



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of July 10, 2010

SUPPLEMENTAL REPORT

DATE: July 7, 2010

SUBJECT: Z-2508-03-1 REQUEST FOR PROFFER AMENDMENT to amend the proffers associated with this rezoning application, to permit structures and/or uses in the plaza and/or sidewalk, located at 1025 N. Fillmore Street (RPC #18-024-020)

DISCUSSION: This supplemental report includes the three (3) signed proffers that the ZOSO property owner has submitted. The most recent proffer, dated July 1, 2010, would restrict outdoor café seating in the 11th Street right-of-way to the first 25 feet from the Fillmore Street face of the building.

The proffer dated June 22, 2010 would restrict outdoor seating along the 11th Street North right-of-way to the first 15 feet from the Fillmore Street face of the building. The proffer dated May 20, 2010 would permit outdoor café seating anywhere on the property.

Staff recommends the County Board accept the July 1, 2010 proffer, restricting outdoor seating on 11th Street North to the first 25 feet from the Fillmore Street face of the building.

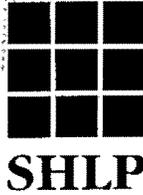
County Manager: MB/GA

County Attorney: SAM

Staff: Peter Schulz, DCPHD, Planning Division

PLA-5626 Supplemental

50. A.



ATTACHMENT A
The Fillmore (now known as ZOSO) Amended Proffer Agreement
Revised July 1, 2010

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended and in accordance with Section 2.G. of the Arlington County Zoning Ordinance, and contingent upon the Arlington County Board's approval of the rezoning application for the site known as 1025 N. Fillmore Street (RPC # 18-024-020) formerly known as 1021, 1025, 1027, 1031, and 1041 N. Fillmore Street (RPC # 18-024-010, 011, 012, 013, 014, 015), the undersigned, the contract purchaser and fee-simple owners of all properties incorporated in the application on behalf of themselves and their successors and assigns, agree to the following amended proffers (the "Proffers"). Shown below is one new proffer and amendments to the current proffers agreed to on the property. All proffers dated July 6, 2004, accepted by the County Board with the approval of Z-2058-03-1 on July 13, 2004, shall remain in full force and effect except as expressly revised as shown below:

[Revised Proffer 17 bold and underlined text will be added as shown below to existing Proffer 17]

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 or his designee on the final site development and landscape plan and final engineering plan, in accordance with the Rosslyn-Ballston Streetscape Plan or other applicable urban design standards approved by the County Board and in effect at the time of the site plan approval. The developer further agrees to construct the sidewalk improvements detailed below prior to the issuance of the first Certificate of Occupancy for the site plan. The sidewalks along the street frontages of this development shall be paved with brick or an interlocking concrete paver and shall be placed on a properly-engineered base approved as such by the Department of Public Works. The sidewalk treatments shall 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. The sidewalks shall contain street trees placed in either tree pits, tree grates or planting strips, consistent with the Standards for Planting and Preservation of Trees in Site Plan Projects, and as specified below. Placement, planting and root enhancement options shall be consistent with the Standards for Planting and Preservation of Trees in Site Plan Project, and as specified below. Street trees shall not be placed within the vision obstruction area. All public walkways shall be constructed to County Standard. The developer agrees to maintain and replace the street trees and sidewalks for the life of the site plan. The sidewalk sections and street tree species shall be as follows:

A minimum of 13.5-foot wide sidewalk measured from the back of curb, include eight (8) feet clear sidewalk width free from obstructions (six (6) feet clear width in outdoor café seating areas), five (5)-foot wide by twelve (12)-foot long tree pits, located a minimum of eight (8) inches from the back of curb, and planted with 4 to 4 ½ inch caliper London Plane street trees and such ground cover as liriopé muscari, hypericum, calycinum (Aarons Beard), or juniperus conferta (Shore Juniper), consistent with the Standards for Planting and Preservation of Trees in Site Plan Projects then placed approximately 30 feet apart on center. The driveway ramp shall not extend beyond the tree pits into the clear sidewalk.

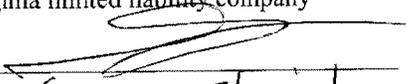
SIMPSON HOUSING LLLP

1250 Connecticut Avenue, NW • Suite 200 • Washington, DC 20036 • 202-261-6501 • Fax 206-261-6502

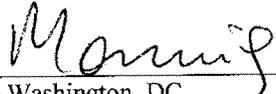
[New Proffer 77, to be added to the existing proffers]

Outdoor cafes shall, subject to special exception use permit approval, be permitted within the public right-of-way adjacent to the entire building frontage on North Fillmore Street and on the first 25 feet of 11th Street North eastward from the build-to line in the areas identified in the diagram attached hereto and incorporated here as Exhibit 1. No outdoor cafes will be permitted on any other part of the development. Any such permitted outdoor cafes shall be open for business no later than 9 p.m. Sundays through Thursdays and 10 p.m. Fridays and Saturdays. Live entertainment, amplification, and the playing of radios or recorded music shall be prohibited at all outdoor cafés.

SHLP ZOSO, LLC,
a Virginia limited liability company

By: 
Name: George Chopivsky
Title: VP
Date: 7/8/10

State of Washington, DC On this 8th day of July, 2010, personally appeared before me George Chopivsky who stated that he is the member of SHLP Zoso LLC, and that the instrument was signed in behalf of the said corporation by authority of its board of directors and acknowledged said instrument to be its voluntary act and deed. Before me:


Notary Public for Washington, DC
My Commission Expires: 06/30/2013

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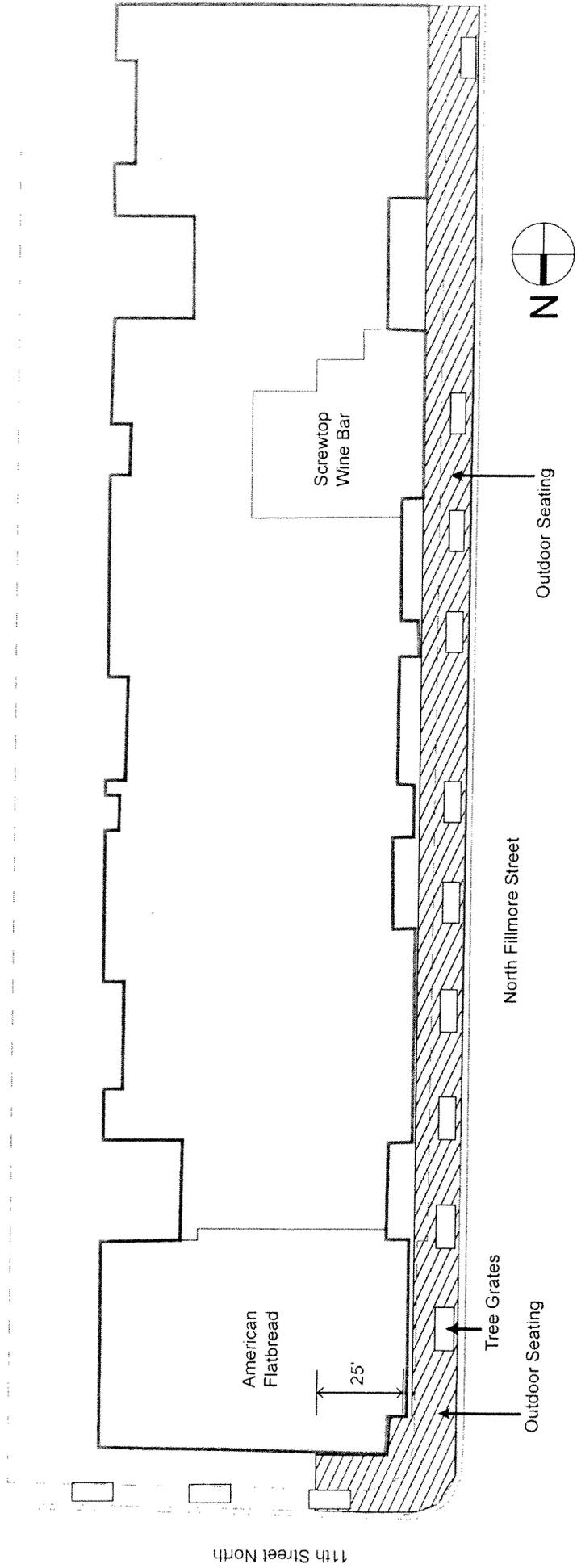
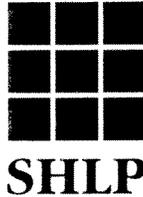


EXHIBIT 1
25-FOOT OPTION



ATTACHMENT A
The Fillmore (now known as ZOSO) Amended Proffer Agreement
Revised June 22, 2010

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended and in accordance with Section 2.G. of the Arlington County Zoning Ordinance, and contingent upon the Arlington County Board's approval of the rezoning application for the site known as 1025 N. Fillmore Street (RPC # 18-024-020) formerly known as 1021, 1025, 1027, 1031, and 1041 N. Fillmore Street (RPC # 18-024-010, 011, 012, 013, 014, 015), the undersigned, the contract purchaser and fee-simple owners of all properties incorporated in the application on behalf of themselves and their successors and assigns, agree to the following amended proffers (the "Proffers"). Shown below is one new proffer and amendments to the current proffers agreed to on the property. All proffers dated July 6, 2004, accepted by the County Board with the approval of Z-2058-03-1 on July 13, 2004, shall remain in full force and effect except as expressly revised as shown below:

[Revised Proffer 17 bold and underlined text will be added as shown below to existing Proffer 17]

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 or his designee on the final site development and landscape plan and final engineering plan, in accordance with the Rosslyn-Ballston Streetscape Plan or other applicable urban design standards approved by the County Board and in effect at the time of the site plan approval. The developer further agrees to construct the sidewalk improvements detailed below prior to the issuance of the first Certificate of Occupancy for the site plan. The sidewalks along the street frontages of this development shall be paved with brick or an interlocking concrete paver and shall be placed on a properly-engineered base approved as such by the Department of Public Works. The sidewalk treatments shall 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. The sidewalks shall contain street trees placed in either tree pits, tree grates or planting strips, consistent with the Standards for Planting and Preservation of Trees in Site Plan Projects, and as specified below. Placement, planting and root enhancement options shall be consistent with the Standards for Planting and Preservation of Trees in Site Plan Project, and as specified below. Street trees shall not be placed within the vision obstruction area. All public walkways shall be constructed to County Standard. The developer agrees to maintain and replace the street trees and sidewalks for the life of the site plan. The sidewalk sections and street tree species shall be as follows:

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[New Proffer 77, to be added to the existing proffers]

Outdoor cafes shall, subject to special exception use permit approval, be permitted within the public right-of-way adjacent to the entire building frontage on North Fillmore Street and on the first 15 feet of 11th Street North eastward from the build-to line in the areas identified in the diagram attached hereto and incorporated here as Exhibit 1. No outdoor cafes will be permitted on any other part of the development. Any such permitted outdoor cafes shall be open for business no later than 9 p.m. Sundays through Thursdays and 10 p.m. Fridays and Saturdays. Live entertainment, amplification, and the playing of radios or recorded music shall be prohibited at all outdoor cafés.

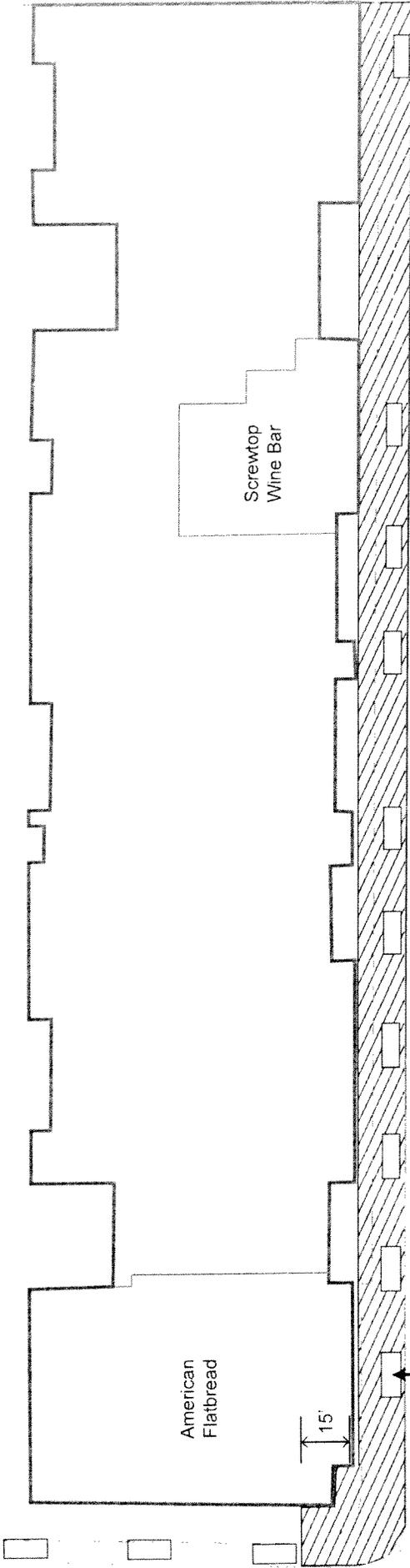
SHLP ZOSO, LLC,
a Virginia limited liability company

By: [Signature]
Name: George Chopinsky
Title: VP-member
Date: 7/1/10

State of Washington, DC On this 1st day of July, 2010, personally appeared before me George Chopinsky who stated that he is the member of SHLP ZOSO LLC and that the instrument was signed in behalf of the said corporation by authority of its board of directors and acknowledged said instrument to be its voluntary act and deed. Before me:

[Signature]
Notary Public for Washington, DC
My Commission Expires: 06/30/2013



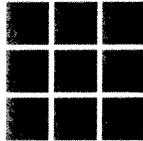


North Fillmore Street

**EXHIBIT 1
15-FOOT OPTION**

Tree Grates

11th Street North



SHLP

The Fillmore (now known as ZOSO) Amended Proffer
Revised May 20, 2010

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended and in accordance with Section 2.G. of the Arlington County Zoning Ordinance, and contingent upon the Arlington County Board's approval of the rezoning application for the site known as 1021, 1025, 1027, 1031 and 1041 N. Fillmore Street, the undersigned, the contract purchaser and fee-simple owners of all property incorporated in the application on behalf of themselves and their successors and assigns, agree to the following proffers (the "Proffers"):

Notwithstanding any condition of any other proffer, the Developer or Developer's designee may apply for a certificate of occupancy for an outdoor café (when on private property and which shall be governed by the Lease Agreement) or a special exception use permit for an outdoor café in the public right-of-way. All outdoor cafes shall operate only until 10 p.m. weeknights and 11 p.m. Fridays and Saturdays. Live entertainment, amplification, and the playing of radios or recorded music shall be prohibited in all outdoor cafes. All other proffers in a document entitled "The Fillmore Proffers" and dated July 6, 2004 shall remain in force and in effect.

SHLP ZOSO, LLC,
a Virginia limited liability company

By: [Signature]
Name: George Chapiusky
Title: member - VP
Date: 5/25/10

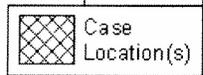
State of Washington, DC On this 25th day of May, 2010, personally appeared before me George Chapiusky who stated that he is the member of SHLP ZOSO, LLC, and that the instrument was signed in behalf of the said corporation by authority of its board of directors and acknowledged said instrument to be its voluntary act and deed. Before me:

[Signature]
Notary Public for Washington, DC
My Commission Expires: 06/30/2013



Z-2508-03-1
1025 N. Fillmore St.
RPC: 18-024-020

Note: These maps are for property location assistance only.
 They may not represent the latest survey and other information.



Department of Community Planning, Housing and Development

Planning Division