

FINAL DEVELOPMENT PLAN CONDITIONS

FDPA 2005-PR-039

May 7, 2008

If it is the intent of the Planning Commission to approve FDPA 2005-PR-039 for a mixed-use development located at Tax Maps 49-1 ((1)) 27A, and 49-2 ((1)) 13A & 15A, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions, which supersede all previous conditions (those conditions carried forward from the previous approval are marked with an asterisk*):

1. Development of the property shall be in substantial conformance with the CDPA/FDPA entitled "Land Unit A, Dunn Loring – Merrifield Metro Station" consisting of thirty - seven sheets prepared by Urban Engineering & Assoc. dated and revised through April 17, 2008
2. Undirected uplighting for buildings/architectural features, signs, landscaping and the like shall be prohibited.*
3. Stormwater Management for the subject property shall be provided in conformance with the Waiver Conditions associated with the Public Facilities Manual Waiver #0378-WPFM-001-2 as contained in Attachment A.*
4. Prior to the issuance of a building permit for the WMATA Garage, final architectural plans that incorporate design features intended to address the mass and bulk of the WMATA Garage façade shall be provided to the Providence District Planning Commissioner and Supervisor's Office for review and comment.*
5. The applicant shall incorporate temporary onsite lighting into the construction Phasing Plan to promote pedestrian and bicyclist safety during construction.*

The above proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by the Planning Commission.

Waiver # 0378-WPFM-001-2 Conditions

Land Unit A, Dunn Loring - Merrifield Metro Station
RZ 2005-PR-039
August 24, 2006

1. The underground facilities shall be constructed in accordance with the development plan, these conditions and as determined by the Director of the Department of Public Works and Environmental Services (DPWES).
2. The underground facilities shall be located under the travel lanes or private streets and not within the open space areas of the proposed development, as determined by DPWES.
3. The underground facilities shall be constructed of reinforced concrete products only and incorporate safety features, including locking manholes and doors, as determined by DPWES at the time of construction plan submission.
4. The underground facilities shall be privately maintained and shall not be located in a County storm drain easement.
5. A private maintenance agreement, as reviewed and approved by the Fairfax County Attorney's Office, shall be executed and recorded in the Land Records of the County. The private maintenance agreement shall be executed prior to final plan approval.

The private maintenance agreement shall address:

- County inspection and all other issues as may be necessary to insure that the facilities are maintained by the property owners (e.g. Umbrella Owners Association) in good working condition acceptable to the County so as to control stormwater generated from the development of the site.
- A condition that the applicant, property owners, their successors or assigns shall not petition the County to take future maintenance or replace the underground facilities.
- Establishment of a reserve fund, for future replacement of the underground facilities.
- Establishment of procedures to follow to facilitate inspection by the County, i.e. advance notice procedure, whom to contact, who has the access keys, etc.
- A condition that the property owners provide and continuously maintain, liability insurance. The typical liability insurance amount is at least \$1,000,000, against claims associated with underground facilities.
- A statement that Fairfax County shall be held harmless from any liability associated with the facilities.

6. Operation, inspection and maintenance procedures associated with the underground facilities shall be incorporated in the site construction plan, private maintenance agreement, and umbrella owner association documents which insure safe operation, inspection and maintenance of the facilities.
7. A financial plan, for the umbrella owner association, to finance regular maintenance and full life cycle replacement costs, shall be established prior to final subdivision plat approval. A separate a line item in the umbrella owner association annual budget for operation, inspection and maintenance shall be established. A reserve fund for future replacement of the underground facilities shall also be established to receive annual deposits from the members of the umbrella owners association based on the initial construction costs and an estimated 50-year lifespan for concrete products.
8. Prior to final construction plan approval, the applicant shall escrow sufficient funds for the benefit of the umbrella owner association which will cover a 20-year maintenance cycle of the underground facilities. These monies shall not be made available to the umbrella owner association until after final bond release.
9. All future purchasers of any of the residential units shall be advised prior to entering into a contract of sale, as well as within the recorded umbrella owner association documents, that the umbrella owner association is responsible for the operation, inspection, maintenance and replacement of the underground facilities.
10. The owner and its successors and assigns shall disclose, as part of the chain of title, to all future property owners, the presence of the underground stormwater facilities and the umbrella owner association's responsibility for operation, inspection, maintenance and replacement of such facilities, by including the following language within the deed for each lot and the record plat:

"The owner and its successors and assigns are responsible for the operation, inspection, maintenance and replacement of the underground stormwater facilities as set forth in the umbrella owners association documents and a private maintenance agreement entered into with the County."