



## ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item  
Meeting of September 17, 2011

### SUPPLEMENTAL REPORT – REVISED CONDITIONS

**DATE:** September 13, 2011

- SUBJECTS:**
- A. Z-2552-11-1 REZONING from "C-2" Service Commercial - Community Business Districts to "MU-VS" Mixed Use Virginia Square Districts; for Ashton Overlook LC (Virginia Square Towers); located at 900-920 N. Kansas St., 3440 and 3444 Fairfax Dr., 845-913 N. Lincoln St., and 3425 Wilson Blvd., (RPC: 14-035-001, -002, -003, -005, -006, -008, -010, -011, -013, -014, -015, -016, -018, -020, -021, -022, -023, -024, -025).
  - B. SP # 416 SITE PLAN to construct up to 540 dwelling units and up to 12,815 square feet of retail and service commercial space for Ashton Overlook LC (Virginia Square Towers), located at 900-920 N. Kansas St., 3440 and 3444 Fairfax Dr., 845-913 N. Lincoln St., and 3425 Wilson Blvd.; (RPC # 14-035-001, -002, -003, -005, -006, -008, -010, -011, -013, -014, -015, -016, -018, -020, -021, -022, -023, -024, -025.)

### **C.M. RECOMMENDATIONS:**

1. Adopt the attached resolution to approve the rezoning request from "C-2" Service Commercial – Community Business Districts "MU-VS" Mixed Use Virginia Square Districts; located at 900-920 N. Kansas St., 3440 and 3444 Fairfax Dr., 845-913 N. Lincoln St., and 3425 Wilson Blvd., (RPC: 14-035-001, -002, -003, -005, -006, -008, -010, -011, -013, -014, -015, -016, -018, -020, -021, -022, -023, --024, -025.)
2. Adopt the attached resolution approving SP #416 to permit development of up to 540 residential units and up to 12,815 square feet of retail and service commercial space with modifications to zoning ordinance requirements for bonus density for affordable housing and LEED, and to exclude below-grade storage, vents, and vent shafts from density calculation, subject to the conditions of the staff report.

County Manager:

*BMD/GA*

County Attorney:

*CWM*      *GAH*

Staff: Peter Schulz, DCPHD, Planning Division  
Dolores Kinney, DES

**52. A., B.**

PLA-5963

**DISCUSSION:** This supplemental report is to revise Conditions #5, 63 and #81. Condition #5, the utility fund contribution, is being amended to reflect the total site area before dedication of a portion of Wilson Boulevard. County policy is to base the contribution on the site of an area before any dedications. The revision will result in an increase in the utility fund contribution from \$123,315 to \$128,500, to which the developer has agreed. The revision to Condition #63 is to clarify that a child care center is a permitted use in the commercial space. While a child care center is not a permitted use in the Retail Action Plan, it is a permitted use in the "MU-VS" zoning district. There is an identified need for Child Care Centers in the Rosslyn-Ballston Corridor. Condition #81 is being amended to add that the final cost to the developer of the multi-space parking meters will be determined as of the Final Engineering Plan. The applicant agrees to all revised conditions. The revisions are shown as highlighted and with double underline. The revised conditions are as follows:

### **Utility Fund Contribution**

5. In addition to funding and constructing the utility undergrounding work, the developer agrees to contribute in the amount specified in Site Plan conditions to the County utility fund before the issuance of the Building Permit or prorated consistent with an approved phasing plan for the development. The total utility fund contribution for this site is ~~\$123,315~~ \$128,500 (\$50,000 x ~~2.4663~~ 2.57 acres). These funds may, but need not, be used by the County for the purpose of providing the undergrounding of utilities along the properties which are not redeveloping in this undergrounding district. If the area of the site plan is subdivided, the contribution to be made by each owner shall be based proportionally on the amount of site area allocated to each subdivided parcel. The contribution, if not obligated by the County to pay for utility undergrounding projects within 10 years from the date of payment, will be refunded without any accrued interest to the development owners of record at the time of any refund.

### **Retail/Service Commercial Elements**

63. The developer agrees to market a minimum of 12,815 square feet of retail and service commercial space located on the first floor of the building to uses consistent with the approved Retail Action Plan for the Rosslyn-Ballston Corridor, dated January 2001 and the following:
  1. ~~The developer is encouraged to lease space designated for "personal or business services" in the Retail Action Plan to "Entertainment and Main Street Retail" businesses.~~ Except as otherwise specifically provided for in this condition, the developer agrees to design and use all commercial spaces for "personal or business services" as detailed in the Retail Action Plan, or other uses which, in the sole judgment of the Zoning Administrator, are of the same general character as those listed as such in the Retail Action Plan. In addition, the developer agrees that those spaces may be used for permitted uses listed in Section 21 of the Zoning Ordinance, or for child care centers as defined in Section 1 of the Zoning Ordinance, but not for general office uses. The developer may also market and use the retail/service commercial spaces for "Entertainment and Main Street Uses" as listed in the Retail Action Plan.

2. The commercial space shall be designed and used in a manner consistent with the Virginia Square Sector Plan, adopted in 2002.
3. Each separate commercial space shall have direct access to the building's service corridor areas.
4. The developer shall build out the retail and service commercial space to include the rough-in of utilities, i.e., sprinkler heads, plumbing, electrical wiring, and stubs for extensions.

The developer agrees to submit an application for administrative change for any proposal for retail or service commercial uses or parking not clearly consistent with the above. Unless otherwise expressly and specifically provided in this site plan condition, Any change in the use of the retail or service commercial space from retail or service commercial to office or other non-retail or service commercial use any use not permitted by this condition shall require a site plan amendment.

#### Wilson Boulevard Retail/Service Commercial Frontage

In addition to the provisions of this condition above, the developer agrees to market the service commercial space along Wilson Boulevard for retail or service commercial uses for initial lease-up during construction of the project and for a minimum of eighteen months to include six (6) months after the issuance of the first Certificate of Occupancy for occupancy of the South Building. The developer further agrees that the corner spaces (totaling approximately 2,300 square feet) on Wilson Boulevard shall always be marketed for retail or service commercial use. For the remainder of the commercial space along Wilson Boulevard (totaling approximately 4,900 square feet) (the "Flex Space"), the developer agrees that, in the event that 50% or more of the Flex Space in the South Building is not leased by retail or service commercial tenants within six (6) months after the issuance of the first Certificate of Occupancy for occupancy of the South Building or at any point thereafter, and if the developer has engaged in the marketing efforts called for in this condition, then any of the units/spaces within the Flex Space may be used as residential units (including home occupancy as defined in Section 1 and permitted in Section 31.A.12 of the Zoning Ordinance) upon application for and approval by the Zoning Administrator of an administrative change. Such application for administrative change shall be accompanied by proof of having diligently marketed the space for retail or service commercial use for a minimum of eighteen months to include six (6) months after the issuance of the first Certificate of Occupancy for occupancy of the South Building at initial lease-up or a minimum of 6 months at any point thereafter. If approved, such conversion shall be for a period of five (5) years from the date of approval by the Zoning Administrator. At the end of the five (5) year period, the developer agrees to diligently re-market the space for retail or service commercial uses for a period of one (1) year. During this time, the space may continue to be occupied by a residential tenant but the residential lease must be a month-to-month lease with the ability for the residential tenant to vacate with two (2) months notice if a commercial tenant is

secured. If the space is still not leased to a commercial tenant after the one (1) year remarketing period, the space may be used as a residential unit for an additional three (3) year period, upon application to and approval of the Zoning Administrator. The Zoning Administrator may approve the administrative change if she finds that the developer has presented evidence of having engaged in the marketing efforts called for by this condition. After the three (3) year period, any further conversions would require a minor site plan amendment. Each individual unit/space is permitted the two administrative conversion periods described above before a minor site plan amendment is required. The total maximum permitted dwelling units associated with these spaces when used as residential is up to six (6) dwelling units, in addition to the 534 multi-family units otherwise approved by this site plan.

**Multi-Space Parking Meters**

81. The developer agrees to contribute the cost, up to a maximum of \$36,000 of installation of multi-space parking meters along the project's frontage. The number of meters and the amount of the cost of installation will be determined by the Final Engineering Plan and the resulting contribution shall be paid in one installment prior to the issuance of the first Certificate of Occupancy for the first phase of the project.