



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 25, 2009**

SUPPLEMENTAL REPORT

DATE: April 22, 2009

SUBJECT: SP #403 SITE PLAN: 2009 N. 14th Street LLC, an application to approve approximately 254 dwelling units, approximately 4,354 square feet retail, approximately 8,127 square feet office, approximately 2,527 square feet office/retail, and modifications to include density, exclusion from Gross Floor Area (GFA) calculations for non-parking areas in the parking garage, an exclusion outside the parking garage of common vertical and transverse HVAC shafts located throughout the building, a modification for a reduction in drive aisle width requirements from 23 feet to approximately 20 feet, and a modification to exceed the maximum fifteen (15) percent for compact cars; premises known as 2009 14th Street N. (RPC #17-014-001).

Applicant:
2009 N. 14th Street, LLC

C.M. RECOMMENDATION:

Approve the site plan application for approximately 254 dwelling units, 4,354 square feet retail, 8,127 square feet office, 2,547 square feet office/retail, and modifications to include density, exclusion from Gross Floor Area (GFA) calculations for non-parking areas in the parking garage, an exclusion outside the parking garage of common vertical and transverse HVAC shafts located throughout the building, a modification for a reduction in drive aisle width requirements from 23 feet to approximately 20 feet, and a modification to exceed the maximum fifteen (15) percent for compact cars; 2009 14th Street N. (RPC #17-014-001), subject to the conditions of the original staff report and to those modified conditions of the supplemental report.

DISCUSSION: Staff and the applicant have continued to work out a number of development details and site plan conditions, to address issues arising from commission recommendations as well as some more complex issues including the Public Use and Access Easement agreement.

County Manager: _____

County Attorney: _____

Staff: Jack Thompson, DCPHD, Planning Division
Dolores Kinney, DES, Transportation Division

PLA – 5244 Supp

Staff recommends approval of the revised and new conditions below, to replace the language in the County Manager's report dated April 16, 2009. Included within this report are the Transportation Commission's April 16, 2009 recommendation, the applicant's new modification of use request, and a brief summary of the amended development conditions.

Community Process:

Transportation Commission Recommendation: The Transportation Commission heard this request at its April 16, 2009 meeting. The Commission voted 8-0 to recommend approval of the Site Plan # 403, with the following comments and changes:

- Condition #6 (*Plan for Temporary Circulation during Construction*) - Maintain a temporary covered pedestrian access during construction along 14th Street and Taft Street.
Staff's response: Staff and the applicant agree and condition language has been modified.
- Condition #11 (*Community Liaison and Activities During Construction*) - Add language to include a community liaison with SRA, Sheriff's Office, and the Meridian.
Staff's response: Staff and the applicant agree and condition language has been modified.
- Condition #31 (*Recordation of Deeds and Public Easements and Deeds of Dedications*) and Condition #84 (*Elevator Access*) - Support PC recommendation for 24 /7 access allowing the County Manager to modify these hours as needed in the future.
Staff's response: Staff and the applicant have agreed to condition that largely captures the TC and PC's recommendation.
- Condition #52 (*Residential Parking and Parking Management Plan*) - Update Parking Management condition as agreed upon by the applicant and the County. Additionally, include unbundled parking to be modified as approved by the County Manager.
Staff's response: Staff and the applicant agree and condition language has been modified.
- Condition #83 (- Add language to expand easement locations to the north property (SRA property) if needed in the future as the County Manager requests.
Staff's response: Staff and the applicant agree and condition language has been modified.

Modification of Use Regulations:

Request to Exceed Compact Car Maximum: The applicant has requested a modification to exceed the maximum fifteen (15) percent ratio of parking spaces for compact cars. This request is to permit seventeen (17) percent of the total parking spaces to be for compact vehicles. This request is in conjunction with the modification to the drive aisle width to convert two (2) parallel parking spaces into six (6) compact spaces. The additional four (4) spaces will exceed the maximum number of compact spaces for a garage of this size as allowed by the Zoning Ordinance.

Amended Development Conditions:

The following development condition language maintains the original underlines and strike-throughs as depicted in the original staff report; however, new edits are depicted with underlines, strike-throughs and highlighting to show where language has changed from the version in the County Manager's April 16, 2009 report. The following is a brief summary of the changes: Staff recommends approval of the updated and new Conditions below, revised from what was previously shown in the County Manager's report dated April 16, 2009.

- Condition #1 includes the newly submitted site plan date of April 17, 2009.
- Condition #6 includes the TC-recommended temporary covered pedestrian access language.
- Condition #11 includes the TC-recommended community liaison with SRA, Sheriff's Office, and Meridian language.
- Condition #15 has been amended to account for the varying elevation on the subject site, which results in the Garage One parking level rising above-grade in a number of locations.
- Condition #16 has been amended to account for the varying elevation on the subject site, which results in the Garage One parking level rising above-grade in a number of locations. Also, a provision has been added to permit equivalent drainage materials for trees and shrubs.
- Condition #17 includes language detailing coordination between the developer and County regarding construction schedule and utility access.
- Condition #19 removes phasing language and includes garage language as detailed above. Also, includes the newly submitted site plan date of April 17, 2009.
- Condition #21 adds language to permit other clear sidewalk widths as detailed on the site plan.
- Condition #22 establishes the structure-free zone along N. 14th Street.
- Condition #28 permits off-site parking for construction workers where there is vacant parking capacity due to either building vacancies or time of day usage.
- Condition #31 includes language requiring all plats and deeds by the first Building Permit. Also, the condition details the deeds of easement relating to sidewalk and utilities easements, specifically related to the building's proposed canopies.
- Condition #36 includes the newly submitted site plan date of April 17, 2009.
- Condition #38, per the Modification of Use request, limits compact parking spaces to a maximum of 17% of the total on-site parking spaces.
- Condition #41 has been amended to account for the varying elevation on the subject site, which results in the Garage One parking level rising above-grade in a number of locations.
- Condition #50 states that directional signs required by Condition #73, will not count towards allowable signage for the Comprehensive Sign Plan.
- Condition #52 includes the TC-recommended Parking Management Plan and unbundled parking language.
- Condition #57 permits the developer to request an extension to the time to obtain their Master Certificate of Occupancy for good cause shown.

- Condition #64 includes the newly submitted site plan date of April 17, 2009, and removes the word ‘parking’ from the condition (as parking is addressed in Parking Management Plan).
- Condition #67 better details the clear sidewalk width along the promenade/breezeway.
- Condition #72 permits the developer to obtain their USGBC rating within 24 months instead of 18 months. This request is largely due to the complexity of the project (LEED Gold) and new USGBC inspection outsourcing.
- Condition # 73 includes new public use and access easement language that permits the County Manager to determine whether the public plaza hours will be extended beyond dawn until 9pm. Consistent with the original staff report, 24-hour access is still recommended. The condition also includes language regarding directional signs as cross-referenced in Condition #50.
- Condition #75 better clarifies the towing condition.
- Condition #83 deletes repetitive type wording.
- Condition #84 cross-references Condition #73 for public plaza elevator hours.
- Condition #85 includes the newly submitted site plan date of April 17, 2009.
- Condition #86 better details the applicant’s obligation to provide the Sheriff of Arlington County copies of any site plan amendment that affects N. Troy Street or its sidewalks.
- Condition #87 has been added to permit the applicant to demolish the existing dilapidated parking garage.

Staff recommends approval of the updated and new Conditions below, revised from what was previously shown in the County Manager’s report dated April 16, 2009.

1. **Site Plan Term**

The developer (as used in these conditions, the term “developer” shall mean the owner, the applicant and all successors and assigns) agrees to comply with the standard conditions set forth below and as referenced in Administrative Regulation 4.1 and the revised plans dated March 27 April 17, 2009 and reviewed and approved by the County Board and made a part of the public record on April 25, 2009, including all renderings, drawings, and presentation boards presented during public hearings, together with any modifications proposed by the developer and accepted by the County Board or vice versa.

This site plan approval expires three (3) years after the date of County Board approval if a building footing to grade permit has not been issued for the first building to be constructed pursuant to the approved plan. Extension of this approval shall be at the sole discretion of the County Board. The owner agrees that this discretion shall include a review of this site plan and its conditions for their compliance with then current County policies for land use, zoning and special exception uses. Extension of the site plan is subject to, among other things, inclusion of amended or additional site plan conditions necessary to bring the plan into compliance with then current County policies and standards together with any modifications proposed by the owner and accepted by the County Board or vice versa.

Plan for Temporary Circulation During Construction

6. The developer agrees to develop and implement (after approval) a plan for temporary pedestrian and vehicular circulation during construction. **The applicant will maintain temporary covered pedestrian access during construction along 14th Street and Taft.** This plan shall identify temporary sidewalks, interim lighting, fencing around the site, construction vehicle routes, and any other feature necessary to ensure safe pedestrian and vehicular travel around the site during construction. Exceptions may be made only during an emergency as defined below, during actual demolition, and for such limited periods as are unavoidable for utility upgrades. The developer agrees to submit this plan to, and obtain approval of the plan from, the County Manager as meeting these standards, before the issuance of the Clearing, Grading and Demolition Permit. The developer agrees to provide a copy of the approved plan to the appropriate civic associations. The County Manager may approve subsequent amendments to the plan, if consistent with this approval.

(Remainder of Condition #6 unchanged and not printed here)

Community Liaison and Activities During Construction

11. The developer agrees to comply with the following before issuance of the Clearing, Grading and Demolition Permit and to remain in compliance with this condition until the Master Certificate of Occupancy is issued.

(Condition #11(a) unchanged and not printed here)

- b. Before commencing any clearing or grading of the site, the developer shall hold a community meeting with those whose property abuts the project **including without limitation the Arlington County Sheriff's Office, the SRA Office Building and Meridian Apartments,** to review the construction hauling route, location of construction worker parking, plan for temporary pedestrian and vehicular circulation, and hours and overall schedule for construction. The Zoning Administrator and the Arlington County Police representative must be notified once the community meeting dates/times are established. The developer agrees to provide documentation to the Zoning Administrator of the date, location and attendance of the meeting before a Clearing, Grading and Demolition Permit is issued. The developer agrees to submit to the Zoning Administrator two (2) sets of plans or maps showing the construction hauling route, construction worker parking and temporary pedestrian and vehicular circulation (one set of which will be forwarded to the Police). Copies of plans or maps showing the construction hauling route, construction worker parking and temporary pedestrian and vehicular circulation shall be posted in the construction trailer and given to each subcontractor and construction vehicle operator before they commence work on the project. The location of all construction trailers shall be approved either by Administrative Change approval or to be shown on ~~the Tree Protection Plan~~, the two (2) sets of the aforementioned plans, with the construction staging's location and travel routes shown on a map approved as part of that plan. All trailers on public property shall require approval by DES staff, and the site plan's Arlington

County Police representative shall receive a copy of the aforementioned map.

(Remainder of Condition #11(c-f) unchanged and not printed here)

15. **Coordination of these plans: final site development, landscape and site engineering**
The developer agrees to attach the County Board meeting minutes outlining the approved conditions and the conditions themselves to each set of Building Permit drawings that they submit to the County. The developer agrees to submit to the Zoning Administrator and obtain approval from the County Manager a detailed final landscape plan prior to issuance of the Excavation/Sheeting and Shoring Permit. The final landscape plan shall be submitted at a scale of 1 inch = 25 feet, in conjunction with the final civil engineering plan as required in Condition #18 below, as well as a vicinity map with major streets labeled. The final landscape plan shall be developed by, and display the professional seal of, a landscape architect certified to practice in the Commonwealth of Virginia. The developer further agrees that the final landscape plan and the final civil engineering plan shall verify, by means of survey, that there are no conflicts between the street trees and utilities. The developer shall obtain approval by the County Manager for both plans as meeting all requirements of the County Board's site plan approval and all applicable county laws and plans before the issuance of the Excavation/Sheeting and Shoring Permit. The plan shall be consistent with the conceptual landscape plan approved as a part of the site plan, and, at a minimum, shall conform to: the landscaping requirements in Conditions #16 and 21 below; the *Arlington County Streetscape Standards* if applicable; the Sector Plans if applicable; the County's landscaping, planting, and sidewalk and driveway construction specifications; and/or other applicable urban design standards approved by the County Board. In order to facilitate comparison with the final civil engineering plan, the landscape plan shall be at a scale of 1 inch = 25 feet; the County may require more detailed plans appropriate to landscape installation at a larger scale to also be submitted. The County may permit minor changes in building, street and driveway locations and other details of design as necessitated by more detailed planning and engineering studies if such changes are consistent with the provisions of the Zoning Ordinance governing administrative approval and with the intent of the site plan approval. The landscape plan shall include a Street Tree Plan which shall be reviewed by DPRCR and DCPHD, and shall be accompanied by the civil engineering plan. All hardscape features shown on the approved landscape plan shall be completed prior to the issuance of the Shell and Core Certificate of Occupancy. The installation of All plant materials shown on the final landscape plan shall take place be installed before the issuance of the first Partial Certificate of Occupancy for any space above grade, excluding the garage, for the respective phase of construction, unless otherwise approved by the Zoning Administrator, based on the planting season and the availability of planting materials.

Upon approval of the final landscape plan and prior to the issuance of the first Certificate of Occupancy for the respective phase of construction for any space above grade excluding the garage, the developer agrees to submit to the Department of Community Planning, Housing, and Development (DCPHD) a copy of the contract for construction and installation of all landscape materials. The final landscape plan shall include the following details:

(Condition #15(a) unchanged and not printed here)

- b. Intake and exhaust garage ventilation grates may not be located within public sidewalks or streets, or within areas between the street curb and any building which is used as a walkway. The developer agrees to provide drawings showing how the garage will be ventilated as part of the post-County Board Administrative Regulation 4.1 drawings required in Condition #10 above. Ventilation grates shall be located and/or screened so as not to be visible from public rights-of-way. Specifically, all intake vents located along N. Troy Street, shall include exterior architectural metal grille panels and landscape screening, as shown on Sheet A-12 (West Elevations) and Sheet A-21b (Elevation of the Metal Railing & Air Intake Grille) of the 4.1 plans, dated ~~March 27~~ April 17, 2009. The developer shall obtain approval from the County Manager of the location and screening of all ventilation grates as part of the review of the final civil engineering plan and the final landscape plan before issuance of the Footing to Grade Permit.

(Remainder of Condition #15(c-h) unchanged and not printed here)

16. Landscape Standards

The developer agrees that all landscaping shall conform to Department of Environmental Services Standards and Specifications and to at least the following requirements:

(Condition #16(a) unchanged and not printed here)

- ~~b. The developer agrees to coordinate with the DPRCR urban Forester to determine an appropriate and acceptable season in which to conduct planting. Planting is to occur during a season so as to best ensure the viability of the plantings. In addition, the developer agrees to plant trees prior to issuance of the first Certificate of Occupancy Permit. The developer agrees to plant all street trees prior to issuance of the first Partial Certificate of Occupancy for any space above grade, excluding the garage for the respective phase of construction, unless otherwise approved by the Zoning Administrator, based on the planting season and the availability of street trees. The developer also agrees to fulfill the Public Improvement Bond requirements (Condition #33). The developer agrees to notify the DPRCR Urban Forester at least 72 hours in advance of the scheduled planting of any street trees in the public right-of-way and to be available at the time of planting to meet with staff of DPRCR to inspect the plant material, the tree pit and the technique of planting. Soil used in the tree pit must meet the specifications for street tree planting available from the DPRCR Urban Forester.~~

(Condition #16(c-d) unchanged and not printed here)

- e. Soil depth shall be a minimum of four (4) feet, plus 12 inches minimum of drainage material or equivalent, for trees and tall shrubs and three (3) feet for other shrubs. This requirement shall also apply to those trees and tall shrubs in raised planters. Soil depth for raised planters shall be measured from the bottom

of the planter to the top of the planter wall. The walls of raised planters shall be no higher than seat-wall height (2 1/2 feet, maximum) above the adjacent finished grade.

(Remainder of Condition #16(f-g) unchanged and not printed here)

Utility Company Contacts

17. The developer agrees to contact all utility companies, including the electric, telephone and cable television companies, and offer them access to the site at the time of utility installation to install their underground cables. In order to comply with this condition the developer agrees to submit to the Zoning Administrator copies of letters from the developer to the utility companies offering them access as stated above for each phase of the project. The developer agrees to also contact the Development Services Bureau Chief, Transportation Division of the Department of Environmental Services in Arlington County not less than two (2) months prior to its planned commencement of utility undergrounding for each phase of the project to offer the County, at no cost to the County, **concurrent** access to the locations where the developer plans to excavate trenches or similar areas **during developer's installation of** underground utilities so the County may install its fiber optic cable and/or conduit in those places concurrently with the developer's utility installation. **If at the completion of all other utility installation, the County has not completed its installation, the County shall have an additional forty-five (45) days to complete its installation.** Such access, and the terms and conditions under which access to the site will be provided and the undergrounding activities of the County and the developer will be coordinated, shall be set forth in an agreement approved by the County Manager and the County Attorney.

Pavement, Curb and Gutter Along All Frontages

19. The developer agrees to show on the final engineering plans pavement, curb and gutter along all frontages of this site in accordance with the then-current Arlington County Standard for concrete curb and gutter and the then-current standards for pavement and according to the following dimensions. The pavement, curb and gutter shall be constructed prior to issuance of the first Certificate of Occupancy **for occupancy of the applicable phase of the project, for any space excluding the garage.**

(Condition #19(a-e) unchanged and not printed here)

All improvements to curb, gutter, sidewalks and streets for pedestrian and/or vehicular access or circulation shall be in full compliance with the Americans with Disabilities Act (ADA) and any regulations adopted thereunder, as well as any other applicable laws and regulations. The developer further agrees that all improvements to curb, gutter, sidewalks, crosswalks, and streets for pedestrian and/or vehicular access or circulation shall be as determined by the County Manager on the final Site Development and Landscape Plan and on the final Site Engineering Plan, in accordance with the Rosslyn-Ballston Corridor Streetscape Standards or other applicable urban design standards in effect at the time of final Site Engineering Plan Approval; provided, however, that the provision of such improvements shall not increase the projected cost anticipated for such

improvements as shown on the site plan drawings dated March 27 April 17, 2009, unless the County provides additional funding to offset such increased cost.

21. **Sidewalk Design and Improvements**

The developer agrees that the final sidewalk pattern/design and final selection of materials and colors to be used shall be as determined by the County Manager on the final landscape plan and final civil engineering plan, in accordance with the Arlington County Streetscape Standards or other applicable urban design standards approved by the County Board and in effect at the time of the final landscape plan approval. The clear pedestrian zone of all public sidewalks shall also be indicated.

The sidewalk clear zones along the street frontages of this development shall be consistent with the Arlington County Streetscape Standards, or as shown on the approved 4.1 plans, and shall be placed on a properly-engineered base approved as such by the Department of Environmental Services. The developer agrees that the clear pedestrian zone sidewalk shall:

- a. Continue across all driveway aprons for loading and garage entrances along all frontages of the site plan, and there shall be no barriers to impede the flow of pedestrian traffic.
- b. Not be less than six feet wide at any point, unless otherwise specified on the plan.

(Remainder of Condition #21 unchanged and not printed here)

Subsurface Structure-free Zone for Utilities and Streetscape

22. The developer agrees that in order to accommodate the subsurface requirements of utilities and streetscape elements (including street trees), the final design of the project shall provide a structure-free zone under the public sidewalk along all street frontages, as required in the *Standards for Planting and Preservation of Trees in Site Plan Projects*. This zone shall be a minimum of five (5) feet deep and shall extend from the back of the street curb to the far edge of the public sidewalk on N. Troy Street and N. Taft Street, and fourteen (14') back of curb along N. 14th Street. No subterranean structures (such as parking garages) shall intrude into this five foot deep zone. Within the zone, underground utilities and utility vaults shall not be located in a manner that interferes with the appropriate spacing and replacement of street trees, consistent with the approved final site and development and landscape plan. Utility lines shall not be located beneath street trees. The location of all existing and proposed utility lines shall be shown on both the final landscape plan and the final site engineering plan.

Off-street Parking for Construction Workers

28. The developer agrees to provide off-street parking for all construction workers without charge to the workers. In lieu of providing parking, the developer may provide a subsidy for the construction workers in order that they may use Metro, provide a van for van pooling, or use another established method of transportation to provide for construction workers to arrive at the site. Compliance with this condition shall be determined based on a plan which shall be submitted to the Zoning Administrator, and for which the

developer has obtained the Zoning Administrator's approval, before the issuance of the Excavation/Sheeting, and Shoring Permit. This plan shall set forth the location of the parking to be provided at various stages of construction, how many spaces will be provided, how many construction workers will be assigned to the work site, and mechanisms which will be used to encourage the use of Metro, carpooling, vanpooling, and other similar efforts. The plan shall also provide for a location on the construction site at which information will be posted regarding Metro schedules and routes, bus schedules and routes, and carpooling and vanpooling information. If the plan is found to be either not implemented or violated during the course of construction, a correction notice will be forwarded to the developer. If the violation is not corrected within ten (10) days, a "stop work order" will be issued, and construction halted until the violation has been corrected. This parking may be obtained from any building or site with vacant parking capacity due either to building vacancies or where the developer demonstrates to Zoning Administrator that parking is vacant for enough time during the day as to be useful to developer's tenant.

Recordation of Deeds of Public Easements and Deeds of Dedications

31. The developer agrees that, for each phase, as phase is defined in the phasing plan required in Condition #70, all required plats, deeds of conveyance, deeds of dedication, and deeds of easement associated with, and/or required by the final approved site engineering plans, for the construction of any public street, public infrastructure, public utility, public facility or public improvement (jointly "Public Improvements"), shall be: a) submitted by the developer to the Department of Environmental Services for review and approval prior to the issuance of any Excavation/Sheeting and Shoring Permit for such phase; and; b) approved by the County; and c) recorded by the developer, among the land records of the Circuit Court of Arlington County, all before the issuance of the first Certificate of Occupancy for occupancy ~~for of~~ constructed for such phase. Real estate interests conveyed by the developer to the County for public street or public right-of-way purposes shall be conveyed in fee simple, free and clear of all liens and encumbrances. Real estate interests conveyed by the developer to the County for Public Improvements or public uses, including, but not limited to, sidewalk, street trees, other streetscape planting, water mains, storm sewers, sanitary sewers, and other public utilities and facilities, which other Public Improvements are not located, or to be located, in the public street or public right-of-way may be granted to the County by deed(s) of easement, provided, however, that in the deed(s) conveying such real estate interests to the County, all liens and encumbrances shall be subordinated to the easement rights of the County.

Further, the deeds of easement relating to sidewalk and utilities easements ("Sidewalk Easement(s)") located around the perimeter of the site and parallel to 14th Street North and North Taft Street may contain a reservation in the deed for the Sidewalk Easement(s) permitting the installation of three canopies along 14th Street North and three canopies along North Taft Street, over a portion of the Sidewalk Easement(s) as all six canopies are designated and shown on page A-05 of the 4.1 plan dated April 17, 2009, and attached to the County Manager's Report dated April 21, 2009 ("Canopy Plan").

provided that: 1) the Sidewalk Easement(s) language shall define and establish at least an eleven (11) foot free and clear space between the finished grade of the sidewalk shown on the approved site engineering plans and the lowest point of the canopies; 2) the canopies shall be in the dimensions (both width and depth) and in the locations as set forth on the Canopy Plan; 3) none of the canopies shall be located over a public or private utility vault of any type; 4) the Sidewalk Easement(s) shall contain language whereby the developer, its successors, assigns, agents, contractors and subcontractors agree(s) to indemnify the County, its elected officials, employees, agents, contractors and subcontractors for any damage resulting from the installation and location of any of the canopies; and 5) the Sidewalk Easement(s) contain(s) language requiring that the developer, at its sole cost and expense, shall remove any of the canopies, if such removal is necessary to permit the County to perform maintenance or to make repairs to utilities located in or near the Sidewalk Easement(s).

Interior Loading Spaces

36. The developer agrees that all loading spaces shall be in the interior of the building and shall also comply with the following requirements: minimum 12-foot clear width (including entrances), 40 foot-length and 14-foot height clearance. Any loading dock to be used for trash removal shall have a minimum interior height clearance of 18 feet. All loading docks shall contain roll-down doors, specially designed with opaque glass panels, consistent with drawings dated March 27 April 17, 2009. The developer agrees that the Multifamily Residential Building shall be serviced by trucks no longer than 40 feet for loading, deliveries, or trash removal. Use of the loading dock for deliveries or trash pick-ups, excluding moving vans, shall be limited to the hours from 9:00 a.m. to 4:00 p.m. and 6:00 p.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays. The loading dock door shall also be closed when the loading dock is in use, except when necessary for entry or exit of vehicles, venting of vehicle exhaust, or when required for similar operational or safety measures.

Parking Space Compliance with Zoning Ordinance

38. The developer agrees to ensure that all parking spaces, with the exception of three (3) parking spaces identified as "Possible SC" (SmartCars/Microcars or Similar) and located on the Garage 1 level near the proposed office/retail space, comply with the requirements of Section 33 of the Zoning Ordinance. Unless otherwise approved by the County Board, the number of compact spaces located within the garage as a percentage of the total may not exceed 17% of the total number of parking spaces, excluding those spaces intended for Smartcars/Microcars the Zoning Ordinance requirement. The developer shall submit drawings showing that these requirements are met, and shall obtain approval by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit.

Wall Check Survey

41. The developer agrees to submit one (1) original and three (3) copies of a wall check survey to confirm its consistency with the plans approved by the County Board, as referenced in Conditions #1 and #10 above. The wall check survey shall show the location of the walls at the top level of the below-grade structure, at such time as the

structure reaches ground level at the corner of N. 14th Street and N. Troy Street, and will be provided prior to the issuance of a permit for above-grade construction. The developer further agrees that, within thirty (30) days after approval of the wall check survey, to submit to the Zoning Administrator a wall check survey showing the location of the walls and the elevation of the slab, at grade.

Comprehensive Sign Plan

50. The developer agrees to develop and submit a comprehensive sign plan and that all exterior signs (including identification and directional signage) shall be consistent with the guidelines contained in "Sign Guidelines for Site Plan Buildings" and with Section 34 of the Zoning Ordinance. The Zoning Administrator shall determine whether the signs meet the standards of the guidelines and the Ordinance. No sign permits will be issued until a comprehensive sign plan is approved. The developer agrees to obtain approval from the Zoning Administrator of the comprehensive sign plan before the issuance of the first Certificate of Occupancy. All proposed rooftop signs, defined as all signs that are 35 feet or more above the ground, shall require a site plan approval or amendment. Additional signage required by Condition #73 shall not be counted towards the allowable signage permitted by the Comprehensive Sign Plan.

Residential Parking and Parking Management Plan

52. Parking for the 2009 N. 14th Street project will be provided in a three-level parking garage, accessed from N. Troy Street. The garage will contain 254 spaces for the residents, and 19 additional spaces for the office, retail, and visitors uses. Per the Transportation Management Plan, a parking management plan will be developed depicting spaces for residents, visitors, and carsharing.

Parking for the residents will be nested provided on the 1st level and on the 2nd and 3rd levels of the garage. Security doors or gates will allow only residents, or their guests, to access the designated parking areas within the garage.

Approximately The 19 parking spaces on the 1st level will be designated as visitor, retail spaces and office spaces, will be located on the 1st level of the garage. Signs and markings within the garage will direct visitors to the appropriate parking area. These spaces will be managed by the building operator. Violators would be towed at the vehicle owner's expense.

The developer agrees to provide at least one parking space for each dwelling unit. Parking spaces for retail employees, customers, office employees and visitors will be provided on the 1st level of the garage.

The developer agrees that the use of the residential parking spaces shall be limited to parking use by the residents of the building and their guests and that units and parking spaces will be made available separately so that purchasers of the units will not be required to purchase parking spaces. Nineteen (19) additional parking spaces will be provided for office tenants and their guests during normal working hours. The parking

spaces shall not be converted to storage or other use without approval of a site plan amendment.

The developer further agrees that these nineteen (19) parking spaces may also be available to retail employees, customers, office employees, and visitors within the garage. The developer agrees to submit to the Zoning Administrator a Parking Management Plan which explains how visitor parking for the residential building, parking for retail tenants employees and customers, and parking for office employees and visitors located in the residential building will be provided, accessed and managed. The plan will address equipment used to facilitate parking in the residential area of the garage. The plan will describe the pricing and validation for patrons of the retail uses if applicable. The plan will depict the location of the parking spaces and provide directional information. The developer agrees to submit the parking management plan to the County Manager, and to obtain approval of the plan from the County Manager, prior to the issuance of Sheeting and Shoring.

As part of the Parking Management Plan, the developer agrees to implement the transportation monitoring report in accordance to Paragraph (5) b of *Condition Performance and Monitoring* under *Condition #51 Transportation Management Plan*

The developer agrees to coordinate with County Staff and to develop a curbside management plan for the site. The curbside management plan may include locations for metered spaces, a taxi stand, bus stops, short-term parking, and car-sharing spaces. The developer agrees to submit the curbside management plan for review and to obtain the County Manager's approval prior to the issuance of Sheeting and Shoring Permit.

Obtain Master Certificate of Occupancy

57. The developer agrees to obtain a Master Certificate of Occupancy within 90 days of receipt of any partial Certificate of Occupancy for full occupancy of the building. At the request of the developer, the Zoning Administrator may approve an extension of the time to obtain a Master Certificate of Occupancy if the Zoning Administrator finds that the developer is diligently pursuing completion of all aspects of the project, including compliance with all conditions, and the developer has offered reasonable assurances that the Master Certificate of Occupancy will be obtained within the extended time frame.

64. Retail Elements

The developer agrees to market a minimum of 4,350 square feet of retail space, located on the ground floor (N. Taft Street) and first floor (N. 14th Street) of the building, to uses consistent with the approved Retail Action Plan for the Rosslyn-Ballston Corridor, dated January 2001 and the following:

1. The developer is encouraged to lease space designated for “personal or business services” in the Retail Action Plan to “Entertainment and Main Street Retail” businesses.

2. The retail space shall be designed and used in a manner consistent with the approved 4.1 plans, dated ~~March 27~~ April 17, 2009, and the Courthouse Addendum Sector Plan Addendum, adopted in 1993.
3. Each separate retail space shall have direct access, or provide direct service elevator access, to the building's service corridor.
4. The developer shall build out the retail space to include the rough-in of utilities, i.e., sprinkler heads, plumbing, electrical wiring, and stubs for extensions.

The developer agrees to submit an application for administrative change for any proposal for retail uses or parking not clearly consistent with the above. Any change in the use of the retail space from retail to office or other non-retail use shall require a site plan amendment.

Outdoor Cafes

67. Outdoor cafes shall be permitted in the public right-of-way or within public easements along N. Taft Street in accordance with the applicable provisions of the Zoning Ordinance, with a maximum seating area and all other applicable requirements as set forth in the Zoning Ordinance and as determined by the Zoning Administrator. A minimum of 8 feet of clear sidewalk width must be maintained along N. Taft Street. Plans for all outdoor cafes shall be subject to prior administrative approval by the Zoning Administrator for consistency with County ordinances, regulations and policies. Any outdoor café shall be administratively reviewed one year following its approval to evaluate it after a season of operation. At that time, the Zoning Administrator may review the approval, impose conditions on the operation of the outdoor café, or revoke the prior approval.

Outdoor dining/café shall be permitted along the plaza and promenade within the public easement in accordance with the applicable provisions of the Zoning Ordinance, and as determined by the Zoning Administrator. A minimum 6-foot clear sidewalk shall be maintained within the public easement portion along the public plaza and public promenade/breezeway.

72. **LEED Credits and Sustainable Design Elements**

(Condition #72(a-d) unchanged and not printed here)

- e. 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 \$700,000 [(\$40 per s.f.) x (17,500 s.f. of average LEED bonus density)] guaranteeing that, within eighteen twenty-four months from the date of the issuance of the first certificate of occupancy for any part of the last floor of the building, the developer will have received from the United States Green Building Council its LEED-NC "Gold"

certification (39 or more credits). Should the developer miss up to three (3) LEED points within the ~~eighteen~~ twenty-four month period, the developer shall automatically forfeit twenty-five percent (25%) of the total financial security for each point missed for that building, up to a total of 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. For each building, should the developer miss four (4) or more points, within the ~~eighteen~~ twenty-four month period, the developer shall automatically forfeit 100 percent (100%) of the security, which shall be immediately paid to the County. Should the developer fail to obtain the USGBC's rating within the ~~eighteen~~ twenty-four month period, unless due to delay related solely to the USGBC, the developer shall automatically forfeit the security, which shall be immediately paid to the County.

(Remainder of Condition #72(f-g) unchanged and not printed here)

73. **Public Use and Access Easement(s)**

The developer agrees to create, grant and convey, by Deed of Easement(s), permanent public use and access easement(s) ("Easement(s)"), in accordance with the conditions set forth herein, to the County Board of Arlington County, for the benefit of the County and the public at large, providing for a public use and access, by the County and the public at large in, over, on, across and through the areas designated as "Public Access Easement Area" ("Easement Area") in sheet number L-10 of the 4.1 plans, captioned Public Easement Plan, prepared by Parker Rodriguez, Inc. and dated ~~March 27~~ April 17, 2009 ("Plan"). The final location of the Easement Area may change with the preparation, and only upon the approval, by the County, of the final building and/or landscape plans. The developer agrees to construct and landscape the Easement Area, as shown on plans with dates of ~~March 27~~ April 17, 2009, and made a part of the public record on April 25, 2009. The final landscape design and installation shall be subject to approval by the County Manager as part of the final site development and landscape plan. Construction and landscaping of the Easement Area shall be completed prior to the granting of the Easement for the Easement Area. The Easement(s) shall be granted to the County Board prior to the issuance of the first Partial eCertificate of eOccupancy for any above-grade residential space. the project that is the subject of this condition ("Project"). The Easement(s) shall be granted by deed, in substance acceptable to the County Manager, and subject to approval as to form by the County Attorney, and shall be recorded among the land records of the Clerk of the Circuit Court of Arlington County.

The Easement(s) shall:

- a. Provide that the developer, including its successors and assigns, shall be responsible, at its sole cost and expense, for the continued care, cleaning, maintenance, repair, replacement and installation of all Easement Area and all improvements contained within the Easement Area, including, but not limited to, concrete, bricks, masonry, stone work, walkways, lighting, trash receptacles,

steps, staircases, elevators, landscaping, water features, benches and tables and any other fixtures or improvements (jointly “Facilities”), if any, shown on the final site development and landscape plans. In addition, the developer shall be responsible, at its sole cost and expense for snow and ice removal of the entire Easement Area.

- b. Provide that no motorized vehicles, other than emergency vehicles or wheelchairs, and no bicycles, skateboards, scooters or similar non-motorized vehicles shall be operated in the Easement Area.
- c. Provide that the County, its contractors and agents, and the public at-large, shall, at all times, have full and free use of the Easement Area for walkway purposes, sitting, dining, use of the “overlook” terrace, and any other purposes named, and shall have all rights and privileges reasonably necessary to the exercise or use of the Easement(s), including, but not limited to, the right to access to and from the Easement(s); and the right to use the adjoining land of the developer where necessary, provided, however, that this right to use the adjacent land shall be limited to that use necessary for the County, its contractors and agents, to repair or maintain the Easement Area, at developer’s expense, should the developer fail to do so promptly after notice from the County, and further this right to use the adjacent land shall not be construed to allow the County to erect any building, structure or facility of a permanent nature on such adjoining land, unless otherwise provided in such Easements.
- d. Provide that the Easement Area shall be open for public access twenty-four hours a day, seven days a week during certain hours as solely determined by the County Manager, or his designee, after considering the safety of the public, and the necessity for access to: the Courthouse complex; the Courthouse Plaza; and the retail areas adjacent to the project/site. In no event shall public access be less than from dawn until 9:00 p.m. daily.
- e. Provide that, upon written request of the developer may undertake routine maintenance and minor repairs in the Easement Area during normal business hours. However, where any work will take more than eight (8) hours to complete and will prohibit pedestrian access through the Easement, developer shall provide prior written notice to the County Manager, stating the proposed time period(s), spatial area(s) and the reasons for such request, and with the written approval of the County Manager, not to be unreasonably withheld, the Easement Area, or any portion thereof, may be temporarily restricted or prohibited for limited times and the limited purpose of maintenance, repair, replacement of any Facilities, the use of all or a portion of the Easement Area for special events of, or by, the developer.
- f. Provide that the developer shall remove or cause to be removed, at developer’s sole cost and expense, all trash and debris in and from the Easement Area.

- g. Permit the installation, by the developer, within the Easement Area, of benches, seating, tables, trash receptacles, lighting, walls, landscaping, art and water features (jointly “Structures”), if any, depicted on the approved final landscape and site plans. Such Structures, whether or not affixed to the real estate, shall not be the property of the County.
- h. Provide that the developer may use the Easement Area in any manner that is not inconsistent with the terms of the Deed of Easement or inconsistent with the use of the Easement(s) for the purposes named therein.
- i. Provide that the developer may restrict or prohibit the following activities from the Easement Area: (1) vending; (2) soliciting; (3) any activity that violates the Noise Control Ordinance of Arlington County, Virginia; and (4) any activity which blocks the use of the Easement Area, or any portion thereof, by pedestrians, and (5) loitering.
- j. Provide that the developer, including all of its successors and assigns, shall indemnify and hold harmless the County Board, its elected and appointed officials, officers, employees and agents from any liability, personal injury, death, claims, damages, losses, costs and expenses of whatsoever nature concerning or arising out of the design, construction, installation, repair, replacement, removal, care, cleaning, maintenance, use, access and regulation of the Easement(s) and Easement Area, Facilities, Structures and any other structures, by the developer, the County or the general public.
- k. Provide that any tables and seating within the covered breezeway/promenade at the corner of N. Troy Street and N. 14th Street for private restaurant use shall be in conformance with Site Plan Condition #67.

The developer agrees that the Easement(s) shall include the consent of all persons and entities having any legal or property interest in any portion of the Easement Area, including each lender, which lender shall agree to subordinate the lien of the mortgage or deed of trust to the Easement.

Prior to the issuance of the first partial certificate of occupancy for any tenant space on the ground floor the Project, the developer agrees to install signs welcoming the public to the Easement Area to inform the public of the access wherever appropriate, including the “overlook” terrace and areas where the walkways meet with the public sidewalk. Such signs shall be subject to the prior approval of the Zoning Administrator as part of the Comprehensive Sign Plan and shall be considered directional signs per § 34.E.4 of the ACZO. This additional signage shall not be counted towards the allowable signage permitted by the Comprehensive Sign Plan.

Towing of Impermissibly Parked Vehicles

75. The developer agrees to have, as a part of its parking management plan, provisions relating to the towing of impermissibly parked vehicles. Such provisions shall include, but not be limited to:
- a. Requirements for signage at the developer's parking lot(s) providing notice of all applicable parking restrictions enforced by towing, the location of the towing contractor(s)' impoundment yard, and the name and telephone number of the developer's on-site representative responsible for towing-related complaints, as well as the telephone number of the Arlington County Office of Citizen and Consumer Affairs and the cost of all fees and charges for towing;
 - ~~b. Disclosure by the developer and its towing contractor(s), at the developer's parking lot(s), of all fees and charges for towing; and~~
 - ~~e. b.~~ Evidence that the developer has a contract with the towing contractor that requires the towing contractor to clearly display all fees and charges for towing.

Future Plaza Connections

83. ~~The developer agrees to provide and allow access (pedestrian connections) to the public plaza from adjacent parcels if requested in the future. The developer agrees to coordinate with the County to ensure that future connections, from the plaza area to adjacent parcels, may be possible.~~

24-Hour Elevator Access

84. ~~The applicant developer agrees to provide universal access to the plaza by use of an elevator, made available to the general public 24 hours a day, seven days a week for the same hours of operation as set forth in Condition #73, in compliance with ADA requirements. The elevator shall provide access from N. Taft Street, the parking garage, and office building, to the public plaza.~~

N. Troy Street Sidewalk Obstruction

85. ~~The applicant developer agrees to remove a portion of planting wall, located on the east side of N. Troy Street and owned by the abutting property owner to the north (SRA Building) of the subject site, in order to permit a continuous sidewalk along the entire eastern side of N. Troy Street, between N. 14th Street and N. 15th Street. In addition to the removal of the existing sidewalk obstruction, the applicant also agrees to rebuild the off-site planting wall (i.e. retaining wall) and sidewalk, as shown on Sheet C-5 (Plot and Location Plan) of the 4.1 plans, dated March 27 April 17, 2009.~~

Plaza Design and Post-Approval Minor Change Requests

86. ~~The applicant developer agrees to bring all minor site plan amendments requests, involving proposed public plaza design changes, to the SPRC. The applicant developer also agrees to provide copies to the Sheriff of Arlington Sheriff and Police Departments County upon submission with copies of any site plan amendments that affect operation post-approval minor change requests of N. Troy Street and N. Troy Street sidewalk areas.~~

Parking Provision for Existing Executive Building

87. The developer agrees that, until such time as the building existing on the date of this site plan approval is no longer occupied, it will maintain a minimum of 97 surface parking spaces on the site. Tenants have or will be offered a reduction in rents, or other subsidies for mass transit and parking in near by facilities if parking was included in their rent and is not made available to them. The developer agrees to make available for use by affected tenants, or work with tenants to secure, such additional number of parking spaces as required by the regulations of the ACZO that are applicable to the C-O District. The developer further agrees that, at any time and within thirty (30) days after request of the Zoning Administrator, it will provide to the Zoning Administrator evidence that it, or tenants of the building, have the right to use the required number of parking spaces. Such spaces shall be located within one quarter mile of the building located at 2009 14th Street North and may be obtained from any building or site with vacant parking capacity due either to building vacancies or where the developer demonstrates to Zoning Administrator that parking is vacant for enough time during the day as to be useful to developer's tenant. The developer agrees that, to the extent parking is not available to support use of space in the building, the Zoning Administrator may revoke certificates of occupancy for such areas. Demolition of the upper deck of the existing garage may proceed independently of this site plan approval, but shall be subject to all applicable requirements.