



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of June 11, 2011

DATE: June 8, 2011

SUBJECT: Enactment of an Ordinance to permit the encroachment of: 1) a canvass canopy and related equipment contained therein; and 2) anchor sleeves for removable wrought iron sidewalk café fencing; within a portion of the right of way for Clarendon Boulevard abutting the northern boundary of Parcel "A", Block "F" Lyon's Addition to Clarendon, RPC # 180-13-011, with conditions.

Owner: Saul Holdings, LP
Applicant: The MHG Group
Agent: Walsh, Colucci, Lubeley, Emrich & Walsh, PC
Nan E. Walsh, Attorney

C. M. RECOMMENDATION:

Enact the attached Ordinance to permit the encroachment of: 1) a canvass canopy and related equipment contained therein; and 2) anchor sleeves for removable wrought iron sidewalk café fencing; within a portion of the right of way for Clarendon Boulevard abutting the northern boundary of Parcel "A", Block "F" Lyon's Addition to Clarendon, RPC # 180-13-011, with conditions (Attachment 1).

ISSUES: The requested Ordinance would permit encroachments within the County right of way for Clarendon Boulevard for use with an outdoor café for CIRCA. The café was permitted by condition #65 of SP #397, approved by the County Board on June 13, 2006, and amended on September 25, 2010. There are no issues identified with this request.

SUMMARY: The owner of the building located at 3030 Clarendon Boulevard/1200 N. Garfield Street (property) and the applicant, who is leasing space from the owner to locate a restaurant on the property (CIRCA), including an outdoor café, have requested that the County Board enact an ordinance to authorize encroachments within a portion of the County right of way for Clarendon Boulevard (right of way) abutting the northern boundary of Parcel "A", Block F Lyon's Addition to Clarendon (Ordinance).

County Manager:

BMD/GA

County Attorney:

BAC *GA*

Staff: Linda Collier, DES Real Estate Bureau

4. B.

The Ordinance, if enacted, would permit the applicant to construct a canvass canopy and related equipment contained therein (heaters, fans and sprinklers) and to install anchor sleeves, for the placement of removable wrought iron sidewalk café fencing, within a portion of the right of way. The outdoor café, located within the right of way, is permitted by amended condition #65 of SP #397. The Ordinance would continue in effect until the earlier of: SP #397 is no longer in effect; the building on the property is destroyed, removed and/or not rebuilt consistent with, and as authorized by, SP #397, as amended; the permit for the outdoor café is not renewed, or is revoked; or the County requests, at any time, in writing, to the owner/applicant, that the encroachment(s) permitted by the Ordinance be removed.

BACKGROUND: The property is located on the eastern side of Clarendon Boulevard between North Garfield Street and North Highland Street at 3030 Clarendon Boulevard/1200 N. Garfield Street (See Vicinity Maps, Exhibits B-1 and B-2). On June 13, 2006, the County Board approved SP #397, including condition #65, and on September 25, 2010, the County Board approved an amendment to condition #65 of SP #397. Both the original version of condition #65 and the amended version of condition #65 permit the applicant to locate an outdoor café in a portion of the right of way. For permission to install the canopy and sleeves in the right of way, an encroachment ordinance must be enacted.

The County acquired the right of way by Deed of Dedication dated May 14, 1904 and recorded in the Arlington County land records (“Land Records”) in Deed Book 11 C at Page 28.

DISCUSSION: Upon enactment of the proposed Ordinance, the owner/applicant will be permitted to: 1) construct and locate a canvass canopy, with heaters, fans and sprinklers located therein; and 2) locate anchor sleeves for the seasonal placement of removable wrought iron sidewalk café fencing, within a portion of the right of way. The Ordinance would continue in effect until the earlier of: the building on the property is destroyed, removed and/or not rebuilt consistent with, and as authorized by, site plan #397, as amended, the permit for the outdoor café is not renewed, or is revoked or the County requests, at any time in writing to the owner/applicant, that the encroachments permitted by the Ordinance be removed.

The Ordinance will limit the specific location, size and dimensions of the requested encroachments. The locations and dimensions of the proposed encroachments are depicted on the plat entitled “Plat Showing Canopy Encroachment Area and Anchor Sleeves Encroachment Area in the Right-of-Way of Clarendon Boulevard Adjacent to Parcel “A”, Block “F” Lyon’s Addition to Clarendon Deed Book 4156 Page 723 Arlington County, Virginia,” dated February 28, 2011, certified June 6, 2011, and prepared by Bowman Consulting Group, Ltd. (“Plat”), attached hereto as Exhibit A. As depicted on the Plat, the canvass canopy is proposed to be installed more than a foot within the area of the rod iron fencing. The canopy would be supported solely by attachments to the building; the canopy would have no poles or other supporting structures on the ground.

Legal and Physical Description: The County acquired the right of way by Deed of Dedication dated May 14, 1904 and recorded in the Land Records in Deed Book 11 C at Page 28.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the May 27, 2011 and the June 3, 2011 issues of the Washington Times for the June 11, 2011 County Board Meeting.

Compensation: County staff recommends that no compensation be charged for the requested encroachments. Compensation for a canvass canopy for use with an outdoor café located in the right of way is under consideration.

FISCAL IMPACT: None.

CONCLUSION: If the County Board desires to enact the Ordinance to permit the encroachment of: 1) a canvass canopy and related equipment contained therein; and 2) anchor sleeves for the seasonal placement of removable wrought iron sidewalk café fencing within a portion of the right of way for Clarendon Boulevard abutting the northern boundary of Parcel "A", Block "F" Lyon's Addition to Clarendon, RPC # 180-13-011, with conditions, then it is recommended that the County Board enact the attached Ordinance.

ATTACHMENT 1

AN ORDINANCE TO PERMIT THE ENCROACHMENT OF: 1) A CANVASS CANOPY AND RELATED EQUIPMENT CONTAINED THEREIN; AND 2) ANCHOR SLEEVES FOR REMOVABLE WROUGHT IRON SIDEWALK CAFÉ FENCING WITHIN A PORTION OF THE RIGHT OF WAY FOR CLARENDON BOULEVARD ABUTTING THE NORTHERN BOUNDARY OF PARCEL "A", BLOCK "F" LYON'S ADDITION TO CLARENDON, RPC # 180-13-011, WITH CONDITIONS.

BE IT ORDAINED by the County Board of Arlington County, Virginia ("County"), that Saul Holdings, LP, its successors and assigns, as Owner of Parcel "A", Block "F" Lyons Addition to Clarendon, RPC #180-13-011 ("Property"), as shown on the Plat and Ballston Tap Room, LLC, Applicant (jointly, "Owner/Applicant"), are permitted to construct and operate, and are required to maintain: 1) a canvass canopy and related heaters, fans and required fire suppression sprinklers contained therein; and 2) anchor sleeves for the seasonal placement of removable wrought iron sidewalk café fencing within a portion of the right of way for Clarendon Boulevard (Deed Book 11 C, Page 28) ("Right of Way"), abutting the northern boundary of the Property (collectively, "Encroachment(s)"). The dimensions (length and width) and spatial location of the permitted Encroachment(s) are depicted on, and shall be consistent with, the dimensions and locations (collectively, "Encroachment Area(s)") designated on Exhibit A, attached to the County Manager's Report dated June 2, 2011, entitled "Plat Showing Canopy Encroachment Area and the Anchor Sleeves Encroachment Area in the Right-of-Way of Clarendon Boulevard Adjacent to Parcel "A", Block "F" Lyon's Addition to Clarendon Deed Book 4156 Page 723 Arlington County, Virginia," dated February 28, 2011, certified June 6, 2011, and prepared by Bowman Consulting Group, Ltd. ("Plat");

BE IT FURTHER ORDAINED, that these permissions shall be a license only, and shall continue until the earlier of: site plan #397 is no longer in effect; the building on the property is destroyed, removed and/or not rebuilt consistent with, and as authorized by, site plan #397, as amended; the permit for the outdoor café is not renewed, or is revoked; or the County requests, at any time in writing to the owner/ applicant, that all or some of the Encroachment(s) permitted by the Ordinance be removed. Promptly thereafter, the Owner/Applicant shall, at its sole cost and expense, remove the specified Encroachment(s), and remove all facilities and structures related thereto, and shall restore such area(s) to the condition in which they existed before this Encroachment Ordinance was enacted. Nothing herein shall be construed to either allow the installation of any structure other than the structures specifically permitted herein and depicted on the Plat; or to allow any greater encroachment beyond the area(s) shown on the Plat;

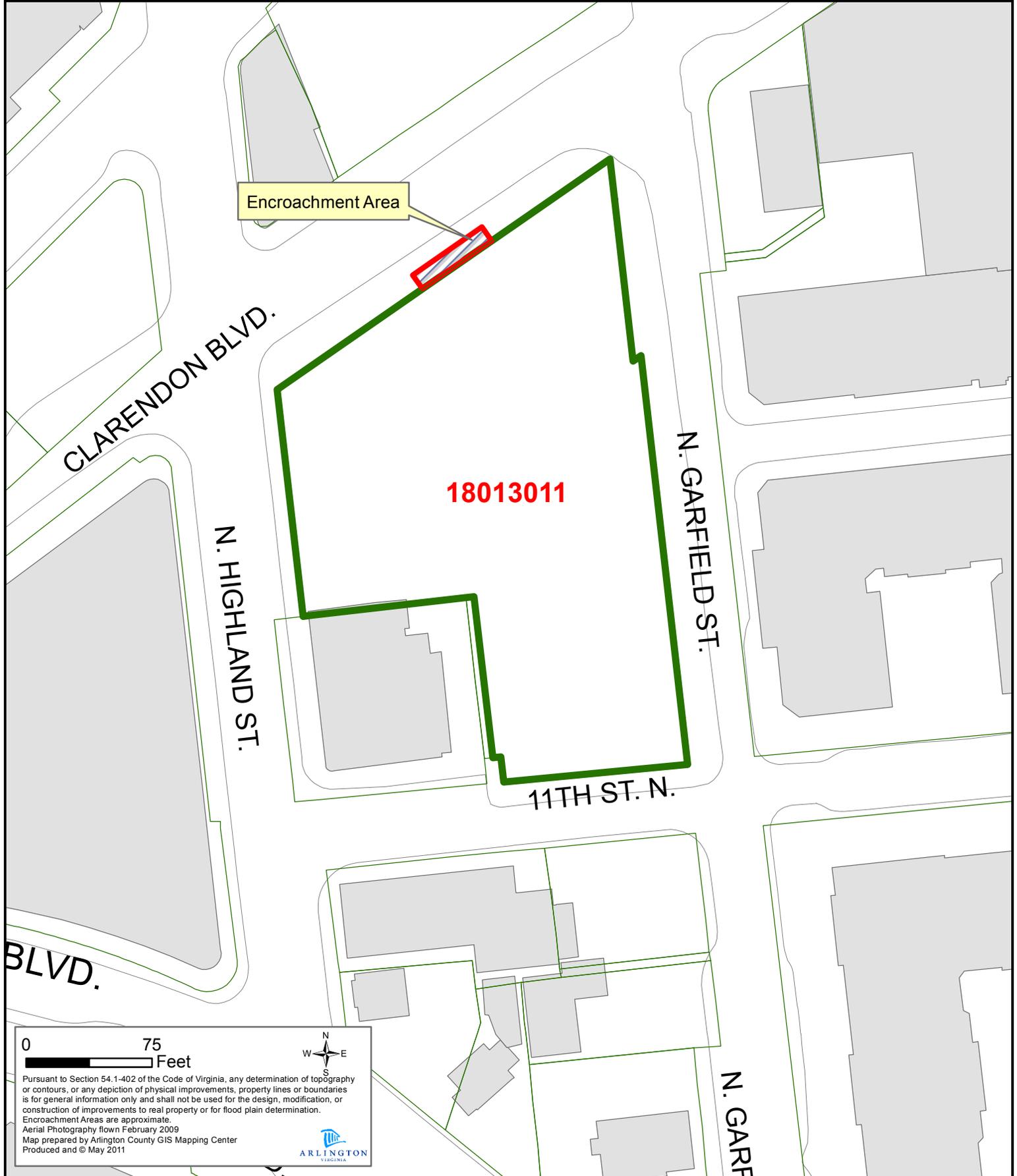
BE IT FURTHER ORDAINED, that the Owner/Applicant, at its sole cost and expense, shall continuously and, at all times, promptly maintain, including snow and ice removal, the area of the Encroachment(s), including all maintenance, restoration, repair and replacement of all facilities, within and adjacent to the Encroachment Area(s);

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(s). The Owner/Applicant, by availing themselves of the permissions authorized by this Ordinance and by

continuing to have the Encroachment(s) encroach within the County Right of Way for Clarendon Boulevard, thereby each agree for themselves, their successors in title and interest, an 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 Encroachment(s) to encroach within the Right of Way.

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 Encroachment Ordinance and the Plat.

Vicinity Map
CIRCA Encroachment
RPC# 18013011

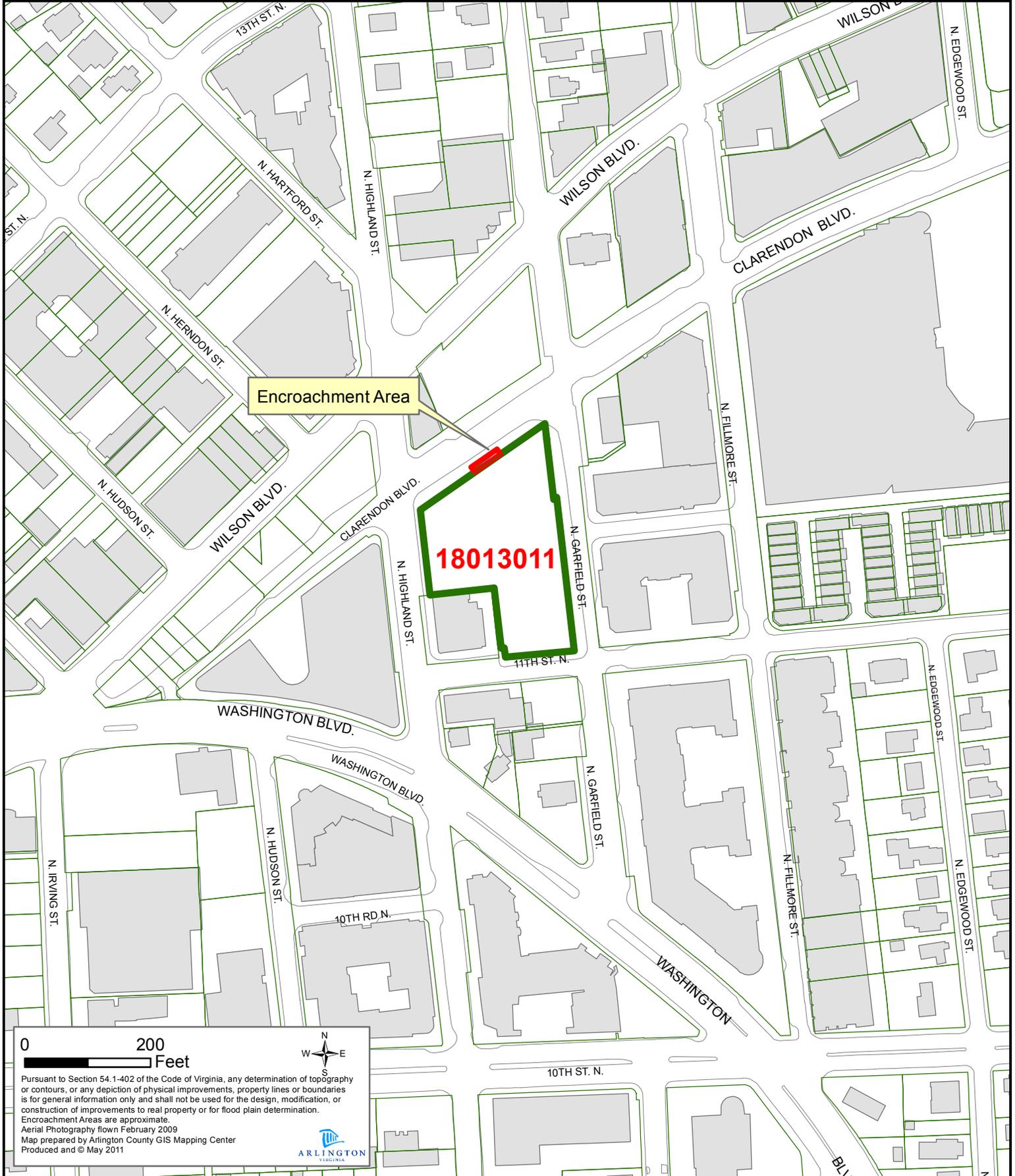


0 75 Feet

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.
Encroachment Areas are approximate.
Aerial Photography flown February 2009
Map prepared by Arlington County GIS Mapping Center
Produced and © May 2011

ARLINGTON VIRGINIA

Vicinity Map CIRCA Encroachment RPC# 18013011



Encroachment Area

18013011

0 200 Feet



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