



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of June 17, 2008**

DATE: May 27, 2008

SUBJECT: Enactment of an Ordinance to Vacate a 10' Sanitary Sewer Easement Running East to West Through the Parcel Known as 4975 Columbia Pike, Arlington, Virginia (RPC No. 22001004), with Conditions.

Applicant: Public Private Alliances, LLC

Property Owner: The County Board of Arlington County, Virginia

By: Nan E. Walsh

Walsh Colucci Lubeley Emrich & Walsh PC
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

C. M. RECOMMENDATION:

- A. Enact the attached Ordinance (Attachment 1) to Vacate a 10' Sanitary Sewer Easement running east to west through the parcel known as 4975 Columbia Pike, Arlington, Virginia (RPC No. 22001004), with conditions.
- B.. Authorize the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services, to execute, on behalf of the County Board, the Deed of Vacation and other documents necessary to effectuate the Ordinance of Vacation, subject to approval as to form by the County Attorney.

ISSUE: This is a request for the vacation of a 10' sanitary sewer easement to facilitate redevelopment of the County Board-owned Arlington Mill property, which will include a new County Community Center, affordable and market rental residential units, and retail space, consistent with a proposed Columbia Pike Form Based Code ("CFBC") Use Permit requested by Public Private Alliances, LLC. There are no outstanding issues relating to the proposed vacation.

SUMMARY: Public Private Alliances, LLC ("Applicant") has requested the County Board to enact an Ordinance to Vacate a 10' sanitary sewer easement (the "Easement"), running east to west through the parcel known as 4975 Columbia Pike, Arlington, Virginia (RPC No. 22001004) owned by the County Board ("Property"). The vacation is requested to permit the

County Manager: _____

County Attorney: _____

Staff: Tim O'Hora, DES, Real Estate Bureau

redevelopment of the Property as proposed in an application for CFBC Use Permit # U-3199-08-2, which is the subject of a separate staff report. Upon enactment of the Ordinance, satisfaction by the Applicant of the applicable conditions, and recordation by the Applicant of the Deed of Vacation before the expiration of the Ordinance, the County's interest in the Easement will be extinguished.

BACKGROUND: The subject Property is owned by the County Board and is located along Columbia Pike between South Dinwiddie Street and South Arlington Mill Drive. (See Attachment 2, Vicinity Map.) The parcel is currently improved with a surface parking lot and a building which formerly housed a Safeway grocery store. The parcel has since been acquired by the County Board and converted to community center uses. The Property was acquired by the County Board by Special Warranty Deed dated June 27, 1996, and recorded in Deed Book 2784, Page 1541 among the Arlington County land records. In conjunction with Applicant's plans to redevelop the Property as part of an anticipated public-private partnership with the County, the Applicant has submitted an application for a CFBC Use Permit (CFBC Use Permit # U-3199-08-2) for the development of a mixed use project. As proposed, this complex project would redevelop the entire site with a mix of community center uses (including a gymnasium approximately 40,000 square feet in size and a public plaza encompassing more than 17,000 square feet), retail uses (approximately 3,000 square feet), and residential uses (192 rental units), including 61 of affordable rental units (units serving households at or below 60% of the Area Median Income level), utilizing the Federal LIHTC tax credit program offered through VHDA.

DISCUSSION: In conjunction with the plans for redevelopment of the Property, the Applicant has requested the County Board to vacate the Easement, which runs east to west through the Property, and is depicted on the plat entitled "Plat Showing the Vacation of 10' Sanitary Sewer Easement, Deed Book 714, Page 357 and Vacation of Public Street and Utility, Deed Book 2183, Page 1889, Arlington Mills Center, Arlington County, Virginia", dated December 5, 2007, prepared by VIKA Incorporated, which is attached hereto as Exhibit A ("Vacation Plat"). Under the proposed CFBC Use Permit # U-3199-08-2, the Applicant proposes to remove, relocate and reconstruct the existing sanitary sewer line located within the easement herein vacated into County-owned right-of-way. The Applicant must pay all costs and fees associated with removal of the existing sanitary sewer and water facilities line, and relocation of the new utilities.

Legal and Physical Description: The Easement was created by a Deed of Easement dated May 10, 1946, and recorded in Deed Book 714, Page 357, among the land records of Arlington County, Virginia.

Public Notice: Public notice was given in accordance with the Code of Virginia. Notices were placed in the May 22, 2008 and May 29, 2008 issues of the Washington Times for the June 17, 2008 County Board Meeting.

Compensation: In keeping with current practice, staff recommends that no compensation be required from the Applicant for vacating the Easement, since the Easement will be vacated for redevelopment and the existing sanitary sewer facilities will be relocated, at Applicant's sole cost and expense, into the County right-of-way, as provided in CFBC Use Permit # U-3199-08-2.

FISCAL IMPACT: None.

CONCLUSION: It is recommended that the County Board enact the attached Ordinance to Vacate a 10' Sanitary Sewer Easement Running East to West Through the Parcel Known as 4975 Columbia Pike, Arlington, Virginia (RPC No. 22001004), with Conditions.

ATTACHMENT 1

ORDINANCE TO VACATE A 10' SANITARY SEWER EASEMENT RUNNING EAST TO WEST THROUGH THE PARCEL KNOWN AS 4975 COLUMBIA PIKE, ARLINGTON, VIRGINIA (RPC #22001004), WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by Public Private Alliances, LLC (the "Applicant") and the County Board of Arlington County, Virginia ("Property Owner") in the Office of the Department of Environmental Services, a 10' Sanitary Sewer Easement running east to west through the parcel known as 4975 Columbia Pike, Arlington, Virginia (RPC No. 22001004), established by a Deed of Easement, dated May 10, 1946, and recorded in Deed Book 714, Page 357, among the land records of Arlington County, Virginia, which easement is shown on a plat dated December 5, 2007, prepared by VIKA Incorporated, entitled "Plat Showing the Vacation of 10' Sanitary Sewer Easement, Deed Book 714, Page 357 and Vacation of Public Street and Utility, Deed Book 2183, Page 1889, Arlington Mills Center, Arlington County, Virginia", attached to the County Manager's Report dated May 27, 2008, as Exhibit A, is hereby vacated subject to the following conditions:

1. The Applicant shall, at its own cost and expense, remove, relocate and reconstruct the exiting sanitary sewer line located within the easement herein vacated, as provided in Columbia Form Based Code Use Permit # U-3199-08-2. The new sanitary sewer line and related appurtenant facilities shall be of size, dimension and location acceptable to Arlington County ("County"), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
2. 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, relocation, removal, and/or replacement of the sanitary sewer and water facilities located, in whole or in part, within the portion of the easement vacated by this Ordinance of Vacation ("Plan") 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.
3. The Applicant shall apply for and obtain a permit for the relocation of the facilities in the County right-of-way, as required by the County, and as provided in Columbia Form Based Code Use Permit # U-3199-08-2, approved by the County Board concurrently with this Ordinance. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept sanitary sewer facilities easements on behalf of the County, subject to approval of the Deed(s) of Easement as to form by the County Attorney.
4. 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 his designee, to secure the construction, relocation, removal, and/or replacement of the sanitary sewer line pursuant to the approved Plan.
5. The Applicant shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, all required plats, and all required deeds of easement, subject to the

approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.

6. The Applicant/Property Owner shall record all plats, Deed(s) of Vacation, and all required deed(s) of easement required by the conditions of this Ordinance of Vacation among the land records of the Clerk of the Circuit Court of Arlington County.
7. The Applicant/Property Owner shall pay all fees, including the fees for review, approval and recordation of the required documents associated with the Ordinance of Vacation.
8. All conditions of this Ordinance of Vacation shall be met by noon on June 17, 2011, or this Ordinance of Vacation shall become null and void, without the necessity of any further action by the County Board.

**EXHIBIT A
VACATION PLAT**

ATTACHMENT 2 -VICINITY MAP
4975 Columbia Pike, Arlington, Virginia (RPC No. 22001004)

