



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of October 18, 2008**

DATE: October 1, 2008

SUBJECT: Approval of a Public Parking Development Agreement Among Arlington Heights Properties, L.P. and/or its successors and assigns, Penrose Square Associates, LLC and/or its successors and assigns and the County Board of Arlington County, Virginia, for construction of 122 public parking spaces in a garage required by Site Plan #402/38, and authorization of acceptance of a Deed of Easement for public use and access of said public parking spaces, RPC #25016006, 25016009 and 25016011.

C. M. RECOMMENDATIONS:

1. Approve the attached Public Parking Agreement (“Parking Agreement”) (Attachment 1) among Arlington Heights Properties, L.P. and/or its successors and assigns (“Arlington Heights”), Penrose Square Associates, LLC and/or its successors and assigns (“Penrose”), and the County Board of Arlington County, Virginia (“County”), for construction of 122 public parking spaces (“Public Parking Spaces”) in a garage required by Site Plan #402/38 (“Site Plan”), including approval of Exhibits to the Parking Agreement requiring Board approval and authorize acceptance of a Deed of Easement for public use and access of said public parking spaces, RPC #25016006, 25016009 and 25016011.

2. Authorize the Real Estate Bureau Chief, or his designee, to execute the Parking Agreement, all Exhibits thereto requiring the execution on behalf of the County, and all related documents necessary to fulfill any requirements of the Parking Agreement or exhibits thereto and to accept any and all real property interests to be conveyed to County Board pursuant to the terms of the Parking Agreement, including the Deed of Easement for the Public Parking Spaces, subject to approval as to form of all documents by the County Attorney.

ISSUES: Approval of the Parking Agreement furthers the County Board’s Columbia Pike revitalization policy. There are no issues identified with this request.

SUMMARY: The attached Parking Agreement requires Penrose to construct 122 public parking spaces in the parking garage depicted on the approved Site Plan in return for a payment from the County to Penrose of \$477,422.67 a year for twenty (20) years. (See Vicinity Map in Attachment 2 for location of the Site Plan.) Before the County makes the first payment to Penrose, Penrose and all other parties having an ownership interest in the Public Parking Spaces

County Manager: _____

County Attorney: _____

Staff: Linda Collier, Real Estate Bureau, DES

must execute and deliver to the County a deed of easement permitting access and use of the Public Parking Spaces by the general public for a period of sixty (60) years. Contemporaneously, the County will execute a termination of easement that will be held in escrow by an escrow agent and delivered to Penrose in the event that the County fails to make the required payments to Penrose. In addition, the Parking Agreement provides that the County will be entitled to thirty-five (35) percent of any Public Parking Gross Revenue that may be generated by the parking garage.

BACKGROUND: At its meeting on October 14, 2006, the County Board approved a general land use plan amendment, a rezoning, the Site Plan and a Tax Increment Public Infrastructure Fund (“TIPIF”) Resolution relating to the Penrose Square Redevelopment Project (“Penrose Square”), currently the area of the Adams Square Shopping Center, 2405 and 2501 Columbia Pike. The approved Site Plan consists of a rental apartment building with two floors of retail, a grocery store, with an office mezzanine and a four level garage, with up to 713 spaces, of which, if the developer chooses to build them, 122 Public Parking Spaces (“Public Parking Spaces”) will be made available on an unreserved, high turnover, hourly basis for visitors and patrons. The TIPIF Resolution provides that in the event the developer builds the Public Parking Spaces, the County Manager may negotiate an agreement to pay the developer up to \$480,000 per year for twenty years for the Public Parking Spaces, which yearly sum is calculated to be the developer’s cost to construct the Public Parking Spaces, including their debt service.

DISCUSSION: Under the terms of the Parking Agreement, Penrose will construct 122 Public Parking Spaces (115 full sized spaces, 2 van accessible spaces, 4 handicap car spaces and 1 handicap van space) available to the general public on the two uppermost levels of the garage portion of the Site Plan. Penrose, and all other persons or parties having an ownership interest in the Public Parking Spaces will provide an easement to the County permitting pedestrian and vehicular access to and use of the Public Parking Spaces within thirty (30) business days after the issuance of a certificate of occupancy for the garage (“Easement”). Upon delivery of the Easement to the County, the County will pay Penrose \$477,422.67 a year for a term of twenty years for the Public Parking Spaces. Penrose may charge for the use of the Public Parking Spaces and agrees to pay the County thirty-five (35) percent of any Public Parking Gross Revenue that it may receive from the operation of the garage. The Easement will terminate of its own accord upon: (1) non-payment of the agreed to sums to Penrose; (2) sixty years from the date of execution of the Easement; or (3) the approval of a new site plan or major site plan amendment approving the removal or demolition of the Public Parking Spaces. Additionally, at the time the Parking Agreement is entered into, the County agrees to execute a Termination of Easement, to be placed in Escrow, to be recorded in the event that the County does not make its yearly payments to Penrose as provided for in the Parking Agreement.

Public Notice: Public notice of the approval of the Parking Agreement and the Easement was given in accordance with the Code of Virginia. Notice was placed in the August 26, 2008 issue of the Washington Times for the County Board meeting of September 13, 2008.

FISCAL IMPACT: Under the terms of the Parking Agreement, once the parking garage is constructed and the Easement is conveyed to the County, the County will pay Penrose \$477,422.67 a year for twenty years for the use of the Public Parking Spaces. This amount is

consistent with the resolution passed by the County Board on October 14, 2006 (“Resolution”) in conjunction with the site plan approval. It is currently anticipated that completion of the development and garage will occur in late 2010 and the initial payment by the County would be incurred in FY 2011. Funds for this annual payment will be included in the County Manager’s FY 2011 General Fund operating budget request and will be subject to appropriation as part of the County Board’s adoption action.

CONCLUSION: If the County Board wishes to take the recommended action, it should approve the motions set forth in the County Manager’s Recommendations on page one of this Board Report.

**Public Parking Agreement and Exhibits Thereto:
Location of Spaces, Easement, Termination, Escrow Agreement and Prepayment Schedule**

VICINITY MAP
PENROSE SQUARE

