DATE: July 2, 2004

SUBJECT:

A. Z-2516-04-1 REZONING from “C-2” Service Commercial – Community Business Districts to "C-O-2.5" Commercial Office Building, Hotel and Apartment Districts; premises known as 3901 N. Fairfax Dr. (RPC #14-030-012, -013, -014)

B. SP #386 SITE PLAN approx. 135 dwelling units, ground floor retail, community black box theater, plaza, existing funeral home, with modification of use regulations for density, setbacks, exclusion of community facility space and below grade storage from calculation of GFA; 3901 N. Fairfax Dr. (RPC #14-030-012, -013, -014)

Applicant:
TCR Virginia Square Holdings L.C.

By:
Timothy Sampson
Walsh, Colucci, Lubeley, Emrich & Terpak
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

C.M. RECOMMENDATION:

A. Approve attached resolution to approve the rezoning request from "C-2" Service Commercial-Community Business Districts to "C-O-2.5" Commercial Office Building, Hotel and Apartment Districts.

B. Approve the site plan request, with modifications of use regulations for density, exclusion of community facility space and below grade storage from calculation of GFA.

County Manager: ______________
County Attorney: ______________
Staff: Lisa Maher, Planning Division, DCPHD
Betts Abel, Housing Division, DCPHD
David Robinson, Planning Division, DPW
PLA-3730
GFA, subject to the conditions in the staff report.

ISSUES: None.

SUMMARY: The applicant has designed a 12-story residential project consisting of 135 units, 2,648 square feet of ground floor retail, a black box theater, and a public plaza on the site of the Arlington Funeral Home, in the Virginia Square Metro Station Area. The proposal is consistent with goals and recommendations set forth in the Virginia Square Sector Plan. The proposed site plan is also consistent with the subject site’s General Land Use Plan designation and with the proposed zoning designation for the site. The applicant has agreed to a number of improvements around and adjacent to the site to improve the pedestrian experience in the area. In addition, the applicant has proposed to provide a black box theater and a public plaza as recommended in the Virginia Square Sector Plan. The black box theater would be controlled by the County, and would be operated and used by local theater groups that currently need space. The applicant has requested additional density of 10% of the residential units and 0.25 FAR on the site’s commercial density for provision of the theater, which meets the Zoning Ordinance requirement for this amount of additional density. The applicant has also agreed to provide seven on site affordable housing units, for a total of 15% additional residential density, which is another goal of the Sector Plan and of the County as a whole. While the proposed parking and loading access design is not ideal, its location is consistent with Sector Plan recommendations, existing and future vehicular and pedestrian traffic should remain relatively low on North Pollard Street, and the applicant has designed measures to minimize driveway widths and provide pedestrian refuges between the driveways. In addition, the proposed building’s taper toward Central Library is less extensive than envisioned in the Virginia Square Sector Plan. However, the proposed project, overall, substantially meets the goals and recommendations in the Sector Plan, and the proposal includes many significant community amenities, including a fully finished theater, a public plaza in the preferred location, and a significant affordable housing package. Therefore, staff recommends that the County Board approve the attached rezoning resolution and the proposed site plan, with modifications of use regulations for density, exclusion of community facility space and below grade storage from calculation of GFA, subject to the conditions in the staff report.

BACKGROUND: The subject site is a block, on the north side of Fairfax Drive, that is currently developed with a funeral home and surface parking. The site is surrounded by the Arlington Central Library parking lot and Quincy Park across 10th Street North to the north, by a small commercial building and surface parking to the east across North Pollard Street, by small office buildings and a WMATA cooling tower (a residential site plan has been approved on the site) to the south across Fairfax Drive, and to the west across North Quincy Street by an office building.

The County Board adopted a revised Virginia Square Sector Plan in December 2002. That plan included many recommendations both for the Virginia Square Metro Station Area in general and for the subject site specifically. Among the recommendations was an amendment to the site’s General Land Use Plan (GLUP) designation from “High-Medium Residential Mixed-Use” to
“Medium” Office-Apartment-Hotel. The County Board approved this GLUP amendment in April 2003. On December 6, 2003, the County Board denied a site plan for this site and accepted a withdrawal of a rezoning request.

The following provides additional information about the site and location:

**Site:** The roughly rectangular subject site comprises 45,508 square feet (1.04 acres). The Arlington Funeral Home and a large surface parking lot currently occupy the site. Uses adjacent to the site include the following:

- To the north: Arlington Central Library
- To the east: An office building and surface parking
- To the west: A highrise office building
- To the south: Small office buildings and WMATA cooling tower—a highrise residential site plan has been approved on the site

**Zoning:** “C-2” Service Commercial – Community Business Districts

**Land Use:** “Medium” Office-Apartment-Hotel

**Neighborhood:** Ballston-Virginia Square Civic Association, Ballston-Virginia Square Partnership

<table>
<thead>
<tr>
<th>Existing Zoning: “C-2”</th>
<th>Density Allowed By-Right</th>
<th>Maximum Development</th>
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<tbody>
<tr>
<td></td>
<td>1.5 FAR office/retail; or</td>
<td>68,262 s.f. office/commercial; or</td>
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<td></td>
<td>7.26 units/acre residential</td>
<td>7 residential units</td>
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</tbody>
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<thead>
<tr>
<th>Proposed Zoning: “C-O-2.5”</th>
<th>Density Allowed By-Right</th>
<th>Maximum Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>By-right: 0.6 FAR office/retail; or single family residential at 7.26 units/acre</td>
<td>By site plan: 113,770 s.f. office/commercial; or 120 residential units; or 188 hotel rooms</td>
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</tr>
<tr>
<td>By site plan: 2.5 FAR office/retail; or 115 units/acre residential; or 180 hotel rooms/acre</td>
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</tbody>
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**Proposed Development:** The following table sets forth the statistical summary for the project.

<table>
<thead>
<tr>
<th>Site Area</th>
<th>45,508 s.f. (1.045 acres)</th>
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</thead>
<tbody>
<tr>
<td>Allocated to Office</td>
<td>3,636.4 s.f.</td>
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<tr>
<td>Allocated to Retail</td>
<td>963.1 s.f.</td>
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<tr>
<td>Allocated to Residential</td>
<td>40,908.5 s.f. (0.939 acres)</td>
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<th>Density</th>
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<tbody>
<tr>
<td>Total Space</td>
</tr>
</tbody>
</table>

Rezoning Z-2516-04-1 & Site Plan #386
Virginia Square Park Condominiums - 3 -
Office (funeral home) GFA | 10,000 s.f.1
---|---
(Max. permitted office GFA) | 9,091 s.f.
Retail GFA | 2,648 s.f.
(Max. permitted retail GFA) | 2,408 s.f.
Residential Units (includes 25% res. bonus) | 135
(Max. permitted residential units) | 108
Cultural Facility GFA | 8,193 s.f.

FAR/Units per acre

<table>
<thead>
<tr>
<th></th>
<th>FAR/Units per acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office (fun. home) FAR (incl. 0.25 FAR bonus)</td>
<td>2.75</td>
</tr>
</tbody>
</table>
(Max. permitted office FAR) | 2.5 |
Retail (incl. 0.25 FAR bonus) | 2.75 |
(Max. permitted retail FAR) | 2.5 |
Residential units/acre (incl. 25% bonus) | 143.75 |
(Max. permitted res. units/acre) | 115 units/acre |
Cultural Facility FAR | Request to exclude |

Height

<table>
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<tr>
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<th>Height</th>
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</thead>
<tbody>
<tr>
<td>Average site elevation</td>
<td>262 feet ASL</td>
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</tbody>
</table>
Main roof elevation | 387 feet ASL |
Height in feet to main roof | 125 feet |
Penthouse height | 10 feet |
Office height (funeral home) | 2 stories |
Residential height | 12 stories |
(Maximum height permitted in “C-O-2.5”) | 12 stories |
(Max. permitted per Va. Square Sector Plan) | 12 stories or 125 feet |
(Max. penthouse height per Va. Sq. Sector Plan) | 16 feet |

Cultural Facility

<table>
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<tr>
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<th>Cultural Facility</th>
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<tbody>
<tr>
<td></td>
<td>Within building</td>
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</table>

Parking

<table>
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<tr>
<th></th>
<th>Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total parking spaces (including tandem)</td>
<td>226</td>
</tr>
</tbody>
</table>
Total direct access spaces | 225 |
Total Residential (direct access) | 152 |
Total Non-residential parking (direct access)2 | 73 |
Total B1 level (including tandem) | 74 |
(Min. by-right funeral home requirement) | 120 by right1 |
(Min. by-right retail requirement) | 5 |
(Min. by-right residential requirement) | 152 |

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1 Excludes 1,002 s.f. of basement space in funeral home requested by applicant.
2 Non-residential parking, on the B1 level, includes access to all spaces for the funeral home, shared with a minimum of 25 spaces for the theater, and a varying number, generally from approximately 38 to 64 spaces, for the retail space and the public, except for several hours, approximately 35 times per year, during peak funeral home use.
3 The funeral home is currently subject to use permit approval that includes a requirement for 17 parking spaces.
Density and Uses: The applicant proposes to construct a highrise residential building incorporating a cultural facility, to house a black box theater and associated spaces, and ground floor retail, on the approximately rectangular subject site. The project would have a total of 135 residential units, 2,648 square feet of retail space, and the existing funeral home, located on the southeast corner of the block, which would remain. The applicant has requested 10% additional density on the residential units and 0.25 FAR on the commercial density, for provision of the theater, amounts that the County Board may approve according to Section 36.H.5.d. of the Zoning Ordinance. The applicant has also requested an additional 15% of residential density for the provision of affordable housing, for an overall total residential bonus of 25%. The project would have below ground parking to serve all the uses, and the height of the new building would be 12 stories and 125 feet.

Site and Design: The proposed “L” shaped highrise building would wrap around the existing funeral home at the southeast corner of the subject site, extending east along the central and eastern frontage of 10th Street North and south through the middle of the site. This would leave approximately one-third of the site, oriented north-south along North Quincy Street, as open space. The cultural facility (black box theater) would be located in the southwest and central portion of the ground floor of the proposed building, with frontage along Fairfax Drive and the elevation facing North Quincy Street. Adjacent to the theater to the east would be a retail/gallery space, and additional ground floor retail would be located just north of the theater on the elevation facing North Quincy Street. The open space would be designed as a public plaza, as recommended in the Virginia Square Sector Plan. The proposed residential building would be 12 stories and 125 feet high. The main residential entrance would be located at the northwest corner of the building on 10th Street North facing the open space. The theater entrance would be...
at the southwest corner of the site on Fairfax Drive facing the open space. The facades of the building would be two colors of brick, with precast elements on the base and top sections of the building, and metal accents. A circular architectural feature would be located on the roof at the southwest corner of the building, above the theater entrance.

All parking and loading entrances would be accessed from North Pollard Street, as described in the Parking section below.

The proposed black box theater would accommodate up to 75 seats and would be built out by the applicant. The applicant has met with Cultural Affairs staff to ensure that the theater design would be appropriate for the intended small theater groups that would use it. Cultural Affairs staff has also discussed potential mechanisms for deciding which groups would be able to use the theater and how it would be operated without County funds.

**LEED Scorecard:** The applicant commits to achieving 21 LEED points in the proposed project. Condition #69 addresses the applicant’s LEED scorecard and implementation of “green building” measures in the proposed project.

**Transportation:** The Master Transportation Plan – Part 1 classifies 10th Street North and North Pollard Street as neighborhood minor streets and North Quincy Street and Fairfax Drive as minor arterials. Adjacent to the site, Fairfax Drive provides two lanes in each direction, while North Quincy Street, 10th Street North, and North Pollard Street all provide one travel lane in each direction. On-street curb lane parking is currently allowed along both sides of 10th Street North and Fairfax Drive, and on the east side of North Pollard Street. Parking is currently prohibited along both sides of North Quincy Street adjacent to the site.

**Trip Generation:** A Traffic Impact Analysis (TIA) was prepared by a transportation consultant for the applicant to assess the impacts of the development on the adjacent street system. Future intersection Levels of Service (LOS) were evaluated for the weekday morning and evening peak hours for several intersections near the site. The subject residential building was estimated to generate approximately 21 AM and 29 PM peak hour vehicle trips, based on Institute of Transportation Engineers (ITE) Trip Generation Manual (6th Edition). The TIA found that all intersections would continue to provide an acceptable level of service in the future with the exception of the intersection of Fairfax Drive and North Quincy Street which is forecast to operate at LOS F. The intersection is currently operating at LOS F, and the impact of the proposed development is minimal.

**Parking:** The Virginia Square Sector Plan for the subject block recommends that all driveway entrances be located off of North Pollard Street. Together with the retention of the funeral home on the site and its requirement for a separate garage entrance to the first parking level (B-1) for funeral services and vehicle queuing for the funeral processions, the applicant proposes a second garage entrance for the residential building (B-2 and B-3 levels) and a third entrance for the project’s loading dock. This results in an overall curb cut of approximately 60 feet in length toward the northern end of North Pollard Street. Staff and the applicant have reviewed several
alternative designs that are not desirable from either a public safety or funeral home operations perspective. The applicant is revising the plans to minimize the width of the travel lanes (ingress and egress) for the two garage ramps and the width of the loading dock to enhance pedestrian safety and embellish the appearance of the garage doors. Staff recommends that the applicant provide the loading dock entrance directly to the street between the two garage driveways to minimize street conflicts from traffic entering and exiting the garage. In addition, staff recommends that the applicant minimize the garage driveway and entrance widths to 18 feet each and provide a 12 foot wide loading dock driveway and entrance. Further, staff recommends that the applicant provide a minimum sidewalk pedestrian refuge between the loading driveway and each garage driveway of three feet.

The applicant proposes to provide 226 parking spaces on three levels below grade for the mixed use development. One of these spaces would be tandem. The first level of below grade parking would provide 74 parking spaces for the funeral home, the theater, the retail space, and for the public, including the tandem space. A minimum of 25 spaces would be allocated to theater use during times of theater performances. The applicant estimates that, based on past experience, the funeral home would need to use the entire top level of the garage approximately 35 times per year, precluding its availability for other uses, during which times signage would be provided to inform other potential users and to direct patrons to other nearby parking facilities. 152 residential parking spaces are located on the second and third parking levels, providing a parking ratio of 1.125 spaces per dwelling unit. The parking would include 20 compact spaces, for a compact ratio of 8.9%, compared to 15% permitted by right.

**Streets:** Fairfax Drive is currently constructed to a width of approximately 82 feet, to provide a four-lane street divided with a ten-foot wide median, with five-foot wide on-street bicycle lanes and on-street parking in both directions. No changes are proposed to the Fairfax Drive cross-section.

North Quincy Street is currently constructed to a width of approximately 51 feet between face of curbs, providing two southbound and one northbound travel lanes. On-street parking is currently prohibited along both sides of North Quincy Street adjacent to the site frontage. The northbound travel lane is approximately 19 feet wide and provides the transition from the two through lanes through the Fairfax Drive intersection to the single through lane approaching the 10th Street intersection. The southbound approach to Fairfax Drive similarly widens from a single southbound travel lane through the 10th Street intersection and widening to provide two southbound approach lanes (left/through lane, through/right turn lane) and a curb no parking lane for loading, deliveries, etc. The curb to curb width of North Quincy Street would remain at 51 feet, however the travel ways would be narrowed to allow on-street parking along both sides of the street, with a northbound bike lane. The travel way would provide for a single northbound lane, and two southbound lanes providing for a separate left turn lane and a through/right turn lane. The proposed streetscape improvements also include the construction of curb extensions (nubs) on both sides of North Quincy Street at Fairfax Drive, as well as on the east side of North Quincy Street at 10th Street North.
The current width of 10\textsuperscript{th} Street North is 36 feet, which provides one travel lane, and on-street parking, in each direction. The applicant has proposed to narrow 10\textsuperscript{th} Street North by approximately 8-inches to provide a 13.67-foot-wide streetscape section along the site frontage. Staff supports this proposal, which would leave sufficient width for the current uses of the street.

North Pollard Street is currently 27 feet wide and provides one travel lane in each direction, with on-street parking on the east side of the street. There are no proposed changes to this roadway.

**Transportation Demand Management (TDM) Program:** Under this proposal the applicant would implement the TDM strategies that are briefly summarized below and detailed in the site plan condition #48:

1. **Transportation Coordinator:** Designate a member of the building management team as the Property Transportation Coordinator, to be a primary point of contact with responsibilities for completing and coordinating TDM obligations. In addition, provide an annual contribution to the County’s Commuter Assistance Program (CAP) of $1,500 per year for a period of ten (10) years.

2. **Transit Information Services:** Distribute transit information by providing a new-resident package to include site-specific transit-related information, mention ways to access Metro in promotional materials and advertisements for the property, provide information as part of the recruiting and employment materials regarding commute options and assistance services available, implement a transit advertising program that will distribute information four times per year to tenants, employees and visitors, and provide opportunities to participate in Ozone Action Days or other regionally sponsored clean air and traffic mitigation promotions.

3. **Parking Strategies:** Implement parking management strategies such as providing a Coordinated Area Parking Plan for both garage and surrounding on-street parking. In addition, provide a Parking Management Plan which includes a description of visitor parking arrangements and management.

4. **Transit Subsidy:** Provide or administer a sustainable commute benefit program for employees of the residential Property, (which program shall include, at a minimum, pre-tax employee contributions and/or at the developer’s option, tax-free transit or vanpool contributions of at least $40 per month) for the duration of the project. No subsidy is proposed for residents.

5. **Provide an opportunity for a car sharing service, such as Zip Car or FlexCar to have access to no more than one conveniently located parking space located on the 1st level of the parking garage at no cost for two years after issuance of the master certificate of occupancy for the residential building. Thereafter the rate would be at market or at the discretion of the developer.**
Pedestrian Access: The plan would provide a 20-foot wide sidewalk on Fairfax Drive, a 16-foot wide sidewalk along North Quincy Street, a 13-foot eight-inch wide sidewalk on 10th Street North, and a 13-foot wide sidewalk along North Pollard Street. However, the streetscape adjacent to the existing funeral home would be narrower due to the presence of the existing building. If the funeral home building were demolished, the developer would extend the streetscape adjacent to the new construction to complete the block; which may not happen for many years. Streetscape improvements also include:

- Crosswalk nubs along Fairfax Drive, North Quincy Street including the west side, and 10th Street North,
- Crosswalks and subsequent curb ramps for all corners of the site, with the exception of the crosswalks across Fairfax Drive, which are being installed by the Quincy Plaza site plan. The crosswalks across 10th Street North, would be raised to the level of the adjacent sidewalks to slow traffic next to Quincy Park and Central Library and to provide a connection between the subject site and the library/park.

Public Transit: The site is located approximately 1,200 feet east of the Ballston Metrorail Station, part of the Metrorail Orange Line. Metrobus service is also available nearby. Route 38 provides service on Washington Boulevard between Ballston and Farragut Square in the District of Columbia. Route 24 provides service on Wilson Boulevard between the Pentagon and Seven Corners. ART Route 53 provides service on North Quincy Street between the East Falls Church and Ballston Metrorail Stations.

Bicycle Access: An existing on-street bicycle route is located on 10th Street North adjacent to the site. The trail connects to the Custis Memorial Parkway Trail (I-66) to the north and to Arlington Boulevard and other routes to the south. Existing on-street bicycle lanes are located on Fairfax Drive adjacent to the site.

Utilities: Adequate water and sanitary sewer system capacity is available to serve the proposed residential development. To ensure adequate water pressure for fire protection and domestic use, staff recommends that the developer extend the water main off of the existing eight-inch water line in 10th Street North. For fire hydrant coverage, the existing fire hydrant located on the northwest corner of the intersection of Fairfax Drive and North Pollard Street needs to be connected to an eight-inch water line. The applicant should abandon the existing six-inch water line located in North Pollard Street, from Fairfax Drive to 10th Street North, and replace it with an eight-inch water line, along with all the subsequent appurtenances reconnected to the new line.

The applicant has agreed to remove or place underground all existing aerial utilities within and along the periphery of the site. The applicant also would make a contribution of $52,236 ($50,000 x 1.04472 acres) to the Underground Utility Fund.

DISCUSSION:
Rezoning: The proposed “C-O-2.5” zoning district is consistent with recommendations for the
subject site in the *Virginia Square Sector Plan* and is also consistent with the site’s General Land Use Plan designation of “Medium” Office-Apartment-Hotel, which was approved for the site in April 2003 as part of the implementation of Sector Plan recommendations.

**Adopted Plans and Policies:** Both the General Land Use Plan and the *Virginia Square Sector Plan* guide development on the subject site.

**General Land Use Plan:** The proposed uses are consistent with the site’s General Land Use Plan designation of “Medium” Office-Apartment-Hotel and with the proposed “C-O-2.5” zoning for the site. The proposed density for the project is 143.75 units per acre for the residential development and 2.75 FAR for the commercial development. These densities including additional density of 25% over the base site plan density of 115 residential units per acre and 2.5 FAR for commercial development.

**Virginia Square Sector Plan:** The Sector Plan makes a number of recommendations both for the Virginia Square Metro Station Area in general and for the subject site in particular. These goals and recommendations include:

Overall site/uses: These include commercial or cultural/educational/recreation, while not prohibiting residential use, as well as a redevelopment plan that addresses the entire site.

Massing/design/architecture: These recommendations include a build-to line; base, body, and top; maximum height of 12 stories or 125 feet; varied facades; special roofline/architectural embellishment; building transparency, particularly at the base of the building; multiple entrances; primary entrance on plaza/Fairfax Drive; retail on Fairfax Drive and corners; high quality materials and finishes; all visible elevations designed as fronts; prominent architecture; entrance into Virginia Square; and a building height taper to 10th Street North.

Open Spaces and Urban Plazas: The recommendations include a Fairfax Drive and North Quincy Street location that creates a connection and visibility from Fairfax Drive to Central Library/Quincy Park, with good pedestrian circulation and a flexible design.

Streetscape Elements/Streets: These recommendations include a continuous building edge apart from open space, with openings or breaks in building edge for public uses; standard sidewalk widths, special streetscape elements, and to integrate 10th Street North into the project design.

Parking>Loading: The Sector Plan recommends underground and street parking, minimizing entrances, which should be provided on North Pollard Street; adequate loading access that avoids major pedestrian routes, and opportunities for shared parking

Community Facility/Public Art: Recommendations include a cultural or performing arts facility on site, as well as public art in the gateway site.
The applicant has strived to meet the goals of the *Sector Plan* and has addressed the great majority of the above items. The *Sector Plan* recommendations not met include retention of the funeral home and a significant taper down toward Central Library. The applicant has been able to design a building that meets the height limits recommended by the *Sector Plan* and that provides the public plaza envisioned in the *Plan*.

While the funeral home building does not meet the *Sector Plan*’s vision for massing of the site, the applicant has agreed to upgrade streetscape adjacent to the funeral home and has proposed a new building to replace the funeral home after the funeral home use ends. This replacement building would provide the same floor area as currently exists in the funeral home, while increasing the mass by providing tall floors, for an approximate height of 40 feet. Since this height would rise to the levels of second and third floor residential units that originally would be higher than the existing funeral home building, the proposed design should set the second floor away from these units to provide a minimum 40-foot horizontal separation from any windows in the residential building. The applicant is working to provide this separation and to design an attractive façade treatment of visible residential building walls that will ultimately be obscured by the replacement for the funeral home. The proposed design would be more in keeping with the design of the proposed residential building, and the height would give the impression of substantial height from the perspective of pedestrians. The ultimate buildout of the block would also present a better massing of the block than would be provided by the existing funeral home and would also include standard streetscape design around the entire block. Staff supports this concept.

The applicant has provided a small taper toward Central Library, stepping back the 10th Street North elevation by one to four feet at the second floor and an additional eight feet at the 12th floor. While this is not a substantial taper, it does break up the mass of the building as it faces Central Library. In concert with the additional design, use, and amenity elements proposed by the applicant, staff supports the design of the project as a whole as being consistent with the *Sector Plan* recommendations.

**Issues:**

**Urban Design:** The applicant has designed a project that meets many County goals for project design in the metro corridors. In addition to the *Sector Plan* goals and recommendations governing redevelopment of the site generally, the applicant has worked to provide visual interest and convenience to pedestrians, both in the building base and in the project as a whole. The proposed building’s ground floor would have major entrances at the two most prominent corners of the building. Additional ground floor entrances would be provided on Fairfax Drive, with retail space and the funeral home, on North Quincy Street with retail space, on 10th Street North with two residential unit entrances, and on North Pollard Street with the ceremonial entrance to the funeral home. The project would have articulated facades and a roof line with special treatments at the theater and residential entrances at the corners of the building. The proposal also includes a public plaza in a location recommended by the *Sector Plan*, with views to Central Library and Quincy Park.
The retention of the existing funeral home, which was not contemplated in the Sector Plan, has placed constraints on the proposed building in terms of layout and massing of the building and has made the provision of parking and loading entrances, as well as adequate parking, difficult. However, the applicant has worked hard to compensate for these constraints, and has designed a building to replace the funeral home when that use ends. This building would be 40 feet high and would be designed consistently with the residential building design. Staff notes also that while the proposed building does not introduce the extent of tapering toward 10th Street North envisioned in the Sector Plan, on balance the proposal meets the Plan’s urban design goals.

Parking: The proposed parking meets all Zoning Ordinance standards for parking, except for the funeral home, which has a very high by-right parking requirement. Based on the existing funeral home’s past experience, the proposed parking will be adequate to accommodate virtually all the funeral home’s parking needs. In fact, the variable, and mostly light, parking demand for the funeral home has enabled the applicant to make extensive use of shared parking, with the theater, retail space, and the public sharing the first parking level with the funeral home. While the funeral home’s needs may conflict with these other uses on occasion, staff supports the proposed shared parking as an efficient use of parking space that would meet nearly all the non-residential needs of the project, as well as provide significant public parking.

Affordable Housing: The applicant proposes to include committed affordable units (CAFs) in a market-rate project as part of a request for bonus density. The proposed CAFs would consist of a total of 7 units (1 one-bedroom, 2 two-bedroom and 4 three-bedroom units) to be provided out of a total of 16 bonus units. The 7 affordable units have 11,749 gross square feet, while the 9 market-rate bonus units have 11,866 gross square feet, for a 1:1 ratio on a gross square foot basis.

The housing reserve fund (HRF) contribution on the base for this project would be $185,000 based on the previous percentage of construction cost formula. According to the interim guidelines approved by the County Board on December 6, 2003, the HRF contribution would be $722,000. The applicant filed a site plan for this site in February 2003, the site plan was denied in December 2003, and this subsequent site plan was filed by the same applicant, with some of the same features, in April 2004. The timeline of this project has spanned three sets of affordable housing guidelines. Because this is, in effect, a transitional project between the various guidelines, the applicant has agreed to a contribution of $400,000, which represents an intermediate amount.

The applicant’s affordable housing plan proposes to offer the CAFs as for-sale condominiums affordable to households at or below 60% of area median family income (MFI). The annual income for households for these units would be $43,920 to $57,090. Staff has evaluated the developer’s plan to ensure that the plan generally meets or exceeds the County’s guidelines for bonus density based on the zoning ordinance amendment approved by the County Board on October 13, 2001 as follows:
• Minimum Term – This will be established for the life of the project by deed covenant for initial and subsequent individual condominium buyers.
• Eligible Income – The plan would limit eligibility for purchasing the units to households with incomes at or below 60% of MFI.
• Sale prices - prices for all units will be affordable to households with incomes at or below 60% of MFI:

<table>
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<th>Bedroom Size</th>
<th>No. of Units</th>
<th>Proposed Sale Price</th>
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<td>$120,800</td>
<td>60% MFI</td>
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<td>$157,000</td>
<td>60% MFI</td>
</tr>
</tbody>
</table>

• Unit/bedroom mix – The plan provides 7 affordable units, with 17 bedrooms.
• Location – Affordable units will be dispersed throughout the building.
• Design and layout – Affordable units will be architecturally compatible with market rate units. Some flexibility in the level of finishes (i.e., trim, countertops) and sizes may be allowed. Households living in affordable units will have access to all building amenities equal to that of households in market rate units.

The recently approved Virginia Square Sector Plan states: “As new residential projects are proposed, it is expected that at least five percent of those units will be affordable, using existing resources and land use tools.” This project is providing 5.2% of the total units and 5.9% of the total gross square feet as affordable, through the use of the bonus density mechanism. The sector plan further states a preference for on-site affordable units and two- and three-bedroom units in new residential development; this project provides six such units.

A deed covenant mechanism, as approved by the County Board on January 10, 2004, will effectively keep the units affordable in perpetuity. The developer, and subsequently each purchaser, will execute and record in the County’s land records a deed covenant in favor of the County and assignable to a County-designated nonprofit housing sponsor. The covenant will specify the affordability period, how future appreciation will be calculated, and the resale prices of the units as well as provide for future sales to low and moderate income households. The covenant will address resale, refinancing, rental, foreclosure and related concerns. Additionally, a County deed of trust for the subsidy amount may be recorded on each unit.

Staff supports the developer’s affordable housing plan (see Condition #66). The condition includes the following elements:

• County/Developer Agreement/Affirmative Marketing Plan – an agreement to all the terms and conditions outlined in the developer’s Affordable Housing Plan.
• Affordable Sales Prices/Marketing Period – defines affordable sales prices and the
marketing period for the affordable units.

Sales Price Increases and the Compliance Period will be provided in the covenant.

**Modification of Use Regulations:** The applicant has requested modifications of use regulations for; 1) additional density for black box theater; 2) additional density for affordable housing; 3) exclusion of the black box theater GFA from density calculations; and 4) exclusion of basement storage in the funeral home from density calculations.

1) Additional Density for Black Box Theater: The applicant has requested .25 FAR of additional density on the funeral home and retail space and 10% additional residential density for provision of the black box theater as a community facility. Section 36.H.5.d of the Zoning Ordinance provides additional density “not to exceed .25 floor area ratio (F.A.R.) in an office structure, or ten [10] percent in a motel or apartment structure, providing the county board judges that a contribution to required community facilities has been provided.”

The applicant has proposed to provide to the County, as a community facility, a fully fit-out black box theater to justify a request for additional density of 10% on the residential development and 0.25 FAR on the commercial development. This space would be a condominium unit, sold to the County for the nominal price of one dollar, for the life of the project. This theater, designed in conjunction with County Cultural Affairs staff, would accommodate small theater groups that need performance space, and would permit up to 75 seats. Cultural Affairs staff and the applicant have also developed a scope of work to define the construction and fit-out of the space. A scope of work for the theater (attached to this report) and Condition #77 document the agreements and details regarding the black box theater. The Virginia Square Sector Plan has, as a goal, the continued development of the Virginia Square Metro Station Area as a cultural and educational center and has identified the subject site as one of two sites on which a cultural facility is recommended. The applicant has worked to provide this amenity for the community, and has designed and located it at the prominent southwest corner of the site, adjacent to the plaza and to Fairfax Drive to provide maximum visibility and access. Parking for nearly all performances would be provided in the first level of the below grade garage, with elevator access to Fairfax Drive. Staff believes that this proposal meets the Sector Plan’s major goal for this site and supports the theater proposal and the applicant’s request for additional density.

2) Additional density for affordable housing: The applicant has proposed to provide on-site affordable units for 15% additional density. Staff supports the proposal of seven affordable units to nine market rate units, with approximately an even split of GFA between affordable and market rate units, as well as a $400,000 contribution to the Housing Reserve Fund, as described above and in Condition #66.
3) Exclusion of black box theater GFA from density calculations: This space would be provided to meet the Sector Plan recommendation for a cultural facility at this location. This space is proposed for community use and not as an amenity for the project itself. Therefore, staff would support exclusion of the black box theater from density calculations.

4) Exclusion of approximately 1,000 square feet of below ground storage in the funeral home from density calculations: Staff generally supports exclusion of below ground storage since it does not generally contribute to the intensity of use of a site. Consistent with this practice, staff would support this requested exclusion.

Community Process: The Site Plan Review Committee reviewed the project two times. Many of the site and development issues had been reviewed and discussed previously, with the earlier version of this site plan, which was denied by the County Board in December 2003. The Ballston-Virginia Square Civic Association has reviewed the proposed site plan and has had representation at the Site Plan Review Committee meetings but has not conveyed a formal position to staff. The Ballston-Virginia Square Partnership voted to approve the proposed project at its May 6, 2004 meeting, noting that most of its concerns regarding the earlier proposal have been ameliorated.

Housing Commission Recommendation: The Housing Commission reviewed the affordable housing proposal on June 22, 2004. At that time, the proposal was still under discussion between the applicant and staff, and the Commission voted to defer action to the July 8, 2004 meeting.

Transportation Commission Recommendation: The Transportation Commission heard this proposal on June 24, 2004. The Commission voted unanimously to approve the proposed site plan with the following recommendations: 1) add a left turn pocket to southbound North Quincy Street, and shift the North Quincy Street sidewalk five feet to the west to accommodate this change, 2) increase the transit subsidy per employee to $65 per month, and 3) research further the ability to combine the two garage entrances.

Staff Response: Staff and the applicant have worked out a plan for North Quincy Street that would accommodate the left turn lane as recommended by the Transportation Commission without requiring a change to the curbs and sidewalks. The applicant has agreed to the increase in the employee transit subsidy, which is reflected in Condition #48. Finally, staff and the applicant evaluated several garage and loading designs as previously discussed in this report but were unable to agree on a design meeting the needs of the applicant and the funeral home. The proposed design minimizes the width of the driveway entrances and provides pedestrian refuges. The garage entry and door designs will also complement the architecture of the building, as required in Condition #80.

Planning Commission Recommendation: The Planning Commission voted eight to zero, with one abstention, to recommend approval of the rezoning and site plan requests. The
recommendation included a change to Condition #69, to offer “green” interior finish options to condominium unit purchasers. The applicant has agreed, and this language has been included. The Commission also noted that Condition #77, regarding details of the theater agreement with the County, is being revised. Finally, the applicant agreed to a request, not to be included in the motion to approve the site plan, to change the name of the project so as not to refer to Virginia Square.

CONCLUSION: The applicant has worked to design a project that meets nearly all the goals of the Virginia Square Sector Plan and is consistent with the existing General Land Use Plan designation and proposed zoning district for the subject site. The proposed project would enliven the street, with ground floor retail on the two most prominent frontages of the site, two major corner entrances for the residential building and a black box theater, and additional entrances on the more minor 10th Street North and North Pollard Street. The applicant has agreed to improvements to the adjacent streetscape and streets that would improve the pedestrian experience in the area. In addition, the applicant has proposed to provide the major County goals for this site of a black box theater, a public plaza, and on-site affordable housing. Finally, the applicant has proposed a design for a building that would provide a better design and massing to replace the funeral home building when the existing use ceases. The benefits provided by the proposed project more than compensate for the deficiencies in the project’s taper toward 10th Street North and garage and loading entrance design. For these reasons among others, the proposed rezoning and site plan would promote and protect the public health, safety, and welfare. Staff therefore recommends that the County Board adopt the attached resolution to approve the rezoning, and approve the site plan, with modifications of use regulations for additional density and exclusion of the theater and below ground storage from density calculations, subject to the following conditions.
The following Conditions of site plan approval (#1 through #12) are valid for the life of the site plan and must be met by the developer before issuance of the Clearing, Grading and Demolition Permit.

1. The developer (as used in these conditions, the term developer shall mean the owner, the applicant and all successors and assigns) agrees to comply with the standard conditions set forth below and as referenced in Administrative Regulation 4.1 and the revised plans dated June 30, 2004 and reviewed and approved by the County Board and made a part of the public record on July 10, 2004, including all renderings, drawings, and presentation boards presented during public hearings, together with any modifications proposed by the developer and accepted by the County Board or vice versa.

This site plan approval expires three (3) years after the date of County Board approval if a building permit has not been issued for the first building to be constructed pursuant to the approved plan. Extension of this approval shall be at the sole discretion of the County Board. The owner agrees that this discretion shall include a review of this site plan and its conditions for their compliance with then current County policies for land use, zoning and special exception uses. Extension of the site plan is subject to, among other things, inclusion of amended or additional site plan conditions necessary to bring the plan into compliance with then current County policies and standards together with any modifications proposed by the owner and accepted by the County Board or vice versa.

2. The developer agrees to conduct a pre-construction meeting, and to coordinate participation in the pre-construction meeting by relevant County staff, including staff from the Departments of Community Planning, Housing and Development (DCPHD) Planning, Zoning, Inspection Services; Transportation (DOT); Parks, Recreation and Community Resources (DPRCR); Environmental Services (DES) and others as necessary, prior to the issuance of any permits for the site plan. The purpose of the pre-construction meeting is to discuss the requirements of the site plan conditions.

3. Tree Protection and Replacement
   a. The developer agrees to complete a tree survey, which shows existing conditions of the site and locates and identifies all trees which are consistent with the Tree Replacement Guidelines. The survey shall include any tree on adjacent sites whose dripline extends onto the subject site.
   b. The developer agrees to file and implement a tree protection plan for any trees proposed to be saved by the developer or specified to be saved by the approved site plan and shown on any filing in connection with this case. This plan shall include any tree on adjacent sites whose dripline extends onto the subject site. The tree protection plan shall be developed by a certified arborist or other horticultural professional with a demonstrated expertise in tree protection.
techniques on urban sites and shall be submitted and approved, and found by the County Manager or his designee to meet the requirements of this site plan, before the issuance of the Clearing, Grading and Demolition Permit. At a minimum, this plan shall include:

1. A site grading plan at two (2) foot intervals, including the location of all proposed improvements and utilities.

2. Detailed specifications for any tree walls or wells proposed.

3. A description of how and where building materials and equipment will be stored during construction to ensure that no compaction occurs within the critical root zone of the trees to be saved.

4. Identification of tree protection measures and delineation of placement of tree protection.

5. Any tree which is 30% or more dead as determined by the County’s Urban Forrester shall be removed and replaced by the developer at his expense with the number of major deciduous and evergreen trees consistent with the Tree Replacement Guidelines and which meet the minimum size and other requirements of Condition #14 below.

c. The developer also agrees to replace all trees, as shown on the Tree Survey, that are removed as a result of the new construction in accordance with the Arlington County Tree Replacement Guidelines. The developer agrees to submit tree replacement calculations and a tree replacement plan in accordance with the Arlington County Tree Replacement Guidelines. The tree replacement calculations shall be developed by a certified arborist or other horticultural professional with a demonstrated expertise in assessing the condition of trees. Any replacement trees shall conform to the standards and specifications set forth in Condition #14a below and shall be installed on the project site or on County-owned land, determined by the County Manager or his designee. The developer agrees to submit and obtain approval of this plan by the County Manager or his designee as part of the final site development and landscape plan.

4. The developer agrees to produce a photographic record of development, starting with a record of the site as it appears before demolition is begun, including photographic records during construction, and ending with a photographic record of the development as it appears after completion of construction. These photographs shall comply with the following specifications:

All photographic records shall be taken using black and white film. Submission of a photo contact sheet and 8" x 10" prints on photographic paper shall be the minimum
acceptable standard. Color photographs on compact disc must be submitted in addition to black and white photographs and the photo contact sheet at the end of the project prior to the issuance of the Master Certificate of Occupancy.

The photographic record shall include the following:

a. Before Clearing, Grading and Demolition of the site (shall be submitted before issuance of the Clearing, Grading and Demolition Permit)–Views of north, south, east and west facades, as location permits, of buildings to be demolished, as well as at least one photo of the site before any clearing or grading including the existing physical relationship with adjacent buildings and streets. The photographic record shall also include all historic aspects of the facades of the building to be demolished, consistent with the requirements described in Condition #51 below.

b. Site Clearance (shall be submitted before issuance of the Footing to Grade Permit)–Views of cleared site facing north, south, east and west, as location permits, with adjacent buildings and streets included.

c. Construction Phase (shall be submitted before issuance of the Shell and Core Certificate of Occupancy Permit)–At a minimum, views of the site: during excavation, upon completion of the first floor above grade, at topping out, and during the exterior cladding phase.

d. Site Completion (shall be submitted before issuance of the Master Certificate of Occupancy)–North, south, east and west facades of completed building or buildings, as well as at least one view of completed project in context of adjacent buildings and streets.

The photographic record of the site as it appears before demolition shall be delivered to the Zoning Administrator prior to the issuance of a clearing, grading or demolition permit. The remaining records, including the completed compact disc with the entire photographic history, shall be delivered to the Zoning Administrator, before the issuance of a Master Certificate of Occupancy, for placement in the County archives.

If the developer uses the "Fast Track" Permit Process, the Site Clearance and Construction Phase photographs shall be submitted before the issuance of the Footing to Grade Structure Permit, or the first Building Permit, whichever comes first. The Construction Phase photographs, showing any construction to grade, shall be submitted before the Final Building Permit. The Construction Phase photographs showing all construction above grade and the Site Completion Photographs and completed compact disc showing the entire photographic history of the site shall be submitted before issuance of the Master Certificate of Occupancy.
5. In addition to funding and constructing the utility undergrounding work, the developer agrees to contribute in the amount specified in Site Plan conditions to the County utility fund before the issuance of the Building Permit or prorated consistent with an approved phasing plan for the development. The total utility fund contribution for this site is $52,236 ($50,000 x 1.04472 acres). These funds may, but need not, be used by the County for the purpose of providing the undergrounding of utilities along the properties which are not redeveloping in this undergrounding district. If the area of the site plan is subdivided, the contribution to be made by each owner shall be based proportionally on the amount of site area allocated to each subdivided parcel. The contribution, if not obligated by the County to pay for utility undergrounding projects within 10 years from the date of payment, will be refunded without any accrued interest to the development owners of record at the time of any refund.

6. The developer agrees to develop a plan for temporary pedestrian and vehicular circulation during construction. This plan shall identify temporary sidewalks, interim lighting, fencing around the site, construction vehicle routes, and any other feature necessary to ensure safe pedestrian and vehicular travel around the site during construction. The developer agrees to submit this plan to, and obtain approval of the plan from, the County Manager or his designee as meeting these standards, before the issuance of the Clearing, Grading and Demolition Permit. The County Manager may approve amendments to the plan, if consistent with this approval.

7. Intentionally omitted.

The developer agrees to coordinate with the Arlington County Relocation Program Coordinator in order to provide each rental household living in either an apartment unit or a single-family dwelling which is displaced by the construction of this site plan, except those who sign initial leases for a unit in the project after the date of this site plan approval, with at least the following:

a. A minimum of 120 days written notice to vacate.

b. Relocation payments, in accordance with the Arlington County Tenant Relocation Guidelines adopted by the County Board and in effect on _______, a copy of which are attached to the report of the County Manager for this site plan approval.

c. Relocation services in accordance with the Arlington County Tenant Relocation Guidelines adopted by the County Board and in effect on _______.

If the developer decides to limit relocation benefits to persons who executed initial leases before adoption of the site plan, the developer agrees to notify, in writing any tenant moving in after the date that the site plan is approved of his/her ineligibility for relocation payments and services. Any tenant who has not signed a waiver of rights to relocation assistance must receive the assistance. In cases where State law requires 120 day notice to vacate (displacement from multi-family buildings containing four or more units),
notice cannot be waived, but may be reduced by mutual agreement in writing.
Compliance with this condition shall be shown before the issuance of the Clearing,
Grading and Demolition Permit.

8. Intentionally omitted.

   The developer agrees to coordinate with the Department of Economic Development in
   order to provide the following relocation assistance to all retail tenants under lease as of
   the date of the approval of the proposed site plan:

   a. The developer agrees to keep all retail tenants informed of the redevelopment
      schedule by providing periodic updates with regard to material changes in the
      development program for the site, including the phasing of the project, anticipated
      schedules for eviction, construction and occupancy, and any anticipated material
      impacts on the tenants while they remain on the site, such as test borings,
      construction signs and fencing, asbestos removal, disruptions to customer parking
      and pedestrian paths, and the like.

   b. The developer will assist the County to make available to all retail tenants, either
      directly or through the developer, information on available commercial space in
      the County, business counseling services and appropriate business courses.

   c. The developer agrees to cooperate with the retail tenants by referring tenants who
      so request to private sources of professional assistance in regard to lease
      negotiation (i.e., understanding lease terms, trends and negotiation strategy),
      space planning and other related sources of help.

   d. Except for provisions in any lease to the contrary, the developer agrees to
      maintain the site, structures and systems in good repair and in a businesslike
      appearance until the last retail tenant vacates or until the notice to vacate expires,
      whichever comes first.

   e. The developer agrees to show compliance with the terms of this condition before
      the issuance of the Clearing, Grading and Demolition Permit.

9. The developer agrees to comply with all federal, state and local laws and regulations not
   modified by the County Board’s action on this plan 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 site plan approval. The County has the
   authority to take actions to include issuance of a stop work order when the developer is
   not in compliance with the agreed-upon conditions. Further, temporary Certificates of
   Occupancy will not be issued without approval by the Zoning Administrator.

10. The developer agrees to file three copies of a site plan and the tabular information form,
    and digital copies on compact disc in JPEG, PDF, and DXF formats, which complies
with the final approval of the County Board and with Administrative Regulation 4.1, with the Zoning Administrator within 90 days of the County Board approval and before the issuance of the Clearing, Grading and Demolition Permit.

11. The developer agrees to comply with the following before issuance of the Clearing, Grading and Demolition Permit and to remain in compliance with this condition until the Master Certificate of Occupancy is issued.

   a. The developer agrees to identify a person who will serve as liaison to the community throughout the duration of construction. This individual or his designee shall be on the construction site throughout the hours of construction, including weekends. The name and telephone number of this individual shall be provided in writing to residents, property managers and business owners whose property abuts the site, and to the Zoning Administrator, and shall be posted at the entrance of the project.

   b. Before commencing any clearing or grading of the site, the developer shall hold a meeting with inviting those whose property abuts the project to review the construction hauling route, location of construction worker parking, plan for temporary pedestrian and vehicular circulation, and hours and overall schedule for construction. The developer agrees to provide documentation to the Zoning Administrator of the date, location and attendance of the meeting before a Clearing, Grading and Demolition Permit is issued. Copies of plans or maps showing the construction hauling route, construction worker parking and temporary pedestrian and vehicular circulation shall be posted in the construction trailer and given to each subcontractor and construction vehicle operator before they commence work on the project.

   c. Throughout construction of the project, the developer agrees to advise abutting property owners in writing of the general timing of utility work in abutting streets or on-site that may affect their services or access to their property.

   d. At the end of each work day during construction of the project, the developer agrees to ensure that any streets used for hauling construction materials and entrance to the construction site are free of mud, dirt, trash, allaying dust, and debris and that all streets and sidewalks adjacent to the construction site are free of trash and debris.

   e. The developer agrees that construction activity, except for construction worker arrival to the construction site and indoor construction activity, will commence no earlier than 7:00 a.m. and end by 6:30 p.m. on weekdays; no earlier than 8:00 a.m. and end by 8:00 p.m. on Saturdays and federal holidays; and will commence no earlier than 10:00 a.m. and end by 6:30 p.m. on Saturdays, Sundays, and holidays. As of the first occupancy of the residential building on
the south side of Fairfax Drive between North Pollard Street and North Quincy Street, construction activity as defined above shall begin no earlier than 10:00 a.m. on Saturdays and federal holidays and shall end no later than 6:30 p.m on all days. “Holidays” are defined as New Year’s Day, Martin Luther King Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving, and Christmas. Indoor construction activity defined as activity occurring entirely within a structure fully enclosed on all sides by installed exterior walls, windows, and/or doors shall end at midnight each day, and any such activity that occurs after 6:30 p.m. the stated time on each day shall not annoy or disturb reasonable persons of normal sensitivities. The developer agrees to place a minimum of one sign per street front indicating the permissible hours of construction around the construction site, to place one additional sign within the construction trailer containing the same information, and to provide a written copy of the permissible hours of construction to all subcontractors.

12. The developer agrees to provide a plan for diverting from landfill disposal the demolition, construction, and land clearing debris generated by the project. The plan should outline recycling and/or reuse of waste generated during demolition and/or construction. The plan should outline specific waste streams and identify the means by which waste will be managed (reused, reprocessed on site, removed by licensed haulers for reuse/recycling, disposal, etc.). The plan must include letters from contracted haulers, reprocessors, and recyclers indicating that they are able to manage waste from the project. The developer agrees to obtain the County Manager’s approval of this plan prior to the issuance of the Clearing, Grading, and Demolition permit, and to implement the plan throughout demolition and construction of the project. Compliance with this condition may contribute to achieving LEED credits MR 2.1 and 2.2 (Construction Waste Management.)

- The following Conditions of site plan approval (#13 through #32) are valid for the life of the site plan and must be met by the developer before issuance of the Excavation/Sheeting and Shoring Permit.

13. The developer agrees to submit to the Zoning Administrator and obtain approval from the County Manager a detailed final site development plan and a landscape plan prior to issuance of the Excavation/Sheeting and Shoring Permit. The final site development plan and landscape plan shall be submitted at a scale of 1 inch = 25 feet, in conjunction with the final site engineering plan as required in Condition #16 below, as well as a vicinity map with major streets labeled. The landscape plan shall be developed by, and display the professional seal of, a landscape architect certified to practice in the Commonwealth of Virginia. The developer further agrees that the final site development plan, the
landscape plan, and the site engineering plan verify by means of survey that there are no conflicts between the street trees and utilities. The developer shall obtain approval by the County Manager or his designee for both plans as meeting all requirements of the County Board's site plan approval and all applicable county laws and plans before the issuance of the Excavation/Sheeting and Shoring Permit. The plan shall be consistent with the conceptual landscape plan approved as a part of the site plan, and, at a minimum, shall conform to the landscaping requirements in Condition #14 below; the Rosslyn-Ballston Corridor Streetscape Standards if applicable; the Sector Plans if applicable; the County's landscaping, planting, and sidewalk and driveway construction specifications; and/or other applicable urban design standards approved by the County Board. In order to facilitate comparison with the final site engineering plan, the landscape plan shall be at a scale of 1 inch = 25 feet; the County may require more detailed plans appropriate to landscape installation at a larger scale. The County may permit minor changes in building, street and driveway locations and other details of design as necessitated by more detailed planning and engineering studies if such changes are consistent with the provisions of the Zoning Ordinance governing administrative approval and with the intent of the site plan approval. The landscape plan shall include a Street Tree Plan which shall be reviewed by DPRCR and DCPHD, and shall be accompanied by the site engineering plan. The installation of all plant materials shown on the final landscape plan shall take place before the issuance of the first Certificate of Occupancy for the respective phase of construction. The final site development and landscape plan shall include the following details:

a. The location and dimensions of traffic signal poles and control cabinets, utility meters, utility vaults and boxes, transformers, mechanical equipment, fire hydrants, standpipes, storm water detention facilities, the location of all existing and proposed utility lines and of all easements. The location of traffic control cabinets shall be shown on the final site engineering plan and placed so as not to obstruct pedestrian travel or be visually obtrusive. Traffic control cabinets shall not be located in the public sidewalk. Transformers shall not be placed above grade in the setback area between the building and the street.

b. Intake and exhaust garage ventilation grates may not be located within public sidewalks or streets, or within areas between the street curb and any building which is used as a walkway. The developer agrees to provide drawings showing how the garage will be ventilated prior to submission of the post-County Board Administrative Regulation 4.1 drawings required in Condition #10 above. Ventilation grates shall be located and/or screened so as not to be visible from public rights-of-way. The developer shall obtain approval from the County Manager or his designee on the location and screening of all ventilation grates as part of the review of the final site engineering plan and the final site development and landscape plan before issuance of the Footing to Grade Permit.
c. The location, dimensions, materials, and pavement pattern, where applicable, for driveways and access drives, automobile drop-off areas, driveway aprons, service drives, parking areas, interior walkways and roadways, plaza areas and sidewalks, as well as for address indicator signs. Brick or a concrete unit paver shall be used on the access drives, automobile drop-off areas, plaza areas, and interior walkways and roadways. Interior walkways shall have a minimum width of four (4) feet. All plaza areas shall contain special paver treatments that coordinate in design, color and materials with the treatment of the public sidewalk. The materials and colors used are subject to approval by the County Manager or his designee according to adopted Sector Plans or other urban design standards approved by the County Board as a part of review and approval of the final site development and landscape plan.

d. The location and types of light fixtures for streets, parking, walkway and plaza areas, and associated utilities, as contained in the lighting plan required in Condition #50 below.

e. Topography at two (2) foot intervals, and the finished first floor elevation of all structures, and top-of-slab elevation for any proposed underground structures.

f. Landscaping for open space areas, plaza areas, courtyards, raised planters (including cross-sections of raised planters), surface parking areas, and service drives, including a listing of plant materials; details of planting, irrigation and drainage; and details of proposed furnishings for all areas, including but not limited to dimensions, size, style(s), materials(s), finish(s) and manufacturer(s) of seating, bollards, trash receptacles, bike racks, arbors, trellises, and water features, and other landscape elements or structures.

g. The location and planting details for street trees in accordance with Department of Transportation Standards and Specifications for planting in public rights-of-way and as shown on the approved final site engineering plan.

h. The limits of demolition and construction.

14. The developer agrees that all landscaping shall conform to Department of Transportation Standards and Specifications and to at least the following requirements:

a. Plant materials and landscaping shall meet the then-current American Standard for Nursery Stock, and shall also meet the following standards:

(1) Major deciduous trees (shade or canopy trees such as Oaks, Maples, London Plane Trees, Japanese Zelkovas, etc.) other than street trees—a minimum caliper of 4 to 4 1/2 inches, except as indicated in Condition #18 below.
(2) Evergreen trees (such as Scotch Pines, White Pines, Hemlocks, etc.)—a minimum height of 7 to 8 feet.

(3) Ornamental deciduous trees (such as Cherries, Dogwoods, Serviceberries, Hornbeams, etc.)—a minimum caliper of 3 to 3 1/2 inches. Multi-stem trees shall not be less than 10 feet in height.

(4) Shrubs—a minimum spread of 18 to 24 inches.

(5) Groundcover—in 2 inch pots.

b. All new lawn areas shall be sodded; however, if judged appropriate by the County Manager or his designee, based on accepted landscaping standards and approved in writing, seeding may be substituted for sod. All sod and seed shall be state certified.

c. 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.

d. Soil depth shall be a minimum of four (4) feet plus 12 inches minimum of drainage material for trees and tall shrubs and three (3) feet for other shrubs. This requirement shall also apply to those trees and tall shrubs in raised planters. Soil depth for raised planters shall be measured from the bottom of the planter to the top of the planter wall. The walls of raised planters shall be no higher than seat-wall height (2 1/2 feet, maximum) above the adjacent finished grade.

e. Finished grades shall not exceed a slope of three to one or the grade that existed before the site work began.

f. The developer agrees to maintain the site in a clean and well-maintained condition before the issuance of the Clearing, Grading and Demolition Permit and agrees to secure and maintain the site throughout the construction and phasing process. Further, the developer agrees to submit a maintenance agreement which shall ensure that all plaza areas and other landscaped areas located on private property are kept in a clean and well-maintained condition for the life of the site plan and to follow the terms of that maintenance agreement approved for that purpose by the Zoning Administrator, as required in Section 32A of the Zoning Ordinance.

g. The developer agrees to notify the DPRCR Urban Forester at least 72 hours in advance of the scheduled planting of any street trees in the public right-of-way 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 planting available from the DPRCR Urban Forester.

15. The developer agrees to contact all utility companies, including the electric, telephone and cable television companies, and offer them access to the site at the time of utility installation to install their underground cables. In order to comply with this condition the developer agrees to submit to the Zoning Administrator copies of letters from the developer to the utility companies offering them access as stated above.

16. The developer agrees to submit final site engineering plans to the Department of Transportation. The plans shall be drawn at the scale of 1 inch = 25 feet and be 24 inches by 36 inches in size. Neither the Excavation/Sheeting and Shoring permit nor the first Building Permit shall be issued until final site engineering plans which agree with the approved final site development and landscape plans, and the sequence of construction, has been approved by the Department of Transportation, as consistent with all site plan approval requirements and all County laws. Upon completion of the construction of a project, the developer agrees to submit one (1) set of as-built mylar plans for sanitary, storm sewer and water main construction to the Department of Transportation for recording.

17. 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. Provide crosswalks of concrete pavers or other materials as approved by the County, built per the Department of Public Works Construction Standards and Specifications then in effect, along with all adjacent curb ramps at the following locations:

(1) Across North Quincy Street at Fairfax Drive and 10th Street North,
(2) Across North Pollard Street at 10th Street North and Fairfax Drive;

as shown on the final engineering plan approved by the County Manager or his designee.

b. Provide raised crosswalks at the elevation of the sidewalks at either end, constructed of concrete pavers or other materials as approved by the County, built per the Department of Public Works Construction Standards and Specifications then in effect, at the following locations:

(1) Across 10th Street North at North Quincy Street and North Pollard Street;

as shown on the final engineering plan approved by the County Manager or his designee.
c. Construct intersection nubs at the following locations adjacent to the site:
   (1) East and west sides of North Quincy Street at Fairfax Drive,
   (2) East side of North Quincy Street at 10th Street North,
   (3) South side of 10th Street North at North Quincy Street and North Pollard Street,
   (4) North side of Fairfax Drive at North Quincy Street and North Pollard Street;
   as shown on the final engineering plan approved by the County Manager or his designee.

d. All curb ramps are to be perpendicular to the face-of-curb.

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 or his designee 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 June 30, 2004 unless the County provides additional funding to offset such increased cost.

18. 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 or his designee 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 Department 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:

**Fairfax Drive adjacent to the new construction**—A minimum 20-foot wide sidewalk measured from the back of curb, including 5 feet by 12 feet tree pits planted with 4 to 4 ½ inch caliper Willow Oak street trees and such ground cover as liriope muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper), placed approximately 30 feet apart on center and a minimum of eight (8) inches back from the back of curb.

**Fairfax Drive adjacent to the existing funeral home**—Sidewalk with nub as shown on Plot and Location Plan dated June 30, 2004, including 5 feet by 12 feet tree pits planted with 4 to 4 ½ inch caliper Willow Oak street trees and such ground cover as liriope muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper), placed approximately 30 feet apart on center and a minimum of eight (8) inches back from the back of curb.

At such time as the funeral home building is demolished, the developer agrees to reconstruct the streetscape adjacent to the funeral home along Fairfax Drive to match that for the remainder of the block, subject to standards for streetscape and intersection nubs then in effect. The reconstructed streetscape shall be completed within six months of demolition of the funeral home building, except that if a building permit application has been filed for a new building on that site, the reconstructed streetscape shall be completed before issuance of the first Certificate of Occupancy for the building that replaces the funeral home.

**North Quincy Street**—A minimum 16-foot wide sidewalk measured from the back of curb, including 5 feet by 12 feet tree pits planted with 4 to 4 ½ inch caliper Red Maple street trees and such ground cover as liriope muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper), placed approximately 30 feet apart on center and a minimum of eight (8) inches back from the back of curb.

**10th Street North**—A minimum 13-foot eight-inch wide sidewalk measured from the back of curb, including 5 feet by 12 feet tree pits (or 4 feet wide planting strip) planted with 4 to 4 ½ inch caliper Zelkova street trees and such ground cover as liriope muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper), placed approximately 30 feet apart on center and a minimum of eight (8) inches back from the back of curb.

**North Pollard Street**—A minimum 13-foot wide sidewalk measured from the back of curb, including 5 feet by 12 feet tree pits (or 4 feet wide planting strip) planted with 4 to 4 ½ inch caliper London Plane street trees and such ground cover as liriope muscarii, hypericum, calycinum (Aarons Beard), or juniperius conferta (Shore Juniper), placed...
approximately 30 feet apart on center and a minimum of eight (8) inches back from the back of curb, where possible. The parking garage access driveways and building entrances for the new building shall be a maximum of 18 feet wide, and the loading access driveway and building entrance shall be a maximum of 12 feet wide. Sidewalk pedestrian refuges with a minimum width of three feet shall be located between the loading access driveway and the garage access driveways.

**North Pollard Street adjacent to the existing funeral home**—Sidewalk as shown on Plot and Location Plan dated June 30, 2004, including 5 feet by 12 feet tree pits planted with 4 to 4 ½ inch caliper London Plane street trees and such ground cover as liriope muscarii, hypericum, calycinum (Aarons Beard), or juniperus conferta (Shore Juniper), placed approximately 30 feet apart on center and a minimum of eight (8) inches back from the back of curb.

At such time as the funeral home building is demolished, the developer agrees to reconstruct the streetscape adjacent to the funeral home along North Pollard Street to match that for the remainder of the block, except that the total sidewalk width shall be a minimum of 14 feet, subject to standards for streetscape and intersection nubs then in effect. The reconstructed streetscape shall be completed within six months of demolition of the funeral home building, except that if a building permit application has been filed for a new building on that site, the reconstructed streetscape shall be completed before issuance of the first Certificate of Occupancy for the building that replaces the funeral home.

19. The developer agrees that in order to accommodate the subsurface requirements of utilities and streetscape elements (including street trees), the final design of the project shall provide a structure-free zone under the public sidewalk along all street frontages, as required in the *Standards for Planting and Preservation of Trees in Site Plan Projects*. This zone shall be a minimum of five (5) feet deep and shall extend from the back of the street curb to the far edge of the public sidewalk. No subterranean structures (such as parking garages) shall intrude into this five foot deep zone. Within the zone, underground utilities and utility vaults shall not be located in a manner that interferes with the appropriate spacing and replacement of street trees, consistent with the approved final site and development and landscape plan. Utility lines shall not be located beneath street trees. The location of all existing and proposed utility lines shall be shown on both the final landscape plan and the final site engineering plan.

20. The developer agrees that the location of the water services will be determined at the time of the review of the final engineering plan in accordance with the following standards or as otherwise approved by the County Manager or his designee: water meter installations shall be located behind and adjacent to the curb line in an area clear of driveways, a minimum of five (5) feet clear of other utilities and a minimum of 10 feet clear of structures; a clear space 15 feet wide by 20 feet long by 10 feet deep shall be provided for three (3) inch and four (4) inch meter installations, and 20 feet wide by 25
feet long by 10 feet deep for six (6) inch and larger meter installations; and the building walls shall be adjusted as necessary to provide these clearances.

21. The developer agrees that, unless otherwise approved by the County Manager or his designee, all sanitary sewers and water mains, including water services, shall have a minimum of ten (10) feet horizontal clearance from each other and five (5) feet clearance from all other utilities, and shall have a minimum of 10 feet horizontal clearance from buildings and other structures. Water mains 16 inch and larger, and mains placed more than 10 feet deep shall have a minimum of 15 feet horizontal clearance from buildings and other structures; and sanitary sewers 15 inches and larger, or sewers placed more than 10 feet deep shall have 15 feet minimum clearance from buildings and other structures. All water mains and sanitary sewers shall meet County Standard design criteria.

The developer agrees that the minimum clear horizontal separation between each individual barrel of the storm sewer and proposed buildings or other permanent structures shall be as follows: 10 feet from the center line of storm sewer mains less than 27 inches in diameter and 10 feet or less in depth; 15 feet from the center line of storm sewer mains less than 27 inches in diameter and greater than 10 feet in depth; 15 feet plus half the diameter from the center line of storm sewer mains greater than 27 inches in diameter, at any depth.

22. The developer agrees that no existing water main or fire hydrant shall be taken out of service or made inaccessible without the prior approval of the Department of Transportation. This approval shall be obtained before the issuance of the Excavation/Secting and Shoring Permit.

23. 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.

The water meter connection shall be along 10th Street and tie into the existing eight-inch water line, as shown on the final engineering plan approved by the County Manager or his designee.

The developer agrees to upgrade the existing six-inch water main in Pollard Street, from the existing tie-in from the Georgetown Medical Office Building to the nearest junction with the existing 12-inch water main on the south side of Fairfax Drive, to an eight-inch water main, as shown on the final engineering plan approved by the County Manager, or his designee.
24. 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.

The sanitary sewer main connection shall be on 10th Street to the existing 12-inch line, as shown on the final engineering plan approved by the County Manager or his designee.

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.

25. The developer agrees to show, on the final engineering plan, horizontal standpipes or fire hydrants at intervals of not more than 300 feet in order to provide adequate fire protection. The County shall specify kind of service and locations at the time of the final site engineering plan approval based on applicable safety standards. The fire hydrants shall be installed prior to the issuance of the Final Building Permit and horizontal standpipes shall be installed prior to the issuance of the first Certificate of Occupancy.

The developer agrees to provide calculations to demonstrate the needed fire flow as defined in the Arlington County Department of Transportation Standards and Specifications. This information shall be clearly shown on the cover sheet of each plan set submitted.

26. The developer agrees to remove and replace any existing curb, gutter and sidewalk along the street frontages of this site which is in poor condition or damaged by the developer according to Arlington County standards and specifications, prior to the issuance of the first Certificate of Occupancy.

27. 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. Lighting shall be in accordance with the following:

a. Double globe lights on Fairfax Drive, with globes parallel to the curb and
b. Single globe lights on all other streets.

The developer agrees to purchase and install Virginia Power "Carlyle" standard street
lights per the Virginia Square Sector Plan along all frontages of the site in accordance with adopted County Street Lighting Policy. The height of the street lights shall be 12 feet on North Pollard Street and on 10th Street North and 16 feet on Fairfax Drive and on North Quincy Street. 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.

28. 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 or his designee. 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.

29. The developer agrees to provide off-street parking for all construction workers without charge to the workers. In lieu of providing parking, the developer may provide a subsidy for the construction workers in order that they may use Metro, provide a van for vanpooling, or use another established method of transportation to provide for construction workers to arrive at the site. Compliance with this condition shall be determined based on a plan which shall be submitted to the Zoning Administrator before the issuance of the Excavation/Sheeting, and Shoring Permit. This plan shall set forth the location of the parking to be provided at various stages of construction, how many spaces will be provided, how many construction workers will be assigned to the work site, and mechanisms which will be used to encourage the use of Metro, carpooling, vanpooling, and other similar efforts. The plan shall also provide for a location on the construction site at which information will be posted regarding Metro schedules and routes, bus schedules and routes, and carpooling and vanpooling information. If the plan is found to be either not implemented or violated during the course of construction, a correction notice will be forwarded to the developer. If the violation is not corrected within ten (10) days, a "stop work order" will be issued, and construction halted until the violation has been corrected.

30. The developer agrees to install address indicator signs on the site 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 site development and landscape plan.

31. 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 dated June 30, 2004, and as presented to the County Board and made a part of the public record on July 10, 2004, 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 façade 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 50% as measured from floor to ceiling on the interior of the building. In addition, the portion of any retail storefront that is located between three and eight feet above grade (as measured on the exterior of the building) is required to be at least 80% transparent. 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, and the condition shall be interpreted to achieve that purpose. “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 anything else that will block the view to the interior.

32. All required public deeds of easement and deeds of dedication shall be submitted to the Department of Transportation prior to the issuance of the Excavation/Sheeting and Shoring Permit, 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. The developer agrees that there shall be no building construction within the easement area without approval by the County Manager or the County Board. Dedications granted by the developer for street improvements shall be dedicated in fee simple to the County. Dedications granted by the developer for sidewalk improvements may be dedicated by easement to the County.

• The following conditions of site plan approval (#33 through #41) are valid for the life of the site plan and must be met by the developer before issuance of the Footing to Grade Structure Permit.

33. The developer agrees to submit one (1) plat, drawn at the scale of 1 inch = 25 feet and 24 inches x 36 inches in size, of the excavated area showing spot elevations which confirm that the construction drawings are consistent with the average site elevation, and with the building’s ground floor elevation(s) at the building’s lowest level(s), as approved by the County Board and as indicated in the plans referenced in Conditions #1 and #10 above.

34. Upon approval of the final site engineering plan the developer agrees to submit a performance bond estimate for the construction or installation of all facilities (to include street trees and all landscape materials) within the public rights-of-way or easements to the Department of Transportation for review and approval. Upon approval of the performance bond estimate by the Department of Transportation, the developer agrees to
submit a performance bond in the approved amount of the estimate and agreement for the construction or installation of all these facilities (to include street trees and all landscape materials) within the public rights-of-way or easements to the Department of Transportation and this bond shall be executed by the developer in favor of the County before the issuance of the Final Building Permit.

Prior to the release of the public improvement bond, the developer agrees to submit as-builts for all underground utilities (water, sanitary sewer, and storm sewer) that will be maintained by Arlington County.

35. The developer agrees that all new electrical transformers shall be placed underground in vaults which meet Virginia Power standards. These vaults may be placed in the street right-of-way or in driveways if approved by the County on the final site engineering plan. Ventilation grates may not be located within public sidewalks or streets, or within areas used as a walkway between the street curb and any building. The locations of the vaults shall be coordinated with other utility locations so as to have a minimum clearance of five (5) feet to conduits and manholes and a minimum clearance of 10 feet to water mains and sanitary sewers unless otherwise approved by the owner of that utility. The developer shall obtain approval from the County Manager or his designee on the location of all vault ventilation grates and utilities as part of the review of the final site engineering plan and the final site development and landscape plan before the issuance of the Footing to Grade Structure Permit.

36. The developer agrees that interior space shall be provided and used for the collection, storage, compaction, and removal of trash, as well as appropriate facilities for the recycling of reusable materials as defined by the County. The collection, storage, compaction, and removal of trash shall not occur outside the interior loading space. This space may not conflict with the use of a loading berth. Drawings showing compliance with this condition shall be approved by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit.

37. The developer agrees that all loading spaces shall be in the interior of the building and shall also comply with the following requirements: minimum 12-foot clear width (including entrances), 30 foot-length and 14-foot height clearance. Any loading dock to be used for trash removal shall have a minimum interior height clearance of 18 feet. All loading docks shall contain roll-down doors. Use of the loading dock for deliveries or trash pick-ups, excluding moving vans, shall be limited to the hours from 8:00 a.m. to 6:00 p.m., seven (7) days a week. The loading dock door shall also be closed when the loading dock is in use, except when necessary for entry or exit of vehicles, venting of vehicle exhaust, or when required for similar operational or safety measures.

38. The developer agrees that new parking garages shall be designed to allow access and use by vans. At least 1% of the total new parking supply shall be accessible to vans, shall be conveniently located on the level of the garage closest to street level, and shall have a
minimum clearance of 98 inches. All other areas of the garage shall have a minimum clearance of 84 inches. Compliance with this condition shall be determined by review of the building plans by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit, which review shall not relieve the developer from constructing in accordance with this condition.

39. The developer agrees to ensure that all parking spaces comply with the requirements of Section 33 of the Zoning Ordinance. Unless otherwise approved by the County Board, the number of compact spaces may not exceed the Zoning Ordinance requirement. The developer shall submit drawings showing that these requirements are met, and shall obtain approval by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit.

40. The developer agrees to provide, at no charge to the user, secure bicycle storage facilities in locations convenient to office, residential and retail areas on the following basis at a minimum:

**Office and Residential Bicycle Storage Facilities:**
One (1) employee bicycle parking space for every 7,500 square feet, or portion thereof, of office floor area and one (1) additional such visitor space for every 20,000 square feet, or portion thereof, of office floor area.

One (1) resident bicycle parking space for every three (3) residential units, or portion thereof, of residential units and one (1) visitor space for every 50 residential units, or portion thereof, of residential units.

Employee and resident bicycle parking facilities shall be highly visible to the intended users and protected from rain and snow within a structure shown on the site plan. The facilities shall not encroach on any area in the public right-of-way intended for use by pedestrians nor any required fire egress. The facilities for office users and resident bicycle parking must meet the acceptable standards for Class I storage space as contained in the Arlington Bicycle Transportation Plan, dated April 1994 with Amendments through March 2003, and be highly visible from an elevator entrance, a full-time parking attendant, a full-time security guard or a visitor/customer entrance. Visitor parking must be located within 50 feet of the primary building entrance. Any bicycle parking racks used on the site must conform to the Arlington County Standard or be approved by the Bicycle and Pedestrian Program Manager. Drawings showing that these requirements have been met shall be approved by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit. Residential condominium covenants shall not prohibit the storage of bicycles in individual condominium units.

In addition, the developer agrees that for every 50,000 square feet or fraction thereof of office Gross Floor Area (GFA), one (1) shower per gender shall be installed, up to a maximum of three (3) showers per gender. Also, a minimum of one (1) clothes storage
locker per gender shall be installed for every required employee bicycle parking space. The lockers shall be installed adjacent to the showers in a safe and secured area and both showers and lockers shall be accessible to all tenants of the building. The location, layout and security of the showers and lockers shall be reviewed by the Arlington County Police Department before issuance of the Footing to Grade Structure Permit. The developer agrees that an exercise/health facility containing a maximum of 1,000 square feet shall not count as density (FAR) but shall count as GFA if this facility meets all of the following criteria: 1). The facility shall be located in the interior of the building and shall not add to the bulk or height of the project; 2). Showers and clothes lockers shall be provided as required above; 3). The lockers shall be installed adjacent to the showers in a safe and secured area within the exercise facility and both showers and lockers shall be accessible to all tenants of the project; 4). The exercise facility shall be open only to tenants of the project and shall not accept or solicit memberships from outside of the project. The exercise facility, including the showers and lockers, shall be open during normal working hours.

Retail Bicycle Storage Facilities:
Two (2) retail visitor/customer bicycle parking spaces for every 10,000 square feet, or portion thereof, of the first 50,000 square feet of retail floor area; one (1) additional retail visitor/customer space for every 12,500 square feet, or portion thereof, of additional retail floor area; and one (1) additional retail employee space for every 25,000 square feet, or portion thereof, of retail floor area. The retail visitor/customer bicycle spaces shall be installed at exterior locations that are convenient to the retail visitors/customers, and such locations shall be reviewed by the Department of Transportation. The developer agrees to obtain approval of the location, design and details of the retail visitor/customer bicycle spaces as part of the final site development and landscape plan. Facilities for retail visitors/customers must meet the County standards for bicycle racks, and be located close to retail visitor/customer entrances or the closest retail vehicle parking spaces.

41. The developer agrees to construct all plaza areas used for vehicular access and all surface parking areas to support the live load of any fire apparatus. Architecturally designed bollards or curbs shall be used on pedestrian plazas to separate the areas intended for emergency vehicle use from areas intended for pedestrian use. No above-grade structure shall be allowed to encroach in fire lanes. The requirements of this condition shall be incorporated in the drawings submitted for the Footing to Grade Structure Permit.

- **The following conditions of site plan approval (#42 through #46) are valid for the life of the site plan and must be met by the developer before the issuance of the Final Building Permit.**

42. The developer agrees to submit one (1) original and three (3) copies of a wall check survey to confirm its consistency with the plans approved by the County Board, as referenced in Conditions #1 and #10 above.
43. Mechanical equipment shall be screened so as not to be visible from public rights-of-way.

44. The use of any penthouse shall be limited to mechanical equipment and equipment maintenance space or telecommunication transmitter and/or receiver equipment as required in Condition #56 below.

45. The developer agrees to submit to the Zoning Administrator and the Operations Division of the Arlington County Police Department documentation that a Crime Prevention Through Environmental Design (CPTED) practitioner referred by the Police Department has reviewed and accepted the site plan for meeting CPTED design requirements.

46. The developer agrees to obtain from the Federal Aviation Administration (FAA), before the issuance of the final building permit, a written statement that the project is not a hazard to air navigation or that the project does not require notice to or approval by the FAA.

The following conditions of site plan approval (#47 through #53) are valid for the life of the site plan and must be met by the developer before the issuance of the First Certificate of Occupancy.

47. The developer agrees to develop and submit a comprehensive sign plan and that all exterior signs (including identification and directional signage) shall be consistent with the guidelines contained in "Sign Guidelines for Site Plan Buildings and with Section 34 of the Zoning Ordinance. The Zoning Administrator shall determine whether the signs meet the standards of the guidelines and the Ordinance. No sign permits will be issued until a comprehensive sign plan is approved. The comprehensive sign plan shall be approved before the issuance of the first Certificate of Occupancy. All proposed rooftop signs, defined as all signs that are 35 feet or more above the ground, shall require a site plan approval or amendment.

48. The developer agrees to develop and implement a Transportation Demand Management (TDM) Plan in order to achieve a maximally efficient and sustainable use of transportation facilities. 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:

a. Program Participation and Funding
(1) Maintain membership in Arlington Transportation Partners (ATP), or successor entity, at no cost to the developer, on behalf of the residential property management company or Home Owners Association (HOA).

(2) Designate a member(s) of building management or HOA as Property Transportation Coordinator to be a primary point of contact and with responsibilities for coordinating and completing TDM obligations.

(3) Appropriately train the residential Property Transportation Coordinator and other management personnel to provide rideshare, transit, and other information provided by Arlington County intended to assist with transportation to and from the site.

(4) Contribute to the Arlington County Commuter Services program to sustain direct and indirect on-site and off-site services in support of TDM activities for this residential project as follows: $1,500 per year for a period of ten (10) years. The first $1,500 payment will be made before issuance of the first Certificate of Occupancy for any dwelling on the site. Subsequent payments will be due each year on the anniversary of the issuance of that certificate of occupancy.

(5) Provide or administer a sustainable commute benefit program for employees of the residential Property, (which program shall include, at a minimum, at the developer’s option, pre-tax employee contributions and/or tax-free transit or vanpool contributions of at least $65 per month).

b. Physical Facilities and Improvements

(1) Comply with requirements of Site Plan conditions to provide bicycle parking/storage facilities, a parking management plan and construction worker parking.

(2) Provide effective directional signage subject to approval of a Comprehensive Sign Plan to direct residents and visitors to appropriate locations on the property, such plan to include provision for the items specified in the Parking Management Plan.

(3) The property management company shall make the on-site office available, provided one is constructed, to support residents of the building who choose to work from home.

c. Parking Management Plan
In conjunction with the Department of Public Works, and subject to the approval by the County Manager or his designee, the developer shall prepare a plan regarding: taxi passenger loading and unloading; accessible paratransit pick-up, drop-off, access, and passenger waiting area; loading zones for short-term deliveries; bus stops; and on-and off-street parking for residents, employees, and visitors. Such plan shall include a schematic drawing depicting an area parking plan for all block faces abutting the site. Additionally, this plan will note restrictions as to times that various activities (such as deliveries and parking) are permitted in the respective spaces.

d. Promotions, Services, Policies

(1) Provide in the residential lobby or business center a Transportation Kiosk or information display, the content/design/location of which shall be approved by the developer, (static display with printed materials or dynamic display with direct electronic link to CommuterPage.com™) to provide transportation-related information to residents and visitors.

(2) Provide an opportunity for a car sharing service, such as Zip Car or Flex Car to have access to no more than one conveniently located parking space located on the 1st level of the parking garage. Until such time as a car sharing service avails itself of this space, the parking may be used for resident, theater, retail, funeral home, or visitor parking.

(3) Provide website hotlinks to CommuterPage.com™ under a “transportation information” heading from the developer and property manager’s or homeowner’s associations websites if such website is available.

(4) Provide SmarTrip cards, at a maximum cost to the developer of $5.00 per card, per person, for free to tenants signing leases during the initial lease-up or sale only.

(5) Distribute transit and ridesharing information to residents and visitors (and extend requirement to on-site businesses) to include the following items:

i. Distribute in a new-resident package material provided that includes site-specific ridesharing and transit-related information to each person signing a lease.

ii. Place a reference to the nearest Metro Station and bus routes in promotional materials and advertisements.

iii. Distribute information in recruiting and employment materials regarding commute options and assistance services available.
iv. 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. This shall be at no cost to the developer.

v. Provide access to building or grounds at times acceptable to the developer to allow ATP to promote group riding among tenants of the building, by means acceptable to the developer.

vi. Participate in Ozone Action Days and other regionally sponsored clean air, transit and traffic mitigation promotions by posting notice of such promotions in locations within the building acceptable to the developer.

e. Performance and Monitoring

(1) The Property Transportation Coordinator will submit an annual letter to the County Manager describing the TMP related activities of the preceding year.

(2) The Property Manager or Homeowner’s Association in conjunction with all tenants and all residents of the property shall conduct a data gathering survey two years after issuance of the first Certificate of Occupancy and report findings to the County. Such report shall include a determination of mode split, average vehicle occupancy, daily person vehicle trips to and from the site, and all vehicle parking demand and availability by time of day for the site.

49. The intent of this condition is to ensure that at least one parking space is available in perpetuity for parking use by each residential unit in the project. Accordingly, the developer agrees to offer the use, for rental units, and the purchase or use for condominium units, of at least one parking space for each dwelling unit.

Further, for condominium units, the developer agrees to notify the Zoning Administrator at the time of the settlement of the last dwelling unit. If excess parking spaces are available at the time of settlement of the last dwelling unit, the number of excess parking spaces equaling the number of dwelling units which were sold without a parking space, shall first be offered exclusively for a period of twelve (12) months to the owners of those dwelling units which were sold without a parking space. Any other remaining spaces shall be offered to all dwelling unit owners or transferred to the condominium, cooperative or homeowners association. By the end of twenty four (24) months following the settlement of the last dwelling unit, the developer agrees to relinquish in writing to the condominium, cooperative or homeowners association any and all
remaining interest in the parking spaces or garage and a copy shall be filed with the Zoning Administrator. The future purchase of any parking spaces shall be limited to the dwelling unit owners or condominium, cooperative or homeowners association of the building.

For both rental and condominium buildings, the use of the parking spaces on the B2 and B3 levels shall be limited to parking use by the residents of the building and their guests, unless otherwise permitted by the Zoning Ordinance, and shall not be converted to storage or other use without approval of a site plan amendment.

The developer agrees to submit to the Zoning Administrator a parking management plan which outlines how guest and visitor parking for the residential building, and parking for retail tenants' employees and customers, funeral home employees and visitors, and the public located in the residential buildings, will be provided, where the parking will be located and how the above users of the parking spaces guests and visitors, and retail employees and customers, will be directed to the parking spaces. The developer further agrees to make the B1 level available for funeral home, theater, retail, and public parking per the provisions of Condition #64 and additionally to provide a minimum of four residential visitor parking spaces on the B2 and/or B3 residential levels, and retail tenant parking spaces, available within the residential garage. The parking management plan shall be submitted to the Zoning Administrator, and reviewed and approved by the County Manager or his designee, prior to the issuance of the first Certificate of Occupancy for the first residential building.

50. The developer agrees to include a lighting plan for all internal and external public areas, including parking areas, as part of the final site development and landscape plan. This lighting plan shall be subject to review by the County Manager or his designee, including street lighting as described in Condition #27 above. The developer shall include in the site development and landscape plan certification that the lighting plan meets the minimum standards of the Zoning Ordinance, Section 2, Subsection H, and the Illumination Engineering Society of North America Standards. All lighting shall be installed and approved by the County Manager or his designee before the issuance of the First Certificate of Occupancy for occupancy of the applicable phase of the project.

51. The developer agrees to be responsible for documenting any historical artifact or historical natural feature uncovered during construction on the site. This documentation shall include written notation describing the artifact or natural feature, color photographs, and mapping of the location and/or depth of the site excavation at which the item was found. The developer agrees to submit a copy of this documentation to Arlington County Historic Preservation Program, Neighborhood Services Division.
before removing or disturbing the artifact or natural feature. Arlington County shall be given the opportunity to accept donation of the artifact or natural feature before the item is offered to any other organization or individual.

If historic buildings are located on the site, then photographic documentation shall be consistent with Historic American Building Survey (HABS) standards. Should the project be assessed as a possible archaeological site, the developer agrees to pursue, at a minimum, a level one and two archaeological study. The developer agrees to submit to the Arlington County Historic Preservation Program all written results of the level one and two archaeological study and all artifacts found on the site.

52. If the project includes a residential condominium or cooperative component, then the developer agrees that a copy of the conditions of this site plan approval shall be made available with the condominium's, cooperative's or homeowners association's bylaws or agreements. Documentation that this condition has been satisfied shall be provided to the County Manager or his designee before the issuance of the First Certificate of Occupancy. If the project includes a residential rental component that is converted to a condominium or a cooperative, then the developer agrees that a copy of the conditions of this site plan approval shall be made available with the condominium’s, cooperative’s, or homeowners’ association’s bylaws or agreements prior to the issuance of the first Certificate of Occupancy following the conversion.

53. The developer agrees to make a contribution to the County’s Green Building Fund of $5,823.18 ($0.03 X 194,106 square feet). The payment shall be made to the Department of Environmental Services prior to the issuance of the first Certificate of Occupancy, and compliance with this condition shall be provided to the Zoning Administrator in the form of a letter at the time of payment.

- The following condition of site plan approval (#54) is valid for the life of the site plan and must be met by the developer before the issuance of the Master Certificate of Occupancy.

54. Before the issuance of the Master Certificate of Occupancy, the developer agrees to submit drawings certifying the building height as measured from the average site elevation to both the building roof and to the top of the penthouse roof.

- The following condition of site plan approval (#55) is valid for the life of the site plan and must be met by the developer within 90 days of receipt of the partial Certificate of Occupancy for full occupancy of the building.

55. The developer agrees to obtain a Master Certificate of Occupancy within 90 days of receipt of the partial Certificate of Occupancy for full occupancy of the building.

- Post Certificate of Occupancy: the following Conditions of site plan approval (#56
In order to maintain the effectiveness of the County's public safety systems, the County reserves the right to install telecommunications transmitter and/or receiver equipment and conducting wire in or on the penthouse or top floor, and antennae and traffic monitoring systems 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 upon request by the County. Upon request by the County, 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.

The developer agrees that any structural addition shall be subject to the approval of the Zoning Administrator consistent with Section 36.H.2.c of the Zoning Ordinance. If the Zoning Administrator determines that any proposed improvements have a significant impact on the site plan, or otherwise meet Zoning Ordinance requirements for site plan amendments that go to the County Board, a site plan amendment shall be required.

The developer or owner agrees to remove snow from all interior streets and interior and exterior sidewalks, including accessibility ramps and gutter areas within crosswalks, within a reasonable time after snow has stopped falling but in no case later than snow removal provided for vehicular access to the site.

If the project includes a residential component, then the developer agrees that the maintenance of the common area, walkways, private drives and parking areas which are tied to condominium units shall be provided for by the condominium's, cooperative's or homeowners association's bylaws or agreements consistent with Section 2.D.6 of the Zoning Ordinance.

The developer agrees to provide parking for each building according to the approved parking ratio; when this parking is not located within the parcel designation of each building but located within the overall project, it shall continue to be committed to the entire project for purposes of administering the Zoning Ordinance.

The density allocated for any new construction pursuant to the site plan on any subdivided parcel of the site shall be the same as the approved density for the entire site. No additional density shall be allowed on any individual parcel formed by subdivision of the site.

The following unique site specific conditions (#62 through #81) are valid for the life of the site plan and must be met before the issuance of the permit specified in each Condition.
62. Retail Elements
c. The developer agrees to market the 2,648 square feet of retail space located on the first floor of the highrise building to uses consistent with the following:
   (1) The approved Retail Action Plan for the Rosslyn-Ballston Corridor, dated January 2001. “Entertainment and Main Street Retail” may occupy space designated for “personal or business services”.
   (2) The Virginia Square Sector Plan, adopted in December 2002.
   Any proposal for retail uses or parking not consistent with the above must be submitted to the Zoning Administrator as an application for administrative change.
   Any change in the use of the retail space from retail to office or other non-retail use shall require a site plan amendment.

b. The retail spaces shall be designed and constructed to include interior and exterior improvements necessary to ensure that they are functional and attractive to prospective retailers and that they animate the street frontage. These elements shall include, but not be limited to: approximately 19-foot seven-inch floor to floor heights, as shown on the plans dated June 30, 2004; access to the service corridor/areas as shown on the architectural plans dated June 30, 2004; direct street frontage and access; provision for any venting systems required for any food preparation or restaurant use; and sufficient transparency of the building facade to achieve adequate street exposure.

The developer agrees to submit an application for administrative change for any proposal for retail uses or parking not clearly consistent with the above. Any change in the use of the retail space from retail to office or other non-retail use shall require a site plan amendment.

63. The developer agrees to engage an artist to be included in the design team for the final design of the public plaza. The final design shall include the location and design of hardscape and plantings, street furniture including benches, lights, trash receptacles, and any other aesthetic and functional elements to be located in the plaza, paving patterns, and the water feature shown near the corner of Fairfax Drive and North Quincy Street. The design team shall use the Site Plan dated June 17, 2004 in the plan submission dated June 30, 2004 as a starting point for the final design. The developer shall coordinate with the County Manager or his designee on the selection of the artist and the design, fabrication, installation, signage, and maintenance plan for the public plaza. The developer agrees that the final plaza design shall be reviewed by the Site Plan Review Committee prior to approval of the final site development and landscape plan for the site plan. Implementation of the approved landscape plan, including installation of all elements shown in the plan, shall be completed prior to issuance of the first Certificate of Occupancy for the new building. The developer agrees to maintain the plaza and all elements within the plaza, for the life of the site plan.
64. The developer agrees to make parking in the first level of the garage available for public parking seven days per week, from 8:00 a.m. until 12:00 midnight or until 30 minutes after the close of retail and/or theater operations in the building, whichever is later. The number of parking spaces available for such general public parking use shall be subject to the first right of the funeral home use to use the first level of the garage to meet funeral home demand, and the second right of the theater use to utilize up to 25 parking spaces for theater use. As between the funeral home use and the theater use, the funeral home use shall have first priority to the parking spaces on the first level of the garage.

The 25 parking spaces allocated specifically to theater use shall all be made available in a contiguous grouping and shall be appropriately signed for exclusive use by theater patrons (subject to the above-mentioned first right for funeral home use) from a minimum of one hour prior to each performance until 30 minutes after the end of each performance. A minimum of 30 contiguous spaces, distinct from the theater spaces, shall be signed for short term, high turnover (maximum time limit of two hours) retail patron and public parking use prior to 6:00 p.m. on weekdays, and shall be appropriately so signed and/or metered. At such time as the funeral home ceases operation, the first right of the funeral home to use the parking will end. The public parking on the G1 level may be used to satisfy the parking requirement for any use that replaces the funeral home. Signage indicating the various uses for the parking spaces and directing vehicles to the appropriate areas of the garage shall be posted in locations easily visible to the intended users. Temporary signage indicating exclusive funeral home use of the first level of the garage and directing vehicles to alternative parking locations shall be posted the earlier of a minimum of two hours prior to such use or prior to a scheduled theater performance. The parking management plan required in Condition #48 shall be consistent with the provisions of this condition.

The developer agrees to file a parking utilization report to the Zoning Administrator annually. The Zoning Administrator may approve a reduction in the weekday, daytime hours for providing public parking based on this parking utilization data after submission of a request for administrative change by the developer.

65. Outdoor cafes shall be permitted in the public right-of-way or within public easements, including the public access easement described in Condition #70, along Fairfax Drive and North Quincy Street in accordance with the applicable provisions of the Zoning Ordinance, with a maximum seating area and all other applicable requirements as set forth in the Zoning Ordinance and as determined by the Zoning Administrator. A minimum of 10 feet of clear sidewalk width must be maintained along Fairfax Drive. Plans for all outdoor cafes shall be subject to prior administrative approval by the Zoning Administrator for consistency with County ordinances, regulations and policies. Any outdoor café shall be administratively reviewed one year following its approval to evaluate it after a season of operation. At that time, the Zoning Administrator may
review the approval, impose conditions on the operation of the outdoor café, or revoke the prior approval.

66. The developer agrees to provide 7 committed affordable units (CAFs) for sale to households with incomes up to 60% of Median Family Income (MFI) and make a total contribution of $400,000 to the County’s Housing Reserve Fund (HRF). The payment shall be delivered to the Department of Community Planning, Housing and Development, and compliance with this condition shall be provided to the Zoning Administrator. The developer agrees that one-half of the total contribution ($200,000) will be paid prior to the issuance of the final building permit and the balance ($200,000) will be paid before the issuance of the first Certificate of Occupancy for the residential building.

Prior to the issuance of any permit for any activity on the site, the developer agrees to execute documents requested by the County to evidence agreement to all of the terms and conditions outlined in the developer’s approved final Affordable Housing Plan as set forth in an attached letter dated June 24, 2004 from Cathy Puskar, Attorney, to Betts Abel, including, but not necessarily limited to, the following conditions:

d. County/Developer Agreement/Affirmative Marketing Plan: The agreement shall include an Affirmative Marketing Plan in substantially that form as required by the U.S. Department of Housing and Urban Development (HUD) and including, at a minimum, the elements specified in the Developer’s final Affordable Housing Plan and Affirmative Marketing Plan. The Affirmative Marketing Plan shall be in a form and substance acceptable to the County Manager, with the concurrence of the County Attorney, according to the County’s criteria for such marketing plans.

e. Affordable Sales Prices: The developer agrees that the affordable sales prices shall be those as defined in the Affordable Housing Plan, based on being affordable to households at up to 60% of MFI as published by HUD for MWSA in 2004. Seven units shall have such sales prices. These units shall be available for purchase by households with incomes at or below 60% MFI and that meet the criteria established by the County in consultation with the developer.

f. Marketing Period: The developer agrees that the proposed marketing plan, as approved in a. above, shall call for the initial advertising and marketing of the affordable units to begin no earlier than 6 months prior to availability.

g. Compliance Period: The developer agrees that the Affordable Housing Plan and County/Developer Agreement shall require that individual dwelling units have recorded security mechanisms in the form of a deed covenants which would effectively keep the dwelling units affordable for the life of the project, or through a site plan amendment. All deeds from the developer to initial transferees shall contain language providing that the units are subject to the affordability security mechanisms approved by the County Manager and further providing that such
mechanisms will apply to future deeds transferring the individual units. The developer agrees that such security mechanisms shall be part of the condominium or other documents recorded among the land records of the Clerk of the Circuit Court of Arlington County, as determined by the County Manager to be reasonably necessary to protect the affordability of the units. The security mechanisms shall address resale, refinancing, rental, foreclosure, devaluation and other potential events related to the ownership and financing of the affordable units in order to retain them as affordable units.

h. Non-Sale/Rental Option: In the event that the developer is unable to sell all the affordable units to qualified purchasers and/or determines to make some such units in the project available as rentals, the developer shall submit a site plan amendment to the County for review and modification of the Affordable Housing Plan for such units in order to enable the County to decide how to handle any outstanding subsidy values.

i. Accessible Units: three of the affordable units will be among the project’s required fully accessible units.

The developer agrees, at all times, to fully comply with the requirements of such documents and the plan.

67. Building Security Requirements

The developer agrees that it is the practice of the County to maintain the maximum number of on-street, unreserved, short-term use parking spaces around the perimeter of a site. Therefore, the developer agrees it will not remove or reduce the number of such unreserved on-street parking spaces around the perimeter of the site, excluding stopping/standing zones adjacent to the main building entrance, whether at the request of the developer, a unit owner, a tenant, or otherwise. Nothing in this agreement shall preclude the County from installing parking meters, at its sole option, on any of such on-street parking spaces. Accordingly, the developer agrees that it shall notify condominium unit owners or tenants of the aforesaid practice prior to execution of any sale or lease agreement with a tenant.

68. The developer agrees that no balconies, other than those identified in the approved site plan, shall be enclosed. Enclosure of any additional balconies shall constitute additional gross floor area and shall require a site plan amendment.

69. The developer agrees to hire a LEED certified consultant as a member of the design and construction team. The consultant shall work with the team to incorporate sustainable design elements and innovative technologies into the project so that numerous building components may earn the developer points under the U.S. Green Building Council’s system for LEED certification. Specifically, the developer agrees to include sustainable
elements in design and construction that are sufficient to meet the requirements for 21 LEED credits. The developer agrees to use commercially reasonable efforts to achieve additional LEED credits which would qualify the building for certified levels.

The developer agrees that all of the following types of appliances, fixtures, and/or building components used in the project shall have earned the U.S. EPA's Energy Star label: clothes washers, dishwashers, refrigerators, ceiling fans, ventilation fans (including kitchen and bathroom fans), light fixtures (halls and common areas), and exit signs. To further enhance energy efficiency, the developer shall choose two of the types of components listed and all of those two types of components installed or used in the project shall be Energy Star qualified: programmable thermostats (in residential units); residential light fixtures; windows and doors; and HVAC systems. The developer shall submit to the County Manager a statement listing all Energy Star qualified components prior to issuance of the Shell and Core Certificate of Occupancy. The developer further agrees to offer to purchasers environmentally responsible, non-toxic, interior finish options. Examples of such options include carpet, flooring, paint, cabinetry, countertops, and water efficient fixtures.

The developer further agrees to submit, to the County Manager or his designee, a report prepared by the LEED consultant and documentation upon request to substantiate the report. Such report will be submitted prior to issuance of the following permits or certificates of occupancy for construction of the project and will summarize the efforts to date of the inclusion of the sustainable elements within the project:

- Demolition Permit
- Excavation, Sheeting and Shoring Permit
- Footing to Grade Permit
- First Above Grade Building Permit
- Final Building Permit
- Shell and Core Certificate of Occupancy
- Certificate of Occupancy for occupancy of the last floor of space
- Master Certificate of Occupancy

In addition, prior to issuance of the first Certificate of Occupancy after the Shell and Core Permit, the developer will have its LEED consultant submit a certification to the County Manager or his designee that the elements to earn the above specified numbers of points have been included in the buildings.

70. The developer agrees to grant a permanent public access easement to the County Board of Arlington County providing for public access to the plaza area, entitled "Public Access Easement Exhibit." The final location of the easement may change with the preparation of the final building plans. The developer agrees to landscape this area, as shown on plans dated June 2004 and made a part of the public record on July 10, 2004. Final landscape design and installation shall be approved by the County Manager or his
designee as part of the final site development and landscape plan. Landscaping of this area and granting of the public access easement shall be completed prior to issuance of the first certificate of occupancy for the building. The easement shall be granted by deed, in form and substance acceptable to the County Manager, and shall be recorded among the land records of the Clerk of the Circuit Court of Arlington County. The developer shall be responsible for maintaining this area.

71. The developer agrees to deliver all refuse, as defined by the Arlington County Code, to an operating refuse disposal facility designated by the County Manager. The developer further agrees to stipulate in any future lease or property sale agreements that all tenants or property owners shall also comply with this requirement. Any facility designated by the County Manager will have competitive rates at or below other facilities in the region otherwise available to the developer.

72. The developer agrees to have, as a part of its parking management plan, provisions relating to the towing of impermissibly parked vehicles. Such provisions shall include, but not be limited to:

a. Requirements for signage at the developer’s parking lot(s) providing notice of all applicable parking restrictions enforced by towing, the location of the towing contractor(s)’ impoundment yard, and the name and telephone number of the developer’s on-site representative responsible for towing-related complaints, as well as the telephone number of the Arlington County Office of Citizen and Consumer Affairs;

b. Disclosure by the developer and its towing contractor(s), at the developer’s parking lot(s), of all fees and charges for towing; and

c. Evidence that the developer has a contract with the towing contractor that requires the towing contractor to clearly display all fees and charges for towing.

73. The developer agrees to install speed bumps adjacent to the top of garage exit ramps at locations where ramps abut the pedestrian sidewalk, in order to slow vehicular traffic prior to vehicles crossing the sidewalk. The locations of the speed bumps shall be shown on the site engineering and building plans approved by the County Manager or his designee. The garage doors shall be setback from the sidewalk a minimum distance of six (6) inches.

74. The developer agrees to develop procedures, subject to approval of the County Manager, whereby uniformed Arlington County Police will be authorized to enter the parking areas for purposes of enforcing compliance with County ordinances and state laws applicable to resident’s motor vehicles.
75. The developer agrees to install and maintain in operable condition, in a manner acceptable to the County Manager or his designee, an internal antenna/amplifier system that permits public safety radio communications to transmit in the 806-825 MHz frequency and to receive in the 851-870 MHz frequency from all areas within the building. The cost of installing the internal antenna/amplifier system shall not exceed $15,000. The developer agrees to provide documentation in the approved electrical engineering drawings that adequate accommodations have been made in the building to meet this requirement.

76. The developer agrees to implement a loading management plan that will address peak hour restrictions for tenant move-in/out, deliveries, and refuse removal services.

77. [Condition regarding details of theater agreement with the County--to be completed for Supplemental Distribution]

78. Prior to the issuance of the first Certificate of Occupancy for the new building, the developer agrees to point-up the existing brick where necessary to repair worn or damaged mortar, replace missing shutters, and paint the exterior trim on the existing funeral home.

79. The developer agrees that at such time as the funeral home use ends, the funeral home building shall be put to no further use, and the funeral home building shall be demolished within two years of being vacated. The developer may construct, in place of the funeral home building, a new building as shown on the plans dated June 30, 2004, with a maximum GFA of 10,000 square feet and a height of 40 feet to the main roof. This new building may only be occupied by retail uses. The developer agrees to submit to the Zoning Administrator, and obtain approval by the County Manager or his designee of, plans and documentation for such new building that is consistent with the June 30, 2004 plans and meet the Administrative Regulations 4.1 requirements then in effect, prior to issuance of any permits for the site other than for demolition and clearing of the existing funeral home building. Any other use or any structural change inconsistent with the building to replace the funeral home building, shown on the plans dated June 24, 2004, shall require a site plan amendment. The developer further agrees to submit to the Zoning Administrator, and obtain approval by the County Manager or his designee of, a landscape plan for the land currently occupied by the funeral home building and the adjacent streetscape, consistent with Condition #18, prior to issuance of the demolition permit for the funeral home building. The developer agrees to implement the landscape plan within 30 days of demolition of the funeral home, except that if a building permit application has been filed for a new building on the site of the funeral home building, the developer shall clear, level, and seed the funeral home building site within 30 days of demolition, and the streetscape shall be completed before issuance of the first Certificate of Occupancy for the building that replaces the funeral home.
80. The developer agrees to design and implement a decorative treatment for the parking garage and loading dock doors that provides pedestrian interest and architectural compatibility with the surrounding building façade. This design shall be submitted as part of the façade plans as described in Condition #31.

81. The developer agrees that the residential condominium's, cooperative's or homeowners’ association shall notify residential unit purchasers or prospective tenants of the design, location, dimensions, and conditions of approval of the building to replace the funeral home building prior to execution of any sale or lease agreement of a unit or retail space.
REZONING RESOLUTION

WHEREAS, TCR Virginia Square Holdings L.C. has requested a rezoning FROM the “C-2” Service Commercial – Community Business District, TO the “C-O-2.5” Commercial Office Building, Hotel & Apartment Districts of property located at 3901 N. Fairfax Dr. (RPC #14-030-012, -013, -014); and

WHEREAS, the County Manager has recommended approval of such rezoning; and

WHEREAS, the Planning Commission has recommended approval of the rezoning of the Property to “C-O-2.5”, and

WHEREAS, the County Board finds that the rezoning, to “C-O-2.5” Commercial Office Building, Hotel & Apartment Districts will be consistent with the General Land Use Plan Designation for the Property, and with the Virginia Square Sector Plan; and

WHEREAS, the County Board finds that the rezoning to “C-O-2.5” Commercial Office Building, Hotel & Apartment Districts is required by public necessity, convenience, general welfare, and good zoning practice.

THEREFORE, be it resolved, that the Property located at 3901 N. Fairfax Dr. is hereby rezoned FROM “C-2” Service Commercial – Community Business District, TO “C-O-2.5” Commercial Office Building, Hotel & Apartment Districts, as shown on the attached map labeled “Z-2516-04-1 Rezoning”.

Rezoning Z-2516-04-1 & Site Plan #386
Virginia Square Park Condominiums - 53 -
PREVIOUS COUNTY BOARD ACTIONS:

July 9, 1983  
Approved use permit (U-2380-83-2) for a cremation unit within a funeral home with a review in one year.

September 8, 1984  
Continued use permit for a cremation unit within a funeral home with a review in three years.

September 12, 1987  
Continued use permit for a cremation unit within a funeral home with no further review.

May 7, 1994  
Approved use permit amendment for construction of a two-story garage and storage building, subject to all previous conditions, new conditions, and review in one year following issuance of a Certificate of Occupancy.

April 26, 2003  
Approved General Land Use Plan amendment from “High-Medium Residential Mixed-Use” to “Medium” Office-Apartment-Hotel.

November 15, 2003  
Deferred rezoning to “C-O-2.5” and site plan for approximately 140 dwelling units, community facility, public plaza, and retention of existing commercial use.

December 6, 2003  
Denied site plan for approximately 140 dwelling units, community facility, public plaza, and retention of existing commercial use, and accepted withdrawal of rezoning to “C-O-2.5”