



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of July 11, 2009**

DATE: July 1, 2009

SUBJECT: U-3126-05-1 USE PERMIT AMENDMENT to modify Condition # 18 to permit tandem spaces to be counted toward the total parking quantity requirement at 55 Hundred project, located at 5500 Columbia Pike (RPC: #28-004-212).

Applicant:

West Columbia Pike, LLC
M. Catherine Puskar, Agent
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Blvd, 13th Floor
Arlington, Virginia 22201

C. M. RECOMMENDATION:

Approve the use permit request to modify Condition #18 to permit tandem spaces to be counted toward the total parking quantity requirement, subject to all previous conditions and one (1) revised condition.

ISSUES: This is a use permit amendment request to permit 24 tandem parking spaces to be counted toward the total parking quantity requirement of 320 spaces, and specifically toward the total 282 residential reserved parking spaces. The originally approved plans showed a total of 30 tandem spaces. However, the conditions did not reference tandem spaces and how they were to be allocated. In order for Zoning to count the tandem parking spaces toward the total parking requirement, this use permit amendment is necessary. No issues have been identified.

SUMMARY: This is a request to modify Condition #18 to permit tandem spaces to be allocated toward the total parking requirement, and specifically towards the residential reserved parking spaces, for the 55 Hundred (formerly called Columbia Village) project at 5500 Columbia Pike. The approved condition states that a total of 320 total spaces are required, of which 282 spaces may be reserved for residential users, and 38 spaces shall be made available for general public and retail patrons. The originally approved plans showed a total of 30 tandem spaces, although the approved conditions did not specifically indicate that tandem spaces were included, therefore a use permit amendment is needed to count the spaces toward the total parking requirement. Through re-design of the garage during construction, the applicant was able to reduce the

County Manager: _____

Staff: Melanie Jesick, DCPHD, Planning Division
Jennifer Smith, DCPHD, Planning Division

PLA-5305

number of tandem parking spaces to 24, all of which are located within the residential/secured portion of the garage. The 24 tandem parking spaces would be allocated toward the reserved residential spaces only. With the tandem spaces, the project would continue to meet the total number of reserved residential spaces required, and the number of residential shared spaces and retail spaces would not be modified. The Form Based Code requires that a minimum amount of parking be met (for this project, the minimum is 272 spaces). The proposed parking is meeting that, while also remaining within the maximum permitted by the Form Based Code. Therefore, staff recommends approval of the use permit amendment request to modify Condition #18 to permit tandem spaces to be counted toward the total parking quantity requirement, subject to all previous conditions and one (1) revised condition.

BACKGROUND: In March 2002, the *Columbia Pike Initiative-A Revitalization Plan* was adopted by the County Board. A major recommendation of the plan was to develop a new review process to evaluate redevelopment proposals in the corridor, which became the Form Based Code (the Code). In February 2003, the County Board adopted the FBC, which made development sites within the “Columbia Pike Special Revitalization District,” designated on the General Land Use Plan, eligible for development following the Code.

The “Columbia Village,” now called “55 Hundred,” project was approved as a Columbia Pike Form Based Code project in July 2005 in the Western Gateway portion of the Columbia Pike Special Revitalization District. The project is located at the intersection of South Greenbrier Street. As part of project approval, the applicant was to construct a new segment of Greenbrier Street. Depending on whether the applicant was successful in obtaining the agreement of the adjacent property owners to the west (the Goins family), the applicant proposed to either build the segment of Greenbrier Street on the adjacent property (this proposal was titled “Scheme 18” by the applicant), or on the subject site (“Scheme 19”). These two (2) development schemes were presented and approved as part of the use permit. Condition #18 specifies the parking requirements for both schemes. Ultimately, Scheme 19 was constructed, which resulted in the placement of Greenbrier Street on the subject site, as well as a 10-story multi-family building with 234 units and approximately 7,500 square feet of ground floor retail. Three levels of underground parking will also be provided. Construction of the project is nearing completion.

DISCUSSION: The applicant is seeking special exception approval to permit tandem parking spaces as a part of the reserved residential parking spaces. The table below outlines the parking spaces required, approved, and proposed for the project. The parking requirements in the table are based on what is required for Scheme 19, the development scheme ultimately built, as explained above. The applicant’s proposed parking modifications are highlighted in gray. It should also be noted that in 2005, 235 residential units were approved. However, because of re-design during construction, only 234 of those were built.

	Required parking, as constructed, and per the FBC	Approved in 2005 (per applicant's proposal in '05)	Proposed parking
Total units	--	235	234 actually constructed
Total Retail GFA	--	7,544 square ft	7,544 square ft
Residential reserved spaces	234 min (468 max)	282 spaces	282 spaces
Striped, single spaces	--	282 spaces	258 spaces
Tandem spaces	--	0 spaces	24 spaces
Residential Shared Spaces	30 spaces	30 spaces	30 spaces
Retail Spaces	8 spaces	8 spaces	8 spaces
Total Parking Spaces	272 min (476 max for reserved only. No max for shared)	320 spaces	320 spaces
Residential Parking Ratio	Minimum 1.125 spaces per unit (including shared)	1.33 spaces per unit	1.33 spaces per unit

The originally approved plans showed a total of 30 tandem spaces. However, the conditions did not reference tandem spaces and how they were to be allocated, hence the “zero” tandem spaces approved in the table above. In order for Zoning to be able to count the tandem parking spaces toward the total parking requirement, this use permit amendment is necessary. Through re-design of the garage during construction, the applicant was able to reduce the number of tandem spaces to 24, all of which are located within the residential/secured portion of the garage. The 24 tandem parking spaces would be allocated toward the reserved residential spaces only. With the tandem spaces, the project would continue to meet the total number of reserved residential spaces specified in the original condition (282), and the number of residential shared parking spaces (30) and retail parking spaces (8) would not be modified. The project exceeds the minimum amount of reserved residential parking under the Form Based Code, which requires one (1) space per one (1) unit, and with the tandem spaces, the project remains under the maximum amount of parking that can be reserved for residential uses (two spaces per unit). Allocating tandem parking spaces to the reserved residential total parking count would not have a negative impact on the overall parking for the project.

Community Process: Staff circulated a copy of the applicant’s request to permit tandem spaces to be counted towards the total parking quantity requirement to the members of the Form Based Code Advisory Working Group (FBC AWG) and the Presidents of the affected civic associations (Arlington Forest and Columbia Heights West) for comment. From the feedback provided, there were no issues raised regarding the parking space reallocation.

CONCLUSION: With the tandem spaces, the project would continue to meet the total number of reserved residential parking spaces required, as well as the total parking requirement, and the number of residential shared parking spaces and retail parking spaces would not be modified. The tandem parking spaces exceed what is required by the Form Based Code. Therefore, staff recommends approval of the use permit amendment request to modify Condition #18 to permit tandem parking spaces to be counted toward the total parking quantity requirement, subject to all previous conditions and one (1) revised condition.

Revised Condition # 18:

18. The developer agrees to use diligent, good faith efforts to acquire and dedicate to public street purposes the right-of-way on the adjacent (Goins) property necessary to implement Scheme 18, such efforts to be completed by the time of submission of final engineering plans. Depending on whether the developer is successful in obtaining the aforesaid right-of-way, Scheme 18 or Scheme 19 shall be built pursuant to the approved Use Permit. Further, depending on whether the developer is successful in obtaining such right-of-way on the adjacent property, the developer agrees to construct either (a) 368 underground parking spaces (Scheme 18), up to 325 of which may be reserved for use by condominium owners, 43 of which shall be made available to the general public and retail patrons on a non-reserved basis; or (b) construct a minimum of 320 underground parking spaces (Scheme 19), up to Of these 320 spaces, up to 282, of which including up to 24 tandem parking spaces, may be reserved for use by condominium owners, and at least 38 spaces ~~of which~~ shall be made available to the general public and retail patrons on a non-reserved basis.

Depending on whether Scheme 18 or 19 is implemented, the developer agrees to make 38 (Scheme 19) or 43 (Scheme 18) substantially contiguous parking spaces on the uppermost level of the garage (“shared spaces”) available to the general public on an unreserved, high turnover, hourly basis for visitors and patrons from 7:00 a.m. to 6:00 p.m. on weekdays (other than the holidays listed below). These shared spaces shall be provided free of charge or at up to market rates. The shared and reserved retail spaces, and their availability for this use, shall be clearly labeled. Further, the shared spaces shall also be fully accessible to the general public, for free or up to market rates, after 6:00 p.m. weekdays and 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 may prohibit entry, but not exit, of vehicles between the hours of 2:00 a.m. and 6:00 a.m. Public access to all garage spaces not reserved for residential condominium users shall be by means of the elevators and stairs that access the ground floor retail space.

Depending on whether Scheme 18 or 19 is implemented, the developer also agrees to provide storage space for 196 (Scheme 18) or 170 (Scheme 19) bicycles within the garage along with 2 sidewalk bicycle racks in order to meet the bicycle parking requirements of the Form Based Code.

PREVIOUS COUNTY BOARD ACTIONS:

August 1961	Designated as “High Medium Residential” (14-39 units/acre) on the General Land Use Plan.
April 1975	Designated “Low Medium Residential” (16-30 units/acre) on the General Land Use Plan.
October 17, 1987	General Land Use Plan amended from Low Medium Residential to “Service Commercial.”
December 17, 2002	Columbia Pike Special Revitalization District boundaries amended on the General Land Use Plan.
February 25, 2003	Columbia Pike Form Based Code (Section 20 of the Zoning Ordinance) adopted.
February 10, 2004	Columbia Pike Street Space Plan adopted.
July 9, 2005	Approved use permit, in accordance with the Columbia Pike Form Based Code, with appropriate modifications for street location, subject to conditions of the staff report.
July 19, 2008	Approved a use permit amendment to Condition # 6 of U-3126-05-1 to address in the dedication of easements along the Columbia Pike and Greenbrier Street frontages.

Approved Conditions:

1. The developer (as used in these conditions, the term “developer” will include the property owner, the applicant, and its agents, employees, successors, and assigns) agrees to comply with the plans dated June 16, 2005, reviewed and approved by the County Board at the County Board meeting of July 9, 2005, together with any modifications proposed by the developer and accepted by the County Board or vice versa. This Columbia Pike Form Based Code Use Permit approval expires three (3) years after the date of County Board approval if the developer has not obtained a building permit for construction of the approved plan and commenced construction under that building permit. Extension of this approval shall be at the sole discretion of the County Board. The developer agrees that this discretion shall include a review of this Columbia Pike Form Based Code Use Permit and its conditions for their compliance with the County policies for land use, zoning and special exception uses current at that time.
2. The developer agrees to comply with the following before issuance of the any building permit and to remain in compliance with this condition until the Master Certificate of Occupancy is issued.
 - a. The developer agrees to identify a person who will serve as liaison to the community throughout the duration of construction. The developer agrees to provide the name and telephone number of this individual, in writing, to the Zoning Administrator and to representatives of the Columbia Forest and Columbia Heights West Civic Associations, the Columbia Pike Revitalization Organization (CPRO), and the Carlyle House Condominium Association and to post that information at the entrance of the project.
 - b. Throughout construction of the project, the developer agrees to advise abutting property owners of the general timing of utility work, in abutting streets or on-site, that may affect their services or access to their property.
 - c. At the end of each work day during construction of the project, the developer agrees to ensure that any streets used for hauling construction materials or to enter the construction site are free of mud, trash and debris.
 - d. The developer agrees that construction activity, except for construction worker arrival to the construction site and indoor construction activity, will commence no earlier than 7:00 a.m. and end by 6:30 p.m. on weekdays and will commence no earlier than 10:00 a.m. and end by 6:30 p.m. on Saturdays, Sundays, and holidays. “Holidays” are 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. Indoor construction activity defined as activity occurring entirely within a structure fully enclosed on all sides by installed exterior walls, windows, and/or doors shall end at midnight each day, and any such activity that occurs after 6:30 p.m. shall not annoy or disturb

reasonable persons of normal sensitivities. The developer agrees to place a minimum of one sign per street front indicating the permissible hours of construction around the construction site, to place one additional sign within the construction trailer containing the same information, and to provide a written copy of the permissible hours of construction to all subcontractors.

3. The developer agrees to submit and obtain approval of final site development/engineering plans from the County Manager, or his designee, in consultation with the Columbia Pike Implementation Team, for consistency with this approval, any applicable statutes and ordinances, and County guidelines and policies. The final site development/engineering plan shall include the proposed location of water mains and service lines, storm and sanitary sewers, proposed underground utility services to the buildings, the trees to be preserved and new proposed trees on site. The plans shall be drawn at the scale of 1 inch = 25 feet and be 24 inches by 36 inches in size. No Building Permit shall be issued for this site until final site development/engineering plans and the sequence of construction has been approved by the County Manager or his designee. The developer further agrees that all construction on the site shall be in accordance with the approved final site development engineering plan.
4. Prior to issuance of any Certificate of Occupancy for any part of the project at a particular address, the developer agrees to install address indicator signs, which comply with Section 27-12 of the Arlington County Code or successor provision, in a location visible from the street and as shown on the final engineering plan.
5. The developer agrees to construct the project in strict conformance the submitted drawings dated June 16, 2005, as presented to the County Board, as made a part of the public record at the July 9, 2005, County Board meeting, and modifications proposed by the developer and accepted by the County Board or vice versa at that time. Modifications to the design, height and placement of the buildings made subsequent to July 9, 2005, will require additional review by the Administrative Review Team to ensure compliance with the Form Based Code provided, however, that this condition shall in no way relieve the developer of any obligation under any other condition.
6. All required public deeds of easement and deeds of dedication shall be submitted to the Department of Environmental Services (“DES”) prior to the issuance of the Shell and Core Certificate of Occupancy, and be approved and recorded among the land records of the Clerk of the Circuit Court of Arlington County, by the developer before the issuance of the First Certificate of Occupancy for any residential or retail unit. The developer agrees that, except as set forth below, there shall be no building construction within the easement or dedication area without the prior written approval by the County Manager.

The applicant shall be required to dedicate in fee simple to the County, for public street and utility purposes, an area which is approximately 27 feet in width, running from the entire length of the western property boundary line of the property upon which the Use Permit project is located (“Property”) to a line which is 6 feet west of the Columbia Pike Form Based Code Required Building Line (“RBL”) for South Greenbrier Street. In

addition, the 6 foot wide area west of the South Greenbrier Street RBL shall be conveyed by the Applicant to the County as an easement for public sidewalk and utilities purposes. Such easement for public sidewalk and utilities purposes may provide a reservation unto the Developer, within the boundaries of the easement, to construct and locate above grade building features, appendages or other protrusions within the easement area, consistent with and required by the Columbia Pike Form Based Code and the final engineering plans approved by DES, and to construct and locate a below grade electric vault in the southernmost portion of the easement area consistent with the final engineering plans approved by DES.

The Applicant shall be required to dedicate, in fee simple, to the County, for public street and utility purposes, an area approximately 13.81 feet in width, running from the entire length of the Property northern boundary line to a line which is 6 feet north of the RBL for Columbia Pike. In addition, a 6 foot wide area north of the Columbia Pike RBL shall be conveyed by the Applicant to the County as an easement for public sidewalk and utilities purposes. Such easement for public sidewalk and utilities purposes may provide a reservation unto the Developer, within the boundaries of the easement, to construct and locate above grade required building features, appendages or other protrusions within the easement area, consistent with the requirements of the Columbia Pike Form Based Code and the final engineering plans approved by DES.

Any off-site dedications granted by the developer or the adjacent property owner for South Greenbrier Street to the west of the Property, may be dedicated as a public access easement or agreement subject to approval of the terms thereof by the County Manager and subject to approval as to form by the County Attorney. The developer also agrees to submit to the County an application for, and obtain approval of, a subsurface encroachment for the electric vault to be located within the South Greenbrier Street right-of-way before the First Certificate of Occupancy is issued.

Further, the developer agrees to develop and submit to the DES an agreement, subject to approval, in substance, by the County Manager, or his designee, and subject to approval as to form by the County Attorney, which agreement shall provide that the developer shall maintain to County standards the street, roadbed, sidewalk, curb and gutter improvements within the South Greenbrier Street right-of-way. At such time as the additional South Greenbrier Street right-of-way is dedicated or conveyed to the County from the parcel or parcels to the west of the Property, and South Greenbrier Street is constructed and accepted by the County for maintenance, the developer shall be relieved of the aforesaid maintenance obligations, except for the sidewalk maintenance.

7. Upon approval of the final site-engineering plan, the developer agrees to submit a performance bond estimate, for the construction or installation of all facilities within the public rights-of-way or easements, to the Department of Environmental Services for review and approval. Upon approval of the performance bond estimate, the developer agrees to submit a performance bond and agreement for the construction or installation of all these facilities within the public rights-of-way or easements to the Department of

Environmental Services. This bond shall be executed by the developer in favor of the County before the issuance of the Final Building Permit.

8. The developer agrees to develop a final landscaping plan, consistent with final site development/engineering plans and with this use permit approval, and to obtain approval of such plan from the County Manager or his designee prior to issuance of a building permit. The landscape plan shall include a Street Tree Plan which shall be reviewed by the Department of Parks, Recreation and Community Resources and shall be accompanied by the site engineering plan and the two plans shall be compared to ensure that there are no conflicts between street trees and utilities; neither plan shall be approved until the landscape plan and the site engineering plan agree. The installation of all plant materials shown on the final landscape plan shall take place before the issuance of the Certificate of Occupancy for the project. The final site development and landscape plan shall include the following details, if applicable:

- a. The location and dimensions of traffic signal poles and control cabinets, utility meters, utility vaults and boxes, transformers, mechanical equipment, fire hydrants, standpipes, storm water detention facilities, the location of all existing and proposed utility lines and of all easements. The location of traffic control cabinets shall be shown on the final site engineering plan and placed so as not to obstruct pedestrian travel or be visually obtrusive. Traffic control cabinets shall not be located in the public sidewalk. Transformers shall not be placed in the setback area between the building and the street.
- b. The location, dimensions, and materials for driveways, driveway aprons, parking areas, interior walkways and sidewalks as well as for address indicator signs;
- c. The location and types of light fixtures for streets, for parking, walkway and plaza areas;
- d. The location and dimension of the preserved open contiguous lot area located within the project;
- e. Topography at two (2) foot intervals and the finished first floor elevation of all structures;

The developer further agrees that the approved landscape plan shall govern all construction on the site.

9. Landscaping shall conform to Department of Environmental Services Standards and Specifications and to the following requirements:
 - a. Planting materials shall be of good nursery stock and a nursery guarantee shall be provided by the developer for one year including the replacement and maintenance (to include but not be limited to pruning, feeding, spraying,

mulching, weeding and watering) of all landscape materials following the issuance of the final Certificate of Occupancy;

- b. Plant materials and landscaping shall meet the American Standard for Nursery Stock Z60.1-73, and shall also meet the following standards:

- (1) Street Trees: Willow Oak trees at a minimum caliper of 4 to 4 1/2 inches.

- (2) Other Planted Materials:

- a. Evergreen trees (such as Scotch Pines, White Pines, Hemlocks, etc.) – a minimum height of 8 to 10 feet.
 - b. Ornamental deciduous trees (such as Cherries, Dogwoods, Serviceberries, Hornbeams, etc.) – a height of 10 to 14 feet with a minimum caliper of 1 ½ to 2 inches.
 - c. Shrubs – a minimum spread of 18 to 24 inches.
 - d. Groundcover – in 2” pots.

- c. All new lawn areas shall be sodded; however, if judged appropriate by the County Manager or his designee, based on accepted landscaping standards, seeding may be substituted for sod. All sod and seed shall be state certified;
 - d. Exposed earth not to be sodded or seeded shall be well-mulched or planted in ground cover. Areas to be mulched may not exceed the normal limits of a planting bed;
 - e. Soil depth shall be a minimum of four (4) feet for trees and tall shrubs and three (3) feet for other shrubs. This requirement shall also apply to those trees and 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 finished grade adjacent to them;
 - f. Finished grades shall not exceed a slope of three to one or the grade that existed before the site work began.
 - g. The developer agrees to maintain the site in a clean and well-maintained condition before the issuance of the Clearing, Grading and Demolition Permit and agrees to secure and maintain the site throughout the construction and phasing process.
 - h. The developer agrees to notify the Department of Parks, Recreation and Community Resources (DPRCR) Urban Forester at least 72 hours in advance of the scheduled planting of any street trees 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 plantings available from the DPRCR Urban Forester.

- i. The developer agrees to provide landscaping in the area between the existing retaining wall shown on the parcel labeled Outlot A on the survey plat and the proposed retaining wall on the subject site, contingent upon approval of the owner of Outlot A. The landscaping shall consist of, at a minimum, grass, groundcover, and shrubs.
10. 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 letters from the developer to the utility companies offering them access as stated above.
11. The developer agrees to show on the final engineering plans pavement, curb and gutter along all frontages of this site in accordance with the Columbia Pike Form Based Code Streetscape Standards, and/or the then-current Arlington County/Virginia Department of Transportation Standards 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.
 - a. Columbia Pike site frontage: The face of curb shall be located 31 feet from the survey centerline and as shown on the final engineering plan approved by the County Manager or his designee, and a concrete sidewalk between the back of curb and the front façade of the building as shown in the final site engineering plan.
 - b. South Greenbrier Street site frontage: The face of curb shall be located 13.5 feet from the RBL and as shown on the final engineering plan approved by the County Manager or his designee, and a concrete sidewalk between the back of curb and the front façade of the building as shown in the final site engineering plan.
12. All improvements to streets for pedestrians and/or vehicular access or circulation shall be in full compliance with the Americans with Disabilities Act and any regulations adopted thereunder. 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 or his designee on the final Site Development and Landscape Plan and on the final Site Engineering Plan, in accordance with the Columbia Pike Streetscape Plan 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 June 16, 2005 unless the County provides additional funding to offset such increased cost.

13. The developer agrees to underground all aerial utilities located along the Columbia Pike frontage of the site. In addition, all utility services serving the site shall be located below ground. Any utility improvements necessary to provide adequate utility services to this development shall be paid for by the developer and shall not result in the installation of any new utility poles.
14. All engineering design plans and subsequent construction shall be in accordance with the latest edition of the Arlington County Department of Environmental Services Construction Standards and Specifications.
15. All sanitary sewers and water mains, including water services, shall have a minimum of ten (10) feet horizontal clearance from each other and five (5) feet from all other utilities, and shall have a minimum of 10 feet horizontal clearance from buildings and other structures, or as approved by the County Manager or his designee. Water mains 16 inch and larger, and mains placed more than 10 feet below the surface shall have a minimum of 15 feet horizontal clearance from buildings and other structures; and sanitary sewers 15 inch and larger, or sewers placed more than 10 feet below the surface shall have 15 feet minimum clearance from buildings and other structures. All water mains and sanitary sewers shall meet County Standard design criteria.

The developer agrees to relocate the existing utilities in conflict with the proposed development, including the sanitary sewer main and storm sewer box culvert, around the periphery of the underground garage as shown on the final site engineering plan as approved by the County Manager or his designee.

16. The developer agrees, in lieu of designing and constructing traffic signal and intersection improvements on the site, to make a payment of \$200,000 to the Department of Environmental Services for the reconstruction of the traffic signal any related intersection improvements at South Greenbrier Street and Columbia Pike. The payment shall be paid in accordance with the following: a) The first payment of \$25,000 for the intersection signal design shall be made concurrent with the submittal of the engineering plans to the Department of Environmental Services; and b) The final payment (based on estimated construction costs) shall be made prior to the issuance of the final building permit. The funds, if not obligated by the County to pay for the signal system construction and related intersection improvements within 5 years from the date of payment, will be refunded without any accrued interest to the development owners of record at the time of any refund.
17. The developer agrees to provide off-street parking for all construction vehicles during construction of the subject site. Construction vehicles and/or construction worker vehicles are not permitted to park on the neighboring streets during the hours of construction.
18. The developer agrees to use diligent, good faith efforts to acquire and dedicate to public street purposes the right-of-way on the adjacent (Goins) property necessary to implement Scheme 18, such efforts to be completed by the time of submission of final engineering

plans. Depending on whether the developer is successful in obtaining the aforesaid right-of-way, Scheme 18 or Scheme 19 shall be built pursuant to the approved Use Permit. Further, depending on whether the developer is successful in obtaining such right-of-way on the adjacent property, the developer agrees to construct either (a) 368 underground parking spaces (Scheme 18), up to 325 of which may be reserved for use by condominium owners, 43 of which shall be made available to the general public and retail patrons on a non-reserved basis; or (b) 320 underground parking spaces (Scheme 19), up to 282 of which may be reserved for use by condominium owners, 38 of which shall be made available to the general public and retail patrons on a non-reserved basis.

Depending on whether Scheme 18 or 19 is implemented, the developer agrees to make 38 (Scheme 19) or 43 (Scheme 18) substantially contiguous parking spaces on the uppermost level of the garage ("shared spaces") available to the general public on an unreserved, high turnover, hourly basis for visitors and patrons from 7:00 a.m. to 6:00 p.m. on weekdays (other than the holidays listed below). These shared spaces shall be provided free of charge or at up to market rates. The shared and reserved retail spaces, and their availability for this use, shall be clearly labeled. Further, the shared spaces shall also be fully accessible to the general public, for free or up to market rates, after 6:00 p.m. weekdays and 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 may prohibit entry, but not exit, of vehicles between the hours of 2:00 a.m. and 6:00 a.m. Public access to all garage spaces not reserved for residential condominium users shall be by means of the elevators and stairs that access the ground floor retail space.

Depending on whether Scheme 18 or 19 is implemented, the developer also agrees to provide storage space for 196 (Scheme 18) or 170 (Scheme 19) bicycles within the garage along with 2 sidewalk bicycle racks in order to meet the bicycle parking requirements of the Form Based Code.

19. Prior to the issuance of the first Certificate of Occupancy (to include temporary Certificates of Occupancy) for any building on the site, the developer agrees to submit a Loading and Delivery Management Plan to the Zoning Administrator for review and approval. This plan shall provide for service access using the public alley as shown in the plans dated June 16, 2005 and the final site engineering plan and located at the rear of the site. This plan shall further provide for monitoring of loading and unloading/deliveries by the management of the residential and commercial components of the project, the restriction of loading and deliveries using public streets for the parking of loading and delivery vehicles and shall include a contact name of a person with authority to control loading and unloading/deliveries to whom outsiders may report violations.
20. The developer agrees to develop a parking management plan which outlines how guest and visitor parking for the building, parking for residential, office, and/or retail tenants' employees and customers, and general public parking will be provided, where the parking will be located and how guests and visitors, retail employees and customers, and the

general public, will be directed to the parking spaces. The parking management plan shall also include the location of any secure areas and the location of security gates or other measures to restrict access. The parking management plan shall encourage parking by visitors and customers of the project, through ease of access to the parking spaces, signage, and fee structure. The fee structure shall discourage daily commuter parking. The developer shall submit the parking management plan, which shall include the parking fees and details of the validation program, to the Zoning Administrator and it shall be reviewed and approved by the County Manager or his designee, prior to the issuance of the first Certificate of Occupancy for any portion of the site. The developer agrees to submit an annual report to the Zoning Administrator documenting compliance with the parking management plan as well as any changes to the plan.

21. The developer agrees to develop and implement a Transportation Demand Management Plan to be approved by the County Manager or his designee before the issuance of the first Certificate of Occupancy. The Transportation Demand Management Plan shall describe the developer's efforts to implement, but not be limited to, the following strategies:

Program Participation and Funding

- A. Maintain membership in Arlington Transportation Partners (ATP), or successor entity, at no cost to the developer, on behalf of the homeowners' association and/or the property management company. Promote membership in ATP for all building tenants.
- B. Designate a member(s) of the property management company as Property Transportation Coordinator to be primary point of contact and with responsibilities for coordinating and completing TDM obligations. The Property Transportation Coordinator shall be appropriately trained to provide rideshare, transit, and other information provided by Arlington County intended to assist with transportation to and from the site.
- C. Promote the formation of Employer Transportation Benefit Programs and encourage formation of transit-oriented commuting habits among office and retail employees.

Promotions, Services and Progressive Employee Policies

- D. Provide in the common area(s) of the property for a static display with printed materials to provide transportation-related information to residents and visitors, the content of which shall be approved by the developer and the Transportation Kiosk and materials provided by the Commuter Assistance Program.
- E. Provide SmarTrip cards on a one-time basis free to condominium purchasers during the initial sales period.

- F. Distribute transit information to residents and visitors of the project, to include the following items:
1. Distribute a new resident package provided by Arlington County that includes site specific transit-related information to each person purchasing a condominium.
 2. Place a reference to the Pike Ride in promotional materials and advertisements.
 3. Distribute information in promotional materials regarding commute options and assistance services available.
 4. Cooperate with Arlington County to assist the County in implementing a transit advertising program that will distribute information once a year to all owners.
 5. Participate in Ozone Action Days and other regionally sponsored clean air, transit, and traffic mitigation promotions by advertising such promotions in a manner and at such locations within the building acceptable to the developer and homeowners' association.
- G. From first occupancy provide marketing support through coordination with Arlington County to encourage ridesharing and use of transit by employees of the property and of tenant companies through the following strategies:
1. Provide access to building or grounds at times acceptable to the developer to allow ATP and MWCOG's Commuter Connections to promote group riding among tenants of the building, by means acceptable to the developer.
 2. Distribute a new-tenant package to all persons or entities signing leases, with materials provided by Arlington County encouraging them to join Arlington Transportation Partners (or successor entity) and including site-specific transit-related information referencing the nearest Metro station and bus routes, and encouraging all employees to use Metrorail or bus services.
 3. Distribute rideshare and transit marketing materials provided by Arlington County to tenant managers for their use as part of recruiting and employment.
 4. Encourage tenants to display transportation posters, brochures, etc. in common work areas.

- H. Encourage building tenants to offer variable/flexible work hours to their employees in order to spread peak period transportation demands.
- I. Provide website hotlinks to CommuterPage.com from the developer's and homeowners' association websites regarding this development.

Coordinated Parking Management

- J. In conjunction with the Division of Transportation, and subject to the approval by the County Manager or his designee, the developer shall prepare a plan regarding: taxi passenger loading and unloading; accessible paratransit pick-up, drop-off, access, and passenger waiting area; loading zones for short-term deliveries; bus stops; and on-and off-street parking for residents, employees, and visitors. Such plan shall include a schematic drawing depicting an area parking plan for all block faces abutting the site. Additionally, this plan will note restrictions as to times that various activities (such as deliveries and parking) are permitted in the respective spaces.
- K. Provide effective directional signage subject to approval of a Comprehensive Sign Plan (parking, deliveries, taxi stand, etc.) to direct residents and visitors to appropriate locations on the property.

Monitoring and Performance

- L. Conduct one transportation performance monitoring study (two years after occupancy) and provide a report summarizing findings to the County. All data collection for this study must occur on the same day. The study must include an all-day count of site generated traffic and a voluntary mode split survey.
22. The developer agrees to investigate and verify the structural integrity of the existing off-site retaining wall shown on Outlot A on the survey plat using a qualified professional, and to provide the results thereof to the Zoning Administrator, and, should it be determined that the development as proposed under this Use Permit will or has undermined the integrity of the existing retaining wall, the developer agrees to design and construct a new retaining wall in that location at his/her sole expense.
23. Prior to the issuance of any building permit, the developer agrees to provide an updated facade plan and materials board that illustrate the exterior materials to be used to ensure their conformance with the approved plans. In addition, prior to the developer agrees to place all vents shown on the submitted plans (dated June 16, 2005) on the interior wall of the adjacent balconies, where possible; and otherwise agrees to reduce the impact of any vents installed on the exterior facades of the building by employing color schemes and materials that match the proposed exterior building materials. The developer also agrees to provide evidence that U.S. EPA Energy Star labeled appliances are being used throughout the building, where applicable.