



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 08, 2012**

DATE: November 13, 2012

SUBJECT: Enactment of an Ordinance to Vacate: 1) a Public Water Main Easement located along the southern boundary line of Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H Block 11 Aurora Heights; and 2) a portion of a Public Use and Access Easement located on Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H Block 11 Aurora Heights, RPC# 15058015, with Conditions.

Applicant/Owner:

Otter Wilson Boulevard, LLC

Agent:

Tad Lunger, Esquire
Bean Kinney and Korman
2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201

C. M. RECOMMENDATION:

- A. Enact the attached Ordinance to Vacate: 1) a Public Water Main Easement located along the southern boundary line of Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H, Block 11 Aurora Heights; and 2) a portion of a Public Use and Access Easement located on Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H, Block 11 Aurora Heights, a subdivided portion of RPC# 15-058-015, with Conditions ("Ordinance"), Attachment 1.
- B. Authorize the Real Estate Bureau Chief, Department of Environmental Services, or his designee, to execute and/or accept, on behalf of the County Board, the Deed(s) of Vacation, and all other documents necessary to effectuate the Ordinance, subject to approval as to form by the County Attorney.

ISSUES: The subject vacations are requested by the Applicant to permit construction of an office building that is the subject of a major amendment to SP #263, concurrently under consideration by the County Board. There are no outstanding issues concerning the vacations.

County Manager:

BMD/GA

County Attorney:

GA *BAK*

25. B.

Staff: Linda Eichelbaum Collier, Real Estate Specialist, DES

SUMMARY: In order to construct the office building that is the subject of a major amendment to SP #263 (“Site Plan” or “Clean Technology Building”), concurrently being considered by the Board, Otter Wilson Boulevard, LLC (“Applicant”) has requested that the Board enact an Ordinance of Vacation to vacate a Public Water Main Easement and a portion of a Public Use and Access Easement. As conditions of the Ordinance of Vacation, the Applicant will be required to relocate any public water main facilities located within the areas of the easements to be vacated, and to dedicate to the County any new easement(s) required to accommodate such relocated facilities. As an additional condition of the Ordinance of Vacation, the Applicant will be required to dedicate a new surface Public Use and Access Easement of equal or greater total square feet area than the portion of the Public Use and Access Easement to be vacated.

BACKGROUND: The Applicant is seeking approval of a major site plan amendment to SP #263 on property located at the northeast corner of Wilson Boulevard and North Adams Street. (See Vicinity Maps attached as Exhibits D-1 and D-2). The amendment would increase the height and density of an approved, unbuilt office building, which includes ground floor retail space. The original Site Plan includes a residential building, which has been previously constructed, an office building (to be constructed), an area of publicly accessible open space in the rear of the office building serving as a transition from the residential and office buildings to the residential neighborhood to the north and northwest, and a pedestrian walkway connecting the residential neighborhood to the Courthouse Metro station area.

When the Site Plan was originally approved, it authorized the construction of one U-shaped building containing a residential portion and an office portion. The Site Plan was subsequently amended in 1991 and 1996, and the buildings were reconfigured, splitting them apart. A 22,085 square foot Public Use and Access Easement (“Use and Access Easement”) was dedicated to the County on unconstructed portions of the Site Plan property. Applicant has requested the vacation of a 17,055 square foot portion of the existing Use and Access Easement, and has agreed to dedicate a new surface Public Use and Access Easement (“New Easement”), of equal or greater area than the area of the Use and Access Easement to be vacated. The area of the New Easement, when added to the remaining portion of the Use and Access Easement not vacated, must total not less than 22,085 square feet. The amended Site Plan conditions will contain a requirement for dedication of 22,085 square feet of surface public use and access easement.

The Applicant has also requested vacation of a Public Water Main Easement (“Water Main Easement”) on the property.

DISCUSSION: In order to develop the site as presented in the Site Plan, Applicant is requesting that the County Board enact an Ordinance of Vacation vacating a portion of the Use and Access Easement and the Water Main Easement. The Water Main Easement is depicted on a plat attached hereto as Exhibit A and entitled, “Exhibit “A” Plat Showing Vacation of Public Water Main Easement on Parcel H2, Foster’s Subdivision Deed Book 4557, Page 445 Arlington County Virginia”, dated August 20, 2012 and prepared by VIKA Incorporated (“Water Main Plat”). The Water Main Easement area requested to be vacated is depicted on the Water Main Plat as “Existing Easement Public Water Main DB 3091 PG 2053 1,102 SQ. FT. (Hereby

Vacated)". The Use and Access Easement requested to be vacated is depicted on a plat attached hereto as Exhibit B and entitled, "Exhibit "B" Plat Showing Vacation of Public Use and Access Easement on Parcel H2, Foster's Subdivision Deed Book 4557, Page 445 Arlington County Virginia", dated August 30, 2012 and prepared by VIKA Incorporated ("Use and Access Plat"). The Use and Access Easement area requested to be vacated is depicted on the Use and Access Plat as "Portion of Exiting Use and Access Easement D.B. 3091, PG. 2053 (17,055 Sq. Ft. Hereby Vacated)". (The Water Main Plat and the Use and Access Plat are sometimes jointly called "Plats").

A proposed Ordinance is attached to this report as "Attachment 1". As a condition of the Ordinance, and before a deed of vacation can be recorded, the Applicant will be required to deliver to the County, a fully executed deed dedicating the New Easement to the County. The New Easement is depicted on a plat attached hereto as Exhibit C and entitled, "Exhibit "C" Exhibit Showing Dedication of Public Use and Access Easement on Parcel H2, Foster's Subdivision Deed Book 4557, Page 445 and Outlots D and E Vacation and Abandonment of a Portion of North Custis Road Deed Book 2423, Page 296 and Lot 3 and Part Lot 9 Block 1 Preston's Addition to Aurora Heights Deed Book 181, Page 155 Deed Book 413, Page 262 Arlington County Virginia", dated August 30, 2012 and prepared by VIKA Incorporated ("Dedication Plat"). The New Easement area to be dedicated is shown on the Dedication Plat as "Public Use and Access Easement 17,065 Sq. Ft. (Hereby Dedicated)". The conditions of the Ordinance further require the Applicant to record the New Easement among the County land records immediately following the recordation of the Deed of Vacation. The Ordinance also requires the Applicant to relocate all existing utilities locate within the vacated areas, and provide new easements to the County, as necessary, for any relocated utilities.

Legal and Physical Description: The physical area of the easements to be vacated is depicted on the Plats attached to this report as Exhibits A and B. The Use and Access Easement and the Water Main Easement were conveyed to the County by deed recorded among the Land Records of the Arlington County, Virginia ("Land Records") in Deed Book 3901 at Page 2053. The underlying property upon which the easements are located is owned by the Applicant by virtue of a Special Warranty Deed recorded among the Land Records at Deed Book 4572 at Page 879.

Public Notice: Public notice of the enactment of the proposed Ordinance was given in accordance with the Code of Virginia. Notices were placed in the August 21, 2012 and August 28, 2012 issues of the Washington Times for the County Planning Commission Meeting of September 4, 2012 and the County Board Meeting of September 15, 2012. At its September meeting, the County Board deferred the item to the October County Board Meeting, and at its October meeting, the County Board deferred the item to the December County Board Meeting.

Compensation: The Applicant has agreed, as a condition of the proposed Ordinance of Vacation, to dedicate to the County the New Easement. This dedication will result in a total dedicated area of not less than the area required by the amended Site Plan (i.e., 22,085 square feet) to be dedicated to the County. Therefore, staff recommends that no compensation be charged for vacation of the Use and Access Easement. In addition, based on current County practice, staff recommends that the Applicant not be charged compensation for the vacation of the Water Main Easement, because the Applicant will be required, as a condition of the Ordinance of Vacation,

to relocate, at Applicant's sole cost and expense, any public utility facilities located within the easement to be vacated, and to dedicate to the County, without compensation from the County, any new easements required to accommodate such relocated facilities.

FISCAL IMPACT: None.

CONCLUSION: Staff recommends approval of the Ordinance to Vacate: 1) a Public Water Main Easement located along the southern boundary line of Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H, Block 11 Aurora Heights; and 2) a portion of a Public Use and Access Easement located on Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H, Block 11 Aurora Heights, a subdivided portion of RPC# 15-058-015, with Conditions.

ATTACHMENT 1

ORDINANCE TO VACATE: 1) A PUBLIC WATER MAIN EASEMENT LOCATED ALONG THE SOUTHERN BOUNDARY LINE OF PARCEL H2, FOSTER'S SUBDIVISION BEING THE RESUBDIVISION, VACATION AND REDEDICATION OF PARCEL H BLOCK 11 AURORA HEIGHTS; AND 2) A PORTION OF A PUBLIC USE AND ACCESS EASEMENT LOCATED ON PARCEL H2, FOSTER'S SUBDIVISION BEING THE RESUBDIVISION, VACATION AND REDEDICATION OF PARCEL H, BLOCK 11 AURORA HEIGHTS, A SUBDIVIDED PORTION OF RPC# 15-058-015, WITH CONDITIONS.

BE IT ORDAINED that, pursuant to a request by Otter Wilson Boulevard, LLC, Applicant and Owner (collectively, "Applicant"), on file with the Department of Environmental Services, the following described County property interests: 1) a Public Water Main Easement ("Water Main Easement") located along the southern boundary line of Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H, Block 11 Aurora Heights; and 2) a portion of a Public Use and Access Easement ("Use and Access Easement") located on Parcel H2, Foster's Subdivision Being the Resubdivision, Vacation and Rededication of Parcel H, Block 11 Aurora Heights, a subdivided portion of RPC# 15-058-015, created by a Deed of Vacation, Rededication and Consolidations and Easements, recorded among the Land Records in Deed Book 3091, Page 2053, and as respectively shown on plats attached as exhibits to the County Manager's Report dated November 13, 2012 and entitled, "Exhibit "A" Plat Showing Vacation of Public Water Main Easement on Parcel H, Foster's Subdivision Deed Book 4557, Page 445 Arlington County Virginia," dated August 30, 2012 and prepared by VIKA Incorporated ("Water Main Plat") and "Exhibit "B" Plat Showing Vacation of Public Use and Access Easement on Parcel H2, Foster's Subdivision Deed Book 4557, Page 445 Arlington County Virginia," dated September 21, 2012 and prepared by VIKA Incorporated ("Use and Access Plat") and labeled on the Water Main Plat as "Existing Easement Public Water Main D.B. 3091 Pg. 2053 1,102 Sq. Ft. (Hereby Vacated)" and on the Use and Access Plat as "Portion of Existing Public Use and Access Easement D.B. 3091 Pg. 2053 17,055 Sq. Ft. (Hereby Vacated)"; are hereby vacated subject to the following conditions:

1. The Applicant shall submit, for review and approval, to the Department of Environmental Services ("DES"), a utility relocation and engineering design plan for the construction, abandonment, relocation, removal, and/or replacement of all utilities located, in whole or in part, within the portion of the Water Main Easement or the Use and Access Easement vacated by this Ordinance of Vacation ("Plan"). The Plan shall be in compliance with the Arlington County Construction Standards and Specifications. The Plan shall be subject to approval by the Director of DES, or his designee.
2. After approval of the Plan and before commencing the work described therein, the Applicant shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, acceptable to the County Manager, in an amount and in a form, as determined by and acceptable to the County Manager, or her designee, to secure the construction, abandonment, relocation, removal, and/or replacement of any and all existing utilities pursuant to the approved Plan.

3. The Applicant shall remove, relocate, abandon and/or reconstruct, or cause to be removed, relocated, abandoned and/or reconstructed, at its sole cost and expense, all utilities of the County and of others existing, at the time of the Plan approval, within the areas vacated by this Ordinance, including but not limited to, sanitary sewer lines, storm sewer lines, water lines and any electric, gas, and communication lines. All utilities removed or abandoned shall be relocated or reconstructed with new utilities and related appurtenant facilities of size, dimension and location acceptable to the County, in accordance with the approved Plan and in strict accordance with Arlington County Construction Standards and Specifications, all applicable laws, ordinances, regulations and policies, as provided in Site Plan #263, as approved by the County Board. Such relocation, reconstruction, or abandonment in place shall result in the preservation and maintenance of fire service and/or domestic water service for 2211 and 2305 Wilson Boulevard as such service existed at the time of enactment of this Ordinance.
4. The Applicant shall dedicate and convey to the County Board, without compensation, all new utility easements, required by the County Manager, in a form acceptable to the County Manager and approved by the County Attorney. In addition, and if applicable, the Applicant shall obtain all required right-of-way permits at the Applicant's sole cost and expense.
5. The Applicant shall dedicate and convey, without compensation due from the County, a new surface Public Use and Access Easement, of at least 17,055 square feet, in the area as shown on the attached plat designated, "Exhibit "C" Plat Showing Dedication of Public Use and Access Easement parcel H2 Foster's Subdivision Deed Book 4557, Page 445 and Outlots D and E Vacation and Abandonment of a Portion of North Custis Road Deed Book 2423, Page 296 and Lot 3 and Part Lot 9 Block 1 Preston's Addition to Aurora Heights Deed Book 181, Page 155 Deed Book 413, page 262 Arlington County Virginia," dated August 30, 2012 and prepared by VIKA Incorporated ("Dedication Plat"). The easement area required to be dedicated is depicted in the Dedication Plat as "Public Use and Access Easement 17,055 (Hereby Dedicated)". Such area may change in location according to the approved Final Engineering and Final Landscaping Plans.
6. The Applicant shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, Deed(s) of Conveyance or Dedication and all required Plats, subject to the approval thereof by the County Manager, or her designee, and approval of the deed(s) as to form by the County Attorney.
7. The Applicant shall pay all fees, including the fees for plat review, approval and recordation of the Deed(s) of Vacation and Deed(s) of Conveyance or Dedication associated with this Ordinance of Vacation.
8. The Applicant shall record the Deed(s) of Vacation, Deed(s) of Conveyance or Dedication and all plats, subject to the approval of the County Manager, or her designee, and approval as to form by the County Attorney. The Deed of Dedication for the new surface Public Use and Access Easement shall be recorded by Applicant immediately following the recordation of the Deed of Vacation vacating the existing Public Use and Access Easement.
9. The Applicant shall record a copy of this Ordinance of Vacation among the Land Records.

10. All conditions of this Ordinance of Vacation shall be met by noon on December 8, 2015 or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHD. BRG.	CHORD
C1	13.51'	391.14'	1°18'34"	6.76'	S67°28'03"W	13.51'
C2	11.81'	61.00'	11°05'46"	5.93'	N06°48'51"W	11.79'
C3	42.77'	18.00'	136°07'22"	44.69'	N03°21'23"E	33.40'

OF A VACATED PORTION OF 15TH STREET NORTH
 N71°22'09"E 380.36'(TOTAL)
 134.44'

PARCEL H2
 D.B. 4557 PG. 445

PARCEL H1
 D.B. 4557 PG. 445

OUTLOT "C"
 OF A VACATED PORTION OF 15TH STREET NORTH

OUTLOT "B"
 OF A VACATED PORTION OF 15TH STREET NORTH

OUTLOT "A"
 OF A VACATED PORTION OF 15TH STREET NORTH

EXISTING EASEMENT FOR PUBLIC WATER MAIN (1102.50 FT. (NEEDED VACATED))

NORTH ADAMS STREET
 (ROW WIDTH VARIES)

NORTH VEITCH STREET
 (ROW WIDTH VARIES)

WILSON BOULEVARD
 (ROW WIDTH VARIES)

WILSON BLVD
 (ROW WIDTH VARIES)

PRESTONS HEIGHTS
 BLOCK 1
 TO ADDITION

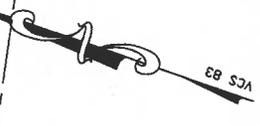
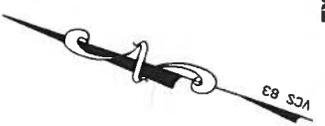
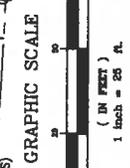


EXHIBIT "A"
 PLAT SHOWING
 VACATION OF
 PUBLIC WATER MAIN EASEMENT
 ON
PARCEL H2
FOSTER'S SUBDIVISION
 DEED BOOK 4857, PAGE 445
 ARLINGTON COUNTY VIRGINIA
 SCALE: 1" = 20' DATE: AUGUST 30, 2012



ENGINEERS & PLANNERS & LANDSCAPE ARCHITECTS & SURVEYORS & G.P.C. SERVICES
 VFA, INCORPORATED
 6180 GREENSBORO DRIVE, SUITE 200
 ARLINGTON, VA 22202
 (703)442-7800 FAX (703)761-2787
 MCLAREN, VA GERMANTOWN, MD

RP #707

PLAT RECORDATION
 FURNISH FOR RECORDATION

PROJECTS/7150-001/08/01/2012 8:37:23 AM EDT

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHD BRG	CHORD
C1	13.51'	591.14'	1° 18' 34"	6.76'	S67° 28' 03" W	13.51'
C2	11.81'	61.00'	11° 05' 46"	5.93'	N06° 48' 51" W	11.79'
C3	42.77'	18.00'	136° 07' 22"	44.69'	N03° 21' 23" E	33.40'

OUTLOT "B"
OF A VACATED PORTION OF 16TH STREET NORTH
N71°22'09"E 360.35'(TOTAL)
134.44'

PARCEL H2
D.B. 4557 P.C. 445

PORTION OF EXISTING PUBLIC USE AND ACCESS EASEMENT (17,055 SQ.FT. HEREBY VACATED)
D.B. 3091, P.C. 2053

VACATION AND ABANDONMENT OF A PORTION OF NORTH CUSTER ROAD
N64°47'17"W 332.66'(TOTAL)
208.88'

PARCEL H1
D.B. 4557 P.C. 445

OUTLOT "1"
OUTLOT "2"
OUTLOT "3"
OUTLOT "4"
OUTLOT "5"
OUTLOT "6"
OUTLOT "7"
OUTLOT "8"
OUTLOT "9"

BLOCK 1
AURORA TO ADDITION
HEIGHTS

EXISTING EASEMENT FOR PUBLIC STREET OR UTILITIES PURPOSES (D.B. 1880, P.C. 349)
EXISTING EASEMENT FOR PUBLIC STREET OR UTILITIES PURPOSES (D.B. 1913, P.C. 469)
EXISTING PUBLIC WATER SERVICE EASEMENT (D.B. 3091, P.C. 2053)
EXISTING PUBLIC STREET UTILITIES EASEMENT (D.B. 2161, P.C. 1807)
EXISTING PUBLIC STREET UTILITIES EASEMENT (D.B. 2161, P.C. 1807)

WILSON BLVD
(ROW WIDTH VARIES)

WILSON BOULEVARD
(ROW WIDTH VARIES)

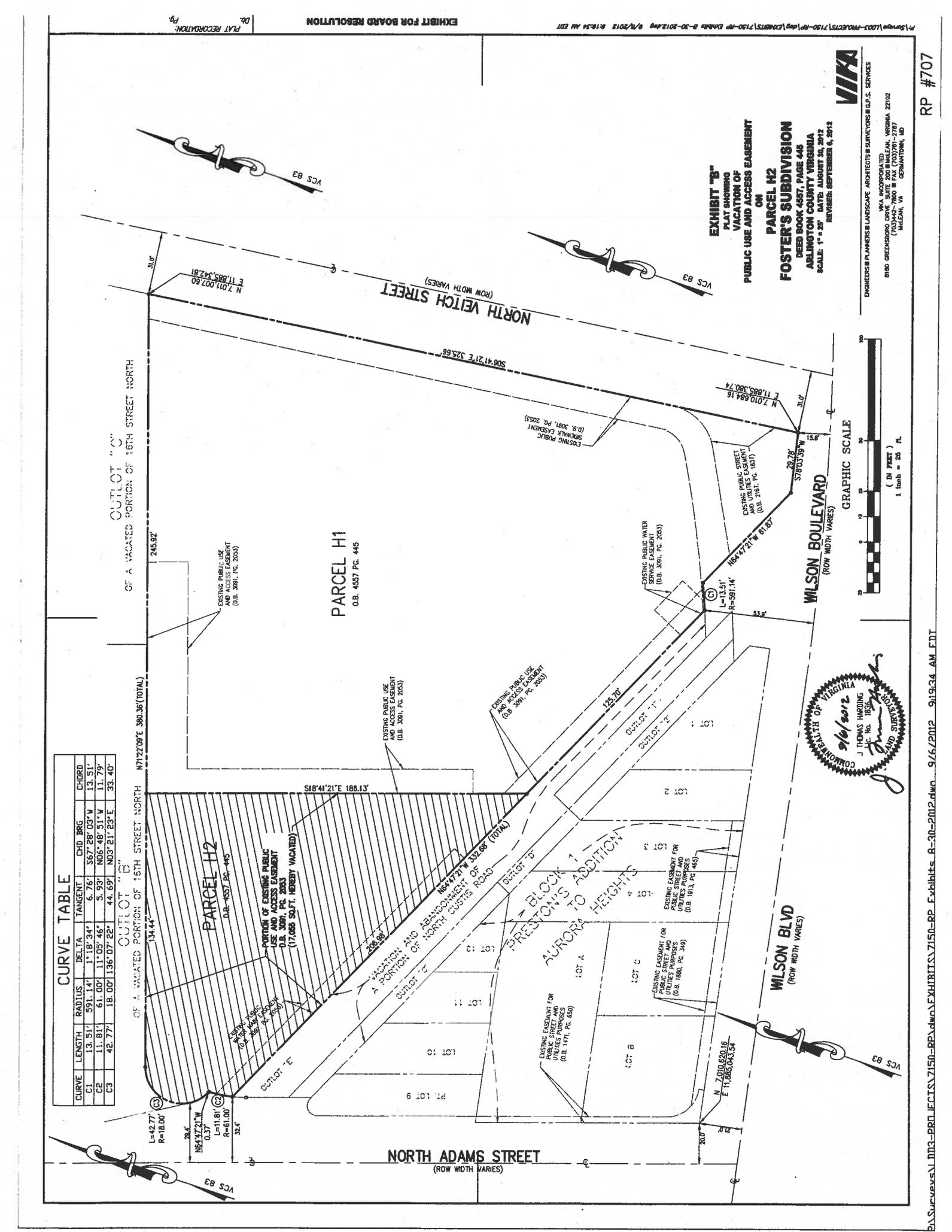


EXHIBIT "B"
PLAT SHOWING
VACATION OF
PUBLIC USE AND ACCESS EASEMENT
ON
PARCEL H2
FOSTER'S SUBDIVISION
DEED BOOK 4557, PAGE 445
ARLINGTON COUNTY VIRGINIA
SCALE: 1" = 25'
DATE: AUGUST 30, 2012
REVISOR: SEPTEMBER 6, 2012

ENGINEERS P. JAMES B. LANDSCAPE ARCHITECTS & SURVEYORS B.U.S. SERVICES
VIA INCORPORATED
6180 GREENSBORO ROAD, SUITE 100, WYOMING, VIRGINIA 22102
(703)442-7800 • FAX (703)301-2287
ALEXAN, VA EDMONTON, MD



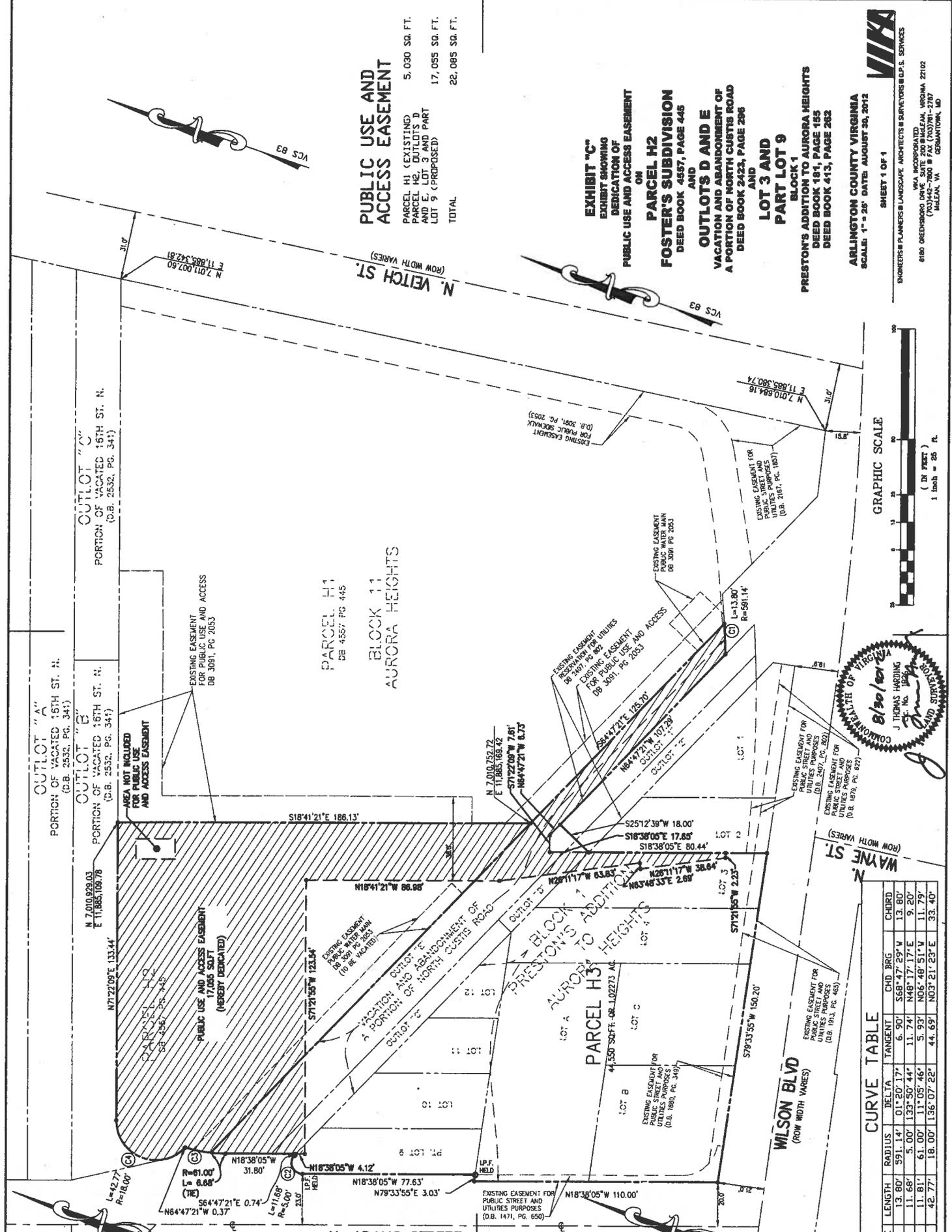
PLAT RECORDATION
D.B.

EXHIBIT FOR BOARD RESOLUTION
7/30-PROJECTS\7150-RP\DWG\EXHIBITS\7150-RP-EXHIBIT-8-30-2012.dwg 8/2/2012 8:15:34 AM EDT

RP #707

9/6/2012
J THOMAS HARDING
P.C. NO. 1535
AND SURVEYOR
COMMONWEALTH OF VIRGINIA

8-30-2012.dwg Exhibits 8-30-2012.dwg 9/6/2012 9:19:34 AM EDT



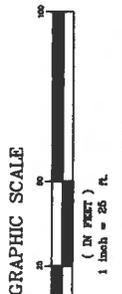
PUBLIC USE AND ACCESS EASEMENT

PARCEL H1 (EXISTING) 5,030 SQ. FT.
 PARCEL H2, OUTLOTS J AND K 17,055 SQ. FT.
 LOT 9 (PROPOSED) 22,085 SQ. FT.
TOTAL

EXHIBIT "C"
 EXHIBIT SHOWING DEDICATION OF PUBLIC USE AND ACCESS EASEMENT ON **PARCEL H2 FOSTER'S SUBDIVISION** DEED BOOK 4357, PAGE 445 **AND** **OUTLOTS D AND E** VACATION AND ABANDONMENT OF A PORTION OF NORTH CUSTIS ROAD DEED BOOK 2423, PAGE 298 **AND** **LOT 3 AND PART LOT 9** BLOCK 1 PRESTON'S ADDITION TO AURORA HEIGHTS DEED BOOK 181, PAGE 155 DEED BOOK 413, PAGE 282

ARLINGTON COUNTY VIRGINIA
 SCALE: 1" = 25' DATE: AUGUST 30, 2012

MIKA
 ENGINEERS & PLANNERS LANDSCAPE ARCHITECTS & SURVEYORS P.C. SERVICES
 V.A. INCORPORATED
 6100 GREENBORO DRIVE, SUITE 2102
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 (703)442-2000 FAX (703)781-2787

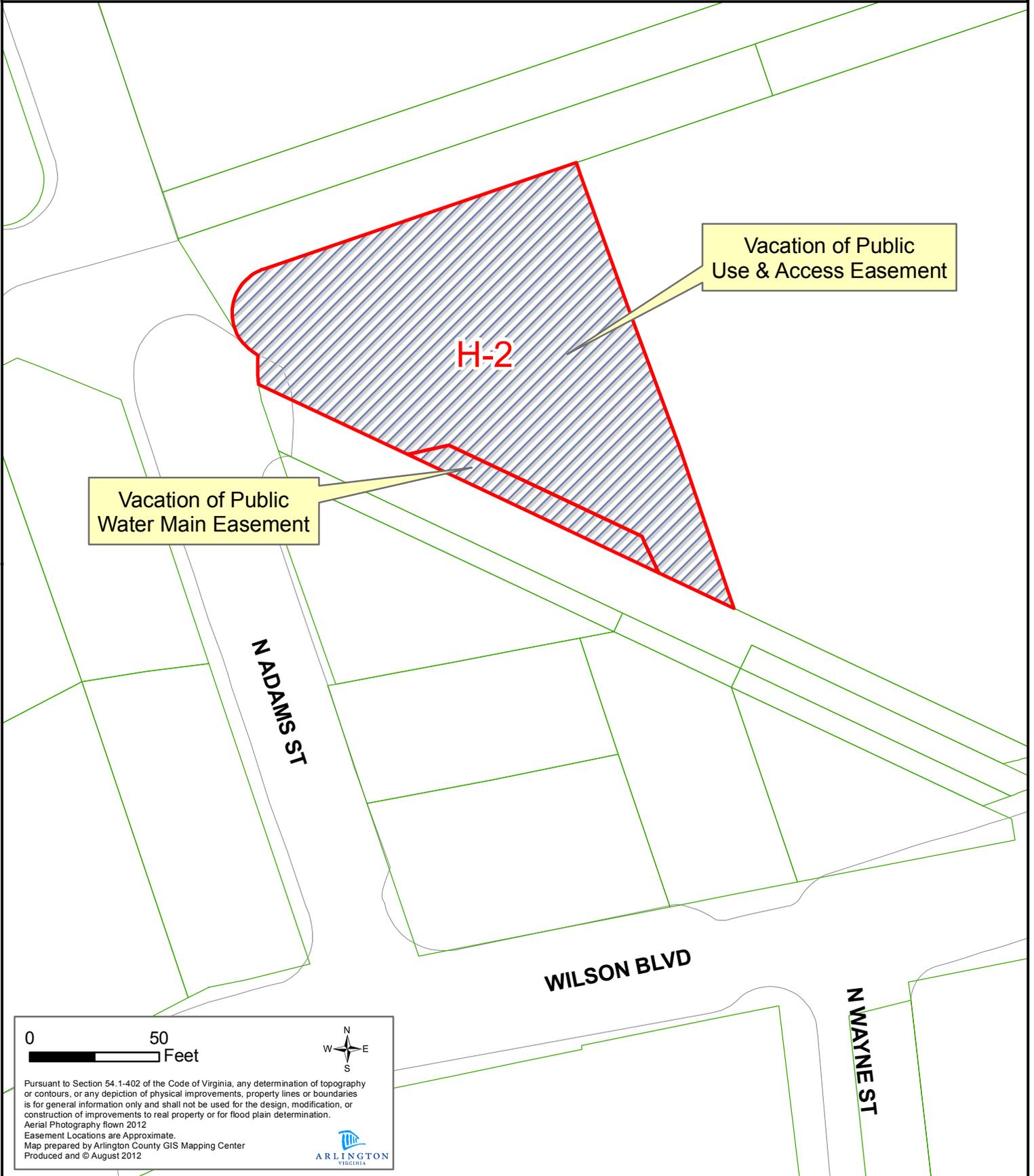


8/30/2012
 J THOMAS HARDING
 Surveyor
 Commonwealth of Virginia
 License No. 10000

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHD BRG	CHD	BRG
C1	13.80'	591.14'	01°20'17"	6.90'	S68°47'29"W	13.80'	133°00'00"
C2	11.68'	5.00'	133°50'44"	11.74'	N48°17'17"E	9.20'	90°00'00"
C3	11.81'	61.00'	11°05'46"	5.93'	N06°48'51"W	11.79'	270°00'00"
C4	42.77'	18.00'	136°07'22"	44.69'	N03°21'23"E	33.40'	90°00'00"

Vicinity Map Clean Technology Building 2311 Wilson Boulevard



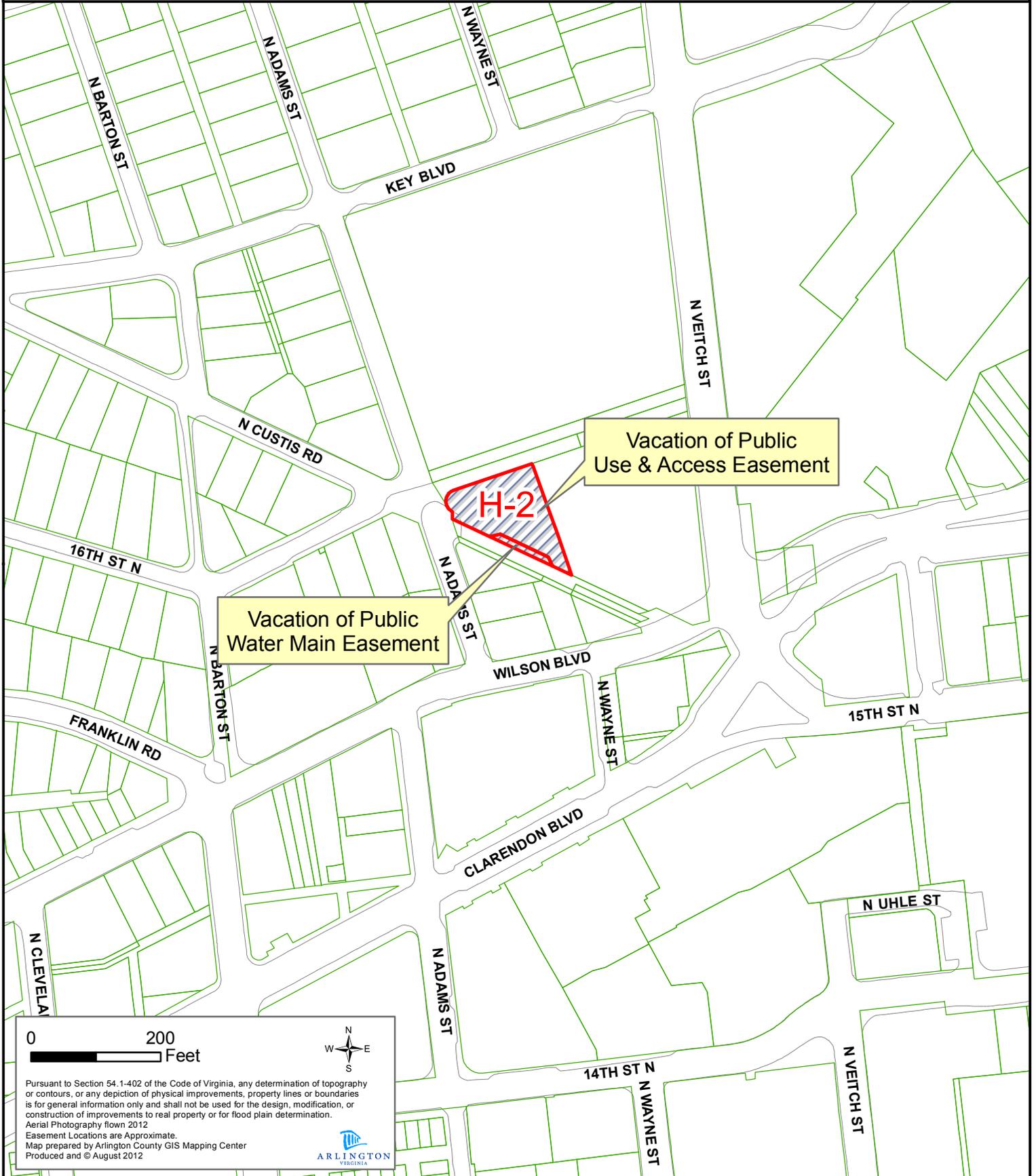
0 50 Feet



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 2012
Easement Locations are Approximate.
Map prepared by Arlington County GIS Mapping Center
Produced and © August 2012



Vicinity Map Clean Technology Building 2311 Wilson Boulevard



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 2012

Easement Locations are Approximate.

Map prepared by Arlington County GIS Mapping Center

Produced and © August 2012

