



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of April 21, 2012

**DATE:** April 12, 2012

**SUBJECT:** Request to Advertise a public hearing on a proposed amendment to U-3199-08-2 Use Permit for Arlington Mill Residences to modify Condition #26 to eliminate the requirement that affordability continue after foreclosure to bring this use permit into compliance with VHDA financing requirements; located at 901 S. Dinwiddie St. (RPC #22-001-724)

**Applicant:**

Arlington Mill Development Corporation  
Nina Janopaul  
2704 North Pershing Drive  
Arlington, Virginia 22201

**C.M. RECOMMENDATION:**

Authorize advertisement of a public hearing by the County Board on May 19, 2012, to consider amending #U-3199-08-2 Use Permit for Arlington Mill Residences to modify Condition #26 related to the way affordable housing requirements are described.

**ISSUES:** This is a request for authorization by the County Board to advertise a public hearing by the County Board on amendments to the Arlington Mill Residences Use Permit in order to allow the project to meet VHDA requirements for financing. There are no known issues at this time.

**SUMMARY:** The Arlington Mill Development Corporation is applying for a use permit amendment. This is a request to advertise a use permit amendment for the Arlington Mill Residences at 901 South Dinwiddie Street. The proposed amendment would revise the affordable housing requirements so that, if VHDA's loan is foreclosed, the affordable housing requirement would no longer apply to the property. The language change is required so that the project can meet the requirements for financing by the Virginia Housing Development Authority (VHDA).

County Manager:

*BMD/GA*

County Attorney:

Staff: Natalie Sun, DCPHD, Planning  
Maureen Markham, DCPHD, Housing

PLA-6175

39.

**BACKGROUND:** The use permit for the Arlington Mill Residences (the Project) was approved under the Columbia Pike Form-based code in February 2011 for the construction of a 122 unit apartment building at 901 South Dinwiddie Street, adjacent to the site of the new Arlington Mill Community Center. The Project will be situated upon a parcel of land that is owned by Arlington County and leased to the applicant for an initial lease term of 75 years (the Ground Lease). Condition #26 requires that 121 of the units in the Project be affordable to households earning 60% of the Area Medium Income (AMI) or such lower amounts as the Developer and County may mutually agree for the life of the Ground Lease.

This request for authorization by the County Board to advertise amendments to the Arlington Mill Residences Use Permit would allow the County Board to consider changes that allow the project to meet requirements for financing by the Virginia Housing Development Authority (VHDA).

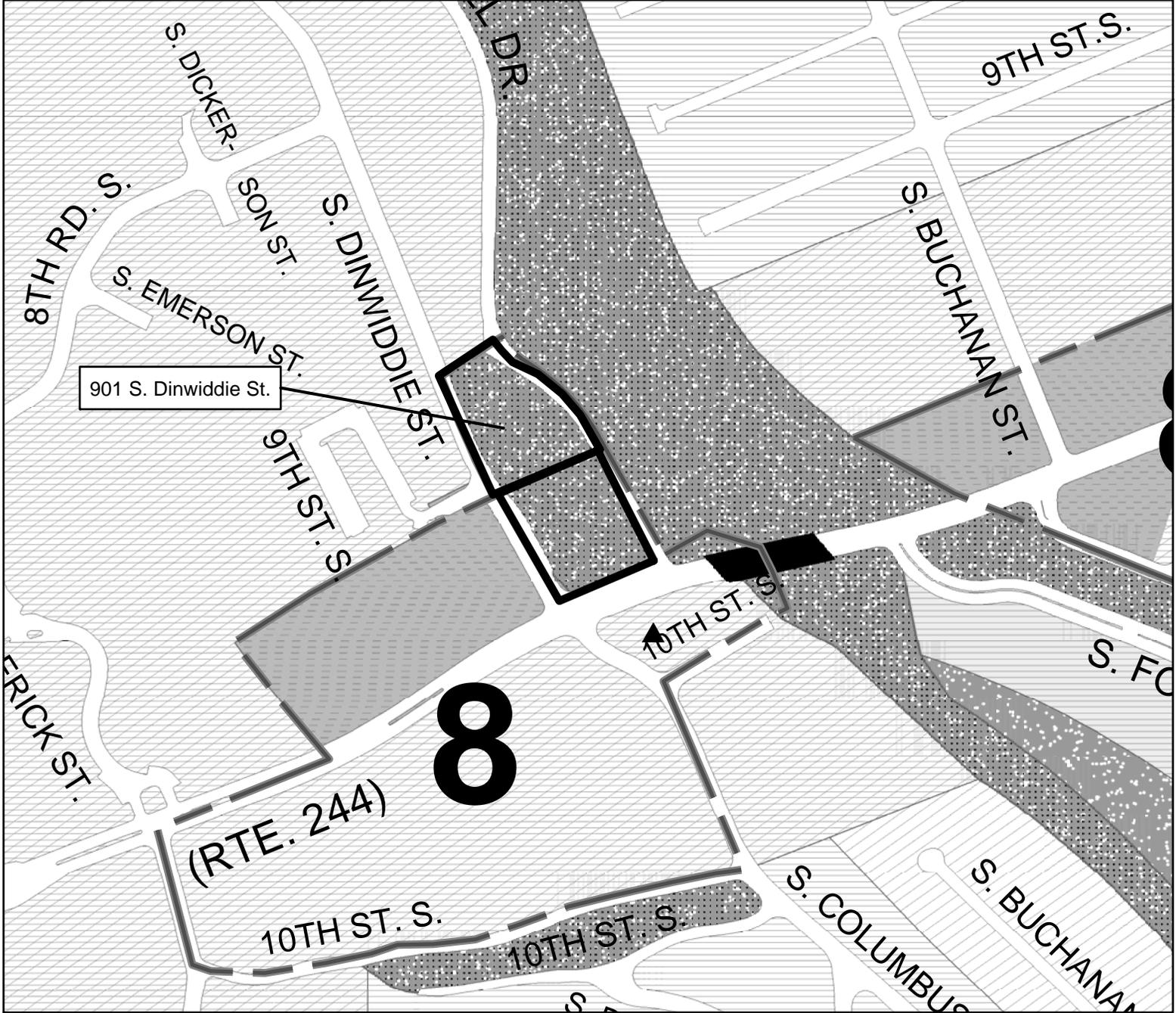
**DISCUSSION:** The applicant is applying for construction and permanent financing for the leasehold improvements from Virginia Housing Development Authority (VHDA). In order for VHDA to approve the financing application, it must also approve the Ground Lease. Under VHDA's Policy on the Financing of Leasehold Estates, any ground lease that is to be approved by the VHDA Commissioners must contain terms that, upon foreclosure by any lender, terminate the income rent restrictions for the balance of the lease term. Condition #26 of the Use Permit Amendment, as currently written, provides that affordability restrictions would survive a foreclosure event and would preclude the foreclosing lender from removing the income rent restrictions.

In order for VHDA to approve the Ground Lease and the financing application, the language in Condition #26 of the Use Permit Amendment needs to be re-written to be consistent with VHDA's policy. This will create a circumstance in which the committed units may no longer be affordable but, absent the changes, the project may not go forward. The applicant is working with County Staff, the County Attorney, and attorneys from VHDA to develop revised language that is acceptable to all the parties that will preserve the County's commitment to affordable housing while granting VHDA relief from the requirements in the unlikely event of a foreclosure. It should be noted that the County has the right to cure a default before a foreclosure event occurs, and therefore the ability to maintain the units as committed affordable.

**CONCLUSION:** It should be noted that a recommendation to authorize advertisement does not imply support of approval of the proposed use permit amendment. Therefore, staff recommends that the County Board advertise a public hearing by the County Board on May 19, 2012, to consider amending U-3199-08-2 Use Permit for Arlington Mill Residences to modify Condition #26 to eliminate the requirement that affordability continue after foreclosure to bring this use permit into compliance with VHDA financing requirements.

**Proposed revision to Condition #26:**

26. The developer agrees that the land underlying the Arlington Mill Residences is being made available to the housing developer through a Ground Lease for the purpose of providing affordable housing. Therefore, the developer agrees that no permits will be issued for this project until a lease for the subject property that is acceptable to the County Manager, has been executed by both the County and the developer. The developer agrees that the lease will provide, among other things, that 99% of the apartments will be affordable (121 of 122 units) to households earning 60% of the Area Median Income (AMI) and such lower amounts as the Developer and County may mutually agree in the terms of the lease for so long as such requirements are applicable under the Ground Lease. Rents for the 121 units will remain affordable for the life of the Ground Lease (at least 75 years). The developer agrees to implement and comply with the affordability requirements described in the Deed of Ground Lease for Arlington Mill Residences, particularly in Article IV Section 4.04 and with Exhibit C Affordable Housing Program of the Ground Lease approved on October 31, 2011 and as may be amended from time to time by mutual agreement of the parties, for so long as such requirements are applicable under the Ground Lease.



**Request to Advertise:**  
**901 S. Dinwiddie Street**  
**RPC #22-001-724**

**Legend**

**Land Use Category**

**Residential**

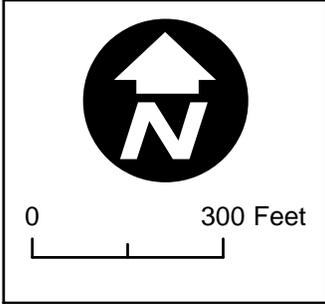
-  Low: 1-10 Units/Acre
-  Low: 11-15 Units/Acre
-  Low-Medium: 16-36 Units/Acre
-  Medium: 37-72 Units/Acre
-  High-Medium: 3.24 F.A.R.

**Commercial and Industrial**

-  Service Commercial

**GOVERNMENT OWNED**

-  Background Shading will Vary
- Public and Semi-Public**
-  Public
-  Semi-Public
-  **Open Space**




**ARLINGTON**  
 VIRGINIA

Map prepared by Arlington County  
 GIS Mapping Center  
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 Printed: April 2012

**8. These areas were designated a "Special Revitalization District": Columbia Pike on 11/15/86 and amended on 12/17/02.**