



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of March 15, 2008**

**DATE:** February 26, 2008

**SUBJECT:** SP #397 SITE PLAN AMENDMENT: Saul Centers, Inc., amend condition #77 and #78 re easements; 3000, 3012, 3016, 3020, 3028 Wilson Blvd., 3010, 3019 Clarendon Blvd., 1101 N. Highland St. (RPC #18-012-001, -002, -003, -004, -005, -006, -007, -008, -009, -010)

**Applicant:**

Saul Centers, Inc.

**By:**

Kara M. Whisler, Agent  
Walsh, Colucci, Lubeley, Emrich & Walsh, PC  
2200 Clarendon Boulevard, Suite 1300  
Arlington, Virginia 22201

**C.M. RECOMMENDATION:**

Approve the subject site plan amendment request to amend condition #77 and #78 re easements.

**ISSUES:** The proposed Site Plan Amendment requests a modification to site plan conditions #77 and #78 such that permanent preservation easements on the Underwood Building and the Old Dominion Building required to run to the benefit of the Northern Virginia Conservation Trust (NVCT) could also run to the benefit of another entity identified and mutually acceptable to the landowners and the County Manager. There are no issues associated with the proposed site plan amendment.

**SUMMARY:** The developer of Clarendon Center requests an amendment to modify site plan condition language related to preservation easements. Currently site plan conditions #77 and #78 require permanent preservation easements for the Underwood Building and Old Dominion

County Manager: \_\_\_\_\_

County Attorney: \_\_\_\_\_

Staff: Samia Byrd, DCPHD, Planning Division  
Michael Leventhal, DCPHD, Neighborhood Services Division

PLA-4906

Building to run to the benefit of the Northern Virginia Conservation Trust (NVCT). The applicant requests to modify the language such that the building preservation easements could run to either the benefit of the NVCT or another approvable entity identified by and acceptable to the landowners and the County Manager. As written, the site plan conditions are prescriptive in nature not only as it relates to commitment of the historic preservation easements but also the County's role in enforcing and managing the historic preservation of the two buildings. Given the uniqueness of the preservation easement language in this respect, and the fact that the conditions provide a great deal of authority and responsibility to the County related to the easements, the developer and NVCT agree that it would be more appropriate to allow another entity, potentially the County or a County-designated entity, to hold the preservation easements. Therefore, staff recommends that the Site Plan Amendment be approved subject to revisions to Site Plan conditions #77 and #78 as included in this staff report.

**BACKGROUND:** Clarendon Center was approved in June 2006 as a mixed use office, retail and residential development including preservation of the Underwood Building and the Old Dominion Building (Leadership Institute).

Site: The site encompasses two blocks in the Clarendon Center Metro Station Area with the following boundaries:

North:	Wilson Boulevard
South:	11 <sup>th</sup> Street North
East:	North Garfield Street
West:	North Highland Street

The two blocks are bisected by Clarendon Boulevard, dividing the site into a North Block and South Block. Notable landmark features surrounding the site include: Clarendon Square (north), McCaffery, Phase III (east) and the Olmstead Building (west). Immediately west of the North Block across North Highland Street is Metro Park, the entrance to the Clarendon Metro Station.

Zoning: "C-3" General Commercial District (North Block); "C-O" Commercial Office Building, Hotel, and Multiple-Family Dwelling Districts (South Block).

General Land Use Plan Designation: "Medium Density Mixed Use" (North Block); "High" Office-Apartment-Hotel (South Block)

Neighborhoods: Clarendon-Courthouse Civic Association; Lyon Village Citizens Association; Clarendon Alliance, and Lyon Park Citizens Association.

**DISCUSSION:** Along with new construction, the 2006 site plan approval of the Clarendon Center project included the permanent preservation of two buildings on site, the Underwood Building on the North Block and the Old Dominion Building on the South Block. Built in 1939, the Underwood Building represents an example of a streamlined Moderne style building in Clarendon. The Old Dominion Building was constructed in 1941 and is noted as one of the best examples of art deco style in Clarendon. The design review committee of the Historic Affairs and Landmark Review Board (HALRB) as well as the HALRB in its entirety met several times during the community review process regarding the preservation of these buildings. As a result, site plan conditions #77 and #78 were established by the applicant and staff, endorsed by the HALRB, and approved by the County Board. The preservation conditions established are unique in terms of the commitment and requirements therein. Specifically, the conditions commit preservation easements to:

- Permanently preserve the Underwood and Old Dominion Buildings;
- County Manager review of the permanent preservation easements prior to recordation;
- Preserve and maintain the Underwood and Old Dominion Buildings exteriors in their present configuration (June 10, 2006);
- Permit modifications to the Underwood and Old Dominion Buildings including:
  - Allow the commercial signs, awnings and doorways to be changed,
  - Exterior building modifications as required by insurance carriers,
  - Modifications as required by, or in accordance with standards related to Federal, state and local law, and
  - Maintenance, repair or replacement of exterior features with similar design, materials and decorations as to appear the same; and
- Permit exterior modifications if the HALRB and County Manager determine that the modifications will not be detrimental to the historic nature of the buildings.

In working to develop the preservation easements in compliance with site plan conditions #77 and #78, the developer and NVCT faced challenges in structuring the easements to not only comply with the required conditions but also additional conditions required by NVCT. Based on these discrepancies, both the developer and NVCT agreed that given the specificity of the site plan conditions regarding the County's role in enforcing and managing the preservation of the buildings, that there might be an entity other than NVCT who would be more appropriate to hold the easements. The applicant therefore requests to modify the existing condition language to allow for flexibility with respect to the entity to hold the preservation easements.

The County's responsibility in enforcing the preservation easements is specific in the condition language requiring 1) County Manager review of the preservation easements prior to recordation, and 2) review of any exterior building modifications by the HALRB and County Manager prior to acceptance by the NVCT. In discussing the condition language during the 2006 public

hearing the County Board reiterated the significance of the holder of the easements being knowledgeable of any building exterior modifications and the perpetual nature of the easements such that removal would constitute a violation of the site plan condition and that the easements could not be revoked by the NVCT. Having another entity such as the County responsible for enforcement and management of the easements would further facilitate assurance in these areas. In this respect, a more appropriate entity to hold the preservation easements for the Underwood and Old Dominion Buildings would be the County.

**CONCLUSION:** Site plan conditions #77 and #78 provide for the primary means of enforcing the permanent preservation of the Underwood and Old Dominion Buildings. These conditions further provide for specific requirements unique to this site plan which provide authority to the County Manager to review the preservation easements as well as any exterior building modifications proposed by the developer. The developer and NVCT agree that in this particular instance the site plan conditions as prescribed are an appropriate enforcement mechanism and that either the County or other County designated entity would be appropriate to hold the preservation easements, staff recommends that the Site Plan Amendment be approved subject to the following revisions to conditions #77 and #78.

77. Prior to the issuance of the final building permit, the developer agrees to record a permanent preservation easement, subject to review by the County Manager, running to either the benefit of the Northern Virginia Conservation Trust (NVCT), the County Board, or to another entity identified and mutually acceptable to the landowner of the Underwood Building and County Manager over the area occupied by the building known as the "Underwood Building" (which occupies approximately 4,162 square feet of land area) and which occupies the western portion of the block bounded by Wilson Boulevard, Clarendon Boulevard, North Highland Street and North Garfield Street. This preservation easement ~~shall run to the benefit of the NVCT and~~ shall commit to preserve and maintain the exterior of the building, subject to the terms of this condition, in its present (June 10, 2006) configuration. The developer need not preserve any aspects of the interior of the building and, for purposes of the building's operations, may replace or add to equipment on the roof or on, in, or attached to the penthouse. The easement shall permit modifications to be made to the Underwood Building, as specifically set forth below. This easement will allow the commercial signage, awnings and doorways on the Underwood Building to be changed, provided that such signage/awnings otherwise complies with the Arlington County Sign Ordinance or if permitted in the comprehensive sign plan, and provided that signage color may be subject to commercially reasonable standards customarily applied with respect to commercial signage on historic properties. The developer shall be permitted to make modifications to the exterior of the building as required by insurance carriers for insurance on the Underwood Building or businesses therein. The developer may make modifications as required by, or according to standards set forth in, any Federal, state or local laws (such as ADA, etc.). The developer shall be permitted to maintain, repair or replace any exterior features with features that are similar as to design, materials, and decoration, so that they appear to be the same. The easement

shall permit other exterior modifications proposed by the developer of the Underwood Building if, after review by the Historical Affairs and Landmark Review Board (HALRB) the County Manager determines that the modifications will not be detrimental to the historic nature of the building prior to acceptance by the NVCT, the County Board, or other entity identified. The developer may receive any available tax credits as a result of any improvements or renovations that are performed to the exterior or the interior of the Underwood Building.

78. Prior to the issuance of the final building permit, the developer agrees to record a permanent preservation easement, subject to review by the County Manager, running to either the benefit of the Northern Virginia Conservation Trust (NVCT), the County Board, or to another entity identified and mutually acceptable to the landowner of the Underwood Building and County Manager over the area known as the "Old Dominion Building" (which occupies approximately 6,531 square feet of land area) and which occupies the southwestern portion of the block bounded by Clarendon Boulevard, North Garfield Street, 11th Street North, and North Highland Street. This preservation easement ~~shall run to the benefit of the NVCT and~~ shall commit to preserve and maintain the exterior of the building, subject to the terms of this condition, in its present (June 10, 2006) configuration. The developer need not preserve any aspects of the interior of the building and, for purposes of the building's operations, may replace or add to equipment on the roof or on, in or attached to the penthouse. The easement shall permit modifications to be made to the Old Dominion Building, as specifically set forth below. This easement will allow the commercial signage, awnings and doorways on the Old Dominion Building to be changed, provided that such signage/awnings otherwise complies with the Arlington County Sign Ordinance or if permitted in the comprehensive sign plan, and provided that signage color may be subject to commercially reasonable standards customarily applied with respect to commercial signage on historic properties. The developer shall be permitted to make modifications to the exterior of the building as required by insurance carriers for insurance on the Old Dominion Building or businesses therein. The developer may make modifications as required by, or according to standards set forth in, any Federal, state or local laws (such as ADA, etc.). The developer shall be permitted to maintain, repair or replace any exterior features with features that are similar as to design, materials, and decoration, so that they appear to be the same. The easement shall permit other exterior modifications proposed by the developer of the Old Dominion Building if, after review by the Historical Affairs and Landmark Review Board (HALRB) the County Manager determines that the modifications will not be detrimental to the historic nature of the building prior to acceptance by the NVCT, the County Board or other entity identified. The developer may receive any available tax credits as a result of any improvements or renovations that are performed to the exterior or the interior of the Old Dominion Building.



April 8, 1989	Continued U-2506-86-1 to permit live entertainment at 3012 Wilson Boulevard subject to all previous conditions with the elimination of customer dancing and a review in three years.
February 10, 1990	Continued U-2615-89-1 to permit a food delivery service at 3014 Wilson Boulevard with amended conditions #1 and #2 and deletion of #3 and a review in three months.
May 22, 1990	Continued U-2615-89-1 to permit a food delivery service at 3014 Wilson Boulevard subject to all previous conditions with a review in one year.
June 4, 1991	Discontinued U-2615-89-1 for food delivery service at 3014 Wilson Boulevard.
April 3, 1993	Continued U-2506-86-1 to permit live entertainment at 3012 Wilson Boulevard subject to all previous conditions and one new condition regarding the noise ordinance and a review in five years.
September 18, 1999	Approved a use permit U-2968-99-1 to permit outdoor seating with 14 seats at 3028 Wilson Boulevard subject to conditions and a review in one year.
September 9, 2000	Continued U-2968-99-1 to permit outdoor seating with 14 seats at 3028 Wilson Boulevard subject to all previous conditions and a review in three years.
September 13, 2003	Continued U-2968-99-1 to permit outdoor seating with 14 seats at 3028 Wilson Boulevard subject to all previous conditions, one revised condition for the placement of the seating and a review in September 2008.
February 7, 2004	Deferred Z-2501-03-1 (rezoning) and SP #372 (site plan) for a period of three months to the May 15, 2004 County Board meeting.
May 15, 2004	Deferred Z-2501-03-1 (rezoning) and SP #372 (site

plan) to the July 10, 2004 County Board meeting.

July 14, 2004

Denied Z-2501-03-1 Rezoning from C-3” General Commercial Districts to “C-O” Commercial Office Building, Hotel and Multiple-Family Dwelling Districts and SP #372 Site Plan for approximately 279 dwelling units, approximately 156,689 square feet of retail, modifications of use regulations for building setbacks, parking, width of parking aisle, density, coverage, storage, mechanical systems within units and ducts to roof exemptions from FAR, and loading dock length

May 20, 2006

Deferred Rezoning Z-2525-06-1 from “C-3” General Commercial Districts to “C-O” Commercial Office Building, Hotel and Multiple-Family Dwelling Districts and Site Plan SP #397 to permit approximately 244 dwelling units, 221,768 sq ft office and 60,527 sq ft retail, with modifications to use regulations for density, coverage, compact parking, tandem parking, and drive aisle width.

June 13, 2006

Approved Site Plan #397 to permit approximately 244 dwelling units, 220,919 sq ft of office, 61,380 sq ft retail with modification to use regulations for density, coverage, parking ratio, compact parking, tandem parking, and drive aisle width.

November 14, 2006

Enactment of Ordinance allowing the encroachment of an underground electric vault within the right-of-way of North Garfield St., immediately adjacent to lots 92, 93, 94 and 95, Lyon’s addition to Clarendon, block “F”, RPC Nos. 18-013-001 and 18-013-006, with conditions; and Enactment of Ordinance allowing the encroachment of an underground electric vault within the right-of-way of Wilson Blvd., immediately adjacent to Lot 9, Lyon’s addition to Clarendon, block “E”, RPC Nos. 18-012-001, with conditions.

February 26, 2008

Approved Site Plan Amendment to amend project phasing.