



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of November 13, 2007**

**DATE:** October 22, 2007

**SUBJECT:** Enactment of an Ordinance to Permit an Encroachment of an Underground Electric Vault Within the Right-of-Way of North 10th Street, Abutting Parcel B, Virginia Square Residences, Being the Vacation, Rededication and Vertical and Horizontal Resubdivision of Part of Lot 3, W.T. Burrows Estate, RPC Nos. 14030057 and 14030058, with Conditions (“Encroachment Ordinance”).

**Applicant:** Renaissance Centro Arlington, LLC

**Owner:** Renaissance Centro Arlington, LLC

**By:** Martin D. Walsh, Esq.

Walsh Colucci Lubeley Emrich & Walsh PC  
2200 Clarendon Boulevard, 13<sup>th</sup> Floor  
Arlington, Virginia 22201

### **C. M. RECOMMENDATION:**

Approve the attached Ordinance, labeled Attachment 1, to Permit an Encroachment of an Underground Electric Vault Within the Right-of-Way of North 10<sup>th</sup> Street, Abutting Parcel B, Virginia Square Residences, being the Vacation, Rededication and Vertical and Horizontal Resubdivision of Part of Lot 3, W.T. Burrows Estate, RPC Nos. 14030057 and 14030058, with Conditions.

**ISSUE:** None

**SUMMARY:** The Applicant has requested the Encroachment Ordinance to permit an encroachment into the County right-of-way for North 10<sup>th</sup> Street, in conjunction with an application for approval of an amendment to Site Plan #386 (“Site Plan Amendment”), for permission to construct an underground electric vault. If enacted, the requested Encroachment Ordinance would continue in effect until the underground electric vault encroaching into the right-of-way is destroyed, removed, no longer in use or not continuously and promptly maintained by the Applicant.

County Manager: \_\_\_\_\_

County Attorney: \_\_\_\_\_

Staff: Betsy Herbst, DES, Real Estate Bureau

**DISCUSSION:** The subject site is located on a block on the north side of Fairfax Drive in the Virginia Square Metro area. (See Attachment 2, Vicinity Map.) The site is currently developed with a funeral home and surface parking. In conjunction with its plans to redevelop the property located at 3901 North Fairfax Drive, bounded by North 10<sup>th</sup> Street, North Pollard Street, North Fairfax Drive and North Quincy Street, the Applicant obtained a rezoning of the property and approval of Site Plan #386 (“Site Plan”) at the County Board’s recessed meeting on July 13, 2004. The Site Plan consisted of a proposal to construct a 12-story residential project including 135 dwelling units, retail space, a black box theater, and a public plaza on the site of the Arlington Funeral Home. The Applicant never applied for permits or began construction under the approved Site Plan. The Site Plan was extended by the County Board in April, 2007, and expires on July 10, 2010. The Applicant has recently submitted a request for a Site Plan amendment proposing numerous design revisions, which was placed on the agenda for the September 8, 2007 and October 13, 2007 County Board meetings. Staff recommended deferral of the consideration of the proposed site plan amendment and encroachment to allow additional time for staff to discuss and resolve with the Applicant issues relating to the proposed site plan amendment. County staff is now recommending approval of the Site Plan Amendment.

In conjunction with the revised plans for redevelopment of the property, the Applicant has requested an Encroachment Ordinance to permit the construction of a privately owned and maintained underground electric vault within and under the right-of-way of North 10<sup>th</sup> Street between N. Pollard and N. Quincy Streets, abutting Parcel B, RPC Nos. 14030057 and 14030058. The proposed encroachment of the electric vault is approximately one and one-half (1½) levels deep, consisting of 959 square feet. The proposed encroachment would be located under the sidewalk “nub” on N. 10<sup>th</sup> Street. The proposed encroachment is more specifically shown on a plat entitled, “Plat Showing A Vault Encroachment on North 10<sup>th</sup> Street (Variable Width), Arlington County, Virginia”, prepared by VIKA Incorporated, dated June 26, 2007, attached hereto as Exhibit A (“Encroachment Plat”), and depicted on a profile plat entitled, “The Club on Quincy, Arlington, Virginia, Elevation and Profile”, prepared by Utility Systems Construction & Engineering LLC, dated March 7, 2007, revised August 15, 2007, and further revised October 11, 2007, attached hereto as Exhibit B (“Profile Plat”)(Encroachment Plat and Profile Plat are jointly referred to as “Plats”).

**Legal and Physical Description:** The North 10<sup>th</sup> Street right-of-way was created by an Order Vesting Title in the County Board of Arlington County, Virginia, entered on May 4, 1959 in the Circuit Court of Arlington County, Virginia and recorded in Deed Book 1366, Page 304, 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 October 15, 2007 and October 22, 2007 issues of the Washington Times for the November 13, 2007 County Board Meeting.

**Compensation:** In keeping with the County’s current practice of not requiring compensation to be paid to the County for electric vault encroachments, if the encroachment is approved, there would be no compensation required for the aforementioned electric vault encroachment into (under) the North 10<sup>th</sup> Street right of way.

**FISCAL IMPACT:** None.

**CONCLUSION:** If the County Board approves the Site Plan Amendment and the associated encroachment of the electric vault, then it is recommended that the County Board enact the attached Ordinance to Permit an Encroachment of an Underground Electric Vault Within the Right-of-Way of North 10th Street, Abutting Parcel B, Virginia Square Residences, Being the Vacation, Rededication and Vertical and Horizontal Resubdivision of Part of Lot 3, W.T. Burrows Estate, RPC Nos. 14030057 and 14030058, with Conditions.

## ATTACHMENT 1

### **ORDINANCE TO PERMIT AN ENCROACHMENT OF AN UNDERGROUND ELECTRIC VAULT WITHIN THE RIGHT-OF-WAY OF NORTH 10<sup>th</sup> STREET, ABUTTING PARCEL B, VIRGINIA SQUARE RESIDENCES, BEING THE VACATION, REDEDICATION AND VERTICAL AND HORIZONTAL RESUBDIVISION OF PART OF LOT 3, W.T. BURROWS ESTATE, RPC NOS. 14030057 AND 14030058, WITH CONDITIONS.**

BE IT ORDAINED by the County Board of Arlington County, Virginia, that the Applicant, Renaissance Centro Arlington, LLC (“Applicant”), as developer of the project known as Club on Quincy, SP #386, is permitted to construct an underground electric vault within the public right-of-way of North 10<sup>th</sup> Street, abutting Parcel B, Virginia Square Residences, Being the Vacation, Rededication and Vertical and Horizontal Resubdivision of Part of Lot 3, W.T. Burrows Estate, RPC Nos. 14030057 and 14030058. The dimensions (length, width and depth) and spatial location of the permitted encroachment are depicted in Exhibit A attached to the County Manager’s Report dated October 22, 2007, entitled “Plat Showing A Vault Encroachment on North 10<sup>th</sup> Street (Variable Width), Arlington County, Virginia”, prepared by VIKA Incorporated, dated June 26, 2007 (“Encroachment Plat”), and in Exhibit B on a profile plat entitled, “The Club on Quincy, Arlington, Virginia, Elevation and Profile”, prepared by Utility Systems Construction & Engineering LLC, dated March 7, 2007, revised August 15, 2007 and further revised October 11, 2007 (“Profile Plat”) (Encroachment Plat and Profile Plat are jointly referred to as “Plats”). Such underground electric vault may only serve a building authorized by Amendment to Site Plan #386, approved by the County Board on November 13, 2007. The dimensions, the location, the characteristics of the permitted underground electric vault, and the spatial area of the permitted encroachment are shown on the Plats. 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 the encroachment shall continue until such time as that portion of the underground electric vault, encroaching within the public right-of-way 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 underground electric vault within the area as shown on the Plats; or to allow any greater encroachment beyond the dimensions and spatial area shown on the Plats.

BE IT FURTHER ORDAINED that the Applicant, its successors and assigns, shall continuously and promptly maintain the underground electric vault, 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, or removal of the underground electric vault.

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 encroachment, and the Applicant, by constructing, or causing to be constructed and by

continuing to have the underground electric vault encroach 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 and repair of the underground electric vault, and the permission for the underground electric vault to encroach within the public right-of-way permitted by this Ordinance.

BE IT FURTHER ORDAINED that on or before November 13, 2010, the Applicant, at its sole expense, shall cause a certified copy of this Ordinance and the Plats, 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.

# EXHIBIT A

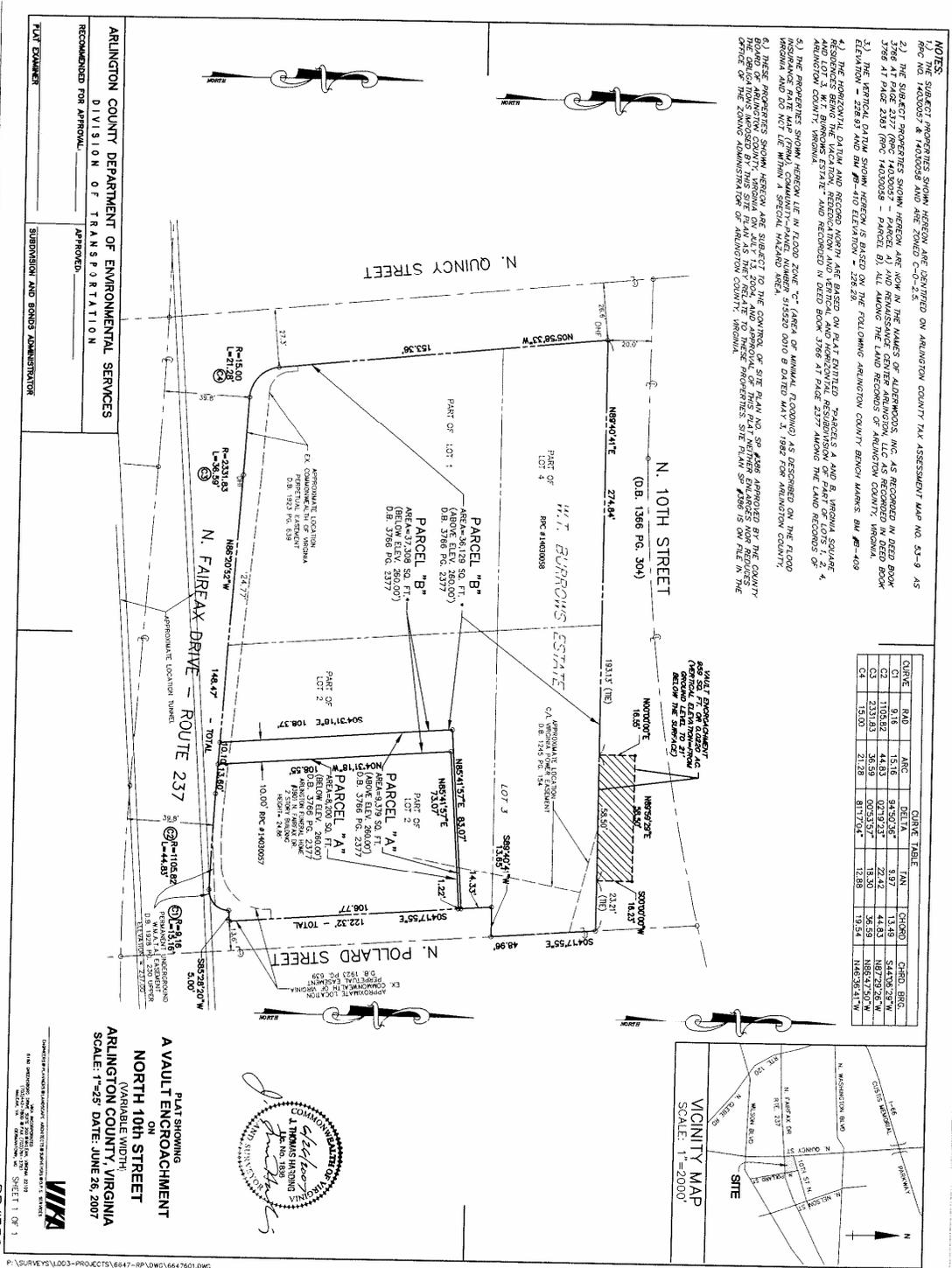
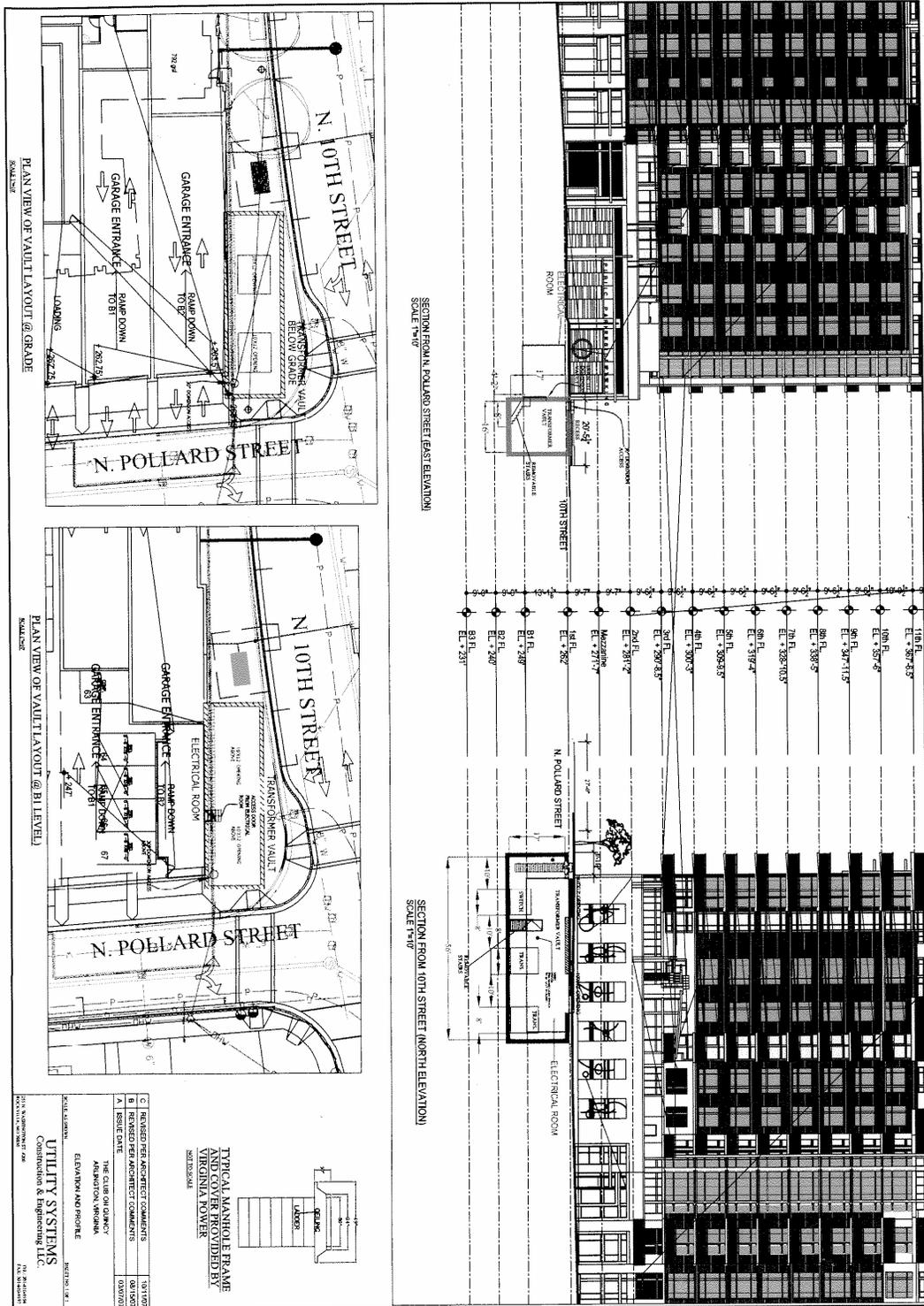


EXHIBIT FOR RESOLUTION

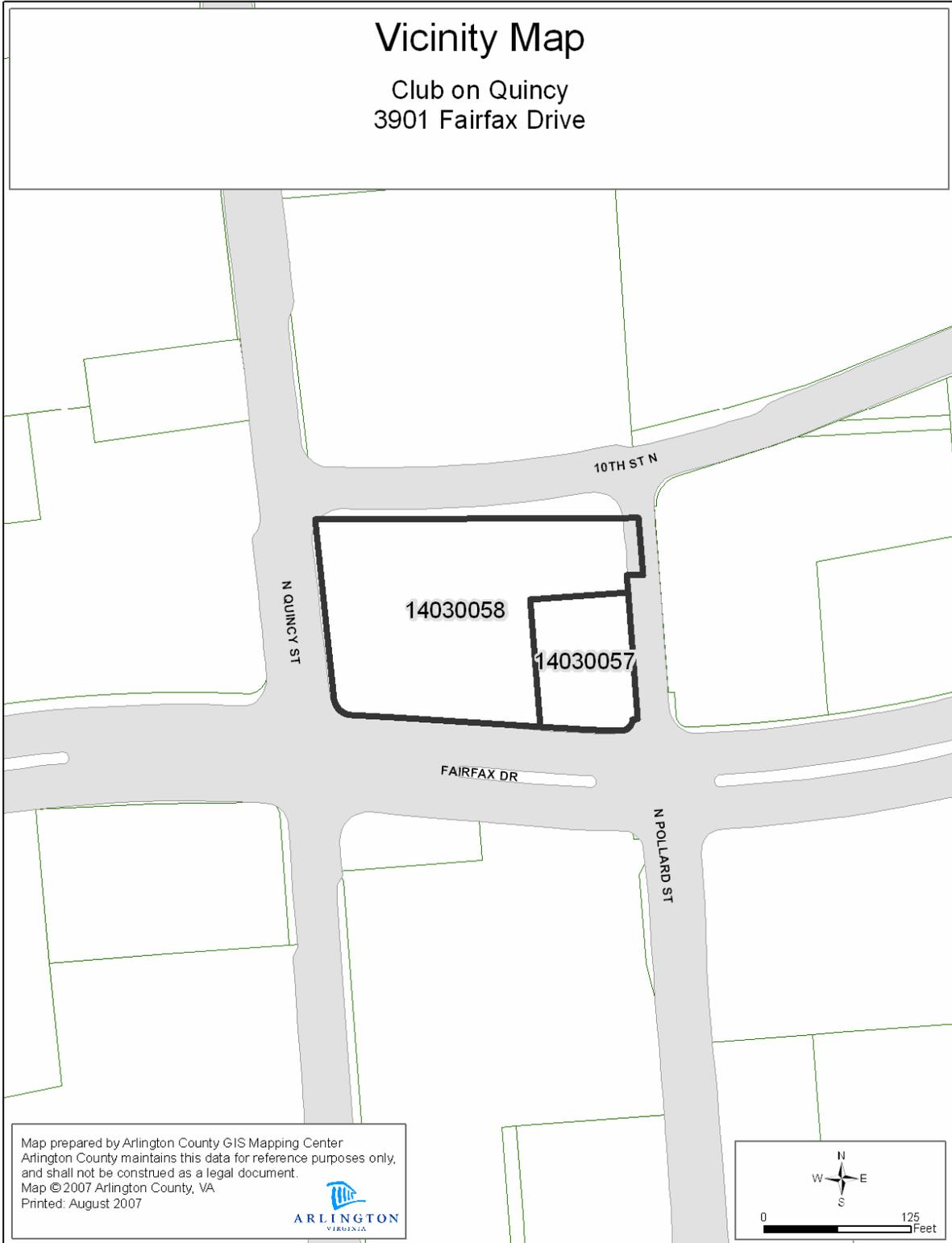
# EXHIBIT B PROFILE PLAT



ATTACHMENT 2

Vicinity Map

Club on Quincy  
3901 Fairfax Drive



Map prepared by Arlington County GIS Mapping Center  
Arlington County maintains this data for reference purposes only,  
and shall not be construed as a legal document.  
Map © 2007 Arlington County, VA  
Printed: August 2007

