



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of December 9, 2006

**DATE:** November 21, 2006

**SUBJECT:** U-3130-05-1 USE PERMIT AMENDMENT to amend Condition #24 regarding the vacation for properties located at 2300, 2310, 2312 Shirlington Rd. (RPC #31-022-003, -004, -005, -006, -099)

**Applicant:**

AHC, Inc.  
2300 Ninth Street South, Suite 200  
Arlington, Virginia 22204

**By:**

Joseph P. Weatherly  
AHC, Inc.  
2300 Ninth Street South, Suite 200  
Arlington, Virginia 22204

**C.M. RECOMMENDATION:**

Approve the use permit amendment request, subject to all previous conditions and one amended condition (Condition #24).

**ISSUES:** None.

**SUMMARY:** On January 21, 2006, the County Board approved a use permit, subject to conditions, to permit the construction of a Unified Commercial/Mixed Use Development by AHC, Inc. in the Nauck community. The applicant has now submitted a request to amend a condition of the use permit which pertained to the requirement of appropriate vacations. The condition stated that the applicant was to obtain approval of the required vacation within 365 days of the approval of the original use permit. While the applicant has continued to work with the County to obtain these necessary approvals, the 365 day requirement will not be met. The applicant anticipates obtaining the appropriate approvals within the next year and has therefore requested a one-year extension.

Typically site plans and use permits for larger-scale development receive approval for a period of three years. This timing permits the developer to complete construction documents and obtain appropriate permits prior to construction. An extension of the condition, for 365 additional days,

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

Staff: Jill Griffin, DCPHD, Planning Division

PLA-4582

would not exceed the original approval period. Therefore, staff recommends that the County Board approve the requested use permit amendment, subject to all previous conditions and one revised condition (Condition #24).

**BACKGROUND:** On January 21, 2006, the County Board approved, subject to conditions, a Unified Commercial/Mixed Use development for AHC, Inc. This project will consist of a four-story building with 98 apartment units (100 percent affordable) and 1,350 square feet of commercial space on the ground floor.

**The following provides a brief description of the site:**

Site: The site contains 47,798 square feet and is located between Shirlington Road and South Kenmore Street, north of 24<sup>th</sup> Street South.

Zoning: The site is zoned “C-2” Service Commercial – Community Business District.

Land Use: The site is designated on the General Land Use Plan as “Service Commercial” (Personal and business services. Generally one to four stories. Maximum 1.5 FAR.). The site is located within the boundaries of the Nauck Village Center Special Revitalization District.

Neighborhood: The project is located within the boundaries of the Nauck Civic Association.

**DISCUSSION:** As part of the project, the applicant requested density from 3,771 square feet of existing right-of-way (23<sup>rd</sup> Street South) which is proposed to be vacated (Condition #24). The right-of-way is currently marginally improved and the *Nauck Village Center Action Plan* (NVCAP) does not call for a road in this location. Per Implementation Item 20 in the NVCAP, surplus public property or excess right-of-way should be granted to projects that provide affordable housing. The applicant’s proposal is for 100% of the dwelling units to be affordable.

Condition #24 required the developer to obtain the appropriate vacations and further stated that: “If the developer has not fully complied with the terms of this Condition #24 within 365 days after approval of this Use Permit, then this approval shall automatically and without further action become null and void and of no force or effect.” Subsequent to the approval of the use permit, the developer finalized the engineering plans and has since submitted an application for a vacation. After further discussions with the County pertaining to the vacation, the developer recognized that obtaining the vacation may take longer than initially anticipated. Therefore, the developer has requested an amendment to the condition for an extension of time – 365 additional days.

**CONCLUSION:** The applicant has continued to work, in good faith, with the County to obtain the appropriate vacations for this project. Typically, site plans and use permits for large-scale development have a three year approval period. An extension of this condition would not extend past this approval period. Therefore, staff recommends that the County Board approve the use permit amendment, subject to all previous conditions and one amended condition.

24. The developer agrees that density for the project is being granted in exchange for the provision of affordable dwelling units within the project for a portion of unimproved right-of-way, known as 23rd Street South and totaling 3,771 square feet that is to be vacated following the approval of this project. The developer agrees that the exact area to be vacated shall be determined by the County Manager. The developer agrees to obtain County Board approval of an ordinance of vacation, meet all conditions of such ordinance and record the deed of vacation for said portion of the right-of-way within ~~730~~ ~~365~~ days of approval of this Use Permit by the County Board (January 21, 2008). The developer further agrees to grant an easement for access over the vacated right-of-way to the neighboring properties commonly known as 2221 South Kenmore Street and 2244 Shirlington Road (including RPC#s 31-023-001, -002, -003, -004). Such easement shall be granted within ~~730~~ ~~365~~ days of approval of the Use Permit by the County Board (January 21, 2008). Such easement shall include a provision that the easement will automatically terminate upon the redevelopment of the neighboring properties. If the developer has not fully complied with the terms of this condition #24 within ~~730~~ ~~365~~ days after approval of this Use Permit (January 21, 2008), this approval shall automatically and without further action become null and void and of no force or effect.

PREVIOUS COUNTY BOARD ACTIONS:

January 21, 2006

Approved a use permit (U-3130-05-1) to permit the development of a Unified Commercial Mixed Use Development consisting of 98 residential units and 1,350 square feet of commercial space subject to conditions.

Approved Conditions:

1. The developer (as used herein, the term developer includes the owner, the applicant and their agents, employees, and all successors and assigns) agrees to comply with the plans reviewed and approved by the County Board at the County Board meeting of January 21, 2006, together with any modifications proposed by the developer and accepted by the County Board or vice versa. This Unified Commercial/Mixed Use Special Exception Use Permit approval expires three (3) years after the date of County Board approval if the owner has not obtained final Certificate of Occupancy for the approved project. Extension of this approval shall be at the sole discretion of the County Board. The developer agrees that this discretion shall include a review of this Unified Commercial/Mixed Use use permit and its conditions for their compliance with County policies for land use, zoning, and special exception uses current at that time.
2. The developer agrees to comply with the following before issuance of a final Certificate of Occupancy for the project is issued.
  - a. The developer agrees to identify a person who will serve as liaison to the community for a period of three (3) years after the date of County Board approval. The developer agrees to provide the name and telephone number of this individual, in writing, to the Zoning Administrator and the president of the Old Dominion Civic Association and to post that information at the entrance of the project.
3. The developer agrees to install address indicator signs, which comply with Section 27-12 of the Arlington County Code or successor provision, in a location visible from the street and as shown on the final engineering plan, prior to issuance of a Certificate of Occupancy for the uses approved by the County Board on January 21, 2006.
4. The developer agrees that, except as otherwise specifically provided in these conditions, all required easements and right-of-way agreements shall be submitted to the County Manager or designee for approval and be recorded by the developer before the issuance of a certificate of occupancy for any use approved by the County Board on January 21, 2006.
5. The developer agrees to submit a final landscape plan for approval to the County Manager or his designee. The developer agrees that all landscaping on the site shall be established and maintained in accordance with the final Landscape Plan, and these conditions. The developer further agrees that all landscaping called for in the final landscape plan for any lot shall be installed for the specific lot before the issuance of a certificate of occupancy for any structure or use on that lot unless another timing arrangement is approved by the Zoning Administrator because of the impractical or impossible nature of such timing. The construction of landscape called for in the final landscape plan shall be finished prior to the issuance of a Certificate of Occupancy for uses approved by the County Board on January 21, 2006.

The final site development and landscape plan shall include the following details, if applicable:

- a. The location and dimensions of utility meters, utility vaults and boxes, transformers, site and building lighting, mechanical equipment, fire hydrants, standpipes, stormwater detention facilities, the location of all existing and proposed utility lines and of all easements.
  - b. The location, dimensions, and materials for driveways, driveway aprons, parking areas, interior walkways and sidewalks.
  - c. Topography at two (2) foot intervals and the finished first floor elevation of all structures.
  - d. Four (4) foot wide utility/planting strips and street tree locations.
6. Landscaping shall conform to Department of Environmental Services (Transportation Planning) Standards and Specifications and to the following requirements:
- a. New planting materials shall be of good nursery stock and a nursery guarantee shall be provided by the developer for two (2) years including the replacement and maintenance (to include but not be limited to pruning, feeding, spraying, mulching, weeding and watering) of all landscape materials following the issuance of the final certificate of occupancy for each individual lot.
  - b. New plant materials and landscaping shall meet the American Standard for Nursery Stock Z60.1-73, and shall also meet the following standards:
    - (1) Major deciduous trees, including street trees (shade or canopy trees such as Oaks, Maples, London Plane Trees, Japanese Zelkovas, etc.) - a height of 12 to 18 feet with a minimum caliper of 4 to 4½ inches.
    - (2) Evergreen trees (such as Scotch Pines, White Pines, Hemlocks, etc.) - a minimum height of 8 to 10 feet.
    - (3) Ornamental deciduous trees (such as Cherries, Dogwoods, Serviceberries, Hornbeams, etc.) - a height of 10 to 14 feet with a minimum caliper of 1½ to 2 inches.
    - (4) Shrubs - a minimum spread of 18 to 24 inches.
    - (5) Groundcover - in 2" pots.
  - c. All new lawn areas shall be sodded; however, if judged appropriate by the County Manager or his designee, based on accepted landscaping standards, seeding may be substituted for sod. All sod and seed shall be state certified.
  - d. Exposed earth not to be sodded or seeded shall be well-mulched or planted in ground cover. Areas to be mulched may not exceed the normal limits of a planting bed.
  - e. Soil depth shall be a minimum of four (4) feet for trees and tall shrubs and three (3) feet for other shrubs.

- f. Finished grades shall not exceed a slope of three to one or the grade that existed before the site work began, or otherwise approved by the County Manager or his designee.
  - g. The developer agrees to maintain the site in a clean and well-maintained condition and agrees to secure and maintain the site throughout the construction and phasing process.
  - h. The developer agrees to notify the Department of Parks, Recreation and Cultural Resources (DPRCR) Urban Forester at least 72 hours in advance of the scheduled planting of any street trees in the utility strip and to be available at the time of planting to meet with staff of DPRCR to inspect the plant material, the tree pit and the technique of planting. Soil used in the tree pit must meet the specifications for street tree plantings available from the DPRCR Urban Forester.
  - i. The developer agrees to show on the landscape plan the locations and sizes of the proposed optional decks/patios. The developer agrees that the unenclosed decks/patios shall only be added to the units in locations shown on the Site and Grading Plan. Minor modifications (less than 200 square feet in area) to the design of the buildings, decks, patios and lot layout may be approved by the County Manager or his designee.
7. The developer agrees to show on the final engineering plans pavement, curb and gutter along all frontages of this site in accordance with the then-current Arlington County Standard for concrete curb and gutter and the then-current standards for pavement and according to the following dimensions. The pavement, curb and gutter shall be constructed prior to issuance of the first Certificate of Occupancy for occupancy of the applicable phase of the project.
- a. The developer agrees to construct new curb and gutter on South Shirlington Road, and South Kenmore in its present location as shown on the final engineering plan approved by the County Manager or his designee.
  - b. The developer agrees to construct new curb and gutter on 24th Street South approximately 16 feet 2 inches from the existing street centerline as shown on the final engineering plan approved by the County Manager or his designee.
  - c. The developer agrees to construct new curb, gutter, and three on-street parking spaces on 23rd Street South with a minimum width of 11 feet from the existing property line to the north as shown on the final engineering plan approved by the County Manager or his designee.
  - d. The developer agrees to construct handicap ramps at all four sides of the project and a crosswalk of materials as approved by the County, built per Arlington County Standards across South Shirlington Road, South Kenmore Street, and 24th Street South.

- e. The developer agrees to construct curbs on 24th Street South at the northwest corner of South Kenmore Street and the northeast corner of South Shirlington Road, of materials as approved by the County, built per Arlington County Standards across South Shirlington Road, South Kenmore Street, and 24th Street South.
- f. The developer agrees to remove an existing speed cushion on South Kenmore Street directly adjacent to the project and construct a new speed cushion approximately 50 feet to the north of materials as approved by the County, built per Arlington County Standards.

All improvements to curb, gutter, sidewalks and streets for pedestrian and/or vehicular access or circulation shall be in full compliance with the Americans with Disabilities Act (ADA) and any regulations adopted thereunder, as well as any other applicable laws and regulations. The developer further agrees that all improvements to curb, gutter, sidewalks, crosswalks, and streets for pedestrian and/or vehicular access or circulation shall be as determined by the County Manager on the final Site Development and Landscape Plan and on the final Site Engineering Plan, in accordance with the Rosslyn-Ballston Corridor Streetscape Standards or other applicable urban design standards in effect at the time of final Site Engineering Plan Approval; provided, however, that the provision of such improvements shall not increase the projected cost anticipated for such improvements as shown on the site plan drawings dated January 9, 2006, unless the County provides additional funding to offset such increased cost.

- 8. The developer agrees that the final sidewalk pattern/design and final selection of materials and colors to be used shall be as determined by the County Manager on the final site development and landscape plan and final engineering plan, in accordance with the Rosslyn-Ballston Streetscape Standards or other applicable urban design standards approved by the County Board and in effect at the time of the final landscape plan approval. The developer further agrees to construct the sidewalk improvements detailed below prior to the issuance of the first Certificate of Occupancy for occupancy of the applicable phase of the project. The sidewalks along the street frontages of this development shall be paved with brick or an interlocking concrete paver and shall be placed on a properly-engineered base approved as such by the Division of Transportation. The sidewalk treatments shall continue across all driveway aprons for loading and garage entrances along all frontages of the site plan, and there shall be no barriers to impede the flow of pedestrian traffic. The sidewalks shall contain street trees placed in either tree pits, tree grates or planting strips, consistent with the Standards for Planting and Preservation of Trees in Site Plan Projects, and as specified below. Placement, planting and root enhancement options shall be consistent with the Standards for Planting and Preservation of Trees in Site Plan Projects, and as specified below. Street trees shall not be placed within the vision obstruction area. All public walkways shall be constructed to County Standard. The developer agrees to maintain and replace the street trees and sidewalks for the life of the site plan. The sidewalk sections and street tree species shall be as follows:

South Shirlington Road - A minimum 15-foot wide sidewalk measured from the back of curb, including 5 feet by 8 feet tree pits on South Shirlington Road, planted with 4 ½ inch



caliper Willow Oak street trees and such ground cover as lirioppe muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper ), placed 28 to 32 feet on center and a minimum of eight (8) inches back from the back of curb.

24th Street South - A minimum 15-foot wide sidewalk measured from the back of curb, including 5 feet by 8 feet tree pits on 24th Street South, planted with 4 ½ inch caliper Willow Oak street trees and such ground cover as lirioppe muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper), placed 28 to 32 feet on center and a minimum of eight (8) inches back from the back of curb.

South Kenmore Street - A minimum 11-foot wide sidewalk measured from the back of curb, including 5 feet by 8 feet tree pits on South Kenmore Street, planted with 4 ½ inch caliper Willow Oak street trees and such ground cover as lirioppe muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper ), placed 28 to 32 feet on center and a minimum of eight (8) inches back from the back of curb.

23rd Street South - A minimum 5-foot wide, clear sidewalk measured from the back of curb.

9. The developer agrees to show, on the final engineering plans, water main improvements in accordance with the following. The water main improvements shall be constructed prior to the issuance of the Final Building Permit for the respective phases of construction.
  - a. Construction of a new 12-inch water main from the 8-inch water main in South Shirlington Road, along the northeastern edge of the site, connecting to the existing 6-inch water main to the southeast, is needed to facilitate the new development. The existing 6-inch water main which is to be replaced by the above mentioned 8-inch water main shall be abandoned with any existing services and appurtenances reconnected to the new main.
  - b. Construction of a new 8-inch water main from the proposed 12-inch water main in 24th Street South, along the southeastern edge of the site, connecting to the existing 6-inch water main to the southwest, is needed to facilitate the new development. The existing 6-inch water main which is to be replaced by the above mentioned 8-inch water main shall be abandoned with any existing services and appurtenances reconnected to the new main.

10. The developer agrees to show, on the final engineering plans, and to construct sanitary sewer main improvements in accordance with the following. The sanitary sewer main improvements shall be constructed prior to the issuance of the Final Building Permit:

Relocate an existing 54-inch storm sewer to South Kenmore Street and a 12-inch Sanitary Sewer in South Shirlington Road.

The County will TV-Inspect the sanitary sewer lines serving the site and shall identify any improvements that are necessary to adequately service the development. The developer

agrees to repair or replace any sections or appurtenances of the sanitary sewer serving the development that are found to be deficient or damaged by the developer, as identified by County staff and as shown on the final engineering plan approved by the County Manager or his designee.

11. The developer agrees to show on the final engineering plans street lighting along all frontages of the site prior to the issuance of the Excavation/Sheeting and Shoring Permit. The plans shall include the height and color of the street light poles. The developer agrees, at its cost, to purchase and install approved Arlington County street lighting along the frontages of the site prior to the issuance of the Shell and Core Certificate of Occupancy. In addition, the developer agrees to furnish and install all conduit and junction boxes necessary for the lighting system. All construction shall meet Arlington County standards.

The developer agrees to purchase and install Virginia Power "Carlyle" standard single-globe street lights along the South Kenmore Street, South Shirlington Road, and 24th Street South frontages of the site in accordance with adopted County Street Lighting Policy. The height of the street lights shall be 16 feet. The developer agrees to pay the cost of installing additional standard thoroughfare lights should the County decide that they are necessary to provide adequate lighting for street safety purposes.

12. The developer agrees to remove or place underground all existing aerial utilities within or along the periphery of the entire site plan site as shown on the final site development and landscape plan and the final engineering plan approved by the County Manager. Any utility improvements necessary to provide adequate utility services to this development or utility work necessary to provide a terminus to the underground facilities shall be paid for by the developer and shall not result in the installation of any additional utility poles, or aerial devices. All utility relocation shall be completed prior to the issuance of the Shell and Core Certificate of Occupancy.
13. The developer agrees that the design of the facade treatment for the buildings and the materials to be used on the facades shall be as specified and shown on the submitted drawings identified in Condition #1 and as presented to the County Board and made a part of the public record on the County Board date identified in Condition #1, including all renderings, drawings, and presentation boards presented during public hearings. The developer agrees to submit colored drawings and renderings which label the materials and colors, and material samples, for review by the County Manager or his designee for consistency with this site plan approval prior to the issuance of the Footing to Grade Permit. The developer further agrees to obtain the approval of the County Manager or his designee of the facade treatment as being consistent with the County Board approval before the issuance of the Final Building Permit.

The developer agrees that all retail storefronts along public rights-of-way are required to have an overall minimum transparency of 70% for the portion of the retail storefronts that is located between two and ten feet from grade. The purpose of this condition is to allow pedestrians to view the activity within the retail establishment and to allow patrons and

employees of the retail establishments to view the activity on the sidewalk and street. “Transparency” shall mean using glass or other transparent exterior material offering a view into an area of the retail establishment where human activity normally occurs and shall not be satisfied by views into areas blocked by display cases, the rear of shelving, interior walls, blinds, hallways, or the like. Provided that the exterior material is glass or other transparent material, a tenant may apply to the County Board for a site plan amendment to grant an exception to this condition for a specified duration.

14. The developer agrees to develop and implement a Transportation Management Plan (TMP) in order to achieve the desired results of the Arlington County Transportation Demand Management (TDM) program. The developer agrees to obtain the approval of the County Manager or his designee for such plan before the issuance of the first Certificate of Occupancy for the building.

The Transportation Management Plan shall include a schedule and details of implementation and continued operation of the elements in the plan. The Transportation Management Plan shall include, but not be limited to, the following strategies:

#### Participation and Funding

- a. Maintain an active membership in Arlington Transportation Partners (ATP), or successor entity at no cost to the developer, on behalf of the property management company.
- b. Designate a member(s) of the building management as Property Transportation Coordinator who will be the primary point of contact with the county and undertake the responsibility for coordinating and completing TDM obligations. The owner will provide the name of the Property Transportation Coordinator to the Commuter Assistance Program.

#### Facilities and Improvements

- c. Provide in the lobby of the building a Transportation Kiosk, the content/design/location of which shall be approved by the developer. The kiosk may include a static display with printed materials and/or a dynamic display with direct electronic link to CommuterPage.com<sup>TM</sup> to provide transportation and commuter-related information to residents, employees and visitors.
- d. Maintain at least one on-site business center (including at a minimum, access to copier, fax and internet services), which shall be made available to support residents of the building who choose to work from home.

#### Parking Management Plan

- e. Provide effective directional signage subject to approval of a Comprehensive Sign Plan (parking, deliveries, etc.) to direct residents and visitors to appropriate locations on the property.

#### Promotions, Services, Policies

- f. Provide website hotlinks to CommuterPage.com<sup>TM</sup> under a “transportation information” heading from the property website regarding this development.
- g. Distribute transit and ridesharing information to residents and visitors (and extend requirement to on-site businesses) to include the following items:
  - A new-resident package, materials provided by Arlington County including site-specific transit-related information to each person purchasing a unit .
  - Place a reference to the Court House Metro Station and bus routes in promotional materials and advertisements.
  - Cooperate with Arlington County to assist the County in implementing a transit-advertising program that will distribute information four times per year to all residents, tenants, employees, and visitors.
- h. Appropriately train management personnel to provide rideshare, transit, and other information provided by Arlington County intended to assist with transportation to and from the site.

Performance and Monitoring

- i. Upon approval of the TMP by the County, the developer agrees to implement all elements of the plan with assistance when appropriate by agencies of the County.

Conduct a transportation performance monitoring study two years after issuance of first Certificate of Occupancy subject to approval of the County Manager or his designee. Such report shall examine the assumptions of the Traffic Impact Analysis and the effectiveness of the TMP and include an all-day count of site-generated traffic and a voluntary mode-split survey.

- 15. The developer agrees that all improvements to streets for pedestrians and/or vehicular access or circulation shall be in full compliance with the Americans with Disabilities Act and any regulations adopted there under.
- 16. The developer agrees to install and maintain one (1) designated handicap parking space as shown on the plans approved by the County Board on January 21, 2006. The designated handicap parking space shall be installed and maintained in full compliance with the Americans with Disabilities Act and any regulations adopted there under.
- 17. The developer agrees that all building façades shall be constructed as shown on the plans attached with this staff report and reviewed and approved at the County Board meeting of January 21, 2006, except as otherwise approved by the County Manager or his designee.
- 18. The developer agrees that all engineering design plans and subsequent construction shall be in accordance with the latest edition of the Arlington County Department of Environmental Services (Transportation Planning) Construction Standards and Specifications.
- 19. The developer agrees that at the time of any transfer of any part of the property, the purchaser shall be provided with a copy of the conditions of the use permit as well as with information

clearly stating that all owners of property on the site and their successors and assigns are bound to the terms and conditions of this use permit.

20. The developer agrees to comply with all federal, state and local laws and regulations not modified by the County Board's action on this Unified Commercial/Mixed Use Permit and to obtain all necessary permits. In addition, the developer agrees to comply with all of the agreed-upon conditions approved by the County Board as a part of this use permit approval. The developer agrees that the County has the authority to take actions to include issuance of a stop work order when the developer is not in full compliance with any of the agreed-upon conditions. Further, temporary Certificates of Occupancy will not be issued without approval by the Zoning Administrator.
21. Prior to the issuance of the first Certificate of Occupancy (to include temporary Certificates of Occupancy) for any building on the site, the developer agrees to submit a Loading and Delivery Management Plan to the Zoning Administrator for review and approval. This plan shall provide for service access using the loading facility as shown in the plans reviewed and approved by the County Board on January 21, 2006. This plan shall further provide for monitoring of loading and unloading/deliveries by the management of the residential and commercial components of the project, the restriction of loading and deliveries using public streets for the parking of loading and delivery vehicles and shall include a contact name of a person with authority to control loading and unloading/deliveries to whom outsiders may report violations. The developer agrees to develop a parking management plan which outlines how guest and visitor parking for the building, parking for residential, office and retail tenants' employees and customers, and general public parking will be provided, where the parking will be located and how guests and visitors, office and retail employees and customers, and the general public, will be directed to the parking spaces. The parking management plan shall also include the location of any secure areas and the location of security gates or other measures to restrict access. The parking management plan shall encourage parking by visitors and customers of the project, through ease of access to the parking spaces, signage, and fee structure. The fee structure shall discourage daily commuter parking. The developer shall submit the parking management plan, which shall include the parking fees and details of the validation program, to the Zoning Administrator and it shall be reviewed and approved by the County Manager or his designee, prior to the issuance of the first Certificate of Occupancy for the first building. The developer agrees to submit an annual report to the Zoning Administrator documenting compliance with the parking management plan as well as any changes to the plan. The developer agrees to make at least twenty substantially contiguous parking spaces on the uppermost level of the garage available to the general public on an unreserved, high turnover, hourly basis for visitors and patrons from 7:00 a.m. to 6:00 p.m. on weekdays (other than the holidays listed below). These spaces shall be provided free of charge or at market rates. These spaces, and their availability for this use, shall be clearly labeled. Further, these twenty spaces shall also be fully accessible to the general public.
22. The developer agrees to make the area identified as "Community Room" on the plans approved by the County Board on January 21, 2006, available for use by County government,

local civic associations, and non-profit organizations ("Organizations") on the following basis:

The "Community Room" shall be made available, at no charge, to Organizations (defined above) on weekday evenings (from 6:30 p.m. to 11:00 p.m.) and on Saturdays (9:00 a.m. to 6:00 p.m.) on a pre-scheduled basis, when the "Community Room" is not in use by tenants of the building. The "Community Room" shall be made available a minimum of 24 times/year.

23. In order to maintain the effectiveness of the County's public safety communications systems, the County reserves the right to install radio transmitters and receivers in the penthouse or top floor and antennae on the roof of the proposed buildings at no charge to the County in a location and design that is acceptable to the County and the building owner based on a reasonable exercise of judgment by both. The developer agrees to provide access to electrical service separately metered, including auxiliary electrical power, and telephone radio control lines to the penthouse in the defined area. Any radio transmitter or receiver equipment and antenna to be installed or used by others must not interfere with the emergency communication system of the County.
24. The developer agrees that density for the project is being granted in exchange for the provision of affordable dwelling units within the project for a portion of unimproved right-of-way, known as 23rd Street South and totaling 3,771 square feet that is to be vacated following the approval of this project. The developer agrees that the exact area to be vacated shall be determined by the County Manager. The developer agrees to obtain County Board approval of an ordinance of vacation, meet all conditions of such ordinance and record the deed of vacation for said portion of the right-of-way within 365 days of approval of this Use Permit by the County Board. The developer further agrees to grant an easement for access over the vacated right-of-way to the neighboring properties commonly known as 2221 South Kenmore Street and 2244 Shirlington Road (including RPC#s 31-023-001, -002, -003, -004). Such easement shall be granted within 365 days of approval of the Use Permit by the County Board. Such easement shall include a provision that the easement will automatically terminate upon the redevelopment of the neighboring properties. If the developer has not fully complied with the terms of this condition #24 within 365 days after approval of this Use Permit, the this approval shall automatically and without further action become null and void and of no force or effect.