



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 08, 2012**

DATE: November 13, 2012

SUBJECT: Enactment of an Ordinance to Permit the Encroachment of a Structural Canopy within a Portion of a Surface Easement for Public Street and Utility Purposes located on Lot 3 Block 12 Rosslyn, known as 1777 North Kent Street, RPC # 16-039-010, with Conditions.

Applicant/Owner:

Geneva Associates LTD PT
c/o Charles E. Smith Co.
Attn. Adam Peters, Vornado/CES
2345 Crystal Drive, Building #281
Arlington, Virginia 22202

By: Martin D. Walsh, Agent/Attorney
Walsh, Colucci, Lubeley, Emrich & Walsh, PC
2200 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201

C. M. RECOMMENDATION:

Enact the attached Ordinance to Permit the Encroachment of a Structural Canopy within a Portion of a Surface Easement for Public Street and Utility Purposes located on Lot 3 Block 12 Rosslyn, known as 1777 North Kent Street, RPC # 16-039-010, with Conditions (“Attachment 1”).

ISSUES: This is a request by the Applicant/Owner (“Applicant”) for the County Board to enact an Ordinance of Encroachment (“Ordinance”) to permit the encroachment of a structural canopy within a portion of a surface Easement for Public Street and Utility Purposes related to the renovation of 1777 North Kent Street (“Property”). There are no outstanding issues related to the proposed encroachment.

SUMMARY: The Applicant has requested that the County Board enact the Ordinance to permit the construction of a structural canopy over a portion of sidewalk where the County possesses an

County Manager:

County Attorney:

7.

Staff: Linda Eichelbaum Collier, Real Estate Specialist, DES

existing Easement for Public Street and Utility Purposes (“Easement”). The structural canopy is proposed, as part of an administrative change to Site Plan #137, to permit renovation of the existing office building. If enacted, the Ordinance would permit the encroachment to continue until the canopy is destroyed, removed, no longer in use, or not continuously and promptly maintained by the Applicant.

BACKGROUND: The Property is located on the east side of North Kent Street, south of 19th Street North in Rosslyn (See attached Vicinity Maps), and is included in the site plan area of Rosslyn Plaza (Site Plan #137). The Property is the subject of a request for an administrative change to Site Plan #137 to permit renovation of the existing office building located on the Property. The Property also is part of a major site plan amendment for Site Plan #137, currently under review by staff. Under the proposed major site plan amendment, the office building currently located on the Property would be redeveloped during the final phase of the proposed amended site plan.

The requested encroachment would enable the proposed renovation to the office building in accordance with the proposed administrative change. Specifically, the requested encroachment would permit construction of a structural canopy over the entrance to the office building. The proposed canopy is located on the Applicant’s Property, over the sidewalk and adjacent to North Kent Street. The proposed canopy is located within an Easement for Public Street and Utility Purposes granted by the owner of the Property to the County.

The owner of the Property, Geneva Associates LTD PT, acquired the Property by Deed dated September 29, 1978, recorded among the Arlington County Land Records (“Land Records”) in Deed Book 1975 at Page 1702. The proposed encroachment is located within an Easement acquired by the County by Deed of Easement dated July 26, 1979 and recorded among the Land Records in Deed Book 1994 at Page 130.

DISCUSSION: In conjunction with the proposed administrative change to Site Plan #137 and the resultant renovation, Applicant has requested approval of the Ordinance to permit encroachment of a structural canopy within the Easement. The proposed encroachment is shown as “Encroachment Area Canopy Area = 129 Sq. Ft.” on a plat entitled “Plat Showing Encroachment Area Within Easement for Public Street and Utility Purposes on Lot 3, Block 12, Rosslyn, Deed Book 105, Page 275, Arlington County, Virginia,” dated September 26, 2012, prepared by Bowman Consulting Group, Ltd. (“Plat”) and attached hereto as Exhibit A.

Legal and Physical Description: The Easement was acquired by the County by Deed of Easement dated July 26, 1979 and recorded among the Land Records in Deed Book 1994 at Page 130.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices for the encroachment hearing were placed in the November 20, 2012 and November 27, 2012 issues of the Washington Times for the December 8, 2012 County Board Meeting.

Compensation: Staff has recommended, and Applicant has agreed, to a payment of \$5,625.00 in compensation to the County for the encroachment into a portion of the Easement. The amount

was determined based upon a percentage of the assessed value of the underlying property and the rights of the County therein. In addition, the Ordinance will require the Applicant to remove the canopy, at its sole cost and expense, if requested to do so by staff. This will permit staff to access the area encompassed by the canopy for any reason, including maintenance or emergency purposes.

FISCAL IMPACT: The Applicant has agreed to pay \$5,625.00 to the County as compensation for the proposed encroachment. The Applicant will have up to three years (until December 8, 2015) to meet the conditions of the Ordinance. Once received, payment to the County will be deposited into the County's General Fund.

CONCLUSION: It is recommended that the County Board enact the attached Ordinance as set forth in Attachment 1.

ATTACHMENT 1

ORDINANCE TO PERMIT THE ENCROACHMENT OF A STRUCTURAL CANOPY WITHIN A PORTION OF A SURFACE EASEMENT FOR PUBLIC STREET AND UTILITY PURPOSES LOCATED ON LOT 3 BLOCK 12 ROSSLYN, KNOWN AS 1777 NORTH KENT STREET, RPC # 16-039-010, WITH CONDITIONS.

BE IT ORDAINED by the County Board of Arlington County, Virginia, that, pursuant to an application on file with the Department of Environmental Services, Real Estate Bureau, the Applicant/Owner, Geneva Associates LTD PT c/o Charles E. Smith Co. ("Applicant"), is permitted to erect and maintain a structural canopy into the County Easement for Public Street and Utility Purposes recorded in Deed Book 1994 at Page 130 ("Easement"), and located on Lot 3, Block 12, Rosslyn, known as 1777 North Kent Street, RPC #16-039-010 ("Property"), effective only upon the satisfaction of the conditions provided below. The dimensions (length, width and elevations) and spatial location of the permitted encroachment ("Encroachment") are depicted in Exhibit A, attached to the County Manager's Report dated November 13, 2012, as "Encroachment Area Canopy Area = 129 Sq. Ft." on a plat entitled "Plat Showing Encroachment Area Within Easement for Public Street and Utility Purposes on Lot 3, Block 12, Rosslyn, Deed Book 105, Page 275, Arlington County, Virginia," dated September 26, 2012, prepared by Bowman Consulting Group, Ltd. ("Plat"). Such structural canopy is permitted to serve only the building that is the subject of an administrative change to Site Plan #137, and any approved amendments thereto. The dimensions, the elevations, the depth above grade are shown generally on the Plat. No other structures are permitted to be installed or constructed by Applicant, or to exist within the County Easement.

BE IT FURTHER ORDAINED that this permission for the Encroachment authorized by this Ordinance shall continue until such time as the structural canopy encroaching within the Easement is 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 ground structure or any structure other than the structural canopy shown on the Plat; or to allow any greater encroachment beyond the dimensions and spatial area shown on the Plat.

BE IT FURTHER ORDAINED that the Applicant, and its successors and assigns, shall continuously and promptly maintain the structural canopy and maintain, restore, repair, and replace all County owned facilities, within and adjacent to the area of the Encroachment, including any sidewalk, curb and gutter, and paved surface, which are damaged by the installation, maintenance, destruction, continued existence, repair or removal of below grade structures, in accordance with Site Plan #137 and all applicable County standards. In the event of an emergency, or the need for utility work in the area of the canopy, or need for County infrastructure repairs in the area of the canopy, upon written notice from the County, the Applicant, at its sole cost and expense, shall immediately remove the canopy. In the event the County removes the canopy, the County shall not be liable for any loss or damage to the canopy or building that may result from such removal and the County shall not be responsible for replacing such canopy or awning.

BE IT FURTHER ORDAINED that this Ordinance shall not be construed to release the Applicant, and/or its successors and assigns, of negligence on their part on account of such Encroachment, and the Applicant, by constructing, or causing to be constructed and by continuing to have the canopy encroach within the Easement, thereby agrees for itself, its successors and assigns, to indemnify and hold harmless the County Board of Arlington County, Virginia and County officials, officer, employees, and agents from all claims, negligence, damages, costs and expenses arising out of the construction, maintenance, repair and removal of the canopy, and the permission for the portions of the canopy to encroach within the Easement as permitted by this Ordinance.

BE IT FURTHER ORDAINED that on or before December 8, 2015, the Applicant shall: 1) obtain approval of the Plat by the Director of Environmental Services, or his designee (“Approval”); 2) pay to the County the sum of \$5,625.00 as compensation for the Encroachment (“Payment”); and 3) record a certified copy of the Ordinance and the approved Plat among the Land Records (“Recordation”). Such Approval, Payment and Recordation shall occur before the canopy permitted by this Ordinance may be constructed within the Easement. If such Approval, Payment and Recordation do not occur on or before December 8, 2015, then this Ordinance shall be null and void without further action by the County Board.

NOTES

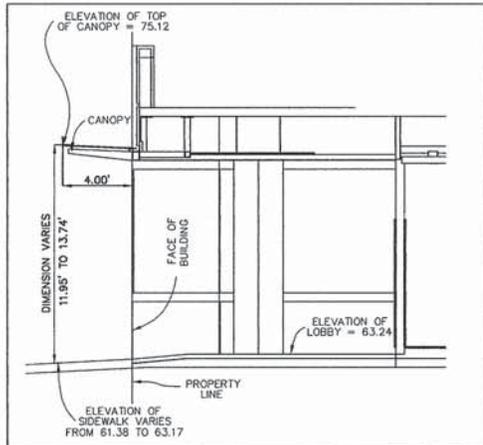
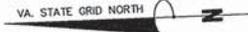
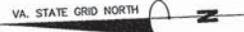
1. THE PROPERTY DELINEATED HEREON IS SHOWN ON ARLINGTON COUNTY REAL PROPERTY IDENTIFICATION MAP 44-4 AND IS IDENTIFIED AS REAL PROPERTY CODE (RPC) NUMBER 16039010.
2. NO TITLE REPORT FURNISHED.
3. OWNER:
GENEVA ASSOCIATION LIMITED PARTNERSHIP
C/O CHARLES SMITH BLDG CP
2345 CRYSTAL DRIVE BLDG #281
ARLINGTON, VA 22203
DEED BOOK 2007 AT PAGE 663.

CURVE TABLE

CURVE	RADIUS	LENGTH	CHORD BEARING	CHORD	DELTA	TANGENT
C1	20.00'	31.42'	S 42°43'18" E	28.28'	90°00'00"	20.00'

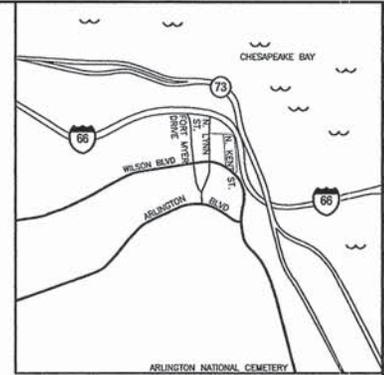
LINE TABLE

LINE	BEARING	DISTANCE
L1	S 05°05'17" E	32.21'
L2	S 84°54'43" W	4.00'
L3	N 05°05'17" W	32.21'
L4	N 84°54'43" E	4.00'

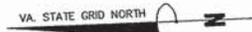
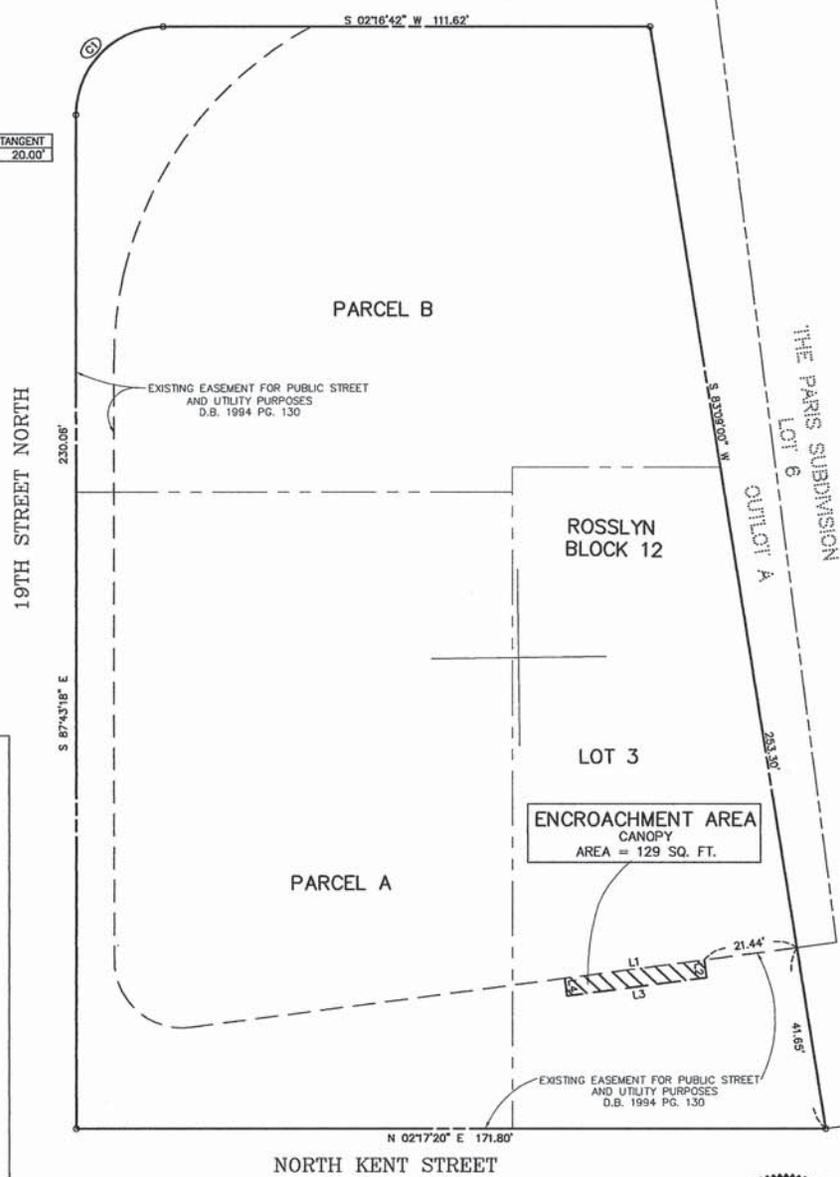


SIDE VIEW
NO SCALE

EXHIBIT A



VICINITY MAP
NOT TO SCALE



PLAT SHOWING
ENCROACHMENT AREA
WITHIN EASEMENT FOR
PUBLIC STREET AND UTILITY PURPOSES
ON
LOT 3
BLOCK 12
ROSSLYN
DEED BOOK 105, PAGE 275
ARLINGTON COUNTY, VIRGINIA

SCALE: 1" = 20'

DATE: SEPTEMBER 26, 2012



REVISION

Bowman CONSULTING

Bowman Consulting Group, Ltd.
14020 Thunderbolt Place Suite 300
Chantilly, Virginia 20151
www.bowmanconsulting.com
Phone: (703) 464-1000
Fax: (703) 461-9720

DWG: P:\6113 - Rosslyn Plaza\6113-01-001 (SUR)\Survey\Plots\6113-C-RP-007	BY: JG	CHK:
BCG PROJECT NO: 6113-02-004	TASK: SX002	COUNTY REF NO:
		SHEET 1 OF 1



ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF TRANSPORTATION

RECOMMENDED FOR APPROVAL: _____

APPROVED: _____

PLAT EXAMINER

SUBDIVISION AND BONDS ADMINISTRATOR

6113-C-RP-007

Vicinity Map
North Kent Street
RPC # 16-039-010

N. KENT ST.

N. KENT ST.

Easement

16039010

Canopy Encroachment into
Easement for Public Street and Utility Purposes

0 50 Feet

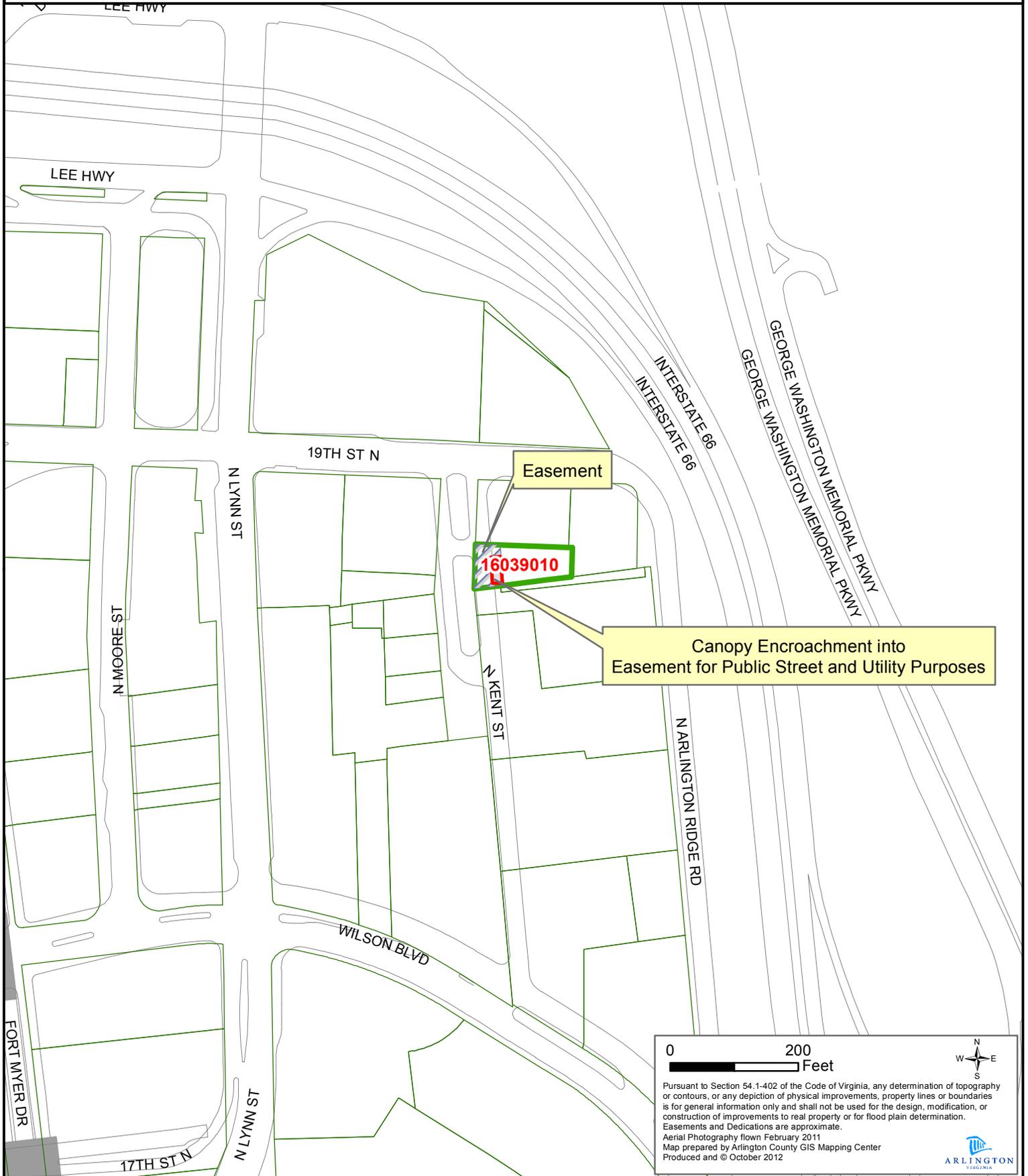


Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination. Easements and Dedications are approximate.

Aerial Photography flown February 2011
Map prepared by Arlington County GIS Mapping Center
Produced and © October 2012



Vicinity Map North Kent Street RPC # 16-039-010



0 200 Feet

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