



## ARLINGTON COUNTY, VIRGINIA

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

**DATE:** November 30, 2012

**SUBJECT:** Enactment of an Ordinance to Permit the Encroachment of a Portion of a Below Grade Electric Vault into Two Adjacent Easements for Public Street and Utilities Purposes on the West Side of South Eads Street, North of the Intersection of South Eads Street and 18th Street South, and on the Eastern Side of a Parcel Known as 1720 South Eads Street (RPC# 35-011-001), with Conditions.

**Applicant:**

South Eads LLC  
% P. David Tartar, Esquire  
Lawson, Tarter & Charvet, P.C.  
6045 Wilson Boulevard, Suite 100  
Arlington, Virginia 22205

**Owner:**

The Carrier Family Limited Liability Company  
6664 Hillandale Road  
Chevy Chase, Maryland 20815

**C. M. RECOMMENDATION:**

Enact the attached Ordinance to Permit the Encroachment of a Portion of a Below Grade Electric Vault into Two Adjacent Easements for Public Street and Utilities Purposes on the West Side of South Eads Street, North of the Intersection of South Eads Street and 18th Street South, and on the Eastern Side of a Parcel Known as 1720 South Eads Street (RPC# 35-011-001), with Conditions (“Attachment 1”).

**ISSUES:** This is a request by the Applicant/Owner for the County Board to enact an Ordinance of Encroachment to permit the encroachment of a portion of a below grade electric vault into portions of two adjacent County Easements for Public Street and Utilities Purposes (“Easements”) to facilitate development of the property as proposed by Site Plan # 424 (“Site Plan”), concurrently being considered by the County Board. There are no outstanding issues related to the proposed encroachment.

County Manager:

*BMD/GA*

County Attorney:

*GA*                      *BAK*

**29. C.**

Staff: Lynne Porfiri, Linda Eichelbaum Collier, Real Estate Bureau, DES

**SUMMARY:** The Applicant/Owner have requested that the County Board enact an Ordinance of Encroachment (“Ordinance”) to permit the encroachment of a below ground electric vault into the two adjacent Easements located on the eastern side of a parcel of property known as 1720 S. Eads Street (“Property”). The Property is the subject of a request for approval of a proposed Site Plan currently being considered by the Board. Enactment of the requested Ordinance is required to permit development of the Property consistent with the proposed Site Plan. If enacted by the Board, the Ordinance would continue until the electric vault is destroyed, removed, no longer in use, or not continuously and promptly maintained by the Applicant/Owner.

**BACKGROUND:** The Property is located on the west side of Jefferson Davis Highway in Crystal City on the former Crystal City Post Office site. The Property is bounded by 15<sup>th</sup> Street South, South Eads Street, 18<sup>th</sup> Street South and South Fern Street and is approximately .784 acres in size. The location of the Property is depicted on the attached Vicinity Maps, attached to this Report as Exhibits B-1 and B-2. The proposed Site Plan consists of an 11-story, 203-unit residential building with a three and one-half level, below grade parking garage.

The requested encroachment would permit location of a below grade electric vault on the west side of South Eads Street, next to the garage. The electric vault would not be accessed through the surface, but would be accessed through the underground garage. A portion of the electric vault would be located within portions of two different, but adjacent County Easements for Public Street and Utilities Purposes.

**DISCUSSION:** In conjunction with the proposed Site Plan for redevelopment of the Property, the Applicant has requested enactment of an Ordinance to permit the encroachment of a 522 square foot portion of an underground electric vault into the two adjacent Easements. The requested encroachment measures seventy feet (70) in length, is of variable width (from 7.1 feet to 8.1 feet), and is twenty-five (25) feet deep. The proposed encroachment is more specifically shown as “Prop. 522 SF of Encroachment” on a plat entitled, “Plat Showing Easement Encroachment Proposed Condition Arlington County, Virginia,” prepared by Bohler Engineering, Sheet 2 of 2, dated November 15, 2012, attached hereto as Exhibit A.

**Legal and Physical Description:** The Owner owns the Property by virtue of a Deed, dated September 15, 1988, recorded among the Arlington County Land Records (“Land Records”) in Deed Book 2370 at Page 0572. The two easements for public street and utilities purposes into which a portion of the electric vault will encroach were granted to the County by Deed of Easement recorded among the Land Records in Deed Book 1631 at Page 117 and a Deed of Easement recorded among the Land Records in Deed Book 1665 at Page 148.

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

**Compensation:** Because the County desires placement of electric vaults underground, the County’s practice is to not require compensation to the County for underground electric vault encroachments.

**FISCAL IMPACT:** None.

**CONCLUSION:** Staff recommends that the County Board enact the Ordinance attached as Attachment 1.

## ATTACHMENT 1

### **ORDINANCE TO PERMIT THE ENCROACHMENT OF A PORTION OF A BELOW GRADE ELECTRIC VAULT INTO TWO ADJACENT EASEMENTS FOR PUBLIC STREET AND UTILITIES PURPOSES ON THE WEST SIDE OF SOUTH EADS STREET, NORTH OF THE INTERSECTION OF SOUTH EADS STREET AND 18TH STREET SOUTH, AND ON THE EASTERN SIDE OF A PARCEL KNOWN AS 1720 SOUTH EADS STREET (RPC# 35-011-001), 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, South Eads LLC (“Applicant”), as developer of the project known as 1720 South Eads Street, Site Plan #424 (“Site Plan”), and the Owner of the property upon which the Site Plan is being constructed (known as 1720 South Eads Street, RPC No. 35-011-001) (“Property”), The Carrier Family Limited Liability Company (“Owner”) (collectively “Applicant/Owner”), are hereby permitted to construct a portion of a below grade electric vault located on the east side of the Property, north of the intersection of South Eads Street and 18<sup>th</sup> Street South and encroaching into two adjacent easements for public street and utilities, recorded among the Arlington County Land Records in Deed Book 1631 at Page 117 and Deed Book 1665 at Page 148 (“Easements”). The dimensions (length, width and depth elevations) and spatial location of the permitted encroachment are depicted in Exhibit A, attached to the County Manager’s Report dated November 13, 2012 and entitled “Plat Showing Easement Encroachment Proposed Condition Arlington County, Virginia,” prepared by Bohler Engineering, Sheet 2 of 2, dated November 15, 2012 (“Plat”). The dimensions, elevations, depth below grade, spatial location, characteristics and spatial area of the permitted encroachment are shown on the Plat. No other structures are permitted to be installed or constructed by Applicant, or to exist within the County property shown on the Plats.

BE IT FURTHER ORDAINED that this permission for below grade electric vault encroachment authorized by this Ordinance shall continue until such time as that portion of the electric vault, encroaching within the Easements is destroyed, removed, no longer in use, or not continuously and promptly maintained by the Applicant/Owner. Nothing in this Ordinance shall be construed either: to allow the installation by Applicant/Owner of any above ground structure or any structure other than the portion of the electric vault encroachment within the area shown on the Plat; or to allow any greater encroachment beyond the dimensions and spatial area shown on the Plat.

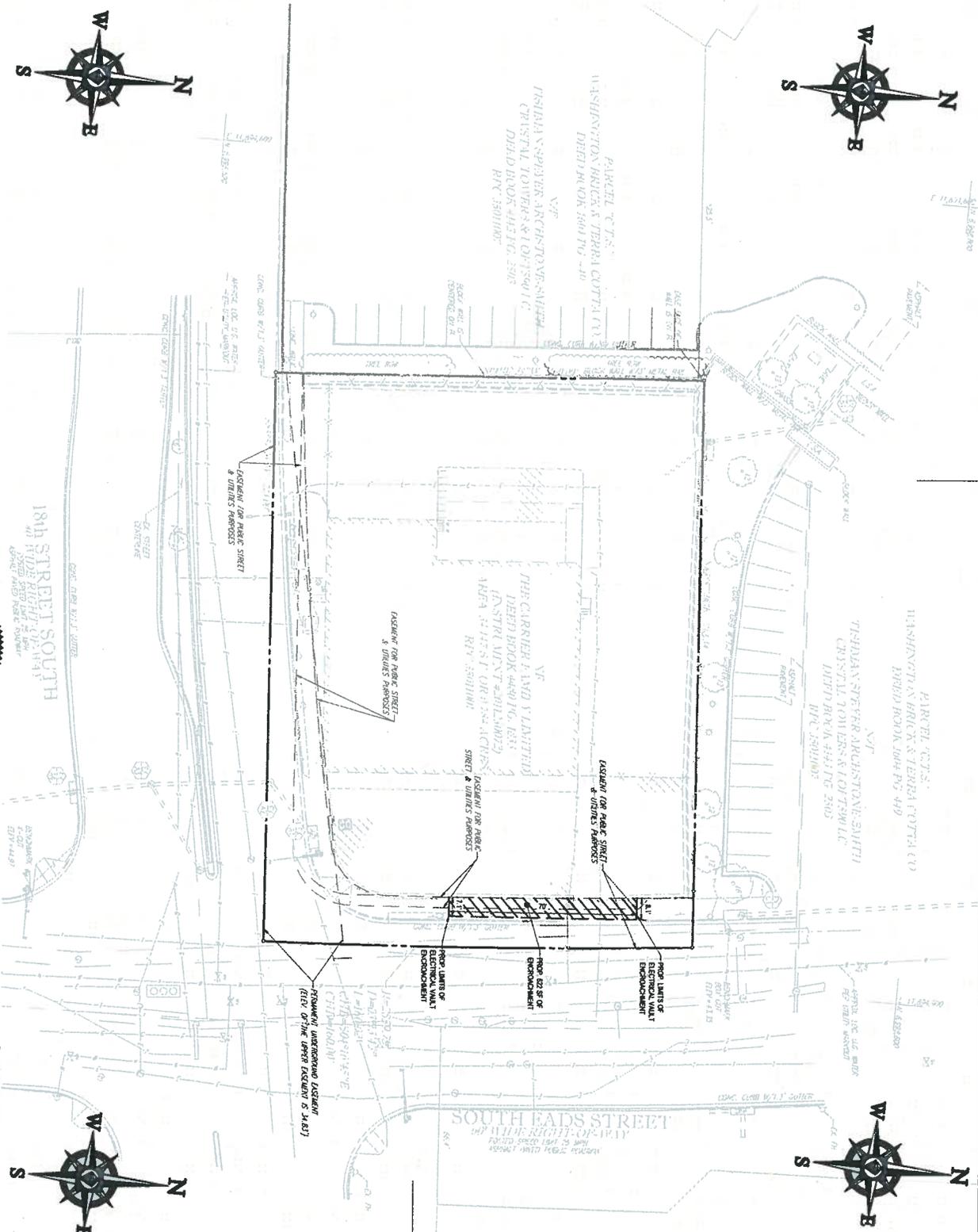
BE IT FURTHER ORDAINED that the Applicant/Owner, and its successor and assigns, shall continuously and promptly maintain the below grade structures, and maintain, restore, repair, and replace all County owned facilities, within and adjacent to the easement, including any sidewalk, curb and gutter, and paved surface, which are damaged by the installation, maintenance, destruction, continued existence, repair or removal of the below ground electric vault, in accordance with the Site Plan and all applicable County standards.

BE IT FURTHER ORDAINED that this Ordinance shall not be construed to release the Applicant/Owner, and its successors and assigns, of negligence on its part due to such

encroachment, and the Applicant/Owner, by construction, or causing to be constructed and by continuing to locate a portion of the below ground electric vault in the Easements, thereby agrees for itself, and its successors and assigns, 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 construction, maintenance, repair and removal of the below ground electric vault, and the permission for the portions of the below ground electric vault to encroach within the Easements as permitted by this Ordinance.

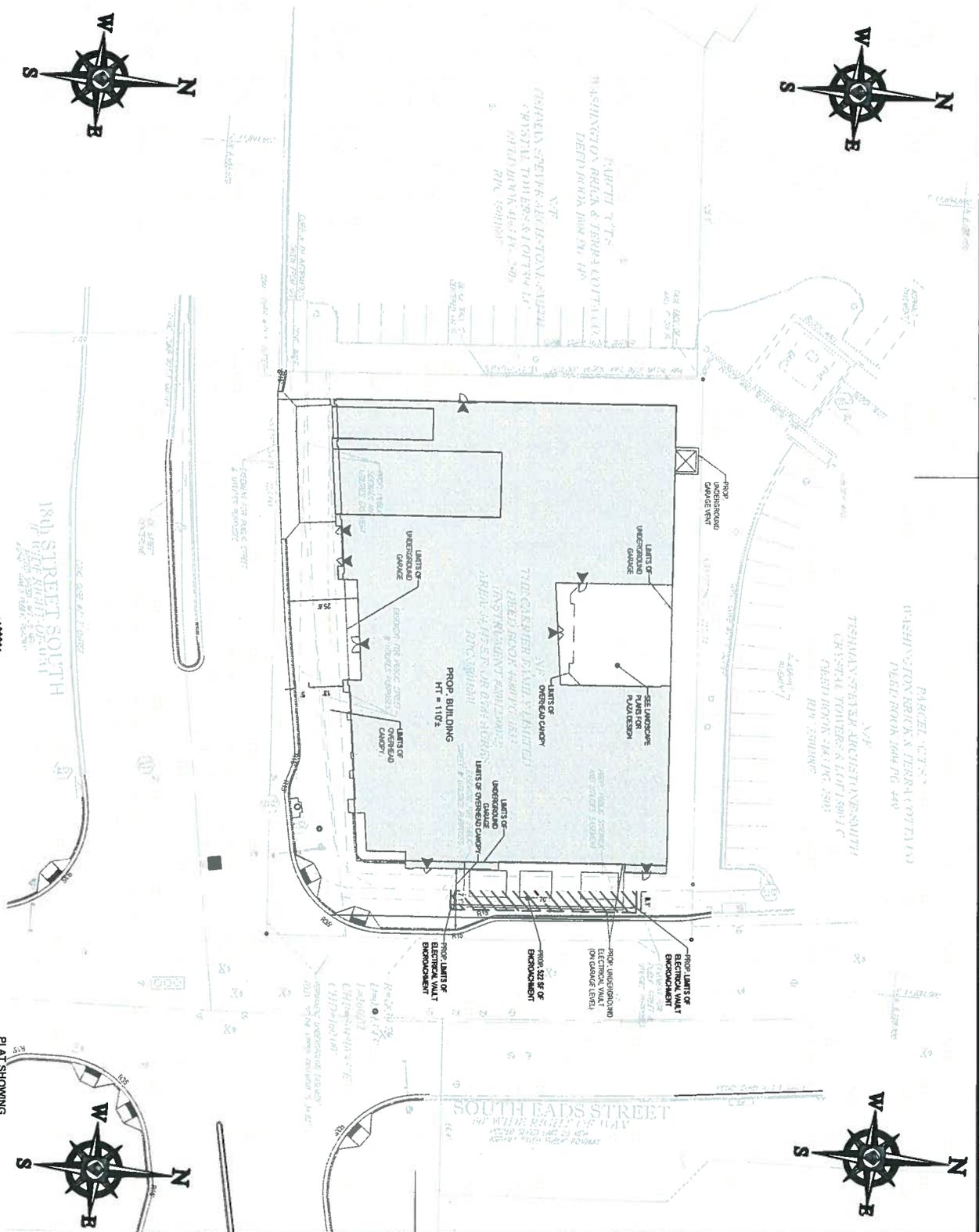
BE IT FURTHER ORDAINED that on or before December 8, 2015, the Applicant/Owner, at its sole cost and expense, shall cause a certified copy of this Ordinance and the Plat, which Plat shall be approved by the Director of the Department of Environmental Services, or his designee, to be recorded in the Land Records and evidence thereof shall be promptly delivered by the Applicant/Owner to the Real Estate Bureau Chief, Department of Environmental Services.

# EXHIBIT A



**BOHLER ENGINEERING**  
 2786 DUNE DRIVE, SUITE 200  
 FALLS CHURCH, VIRGINIA 22044  
 TEL: 703.441.1111  
 WWW.BOHLERENGINEERING.COM

PLAT SHOWING  
 EASEMENT ENCROACHMENT  
 EXISTING CONDITION  
 ARLINGTON COUNTY, VIRGINIA  
 SCALE: 1"=25'  
 DATE: 04/12/12  
 SHEET 1 OF 2



NOTES:  
 1. DEPTH OF UNDERGROUND TRANSFORMER VAULT IS 26"



18th STREET SOUTH  
 THE RIGHT OF WAY

SOUTH LEADS STREET

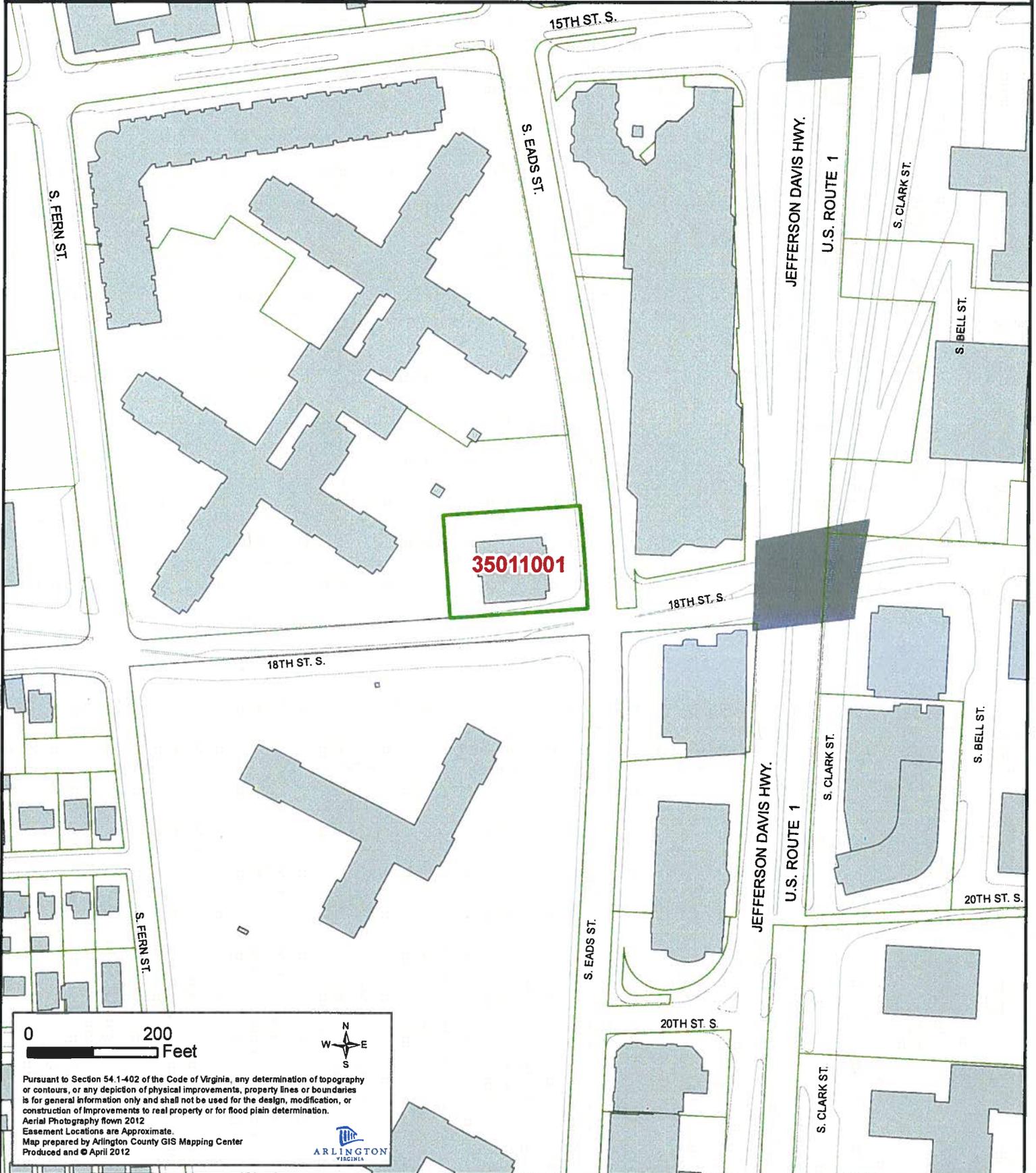


**BOHLER**  
 ENGINEERING  
 2905 LONG SPRING LANE, SUITE 200  
 FALLS CHURCH, VIRGINIA 22044  
 TEL: 703.441.1000 FAX: 703.441.1001  
 WWW.BOHLERENGINEERING.COM

EASEMENT ENCROACHMENT  
 PROPOSED CONDITION  
 ARLINGTON COUNTY, VIRGINIA  
 SCALE: 1"=25'  
 DATE: 11/15/12  
 SHEET 2 OF 2

Vicinity Map  
1720 S Eads Street  
RPC # 35011001

EXHIBIT B-1



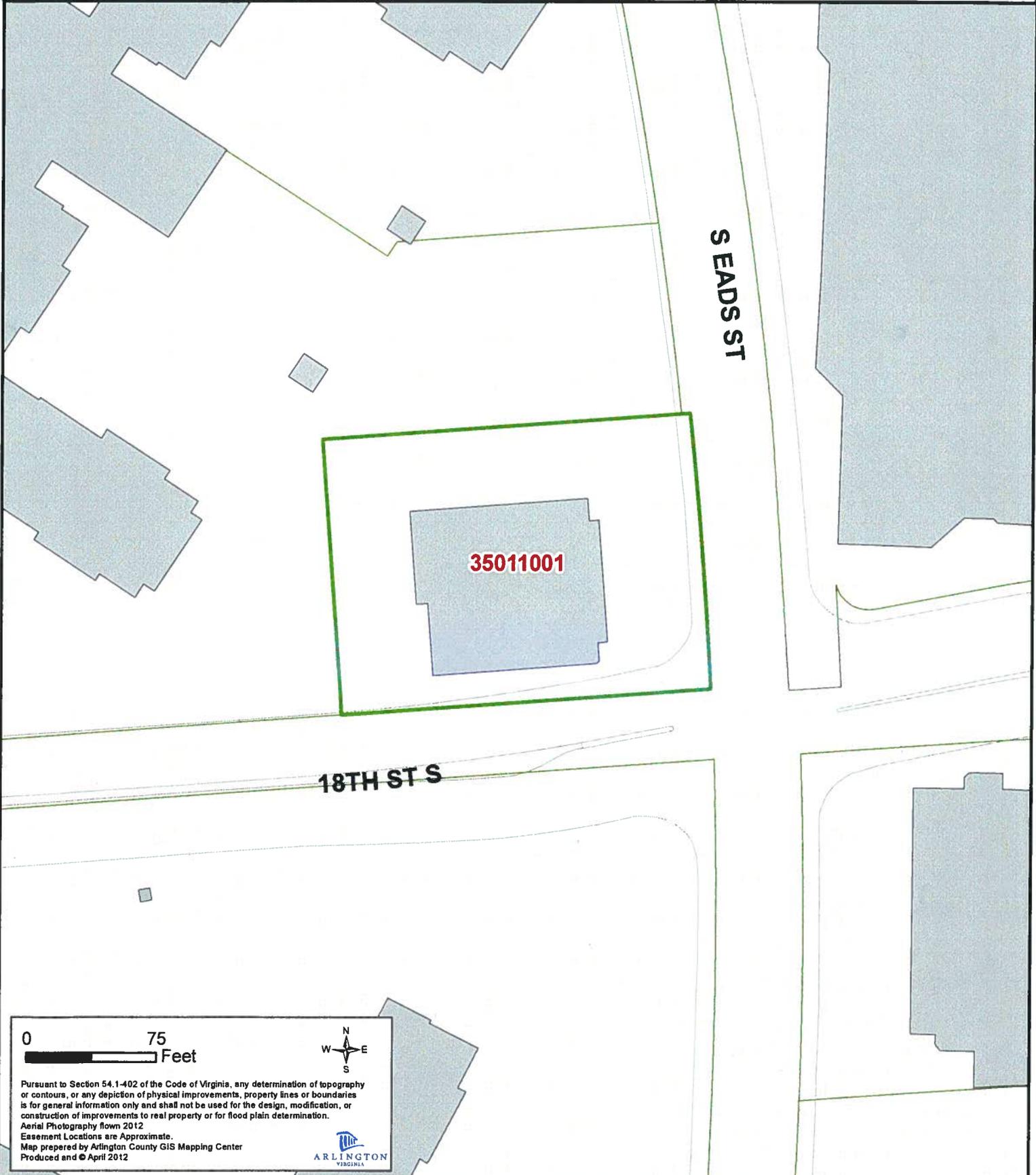
0 200 Feet

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

ARLINGTON VIRGINIA

Vicinity Map  
1720 S Eads Street  
RPC # 35011001

EXHIBIT B-2



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.  
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