



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of June 16, 2012

DATE: June 6, 2012

SUBJECT: SP #364 SITE PLAN AMENDMENT to modify site plan condition #66 to allow for the change in use of area required for convenience service or retail to a residential condominium unit; located at 2220 Fairfax Drive and 2303 N. 11th Street (RPC# 18-084-016).

Applicant:

Woodbury Park Condominium Development Associates, LLC

By:

Andrew A. Viola, Vice President
Bush Construction Corporation
2000 Clarendon Boulevard, Suite 1000
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Adopt the attached ordinance to approve a site plan amendment to SP #364 to allow for the change in use of 1,000 square feet of convenience service area/retail space to residential, thereby eliminating Condition #66.

ISSUES: This is a site plan amendment request to modify Condition #66 in order to allow for the change in use of space required for convenience service area or retail to a residential unit.

SUMMARY: A site plan amendment is requested for the Woodbury Park site plan project (SP #364). The proposed amendment would allow for the change in use of 1,000 square feet of convenience service area/retail to a residential unit. When the site plan was approved in October 2003, it was intended that the subject space would provide convenient access to retail or service commercial uses for the residents of the Woodbury Park community. However, because convenience retail is intended to be solely for the use of tenants, restrictions on the advertising and marketing make it not as viable where other retail is available. As such, retail and marketing efforts by the applicant have been unsuccessful to date, and the space has never been occupied or used as approved in 2003. Finally, in 2007, the County Board approved more than 33,000

County Manager:

BMD/GA

County Attorney:

[Handwritten signatures]

Staff: Samia Byrd, DCPHD, Planning Division

PLA-6218

5.

square feet of commercial retail for a site plan project that is conveniently located to the Woodbury Park community¹. Therefore, the convenience retail is not needed at this location, and staff supports converting the 1,000 square feet of convenience service area/retail space to a residential condominium unit as the best use for the space¹. Therefore, staff recommends that the County Board adopt the attached ordinance to allow for the change in use of 1,000 square feet of convenience service area/retail space to residential, thereby eliminating Condition #66.

BACKGROUND: Woodbury Park, SP #364 was approved by the County Board in October 2003. The approved development is comprised of 206 residential units in two (2), nine (9)-story condominium buildings referred to as The Frederick at Courthouse and The Park at Courthouse Condominiums, and 364 rental units in the Woodbury Park garden apartment buildings built in 1949. In addition, the County Board approved a 3,700 square foot community center, 8,500 square feet of office GFA for Arlington Housing Corporation (AHC), and 1,000 square feet of convenience service area or retail use to be located within the high-rise condominium buildings. A site plan amendment is needed to allow for the change in use of the 1,000 square foot convenience service area/retail space to a residential unit per Condition #66.

The following provides additional information about the site and location:

Site: The subject site is located within the Courthouse Metro station area on the block generally bounded by N. Fairfax Drive to the north, Arlington Boulevard to the east, 10th Street North to the south, and N. Barton Street to the west. Adjacent and surrounding land uses include:

- To the North: Rocky Run Park, “S-3A”; Vista on Courthouse, formerly Abingdon Heights (SP #75), “RA-H”; Williamsburg Condominiums, RA-H 3.2; and Colin Place, RA-H 3.2.
- To the East: Vacant parcel zoned “RA8-18”.
- To the South: Across 10th Street North, Sheffield Court Apartments; RA6-15”.
- To the West: Dominion Power owned site, “R-5” and a passive park and community garden on “RA 6-15” provided in easement to the County by the Barton House Apartments located across N. Barton Street.

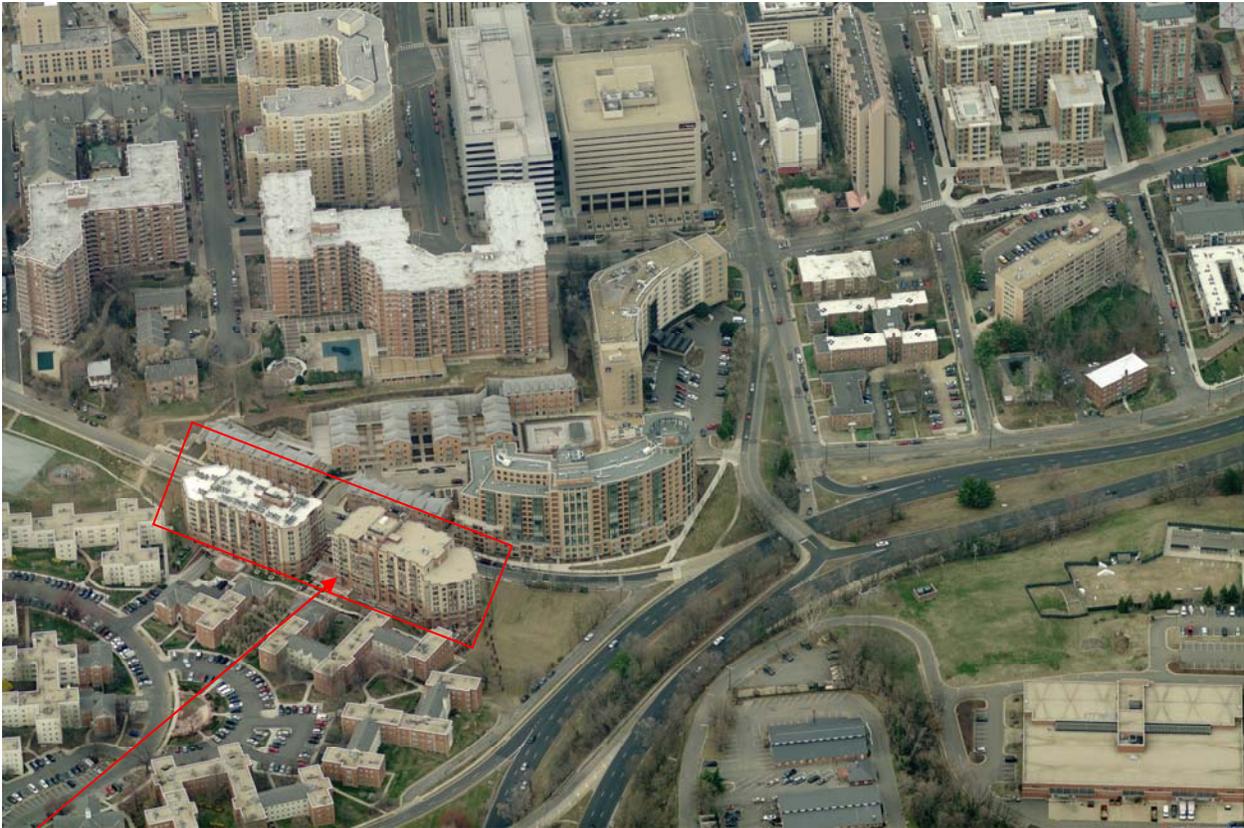
Zoning: The site is zoned [“RA 6-15”, Apartment Dwelling Districts.](#)

Land Use: The site is designated as “Medium” Residential (37-72 units per acre) on the [General Land Use Plan.](#)

Neighborhood: The site is located within the Clarendon Courthouse Civic Association. The CCCA has been contacted, but is not providing a formal position on the subject amendment due to the timing of the review period and County Board meeting in relation to the next scheduled Civic Association meeting date on which the matter could be considered. Members have indicated that the retail space was conditioned as a public benefit and that should this public benefit no longer be found to be necessary, some other appropriate public

¹ 2201 Pershing Drive (SP #406) is approved for 33,500 sq ft of commercial retail which is currently under construction.

benefit should be considered in lieu of providing the dedicated retail space for the Woodbury Park residents. The applicant is not proposing any benefits to off-set the conversion of the retail space to a condominium unit. While the applicant's agreement to provide dedicated retail to the project as a convenience to the residents of the Woodbury Park community was considered as a benefit of the project, there were other significant public benefits and major County goals achieved. Most significant was the realization of 312 committed affordable housing units funded without County funds which included the preservation of 200 existing units and the addition of 112 new units in the subject condominiums.



Location of Convenience Service Area/Retail on the ground floor of the Park at Courthouse Condominium building

DISCUSSION: Site Plan Condition #66 requires the developer to provide no more than 1,000 square feet of gross floor area on the ground floor of the east condominium building as convenience service area or retail space. In the “RA 6-15” Zoning District, the provision of retail in apartment buildings is limited to convenience service area, which is permitted only by special exception and subject to the limitations set forth in [Section 1 of the Arlington County Zoning Ordinance](#). Condition #66 cites these provisions verbatim setting forth the following requirements for the 1,000 square foot space:

- No window displays or advertisements facing Fairfax Drive.
- No entrance to shops adjacent to Fairfax Drive, except from inside the building.

- No signs advertising such shop or services shall be visible from outside the building adjacent to Fairfax Drive.
- Commodities or services offered limited to those under the general classification of grocers, drugs, and valet service.
- No deliveries made from the shop outside of the building or project.
- Encourage retail tenant to advertise employment opportunities within each residential building giving consideration to employing Woodbury Park residents.
- Hours of operation as extensive as commercial practicable.

These limits as embedded in the ordinance as part of the definition of convenience retail are not conducive to successful retail in some locations; and where, as at this location as further discussed below, other retail is available and/or planned, convenience retail within a building can be neither necessary nor viable.

At the time of site plan approval, it was intended that the space be provided so that residents of the Woodbury Park community would have convenient access to sundries and general items. However, the subject space is located interior to the site with no direct access or frontage on the street, fronting on an interior courtyard. The location and siting of the space in addition to the above Condition language which limits advertising, restricts the location of entrances to the space and signs fronting on Fairfax Drive, have diminished the opportunity for successful, viable retail and negating the purposes for which it was intended and approved. . The space has in fact been vacant since the building was completed despite continued marketing and leasing efforts (See the Attached Letter). Further, the [Rosslyn-Ballston Corridor Retail Action Plan](#) does not identify the subject site or block as one where retail of any type should be located.

It should be noted that since the time of approval of Woodbury Park, there have been several site plan projects approved with significant commercial retail uses in the Courthouse station area. . Specifically, in 2007 the County Board approved SP #406, 2201 Pershing Drive for 109 residential units and approximately 33,500 square feet of commercial/retail. The project located at the corner of Arlington Boulevard and Pershing Drive is under construction and is within walking distance to the Woodbury Park community. When completed the commercial retail use would be convenient and accessible to the residents of Woodbury Park such that the loss of 1,000 square feet of space planned for convenience service area in 2003, but never leased as such would have no effect of loss to the Woodbury Park community.

Finally, the conversion of the approved convenience service area to a residential unit would not impact the approved density for the project. In the “RA 6-15” zoning district, density was calculated as units per acre. The approved density is 54 units per acre, yielding a total of 571 residential units (includes both existing and new construction). “As-built” there is existing within the project a total of 570 residential units. Therefore, the conversion of the convenience service area to a residential unit will not increase the residential density beyond what was approved for the project by the County Board in 2003.

CONCLUSION: The proposed change in use of the approved convenience service area/retail space to a residential unit at the Park at Courthouse Condominium would allow for the best use of the space which has been vacant since construction of the building was completed in 2007 despite continuous marketing and leasing efforts. . The intent of the requirement to provide convenience retail in the building was to allow for residents to have direct access to good and services. With nearly 33,000 square feet of retail approved in the immediate vicinity of the site, the residents of Woodbury Park will have convenient access to commercial retail services as originally intended. As such, convenience retail in the building is not necessary. Finally, converting the retail space to a residential unit would not increase the project density beyond that approved by the County Board. Therefore, staff recommends that the County Board adopt the attached ordinance to allow for the change in use of 1,000 square feet of convenience service area/retail space to a residential unit, thereby eliminating Condition #66.

Site Plan Amendment Ordinance

WHEREAS, an application for a Site Plan Amendment dated March 28, 2012 for Site Plan # 364, was filed with the Office of the Zoning Administrator; and

WHEREAS, as indicated in Staff Report[s] prepared for the June 16, 2012 County Board 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[s]; and

WHEREAS, the County Board held a duly-advertised public hearing on that Site Plan Amendment on June 16, 2012 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 March 28, 2012 for Site Plan # 364, and as such application has been modified, revised, or amended to include the drawings, documents, conditions and other elements designated in Condition 1 below (which drawings, etc... are hereafter collectively referred to as “Revised Site Plan Application”), for a Site Plan Amendment to allow for a change in use of convenience

service area/retail to residential, for the parcel of real property known as RPC# 18-084-016 and 2220 Fairfax Drive and 2303 N. 11th Street, approval is granted and the parcel so described shall be used according to the Site plan as originally approved on October 4, 2003 and amended from time to time as shown in the records of the Office of Zoning administration, and as amended by the Revised Site Plan Application, subject to the all previous conditions, except that the following condition is deleted:

66. ~~The developer agrees to provide convenience service area or retail in space located on the ground floor of the east building, to not exceed 1,000 square feet of gross floor area. The primary intent of the convenience service area or retail is to serve both the residents living within the new buildings and those living in the existing development. Any change in the use and/or significant change in the size of the space shall require County Board approval. The use and treatment of the space shall be consistent with Section 1 of the Zoning Ordinance, be reviewed and approved by the County Manager or his designee prior to the issuance of the first Certificate of Occupancy for the building, and the following restrictions shall apply:~~
- ~~a. There shall be no window displays or advertisements that face Fairfax Drive.~~
 - ~~b. There shall be no entrance to shops adjacent to Fairfax Drive, except from inside the building.~~
 - ~~c. There shall be no signs advertising such shop or services that shall be visible from outside the building adjacent to Fairfax Drive.~~
 - ~~d. Commodities or services offered shall be limited to only those under the general classification of groceries, drugs and valet service.~~
 - ~~e. There shall be no deliveries made from the shop outside of the building or project.~~
 - ~~f. The developer shall encourage the retail tenant to advertise employment opportunities within each residential building and shall give consideration to employing Woodbury Park residents. The developer shall also encourage the retail tenant to hire Woodbury Park residents where practicable.~~
 - ~~g. Hours of operation of the retail space shall be as extensive as commercially practicable.~~

PREVIOUS COUNTY BOARD ACTIONS:

1961	Designated “High-Medium Residential” on the General Land Use Plan (GLUP).
Between 1961 and 1977	Designated “Low-Medium Residential” on the GLUP.
October 5, 1976	Deferred rezoning Z-2080-76-1 (from RA8-18 to RA-H-3.2) and associated site plan to February 1, 1977.
January 11, 1977	Amended the General Land Use Plan from “Low-Medium” to “Medium Density Residential”.
February 1, 1977	Deferred rezoning Z-2080-76-1 (from RA8-18 to RA-H-3.2) and associated site plan, and authorized advertising on Board’s own motion rezoning from RA8-18 to RA6-15 to June 7, 1977.
June 7, 1977	Deferred rezoning Z-2080-76-1 (from RA8-18 to RA-H-3.2) and associated site plan, and authorized advertising on Board’s own motion rezoning from RA8-18 to RA6-15 to October 4, 1977.
October 4, 1977	Deferred rezoning Z-2080-76-1 (from RA8-18 to RA-H-3.2) and associated site plan, and authorized advertising on Board’s own motion rezoning from RA8-18 to RA6-15 to February 11, 1978.
February 11, 1978	Deferred rezoning Z-2080-76-1 (from RA8-18 to RA-H-3.2) and associated site plan, and authorized advertising on Board’s own motion rezoning from RA8-18 to RA6-15 to March 18, 1978.
March 18, 1978	Granted rezoning Z-2080-76-1 (from RA8-18 to RA6-15), and accepted withdrawal of associated site plan application.
December 7, 2002	Deferred SP #364 Site Plan Approval Request for approximately 631 dwelling units, approximately 15,000 square feet of office and retail gross floor area, new community center, and modification of use regulations for density, parking, and building height to February 8, 2003.

February 8, 2003	Deferred SP #364 Site Plan Approval Request for approximately 631 dwelling units, approximately 15,000 square feet of office and retail gross floor area, new community center, and modification of use regulations for density, parking, and building height to April 26, 2003.
April 26, 2003	Deferred SP #364 Site Plan Approval Request for approximately 631 dwelling units, approximately 15,000 square feet of office and retail gross floor area, new community center, and modification of use regulations for density, parking, and building height to July 19, 2003.
July 19, 2003	Deferred SP #364 Site Plan Approval Request for approximately 631 dwelling units, approximately 15,000 square feet of office and retail gross floor area, new community center, and modification of use regulations for density, parking, and building height to September 13, 2003.
September 16, 2003	Deferred SP #364 Site Plan Approval Request for approximately 578 dwelling units, approximately 8,500 square feet of office gross floor area, 1,000 square feet of retail gross floor area, a 3,700 square foot community center, and modifications of use regulations for office use in the "RA6-15" Zoning District, and density and building height to October 4, 2003
October 4, 2003	Approved SP #364 Site Plan Approval Request for a site plan for approximately 571 dwelling units, approximately 8,500 square feet of office gross floor area, 1,000 square feet of retail gross floor area, a 3,700 square foot community center, and modifications of use regulations for office use in the "RA6-15" Zoning District, and density and building height.
December 15, 2004	Approved a minor amendment to SP #364 to include patios and balconies, change facades, delete water feature, extend wall, eliminate stairs, path and plaza.

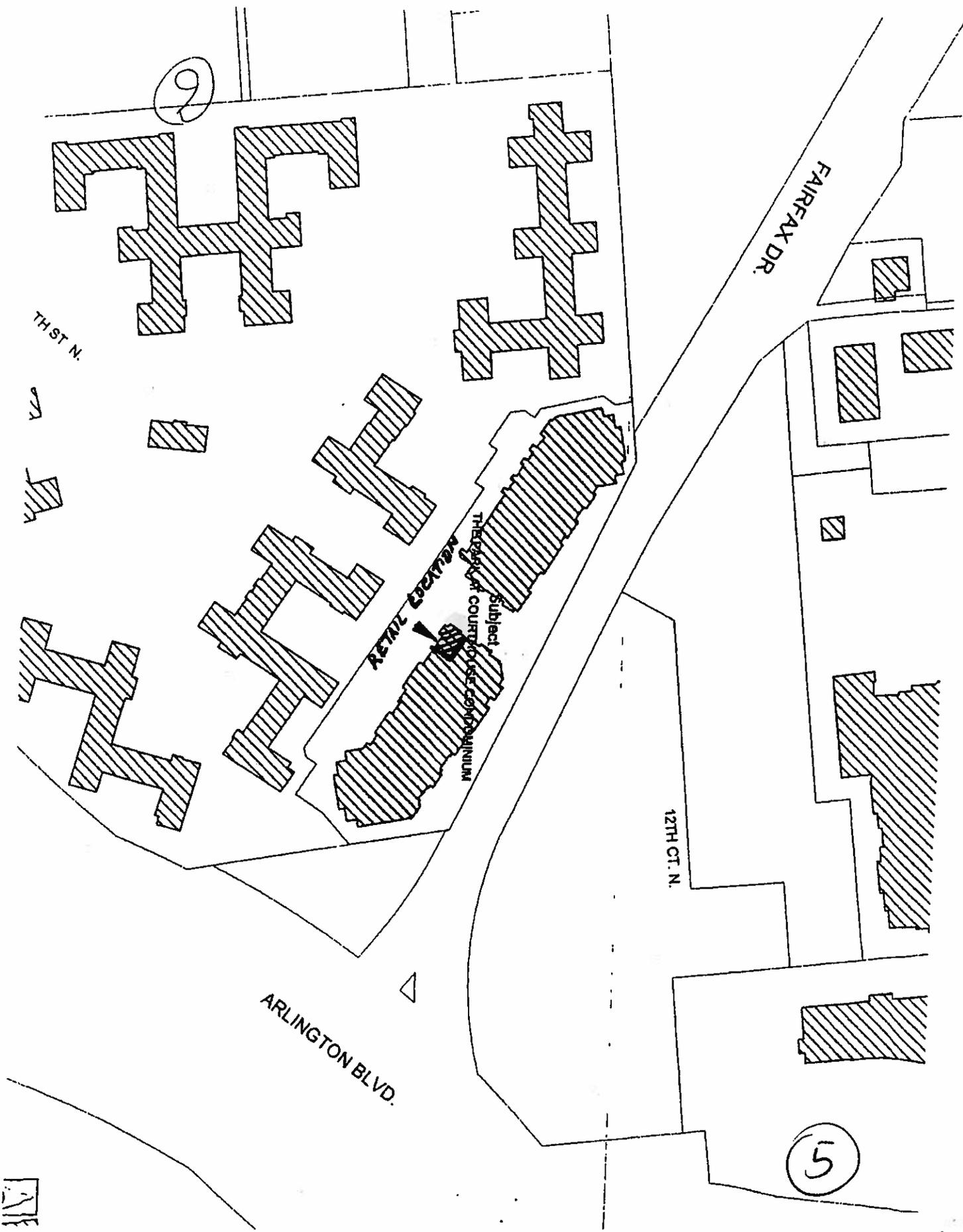
July 22, 2008

Approved a site plan amendment to amend condition #67, a Montessori school, and a review in one (1) year (July 2009).

July 14, 2009

Renewed a site plan amendment for a Montessori school with a review in three (3) years (July 2012).

ⁱ 2201 Pershing Drive (SP #406) is approved for 33,500 sq ft of commercial retail which is currently under construction.



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FAIRFAX DR.

7TH ST N.

RETAIL CENTER

Subject THE PARK AT COURTOUSE CONDOMINIUM

12TH CT. N.

ARLINGTON BLVD.

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Woodbury Park

N. Falls Dr.
Albany, N.Y.

AKC
Limited Partnership - 7

and

Woodbury Park Condominium
Development Partners, LLC

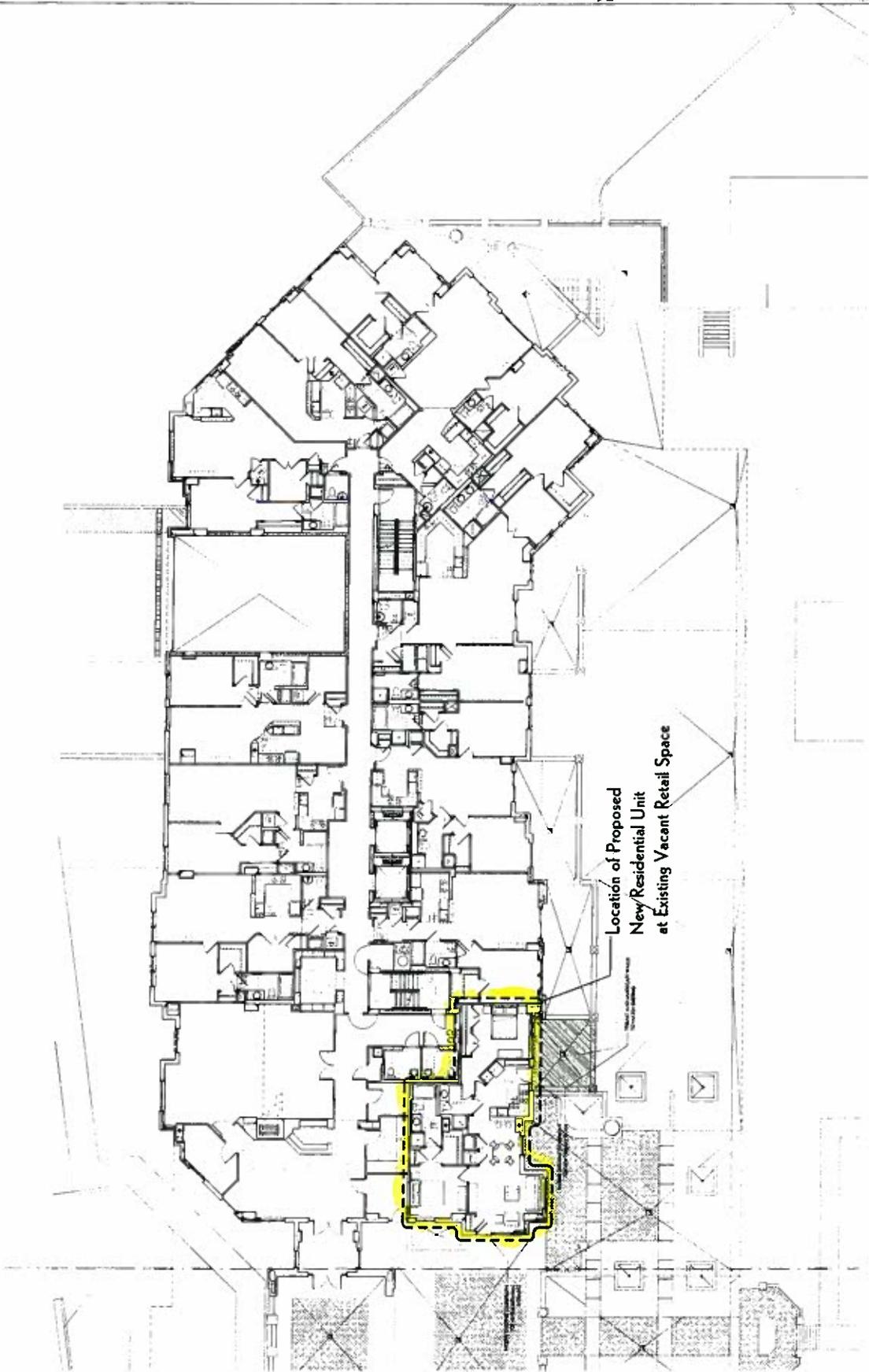
1000 Woodbury Park, Suite 200
Woodbury, NJ 07095
Tel: 908.443.2000
Fax: 908.443.2001
www.wdga.com



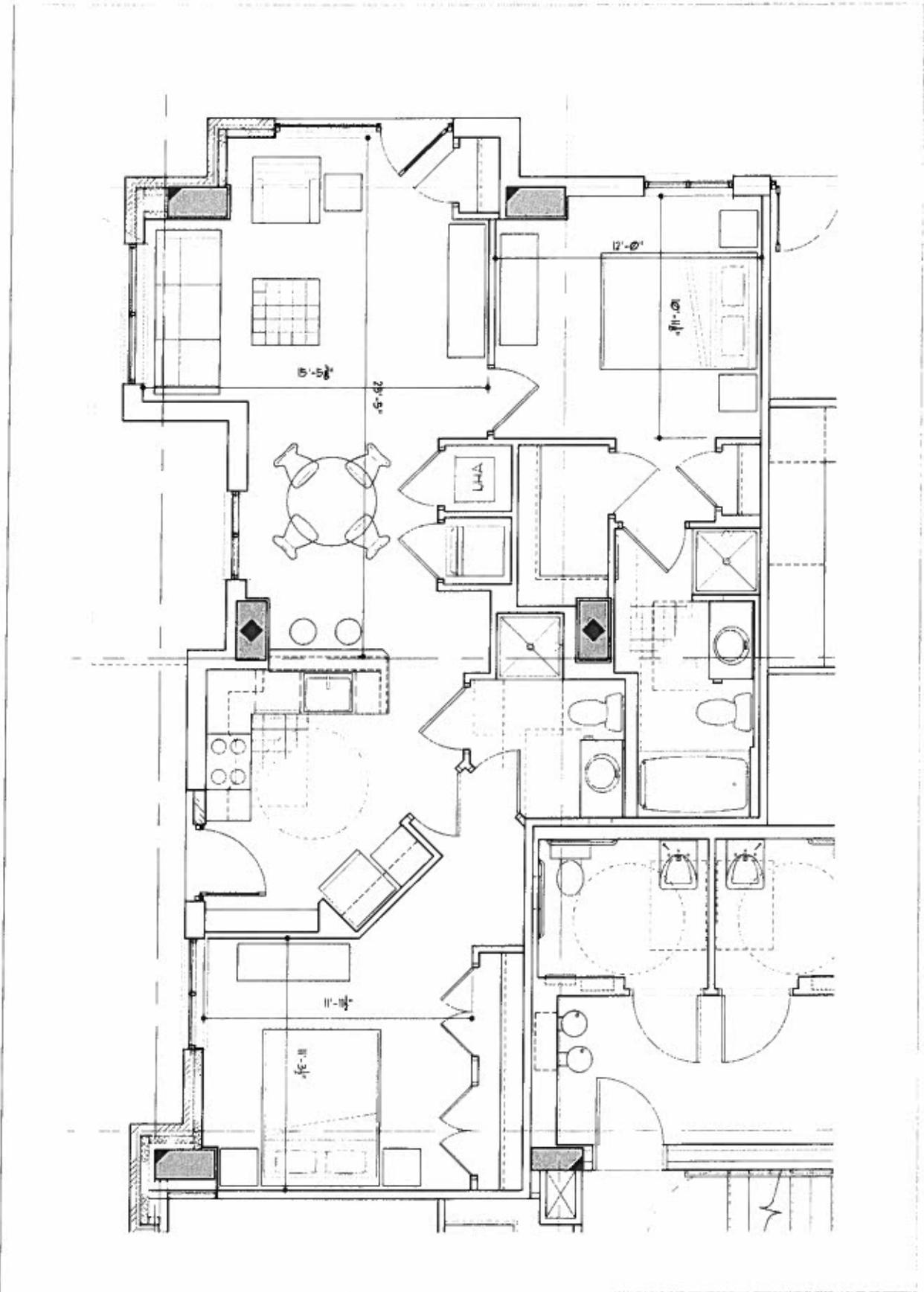
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Location of Proposed
New Residential Unit
at Existing Vacant Retail Space





THE PARK
at Courthouse
A COMMUNITY DEVELOPMENT

Woodbury Park Condominium Development Associates, LLC

May 22, 2012

Ms. Samia Byrd
Principal Planner, Site Plan Coordinator
Department of Community Planning, Housing & Development
2100 Clarendon Boulevard
Suite 700
Arlington, VA 22201

Re: Woodbury Park (SP # 364)
Site Plan Condition #66

Dear Ms. Byrd:

This letter is in response to your request, received via email and dated May 22, 2012, for information regarding our marketing efforts for the retail space that is the subject of a minor site plan amendment to convert said retail to a residential condominium unit.

On August 7, 2007, to comply with site plan condition #66, we submitted a writing to Zoning as to the intended use of the space, what marketing efforts were to ensue and an alternative use in the event the marketing efforts proved fruitless.

It should be noted that, as of the date of the letter to Zoning, no marketing efforts had been expended for two reasons, which are interrelated. First, the initial deliveries of sold condominiums occurred in October 2007. Second, “mom and pop” operations, perceived as the likely user for the space, do not typically pursue a space until the project is complete since they do not typically possess the ability to visualize as would be expected of a national prospect.

On or about the time of the Zoning letter, we inquired of the Arlington Economic Development Office as to whether particular uses were expected and as to a list of recommended retail brokers. In fact, at the time of the Zoning letter, we wrote to one of the recommended brokers, John Asadoorian, inquiring as to his thoughts regarding prospects for the space. (We wish to point out that, at the time, Asadoorian was the listing retail broker for vacant space at Station Square, another project co-developed by an affiliate of Bush Construction Corporation. In turn, he had a vested interest in providing a candid assessment.) Asadoorian informed us that, given 1) the lack of visibility with the retail space’s orientation away from Fairfax Drive, 2) restrictions on window displays or advertisements facing Fairfax Drive and 3) restrictions on the visibility of advertising signs to Fairfax Drive, any use would have to be internal to the Woodbury Park development, i.e., expect to be limited to serving the 500 plus household of the Woodbury Park community.

Thus, harnessed with the realization of the inherent limitations of the space, we set out to find viable prospects to rent or purchase the space. With the experience of Station Square, with respect to rents and sales values, unfolding,

Ms. Samia Byrd
May 23, 2012
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i.e., rents of \$45 per square foot and sales values of \$450 per square foot, we adjusted our expectations in this location to a triple net rent of \$25 per square foot or, alternatively, a sales value of \$250,000 (\$250 per square foot). In October 2007, we reached out to Paul Park, who had leased space in our Arlington Courthouse Place development and also operated a business in a Charles E. Smith building. He expressed interest in buying the space at \$225 to \$250 per square foot or renting it at a rate of \$18 to \$22 per square foot. Two weeks later, in early November, Park informed us that he was not interested because "he had too much on his plate".

We then pursued a second prospect, Sun-Ho Moon, who operated stores at the Meridian Courthouse and Meridian Ballston. About this time, the economic downturn was taking hold and aggressive retail expansion was on the wane. Interest from this second prospect went no further than an initial contact. A third prospect expressed interest in a Mongolian market in the winter of 2008. When we finally obtained financial information in the April/May 2008 time frame, it became evident the prospect was not financially viable.

Around this time, we reached out to other brokers, Bill Lillis of Virginia Management, Kenneth Goldberg of Uniwest, Ken Matzkin of Buck and Associates and Tom Papadopoulos of Papadopoulos Properties. All efforts proved to be of no avail. That has been the case for the past four years, punctuated occasionally by an inquiry by a broker or a prospect that is not retail.

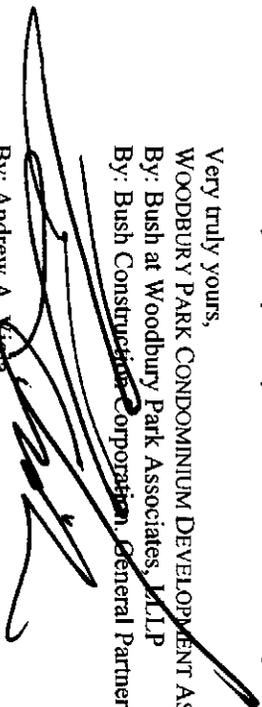
It is our view that the situation continues to be the result of two factors. One, with the continuing poor economic conditions, retail deals are only getting done for good retail space. Two, our space is not a good retail opportunity given the inherent limitations resulting from its physical location and the limitations imposed by the site plan condition. Candidly, it would not matter what the site plan limitations, as the county has begun to accept, retail will not thrive at any and all locations. For retail to thrive, it takes the retail synergy that is garnered by clustered retail establishments.

Should you require any additional information, please advise; and we will do our best to comply.

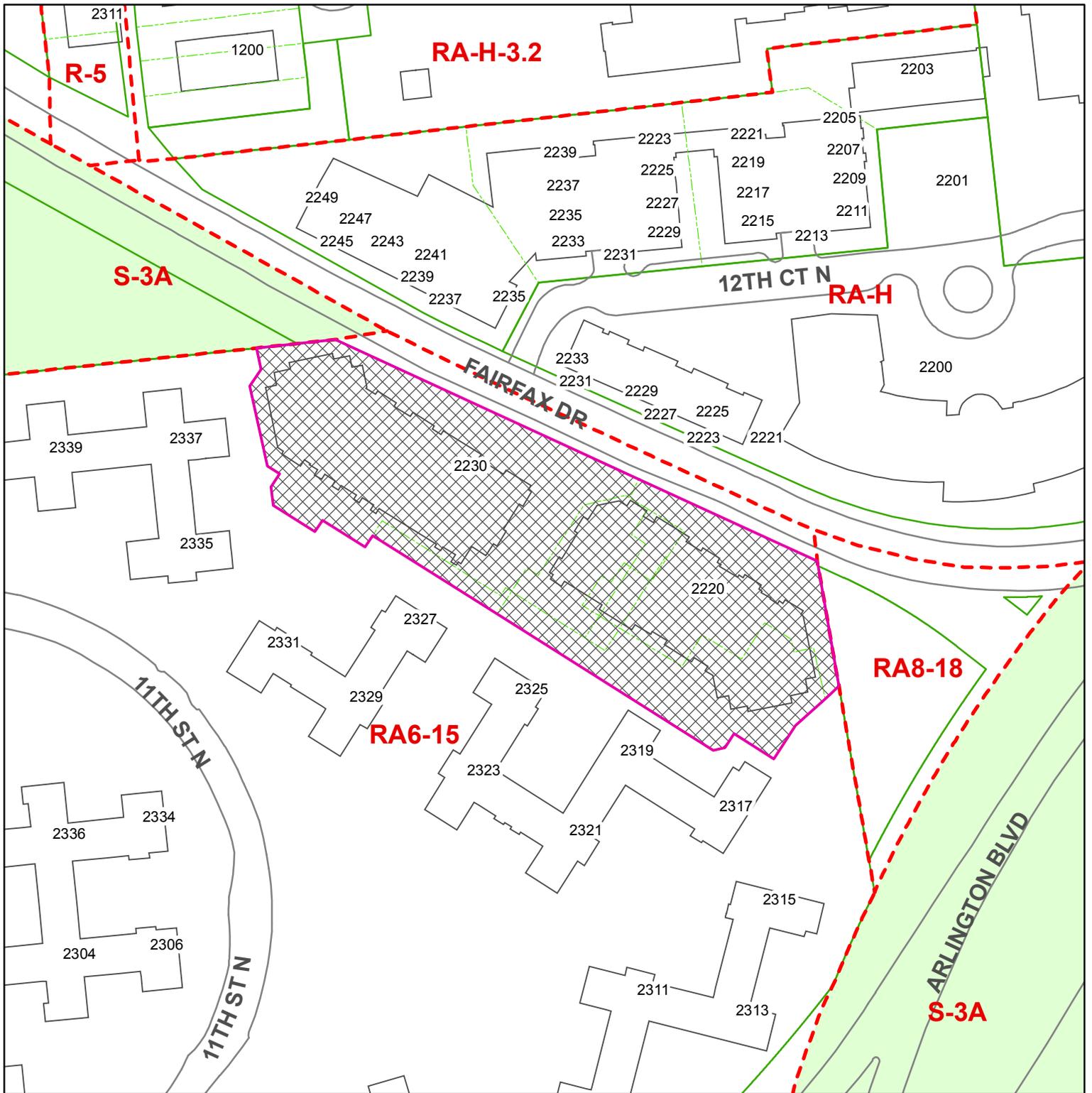
Very truly yours,
WOODBURY PARK CONDOMINIUM DEVELOPMENT ASSOCIATES, LLC

By: Bush at Woodbury Park Associates, L.L.P.

By: ~~Bush Construction Corporation~~, General Partner

By:  Andrew A. Viera
Vice President

cc: Alan Goldstein



SP# 364

2220 Fairfax Dr and 2303 N 11th St

RPC# 18-084-016



 Case Location(s)

Scale: 1:1,200

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