



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 8, 2012**

DATE: November 29, 2012

SUBJECT: Enactment of an Ordinance to Vacate: 1) an Easement for Public Utilities Purposes, of 15 feet in width, located north of and abutting, Part Lots 18, 19, 21 and Lot 20, Clifton, running southwest from the intersection of North Uhle Street and North Veitch Street (RPC #15-005-009); and 2) a portion of 20th Street North abutting Part Lots 2, 3, 4 and Lot 10 (RPC #15-002-005, #15-002-006, #15-002-007) to the south, and abutting Part Lots 17 and 18 (RPCs #15-003-007 and #15-003-008) to the north, Drury's Clifton, running east of North Uhle Street, with Conditions.

Applicant:

MI Lee Highway, LLC

Owners:

Bergmann's Inc. and Bergmann's Cleaning, Inc.

Agent for Applicant/Owners:

Nan E. Walsh

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.

2200 Clarendon Boulevard, Suite 1300

Arlington, Virginia 22201

C. M. RECOMMENDATIONS:

- A. Enact the attached Ordinance to Vacate: 1) an Easement for Public Utilities Purposes, of 15 feet in width, located north of and abutting, Part Lots 18, 19, 21 and Lot 20, Clifton, running southwest from the intersection of North Uhle Street and North Veitch Street (RPC #15-005-009); and 2) a portion of 20th Street North abutting Part Lots 2, 3, 4 and Lot 10 (RPC #15-002-005, #15-002-006, #15-002-007) to the south, and abutting Part Lots 17 and 18 (RPCs #15-003-007 and #15-003-008) to the north, Drury's Clifton, running east of North Uhle Street, with Conditions ("Ordinance").
- B. Authorize the Real Estate Bureau Chief, Department of Environmental Services, or his designee, to execute and/or accept, on behalf of the County Board, the Deed(s) of

County Manager:

BMD/GA

County Attorney:

[Signature]

[Signature]

26. B.

Staff: Linda Eichelbaum Collier, Real Estate Bureau, DES

Vacation, and all other documents necessary to effectuate the Ordinance, subject to approval as to form by the County Attorney.

ISSUES: This is a request to vacate a fifteen foot wide Easement for Public Utilities Purposes and a portion of 20th Street North to permit construction of the two buildings that are the subject of Site Plan #420, currently under consideration by the County Board. There are no outstanding issues concerning the vacations, however at the November 26, 2012 meeting the Planning Commission voted to deny all actions associated with the site plan request, including the proposed vacation of 20th Street North.

SUMMARY: In order to construct the two buildings that are the subject of a new site plan, Site Plan #420 (“Site Plan”), currently being considered by the Board, MI Lee Highway, LLC, Applicant, and Bergmann’s Inc. and Bergmann’s Cleaning, Inc., Owners (“Applicant/Owners”) have requested the vacation of a fifteen foot wide Easement for Public Utilities Purposes (“Easement”) and a portion of 20th Street North (“Street”). As conditions of the ordinance of vacation, the Applicant/Owners have agreed, at their sole cost and expense, to relocate and upgrade a six inch public water main line and relocate an eight inch public sanitary sewer line located in the Easement, as well as grant any additional utility easements that may be necessary for the new lines.

BACKGROUND: Contemporaneously with the request for vacation of the Easement and the Street, Applicant/Owners have submitted the Site Plan for consideration by the County Board. The Site Plan is located between Lee Highway, North Veitch Street and Interstate 66. North Uhle Street runs north to south through the site. The developer is requesting site plan approval of a residential tower on the east side of North Uhle Street, containing 160 units, and a mixed use building on the west side of North Uhle Street, consisting of 42 residential units, 13,257 square feet of commercial space and underground and above ground parking. The Applicant has requested vacation of the Easement to enable construction of the building on the west side of North Uhle Street and vacation of the Street to enable construction of the residential tower.

DISCUSSION: In order to develop the site as presented in the Site Plan, the Applicant is requesting that the County Board vacate an Easement for Public Utilities Purposes and a portion of 20th Street North. The Easement and portion of the Street to be vacated are depicted on a plat attached hereto as Exhibit A and entitled, “2145 Lee Highway Vacation Plat 20th Street North & Easement for Public Utilities Purposes,” dated September 12, 2011, last revised October 18, 2011, certified September 18, 2012 and prepared by VIKA Incorporated (“Plat”). The Easement area requested to be vacated is depicted on the Plat as “Easement for Public Utilities Purposes (D.B. 2045, PG. 1657) (Portion Hereby Vacated 2,084 Sq. Ft.)” and the portion of 20th Street North requested to be vacated is depicted on the Plat as “Portion of 20th St. N. (30’ Wide) (3,870 Sq. Ft. Hereby Vacated).”

Although the subject portion of 20th Street North is currently on the Master Transportation Plan (“MTP”), designated as a neighborhood minor street, an amendment to the MTP to delete this portion of the Street is before the County Board, concurrent with this request for vacation.

A proposed Ordinance is attached to this report as “Attachment 1.” As a condition of the Ordinance, and before a deed of vacation can be recorded, the Applicant will be required to pay the agreed upon compensation (see below), and to relocate all public utilities located within the Easement or the Street, including the water main line and the sanitary sewer line located within the Easement.

Legal and Physical Description: The physical areas of the Easement and Street to be vacated are described on Exhibit A as “Easement for Public Utilities Purposes (D.B. 2045, PG. 1657) (Portion Hereby Vacated 2,084 Sq. Ft.)” and “Portion of 20th St. N. (30' Wide) (3,870 Sq. Ft. Hereby Vacated).” The County obtained the Easement by Deed of Easement recorded among the Land Records in Deed Book 2045 at Page 1657 and the Street by deed recorded among the Land Records in Deed Book 133 at Page 218.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices for the vacations were placed in the October 23, 2012 and October 30, 2012 issues of the Washington Times for the November 17, 2012 County Board Meeting and the November 13, 2012 and November 20, 2012 issues of the Washington Times for the December 8, 2012 County Board Meeting.

Compensation: According to an independent appraisal performed by Thomas E. Reed & Associates, Inc., dated August 3, 2012 (“Appraisal”), the contributory value to the Site Plan of the portion of 20th Street North requested to be vacated is \$483,750.00. Staff recommends that the Board accept the value established by the Appraisal as agreed compensation for the vacation. The Applicant has agreed to pay this amount of compensation to the County.

In keeping with past practice, because the Applicant has agreed to relocate all public utilities, including relocating and upgrading a six inch public water main line and relocating an eight inch public sanitary sewer line, located in the Easement, at its sole cost and expense, and to grant to the County all new easements required for any relocated utility lines, staff recommends that there be no compensation required from the Applicant to the County for the requested vacation of the Easement.

FISCAL IMPACT: The compensation for the 20th Street North vacation, recommended by staff and agreed to by the Applicant, amounts to \$483,750.00. The Applicant has up to three years (December 8, 2015) to meet all of the conditions of the Ordinance, including payment of the compensation to the County. 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 Ordinance attached hereto as Attachment 1.

ATTACHMENT 1

ORDINANCE TO VACATE: 1) AN EASEMENT FOR PUBLIC UTILITIES PURPOSES, OF 15 FEET IN WIDTH, LOCATED NORTH OF AND ABUTTING, PART LOTS 18, 19, 21 AND LOT 20, CLIFTON, RUNNING SOUTHWEST FROM THE INTERSECTION OF NORTH UHLE STREET AND NORTH VEITCH STREET (RPC #15-005-009); AND 2) A PORTION OF 20TH STREET NORTH ABUTTING PART LOTS 2, 3, 4 AND LOT 10 (RPC #15-002-005, #15-002-006, #15-002-007) TO THE SOUTH, AND ABUTTING PART LOTS 17 AND 18 (RPCS #15-003-007 AND #15-003-008) TO THE NORTH, DRURY'S CLIFTON, RUNNING EAST OF NORTH UHLE STREET, WITH CONDITIONS (“ORDINANCE”).

BE IT ORDAINED that, pursuant to a request by MI Lee Highway, LLC, Applicant, and Bergmann’s Inc. and Bergmann’s Cleaning, Inc., Owners (collectively “Applicant/Owner”), on file with the Department of Environmental Services, 1) an Easement for Public Utilities Purposes (“Easement”), of 15 feet in width, located north of and abutting, Part Lots 18, 19, 21 and Lot 20, Clifton, running southwest from the intersection of North Uhle Street and North Veitch Street, created by a Deed Of Easement recorded among the Arlington County Land Records (“Land Records”) in Deed Book 2045 at Page 1657; and 2) a portion of 20th Street North (“Street”) abutting Part Lots 2, 3, 4 and Lot 10 to the south, and abutting Part Lots 17 and 18 to the north, Drury's Clifton, running east of North Uhle Street, created by deed recorded among the Land Records in Deed Book 133 at page 218, as both Easement and Street are shown on a plat attached to the County Manager’s report dated November 29, 2012 as Exhibit A, entitled “2145 Lee Highway Vacation Plat 20th Street North & Easement for Public Utilities Purposes,” dated September 12, 2011, last revised October 18, 2011, certified September 18, 2012 and prepared by VIKA Incorporated (“Plat”) and depicted on the Plat as “Easement for Public Utilities Purposes (D.B. 2045, PG. 1657) (Portion Hereby Vacated 2,084 Sq. Ft.)” and “Portion of 20th St. N. (30’ Wide) (3,870 Sq. Ft. Hereby Vacated)” are hereby vacated subject to the following conditions:

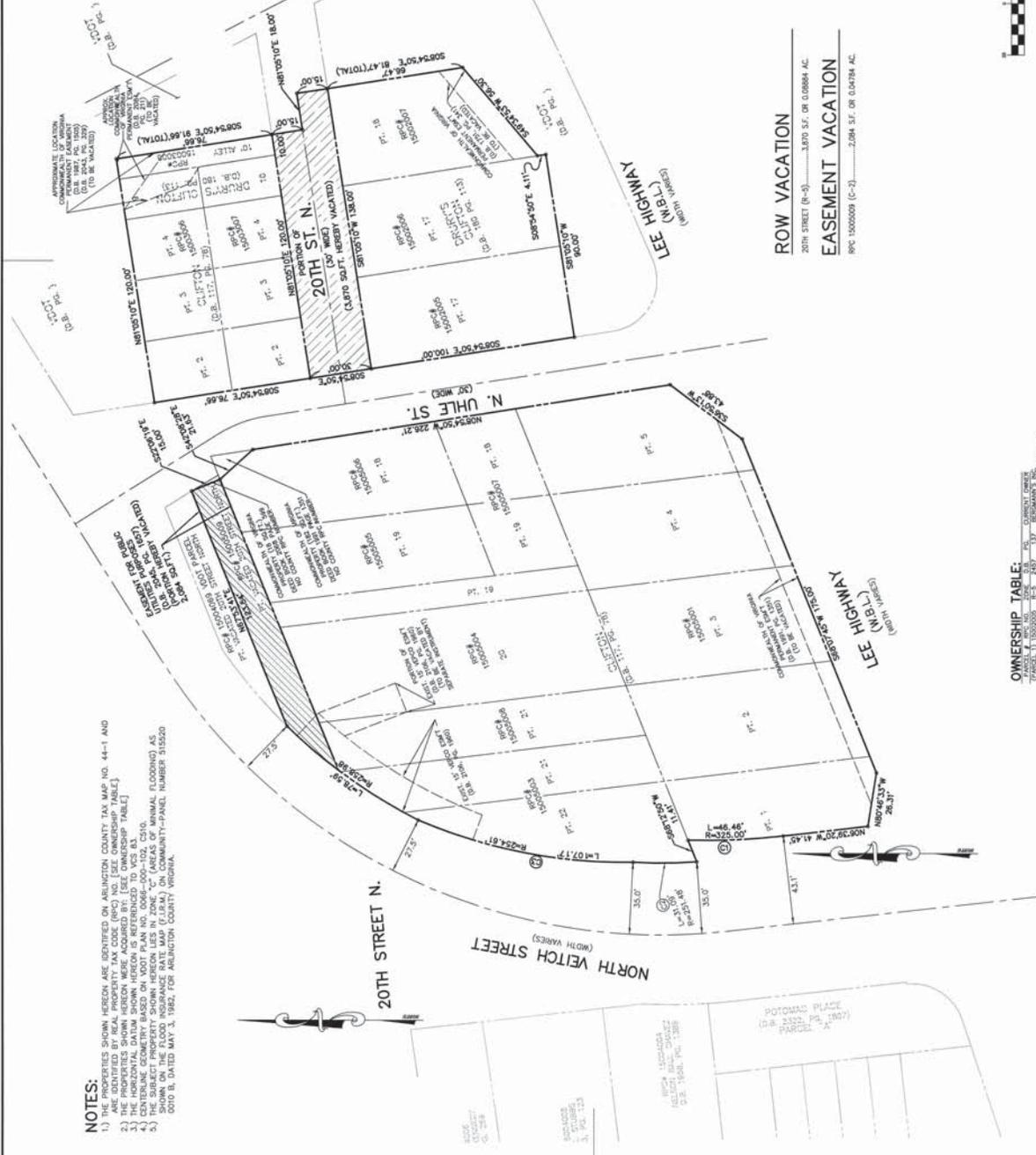
1. The Applicant/Owner shall submit, for review and approval, to the Department of Environmental Services (“DES”), a utility relocation and engineering design plan (“Plan”) for the construction, abandonment, relocation, removal, and/or replacement of any or all utilities located, in whole or in part, with the Easement or the Street vacated by this Ordinance of Vacation, including upgrading and relocating a six inch public water main line, and relocating an eight inch public sanitary sewer line located in the Easement. The Plan shall be in compliance with the Arlington County Construction Standards and Specifications and subject to approval by the Director of DES, or his designee.
2. After approval of the Plan and before commencing the work described therein, the Applicant/Owner shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security acceptable to the County Manager, in an amount and in a form, as determined by and acceptable to the County Manager, or her designee, to secure the construction, abandonment, relocation, removal, and/or replacement of any and all existing utilities pursuant to the approved Plan.
3. The Applicant/Owner shall remove, relocate, abandon and/or reconstruct, or cause to be removed, relocated, abandoned and/or reconstructed, at its sole cost and expense, all

utilities of the County, and of others existing, at the time of the Plan approval, within the areas vacated by this Ordinance, including, but not limited to, relocating and upgrading a six inch public water main line and relocating an eight inch public sanitary sewer line located in the Easement and any other sanitary sewer lines, storm sewer lines, water lines, electric, gas and communication lines. All utilities removed or abandoned shall be relocated or reconstructed with new utilities and related appurtenant facilities of size, dimension and location acceptable to the County, in accordance with the approved Plan, and in strict accordance with Arlington County Construction Standards and Specifications, all applicable laws, ordinances, regulations and policies, as provided in Site Plan #420, as approved by the County Board.

4. The Applicant/Owner shall dedicate and convey or have dedicated and conveyed to the County Board, without compensation, all new utility easements, required by the County Manager, by deed, in substance acceptable to the County Manager and approved as to form by the County Attorney. In addition, and if applicable, the Applicant/Owner shall obtain all required right-of-way permits.
5. The Applicant/Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation and all required Plats, subject to the approval thereof by the County Manager, or her designee, and approval of the deed(s) as to form by the County Attorney.
6. The Applicant/Owner shall pay all fees, including the fees for plat review, approval and recordation of the Deed(s) of Vacation associated with this Ordinance of Vacation.
7. The Applicant/Owner shall pay to the county the sum of \$483,750.00 as compensation for the vacations contained in this Ordinance of Vacation.
8. The Applicant/Owner shall record, at the Applicant/Owner's sole cost and expense, the Deed(s) of Vacation, any required deed(s) of dedication, and all plats.
9. The Applicant/Owner shall record, at the Applicant/Owner's sole cost and expense, a copy of this Ordinance of Vacation among the Land Records.
10. All conditions of this Ordinance of Vacation shall be met by noon on December 8, 2015 or this Ordinance of Vacation shall become null and void, without the necessity for any further action by the County Board.



VICINITY MAP
SCALE: 1" = 200'



- NOTES:**
- 1) DIMENSIONS SHOWN HEREBY ARE BASED ON SURVEY DATA ON FILE WITH COUNTY TAX MAP NO. 44-1 AND ARE IDENTIFIED BY REAL PROPERTY TAX CODE (RPC) NO. [SEE OWNERSHIP TABLE].
 - 2) THE PROPERTIES SHOWN HEREON WERE ACQUIRED BY [SEE OWNERSHIP TABLE].
 - 3) THE PROPORTIONAL DATA HEREON WERE ACQUIRED BY [SEE OWNERSHIP TABLE].
 - 4) THE SUBJECT PROPERTY SHOWN HEREON LIES IN ZONE "C" (AREAS OF MANUAL FLOODING) AS SHOWN ON THE FLOOD INSURANCE RATE MAP (FIRM) ON COMMUNITY-PANEL NUMBER 51520-D-010 IN DATUM MAY 3, 1985, FOR ARLINGTON COUNTY, VIRGINIA.

ROW VACATION
20TH STREET (R-3).....3,870 S.F. OR 0.08894 AC

EASEMENT VACATION
RPC 10000009 (C-2).....2,094 S.F. OR 0.04784 AC



OWNERSHIP TABLE:

| PANEL | NO. | OWNER |
|-----------|----------|----------------|
| PANEL 1 | 10000000 | BERDMANN'S INC |
| PANEL 2 | 10000001 | BERDMANN'S INC |
| PANEL 3 | 10000002 | BERDMANN'S INC |
| PANEL 4 | 10000003 | BERDMANN'S INC |
| PANEL 5 | 10000004 | BERDMANN'S INC |
| PANEL 6 | 10000005 | BERDMANN'S INC |
| PANEL 7 | 10000006 | BERDMANN'S INC |
| PANEL 8 | 10000007 | BERDMANN'S INC |
| PANEL 9 | 10000008 | BERDMANN'S INC |
| PANEL 10 | 10000009 | BERDMANN'S INC |
| PANEL 11 | 10000010 | BERDMANN'S INC |
| PANEL 12 | 10000011 | BERDMANN'S INC |
| PANEL 13 | 10000012 | BERDMANN'S INC |
| PANEL 14 | 10000013 | BERDMANN'S INC |
| PANEL 15 | 10000014 | BERDMANN'S INC |
| PANEL 16 | 10000015 | BERDMANN'S INC |
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| PANEL 97 | 10000096 | BERDMANN'S INC |
| PANEL 98 | 10000097 | BERDMANN'S INC |
| PANEL 99 | 10000098 | BERDMANN'S INC |
| PANEL 100 | 10000099 | BERDMANN'S INC |

CURVE TABLE:

| CURVE | LENGTH | RADIUS | TANGENT | DELTA | CHD | BRG | CHORD |
|-------|--------|---------|---------|---------|-------------|--------|--------|
| C1 | 46.46' | 325.00' | 23.27' | 81.17° | N02°33'36"W | 46.46' | 46.46' |
| C2 | 31.09' | 251.48' | 15.57' | 73.03° | N05°33'37"W | 31.09' | 31.09' |
| C3 | 76.59' | 628.95' | 39.65' | 117.21° | N35°40'45"E | 76.59' | 76.59' |



ARLINGTON, VIRGINIA
DEPARTMENT OF PUBLIC WORKS

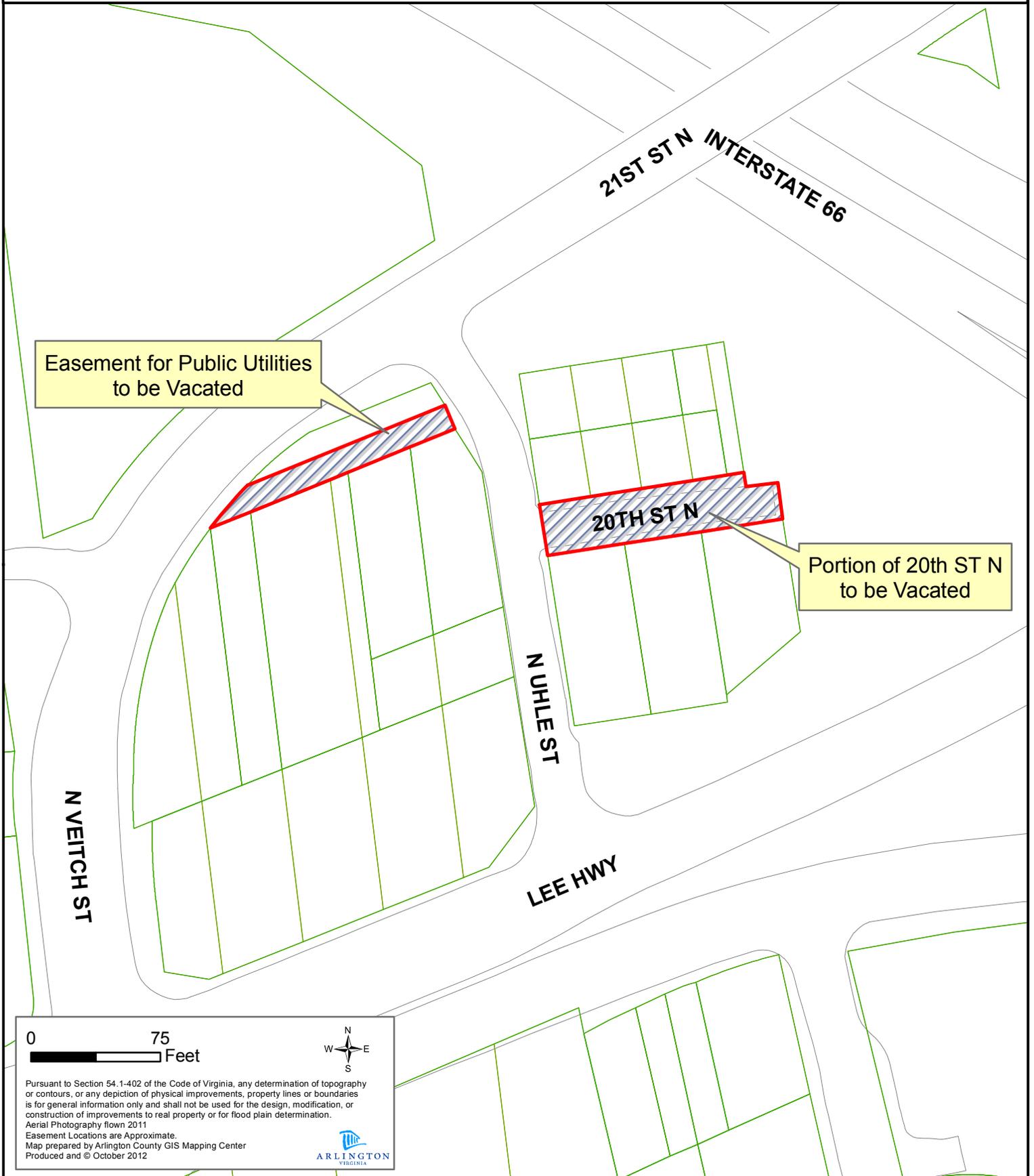
2145 LEE HIGHWAY
VACATION PLAN
20TH STREET N. & EASEMENT
FOR PUBLIC UTILITIES PURPOSES

SCALE: 1" = 100' (AS SHOWN)
SUBMITTED DATE: SEPTEMBER 12, 2011
APPROVED DATE: SEPTEMBER 12, 2011
SUBMITTED DATE: SEPTEMBER 12, 2011
APPROVED DATE: SEPTEMBER 12, 2011
SUBMITTED DATE: SEPTEMBER 12, 2011
APPROVED DATE: SEPTEMBER 12, 2011

CHECKED: [Signature]
DESIGNED: [Signature]
DRAWN: [Signature]
PROJECT ENGINEER: [Signature]
SUPERVISOR: [Signature]
DIRECTOR OF PUBLIC WORKS: [Signature]

SHEET C-4 OF SHEET C-4

Vicinity Map Vacations Associated with Bergmann's Site Plan



Easement for Public Utilities
to be Vacated

Portion of 20th St N
to be Vacated

0 75 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 2011

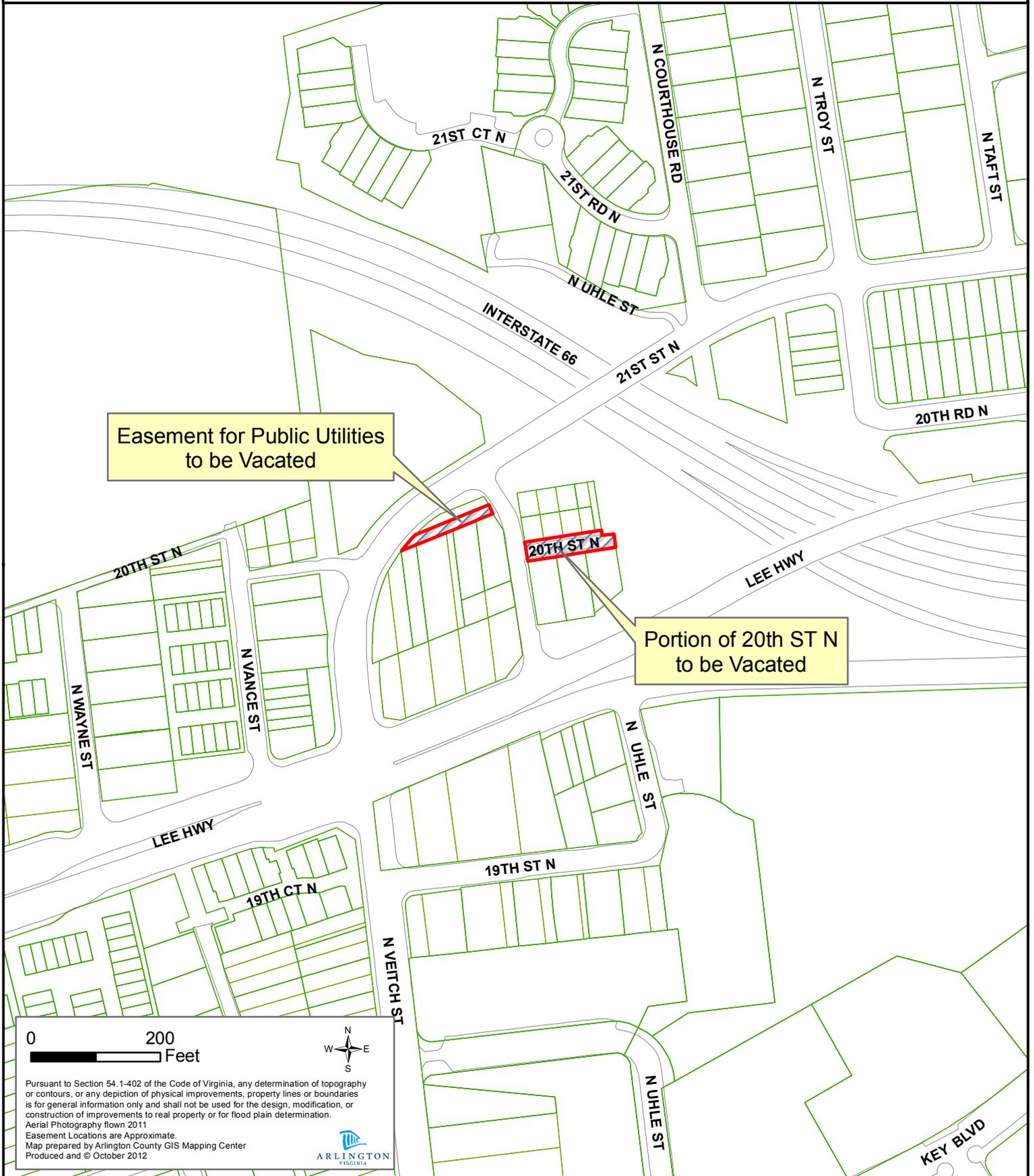
Easement Locations are Approximate.

Map prepared by Arlington County GIS Mapping Center

Produced and © October 2012



Vicinity Map Vacations Associated with Bergmann's Site Plan



Easement for Public Utilities
to be Vacated

Portion of 20th ST N
to be Vacated

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 2011. Easement Locations are Approximate. Map prepared by Arlington County GIS Mapping Center Produced and © October 2012

