



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of July 19, 2008**

DATE: July 10, 2008

SUBJECT: U-3126-05-1 USE PERMIT AMENDMENT, to amend condition #6 to address changes in the dedication of easements along the Columbia Pike and Greenbrier Street frontages for the site located at 5400, 5422, 5444, 5446, 5448, 5500, 5502, 5510 Columbia Pike (RPC #28-004-004, -005)

Applicant:

West Columbia Pike, LLC
6110 Executive Boulevard, Suite 315
Rockville, MD 20852

By:

M. Catharine Puskar
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, VA 22201

C.M. RECOMMENDATION:

Approve the Use Permit U-3126-05-1 Amendment request to amend Condition #6 to modify the dedication of easements along the Columbia Pike and Greenbrier Street frontages, subject to all previous conditions.

ISSUE: The Columbia Pike Form Based Code requires certain building features, such as cornices and awnings, that would encroach into the public right-of-way, if the applicant is required to dedicate the entire sidewalk to the County in fee. The revised language for Condition #6 provides relief to the applicant by requiring a lesser amount of sidewalk to be dedicated in fee and providing that a portion of sidewalk be dedicated as an easement, while ensuring public access along all the sidewalk space fronting on public streets.

SUMMARY: Staff has worked with the applicant to develop revised condition language that will ensure that there is public access to all sidewalk areas along the Columbia Pike and Greenbrier Street frontages, while preserving the applicant's ability to construct the building in accordance with the Form Based Code (the "Code"). The Code requires that the building

County Manager: _____

County Attorney: _____

Staff: Richard Tucker, DCPHD
Linda Collier, DES

PLA-5014

facades include cornices, awnings, and other features to provide architectural interest. At the time the project was approved in 2005, it was not anticipated that the condition language requiring fee dedication of sidewalk areas would create the need for a separate encroachment ordinance. The revised condition language rectifies this problem. Also, the language has been revised to account for an easement over an underground electrical vault to be located along the Greenbrier Street frontage. As per Dominion Virginia Power standards, the applicant was required to relocate the below grade vault (approximately 20 feet x 60 feet in size) from the rear alley to the Greenbrier Street right of way.

BACKGROUND: In July 2005, the County Board approved a Columbia Pike Form Based Code Use Permit for a 10-story multi-family building with 235 units and 7,544 square feet of ground floor retail. The subject property, which is located south of the intersection of Columbia Pike and Greenbrier Street, was previously known as the Petros site.

Site: The 52,814 square foot site is located on Columbia Pike, and is bordered on three sides by garden style and high-rise multifamily housing development.

Zoning: The site is zoned “C-1” Local Commercial Districts, and is eligible, by reference, to be developed using the “CP-FBC” Columbia Pike Form Based Code District. There is a special note on the Columbia Pike Form Based Code Regulating Plan that allows heights up to 10 stories or the height of the adjacent Carlyle House building (259’6”), for this site.

Land Use: The site is designated on the General Land Use Plan (GLUP) as “Service Commercial”, which permits personal and business services of generally one to four stories and a maximum 1.5 F.A.R. with special provisions within the Columbia Pike Special Revitalization District. This project is located within the Western Gateway node of the Columbia Pike Special Revitalization District on the GLUP.

Neighborhood: The site is located within the Columbia Forest Civic Association. Community review was coordinated through the Columbia Pike Revitalization Organization (CPRO) with the participation of the Columbia Forest and Columbia Heights West Civic Associations.

DISCUSSION: In other cases where a portion of a new building encroaches into a public right of way, the location and size of the encroachment is of a fixed nature which can be identified and depicted on a survey plat. However, in this case, where the encroachments are caused by building features that may either be changed or moved in the future (i.e. retail awnings), the property owner would be required to submit a new encroachment application each time such a change occurs, which would be time consuming and costly for both the applicant and the County. Staff has determined that no building appendage approved under the Code will extend more than six (6) feet from the face of the building. Therefore, staff recommends that the language in Condition #6 be modified to limit the County’s fee ownership to sidewalk areas greater than six feet from the building along any frontage, with an easement to be granted to the County for the remainder of the area to be used for the sidewalk.

To date, four (4) Form Based Code projects have been approved on Columbia Pike (Columbia Station / Halstead, Columbia Village, Safeway / Sienna Park, and Arlington Mill). In reviewing the approved conditions for each project, staff has determined that only with Columbia Village will the construction of the project in accordance with the Code result in an encroachment of building appendages on land the County owns in fee. Staff has determined that there are no encroachment issues related to the Columbia Station / Halstead, Safeway / Sienna Park, or Arlington Mill projects.

CONCLUSION: Staff has worked to develop an approach to preserve the applicant's ability to construct the building in accordance with the Code which also preserves the public's access to the sidewalks along the street frontages. Staff recommends that the County Board approve the Use Permit amendment request to amend the existing Condition #6 to read as follows:

REVISED CONDITION #6:

All required public deeds of easement and deeds of dedication shall be submitted to the Department of Environmental Services ("DES") prior to the issuance of the ~~First Certificate of Occupancy~~ Shell and Core Certificate of Occupancy, and be approved and recorded among the land records of the Clerk of the Circuit Court of Arlington County, by the developer before the issuance of the ~~Final Building Permit~~ First Certificate of Occupancy for any residential or retail unit. The developer agrees that, except as set forth below, there shall be no building construction within the easement or dedication area without the prior written approval by the County Manager or the County Board.

The applicant shall be required to dedicate to the County, in fee simple, the entire area of half of the South Greenbrier Street which is located on the Applicant's property and its adjacent sidewalk improvement area from the western boundary of the property up to the RBL; and the area of the sidewalk improvements adjacent to the south side of Columbia pike, from the northern property line to the RBL. in fee simple to the County, for public street and utility purposes, an area which is approximately 27 feet in width, running from the entire length of the western property boundary line of the property upon which the Use Permit project is located ("Property") to a line which is 6 feet west of the Columbia Pike Form Based Code Required Building Line ("RBL") for South Greenbrier Street. In addition, the 6 foot wide area west of the South Greenbrier Street RBL shall be conveyed by the Applicant to the County as an easement for public sidewalk and utilities purposes. Such easement for public sidewalk and utilities purposes may provide a reservation unto the Developer, within the boundaries of the easement, to construct and locate above grade building features, appendages or other protrusions within the easement area, consistent with and required by the Columbia Pike Form Based Code and the final engineering plans approved by DES, and to construct and locate a below grade electric vault in the southernmost portion of the easement area consistent with the final engineering plans approved by DES.

The Applicant shall be required to dedicate, in fee simple, to the County, for public street and utility purposes, an area approximately 13.81 feet in width, running from the entire

length of the Property northern boundary line to a line which is 6 feet north of the RBL for Columbia Pike. In addition, a 6 foot wide area north of the Columbia Pike RBL shall be conveyed by the Applicant to the County as an easement for public sidewalk and utilities purposes. Such easement for public sidewalk and utilities purposes may provide a reservation unto the Developer, within the boundaries of the easement, to construct and locate above grade required building features, appendages or other protrusions within the easement area, consistent with the requirements of the Columbia Pike Form Based Code and the final engineering plans approved by DES.

Any off-site dedications granted by the developer or the adjacent property owner for South Greenbrier Street to the west of the Property, may be dedicated as a public access easement or agreement subject to approval of the terms thereof by the County Manager and subject to approval as to form by the County Attorney. The developer also agrees to submit to the County an application for, and obtain approval of, a subsurface encroachment for the electric vault to be located within the South Greenbrier Street right-of-way before the First Certificate of Occupancy is issued.

Further, the developer agrees to develop and submit to the ~~Department of Environmental Services~~ DES an agreement, subject to approval, in substance, by the County Manager, or his designee, and subject to approval as to form by the County Attorney, which agreement shall provide that the developer shall ~~to~~ maintain to County standards the street, roadbed, sidewalk, curb and gutter surface improvements within the South Greenbrier Street right-of-way. ~~At until~~ such time as the street is widened to the west with adjacent development, additional South Greenbrier Street right-of-way is dedicated or conveyed to the County from the parcel or parcels to the west of the Property, and South Greenbrier Street is constructed and accepted by the County for maintenance, the developer shall be relieved of the aforesaid maintenance obligations, except for the sidewalk maintenance.

PREVIOUS COUNTY BOARD ACTIONS:

August 1961	Designated as “High Medium Residential” (14-39 units/acre) on the General Land Use Plan
April 1975	Designated “Low Medium Residential” (16-30 units/acre) on the General Land Use Plan
October 17, 1987	General Land Use Plan amended from Low Medium Residential to “Service Commercial”
December 17, 2002	Columbia Pike Special Revitalization District boundaries amended on the General Land Use Plan
February 25, 2003	Columbia Pike Form Based Code (Section 20 of the Zoning Ordinance) adopted
February 10, 2004	Columbia Pike Street Space Plan adopted
July 9, 2005	U-3126-05-1 Columbia Village project approved under the Form Based Code