



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of March 10, 2012

DATE: February 7, 2012

SUBJECT: Amendment and Reenactment of an "Ordinance to Amend and Reenact and Ordinance to Vacate: 1) a 10' Water Main Easement on Parcel 12, Remainder From Subdivision of Parcels 14 and 15, Potomac Yard, Running from South Clark Street to Old Jefferson Davis Highway, Parallel to 6th Street South, then Running Southwest along the Southern Boundary of Old Jefferson Davis Highway; and 2) a 15' Sanitary Sewer and Force Main Easement on Parcel 12, Remainder from Subdivision of Parcels 14 and 15, Potomac Yard, Running Northwest from South Clark Street to Old Jefferson Davis Highway; both easements, located in Arlington County, Virginia (RPC# 34-024-345), with Conditions", enacted on April 16, 2011, to separate the Ordinance into two ordinances, revise the conditions, and reflect present parcel designations, as follows:

- A. An Ordinance to Amend and Reenact an Ordinance to Vacate a 10' Water Main Easement on the Northern Corner of Parcel A, Monument View, Running along 6th Street South from South Clark Street to Old Jefferson Davis Highway, Then Running Southwest along Old Jefferson Davis Highway, Arlington County, Virginia (RPC# 34-025-007), to Amend the Conditions Required Prior to Recordation of the Deed of Vacation, with Conditions; and
- B. An Ordinance to Amend and Reenact an Ordinance to Vacate a 15' Sanitary Sewer and Force Main Easement on the Northern Corner of Parcel A, Monument View, Running Southeast From Old Jefferson Davis Highway into Parcel A, Arlington County, Virginia" (RPC# 34-025-007), to Amend the Conditions Required Prior to Recordation of the Deed of Vacation, with Conditions.

Applicant/Developer: MR Monument View LLC

By: H. Mark Goetzman
Walsh Colucci Lubeley Emrich & Walsh PC
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

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|------------------|---------------------------------------|------------|
| County Manager: | <i>BMD/GA</i> | 17. |
| County Attorney: | <i>BAC</i> <i>GA</i> | |
| Staff: | Betsy Herbst, DES, Real Estate Bureau | |

C. M. RECOMMENDATION:

- A. Enact the attached Ordinance (Attachment 1) to Amend and Reenact an Ordinance to Vacate a 10' Water Main Easement on the Northern Corner of Parcel A, Monument View, Running along 6th Street South from South Clark Street to Old Jefferson Davis Highway, Then Running Southwest along Old Jefferson Davis Highway, Arlington County, Virginia (RPC# 34-025-007), with conditions; and
- B. Enact the attached Ordinance (Attachment 2) to Amend and Reenact an Ordinance to Vacate a 15' Sanitary Sewer and Force Main Easement on the Northern Corner of Parcel A, Monument View, Running Southeast From Old Jefferson Davis Highway into Parcel A, Arlington County, Virginia” (RPC# 34-025-007), with conditions; and
- C. Authorize the Real Estate Bureau Chief or his designee to: execute the deed(s) of vacation on behalf of the County Board; accept on behalf of the County Board, easements required by the Ordinance or the deed of vacation to be dedicated or conveyed to the County Board; execute other documents necessary to effectuate the Ordinances of Vacation set forth in Attachments 1 and 2; and sign, on behalf of the County Manager and the County Board, subject to approval of such documents as to form by the County Attorney.

ISSUES: The Applicant has requested the amendment of a previously enacted ordinance of vacation to separate the utility vacations into two ordinances and to allow the Applicant to begin construction of the project in areas of the property not within the utility easement areas to be vacated. Amendments of a previously enacted ordinance must be approved by the County Board. There are no issues identified in this request.

SUMMARY: Because the Applicant is under a tight construction schedule, it has requested an amendment of a previously enacted ordinance of vacation to separate the utility vacations into two ordinances and to allow the Applicant to obtain excavation, sheeting and shoring permit(s) and footing to grade permit(s) on portions of the property not located within the areas of the utility easements to be vacated. If enacted, the amended vacation ordinances will allow the Applicant to begin construction activities in areas of the property outside of the easements. No construction activities, except for utility relocation work required by the ordinance, would take place within the easement areas until the conditions of the applicable ordinance are fulfilled.

BACKGROUND: The County Board originally approved the vacation of the utility easements and the vacation of a portion of S. Clark Street on June 24, 2008 (“2008 Ordinances”), along with the associated Site Plan #400. On April 16, 2011, the 2008 Ordinances were amended and reenacted to extend the time to fulfill the ordinance conditions (“2011 Ordinances”) due to a delay in the closing of a necessary property exchange between the County and MR Monument View LLC (“Monument”).

Thereafter, on October 18, 2011, the County Board approved a 4.1 site plan amendment to Site Plan #400 (Site Plan #400 and any amendments thereto are hereafter referred to as “Site Plan”) to allow construction of a 453,422 sq. ft. office building. The County vacated the portion of

South Clark Street to Monument on October 21, 2011, by Deed of Vacation, and certain easements were reserved to the County in the Deed for existing utilities in South Clark Street until such time as the utilities are relocated by Monument. Simultaneously, the County and Monument consummated the property exchange. Monument acquired 4.70535 acres of County Board owned property bounded by Old Jefferson Davis Highway, 6th Street South, South Ball Street and 10th Street South in exchange for conveyance of the 7.09 acre Twin Bridges site that the County acquired to facilitate the development of Long Bridge Park.

Upon closing of the property exchange, Monument acquired, by deed of vacation, a portion of South Clark Street. Monument also acquired title to the parcels on both sides of the South Clark Street right of way, and recorded a Deed of Resubdivision and Dedication to consolidate the Site Plan parcels into property now known as Parcel A, Monument View. To date, the conditions of the ordinance of vacation for the 10' water main easement and the 15' sanitary sewer and force main easement have not yet been completed by Monument.

DISCUSSION: The Applicant has requested a second amendment and reenactment of the utility vacation ordinance associated with Site Plan #400, for the purposes of separating the vacation of the two utility easements into separate ordinances to allow them to be vacated independently, and to revise the completion requirements for the ordinances so that construction on the remaining areas of Site Plan property, outside of the utility easement areas, can proceed while the utility relocations are being completed (“Amended Ordinances”).

The areas to be vacated are designated on two separate plats, one entitled, i) “Plat Showing the Vacation of a 10’ Water Main Easement, Deed Book 1936 Page 1 on Parcel A Monument View Deed Book 4497 Page 1486 Part of the Original Property of the Southern Railway Company Deed Book 111 Page 321 Arlington County, Virginia”, and another entitled, ii) “Plat Showing the Vacation of a 15’ Sanitary Sewer and Force Main Easement Deed Book 1936 Page 1 on Parcel A Monument View Deed Book 4497 Page 1486 Part of the Original Property of the Southern Railway Company Deed Book 111 Page 321 Arlington County, Virginia”, both plats prepared by VIKA Incorporated, dated December 12, 2011, revised January 26, 2012, and attached to each of the respective Amended Ordinances as Exhibit A (“Vacation Plats”)(see Vicinity Maps at Attachments 3 and 4).

Except for Condition No. 3 of the respective Amended Ordinances related to approval of the utility relocation plan and allowable construction, all other conditions of the Amended Ordinances remain the same. As in the 2011 Ordinance, in each of the Amended Ordinances the Applicant must (a) submit a utility relocation and engineering design plan for the construction, relocation, removal, and/or replacement of the utilities; (b) submit to the Director of DES, or his designee, a bond, letter of credit, or other security to secure the construction, removal and/or replacement of any and all existing utilities pursuant to the approved utility plan; (c) remove, relocate and reconstruct the utilities at its sole cost and expense; (d) dedicate new easements; and (e) complete all conditions of the vacation ordinance by noon on April 16, 2014.

Condition No. 3 of the respective Amended Ordinances will be revised to provide that, upon approval by the Department of Environmental Services of the utility relocation and engineering design plan for the construction, relocation, removal, and/or replacement of the respective utility

located within the easement, the Applicant may apply for and, if all applicable requirements are satisfied, obtain excavation, sheeting and shoring permit(s) and footing to grade permit(s) for the Site Plan property. Provided that the applicable requirements have been satisfied for issuance of the respective permit(s), the condition further allows the Applicant to perform the work authorized by such permit(s), except that no work, other than work required or authorized by the approved utility relocation plan, may be performed in the area of the respective easement(s) to be vacated, until all conditions of the Ordinance are satisfied.

The Applicant will not be permitted to begin construction activities in either of the easement areas, except for utility relocation work required by the applicable Amended Ordinance and set forth in the utility relocation plan, until such utilities are relocated. For each Amended Ordinance of vacation, upon completion of all ordinance conditions on or before the expiration date, and recordation of the Deed of Vacation, the County's interests in the easement area to be vacated will be extinguished.

Legal and Physical Description: The Easements were created by Agreement dated December 1, 1975, and recorded in Deed Book 1936, Page 1, among the land records of Arlington County, Virginia.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the February 14 and 21, 2012 issues of the Washington Times for the March 10, 2012 County Board Meeting.

Compensation: In keeping with current practice regarding the vacation of utility easements, staff recommends that no compensation be required from the Applicant for vacating the water main easement and the sanitary sewer and force main easement, which easements will be vacated for redevelopment and replaced with new easements dedicated to the County to serve the proposed new improvements, as provided in Site Plan #400.

FISCAL IMPACT: None.

CONCLUSION: It is recommended that the County Board enact the attached Amended Ordinances as set forth in Attachments 1 and 2 hereto.

ATTACHMENT 1

ORDINANCE TO AMEND AND REENACT AN ORDINANCE TO VACATE A 10' WATER MAIN EASEMENT ON THE NORTHERN CORNER OF PARCEL A, MONUMENT VIEW, RUNNING ALONG 6th STREET SOUTH FROM SOUTH CLARK STREET TO OLD JEFFERSON DAVIS HIGHWAY, THEN RUNNING SOUTHWEST ALONG OLD JEFFERSON DAVIS HIGHWAY, ARLINGTON COUNTY, VIRGINIA (RPC NO. 34-025-007), WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by MR Monument View, LLC (the "Applicant") in the Office of the Department of Environmental Services, a 10' Water Main Easement on the Northern Corner of Parcel A, Monument View, running along 6th Street South from South Clark Street to Old Jefferson Davis Highway, then running southwest along Old Jefferson Davis Highway, established by Agreement dated December 1, 1975 and recorded in Deed Book 1936, Page 1, among the land records of Arlington County, Virginia, which easement is shown on a plat dated December 12, 2011, revised January 26, 2012, prepared by VIKA Incorporated, entitled "Plat Showing the Vacation of a 10' Water Main Easement, Deed Book 1936 Page 1 on Parcel A Monument View Deed Book 4497 Page 1486 Part of the Original Property of the Southern Railway Company Deed Book 111 Page 321 Arlington County, Virginia", attached to the County Manager's Report dated February 7, 2012, as Exhibit A to the Ordinance at Attachment 1, is hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall, at its own cost and expense, remove, relocate and reconstruct the existing water main located within the easement herein vacated, with new water main and related appurtenant facilities of size, dimension and location acceptable to Arlington County ("County"), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
2. The Applicant/Property Owner shall dedicate, grant and convey to the County new water main easements, at locations and of dimensions necessary to accommodate the relocated facilities as required by the County and as provided in Site Plan # 400, approved by the County Board on June 24, 2008, as amended on October 18, 2011 ("Site Plan"). The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the water main easements on behalf of the County, subject to approval thereof as to form by the County Attorney.
3. The Applicant/Property Owner shall submit, for review and approval, to the Department of Environmental Services ("DES"), a utility relocation and engineering design plan for the construction, relocation, removal, and/or replacement of the water main located, in whole or in part, within the easement vacated by this Ordinance of Vacation ("Plan") in compliance with the Arlington County Construction Standards and Specifications. The Plan shall be subject to approval by the Director of DES, or his designee. Upon approval of the Plan, the Applicant may apply for and, provided the Applicant has met the applicable requirements necessary to obtain the following permit(s), obtain excavation, sheeting and shoring permit(s) and footing to grade permit(s) for the property which is the subject of the Site Plan. The Applicant may perform the work authorized by such permit(s), provided that no work, other than work required or authorized by the approved

Plan, shall be performed in the area of the easement(s) to be vacated, until all conditions of this Ordinance of Vacation are satisfied.

4. The Applicant/Property Owner shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or her designee, to secure the construction, relocation, removal, and/or replacement of the water main pursuant to the approved Plan.
5. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deeds of easement, subject to the approval thereof by the County Manager, or her designee, and approval of the deeds as to form by the County Attorney.
6. The Applicant/Property Owner shall record all plats, Deed(s) of Vacation, and all required deed(s) of easement required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
7. The Applicant/Property Owner shall pay all fees, including the fees for review, approval and recordation of the required documents associated with the Ordinance of Vacation.
8. All conditions of this Ordinance of Vacation shall be met by noon on April 16, 2014, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

ATTACHMENT 2

ORDINANCE TO AMEND AND REENACT AN ORDINANCE TO VACATE A 15' SANITARY SEWER AND FORCE MAIN EASEMENT ON THE NORTHERN CORNER OF PARCEL A, MONUMENT VIEW, RUNNING SOUTHEAST FROM OLD JEFFERSON DAVIS HIGHWAY INTO PARCEL A, ARLINGTON COUNTY, VIRGINIA (RPC NO. 34-025-007), WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by MR Monument View, LLC (the "Applicant") in the Office of the Department of Environmental Services, a 15' Sanitary Sewer and Force Main Easement on the northern corner of Parcel A, Monument View, running southeast from Old Jefferson Davis Highway into Parcel A, established by Agreement dated December 1, 1975 and recorded in Deed Book 1936, Page 1, among the land records of Arlington County, Virginia, which easement is shown on a plat dated December 12, 2011, revised January 26, 2012, prepared by VIKA Incorporated, entitled "Plat Showing the Vacation of a 15' Sanitary Sewer and Force Main Easement Deed Book 1936 Page 1 on Parcel A Monument View Deed Book 4497 Page 1486 Part of the Original Property of the Southern Railway Company Deed Book 111 Page 321 Arlington County, Virginia", attached to the County Manager's Report dated February 7, 2012, as Exhibit A to the ordinance at Attachment 2, is hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall, at its own cost and expense, remove, relocate and reconstruct the existing sanitary sewer and force main, located within the easements herein vacated, with a new sanitary sewer and force main and related appurtenant facilities of size, dimension and location acceptable to Arlington County ("County"), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
2. The Applicant/Property Owner shall dedicate, grant and convey to the County a new sanitary sewer and force main easement, at locations and of dimensions necessary to accommodate the relocated facilities as required by the County and as provided in Site Plan # 400 ("Site Plan"), approved on June 24, 2008, as amended on October 18, 2011. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the sanitary sewer and force main easement on behalf of the County, subject to approval thereof as to form by the County Attorney.
3. The Applicant/Property Owner shall submit, for review and approval, to the Department of Environmental Services ("DES"), a utility relocation and engineering design plan for the construction, relocation, removal, and/or replacement of the sanitary sewer and force main located, in whole or in part, within the easements vacated by this Ordinance of Vacation ("Plan") in compliance with the Arlington County Construction Standards and Specifications. The Plan shall be subject to approval by the Director of DES, or his designee. Upon approval of the Plan, the Applicant may apply for and, provided the Applicant has met the applicable requirements necessary to obtain the following permit(s), obtain excavation, sheeting and shoring permit(s) and footing to grade permit(s) for the property which is the subject of the Site Plan. The Applicant may perform the work authorized by such permit(s), provided that no work, other than work

required or authorized by the approved Plan, shall be performed in the area of the easement(s) to be vacated, until all conditions of this Ordinance of Vacation are satisfied.

4. The Applicant/Property Owner shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or her designee, to secure the construction, relocation, removal, and/or replacement of the sanitary sewer and force main pursuant to the approved Plan.
5. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deed(s) of easement, subject to the approval thereof by the County Manager, or her designee, and approval of the deeds as to form by the County Attorney.
6. The Applicant/Property Owner shall record all plats, Deed(s) of Vacation, and all required deed(s) of easement required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
7. The Applicant/Property Owner shall pay all fees, including the fees for review, approval and recordation of the required documents associated with the Ordinance of Vacation.
8. All conditions of this Ordinance of Vacation shall be met by noon on April 16, 2014, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

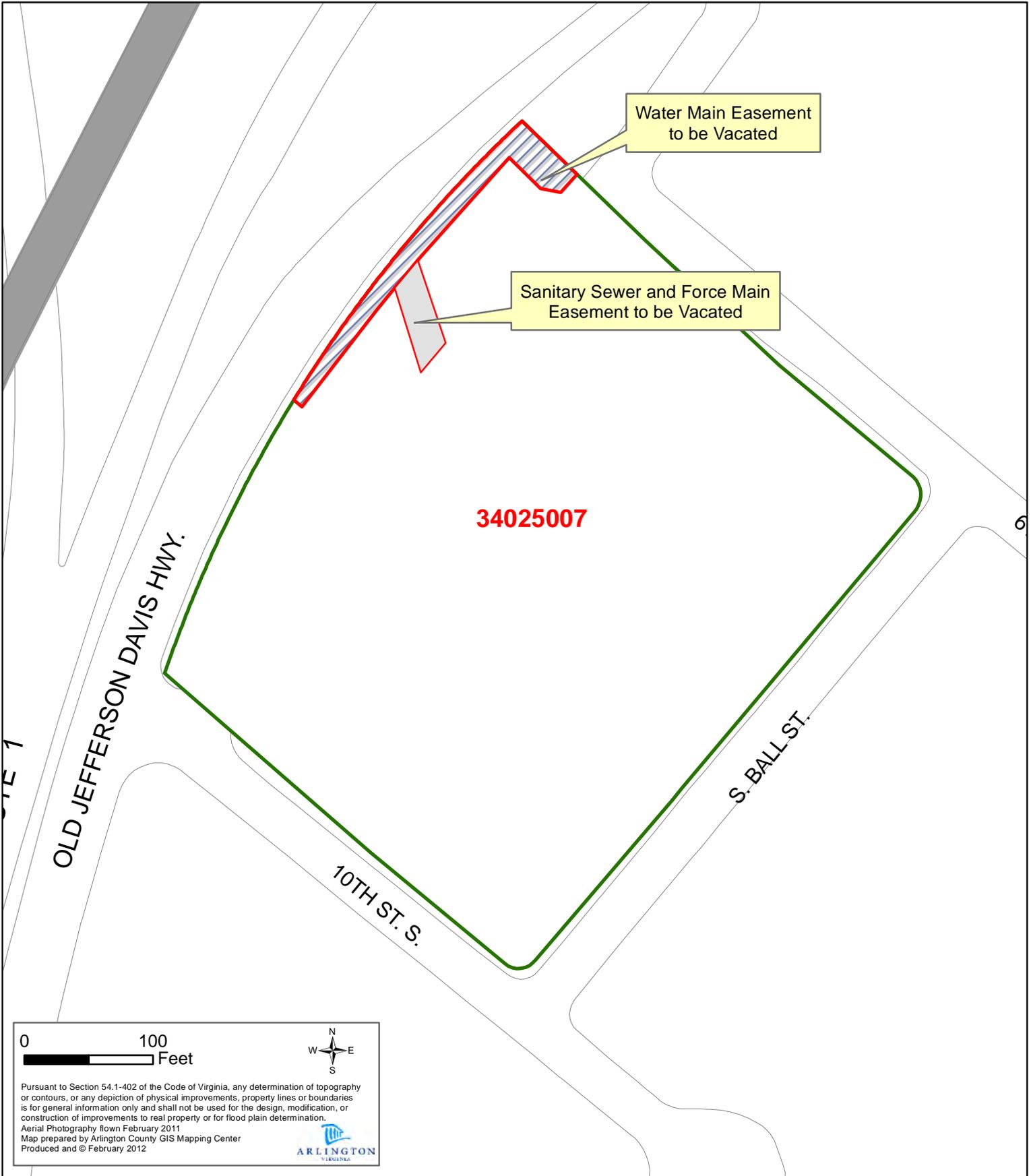
Vicinity Map

Attachment 3

Monument View Site - Old Jefferson Davis Hwy

RPC # 34025007

Vacation of Utility Easements



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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
Map prepared by Arlington County GIS Mapping Center
Produced and © February 2012

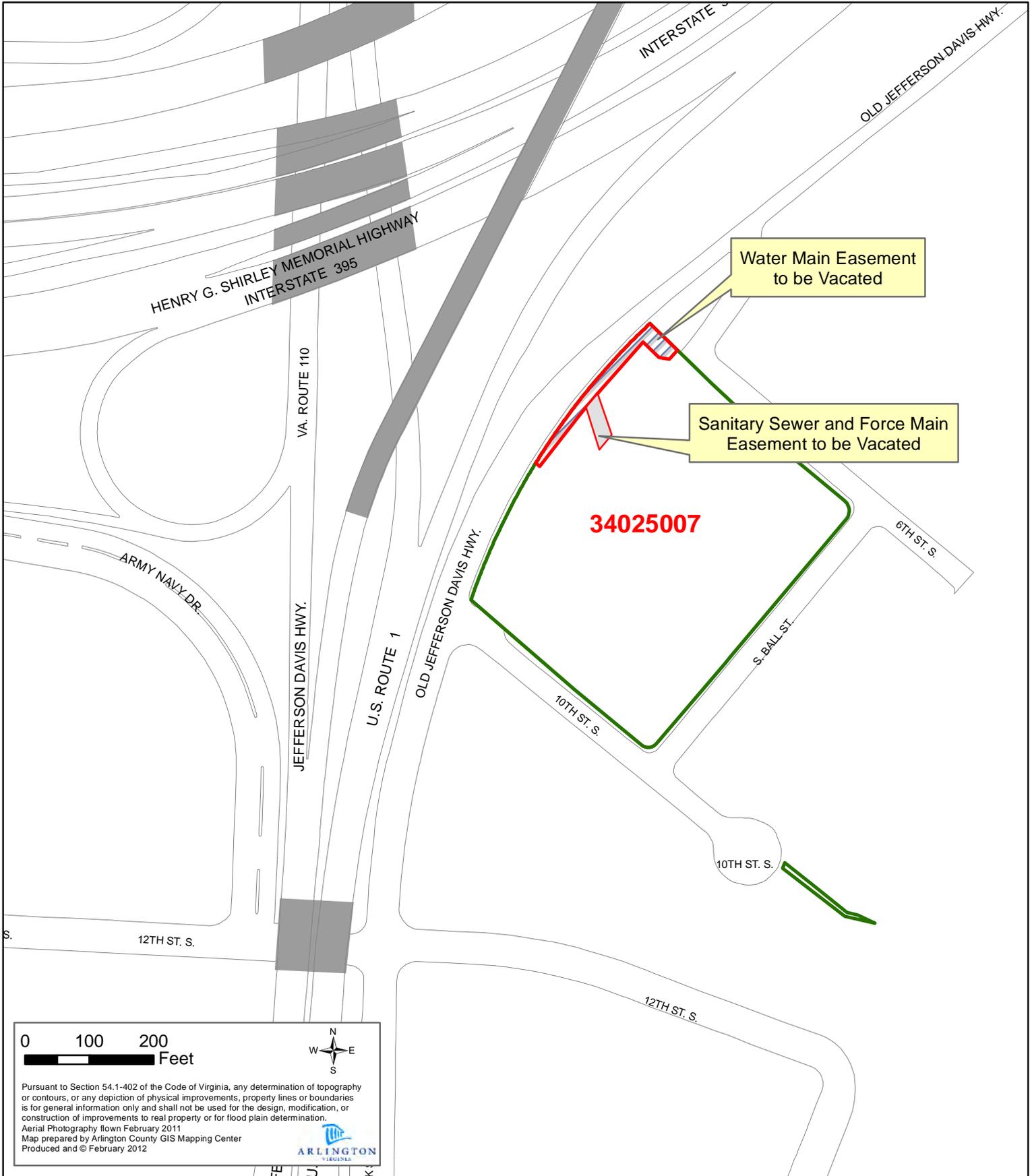
ARLINGTON
VIRGINIA

Vicinity Map

Monument View Site - Old Jefferson Davis Hwy

RPC # 34025007

Vacation of Utility Easements



0 100 200
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
Map prepared by Arlington County GIS Mapping Center
Produced and © February 2012

