



## ARLINGTON COUNTY, VIRGINIA

### ARLINGTON COUNTY PLANNING COMMISSION

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CLERK

September 12, 2012

Arlington County Board  
2100 Clarendon Boulevard  
Suite 300  
Arlington, Virginia 22201

**SUBJECT:**           1.    **Z-2372-89-1** GWAY II, L.L.C. to amend timing associated with Proffers 12, 46, 47, 48, and 69; amend Proffer 37 regarding required parking space dimensions; and amend Proffer 48 regarding allocation of parking spaces among uses, with modifications to use regulations for parking space dimensions and allocation among uses, in the C-TH zoning district under ACZO §2.G.2. Property is approximately 72,538 sq. ft., located at 2900 10<sup>th</sup> Street North and is identified as RPC# 18-029-007. (**Garfield Park**)

**RECOMMENDATIONS:**   **Approve the resolution accepting Proffers 12, 37, 46, 47, 48, and 69, as amended.**

Dear County Board Members:

The Planning Commission heard this item at its September 4, 2012 meeting. Matthew Pfeiffer, CPHD Planning, described the request to amend several proffers associated with the Garfield Park residential development and the staff recommendation to accept the proposed amended proffers. Also present were the development team, including Bob Apt and Tom Schooltz, applicant (GWAY II, LLC), and Barnes Lawson, Jr., attorney (Lawson, Tarter & Charvet). Mr. Lawson described why the applicant believes the proposed amendment should be approved.

#### **Public Speakers**

There were no public speakers.

#### **Planning Commission Discussion**

Commissioner Ciotti inquired about the vertical clearance at the garage entrances, which she believed to be less than the ADA requirements. Mr. Pfeiffer responded that the garage entrances where vans would have access are 8'2", which is consistent with the approved proffers. Commissioner Ciotti expressed concern that van accessible parking spaces have not been provided in the retail parking in other developments. Mr. Pfeiffer responded that vans would be accessible

**P.C. #2.**

from garage entrances at the street level and the P1 level. Mr. Apt added that there are 14 parking spaces accessible to the public at the street level, which includes three (3) van accessible spaces, and these spaces are not reserved for any particular use. Furthermore, additional handicap spaces would be provided within the retail parking on the P1 level. Commissioner Ciotti asked if panic/emergency buttons would be installed below seven (7) feet in order to be accessible. Mr. Apt responded that the installation would be four (4) feet in height, consistent with the requirement for light fixtures. Commissioner Ciotti suggested that the buttons be installed at 36 inches and asked to applicant to look into the current requirements.

Commissioner Monfort inquired about Proffer 12, related to delaying tree planting, and asked if it is standard policy that trees not be planted during the summer. Mr. Pfeiffer responded that the proposed proffer amendment would give the Zoning Administrator the authority to consider an administrative request by the developer to delay planting of trees due to weather conditions. In this case the Urban Forester had recommended that tree plantings be delayed this summer because of the heat. Commissioner Monfort asked if this flexibility would also be applied to upcoming school projects, to which Mr. Pfeiffer responded that it would be considered.

Commissioner Savela asked if the non-residential parking would be dedicated for solely retail or if it would be open to the general public including the building's tenants and their visitors, to which Mr. Pfeiffer confirmed that it would be short-term parking for use by the general public. Commissioner Savela expressed concern that street trees were planted this summer and later died at the 2201 Pershing Drive site plan and asked about the County's process for monitoring developers' planting of street trees. In addition, Commissioner Savela commented that there were many garage encroachments identified very late in the process and questioned how this occurred under the County's process for reviewing plans during construction. Mr. Pfeiffer responded that the site plan inspector identified them and alerted the developer's architect, but that building permits were issued nonetheless. Mr. Apt added that their architect had not paid sufficient attention to these issues; however, they were able to move a number of pipes and are now providing fully compliant parking spaces consistent with the requirements of the zoning ordinance. While the number of parking spaces has been reduced from the approval, the total number meets the ratio required by the Zoning Ordinance. Commissioner Savela noted that this request is going forward without the Lyon Park Civic Association having had an opportunity to provide input since the civic association does not meet during summer months.

Commissioner Savela asked if it is typical for site plan developments to have conditions amended to permit the issuance of Certificates of Occupancy (CoAs) prior to condition fulfillment in response to timing concerns. Mr. Pfeiffer responded that the County Board has previously permitted this level of flexibility, adding that the issues are minor enough that staff feels confident that the applicant will complete the improvements within the modified time requirements. Commissioner Savela followed asking about the enforcement capability that the County would have if the improvements were not completed as required, given the fact that the issuance of CoAs is the traditional enforcement tool. Mr. Pfeiffer responded that the corrections are required to be made within 30 days and, if not, violation notices will be issued.

Commissioner Fallon inquired about coordination with the Inspection Services Division, to which Mr. Pfeiffer responded that the County Building Official is comfortable with applicant's proposal.

As a follow-up to Commissioner Savela's earlier comment regarding the many garage encroachments that were identified very late in the process, Commissioner Fallon stated that he appreciated the violations being identified; however, he expressed concern that there is a broader, more systemic, problem. Fortunately, the original approval called for an additional 19 parking spaces beyond the requirement, which allowed extra wiggle room for the development, something that is unusual in the metro corridor. He wanted reassurance that this was an isolated situation. While he suspects that Inspections Services staff will look more closely at this in the future, this is a significant issue. Commissioner Fallon asked staff to explain what happened and how the error was made. Mr. Pfeiffer explained that this was an isolated situation, as there was a lack of coordination between the applicant's architect and engineer, and he does not think there will be another problem like this whereby the garage would have to be reconfigured. He believed the primary problem was oversight on the part of the architect.

Commissioner Kumm expressed concern about the number of proffers that are proposed to be amended, especially those related to timing. She wanted assurance that the proffers would be met by the modified dates. Commissioner Kumm referenced Proffer 69, pointing out that the applicant had agreed to a requirement that no further Certificates of Occupancy (CO) would be issued until that requirement for the recordation of public easements is complete. She requested an additional proffer that the developer would seek no additional CO's until all proffers are met. Mr. Lawson responded that sufficient enforcement mechanisms exist in the proffers to ensure that they will be met. He added that similar relief has been granted to site plan developers. Furthermore, the Master CO will not be issued and bonds will not be released until all proffers have been met.

### **Planning Commission Motion**

Commissioner Malis moved that the Planning Commission recommend that the County Board approve the resolution accepting Proffers 12, 37, 46, 47, 48, and 69, as amended in the staff report dated August 28, 2012. Commissioner Cole seconded the motion.

Commissioner Malis stated that this is awkward because the building has already been constructed and the County's options are limited. This is an unusual situation and she appreciates that the County is being very flexible.

Commissioner Kumm stated that she would support the motion because the final Master CO will be withheld until the proffers are met. She expressed concern that the County is in this position.

The Commission voted 11-0 to support the motion. Commissioners Ciotti, Cole, Fallon, Forinash, Harner, Iacomini, Kumm, Malis, Monfort, Savela, and Sockwell supported the motion.

Respectfully Submitted,  
Arlington County Planning Commission

A handwritten signature in black ink, reading "Stephen Sockwell". The signature is fluid and cursive, with the first letter 'S' being particularly large and stylized.

Stephen Sockwell  
Planning Commission Chair