



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of January 26, 2008**

**DATE:** January 14, 2008

**SUBJECT:** Enactment of Two Ordinances of Encroachment to Permit: 1) an Encroachment of Proposed Architectural Building Overhangs Within an Easement for Public Street, Utilities and Bus Passenger Shelter Purposes, on Pt. Lot 3, Lots 5, 6 and 7, Block 9, Rosslyn, and on the Original Herrell Tract, at 1815 Fort Myer Drive, (RPC No. 16037004), with Conditions; and 2) Encroachment of: (A) an Existing Portion of the Dominion Virginia Power Substation Building (“Substation”), and a Proposed New Substation Building Façade and Architectural Building Overhangs, Along 19<sup>th</sup> Street North, on Lots 1, 2, and Pt. Lot 4, Block 9, Rosslyn; and (B) Proposed Substation Architectural Building Overhangs Along North Moore Street, on Lots 1, 2, and Pt. Lot 3, Block 9, Rosslyn, at 1850 North Moore Street (RPC No. 16037005), Within an Easement for Public Street, Sidewalk, Curb and Gutter Purposes, with Conditions.

**Applicants:** 1. 1812 Holdings, LLC, c/o Monday Properties Services, LLC (Pt. Lot 3, Lots 5, 6 and 7, Block 9, Rosslyn, and the Original Herrell Tract, RPC No. 16037004)

2. Monday Properties Services, LLC (Lots 1, 2, and Pt. Lot 4, Block 9, Rosslyn, RPC No. 1637005)

**Owners:** 1. 1812 Holdings, LLC, c/o Monday Properties Services, LLC (Pt. Lot 3, Lots 5, 6 and 7, Block 9, Rosslyn, and the Original Herrell Tract, RPC No. 16037004)

2. Virginia Electric & Power Company (Lots 1, 2, and Pt. Lot 4, Block 9, Rosslyn, RPC No. 1637005)

**By:** Nan E. Walsh, Agent/Attorney  
Walsh Colucci Lubeley Emrich & Walsh PC  
2200 Clarendon Boulevard, 13<sup>th</sup> Floor  
Arlington, Virginia 22201

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

1. Enact the attached Ordinance to permit an Encroachment of Proposed Architectural Building Overhangs Within an Easement for Public Street, Utilities and Bus Passenger Shelter Purposes, on Pt. Lot 3, Lots 5, 6 and 7, Block 9, Rosslyn, and on the Original Herrell Tract, at 1815 Fort Myer Drive, (RPC No. 16037004), with Conditions; and

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

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

Staff: Linda Eichelbaum Collier, Real Estate Bureau, DES

2. Enact the attached Ordinance to permit Encroachments of: (a) an Existing Portion of the Dominion Virginia Power Substation Building (“Substation”), and a Proposed New Substation Building Façade and Architectural Building Overhangs, Along 19<sup>th</sup> Street North, on Lots 1, 2, and Pt. Lot 4, Block 9, Rosslyn; and (b) Proposed Substation Architectural Building Overhangs Along North Moore Street, on Lots 1, 2, and Pt. Lot 3, Block 9, Rosslyn, at 1850 North Moore Street (RPC No. 16037005), all aforesaid Encroachments Within an Easement for Public Street, Sidewalk, Curb and Gutter Purposes, with Conditions.
3. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, all documents necessary to effectuate the two Ordinances of Encroachment, subject to approval as to form by the County Attorney.

**ISSUES:** This is a request to permit encroachment of architectural overhangs within a Public Street, Utilities and Bus Passenger Shelter Easement, and the encroachment of building facades, architectural overhangs and an existing portion of the Dominion Virginia Power Substation within a Public Street, Sidewalk, Curb and Gutter Easement to enable construction of the project approved by the County Board on December 15, 2007 in a major site plan amendment to Site Plan #18.

**SUMMARY:** To enable construction of the project depicted on SP #18, approved by the County Board on December 15, 2007, the Applicant has requested enactment of Ordinances of Encroachment to permit: 1) an Encroachment of Proposed Architectural Building Overhangs Within an Easement for Public Street, Utilities and Bus Passenger Purposes, on Pt. Lot 3, Lots 5, 6 and 7, Block 9, Rosslyn, and on the Original Herrell Tract, at 1815 Fort Myer Drive, (RPC No. 16037004), with Conditions; and 2) Encroachments of: (A) an Existing Portion of the Dominion Virginia Power Substation Building (“Substation”), and a Proposed New Substation Building Façade and Architectural Building Overhangs, Along 19<sup>th</sup> Street North, on Lots 1, 2, and Pt. Lot 4, Block 9, Rosslyn; and (B) Proposed Substation Architectural Building Overhangs Along North Moore Street, on Lots 1, 2, and Pt. Lot 3, Block 9, Rosslyn, at 1850 North Moore Street (RPC No. 16037005), all aforesaid Encroachments Within an Easement for Public Street, Sidewalk, Curb and Gutter Purposes, with Conditions.

If enacted, the requested Ordinances of Encroachment would continue in effect until the building and the Substation that are the subject of SP #18 are destroyed, removed, no longer in use or not continuously and promptly maintained by the Applicant.

**BACKGROUND:** The subject site is located in Rosslyn, on the two northern most parcels of the block bounded by North Moore Street, 19<sup>th</sup> Street North, North Fort Myer Drive and Wilson Boulevard (“Property”). (See Vicinity Map attached hereto as Exhibit G). In conjunction with plans for redevelopment of the Property, the Applicant filed a major site plan amendment to SP #18, which was approved by the Board on December 15, 2007 and provides for construction of a 30 story office building containing approximately 580,000 square feet of commercial use and 12,000 square feet of retail GFA. The site plan also provides for improvements to the

Substation, including recladding the existing building and adding architectural features to the existing building.

To construct the building approved on the site plan and make the improvements to the Substation, Applicant requested the following encroachments: 1) encroachment of architectural overhangs within an Easement for Public Street, Utilities and Bus Passenger Shelter Purposes on Pt. Lot 3, Lots 5, 6, and 7, Block 9, Rosslyn, and on the Original Herrell Tract, at 1815 Fort Myer Drive, RPC No. 16037004; and 2) encroachment of: A) an existing portion of the Substation, and a proposed new Substation building façade and architectural building overhangs, along 19<sup>th</sup> Street North, on Lots 1, 2, and Pt. Lot 4, Block 9, Rosslyn; and B) proposed Substation architectural building overhangs along North Moore Street, on Lots 1, 2, and Pt. Lot 3, Block 9, Rosslyn, at 1850 North Moore Street, RPC No. 16037005, within an Easement for Public Street, Sidewalk, Curb and Gutter Purposes (collectively, “Encroachments”).

The requested Encroachments are set forth on plats entitled “Plat Showing Encroachment on Easements for Public Street, Utilities, and Bus Passenger Shelter Purposes, Deed Book 2002, Page 851 on Pt Lot 3, and Lots 5 through 7, Block 9 – Rosslyn, Deed Book 105, Page 275, and Herrell Tract, Deed Book 138, Page 165, Arlington County, Virginia,” dated October 9, 2007, and revised January 9, 2008, prepared by VIKA (Exhibit A, attached hereto); “Plat Showing Encroachment on Easements for Public Street, Sidewalk, Curb and Gutter Purposes, Deed Book 1586, Page 128 on Lots 1, 2, and Pt Lot 4, Block 9 – Rosslyn, Deed Book 105, Page 275, Arlington County, Virginia,” dated October 9, 2007, and revised January 9, 2008, prepared by VIKA (Exhibit B, attached hereto); and Plat Showing Encroachment on Easements for Public Street, Sidewalk, Curb and Gutter Purposes, Deed Book, 1586, Page 128 on Lots 1,2, and Pt Lot 3, Block 9-Rosslyn, Deed Book 105, Page 275, Arlington County, Virginia,” dated October 9, 2007 and revised January 9, 2008, prepared by VIKA (Exhibit C, attached hereto); and profile drawings entitled “Easement Along Moore Street, Section A, 1812 North Moore Street,” dated January 2008, prepared by VIKA (Exhibit D, attached hereto); “Easement Along Moore Street in Front of VEPCO Building, Section B, 1812 North Moore Street,” dated January 200, prepared by VIKA (Exhibit E, attached hereto) and “Easement Along 19<sup>th</sup> Street, Section C, 1812 North Moore Street,” dated January 2008 (collectively, Exhibits A, B, C, D and E “Plats”).

The County acquired the Easement for Public Street, Utilities and Bus Passenger Shelter Purposes on Pt. Lot 3, Lots 5, 6, and 7, Block 9, Rosslyn, and the Original Herrell Tract, at 1815 Fort Myer Drive, RPC No. 16037004 by Deed, dated November 9, 1979, recorded at Deed Book 2002, Page 851, among the land records of Arlington County, Virginia (“Land Records”) on November 30, 1979. The County acquired the Easement for Public Street, Sidewalk, Curb and Gutter Purposes on Lots 1, 2, Pt. Lot 3 and Pt. Lot 4, Block 9, Rosslyn, at 1850 North Moore Street, RPC No. 16037005 by Deed, dated April 14, 1965, recorded at Deed Book 1586, Page 128, among the Land Records on June 1, 1965. The Easement for Public Street, Utilities and Bus Passenger Shelter Purposes and the Easement for Public Sidewalk, Curb and Gutter Purposes are sometimes referred to herein collectively as “Easements.”

**DISCUSSION:** The Applicant must obtain the requested encroachments in order to construct the building and make the improvements to the Substation as set forth on the approved amendment to SP #18. Conditions Number 1, 14 and 89 of SP #18 require the Applicant to

obtain the encroachments before the issuance of specified permits. Applicant has requested various encroachments from the Board as described herein to permit the following within the areas of the Easements: 1) architectural overhangs for the proposed building within the County's Public Street, Utilities and Bus Shelter Easement along N. Moore Street; 2) a portion of the existing Substation wall, new façade and architectural overhangs for the Substation within the County's Public Street, Sidewalk, Curb and Gutter Easement along 19<sup>th</sup> Street North; and 3) architectural overhangs for the Substation within the County's Public Street, Utilities and Bus Shelter Easement along N. Moore Street. Applicant also has requested the Board to vacate a portion of the Public Street, Utilities and Bus Passenger Shelter Easement along North Moore Street so that the building wall of the proposed building can be located within the current area of the easement, which vacation is the subject of a separate Board Report.

Legal and Physical Description: The Easements and the portions that are the subject of these requests for encroachment are described on the Plats. The Property is located in Rosslyn and consists of the two northernmost parcels of property on the block bounded by North Moore Street, 19<sup>th</sup> Street North, Fort Myer Drive and Wilson Boulevard and is identified in the Arlington County Real Estate Records by RPC Nos. 16037004 and 16037005. The County acquired the Public Street, Utilities and Bus Passenger Shelter Easement by a Deed, dated November 9, 1979, recorded at Deed Book 2002, Page 851, among the land records of Arlington County, Virginia on November 30, 1979 and acquired the Public Street, Sidewalk, Curb and Gutter Easement by a Deed, dated April 14, 1965, recorded at Deed Book 1586, Page 128, among the Land Records on June 1, 1965.

Compensation: Based upon the fair market value of the property upon or over which the requested encroachments will exist, the staff has determined the compensation for the proposed Encroachments, to be paid by the Applicant to the County, to be \$5,762.20 for the Encroachments relating to the 1812 Holdings, LLC parcels and \$24,477.60 for the Encroachments relating to the VEPCO parcels, for a total amount of compensation of \$30,239.80. The Applicant has agreed with the staff's recommendation and has agreed to pay the County \$30,239.80 in compensation for the Encroachments.

Public Notice: Public notice of the proposed Encroachments was given in accordance with the Code of Virginia. Notices were placed in the December 31, 2007 and the January 7, 2008 issues of the Washington Times for the Planning Commission Meeting on January 14, 2008 and the County Board Meeting of January 26, 2008.

**FISCAL IMPACT:** The amount of \$30,239.80, received as compensation for the Encroachments, will be deposited in the County's General Fund.

**CONCLUSION:** It is recommended that the County Board enact the following:

1. Ordinance to Permit an Encroachment of Proposed Architectural Building Overhangs Within an Easement for Public Street, Utilities and Bus Passenger Shelter Purposes, on Pt. Lot 3, Lots 5, 6 and 7, Block 9, Rosslyn, and on the Original Herrell Tract, at 1815 Fort Myer Drive, (RPC No. 16037004), with Conditions; and

2. Ordinance to Permit Encroachments of: (a) an Existing Portion of the Dominion Virginia Power Substation Building (“Substation”), and a Proposed New Substation Building Façade and Architectural Building Overhangs, Along 19<sup>th</sup> Street North, on Lots 1, 2, and Pt. Lot 4, Block 9, Rosslyn; and (b) Proposed Substation Architectural Building Overhangs Along North Moore Street, on Lots 1, 2, and Pt. Lot 3, Block 9, Rosslyn, at 1850 North Moore Street (RPC No. 16037005), Within an Easement for Public Street, Sidewalk, Curb and Gutter Purposes, with Conditions.

## ATTACHMENT 1

### **ORDINANCE PERMITTING THE ENCROACHMENT OF PROPOSED ARCHITECTURAL BUILDING OVERHANGS WITHIN AN EASEMENT FOR PUBLIC STREET, UTILITIES AND BUS PASSENGER SHELTER PURPOSES, ON PT. LOT 3, LOTS 5, 6 AND 7, BLOCK 9, ROSSLYN, AND ON THE ORIGINAL HERRELL TRACT, AT 1815 FORT MYER DRIVE, (RPC NO. 16037004), WITH CONDITIONS.**

**BE IT ORDAINED** by the County Board of Arlington County, Virginia, that the Applicant, 1812 Holdings, LLC, (“Applicant”), as developer of the project known as 1812 N. Moore Street, authorized by Site Plan Amendment SP # 18, and as the owner of the property identified in the Arlington County Land Records (“Land Records”) as Pt. Lot 3, Lots 5 thru 7, Block 9-Rosslyn, and the Herrell Tract (RPC No. 16037004), is permitted to construct, subject to the following conditions, architectural overhangs within a portion of an Arlington County Easement for Public Street, Utilities and Bus Passenger Shelter Purposes (“Easement”) on Pt. Lot 3, Lots 5, 6, and 7, Block 9, Rosslyn, and the Original Herrell Tract, at 1815 Fort Myer Drive, RPC No. 16037004, created by Deed, dated November 9, 1979, recorded at Deed Book 2002, Page 851, among the land records of Arlington County, Virginia (“Land Records”) on November 30, 1979. The dimensions (length, width, and beginning and ending elevations) and spatial locations of the permitted encroachments (jointly, “Encroachment”) are depicted in Exhibit A attached to the County Manager’s Report dated January 14, 2008, entitled “Plat Showing Encroachment on Easements for Public Street, Utilities, and Bus Passenger Shelter Purposes, Deed Book 2002, Page 851 on Lots Pt Lot 3, Lots 5 through 7, Block 9 – Rosslyn, Deed Book 105, Page 275, and Herrell Tract, Deed Book 138, Page 165, Arlington County, Virginia,” dated October 9, 2007 and revised January 9, 2008, prepared by VIKA and Exhibit D attached to the County Manager’s Report dated January 14, 2008, entitled “Easement Along Moore Street, Section A, 1812 North Moore Street,” dated January 2008, prepared by VIKA (jointly “Plats”). The dimensions, the location, the characteristics of the permitted Encroachment 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 architectural overhangs encroaching within a portion of the Easement 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, or any other person or entity, of any above ground structure or any structure other than the described architectural overhangs 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 architectural overhang(s) 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 architectural overhangs. No provision of this Ordinance is intended, or shall be construed to relieve the Applicant, or any other person or entity, to obtain all required permits, approvals, and permissions to perform any work in the public rights-of-way.

## ATTACHMENT 1

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 architectural overhangs 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, repair and removal of the architectural overhangs, and the permission for the architectural overhangs to encroach within a portion of the air space of the public right-of-way permitted by this Ordinance.

BE IT FURTHER ORDAINED that no portion of the architectural overhangs permitted by this Ordinance to encroach within the Easement shall be constructed until the Applicant has paid to the County the sum of \$5,762.20 as compensation for the Encroachment.

BE IT FURTHER ORDAINED that, on or before January 26, 2011, the Applicant, at its sole expense, shall cause a certified copy of this Ordinance and Plats, approved by the Director of the Department of Environmental Services or his designee, to be recorded in the lands 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.

## ATTACHMENT 2

**ORDINANCE PERMITTING THE ENCROACHMENT OF EXISTING PORTION OF THE DOMINION VIRGINIA POWER SUBSTATION BUILDING (“SUBSTATION”), AND A PROPOSED NEW SUBSTATION BUILDING FAÇADE AND ARCHITECTURAL BUILDING OVERHANGS, ALONG 19<sup>TH</sup> STREET NORTH, ON LOTS 1, 2, AND PT. LOT 4, BLOCK 9, ROSSLYN; AND (B) PROPOSED SUBSTATION ARCHITECTURAL BUILDING OVERHANGS ALONG NORTH MOORE STREET, ON LOTS 1, 2, AND PT. LOT 3, BLOCK 9, ROSSLYN, AT 1850 NORTH MOORE STREET (RPC NO. 16037005), ALL WITHIN AN EASEMENT FOR PUBLIC STREET, SIDEWALK, CURB AND GUTTER PURPOSES, WITH CONDITIONS.**

**BE IT ORDAINED** by the County Board of Arlington County, Virginia, that the Applicant, Monday Properties Services, LLC, as developer of the project known as 1812 N. Moore Street, authorized by Site Plan Amendment SP # 18, and Virginia Electric and Power Company, as the owner (jointly, “Applicant”) of the property identified in the Arlington County Land Records (“Land Records”) as Lots 1 and 2, Pt. Lot 3 and Pt. Lot 4, Block 9-Rosslyn, and the Herrell Tract (RPC No. 16037005), subject to the following conditions, are permitted to locate an existing portion of the Dominion Virginia Power Substation Building (“Substation”), and to construct new Substation façade and Substation architectural overhangs (collectively, “Encroachments”) within a portion of an Arlington County Easement for Public Street, Sidewalk, Curb and Gutter Purposes (“Easement”) on Lots 1, 2, Pt. Lot 3 and Pt. Lot 4, Block 9, Rosslyn, at 1850 North Moore Street, RPC No. 16037005 created by Deed, dated April 14, 1965, recorded at Deed Book 1586, Page 128 on June 1, 1965 among the land records of Arlington County, Virginia (“Land Records”). The dimensions (length, width, and beginning and ending elevations) and spatial locations of the permitted Encroachments are depicted in “Plat Showing Encroachment on Easements for Public Street, Sidewalk, Curb and Gutter Purposes, Deed Book 1586, Page 128 on Lots 1, 2, and Pt Lot 4, Block 9 – Rosslyn, Deed Book 105, Page 275, Arlington County, Virginia,” dated October 9, 2007 and revised January 9, 2008, prepared by VIKA, attached to the County Manager’s Report dated January 14, 2008 as Exhibit B; “Plat Showing Encroachment on Easements for Public Street, Sidewalk, Curb and Gutter Purposes, Deed Book 1586, Page 128 on Lots 1, 2, and Pt Lot 3, Block 9 – Rosslyn, Deed Book 105, Page 275, Arlington County, Virginia,” dated October 9, 2007 and revised January 9, 2008, prepared by VIKA, attached to the County Manager’s Report dated January 14, 2008 as Exhibit C; “Easement Along Moore Street in Front of VEPCO Building, Section B, 1812 North Moore Street” dated January 2008, prepared by VIKA, attached to the County Manager’s Report dated January 14, 2008 as Exhibit E; and “Easement Along 19<sup>th</sup> Street, Section C, 1812 North Moore Street,” dated January 2008, prepared by VIKA, attached to the County Manager’s Report dated January 14, 2008 as Exhibit F (jointly “Plats”). The dimensions, the location, the characteristics of the permitted Encroachments and the spatial area of the permitted Encroachments 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 Encroachments shall continue until such time as that portion of the Substation building, Substation façade and architectural overhangs encroaching within a portion of the Easement 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, or any other person or entity, of

## ATTACHMENT 2

any above ground structure or any structure other than the described Substation building, Substation façade and architectural overhangs 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 Substation building, Substation façade and architectural overhangs 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 Substation building, Substation façade and architectural overhangs. No provision of this Ordinance is intended, or shall be construed to relieve the Applicant, or any other person or entity, to obtain all required permits, approvals, and permissions to perform any work in the public rights-of-way.

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 Substation building, Substation façade and architectural overhangs 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, repair and removal of the Substation building, Substation façade and architectural overhangs, and the permission for the Substation building, Substation façade and architectural overhangs to encroach within a portion of the air space of the public right-of-way permitted by this Ordinance.

BE IT FURTHER ORDAINED that no portion of the Substation building, Substation façade and architectural overhangs permitted by this Ordinance to encroach within the Easement shall be constructed until the Applicant has paid to the County the sum of \$24,477.60 as compensation for the Encroachments.

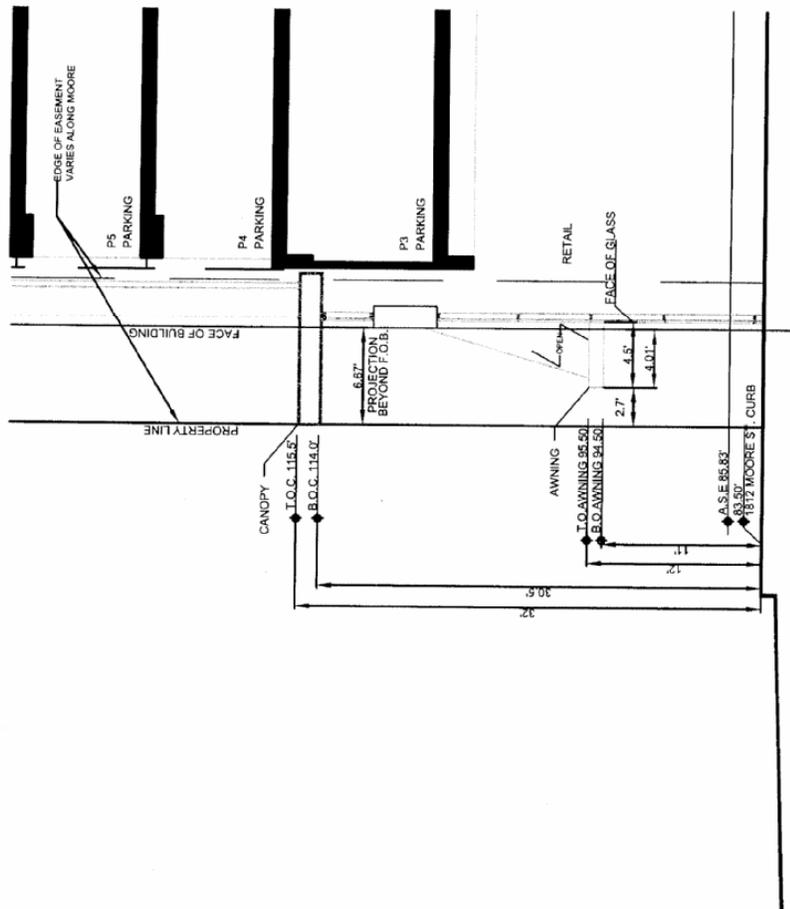
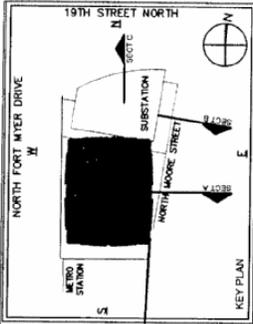
BE IT FURTHER ORDAINED that, on or before January 26, 2011, the Applicant, at its sole expense, shall cause a certified copy of this Ordinance and Plats, approved by the Director of the Department of Environmental Services or his designee, to be recorded in the lands records of the Arlington County Circuit 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.







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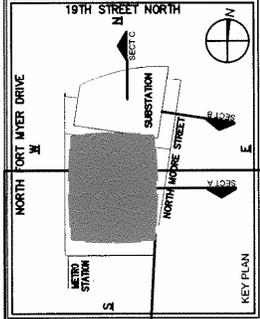
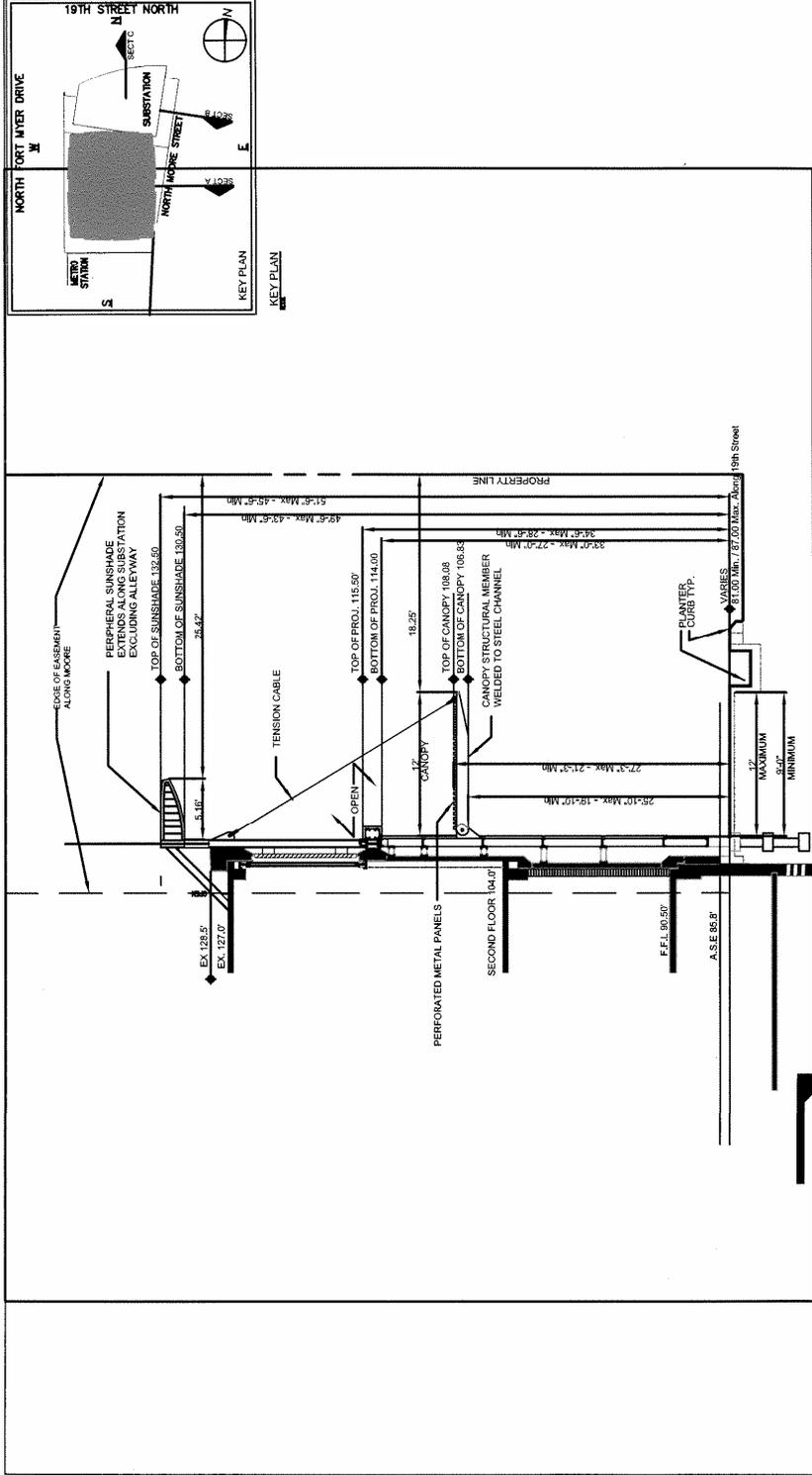
EASEMENT ALONG MOORE STREET  
SECTION A  
1812 NORTH MOORE STREET

JANUARY 2008





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EASEMENT ALONG 19th STREET  
 SECTION C  
 1812 NORTH MOORE STREET

JANUARY 2005



# Vicinity Map

1812 N Moore Street  
Vacation & Encroachments



Map prepared by Arlington County GIS Mapping Center  
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