



## ARLINGTON COUNTY, VIRGINIA

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

**DATE:** July 1, 2008

**SUBJECT:** Enactment of an Ordinance to Vacate on Part of Parcel B-2A, Western Electric Company, Incorporated: 1) a Portion of a 10' Utility Easement for Water Main on the Southwest Portion of the Parcel; and, 2) a 15' Storm Sewer Easement on the Southwest Portion of the Parcel, known as 1201 S. Hayes Street and 1200 S. Fern Street, Arlington County, Virginia (RPC No. 35004001), with Conditions.

**Applicant/Owner:** PL Pentagon LLC, c/o Kimco Realty Corporation

**By:** Abby C. Denham, Agent/Attorney  
c/o Walsh, Colucci, Lubeley, Emrich & Walsh, PC  
2200 Clarendon Boulevard, Suite 1300  
Arlington, VA 22201

### C. M. RECOMMENDATIONS:

1. Enact the attached Ordinance to Vacate on Part of Parcel B-2A, Western Electric Company, Incorporated: 1) a Portion of a 10' Utility Easement for Water Main on the Southwest Portion of the Parcel; and, 2) a 15' Storm Sewer Easement on the Southwest Portion of the Parcel, known as 1201 S. Hayes Street and 1200 S. Fern Street, Arlington County, Virginia (RPC No. 35004001), with Conditions.
2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, or his designee, to execute, on behalf of the County Board, the Deed(s) of Vacation, subject to approval as to form by the County Attorney.

**ISSUE:** This is a request for the vacation of a portion of a utility easement for water main and a storm sewer easement to facilitate development of the property under proposed Site Plan #297. There are no outstanding issues.

**SUMMARY:** This is a request by PL Pentagon LLC, c/o Kimco Realty Corporation ("Applicant") to enact an ordinance to vacate (i) a portion of a 10' Utility Easement for Water Main and (ii) a 15' Storm Sewer Easement on Part of Parcel B-2A, Western Electric Company, known as 1201 S. Hayes Street and 1200 S. Fern Street. This vacation request would permit the

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

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

Staff: Betsy Herbst, DES, Real Estate Bureau

redevelopment of the parcel as proposed in Site Plan #297, which is the subject of a separate staff report.

Upon enactment of the Ordinance, 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 a portion of the vacated utility easement for water main and the storm sewer easement will be extinguished.

**BACKGROUND:** The subject vacation sites are located on a block near the intersection of South Fern Street and 15<sup>th</sup> Street South. (See Vicinity Map at Attachment 2) The parcel is currently developed with several large box stores, various smaller retail stores, restaurants, surface and garage parking. The Applicant acquired the property by Special Warranty Deed dated December 21, 2004, and recorded in Deed Book 3795 at Page 1258 among the land records of Arlington County, Virginia ("Land Records"). In conjunction with its plans to redevelop the property, the Applicant has submitted an application for modification of use regulation concerning building height, a phased development site plan and a final site plan application proposing phased redevelopment of the site to include construction of office space, retail space, hotel rooms, residential units and retention of retail space. The site consists of approximately 731,873 square feet (or 16.80149 acres), and is presently zoned M-1 "Light Industrial District", which permits development of many uses up to a 1.5 FAR. The Applicant proposes to concentrate a mixed-use development, including residential, commercial and office uses, with the Pentagon City Metro station area, provide mixed-use development to enable a balance of residential, shopping and employment opportunities and increase the supply of housing. The subject site plan area is bounded by Pentagon City Mall and the Parc Vista Apartments to the west, by Southampton Condominiums to the south, by Pentagon Industrial Centre (Metropolitan One) residential and commercial development to the East and Brookfield office building to the north.

**DISCUSSION:** The Applicant requests that the County vacate a portion of an existing 10' utility easement for water main and a 15' storm sewer easement, as designated on the plat entitled "Plat Showing the Vacation of a Portion of a 10' Utility Easement for Water Main, Deed Book 1934 Page 387, and the Vacation of 15' Storm Sewer Easement, Deed Book 1142 Page 469, on Part of Parcel "B-2A", Western Electric Company, Incorporated, Deed Book 2620 Page 409, Arlington County, Virginia", prepared by VIKA Incorporated, dated March 7, 2007, revised June 5, 2008, and attached hereto as Exhibit A, to permit redevelopment in conjunction with a 4.1 Site Plan Application for Pentagon Centre. Under the Site Plan, the Applicant proposes to dedicate new utility easements to serve the proposed improvements.

The portion of the existing utility easement and the storm sewer easement requested to be vacated are internal to the site and presently serve only the subject property. These easements run generally along the southwesterly side of the property near the intersection of 15<sup>th</sup> Street South and South Hayes Street.

Legal and Physical Description: The 10' Utility Easement for Water Main was established by Deed of Easement dated November 8, 1976, and recorded in Deed Book 1934 at Page 387 among the Land Records. The 15' Storm Sewer Easement was established by Deed of

Dedication and Exchange dated February 25, 1954, and recorded in Deed Book 1142 at Page 469 among the Land Records. The portions of the easements to be vacated are in the southwestern corner of the parcel.

Public Notice: Public notice of the proposed vacations 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 County Board Meeting of July 19, 2008.

Compensation: In keeping with current practice, staff recommends that no compensation be required from the Applicant for vacating the portion of the utility easement for water main and the storm sewer easement located on Applicant's property, which easements will be vacated for redevelopment and replaced with new easements dedicated to serve the proposed new improvements, as provided in the 4.1 Site Plan.

**FISCAL IMPACT:** None.

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

**ORDINANCE TO VACATE ON PART OF PARCEL B-2A, WESTERN ELECTRIC COMPANY, INCORPORATED: 1) A PORTION OF A 10' UTILITY EASEMENT FOR WATER MAIN ON THE SOUTHWEST PORTION OF THE PARCEL; 2) A 15' STORM SEWER EASEMENT ON THE SOUTHWEST PORTION OF THE PARCEL, KNOWN AS 1201 S. HAYES STREET AND 1200 S. FERN STREET, ARLINGTON COUNTY, VIRGINIA (RPC NO. 35004001), WITH CONDITIONS:**

**BE IT ORDAINED** that, pursuant to a request on file by PL Pentagon LLC, c/o Kimco Realty Corporation (the "Applicant") in the Office of the Department of Environmental Services, on property known as Part of Parcel B-2A, Western Electric Company, Incorporated: 1) a portion of a 10' Utility Easement for Water Main on the Southwest Portion of the parcel, being established by Deed of Easement dated November 8, 1976, and recorded in Deed Book 1934 at Page 387 among the Arlington County, Virginia land records; and 2) a 15' Storm Sewer Easement on the Southwest Portion of the Parcel, being established by Deed of Dedication and Exchange dated February 25, 1954, and recorded in Deed Book 1142 at Page 469 among the Land Records, which easements are designated on the plat entitled "Plat Showing the Vacation of a Portion of a 10' Utility Easement for Water Main, Deed Book 1934 Page 387, and the Vacation of 15' Storm Sewer Easement, Deed Book 1142 Page 469, on Part of Parcel "B-2A", Western Electric Company, Incorporated, Deed Book 2620 Page 409, Arlington County, Virginia", prepared by VIKA Incorporated, dated March 7, 2007, revised June 5, 2008, and attached to the County Manager's Report dated July 1, 2008, as Exhibit A are 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, subject to the approval of the County Manager, or his designee, and approval as to form by the County Attorney.
3. The Applicant/Property Owner shall pay all fees, including the fees for plat review, approval and recordation of the Deed(s) of Vacation associated with the Ordinance of Vacation.
4. All conditions of the Ordinance of Vacation must be met by noon on July 19, 2011, or the Ordinance of Vacation shall become null and void.

# EXHIBIT A VACATION PLAT

3M010-009-66891AS-55691S123080-100715348751



