



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of June 17, 2008**

DATE: May 27, 2008

SUBJECT: Enactment of an Ordinance to Vacate: 1) a 10' Water Main Easement on Parcel 12, Remainder from Subdivision of Parcels 14 and 15, Potomac Yard, running from South Clark Street to Old Jefferson Davis Highway, parallel to 6th Street South, then running southwest along the southern boundary of Old Jefferson Davis Highway; and 2) a 15' Sanitary Sewer and Force Main Easement on Parcel 12, Remainder from Subdivision of Parcels 14 and 15, Potomac Yard, running northwest from South Clark Street to Old Jefferson Davis Highway; both easements located in Arlington County, Virginia (RPC No. 34024345), with Conditions.

Applicant: MR Boundary Channel, LLC/Monument Realty, LLC

Owner: County Board of Arlington, Virginia

By: Martin D. Walsh

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

C. M. RECOMMENDATION:

A. Enact the attached Ordinance (Attachment 1) to Vacate: 1) a 10' Water Main Easement on Parcel 12, Remainder from Subdivision of Parcels 14 and 15, Potomac Yard, running from South Clark Street to Old Jefferson Davis Highway, parallel to 6th Street South, then running southwest along the southern boundary of Old Jefferson Davis Highway; and 2) a 15' Sanitary Sewer and Force Main Easement on Parcel 12, Remainder from Subdivision of Parcels 14 and 15, Potomac Yard, running northwest from South Clark Street to Old Jefferson Davis Highway; both easements located in Arlington County, Virginia (RPC No. 34024345), with conditions.

B. 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, and accept on behalf of the County Board, easement(s) required by the Ordinance to be dedicated or conveyed to the County Board, subject to approval of such easement(s) as to form by the County Attorney.

County Manager: _____

County Attorney: _____

Staff: Betsy Herbst, DES, Real Estate Bureau

ISSUE: This is a request for the vacation of: 1) a 10' water main easement and 2) a 15' sanitary sewer and force main easement to facilitate development of the property under proposed Site Plan #400. There are no issues identified in this request.

SUMMARY: MR Boundary Channel, LLC/Monument Realty, LLC (jointly the "Applicant" or "Monument") have requested the County Board to enact an Ordinance to vacate a ten foot (10') water main easement, and a fifteen foot (15') sanitary sewer and force main easement, on County Board property bounded by Old Jefferson Davis Highway, 6th Street South, South Clark Street and 10th Street South. The property will be acquired by Monument as part of an exchange agreement entered into with the County in July 2007. The vacation request, if approved, would permit the redevelopment by the Applicant of the property as proposed in Site Plan #400. Upon enactment of the Ordinance, conveyance of the property to Applicant, satisfaction by the Applicant of the applicable conditions, and recordation by the Applicant of the Deed of Vacation before the expiration of the Ordinance, the County's interest in the vacated 1) water main easement and 2) sanitary sewer and force main easement will be extinguished.

BACKGROUND: The subject site is located on the block bounded by Old Jefferson Davis Highway, 6th Street South, South Clark Street and 10th Street South (see Attachment 2, Vicinity Map). The County acquired the property by Special Warranty Deed dated October 31, 2002, and recorded in Deed Book 3400, Page 734, among the Arlington County land records. On July 7, 2007, the County Board approved an exchange agreement between the County Board and MR Boundary Channel, LLC ("Exchange Agreement"), by which the Applicant would acquire 4.7 acres of County Board owned property bounded by Old Jefferson Davis Highway, 6th Street South, South Ball Street and 10th Street South (the "Exchanged Property"). Under the terms of the Exchange Agreement, if the Site Plan is approved, the Applicant would acquire the Exchanged Property, including the area upon which the requested vacated water main easement and sanitary sewer and force main easement are located, in exchange for conveyance of the 7.09 acre Twin Bridges site that the County would acquire to facilitate the development of the future Long Bridge Park.

The obligations of the County and Monument under the Exchange Agreement are conditioned on approval of Site Plan #400 submitted by Monument on the Exchanged Property, which is the subject of a separate Board Report. In conjunction with its plans to redevelop the Exchanged Property, the Applicant has submitted an application for a GLUP amendment, a rezoning request and approval of a 4.1 Site Plan concurrently with this vacation application.

The Applicant has submitted a revised 4.1 Site Plan consisting of a proposal to construct approximately 352 residential units, 3,512 square feet of retail space and 323,229 square feet of office space, along with modifications of use regulations for exclusion of density for recycling storage, unit mechanical closets, parking and loading docks.

By agreement with the Applicant, the Site Plan and associated vacations were deferred from the May 17, 2008 County Board meeting to the June 17, 2008 County Board meeting.

DISCUSSION: In conjunction with the plans for redevelopment of the Exchanged Property, the Applicant has requested the County Board to vacate 1) a 10' Water Main Easement on Parcel 12, running from South Clark Street to Old Jefferson Davis Highway, parallel to 6th Street South, then running along the boundary of Old Jefferson Davis Highway; and 2) a 15' Sanitary Sewer and Force Main Easement, running from South Clark Street to Old Jefferson Davis Highway, both easements of which are located on property presently owned by the County Board and known as RPC No. 34024345, as designated on a Plat entitled "Plat Showing the Vacation of a 10' Water Main Easement and a 15' Sanitary Sewer and Force Main Easement, Deed Book 1936 Page 1, on Part of the Property of the County Board of Arlington, Virginia, Deed Book 3400 Page 734, and the Vacation of a Portion of South Clark Street, Deed Book 1317 Page 388, Arlington County, Virginia", prepared by VIKI Incorporated, dated May 1, 2006, attached hereto as Exhibit A ("Vacation Plat"). Under the Site Plan, the Applicant proposes to dedicate new utility easements to serve the proposed improvements. Also, as a condition of the vacation, the Applicant must dedicate new water main, sanitary sewer and force main easements. The Applicant must pay all costs and fees associated with removal of the existing water main, sanitary sewer and force main, and relocation of the new utilities.

Legal and Physical Description: The Easement was created by Agreement dated December 1, 1975, and recorded in Deed Book 1936, Page 1, 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 May 20, 2008 and May 27, 2008 issues of the Washington Times for the June 17, 2008 County Board Meeting.

Compensation: In keeping with current practice, staff recommends that no compensation be required from the Applicant for vacating the water main easement and the sanitary sewer and force main easement located on the County's property, which easements will be vacated for redevelopment and replaced with new easements dedicated to serve the proposed new improvements, as provided in Site Plan #400.

FISCAL IMPACT: None.

CONCLUSION: It is recommended that the County Board enact the attached Ordinance of Vacation as set forth in Attachment 1 hereto.

ATTACHMENT 1

ORDINANCE TO VACATE: 1) A 10' WATER MAIN EASEMENT ON PARCEL 12, REMAINDER FROM SUBDIVISION OF PARCELS 14 AND 15, POTOMAC YARD, RUNNING FROM SOUTH CLARK STREET TO OLD JEFFERSON DAVIS HIGHWAY, PARALLEL TO 6th STREET SOUTH, THEN RUNNING SOUTHWEST ALONG THE SOUTHERN BOUNDARY OF OLD JEFFERSON DAVIS HIGHWAY; AND 2) A 15' SANITARY SEWER AND FORCE MAIN EASEMENT ON PARCEL 12, REMAINDER FROM SUBDIVISION OF PARCELS 14 AND 15, POTOMAC YARD, RUNNING NORTHWEST FROM SOUTH CLARK STREET TO OLD JEFFERSON DAVIS HIGHWAY; BOTH EASEMENTS LOCATED IN ARLINGTON COUNTY, VIRGINIA (RPC NO. 34024345), WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by MR Boundary Channel, LLC/Monument Realty, LLC (jointly the "Applicant") in the Office of the Department of Environmental Services, 1) a 10' Water Main Easement on Parcel 12, Remainder from Subdivision of Parcels 14 and 15, Potomac Yard, running from South Clark Street to Old Jefferson Davis Highway, parallel to 6th Street South, then running southwest along the southern boundary of Old Jefferson Davis Highway; and 2) a 15' Sanitary Sewer and Force Main Easement on Parcel 12, Remainder from Subdivision of Parcels 14 and 15, Potomac Yard, running northwest from South Clark Street to Old Jefferson Davis Highway, established by Agreement dated December 1, 1975 and recorded in Deed Book 1936, Page 1, among the land records of Arlington County, Virginia, which easement is shown on a plat dated May 1, 2006, prepared by VIKA Incorporated, entitled "Plat Showing the Vacation of a 10' Water Main Easement and a 15' Sanitary Sewer and Force Main Easement, Deed Book 1936 Page 1, on Part of the Property of the County Board of Arlington, Virginia, Deed Book 3400 Page 734, and the Vacation of a Portion of South Clark Street, Deed Book 1317 Page 388, Arlington County, Virginia", attached to the County Manager's Report dated May 27, 2008, as Exhibit A, is hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall, at its own cost and expense, remove, relocate and reconstruct the existing water main, and sanitary sewer and force main, located within the easements herein vacated, with new water main, sanitary sewer and force main and related appurtenant facilities of size, dimension and location acceptable to Arlington County ("County"), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
2. The Applicant/Property Owner shall dedicate, grant and convey to the County new water main, sanitary sewer and force main easements, at locations and of dimensions necessary to accommodate the relocated facilities as required by the County and as provided in Site Plan # 400, approved by the County Board concurrently with this Ordinance. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the water main, sanitary sewer and force main easements on behalf of the County, subject to approval thereof as to form by the County Attorney.
3. The Applicant/Property Owner shall submit, for review and approval, to the Department of Environmental Services ("DES"), a utility relocation and engineering design plan for the construction, relocation, removal, and/or replacement of the water main, and the

sanitary sewer and force main located, in whole or in part, within the easements vacated by this Ordinance of Vacation (“Plan”) in compliance with the Arlington County Construction Standards and Specifications. The Plan shall be subject to approval by the Director of DES, or his designee.

4. The Applicant/Property Owner shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or his designee, to secure the construction, relocation, removal, and/or replacement of the water main, sanitary sewer and force main pursuant to the approved Plan.
5. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deeds of easement, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.
6. The Applicant/Property Owner shall record all plats, Deed(s) of Vacation, and all required deed(s) of easement required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
7. The Applicant/Property Owner shall pay all fees, including the fees for review, approval and recordation of the required documents associated with the Ordinance of Vacation.
8. All conditions of this Ordinance of Vacation shall be met by noon on June 17, 2011, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

ATTACHMENT 2

Vicinity Map

Monument View Site - Old Jefferson Davis Hwy
County Board Property

