



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of September 17, 2011

SUPPLEMENTAL REPORT

DATE: September 14, 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 3565 Lee Highway LLC, RPC #050-56-002, Abutting the East Side of North Monroe Street, with Conditions.

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 3565 Lee Highway LLC, RPC #050-56-002, abutting the east side of North Monroe Street, with conditions (Attachment 1)

DISCUSSION: This supplemental report corrects the address of the subject property which was incorrectly noted in the initial report in the Subject Line, the County Manager's Recommendation and the Ordinance of Encroachment, Attachment 1. The property address was correctly listed in the advertisements for the Board Meeting. The revised Ordinance of Encroachment, with the correct address is attached hereto as Attachment 1.

County Manager:

BMD/GA

County Attorney:

BAC *GA*

Staff: Linda Eichelbaum Collier, DES, Real Estate Bureau

21.

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 3565 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 3565 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 3565 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.