



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of March 13, 2010

DATE: February 24, 2010

SUBJECT: Approval of the Deed Releasing a Restrictive Covenant Running Solely to the Benefit of the County on Real Property Known as 1910 S. Nelson Street, Lot 34, Block B, Douglas Park (RPC #s 31015061).

C. M. RECOMMENDATIONS:

1. Approve the attached Deed Releasing a Restrictive Covenant Running Solely to the Benefit of the County on Real Property Known as 1910 S. Nelson Street, Lot 34, Block B, Douglas Park (RPC #s 31015061), Which Covenant is Contained in a Deed Recorded Among the Land Records of the Circuit Court of Arlington County, Virginia, in Deed Book 2107 at Page 1353; and
2. Authorize the Real Estate Bureau Chief, or his designee, to execute on behalf of the County Board of Arlington County, Virginia, the Deed Releasing a Restrictive Covenant and all related documents, subject to approval as to form by the County Attorney.

ISSUES: The County Board is requested to approve a release of a restrictive covenant running to the County Board's benefit on a residential property in exchange for the payment stated in the restrictive covenant. No issues have been identified.

SUMMARY: There is a restrictive covenant (the "Restrictive Covenant") running to the benefit of the County Board of Arlington County, Virginia (the "County Board") on 1910 S. Nelson Street, Lot 34, Block B, Douglas Park (RPC # 31015061) (the "Property"). The Property is located on the west side of South Nelson Street, approximately one half block south of South Walter Reed Drive, as more particularly shown on the Vicinity Maps attached hereto as Attachment 2. The Restrictive Covenant provides that no building shall be constructed on the Property, nor shall the Property be used in calculating any building lot area, unless and until the owners of the Property pay the County Board a specified amount. The current owner of the Property (the "Property Owner") wishes to construct a dwelling on the Property, and cannot do so unless the Restrictive Covenant is released. The Property Owner will pay to the County Board the amount specified in the Restrictive Covenant in order to have the Restrictive Covenant released.

County Manager: BMD mma

County Attorney: BAK GAM

Staff: Michael Halewski – DES, Real Estate Bureau

15.

BACKGROUND: On January 14, 1983, the County Board conveyed the Property to Charles A. Thompson and Jacqueline L. Thompson, husband and wife, by a deed (the "Initial Deed") recorded among the land records of the Clerk of the Circuit Court of Arlington County, Virginia (the "Land Records") in Deed Book 2107 at Page 1353. The Initial Deed also contained a Restrictive Covenant, which reads:

No building shall be constructed on the property conveyed by this deed nor shall this property be used in calculating any building lot area unless the owners of the property shall pay to Arlington County the sum of Two Thousand Six Hundred Dollars (\$2,600.00) escalated from the date of this deed by the cumulative annual average percentage in increase in assessments of single-family dwelling lots in Arlington County, Virginia, as determined by the Arlington County, Virginia, Department of Real Estate Assessments, as of the date of such payment. Any violation of this provision shall result in the automatic reversion to the Grantor of all right, title and interest in the property hereby conveyed.

The Property and other lots abutting the Property were owned by the County Board, and were vacant land at the time of the Initial Deed. The Property and the abutting parcels were, and continue to be, zoned R2-7. R2-7 is a zoning classification that permits, among other things, townhouse construction. At the time of the Initial Deed, the neighborhood was opposed to the possible construction of townhouses on the Property and the lots abutting the Property. The County conveyed the Property and the abutting parcels for little or nominal consideration. The Restrictive Covenant was included in the Initial Deed to: 1) provide the County with some ability to limit the development of townhouses on these parcel, which would otherwise be permitted by-right under the existing zoning; and 2) to receive monetary value for the conveyance in the Initial Deed at some point in the future when the Property is developed.

DISCUSSION: The Property Owner wishes to construct a single family dwelling on the Property and the abutting Lot 33, Block B, Douglas Park (RPC #s 31015035) (also owned by the Property Owner), and has requested a release of the Restrictive Covenant. The Property Owner has tendered to County staff the payment required by the terms of the Restrictive Covenant. Per the terms of the Restrictive Covenant, the required payment (i.e. the sum of Two Thousand Six Hundred Dollars (\$2,600.00) escalated from the date of this deed by the cumulative annual average percentage in increase in assessments of single-family dwelling lots in Arlington County, Virginia, as determined by the Arlington County, Virginia, Department of Real Estate Assessments, as of the date of this report) is Thirteen Thousand Nine Hundred Eighty-seven Dollars and Eight Cents (\$13,987.08).

FISCAL IMPACT: The County will receive payment of Thirteen Thousand Nine Hundred Eighty-seven Dollars and Eight Cents (\$13,987.08) from the Property Owner, which will be deposited into the County's general fund.

ATTACHMENT 1

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

Real Estate Bureau Chief
Engineering & Capital Projects Division
Department of Environmental Services
Arlington County Government
2100 Clarendon Boulevard, Suite 900
Arlington, Virginia 22201

RPC No. 31015061

This document is exempt from Recordation Tax pursuant to Virginia Code § 58.1-811.A.3

DEED RELEASING RESTRICTIVE COVENANT

THIS DEED RELEASING RESTRICTIVE COVENANT (this "Deed"), dated this ____ day of _____, 2010, made by and between **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic, Grantor (the "County"), and **STEVEN RESNIC**, Grantee (the "Owner"). The County and the Owner are sometimes jointly hereinafter referred to collectively as the "Parties".

WITNESSETH:

R-1. WHEREAS, by Deed dated January 14, 1983, and recorded among the land records of Clerk of the Circuit Court of Arlington County, Virginia (the "Land Records") in Deed Book 2107 at Page 1353 (the "Initial Deed"), the County Board of Arlington County, Virginia, conveyed unto Charles A. Thompson and Jacqueline L. Thompson, husband and wife, fee simple title to a parcel of real property located and situate in Arlington County, Virginia, being more particularly described as:

Lot Thirty-Four (34), Block Thirty-Eight (38), DOUGLASS PARK, as the same is shown on a plat made by George E. Garrett, C.E., attached to and recorded with a supplementary deed of trust recorded among the land records of Arlington County, Virginia, in Deed Book 205, at page 569

The above-described parcel is sometimes referred to hereinafter as the "Property":

R-2 WHEREAS, the Initial Deed contained the following restrictive covenant (the "Restrictive Covenant") running with the Property solely to the benefit of the County:

"No building shall be constructed on the property conveyed by this deed nor shall this property be used in calculating any building lot area unless the owners of the property shall pay to Arlington County the sum of Two Thousand Six Hundred Dollars (\$2,600.00) escalated from the date of this deed by the cumulative annual average percentage in increase in assessments of single-family dwelling lots in Arlington County, Virginia, as determined by the Arlington County, Virginia, Department of Real Estate Assessments, as of the date of such payment. Any violation of this provision shall result in the automatic reversion to Grantor of all right, title and interest in the property hereby conveyed":

R-3. WHEREAS, Owner is the current fee simple owner of the Property, title thereto having been acquired by and conveyed to the Owner by the Deed recorded in Deed Book 4315 at Page 23-44 among the Land Records:

R-4. WHEREAS, the Owner desires to construct a building on the Property:
and

R-5. WHEREAS, the County has determined that the sum of Two Thousand Six Hundred Dollars (\$2,600.00) escalated from the date of the Initial Deed by the cumulative annual average percentage in increase in assessments of single-family dwelling lots in Arlington County, Virginia, as determined by the Arlington County, Virginia, Department of Real Estate Assessments, as of the date of payment equals Thirteen Thousand Nine Hundred Eighty-seven and Eight Cents (\$13,987.08).

RELEASE OF RESTRICTIVE COVENANT

NOW, THEREFORE, for and in consideration of the sum of Thirteen Thousand Nine Hundred Eighty-seven and Eight Cents (\$13,987.08), cash in hand paid, and for

other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County does hereby surrender, remise, quitclaim, and release any and all right, and interest in, and to, the Restrictive Covenant.

This Deed is made without any representations, warranties, or statements that would modify, add to, or change the terms of this Deed.

This conveyance is made subject to all restrictions, easements, rights of way and other covenants of record insofar as they may lawfully affect the Property.

The Recitals set out above are incorporated into this Deed.

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

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

WITNESS the following signatures and seals:

GRANTOR: **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic

By: _____

Name: URI ARKIN

Title: REAL ESTATE BUREAU CHIEF

COMMONWEALTH OF VIRGINIA :
COUNTY OF ARLINGTON : ro-wit

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by Uri Arkin, the Real Estate Bureau Chief of the County Board of Arlington County, Virginia, a body corporate and politic, on behalf of said County Board, pursuant to a resolution, motion, or action of the said County Board duly adopted on the ____ day of _____, 2010.

NOTARY PUBLIC

NOTARY ID #

COMMISSION EXPIRATION DATE

GRANTEE:

STEVEN RESNIC

SR

STATE/Commonwealth of Virginia :
COUNTY OF Arlington : to-wit

The foregoing instrument was acknowledged before me this 26th day of February, 2010, by Steven Resnic.

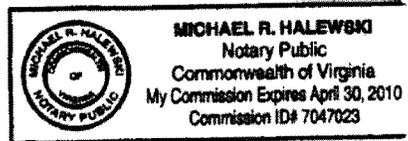
Michael R. Halewski
NOTARY PUBLIC

7047023
NOTARY ID #

April 30, 2010
COMMISSION EXPIRATION DATE

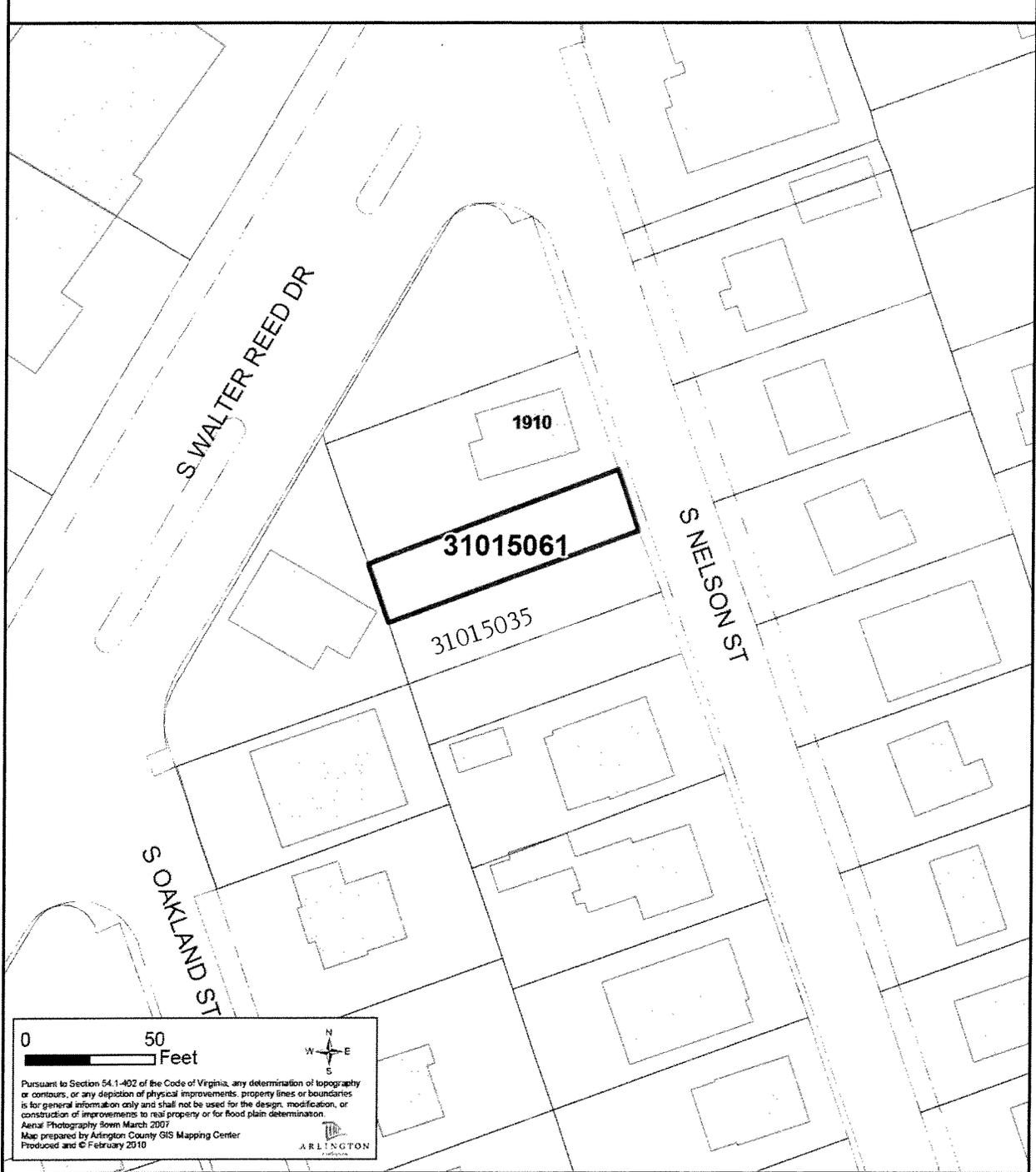
APPROVED AS TO FORM:

COUNTY ATTORNEY



VICINITY MAP

Vicinity Map
Release of Restrictive Covenant
RPC # 31015061
1910 S Nelson ST



Vicinity Map
Release of Restrictive Covenant
RPC # 31015061
1910 S Nelson ST



Vicinity Map
Release of Restrictive Covenant
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1910 S Nelson ST



0 200 Feet

Pursuant to Section 24.1-422 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

Aerial: Photography from March 2007
Map prepared by Arlington County GIS Mapping Center
Produced and © February 2010