



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of October 18, 2008

DATE: October 1, 2008

SUBJECT: Approval of an Easement for Public Sidewalk, Utilities, Retaining Wall, and Storm Drainage Purposes, a Temporary Easement and Construction Agreement, and the Termination of a Wall Maintenance Agreement, all on a Portion of the Property Known as 5200 Old Dominion Drive, Arlington, Virginia (RPC No. 02018019).

C. M. RECOMMENDATIONS:

1. Approve the attached Deed of Easement, Temporary Easement and Construction Agreement, and Termination of Wall Maintenance Agreement (the "Deed"); and
2. Authorize the Real Estate Bureau Chief, or his Designee, to Accept on Behalf of the County Board of Arlington County, Virginia, and to execute, the Deed, for an Easement for Public Sidewalk, Utilities, Retaining Wall, and Storm Drainage Purposes, a Temporary Easement and Construction Agreement, and the Termination of a Wall Maintenance Agreement, all on a Portion of the Property Known as 5200 Old Dominion Drive, Arlington, Virginia (RPC No. 02018019), subject to approval as to form by the County Attorney.

ISSUE: The attached permanent easement, temporary easement, and termination of a wall maintenance agreement are necessary for the construction and maintenance of a sidewalk, underground utilities installation, retaining wall, and storm drainage project at the proposed location.

SUMMARY: This is a request for County Board approval of, and authorization for the Real Estate Bureau Chief to accept, a Deed of Easement, Temporary Easement and Construction Agreement, and Termination of Wall Maintenance Agreement on a portion of Lot 1-B, of a Resubdivision of Lot 1, and part of the unsubdivided portion of Block 8, Section 1, Stratford Hills Subdivision, also known as 5200 Old Dominion Drive (RPC No. 02018019). The Deed will provide a permanent easement area and a temporary easement area for the construction and maintenance of public sidewalk, utilities, retaining wall and storm drainage facilities. The Deed will also terminate a prior Wall Maintenance Agreement entered into between the parties.

BACKGROUND: The proposed public sidewalk, utilities, retaining wall and storm drainage facilities are part of the Department of Environmental Services streetscape project known as the

County Manager: _____

County Attorney: _____

Staff: Michael R. Halewski, DES, Real Estate Bureau

“Old Dominion Drive from Williamsburg Blvd. to 37th Street North” Project, Project No. SD95 (“Project”). The Project is an addition to Phase I of the Pimmit Run project, which involved the replacement of the culvert under Williamsburg Boulevard. This addition to the Pimmit Run project was included in order to provide sidewalk on both sides of Old Dominion Drive, and to otherwise improve the neighborhood in the immediate vicinity of the culvert. The Project includes the construction of public sidewalk, utilities, retaining wall and storm drainage facilities.

As a part of the Project, the parties previously entered into a Wall Maintenance Agreement, dated July 23, 2007, and recorded among the Land Records of Arlington County, Virginia, in Deed Book 4119 at Page 2552. Subsequently, a portion of the Project was re-engineered so as to place the proposed retaining wall within the permanent easement area. Thus, the County and not the property owner will be responsible for the future maintenance of this retaining wall.

Approval of the proposed Deed will permit the County Board to obtain the necessary easements to complete the construction of the public sidewalk, utilities, retaining wall and storm drainage facilities along the southwest side of Old Dominion Drive between North George Mason Drive and 37th Street North.

DISCUSSION: The proposed public sidewalk, utilities, retaining wall and storm drainage facilities will all be constructed and maintained by the County.

Deeds conveying property interests to the County Board must be accepted by, or on behalf of, the County Board in order to be valid. Deeds for the property interests necessary for the construction of the Project have either been received in the office of the Department of Environmental Services or are expected to be received in the near future. In order to expedite the acceptance process and allow construction to move forward, the County Board’s authorization for the Real Estate Bureau Chief, Engineering and Capital Projects Division, Department of Environmental Services to execute the Deed, indicating acceptance thereof, is being requested for the Projects.

A copy of the Deed is attached hereto as Exhibit “1”.

The vicinity map, attached as Exhibit “2”, shows the location of the permanent easement and the temporary easement. The permanent easement and the temporary easement are also more particularly described on the plat entitled, “Plat Showing Easement Acquired for Public Sidewalk, Utilities, Retaining Wall and Storm Drainage Purposes and Temporary Construction Easement on Lot 1-B, Block 8, Section One, Stratford Hills, D.B. 917, PG. 8, Arlington County, Virginia” dated July 31, 2008 and approved by the Arlington County Subdivision and Bonds Administrator on July 31, 2008 (the "Plat"). The area of the permanent easement is 456 square feet. The area of the temporary easement is 688 square feet.

FISCAL IMPACT: The easements are to be conveyed to the County Board for nominal consideration.

EXHIBIT "1"

Prepared By
& Return to: Arlington County, Virginia
Real Estate Bureau
2100 Clarendon Boulevard, Suite 900
Arlington, Virginia 22201
RPC # 02018019

This Deed is exempt from recordation tax under Va. Code §58.1-811A.3.

DEED OF EASEMENT, TEMPORARY EASEMENT AND CONSTRUCTION AGREEMENT, AND TERMINATION OF WALL MAINTENANCE AGREEMENT

This DEED OF EASEMENT AND TEMPORARY EASEMENT AND CONSTRUCTION AGREEMENT ("Deed") is made this ____ day of _____, 200__, by and between **CHARLES E. BULLOCK and SARA M. BULLOCK, TRUSTEES**, under the bullock living trust, dated October 31, 2007 and any amendments thereto (the "Owners"), **GRANTORS; CHARLES E. BULLOCK and SARA M. BULLOCK**, husband and wife (the "Prior Owners"), **GRANTORS; THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic (the "County"), **GRANTOR**, and **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate and politic (the "County"), **GRANTEE**.

WITNESSETH

WHEREAS, the Owners are the Trustees of the trust that is the owner of certain real property, presently known as 5200 Old Dominion Drive, located in Arlington County, Virginia, by virtue of, a Warranty Deed dated October 31, 2007, and recorded in Deed Book 4151 at Page 2349 among the Land Records of Arlington County, Virginia, and as more particularly described therein as: **"All of Lot 1-B, of a Resubdivision of Lot 1, and part of the unsubdivided portion of Block 8, Section 1, Stratford Hills Subdivision, as the same appears duly dedicated, platted and recorded in Deed Book 917 at Page 8, among the land records of Arlington County, Virginia"** (the "Property");

WHEREAS, the County desires to obtain, and the Owners desire to grant and convey, a perpetual easement for public sidewalk, utilities, retaining wall, and storm drainage purposes, over, under, upon, across, and through a portion of the Property; and

WHEREAS, the County desires to obtain, and the Owners desire to grant and convey, a temporary easement and construction agreement for the use of a portion of the Property during the construction of the public sidewalk, utilities, retaining wall, and storm drainage facilities;

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Address: 5200 Old Dominion Drive, Arlington, Virginia

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WHEREAS, the County and the Prior Owners previously entered into a Wall Maintenance Agreement, dated July 23, 2007, and recorded in Deed Book 4119 at Page 2552 among the Land Records of Arlington County, Virginia, and the County and the Prior Owners, by this Deed, terminate the prior Wall Maintenance Agreement.

EASEMENT FOR PUBLIC SIDEWALK, UTILITIES, RETAINING WALL, AND STORM DRAINAGE PURPOSES

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), other good and valuable consideration, and the mutual benefits to be derived by the parties hereto, the receipt and sufficiency of which are hereby acknowledged, Owners do hereby grant and convey unto the County a perpetual easement for public sidewalk, utilities, retaining wall and storm drainage purposes over, under, upon and across **Four Hundred Fifty-six (456) square feet** of the Property ("Permanent Easement Area"), described as, "Easement Acquired for Public Sidewalk, Utilities, Retaining Wall and Storm Drainage Purposes, Area = 456 Sq. Ft.," on the plat attached hereto as Exhibit "A", and made a part hereof, entitled "**Plat Showing Easement Acquired for Public Sidewalk, Utilities, Retaining Wall and Storm Drainage Purposes and Temporary Construction Easement on Lot 1-B, Block 8, Section One, STRATFORD HILLS, D.B. 917, PG. 8, Arlington County, Virginia,**" which plat was approved on **July 31, 2008**, by the Arlington County Subdivision and Bonds Administrator of the Department of Environmental Services (the "Plat"), together with the right of the County to construct, maintain, repair, reconstruct, replace and/or remove public sidewalk, utilities, retaining wall and storm drainage facilities, including accessories and appurtenances thereto, within said Permanent Easement Area, and for such other purposes as are incidental and related thereto, and together with the right of ingress and egress over the Property, in order to construct, maintain, repair, reconstruct or replace the public sidewalk, utilities, retaining wall and storm drainage facilities within the above-described Permanent Easement Area (the Permanent Easement Area, and the rights related thereto, are referred to herein jointly as the "Permanent Easement").

The Owners covenant that the Owners are seized of and have the right to convey the Permanent Easement, and that the Owners shall make no use of the Permanent Easement Area which is inconsistent with the Permanent Easement rights hereby conveyed.

The County agrees that, as soon as practicable after the completion of construction, maintenance, repair, reconstruction, or replacement of the public sidewalk, utilities, retaining wall and storm drainage facilities within the Permanent Easement Area, the County will, at no cost to the Owners: (1) restore the disturbed area adjacent to the Permanent Easement Area as nearly as practicable to its original condition; (2) reseed (or resod, at the option of the County) all damaged grass areas adjacent to the Permanent

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Easement Area; (3) reset, or replace with nursery stock, all damaged or destroyed trees, plants, shrubbery, and hedges adjacent to the Permanent Easement Area; and 4) guarantee reset plants for one year against damage from the construction, and nursery stock for one year from the date of planting.

All facilities installed or constructed by the County, including, but not limited to the retaining wall, shall be and remain the property of the County, and County shall maintain all such facilities at its sole cost and expense. The County shall have all rights and privileges reasonably necessary for the use of the Easement.

The Owners agree that this Permanent Easement shall run with the land and shall be binding upon the Owners and their successors and assigns.

TEMPORARY EASEMENT AND CONSTRUCTION AGREEMENT

THIS DEED FURTHER WITNESSETH, for and in consideration of the sum of Ten Dollars (\$10.00), other good and valuable consideration, and the mutual benefits to be derived by the parties hereto, the receipt and sufficiency of which are hereby acknowledged, the Owners do hereby grant and convey unto the County a temporary easement for the use, as described herein, of a portion of the Property more specifically described as an area of real estate containing approximately **Six Hundred Eighty-eight (688) square feet** of land situated in Arlington County, Virginia, shown on the Plat as, "Temporary Construction Easement, Area = 688 Sq. Ft.," (the "Temporary Easement Area"), together with the right of the County to use the area to construct, maintain, repair, reconstruct replace and/or remove (jointly "Work") public sidewalk, utilities, retaining wall and storm drainage facilities, including accessories and appurtenances thereto, adjacent to the Temporary Easement Area, as shown on the attached Plat, and for such other purposes as are incidental and related thereto, and together with the right of ingress and egress over the Property, to the above-described Temporary Easement Area (the Temporary Easement Area, and the rights related thereto, are referred to herein jointly as the "Temporary Easement").

The Owners covenant that the Owners are seized of and have the right to convey the Temporary Easement, and that the Owners shall make no use of the Temporary Easement Area which is inconsistent with the rights hereby conveyed.

The Temporary Easement created by this Deed shall begin upon the date of acceptance of this Deed by the County and shall expire upon the completion of the Work or on an earlier date if the Owners are so notified in writing by the County.

The County agrees that, as soon as practicable after the completion of Work within or adjacent to the Temporary Easement Area, the County will, at no cost to the Owners: (1) restore the disturbed area on and adjacent to the Temporary Easement Area

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as nearly as practicable to its original condition; (2) reseed (or resod, at the option of the County) all damaged grass areas on or adjacent to the Temporary Easement Area; (3) reset, or replace with nursery stock, all damaged or destroyed trees, plants, shrubbery, and hedges on or adjacent to the Temporary Easement Area; and (4) guarantee reset plants for one year against damage from the date they are reset, and nursery stock for one year from the date of planting.

The County agrees to replace, at the County's sole cost and expense, all trees removed from the Property for project construction, as more particularly shown on the attached plan, entitled, "Partial Plan View of Temporary Construction Easement Plan, Old Dominion Drive from Williamsburg Blvd to 37th Street North," dated April 13, 2007, revised August 15, 2008, and attached hereto as Exhibit "B", with replacement trees. The replacement of the trees will be done in accordance with the County's Tree Replacement Policy ("Tree Policy"), with input from the Owners as to specific tree species allowed under the Tree Policy.

The County agrees to adjust, as shown on and consistent with Exhibit "B", the existing driveway to match the proposed curb and gutter at the southwest corner of the intersection of North George Mason Drive and Old Dominion Drive. The adjustment to the driveway will reduce or match the slope of the existing driveway.

TERMINATION OF WALL MAINTENANCE AGREEMENT

THIS DEED FURTHER WITNESSETH, for and in consideration of the sum of Ten Dollars (\$10.00), other good and valuable consideration, and the mutual benefits to be derived by the parties hereto, the receipt and sufficiency of which are hereby acknowledged, the Prior Owners and the County hereby terminate the prior Wall Maintenance Agreement, dated July 23, 2007, and recorded in Deed Book 4119 at Page 2552 among the Land Records of Arlington County, Virginia, between the County and the Prior Owners.

INCORPORATIONS

The recitals are hereby incorporated into this Deed. Reference is hereby made to the Plat attached hereto and incorporated herein for a more full and complete description of the Permanent Easement Area and Temporary Easement Area hereby conveyed. This Deed incorporates all agreements between the parties hereto. No representations or statements have been made which would modify, add to or change the terms of this Deed.

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MISCELLANEOUS

This Deed is contingent upon acceptance on behalf of the County Board of Arlington, Virginia.

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

WITNESS the following signature(s):

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

EXHIBIT "1"

GRANTORS:

Charles E. Bullock
CHARLES E. BULLOCK, TRUSTEE, under the Bullock Living Trust, dated October 31, 2007, and any amendments thereto, **GRANTOR**

State/Commonwealth of: Virginia :
County/City of: Arlington : to-wit:

The foregoing instrument was acknowledged before me on this 25 day of September, 2008, by **Charles E. Bullock, Trustee**, under the Bullock Living Trust, dated October 31, 2007, and any amendments thereto, **GRANTOR**.

Notary Public: Christine W. [Signature]
My Commission expires: June 30 2010

Sara M. Bullock
SARA M. BULLOCK, TRUSTEE, under the Bullock Living Trust, dated October 31, 2007, and any amendments thereto, **GRANTOR**

State/Commonwealth of: Virginia :
County/City of: Arlington : to-wit:

The foregoing instrument was acknowledged before me on this 25 day of September, 2008, by **Sara M. Bullock, Trustee**, under the Bullock Living Trust, dated October 31, 2007, and any amendments thereto, **GRANTOR**.

Notary Public: Christine W. [Signature]
My Commission expires: June 30 2010

EXHIBIT "1"


CHARLES E. BULLOCK, GRANTOR

State/Commonwealth of: Virginia :
County/City of: Arlington : to-wit:

The foregoing instrument was acknowledged before me on this 25 day of September,
2008, by **Charles E. Bullock, GRANTOR**.

Notary Public: 
My Commission expires: June 30 2010


SARA M. BULLOCK, GRANTOR

State/Commonwealth of: Virginia :
County/City of: Arlington : to-wit:

The foregoing instrument was acknowledged before me on this 25 day of September,
2008, by **Sara M. Bullock, GRANTOR**.

Notary Public: 
My Commission expires: June 30 2010

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EXHIBIT "1"

Approved this _____ day of _____, 200__, on behalf of the County Board of Arlington County, Virginia, a body corporate and politic, **GRANTOR**, pursuant to a resolution, motion, or action of the said Board duly adopted on _____, 200__.

By: _____
For the County Board of Arlington County, Virginia

COMMONWEALTH OF VIRGINIA
COUNTY OF ARLINGTON, to-wit:

The foregoing instrument was acknowledged before me by _____, on behalf of THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body corporate and politic, **GRANTOR**, this _____ day of _____, 200__.

Notary Public _____
My Commission expires: _____

EXHIBIT "1"

GRANTEE:

Accepted this _____ day of _____, 200__, on behalf of the County Board of Arlington County, Virginia, a body corporate and politic, **GRANTEE**, pursuant to a resolution, motion, or action of the said Board duly adopted on _____, 200__.

By: _____
For the County Board of Arlington County, Virginia

COMMONWEALTH OF VIRGINIA
COUNTY OF ARLINGTON, to-wit:

The foregoing instrument was acknowledged before me by _____, on behalf of THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body corporate and politic, **GRANTEE**, this _____ day of _____, 200__.

Notary Public _____
My Commission expires: _____

APPROVED AS TO FORM: _____
COUNTY ATTORNEY

EXHIBIT “1”

**EXHIBIT A
[SEE ATTACHED PLAT]**

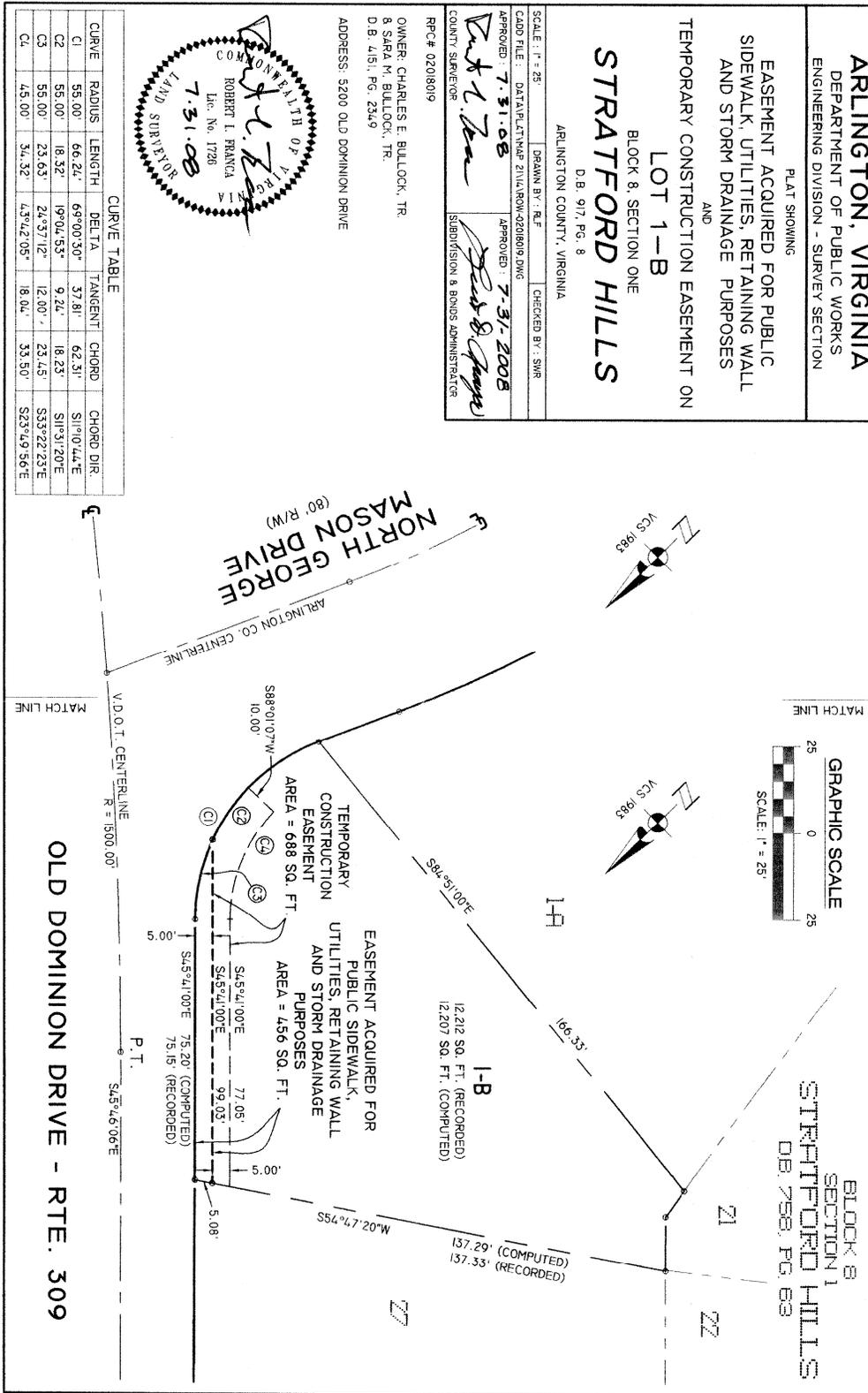
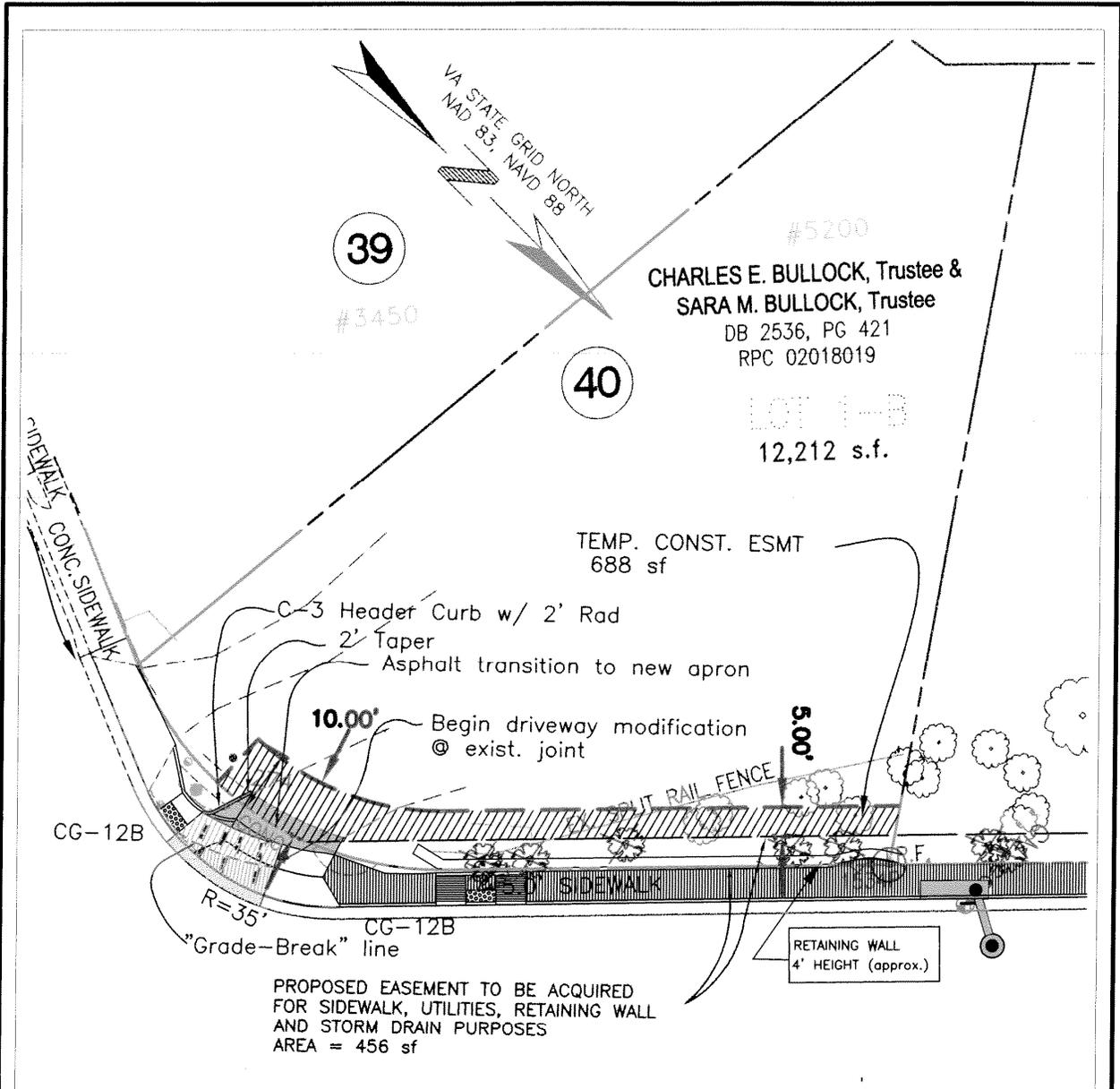


EXHIBIT “1”

**EXHIBIT B
[SEE ATTACHED PLAN]**



LEGEND

-  LIMITS OF DISTURBANCE/TEMPORARY CONSTRUCTION ESMT
-  TEMPORARY CONSTRUCTION EASEMENT AREA
-  NEW CONCRETE
-  NEW ASPHALT

CHARLES E. BULLOCK, Trustee &
SARA M. BULLOCK, Trustee
DB 4151, PG 2349
RPC 02018019

SCALE: 1" = 25'

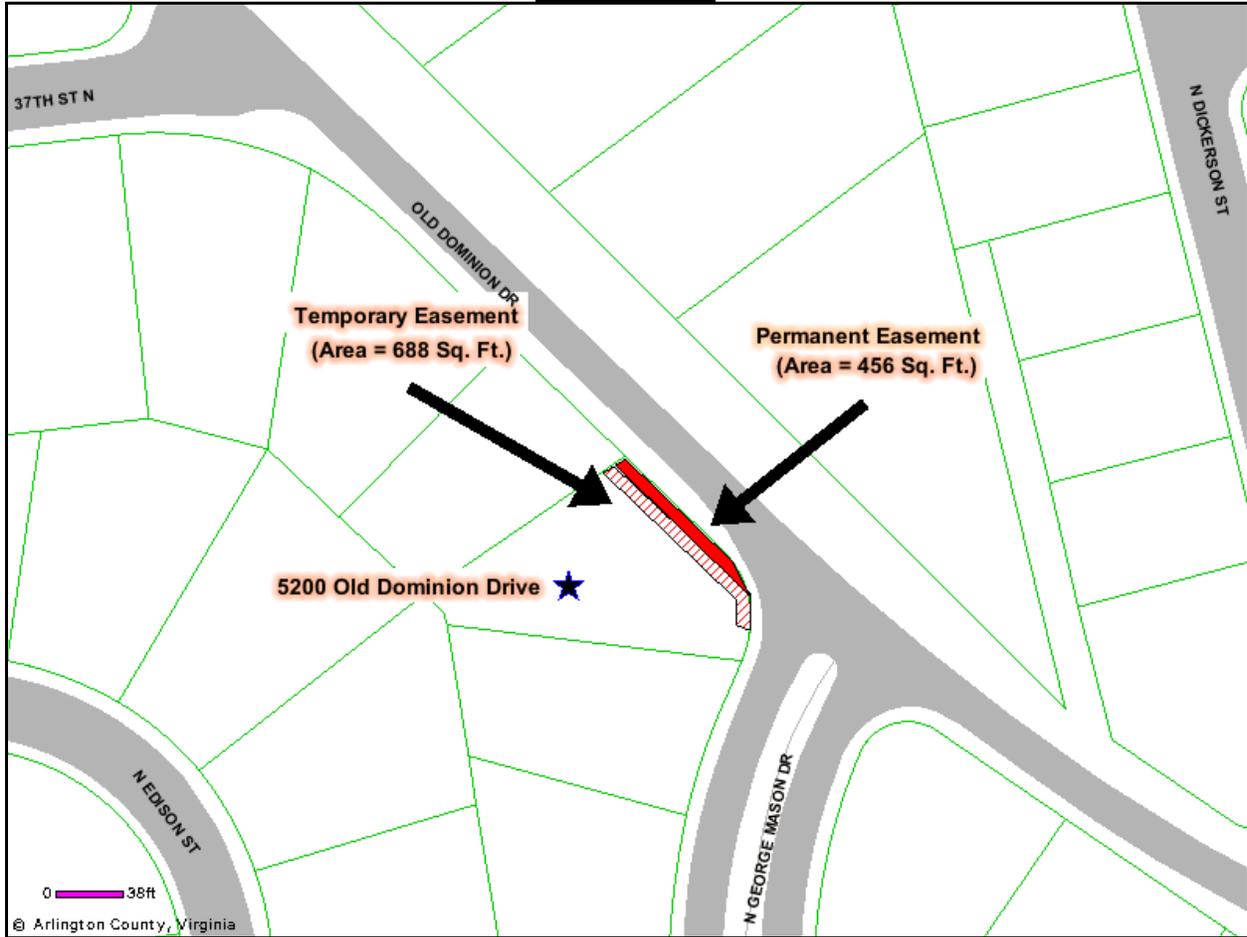
PARTIAL PLAN VIEW OF
TEMPORARY CONSTRUCTION EASEMENT PLAN
OLD DOMINION DRIVE

from Williamsburg Blvd to 37th Street North
April 13, 2007

Revised July 10, 2008

EXHIBIT “2”

Vicinity Map



**Old Dominion Drive from Williamsburg Blvd. to 37th Street North
Project SD95**

Easement for Public Sidewalk, Utilities, Retaining Wall and Storm Drainage

Temporary Easement and Construction Agreement

Termination of Wall Maintenance Agreement

October 18, 2008