



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of January 21, 2012**

**DATE:** December 13, 2011

**SUBJECT:** An Ordinance to Permit Encroachment of an Electric Vault in the Public Right of Way of N. Garfield Street at the Southwest Corner of the Intersection of N. Garfield Street and 11th Street North, along the Eastern Boundary of Part Lot 17, Part Lot 16 and Part Lot 15, Moore's Addition to Clarendon (RPC# 18-026-003 and 18-026-008).

**Applicant:** Penzance Clarendon Assemblage, LLC

**Owners:** Jonathan C. Kinney, Trustee, Preston C. Caruthers, Trustee (RPC No. 18-026-003)  
Federal Hill L.L.C. (RPC# 18-026-008)

**By:** Tad Lunger, Esquire  
Bean, Kinney & Korman, P.C.  
2300 Wilson Boulevard, 7<sup>th</sup> Floor  
Arlington, Virginia 22201

### C. M. RECOMMENDATIONS:

Enact the attached Ordinance to Permit Encroachment of an Electric Vault in the Public Right of Way of N. Garfield Street at the Southwest Corner of the Intersection of N. Garfield Street and 11th Street North, along the Eastern Boundary of Part Lot 17, Part Lot 16 and Part Lot 15, Moore's Addition to Clarendon, RPC# 18-026-003 and 18-026-008 (Attachment 1).

**ISSUES:** This is a request to enact an ordinance of encroachment to permit the construction, operation and maintenance of an underground electric vault within a portion of public right of way of N. Garfield Street consistent with the engineering plans for Site Plan #418, as proposed. There are no issues identified with this requested encroachment.

**SUMMARY:** In order to permit redevelopment of the property under proposed Site Plan #418, the Applicant and the Owners have requested the enactment of an ordinance of encroachment to permit the construction, operation and maintenance of an underground electric vault within a portion of the right of way for N. Garfield Street ("Right of Way"). In related matters, the Applicant also submitted requests for transfer of density rights, approval of the site plan, and

County Manager:

*BMD/GA*

County Attorney:

*BAK*      *GA*

**41. G.**

Staff: Linda Eichelbaum Collier, Betsy Herbst, Real Estate Bureau

vacation of portions of a public street and utilities easement along N. Garfield Street and Washington Boulevard. If the ordinance of encroachment is enacted, then permission for the proposed encroachment would continue in effect until that portion of the electric vault encroaching within the Right of Way is destroyed, removed, no longer in use or no longer continuously and promptly maintained by the Applicant or the Owners (jointly, "Applicant/Owner"). In addition, the permission for the encroachment would terminate when the Site Plan is no longer in effect or is amended so as to eliminate the electric vault, or when the County requests, in writing, that the encroachment be removed.

**BACKGROUND:** The project that is the subject of Site Plan #418 ("Site Plan") is located within the block bounded by N. Garfield Street, Washington Boulevard, N. Highland Street and 11<sup>th</sup> Street N. (See Vicinity Maps attached as Exhibits B and C). The block currently contains various commercial businesses, including a memorial stone masonry business, a used car sales lot, a restaurant and a bank. The proposed Site Plan consists of two office buildings with ground floor retail to be constructed on top of a common underground parking structure comprising a total of 284,107 s.f. of office space and 22,580 s.f. of ground floor retail commercial space. The proposed Site Plan is located within the Clarendon Sector Plan area.

The Right of Way within which the Applicant/Owner proposes to place a portion of the electric vault was created by a Deed of Dedication dated July 1, 1907 and recorded in the Arlington County Land Records ("Land Records") in Deed Book 115 at Page 504. The properties benefitted by the encroachment are owned by: 1) Jonathan C. Kinney and David W. Briggs, Trustees by virtue of a Deed dated February 3, 1990 and recorded in the Land Records in Deed Book 2418 at page 1225; and 2) Federal Hill, L.L.C., a Virginia limited liability company, by Deed dated June 16, 2000 and recorded in the Land Records in Deed Book 3064 at Page 1223. Both owners, Kinney and Briggs, Trustees, and Federal Hill, L.L.C. have consented to the Encroachment Application.

**DISCUSSION:** Enactment of the proposed ordinance of encroachment will provide the Applicant/Owner with permission to construct, operate and maintain the underground electric vault within the public Right of Way until such time as the electric vault is destroyed, removed, no longer in use, or no longer continuously and promptly maintained by the Applicant/Owner. In addition, the permission for the encroachment would terminate when the Site Plan is no longer in effect or is amended so as to eliminate the electric vault, or when the County requests, in writing, that the encroachment be removed.

The provisions of the ordinance of encroachment will limit the size, location, dimensions, and elevations of the encroaching structure (electric vault). The size, location, dimensions and elevations of the encroaching structure are shown on the plat entitled "Plat Showing Encroachment of Electric Vault in the Right-of-way of N. Garfield Street (Deed Book 115, Page 504) adjacent to Part Lot 15, 16, and 17 Moore's Addition to Clarendon (Deed Book 115, Page 504) Arlington County, Virginia," prepared by Bowman Consulting Group, Ltd. and dated March 6, 2011, attached hereto as Exhibit A. The proposed electric vault will be installed behind the face of curb for N. Garfield Street.

**Public Notice:** Public notice was given in accordance with the Code of Virginia. Notices were placed in the November 15, 2011 and the November 22, 2011 issues of the Washington Times for the December 10, 2011 County Board Meeting. The matter was deferred by the County Board at the December 10, 2011 Meeting to the January 21, 2011 County Board Meeting.

**Compensation:** No compensation is required from the Applicant/Owner. The County's current practice is not to charge for the encroachment of underground utility vaults within public right of way.

**FISCAL IMPACT:** None.

## ATTACHMENT 1

### **ORDINANCE TO PERMIT ENCROACHMENT OF AN ELECTRIC VAULT IN THE PUBLIC RIGHT OF WAY OF N. GARFIELD STREET AT THE SOUTHWEST CORNER OF THE INTERSECTION OF N. GARFIELD STREET AND 11TH STREET NORTH, ALONG THE EASTERN BOUNDARY OF PART LOT 17, PART LOT 16 AND PART LOT 15, MOORE'S ADDITION TO CLARENDON, RPC NOS. 18-026-003 AND 18-026-008.**

BE IT ORDAINED by the County Board of Arlington County, Virginia, that Penzance Clarendon Assemblage, LLC, Applicant, developer of the project known as Site Plan #418 ("Site Plan") and Jonathan C. Kinney, Trustee, Preston C. Caruthers, Trustee, and Federal Hill L.L.C., Owners (Applicant and Owners collectively, "Applicant/Owner") of property located the intersection of N. Garfield Street and 11<sup>th</sup> Street N., also known as Part Lot 15, 16, and 17 Moore's Addition to Clarendon, RPC Nos. 18-026-003 and 18-026-008 ("Property"), are permitted to construct, operate and maintain an underground electric vault ("Encroachment") within a portion of the public right of way of N. Garfield Street ("Right of Way"), such portion located along the eastern boundary of the Property. The dimensions of the Encroachment area and the spatial location (including length, width, height and elevation(s)) of the permitted Encroachment are depicted on Exhibit A attached to the County Manager's Report dated December 13, 2011, entitled "Plat Showing Encroachment of Electric Vault in the Right-of-way of N. Garfield Street (Deed Book 115, Page 504) adjacent to Part Lot 15, 16, and 17 Moore's Addition to Clarendon (Deed Book 115, Page 504) Arlington County, Virginia," prepared by Bowman Consulting Group, Ltd. and dated March 6, 2011, 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 so as to eliminate the Encroachment; or b) the County requests in writing to the Applicant/Owner, that the Encroachments be removed. Nothing herein shall be construed to either allow the installation of any above ground structure or any structure other than the Encroachments within the area as shown on the Plat; or to allow any greater encroachments beyond the area shown on the Plat.

BE IT FURTHER ORDAINED that the Applicant/Owner shall continuously and promptly maintain, including snow and ice removal, the surface and subsurface area of the Encroachments, including all maintenance, restoration, repair and replacement of all facilities, within and adjacent to the areas of the Encroachments.

BE IT FURTHER ORDAINED that this permission shall not release the Applicant/Owner of negligence on their part on account of such Encroachment. The Applicant/Owner, by availing themselves of the permission authorized by this Ordinance and by continuing to have the electric vault encroach within the Right of Way, thereby agree for themselves, and 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 all 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 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 Ordinance and the Plat.

NOTES

1. THE PROPERTIES DEPICTED HEREON ARE SHOWN ON THE ARLINGTON COUNTY TAX MAP AS FOLLOWS: PARCELS 15, 16 AND 17 ARE ZONED C-3 AND FOUND ON MAP SHEETS 55-7 AND 55-8A.
2. THESE PARCELS ARE LOCATED IN FLOOD ZONE "C". AN AREA OUTSIDE THE 500 YEAR FLOOD INSURANCE RATE MAP PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, COUNTY OF ARLINGTON, VIRGINIA, COMMUNITY PANEL NO. 51500 000 B, REVISED MAY 1, 1982.
3. NO TITLE REPORT WAS FURNISHED.
4. BOUNDARY INFORMATION AS SHOWN HEREON WAS OBTAINED FROM A FIELD RUN SURVEY BY ARLINGTON COUNTY AND A FIELD RUN SURVEY BY BOWMAN CONSULTING.

CURVE TABLE

CHORD	ANGLE	LENGTH	CHORD BEARING	CHORD BEARING	CHORD BEARING	CHORD BEARING
14.83'	9.87°	9.87'	S 82°30'44" E	S 82°30'44" E	S 82°30'44" E	S 82°30'44" E
24.00'	9.87°	24.00'	S 82°30'44" E	S 82°30'44" E	S 82°30'44" E	S 82°30'44" E
24.00'	9.87°	24.00'	S 82°30'44" E	S 82°30'44" E	S 82°30'44" E	S 82°30'44" E

**ENCROACHMENT AREA**  
ELECTRIC VAULT  
AREA = 898 SQ. FT.



N. GARFIELD STREET  
(40' WIDE)

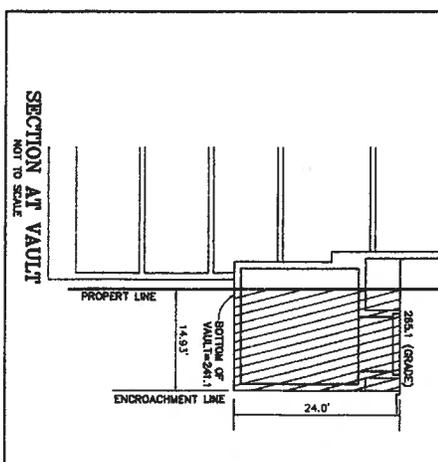
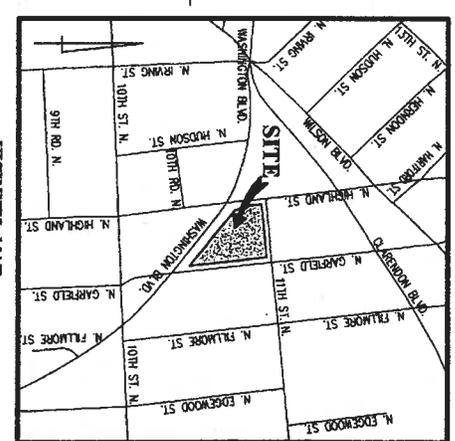
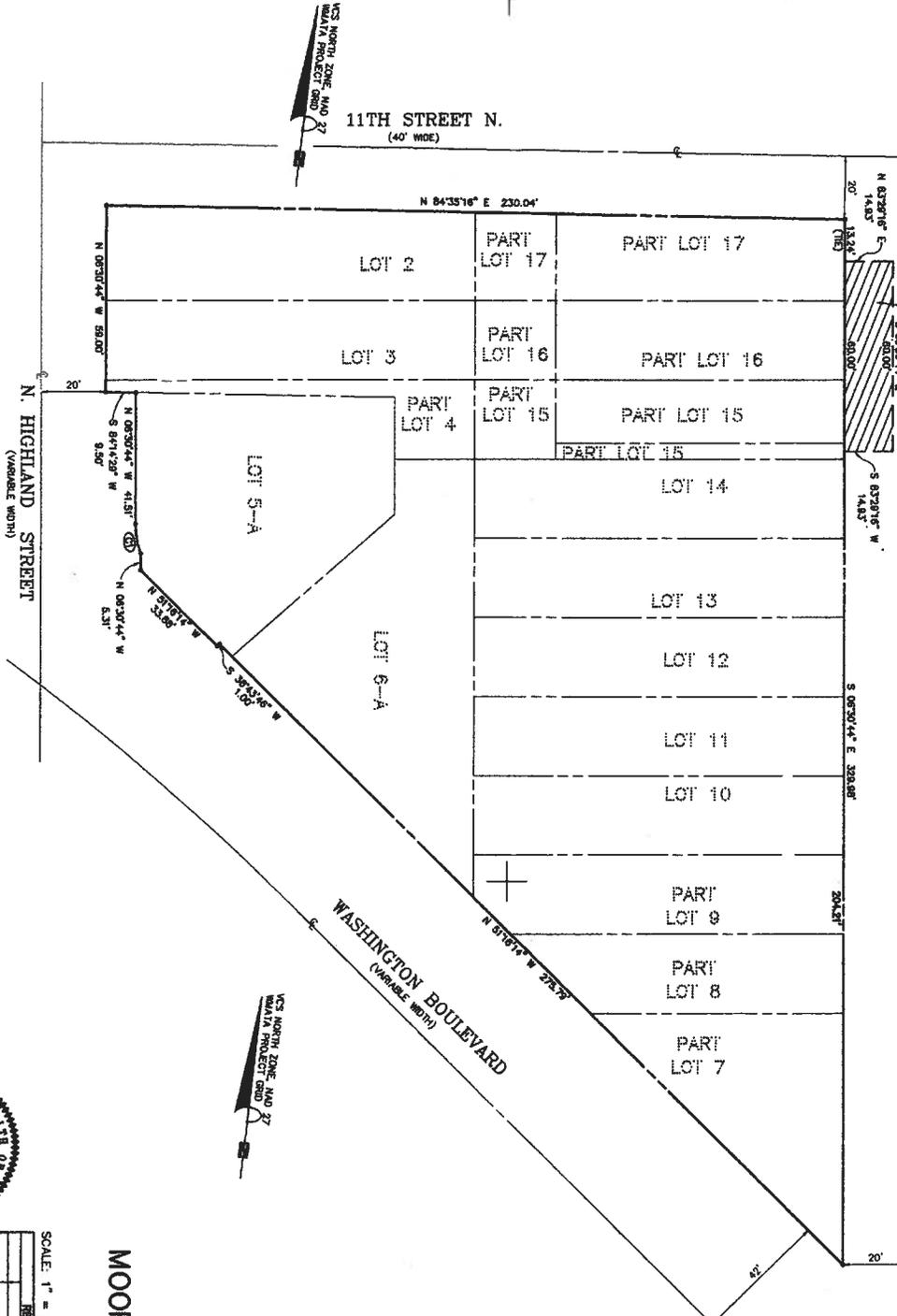


11TH STREET N.  
(40' WIDE)

N 84°35'16" E 230.04'

N. HIGHLAND STREET  
(VARIED WIDTH)

WASHINGTON BOULEVARD  
(VARIED WIDTH)



PLAT SHOWING  
ENCROACHMENT OF ELECTRIC VAULT  
IN THE RIGHT-OF-WAY OF  
N. GARFIELD STREET  
ADJACENT TO  
PART LOT 15, 16, AND 17  
(DEED BOOK 115, PAGE 504)  
MOORE'S ADDITION TO CLARENDON  
ARLINGTON COUNTY, VIRGINIA  
DATE: MARCH 8, 2011

SCALE: 1" = 25'

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF TRANSPORTATION

RECOMMENDED FOR APPROVAL: \_\_\_\_\_

APPROVED: \_\_\_\_\_

PLAT EXAMINER: \_\_\_\_\_

SEALING AND BONDS ADMINISTRATOR: \_\_\_\_\_



**Bowman CONSULTING**

Surveying & Engineering, Ltd.  
14000 Transmittal Plaza, Suite 300  
Chantilly, Virginia 20151  
www.bowmanconsulting.com

Phone: 703-461-0000  
Fax: 703-461-0000

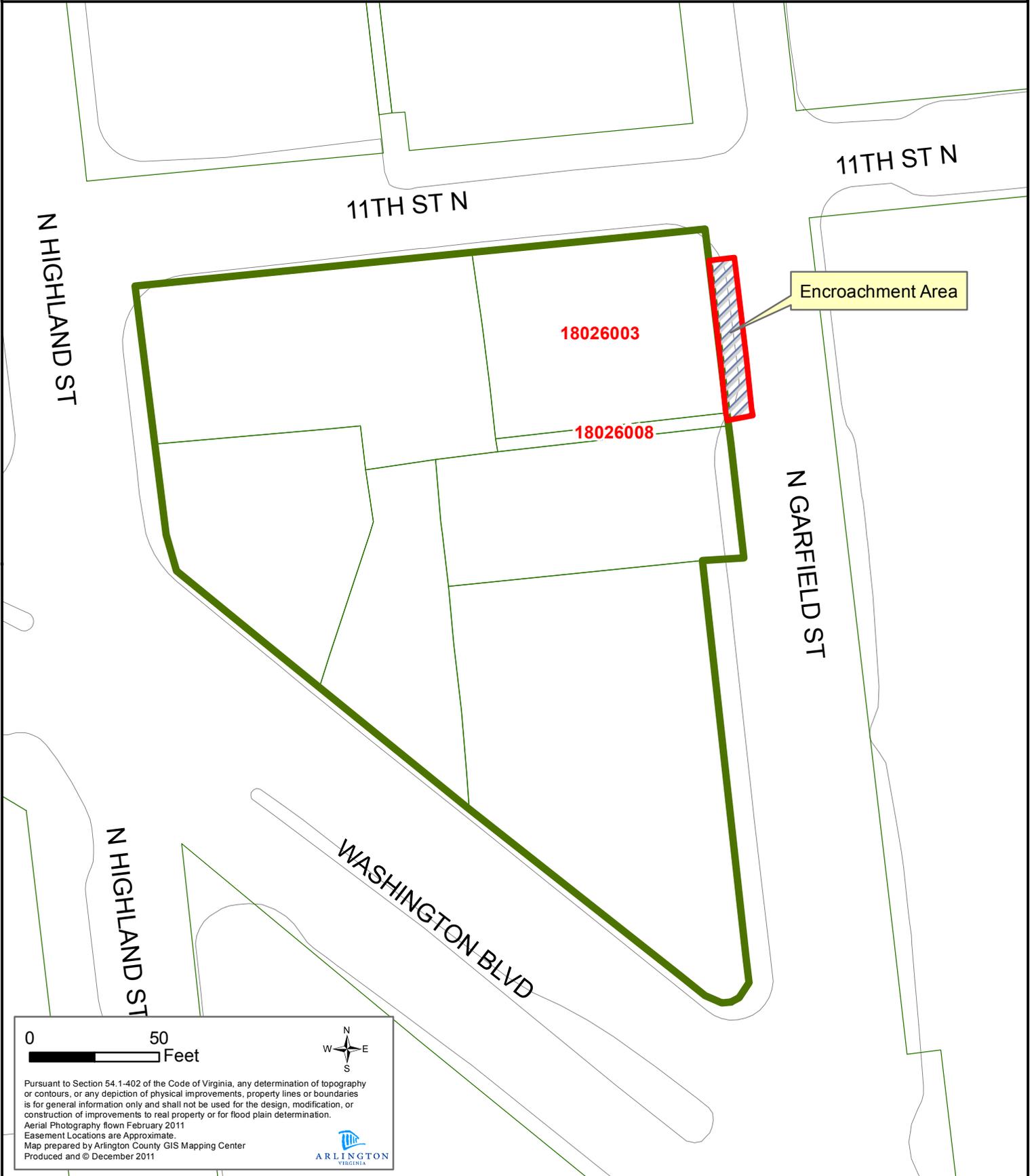
OWS PROJECT NO: 0149-01-001 (TRAC: 00003) COUNTY REF NO: \_\_\_\_\_

SHEET 1 OF 1

# Vicinity Map

## Penzance Site - Encroachment

### RPC# 18026003 and 18026008



0 50 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 2011  
Easement Locations are Approximate.  
Map prepared by Arlington County GIS Mapping Center  
Produced and © December 2011



# Vicinity Map

## Penzance Site - Encroachment

### RPC# 18026003 and 18026008

