



ARLINGTON COUNTY, VIRGINIA

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

DATE: April 1, 2008

SUBJECT: Enactment of an Ordinance to Permit the Encroachment of a Portion of a Below Grade Electrical Vault into the County Right-of-Way of N. Moore Street, abutting the western boundary of the parcel known as 1213 Wilson Boulevard, Rosslyn (RPC No. 16038001), with Conditions; and Enactment of an Ordinance to Permit the Encroachment of: a) Below Grade Parking Garage and Mechanical Room Structure; and b) an Above Grade Parking Structure, both into the County Right-of-Way of N. Lynn Street; both abutting the eastern boundary of the parcel known as 1213 Wilson Boulevard, Rosslyn (RPC No. 16038001), with Conditions.

Applicant: Central Place, L.L.C.

Owner: JGB/1213 Wilson, Inc. (successor by name change to Sarris Restaurants, Inc.)

By: John G. Milliken

Erika Byrd

8010 Towers Crescent Drive, Suite 300

Vienna, VA 22182-2707

C. M. RECOMMENDATIONS:

1. Enact the attached Ordinance to Permit the Encroachment of a Portion of a Below Grade Electrical Vault into the County Right-of-Way of N. Moore Street, abutting the western boundary of the parcel known as 1213 Wilson Boulevard, Rosslyn (RPC No. 16038001), with Conditions (“Attachment 1”).

2. Enact the attached Ordinance to Permit the Encroachment of: a) Below Grade Parking Garage and Mechanical Room Structure; and b) an Above Grade Parking Structure, both into the County Right-of-Way of N. Lynn Street; both abutting the eastern boundary of the parcel known as 1213 Wilson Boulevard, Rosslyn (RPC #16038001), with Conditions (“Attachment 2”).

ISSUE: These requests for encroachments into the County right-of-way are to facilitate development of the property under amended Site Plan #335, approved by the County Board on May 5, 2007, and are required by the conditions of the approved Site Plan.

County Manager: _____

County Attorney: _____

Staff: Linda Collier/Betsy Herbst, DES, Real Estate Bureau

SUMMARY: Central Place, L.L.C. (“Applicant”) has requested the County Board to enact Ordinances to permit three encroachments into the County right-of-way for construction of a below grade electrical vault encroachment, a below grade parking garage and mechanical room structure, and an above grade parking structure, in conjunction with the development of a commercial office building approved by the County Board as part of Site Plan #335 on May 5, 2007 (“Site Plan”), as required by the approved Site Plan conditions. If enacted, the requested Encroachment Ordinances would permit the encroachments to continue in effect until the below grade electrical vault encroachment, the below grade parking garage and mechanical room structure, and the above grade parking structure encroaching into the right-of-way are destroyed, removed, no longer in use or not continuously and promptly maintained by the Applicant. The proposed encroachments are consistent with the approved Site Plan.

BACKGROUND: The Central Place development, located on the western side of the Site Plan in the block bounded by Wilson Boulevard to the south, N. Moore Street to the west, 19th Street to the North and North Lynn Street to the east, consists of a residential building and a commercial office building, both with ground floor retail space, and a plaza area located between the two buildings. The subject encroachments are all adjacent to the property boundary lines of RPC No. 16038001, two in the County right-of-way of N. Lynn Street and one in the County right-of-way of N. Moore Street. The site is currently the location of the former Orleans’ House Restaurant. (See Exhibit C, Vicinity Map.)

Condition Numbers 1, 14 and 90 of the Site Plan require that the Applicant obtain the Encroachment Ordinances before the issuance of certain permits. Condition No. 14 also allows the Applicant to phase its requests for encroachments related to each phase of development subject to certain conditions. The Applicant currently is proceeding with development of the commercial office building, which is located at the southern end of the block, and the plaza, which is located just north of the commercial office property. The Applicant must obtain Encroachment Ordinances for the three encroachments before it can construct the commercial office building in accordance with the Site Plan. As set forth in a separate Board Report, the Applicant also is seeking six vacation ordinances necessary to construct the commercial office building and the plaza. The Applicant must also obtain approval of additional ordinances of vacation and encroachment before it can construct the residential building.

Sarris Restaurants, Inc. acquired the property by Deed with special warranty of title dated February 6, 1985, and recorded February 8, 1985, in Deed Book 2167, Page 373, among the Arlington County Land Records (“Land Records”). On June 15, 2007, by consent of the directors and shareholders of Sarris Restaurants, Inc., the name of the corporation was changed to JBG/1213 Wilson Inc.

DISCUSSION: In conjunction with the plans for redevelopment of the property, the Applicant has requested Encroachment Ordinances to permit the construction of: a) a portion of a below grade electrical vault within and under the County right-of-way of N. Moore Street; b) a privately owned and maintained below grade parking garage and mechanical room structure, within and under the County right-of-way of N. Lynn Street; and c) a privately owned above grade parking structure, within and above the County right-of-way of N. Lynn Street, all of

which are adjacent to 1213 Wilson Boulevard, Lot C, Rosslyn, RPC No. 16038001. The proposed encroachment of the portion of the below grade electrical vault begins .40' below surface grade and continues for an additional depth of 16.33', consisting of approximately 96 square feet. The proposed encroachment of the below grade parking garage and mechanical room structure begins .39' below surface grade and continues for an additional depth of 33.50 feet (33.50') below surface grade, consisting of approximately 300 square feet. The proposed encroachment of the above grade parking runs for 43.25 feet (43.25'), extending four floors between approximately the fourth and eighth floors, consisting of approximately 164 square feet. The proposed encroachments are more specifically shown as Encroachment Area-1, Encroachment Area-2 and Encroachment Area-3 on the plats entitled, "Plat Showing Encroachment Areas in the Right-of-Way of North Moore Street and the Right-of-Way of North Lynn Street Adjacent to the Property Now in the Name of Sarris Restaurants Inc., Deed Book 2167, Page 373, Arlington County, Virginia", prepared by Bowman Consulting Group, Ltd., dated February 8, 2008, and revised March 6, 2008 (Sheet 1) and March 11, 2008 (Sheet 2), attached hereto as Exhibits A-1 and A-2 and Exhibits B-1 and B-2 ("Plats").

Legal and Physical Description: The County right-of-way for public streets on N. Moore Street was established by Deed recorded in Deed Book 348, Page 285, among the Land Records. The County right-of-way for N. Lynn Street was established by Deed of condemnation dated May 3, 1946, recorded in Deed Book 713, Page 138, among the Land Records.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the March 28, 2008 and April 4, 2008 issues of the Washington Times for the April 19, 2008 County Board Meeting.

Compensation: Site Plan Condition No. 90 requires that compensation be paid by the developer for any encroachment into County property rights, and that the compensation be determined by an appraisal by an independent, state certified, general real estate appraiser, and not be reduced by, or treated as an offset to, any community benefits that are contributed by the developer by any Site Plan condition.

In keeping with the County's current practice of not requiring compensation to be paid to the County for electric vault encroachments, if the below grade electrical vault encroachment is approved, then there would be no compensation required for the aforementioned encroachment into and under the right-of-way of N. Moore Street.

Based upon an appraisal prepared by Robert Jones dated September 17, 2007, the Applicant has agreed with staff recommendation to compensate the County Board in the amount of \$8,580.00 for the encroachment of the below grade parking garage and mechanical room structure, and \$4,680.00 for the encroachment of the above grade parking structure, totaling \$13,260.00 for both encroachments, all required for the construction of Site Plan #335.

FISCAL IMPACT: The total compensation of \$13,260.00 for the encroachments of the below grade parking garage and mechanical room structure, and the above grade parking structure will be deposited in the County's General Fund. There is no fiscal impact for the encroachment of the electrical vault.

CONCLUSION: It is recommended that the County Board enact the attached Encroachment Ordinances in Attachments 1 and 2.

ATTACHMENT 1

ORDINANCE TO PERMIT THE ENCROACHMENT OF A PORTION OF A BELOW GRADE ELECTRICAL VAULT INTO THE COUNTY RIGHT-OF-WAY OF N. MOORE STREET, ABUTTING THE WESTERN BOUNDARY OF THE PARCEL KNOWN AS 1213 WILSON BOULEVARD, ROSSLYN (RPC NO. 16038001), WITH CONDITIONS:

BE IT ORDAINED by the County Board of Arlington County, Virginia, that the Applicant, Central Place, L.L.C. ("Applicant"), as developer of the project known as Central Place, Site Plan #335, and JGB/1213 Wilson, Inc., successor by name change to Sarris Restaurants, Inc. ("Owner"), are hereby permitted to construct a portion of a below grade electrical vault into the County right-of-way of N. Moore Street, abutting the western boundary of the parcel known as 1213 Wilson Boulevard, Rosslyn, RPC No. 16038001. The dimensions (length, width and depth elevations) and spatial location of the permitted encroachment are depicted in Exhibit A-1 and Exhibit A-2 attached to the County Manager's April 1, 2008 Report, entitled "Plat Showing Encroachment Areas in the Right-of-Way of North Moore Street and in the Right-of-Way of North Lynn Street Adjacent to the Property now in the name of Sarris Restaurants Inc., Deed Book 2167, Page 373, Arlington County, Virginia", prepared by Bowman Consulting Group, Ltd., dated February 8, 2008, and revised on March 6, 2008 (Sheet 1) and March 11, 2008 (Sheet 2) ("Plats"). Such below grade electrical vault, and all equipment and facilities therein, are only permitted to serve the building authorized by Site Plan #335, approved by the County Board on May 5, 2007, and any approved amendments thereto. The dimensions, the elevations, the depth below grade, the spatial 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 under grade electrical 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 below grade electrical 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 below grade electrical 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, repair or removal of the underground electrical vault, in accordance with Site Plan #335 and all applicable County standards.

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 below grade electrical 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, repair and removal of the below grade electrical vault, and the permission for the below grade electrical vault to encroach within the public right-of-way permitted by this Ordinance.

BE IT FURTHER ORDAINED that on or before May 5, 2010, the Applicant, at its sole expense, shall cause a certified copy of this Ordinance and the Plat, 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-1 ENCROACHMENT PLAT - Page 1

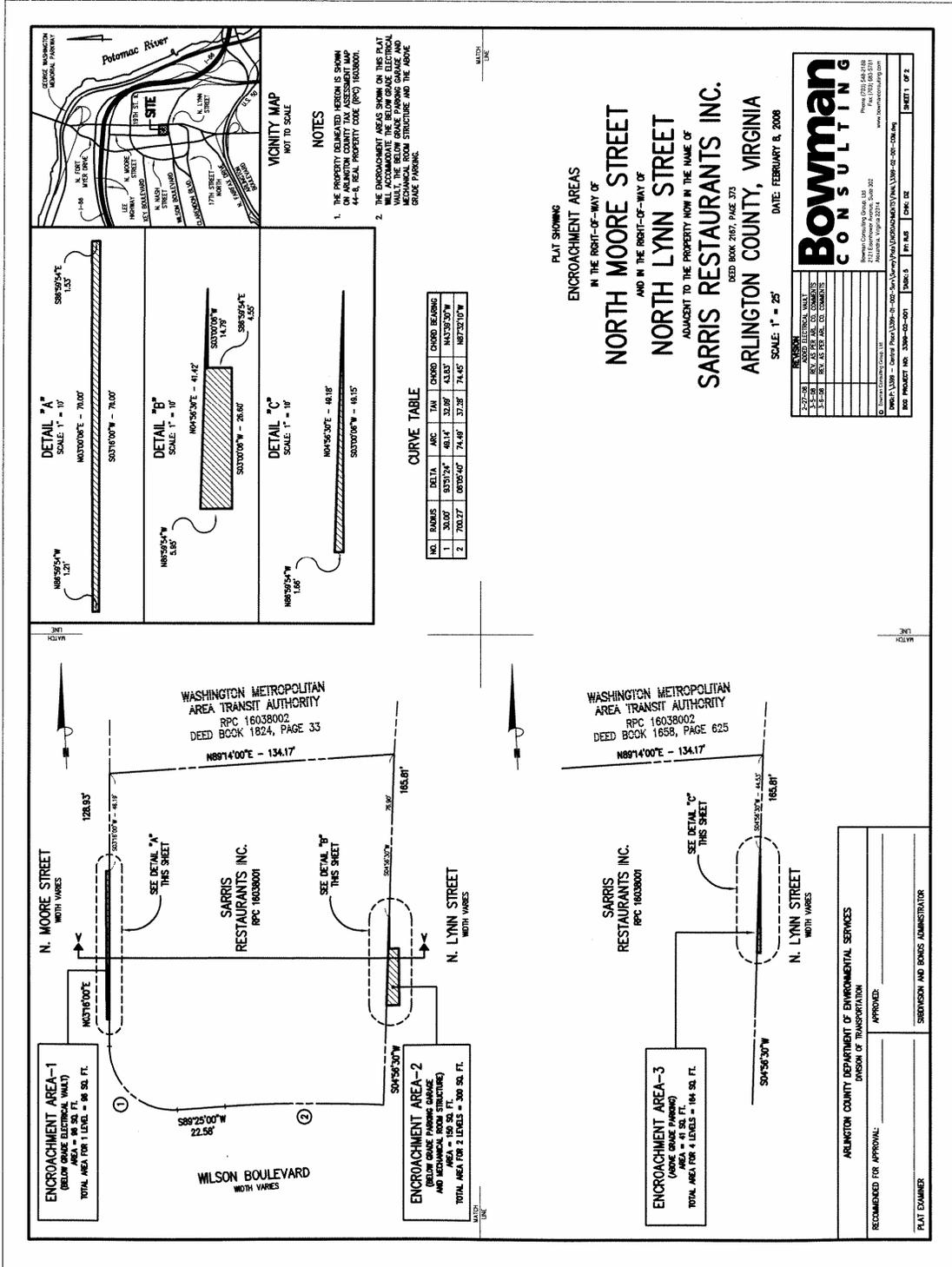


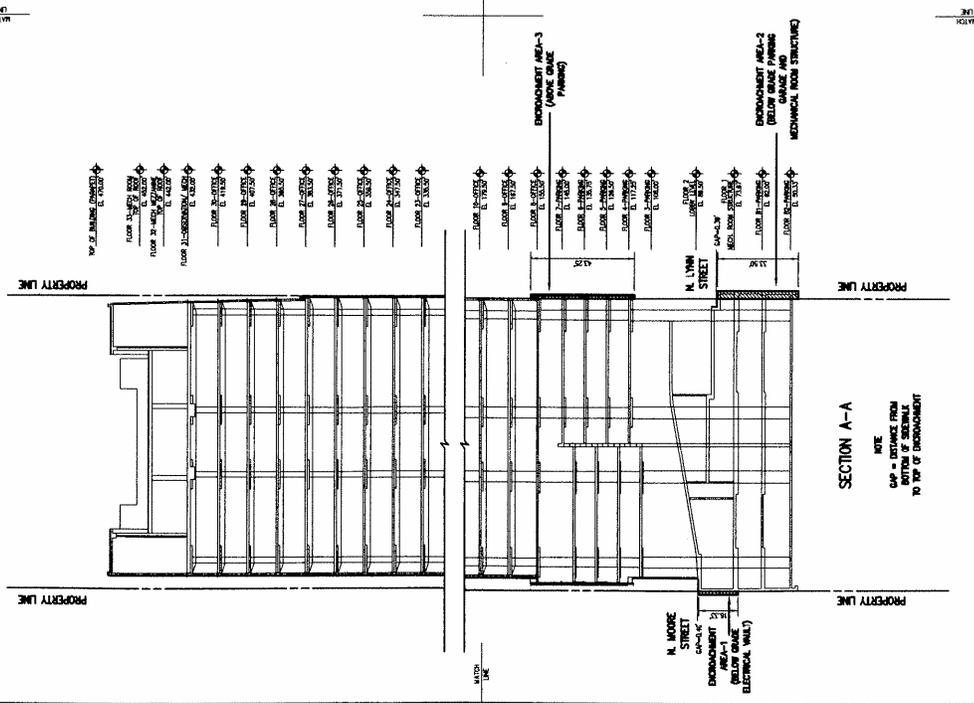
EXHIBIT A-2 ENCROACHMENT PLAT - Page 2

ENCROACHMENT TABLE

NO.	ENCROACHMENT	TOTAL AREA		ADJACENT TO
		sq. ft.	sq. ft.	
1	BELOW GRADE ELECTRICAL WALL	94	94	IPC HIGHRISE
2	BELOW GRADE PARKING STRUCTURE	300	300	IPC HIGHRISE
3	MECHANICAL ROOM STRUCTURE	41	164	IPC HIGHRISE

PLAT SHOWING
 ENCROACHMENT AREAS
 IN THE RIGHT-OF-WAY OF
NORTH MOORE STREET
 AND IN THE RIGHT-OF-WAY OF
NORTH LYNN STREET
 ADJACENT TO THE PROPERTY NOW IN THE NAME OF
SARRIS RESTAURANTS INC.
 DEED BOOK 267, PAGE 373
 ARLINGTON COUNTY, VIRGINIA
 SCALE: 1" = 25'
 DATE: FEBRUARY 8, 2008

Bowman CONSULTING	
10000 WOODBRIDGE DRIVE, SUITE 100 FALLS CHURCH, VA 22044 PHONE: 703.642.7100 FAX: 703.642.7101 WWW.BOWMANCONSULTING.COM	
PROJECT NO. 2008-02-001 SHEET NO. 2 OF 2	DATE: FEBRUARY 8, 2008 DRAWN BY: [Name] CHECKED BY: [Name]



ATTACHMENT 2

ORDINANCE TO PERMIT AN ENCROACHMENT OF: A) BELOW GRADE PARKING GARAGE AND MECHANICAL ROOM STRUCTURE; AND B) AN ABOVE GRADE PARKING STRUCTURE, BOTH INTO THE COUNTY RIGHT-OF-WAY OF N. LYNN STREET; BOTH ABUTTING THE EASTERN BOUNDARY OF THE PARCEL KNOWN AS 1213 WILSON BOULEVARD, ROSSLYN (RPC NO. 16038001), WITH CONDITIONS:

BE IT ORDAINED by the County Board of Arlington County, Virginia, that the Applicant, Central Place, L.L.C. ("Applicant"), as developer of the project known as Central Place, Site Plan #335, and JGB/1213 Wilson, Inc., successor by name change to Sarris Restaurants, Inc. ("Owner"), are hereby permitted to construct: A) a below grade parking garage and mechanical room structure; and B) an above grade parking structure into the County right-of-way of N. Lynn Street, both abutting the eastern boundary of the parcel known as 1213 Wilson Boulevard, Rosslyn, RPC No. 16038001. The dimensions (length, width and depth elevations) and spatial location of the permitted encroachments are depicted in Exhibit B-1 and Exhibit B-2 attached to the County Manager's April 1, 2008 Report, entitled "Plat Showing Encroachment Areas in the Right-of-Way of North Moore Street and in the Right-of-Way of North Lynn Street Adjacent to the Property now in the name of Sarris Restaurants Inc., Deed Book 2167, Page 373, Arlington County, Virginia", prepared by Bowman Consulting Group, Ltd., dated February 8, 2008, and revised March 6, 2008 (Sheet 1) and March 11, 2008 (Sheet 2) ("Plats"). Such below grade parking garage and mechanical room structure, and above grade parking structure, and all equipment and facilities therein, are only permitted to serve the building authorized by Site Plan #335, approved by the County Board on May 5, 2007, and any approved amendments thereto. The dimensions, the elevations, the depth below grade, the spatial location, the characteristics of the permitted below grade parking garage and mechanical room structure, and the above grade parking structure, 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 below grade parking garage and mechanical room structure, and above grade parking structure, encroaching within the public right-of-way 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 of any above or below ground structure, other than the below grade parking and mechanical room structure, and the above grade parking structure, within the area as shown on the Plats; or to allow any greater encroachment beyond the dimensions and spatial areas shown on the Plats.

BE IT FURTHER ORDAINED that the Applicant, its successors and assigns, shall continuously and promptly maintain the below grade parking garage and mechanical room structure, and the above grade parking structure, 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, repair or removal of the below grade parking garage and mechanical room structure, and the above grade parking structure, in accordance with Site Plan #335 and all applicable County standards.

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 below grade parking garage and mechanical room structure, and the above grade parking structure, 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 below grade parking garage and mechanical room structure, and the above grade parking structure, and the permission for such encroachments, to encroach within the public right-of-way permitted by this Ordinance.

BE IT FURTHER ORDAINED that no portion of the below grade parking garage and mechanical room structure or the above grade parking structure permitted by this Ordinance to encroach within the public right-of-way shall be constructed until the Applicant has paid to the County the sum of \$13,260.00 as compensation for the encroachments.

BE IT FURTHER ORDAINED that on or before May 5, 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 B-1 ENCROACHMENT PLAT - Page 1

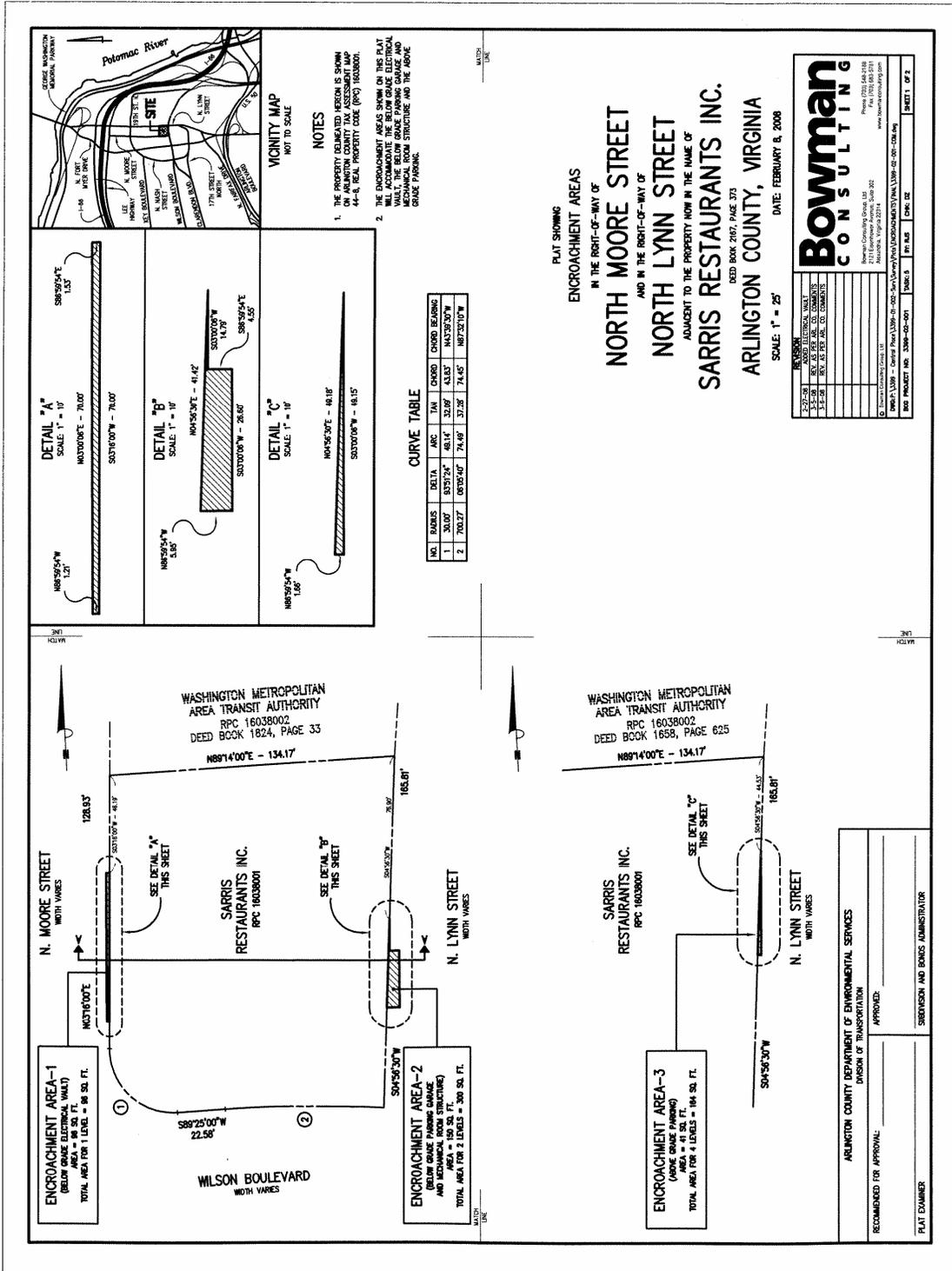


EXHIBIT C

Vicinity Map

1213 Wilson Boulevard



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 © 2008 Arlington County, VA
Printed: March 2008

