



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of July 9, 2011**

**DATE:** June 17, 2011

**SUBJECT:** Enactment of an Ordinance to Vacate a Portion of a Ten (10) Foot Storm Sewer Easement Running to the East Along a Portion of the Southern Boundary, and Then Running Thereafter Diagonally to the Northeast, on Lot 75, Thomas W. Davis's Subdivision of Creston, 4839 Little Falls Road, (RPC # 03-041-002).

**Owner/Applicant:** Sunnyside Development, LLC, a Virginia limited liability company

**By:** David Springberg, Managing Member  
1400 N. Buchanan  
Arlington, VA 22205

### C. M. RECOMMENDATION:

1. Enact the attached Ordinance to Vacate a portion of a ten (10) foot storm sewer easement running to the east along a portion of the southern boundary, and then running thereafter diagonally to the northeast, on Lot 75, Thomas W. Davis's Subdivision of Creston, 4839 Little Falls Road, (RPC # 03-041-002) (Attachment 1).
2. Authorize the Real Estate Bureau Chief, or his designee, to execute the Deed of Vacation, and all related documents referenced in the above described Ordinance, on behalf of the County Board, subject to approval of such deed, as to form, by the County Attorney.

**ISSUES:** This is a request for the vacation of a portion of an existing storm sewer easement on a residential lot to accommodate construction of a portion of a new dwelling and patio that would encroach into the existing easement. No issues have been identified.

**SUMMARY:** The applicant has requested the vacation of a 1,046 square foot portion of a ten (10) foot storm sewer easement running to the east along a portion of the southern boundary, and then running diagonally to the northeast, on Lot 75, Thomas W. Davis's Subdivision of Creston, 4839 Little Falls Road. Before a Deed of Vacation is executed, the County will conduct a

County Manager:

County Attorney:

30.

Staff: Lynne Porfiri & Linda Collier, DES, Real Estate Bureau

television inspection of a portion [approximately seventy-four (74') linear feet] of the existing public storm sewer pipe running along the southern boundary of the property. The purpose of the inspection is to determine the condition of the existing pipe and whether or not applicant must repair or replace that portion of the pipe as a condition of the Ordinance of Vacation. After reviewing the television inspection, the Director of the Department of Environmental Services, or his designee, will determine whether or not the pipe is in poor condition. If it is, then as a condition of the Ordinance of Vacation, the applicant will be required, at its sole cost and expense, to repair or replace all portions of the storm sewer pipe which will remain and not be relocated. In any event, that portion of the storm sewer pipe not inspected will be removed and relocated by the applicant as a condition of the Ordinance of Vacation. In addition, the applicant will be required to dedicate to the County a new easement for storm sewer purposes. The new easement will include the area within which the storm sewer pipe will be relocated and an area within which a small portion of the existing storm sewer pipe is located outside the area of the existing easement.

The Ordinance of Vacation is requested to accommodate the construction of a proposed new dwelling on the subject property. With the enactment of the Ordinance of Vacation, upon satisfaction of the conditions and recordation of the Deed of Vacation, the County's interest in the vacated portion of the easement will be extinguished.

**BACKGROUND:** On February 27, 1958, the County Board acquired a storm sewer easement across the property at 4839 Little Falls Road by Deed of Easement, recorded in the land records of Arlington County, Virginia, in Deed Book 1320, at Page 221 and shown on a recorded plat. The easement was acquired to construct a storm sewer pipe to collect run-off storm water from N. Buchanan Street and, by gravity flow, divert it through adjoining properties, including the applicant's, to the main storm sewer system in the public right of way of Little Falls Road.

There is a small portion of the existing storm sewer pipe which lies outside of the easement area. In order to construct a proposed new dwelling, the applicant is requesting vacation of the existing easement and permission to remove and relocate that portion of the storm pipe running diagonally across the property. As a condition of the Ordinance of Vacation, applicant proposes to dedicate a new fifteen (15) foot storm sewer easement to the County Board. The dedicated easement will be five (5) feet wider than the existing easement. The dedicated easement will contain the entire length of the existing and relocated pipe.

**DISCUSSION:** The vacation of the portion of the easement and the removal and relocation of the portion of the storm facilities therein, are needed to allow for the placement of the proposed new dwelling on applicant's property. The analysis provided by R.C. Fields, Jr. & Associates, P.C., an engineering firm retained by the applicant, demonstrates that the new design has adequate capacity to redirect storm water run-off around the proposed new dwelling, without negative impact to adjoining properties. County staff has reviewed the analysis and the proposed new design of the storm drainage facilities on subject property.

The storm sewer easement area that is the subject of the Ordinance of Vacation is depicted on a plat attached hereto as Exhibit "A" entitled "Plat Showing Vacation of a Portion of an Existing 10' Storm Sewer Easement on Lot 75, Thomas W. Davis's Subdivision of Creston, Deed Book

124, Page 261, Arlington County, Virginia,” prepared by R.C. Fields, Jr. & Associates, P.C., dated June 2, 2011. Vicinity maps of the project are attached hereto as Exhibit “B”, Exhibit “C” and Exhibit “D.”

The Ordinance (Attachment 1) is subject to conditions that are designed to address construction of the relocated public facilities by the applicant and acceptance of the relocated public facilities by the County. Once the relocated facilities constructed by the applicant are deemed operational by the County and all other conditions of the Ordinance are satisfied, then the County will execute the Deed of Vacation.

With the enactment of the Ordinance, upon satisfaction of the conditions, and upon recordation of the Deed of Vacation, the County’s interest in the vacated portions of the subject easement will be extinguished.

Legal and Physical Description: The property is located on the east side of Little Falls Road, north of 33<sup>rd</sup> Road North. The site is now owned by Sunnyside Development, LLC. The easement that is the subject of this vacation request is described on the plat attached as Exhibit A. The applicant acquired the property by deed dated June 13, 2011, and recorded among the land records of Arlington County, Virginia in Deed Book, 4465, at page 2642 on June 14, 2011. The County Board acquired the easement that is the subject of this vacation request by Deed of Easement dated May 19, 1956, and recorded among the land records of Arlington County, Virginia in Deed Book 1320, at Page 221 on February 27, 1958.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the June 14, 2011 and June 21, 2011 issues of the Washington Times for the County Board meeting of July 9, 2011.

Compensation: Staff recommends that no compensation be required from the applicant for vacating public utilities easements located on residential property that are no longer needed by the County. This follows the current County practice of not requiring compensation for the vacation of public utility easements when the facilities will be relocated for development at the applicant’s or developer’s expense and at no cost to the County.

**FISCAL IMPACT:** None.

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

## ATTACHMENT 1

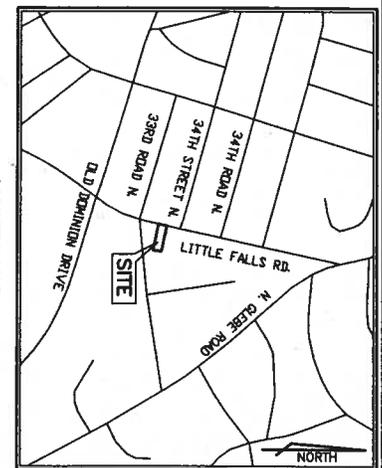
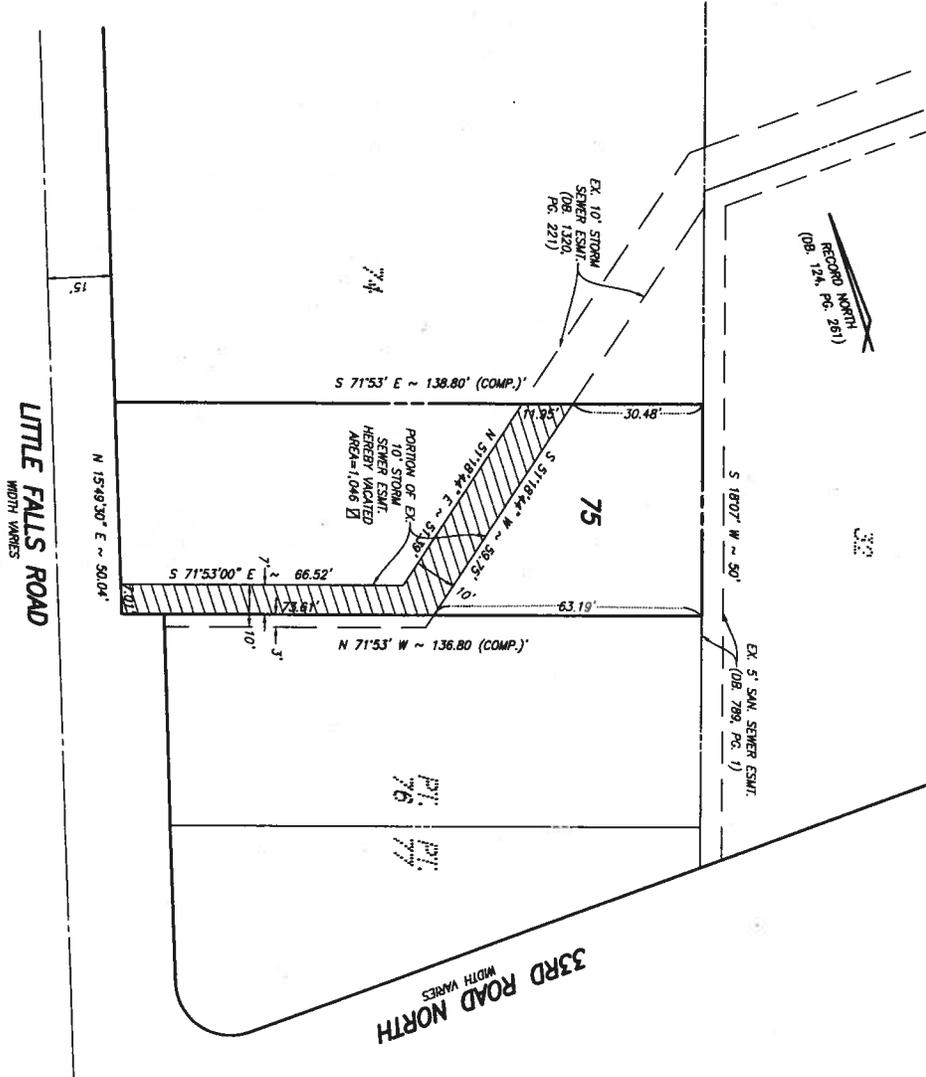
### **ORDINANCE TO VACATE A PORTION OF A TEN (10) FOOT STORM SEWER EASEMENT RUNNING TO THE EAST ALONG A PORTION OF THE SOUTHERN BOUNDARY, AND THEN RUNNING THEREAFTER DIAGONALLY TO THE NORTHEAST, ON LOT 75, THOMAS W. DAVIS'S SUBDIVISION OF CRESTON, 4839 LITTLE FALLS ROAD, (RPC # 03-041-002), WITH CONDITIONS.**

**BE IT ORDAINED** that, pursuant to a request by Sunnyside Development, LLC (“Owner/Applicant”) on file in the offices of the Department of Environmental Services, a 10-foot wide Storm Sewer Easement located on the Property owned by Sunnyside Development, LLC, a Virginia Limited Liability Company, at 4839 Little Falls Road, Arlington, Virginia, (RPC #03-041-002), as shown on an plat attached as Exhibit “A” to the County Manager’s Report dated June 17, 2011, entitled “Plat Showing Vacation of a Portion of an Existing 10’ Storm Sewer Easement on Lot 75, Thomas W. Davis’s Subdivision of Creston, Deed Book 124, Page 261, Arlington County, Virginia,” prepared by R.C. Fields, Jr. & Associates, P.C., dated June 2, 2011, is hereby vacated, subject to the following conditions:

1. The Owner/Applicant shall prepare and submit to the County, for review and approval all required plats and the Deed of Vacation for the portion of a ten (10) foot storm sewer easement running to the east along a portion of the southern boundary, and then running thereafter diagonally to the northeast at 4839 Little Falls Road as shown on a plat entitled “Plat Showing Vacation of a Portion of an Existing 10’ Storm Sewer Easement on Lot 75, Thomas W. Davis’s Subdivision of Creston, Deed Book 124, Page 261, Arlington County, Virginia,” prepared by R.C. Fields, Jr. & Associates, P.C., dated June 2, 2011, subject to approval of such plats by the County Manager, or her designee, and approval of the Deed as to form by the County Attorney.
2. The Owner/Applicant shall prepare and submit to the County, for review and approval, to the Department of Environmental services (“DES”), a utility relocation and engineering design plan for the construction, relocation, removal, or replacement of the storm sewer facilities located, in whole or in part, within the portion of the easement vacated by this Ordinance of Vacation and any other storm sewer facilities required by the Director of DES, or his designee, to be replaced after review of the television inspection video of the facilities by DES (“Plan”) in compliance with the Arlington County DES Construction Standards and Specifications. The Plan shall be subject to approval by the Director of DES, or his designee.
3. The Applicant shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or her designee, for the construction, relocation, removal, or replacement of the storm sewer facilities pursuant to the approved Plan and the repair, replacement and relocation of the approximately seventy-four feet (74’) portion of the existing public storm sewer pipe running along the southern boundary of the property, the necessity for which shall

be determined by the Director of DES, or his designee after reviewing the County television inspection video and the Plan.

4. Before the Deed of Vacation is executed on behalf of the County, and delivered to the Owner/Applicant, the Owner/Applicant shall construct the relocated public storm sewer facilities, and such facilities shall be operational as determined solely by the Director of DES, or his designee.
5. The Owner/Applicant shall pay all costs and expenses associated with the design, removal, and construction of the existing and relocated storm sewer facilities, and the acquisition of all permits required for relocation the storm sewer facilities, as determined by the Director of DES, or his designee.
6. The Owner/Applicant shall prepare and submit, to the County, a Deed of Vacation, all required plats, and other documents necessary to satisfy the conditions of this Ordinance of Vacation, subject to the approval of such deeds and documents by the County Manager, or her designee, as to substance, and approved as to form by the County Attorney.
7. The Owner/Applicant shall dedicate to the County Board a storm sewer easement for the relocated public storm sewer facilities, and any portion of the remaining existing storm sewer facilities located outside of the existing storm sewer easement, the location and dimensions of which shall be determined by, and are subject to, the approval of the Director of DES, or his designee. The deed of easement for such storm sewer easement is subject to the approval as to form by the County Attorney. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the storm sewer easement on behalf of the County Board.
8. The Owner/Applicant shall record the Deed of Vacation, the Deed of Easement, and all related plats, at the Owner/Applicant's expense.
9. The Owner/Applicant shall pay all fees, including the fees for review, approval, and recording of all required documents associated with this Ordinance of Vacation.
10. The Deed of Vacation shall not be executed on behalf of the County Board until all the requirements of this Ordinance are satisfied.
11. All conditions of the Ordinance of Vacation shall be met by noon on July 8, 2012, or this Ordinance of Vacation shall become null and void without the necessity of any further action by the County Board.



VICINITY MAP  
SCALE: 1" = 500'

**GENERAL NOTES:**

1. R.P.C.: 03041002 R-10 ZONE:
2. OWNER: PAUL H. VANDORER  
4839 LITTLE FALLS ROAD  
ARLINGTON, VA 22207  
O.B.: 1995; P.G.: 395
- CLIENT: SUNNYSIDE DEVELOPMENT, LLC
3. TOPOGRAPHIC SURVEY WAS FIELD RUN BY THIS FIRM.
4. TOTAL SITE AREA: 6,890 SQ. FT. OR 0.1582 ACRES
5. TITLE REPORT FURNISHED BY HBS TITLE ENTERPRISES, INC., TITLE #229-439, DATED 21ST MAY 2011 AND IS RELIED UPON AS ACCURATE BY THE SURVEYOR.
6. PLAT SUBJECT TO RESTRICTIONS OF RECORD.



**PLAT**

SHOWING VACATION OF A PORTION OF AN EXISTING  
10' STORM SEWER EASEMENT ON  
LOT 75, THOMAS W. DAVIS'S SUBDIVISION OF

**CRESTON**

(DEED BOOK 124, PAGE 261)  
ARLINGTON COUNTY, VIRGINIA  
SCALE: 1" = 20'  
DATE: JUNE 2, 2011

**R.C. FIELDS, JR. & ASSOCIATES**  
A PROFESSIONAL CORPORATION

● LAND SURVEYING ● SITE PLANNING ● SUBDIVISION DESIGN  
730 S. Washington St. Alexandria, Virginia 22314 (703) 549-6422

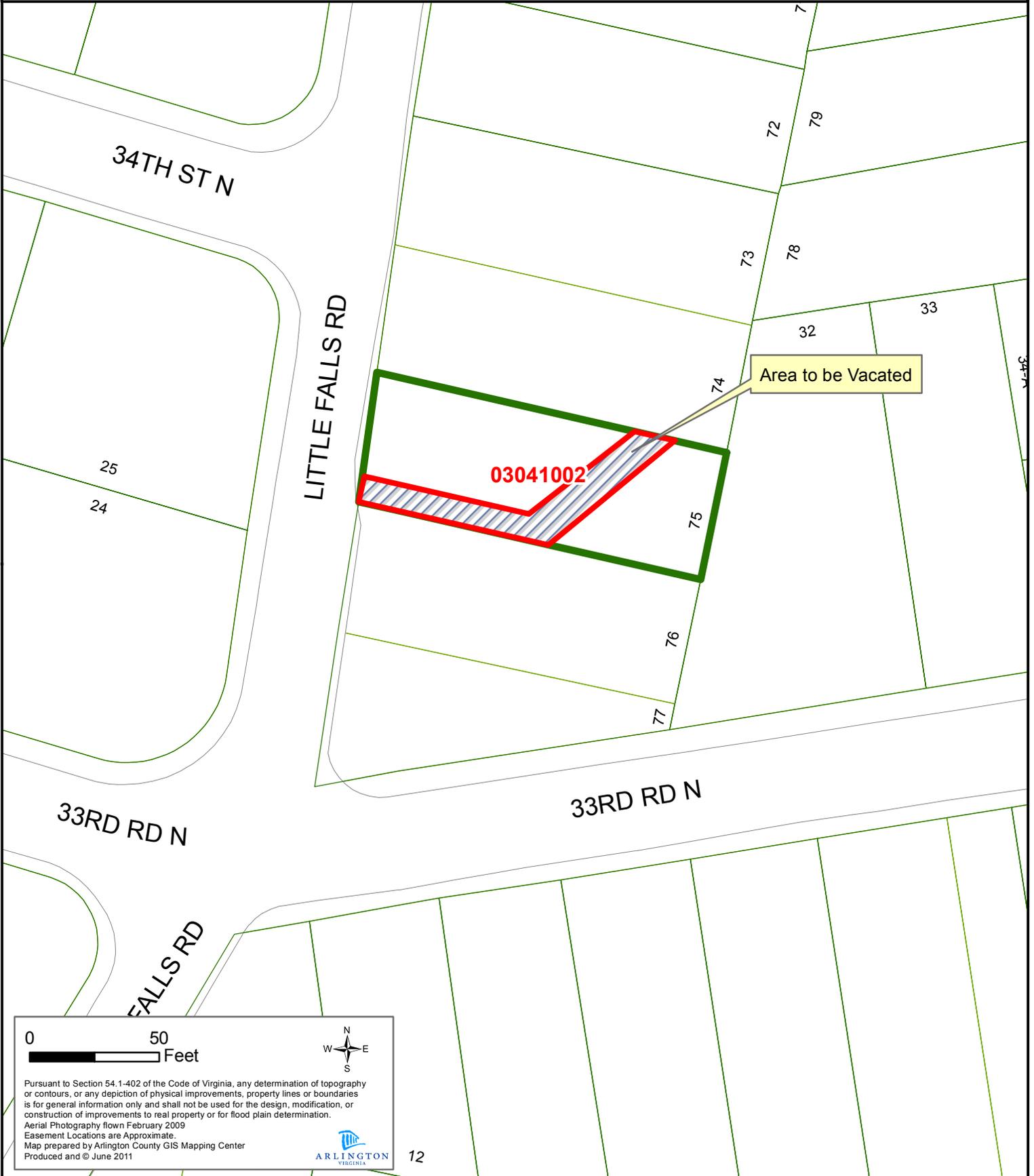
COMP.	T.G.
DRAWN	T.G.
CHECKED	R.C.F.

# Vicinity Map

## Thomas Davis's Subdivision of Creston

### 4839 Little Falls Road

### RPC# 03041002



0 50 Feet



Pursuant to Section 54.1-402 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 flown February 2009  
Easement Locations are Approximate.  
Map prepared by Arlington County GIS Mapping Center  
Produced and © June 2011



# Vicinity Map

## Thomas Davis's Subdivision of Creston

### 4839 Little Falls Road

### RPC# 03041002



0 50 Feet



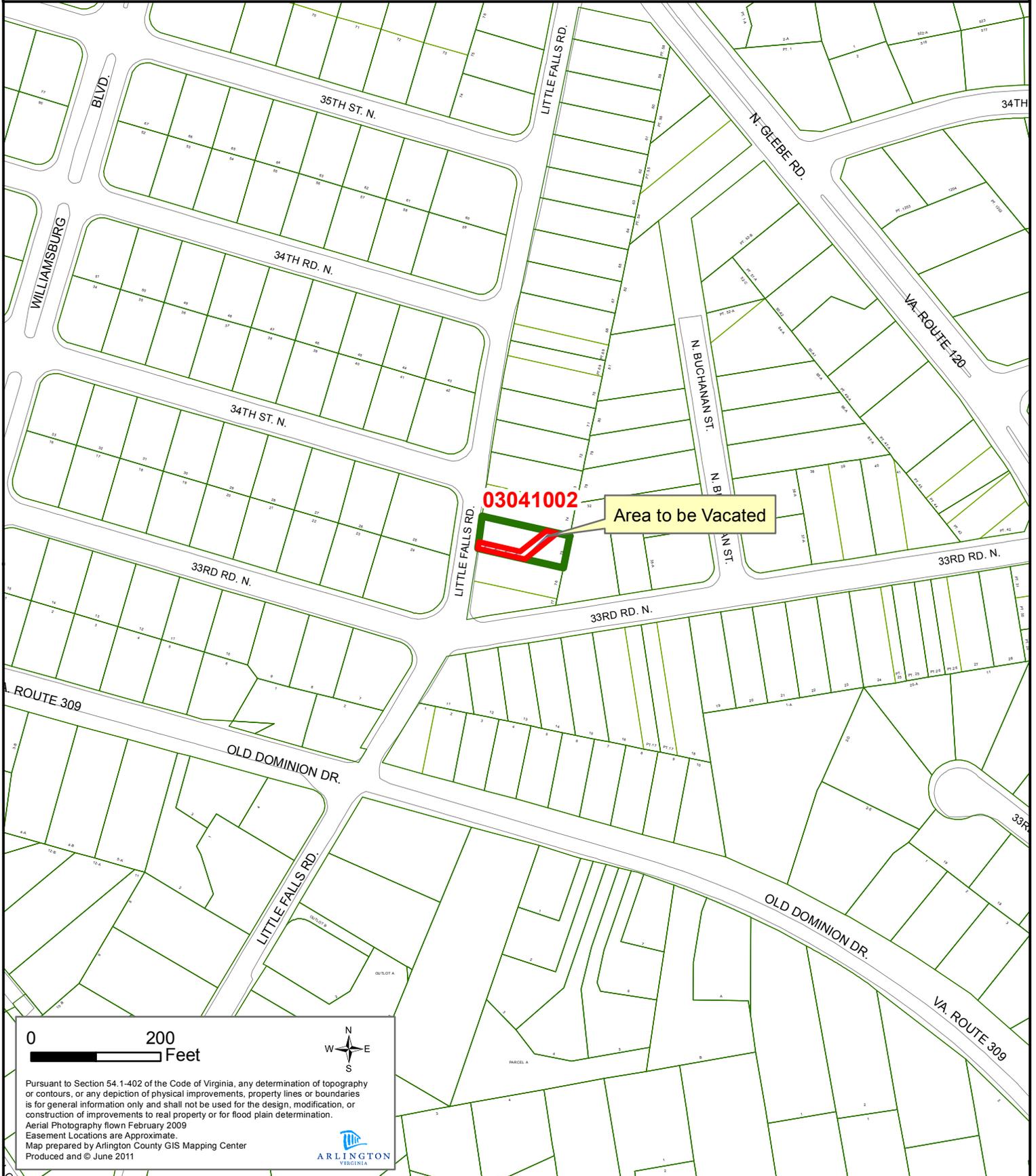
Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination. Aerial Photography flown February 2009. Easement Locations are Approximate. Map prepared by Arlington County GIS Mapping Center. Produced and © June 2011.

# Vicinity Map

## Thomas Davis's Subdivision of Creston

### 4839 Little Falls Road

### RPC# 03041002



0 200 Feet



Pursuant to Section 54.1-402 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 flown February 2009. Easement Locations are Approximate. Map prepared by Arlington County GIS Mapping Center. Produced and © June 2011

