



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 13, 2008**

DATE: December 2, 2008

SUBJECT: Approval of a Deed of Easement for a One Hundred Eighty Seven (187) Square Foot Easement for Public Sidewalk and Utilities Purposes on Property Known as Part Lot 26, Charles S. Bradley's Subdivision of Part of Woodmont, Located at 2357 N. Fillmore Street, Arlington, Virginia (RPC No. 04027010).

C. M. RECOMMENDATION:

1. Approve the Deed of Easement for a one hundred eighty seven (187) square foot easement for public sidewalk and utilities purposes on property known as Part Lot 26, Charles S. Bradley's Subdivision of Part of Woodmont, Located at 2357 N. Fillmore Street, Arlington County, Virginia, (RPC No. 04027010); and,
2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services to accept the Deed of Easement, on behalf of the County Board, subject to approval as to form by the County Attorney.

ISSUES: There are no issues associated with this acceptance of the dedication of a public sidewalk and utilities easement.

SUMMARY: Deeds conveying easements or property rights to the County must be accepted by, or on behalf of, the County Board in order to be valid. The easement for public sidewalk and utilities purposes (the "Easement") described in the attached Deed of Easement (Exhibit "1") is needed to accommodate certain public facilities on property being developed as a matter of right.

DISCUSSION: The subject Easement is needed to accommodate the recent construction of a 5-foot-wide public sidewalk extension across a portion of the property located at 2357 N. Fillmore Street (the "Property"). The sidewalk extension was requested by the Department of Environmental services as part of the Property owner's construction of a "by right" house development on the Property. The new sidewalk extension connects to an existing 5-foot wide public sidewalk adjacent to the south side of the Property. The owner of the Property, Piedmont Street LLC, at its expense, has constructed the sidewalk extension to County standards. The owner offered to dedicate and convey to the County the Easement, and the sidewalk constructed therein, for public sidewalk and utilities purposes at no cost to the County.

County Manager: _____

County Attorney: _____

Staff: Lynne T. Porfiri, DES, Real Estate Bureau

Attached to this report are: Exhibit “1” - the proposed Deed of Easement; Exhibit “2” - copy of the plat showing the proposed Easement on the property known as Part Lot 26, Charles S. Bradley’s Subdivision of Part of Woodmont, located at 2357 N. Fillmore Street, Arlington County, Virginia; and, Exhibit “3” - Vicinity Map.

FISCAL IMPACT: None. The owner will dedicate and grant the Easement at no cost to the County. The owner has constructed the public sidewalk extension and associated facilities at its own expense and will convey such facilities to the County.

Return to and prepared by:
Lawson, Tarter & Charvet, P.C.
6045 Wilson Blvd., #100
Arlington, VA 22205

RPC #: 04-027-010

DEED OF EASEMENT

THIS DEED OF EASEMENT is made this _____ day of _____, 2008, by and between PIEDMONT STREET, LLC, a Virginia limited liability company, party of the first part ("Owner"), GRANTOR; and the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body corporate and politic, party of the second part (the "County"), GRANTEE.

* * * W I T N E S S E T H * * *

WHEREAS, the Owner is the owner of certain real property located and situate in Arlington County, Virginia, known as Part of Lot 26, Charles S. Bradley's Resubdivision of a part of Woodmont (the "Property"), by virtue of and as more fully described in a deed recorded in Deed Book 4183, at Page 2228, among the land records of Arlington County, Virginia (the "Land Records"); and

WHEREAS, the Owner desires to create, grant and convey unto the County, its successors and assigns, an Easement for Public Sidewalk and Utilities Purposes, as hereinafter set forth, and as more particularly shown and described on a plat attached hereto and made a part hereof entitled "Plat Showing Easement for Public Sidewalk and Utilities Purpose, on Part Lot

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26, Charles S. Bradley's Subdivision of Part of Woodmont, (DB. 134, PG 348), Arlington County, Virginia" prepared by RC Fields, Jr. & Associates, and dated November 11, 2008 (the "Plat").

EASEMENT FOR PUBLIC SIDEWALK AND UTILITIES PURPOSES

THIS DEED FURTHER WITNESSETH, that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby create, grant and convey unto the County, its successors and assigns, an Easement for Public Sidewalk and Utilities Purposes, over, under, across and through that portion of the Property designated on the Plat as "Easement for Public Sidewalk and Utilities Purposes 187 Sq. Ft." (the "Easement") for the purposes of construction, maintenance, removal, repair, reconstruction, replacement and relocation of present or future public sidewalks and utilities within the Easement area. The Easement is subject to the following terms and conditions:

1. The County and its agents shall have full and free use of the Easement for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise of the Easement, including the right of access to and from the Easement and the right to use adjoining land of the Owner where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual

construction, maintenance, removal, repair, reconstruction, replacement, and relocation, and further, this right shall not be construed to allow the County to erect any building, structure or facility of a permanent nature on such adjoining land.

2. The County shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities on or reasonably near the Easement; provided, however, that the County at its own expense shall restore, as nearly as practicable, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery and the reseeding or resodding of lawns, but not the replacement of structures, trees or obstructions.

3. The Owner reserves the right to make any use of the Easement herein granted which may not be inconsistent with the easement rights herein conveyed.

4. The Owner covenants that the Owner is seized of and has the right to convey the Easement, and that the Owner shall make no use of the Easement which is inconsistent with the easement rights hereby granted.

COVENANTS REAL

The Owner agrees that the easements, agreements, and covenants stated in this deed are not covenants personal to the

Owner but are covenants running with the land which are and shall be binding upon the Owner and its successors and assigns.

FREE CONSENT

This deed is made in accordance with the statutes made and provided in such cases, with the approval of the proper authorities of Arlington County, Virginia, as shown by the signatures affixed to the Plat, and is with the free consent and in accordance with the desires of the owner, proprietors, noteholders, and trustees of the Property, if any.

COUNTERPARTS

This deed may be executed in multiple counterpart originals which together shall constitute one original document.

WITNESS the following signatures and seals:

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

[PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT]

APPROVED AS TO FORM:

_____ (SEAL)
COUNTY ATTORNEY

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

This Deed of Easement herein conveyed is accepted this _____
day of _____, 2008, on behalf of the County Board of
Arlington County, Virginia, pursuant to a Resolution of the
said Board adopted on _____.

By: _____

Title: _____

STATE OF VIRGINIA,
COUNTY OF ARLINGTON, to-wit:

The foregoing instrument was acknowledged before me by
_____, on behalf of the County Board
of Arlington County, Virginia, this ____ day of _____,
2008.

NOTARY PUBLIC

My Commission Expires: _____

Notary Registration Number: _____

GRANTOR:

Piedmont Street, LLC, a Virginia
limited liability company

By: _____
Barry E. Seymour, Manager

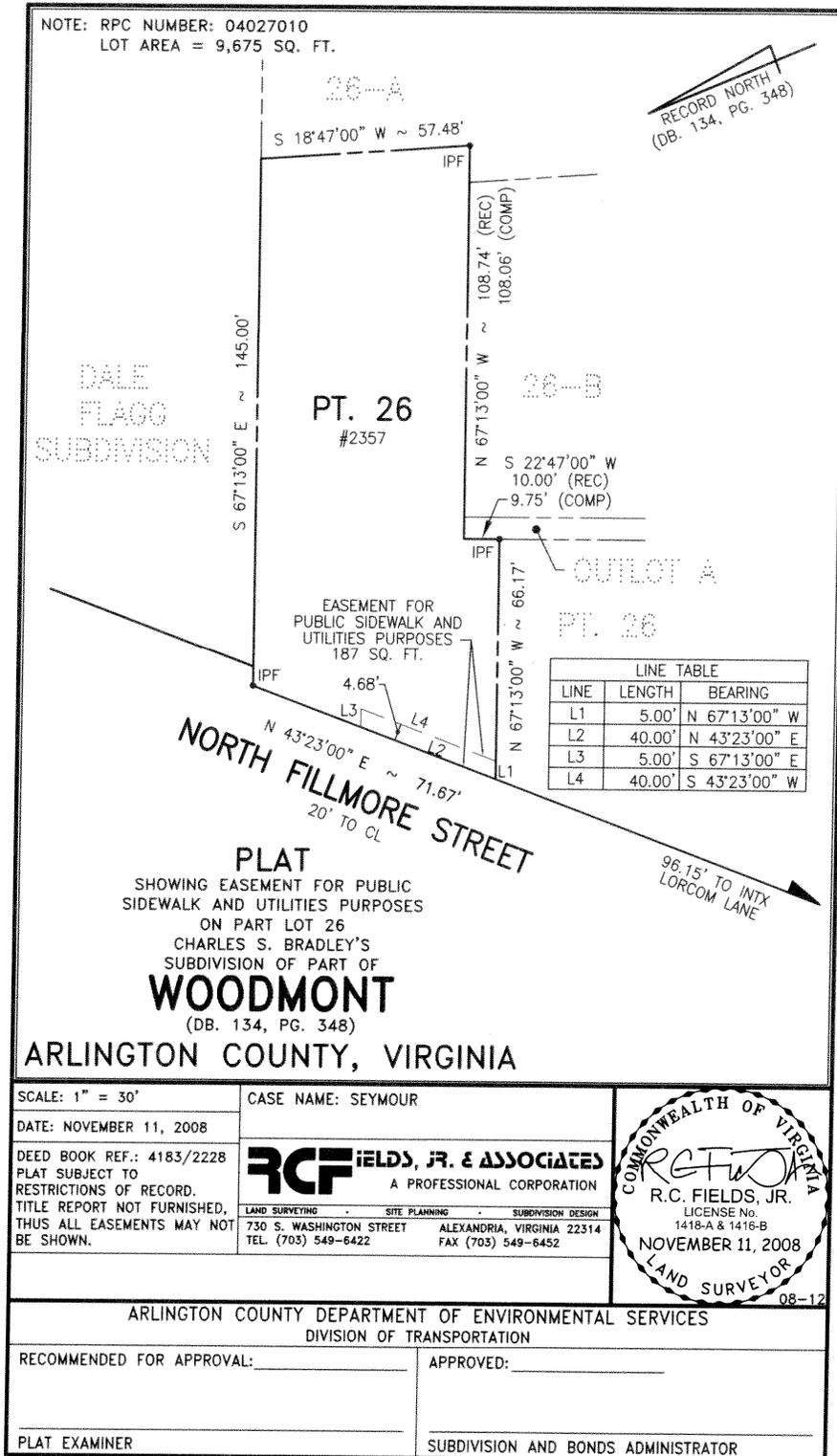
STATE OF _____,
COUNTY/CITY OF _____, to-wit:

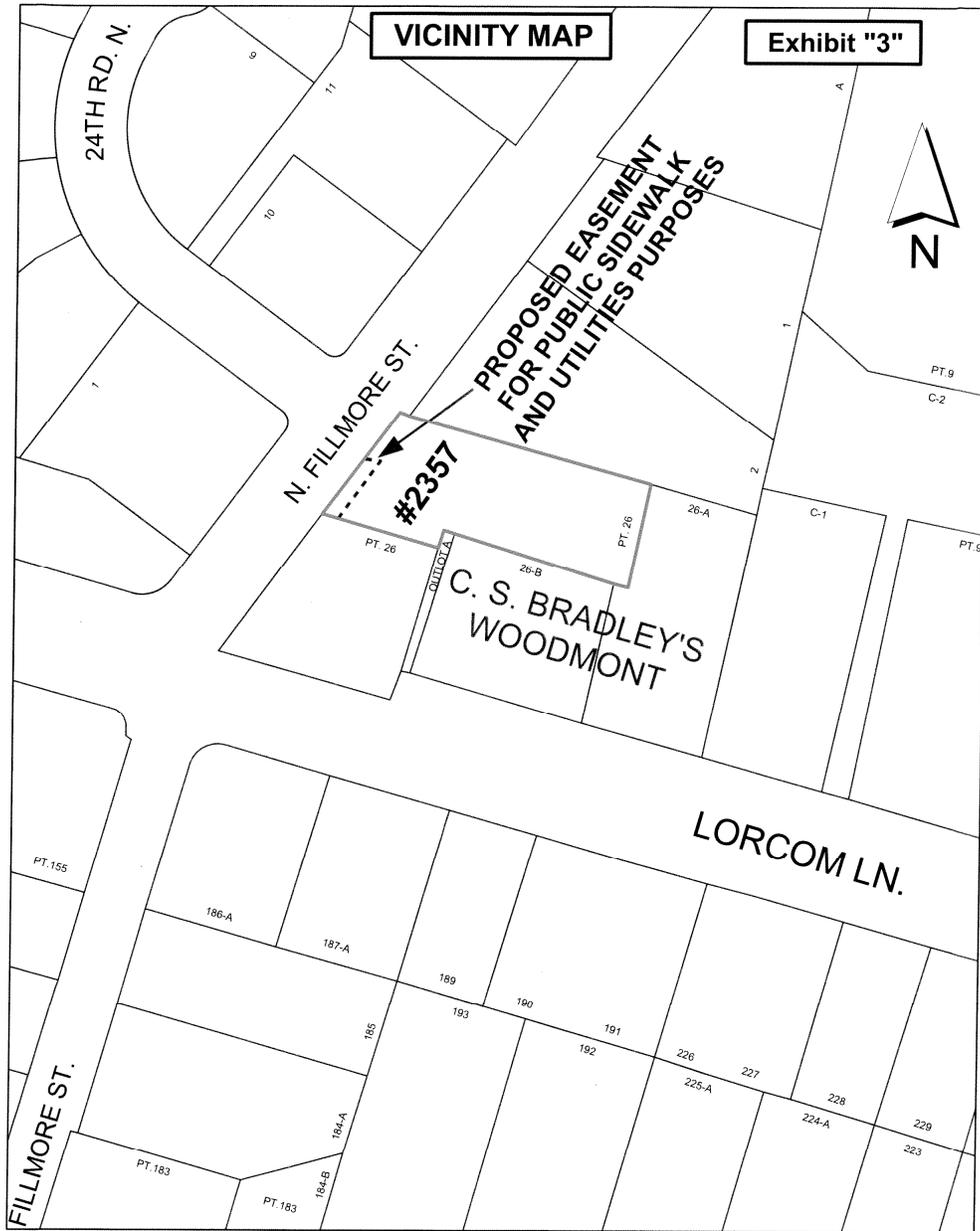
The foregoing instrument was acknowledged before me this
_____ day of _____, 2008, by Barry E. Seymour, the
manager of Piedmont Street, LLC, on behalf of said limited
liability company.

NOTARY PUBLIC

My Commission Expires: _____

Notary Registration Number: _____





2357 North Fillmore Street
187 Square Foot Easement for Public Sidewalk and Utilities Purposes
 Labels on this schematic indicate the location of local improvements

Deed of Easement
 December 13, 2008