



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of February 12, 2011**

DATE: February 3, 2011

SUBJECT: SP #18 SITE PLAN AMENDMENT 1812 Holdings, LLC for addition of a new Condition #98 regarding the timing of the schedule and allocation related to the public benefits plans, modification of Conditions #50 and #97 regarding temporary constructions signs, and modification of Condition #65 regarding timing of public art proposal located at 1812 and 1850 North Moore Street (RPC:16-037-004, and 16-037-005).

Applicant:
1812 Holdings, LLC

By:
Nan E. Walsh, Esq. and Kara MW Bowyer
Walsh, Colucci, Lubeley, Emrich & Walsh, PC
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Adopt the attached ordinance to approve a site plan amendment subject to all previously approved conditions, new Condition #98 regarding timing of public benefits package, amended Conditions #65, for timing of public art, and #97, regarding interim substation treatment. A request for additional temporary sign area has been withdrawn by the applicant.

ISSUES: The applicant is requesting modifications to Conditions #65 and #97 and the creation of a new Condition #98, regarding public benefits plans, interim treatment of Dominion Power substation, and public art, and no issues have been identified.

SUMMARY: This is an amendment to the 1812 North Moore Site Plan, zoned "C-O Rosslyn,"

County Manager:	<i>BMD/GA</i>	
County Attorney:	<i>CWN</i>	<i>GA</i>
Staff:	Freida Wray, DCPHD, Planning Division Matthew Pfeiffer, DCPHD, Planning Division Lisa Maher, DES, Transportation Division	1.
PLA-5822		

which was originally approved in 2007. It included significant public benefits totaling over \$4 million. The site plan was amended in 2008 to, among other things, amend Condition #50 to permit temporary construction signs on the Dominion Power substation and amend Condition #65 to extend the timing for approval of the public art proposal. The proposed site plan amendment would clarify the timing of the schedule for submission and approval of plans for the public benefits improvements outlined in Conditions #84 (improvements to North Moore Street), #85 (improvements to the Rosslyn Metro Station and Fort Myer Drive), and #86 (design and construction of a “Transit Store”) through the addition of new Condition #98. Staff supports this proposed amendment as it would facilitate greater communication and coordination between the applicant, County staff and WMATA representatives toward the goal of achieving the level of detail envisioned for the public benefits improvements approved in 2007. Staff also supports the proposed modification to Condition #65.C. which would further extend the timing for approval of the public art proposal by the Arlington Commission for the Arts/Public Art Committee (ACA/PAC). This would allow additional time for the applicant to work with County staff to achieve a public art proposal acceptable to both staff and the ACA/PAC. Finally, staff supports a minor revision to Condition #97, which would clarify the timing of installation of the signs and the cladding of the substation. Therefore, staff recommends adoption of the attached ordinance for modifications to Conditions #65 and #97 and a new Condition #98, subject to all previously approved conditions.

BACKGROUND: The 1812 Site Plan for a “C-O Rosslyn” project was approved on December 15, 2007, and includes certain public benefits for improvements to North Moore Street, the Rosslyn Metro Station and Fort Myer Drive, and design and construction of the Rosslyn Transit Store. On November 15, 2008, the site plan was amended to modify, among others, Condition #50 to allow temporary cladding and the placement of construction signs on the Dominion Power substation and Condition #65 to modify the timing for approval of the public art proposal. The proposed site plan amendment would add new Condition #98 to clarify the timing of the schedule for submission and approval by the County Manager, and WMATA where necessary, of the public benefits plans; modify Condition #97 to allow fabrication of permitted signage with that of the approved interim treatment to clad the substation, and modify Condition #65 to amend the timing of approval of the public art proposal by the Arlington Commission for the Arts/Public Art Committee. The site is located at 1812 North Moore Street, and is described as follows:

Site: The site is bound on the north by 19th Street North, on the east by North Moore Street, on the west by Fort Myer Drive, and on the south by the Rosslyn Metro Station.

Zoning: The site is zoned “C-O-Rosslyn” Commercial Office Building, Retail, Hotel, and Multiple-Family Dwelling Districts.

Land Use: The site is designated on the General Land Use Plan (GLUP) as “Office-Apartment-Hotel High. Up to 3.8 FAR office density, up to 4.8 FAR apartment density, and up to 3.8 FAR hotel density.” The site is located within the “Rosslyn Coordinated Redevelopment District.”

Neighborhood: The site is located within the North Rosslyn Civic Association. The site also falls within the area covered by the Rosslyn Renaissance. Neither organization has responded

to staff request for comment as of the date of this writing.

DISCUSSION:

Proposed New Condition #98

Conditions #84, 85 and 86 require that the developer submit public benefits plans to the County Manager prior to the issuance of the Excavation/Sheeting and Shoring Permit, which must provide details of the improvements to North Moore Street, the Rosslyn Metro Station and Fort Myer Drive, and the Rosslyn Transit Store. The conditions require that, if the developer receives approval from the County Manager (and/or WMATA for Conditions #85 and 86) of the plans in writing within 180 days of the date of submission of the plans, then the developer will install and construct the improvements; for Condition #86, the developer will design and construct the Rosslyn Transit Store. All improvements are required to be constructed prior to the issuance of any Certificate of Occupancy for the top floor of the office building. Furthermore, the conditions require that if the developer does not receive in writing from the County Manager (and/or WMATA for Conditions #85 and 86) the approval or denial of the plans within 180 days of the date of submission of the plans, the developer may opt to provide a cash contribution to the County prior to the issuance of the Certificate of Occupancy for the top floor of the office building.

The developer submitted public benefits plans, pursuant to the requirements of Conditions #84, 85 and 86, to the Zoning Administrator in September 2010. The Zoning Administrator ruled that the submission did not comply with Conditions #84, 85 and 86, as the plans did not sufficiently detail the proposed public benefits improvements. It was determined that this noncompliance resulted from a lack of communication between staff and the developer. Staff has been meeting with the applicant and representatives of WMATA on a biweekly basis towards the goal of identifying the level of detail needed to fulfill the requirements of the conditions, including the provision of pricing estimates, and addressing other questions and concerns as they arise, while keeping the site plan on track for construction. Through the discussions, the applicant has agreed to submit public benefits plans, and pricing estimates, to the County at two intervals prior to submission of construction drawings for permits. The applicant would submit schematic drawings at approximately 25-30% of construction drawings and, at a later date, design development drawings at approximately 65-70% of construction drawings. County staff would coordinate with WMATA in the review of the plans. The applicant and staff have agreed to new Condition #98 which effectively deletes the 180-day timeframe for approval of the public benefits plans, and the optional additional 120 days for approval of the transit store plans by WMATA. The new condition would clarify the details set forth in Conditions #84, 85 and 86 for 1) submission of the plans; 2) process to obtain the County Manager's decision, and WMATA's as necessary, on the public benefits plans; 3) timing for review and approval of the public benefits plans; 4) level of detail required to be included in the public benefits plans, including pricing estimates at each stage of submission; and 5) timing and plans for constructing the public benefits improvements.

In addition to modifying the timing of the review and approval of the public benefits plans, the developer proposes the option to allow the value allocated for each public benefit improvement, as identified in Conditions #84, 85 and 86, to be modified, as long as the total value of the public benefits improvements is not less than the total amount of \$3,982,000 originally approved in 2007. For example, the approved value of the improvements to the Rosslyn Transit Store,

including design and construction, is \$500,000. The pricing estimate for the Rosslyn Transit Store is currently a little over one-half the amount projected for the improvements, at approximately \$290,000. If at the time of construction the total amount remains below the projected \$500,000, the developer would like the option to re-allocate the balance of the funds to other public benefits improvements. Staff supports this proposal, as it could allow for upgrades to certain elements, such as sidewalk and/or Metro paving materials, the alternate bus shelters, etc. Throughout the process, staff would continue to review the developer's pricing estimates to ensure that they are commensurate with the work. Therefore, staff recommends that new Condition #98 include language to permit the reallocation of funds.

Proposed Modification to Conditions #50 and 97

Staff is recommending one (1) minor change to Condition #97. When the subject site plan amendment for the interim treatment to clad the substation was approved in November 2010, language was inserted in Condition #97 requiring the interim treatment to be installed prior to permits being issued for the signs. As the signs would be fabricated as part of the interim treatment, implementation of the interim treatment in advance of installation of the signs would not be possible. Staff therefore supports removing this requirement from the condition language, as the signs would be fabricated as part of the interim treatment. The applicant's request for additional temporary sign area has been withdrawn. Therefore staff is not recommending any modifications to Condition #50.

Proposed Modification to Condition #65

Condition #65 requires the developer to commission a professional artist to create public art for a minimum cost of \$750,000, or contribute this amount to the Public Art Fund. An artist was approved by the Arlington Commission for the Arts/Public Art Committee (ACA/PAC) on January 17, 2008, prior to issuance of the Clearing and Grading Permit, consistent with the requirements of the condition. On November 15, 2008, the County Board amended Paragraph C. of Condition #65 to require that the developer present and obtain approval of its art proposal by the ACA/PAC prior to issuance of the Footing to Grade Permit, and that the art proposal be resubmitted to reflect any revisions made in response to any recommendations made by the ACA/PAC to staff prior to issuance of the Final Building Permit. The developer has submitted an art proposal to Public Art staff and has received feedback from staff that the art proposal is inappropriate for the site. The developer has elected to revise their proposal rather than present it to the ACA/PAC without staff support. Therefore, the applicant is requesting to modify the timing in Condition #65.C. to permit approval of the art proposal by the ACA/PAC, and resubmission of the proposal to reflect any revisions made in response to any recommendations made by the ACA/PAC to staff, prior to issuance of the Final Building Permit. Public Art staff concurs with the modifications to the timing for approval of the public art proposal. The condition requirements for timing of installation of the public art (prior to issuance of the Certificate of Occupancy for any space on the top floor of the office building), or the option of a financial contribution of \$750,000 to the Public Art Fund (prior to issuance of the Final Building Permit), would not change.

CONCLUSION: The proposed site plan amendment would clarify and/or modify the timing of certain requirements associated with the site plan's approved public benefits package. Staff supports this portion of the request because it would ensure that public benefits envisioned for the

site plan would be achieved. Therefore, staff recommends adoption of the attached ordinance for modifications to Conditions #65 and #97 and a new Condition #98, subject to all previously approved conditions.

Site Plan Amendment Ordinance

WHEREAS, an application for a Site Plan Amendment dated December 13, 2010 for Site Plan # 18, was filed with the Office of the Zoning Administrator: and

WHEREAS, as indicated in Staff Report provided to the County Board for its February 12, 2011 meeting, and through comments made at the public hearing before the County Board, the County Manager recommends that the County Board approve the Site Plan Amendment subject to numerous conditions as set forth in the Staff Report; and

WHEREAS, the County Board held a duly-advertised public hearing on that Site Plan Amendment on February 12, 2011 and finds, based on thorough consideration of the public testimony and all materials presented to it and/or on file in the Office of the Zoning Administrator, that the improvements and/or development proposed by the Site Plan as amended:

- Substantially complies with the character of master plans, officially approved neighborhood or area development plans, and with the uses permitted and use regulations of the district as set forth in the Zoning Ordinance; and
- Functionally relates to other structures permitted in the district and will not be injurious or detrimental to the property or improvements in the neighborhood; and
- Is so designed and located that the public health, safety and welfare will be promoted and protected.

NOW THEREFORE, BE IT ORDAINED that, as originally requested by an application dated December 13, 2010 for Site Plan # 18, for a Site Plan Amendment for modifications to Conditions #65, and 97, and the creation of a new Condition #98 regarding public benefits plans, public art, and interim treatment of substation, the Site Plan as last approved on December 15, 2007 for the parcel of real property known as 1812 and 1850 North Moore Street (RPC: 16-037-004, and 16-037-005) approval is granted for the amendment and the parcel so described shall be used according to the December 15, 2007 site plan as amended by the Revised Site Plan Application, subject to all previously approved conditions, conditions 65 and 97 as amended below, and new condition 98, as set forth below:

Modified Conditions:

Public art

65. A. The developer agrees to commission a professional artist to create public art for a minimum cost of \$750,000, inclusive of artist fees, fabrication, installation, transportation, artist travel/expenses but exclusive of art consultant fees, fees for coordinating with artist or with other design professionals on the project (architect, landscape architect, engineer, etc.), and other in-house costs or fees. The public art shall respond to the themes and priorities discussed in the Public Art Master Plan (adopted December 2004) in support of the goals of the Public Art Policy (adopted September 2000). The developer also agrees to take into account driver and pedestrian

safety and energy efficiency when designing the public art. The developer agrees that, if the commission is made more than 12 months after site plan approval, the minimum commission amount will be adjusted based on the percentage change in the Consumer Price Index-Urban (CPI-U) between the date of site plan approval and the first day of the month in which the contribution is made.

- B. The developer agrees to obtain the approval of the County Manager for the process to be followed in the selection of artist, art proposal development, maintenance plan, placement and design of informational signage. The County Manager's approval will be given only if the process is in accordance with Public Art Program signage specifications, and the developer agrees to implement that approved process. The developer agrees to notify the County Manager when the artist selection process is about to begin. The County Manager at his option may, within 15 business days following receipt of this notification, request that a panel process be undertaken and designate panel members to be included or artists to be considered. If requested, the developer agrees to use a panel to select the artist and the art. The panel used by the developer will consist of at least three persons, up to two of whom may be professional artists or arts professionals, as defined by the County. The panel should include representatives from the developer's project team, including architect, landscape architect and other design professionals. The developer agrees to include in its panel those persons designated by the County Manager and to compensate them at a reasonable hourly rate agreed to by that individual.
- C. The selection panel will consider at least three different artists for the commission, including any named by the County Manager as set forth in this condition. The developer agrees that artists who are currently under contract in the County will not be eligible for commissions for public art within four years after the time of signing a contract or otherwise being initially engaged to create public art. The developer agrees to present its or the panel's choice of artist to, and obtain approval of this choice from, the Arlington Commission for the Arts/Public Art Committee (ACA/PAC), prior to issuance of the Clearing and Grading Permit. The developer further agrees to present the art proposal to, and obtain approval from, the ACA/PAC, and resubmit to the County Manager the art proposal to reflect any revisions made in response to any recommendations made by the ACA/PAC, prior to issuance of the ~~Footing to Grade~~ Final Building Permit. The art proposal shall consist of visual and written representations of the public art and its proposed location within the site, list of materials, proposed maintenance plan, and an itemized budget. ~~The developer further agrees to resubmit the art proposal to reflect any revisions made in response to any recommendations made by ACA/PAC to the County Manager prior to issuance of the Final Building Permit.~~ The public art shall be installed prior to the issuance of the Certificate of Occupancy for any space on the top floor of the building.
- D. In order to prevent the public art from conflicting with other elements of the site plan, the developer also agrees to represent the public art on the landscape plan, building elevation or other plan that represents the site of the art, in the normal course of submission of such plans as provided for in these site plan conditions. The plan(s) on

which the art is represented will be determined based upon the art's chosen location within the site plan.

- E. The developer may choose to make a contribution of \$750,000 to the Public Art Fund to fund County-initiated public art projects in the Rosslyn Metro/or other specified area in lieu of commissioning public art through the process set forth above. Such contribution shall be made to the Public Art Fund prior to issuance of the first above grade building permit. If the contribution is made more than 12 months after site plan approval, the contribution amount will be adjusted based on the percentage change in the Consumer Price Index- Urban (CPI-U) between the date of site plan approval and the first day of the month in which the contribution is made.

Dominion Virginia Power Substation Improvements

- 97. The developer agrees to clad the substation as generally shown on the plans and renderings presented to the County Board on December 15, 2007, and to incorporate a public art component pursuant to Condition #65 in addition to or in lieu of the cladding provided the purposes of the cladding are achieved. In the event the developer elects to make a contribution to the Public Art Fund in accordance with Condition #65, then the developer shall nonetheless be obligated to complete the foregoing cladding of the substation, and shall ensure that the County is provided reasonable access to the substation site in order to implement a County initiated public art project

As an interim measure, the developer agrees to install a temporary treatment to clad the substation, as generally shown on the plans entitled "1812 North Moore Substation Concepts," prepared by Graham Hanson Design, and dated October 21, 2010. Total temporary sign area shall not exceed 708 square feet, and no permits for temporary signs on the exterior of the substation will be issued until all temporary signs mounted on construction fencing is are removed. The temporary treatment may remain in place until work commences on the final cladding of the substation or if construction activity necessitates the removal of all or part of the temporary treatment. No permits for temporary signs located on the Dominion Power Substation shall be issued until ~~the interim treatment is installed and~~ a plan for such signs is reviewed and approved by the Zoning Administrator consistent with Condition #50.

New Condition:

98. Timing of Review of Public Benefit Plans

- A. This condition clarifies the timing and plan details set forth in Conditions #84, 85 and 86 for 1) submission of the plans described in Conditions #84 detailing the proposed improvements to North Moore Street, #85 detailing the proposed improvements to the Rosslyn Metro Station and Fort Myer Drive, and #86 the design and construction of a Transit Store (collectively "public benefits" or "public benefits improvements" or "public benefits plans"), including the 180-day timeframe and the optional additional 120 days for the transit store; 2) obtaining

the County Manager's decision on the public benefits plans; 3) extending the timing; and 4) the level of detail required to be included in the public benefits plans. The developer agrees that to the extent the requirements set forth in this Condition #98 vary from or are contrary to those set forth in Conditions #84, 85 and/or 86, the requirements of this Condition #98 will govern. All other aspects of Condition #84, 85, and 86, including, but not limited to, the aggregate total dollar values associated with the public benefits plans, shall remain in effect. Nothing in this Condition #98 or Conditions #84, 85 and/or 86, except as expressly stated in Condition #98.A.8).a)., b). and C.2)., shall prevent the issuance of permits and inspections that would otherwise have been issued for the construction and occupancy of all of the improvements associated with SP #18. To the extent that the County requires the inclusion of the public benefit improvements on any plans required for the issuance of building or occupancy permits (except as required for tenant occupancy pursuant to Paragraphs 8.a). and 8.b).), the level of design detail required to be shown for those improvements shall be the level approved at such time when the public benefits are required to be shown on permitted plans. The developer agrees that the timing be modified to include the following requirements:

- 1). The developer agrees that dates for scheduled approvals of public benefits plans by the County and WMATA as set forth in Conditions #84, 85 and 86 will no longer apply.
- 2). Schematic Design Drawing Submission. By July 28, 2011, the developer agrees to submit to the County Manager schematic drawings (approximately 25-30% Construction Drawings consistent with industry standards, as defined in AIA Document B151 (copyright 1997), hereinafter defined as "Schematic Design Drawings") and pricing estimates for the improvements shown on the Schematic Design Drawings, that are consistent with the scope and guidance provided by Arlington County in its regular discussions with WMATA and the developer referred to in Paragraph B. below. Product data for items or elements that have been agreed upon and documented in the meetings described in Paragraph B. below shall be included on the Schematic Design Drawings. The developer agrees that the County Manager may make a one-time request in writing to the developer for a progress set of drawings with pricing estimates, which request must be made on or before April 28, 2011. The developer agrees to provide such drawings and pricing estimates within 21 calendar days of receipt of the County's request.
- 3). Schematic Design Drawings Approval
 - a). The developer agrees that the County Manager has 10 business days from receipt of the Schematic Design Drawings to confirm if the scope is consistent with the meeting minutes provided pursuant to Paragraph B below, and if the quality is consistent with industry standards, and to inform the developer in writing of specific deficiencies. In the absence of said written notice of deficiencies, the scope and quality of the

Schematic Design Drawings shall be deemed acceptable. If written notice of deficiencies is given, the developer shall correct the Schematic Design Drawings and resubmit such Drawings to the County Manager and the time deadlines shall be adjusted accordingly pursuant to Paragraph C.1). below.

- b). If the County Manager has not determined there is a deficiency in the drawings as to scope and quality, then the Manager will proceed to review the drawings. In the event that the developer receives in writing from County Manager approval of the Schematic Design Drawings by September 14, 2011, or such extended deadline as may apply, the developer shall proceed to the requirements set forth in Paragraph A.4). below. The developer agrees that, as part of the approval of the Schematic Design Drawings, the County Manager may make comments, not affecting scope and/or quality, which the developer will address in the submittal for Design Development Drawings. Such comments shall not prevent the approval of the Schematic Design Drawings.
 - c). In the event that the developer does not receive approval in writing from the County Manager of the Schematic Design Drawings by September 14, 2011, or the date to which the deadline has been extended, the developer, at its sole discretion, may extend the deadline as set forth in Paragraph D. below or implement the option of making a cash contribution as set forth in Paragraph E. below.
- 4). Design Development Drawings Submission. By November 14, 2011, the developer agrees to submit to the County Manager design development drawings (approximately 65-70% Construction Drawings consistent with industry standards, as defined in AIA Document B151 (copyright 1997), hereinafter defined as “Design Development Drawings”) and pricing estimates for the improvements shown on the Design Development Drawings, which are based upon the Schematic Design Drawings approved by September 14, 2011, or such extended deadline as may apply under this condition, together with any County comments thereon, and are consistent with the scope and guidance provided by Arlington County in its regular discussions with WMATA and the developer referred to in Paragraph B. below. Product data for items or elements that have been agreed upon and documented in the meetings described in Paragraph B. below shall be included on the Design Development Drawings.
- 5). Design Development Drawings Approval
- a). The developer agrees that the County Manager has 10 business days from receipt of the Design Development Drawings to confirm if the scope is consistent with the meeting minutes provided pursuant to Paragraph B. below, and if the quality is consistent with industry standards, and to inform the developer in writing of specific

deficiencies. In the absence of said written notice of deficiencies, the scope and quality of the Design Development Drawings shall be deemed acceptable. If written notice of deficiencies is given, the developer shall correct the Design Development Drawings and resubmit such Drawings to the County Manager and time deadlines shall be adjusted accordingly pursuant to Paragraph C.1). below.

- b). If the County Manager has not determined that there is a deficiency in the drawings, then the County Manager will proceed to review the drawings, and in the event that the developer receives in writing from the County Manager approval of the Design Development Drawings by January 14, 2012, or such extended deadline as may apply, the developer shall proceed to the requirements set forth in Paragraph A.6). below. The developer agrees that, as part of the approval of the Design Development Drawings, the County Manager may make comments, not affecting scope and/or quality, which the developer will address, in the submittal for Building Permit Plans. Such comments shall not prevent the approval of the Design Development Drawings.
 - c). In the event that the developer does not receive approval in writing from the County Manager of the Design Development Drawings by January 14, 2012, or the date to which the deadline has been extended, the developer, at its sole discretion, may extend the deadline as set forth in Paragraph D. below or implement the option of making a cash contribution as set forth in Paragraph E. below.
- 6). Building Permit Plans Submission. By April 14, 2012, the developer agrees to submit for building permits and for any permits/approvals required by WMATA/third parties other than the County to construct the public benefits (100% Construction Drawings consistent with industry standards, hereinafter defined as “Building Permit Plans”), which shall include the final pricing for the public benefits.
- 7). Issuance of Building Permits by County and Issuance of Permits/Approvals by WMATA/Third Parties
- a). Issuance of Building Permits by County. The public improvements that are within the scope of approval of a building permit by the County are hereinafter defined as “County Public Benefit Improvements.” Relative to those improvements:
 - (i). The developer agrees that, if the County issues all required Building Permits necessary for the developer to construct the County Public Benefit Improvements by July 1, 2012, or such extended date as may apply under this condition, then the developer shall proceed with construction of those improvements.

- (ii). The developer agrees that, if the developer has submitted Building Permit Plans that meet all code requirements and that are of sufficient quality to be approved, and the County does not issue all building permits necessary for the developer to construct the County Public Benefit Improvements, by July 1, 2012, or such extended date as may apply under this condition, then the developer, at its sole discretion, may extend the deadline as set forth in Paragraph D. below or implement the option of making a cash contribution as set forth in Paragraph E. below in the amount of the value less soft costs of the County Public Benefit Improvements as for which Building Permits have not been issued.

 - b). Issuance of Permits/Approvals by WMATA/Third Parties. The public benefit improvements that are within the scope of approval (permit or otherwise) by WMATA and/or third parties other than the County are hereinafter defined as “WMATA Public Benefit Improvements.” Relative to those improvements:
 - (i). In the event that WMATA issues all approvals and permits necessary for the developer to construct the WMATA Public Benefit Improvements by July 1, 2012 (the “WMATA Deadline”), the developer shall proceed with construction of those improvements.

 - (ii) In the event that WMATA does not issue all approvals and permits necessary for the developer to construct the WMATA Public Benefit Improvements by the WMATA Deadline, the developer, at its sole discretion may extend the deadline as set forth in Paragraph D. below or implement the option of making a cash contribution as set forth in Paragraph E. below in the amount of the value less soft costs of the WMATA Public Benefit Improvements for which approvals and/or permits have not been issued by WMATA/Third Parties.
- 8.) Completion of Construction
- a). County Public Benefit Improvements. The developer agrees that the County Public Benefit Improvements shall be constructed and completed prior to issuance of the first Certificate of Occupancy for tenant occupancy of the top floor of the building tower. However, if the July 1, 2012 deadline detailed in Paragraph A.7).(i). above is extended by the developer to August 1, 2012 or later, thereby extending the date of completion of the County Public Benefit Improvements, the County Manager may administratively approve an extension of the deadline for the completion of said Improvements from prior to the issuance of the first Certificate of Occupancy for

tenant occupancy of the top floor of the office tower to prior to the first Certificate of Occupancy for office tenant occupancy for the last floor of the building tower, if the County Manager finds evidence that the developer is (1) diligently pursuing the work and (2) the developer has provided reasonable assurances that the work will be completed in accordance with the site plan approval. Any extension for completion of construction of the public benefit improvements beyond the date of the first Certificate of Occupancy for office tenant occupancy for any floor of the office tower shall require site plan amendment approval by the County Board.

- b). WMATA Public Benefit Improvements. The developer agrees that the WMATA Public Benefit Improvements shall be constructed and completed prior to the issuance of the first Certificate of Occupancy for office tenant occupancy for the last floor of the office tower. In the event that the WMATA Public Benefit Improvements are not completed prior to the issuance of the first Certificate of Occupancy for office tenant occupancy for the last floor of the office tower, the developer agrees to enter into an escrow agreement with the County in a form reasonably approved by the County Attorney, hereinafter referred to as “WMATA Improvements Escrow,” in the amount of the value less soft costs of the unbuilt WMATA Public Benefit Improvements. Such Escrow shall not be released until the County inspects the WMATA Public Benefit Improvements and deems said Improvements to be completed in accordance with the provisions of this Condition #98. Upon entering into the WMATA Improvements Escrow, the developer may proceed with complete occupancy of the building and seek issuance of a Master Certificate of Occupancy for the entire project, except for the WMATA Public Benefit Improvements, which completion shall be subject to the terms of the WMATA Improvements Escrow.

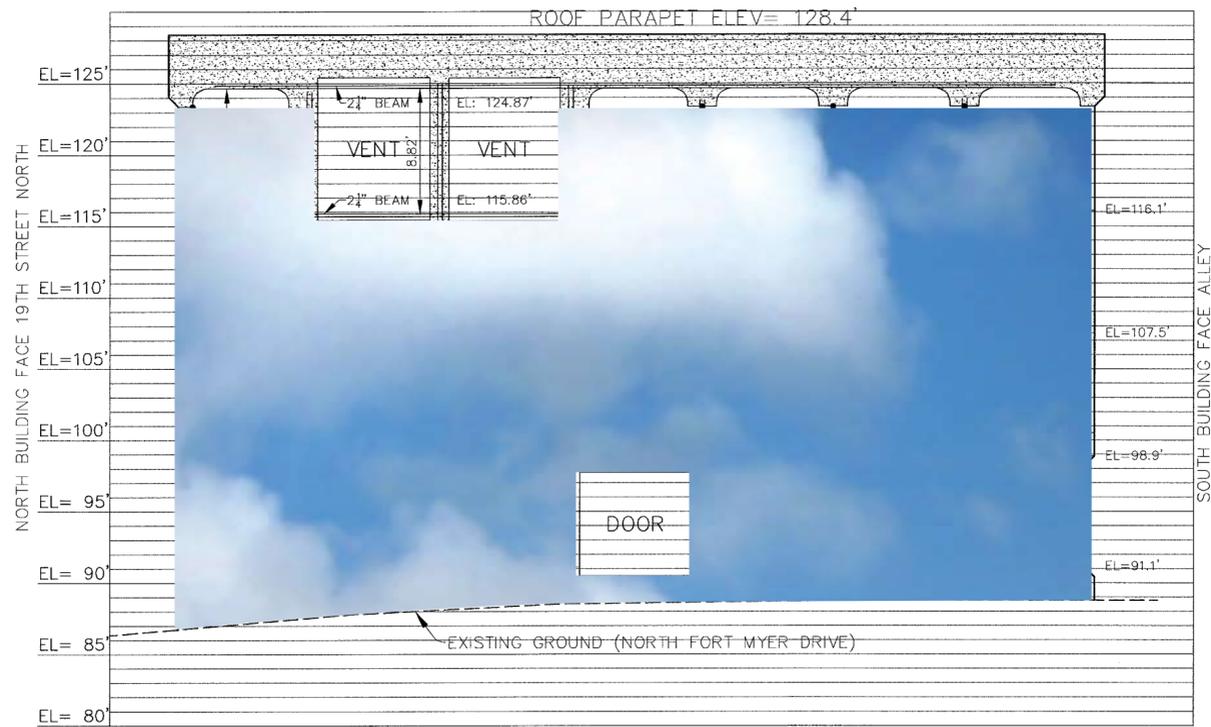
- B. The developer agrees to meet with the County and/or WMATA on a regular basis in order to advance and discuss the plans in a manner consistent with meeting the above-referenced deadlines. The County shall be responsible for preparing meeting minutes that are distributed to attendees prior to the next meeting. The developer agrees to prepare, and provide to the County within three (3) business days of each meeting, a summary of the scope of the public benefit improvements. The County will review the scope summaries from the developer and incorporate them into the meeting minutes. In addition, the meeting minutes shall, at least once a month, document any extensions to deadlines granted pursuant to Paragraphs C.1). or D.

C. Developer Deadlines and Extensions

- 1). In the event that the developer does not meet the deadlines set forth in Paragraphs A.2)., A.4). or A.6). (the “Developer Deadlines”), the deadlines set forth in Paragraphs A.3)., A.5). and A.7). (the “County Deadlines”) shall automatically be extended by one day for each day that passes between the Developer Deadlines and the actual submission dates of the plan by the developer to the County Manager. Any such extensions shall be documented in the meeting minutes described in Paragraph B. above.
 - 2). If the County Manager finds that the developer is not pursuing required plan preparation and submission and completion of construction, or if any required plan submission is so deficient as not to be a good faith submission, the County Manager may elect to move the required completion of construction dates set forth in Paragraphs 8).a). and 8).b). to prior to the first Certificate of Occupancy for tenant occupancy of any floor of the office tower. Such change to the condition shall be effective upon written notice from the County Manager to the developer.
- D. In the event that the County does not meet the County Deadlines and/or WMATA does not meet the WMATA Deadline, the developer, at its sole discretion, may extend any of the County Deadlines or WMATA Deadline. Any such extensions shall be documented in the meeting minutes described in Paragraph B. above.
- E. In the event that the County does not meet the County Deadlines and/or WMATA does not meet the WMATA Deadline, including, if applicable, any extensions as described in Paragraphs C.1). or D. above, the developer has the option, at its sole discretion, of providing a cash contribution in the amount of \$3,982,000, less any soft costs expended up to that date, in lieu of constructing the improvements set forth in Conditions #84, 85 and 86 and this Condition #98. In the event that the developer elects to make such a contribution, the developer shall provide the County Manager with written notice of this election. In the event that the developer constructs any County Public Benefit Improvements and not the WMATA Public Benefit Improvements or vice versa, the cash contribution shall be \$3,982,000 less the value of the constructed improvements and less the value of all soft costs expended up to the date of the cash contribution. The developer agrees to provide the County with detailed documentation of the expenses, including invoices, and evidence of all payments of soft costs that are to be deducted from the cash contribution amount.
- F. The individual dollar amounts listed in Condition #84, 85 and 86 may be modified as mutually agreed upon by the developer and County so long as the total costs of all public benefit improvements specified in Condition #84, 85 and 86 does not exceed \$3,982,000.

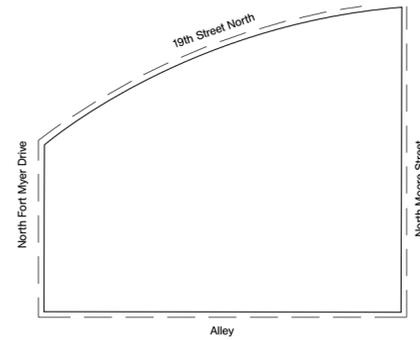
PREVIOUS COUNTY BOARD ACTIONS:

- February 8, 1962 Approved a site plan (Z-1598-62-2 SP #18) for an 11-story office building.
- January 6, 1968 Approved a site plan amendment for an exterior sign request.
- December 10, 1975 Approved a site plan amendment for an exterior sign change.
- March 10, 1979 Approved a site plan amendment to convert parking to retail / office space.
- September 16, 1980 Approved a site plan amendment for an exterior sign request.
- December 15, 2007 Approved a rezoning request (Z-2529-06-1) from “C-O” to “C-O Rosslyn” for 1815 North Fort Myer Drive and 1850 North Moore Street.
- Approved a site plan amendment to incorporate 1850 N. Moore St. (Dominion Virginia Power substation) into the site plan, and to construct approximately 569,739 square feet of commercial office, approximately 11,020 square feet of retail space, and retain the existing power substation.
- November 15, 2008 Approved a site plan amendment to modify Conditions #11.e, 36, 45, 50, 52, 65 and 79, subject to the revised conditions and all previously approved conditions.
- November 13, 2010 Approved a site plan amendment to modify Condition #50 re. temporary constructions signs, Condition #97 re-cladding of the adjacent substation, and various approved conditions to grant the Zoning Administrator the authority to modify the timing required for compliance with certain conditions.

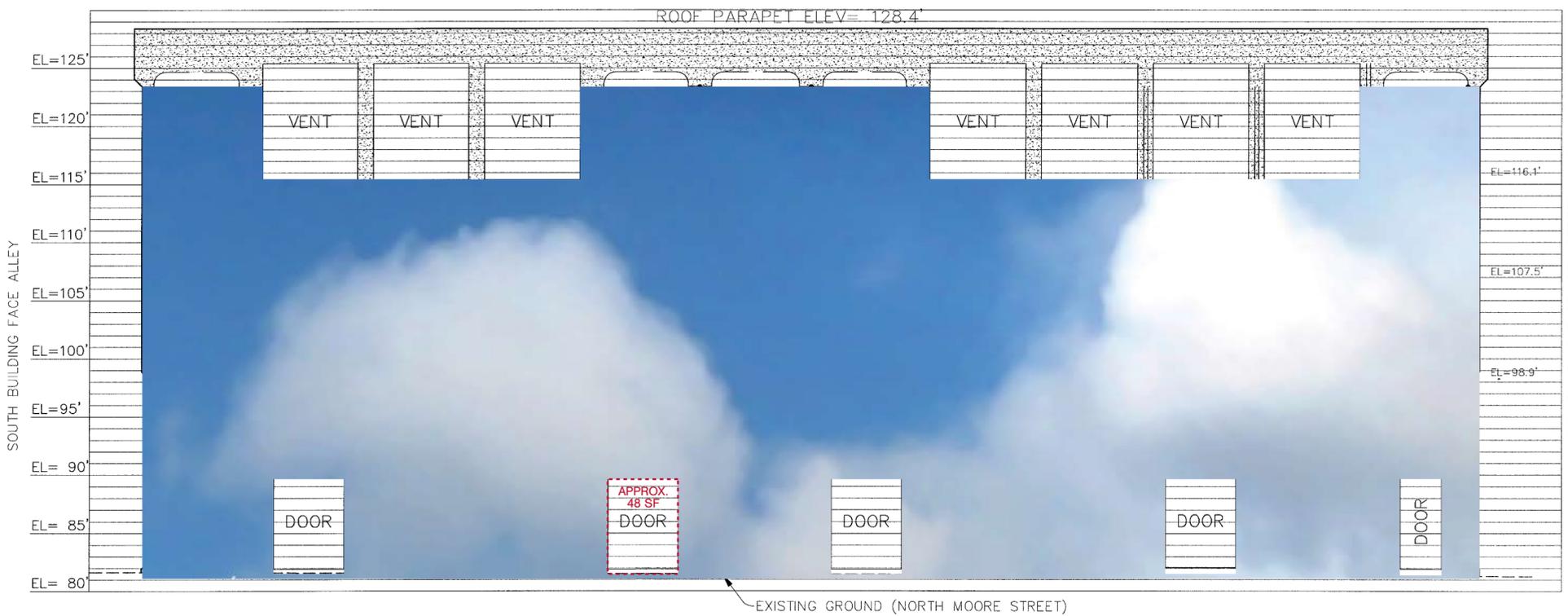


North Fort Myer Drive

Total Area
 2,132 SF



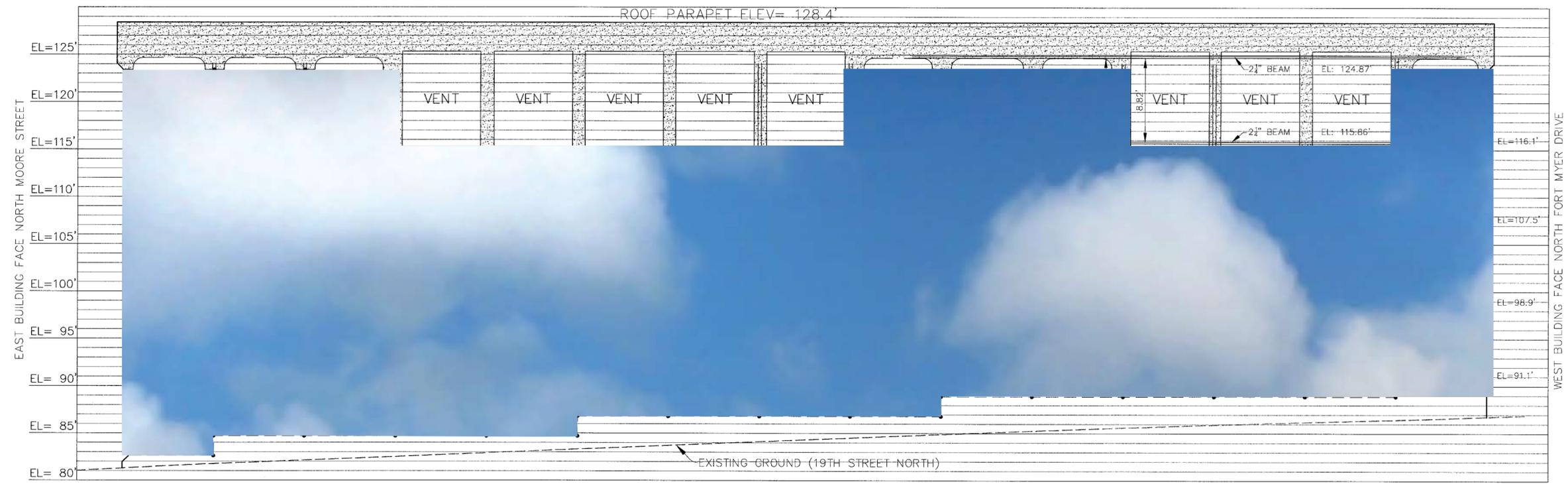
North Fort Myer Drive



North Moore Street

Total Area
 4,102 SF

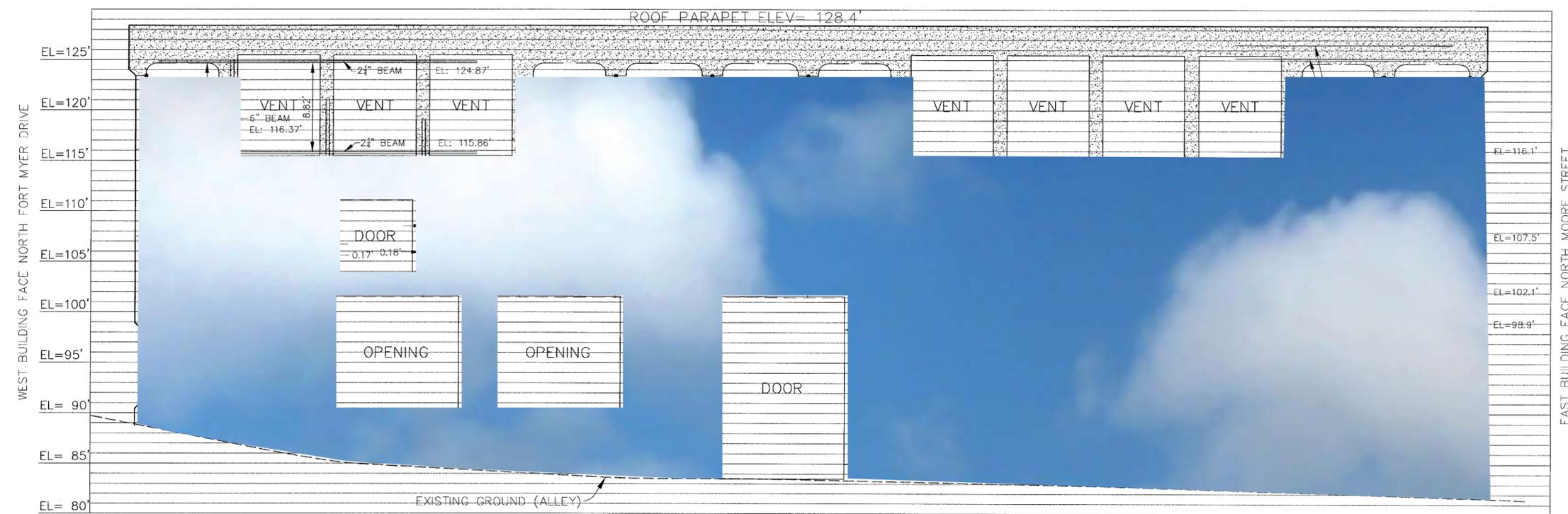
North Moore Street



19th Street North

Total Area
 4,939 SF

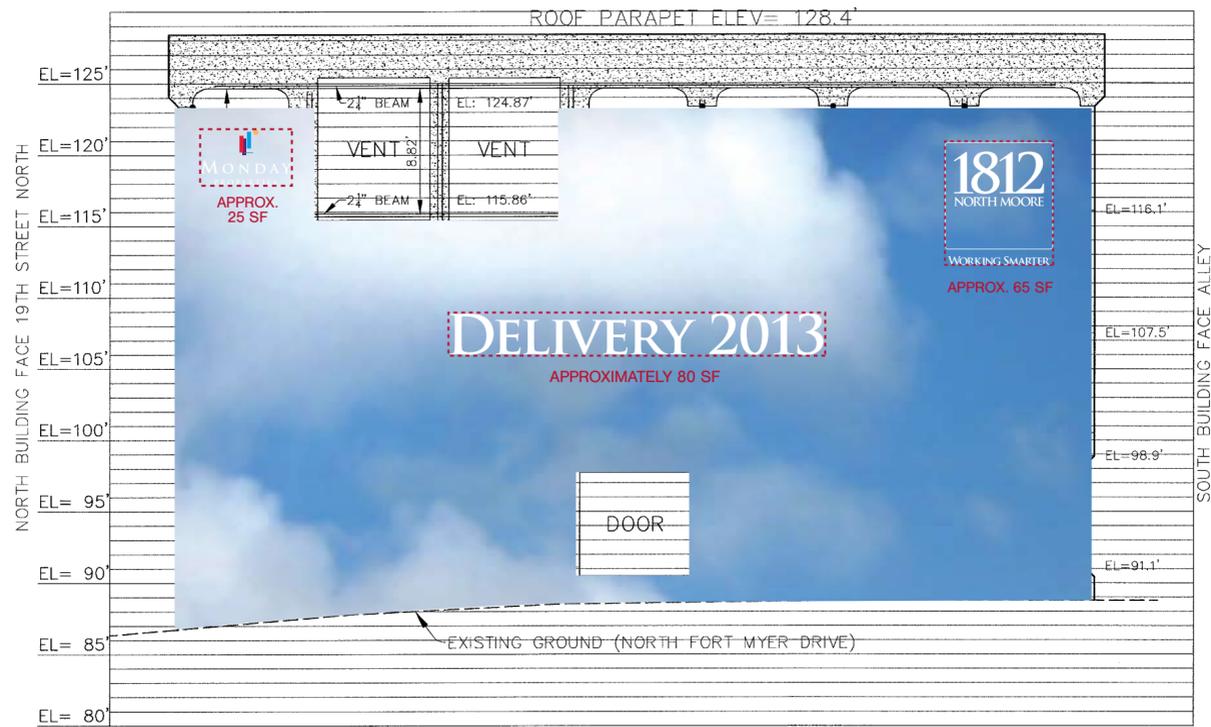
19th Street North



Alley

Total Area
 3,458 SF

Alley



North Fort Myer Drive

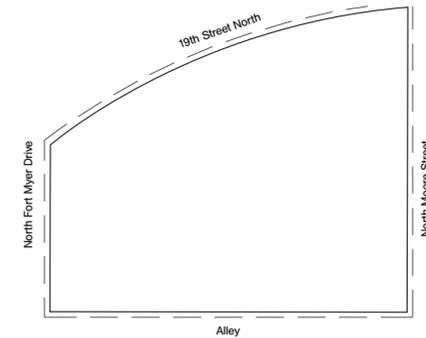
Total Area
2,132 SF

Total 1812 Signage
170 SF

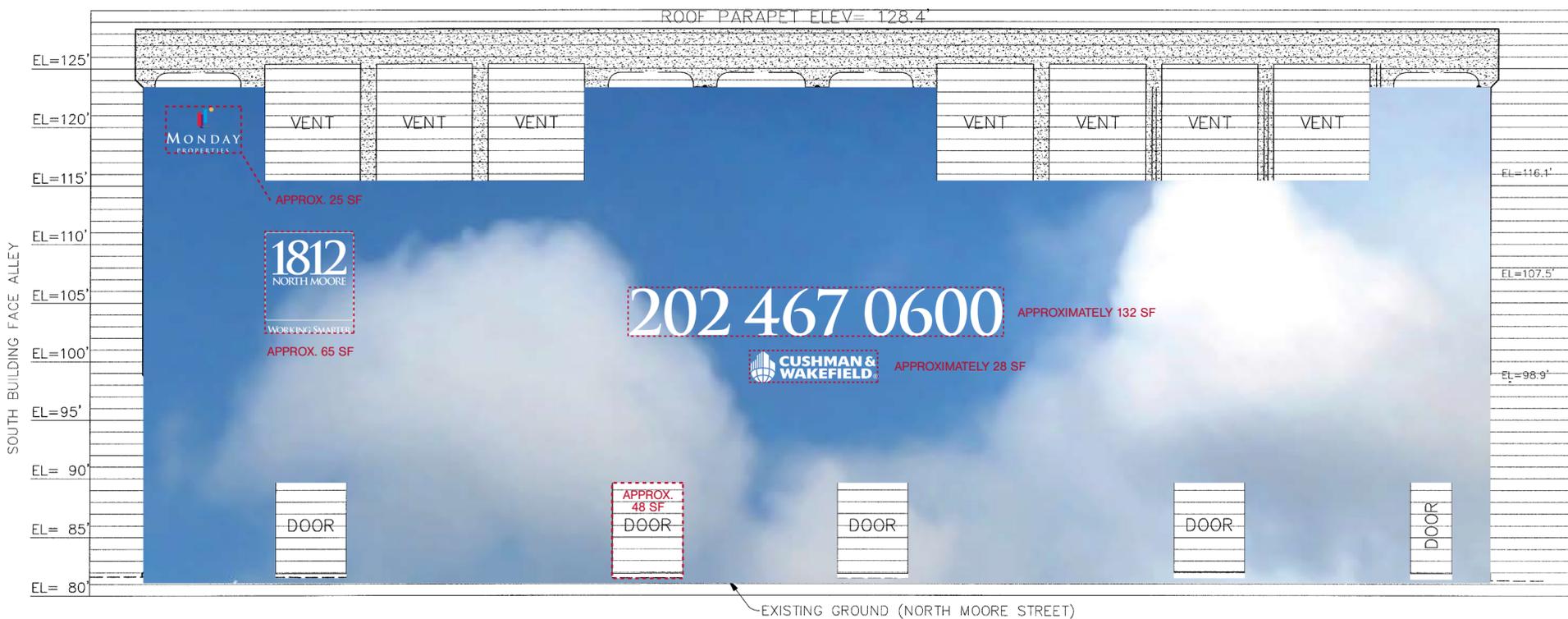
Delivery 2013
80 SF

1812 North Moore Logo
65 SF

Monday Properties Logo
25 SF



North Fort Myer Drive



North Moore Street

Total Area
4,102 SF

Total 1812 Signage
250 SF

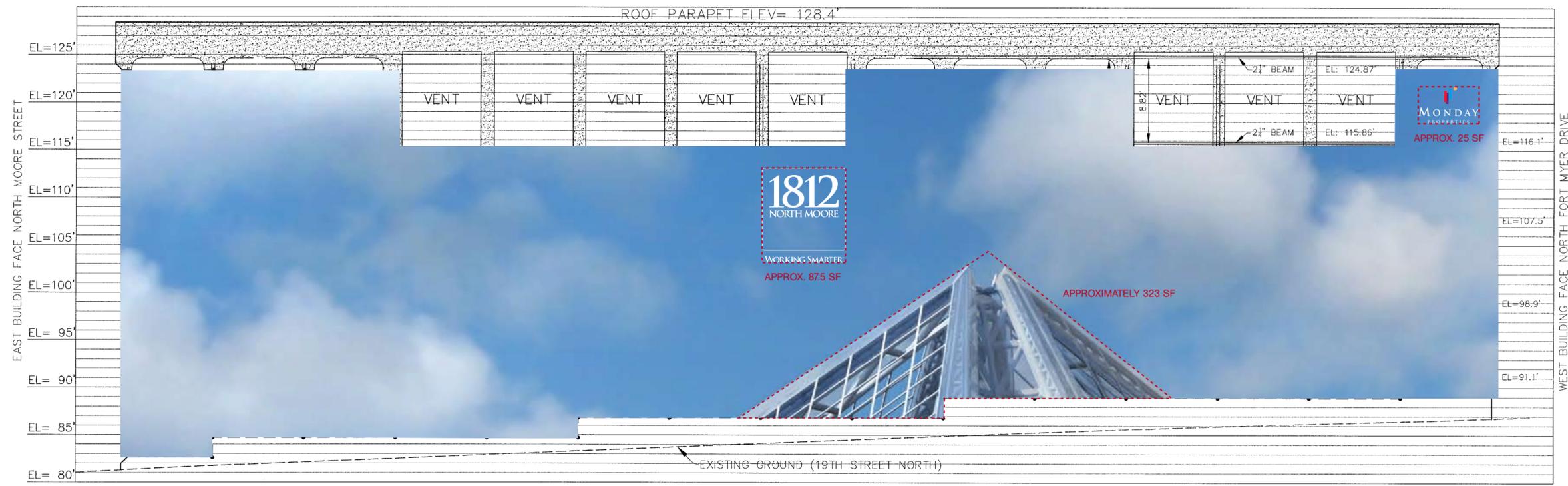
Contact
132 SF

1812 North Moore Logo
65 SF

Cushman & Wakefield Logo
28 SF

Monday Properties Logo
25 SF

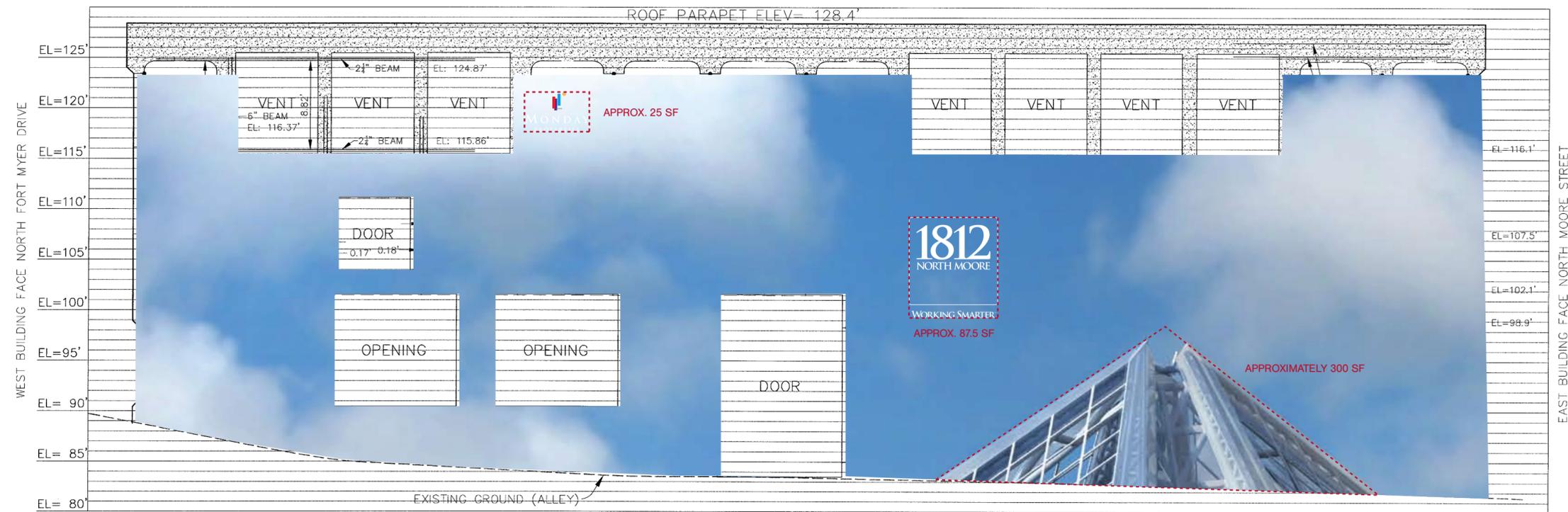
North Moore Street



19th Street North

Total Area	4,939 SF
Total 1812 Signage	435.5 SF
Building Crown	323 SF
1812 North Moore Logo	87.5 SF
Monday Properties Logo	25 SF

19th Street North



Alley

Total Area	3,458 SF
Total 1812 Signage	412.5 SF
Building Crown	300 SF
1812 North Moore Logo	87.5 SF
Monday Properties Logo	25 SF

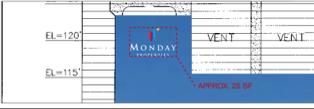
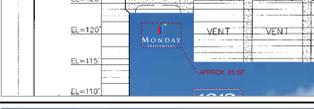
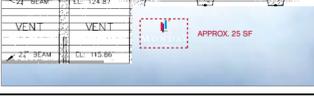
Alley

Monday Properties
1812 North Moore
Substation Concepts

Graham Hanson Design
21 October 2010
Page 5

Notes

The size of the building crown includes a 15 percent reduction to account for the transparent portions of the building top, through which the background can be seen

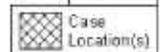
North Fort Myer Drive	80 SF	Delivery 2013	
	65 SF	1812 North Moore Logo	
	25 SF	Monday Properties Logo	
North Moore Street	132 SF	Contact	
	65 SF	1812 North Moore Logo	
	28 SF	Cushman & Wakefield Logo	
	25 SF	Monday Properties Logo	
19th Street North	323 SF	Building Crown	
	87.5 SF	1812 North Moore Logo	
	25 SF	Monday Properties Logo	
Alley	300 SF	Building Crown	
	87.5 SF	1812 North Moore Logo	
	25 SF	Monday Properties Logo	
Total	1,268 SF		



SP #18 SITE PLAN AMENDMENT
1815 N. Fort Myer Dr., 1850 N. Moore St.
(RPC #16-037-004, -005)

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

Department of Community Planning, and Housing Development



Planning Division