



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of March 12, 2011**

DATE: March 5, 2011

SUBJECT: Enactment of an Ordinance to permit the encroachment of a paved emergency vehicle turn around and a portion of a Private Playground Each Within Portions of the Unconstructed Right-of-Way for Four Mile Run Drive, 914-934 S. Buchanan Street (RPC# 23-006-002, 23-006-161), with Conditions.

Owner: Buchanan Gardens II, LLC

Applicant: Arlington Partnership for Affordable Housing, Inc.

C. M. RECOMMENDATION:

Enact the attached Ordinance to permit the encroachment of: 1) a paved turn around for public emergency vehicle use; and 2) a portion of a private playground, each within portions of the unconstructed County Right-of-Way for Four Mile Run Drive abutting the southern boundary of Lot C and Lot B, Block H, Park Barcroft (RPC# 23-006-002 and 23-006-161), with Conditions (Attachment 1).

ISSUE: The Owner/Applicant and staff met with the Barcroft School and Civic League to review the encroachment requests. As a result of the meeting, the Owner/Applicant agreed to further conditions, which conditions are contained in the proposed Ordinance. There are no additional issues related to this Board item.

SUMMARY: The Owner of the Buchanan Gardens Apartments, and the Applicant as the Developer, have requested that the County Board authorize two encroachments into portions of the unconstructed County right-of-way for Four Mile Run, which abuts the southern edge of the property located at 914-934 S. Buchanan Street. The encroachments will permit development of Use Permit U-3228-09-1, approved by the County Board on November 14, 2009.

The first encroachment would permit construction of a County emergency vehicle turnaround in a portion of the County right-of-way as required in Condition #37 of the Use Permit. The second encroachment would permit a portion of a private playground facility in the County right-of-way, to provide space for a bio-retention pond on other portions of the Buchanan Gardens property.

County Manager:

BMD/GA

County Attorney:

BAC *GA*

Staff: Linda Eichelbaum Collier, DES, Real Estate Bureau

8. B.

The Ordinance would grant the Owner/Applicant permission to construct and operate and require them to maintain the emergency vehicle turn around and the private playground in portions of the County right-of-way for Four Mile Run Drive. The Ordinance will continue in effect as to the emergency vehicle turn around until such time that: a) the Use Permit is no longer in effect or is amended such that the Fire Marshal determines that an emergency vehicle turn around is no longer required; or b) that the County requests, in writing to the Owner/Applicant, that the emergency vehicle turn around be removed; or c) the portion of Four Mile Run Drive in which the emergency vehicle turn around is located is constructed such that the Fire Marshal determines that there is sufficient ingress, egress and access for emergency vehicles for the project that is the subject of the Use Permit. The Ordinance will continue in effect as to the portion of the private playground until the Use Permit is no longer in effect or the County otherwise requests that the portion of the private playground in the County right-of-way be removed by the Owner/Applicant.

BACKGROUND: The project that is the subject of this encroachment request is located a half block north of Columbia Pike at 914 – 934 S. Buchanan (see Attachments 2 and 3, Vicinity Maps). On November 14, 2009, the County Board approved Use Permit U-3228-09-1, which permits the Applicant to renovate the property to provide larger and more family-sized affordable dwelling units. The Owner/Applicant's request for enactment of an encroachment ordinance for the emergency vehicle turn around is to fulfill the requirements of Condition #37 of the Use Permit. The Condition requires the Applicant, at its sole cost and expense, to construct and maintain a County emergency vehicle turn around for emergency vehicle ingress, egress and access, within the unconstructed Arlington County right-of-way for Four Mile Run Drive and to obtain all rights, permits or other permissions for use of the County land and construction of the turn around. If the County constructs Four Mile Run Drive in the area, then the emergency vehicle turn around would no longer be necessary because emergency vehicles would be able to access the site through Four Mile Run Drive.

The Owner/Applicant also had requested permission to place a bio-retention pond in the unconstructed right-of-way for Four Mile Run Drive. The County staff does not support this request and the proposed Ordinance does not permit this requested encroachment. Because the pond would be part of a storm drainage system required by the Use Permit, location of the bio-retention pond in a portion of Four Mile Run Drive would prevent the County from constructing that portion of the road as long as the Use Permit is in effect. Staff requested that the Applicant consider placing a portion of the planned playground, which could be removed or relocated if necessary, in the unconstructed right-of-way instead. Approval of the Applicant's request for an encroachment of a portion of the private playground into the right-of-way would allow sufficient space for the bio-retention pond to be constructed on the Buchanan Gardens property, while retaining the playground as an amenity. The private playground is not required by the Use Permit.

The County acquired the property containing the unconstructed right-of-way for Four Mile Run Drive by deed dated June 21, 1949 and recorded in Deed Book 883 at page 194 in the Arlington County land records.

DISCUSSION: Upon enactment of the proposed Ordinance, the Ordinance will permit the Owner/Applicant to construct and operate, and require the Owner/Applicant to maintain the emergency vehicle turn around and the portion of the private playground. The permissions will end, as to each of the two encroachments, at the following times. First, as to the Turn Around Encroachment, such time that: a) the Use Permit is no longer in effect or is amended such that the Fire Marshal determines that the emergency vehicle turn around is no longer required; or b) the County requests, in writing to the Owner/Applicant, that the emergency vehicle turn around be removed; or c) the portion of Four Mile Run Drive in which the emergency vehicle turn around is located is constructed such that the Fire Marshal determines that there is sufficient ingress, egress and access for emergency vehicles to the project that is the subject of the Use Permit. Secondly, as to the Playground Encroachment, such time that: a) the Use Permit is no longer in effect; or b) the County requests, at anytime, in writing to the Owner/Applicant, that the portion of the Private Playground in the Property be removed. In either instance, the Owner/Applicant will be required to remove the private playground and restore the area of the encroachment, both at its sole cost and expense.

The Owner/Applicant and staff met with the Barcroft School and Civic League to review the requested encroachments. The Barcroft School and Civic League requested that the Owner/Applicant agree not to seek further encroachments into the right-of-way and that the Owner/Applicant consult with the Barcroft School and Civic League concerning landscaping and maintenance of the encroachment areas. The Owner/Applicant has agreed to these two additional considerations and they are contained in the proposed encroachment Ordinance.

The Ordinance will limit the size and dimensions of both of the encroachments. The location and dimensions of the proposed encroachments are shown on the plat entitled "Plat Showing Various Encroachments into Right of Way Four Mile Run Drive Deed Book 883, Page 194 Adjacent to Lot C and Lot B Block H Park Barcroft Deed Book 883, page 194 Arlington County, Virginia," dated September 29, 2010, revised January 19, 2011, prepared by Bowman Consulting Group, Ltd., attached hereto as Exhibit A.

Legal and Physical Description: The County acquired the property that is the unconstructed right-of-way for Four Mile Run Drive by deed dated June 21, 1949 and recorded in Deed Book 883 at page 194 among the Arlington County land records.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the January 28 and February 4, 2011 issues of the Washington Times for the February 12, 2011 County Board Meeting. The matter was deferred by the County Board at the February Board Meeting to the March 12, 2011 Board Meeting.

Compensation: No compensation is required from the Applicant for an encroachment for an emergency vehicle turn around, because that encroachment is for a public use. Because the other encroachment is for a private playground, the Applicant will be required to pay to the County, \$8,019.99 for such encroachment. This amount reflects the estimated value of the property upon which the encroachment is located, discounted because of the moveable nature of the encroaching structures and because the playground is not required by the Use Permit.

FISCAL IMPACT: None. The \$8,019.99 compensation for the private playground encroachment will be deposited in the County General Fund.

CONCLUSION: If the County Board desires to enact the Encroachment Ordinance permitting an emergency vehicle turn around, and permitting the portion of a private playground to exist within portions of the unconstructed right-of-way for Four Mile Run Drive abutting the southern boundary of Lot C and Lot B, Block H, Park Barcroft (RPC# 23-006-002 and 23-006-161), then it is recommended that the County Board enact the attached Ordinance.

ATTACHMENT 1

ORDINANCE TO PERMIT THE ENCROACHMENT OF: 1) A PAVED TURN AROUND FOR PUBLIC EMERGENCY VEHICLE USE; AND 2) A PORTION OF A PRIVATE PLAYGROUND, EACH WITHIN PORTIONS OF THE UNCONSTRUCTED COUNTY RIGHT-OF-WAY FOR FOUR MILE RUN DRIVE ABUTTING THE SOUTHERN BOUNDARY OF LOT C AND LOT B, BLOCK H, PARK BARCROFT (RPC# 23-006-002 AND 23-006-161), WITH CONDITIONS:

BE IT ORDAINED by the County Board of Arlington County, Virginia, that Buchanan Gardens II, LLC, its successors and assigns, as Owner of Lot C and Lot B, Block H, Park Barcroft as shown on the Plat and Arlington Partnership for Affordable Housing, Applicant, developer of the project ("Project") known as Use Permit U-3228-09-1 ("Use Permit"), as amended (jointly, "Owner/Applicant"), are permitted to construct and operate and required to maintain: 1) a paved turn around for public emergency vehicle use; and 2) a portion of a private playground, both of which will encroach into portions of the unconstructed County right-of-way for Four Mile Run Drive, abutting the southern boundary of Lot C and Lot B, Block H, Park Barcroft, RPC# 23-006-002 and 23-006-161 (County right-of-way hereinafter referred to as "Property"). The dimensions (length and width) and spatial location of the permitted encroachment are depicted on, and shall be consistent with, Exhibit A attached to the County Manager's Report dated January 25, 2011, entitled "Plat Showing Various Encroachments into Right of Way Four Mile Run Drive Deed Book 883, Page 194 Adjacent to Lot C and Lot B Block H Park Barcroft Deed Book 883, page 194 Arlington County, Virginia," dated September 29, 2010, revised January 19, 2011, prepared by Bowman Consulting Group, Ltd. ("Plat") in the dimensions and locations shown as the "ENCROACHMENT OF A PAVED TURN AROUND FOR PUBLIC EMERGENCY VEHICLE USE HEREBY GRANTED (AREA = 5,133 SQ. FT.)" ("Turn Around Encroachment") and "ENCROACHMENT OF A PORTION OF A PRIVATE PLAYGROUND HEREBY GRANTED (AREA = 1,604 SQ. FT.)" ("Playground Encroachment");

BE IT FURTHER ORDAINED that these permissions shall be a license only, and shall continue until such time, as to the Turn Around Encroachment that: a) the Use Permit is no longer in effect or is amended by the County Board upon a determination by the County Fire Marshal that the emergency vehicle turn-around is no longer required; or b) the County requests, in writing to the Owner/Applicant, that the emergency vehicle turn around be removed; or c) the portion of unconstructed Four Mile Run Drive, in which the emergency vehicle turn-around is located, is constructed such that the Fire Marshal determines that there is sufficient ingress, egress and access for emergency vehicles to the Project that is the subject of the Use Permit; and as to the Playground Encroachment that: a) the Use Permit is no longer in effect; or b) the County requests, at anytime, in writing to the Owner/Applicant, that the portion of the Private Playground in the Property be removed. Nothing herein shall be construed to either allow the installation of any above ground structure or any structure other than the Turn Around Encroachment and other than the private playground, which playground may include fencing, benches, landscaping, mulch, pavers and paving material, sandboxes, walkways and/or playground equipment, within the area as shown on the Plat; or to allow any greater encroachment beyond the area shown on the Plat;

BE IT FURTHER ORDAINED that if the Use Permit is no longer in effect or if the County requests, in writing to the Owner/Applicant, that the portion of the Private Playground within the Property be removed, then the Owner/Applicant shall, at its sole cost and expense, remove the portion of the Private Playground in the Property, and remove all facilities and structures contained therein, and shall restore such area to the condition in which it existed before this Playground Encroachment was granted;

BE IT FURTHER ORDAINED that the Owner/Applicant, at its sole cost and expense, shall continuously and, at all times, promptly maintain, including snow and ice removal, the areas of the Turn Around Encroachment and the Playground Encroachment, including all maintenance, restoration, repair and replacement of all facilities, within and adjacent to the Turn Around Encroachment area and the Playground Encroachment area, including all benches, landscaping, pavers and pavement material, fencing, sandboxes, walkways and mulch;

BE IT FURTHER ORDAINED that the Owner/Applicant agrees that it shall not seek any additional encroachments into the Property and that the Owner/Applicant agrees that it shall consult with the Barcroft School and Civic League in developing the Owner/Applicant's plan, which plan will address landscaping and maintenance by the Owner/Applicant of the areas of the Turn Around Encroachment and the Playground Encroachment;

BE IT FURTHER ORDAINED that this permission shall not release the Owner/Applicant of negligence on either of their parts on account of such encroachment. The Owner/Applicant, by availing themselves of the permissions authorized by this Ordinance and by continuing to have the Turn Around Encroachment and the Playground Encroachment encroach within the Property, thereby each agree for themselves, their successors in title and interest, and assigns, to the provisions of this Ordinance and agree to indemnify and hold harmless the County Board of Arlington County, Virginia and County officials, officers, employees, and agents from all claims, negligence, damages, costs and expenses arising out of the permission for the Turn Around Encroachment and the Playground Encroachment to encroach within the Property.

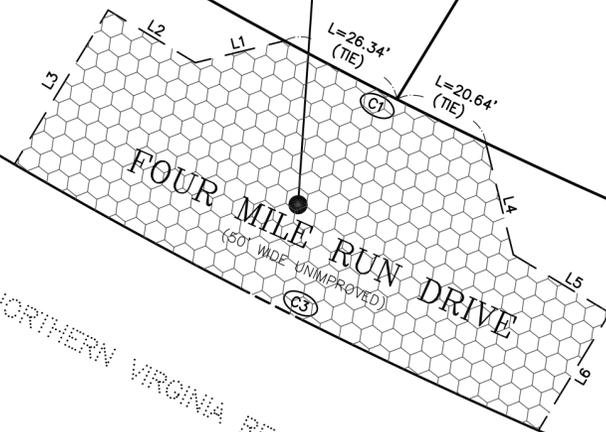
BE IT FURTHER ORDAINED that the County may record, or cause to be recorded, in the land records of the Arlington County Circuit Court, a certified copy of the Ordinance and the Plat.

EXHIBIT A - PLAT

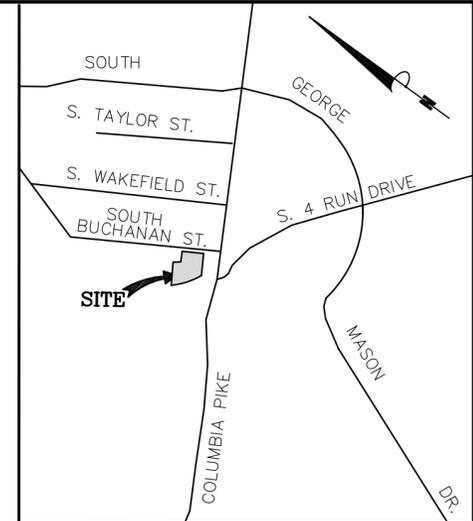
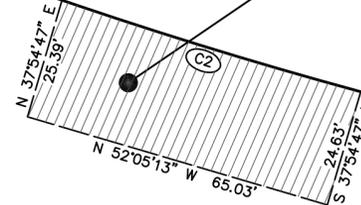
LOT 3-19
BLOCK H
PARK BARCROFT

BLOCK H
PARK BARCROFT

ENCROACHMENT OF A
PAVED TURN AROUND FOR PUBLIC
EMERGENCY VEHICLE USE
HEREBY GRANTED
(AREA=5,133 SQ. FT.)



ENCROACHMENT OF A
PORTION OF A PRIVATE PLAYGROUND
HEREBY GRANTED
(AREA=1,604 SQ. FT.)



VICINITY MAP
NOT TO SCALE

NOTES

1. THE PROPERTY DELINEATED HEREON IS LOCATED ON ARLINGTON COUNTY TAX MAP AS RPC #23006002 AND #23006161 AND IS CURRENTLY ZONED RA14-26.
2. THE PROPERTY IS NOW IN THE NAME OF BUCHANAN GARDENS II LLC AS RECORDED IN DEED BOOK 4336 AT PAGE 0589 AMONG THE LAND RECORDS OF ARLINGTON COUNTY, VIRGINIA.
3. NO TITLE REPORT FURNISHED. ALL UNDERLYING ENCUMBRANCES MAY NOT BE SHOWN.

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 82°18'40" E	19.13'
L2	S 37°18'40" E	21.19'
L3	N 52°41'20" E	37.64'
L4	S 07°41'20" W	24.03'
L5	S 37°18'40" E	23.45'
L6	S 52°41'20" W	28.69'

CURVE TABLE

CURVE	RADIUS	LENGTH	CHORD BEARING	CHORD	DELTA	TANGENT
C1	1006.00'	46.98'	S 41°32'35" E	46.97'	02°40'32"	23.49'
C2	1006.00'	65.04'	S 51°25'25" E	65.03'	03°42'16"	32.53'
C3	1056.00'	122.40'	N 41°30'15" W	122.33'	06°38'27"	61.27'

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF TRANSPORTATION

RECOMMENDED FOR APPROVAL: _____

APPROVED: _____

PLAT EXAMINER

SUBDIVISION AND BONDS ADMINISTRATOR

PLAT SHOWING
VARIOUS ENCROACHMENTS
INTO RIGHT OF WAY
FOUR MILE RUN DRIVE
DEED BOOK 883, PAGE 194
ADJACENT TO LOT C AND LOT B
BLOCK H PARK BARCROFT
DEED BOOK 883, PAGE 194
ARLINGTON COUNTY, VIRGINIA

SCALE: 1" = 25'

DATE: SEPTEMBER 29, 2010

REVISION	
1/19/11	COUNTY COMMENTS

Bowman
CONSULTING

Bowman Consulting Group, Ltd. Phone: (703) 464-1000
14020 Thunderbolt Place, Suite 300 Fax: (703) 481-9720
Chantilly, Virginia 20151 www.bowmanconsulting.com

DWG: P:\6386 - Buchanan Gardens Apartments\6386-01-002 (SUR) - Buchanan Gardens\Survey\Plats\6386-D-MP-002	BY: TRK	CHK: DZ	QC:
BCG PROJECT NO: 6386-01-002	TASK: SX001	COUNTY REF NO:	SHEET 1 OF 1

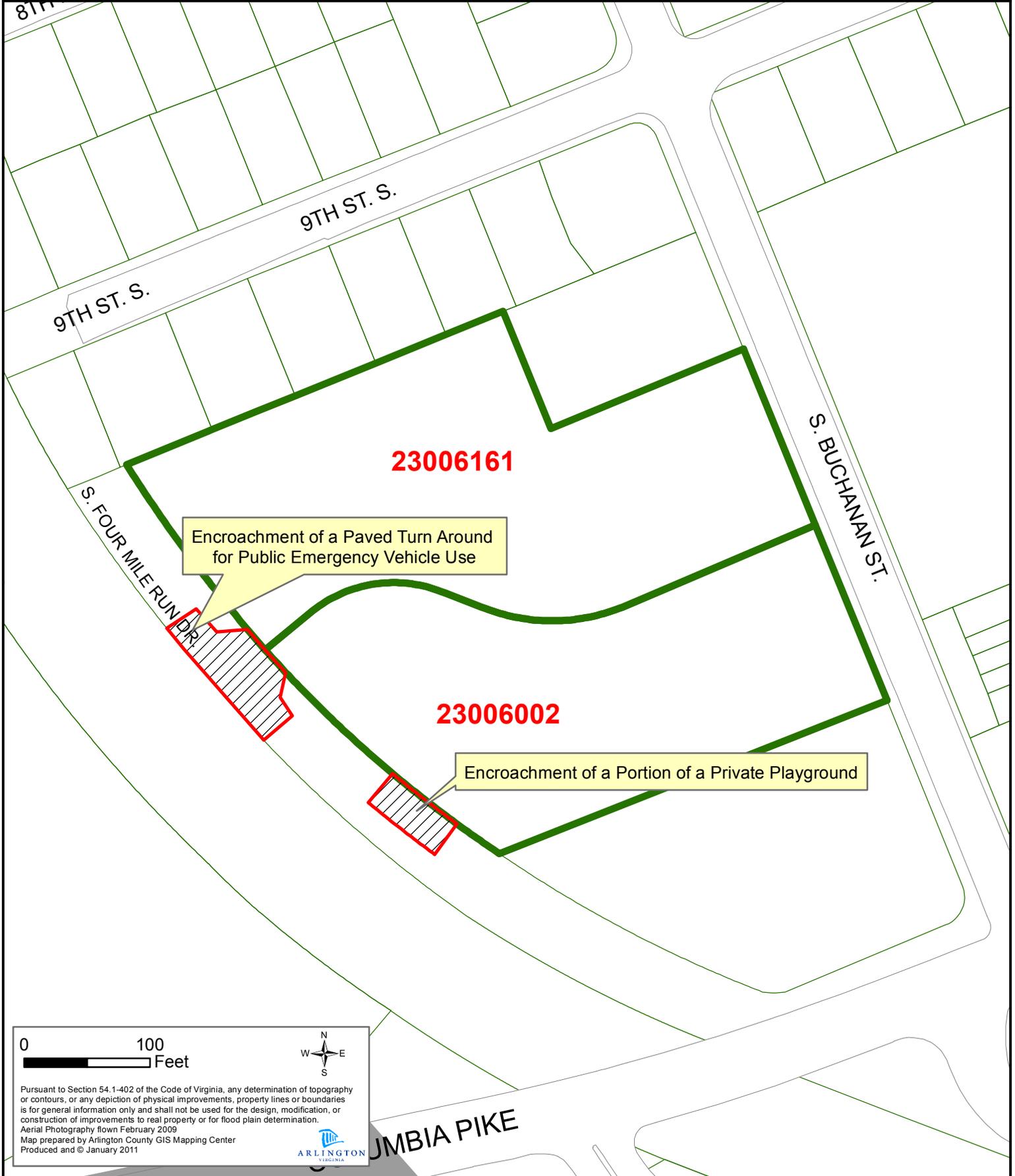
6386-D-RP-001

ATTACHMENT 2 – VICINITY MAP

Vicinity Map

Encroachments for Buchanan Gardens

RPC # 23006002 & 23006161



0 100 Feet



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 flood plain determination. Aerial Photography flown February 2009. Map prepared by Arlington County GIS Mapping Center. Produced and © January 2011.



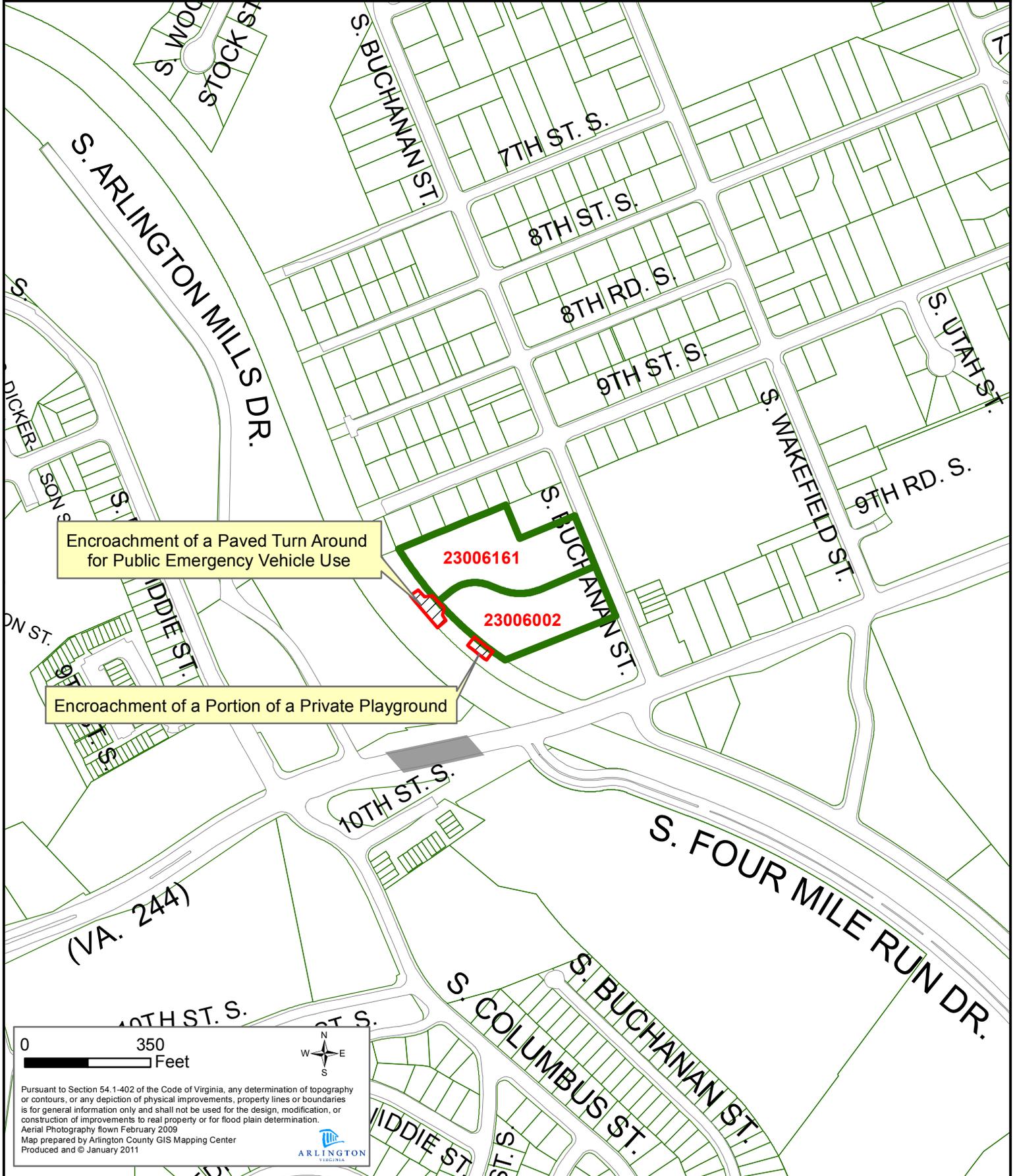
COLUMBIA PIKE

ATTACHMENT 3 – VICINITY MAP

Vicinity Map

Encroachments for Buchanan Gardens

RPC # 23006002 & 23006161



Encroachment of a Paved Turn Around
for Public Emergency Vehicle Use

Encroachment of a Portion of a Private Playground

23006161

23006002

0 350
Feet



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Aerial Photography flown February 2009
Map prepared by Arlington County GIS Mapping Center
Produced and © January 2011

