



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of July 21, 2012**

DATE: July 12, 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/retail to a residential unit, and no issues have been identified.

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

County Manager:

BMD/GA

County Attorney:

[Signature]

[Signature]

Staff: Samia Byrd, CPHD, Planning Division

PLA-6252

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and marketing make it not as viable where other retail is available. In addition, the space is internal to the site, has limited visibility, and lacks street frontage. 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. In 2007 the County Board approved more than 33,000 square feet of commercial retail for a site plan project that is conveniently located to the Woodbury Park community¹. With the addition of this retail space nearby and due to other factors the convenience retail is no longer 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 space. 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, 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.

At its June 19, 2012 meeting, the County Board deferred the subject site plan amendment request to allow time for the applicant to address concerns raised by the Park at Courthouse Condominium Board related to the provision of secure access through the garage. While this concern was not directly related to the subject request and the Condominium Board did not oppose the conversion of the retail area to a residential unit, the deferral allowed time for discussion between the parties on the matter that otherwise may not have occurred.

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.

¹ SP #406, 2201 Pershing Drive, was approved with just over 33,000 sq ft of retail and is located at the corner of Pershing Drive and Arlington Boulevard in the vicinity of the subject site.

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 has not taken 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. The CCCA will, however discuss the amendment at its July 17, 2012 meeting and may take a formal position at that time.



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.](#) These limitations dictate how convenience service area should be designed, and as further described below, do not allow for any flexibility or modifications to the space.

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.

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. The space has however been vacant since the building was completed despite continued marketing and leasing efforts by the property owner (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 is recommended to be located. As required by the definition of convenience retail, the subject space is located interior to both the building and the site with no direct access or frontage on the street. Successful retail of any type is considered to be convenient, appealing, activating and sustainable. While retail in this location would be considered convenient, 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, together with retail that has been added to nearby locations, have diminished the opportunity for the space to ultimately yield successful, viable retail that is both appealing, activating, and likely sustainable; negating the purposes for which it was intended and approved.

Neighborhood serving retail that is convenient is generally appropriate and may be desired where there is a significant amount of residential development but there is either limited or no access to other retail, and/or as may be called for in the Retail Action Plan or other relevant policies and plans adopted by the County Board. 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. Therefore, the potential conversion of space from convenience service area/retail to a residential unit would not adversely impact residents of the building or the Woodbury Park community as there is other retail nearby that would meet the same intent of the retail that was to be provided in the building.

In addition, 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 is calculated as units per acre. The approved density is 54 units per acre, which yields a total of 571 residential units (includes both existing and new construction). “As-built” there are 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.

Finally, in order to allow for the conversion of the space as proposed, staff recommends eliminating Condition #66. Modifying the approved condition language to allow for, rather than mandate how the space is to be used, marketed, accessed and signed, would typically ensure that the developer or owner could have successful, viable retail. However, even with the planned improvements to Rocky Run Park and appropriate signage, as previously described, it would not address the fact that there are other attributes of the space as indicated above that make it physically challenging for use as retail. For these reasons and those indicated above, the best use for the space would be a residential unit as opposed to convenience service area/retail use.

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 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 goods 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. In addition, successful retail of any type is not only convenient, but also appealing, activating and sustainable. Because of the physical location and position of the space within the building, its limited visibility, and lack of street frontage, the subject space would not produce retail that would meet each of these attributes. The space is generally not conducive to successful, viable retail. 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 (“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.~~

- ~~e. 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).

June 19, 2012

Deferred a site plan amendment to convert 1,000 square feet convenience service/retail use to a condominium unit to the July 21, 2012 meeting.



THE PARK
at Courthouse
LIVING COMMUNITIES

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.

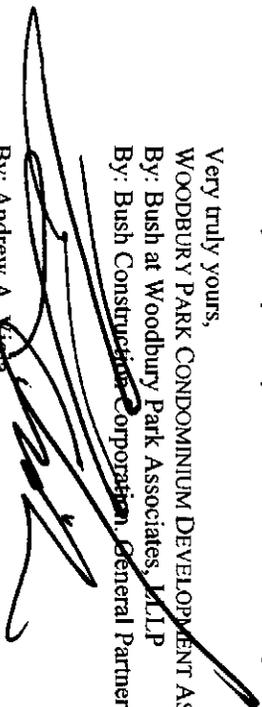
It is our view that the situation continues to be the result of two factors. One, with the continuing poor economic conditions, retail deals are only getting done for good retail space. Two, our space is not a good retail opportunity given the inherent limitations resulting from its physical location 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.

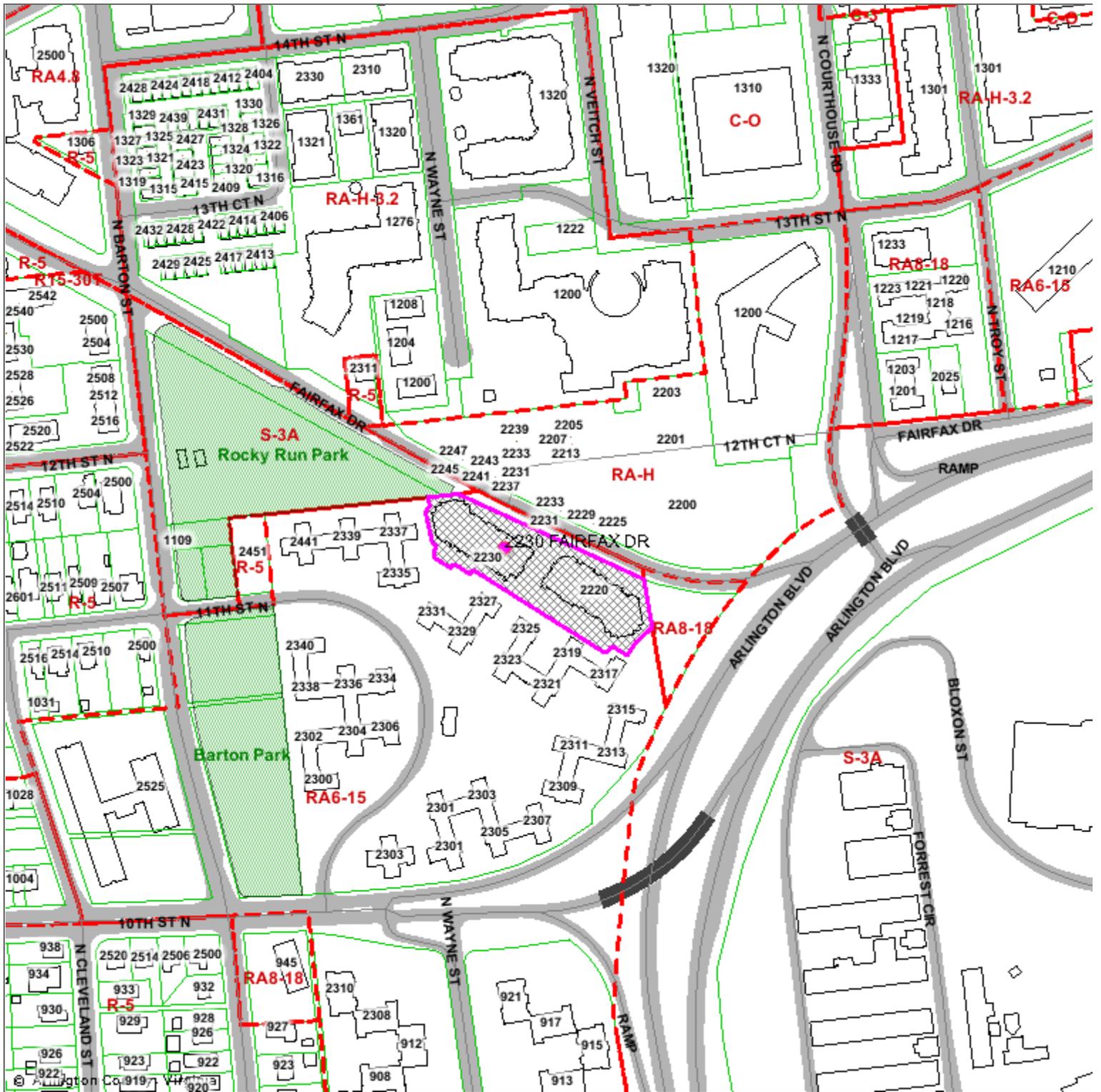
Very truly yours,
WOODBURY PARK CONDOMINIUM DEVELOPMENT ASSOCIATES, LLC

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 SITE PLAN AMENDMENT
2230 N. Fairfax Dr.
(RPC #18-084-013)

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



Not To Scale

