



ARLINGTON COUNTY, VIRGINIA

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

DATE: July 1, 2008

SUBJECT: Enactment of Four Ordinances to Vacate Portions of Right of Way and Easements Within Parcels Located between N. Quincy Street, N. Randolph Street and Wilson Boulevard, RPC No. 14060013, 14050015, 14060036, 14060056, 14060058, and 14060061 associated with Founder's Square, Site Plan #413, as follows:

1. Enactment of an Ordinance to Vacate a Portion of 5th Road North abutting the western side of N. Quincy Street, abutting RPC #14060058 to the north, RPC #14060056 to the west, a 10' alley to the west, and RPC #14060061 to the south, with Conditions.
2. Enactment of an Ordinance to Vacate a Portion of 5th Place North abutting RPC #14060015 to the north and RPC #14060058 to the south, from its intersection with the western side of N. Quincy Street to its termination at RPC #14060013, with Conditions.
3. Enactment of an Ordinance to Vacate a Portion of an Easement for Public Street and Utilities Purposes on property known as 607 N. Randolph Street, Ballston (RPC #14060013), with Conditions.
4. Enactment of an Ordinance to Vacate a Portion of an Easement for Public Street, Sidewalk and Utilities Purposes, a portion of which is within the North Randolph Street right of way, running north to its intersection with Wilson Boulevard, then running east along Wilson Boulevard, on property described as Parcel A, Rees Property, 4030 Wilson Boulevard (RPC #14060036), with Conditions.

C. M. RECOMMENDATION:

A. Enact the attached Ordinance to Vacate a Portion of 5th Road North abutting the western side of N. Quincy Street, abutting RPC #14060058 to the north, RPC #14060056 to the west, a 10' alley to the west, and RPC #14060061 to the south, with Conditions. (Attachment 1)

B. Enact the attached Ordinance to Vacate a Portion of 5th Place North abutting RPC #14060015 to the north and RPC #14060058 to the south, from its intersection with the

County Manager: _____

County Attorney: _____

Staff: Betsy Herbst, DES, Real Estate Bureau

western side of N. Quincy Street to its termination at RPC #14060013, with Conditions. (Attachment 2)

C. Enact the attached Ordinance to Vacate a Portion of an Easement for Public Street and Utilities Purposes on property known as 607 N. Randolph Street, Ballston (RPC #14060013), with Conditions. (Attachment 3)

D. Enact the attached Ordinance to Vacate a Portion of an Easement for Public Street, Sidewalk and Utilities Purposes, a portion of which is within the North Randolph Street right of way, running north to its intersection with Wilson Boulevard, then running east along Wilson Boulevard, on property described as Parcel A, Rees Property, 4030 Wilson Boulevard (RPC #14060036), with Conditions. (Attachment 4)

E. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, all Deeds of Vacation, and to accept all deeds and easements required by the Ordinances to be dedicated or conveyed to the County Board and to execute other documents necessary to effectuate the Ordinances of Vacation set forth in Attachments 1 through 4 hereto, subject to approval of such documents as to form by the County Attorney.

ISSUE: This is a request for the vacation of portions of 5th Road North and 5th Place North, a portion of an easement for public street and utility purposes, and a portion of an easement for public street, sidewalk and utilities purposes in Ballston, in the block surrounded by North Quincy Street, North Randolph Street and Wilson Boulevard, to facilitate development of the property under proposed Site Plan #413. There are no issues identified in this request.

SUMMARY: The applicant has requested the County Board enact four ordinances of vacation, including vacation of: 1) a portion of 5th Road North, and 2) a portion of 5th Place North, both adjacent to County owned property known as RPC #14060058; 3) a portion of an easement for public street and utilities purposes adjacent to property owned by Ashlawn Hill, LLC located at 607 N. Randolph Street; and 4) a portion of an easement for public street, sidewalk and utility purposes at the intersection of North Randolph Street and Wilson Boulevard, adjacent to property owned by Nehoso Inc. (“Nehoso”). The vacation requests, if approved, would permit the redevelopment by the applicant of the property, including the vacated streets, the vacated easements, and the adjacent and surrounding parcels, as proposed in Site Plan #413 (“Founders Square”). Upon enactment of the ordinances, conveyance of the property to the applicant, satisfaction by the applicant of the applicable conditions, and recordation by the applicant of the Deed of Vacation before the expiration of the ordinances, the County’s interest in the vacated portions of 5th Road North, 5th Place North and the easements will be extinguished.

BACKGROUND: Ashton Park Associates, LLC c/o Shooshan Company, LLC (jointly the “Applicant” or “APA”) has entered into an agreement with Washington Metropolitan Area Transit Authority (“WMATA”) to purchase certain real property located on the subject block and certain unimproved real property adjacent to Mosaic Park known as RPC #s 14060037, 14060016 and 14060042 (“Ashton Property”). The County is the owner of certain unimproved real property within the subject block identified as RPC #s 14060058 and 14060061 (“County

Property”). As part of a proposed agreement between APA and the County (the “Exchange Agreement”), that is the subject of a separate Board report, APA would convey the Ashton Property to the County for future expansion of Mosaic Park, and the County would convey the County Property to APA for development of Founders Square. Ashton’s obligations under the Exchange Agreement are conditioned upon, among other things, enactment by the County Board, in its sole discretion, of Ordinances of Vacation vacating the portions of 5th Road North and 5th Place North, which portions are to be conveyed to Ashton at settlement by deed of vacation. In order to facilitate construction of proposed Site Plan #413, APA has also requested the vacation of portions of an easement for public street and utility purposes and an easement for public street, sidewalk and utilities purposes, to facilitate construction of Site Plan #413. If approved, Site Plan #413 will include construction of two office buildings, including a US Department of Defense Uniform Security Standard building of 350,000 square feet, plus or minus 10% of GFA, two residential buildings and retail space in the Ballston area.

DISCUSSION: In order to meet preconditions of the Exchange Agreement and facilitate construction of the proposed Site Plan #413, the Applicant has requested the County Board enact four ordinances of vacation, more fully described as follows:

Vacation 1:

Vacation of a portion of 5th Road North abutting the western side of North Quincy Street, abutting RPC #14060058 to the north, RPC #14060056 to the west, a 10’ alley to the west, and RPC #14060061 to the south, as depicted on a plat entitled “Plat Showing the Vacation of a Portion of 5th Road North Deed Book 245, Page 64, Arlington County, Virginia,” dated January 16, 2008, prepared by Bowman Consulting Group, Ltd., attached hereto as Exhibit A.

Applicant: Ashton Park Associates, LLC, c/o Shooshan Company, LLC

Property Owner: County Board of Arlington, Virginia

By: Tad Lunger, Esq.

Bean, Kinney & Korman, PC
2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201

Legal and Physical Description: This portion of 5th Road North was established by Deed dated November 1, 1945, and recorded in Deed Book 688, Page 333, and Deed dated June 21, 1926, and recorded in Deed Book 245, Page 64, among the land records of Arlington County, Virginia, and is located along the west side of North Quincy Street between Wilson Boulevard and North Glebe Road. The portion of 5th Road North to be vacated consists of 3,156 square feet and is surrounded by RPC #14060058 to the north owned by the County Board of Arlington, Virginia, RPC #14060061 to the south owned by the County Board of Arlington, Virginia, and a 10’ alley to the west owned by the County Board of Arlington County, Virginia.

Compensation: The portion of 5th Road North being vacated is a part of the property being conveyed by the County to APA for property being conveyed by APA to the County under the terms of the Exchange Agreement.

Vacation 2:

Vacation of a portion of 5th Place North abutting RPC #14060015 to the north and RPC #14060058 to the south, from its intersection with the western side of North Quincy Street to its termination at RPC #14060013, as depicted on a plat entitled “Plat Showing the Vacation of a Portion of 5th Place North, Deed Book 251, Page 521, Arlington County, Virginia,” dated January 16, 2008, prepared by Bowman Consulting Group, Ltd., attached hereto as Exhibit B.

Applicant: Ashton Park Associates, LLC, c/o Shooshan Company, LLC

Property Owner: County Board of Arlington, Virginia

By: Tad Lunger, Esq.

Bean, Kinney & Korman, PC
2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201

Legal and Physical Description: This portion of 5th Place North was established by Deed of Dedication dated November 16, 1926, and recorded in Deed Book 251, Page 521, and Deed dated November 16, 1926, and recorded in Deed Book 251, Page 590, among the land records of Arlington County, Virginia, and is located along the west side of North Quincy Street between Wilson Boulevard and North Glebe Road. The portion of 5th Place North to be vacated consists of 3,025 square feet and is surrounded by RPC #14060015 to the north owned by WMATA, RPC #14060058 to the south owned by the County Board of Arlington, Virginia, and RPC #14060013 to the west owned by Ashlawn Hill, LLC.

Compensation: The portion of 5th Road North being vacated is a part of the property being conveyed by the County to APA for property being conveyed by APA to the County under the terms of the Exchange Agreement.

Vacation 3:

Vacation of a portion of an easement for public street and utilities purposes adjacent to property owned by Ashlawn Hill, LLC located at 607 N. Randolph Street known as RPC #14060013, as depicted on a plat entitled “Plat Showing the Vacation of a Portion of an Existing Easement for Public Street and Utilities Purposes Located on the Property now in the name of Ashlawn Hill, L.L.C., Deed Book 3037, Page 132, Arlington County, Virginia,” dated January 16, 2008, revised June 16, 2008, prepared by Bowman Consulting Group, Ltd., attached hereto as Exhibit C.

Applicant: Ashton Park Associates, LLC, c/o Shooshan Company, LLC

Property Owner: Ashlawn Hill, L.L.C.

By: Tad Lunger, Esq.

Bean, Kinney & Korman, PC
2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201

Legal and Physical Description: This easement is adjacent to property located at 607 N. Randolph Street in Ballston. The easement was established by a Deed of Easement dated June 16, 1970, recorded in Deed Book 1728 at Page 24 among the land records of Arlington County, Virginia. The portion of the easement to be vacated consists of 1,249 square feet and is adjacent to RPC #14060013 owned by Ashlawn Hill, L.L.C. Ashlawn Hill, L.L.C. obtained the property by Deed dated January 19, 2000 recorded in Deed Book 3037 at Page 132 among the Arlington County land records.

Compensation: As a condition of the Ordinance of Vacation, the Applicant will be required to dedicate to the County, in fee simple, a portion of RPC #14060013 for use by the County as right-of-way for North Randolph Street. County staff recommends, given the size of and relative property rights being conveyed, that the portion of RPC #14060013 to be conveyed to the County in fee simple is sufficient compensation for the proposed vacation of the portions of the two County easements (Vacations 3 and 4).

Vacation 4:

Vacation of a portion of an easement for public street, sidewalk and utility purposes adjacent to property presently owned by Nehoso, Inc., a portion of which is within the North Randolph Street right of way, running north to its intersection with Wilson Boulevard, then running east along Wilson Boulevard, located at 4030 Wilson Boulevard known as RPC # 14060036, as depicted on a plat entitled “Plat Showing the Vacation of a Portion of an Existing Easement for Public Street and Utility Purposes Located on the Property now in the name of Nehoso Inc., Deed Book 4128, Page 2390, Arlington County, Virginia,” dated January 16, 2008, prepared by Bowman Consulting Group, Ltd., attached hereto as Exhibit D. An existing 15” storm sewer pipe located within the easement will be relocated, at the Applicant’s sole cost and expense, into the right-of-way of North Randolph Street and Wilson Boulevard.

Applicant: Ashton Park Associates, LLC, c/o Shooshan Company, LLC

Property Owner: Nehoso, Inc.

By: Tad Lunger, Esq.

Bean, Kinney & Korman, PC
2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201

Legal and Physical Description: This easement is located on property known as RPC #14060036 owned by Nehoso Inc., at the intersection of North Randolph Street and Wilson Boulevard. The easement was established by Deed of Easement dated January 14, 1972, recorded in Deed Book 1777, Page 553 among the land records of Arlington County. The portion of the easement to be vacated consists of 787 square feet.

Compensation: As a condition of the Ordinance of Vacation, the Applicant will be required to dedicate to the County, in fee simple, a portion of RPC #14060013, for use by the County as right-of-way for North Randolph Street. County staff recommends, given the size and relative property rights being conveyed, that the portion of RPC #14060013 to be conveyed to the

County in fee simple is sufficient compensation for the proposed vacation of the portions of the two County easements (Vacations 3 and 4).

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the June 24, 2008 and July 1, 2008 issues of the Washington Times for the July 7, 2008 Planning Commission and the July 19, 2008 County Board Meeting.

FISCAL IMPACT: None.

CONCLUSION: It is recommended that the County Board enact the attached Ordinances of Vacation as set forth in Attachments 1-4 hereto.

ATTACHMENT 1

ORDINANCE TO VACATE A PORTION OF 5TH ROAD NORTH ABUTTING THE WESTERN SIDE OF N. QUINCY STREET, ABUTTING RPC #14060058 TO THE NORTH, RPC #14060056 TO THE WEST, A 10' ALLEY TO THE WEST, AND RPC #14060061 TO THE SOUTH, WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by Ashton Park Associates, LLC, c/o Shooshan Company, LLC (the "Applicant" or "APA") in the Office of the Department of Environmental Services, a portion of 5th Road North, abutting the western side of N. Quincy Street, abutting RPC #14060058 owned by The County Board of Arlington County, Virginia to the north, RPC #14060056 owned by The County Board of Arlington County, Virginia to the west, a 10' alley to the west, and RPC #14060061 to the south, and which portion of 5th Road North was established by Deed dated November 1, 1945, and recorded in Deed Book 688, Page 333, and Deed dated June 21, 1926, and recorded in Deed Book 245, Page 64 among the land records of Arlington County, Virginia, which portion of 5th Road North is also shown on a plat dated January 16, 2008, prepared by Bowman Consulting Group, Ltd., entitled "Plat Showing the Vacation of a Portion of 5th Road North Deed Book 245, Page 64, Arlington County, Virginia," attached to the County Manager's Report dated July 1, 2008, as Exhibit A, is hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation and all required plats, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.
2. The Applicant/Property Owner shall record the Deed(s) of Vacation and all plats required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
3. 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.
4. All conditions of this Ordinance of Vacation shall be met by noon on July 19, 2011, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

ATTACHMENT 2

ORDINANCE TO VACATE A PORTION OF 5TH PLACE NORTH ABUTTING RPC #14060015 TO THE NORTH AND RPC #14060058 TO THE SOUTH, FROM ITS INTERSECTION WITH THE WESTERN SIDE OF N. QUINCY STREET TO ITS TERMINATION AT RPC #14060013, WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by Ashton Park Associates, LLC, c/o Shooshan Company, LLC (the “Applicant” or “APA”) in the Office of the Department of Environmental Services, a portion of 5th Place North, abutting RPC #14060015 to the north and RPC #14060058 to the south, from its intersection with the western side of N. Quincy Street to its termination at RPC #14060013, and which portion of 5th Place North was established by Deed of Dedication dated November 16, 1926, and recorded in Deed Book 251, Page 521, and Deed dated November 16, 1926, and recorded in Deed Book 251, Page 590, among the land records of Arlington County, Virginia, which portion of 5th Place North is also shown on a plat dated January 16, 2008, prepared by Bowman Consulting Group, Ltd., entitled “Plat Showing the Vacation of a Portion of 5th Place North, Deed Book 251, Page 521, Arlington County, Virginia”, attached to the County Manager’s Report dated July 1, 2008, as Exhibit B, is hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation and all required plats, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.
2. The Applicant/Property Owner shall record the Deed(s) of Vacation and all plats required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
3. 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.
4. All conditions of this Ordinance of Vacation shall be met by noon on July 19, 2011, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

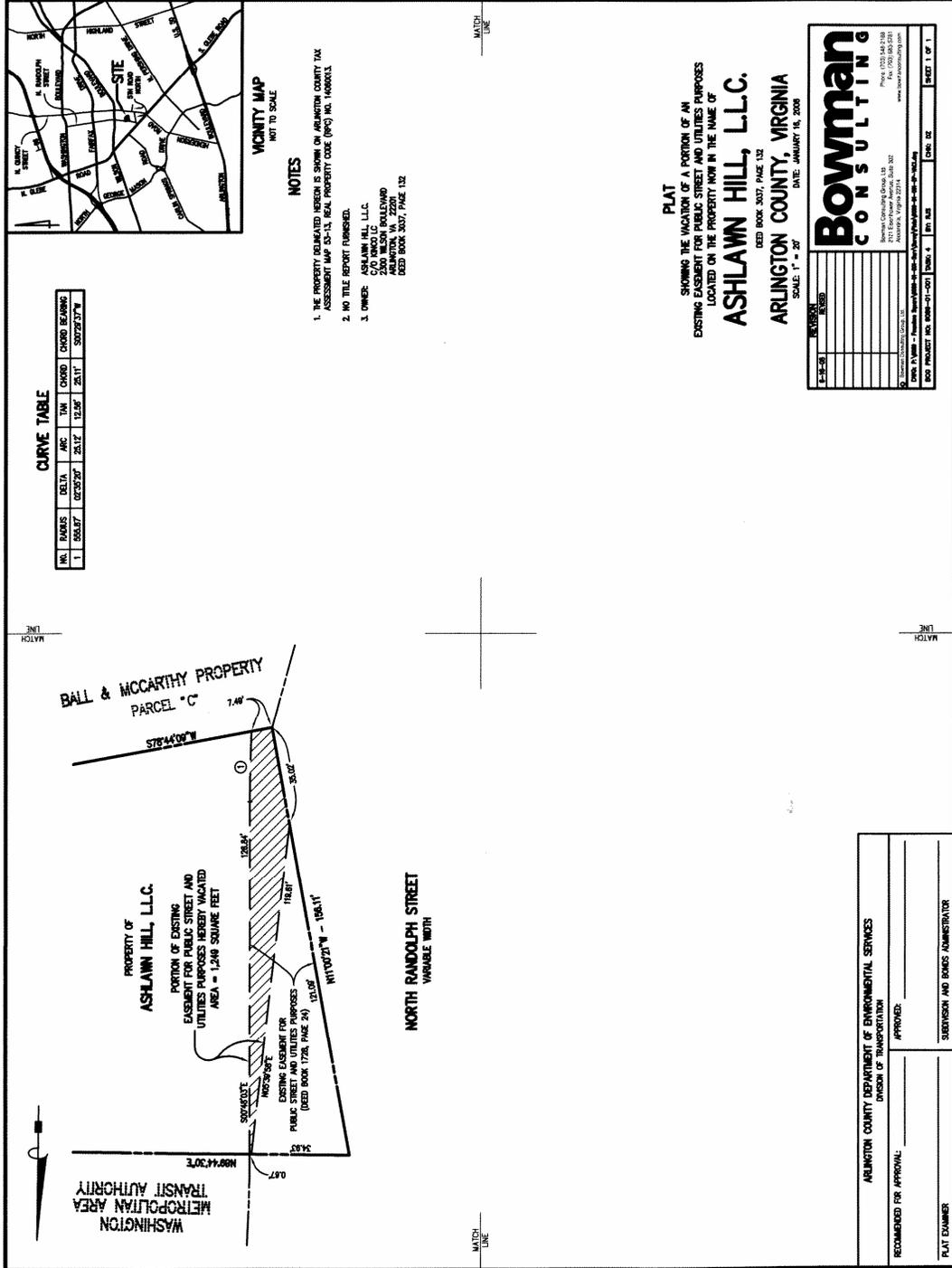
ATTACHMENT 3

ORDINANCE TO VACATE A PORTION OF AN EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES, ON PROPERTY KNOWN AS 607 N. RANDOLPH STREET, BALLSTON (RPC #14060013), WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by Ashton Park Associates, LLC, c/o Shooshan Company, LLC, with the written consent of the Washington Metropolitan Area Transit Authority, the property owner (jointly the “Applicant” or “APA”), in the Office of the Department of Environmental Services, a portion of an easement for public street and utilities purposes, on property known as 607 N. Randolph Street, Ballston (RPC #14060013), and which easement was established by Deed of Easement dated June 16, 1970, recorded in Deed Book 1728 at Page 24 among the land records of Arlington County, Virginia, which portion of the easement is also shown on a plat dated January 16, 2008, revised June 16, 2008, prepared by Bowman Consulting Group, Ltd., entitled “Plat Showing the Vacation of a Portion of an Existing Easement for Public Street and Utilities Purposes Located on the Property now in the name of Ashlawn Hill, L.L.C., Deed Book 3037, Page 132, Arlington County, Virginia,” attached to the County Manager’s Report dated July 1, 2008, as Exhibit C, is hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall dedicate, grant and convey to the County in fee simple a portion of N. Randolph Street, as shown on a plat dated June 16, 2008, prepared by Bowman Consulting Group, Ltd. entitled, “Plat Showing a Dedication for Public Street Purposes on the Property now in the name of Ashlawn Hill, L.L.C., Deed Book 3037, Page 132, Arlington County, Virginia,” attached to the County Manager’s Report dated July 1, 2008, as Exhibit D.
2. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, the Deed of Dedication, all required plats, and all required deeds, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.
3. The Applicant/Property Owner shall record all plats, Deed(s) of Vacation and the Deed of Dedication required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
4. 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.
5. All conditions of this Ordinance of Vacation shall be met by noon on July 19, 2011, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

EXHIBIT C



ATTACHMENT 4

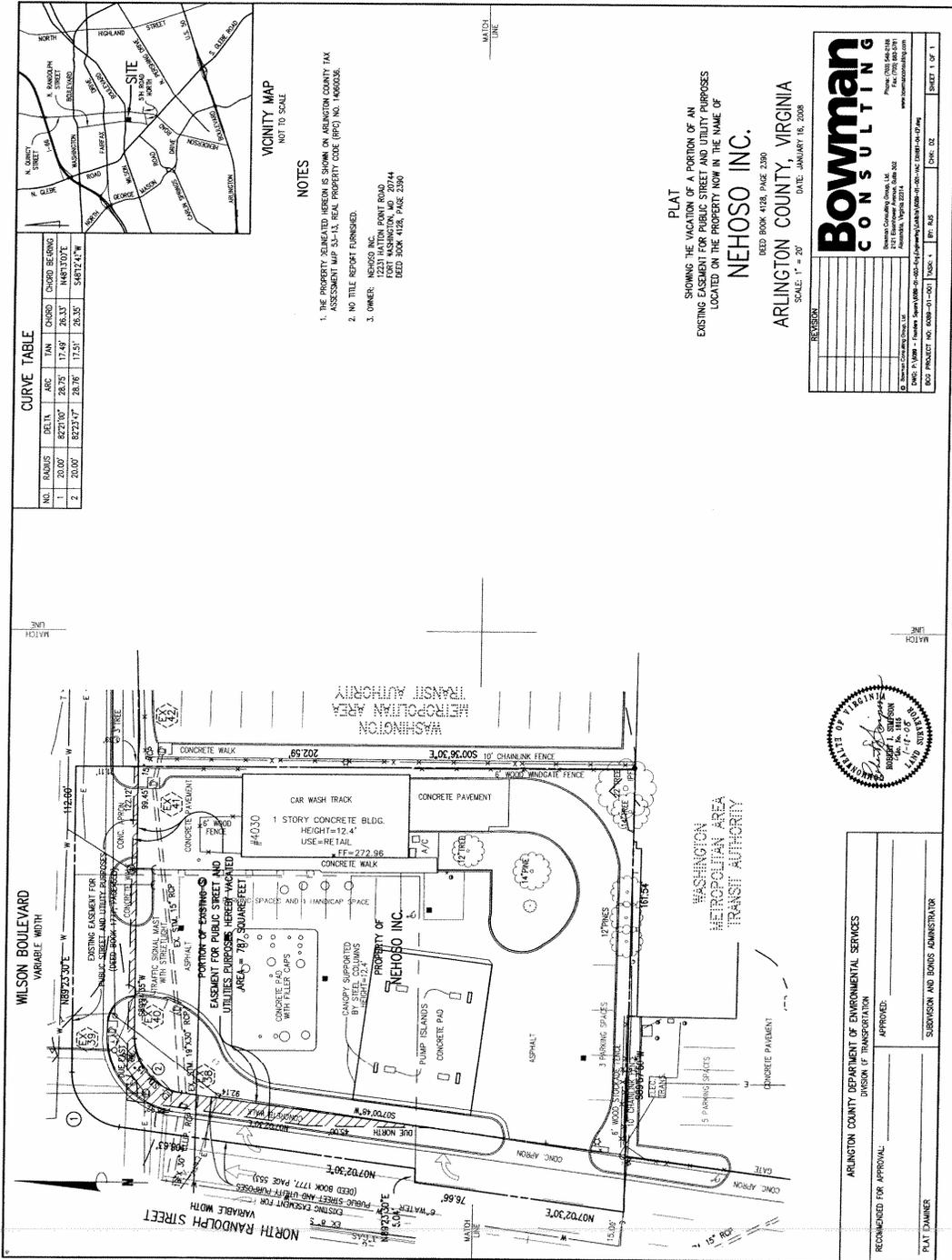
ORDINANCE TO VACATE A PORTION OF AN EASEMENT FOR PUBLIC STREET, SIDEWALK AND UTILITY PURPOSES, A PORTION OF WHICH IS WITHIN THE NORTH RANDOLPH STREET RIGHT OF WAY, RUNNING NORTH TO ITS INTERESECTION WITH WILSON BOULEVARD, THEN RUNNING EAST ALONG WILSON BOULEVARD, ON PROPERTY DESCRIBED AS PARCEL A, REES PROPERTY, 4030 WILSON BOULEVARD (RPC #14060036), WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by Ashton Park Associates, LLC, c/o Shooshan Company, LLC, with the written consent of Nehoso Inc., the property owner (jointly the “Applicant” or “APA”), in the Office of the Department of Environmental Services, a portion of an easement for public street, sidewalk and utility purposes, a portion of which is within the North Randolph Street right of way, running north to its intersection with Wilson Boulevard, then running east along Wilson Boulevard, on property described as Parcel A, Rees Property, 4030 Wilson Boulevard (RPC #14060036), and which easement was established by Deed of Easement dated January 14, 1972, recorded in Deed Book 1777, Page 553 among the land records of Arlington County, which portion of the easement is also shown on a plat dated January 16, 2008, prepared by Bowman Consulting Group, Ltd., entitled “Plat Showing the Vacation of a Portion of an Existing Easement for Public Street and Utility Purposes Located on the Property now in the name of Nehoso Inc., Deed Book 4128, Page 2390, Arlington County, Virginia,” attached to the County Manager’s Report dated July 1, 2008, as Exhibit E, 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 15” Storm Sewer Pipe located within the easement herein vacated, with new storm sewer 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 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 utilities located, in whole or in part, within the easement 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.
3. 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 utilities pursuant to the approved Plan.
4. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, and all required plats, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.
5. The Applicant/Property Owner shall record all plats and the Deed(s) of Vacation required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.

6. 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.
7. All conditions of this Ordinance of Vacation shall be met by noon on July 19, 2011, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

EXHIBIT E



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ATTACHMENT 5

