



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of November 13, 2010**

DATE: November 4, 2010

SUBJECT: SP #249 SITE PLAN AMENDMENT to allow business service, professional office, medical office uses, and similar uses in approximately 7,765 square feet of approved retail space; modify Condition #57 regarding community benefits for a cultural center; located at 4350 Fairfax Drive (RPC#: 14-051-016)

Applicant:

Teachers Insurance and Annuity Association of America
730 Third Avenue, 7th Floor
New York, New York 10017

By:

Tad Lunger, Esq.
2300 Wilson Blvd, 7th floor
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Approve the subject site plan amendment to allow business service, professional office, medical office, and similar uses in addition to retail in 7,765 square feet of space, subject to all previously approved conditions except with modified condition #57 as shown in the staff report.

ISSUE: This is a request for a site plan amendment to allow business service, professional office, medical office, and similar uses in the former County cultural center space as well as in existing unsuccessful retail space, and no issues have been identified.

SUMMARY: The applicant is requesting a site plan amendment to allow business service, professional office, medical office, and similar uses in 7,765 square feet of ground floor space in the Ellipse building at 4350 Fairfax Drive. Approximately 5,000 square feet of this space was

County Manager:

BMD/GA

Staff: Matthew Pfeiffer, DCPHD, Planning Division

PLA-5719

7.

formerly used as the County cultural center per Condition #57, and the remainder was vacant retail space. The building is set back from Fairfax Drive behind a driveway located at the back of the sidewalk which separates the sidewalk from the building entrance, and the subject spaces are only accessible from an interior arcade entrance. As a result, retail uses have been unsuccessful in the Ellipse Building since the building was completed in the late 1980s, and the County Board has approved a number of conversions of retail space to business, professional and medical office uses. Staff supports the applicant's request because the subject space is poorly designed for retail uses. As a result of the recent relocation of the County's cultural center to the Artisphere (SP #89), the County is no longer leasing the space. The applicant has proposed payment of a cash contribution (\$250,000) in lieu of providing cultural center space to the County. Therefore, staff recommends approval of the site plan amendment to allow business service, professional office, medical office, and similar uses in addition to retail in 7,765 square feet of space, subject to all previously approved conditions and to the modified condition #57 in the staff report.

BACKGROUND: The Ellipse Building is part of a four (4)-building project in Ballston (SP #294) including the Jefferson and the NRECA office buildings. This multi-building site plan was approved by the County Board in 1987. This particular building, The Ellipse, was the first building to be completed in 1989. The site is located at 4350 Fairfax Drive, and is described as follows:

Site: The site is bound on the north by Fairfax Drive and on the east by North Taylor Street.

Zoning: The site is zoned "C-O-A" Commercial Office Building, Hotel, and Apartment Districts.

Land Use: The site is designated on the General Land Use Plan (GLUP) as "Coordinated Mixed-Use Development District." This is a high density mixed-use district with actual density determined by site size, which allows densities of up to 6.0 FAR; with office not more than 3.0 FAR.

Neighborhood: The site is located within the Ballston-Virginia Square Civic Association. The civic association has been contacted, but has not responded as of the date of this report.

DISCUSSION: The applicant requests a site plan amendment to allow business service, professional office, medical office, and similar uses in 7,765 square feet of space on the first floor of The Ellipse. The building is set back from Fairfax Drive by a driveway and the ground floor retail space is entered from an interior lobby on Fairfax Drive, with no indication or visibility from the street that there are businesses operating inside. Only one (1) year after construction, the County Board approved a site plan amendment to convert 2,500 square feet of interior retail space in The Ellipse to a dental office. At the time of this site plan amendment, the County Board instructed the developer to make the retail space more accessible when they built out the

remainder of the buildings in the site plan. The ground floor of The Ellipse is currently occupied by a lobby shop, a dental office, an H & R Block office, a fitness center, and multiple vacant spaces, including the spaces under consideration with this site plan amendment. At its June 2010 meeting, the County Board approved a conversion of 1,539 square feet of space in the ground floor of the subject building to medical office uses. Due to the inaccessibility and poor design of the ground floor retail space, and the history of allowing medical and professional office uses and business service uses in the ground floor spaces at The Ellipse, staff supports the applicant's request.

Condition #57 of Z-2181-80-6 (SP-5), required the developer to dedicate 5,000 square feet of space towards a County cultural center to be used by not-for-profit organizations. The subject space was originally occupied by an Art Studio, but recently has been vacant since the County did not renew its lease on the space. With the opening of the Artisphere (SP #89), the utility of the subject space as a cultural facility is further diminished. The applicant entered into discussions with staff regarding the elimination of the requirement to provide 5,000 square feet of cultural center space due to the factors cited above. The property owner has proposed a cash contribution of \$250,000 to the County in lieu of providing the subject cultural center space.

CONCLUSION: The applicant is requesting a site plan amendment to allow professional and medical office uses and business service uses, in addition to retail uses, in 7,765 square feet of retail space in the ground floor of the subject building, and to eliminate the requirement to provide space for a County cultural space. Because of the driveway that separates the building lobby from the sidewalk, and the fact that the retail spaces are accessible only from an interior lobby, they have not performed well as retail spaces and are currently vacant. Surrounding spaces have been approved for professional and medical offices and business service uses by the County Board in the past. Staff supports allowing the property owner to lease this space to retail or business service, professional office, medical office, and similar uses, and the property owner has agreed to provide a cash contribution to the County in lieu of providing cultural center space. Therefore, staff recommends approval of the site plan amendment to allow business service, professional office, medical office, and similar uses in addition to retail, in 7,765 square feet of space, subject to all previously approved conditions except with Condition # 57 modified as shown in the report.

Modified Condition #57:

- 57. ~~The 5,000 square feet is to be used solely by a not for profit organization for operation of a cultural center. It is intended that the initial primary use shall be for operation of a cultural center.~~
- b. ~~This space cannot be converted to any usage other than a cultural center operated by a not for profit organization.~~

- ~~e. For the first ten years, the cultural center shall be rent free but with the user paying operational, custodial, and maintenance expenses.~~
- ~~d. After ten years, reasonable rent may be charged based upon the usage then being made of the space and the ability of the not for profit organization utilizing the space to pay rent. In no event shall such organization pay less than the operational, custodial and maintenance expenses applicable to the space nor more than 50 percent of the then fair market rental value of comparable space.~~

The developer agrees to make a cash payment in lieu of providing the cultural center space for community use, which will be placed in a Trust and Agency account to be used to support Artisphere operations, or for other cultural uses as decided by the County Manager. The developer agrees that no permits will be issued for other uses of the 5,000 square foot cultural center area until receipt by the County of the first payment listed below. The cash payment shall total \$250,000 and is to be made payable to Arlington County in installments as follows:

- 1. \$100,000 either on or before December 13, 2010.
- 2. \$50,000 either on or before November 13, 2011.
- 3. \$50,000 either on or before November 13, 2012.
- 4. \$50,000 either on or before November 13, 2013.

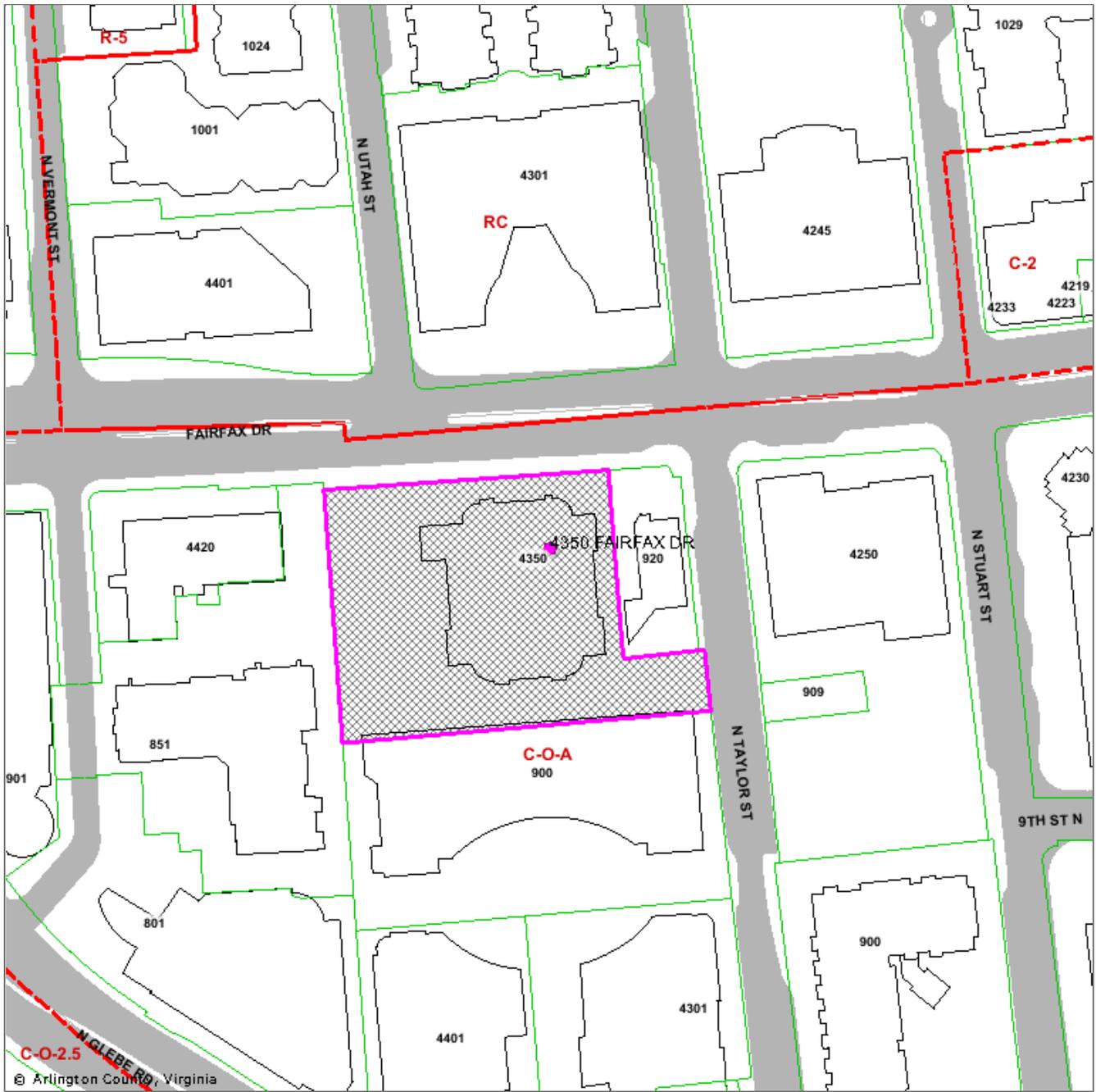
The developer further expressly agrees, by way of illustration and not limitation, that failure to make any of the future payments may result in the County or the Zoning Administrator seeking an injunction requiring such payment immediately.

PREVIOUS COUNTY BOARD ACTIONS:

- January 10, 1987 Approved [Z-2181-80-6 (SP-5)] a mixed-use office, residential and retail development.
- January 9, 1988 Approved a site plan amendment [Z-2181-80-6 (SP-5)] to convert the residential portion of the approved site plan to a lifecare facility with 350 independent living units, 32 personal care rooms, and 50 nursing care beds.
- Approved a site plan amendment [Z-2181-80-6 (SP-5)] to re-configure the access drives serving the residential (lifecare) buildings.
- May 13, 1989 Approved a site plan amendment [Z-2181-80-6 (SP-5)] to increase the GFA, decrease the number of units, decrease parking spaces and increase the building height on the approved site plan for a life care facility.
- August 11, 1990 Deferred a site plan amendment [Z-2181-80-6 (SP-5)] request to convert retail space to office use to the September 8, 1990 County Board Meeting.
- September 8, 1990 Approved a site plan amendment [Z-2181-80-6 (SP-5)] to convert the approximately 2,524 square feet of retail space to a dentist office subject to all previous conditions and one (1) new condition.
- Deferred a site plan amendment request [Z-2181-80-6 (SP-5)] for two tenant identification signs on the east and west pavilion arms of the Ellipse building to the December 8, 1990 County Board meeting.
- November 17, 1990 Denied a site plan amendment request [Z-2181-80-6 (SP-5)] to convert approximately 900 square feet of retail gross floor area to office use.
- December 8, 1990 Deferred a site plan amendment request for a comprehensive sign plan [Z-2181-80-6 (SP-5)] to

	the February 9, 1991 County Board meeting.
February 9, 1991	Approved a site plan amendment for a comprehensive sign plan [Z-2181-80-6 (SP-5)] for the Ellipse at Ballston, subject to all previous conditions and six (6) new conditions.
May 20, 1993	Ratified a contract for the sale of the portion of the out-parcel not needed for public right-of-way.
July 10, 1993	Approved a site plan amendment for the balance of the office development at the Ellipse at Ballston, including incorporation of a portion of the out-parcel and development of two (2) 11-story office buildings.
March 5, 1994	Approved a site plan amendment to exclude 4,500 square feet of storage from the floor area ratio (Condition #64), to amend Condition #34 to allow separate parking management element, and to amend Condition #32 to extend vanpool parking to the P-2 level of the parking garage, subject to all previous conditions, amended Conditions #32 and 34, and new condition #64.
July 20, 1996	Approved a site plan amendment for a free-standing retail tenant identification sign within the site (4301 Wilson Boulevard), behind the public sidewalk and right-of-way on Wilson Boulevard.
August 17, 1999	Approved a site plan amendment to increase office gross floor area by 25,419 (revised to 20,919) square feet to the West Building (typical floor increase by approximately 2,400 square feet, from approximately 20,100 square feet to approximately 22,422 square feet) and reduce the building setback from the western property line from the approved setback of 30.1 feet to proposed setback of 15 feet, subject to all previous conditions, and the following amended conditions number 54 and 59 and new conditions number 65 through 72.

July 28, 2001	Approved a site plan amendment to add 4,055 square feet of space to the garage of the NRECA Phase Two building, and to construct an arched sheltered walkway between the two NRECA buildings.
December 6, 2003	Approved a major site plan amendment to increase the west office building (Phase Two) GFA by approximately 19,311 square feet.
March 22, 2006	Approved a site plan amendment to revise condition #54 for the NRCEA buildings.
June 24, 2010	Approved site plan amendment to allow conversion of 1,539 sq ft of retail space to be used as medical office.



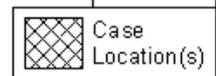
SP#249
4350 Fairfax Drive
RPC: 14051016

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



Not To Scale



Planning Division