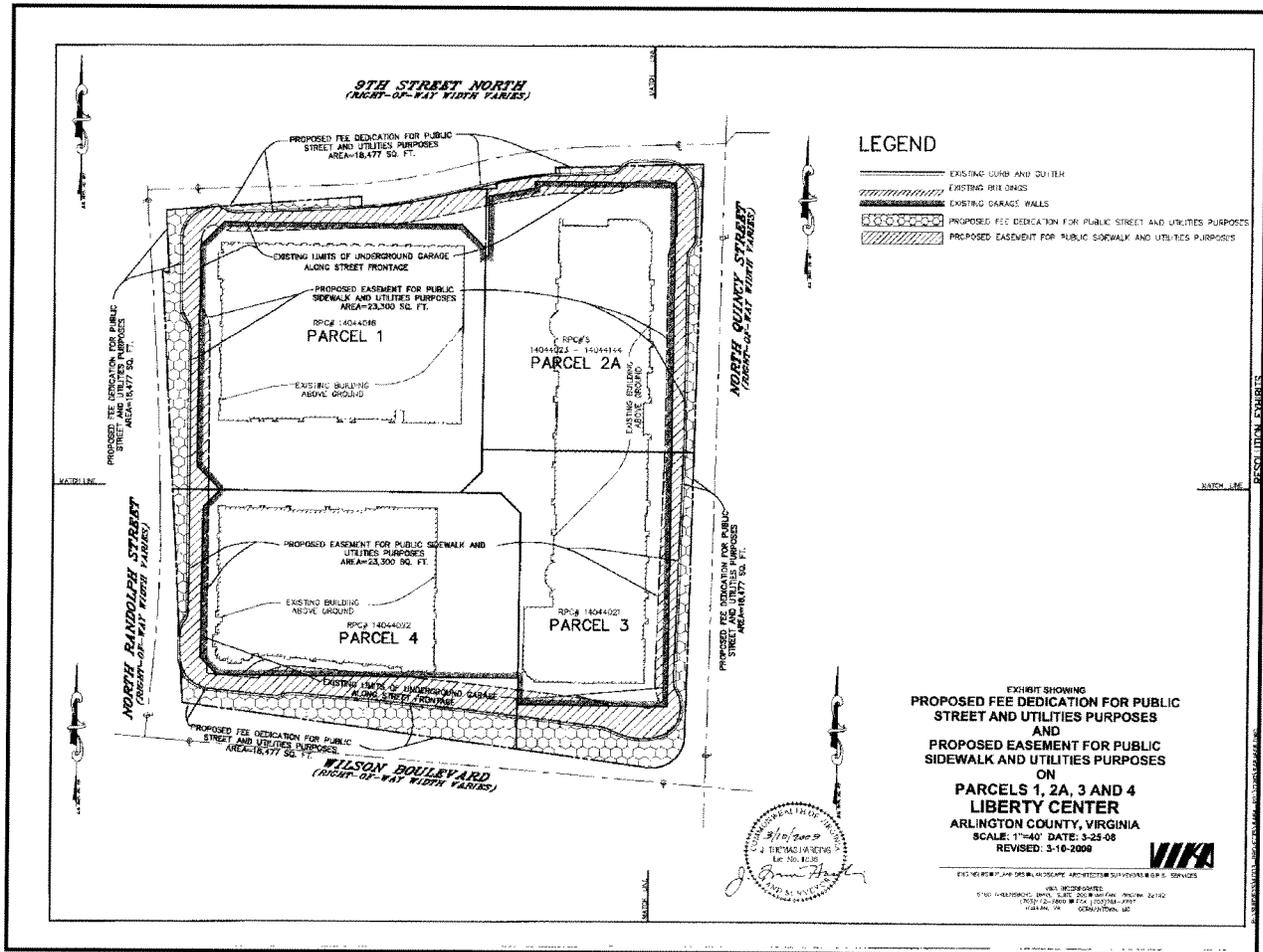
VACATION OF EASEMENTS

June 1, 2010

Amendment and Re-Enactment of Ordinance of Vacation
875 N. Randolph Street, 888 N. Quincy Street, 818 N. Quincy Street, and 4075 Wilson Blvd.



PROPOSED VACATION OF VARIOUS EASEMENTS FOR PUBLIC STREETS AND UTILITIES PURPOSES AND PROPOSED VACATION OF VARIOUS EASEMENTS FOR PUBLIC SIDEWALK AND UTILITIES PURPOSES ON PARCELS 1, 2A, 3, AND 4, LIBERTY CENTER, 875 NORTH RANDOLPH STREET, 888 NORTH QUINCY STREET, 818 NORTH QUINCY STREET, AND 4075 WILSON BOULEVARD



LOCATION OF THE PUBLIC STREET VEHICULAR TRAVEL WAY BEYOND THE EXISTING CURB & GUTTER, AND WITHIN THE PROPOSED FEE DEDICATION FOR PUBLIC STREET AND UTILITIES PURPOSES

AND

LOCATION OF UNDERGROUND GARAGES UNDER THE PROPOSED EASEMENT FOR PUBLIC SIDEWALK AND UTILITIES PURPOSES ON PARCELS 1, 2A, 3, AND 4, LIBERTY CENTER, 875 NORTH RANDOLPH STREET, 888 NORTH QUINCY STREET, 818 NORTH QUINCY STREET, AND 4075 WILSON BOULEVARD