



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of September 17, 2011**

DATE: September 7, 2011

SUBJECT: Encroachment of an Underground Electric Vault into a Portion of an Easement for Public Sidewalk and Utilities Purposes, such Portion Located on Property of 3635 Lee Highway LLC, RPC #050-56-002, Abutting the East Side of North Monroe Street, with Conditions.

Owner/Applicant: 3565 Lee Highway LLC

By: Benjamin T. Danforth, Attorney/Agent
Lawson, Tarter & Charvert, P.C.
6045 Wilson Boulevard, Suite 100
Arlington, Virginia 22205

C. M. RECOMMENDATION:

Enact the attached Ordinance of Encroachment of an Underground Electric Vault into a portion of an Easement for Public Sidewalk and Utilities Purposes, such portion located on property of 3635 Lee Highway LLC, RPC #050-56-002, abutting the east side of North Monroe Street, with conditions (Attachment 1).

ISSUE: This is a request for an ordinance of encroachment to permit the construction of an underground electric vault within a sidewalk and utilities easement to be dedicated to the County by the Owner/Applicant before Board consideration of the ordinance of encroachment. No issues have been identified with this request.

SUMMARY: The Owner/Applicant of Dominion Heights has requested enactment of an ordinance of encroachment to permit the construction of an underground electric vault within a portion of a Public Sidewalk and Utilities Purposes Easement ("Easement"), which will be dedicated to, and accepted by, the County on the east side of North Monroe Street before the County Board considers this Agenda Item. The Easement is to be dedicated to the County as part of the conditions for Site Plan #395, Dominion Heights, approved by the County Board

County Manager:

BMD/GA

County Attorney:

BAK

Staff: Linda Eichelbaum Collier, Real Estate Bureau, DES

21.

on November 16, 2005, and amended by the County Board on May 22, 2010. Enactment of the ordinance of encroachment would allow the Owner/Applicant to construct, operate and maintain an underground electric vault in a portion of the Easement. If enacted, the requested encroachment ordinance would continue in effect until the underground electric vault encroaching into the Easement is destroyed, removed, no longer in use or not continuously and promptly maintained by the Owner/Applicant.

BACKGROUND: The project that is the subject of this request for enactment of an ordinance of encroachment, Site Plan #395, is located at the northeast corner of Lee Highway and North Monroe Street, in the Lee Highway/Cherrydale Special Revitalization District. (See Exhibits C and D, Vicinity Maps). Site Plan #395 was approved by the County Board on November 16, 2005 and amended by the County Board on May 22, 2010. The approved Site Plan consists of 66 residential units and 9,221 square feet of retail, commercial and office space. The Owner/Applicant's request for the ordinance of encroachment to permit placement of the underground electric vault will permit them to construct the project as set forth on the approved site plan.

An approved plat entitled "Plat Showing Dedication for Public Street and Utilities Purposes and Various Easements on Part Original Grace Donaldson Property, Deed Book 115, Page 184, Arlington County, Virginia" dated July, 2011, prepared by Urban, Ltd., depicting the Easement that will be dedicated, into which the underground electric vault will be located is attached hereto as Exhibit B. The Easement will be recorded among the land records of Arlington County, Virginia.

DISCUSSION: Enactment of the proposed ordinance of encroachment will provide the Owner/Applicant, permission to construct, operate and maintain the underground electric vault until such time as the underground utility vault is destroyed, removed, no longer in use or no longer continuously and promptly maintained by the Owner/Applicant.

The provisions of the ordinance of encroachment will limit the size, dimensions and location of the allowed encroachment. The location and dimensions of the proposed encroachment are shown on the plat entitled "Exhibit Showing Encroachment Area Within an Easement for Public Sidewalk and Utilities Purposes, Deed Book ____, Page ____, on Part Original Grace Donaldson Property, Deed Book 115, Page 184, Arlington County, Virginia" dated September 6, 2011, prepared by Urban, Ltd., attached hereto as Exhibit A.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the August 23, 2011 and the August 30, 2011 issues of the Washington Times for the September 17, 2011 County Board Meeting.

Compensation: No compensation is required from the Owner/Applicant. The County's current practice is not to charge for the encroachment of underground electric vaults within County public sidewalk and utilities easements.

FISCAL IMPACT: None.

CONCLUSION: If the County Board desires to approve the ordinance of encroachment for the underground utility vault, then it is recommended that the County Board enact the Ordinance attached hereto as Attachment 1.

ATTACHMENT 1

ORDINANCE TO PERMIT THE ENCROACHMENT OF AN UNDERGROUND ELECTRIC VAULT WITHIN A PORTION OF AN EASEMENT FOR PUBLIC SIDEWALK AND UTILITIES PURPOSES, SUCH PORTION LOCATED ON PROPERTY OF 3635 LEE HIGHWAY LLC, RPC #050-56-002, ABUTTING THE EAST SIDE OF NORTH MONROE STREET, WITH CONDITIONS.

BE IT ORDAINED by the County Board of Arlington County, Virginia, that 3565 Lee Highway LLC, its successors and assigns, as owner/applicant of property known as 3635 Lee Highway, Arlington, Virginia, also known as Part Original Grace Donaldson Property, RPC #050-56-002 (jointly, "Owner/Applicant"), and developer of the project known as Site Plan #395, as amended ("Site Plan"), are permitted to construct, operate and maintain an underground electric vault ("Encroachment") within a portion of an Easement for Public Sidewalk and Utilities Purposes ("Easement"), such portion located on the property of 3635 Lee Highway LLC, RPC #050-56-002, abutting the east side of North Monroe street, with conditions. The dimensions (length and width) and spatial location of the permitted Encroachment are depicted on Exhibit A attached to the County Manager's Report dated September 7, 2011, entitled "Exhibit Showing Encroachment Area Within an Easement for Public Sidewalk and Utilities Purposes, Deed Book ___, Page ___, on Part Original Grace Donaldson Property, Deed Book 115, Page 184, Arlington County, Virginia" dated September 6, 2011, prepared by Urban, Ltd., attached hereto as Exhibit A ("Plat");

BE IT FURTHER ORDAINED that these permissions shall be a license only, and shall continue until such time as: a) the Site Plan is no longer in effect or is amended; or b) the County requests, in writing to the Owner/Applicant, that the Encroachment be removed. Nothing herein shall be construed to either allow the installation of any above ground structure or any structure other than the Encroachment 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 the Owner/Applicant shall continuously and promptly maintain, including snow and ice removal, the area of the Encroachment, including all maintenance, restoration, repair and replacement of all facilities, within and adjacent to the Encroachment area;

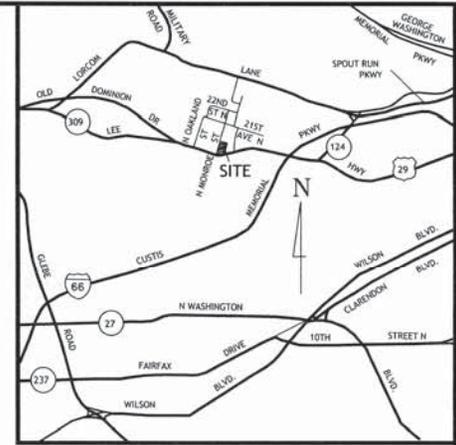
BE IT FURTHER ORDAINED that this permission shall not release the Owner/Applicant of negligence on their part on account of such encroachment. The Owner/Applicant, by availing themselves of the permissions authorized by this Ordinance and by continuing to have the electric vault encroach within the Easement, thereby agrees for themselves, their successors 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 electric vault to encroach within the Easement.

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.

NOTES

1. THE PROPERTY DELINEATED ON THIS PLAT APPEARS ON ARLINGTON COUNTY REAL PROPERTY IDENTIFICATION MAP NO. 043-06 AND IS IDENTIFIED BY REAL PROPERTY CODE (RPC) NUMBER 05056002.
2. THIS PROPERTY IS SUBJECT TO THE CONTROL OF SITE PLAN #395 APPROVED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ON NOVEMBER 16, 2005 AND MAY 22, 2010, AND APPROVAL OF THIS PLAT NEITHER ENLARGES NOR REDUCES THE OBLIGATIONS IMPOSED BY THIS SITE PLAN, AND ANY AMENDMENTS, AS THEY RELATE TO THIS PROPERTY. SITE PLAN #395 IS ON FILE IN THE OFFICE OF THE ZONING ADMINISTRATOR OF ARLINGTON COUNTY, VIRGINIA.
3. LIMITS OF UNDERGROUND ELECTRICAL VAULT ARE: LOWER ELEVATION 252.50' TO UPPER ELEVATION 271.32'.
4. NO CURRENT TITLE REPORT HAS BEEN PROVIDED.
5. OWNER: 3565 LEE HIGHWAY, LLC
10306 EATON PLACE
SUITE 450
FAIRFAX, VIRGINIA 22030
DB. 4335 PG. 60

MATCH
LINE



VICINITY MAP
SCALE: 1" = 2000'



MATCH
LINE

MATCH
LINE

CURVE DATA

NO.	RADIUS	ARC	DELTA	TANGENT	CHORD	BEARING
1	15.00'	28.73'	109°45'00"	21.32'	24.54'	S44°43'12"E
2	12.00'	1.59'	07°34'53"	0.80'	1.59'	N05°59'46"E

LINE DATA

NO.	BEARING	LENGTH
L1	N02°12'19"E	4.10'
L2	N09°47'12"E	22.52'
L3	N10°16'35"E	33.72'
L4	N10°17'28"E	32.92'
L5	N10°09'57"E	30.01'
L6	N10°08'12"E	36.18'
L7	N10°19'16"E	34.53'
L8	N09°59'09"E	22.27'
L9	N09°47'45"E	29.83'
L10	N79°50'54"W	11.50'
L11	N10°19'16"E	9.09'
L12	S79°50'54"E	11.50'
L13	N10°09'06"E	24.00'
L14	N09°59'09"E	14.91'

1"=10' SCALE

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF TRANSPORTATION

RECOMMENDED FOR APPROVAL:	APPROVED:
PLAT EXAMINER	SUBDIVISION AND BONDS ADMINISTRATOR

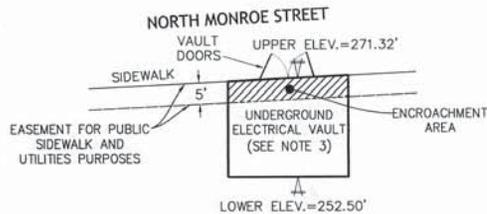
MATCH
LINE



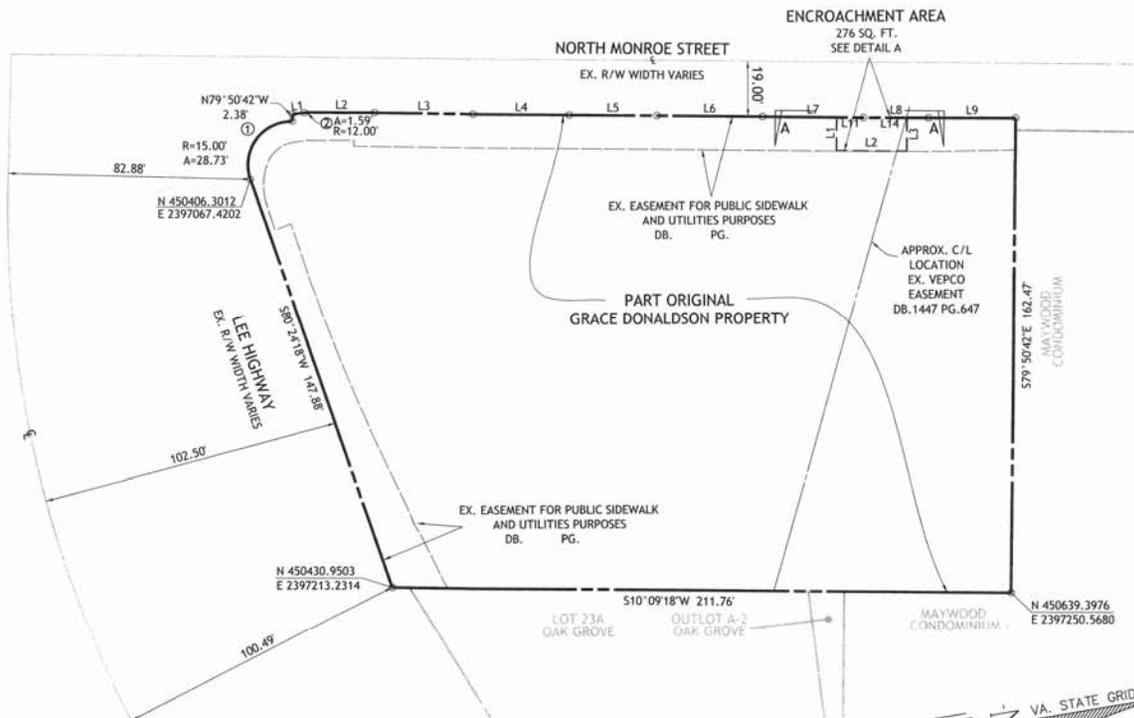
CERTIFIED CORRECT:
Chad E. Jernigan 9-6-11
CHAD E. JERNIGAN LS #2877 DATE

EXHIBIT SHOWING
ENCROACHMENT AREA
WITHIN AN EASEMENT FOR
PUBLIC SIDEWALK AND UTILITIES PURPOSES
DEED BOOK _____, PAGE _____
ON PART ORIGINAL
GRACE DONALDSON PROPERTY
DEED BOOK 115, PAGE 184
ARLINGTON COUNTY, VIRGINIA
SCALE: AS NOTED DATE: 09-06-11





VERTICAL SECTION A-A
ENCROACHMENT WITHIN EASEMENT FOR PUBLIC SIDEWALK AND UTILITIES PURPOSES
NOT TO SCALE



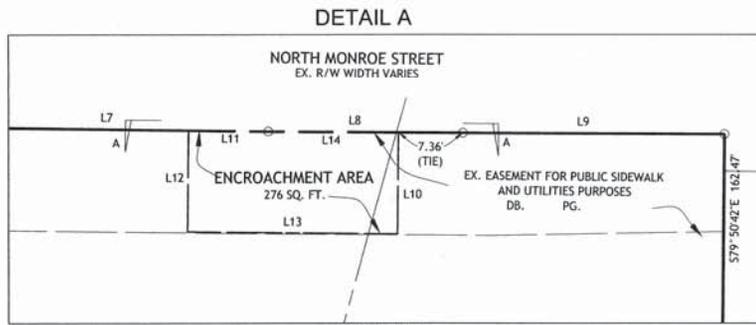
SCALE: 1" = 30'

MATCH LINE

MATCH LINE



EXHIBIT SHOWING
ENCROACHMENT AREA
WITHIN AN EASEMENT FOR
PUBLIC SIDEWALK AND UTILITIES PURPOSES
DEED BOOK _____, PAGE _____
ON PART ORIGINAL
GRACE DONALDSON PROPERTY
DEED BOOK 115, PAGE 184
ARLINGTON COUNTY, VIRGINIA
SCALE: AS NOTED DATE: 09-06-11



1"=10' SCALE

MATCH LINE



NOTES

1. THE PROPERTY DELINEATED HEREON IS SHOWN ON ARLINGTON COUNTY REAL PROPERTY IDENTIFICATION MAP NO. 43-06 AND IS IDENTIFIED AS REAL PROPERTY CODE (RPC) NUMBER 05056002.
2. THIS PROPERTY IS SUBJECT TO THE CONTROL OF SITE PLAN #395 APPROVED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ON NOVEMBER 16, 2005 AND MAY 22, 2010, AND APPROVAL OF THIS PLAT NEITHER ENLARGES NOR REDUCES THE OBLIGATIONS IMPOSED BY THIS SITE PLAN, AND ANY AMENDMENTS, AS THEY RELATE TO THIS PROPERTY. SITE PLAN #395 IS ON FILE IN THE OFFICE OF THE ZONING ADMINISTRATOR OF ARLINGTON COUNTY, VIRGINIA.
3. THE RESPONSIBILITY OF NORMAL AND CAPITAL MAINTENANCE OF THE STORM WATER DETENTION SYSTEM SHALL BE THAT OF THE PROPERTY OWNER ON WHICH THE SYSTEM IS LOCATED. IT SHALL ALSO BE THE PROPERTY OWNER'S RESPONSIBILITY TO REMEDY ANY NEGLIGENCE IN MAINTENANCE THAT RESULTS IN THE FAILURE OF THE SYSTEM, THUS RESTORING THE SYSTEM TO NORMAL OPERATION. THE PROPERTY OWNER SHALL SUBMIT TO THE COUNTY ANNUALLY, A STORM WATER DETENTION SYSTEM MAINTENANCE CERTIFICATION PREPARED BY A REGISTERED ENGINEER, LICENSED SURVEYOR OR MASTER PLUMBER, ON A FORM PROVIDED BY THE COUNTY.

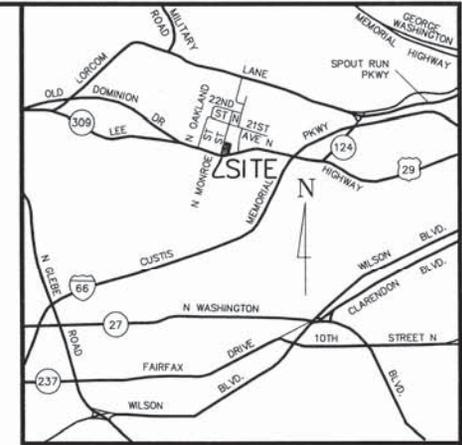
MATCH LINE

SURVEYOR'S CERTIFICATE

I, CHAD E. JERNIGAN, A DULY CERTIFIED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT THE PROPERTY SHOWN HEREON IS NOW IN THE NAME OF 3565 LEE HIGHWAY, LLC AS ACQUIRED IN DEED BOOK 4335 AT PAGE 60, AMONG THE LAND RECORDS OF ARLINGTON COUNTY, VIRGINIA, AND THAT THE BEARINGS AS SHOWN ARE CALCULATED TO VIRGINIA STATE GRID NORTH.

GIVEN UNDER MY HAND THIS DAY OF JULY, 2011

Chad E. Jernigan
CHAD E. JERNIGAN L.S. #2877 7-15-11



VICINITY MAP
SCALE: 1" = 2000'

LINE TABLE

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N02°12'19"E	4.10'	L14	S73°54'29"W	18.14'
L2	N09°47'12"E	22.52'	L15	S75°35'07"W	14.64'
L3	N10°16'35"E	33.72'	L16	S76°41'35"W	14.60'
L4	N10°17'28"E	32.92'	L17	S78°02'18"W	14.59'
L5	N10°09'57"E	30.01'	L18	S79°28'39"W	14.58'
L6	N10°08'12"E	36.18'	L19	S80°53'25"W	20.25'
L7	N10°19'16"E	34.53'	L20	S11°50'46"E	5.91'
L8	N09°59'09"E	22.27'	L21	S81°52'08"W	8.60'
L9	N09°47'45"E	29.83'	L22	N09°47'12"E	15.37'
L10	S73°28'26"W	20.12'	L23	S79°50'49"E	2.00'
L11	S66°41'50"W	4.17'	L24	N10°12'58"E	103.60'
L12	S78°09'18"W	6.02'	L25	N10°13'36"E	70.71'
L13	S73°28'26"W	8.61'	L26	N09°57'39"E	25.68'
			L27	N08°32'49"E	26.43'

CURVE TABLE

CURVE	RADIUS	ARC	DELTA	TANGENT	CHORD	BEARING
C1	15.00'	28.73'	109°45'00"	21.32'	24.54'	N44°43'12"W
C2	20.79'	16.90'	46°45'03"	8.99'	16.50'	N77°23'19"W
C3	11.81'	9.82'	47°40'03"	5.21'	9.54'	N25°36'52"W
C4	212.45'	5.66'	01°31'34"	2.83'	5.66'	N02°36'34"E
C5	12.00'	1.59'	07°34'53"	0.80'	1.59'	N05°59'46"E

MATCH LINE

MATCH LINE

MATCH LINE

PLAT SHOWING
DEDICATION FOR PUBLIC STREET AND UTILITIES
PURPOSES AND VARIOUS EASEMENTS ON
PART ORIGINAL
GRACE DONALDSON PROPERTY
DEED BOOK 115, PAGE 184
ARLINGTON COUNTY, VIRGINIA
SCALE: 1"=20' DATE: JULY, 2011

AREA TABULATION

BEGINNING AREA	39,905 SQ. FT. OR 0.9161 ACRES
STREET DEDICATION	971 SQ. FT. OR 0.0223 ACRES
REMAINING AREA	38,934 SQ. FT. OR 0.8938 ACRES



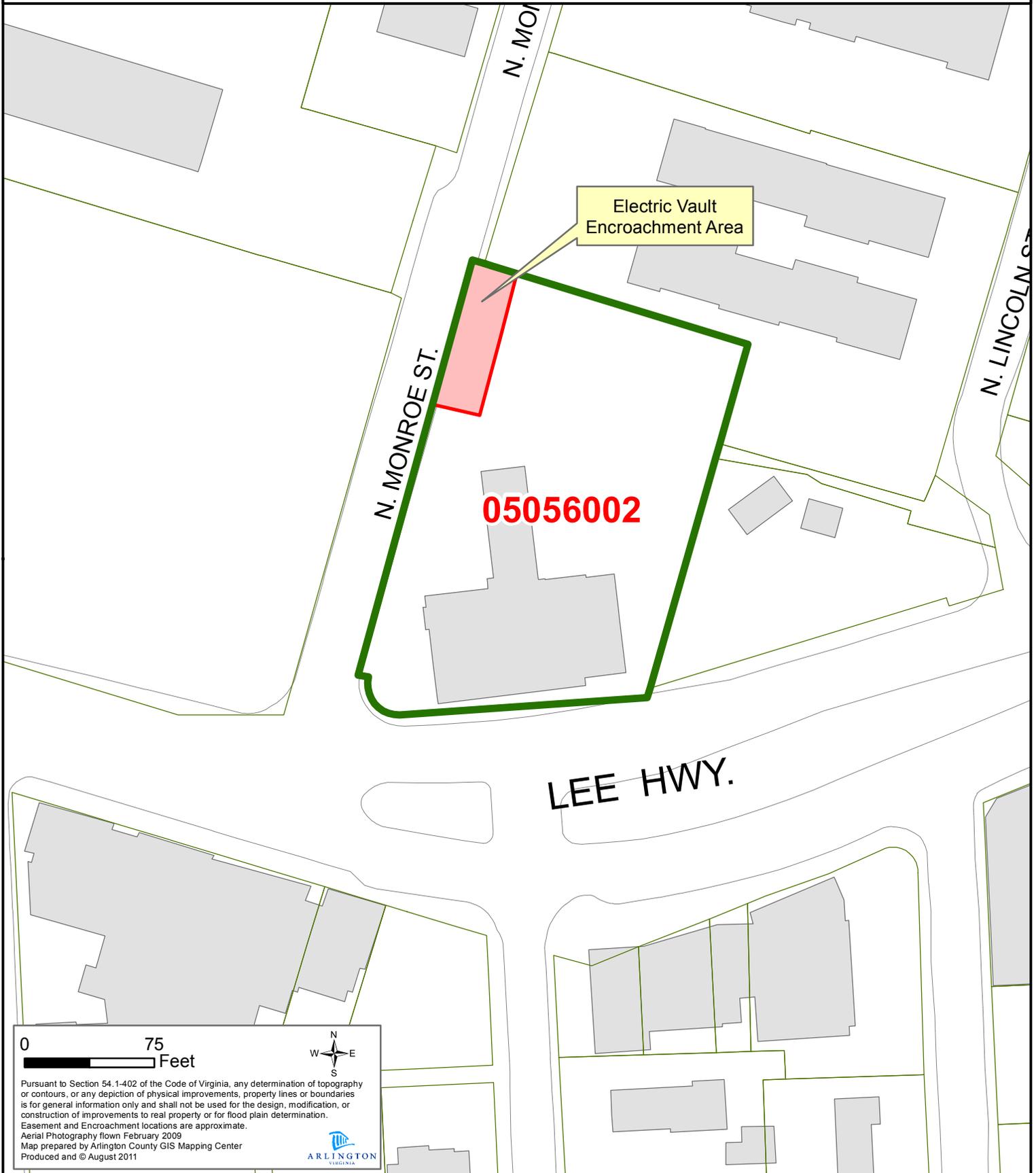
urban
Planners - Engineers - Landscape Architects - Land Surveyors
Urban, Ltd.
7712 Little River Turnpike
Annandale, Virginia 22003
Tel. 703.642.8080
www.urban-ld.com

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES DIVISION OF TRANSPORTATION	
RECOMMENDED FOR APPROVAL: <u>9-7-2011</u>	APPROVED: <u>9-7-2011</u>
<i>Bruce Woodhams</i> PLAT EXAMINER	<i>Steve Hefner</i> SUBDIVISION AND BONDS ADMINISTRATOR

Vicinity Map

3565 Lee Highway

RPC # 05056002



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.

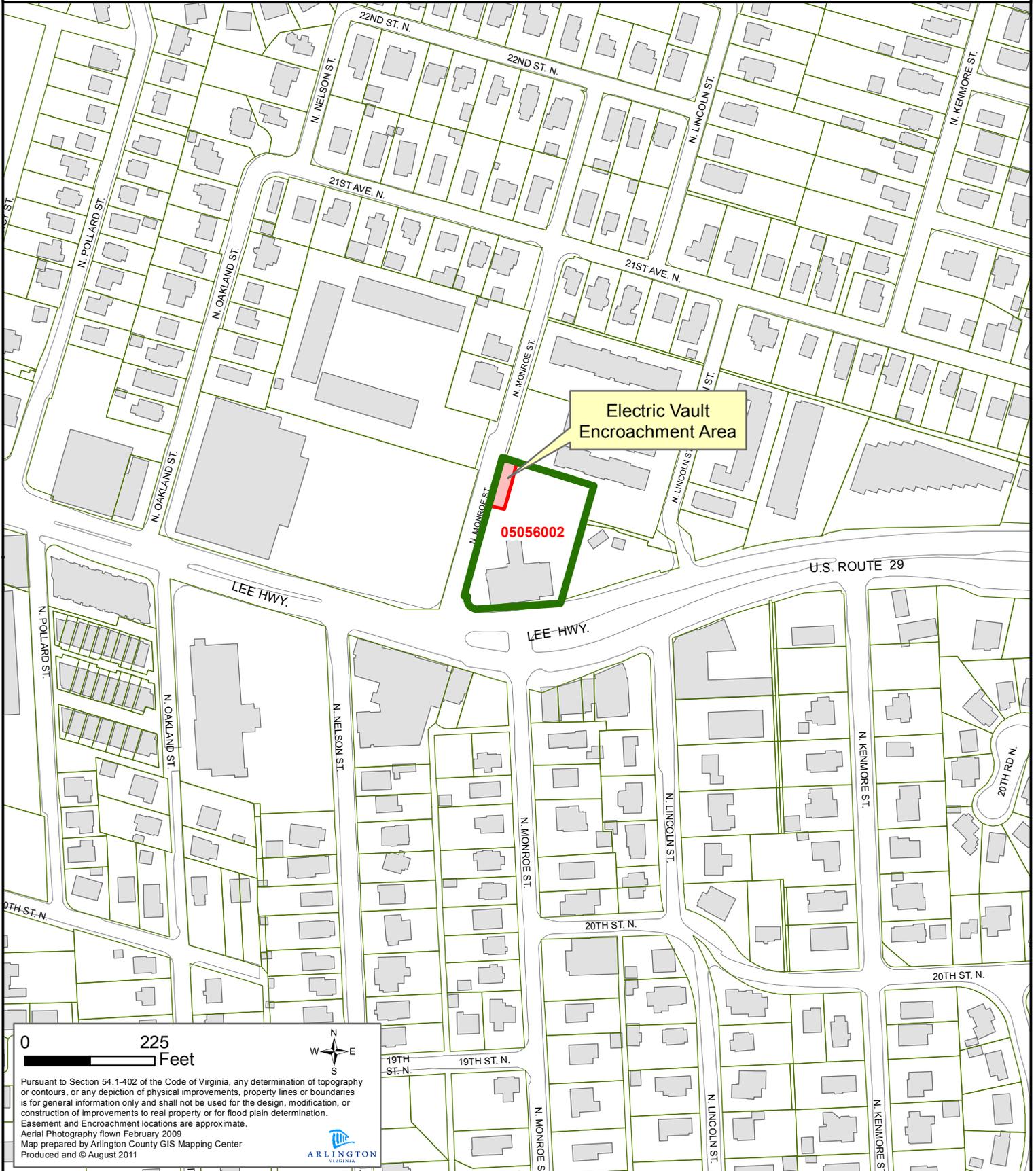
Easement and Encroachment locations are approximate.
Aerial Photography flown February 2009
Map prepared by Arlington County GIS Mapping Center
Produced and © August 2011



Vicinity Map

3565 Lee Highway

RPC # 05056002



0 225 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. Easement and Encroachment locations are approximate.

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

