



APPLICATION FILED: March 16, 2006
APPLICATION AMENDED: June 22, 2006 & December 21, 2006
PLANNING COMMISSION PUBLIC HEARING: March 14, 2007
PLANNING COMMISSION DECISION ONLY: May 31, 2007
BOARD OF SUPERVISORS: To Be Determined

County of Fairfax, Virginia

May 17, 2007

STAFF REPORT ADDENDUM

APPLICATION RZ 2006-PR-013 and SE 2006-PR-005

PROVIDENCE DISTRICT

APPLICANT: Washington Property Company, LLC

PRESENT ZONING: C-3, C-6, C-8, HC

REQUESTED ZONING: C-6, HC

PARCEL: 48-4 ((1)) 12 (RZ Area)
48-4 ((1)) Pt. 12 (SE Area)

ACREAGE: 13.52 Acres (RZ Area)
3.68 Acres (SE Area)

FAR: 0.04 (RZ Area)
0.15 (SE Area)

OPEN SPACE: 81% (RZ Area)
30% (SE Area)

PLAN MAP: Retail/Other and Public Park

SE CATEGORY: Category 5: Drive-in Bank
Category 5: Drive through pharmacy

O:\AHUSHO\Rezoning\ RZ 2006-PR-013\ RZ 2006-PR-013\Addendum.doc

Department of Planning and Zoning

Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

RZ PROPOSAL:

The applicant seeks to rezone 13.52 acres from C-3, C-6, C-8 and HC to C-6 and HC to permit a drive-in bank, a drive-through pharmacy, an eating establishment, and retail uses.

SE PROPOSAL:

The applicant seeks approval of a special exception to permit a drive-in bank and a drive through pharmacy on 3.68 acre portion of the subject property.

WAIVERS/MODIFICATIONS:

Waiver of the service drive requirement along Route 29/Lee Highway

Waiver of the transitional screening and barrier requirements along the western property line in favor of the existing vegetation

STAFF RECOMMENDATIONS:

Staff recommends denial of RZ 2006-PR-013.

Staff recommends denial of SE 2006-PR-005.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this application does not interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

BACKGROUND

The applicant, Washington Property Company, LLC, seeks to rezone 13.52 acres from C-3 (Office District), C-6 (Community Retail Commercial District), C-8 (Highway Commercial District), and HC (Highway Corridor Overlay District) to C-6 and HC in order to develop the site with a drive-in bank, a drive-through pharmacy, an eating establishment, and retail uses. The Special Exception request is to establish the drive-in bank and drive-through pharmacy proposed as a part of these applications. While the entire parcel totals 13.52 acres, development will be limited to a 3.68-acre portion of the site, the Special Exception area, located in the northeast corner of the parcel at the intersection of Nutley Street and Route 29/Lee Highway. Under the applicant's proposal, this portion of the subject property will be developed with four (4) free-standing buildings: a 3,800-square-foot drive-in bank, a 14,600-square-foot drive-through pharmacy, a 3,000-square-foot building, identified as Building B, designated for either retail or an eating establishment, and another 2,400-square-foot building, Building A, designated for either retail or an eating establishment. The applicant is proposing in the proffers that only one of the two smaller buildings on the site, either Building A or Building B, will be designated for use as an eating establishment. The total floor area ratio (FAR) proposed under this application is 0.15 for the SE area of the subject property and 0.04 for the entire subject property. The remaining 9.84 acres of the subject property outside of the Special Exception area will remain as undisturbed open space.

In addition, the applicant is proposing the following waivers as a part of these applications:

- Waiver of the service drive requirement along Route 29/Lee Highway
- Waiver of the transitional screening and barrier requirements along the western property line in favor of the existing vegetation in the area

A reduction of the proposed combined General Development Plan (GDP/Special Exception Plat (SE Plat)) has been included as Attachment 2 of this staff report addendum.

During the staff review of the application, it was noted that a large portion of the subject property was located within a Resource Protection Area (RPA) defined primarily by the extent of the 100-year floodplain of Hunter's Branch. Concurrent with this application, the applicant prepared a boundary delineation study that proposed to reduce the limits of both the RPA and the 100-year floodplain on the subject property to a smaller area. This study was reviewed by the Department of Public Works and Environmental Services (DPWES), and subsequently approved on October 26, 2006 (floodplain study) and November 1, 2006 (RPA study). During the review of these studies, DPWES staff became aware of an area of fill on the site, but an assumption was made that it had been placed there with the required permits and approvals.

Based upon the approvals by DPWES of the revised floodplain and RPA redelineation studies, prior concerns expressed by staff regarding the impact of the proposed site design on the floodplain area and RPA were determined to have been addressed. On March 1, 2007, the Staff Report for RZ 2006-PR-013/SE 2006-PR-005 was published. In this report, staff discussed that while the developable portion of the site could support a

number of by-right uses beyond the requested drive-in bank and drive-through pharmacy, staff believed that the additional proposed uses in Buildings A & B would increase the intensity of the proposed development in close proximity to an environmentally sensitive area. To address these concerns, the applicant proposed proffer language limiting both the types of uses and the number of tenants allowed in Buildings A and B, located in the southern portion of the SE area. Therefore, staff concluded that the proposal was in harmony with the intent of the Comprehensive Plan and met all applicable provisions of the Zoning Ordinance.

The Planning Commission public hearing for RZ 2006-PR-013 and SE 2006-PR-005 was held on March 14, 2007. Prior to this hearing, DPWES staff researched the history of the subject property and met with the applicant to determine the origin and any authorization or approvals for the fill area located on the site. As a result of the ongoing research, the case was deferred to May 31, 2007, for decision only. This addendum discusses staff conclusions based on the research that has been completed since the public hearing.

ANALYSIS

In order to verify the origin of the fill area on the site, staff reviewed aerial photography to establish a timeframe as to when the fill was placed on the site. County records show that work on the site commenced with the construction of the Pan Am Shopping Center in the mid-1970s, and that the area associated with the subject property was cleared at some point in the early 1980s. A review of the approved site plan for the Pan Am Shopping Center confirms that some construction activities were authorized in the area at the time, specifically the construction of temporary sediment basins in the vicinity of the fill area on the subject property today, and documentation shows that these areas were to be restored and replanted following construction of the shopping center. As such, there is no information in the existing site plan documentation that shows a fill area authorized for this portion of the site. Absent any documentation permitting its location on the subject property, staff has concluded that the fill was not authorized at the time of its placement on the site.

Based on this information, DPWES staff determined that its approval of the RPA and floodplain studies was in error, and letters of revocation were sent to the applicant on March 27, 2007 and March 30, 2007 (Attachments 6 & 7). As a result of this action, the floodplain and RPA limits on the subject property have returned to being those currently shown on the Board adopted United States Geological Survey (USGS) maps, and the Board adopted RPA maps. The Zoning Enforcement Branch of the Department of Planning and Zoning has issued a Notice of Violation, dated April 18, 2007, to the property owner concerning the limitations on the addition of soil in a floodplain without the requisite approvals (Attachment 8). The applicant has appealed this Notice of Violation by letter dated April 18, 2007. This appeal was accepted and has been assigned a Board of Zoning Appeals (BZA) public hearing date of July 17, 2007.

The fill in the floodplain that is the subject of the Notice of Violation is located in the general area of proposed Buildings A and B, and the plaza area that separates the two buildings (See Attachment 9). Furthermore, the combined GDP/SE Plat indicates additional encroachment into the existing floodplain limits beyond the current fill area that is the subject of the Notice of Violation. As currently filed, SE 2006-PR-005 does not request special exception approval to permit the existing fill to remain or to permit the construction of these features in the floodplain as required by the Zoning Ordinance. Therefore, staff recommends denial of these applications as filed.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

As demonstrated in Attachment 7, portions of the proposed pharmacy and Building B are located within the existing floodplain easement area, as well as portions of the access lane located along the western limits of the proposed development site. Furthermore, proposed Building A and an outdoor plaza are located entirely within the easement area. Given the currently adopted floodplain and RPA maps, staff cannot support the location of the proposed development within the limits of the RPA and floodplain on site. The applicant has not filed the appropriate applications to request consideration of the proposed encroachments. For these reasons, staff cannot support this application.

Recommendations

Staff recommends denial of RZ 2006-PR-013.

Staff recommends denial of SE 2006-PR-005.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

ATTACHMENTS

1. Locator Maps
2. Reduction of GDP/SE Plat
3. Draft Proffers
4. Development Conditions

ATTACHMENTS (Continued)

5. Map of Subject Property
6. Letter of Revocation of Approval of Floodplain Study
7. Letter of Revocation of Approval of RPA Study
8. Notice of Violation
9. GDP/SE Plat Detail: Proposed Development and Floodplain Limits

RZ 2006-PR-013
WASHINGTON PROPERTY COMPANY, LLC
PROFFER

March 13, 2007

Pursuant to §15.1-2203(A) of the Code of Virginia (1950 as amended) and §18-203 of the Zoning Ordinance of Fairfax County (1978 as amended) the property owner and Applicant, Washington Property Company, LLC, for itself and its successors assigns, (hereinafter referred to as the "Applicant") proffers that the development of the parcel under consideration identified on the Fairfax County Tax Maps as Tax Map Reference 48-4((1))12 (hereinafter referred to as the "Property"), will be in accordance with the following conditions, if and only if, the application, known as RZ 2006-PR-013 is granted rezoning the Property to the C-6 and HC Districts. The Proffered Development Conditions are as follows:

DEVELOPMENT PLAN

1. A. The Property shall be developed in substantial conformance with the GDP/SE Plat entitled "Lee Highway and Nutley Street," containing eight (8) sheets prepared by Walter L. Phillips, Incorporated, dated March 8, 2006 and revised through February 8, 2007.

B. Of the two (2) free standing buildings in the southern portion of the Property labeled "Building A" and "Building B", together totaling 5,400 square feet, only 3,000 square feet may be used for eating establishments. A "Sportsbar" shall not be permitted in "Building A" or "Building B". The other building may only be used for the following C-6 District Permitted Uses:

- Business service and supply service establishment
- Garment cleaning establishment (drop-off and pick-up only – no on site processing)
- Office
- Personal service establishment
- Retail Sales establishment (excluding adult book stores; video/DVD stores primarily dealing with the sale, rental, or exhibition of adult oriented material; tattoo parlor/piercing establishments; psychic readers/fortune tellers; topless or nude dancing/stripping establishments; adult mini motion picture theaters, movie or "peep show" establishments)

C. There shall be a maximum of two (2) total uses occupying Proposed Building A.

D. The hours of operation of the uses in the two freestanding buildings shall be limited to 6 a.m. to midnight (12:00 a.m.).

E. Deliveries and trash pickup shall be limited to the hours of 8 a.m. to 10 p.m. weekdays.

2. Pursuant to Paragraph 4 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP/SE Plat may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the GDP/SE Plat without approval of a PCA, provided such changes are in substantial conformance with the GDP/SE Plat as determined by the Zoning Administrator, agents or assigns and neither increase the total gross square footage, decrease the amount of open space, nor decrease distance from buildings to the closest peripheral property line(s). Any such modifications shall not decrease the limits of clearing and grading and buffers shown on GDP/SE Plat.

TRANSPORTATION

3. A. Prior to final site plan approval of the first site plan, or on demand by the Board of Supervisors, whichever occurs first, the Applicant shall dedicate and convey in fee simple, and at no cost, to the Board of Supervisors right of way along the Property's Lee Highway and Nutley Street frontages as shown on the GDP/SE Plat.

B. At time of site plan approval or upon demand, whichever occurs first, Applicant shall provide all right-of-way dedication and easements needed for completion of the Route 29 improvement plan per the Virginia Department of Transportation (VDOT) design plans.

C. Prior to the issuance of the first non residential use permit (Non-RUP), Applicant shall construct of curb, gutter and pavement section of Route 29 road improvements along the Property's Route 29 frontage from a point beginning at the existing right turn lane taper to the intersection with Nutley Street. In addition, the Applicant shall construct an asphalt trail along the Property's Route 29 frontage to the limits of the Resource Protection Area (RPA) as shown on the GDP/SE and as a part of the required improvements, pursuant to the County's suggested design criteria.

4. Prior to the issuance of the Non-RUP, the Applicant shall construct road improvements along the Nutley Street frontage, as shown on the GDP/SE Plat as approved by VDOT.

5. A. Where the internal pedestrian system crosses the travelways of the parking lots, crosswalks shall be provided prior to the issuance of the first Non-RUP. These may be either pavement treatments or pavement painting which clearly mark the pedestrian pathways. Pedestrian crossings shall be provided to the satisfaction of DPWES.

B. Prior to the issuance of the first Non-RUP, a crosswalk shall be provided across Nutley Street between the Property and the Pan Am Shopping Center as shown on the GDP/SE Plat subject to VDOT approval. Such crosswalk shall be constructed and shall be signed as a pedestrian crosswalk. The crosswalks may be constructed with pavement treatments or painting which clearly mark the crosswalk, as approved by the Department of Public Works and Environmental Services (DPWES).The exact location

shall be determined by DPWES in consultation with the Fairfax County Department of Transportation (FCDOT) at time of site plan approval.

6. The Applicant shall complete a signal warrant study, and if warranted by VDOT, design and install a traffic signal on Nutley Street at the Property's main entrance as shown on the GDP/SE Plat.

7. The Applicant shall make sidewalk modifications as may be needed to serve/accommodate a future bus stop along the Property's Nutley Street frontage, as determined by DPWES. The Applicant shall provide necessary easements, at no cost, for the bus stop.

8. The Applicant recognizes that in the event that VDOT will not permit the Nutley Street retaining wall as shown on the GDP/SE Plat, and any subsequent redesign is not in substantial conformance with that shown on the GDP/SE Plat, that a Proffer Condition Amendment/Special Exception Amendment shall be required.

ENVIRONMENT

9. A. All stormwater management facilities constructed on the Property and/or associated with the development shall be Best Management Practices (BMP) facilities, as determined by DPWES.

B. Prior to or during Site Plan review, the Applicant shall coordinate with DPWES to determine appropriate types and locations for Low Impact Development (LID) techniques/BMP facilities, and shall implement such recommendations. Innovative BMP facilities shall be installed throughout the site to include but not be limited to underground vaults, and in filtration trenches, as approved by DPWES.

C. In order to protect the RPA during the on-site construction phase of development, erosion and sedimentation control measures designed to achieve up to 90% sediment trapping efficiencies or greater as feasible, as determined by DPWES, shall be implemented in conformance with the methods recommended by the Virginia Soil and Water conservation District in the Virginia Erosion and Sediment Control Handbook. All such activities shall be subject to approval by DPWES, prior to installation.

D. If DPWES determines that fill is required in the areas of the two stormwater outfalls located in the RPA, approval of a special exception will be required.

E. In the event that a waiver of the Public Facilities Manual for the proposed SWM and BMP facilities is not granted and require the provision of SWM/BMP facilities in a manner that is not in substantial conformance with the GDP/SE Plat, then a Proffered Condition Amendment may be required.

10. Prior to the issuance of the first Non-RUP, bicycle racks or other bicycle parking for at least 10 bikes shall be provided near the entrances of each of the 4 buildings.

11. A. The Applicant shall conform strictly to the limits of clearing and grading as shown on

the GDP/SE Plat, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the GDP/SE Plat, they shall be located in the least disruptive manner necessary as determined by Urban Forest Management (UFM) and DPWES. A replanting plan shall be developed and implemented, subject to approval by UFM and for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities. Applicant shall preserve trees in those areas designated on the GDP/SE Plat as buffers and those areas shown to be protected by the limits of clearing and grading.

B. All tree preservation-related work occurring in or adjacent to the limits of clearing and grading shall be accomplished in a manner that minimizes damage to vegetation to be preserved, including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Removal of any vegetation, if any, or soil disturbance within the limits of clearing and grading, including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject within the limits of clearing and grading to the review and approval of UFM. The use of equipment within the limits of clearing and grading will be limited to hand-operated equipment such as chainsaw, wheel barrows, rake and shovels. Any work that requires the use of equipment, such as skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM.

C. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting with the UFM to be held prior to any clearing and grading. During the walk-through meeting, the Applicant's certified arborist or landscape architect shall walk such limits of clearing and grading with an UFM representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented; provided, however, that no adjustment shall be required that would affect the location of buildings, including a requirement for additional retaining walls in excess of two feet in height. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associate understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associate understory vegetation and soil conditions.

D. The limits of clearing and grading shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected at the limits of clearing and grading adjacent to the tree preservation areas as shown on the phase I and II erosion sediment control sheets. All tree protection fencing shall be installed after the walk-through meeting described in Proffer 11.B above but prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist and UFM, and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing or grading activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, the UFM, DPWES shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM.

E. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the respective public improvement/site plan submission. The details for these treatments shall be reviewed and approved by UFM, accomplished in a manner that protects affect and adjacent vegetation to be preserved, and may include, but not be limited to the following: (1) root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches; (2) root pruning shall take place prior to any clearing and grading; (3) root pruning shall be conducted with the supervision of a certified arborist; and (4) a UFM representative shall be informed when all root pruning and tree protection fence installation is complete.

F. During any clearing or tree/vegetation removal in the areas adjacent to the tree preservation areas, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting described in Par. C. above.

G. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 6 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective public improvement/site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM.

H. At the time of the respective public improvement/site plan approvals, the Applicant shall both post a cash bond and a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with Proffer 8.G above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit shall be equal to 50% of the replacement value of the Bonded Trees. The cash bond shall consist of 33% of the amount of the letter of credit. At any time prior to final bond release, should any bonded Trees die, be removed, or are determined to be dying by UFM due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size, species and/or canopy cover as approved by UFM. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the bond any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

I. All of the subject property that is not subject to SE 2006-PR-005 shall be maintained as undisturbed open space subject to the necessary installation of utilities in the least disruptive manner and the removal of dead, dying or invasive vegetation. Prior to site plan approval, a determination shall be made by DPWES in consultation with the Park Authority whether the undisturbed, undeveloped open space that is being rezoned to the C-6 District, but is not subject to SE 2006-PR-005, should be dedicated to the Park Authority as passive open space. In the event the Park Authority wants the land dedicated, the Applicant shall dedicate and convey in fee simple the area to the Park Authority for public park purposes, prior to site plan approval and subject to necessary utility and SWM easements. However, in the event that the Park Authority declines the land dedication it shall remain as undisturbed, undeveloped open space.

LANDSCAPING

12. A. As a part of the site plan submission for the project, a landscaping plan will be submitted to DPWES for review and approval. Such landscaping plans shall conform to the design shown on the GDP/SE Plat, provided, however, that with the specific concurrence of Urban Forest Management, the Applicant may substitute vegetative materials and alter their location to accommodate engineering considerations. The vegetative density will be as represented on the GDP/SE Plat. The Applicant shall maintain the landscaping in good condition and promptly replace dead landscaping with similar species.

B. All canopy trees shall be minimum 3" - 3.5" caliper at time of planting.

C. All evergreen trees shall be a minimum 8 foot tall at time of planting.

13. The plaza and paved areas will be designed and constructed in conformance with the concepts depicted on the GDP/SE Plat, provided, however, that, subject to the approval of DPWES, the specific distribution and location of landscaping, walkways, and focal seating areas may be modified to accommodate the design theme for the Property selected by the Applicant, so long as such modifications are in substantial conformance with the GDP/SE Plat, and are provided in the quality and quantity of that shown on the GDP/SE Plat. Plaza areas shall be constructed concurrently with the development of the respective phase of the project.

SIGNAGE AND OTHER DESIGN DETAILS

14. All free-standing signs shall be monument. No pole signs (excepting directional signage on-site as permitted by the Zoning Ordinance) shall be permitted.

15. A. The architecture of the proposed buildings shall be in substantial conformance with the architectural elevations shown on the GDP/SE Plat. All of the facades of the proposed buildings shall have similar architectural treatment and materials.

B. The architectural materials of the proposed development shall consist of any of the following materials used singly or in combination with other materials: Brick masonry, architectural CMU, EIFS, architectural metals and glazing systems. The same colors and types of materials shall be used on all sides of all buildings. Architectural details to demonstrate conformity shall be provided on all final site plans. A palette of no more than 2 base colors and 3 accent colors will be provided at first building permit application and all buildings shall use these colors.

C. All dumpsters and trash compactors will be fully screened pursuant to the requirements of the zoning ordinance.

17. No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title

33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on or off-site by the Applicant or at the Applicants' direction to assist in the initial sale or rental of space on the Property.

18. All on-site lighting shall comply with Article 14.

19. Rooftop equipment shall be screened where units would be visible from off-site.

20. Water Service. At the time of site plan review, the Applicant shall meet with Fairfax Water to mutually assess the economic and engineering implications of utilizing Fairfax Water service to serve the new development. If the Applicant and Fairfax Water determine that connecting to Fairfax Water can be accommodated in a manner that is reasonably feasible from both a financial and engineering perspective, then the Applicant shall serve the new development through Fairfax Water.

[Signatures begin on the following page]

APPLICANT/AGENT FOR TITLE OWNER:

Washington Property Company, LLC

By: Charles K. Nulsen, III

Title: President

TITLE OWNER:

Nutley Street, LLC

By: Washington Property Company, LLC

Title: Manager

By: Charles K. Nulsen, III

Title: President

PROPOSED DEVELOPMENT CONDITIONS

SE 2006-PR-005

May 17, 2007

If it is the intent of the Board of Supervisors to approve SE 2006-PR-005 located at Tax Map 48-4 ((1)) 12pt., for the establishment of a drive-in bank and drive through pharmacy in accordance with Sect. 4-603 of the Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land associated with this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Generalized Development Plan/Special Exception Plat (GDP/SE Plat) associated with this application, as qualified by these development conditions.
3. A copy of this Special Exception and the Non-Residential Use Permit (Non-RUP) shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the Generalized Development Plan/Special Exception Plat entitled "Lee Highway and Nutley Street" prepared by Walter L. Phillips, Incorporated, and dated March 8, 2006 as revised through February 8, 2007, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Part 4 of Section 9-004 of the Zoning Ordinance.
5. Irrespective of that shown on the GDP/SE Plat, all buildings and other improvements that require approval of a Special Exception for uses in a floodplain and/or a Resource Protection Area (RPA) shall be eliminated from the site.
6. A maximum of one (1) drive through lane shall be allowed to serve the pharmacy use. The drive-through shall be used only for the drop-off of prescriptions and pick-up of pharmaceuticals. No general retail sales shall be permitted from the drive-through. A sign to this effect shall be posted prominently in the vicinity of the drive-through window.
7. A maximum of three (3) drive through lanes shall be allowed to serve the bank use. The hours of operation of the drive through lanes, excluding the ATM lane, shall be limited to Monday through Friday from 9:00 AM to 7:00 PM, Saturday from 9:00 AM to 4:00 PM, and Sunday from 11:00 AM to 3:00 PM.

8. The maximum number of employees for the bank shall be twelve (12) at any one time.
9. The drive aisle at the northernmost point of the parking lot, adjacent to the proposed bank site, shall be extended in order to provide additional area for the adequate turning around of vehicles in this area, subject to Fairfax County Department of Transportation (DOT) review and approval, prior to site plan approval. Any additional striping for this purpose shall also be provided, as determined by DOT.
10. Irrespective of that shown on the GDP/SE Plat, supplemental landscaping consisting of street trees and/or shrubs shall be provided as determined by UFM within the five (5) foot wide landscaping strip along the site's Nutley Street frontage located within the public right-of-way in a manner that does not impede sight distance. A landscape plan depicting this supplemental landscaping, including, but not limited to, the number and types of species, shall be submitted concurrent with a site plan submission and shall be subject to review and approval of UFM, DPWES. In addition, the landscape plan shall also depict: the number and sizes of trees and plantings consistent with that shown on the SE Plat as determined by UFM; any trees that are proposed to be saved within the Resource Protection Area (RPA) adjacent to the SE area; and the appropriate reforestation of any disturbed area of the RPA, as determined by UFM.
11. Structural/Soil shall be provided for all trees that do not meet the minimum planting area required by the Public Facilities Manual ("PFM"), as determined by Urban Forest Management. Geotextile fabric shall be provided between the structural soil and a layer of organic material located on top of the structural soil. Written documentation, including information about the composition of the structural soil shall be provided, to Urban Forest Management indicating that a qualified and appropriately licensed company shall provide the structural soil at the time of site plan submission. The Applicant shall provide 72-hour notice to Urban Forest Management and the Providence District Supervisor's Office prior to installation of the soil to allow verification of the composition of the structural soil and verification that the structural soil is installed correctly. The Applicant shall provide written confirmation from a certified arborist and/or landscape architect demonstrating and verifying installation of structural soil.
12. Stormwater Management and Best Management Practices Facilities in accordance with the Public Facilities Manual (PFM) shall be provided as determined necessary by DPWES, unless waived by DPWES. Irrespective of that shown on the GDP/SE Plat adequate outfall shall be provided for the site in accordance with the PFM using a method as determined by DPWES.

13. Right-of-way at the intersection of Lee Highway and Nutley Street to accommodate the curb return and traffic control equipment as determined by Fairfax County Department of Transportation (FCDOT) shall be dedicated and conveyed in fee simple to the Board of Supervisors at the time of site plan review or upon demand of Fairfax County, whichever should first occur.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exceptions shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.