ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of July 10, 2010

DATE: July 2, 2010

SUBJECT: U-3258-10-1 USE PERMIT for an outdoor cafe in the public right-of-way; located at 1025 N. Fillmore Street (RPC #18-024-020).

Applicant:
Scott Vasko
American Flatbread
1025 N. Fillmore Street
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Approve the use permit for outdoor seating subject to the conditions of the staff report and a County Board review in one (1) year (July 2011).

ISSUES: The applicant is proposing a use permit for outdoor café seating in the public right-of-way at the ZOSO building located at 1025 N. Fillmore Street. The Clarendon-Courthouse Civic Association is opposed to American Flatbread's proposal for outdoor seating along 11th Street North.

SUMMARY: The owner of American Flatbread is proposing a use permit for outdoor café seating in the public right-of-way, consistent with the proposed proffer amendment Z-2508-03-1. The applicant proposes two (2) tables of two (2) seats each in the North Fillmore Street right-of-way, and one (1) table of two (2) seats in the first eastward 15 feet from the corner of the building on 11th Street North. The tables and seats will accommodate a minimum six (6) foot straight, clear sidewalk path. Parking is not permitted either on North Fillmore Street or on 11th Street North adjacent to the subject property.

There are community concerns about American Flatbread's proposal to have outdoor seating in close proximity to residential uses. The applicant agrees to 1) close the outdoor seating at 9 p.m. on weeknights and 10 p.m. on Fridays and Saturdays, 2) to not have live entertainment, radios, or speakers in the outdoor seating area. Staff believes these conditions will mitigate the potential negative impact that outdoor cafes may generate in close proximity to residential. Staff is recommending that the tables be limited to the first 25 feet from the corner of the building to provide greater flexibility in the placement and number of the tables but still limit the impact on the residences across the street. Therefore, staff recommends approval of the subject use permit

County Manager: MB/GA

Staff: Peter Schulz, DCPHD, Planning Division

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request, subject to the proposed conditions of approval, with a review in one (1) year (July 2011).

BACKGROUND: The use permit request is associated with Proffer Amendment Z-2508-03-1. The Zoso mixed-use residential/retail development at 1021 N. Fillmore Street contains 114 residential units and 23,419 s.f. of retail. The proffered rezoning of the site to "C-TH" was approved in 2004. The project was completed in 2009-2010.

The following provides additional information about the site and location:

Site: The site is approximately 50,000 square feet, bounded by 11th Street North, North Fillmore Street, the Storage USA building, and single family homes.

To the north:	Across 11th Street North, the Clarendon Park townhouses (SP #339), zoned "R15-30T", and designated on the GLUP "Low" Residential (11-15 units/acre).
To the east:	Single-family detached homes zoned "R-5", and designated "Low" Residential (1-10 units/acre).
To the south:	Storage USA self-storage facility with ground floor retail (U-2969-99-1), zoned "C-TH" and designated "Service Commercial".
To the west:	Across North Fillmore Street, the Clarendon 1021 mid-rise Condominium, zoned "C-R" and designated "Medium Density Mixed Use".

Zoning: "C-TH" Commercial Townhouse District. Restaurants, including associated outdoor cafes, are a permitted use per ACZO Section 26A.A.37. Outdoor cafes, and outdoor cafes in the public right-of-way, are further regulated by Section 31.A.11.

General Land Use Plan: "Service Commercial" (Personal and business services. Generally one to four stories. [A maximum 1.5 F.A.R.]).

Neighborhood: The site is located within the boundaries the Clarendon-Courthouse Civic Association area. The Civic Association discussed the issue at their May 24, 2010 meeting, and voted to support outdoor seating along North Fillmore Street, but voted their opposition to outdoor seating on 11th Street North.

Public-Private Partnership: The Clarendon Alliance has been contacted for their comment and has chosen not to take a position on the proposed use permit.

DISCUSSION: The applicant, American Flatbread, proposes outdoor seating in the public right-of-way. The applicant proposes two (2) tables of two (2) seats each in the North Fillmore Street right-of-way, and one (1) table of two (2) seats in the 11th Street North right-of-way. This request is associated with a proffer amendment where the building's owner proffers that outdoor cafes may be permitted at this site, subject to the restrictions that outdoor cafes must close at 9 p.m. on weeknights and 10 p.m. on Fridays and Saturdays, and that there be no outdoor music, live entertainment, or speakers in any of the outdoor café areas, whether on or off private property. These same limitations will be made a part of the conditions of the approval.

Although the Clarendon-Courthouse Civic Association opposes the proposed table on 11th Street North due to concerns about potential noise, staff believes that a few tables limited to within 25 feet of the corner of the building will not have a significant noise impact, and the applicant has agreed to conditions of approval that are considerably more restrictive than other outdoor café requests.

CONCLUSION: The applicant has a proposal to place a small number of tables and chairs outside the restaurant in the public right-of-way and has agreed to a number of conditions. The proposed conditions will mitigate the operations of the outdoor café. Staff is recommending that the tables and seats be limited to the first 25 feet from the corner of the building on 11th Street North to provide greater flexibility in their placement and number but still limit the impact on the residences across the street. Therefore, staff recommends approval of the use permit subject to the following conditions, with a County Board review in one (1) year (July 2011).

Conditions:

1. The applicant (as used in these conditions, the term "applicant" shall mean the owner, the tenant "American Flatbread" and all successors and assigns) agrees that, in building or using any outdoor café on the property at 1025 N. Fillmore Street it will comply with the conditions set forth below and the drawings referenced below.

2. The applicant agrees that the outdoor café shall be in the same general location as shown on the attached drawing dated June 8, 2010, and as approved by the County Board on July 10, 2010, but in no case more than 25 feet from the corner of the building on 11th Street North. The applicant further agrees to maintain a minimum of six (6) feet of clear unobstructed sidewalk width at all times.

3. The applicant agrees that the outdoor café shall close at 9 p.m. Sunday through Thursday, and 10 p.m. on Friday and Saturday.

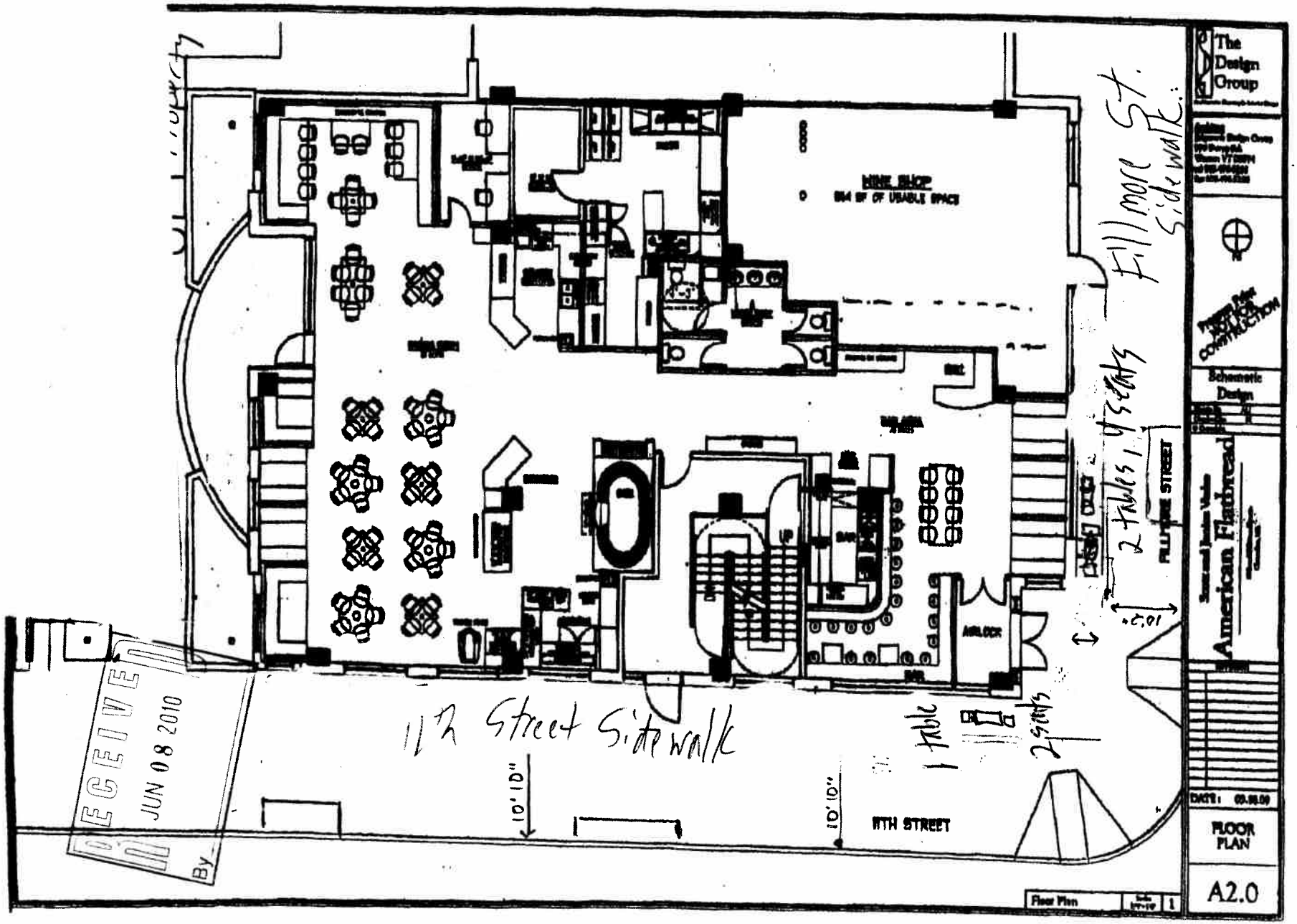
4. The applicant agrees that there shall be no speakers, radio, or live entertainment in any outdoor seating area. Exterior doors shall never be propped open.

5. The applicant shall designate a neighborhood liaison to communicate with nearby residents and neighbors to address concerns which may be related to the outdoor seating and an onsite liaison that shall be available during the hours of the business operation to receive and respond to community concerns regarding the outdoor cafe. The name and telephone number shall be submitted to the Zoning Administrator and a copy sent to the Clarendon-Courthouse Civic Association, the Clarendon Alliance, and the residential townhouse neighbors across 11th Street North, and the single-family neighbors on North Edgewood Street.

PREVIOUS COUNTY BOARD ACTIONS:

July 13, 2004	Approved a rezoning (Z-2508-03-1) of the subject property from "C-3" to "C-TH" subject to certain proffers as set forth in a document entitled "The Fillmore Proffers revised July 6, 2004" ("Proffers").

American Flatbread



ZOSO

1025 North Fillmore Street, Arlington
(North Fillmore Street at North 11th Street)

Arlington County Proffers - Revised July 6, 2004

RETAIL ATTRACTION AND MARKETING PLAN

February 21, 2006

Overview

The Arlington County Board approved a Major Site Plan and Proffers (Revised July 6, 2004) for Zoso, a mixed-use development located at the south east corner of the intersection of North Fillmore Street and North 11th Street. The project will total approximately 157,000 square feet of building which will include 114 luxury condominium units as well as ground floor retail and commercial office space. Land development began in mid 2005. The project is anticipated for completion in the third quarter of 2007.

Zoso will provide approximately 23,000 square feet of ground-floor retail and commercial office space, as required by its Site Plan Approval (Proffer Condition 59). Of this space, we anticipate that approximately 10,000 square feet will be occupied by an office user. The purpose of this Retail Attraction and Marketing Plan ("RAMP") is to outline the marketing efforts to be employed to lease or sell the remaining 13,000 square foot retail portion of this space to upscale retail operators that would:

- provide support amenities, shopping opportunities and personal services to Zoso residents and to their Clarendon neighbors;
- help extend the Clarendon retail corridor along Fillmore Street between North 10th and 11th Streets;
- interrelate with and benefit from proximity to Clarendon Market Common, Station Square, the existing 10th Street storefronts and other Metro corridor retailers; and
- strengthen the overall Clarendon community and retail mix.

Desired Types of Retail

Zoso has been designed and marketed to appeal to people accustomed to life in a sophisticated, pedestrian-oriented, urban environment. Consequently, the retail space will be marketed to similar types of retail tenants. Small, upscale boutiques with unique products or services will be most desirable prospects for a location at Zoso. Zoso shops will be more distinctive than the current retailers found in other neighborhoods in the Metro Corridor, such as at Rosslyn, Courthouse, Clarendon, Virginia Square and Ballston.

We plan to provide approximately 12,000 to 13,000 square feet of retail space along the North Fillmore Street and North 11th Street frontage. Approximately 5,000 square feet of the space will be marketed as a low intensity neighborhood restaurant location to regional and local operators. The remaining 8,000 square feet of retail space will be marketed to unique small boutique-style shops– along the main Fillmore frontage. Given its specific locational and physical attributes, we expect the corner space will most appeal to a restaurant interested in taking advantage of the high household incomes in the surrounding ½ mile ($ 98,907 / HH) and 1 mile radius ($ 92,122 / HH). (See Attachment A - Demographic Radius Studies of neighboring residents in the ½, 1, and 2 mile radii).

Because the project also offers a relatively low traffic count and visibility from a major thoroughfare to potential retailers, special emphasis will be made to create a cluster of unique retail offerings such as small specialty boutiques, personal services and custom products. It is our desire to create a "critical mass" of specialty retailers with complimentary retail offerings. With approximately 300 linear feet of frontage and new streetscape on North Fillmore Street, we anticipate offering a 3 to 7 small shops with square footages as small as 800 to as large as 3,000. It is important to be as flexible in the space configuration in order to attract the greatest range of unique retailers.

A unique feature of the marketing efforts for the Zoso retail space is that the space will be available for lease -- or for sale as a condominium. It is uncommon for small scale retailers to be offered the opportunity to buy and control their own retail space. This unique opportunity should allow Zoso to attract uniques shops with owners who have a solid history of successful performance as well as financial resources. Attractive SBA 504 loans are available to owner-occupied businesses and we have set up a preapproval mechanism with Virginia Commerce Bank to facilitate any interested purchasers with the purchase process. Of course, if the retailer prefers to lease their space, we will structure a long term lease with them.

The retail marketing efforts will proceed in an expeditious manner. The developer, Ed Peete Company, has retained Buck Commercial as the listing broker. Buck Commercial anticipates attracting the following specific uses:

Category I – Restaurant – Space A

- Approximately 85 linear feet of frontage along North 11th Street and Fillmore with exposure at the north and west end of the building with interior seating for approximately 80 to 100 patrons inside.

- Potential for additional outdoor seating along the front and side of the building on the ample sidewalk along North 11th Street (approximately 25 feet) and North Fillmore Street (approximately 60 feet).
- Space is vented for kitchen and exhaust
- Examples: Bear Rock Café, Portafino's, Argio's, Pie Tanza, Ray's Steaks, Lebanese Traverna, Lost Dog Café, Mexicali Blues, Clare and Don's

Category II – Café /Gourmet Food Store – Space A

- Potential for café style outdoor seating on expanded sidewalk along North 11th Street and Fillmore Street
- Day-long activity offering breakfast, lunch, dinner, coffee, and dessert
- Prepared meals for takeout and hard-to-find specialty items
- Amenity to the entire neighborhood not currently represented in Clarendon or along the Wilson Boulevard commercial corridor.
- Examples:, Caribou Coffee, Great Harvest Bakery, Marvelous Market, Corner Bakery, St. Louis Bread Company,

The retail Space "A" will be preferentially marketed to Category I restaurant, using best commercial efforts Until January 1, 2007.

If any retail space remains unleased or unsold after January 1, 2007, pursuant to the above "preferential search" for a Category I restaurant, after best commercial efforts, we will then pursue one of more Category II retailers until three (3) months prior to anticipated date of issuance of the first Certificate of occupancy for Zoso. If any retail space still remains unleased or unsold at this second threshold date, then we will present to AED a revised marketing plan and tenant mix strategy, reflecting our market findings and leasing experience to that date. (as described under the section "Arlington Economic Development", further below.)

Category I – Speciality Shops and Personal Services – Spaces B, C, D E and F

- Small boutique shops with unique services or products
- Amenity to the entire neighborhood not currently represented in Clarendon or along the Wilson Boulevard commercial corridor.
- Examples:, Kingsbury Chocolate, aka Spot, Imagination Station, Shoefly, ispirato, Cosmo Tots, Laide Joule

If any of this retail space still remains unleased or unsold a until three (3) months prior to anticipated date of issuance of the first Certificate of occupancy for Zoso, then we will present to AED a revised marketing plan and tenant mix strategy, reflecting our market findings and leasing experience to that date. (as described under the section "Arlington Economic Development", further below.)

Proposed Retail Plan: (January 2007)

(See Floor Plan - Attachment B -showing restaurant space and parking locations)

5,000 sf	Category I:	Restaurant (until 1-1-07)
	Category II:	Café, Gourmet Foods (after 7-1-07)
8,000 sf	Category I:	Specialty Shops or Personal Services (after 7-1-07)

We believe that this proposed tenant format is the best configuration that will serve the mixed-use development, and is most consistent with the goals of the Clarendon community and Metro commercial corridor. This small scale multi-tenant format will reinforce existing businesses located at the Clarendon Market Common I and II as well as existing retail on North 10th Streets and Wilson Boulevard.

Sizes and Configuration:

Space A is to be constructed and leased or sold such that it will provide for a single restaurant – containing approximately 5,000 square feet - with the maximum outdoor seating permitted by Arlington County. The configuration of the space is flexible enough, however, such that it can easily be altered to accommodate specific requirements of potential tenant. In addition, the remaining 8,000 square feet will be divided into 3 to 7 small specialty shops will be located along the North Fillmore Street frontage. See Attachment B – Floor Plan).

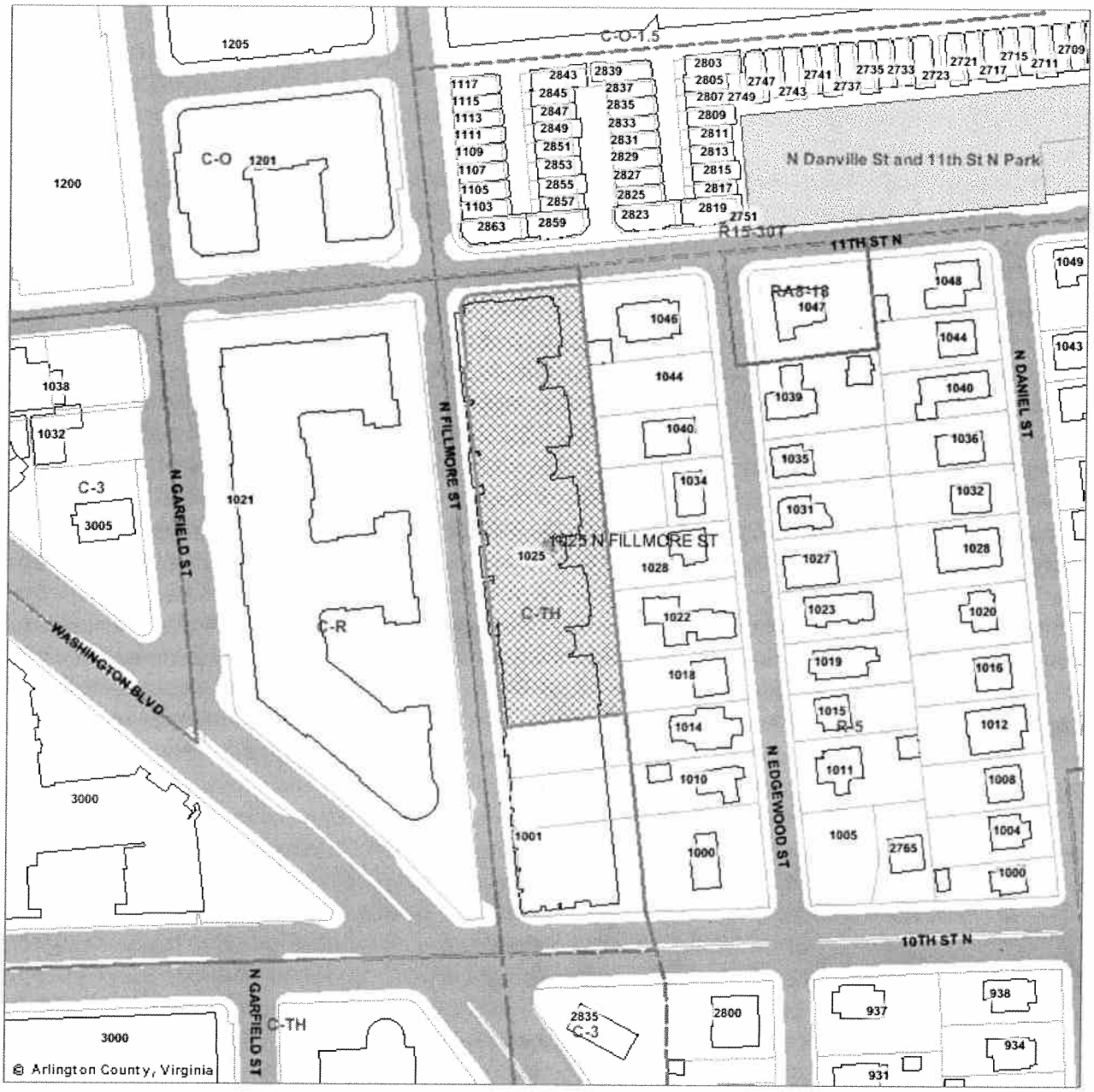
Strategies for Attracting and Retaining Retail Tenants

Professional Broker Services

The services of Buck Commercial will be utilized in order to attract the best user for the ground-floor retail space at Zoso. This real estate brokerage firm has extensive experience in retail leasing, has 30 years of local experience in the Rosslyn-Ballston and maintains a extensive database of contacts for retail firms actively in pursuit of new locations. Utilizing an experienced broker will insure that the search for a Category I restaurant tenant and Category II boutiques is as broad and comprehensive as possible. We will introduce Buck Commercial to AED at the outset of the leasing efforts.

Leasing Signs and Marketing Materials

Buck Commercial will install an on-site marketing banner affixed to the existing construction fencing (and post marketing leasing signs in the windows of vacant store when appropriate) and will provide contact information for the retail broker in all appropriate marketing materials. In addition, the available space at Zoso will be included in all appropriate marketing materials generated by the Buck Commercial (including their website -- *www.buckcom.com* and Costar -- *www.costar.com*).



U-3258-10-1
1025 N Fillmore S
RPC: 18-024-020

Not To Scale

Case Location(s)

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