



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 25, 2009**

DATE: April 6, 2008

SUBJECT: Approve the Conveyance of an Easement from the County Board of Arlington County, Virginia to Lyndon K. Goodwin for the Installation and Maintenance of Private Sanitary Sewer Line across a Portion of a County Owned Property Known as Part of Lot 30, Section 2 of Country Acres (RPC #03014005), in Fairfax County, Virginia.

C. M. RECOMMENDATIONS:

1. Adopt the attached Resolution (Exhibit A) approving the conveyance of an easement for private sanitary sewer purposes (“Easement”) from the County Board of Arlington County, Virginia (“County”) to Lyndon K. Goodwin for the installation and maintenance of private sanitary sewer line across a portion of a County owned property known as Part of Lot 30, Section 2 of Country Acres (RPC #03014005), in Fairfax County, Virginia.
2. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, or his Designee, to execute the attached Deed of Easement, on behalf of the County Board, subject to approval as to form by the County Attorney.

ISSUE: Mr. Lyndon K. Goodwin (“Applicant”) is requesting that the County convey a private sanitary sewer lateral easement across a portion of County property to facilitate the completion of an addition to a single family dwelling on the Applicant’s property. No issues have been identified as part of this request.

SUMMARY: If Applicant’s request is approved, the County would convey the Easement across Parcel 1 of a Subdivision of Lot 30, Section 2, Country Acres, Arlington County, Virginia, (“County Property”) to the Applicant for the benefit of property at 6110 Old Dominion Drive Mclean, Virginia, RPC # 03014001 (“Applicant’s Property”). This would permit the Applicant to connect a private sanitary sewer line into the sanitary sewage system of Fairfax County through facilities located on a portion of the County Property.

BACKGROUND: The County Property is located on North Dumbarton Street north, near its intersection with 38th Street North, as shown on the vicinity map attached hereto as Exhibit 2, and is bisected by the boundary of Arlington County and Fairfax County, with portions of the County Property being located in both counties. The proposed Easement would be located on

County Manager: _____

County Attorney: _____

Staff: Kevin Connolly, DES

the northwestern portion of the County Property and would be wholly located on the portion of the County Property located in Fairfax County. The County Property was acquired by the County in 1945 by General Warranty Deed for, among other things, the location and operation of a sanitary sewerage pumping station.

DISCUSSION: Applicant's Property abuts that portion of the County Property that is located in Fairfax County. The Applicant is planning to increase the size of his residence at 6110 Old Dominion Drive by construction of an addition, which would include an additional bathroom. The Applicant's Property is currently served by a septic system. The septic system cannot support the additional bathroom planned as part of the Applicant's addition. To facilitate the addition to his residence, Applicant has requested that the County convey to the Applicant easement for private sanitary sewer purposes across a portion of the County Property to connect into the Fairfax County sanitary sewer system through Fairfax County sewer system facilities located on the Fairfax County portion of the County Property.

The deed of easement attached hereto as Exhibit B ("Deed of Easement"), would convey a private sewer lateral easement to the Applicant, on nearly five hundred forty-six square feet (544 sq. ft.) of the Property for installation and maintenance by the Applicant of a sanitary sewer line and appurtenant facilities. The precise location of the proposed Easement is shown on the plat, entitled "Private Sanitary Sewer Lateral Easement on Parcel 1 of a Subdivision of Lot 30, Section 2, Country Acres, Arlington County, Virginia", by LS₂PC dated March 31, 2009, and attached hereto as Exhibit 1.

The Applicant will be required to pay compensation to the County in the amount of Four Thousand Five Hundred Fifty Dollars and Fifty-Six Cents (\$ 4,550.56) for the conveyance of the Easement. The consideration to be paid for the Easement was calculated on the basis of fifty percent (50%) of the value of the fee interest in the underlying Five Hundred Forty-four square feet (544 sq. ft.) of land. The value of the fee interest in the underlying land was estimated to be \$16.73 per square foot, based on the average assessed value of the County Property and other parcels of land which abut the Property. The total compensation was determined by multiplying the average assessed square footage value (\$16.73/sq. ft.) by the total area of the Easement (544 sq. ft.).

In exchange for the conveyance of the Easement, the Applicant will be required to pay the compensation to the County, and will also be required to comply with all other conditions of the attached Resolution. The conditions, among other things, require that the Applicant provide the County with a copy of the permit or other written approval from Fairfax County authorizing the Applicant to connect into the Fairfax County sanitary sewer system through the Fairfax County sanitary sewer system facilities located on the County Property; and that the Applicant post a completion bond with the County in an amount, and in a form and substance, that is satisfactory to the Subdivision and Bonds Administrator of the Arlington County.

FISCAL IMPACT: The Application will construct and maintain the private sanitary sewer line and appurtenant facilities at no cost to the County. The Applicant will be required to pay to the County the sum of Four Thousand Five Hundred Fifty Dollars and Fifty Six Cents (\$ 4,550.56) as compensation for conveyance of the Easement. The compensation will be deposited into the County's general fund.

CONCLUSION: It is recommended that the County Board adopt the attached Resolution authorizing conveyance of the Easement, approving the attached Deed of Easement, and

authorizing the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, or his Designee, to execute the attached Deed of Easement, on behalf of the County Board, subject to approval as to form by the County Attorney.

RESOLUTION

RESOLUTION TO APPROVE CONVEYANCE OF A DEED OF EASEMENT FOR PRIVATE SANITARY SEWER PURPOSES ACROSS A PORTION OF THE PROPERTY KNOWN AS PART OF LOT 30, SECTION 2 OF COUNTRY ACRES (RPC #03014005).

NOW THEREFORE, BE IT RESOLVED, THAT The County Board of Arlington County, Virginia, hereby: (i) approves conveyance of an easement for private sanitary sewer purposes (“Easement”) to the owner of the property at 6110 Old Dominion Drive (“Applicant”) across property owned by the County Board known as Part of Lot 30, Section 2 of Country Acres, RPC #03014005, in Fairfax County, Virginia (“County Property”), as such Easement is depicted on a plat attached as Exhibit 1 to the County Manager’s Report to the County Board entitled “Private Sanitary Sewer Lateral Easement on Parcel 1 of a Subdivision of Lot 30, Section 2, Country Acres, Arlington County, Virginia”, by LS₂PC dated March 31, 2009 (“Plat”); (ii) approves the Deed of Easement attached to the County Manager’s Report as Exhibit B (“Deed of Easement”); and (iii) authorizes the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, or his Designee, to execute such Deed of Easement, on behalf of the County Board, subject to approval as to form by the County Attorney, and subject to the following conditions:

1. The Applicant shall furnish the County with a copy of the permit or other written approval from Fairfax County authorizing the Applicant to connect into the Fairfax County sanitary sewer system through the Fairfax County sanitary sewer system facilities located on the County Property.
2. All sanitary sewer and appurtenant facilities which are installed within the boundaries of the Easement pursuant to the Deed of Easement shall be and remain the property of the Applicant, his successors in real property interest and/or assigns.
3. The Applicant and his agents shall have full and free use of the Easement for the purposes named, and shall have all rights and privileges reasonably necessary to exercise the use of the Easement, including the right of access to and from the Easement, and the right to use the adjoining land of the County 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 Applicant to erect any building, structure or facility of a permanent nature on such adjoining land.
4. The Applicant shall construct and maintain the private sanitary sewer line and appurtenant facilities at no cost to the County. The Applicant shall pay to the County Four Thousand Five Hundred Fifty Dollars and Fifty-six Cents (\$ 4,550.56) for conveyance of the Easement.
5. The Applicant or his Agent shall post a completion bond in an amount, and in a form and substance, acceptable to the Subdivision and Bonds Administrator of the Arlington County.
6. Upon completion of the construction of the Applicant’s facilities and any other work performed by or on behalf of the Applicant pursuant to the Deed of Easement, the Applicant, at his own expense shall restore, as nearly as practicable, the premises to their original condition, such restoration to include, but not be limited to, the backfilling of trenches, the replacement of shrubbery and the reseeding or resodding of lawns.

7. The County reserves the right to use the County Property in any manner which is not inconsistent with the rights conveyed by the Deed of Easement, or which reserved rights of use do not interfere with the use of the Easement for the purposes stated in the Deed of Easement.
8. The Applicant, at Applicant's sole cost and expense, shall record the Deed of Easement among the land records of the Arlington County Circuit Court.

Return to: _____

RPC: 03014005

Exempt from Recordation Tax Per Virginia Code § 58.1-811.A.3

DEED OF EASEMENT

THIS DEED OF EASEMENT (the “Deed”) is made and entered into this ____ day of _____, 2009, by and among **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic, Grantor (also referred to as the “County”), and **LYNDON K. GOODWIN** Grantee.

****WITNESSETH****

WHEREAS, Grantor is the sole owner of that certain parcel or tract of real property situate and located in both Fairfax County and Arlington County, Virginia by virtue of that certain deed recorded in Deed Book 696 at Page 167, a portion of RPC #03014005 (the “Servient Property”), among the land records of Arlington County, Virginia (the “Land Records”);

WHEREAS, Grantee is the owner of the property adjoining the Grantor’s property, located in both Fairfax County and Arlington County, Virginia, by virtue of that certain deed recorded in Deed Book 2520, at Page 66 (the “Dominant Property”), among the Land Records; and

WHEREAS, at a meeting on April 25, 2009, the County adopted a resolution which approved conveyance of a Private Sanitary Sewer Lateral Easement on the Servient Property, subject to the terms and conditions set forth herein, it is the desire of the County to grant, bargain, sell and convey unto the Grantee and their successors and assigns a Private Sanitary Sewer Lateral Easement, as hereinafter set forth, described and shown on a plat entitled, “Private Sanitary Sewer Lateral Easement on Parcel 1 of a Subdivision of Lot 30, Section 2, Country Acres, Arlington County, Virginia”, dated _____, 2009, and approved by the Arlington County Department of Environmental Services, Division of Transportation, Subdivision and Bonds Administrator on _____ (the “Plat”), attached hereto and made a part hereof.

EASEMENT FOR PRIVATE SANITARY SEWER PURPOSES

NOW THEREFORE, in consideration of the sum of Four Thousand Five Hundred Fifty Dollars and Fifty-six Cents (\$ 4,550.56) cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County does hereby grant, bargain, sell and convey unto the Grantee, its successors and assigns, a perpetual and non-exclusive Private Sanitary Sewer Lateral Easement (the "Easement") over, under, across and through the Servient Property, in the locations and dimensions shown on the Plat (the "Easement Area"), for the purposes of construction, maintenance, removal, repair, reconstruction and replacement of a private sanitary sewer line and appurtenances thereto within the said Easement Area. The aforesaid Easement is subject to the following terms and conditions:

1. All sanitary sewer and appurtenant facilities which are installed within the boundaries of the Easement pursuant to this Deed shall be and remain the property of the Grantee, its successors and assigns.
2. The Grantee 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 exercise the use of the Easement, including the right of access to and from the Easement, [and the right to use the adjoining land of the County 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 Grantee to erect any building, structure or facility of a permanent nature on such adjoining land.
3. The Grantee shall construct and maintain the private sanitary sewer line and appurtenant facilities at no cost to the County.
4. Upon completion of the construction of the Grantee's facilities and any other work performed by or on behalf of the Grantee under this easement, the Grantee at its own expense shall restore, as nearly as practicable, the premises to their original condition, such restoration to include, but not be limited to, the backfilling of trenches, the replacement of shrubbery and the reseeded or resodding of lawns.

5. The County reserves the right to use the Property in any manner which is not inconsistent with the rights herein conveyed, or which reserved right of use do not interfere with the use of the Easement for the purposes herein named.
6. The County covenants that County is seized of and has the right to convey the Easement, and that County shall make no use of the Easement area which is inconsistent with the easement rights hereby granted.

COVENANTS REAL

The easement conveyed herein shall run with the land and be binding upon the Servient Property, and shall run with the land and benefit the Dominant Property. The Easement conveyed herein is subject to restrictions, rights of way and easements of record.

This Deed of Easement shall be construed, interpreted and applied according to the law of the Commonwealth of Virginia.

THE RECITALS are hereby incorporated into this Deed of Easement.

[Signatures and seals appear on the following page]

GRANTOR:

**COUNTY BOARD OF ARLINGTON COUNTY,
VIRGINIA**

By: _____

Name: _____

Title: Real Estate Bureau Chief

COMMONWEALTH OF VIRGINIA:
COUNTY OF ARLINGTON: to-wit

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____, the _____ on behalf of the County Board of Arlington County, Virginia.

Notary Public

My Commission Expires: _____

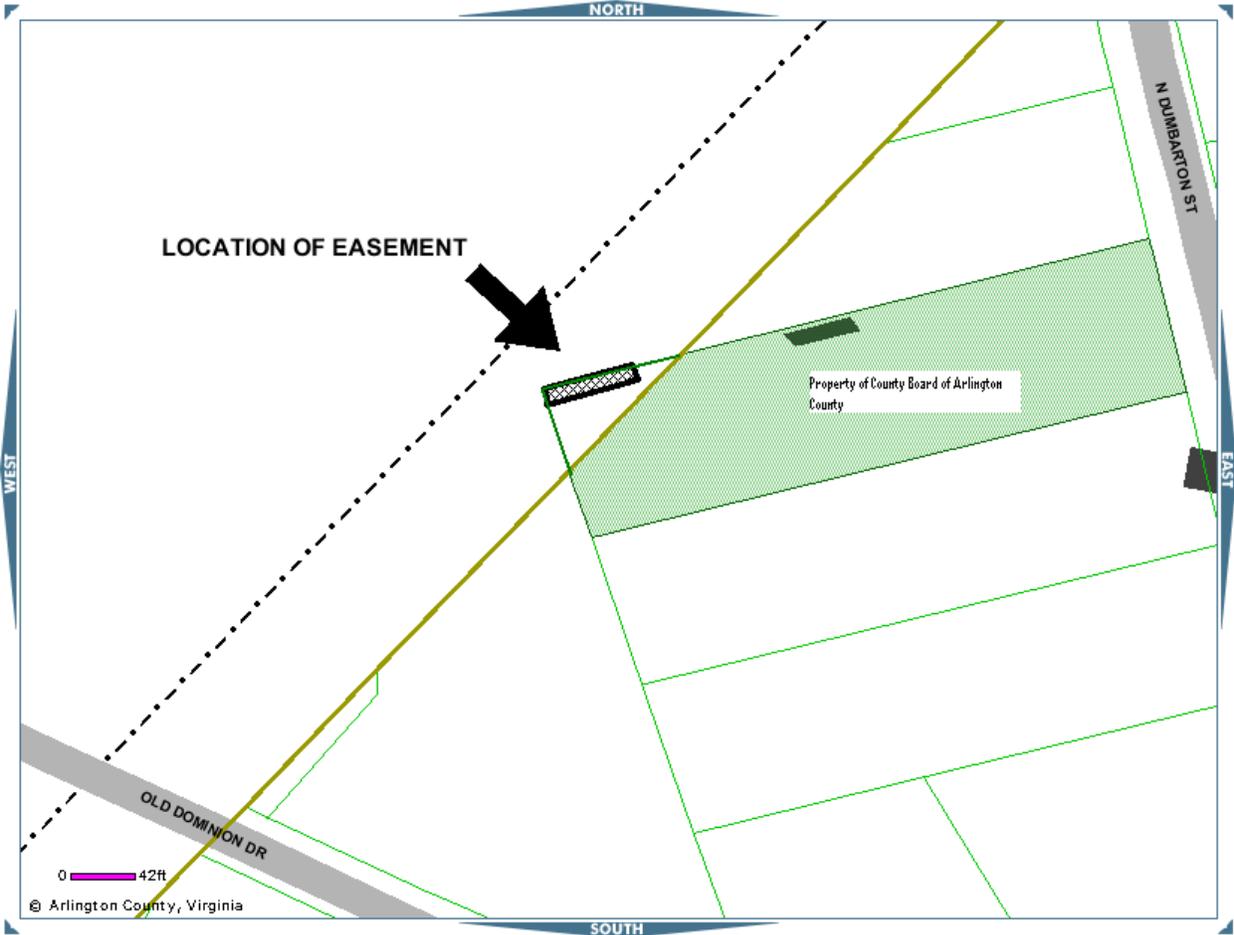
Notary Registration Number: _____

APPROVED AS TO FORM:

County Attorney

PLAT SHOWING PRIVATE SANITARY SEWER EASEMENT

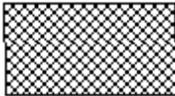
VICINITY MAP



NOTE: This map is for property location assistance only. It does not represent the latest survey or other information.

VICINITY MAP SHOWING LOCATION OF THE EASEMENT AREA IN WHICH THE SANITARY SEWER LINE IS TO BE CONSTRUCTED AND MAINTAINED



 = Site Location

LOT 30, SECTION 2 OF COUNTRY ACRES

The subject easement is to be situated on the north-western corner of that portion of a SUBDIVISION OF LOT 30, SECTION 2, COUNTRY ACRES, in Fairfax County. LOT 30, SECTION 2 OF COUNTRY ACRES is on North Dumbarton Street, north of its intersection with 38th Street North.

April 6, 2009

