



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 19, 2008**

DATE: April 1, 2008

SUBJECT: Enactment of an Ordinance to Amend and Reenact an Ordinance to Vacate Parcel "1" of North Vermont Street between North Glebe Road and North Fairfax Drive, Adjacent to Parcel "C" (RPC# 14051358), Arlington Gateway at Ballston II; Vacate Parcel "2" of North Vermont Street between North Glebe Road and North Fairfax Drive, Adjacent to Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc.; Vacate the Remaining Portion of an Existing 11.5 Foot Easement for Public Street and Utilities Purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., Along the East Side of North Vermont Street; and, Vacate a Portion of an Easement for Street Purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., Along the South Side of North Fairfax Drive, each with Conditions; and Enactment of an Ordinance to Amend and Reenact an Ordinance to Vacate a Portion of an Easement for Street Purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., Along the South Side of North Fairfax Drive, with Conditions.

Original Applicant: The Arlington Office, L.L.C.

Property Owner/Extension Applicant: JBG/Fairfax Drive, LLC

By:

Nan E. Walsh, Esquire
Walsh, Colucci, Lubeley, Emrich & Terpak, P.C.
2200 Clarendon Blvd., Suite 1300
Arlington, VA 22201
Counsel for the Extension Applicant

C.M. RECOMMENDATIONS:

1. Enact the attached Ordinance to Amend and Reenact an Ordinance to Vacate Parcel "1" of North Vermont Street between North Glebe Road and North Fairfax Drive, adjacent to Parcel "C" (RPC# 14051358), Arlington Gateway at Ballston II; vacate Parcel "2" of North Vermont Street between North Glebe Road and North Fairfax Drive, adjacent to Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc.; Vacate the remaining portion of an existing 11.5 foot easement for public street and utilities purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the east side of North Vermont Street; and, Vacate a portion of an easement for

County Manager: _____

County Attorney: _____

Staff: Betsy Herbst, DES, Real Estate Bureau

street purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the south side of North Fairfax Drive, with Conditions.

2. Enact the attached Ordinance to Amend and Reenact an Ordinance to Vacate a Portion of an Easement for Street Purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the south side of North Fairfax Drive, with Conditions.
3. Authorize the Real Estate Bureau Chief or his designee to execute the deed(s) of vacation on behalf of the County Board, subject to approval of such deed(s) as to form by the County Attorney.

ISSUE: The Applicant has requested a three year extension of two previously approved vacation ordinances in connection with a minor site plan amendment requesting a three year extension of Site Plan #331. There are no issues identified in this request.

SUMMARY: The Applicant has requested an amendment and reenactment of two vacation ordinances associated with Site Plan #331 ("Amended Ordinances"), for the purpose of extending the expiration of the ordinances originally enacted by the County Board on January 21, 2006, with conditions ("2006 Ordinances"). As provided in the conditions of the 2006 Ordinances, the Applicant has until noon on January 21, 2009, to complete all conditions of the ordinances of vacation. However, given current market conditions, the Applicant has not begun construction under approved Site Plan #331, and in conjunction with the request for the vacation ordinance extensions, has requested a three year extension of Site Plan #331 to implement the Site Plan.

The 2006 Ordinances authorized the vacation of the following County interests subject to conditions specified in the Ordinances: 1) Parcel 1 and Parcel 2 of the right-of-way of North Vermont Street, between North Fairfax Drive and North Glebe Road, 2) the remaining portion of an existing 11.5 foot easement for public street and utilities purposes on Parcel "C", Property of Dominion Investments, Inc., along the east side of North Vermont Street, and 3) an easement for street purposes on Parcel "C", Property of Dominion Investments, Inc., along the south side of North Fairfax Drive. The Amended Ordinances to reenact and amend the 2006 Ordinances are attached to this report as Attachments 1 and 2. The conditions of the 2006 Ordinances have not yet been satisfied.

Upon enactment of the Amended Ordinances, the Applicant would be given an additional three years to satisfy the conditions of the vacation ordinances. Except for the expiration date, all other conditions of the 2006 Ordinances are incorporated into, and made part of, the Amended Ordinances. With completion of the conditions specified in the Amended Ordinances and recordation of the Deeds of Vacation by the Applicant before the expiration dates of the Amended Ordinances, the County's interests in the vacated portions of North Vermont Street, the vacated portion of the 11.5 foot easement for public street and utilities purposes, and the vacated easement for street purposes along North Fairfax Drive will be extinguished.

BACKGROUND: On November 14, 1998, prior to the enactment of the 2006 Ordinances, the County Board enacted an Ordinance vacating the southerly portion of North Vermont Street, from Fairfax Drive southward to North Glebe Road ("1998 Ordinance"). The 1998 Ordinance

included the vacation of a 5 foot-wide sanitary sewer easement and segments of two separate 11.5 foot-wide easements for public street and utilities purposes. At the time, staff recommended that the County Board vacate North Vermont Street in its entirety, from North Glebe Road to North Fairfax Drive. However, the former owner of the parcel at 4420 N. Fairfax Dr. objected to the recommended vacation of the entire length of North Vermont Street. The County Board did not vacate the portion of North Vermont Street adjacent to 4420 N. Fairfax Dr., thus leaving the northerly portion of North Vermont Street between North Glebe Road and North Fairfax Drive intact.

In 2005, in order to redevelop the property at 4420 N. Fairfax Drive, the Applicant filed a major amendment to the Arlington Gateway Site Plan #331 (Site Plan #331) to incorporate the property into the Site Plan and permit the construction of a multi-family residential building. On January 21, 2006, the County Board approved the major amendment to Site Plan #331 and enacted the 2006 Ordinances to facilitate the redevelopment.

The 2006 Ordinances vacated, subject to conditions, the entire 3,369 square-feet of Parcel "1" of North Vermont Street; the entire 2,743 square-feet of Parcel "2" of North Vermont Street, (that portion adjacent to 4420 N. Fairfax Dr. not previously vacated in 1998); the remaining 1,211 square-foot portion of the 11.5 foot-wide easement for public street and utilities purposes along the east side of North Vermont Street and within Parcel "C"; and the 5,184 square-foot easement for street purposes along the south side of Fairfax Drive and within Parcel "C". As of present, the conditions of the 2006 Ordinances have not been satisfied.

On February 22, 2008, the Applicant filed a minor site plan amendment application with the Zoning Office to request a three year extension of Site Plan #331, and also requested a three year extension of the 2006 Ordinances.

DISCUSSION: Under the approved Site Plan #331, the present Fairmont office building on the site would be demolished and replaced by a 23-story residential building with ground floor retail. The first 11 floors would be "L" shaped, roughly following the property line. Above these base floors, a slender tower would rise an additional 12 floors in a slightly hexagonal shape. The facades would be mainly metal and glass. A total of 9,200 square-feet of retail space would occupy the portion of the ground floor along North Fairfax Drive, and the residential entrance with associated uses would occupy a portion of the ground floor with a small frontage on North Fairfax Drive, under the tower.

If the 2006 Ordinances are amended and reenacted by the County Board, and if all conditions are satisfied by the Applicant, then the adjacent property owners of the vacated portion of North Vermont Street will become vested with fee simple interests in the portion of North Vermont Street abutting their properties, extending to the centerline of the street. As shown on Exhibit A, North Vermont Street would therefore, be divided as follows: the owner of Parcel "C" (RPC# 14051358), Arlington Gateway at Ballston II would become vested with fee simple title in the 3,369 square-feet of Parcel "1"; and the Applicant will become vested with fee simple title in the 2,743 square-feet of Parcel "2". By Special Warranty Deed dated May 6, 2005, and recorded in Deed Book 3838 at Page 1749 among the land records of Arlington County, Virginia, the

Applicant obtained title to Parcel “C” (RPC# 14051358), Arlington Gateway at Ballston II, Parcel “1” of North Vermont Street.

The Applicant has agreed that the compensation to the County for the requested vacations under the Amended Ordinances shall remain the same as previously provided in the 2006 Ordinances. Consistent with the requirements of Condition #76 of Site Plan #331 (“Condition #76”), and as part of the consideration for the vacations, the Applicant agreed to participate in the Ballston-MU Metro Station Western Entrance Project (the “Metro Project”).

The Metro Project will require that the Applicant design and build, or cause to be designed and built, escalator stairs, elevator wellways, connecting tunnel for pedestrian access, and other facilities, which in the future will connect the newly constructed western entrance located on and adjacent to the Applicant’s property to the existing Ballston-MU Metro Station. In order to ensure pedestrian and vehicular access to and from the proposed western entrance for the Ballston-MU Metro Station, and as a condition of the Amended Ordinances, the Applicant will be required to grant to the County, a public use access easement over the areas proposed to be vacated. The Amended Ordinances also require that the Applicant grant to the Washington Metropolitan Area Transit Authority (“WMATA”), a permanent underground tunnel easement in portions of the vacated areas for use by the public at-large for access to the Ballston-MU Metro Station Western Entrance Tunnel, and that the Applicant grant to the County a public utilities easement under and through the vacated areas to safeguard the utilities existing and/or utilities proposed to exist within the vacated areas.

The 2006 Ordinances provided that compensation for the requested vacations described in Attachment 1 to be in the form of easements for and work to be performed on the Metro Project or alternative compensation, if necessary, as required and described by the terms of Condition #76 of SP# 331. The vacations described in Attachment 1 will not be required, nor occur, until completion of the requirements of Condition #76 of SP #331 relating to the Metro Project. The proposed vacation of the portion of the easement for street purposes along the south side of North Fairfax Drive described in Attachment 2 will be required for location of the building proposed by SP# 331. As a condition of this vacation, the County will require payment of monetary compensation prior to the execution of a Deed of Vacation on behalf of the County.

Legal and Physical Description: The portions of the North Vermont Street public right-of-way, the easement for public street and utilities purposes, and the easement for street purposes that the Applicant requests to be vacated are more specifically described below:

1. Parcel “1” of North Vermont Street between North Glebe Road and North Fairfax Drive, adjacent to Parcel “C” (RPC# 14051358), Arlington Gateway at Ballston II was established by recordation of a Deed of Dedication in Deed Book 111, at Page 341. The portion of North Vermont Street right-of-way to be vacated is 3,369 square-feet, as shown on Exhibit A entitled “Plat Showing the Vacation of an Existing 11.5’ Easement for Public Street and Utilities Purposes and an Easement for Street Purposes on Parcel ‘C’, Property of Dominion Investments, Inc., and the Vacation of a Portion of N. Vermont Street.”

2. Parcel "2" of North Vermont Street between North Glebe Road and North Fairfax Drive, adjacent to Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc. was established by recordation of a Deed of Dedication in Deed Book 111, at Page 341. The portion of North Vermont Street right-of-way to be vacated is 2,743 square-feet, as shown on Exhibit A entitled "Plat Showing the Vacation of an Existing 11.5' Easement for Public Street and Utilities Purposes and an Easement for Street Purposes on Parcel 'C', Property of Dominion Investments, Inc., and the Vacation of a Portion of N. Vermont Street."
3. The remaining portion of an existing 11.5 foot easement for public street and utilities purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the east side of North Vermont Street, was granted to the County by Deed of Easement recorded in Deed Book 2238, at Page 1451. The portion of the easement for public street and utilities purposes to be vacated is 1,211 square-feet, as shown on Exhibit A entitled "Plat Showing the Vacation of an Existing 11.5' Easement for Public Street and Utilities Purposes and an Easement for Street Purposes on Parcel 'C', Property of Dominion Investments, Inc., and the Vacation of a Portion of N. Vermont Street."
4. The easement for street purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the south side of North Fairfax Drive, was granted to the County by Correction Deed and Deed of Resubdivision recorded in Deed Book 1546, at Page 542. The portion of the easement for street purposes to be vacated is 5,184 square-feet, as shown on Exhibit A entitled "Plat Showing the Vacation of an Existing 11.5' Easement for Public Street and Utilities Purposes and an Easement for Street Purposes on Parcel 'C', Property of Dominion Investments, Inc., and the Vacation of a Portion of N. Vermont Street." By Special Warranty Deed dated April 27, 2005 and recorded April 28, 2005 in Deed Book 3833 at Page 651, Parcel "C", Property of Dominion Investments, Inc., was conveyed to JBG/Fairfax Drive, L.L.C.

The existing right-of-way and existing easements are shown on Exhibit B.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the March 25, 2008 and April 1, 2008 issues of the Washington Times for the County Board meeting of April 19, 2008.

Compensation: Based on current market conditions for residential real estate development, County Staff believes that there has been no substantial increase in the value of the County interests to be vacated since the 2006 Ordinances. Therefore, Staff recommends that the compensation for the requested vacations described in Attachment 1 shall continue to be in the form of the easements for and work to be performed by or on behalf of the Applicant on the Metro Project or alternative obligations of the Applicant, as required and described by the terms of Condition #76 of Site Plan # 331. Staff further recommends that the compensation previously approved in the 2006 Ordinances, in the amount of \$566,730.00, be required from the Applicant for the vacation of a portion of an easement for street purposes along the south side of North Fairfax Drive, described in Attachment 2.

FISCAL IMPACT: The County will receive the compensation for the vacation described in Attachment 2 in the amount of \$566,730.00, to be deposited into Fund 013-0461-13, and compensation in the form of the easements for and work to be performed on the Metro Project, or alternative obligations, for the vacations described in Attachment 1 as required and described by the terms of Condition #76 of SP# 331.

CONCLUSION: If the County Board approves the request for a three year extension of Site Plan #331, then it is recommended that the County Board enact the following attached Ordinances: 1) Ordinance to Amend and Reenact an Ordinance to Vacate Parcel "1" of North Vermont Street between North Glebe Road and North Fairfax Drive, adjacent to Parcel "C" (RPC# 14051358), Arlington Gateway at Ballston II; Vacate Parcel "2" of North Vermont Street between North Glebe Road and North Fairfax Drive, adjacent to Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc.; Vacate the remaining portion of an existing 11.5 foot easement for public street and utilities purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the east side of North Vermont Street; and, Vacate a portion of an easement for street purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the south side of North Fairfax Drive, with Conditions; and 2) Ordinance to Amend and Reenact an Ordinance to Vacate a Portion of an Easement for Street Purposes on Parcel "C" (RPC# 14051019), Property of Dominion Investments, Inc., along the south side of North Fairfax Drive, with Conditions.

ATTACHMENT 1

ORDINANCE TO AMEND AND REENACT AN ORDINANCE TO VACATE PARCEL “1” OF NORTH VERMONT STREET BETWEEN NORTH GLEBE ROAD AND NORTH FAIRFAX DRIVE, ADJACENT TO PARCEL “C” (RPC# 14051358), ARLINGTON GATEWAY AT BALLSTON II; VACATE PARCEL “2” OF NORTH VERMONT STREET BETWEEN NORTH GLEBE ROAD AND NORTH FAIRFAX DRIVE, ADJACENT TO PARCEL “C” (RPC# 14051019), PROPERTY OF DOMINION INVESTMENTS, INC.; VACATE THE REMAINING PORTION OF AN EXISTING 11.5 FOOT EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES ON PARCEL “C” (RPC# 14051019), PROPERTY OF DOMINION INVESTMENTS, INC., ALONG THE EAST SIDE OF NORTH VERMONT STREET; AND, VACATE A PORTION OF AND EASEMENT FOR STREET PURPOSES ON PARCEL “C” (RPC# 14051019), PROPERTY OF DOMINION INVESTMENTS, INC., ALONG THE SOUTH SIDE OF NORTH FAIRFAX DRIVE, WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request by Arlington Office, L.L.C. (the “Applicant”) on file in the offices of the Department of Environmental Services, Parcel “1” of North Vermont Street between North Glebe Road and North Fairfax Drive, adjacent to Parcel “C” (RPC# 14051358), Arlington Gateway at Ballston II, recorded in Deed Book 111, Page 341; Parcel “2” of North Vermont Street, between North Glebe Road and North Fairfax Drive, adjacent to Parcel “C” (RPC# 14051019), Property of Dominion Investments, Inc., recorded in Deed Book 111, Page 341; the Remaining Portion of an Existing 11.5 Foot Easement for Public Street and Utilities Purposes on Parcel “C” (RPC# 14051019), Property of Dominion Investments, Inc., along the east side of North Vermont Street, recorded in Deed Book 2238, Page 1451; and a portion of the Easement for Street Purposes on Parcel “C” (RPC# 14051019), Property of Dominion Investments, Inc., along the south side of North Fairfax Drive, recorded in Deed Book 1546, Page 219 and Page 542, all as shown on Exhibit A attached hereto, are vacated, subject to the following conditions:

1. The Applicant/Property Owner shall have completed all requirements of Condition #76 of Site Plan #331, which shall constitute the consideration to be paid by the Applicant/Property Owner to the County for the real estate interests vacated by this Ordinance.
2. The Applicant/Property Owner shall grant and convey to Washington Metropolitan Transit Authority (“WMATA”) for use by the public at-large, for the sum of One Dollar (\$1.00), a permanent underground easement for the pedestrian tunnel (“Tunnel Easement”), which shall be a perpetual, assignable and exclusive subsurface easement and right-of-way in, through and under a portion of the property of JBG/Fairfax Drive, L.L.C., which property is more further described as RPC# 14051019, to construct, operate, maintain, repair, replace and remove a pedestrian tunnel and appurtenant facilities serving the Ballston-MU Metrorail Station, and all related facilities, which tunnel and facilities, will be located underground, within the easement for street purposes vacated pursuant to this Ordinance, as shown on a plat entitled “Plat Showing the

Vacation of an Existing 11.5' Easement for Public Street and Utilities Purposes and a Portion of an Easement for Street Purposes on Parcel 'C', Property of Dominion Investments, Inc. and the Vacation of a Portion of North Vermont Street", dated January 6, 2006, attached hereto as Exhibit A. The Tunnel Easement, among other things, shall be: granted by deed, free and clear of all liens and encumbrances; specifically to WMATA or WMATA's designee; and acceptable in substance and in form, in all respects, to WMATA as evidenced by a certification to be obtained by the Applicant/Property Owner from WMATA, and submitted to the County, indicating that such Tunnel Easement is acceptable to, and approved by, WMATA. The final location, width, and dimensions of the Tunnel Easement shall be acceptable to, and approved by WMATA and the County. The Tunnel Easement shall be recorded by the Applicant/Property Owner among the land records of the Clerk of the Circuit Court of Arlington County.

3. The Applicant/Property Owner shall grant and convey to the County, for the sum of One Dollar (\$1.00), a Public Utilities Easement ("Utilities Easement") for public utilities purposes and related facilities, as such facilities now exist or may be installed in the future, in, upon, under, through, and across the entirety of all of the areas vacated pursuant to this Ordinance, as shown on Exhibit A. The Applicant/Property Owner agrees that the Utilities Easement shall be granted by deed, in substance acceptable to the County Manager, or his designee, and in a form acceptable to the County Attorney. The Utilities Easement, among other things, shall be: granted free and clear of all liens and encumbrances; and, transferable by the County. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the Utilities Easement on behalf of the County. The Utilities Easement shall be recorded by the Applicant/Property Owner among the land records of the Clerk of the Circuit Court of Arlington County.
4. The Applicant/Property Owner shall grant and convey to the County, for the sum of One Dollar (\$1.00), a public use access easement ("Access Easement") for access to and use, at all times, by the County and the public at-large, over the entirety of all of the areas vacated pursuant to this Ordinance, as shown on Exhibit A. The Applicant/Property Owner agrees that the Deed of Access Easement shall provide, among other things, that the County shall have the right to use and control the vacated Parcels 1 and 2 of North Vermont Street, including, but not limited to, regulating vehicular traffic and parking. The Deed of Access Easement shall not obligate or require the County to construct or maintain the street or sidewalks, but shall permit public use of the Access Easement areas for street, sidewalk, pedestrian, vehicular, and related public purposes. The Deed of Access Easement shall further provide, among other things, that the Applicant/Property Owner, its successor(s) in title and interest, and assigns, shall indemnify and hold harmless the County Board, its elected and appointed officials, employees and agents from all liability, claims, damages, costs and expenses, of whatever nature, concerning or arising out of the construction, and maintenance of the Access Easement by the Applicant/Property Owner and use thereof by the County, the public at-large, and the Applicant/Property Owner. The Access Easement shall be granted free and clear of all liens and encumbrances, and be transferable by the County. The Access Easement shall

be granted by deed, in substance acceptable to the County Manager, or his designee, and in a form acceptable to the County Attorney. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the Deed of Access Easement on behalf of the County. The Deed of Access Easement shall be recorded by the Applicant/Property Owner among the land records of the Clerk of the Circuit Court of Arlington County.

5. The Applicant/Property Owner shall record all plats, the Deed(s) of Vacation, and all deeds of easement required by this Condition.
6. The Applicant/Property Owner shall pay all fees, including the fees for review, approval, and recording of the required documents associated with the Ordinance of Vacation.
7. All conditions of the Ordinance of Vacation shall be met by noon on April 19, 2011, or the Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

ATTACHMENT 2

ORDINANCE TO AMEND AND REENACT AN ORDINANCE TO VACATE A PORTION OF AN EASEMENT FOR STREET PURPOSES ON PARCEL “C” (RPC# 14051019), PROPERTY OF DOMINION INVESTMENTS, INC., ALONG THE SOUTH SIDE OF NORTH FAIRFAX DRIVE, WITH CONDITIONS:

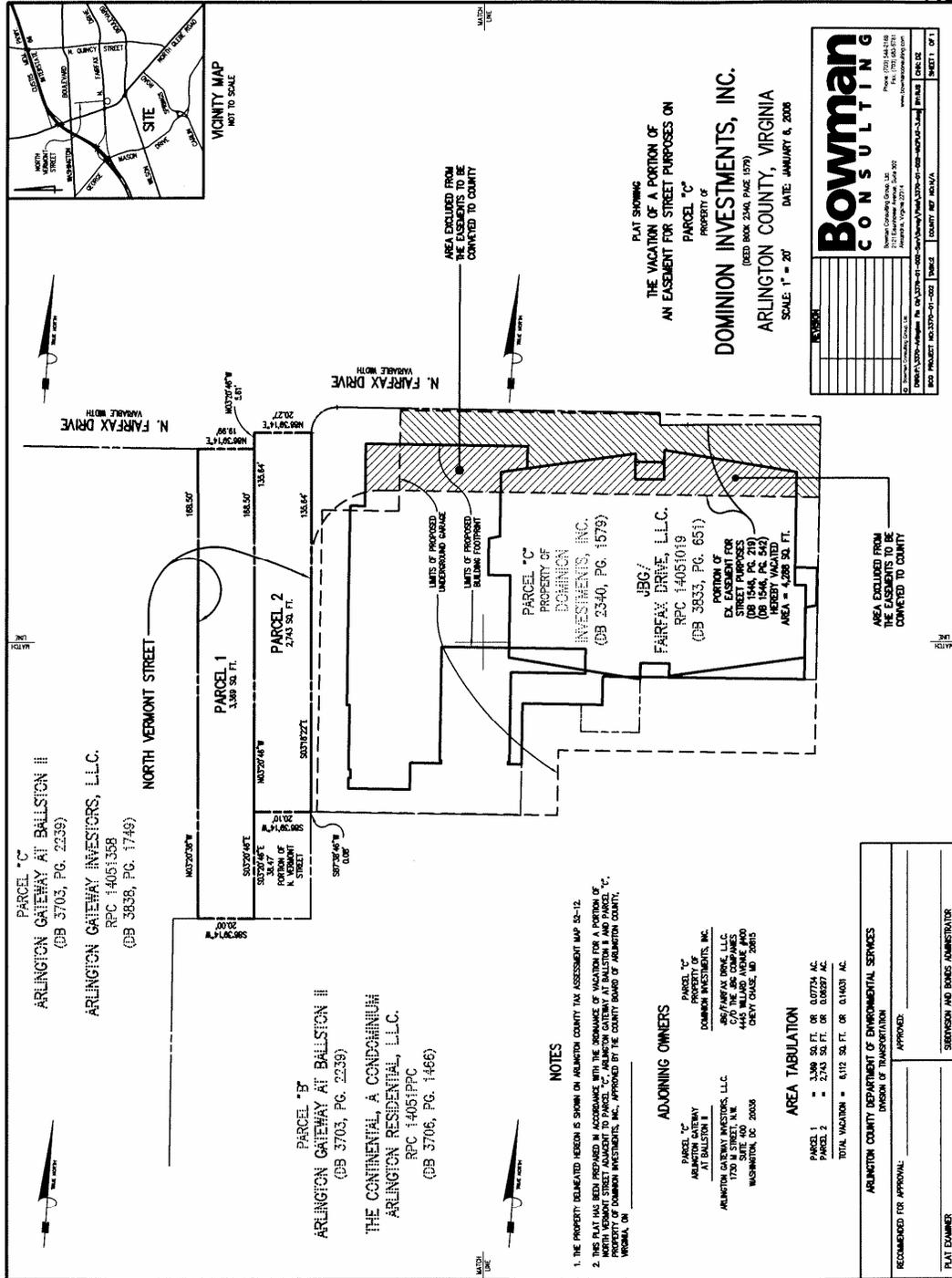
BE IT ORDAINED that, pursuant to a request by Arlington Office, L.L.C. (the “Applicant”) on file in the offices of the Department of Environmental Services, a portion of the Easement for Street Purposes on Parcel “C” (RPC# 14051019), Property of Dominion Investments, Inc., along the south side of North Fairfax Drive, recorded in Deed Book 1546, Page 219 and Page 542, as shown on Exhibit A attached hereto, is vacated, subject to the following conditions:

1. The Applicant/Property Owner shall grant and convey to the County, for the sum of One Dollar (\$1.00), a Public Utilities Easement (“Utilities Easement”) for public utilities purposes and related facilities, as such facilities now exist or may be installed in the future, in, upon, under, through, and across the entirety of all of the areas vacated pursuant to this Ordinance, as shown on a plat entitled “Plat Showing the Vacation of a Portion of an Easement for Street Purposes on Parcel ‘C’, Property of Dominion Investments, Inc. and the Vacation of a Portion of North Vermont Street”, dated January 6, 2006, attached hereto as Exhibit A, except the areas labeled “Area Excluded from the Easements to be Conveyed to the County”. The Applicant/Property Owner agrees that the Utilities Easement shall be granted by deed, in substance acceptable to the County Manager, or his designee, and in a form acceptable to the County Attorney. The Utilities Easement, among other things, shall be: granted free and clear of all liens and encumbrances; and, transferable by the County. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the Utilities Easement on behalf of the County. The Utilities Easement shall be recorded by the Applicant/Property Owner among the land records of the Clerk of the Circuit Court of Arlington County.
2. The Applicant/Property Owner shall grant and convey to the County, for the sum of One Dollar (\$1.00), a public use access easement (“Access Easement”) for access to and use, at all times, by the County and the public at-large, over the entirety of all of the areas vacated pursuant to this Ordinance, as shown on Exhibit A, except the areas labeled “Area Excluded from the Easements to be Conveyed to the County”. The Applicant/Property Owner agrees that the Deed of Access Easement shall provide, among other things, that the County shall have the right to use and control the vacated Parcels 1 and 2 of North Vermont Street, including, but not limited to, regulating vehicular traffic and parking. The Deed of Access Easement shall not obligate or require the County to construct or maintain the street or sidewalks, but shall permit public use of the Access Easement areas for street, sidewalk, pedestrian, vehicular, and related public purposes. The Deed of Access Easement shall further provide, among other things, that the Applicant/Property Owner, its successor(s) in title and interest, and assigns, shall indemnify and hold harmless the County Board, its elected and appointed officials,

3. The Applicant/Property Owner shall pay to the County compensation in the amount of \$566,730 for the vacated easement for street purposes.
4. The Applicant/Property Owner shall pay all compensation, record all plats, the Deed(s) of Vacation, and all deeds of easement required by this Condition.
5. The Applicant/Property Owner shall pay all fees, including the fees for review, approval, and recording of the required documents associated with the Ordinance of Vacation.
6. All conditions of the Ordinance of Vacation shall be met by noon on April 19, 2011, or the Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

EXHIBIT A-

To Ordinance at Attachment 2



PARCEL "C"
ARLINGTON GATEWAY AT BALLSTON II
(DB 3703, PG. 2239)

ARLINGTON GATEWAY INVESTORS, L.L.C.
RPC 14051398
(DB 3838, PG. 1746)

PARCEL "B"
ARLINGTON GATEWAY AT BALLSTON II
(DB 3703, PG. 2239)

THE CONTINENTAL A CONDOMINIUM
ARLINGTON RESIDENTIAL, L.L.C.
RPC 1405177C
(DB 3706, PG. 1466)

NOTES

1. THE PROPERTY DELINEATED HEREON IS SHOWN ON ARLINGTON COUNTY TAX ASSESSMENT MAP 59-12.
2. THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS FOR A PORTION OF NORTH VERMONT STREET ADJACENT TO PARCELS "C", "ARLINGTON GATEWAY AT BALLSTON II" AND PARCEL "D", PROPERTY OF DOMINION INVESTMENTS, INC., APPROVED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, ON _____.

ADJOINING OWNERS

PARCEL "C"
ARLINGTON GATEWAY AT BALLSTON II
PROPERTY OF
DOMINION INVESTMENTS, INC.

PARCEL "D"
ARLINGTON GATEWAY INVESTORS, L.L.C.
1730 N STREET, N.W.
WASHINGTON, DC 20036

AREA TABULATION

PARCEL 1 = 3,380 SQ. FT. OR 0.0771 AC.
PARCEL 2 = 2,749 SQ. FT. OR 0.0627 AC.
TOTAL VACATION = 6,129 SQ. FT. OR 0.1403 AC.

ARLINGTON COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF TRANSPORTATION

RECOMMENDED FOR APPROVAL: _____

APPROVED: _____

PLAT EXAMINER: _____

SEMPERSON AND BURNS, ADMINISTRATOR

PLAT SHOWING
THE VACATION OF A PORTION OF
AN EASEMENT FOR STREET PURPOSES ON
PARCEL "C"
PROPERTY OF
DOMINION INVESTMENTS, INC.
(DEED BOOK 2340, PAGE 1579)
ARLINGTON COUNTY, VIRGINIA
SCALE: 1" = 20' DATE: JANUARY 6, 2008

Bowman CONSULTING

1217 Eastwood Avenue, Suite 202
Arlington, Virginia 22204
Phone: (703) 442-2100
Fax: (703) 442-2101
www.bowmanconsulting.com

PROJECT: 003-12345-01-10000 | SHEET: COUNTY 007 001A | SHEET 01 OF 1

EXHIBIT C to Board Report

