



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of July 21, 2012

DATE: July 9, 2012

SUBJECT: Enactment of an Ordinance to Permit the Encroachments of Portions of Proposed Building Additions Over, Upon, or Within a Surface Easement for Public Street and Utilities Purposes, Located on the West Side of Crystal Drive, North of the Intersection of Crystal Drive and 14th Street South, on Lot 2, Jefferson Plaza, RPC #34-024-340, with Conditions.

Applicant: ML Jefferson, LLC c/o Lowe Enterprises Real Estate Group

By: Evan Pritchard
Walsh, Colucci, Lubeley, Emrich & Walsh
2200 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201

C. M. RECOMMENDATION:

1. Enact the attached Ordinance to Permit the Encroachments of portions of proposed building additions over, upon, or within a Surface Easement for Public Street and Utilities Purposes, located on the west side of Crystal Drive, north of the intersection of Crystal Drive and 14th Street South, on Lot 2, Jefferson Plaza, RPC #34-024-340, with conditions.
2. Authorize the Real Estate Bureau Chief, Department of Environmental Services, or his designee, to execute, on behalf of the County Board, all documents necessary to effectuate the Ordinance, subject to approval as to form by the County Attorney.

ISSUES: County Board action is needed to approve an Ordinance to allow certain building encroachments into a County easement. No issues have been identified.

SUMMARY: This is a request to enact an ordinance to permit the encroachment of various building additions over, upon, or under an existing surface easement for public street and utilities purposes. The proposed encroachments consist of a new stairway, a new ADA-compliant access

County Manager:

County Attorney:

22.

Staff: Linda Collier, DES – Real Estate Bureau
Michael Halewski, DES – Real Estate Bureau

ramp, new retaining walls and new landscape areas. The proposed ordinance is attached hereto as Attachment 1. The proposed new stairway, handicapped access ramp, retaining wall, and landscape area were approved as part of an amendment to Site Plan #51, approved by the County Board on July 12, 2011. As part of the approval of the amendment to Site Plan #51 and the proposed encroachment ordinance, the Applicant is also proposing to make certain streetscape improvements, at the Applicant's cost, related to the County's capital transportation project to convert Crystal Drive to two-way traffic. These improvements would otherwise have been made by the County at the County's cost. Because the cost of such improvements exceeds the value of the encroachment, County staff recommends that no monetary compensation should be owed for the encroachment ordinance.

BACKGROUND: On July 12, 2011, the County Board approved an amendment to Site Plan SP #51, which, among other things, allowed for the renovation of the façade of the building located at 1400 Crystal Drive (formerly 1411 and 1421 Jefferson Davis highway, and 1480 Crystal Drive) and the modification of landscape and streetscape adjacent to the building. An ordinance of encroachment is required to allow portions of the approved building modifications to encroach over, upon or within the existing County surface easement for public street and utilities purposes.

The County Department of Environmental Services has an active capital transportation project that involves converting Crystal Drive to two-way traffic, including the portion of Crystal Drive adjacent to the building. As part of the approval of the site plan amendment, the Applicant agreed to make certain additional streetscape improvements in the County right-of-way at the Applicant's cost, which improvements the County otherwise would have made as part of its two-way conversion project and which improvements, upon completion by the Applicant and acceptance by the County, will be owned by the County.

DISCUSSION: In conjunction with the plans for the renovation of the façade of the building and the modification of landscape and streetscape adjacent to the building, the Applicant has requested that the County Board enact an encroachment ordinance to permit the construction of portions of proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls within an existing County surface easement for public street and utilities purposes. The proposed encroachment areas total approximately 1,000 square feet.

The proposed encroachments are more specifically shown as: "Streetscape Encroachment Area, Lower Elev Varies From 33.5 to 36.0 With an Upper Elevation of 37.81 (Elev of First Floor) 986 SQ. FT." and; "Streetscape Encroachment Area 13.5 SQ. FT." on an exhibit entitled, "Exhibit Showing Encroachment Area Within a Surface Easement for Public Street Purposes and Utilities Purposes on Lot 2, Jefferson Plaza, Deed Book 2860, Page 1343, Arlington County, Virginia", prepared by VIKI, dated February 9, 2012, revised June 13, 2012, attached hereto as Attachment 2. The current site conditions are more particularly shown on the exhibit attached as Attachment 3, and the proposed site conditions are more particularly shown on the exhibit attached as Attachment 4. The overall site area is more particularly shown on the vicinity maps attached as Attachment 5, 6, and 7.

The Applicant is constructing, at no cost to the County, portions of the County's proposed streetscape project along Crystal Drive. Among other things, the Applicant is constructing portions of the street, curb and gutter, sidewalk and two tree pits, as well as installing two streetlights and two trees all of which are part of the streetscape project and for which the County would otherwise bear the cost.

Legal and Physical Description: The surface easement for public street and utilities purposes was created by Deed of Easement dated February 15, 1968, recorded in Deed Book 1668, Page 346, 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 June 26, 2012 and July 3, 2012 issues of the Washington Times for the July 21, 2012 County Board Meeting.

Compensation: County staff recommends no compensation be required from the Applicant for this encroachment, because the value of the cost-savings to the County from the Applicant performing streetscape improvements that the County otherwise would have performed as part of its two-way conversion project exceeds the value of the encroachment. Based upon staff's calculation, the Applicant is spending approximately \$83,548.80 on improvements for which the County would have otherwise paid. This amount exceeds staff's valuation of the encroachment.

FISCAL IMPACT: There is no compensation or payment associated with this encroachment. However, the Applicant is providing streetscape improvements to the County at no cost, which has a cost savings to the current County two-way conversion transportation capital project.

ATTACHMENT 1

ORDINANCE TO PERMIT THE ENCROACHMENT OF PORTIONS OF PROPOSED BUILDING ADDITIONS OVER, UPON, OR WITHIN A SURFACE EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES, LOCATED ON THE WEST SIDE OF CRYSTAL DRIVE, NORTH OF THE INTERSECTION OF CRYSTAL DRIVE AND 14TH STREET SOUTH, ON LOT 2, JEFFERSON PLAZA, RPC #34-024-340, WITH CONDITIONS.

BE IT ORDAINED by the County Board of Arlington County, Virginia, that the Applicant, ML Jefferson, LLC c/o Lowe Enterprises Real Estate Group (“Applicant”), as developer of the project on Lot 2, Jefferson Plaza, Site Plan #51, is permitted to construct portions of a proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls within an existing County surface easement for public street and utilities purposes, which easement is recorded among the land records of the Circuit Court of Arlington County, Virginia, in Deed Book 1668, at Page 346. The dimensions (i.e., length, width and depth elevations) and spatial locations of each of the permitted encroachments are depicted in Attachment 2 attached to the County Manager’s Report dated June 26, 2012, entitled “Exhibit Showing Encroachment Area Within a Surface Easement for Public Street Purposes and Utilities Purposes on Lot 2, Jefferson Plaza, Deed Book 2860, Page 1343, Arlington County, Virginia”, prepared by VIKA, dated February 9, 2012, revised June 13, 2012 (“Plat”) and Attachment 4 attached to the County Manager’s Report dated June 26, 2012, entitled “Exhibit Showing Proposed Conditions to Lot 2, Jefferson Plaza, Deed Book 2860, Page 1343, Arlington County Virginia”, prepared by VIKA, dated February 9, 2012, revised June 13, 2012. The proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls are only permitted to serve a building authorized by Site Plan #51, as amended. No other structures are permitted to be installed or constructed by Applicant, or to exist within the County property shown on the Plat.

BE IT FURTHER ORDAINED that this permission for the encroachments shall continue until such time as that portion of the proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls are destroyed, removed, no longer in use, or not continuously and promptly maintained by the Applicant. Nothing in this Ordinance shall be construed either: to allow the installation by Applicant of any above or below ground structure, other than the proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls, within the area as shown on the Plat; or to allow any greater encroachment beyond the dimensions and spatial areas shown on the Plat.

BE IT FURTHER ORDAINED that the Applicant, its successors and assigns, shall continuously and promptly maintain the proposed stairway and ADA-compliant

access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls, and maintain, restore, repair, and replace all County owned facilities, within and adjacent to the public right-of-way, including any sidewalk, curb and gutter, and paved surface, which are damaged by the installation, maintenance, destruction, continued existence, repair or removal of the proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls.

BE IT FURTHER ORDAINED that this Ordinance shall not be construed to release the Applicant, its successors and assigns, of negligence on their part on account of such encroachments, and the Applicant, by constructing, or causing to be constructed and by continuing to have the proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls within the dedicated public right-of-way, thereby agrees for itself, its successors and assigns, 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 construction, maintenance, repair and removal of the proposed stairway and ADA-compliant access ramp from the proposed new sidewalk to the main building lobby, portions of new landscaping areas, and portions of new retaining walls, and the permission for such encroachments, to encroach within the public right-of-way permitted by this Ordinance.

BE IT FURTHER ORDAINED that on or before July 21, 2015, the Applicant, at its sole expense, shall cause a certified copy of this Ordinance and the Plat, approved by the Director of the Department of Environmental Services or his designee, to be recorded in the land records of the Arlington County Circuit Court and evidence thereof shall be promptly delivered by the Applicant to the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services.

RPC# 34024341
ARLINGTON
HOSPITALITY CORP.
D.B. 2864 PG. 225
ZONE C-0

#1480
CRYSTAL DRIVE
12 STORY HOTEL BUILDING
3 GARAGE LEVELS

LOT 4
JEFFERSON PLAZA
(BELOW ELEVATION 36.8')
DB 2860 PG 1343

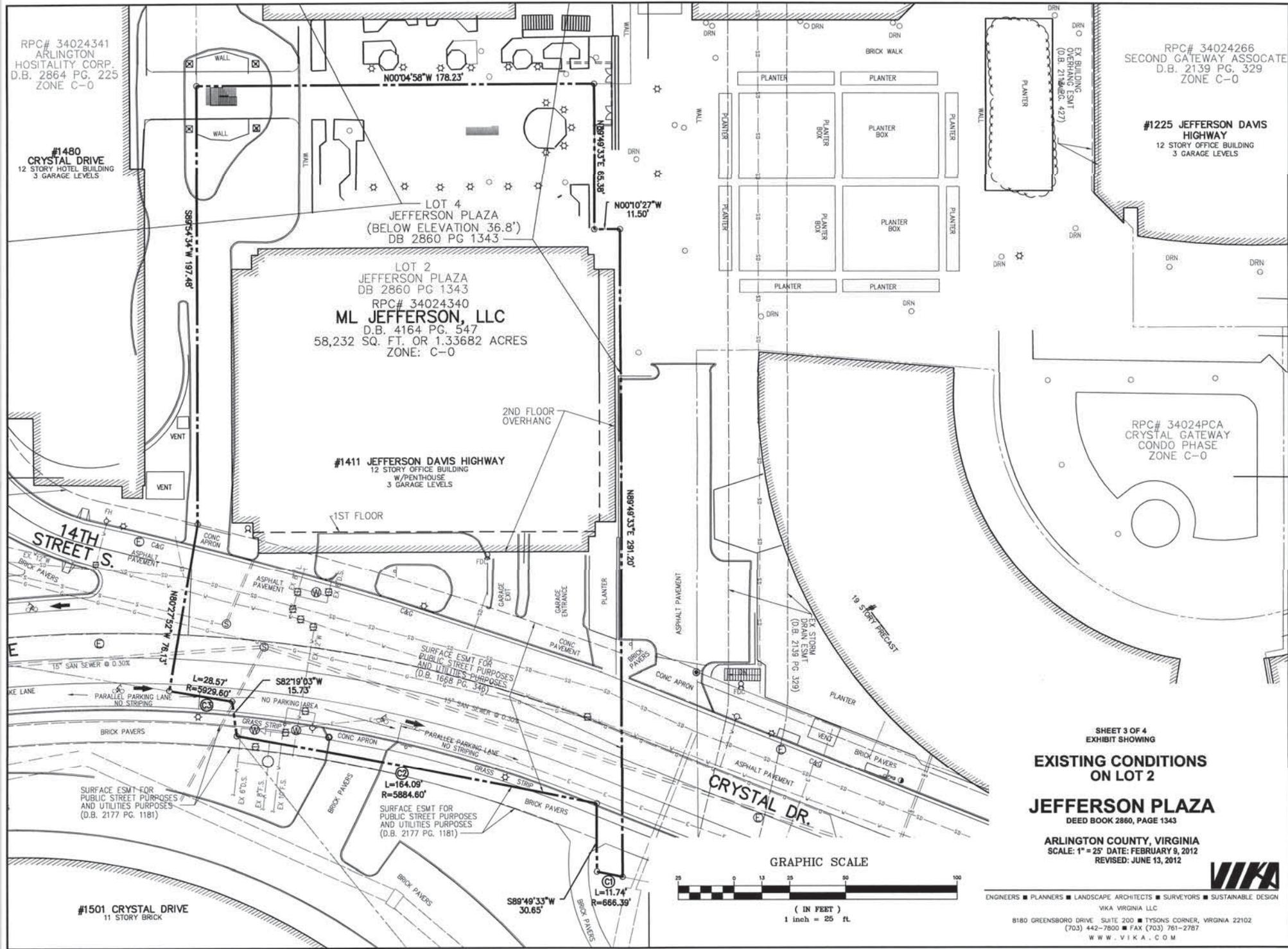
LOT 2
JEFFERSON PLAZA
DB 2860 PG 1343
RPC# 34024340
ML JEFFERSON, LLC
D.B. 4164 PG. 547
58,232 SQ. FT. OR 1.33682 ACRES
ZONE: C-0

#1411 JEFFERSON DAVIS HIGHWAY
12 STORY OFFICE BUILDING
W/PENTHOUSE
3 GARAGE LEVELS

RPC# 34024266
SECOND GATEWAY ASSOCIATE
D.B. 2139 PG. 329
ZONE C-0

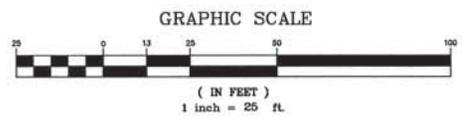
#1225 JEFFERSON DAVIS
HIGHWAY
12 STORY OFFICE BUILDING
3 GARAGE LEVELS

RPC# 34024PCA
CRYSTAL GATEWAY
CONDO PHASE
ZONE C-0



SHEET 3 OF 4
EXHIBIT SHOWING
**EXISTING CONDITIONS
ON LOT 2**
JEFFERSON PLAZA
DEED BOOK 2860, PAGE 1343

ARLINGTON COUNTY, VIRGINIA
SCALE: 1" = 25' DATE: FEBRUARY 9, 2012
REVISED: JUNE 13, 2012



V I K A
ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ SUSTAINABLE DESIGN
V I K A VIRGINIA LLC
8180 GREENSBORO DRIVE SUITE 200 ■ TYSONS CORNER, VIRGINIA 22102
(703) 442-7800 ■ FAX (703) 761-2787
WWW.VIKA.COM

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RPC# 34024341
ARLINGTON
HOSPITALITY CORP.
D.B. 2864 PG. 225
ZONE C-0

#1480
CRYSTAL DRIVE
12 STORY HOTEL BUILDING
3 GARAGE LEVELS

LOT 4
JEFFERSON PLAZA
(BELOW ELEVATION 36.8')
DB 2860 PG 1343

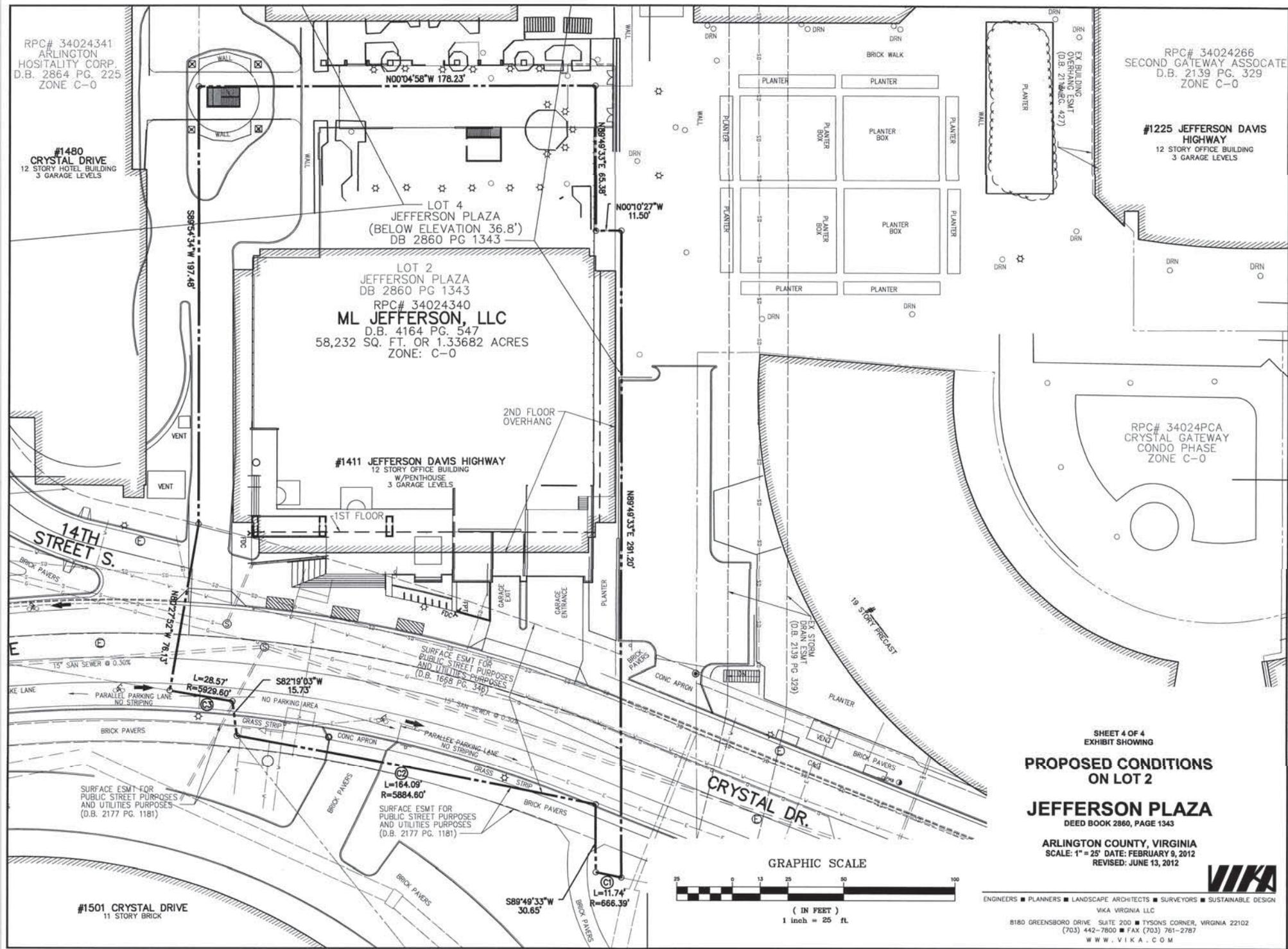
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JEFFERSON PLAZA
DB 2860 PG 1343
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ZONE C-0

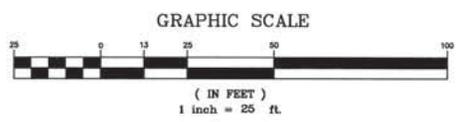
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RPC# 34024PCA
CRYSTAL GATEWAY
CONDO PHASE
ZONE C-0



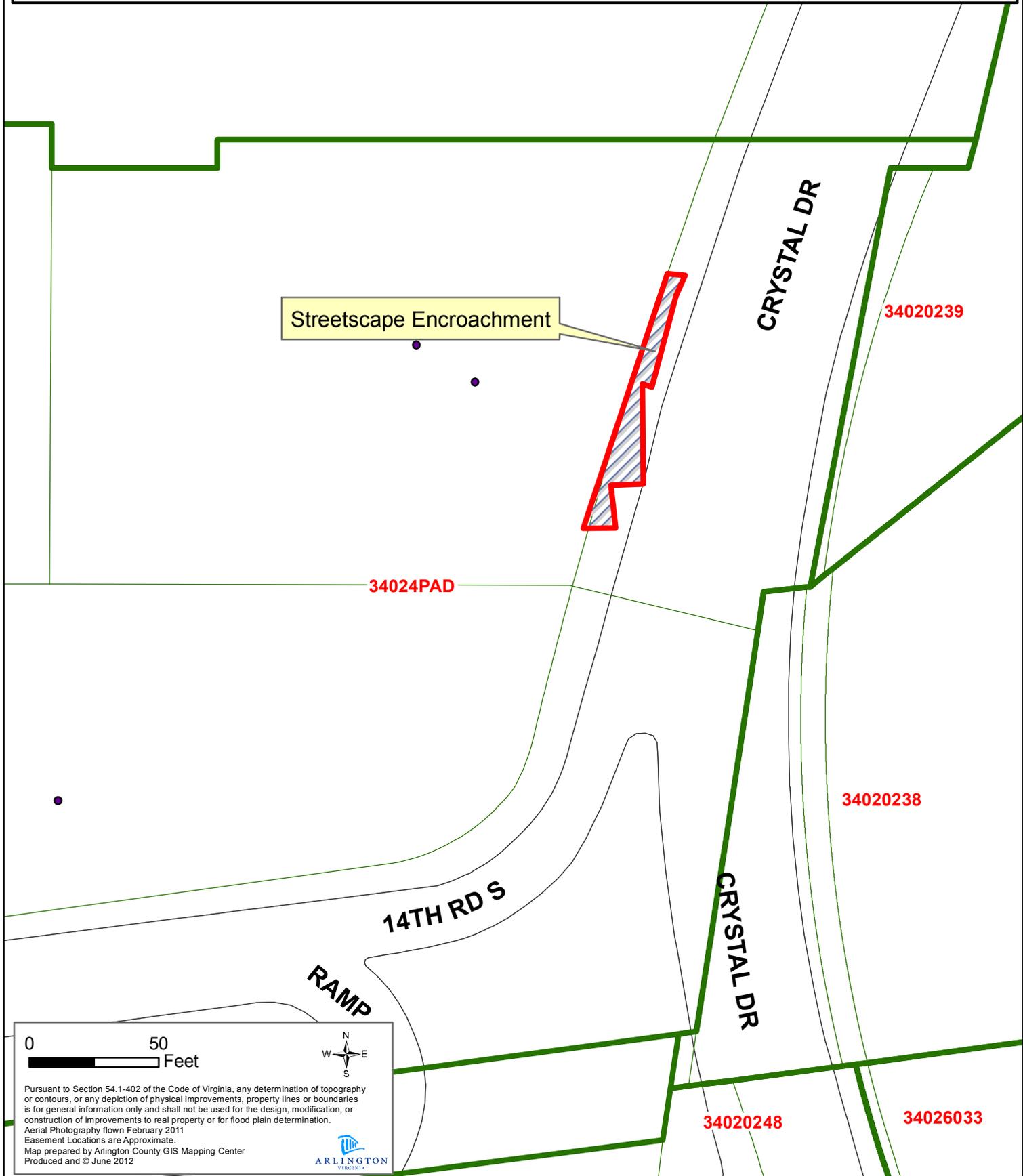
SHEET 4 OF 4
EXHIBIT SHOWING
**PROPOSED CONDITIONS
ON LOT 2**
JEFFERSON PLAZA
DEED BOOK 2860, PAGE 1343

ARLINGTON COUNTY, VIRGINIA
SCALE: 1" = 25' DATE: FEBRUARY 9, 2012
REVISED: JUNE 13, 2012



V I K A
ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ SUSTAINABLE DESIGN
V I K A VIRGINIA LLC
8180 GREENSBORO DRIVE, SUITE 200 ■ TYSONS CORNER, VIRGINIA 22102
(703) 442-7800 ■ FAX (703) 761-2787
WWW.VIKA.COM

Vicinity Map
1400 Crystal Drive
RPC # 34024340



Streetscape Encroachment

34024PAD

34020239

34020238

14TH RD S

RAMP

CRYSTAL DR

CRYSTAL DR

34020248

34026033

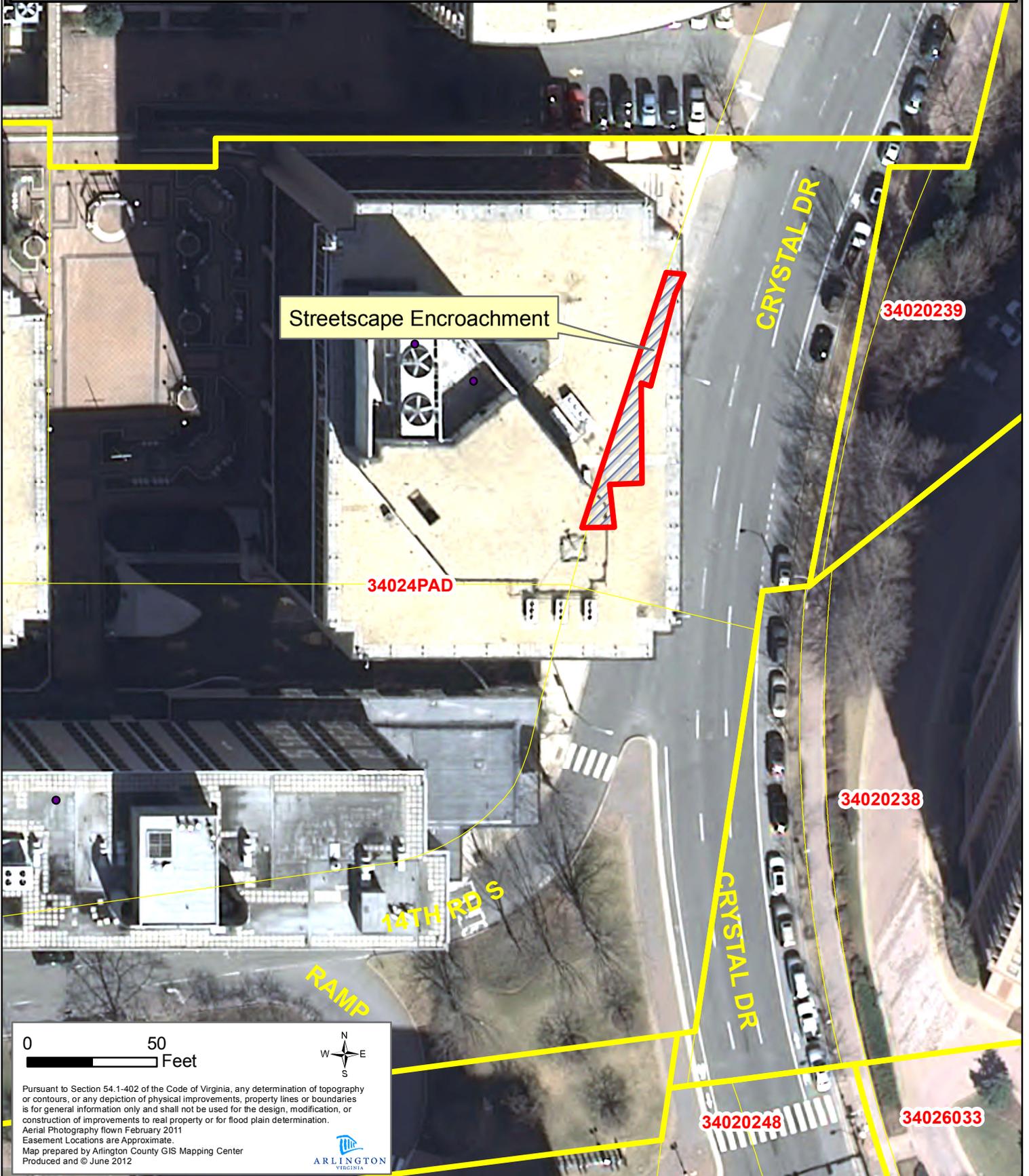
0 50 Feet



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 © June 2012



Vicinity Map 1400 Crystal Drive RPC # 34024340



0 50 Feet



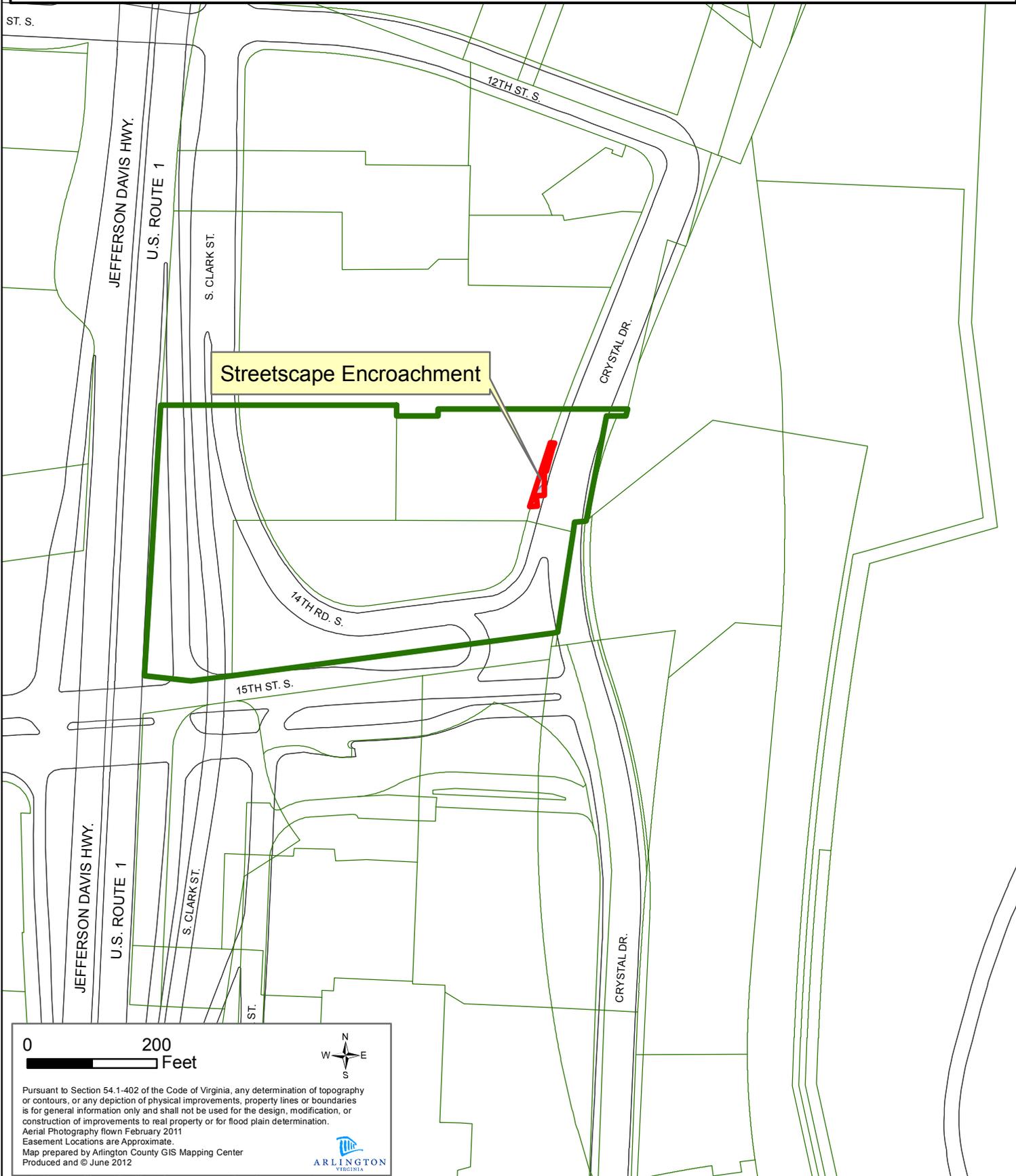
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Vicinity Map

1400 Crystal Drive

RPC # 34024340



0 200 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
Easement Locations are Approximate.
Map prepared by Arlington County GIS Mapping Center
Produced and © June 2012

