



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of November 14, 2009

**DATE:** October 27, 2009

**SUBJECT:** Approval of a Resolution Granting a Density Credit, Under Section 36.L. of The Arlington County Zoning Ordinance, for 3300 Wilson Boulevard, RPC No. 19014025, in Exchange for a Fee Simple Dedication of a Portion of the Same Parcel to the County Board of Arlington County, Virginia.

#### C. M. RECOMMENDATIONS:

1. Adopt the resolution (the "Resolution"), attached hereto as Exhibit A, granting a density credit in the amount of density that would be yielded by 3,806 square feet of land area to the parcel of real property known as Lot 77, Wilson's Addition to Clarendon, located at 3300 Wilson Boulevard, RPC No. 19014025 (the "Edmonds Motors Parcel"), in exchange for the fee simple dedication to the County Board of Arlington County, Virginia, of a 4,777 square foot portion of the Edmonds Motors Parcel for public street and utilities purposes;
2. Approve a Deed of Dedication (the "Deed"), attached hereto as Exhibit B, from the owner of the Edmonds Motors Parcel to the County Board of Arlington County, Virginia, dedicating in fee simple a 4,777 square foot portion of the Edmonds Motors Parcel for public street and utilities purposes; and
3. Authorize the Real Estate Bureau Chief or his Designee, to accept on behalf of the County Board of Arlington County, Virginia, the Deed of Dedication, subject to approval of the Deed as to form and acknowledgement of the density credit by the County Attorney.

**ISSUE:** The property owner will dedicate a portion of its property to the County Board in exchange for a density credit. The dedication will give the County fee simple title to a portion of Wilson Boulevard that was constructed in the early 1980's. No issues have been identified.

**SUMMARY:** This is a request for the approval of a Resolution granting density credit, and approval of the Deed of Dedication related to the Resolution granting density credit. Edmonds Motors, Incorporated, owner of the Edmonds Motors Parcel (the "Property Owner"), is dedicating to the County Board a 4,777 square foot portion of the Edmonds Motors Parcel in fee

County Manager: BMD/GA

County Attorney: BW/SAM

Staff: Michael Halewski, DES, Real Estate Bureau

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simple for public street and utilities purposes in exchange for a density credit to the remaining portion of the parcel that would be yielded by a 3,806 square feet of the area being dedicated. The density credit is less than the entire 4,777 square feet being dedicated by the Property Owner to the County because 971 square feet of the area being dedicated is already encumbered by an easement to the County for public street and utilities purposes. The area to be dedicated is currently a right turn lane from eastbound Wilson Boulevard to southbound North Jackson Street.

**BACKGROUND:** In 1974, the Property Owner granted a permanent easement of 971 square feet to the County for public purposes. In the early 1980's, the County improved the streetscape of Wilson Boulevard between North Kenmore Street and North Jackson Street. The Property Owner agreed to grant the County an easement for public street and sidewalk purposes over a portion of the Edmonds Motors Parcel. The easement was to be granted for, among other things, a right turn lane from eastbound Wilson Boulevard to southbound North Jackson Street. During the by-right redevelopment of the Edmonds Motors Parcel, the right turn lane was constructed. However, there is no record of the easement having been submitted to the County Board for its acceptance, nor was the easement recorded among the land records of Arlington County, Virginia.

**DISCUSSION:** The Edmonds Motors Parcel is located on the southwest corner of the intersection of Wilson Boulevard and North Jackson Street, as more particularly shown on the Vicinity Maps attached hereto as Exhibit D and Exhibit E.

The Property Owner has proposed to dedicate, in fee simple, a 4,777 square foot portion of the Edmonds Motors Parcel to the County for public street and utilities purposes. The area being dedicated is described in the plat, entitled, "Plat Showing Dedication for Public Street and Utilities Purposes on Part Lot 77, Section 1, Wilson's Addition to Clarendon, Deed Book 124, Page 166, Arlington County, Virginia", attached hereto as Exhibit C (the "Dedication Area"). Current plans, including the Master Transportation Plan, call for the continued use of the 4,777 square feet area for a right turn lane from eastbound Wilson Boulevard to southbound North Jackson Street. In exchange for conveying the Dedication Area to the County Board, the Property Owner has requested a density credit of 3,806 square feet to be applied to the remainder of the Edmonds Motors Parcel. The proposed density credit is equal to the size of the Dedication Area, less the area of the existing public purposes easement encumbering the Dedication Area.

Staff supports and recommends that the requested density credit be granted and applied to the remaining Edmonds Motors Parcel for future density credit calculations relating to the Edmonds Motors Parcel. If approved, the remaining 12,108 square foot parcel (after the dedication) will be treated as a property consisting of 15,914 square feet solely for the purposes of density credit calculations. Granting density credit under these circumstances is permitted by Section 36.L. [Density Credit] of the Arlington County Zoning Ordinance, upon the following findings of the County Board of Arlington County, Virginia, all of which are applicable to the recommended dedication, and are recited in the attached Resolution:

- **The portion of the property to be dedicated for public purposes is needed by the County for a public use.**

The Dedication Area will continue to be a necessary part of the right-of-way constituting Wilson Boulevard.

- **The portion of the property to be dedicated for said public purpose is suitable in location, size, shape, condition and topography for such public purpose.**

County staff members have determined that the Dedication Area is suitable in location, size, shape, condition and topography for the continued use as a portion of the right-of-way constituting Wilson Boulevard.

- **There are no encumbrances, title restrictions, or survey exceptions to such portion of the property that would restrict, adversely affect, or otherwise interfere with public use of said portion of the property for such public purpose.**

A title search has been performed and no encumbrances, title restrictions, or survey exceptions to such Dedication Area that would restrict, adversely affect, or otherwise interfere with public use of said portion of the Dedication Area for such public purposes were identified.

- **The portion of the property to be dedicated for such public purpose is in accordance with the County's Comprehensive Plan and the dedication of such portion to the property will contribute to the implementation of County Board approved transportation plans.**

The Dedication Area has been considered as a part of Wilson Boulevard, and is shown as such on the Master Transportation Plan; therefore, the Dedication Area will continue to contribute to the implementation of the County Board's transportation plans following the adoption of the attached resolution.

- **The portion of the property for which density credit is to be granted will be dedicated to the County Board without monetary or other compensation, except for granting of density credit.**

No consideration, except for the exchange of the density credit, is being paid to the Property Owner in consideration for the fee dedication to the County of the Dedication Area.

**FISCAL IMPACT:** None. No consideration, except for the exchange of the density credit that would be yielded by the area of the property being dedicated to the County, is being paid to the Property Owner in consideration for the fee dedication.

## EXHIBIT "A"

### RESOLUTION GRANTING DENSITY CREDIT

WHEREAS, the County Manager has recommended that, in exchange for the fee simple dedication of 4,777 square foot for public purposes of the property located at 3300 Wilson Boulevard ( RPC# 19014025) (the "Property"), the County should grant a density credit pursuant to Section 36.L. of the Arlington County Zoning Ordinance in the amount of density that would be yielded by 3,806 square feet of land area (the 4,777 square foot portion of the Property being dedicated for public purposes, less the 971 square foot portion of the Property encumbered by an existing easement to the County for public street and utilities purposes) to the remaining 12,108 square foot parcel as shown on the attached plat, such that the remaining parcel will be treated as a 15,914 square foot parcel for the purposes of density calculations; and

WHEREAS, upon consideration of the staff report of the County Manager, dated October 27, 2009, and other information presented at the time of consideration of this matter, the County Board finds that:

- The Property is currently zoned "C-2", Service Commercial.
- The portion of the Property to be dedicated for public purposes is needed by the County for a public use as public street and utilities.
- The portion of the Property to be dedicated for said public purpose is suitable in location, size, shape, condition and topography for such public purposes.
- There are no encumbrances, title restrictions, or survey exceptions to such portion of the Property that would restrict, adversely affect, or otherwise interfere with public use of said portion of the Property for such public purpose.
- The portion of the Property to be dedicated for such public purpose is in accordance with the County's Comprehensive Plan and the dedication of such portion to the Property has, and will continue to contribute to the implementation of the transportation improvements for Wilson Boulevard as detailed in the Master Transportation Plan, as adopted by the County Board of Arlington County, Virginia.
- The portion of the Property for which density credit is to be granted will be dedicated to the County Board without monetary or other compensation, except for granting of density credit.

NOW THEREFORE, BE IT RESOLVED, that in exchange for the dedication of a portion of the Property for public street and utilities purposes, the County Board, pursuant to Section 36.L. of the Arlington County Zoning Ordinance, hereby grants a density credit in the amount of density that would be yielded by 3,806 square feet to the Property as referenced in the attached dedication plat for the property.

**EXHIBIT "B"**

**RECORDING REQUESTED BY,  
AND WHEN RECORDED RETURN TO:**

Keith C. Martin, Esq.  
Sack Harris & Martin, P.C.  
Suite 810  
8270 Greensboro Drive  
McLean, Virginia 22102

**RPC No. 19014025**

Exempt from Recordation Tax per  
Va. Code § 58.1-811.A.3.

**DEED OF DEDICATION**

THIS DEED OF DEDICATION (this "Deed") is made and entered into this 6<sup>th</sup> day of October, 2009 by and among **EDMONDS MOTORS, INCORPORATED**, a Virginia corporation, Grantor (hereinafter the "Owner"); **VIRGINIA COMMERCE BANK**, a national banking association, Grantor (hereinafter the "Lender"); **GEORGE L. GRECO** and/or **NEIL I. TITLE**, as Trustees for the Lender, EITHER OF WHOM MAY ACT (the "Trustees"), each solely in their capacity as a consent part; and **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic, Grantee (the "County").

**\*\*WITNESSETH\*\***

WHEREAS, the Owner is the sole owner of certain parcel of tract or real property known as Lot 77, Wilson's Addition to Clarendon, situate and located in Arlington County, Virginia, by virtue of that certain special warranty deed recorded in Deed Book 124, at Page 166 (the "Property"), among the land records of Arlington County, Virginia, (the "Land Records"); and

WHEREAS, by deed of trust recorded in Deed Book 3043, at Page 1772, among the Land Records, the Property was conveyed in trust to Trustee, to secure an indebtedness to Lender; and

WHEREAS, by Deed of Easement (the "Deed of Easement") for public street and utilities purposes, dated May 6, 1974, and recorded on May 22, 1974 in Deed Book 1860, at Page 207, among the Land Records, the Owner conveyed to the County an easement over, under and upon approximately 971 square feet of the portion of the Property, which portion, by this Deed, is being dedicated in fee simple to the County; and

WHEREAS, upon acceptance of this Deed on behalf of the County, the legal interest previously granted to the County pursuant to the Deed of Easement will merge into the fee simple rights granted by the Owner and conveyed to the County pursuant to this Deed; and

WHEREAS, at a meeting on November \_\_\_\_, 2009, the County Board of Arlington County, Virginia, adopted a resolution, a certified copy of which is recorded herewith (the "Density Credit Resolution"), granting a density credit pursuant to Section 36.L. of the Arlington County Zoning Ordinance, in the amount of density that would be yielded by 3,806 square feet of land area pursuant to the zoning provisions applicable to the Property on the date the amount of the density credit is determined; and

WHEREAS, the aforementioned density credit was granted in exchange for the dedication in fee simple to the County of 4,777 square feet of the Property for public street and utilities purposes; and

WHEREAS, upon the acceptance by the County of this Deed, the Owner will have: i) dedicated to the County a fee simple interest in 971 square feet for public street and utilities purposes in which the County previously owned an easement interest; and ii) dedicated to the County a fee simple interest in 3,806 square feet for public street and utilities purposes; and iii) obtained an acknowledgement of density credit for 3,806 square feet.

WHEREAS, it is the desire and intent of the Owner, with consent and approval of the Lender and Trustees, to dedicate, in fee simple, certain portions of the Property for public street and utilities purposes and to accept the density credit approved for the Property pursuant to the Density Credit Resolution, all as hereinafter set forth and shown on a plat attached hereto and made a part hereof, entitled "Plat Showing Dedication for Public Street and Utilities Purposes on Part of Lot 77, Section 1, Deed Book 124, Page 166 Arlington County, Virginia" prepared by VIKA, Incorporated, and dated \_\_\_\_\_ (the "Plat"), which Plat was approved by the Arlington County Manager's designee on \_\_\_\_\_, 20\_\_.

#### **DEDICATION FOR PUBLIC STREET AND UTILITIES PURPOSES**

FURTHER WITNESSETH, that in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Lender and Trustees, as evidenced by their signatures affixed hereto, does hereby dedicate, grant and convey unto the County, its successors and assigns, in fee simple, free and clear of all liens, encumbrances and

improvements, that portion of the Property designated as "4,777 SQ. FT. OR 0.10966 AC. HEREBY DEDICATED FOR PUBLIC STREET AND UTILITIES PURPOSES", as more particularly shown and described on the Plat.

#### **ACKNOWLEDGEMENT OF DENSITY CREDIT**

THE OWNER and the County do hereby acknowledge the County's adoption of the aforementioned Resolution granting a density credit in the amount of 3,806 square feet for the remaining portion of the Property in exchange for the aforesaid 4,777-square-foot fee simple dedication to the County for public street and utilities purposes (approximately 971 square feet of which is encumbered by the aforementioned Deed of Easement), and pursuant to the aforesaid Resolution, a certified copy of which is recorded herewith.

#### **COVENANTS REAL**

THE OWNER, with consent and approval of the Lender and Trustees, declares that the agreements and covenants stated in this Deed are not covenants personal to the Owner, but are covenants real, running with the land. This Deed shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

#### **FREE CONSENT**

THIS DEED is made with the free consent and in accordance with the desire of the undersigned Owner of the above-described property, and with Lender and Trustee executing solely in their consent capacity, and is in accordance with the applicable statutes of Virginia and the ordinances in force in Arlington County, and is approved by the proper authorities as is evidenced by their endorsements on said Plat attached hereto.

The provisions of this Deed shall be applicable to the Owner and its successors and assigns.

THIS DEED shall be construed, interpreted and applied according to the law of the Commonwealth of Virginia.

The Recitals are incorporated into this Deed.

WITNESS the following signature and seals:

**[Signatures appear on the following pages]**

Approved as to form and:

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

**THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**

Accepted as to the Dedication for Public Street and Utilities Purposes this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ on behalf of The County Board of Arlington County, Virginia, pursuant to a resolution, motion, or action of the said Board duly adopted on \_\_\_\_\_, 20\_\_.

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 \_\_\_\_\_, on behalf of The County Board of Arlington County, Virginia.

\_\_\_\_\_  
Notary Public

Notary Registration No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**EDMONDS MOTORS, INCORPORATED**, a  
Virginia corporation

By: James A. Edmonds, Jr.  
Name: James A. Edmonds, Jr.  
Title: pres

COMMONWEALTH OF VIRGINIA :  
COUNTY OF Arlington : to wit

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of October, 2009  
by James A. Edmonds, Jr., the President of **EDMONDS  
MOTORS, INCORPORATED**.

Debra Knight  
Notary Public

Notary Registration No.: 104352  
My Commission Expires: Aug. 31, 2012

VIRGINIA COMMERCE BANK, a national banking association

By: Timothy M Aldinger  
Name: Timothy M. Aldinger  
Title: Senior Vice President

COMMONWEALTH OF VIRGINIA :  
COUNTY OF Aslington : to wit

The foregoing instrument was acknowledged before me this 6th day of October, 2009  
by Timothy M Aldinger, the Senior Vice President of VIRGINIA  
COMMERCE BANK.

Dalia Maulik

Notary Public

Notary Registration No.: 7254609  
My Commission Expires: 09/31/13



GEORGE L. GRECO, Trustee

George L. Greco, Trustee

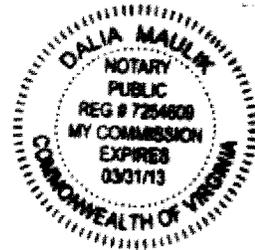
COMMONWEALTH OF VIRGINIA :  
COUNTY OF Arlington : to wit

The foregoing instrument was acknowledged before me this 6th day of October, 2009  
by GEORGE L. GRECO, Trustee.

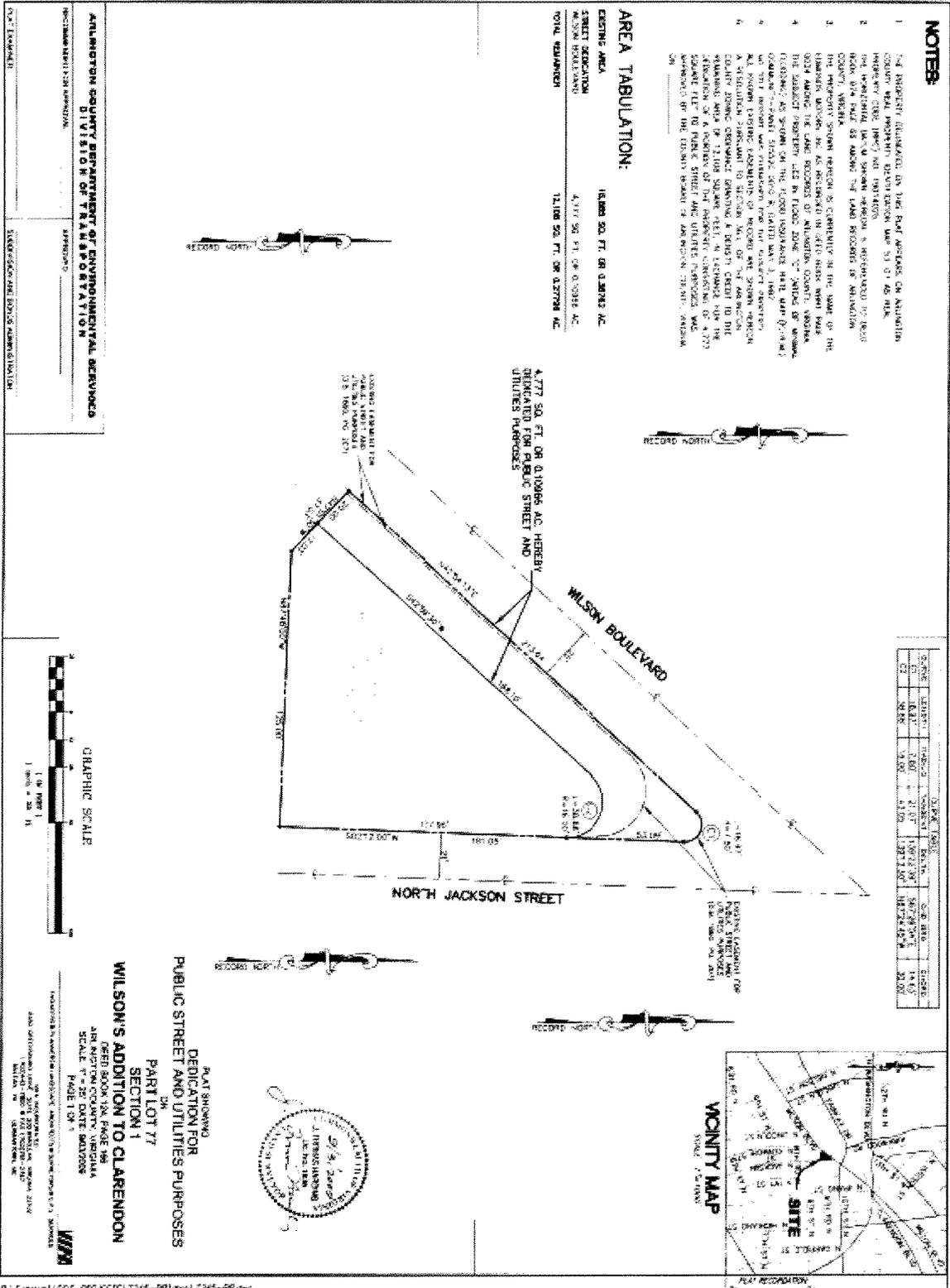
Dalia Maulik

Notary Public

Notary Registration No.: 7254609  
My Commission Expires: 03/31/13



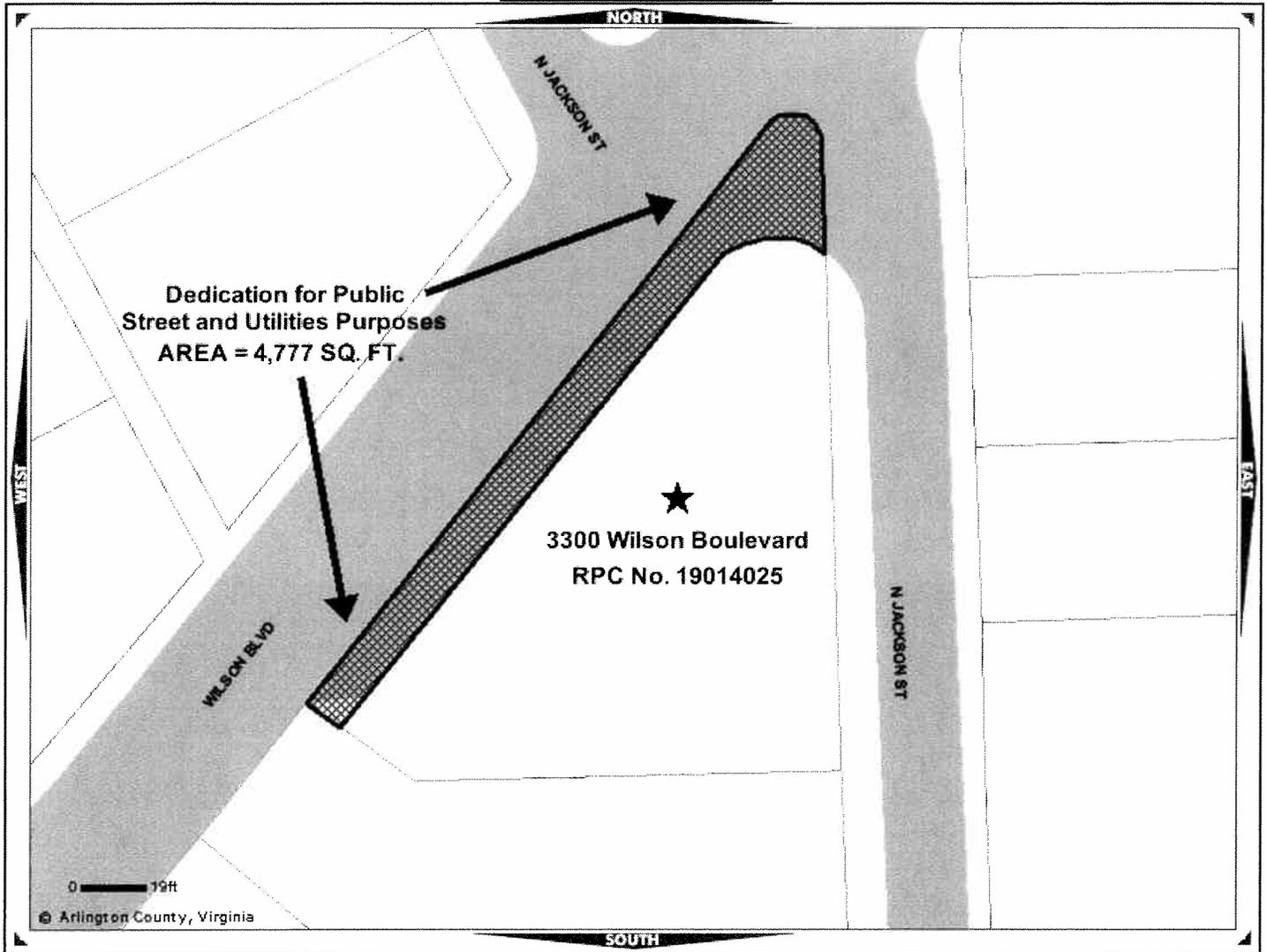
# EXHIBIT "C"



RP# 692

**EXHIBIT "D"**

**VICINITY MAP ONE**



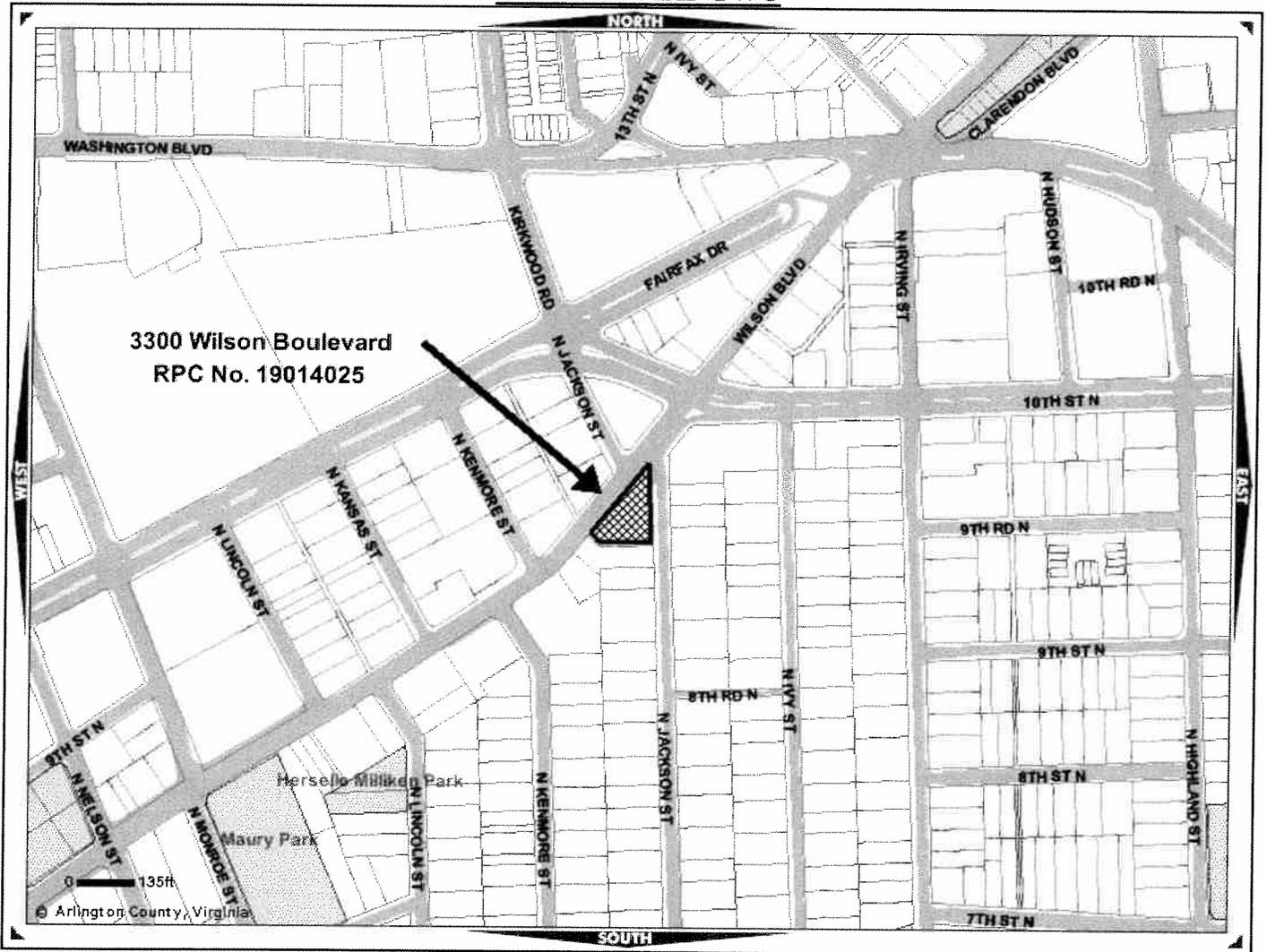
**LOT 77, SECTION 1, WILSON'S ADDITION TO CLARENDON  
3300 WILSON BOULEVARD  
ARLINGTON COUNTY, VIRGINIA  
RPC NO. 19014025**

**DEDICATION OF 4,777 SQ. FT. FOR PUBLIC STREET AND UTILITIES PURPOSES  
AND  
APPROVAL OF DENSITY CREDIT**

**November 14, 2009**

**EXHIBIT "E"**

**VICINITY MAP TWO**



**LOT 77, SECTION 1, WILSON'S ADDITION TO CLARENDON  
3300 WILSON BOULEVARD  
ARLINGTON COUNTY, VIRGINIA  
RPC NO. 19014025**

**DEDICATION OF 4,777 SQ. FT. FOR PUBLIC STREET AND UTILITIES PURPOSES  
AND  
APPROVAL OF DENSITY CREDIT**

**November 14, 2009**