



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of November 15, 2008**

DATE: November 7, 2008

SUBJECT: SP #382 SITE PLAN AMENDMENT National Science Teachers Association, amend conditions #38, 40, 49, 63, 74 re timing of garage clearance modification, size of exercise facility and exclusion of fitness center from density calculations, modification of approved parking, removal of surface parking lot, reduction in site area and associated modification for an increase in density (FAR) and related conditions; 1801, 1805 Clarendon Blvd., 1836, 1840 Wilson Blvd. (RPC #17-011-019, -021, -023)

Applicant:

National Science Teachers Association

By:

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

C.M. RECOMMENDATION:

Approve the subject site plan amendment request subject to the revised conditions #40, 49, 63, 74, the added conditions # 81 and 82, and increase in density (FAR), and to all previously approved conditions.

ISSUES: This is a request to modify the approved NSTA site plan (SP #382) by adding a third level of parking and removing the surface parking lot, which results in a net loss of site area and a subsequent slight increase in density (FAR). Amended site plan conditions reflect the changes proposed with the exception of Condition #38, regarding the timing of changes to the garage height clearance to the existing office building, which will remain. The approved Condition #38 meets building code requirements and any changes to the condition are a building code, not a site plan, matter. Therefore, staff does not recommend the proposed changes to Condition #38.

SUMMARY: The applicant's original application requested changes to site plan conditions

County Manager: _____

County Attorney: _____

Staff: Rich Dooley, Planning Division, DCPHD
Jennifer Fioretti, Transportation Division, DES

PLA-5119

#38, 40, 63, and 74 and to add one more level of underground parking under the new building. Through subsequent discussions with staff, the applicant revised its application to include the removal of the surface parking lot from its site plan and, as anticipated in the 2005 approval, obtain an increase in density (FAR). The applicant is not requesting any additional GFA. However, the applicant has requested an increase in density (FAR) to make up for a future site area reduction and to accommodate the approved project. Staff concludes that the modified site plan conditions are acceptable, as are the proposed changes to the parking garage, density, and site area, and recommends that the County Board approve the site plan amendment.

BACKGROUND: On November 15, 2005, the Arlington County Board approved SP #382 for the Arlington-based National Science Teachers Association (NSTA). The following is a brief summary of the approved plan:

- General Land Use Plan amendment from “Service Commercial” to “Medium” Office–Apartment-Hotel;
- Rezoning from “C-2” Service Commercial – Community Business Districts to “C-O-2.5” Commercial Office Building, Hotel and Apartments Districts;
- Retention of the existing NSTA building (approx. 46,080 square feet) and redevelopment of the site immediately to the east (Rhodeside Grill and Il Radicchio restaurants) with an approximately 71,840 square foot new office building with ground floor retail/restaurant uses on the ground floor.

On July 22, 2008, the County Board approved a portion of a site plan amendment request to: change the building’s façade, to amend the height of the parking structure entrance, and to extend the term of the site plan to November 2011. Site plan conditions were also updated to reflect current 2008 standards. The County Board deferred the applicant’s request to modify the project’s parking to the October 18, 2008 County Board meeting. Given the need for the applicant to discuss the possible sale of the surface parking lot, which is part of the NSTA site plan, to the adjacent property owner, the site plan amendment request was again deferred to the November 15, 2008 County Board meeting.

The following provides additional information about the site and location:

Site: The site, 50,880 square feet (1.16805 acres), is located between the Rosslyn and Courthouse Metro Station areas in the block bounded by Wilson and Clarendon Boulevards, North Rhodes Street, and North Courthouse Road. The site has frontage on North Rhodes Street and Wilson and Clarendon Boulevards, and is currently developed with a four story office building (NSTA), a two story commercial building (Il Radicchio), and a one-story commercial building (Rhodeside Grill). Uses adjacent to the site include the following:

To the north: Wilson Boulevard. Colonial Village (2-story colonial style brick apartment/condominium buildings) listed on the National Register of Historic Places and the Arlington Local Historic District. “Low-Medium” Residential on the General Land Use Plan (16-36 units per acre)

and zoned “RA6-15” Apartment Dwelling Districts.

To the west: Hollywood Video, a one-story brick commercial building. “Service Commercial” on the General Land Use Plan (Personal and business services. Generally one to four stories. Maximum 1.5 FAR) and zoned “C-2” Service Commercial – Community Business District.

To the east: North Rhodes Street. Exxon gas station. “Service Commercial” on the General Land Use Plan (Personal and business services. Generally one to four stories. Maximum 1.5 FAR) and zoned “C-2” Service Commercial – Community Business District.

To the south: Clarendon Boulevard. Bromptons at Courthouse Townhouse development. “Medium” Residential (37-72 units per acre) on the General Land Use Plan and zoned “RA8-18” Apartment Dwelling District.

Zoning: “C-O-2.5” Commercial Office Building, Hotel and Apartments Districts.

Land Use: The site is designated on the General Land Use Plan as “Medium” Office-Apartment-Hotel (Office up to 2.5 FAR; Apartment up to 115 units/acre; and Hotel up to 180 units/acre).

Neighborhood: The site is located in the Radnor-Fort Myer Heights Civic Association.

Proposed Development: The following table sets forth the project’s updated statistical summary:

	July 2008 Approved Amendment	Change	Current Proposal
Site Area *	50,880 sf (1.168 acres)	- 6,982 sf (0.160 acres)	43,898 sf (1.008 acres)
Density			
Existing Office GFA	46,080 sf	0	46,080 sf
Office GFA	61,510 sf	0	61,510 sf
Retail GFA	10,160 sf	0	10,160 sf
Total GFA	117,750 sf	0	117,750 sf
“C-O-2.5” Permitted GFA	127,200 sf		127,200 sf
Office FAR*	2.11 FAR	+ 0.34	2.45 FAR
Retail FAR*	0.20 FAR	+0.03	0.23 FAR
Total FAR*	2.31 FAR	+ 0.37	2.68 FAR ¹
“C-O-2.5” Permitted FAR	2.5 FAR		2.5 FAR
Parking	205 spaces (incl. 16 surface) ²	+27 spaces	232 spaces (incl. 16 surface)
Office	168 spaces	+27 spaces	195 spaces
Office Parking Ratio over site	1 space per 640 sf	16%	1 space per 552 sf
Required Office Ratio (Spaces)	1 space per 580 sf (186 spaces)		
Retail/Visitor	37 spaces (incl. 16 surface)	0	37 spaces (incl. 16 surface)
Retail Parking Ratio	1 space per 282 sf	0	1 space per 282 sf
Required Retail Ratio (Spaces)	1 space per 580 sf (17 spaces)		
Total Parking Ratio (Spaces)	1 space per 574 sf (205)	13%	1 space per 508 sf (208)
Total Number (Percent) Compact	56 (27%)	+3 spaces	59 (25.43%)
LEED Score	Silver	NC	Silver

Site and Design: The applicant plans to build a six-story building adjacent to the existing NSTA structure. The only change to the building per this amendment is the addition of a third level of parking under the new building.

There is also a request for the County Board to approve an increase in density (FAR) to allow for the anticipated reduction in SP #382 site area if/when the County Board approves a site plan for the property located immediately to the west of SP #382 that would incorporate the surface parking lot, which is currently part of this site plan. This proposed change to SP #382 reflects the original intent of the site plan (Condition #74) and achieves stated County goals and policies. No changes to GFA are proposed with this request.

¹ The applicant has asked for LEED Silver bonus density. Staff supports the provision of 0.18 FAR of bonus density for LEED Silver certification.

² Per the approval from July 2008, the project now has the ability to build a total of 205 parking spaces. That number is one less than what was approved in 2005 since the increase in the parking garage entrance’s height to meet building code requirements caused the deletion of one parking space. The proposed new level of parking would add another 27 spaces to the project, as well as the building’s fitness center and other mechanical functions.

* These changes would only occur if/when the County Board approves a site plan for the landowner immediately to the west of SP #382.

Transportation: The site includes the following street frontages: Wilson Boulevard, Clarendon Boulevard and North Rhodes Street. The Master Transportation Plan classifies Wilson and Clarendon Boulevard as Type B Primarily Urban Mixed-Use Arterial Streets. North Rhodes Street is classified as Type D Primarily Garden Apartments and Townhouse Neighborhood Arterial Street. Wilson and Clarendon Boulevards operate as a one-way pair system with Wilson Boulevard operating with two travel lanes in the westbound direction and Clarendon Boulevard operating with two travel lanes in the eastbound direction. North Rhodes Street provides two-way travel in a north-south direction. On-street parking is permitted on both sides of the streets as appropriate. The two intersections of North Rhodes Street with Wilson and Clarendon Boulevards operate under traffic signal control.

Parking: The applicant's approved parking strategy for the site includes three levels of below-grade parking under the existing building and two levels of below-grade parking under the new building. The new portion of underground garage will be accessed via the existing NSTA building's garage entrance. The applicant will maintain vehicular access to the expanded garage from an existing driveway that bisects the site from Clarendon Boulevard. The driveway also provides access to the existing 16 space surface parking lot located on the west end of the site.

The total number of parking spaces provided in both the existing garage and approved future underground garage and the surface parking lot is 205 spaces (189 garage spaces and 16 surface spaces). Of the 205 spaces, 168 are office (1:640) and 37 are retail (1:275) parking spaces. There are 56 compact spaces, which represents 27.32% of the overall garage. The elevated compact ratio is attributed to the 40% compact parking percentage in the existing garage. As approved, the developer will also make available to the public 85 parking spaces (first level of the parking garage and the surface parking lot) free of charge, after hours, 24 hours on weekends and holidays.

NSTA is currently requesting a site plan amendment to modify the project's parking to provide an additional third level of parking under the new building. The 27 additional parking spaces will result in a total of 195 office spaces or approximately 1 space per 552 square feet. In addition, only three of the new parking spaces on the proposed third level would be compact spaces, thus making the plan's overall compact parking ratio drop to 25.43%. The applicant is not proposing to modify the 37 retail parking spaces or 1 space per 275 square foot retail parking ratio. When the surface parking lot is removed, the 37 retail parking spaces will be provided within the first floor of the parking garage. Staff supports the applicant's request to add a third level of parking under the new building.

DISCUSSION:

Adopted Plans and Policies: The General Land Use Plan and the *Rosslyn to Courthouse Urban Design Study* guide development on the subject site. There are no changes to height, GFA or the mix of uses so the project remains consistent with those elements. The *Rosslyn to Courthouse Urban Design Study* illustrative plan does show the surface parking lot being replaced with a

building wall, which is consistent with the scenario wherein the surface lot is sold to the adjacent landowner.

Proposed Amendments:

Garage Height Clearance (Condition #38): The proposed changes to Condition #38 regarding the timing of changes to the garage height clearance were not acceptable to staff. The applicant was proposing interim changes to the existing building's garage entrance to allow IT equipment to be moved following construction of the new office building. The condition deals with the timing of changes to the existing building's garage height clearance, which must comply with building code requirements and should be addressed through the building code official and not by amending the site plan condition.

Exercise/Health and Bicycle Storage Facilities (Condition #40): Staff supports the proposed change to Condition #40 to increase from 1,000 s.f. to 1,500 s.f. the size of the exercise/health facility. The exercise/health facility shall not count as density (FAR) but shall count as GFA if the facility meets the criteria noted in the condition. The condition has also been modified to meet current standards, requiring that final drawings showing compliance be approved by the Bicycle and Pedestrian Program Manager rather than the Zoning Administrator.

Removal of Surface Parking Lot: Typically, with redevelopment of sites in the Metro corridor, surface parking lots are discouraged and parking below-grade is encouraged. There is an existing surface parking lot located on the west of the NSTA site – behind the Hollywood Video store and offset from the remainder of the property. The applicant has provided for office and retail parking within the parking garage; the surface spaces would provide additional visitor parking. However, in 2005 the applicant agreed to a condition (Condition #74) that, upon redevelopment of the property to the west (Hollywood Video), the developer would facilitate the surface parking lot being incorporated into that development to create a better urban edge along Clarendon Boulevard and to ensure that the 16 surface parking spaces are provided in any future development. Staff thinks that given the developer's request to expand its parking and the fact that the site plan's configuration does not lend itself to redeveloping the parking lot, now is the time to address the long-term future of the surface parking lot.

In the event the applicant sells the lot to the landowner of the Hollywood Video site immediately to the west of SP #382, staff anticipates that the adjacent property owner would incorporate the surface lot into that future site plan's redevelopment. SP #382 would still govern the surface lot site area until the County Board approves a site plan for the adjacent site. Upon such approval, the NSTA site area would be reduced by 6,982 s.f., which is the size of the surface parking lot.

If the lot is sold to the adjacent landowner, staff's expectations are that the surface parking lot would be redeveloped and the 16 surface public parking spaces could be incorporated into the adjacent landowner's subsequent site plan. If the lot is not sold and a site plan is approved for the site immediately west of SP #382, given the location of the lot in relation to NSTA, staff supports the community's suggestion for the surface lot to be landscaped and to be made

available for NSTA's youth education outreach activities. The 16 surface public parking spaces would then be incorporated into NSTA's parking garage. Conditions #49, 63 and 74 have been deleted and the requirements incorporated into the new Surface Parking Lot (Condition #81) and Public Parking (Condition #82) conditions.

Additional FAR, LEED and Sustainability: As anticipated in the 2005 approval of this site plan, if/when the applicant sold to the adjacent landowner the land associated with the surface parking lot the site area for the NSTA site plan would need to be reduced. As part of this site plan amendment the applicant is requesting an increase in density (FAR) to make up for the project's future reduced site area. The increase in density (FAR) would be appropriate by achieving LEED Silver certification. As part of the amendment that was approved in July 2008, the applicant anticipates achieving 32 LEED Core & Shell points in the new building, including two energy optimization points. Since the current site plan amendment includes the applicant's agreement to obtain LEED Silver certification for the new building, staff supports granting the increase in density (FAR) based on the County policy to make up for the site area lost via the surface parking lot's future sale. The reduction in site area for SP #382 would occur automatically at the time the County Board approves a site plan that incorporates the surface lot's land area as defined in Condition #81.a. The County Board's action today will approve the increased density (FAR).

As part of NSTA's goal to showcase this new building as the National Center for Science Education, integrated into the building will be interactive and dynamic tools, e.g., wind turbines atop the building, for visitors to use and learn about energy conservation, sustainable design, and ecological principles. On-site, interactive displays and resources will enable teachers and students to track and compare energy use and other building functions in real time. In addition, those resources and others will be available through the NSTA website, helping to educate people locally and throughout the U.S. about the science behind green building. Staff supports the increase in LEED points being pursued.

The County typically requires a bond to be posted so that if the project as built does not meet a certain level of LEED™ points, then the applicant would forfeit some or the entire bond. The standard way in which the bond amount is calculated is to multiply the increase in density tied to LEED™ that would be provided, (0.18 FAR in this instance) times the site area (43,898 s.f.). That subtotal is then multiplied by the average office rental rate per square foot for the area the building is to be built (\$60/s.f. given this Metro corridor location). For SP #382 a unique methodology, that is not intended to set precedent, is proposed to calculate the performance bond for LEED. For this specific project staff also considers the project's history. At the time the site plan was approved in 2005, it was anticipated that the developer could sell the surface parking lot to the adjacent landowner, thus requiring NSTA to ask the County for an increase in density (FAR) tied to the conference center facility (6,000 s.f.) to make up for the reduction in site area. To accommodate for this site plan's particular circumstances and the increase in density to be tied to LEED Silver Certification (as opposed to the conference center facility), staff recommends arriving at a bond amount by subtracting the total increase in density being requested (8,005 s.f.) from the originally intended increase in density anticipated in 2005 (6,000

s.f.) to arrive at a unique net increase in density of 2,005 s.f. Multiplying that by the \$60/s.f. results in a required bond amount of \$120,360, which the applicant has agreed to provide to the County (Condition #83). Additionally, given the addition of Condition #83 and the provision of a performance bond, the condition requiring the developer to submit green building fund monies (Condition #53) has been intentionally omitted.

Shared Parking Spaces: County goals and policies encourage shared parking, especially in site plans that include a commercial component (Master Transportation Plan, Policy #9). In mixed-use developments, commercial and residential spaces often have differing parking demands. Sharing parking spaces between different occupancies reduces the site area dedicated to car storage and can reduce demand for on-street parking. Further, if parking areas are reduced, there will be more opportunities for landscaping and creative site planning.

As discussed in the 2005 staff report to the County Board for SP #382, there is a limited supply of parking in the neighborhood, especially in the evening. During the 2005 site plan public review process, staff and the citizens emphasized the need for sufficient retail parking to reduce the chance of spillover into the neighborhood as well additional shared nighttime parking to the applicant. The applicant agreed (Condition #63) to share 85 spaces (first level of parking garage and temporary surface parking lot) with the public from 9:00 p.m. to 8:00 a.m. The applicant also agreed (Condition #49) to allocate 37 of the 85 parking spaces on the first level of the parking garage and temporary surface parking lot for retail use between the hours of 8:00 a.m. to close of business or until 12:00 a.m., whichever is later.

A new condition is recommended (Condition #81) to ensure that once the surface parking lot is removed, the associated shared parking spaces are recaptured within a site plan project. The condition also states that in the event the surface parking lot is not sold prior to the project receiving its Final Retail Certificate of Occupancy, Certificate of Occupancy for the 6th Floor, or before 2016, whichever comes first, the developer will remove the 16 surface parking spaces and replace the lot with a landscaped area to be made available for NSTA's youth education outreach activities.

In addition, as part of Condition #63, the applicant agreed to "*continuously evaluate opportunities for additional shared parking within the parking garage, specifically on the second level of the garage.*" To that end, the applicant has agreed to modify the shared parking provision start time from 9:00 p.m. to 7:00 p.m.

New Condition #82 is recommended to address alternative shared parking opportunities prior to and following the removal of the surface parking lot. The condition also consolidates previously approved provisions called out in Conditions #49 and #63.

1. The developer will submit a Parking Management Plan to the Zoning Administrator for review and approval by the County Manager, prior to the issuance of the first Certificate of Occupancy for the new building.
2. Prior to the removal of the surface spaces, the developer will provide thirty-seven (37)

parking spaces for exclusive use by retail tenants, customers, and employees for free on the first level of the garage and surface parking lot from the hours of 8:00 a.m. to 7:00 p.m. After 7:00 p.m. the first level of the garage and the surface parking lot will be shared with the public.

3. If the surface spaces are removed, thirty-seven (37) parking spaces will reserved for retail use for free on the first level of the parking garage from the hours of 8:00 a.m. to 7:00 p.m. After 7:00 p.m. the first level of the garage will be shared with the public and the developer will recapture the surface spaces within its parking garage.

Community Process: The applicant presented this project to the Site Plan Review Committee (SPRC) at an October 20, 2008 meeting.

- Transportation Commission: The Transportation Commission heard this site plan request at its August 29, 2008 meeting as an information item and at its October 30, 2008 meeting. The Commission voted at its October 30, 2008 meeting 7-0 to recommend to the County Board the project be approved with the following conditions:
 - NSTA needs to provide 85 spaces regardless of whether the lot is sold. Delete condition language allowing for the number of parking spaces to drop from 85 to 71 with the results of a parking utilization study.
Staff Response: Staff agrees to remove the parking utilization study provision from the condition. The Colonial Village representative asserted that he would like to see the 85 public spaces provided, regardless of whether it is through the NSTA site plan or through a future site plan approved directly to the west. Staff recommends conditions that would provide County control of the surface parking lot via SP #382 until the County Board approves a site plan for the area immediately to the west of SP #382, at which time the County Board can ensure that the 85 spaces remain, if appropriate.
 - Do not preclude the developer's ability to implement a validation program for retail parking.
Staff Response: Staff has updated the condition language to allow for the developer to implement a retail parking validation program.

CONCLUSION: The proposed changes to the underground garage and surface lot will result in an overall improvement in the project. The addition of the third level of below-grade parking garage will further reduce the project's demand for off-site parking spaces. Removing the surface parking lot and replacing it with a landscaped open area to be made available for NSTA's youth education outreach activities or redeveloping it as part of a different site plan project would improve the overall pedestrian level-of-service, optimize land use, and create additional place making opportunities. The approved Condition #38 regarding the timing of changes to the garage height clearance meets building code requirements and any changes to the condition are a building code, not a site plan, matter. At this time staff does not recommend the proposed changes to Condition #38. Staff concludes that the modified site plan conditions are

acceptable as are the proposed changes to the parking garage and site area, and recommends that County Board approve the site plan amendment.

**Revised Site Plan Conditions – NSTA
Updated November 7, 2008**

Note: Where a particular County office is specified in these conditions, the specified office includes any functional successor to that office. Where the County Manager is specified in these conditions, “County Manager” includes the County Manager’s designee.

40. For both buildings, the developer agrees to provide, at no charge to the user, secure bicycle storage facilities in locations convenient to office, residential and retail areas on the following basis at a minimum:

Office Bicycle Storage Facilities:

One (1) employee bicycle parking space for every 7,500 square feet, or portion thereof, of office floor area and one (1) additional such visitor space for every 20,000 square feet, or portion thereof, of office floor area.

Employee bicycle parking facilities shall be highly visible to the intended users and protected from rain and snow within a structure shown on the site plan. The facilities shall not encroach on any area in the public right-of-way intended for use by pedestrians or any required fire egress. The facilities for office users parking must meet the acceptable standards for Class I storage space as contained in the Arlington Bicycle Transportation Plan, dated April 1994 with Amendments through March 2003, and be highly visible from an elevator entrance, a full-time parking attendant, a full-time security guard or a visitor/customer entrance. Visitor parking must be located at exterior locations within 50 feet of the primary building entrance. Any bicycle parking racks used on the site must conform to the Arlington County Standard or be approved by the Bicycle and Pedestrian Program Manager. Drawings showing that these requirements have been met shall be approved by the ~~Zoning Administrator~~ Bicycle and Pedestrian Program Manager before the issuance of the Footing to Grade Structure Permit.

In addition, the developer agrees that for every 50,000 square feet or fraction thereof of office Gross Floor Area (GFA), one (1) shower per gender shall be installed, up to a maximum of three (3) showers per gender. Also, a minimum of one (1) clothes storage locker per gender shall be installed for every required employee bicycle parking space. Bicycle clothing lockers shall be a minimum size of 12” wide, 18” deep, and 36” high, and shall be available for use on an overnight basis. The lockers shall be installed adjacent to the showers in a safe and secured area and both showers and lockers shall be accessible to all tenants of the building. The location, layout and security of the showers and lockers shall be reviewed by the Arlington County Police Department before issuance of the Footing to Grade Structure Permit. The developer agrees that an exercise/health facility containing a maximum of ~~1,000~~ 1,500 square feet shall not count as density (FAR) but shall count as GFA if this facility meets all of the following criteria:

1). The facility shall be located in the interior of the building and shall not add to the bulk or height of the project; 2). Showers and clothes lockers shall be provided as required above; 3). The lockers shall be installed adjacent to the showers in a safe and secured area within the exercise facility and both showers and lockers shall be accessible to all tenants of the project; 4). The exercise facility shall be open only to tenants of the project and shall not accept or solicit memberships from outside of the project. The exercise facility, including the showers and lockers, shall be open during normal working hours.

Retail Bicycle Storage Facilities:

Two (2) retail visitor/customer bicycle parking spaces for every 10,000 square feet, or portion thereof, of the first 50,000 square feet of retail floor area; one (1) additional retail visitor/customer space for every 12,500 square feet, or portion thereof, of additional retail floor area; and one (1) additional retail employee space for every 25,000 square feet, or portion thereof, of retail floor area. The retail visitor/customer bicycle spaces shall be installed at exterior locations that are convenient to the retail visitors/customers, and such locations shall be reviewed by the Bicycle and Pedestrian Program Manager ~~Division of Transportation~~. The developer agrees to obtain approval of the location, design and details of the retail visitor/customer bicycle spaces as part of the final site development and landscape plan. Facilities for retail visitors/customers must meet the County standards for bicycle racks, and be located within 50 feet of ~~close to~~ retail visitor/customer entrances or the closest retail vehicle parking spaces.

49. Deleted and replaced by Condition #82

~~The developer agrees to submit to the Zoning Administrator a parking management plan which outlines how parking for retail tenants' employees and customers for retail, will be provided, where the parking will be located (including the temporary surface parking lot) and how retail employees and customers will be directed to the parking spaces. The developer further agrees to make a minimum of 37 retail tenant parking spaces, available within the garage. The parking management plan shall be submitted to the Zoning Administrator, and reviewed and approved by the County Manager, prior to the issuance of the first Certificate of Occupancy for the building.~~

53. **(Intentionally Omitted)** ~~The developer agrees to make a contribution to the County's Green Building Fund of \$2,107.35 (\$0.03 X 70,245 square feet). The payment shall be made to the Department of Environmental Services prior to the issuance of the Clearing, Grading, and Demolition Permit, and compliance with this condition shall be provided to the Zoning Administrator in the form of a letter at the time of payment. If the project achieves formal certification as a LEED Green Building from the U.S. Green Building Council within one year of issuance of the Master Certificate of Occupancy, the Green Building fund contribution shall be refunded upon receipt of written request, and documentation of LEED certification, by the applicant.~~

63. Deleted and replaced by Condition #82

The developer agrees to make all parking on the first level in the garage and in the surface lot (a total of 85 spaces) available to the public, free of charge, for parking after hours (weekday evenings after 9:00 p.m.) until 8:00 a.m. (the next morning) and 24 hours on weekends, and all legal holidays (defined as New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving, and Christmas). The developer further agrees to make 37 parking spaces on the surface lot and the P-1 level of the garage available for use exclusively by the retail tenants' employees and customers; at a minimum, the number of spaces to be so reserved shall be consistent with the requirements of the Zoning Ordinance for the retail uses that occupy the space, but need to leave sufficient spaces for other uses. The developer agrees to implement a validation program to allow free use of such spaces for retail customers and employees between 6:00 p.m. and 12:00 midnight or until the close of business of retail operations, whichever is later. The developer agrees to continuously evaluate opportunities for additional shared parking within the parking garage, specifically on the second level of the garage.

68. **Deleted and replaced by Condition #83**

- a. ~~The developer agrees to hire a LEED certified consultant as a member of the design and construction team. The consultant shall work with the team to incorporate sustainable design elements and innovative technologies into the project so that numerous building components may earn the developer points under the U.S. Green Building Council's system for LEED certification. Specifically, the developer agrees to include sustainable elements in design and construction that are sufficient to meet the requirements for seven (7) LEED Prerequisites and include at least 27 ~~32~~ LEED points, including at least two (2) points from LEED Section EA.1, "Optimize Energy Performance." The developer agrees to use commercially reasonable efforts to achieve additional LEED points which would qualify the building for certified levels.~~
- b. ~~The developer further agrees to submit, to the County Manager Department of Environmental Services (DES) and to the Zoning Office, a report prepared by the LEED consultant and documentation upon request to substantiate the report. Such reports will be submitted prior to issuance of the following permits or certificates of occupancy for construction of the project and will summarize the efforts to date of the inclusion of the sustainable elements within the project:~~

- ~~1. Clearing, Grading & Demolition Permit~~
- ~~2. Excavation, Sheeting and Shoring Permit~~
- ~~3. Footing to Grade Permit~~
- ~~4. Final Building Permit~~
- ~~5. Shell and Core Certificate of Occupancy~~
- ~~6. Partial Certificate of Occupancy for occupancy of the last floor of space~~
- ~~7. Master Certificate of Occupancy~~

- e. ~~In addition, prior to issuance of the first Certificate of Occupancy for occupancy, after the Shell and Core Permit the developer will have its LEED consultant submit a certification to the County Manager that the elements to earn the above specified numbers of points have been included in the buildings.~~

74. Deleted and replaced by Condition #81

~~The developer agrees that the density attributable to the temporary surface parking lot is required to support the existing and proposed development as shown on the drawings dated August 12, 2005 and June 10, 2008, and presented to the County Board and made part of the public record on November 16, 2005 and July 19, 2008. The developer also agrees to facilitate efforts of the adjacent landowner in making a site plan amendment request to acquire at fair market value the temporary parking lot, with the developer's approval, and incorporate it into the adjacent landowner's site plan with the 16 parking spaces included in the redevelopment. The developer further agrees that the temporary surface parking lot parcel may not be removed from the subject site area without a site plan amendment.~~

81. Surface Parking Lot (New Condition – Replaces Condition #74)

The developer agrees that the density attributable to the temporary surface parking lot supported the approval of the existing development as shown on the drawings dated August 12, 2005 and June 10, 2008, and as presented to the County Board and made part of the public record on November 16, 2005 and July 19, 2008. The developer also agrees to facilitate efforts of the adjacent landowner to acquire at fair market value the temporary parking lot, to incorporate it into the adjacent landowner's site, and to include it in a site plan application that includes the adjacent landowner's site.

- a. The developer also agrees that the temporary surface parking lot (defined as approximately 6,982 square feet of land as shown on the exhibit entitled "Conceptual Temporary Planting Exhibit" dated October 10, 2008 (the "Surface Lot") lot shall continue to be governed by SP #382 until the date of County Board approval of a site plan for the adjacent property that incorporates the Surface Lot ("Future Site Plan"). The developer agrees to maintain the Surface Lot in accordance with these conditions until the Surface Lot is incorporated into the approved Future Site Plan or until the Triggering Event described in #81.b. On the date of County Board approval of the Future Site Plan, the Surface Lot site area shall no longer be governed by SP #382, shall no longer be used to calculate density for buildings in that site plan, and shall instead be governed by the Future Site Plan for the area immediately west of SP #382.
- b. In the event that the Surface Lot is not incorporated into the Future Site Plan prior to the issuance of the Certificate of Occupancy of the retail space, or the issuance of the Certificate of Occupancy for any space located on the 6th floor, or by November 15, 2016, whichever occurs first ("Triggering Event"), the developer agrees to submit an application for administrative approval to remove the 16 surface parking spaces

(“Surface Spaces”) and landscape with appropriate groundcover plantings in the area of the Surface Lot, as generally shown on the exhibit entitled “Conceptual Temporary Planting Exhibit” dated October 10, 2008. The developer further agrees to diligently pursue approval of such administrative change request and complete implementation of it within 90 days after the administrative change request’s submission, provided, however, that if the Zoning Administrator takes more than 30 days to approve the request (which 30 days begins only after the developer has submitted a complete application that is approvable), then the time for compliance will be extended by each day above 30. The developer agrees to coordinate with the DPRCR Urban Forester to determine an appropriate and acceptable season in which to conduct planting, and if necessary, apply for an administrative change request, and implement the planting. Planting is to occur during a season so as to best ensure the viability of the plantings. The developer may utilize this area for educational outreach associated with the National Science Teachers Association. After removal of the Surface Spaces, the developer may continue to try to sell the Surface Lot.

82. Public Parking (New Condition – Replaces Conditions #63 and #49)

A. Parking Management Plan

1. The developer agrees to submit to the Zoning Administrator a parking management plan which outlines how parking for retail tenants’ employees and customers for retail will be provided, where the parking will be located (including the temporary surface parking lot if not incorporated into the Future Site Plan) and how retail employees and customers will be directed to the parking spaces. The parking management plan shall be submitted to the Zoning Administrator, and reviewed and approved by the County Manager for consistency with this approval, prior to the issuance of the first Certificate of Occupancy.

B. Retail Parking

1. From the hours of 8:00 a.m. to 7:00 p.m., the developer agrees to make 37 parking spaces (the “Retail Parking”) on the surface lot and first level of parking garage available for use exclusively by retail tenants’ employees and customers free of charge. At any time, the developer, at its discretion, may implement a paid parking system for visitors with a validation program to allow free use of such spaces for retail customers and employees from 8:00 a.m. to 7:00 p.m.
2. In the event that the Surface Spaces are removed, as detailed in Condition #81.a. or b., the developer agrees to provide 37 Retail Parking spaces on the first level of the parking garage from 8:00 a.m. to 7:00 p.m. free of charge. At any time, the developer may implement a paid parking system for visitors with a validation program to allow free use of such spaces for retail customers and employees from 8:00 a.m. to 7:00 p.m.

3. From 7:00 p.m. to 8:00 a.m., the 37 Retail Spaces will no longer be reserved for use exclusively by retail tenants' employees and customers. The 37 spaces become part of the publicly accessible Overnight Parking spaces (as defined in #82.C.1) or Modified Overnight Parking spaces (as defined in #82.C.2).

C. Overnight Parking

1. The developer agrees to make 85 spaces (the "Overnight Parking") available on the first level of the parking garage and the surface lot available to the public free of charge for parking weekday evenings from 7:00 p.m. to 8:00 a.m. the next morning, 24 hours on weekends and all legal holidays (defined as New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving and Christmas).

Anyone from the public, including, but not limited to, conference room users, neighborhood residents, and retail users, shall have access to the Overnight Parking spaces, as defined above. This shall not preclude office employees who are parked on the first level of the garage during business hours to remain on the first level after 7:00 p.m.

2. In the event that the Surface Lot is incorporated in the Future Site Plan as described in Condition #81.a, the developer agrees to make all spaces on the first level of the parking garage (71 spaces) (the "Modified Overnight Parking") available to the public free of charge for parking weekday evenings from 7:00 p.m. to 8:00 a.m. the next morning, 24 hours on weekends and all legal holidays (defined as New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving and Christmas).

Anyone from the public, including, but not limited to, conference room users, neighborhood residents, and retail users, shall have access to the Modified Overnight Parking spaces, as defined above. This shall not preclude office employees who are parked on the first level of the garage during business hours to remain on the first level after 7:00 p.m.

3. In the event that the Surface Lot has not been incorporated into the Future Site Plan as of the Triggering Event as defined in Condition 81.b above, the developer agrees to submit a administrative change request, and diligently pursue approval of such request, for an alternative parking plan to make 85 spaces available to the public free of charge for parking weekday evenings from 7:00 p.m. to 8:00 a.m. the next morning, 24 hours on weekends and all legal holidays (defined as New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving and Christmas). In the event the Surface Lot is incorporated into the Future Site Plan

after the Triggering Event, the developer agrees that the requirements under Condition #82.C.2 are in effect.

Anyone from the public, including, but not limited to, conference room users, neighborhood residents, and retail users, shall have access to the 85 parking spaces. This shall not preclude office employees who are parked in any of the 85 spaces of the garage during business hours to remain on the first level after 7:00 p.m.

LEED™ Credits and Sustainable Design Elements

83. The developer agrees to hire a LEED™ certified consultant as a member of the design and construction team. The consultant shall work with the team to incorporate sustainable design elements and innovative technologies into the project so that numerous building components may earn the developer points under the U.S. Green Building Council's (USGBC) system for LEED™ certification. Specifically, the developer agrees to include sustainable elements in design and construction that are sufficient to meet the requirements for seven (7) LEED™ Prerequisites and include at least 32 LEED™ credits (or the minimum required for LEED™ Silver for Core and Shell projects).

The developer further agrees to submit, to the Department of Environmental Services (DES) and to the Zoning Office, a report prepared by the LEED™ consultant and documentation upon request to substantiate the report. Such reports will be submitted prior to issuance of the following permits or certificates of occupancy for construction of the project and will summarize the efforts to date of the inclusion of the sustainable elements within the project:

- Demolition Permit
- Excavation, Sheeting and Shoring Permit
- Footing to Grade Permit
- First Above Grade Building Permit
- Final Building Permit
- Shell and Core Certificate of Occupancy
- Certificate of Occupancy for occupancy of the last floor of space
- Master Certificate of Occupancy

In addition, prior to issuance of the first Certificate of Occupancy after the Shell and Core Permit, the developer will have its LEED™ consultant submit a certification to the County Manager that the elements to earn the above specified numbers of points have been included in the buildings.

Within ninety (90) days after the issuance of the first certificate of occupancy for any part of the last floor, the developer agrees to provide a certification by a LEED™-accredited professional. The certification shall state that all of the Green Elements, as set forth in the

reporting mechanisms and including all of the LEED™ Prerequisites, have been incorporated into the project and that, in the professional's opinion, the project will qualify for a LEED™ Score of 32 points or higher (or as defined by the USGBC as a Silver Certified Level for Core and Shell projects). The developer also agrees to submit all appropriate documentation to the USGBC for review and evaluation for LEED™ certification.

Prior to the issuance of the first certificate of occupancy, the developer agrees to provide to the County financial security (in the form of a bond or letter of credit or other form approved by the County Attorney) in the amount of \$120,360 guaranteeing that, within eighteen (18) months from the date of the issuance of the first certificate of occupancy for any part of the last floor, the developer will have received its "Silver Certified" certification from the USGBC. Should the developer miss up to three (3) points, at the end of the eighteen month period, the developer shall automatically forfeit seventy-five percent (75%) of the security, which shall be immediately paid to the County. The developer agrees that the County may take any amounts due under the condition out of the financial security as deposited with the County. Should the developer miss four (4) or more points, at the end of the eighteen month period, the developer shall automatically forfeit 100 percent (100%) of the security, which shall be immediately paid to the County.

The developer agrees to permit the County Manager to access the USGBC records for the project and to provide the County Manager with such authorization as may be necessary to allow such access.

PREVIOUS COUNTY BOARD ACTIONS:

- June 3, 1978 Approved Use Permit U-2162-78-1 at 1836 Wilson Boulevard for live entertainment with dancing, subject to conditions with a review in one year.
- June 9, 1979 Continued Use Permit U- 2162-78-1 for live entertainment with dancing, subject to conditions with a review in one year.
- June 10, 1980 Continued Use Permit U- 2162-78-1 for live entertainment with dancing, subject to conditions with a review in two years.
- June 1, 1982 Discontinued Use Permit U-2162-78-1for the operation of a restaurant providing live entertainment including dancing.
- December 7, 1991 Took no action on Use Permit U-2724-91-2 for live entertainment and dancing in an existing restaurant.
- January 18, 1992 Authorized advertising a March 7, 1992 public hearing on Use Permit U-2732-92-3 for live entertainment and dancing in an existing restaurant.
- March 7, 1992 Approved a use permit U-2732-92-3 for live entertainment and dancing in an existing restaurant from 5:00 p.m. to 12: 00 a.m., seven days a week, for the parcel of real property known as 1836 Wilson Boulevard (Bellisimo Restaurant).
- September 26, 1992 Continued a use permit U-2732-92-3 for live entertainment and dancing in an existing restaurant, subject to all previous conditions and review in six months.
- April 3, 1993 Continued a use permit U-2732-92-3 for live entertainment and dancing in an existing restaurant, subject to all previous conditions and review in one year.

April 9, 1994	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, two months, subject to all previous conditions and review at the June 4, 1994 County Board Meeting.
June 4, 1994	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant and amended the use permit to extend the hours of live entertainment from 5:00 p.m. to 12:00 midnight to 5:00 p.m. to 2:00 a.m., seven days a week, subject to the original conditions and amended conditions number one and two. (Chef Peppino's Restaurant).
June 4, 1996	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, subject to all previous conditions and review in one year (June 1997). (Barchetta's Restaurant)
June 7, 1997	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, subject to all previous conditions and review in four months (October 1997). (RHODESIDE GRILL)
October 4, 1997	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, subject to all previous conditions and review in four months (February 1998). (RHODESIDE GRILL)
February 7, 1998	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, subject to all previous conditions and review in one year (February 1999). (RHODESIDE GRILL)
February 6, 1999	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, subject to all previous conditions and review in one year (February 2000). (RHODESIDE GRILL)
December 11, 1999	Adopted a resolution authorizing the IDA to issue up to \$3,500,000 in tax-exempt revenue bonds and to issue up to \$2,500,000 in taxable revenue bonds for the financing of the NSTA project subject to conditions.

February 12, 2000	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, subject to all previous conditions, one new condition that no customer dancing shall be permitted unless the applicant first obtains a valid dance hall permit and review in three years (February 2003). (RHODESIDE GRILL)
February 8, 2003	Continued a use permit U-2732-92-3 for live entertainment in an existing restaurant, subject to all previous conditions and review in five years (February 2008). (RHODESIDE GRILL)
July 10, 2004	Deferred a General Land Use Plan amendment (GP-294-04-1), rezoning request (Z-2511-03-1) and site plan request (SP #382) to the September 18, 2004 County Board meeting.
September 18, 2004	Deferred a General Land Use Plan amendment (GP-294-04-1), rezoning request (Z-2511-03-1) and site plan request (SP #382) to the November 16, 2004 County Board meeting.
November 16, 2004	Deferred a General Land Use Plan amendment (GP-294-04-1), rezoning request (Z-2511-03-1) and site plan request (SP #382) to the June 2005 County Board meeting.
June 18, 2005	Deferred a General Land Use Plan amendment (GP-294-04-1), rezoning request (Z-2511-03-1) and site plan request (SP #382) to the September 17, 2005 County Board meeting.
September 17, 2005	Deferred a General Land Use Plan amendment (GP-294-04-1), rezoning request (Z-2511-03-1) and site plan request (SP #382) to the November 15, 2005 County Board meeting.
November 16, 2005	Approved a General Land Use Plan amendment (GP-294-04-1), rezoning request (Z-2511-03-1) and site plan request (SP #382) to retain the existing NSTA building and redevelop the site with an approximately 71,840 s.f. office building with ground floor retail/restaurant uses.

July 19, 2008

Approved a site plan amendment request (SP #382) to modify the height of the parking structure and the façade, and to extend the term of the site plan.

Deferred consideration of the site plan amendment request to modify the project's parking to the October 18, 2008 County Board meeting.

October 18, 2008

Deferred consideration of the site plan amendment request to modify the project's parking to the November 15, 2008 County Board meeting.

