



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of September 25, 2010

DATE: September 14, 2010

SUBJECT: Request to Advertise a public hearing on proposed amendments to Site Plans #13, 18, 105 (Metropolitan Park 2), 297, 331, 335, 346 (Potomac Yard Bays C, D-East and D-West), 382, 384, 386, 387, 389, 392, 395, 396, 397, 400, 401, 402, 403, 405, 406, 408, 409, 411, 412 and 413, and Use Permits U-1671-65-3, U-3155-06-1, U-3228-09-1, U-3242-09-1, and U-3148-05-1, to add a new condition that would grant the Zoning Administrator the authority to modify the timing required for compliance with certain conditions, and to modify the conditions for the excavation plat and wall check survey to bring them up to date with current requirements.

C.M. RECOMMENDATION:

Authorize advertisement of a public hearing by the County Board on its own motion on October 23, 2010, to consider amending Site Plans #13, 18, 105 (Metropolitan Park 2), 297, 331, 335, 346 (Potomac Yard Bays C, D-East and D-West), 382, 384, 386, 387, 389, 392, 395, 396, 397, 400, 401, 402, 403, 405, 406, 408, 409, 411, 412 and 413, and Use Permits U-1671-65-3, U-3155-06-1, U-3228-09-1, U-3242-09-1, and U-3148-05-1, to add a new condition that would grant the Zoning Administrator the authority to modify the timing required for compliance with certain conditions, and to modify the conditions for the excavation plat and wall check survey to bring them up to date with current requirements.

ISSUES: This is a request for authorization by the County Board to advertise amendments to several site plans and use permits to add a new condition that would grant the Zoning Administrator the authority to modify the timing required for compliance with certain conditions without changing the original intent of the conditions, and to modify the conditions for the excavation plat and wall check survey to bring them up to date with current requirements. There are no known issues at this time.

SUMMARY: This is a request to authorize advertisement of public hearings to amend several site plans and use permits identified below in the Discussion section of this report. In recent years the County Board has approved minor amendments to a number of site plans to address challenges developers face in the field in complying with the timing requirements of certain conditions. These particular conditions have been especially problematic and this proposal is an attempt to resolve the issues surrounding the projects meeting condition requirements, particularly for occupancy during periods of adverse weather or other unexpected circumstances in the field.

County Manager:

MB GA

Staff: Freida Wray, Planning Division, DCPHD
Norma Cozart, Zoning Office, DCPHD

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PLA-5693

New condition language would give the Zoning Administrator the flexibility to adjust timing requirements, while not changing the original intent of the conditions, for: installation of hardscape features, plant materials and street trees shown on the approved landscape plan; construction of pavement, curb and gutter along all frontages of the site; and replacement of existing curb, gutter and sidewalk in poor condition or damaged by construction. Staff is currently in the process of updating the standard site plan conditions to incorporate changes that would provide similar flexibility. Furthermore, this request is to modify the condition requirements for the plat of excavated area and the wall check survey to bring them up to date with current requirements. Flexibility and changes have been provided to some, but not all, of the conditions in recently approved site plans. The intent of this request is to make these conditions current in all active site plans and use permits.

BACKGROUND: This proposal responds to the challenge that many developers face in complying with the requirements of certain conditions. As a result, there have been a number of site plan amendment requests to the County Board, which have, in most cases, approved modifications to the requirements. In certain conditions, the requirements are too restrictive and do not provide the necessary administrative flexibility to permit adjustments to resolve problems. For example, inclement weather could prohibit the developer from complying with the timing and preclude the developer’s contractor from continuing with construction jobs. Staff proposes to modify two standard conditions contained in, and add a new condition to, approved site plans currently under construction, and site plans approved but not under construction, to grant the Zoning Administrator the authority to administratively review and approve modifications to the compliance and timing requirements of certain conditions so that construction will not be hindered and the project can expediently continue as originally approved by the County Board.

DISCUSSION: The condition requirements that have consistently been the subject of a number of site plan amendment requests due to timing issues are described below.

- 1) Installation of hardscape features shown on the approved (post-approval) landscape plan. The condition requires that hardscape features, such as plazas and courtyards, raised planters, driveways and access drives, parking areas, interior walkways and roadways, driveway aprons and service drives, etc., be installed prior to either the issuance of the First Partial Certificate of Occupancy (for site plans approved prior to April 2009) or the Shell and Core Certificate of Occupancy (for site plan approved after April 2009). Depending on the season, weather, or other construction-related issues, may not permit installation of these features by the required timing.
- 2) Installation of plant materials shown on the approved (post-approval) landscape plan. The condition in site plans approved prior to February 2008 required that all plant materials, including both interior and exterior plantings, be installed prior to the issuance of the First Partial Certificate of Occupancy. Depending on the season, weather may not permit installation of these features by the required timing. Beginning with SP #401 (Peck/Staples site), flexibility was written into the condition to give the Zoning Administrator the authority to administratively modify the timing requirement based on the planting season and the availability of planting materials.
- 3) Planting of all street trees shown on the approved (post-approval) landscape plan. The condition in site plans approved prior to February 2008 required that all street trees be

planted prior to the issuance of the First Partial Certificate of Occupancy (for tenant occupancy of the above-grade structure). Depending on the season, weather may not permit installation of these features by the required timing. Beginning with SP #401 (Peck/Staples site), flexibility was written into the condition to give the Zoning Administrator the authority to administratively modify the timing requirement based on the planting season and the availability of street trees.

- 4) Construction of pavement, curb and gutter along all frontages of this site. The condition requires that all pavement, curb and gutter (including curb, gutter, sidewalks, crosswalks, and streets for pedestrian and/or vehicular access or circulation) along all frontages of the site be constructed prior to the issuance of the first Certificate of Occupancy (Shell and Core). Depending on the season, weather, or other construction-related issues, may not permit the developer to complete construction of these features by the required timing.
- 5) Replacement of existing curb, gutter and sidewalk. The condition requires that the developer replace all existing curb, gutter and sidewalk along the street frontages of the site which is in poor condition or which has been damaged by the developer prior to the issuance of the first Certificate of Occupancy (Shell and Core). Depending on the season, weather, or other construction-related issues, may not permit the developer to complete construction of these features by the required timing.

Staff recommends that a new condition be added to the site plans and use permits listed below to give the Zoning Administrator the necessary flexibility and authority to modify the timing of the condition requirements identified above. Flexibility has been added to some, but not all, of the conditions in the recently approved site plans. The intent of this proposal is to provide the proposed timing flexibility to all active site plans and use permits while not changing the original intent of the condition requirements. The proposed condition would read as follows:

The Zoning Administrator may, for good cause shown and through the administrative change process, allow modifications to the timing of conditions where the Zoning Administrator finds that 1) the Developer is diligently pursuing the work; 2) the timing of conditions will unnecessarily impede progress of the project; and 3) the Developer provided reasonable assurances that the work will be completed in accordance with the Site Plan's or Use Permit's approved design.

The conditions requiring submission of a plat of the excavated area and a wall check survey have consistently been the subject of a number of site plan amendment requests because, depending on the size or phase of the development, the restrictive language in the conditions could result in halting construction for a period of time while the condition requirements are being met. Over time, staff has worked to develop alternative language that avoids a total halt to construction work but ensures that the construction is done per the contract requirements. Giving the Zoning Administrator the administrative authority to adjust the requirements would allow the developers to continue construction while staff monitors condition compliance.

- 1) Plat of excavated area. The standard condition in site plans approved prior to July 2008 required that the developer submit one (1) plat of the total excavated area prior to the issuance of the Footing to Grade Permit. Beginning with SP #413 (Founders Square – approved July 2008), the standard condition was revised to require a plat for a minimum of 50 percent of the total excavated area and to give the Zoning Administrator the

authority to administratively modify the size of the excavated area for which plats are required if the excavation site is greater than 20,000 square feet. This less restrictive language allows the developer to proceed with construction as he continues to excavate the rest of the site and staff reviews the plat to be sure the excavation is done correctly. Staff proposes that the current requirement be applied to all site plans approved prior to July 2008, but which have not yet been constructed, to bring them up to date. The current standard condition reads as follows:

The developer agrees to submit one (1) plat, drawn at the scale of 1 inch = 25 feet and 24 inches x 36 inches in size, of the excavated area showing spot elevations which confirm that the construction drawings are consistent with the average site elevation, and with the building's ground floor elevation(s) at the building's lowest level(s), as approved by the County Board and as indicated in the plans referenced in Conditions #1 and #10 above. Spot elevations shall be taken at spots determined at the time of the pre-construction meeting and shall at a minimum consist of two corners and spot elevations from 50 % of the total area to be excavated. The elevations shall be provided prior to the issuance of the footing to grade permit. Provided however, that when the Zoning Administrator determines that the excavated area will be greater than 20,000 square feet, the Zoning Administrator may reduce the area for which elevations must be provided before issuance of a footing to grade permit. Additional elevations confirming the elevations of the remainder of the excavation shall be provided prior to issuance of any permit for above grade construction.

- 2) Wall check survey. The standard condition in site plans approved prior to April 2009 required that the developer submit only one (1) wall check survey of the walls at-grade before issuance of the Final Building Permit. On occasion, developers had to stop construction to await their permit during review of the wall check survey. Beginning with the SP #403 (2009 14th Street North – approved April 2009), the standard condition was revised to permit the initial wall check survey to be based on the top of the below-grade parking level, and to require further information on a follow-up survey to confirm the location of building walls constructed at grade. Staff proposes that the current requirement be applied to all site plans approved prior to April 2009, but which have not yet been constructed, to bring them up to date. The current standard condition reads as follows:

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, 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, or such other time as mutually agreed upon by the Zoning Administrator and the developer, to submit to the Zoning Administrator a wall check survey showing the location of the walls and the elevation of the slab, at grade.

The tables below identify the affected site plans by their construction status, and the conditions and corresponding condition numbers that would be addressed by the new condition.

Site Plans and Use Permits Under Construction

#-Site Plan Name	Installation of hardscape features	Installation of plant materials	Planting of all street trees	Construction of pavement, curb & gutter	Replacement of existing curb, gutter & sidewalk	Plat of excavated area	Wall Check Survey
18-1812 N. Moore Street	15	15	16b	19	29	36	45
105-Metropolitan Park 2	13	13	13	17	26	33	42
384-Views at Clarendon	13	13	13	17	26	33	42
387-Alexan 24	13	13	13	17	26	34	43
396-Fire Stat. 3/Koons Garage	13	13	13	17	26	33	42
397-Clarendon Center	13	13	13	17	26	33	42
401-Peck/Staples/Jordan Manor	13	13	16b	19	29	36	45
402-Penrose Square	15	15	16b	19	29	36	45
405-Buckingham Village	15	15	16b	19	29	36	45
408-Arlington Ass't Liv. Res.	14	14	15b	18	28	35	38
413-Founders Square	15	15	16b	19	25	32	41
U-1671-65-3 Marymount Univ.	11	11	12	15	25	32	41
U-3242-09-1 Buckingham Vill. 3	8	8	9b	12	18	-	-

Note: The numbers represent the corresponding condition numbers for each site plan.

Site Plans and Use Permits Not Under Construction

#-Site Plan Name	Installation of hardscape features	Installation of plant materials	Planting of all street trees	Construction of pavement, curb & gutter	Replacement of existing curb, gutter & sidewalk	Plat of excavated area	Wall Check Survey
13-Crystal Houses Lofts	15	15	16b	19	29	36	45
297-Pentagon Center	15	15	16b	19	25	32	41
331-Arlington Gateway Fairmont	13	13	13	17	26	33	42
335-Rosslyn Central Place	15	15	16b	19	29	36	45
346-Potmac Yard Bay C	15	15	15	19	29	36	45
346-Potomac Yard Bay D-East	15	15	15	19	29	36	45
346-Potomac Yard Bay D-West	15	15	15	19	29	36	45
382-NSTA	13	13	13	17	26	33	42
386-Club on Quincy	15	15	16b	19	29	36	45
389-2000 Wilson Boulevard	15	15	16b	19	29	36	45
392-1200 N. Irving Street	13	13	13	17	26	33	42
395-Dominion Heights	13	13	14b	17	26	33	42
400-Monument View	15	15	16b	19	28	35	44
403-2009 14 th Street	15	15	16b	19	25	32	41
406-2201 Pershing Drive	15	15	16b	19	29	36	45
409-1716 Wilson Boulevard	15	15	16b	19	29	36	45
411-1900 Wilson Boulevard	15	15	16b	19	25	32	41
412-Rosslyn Commons	15	15	16b	19	25	32	41
U-3155-06-1 4250 N. Glebe URD	8	8	9	12	-	-	-
U-3228-09-1 Buchanan Gardens	10	10	11b	14	20	-	-
U-3148-05-1 2525 Lee Hwy UCMUD	7	7	8	10	-	-	-

Note: The numbers represent the corresponding condition numbers for each site plan.

COMMUNITY PROCESS: The concept for a new flexible condition, as well as modifications to the conditions on Plat of Excavated Area and Wall Check Survey, were presented to the Arlington Committee of the Northern Virginia Builders Association (NVBIA) and the National Association of Industrial and Office Properties (NAIOP) on July 14 and September 8, 2010. The proposed new and modified conditions were supported by the Committee.

CONCLUSION: It should be noted that a recommendation to authorize advertisement does not imply support of approval of the proposed site plan amendments. However, for the County Board to consider providing more flexibility by this condition, a public hearing must be advertised. Therefore, staff recommends that the County Board advertise a public hearing by the County Board on October 23, 2010, to consider amending Site Plans #13, 18, 105 (Metropolitan Park 2), 297, 331, 335, 346 (Potomac Yard Bays C, D-East and D-West), 382, 384, 386, 387, 389, 392, 395, 396, 397, 400, 401, 402, 403, 405, 406, 408, 409, 411, 412 and 413, and Use Permits U-1671-65-3, U-3155-06-1, U-3228-09-1, U-3242-09-1, and U-3148-05-1, to add a new condition that would grant the Zoning Administrator the authority to modify the timing required for compliance with certain conditions, and to modify the conditions for the excavation plat and wall check survey to bring them up to date with current requirements.