



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

August 8, 2008

David S. Houston
Pillsbury Winthrop Shaw Pittman LLP
1650 Tysons Boulevard
McLean, VA 22102-4859

Re: Interpretation for SE 99-P-034, Tysons Park, Inc. (Park Place II), Tax Map 29-4 ((7)) 5: Retaining Wall Modifications

Dear Mr. Houston:

This is in response to your letter of July 16, 2008, requesting an interpretation of the Special Exception (SE) Plat and development conditions approved by the Board of Supervisors with the approval of SE 99-P-034 on March 13, 2000, to permit an increase in building height for an existing building. As I understand it, the question is whether the proposed modifications to the retaining wall that is located on the north side of the site are in substantial conformance with SE 99-P-034. This determination is based on your letter with an attached exhibit entitled "Interpretation Exhibit (LEED Related Modifications)" dated June 17, 2008, prepared by Walter L. Phillips, and an attached set of documents, labeled Exhibits A through G, which include a reduction of the interpretation exhibit; zoning history and background; development conditions; a reduction of the SE Plat; a previous interpretation letter and exhibit; approved building permits; and, renderings of the approved retaining wall with tiers and of the proposed retaining wall and landscaping without tiered planters. Copies of your letter with relevant attachments are enclosed.

You indicate that Site Plan Revision 6821-SPV-02-B-1 was returned by Site Plan Review, DPWES, on April 22, 2008. DPWES raised several issues regarding the retaining wall that is shown on the SE Plat adjacent to the common property line between the subject site and a site located to the north. According to your letter, the original SE Plat showed the retaining wall located a short distance inside the northern property line. Subsequently, an interpretation dated November 21, 2000, (Exhibit E) permitted the retaining wall to be relocated to just inside the northern property line and to be built with a series of elevated, tiered landscape areas on the inside of the wall. According to your current Interpretation Exhibit, the proposed retaining wall is located just inside the northern property line, as shown on the November 21, 2000, interpretation plan; however, the tiered landscape areas have been eliminated in favor of landscaping at ground level in front of the wall. The retaining wall, which extends from the front of the site to the garage entrance is approximately 260 feet in length and its maximum height is 42 feet at its eastern terminus where it connects to the parking garage. There is an approximately 56 foot difference in grade between the front, or western side of the site, and the entrance to the parking garage toward the east where the wall terminates. You state that the rationale for the elimination of the elevated landscaped tiers is the fact that Tysons Park, Inc. has pursued LEEDS certification for the building and, among other changes, has installed an underground cistern to capture rain and HVAC condensate water for re-use in the landscape irrigation system and for the cooling function. You state that the cistern needed to be located at the lowest possible elevation on the site, which was the location of the landscaped tiers. You propose landscaping similar to that shown in the elevated planters in terms of quantity and quality will be provided adjacent to the retaining wall and in the other above ground planting

David S. Houston

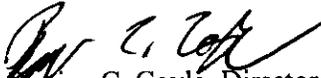
Page 2

beds. You also note that the health and maintenance of the plants will be enhanced by planting them in the ground instead of in narrow planting walls where they would be susceptible to freezing and desiccation. You state that the proposed removal of the landscaped tiers does not impact the structural stability of the wall and has no impact on the adjacent property. Finally, you assert that the proposed location of the wall on the northern property line will not impact the VDOT plan for construction of HOT lanes. As I understand it, a HOT Lanes access road is planned for construction just north of your site on the property. You have stated that in a June 4, 2008, meeting VDOT confirmed that the retaining wall was in the preferred location for the HOT Lanes access road and in no way would be a detriment to the project.

It is my determination that the proposed modification to the retaining wall to delete the elevated tiered landscaping would be in substantial conformance with SE 99-P-034, provided that the proposed landscaping in front of the retaining wall is enhanced with medium or large evergreen plantings that will screen the wall, as approved by Urban Forest Management (UFM).

This determination has been coordinated with Fairfax County Department of Transportation (DOT) and made in my capacity as the duly authorized agent of the Zoning Administrator and includes only those issues defined and described above. If you have any questions regarding this interpretation, please feel free to contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,



Regina C. Coyle, Director
Zoning Evaluation Division, DPZ

RCC/MAG/N:\Proffer Interpretations PI\Tysons Park, Inc. (Park Place II) SE 99-P-034 Ret.Wall..doc

Attachments: A/S

cc: Linda Q. Smyth, Supervisor, Providence District
Kenneth Lawrence, Planning Commissioner, Providence District
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Kenneth Williams, Office of Land Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Assad Ayoubi, Acting Director, Environmental and Facilities Inspection Division, DPWES
Michael Knapp, Director, Urban Forest Management, DPWES
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, DPZ
File: SE 99-P-034, SEI 0807 037, Imaging, Reading File



Pillsbury Winthrop Shaw Pittman LLP
1650 Tysons Boulevard | McLean, VA 22102-4859 | tel 703.770.7900 | fax 703.770.7901

David S. Houston
Phone: 703.770.7544
david.houston@pillsburylaw.com

July 16, 2008

Mr. Kevin Guinaw
Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway
Suite 800
Fairfax, Virginia 22035

RECEIVED
Department of Planning & Zoning
JUL 17 2008
Zoning Evaluation Division

Re: Park Place II - Interpretation Request for SE 99-P-034
Tysons Park, Inc.
7926 Jones Branch Road, McLean, VA
Tax Map 29-4-((7))-5

Dear Mr. Guinaw:

On behalf of Tysons Park, Inc. ("Tysons Park, Inc."), I am submitting this zoning interpretation request for the property located at 7926 Jones Branch Road in McLean, Virginia. As we discussed at our meeting on June 4, 2008, Tysons Park, Inc. is developing a first class office building on the subject property to be known as "Park Place II." Site Plan Revision 6821-SPV-02-B-1 was submitted for processing and approval by the Department of Public Works and Environmental Services ("DPW") to implement a Leadership in Energy and Environmental Design (LEED®) certification program.

Unfortunately, the Site Plan was returned on April 22, 2008 to Tysons Park, Inc. with comments. Several of the comments from the Site Plan Review Engineer (Sulaiman Sahebian) focused on the retaining wall shown adjacent to the common property line between the subject property and the property formerly owned by Gannett. Therefore, to allow the final processing of this Site Plan, the reviewer is seeking confirmation from the Department of Planning and Zoning that the retaining wall is in substantial conformance with the approved Special Exception. Exhibit A is a plat, entitled "SE 99-P-034 – Tysons Park Place II – Interpretation Exhibit (LEED®

Mr. Kevin Guinaw
Department of Planning and Zoning
July 16, 2008
Page 2

Related Modifications),” which depicts the proposed modifications (the “2008 Interpretation Graphic”).

As we discussed with you at our June 4, 2008 meeting, the original Special Exception Plat applicable to the Park Place II property showed the north retaining wall located a short distance inside the northern property line (See Exhibit D). Further, as we discussed, an interpretation issued on November 21, 2000 by the Director of the Zoning Evaluation Division referenced a plan entitled “Special Exception Interpretation Exhibit Park Place II” and certain sketches attached to my correspondence of November 14, 2000, all of which showed the retaining wall relocated to just barely inside the northern property line and included a series of elevated, tiered landscape areas on the Park Place II side of the retaining wall between the wall and the adjacent service drive. (See Exhibit E). For a more complete zoning history and background, please see Exhibit B to this correspondence.

The purpose of this correspondence is to obtain confirmation that the November 21, 2000 Interpretation permitted the relocation of the retaining wall to just inside the northern property line as depicted on the sketches referenced in such November 21, 2000 Interpretation, and to obtain an interpretation that the configuration of the wall and the elimination of the elevated, tiered landscape areas in favor of the landscape areas shown on the 2008 Interpretation Graphic is in substantial conformance with the approved Special Exception.

As depicted on the 2008 Interpretation Graphic, Park Place II is in substantial conformance with the approved Special Exception and meets the criteria for a minor modification stated in Section 9-004(4) of the Zoning Ordinance because it (i) will have the same setbacks, at least the same amount of open space and landscaping, and the same structural integrity for the retaining wall as provided in the approved Special Exception (as modified by the November 21, 2000 Interpretation), (ii) will achieve a prestigious LEED® Gold certification and (iii) will not interfere with the Capital Beltway HOT Lanes project. Further, the recent modifications are in substantial conformance with the approved Special Exception of the project because they do not permit a more intensive use, do not result in an increased parking requirement, do not change the use or permit any new uses, do not reduce the amount of screening and open space, do not change the building in such a way that it would adversely impact adjacent properties and do not increase the maximum permitted density.

I. Section 9-004(4) of the Zoning Ordinance

Section 9-004(4) of the Zoning Ordinance provides that minor modifications to an approved special exception may be permitted when found to be in substantial

conformance with the special exception and when the modifications are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, and certain other factors. As will be discussed below, Tysons Park, Inc. believes the LEED® related changes to the project are necessary for reasons of topography, structural safety, layout and design that did not come to light until the site plan and building permit were prepared.

Pursuant to Section 9-004(4)(A), Tysons Park, Inc. believes that the north wall configuration excluding the elevated, tiered landscape areas shown on the 2008 Interpretation Graphic attached as Exhibit A and on Site Plan Revision 6821-SPV-02-B-1 meets the established criteria for minor modifications to the approved Special Exception because:

- (1) There is no change in the amount of land area. The use is the same and is not more intensive.
- (2) There is no increase in the parking requirement for the building.
- (3) No other use is proposed as part of the modification. All uses are consistent with those approved under SE 99-P-034.
- (4) There is no reduction in the amount of transitional screening, buffers, landscaping or open space. With the proposed modification, the effectiveness of the buffering or landscaping improves because the plant material that is being located at the base of the wall will be easily maintained and thrive, as opposed to plants in elevated planters that have limited access for maintenance and a propensity to dry out quickly and cause harm to the plant material.
- (5) There is no change in the bulk, mass, orientation or location of the proposed Park Place II building. The location of the retaining wall will not adversely impact the adjacent development, including the Capital Beltway HOT Lanes project.
- (6) There is no increase in the amount of clearing and grading, tree-save or landscaping associated with the placement of the retaining wall.

- (7) No building addition is involved. The retaining wall does not contribute to any increase in gross floor area or FAR.

II. Rationale for Elimination of Elevated Landscaped Tiers; LEED® Certification

Shortly after the approval of the first Site Plan Revision in 2006, Tysons Park, Inc. chose to make further improvements to the project and aggressively pursued LEED® certification. Various upgrades to the BMP drainage facilities, building energy systems, building materials and resources and the building's indoor environmental quality were implemented while the project remained under construction. As a result of these design changes, Park Place II achieved a "Gold" LEED® certification status. The project will be one of the first buildings in Fairfax County to attain such a high accreditation.

A. *LEED® Program Modifications*

As part of the LEED® criteria, Tysons Park, Inc. elected to install an underground cistern to capture rain and HVAC condensate water for re-use in the building's landscape irrigation system and for the cooling tower "make up" water. The cistern will be located in the northeast corner of the subject property near the retaining wall and has a capacity of 10,000 gallons. The subject property's topography dictated the optimum location of the cistern because it needed to be placed at the lowest elevation available. This area was previously shown as the location of landscaped elevated tiers on the approved Special Exception (more particularly, on the 2000 Interpretation Exhibit attached hereto as Exhibit E).

A common element remains between what is shown on the pending Site Plan and the approved Special Exception (as modified by the November 21, 2000 Interpretation) in that there is still a retaining wall located along the common property line of Park Place II and the property formerly owned by Gannett. The setback of the building is also the same.

Finally, it is important to note that landscaping similar to what was shown in the elevated planters in terms of quantity and quality is still being located adjacent to the retaining wall, and also to other above ground planting beds. Exhibit G is a rendering that depicts the proposed landscaping in comparison to the landscaping shown on the approved Special Exception (i.e., with and without elevated tiers). The health and maintenance of the plants are greatly enhanced by not installing them in the tiered, narrow planting walls, as plants are less susceptible to freezing and foliage desiccation if planted at grade.

Tyson's Park, Inc. also intends to install a diesel/biodiesel emergency generator in the location of the former elevated planting tiers. The need for the generator relates to the amount of technology equipment that prospective high end tenants require (e.g., computers, telephone systems, etc.) and their need to stay up and running during a power outage. This type of building amenity is fast becoming a standard requirement for the typical tenants moving into a "Class A" office building and, as such, the owner is trying to stay competitive in the market by incorporating this element into the building.

B. *Removal of Elevated Landscaped Tiers Does Not Impact the Retaining Walls' Structural Integrity*

As noted above, the removal of the tiers adjacent to the retaining wall does not affect the structural integrity of the wall. The wall is actually an architectural concrete wall that is covering the sheeting and shoring assemblies; soldier beams and lagging with appropriately placed tiebacks. It is the sheeting and shoring that is "retaining" the earth beyond the property line. The sheeting and shoring falls under the Critical Structures Division within Fairfax County and that assembly in its entirety was permitted by Fairfax County with all inspections performed by ECS Mid Atlantic in compliance with the regulations set forth by the Critical Structures Division.

C. *Removal of Elevated Landscaped Tiers has no Impact on Adjacent Property*

Since the elevated landscape tiers that are proposed to be removed are located on the south side of the retaining wall and would be internal to the Park Place II project the elimination of such elevated landscaped tiers will have no visual or other impact to any adjacent property owner. Such tiers would have been solely visible from the Park Place II office building. Such office users will now have a view of a landscaped area of equal quantity and quality.

D. *Location of Retaining Wall and Removal of Elevated Landscaped Tiers Has No Adverse Impact on Virginia Department of Transportation (VDOT) – HOT Lanes Project*

Although the ability of the owner of the Park Place II project to construct a retaining wall on the northern property line is already permitted by the November 21, 2000 Interpretation, it is important to note that the location of such wall on the property line is not problematic for the HOT lanes project. Based on a meeting held on June 4, 2008, VDOT confirmed that the retaining wall was in the preferred

Mr. Kevin Guinaw
Department of Planning and Zoning
July 16, 2008
Page 6

location for the HOT Lanes access road and in no way would be a detriment to the project.

III. Conclusion

Tyson's Park, Inc. respectfully requests your formal determination that the modifications referenced herein and depicted on the enclosed drawings are in substantial conformity with the approved Special Exception. Thank you for your time and attention to this matter. Please call me directly at (703) 770-7544 if you have any questions or if you need additional information.

Sincerely,



David S. Houston

Enclosures:

<u>Exhibit A</u>	SE 99-P-034 – Tysons Park Place II – Interpretation Exhibit (LEED® Related Modifications)
<u>Exhibit B</u>	Zoning History and Background
<u>Exhibit C</u>	Special Exception Conditions
<u>Exhibit D</u>	Special Exception Plat – SE 99-P-034
<u>Exhibit E</u>	Interpretation Letter and Exhibit – Approved November 21, 2000
<u>Exhibit F</u>	Approved Building Permits
<u>Exhibit G</u>	Renderings of Proposed Retaining Wall and Landscaping

cc: Mary Ann Godfrey, DPZ
Patrick Connors
Mark Hardy
Robert Wulff
John L. Gavarkavich, CLA
Benjamin Tompkins, Esquire

Exhibit A

**SE 99-P-034 – Tysons Park Place II –
Interpretation Exhibit (LEED® Related Modifications)**

Exhibit B

Zoning History and Background

The subject property was rezoned by the Board of Supervisors on February 26, 1973, from the RE-1 District to the C-OH (Commercial Offices – High Rise) District in accordance with Rezoning Case No. C-382. There are no proffers associated with the rezoning or the subject property. The existing office building, known as Park Place I, was built as a by-right use in 1974 (“Park Place I”).

On March 13, 2000, the Board of Supervisors approved Special Exception Number SE 99-P-034 to permit the development of a first class office building on the subject property (to be known as “Park Place II”). Specifically, the Board approved the Special Exception to allow modifications in building height, front yard setback, transitional screening and parking. Exhibit C is a copy of the letter from the Clerk to the Board, dated March 22, 2000, indicating the Board’s approval subject to certain development conditions. Exhibit D is a copy of the Special Exception Plat.

On November 21, 2000, the Director of the Zoning Evaluation Division issued an interpretation for the subject property permitting modifications to the building setback on the north side and permitting retaining walls for the two proposed mechanical exhaust areaways within the 25 foot building setback along the eastern property line. Exhibit E is a copy of the Director’s letter and the associated exhibit to the request.

A Rough Grading Plan 6821-RGP-02-1 (“RGP”) was approved on October 25, 2000. Due to the early 2000 downturn of the office market, the project was put on hold shortly after permits for land disturbance were issued under the RGP. By 2005, however, Tysons Park, Inc. re-engaged with the project, and sought formal site plan approval for the garage structure only. The Park Place II office building was shown as future construction and the Site Plan specified that a revision would be necessary to allow its construction at a later date. Tysons Park, Inc. chose to phase the project in this manner to cause the least amount of disturbance to the existing tenants of Park Place I and to accommodate the parking needs of the construction crew. Site Plan 6821-SP-02-2 for the garage structure was approved on November 15, 2005.

Thereafter, the first Site Plan Revision, 6821-SPV-02-A-1, which incorporated the office building was approved on September 13, 2006. This revision required the \$1,199,660.00 contribution to the Tyson Road Fund as required pursuant to Condition #5 of the Special Exception Approval. Construction of the Park Place II office building began in March, 2007 pursuant to the approved building permits, copies of which are attached as Exhibit F.

Exhibit C

Special Exception Conditions



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

V I R G I N I A

Telephone: 703-324-3151

FAX: 703-324-3926

TTY: 703-324-3903

March 22, 2000

David S. Houston, Esquire
McGuire, Woods, Battle & Boothe, LP
1750 Tysons Boulevard – Suite 1800
McLean, Virginia 22102-3892

RE: Special Exception
Number SE 99-P-034

Dear Mr. Houston:

At a regular meeting of the Board of Supervisors held on March 13, 2000, the Board approved Special Exception Number SE 99-P-034 in the name Tysons Park Place Associates Limited Partnership located at 7926 Jones Branch Road, Tax Map 29-4 ((7)) 5, for an increase in building height, pursuant to Section 9-607 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in 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 Special Exception Plat approved with the application, as qualified by these development conditions. Other by-right special permit and/or special exception uses may be permitted on the Application Property without the approval of a Special Exception Amendment if such uses do not affect this Special Exception.
3. 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 approved Special Exception Plat entitled Park Place II, prepared by Walter Phillips, Incorporated and dated June 30, 1999, as revised through January 24, 2000, and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Paragraph 4 of Section 9-004 of the Zoning Ordinance.

4. The elevation of the parking structure(s), which faces Interstate 495, shall be constructed with a solid vertical perimeter wall, not less than 32 inches in height above the elevation of each parking level, for the purpose of blocking headlights from shining onto Interstate 495. The solid vertical perimeter wall(s) shall have a surface treatment of a face mix of stone aggregate, special forming or scoring, a special mix of textures or polymer paint materials, or other treatments which are compatible with or compliment the proposed building architecture and materials per DPWES.
5. Prior to site plan approval, a contribution of \$3.02 per square foot shall be made to the Tysons Road fund for any additional square footage added to this site beyond the existing 262,193 square feet of gross floor area (GFA). This rate, as increased by escalations to the *Engineering News Record, Construction Cost Index* from the date of approval of this application, shall be paid directly to the County of Fairfax at the time of *site plan approval* and shall be used for Tysons Area Wide Transportation Improvements.
6. A parking plan for an alternative location of off-street parking for the site for the construction period of the proposed parking structure only shall be prepared and submitted for the review and approval of DPWES at site plan approval. Under this plan, the interim parking shall either be: (1) generally located within 500 feet walking distance of the existing building entrance; or (2) provided off-site with access via a valet or shuttle service subject to agreements or arrangements which will ensure the operation of such service and that there will not be any adverse impacts on the site of the parking spaces or the adjacent area in accordance with Section 11-102 of the Zoning Ordinance.
7. All sidewalks shall conform to the Americans with Disabilities Act (ADA) requirements, to the satisfaction of DPWES. A sidewalk shall be placed on one side of the northernmost driveway.
8. The proposed new building constructed on the application site shall be limited to 150 feet in height, exclusive of the penthouse structure. The penthouse structure shall be limited to twenty-five (25) feet in height, and shall comply with size limitations stated in Section 2-506 of the Zoning Ordinance. The existing building shall be limited to 135.5 feet in height, exclusive of penthouse.
9. Prior to site plan approval, a landscaping plan shall be submitted for the review and approval of the Urban Forestry Branch, DPWES. This landscaping plan shall include the provision of peripheral parking lot landscaping, adjacent to the Capital Beltway. This peripheral parking lot landscaping shall consist of, but shall not be limited to, trees in

planter boxes on the top level of the parking structure and deciduous and evergreen shrubs in planter boxes that will be trained to grow and overhang the edge of the top level of the parking structure.

10. The area depicted on the Special Exception Plat as "Approximate Location Ultimate Dulles Access Road Exit Ramp Per Available VDOT Information" shall be reserved *for future right-of-way dedication* from the date of approval of this application *by the Board of Supervisors*. If it is determined by the Virginia Department of Transportation (VDOT) that the reserved area or a lesser portion of the land contained within the reserved area is necessary for the *Capital Beltway (I-495)* widening project, then that area shall be dedicated to the County *upon demand of Fairfax County or VDOT* in fee simple at no cost. The reserved area shall be *maintained* as open space; no structures shall be permitted in that area. Upon dedication of the land, advanced density credit shall be granted to the applicant pursuant to Section 2-308 of the Zoning Ordinance.

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 himself responsible for obtaining the required 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 Exception shall automatically expire, without notice, *forty-eight (48)* months after the date of approval unless 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.

The Board also:

- Waived the 75-foot setback from I-495 (Capital Beltway) to that shown on the Special Exception Plat.
- Waived the front yard setback to that shown on the Special Exception Plat

SE 99-P-034
March 22, 2000

- 4 -

- **Modified the transitional screening and barrier requirements along the east property line to that shown on the Special Exception Plat.**
- **Authorized an alternative location for off-street parking spaces, as noted in the development conditions.**

If you have questions regarding the expiration of this Special Exception or filing a request for additional time they should be directed to the Zoning Evaluation Division in the Department of Planning and Zoning at 703-324-1290. The mailing address for the Zoning Evaluation Division is Suite 801, 12055 Government Center Parkway, Fairfax, Virginia 22035.

Sincerely,



Nancy Vehrs
Clerk to the Board of Supervisors

NV/ns

cc: Chairman Katherine K. Hanley
Supervisor - Providence District
Janet Coldsmith, Director, Real Estate Div., Dept. of Tax Administration
Michael R. Congleton, Deputy Zoning Administrator
Frank Jones, Assistant Chief, PPRB, DPZ
Audrey Clark, Chief, Inspection Svcs., BPRB, DPW&ES
Barbara A. Byron, Director, Zoning Evaluation Div., DPZ
Robert Moore, Tmpsr't'n. Planning Div., Department of Transportation
Ellen Gallagher, Project Planning Section, Department of Transportation
Michelle A. Brickner Acting Director, Site Development Services, DPW&ES
DPW&ES - Bonds & Agreements
Department of Highways, VDOT
Land Acq. & Planning Div., Park Authority
District Planning Commissioner

Exhibit D

Special Exception Plat – SE 99-P-034

Exhibit E

**Interpretation Letter and Exhibit –
Approved November 21, 2000**



FAIRFAX COUNTY

DEPARTMENT OF PLANNING AND ZONING

Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5505

(703) 324-1290

Fax (703) 324-3924

*Rec'd
SP
11-29-00*

V I R G I N I A

November 21, 2000

David S. Houston
Shaw Pittman
1676 International Drive
McLean, VA 22102-4835

Re: Interpretation for SE 99-P-034, Tysons Park Place,
Tax Map 29-4 ((7)) 5: Setback, Retaining Walls

Dear Mr. Houston:

This is in response to your letter of October 17, 2000, and letter of November 14, 2000, requesting an interpretation of the Special Exception Plat (SE Plat) and the development conditions imposed by the Board of Supervisors in conjunction with the approval of SE 99-P-034. As I understand it, your question is whether a reduction in the garage setback on the north side and the addition of vents with small retaining walls on the east side along I-495 are in substantial conformance with the SE Plat and the development conditions. This determination is based on your letter and the plan, entitled "Special Exception Interpretation Exhibit Park Place II", prepared by Walter L. Phillips, Inc. which is dated October 24, 2000, and the sketches attached to your letter of November 14, 2000. Copies of your letter and a reduction of the plan are attached for reference.

As I understand it, You are proposing to reduce the building setback on the north side from 27 feet to 20 feet in order to align the garage entrance with the column grid for the garage to coordinate with the outside face of the proposed office building. You have stated that this modification will allow Tysons Park Place to permit separate emergency egress for the garage north of the vehicular entrance and that the garage will be totally below grade. Additionally, you are proposing to add two retaining walls for the two proposed mechanical exhaust areaways within the 25 foot building setback along the eastern property line across from I-495. You have stated that the garage was approved as an open parking structure and to maintain a 2:1 grade slope along the eastern property line, you are required to provide mechanical ventilation to meet the code. The proposed areaways are completely below grade and the grates are not visible. In order to meet the ventilation requirements of the open parking structure the retaining walls are proposed to be 8 feet high facing inward towards the garage structure and no more than 4 feet high at the grade towards I-495. You have indicated that no changes will occur in the approved open space, landscaping or parking.

David S. Houston

Page 2

It is my determination that the proposed reduction in garage setback from 27 feet to 20 feet on the north side and installation of two garage vents with associated retaining walls as shown on your interpretation exhibit are in substantial conformance with the SE Plat and the development conditions. This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator.

If you have any questions regarding this interpretation, please feel free to contact Kul Sandhu at (703) 324-1290.

Sincerely,



Barbara A. Byron, Director
Zoning Evaluation Division

BAB\KS\ParkPlaceTysonsCornererLakes.doc

Attachments: A/S

cc: Gerald E. Connolly, Supervisor, Providence District
Linda Q. Smyth, Planning Commissioner, Providence District
Jane W. Gwinn, Zoning Administrator
Michael Congleton, Deputy Zoning Administrator for Zoning Permits Review, DPZ
Michelle Brickner, Director, Office of Site Development Services, DPWES
Craig Carinci, Director, Environmental and Facilities Inspection Division, DPWES
File: SE 99-P-034, SEI 2010 049

ShawPittman

A Law Partnership Including Professional Corporations

DAVID S. HOUSTON
703.770.7544
david.houston@shawpittman.com

November 14, 2000

By Facsimile

Mr. Kul Sandhu
Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway
Suite 800
Fairfax, Virginia 22035

Re: **Special Exception Plat - Interpretation Request
SE 99-P-034
Tysons Park Place Associates Limited Partnership
7926 Jones Branch Road, McLean, VA
Tax Map 29-4-((7))-5**

Dear Kul:

In response to our telephone conversation yesterday, please find enclosed architectural sketches depicting the proposed landscaping adjacent to the north retaining walls for the property. The sketches also show existing landscaping on the Gannett property. I believe these sketches address the issue that you raised yesterday. Please let me know if they are acceptable for purposes of your interpretation response. Thank you for your time and attention to this matter.

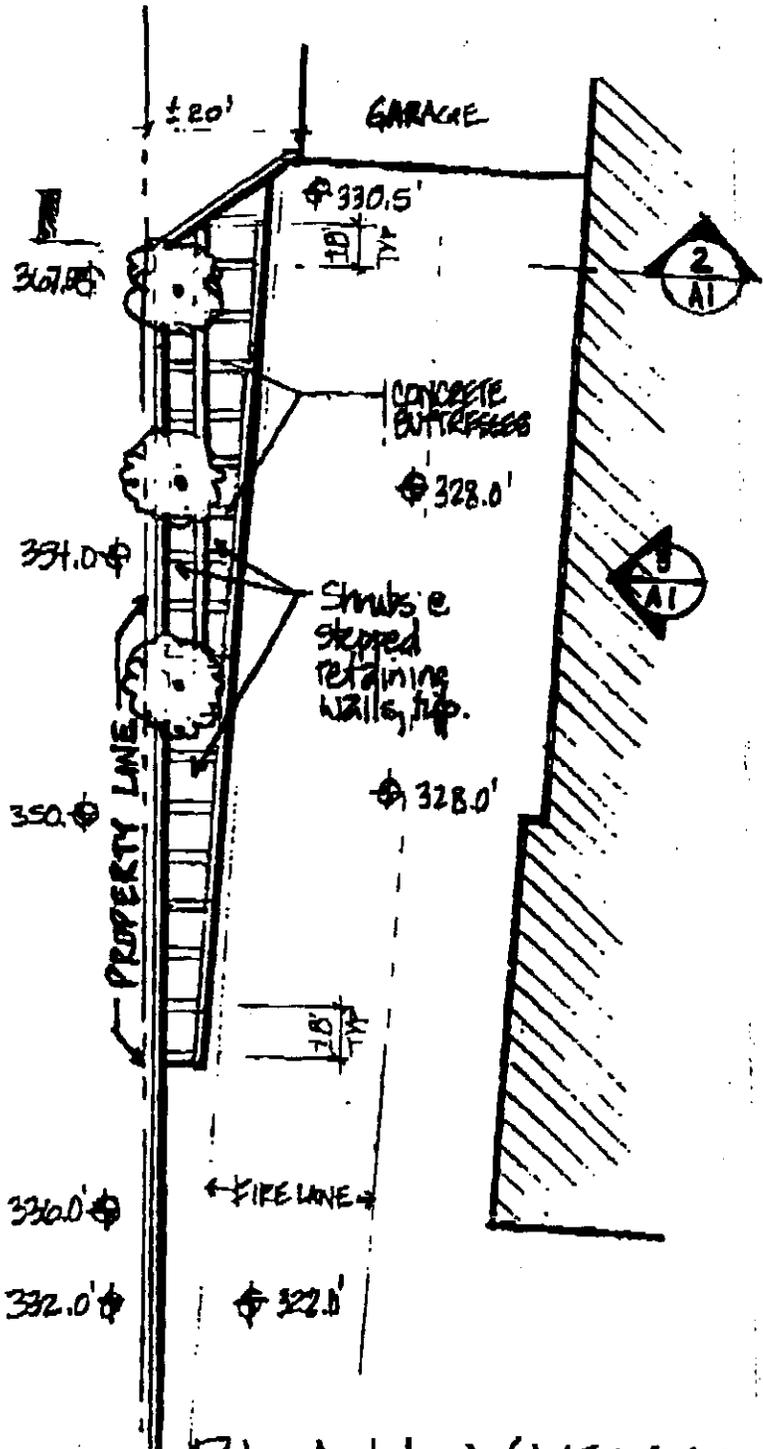
Sincerely,

David S. Houston 
David S. Houston

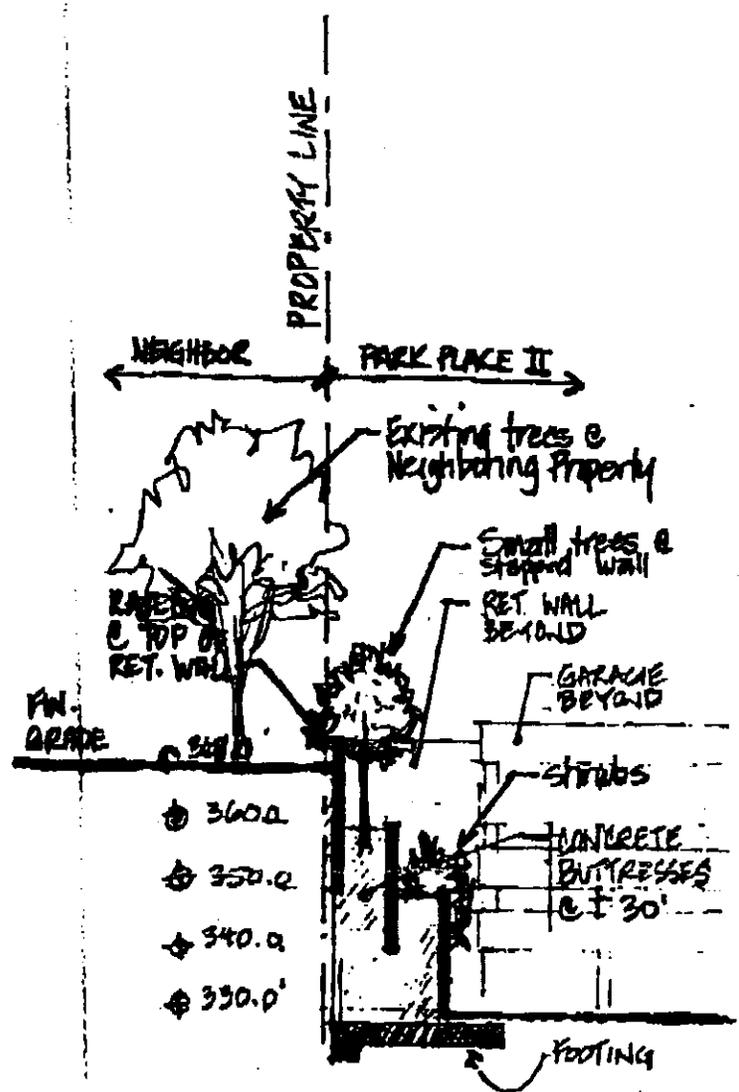
Enclosures

cc: M. Laurence Millspaugh
David K. Oliver, P.E.
Cindy Linkins

SCHEME A-1

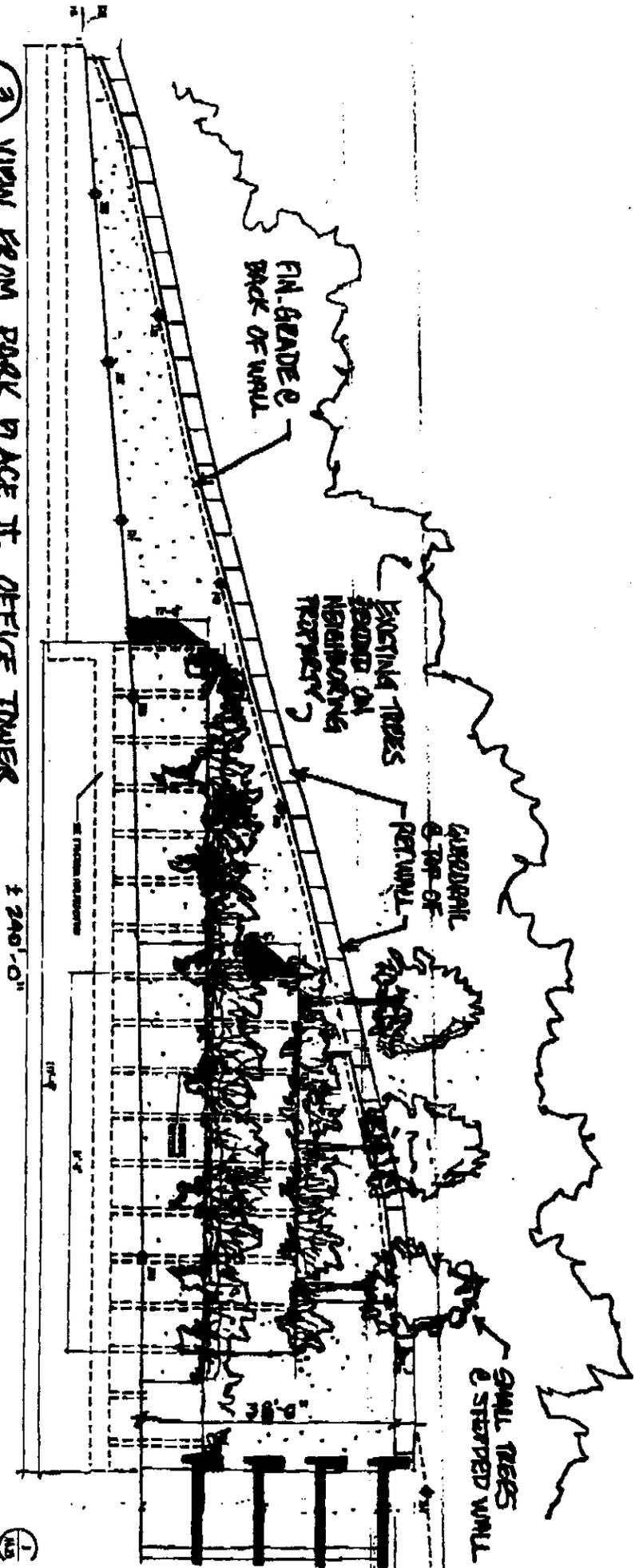


PLAN VIEW @
RETAINING WALL-NORTH PROPERTY
SCALE: 1" = 30'



SECTION @
NORTH PROPERTY
SCALE: 1" = 30'

3
A1
VIEW FROM PARK PLACE II OFFICE TOWER
NO SCALE



1/4"

ShawPittman

A Law Partnership Including Professional Corporations

DAVID S. HOUSTON
703.770.7544
david.houston@shawpittman.com

October 17, 2000

RECEIVED
DEPARTMENT OF PLANNING AND ZONING

OCT 17 2000

By Hand Delivery

Ms. Barbara A. Byron
Division Director
Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway
Suite 800
Fairfax, Virginia 22035

ZONING EVALUATION DIVISION

Re: **Special Exception Plat - Interpretation Request
SE 99-P-034
Tysons Park Place Associates Limited Partnership
7926 Jones Branch Road, McLean, VA
Tax Map 29-4-((7))-5**

Dear Ms. Byron:

On behalf of Tysons Park Place Associates Limited Partnership ("Tysons Park Place"), I am submitting this zoning interpretation request for the property located at 7926 Jones Branch Road in McLean, Virginia. On March 13, 2000, the Board of Supervisors approved Special Exception Number SE 99-P-034 to permit the development of a first class office building on the subject property. Specifically, the Board approved the Special Exception to allow modifications in building height, front yard setback, transitional screening and parking. Exhibit A is a copy of the letter from the Clerk to the Board, dated March 22, 2000, indicating the Board's approval subject to certain development conditions.

Tysons Park Place has submitted a Site Plan for this project. In anticipation of the Site Plan review of project in conjunction with the Special Exception approval, we are hereby requesting your written confirmation that the engineering and architectural modifications discussed in detail below are in substantial conformance with the approved Special Exception Plat. (See Condition No. 3.) Section 9-004 of the Zoning Ordinance provides that minor modifications to an approved special exception may be permitted when found to be substantial conformance with the special exception and are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, and certain other factors.

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Ms. Barbara A. Byron

October 17, 2000

Page 2

1. Garage Setback Along Northern Property Line

Tysons Park Place proposes to provide a 20 foot setback along the northern property line. On the Special Exception Plat, this setback varied up to 27 feet. This modification is required in order to align the garage entrance with the column grid for the garage as coordinated with the outside face of the proposed office building. Additionally, the new setback allows Tysons Park Place to permit separate emergency egress for the garage in the garage corner north of the vehicular entrance. Enclosed as Exhibit B is a Plat entitled Special Exception Interpretation Exhibit, prepared by Walter L. Phillips, Incorporated.

The elevation of the highest level of the parking structure adjacent to the property to the north (Gannett) is 369 feet 11 inches and the elevation along the property line in this area varies from 379 feet at the back of the structure to 374 feet opposite the front corner of the parking structure. Therefore, since the entire garage elevation is below the northern property line elevation, there should be no bulk impact on the adjacent property.

2. Addition of Garage Vents with Small Retaining Walls

Tysons Park Place intends to add two small retaining walls and mechanical exhaust areaways within the 25 foot building setback required along the eastern property line (adjacent to the Capital Beltway/Route 495). The walls occur in two locations along the east side of the parking garage, as shown on Drawing #A5.05, attached hereto as Exhibit C. The reason for the walls and areaways is explained below.

The parking structure is designated as an "open parking structure" use group for the top four levels, and as an "S-2" use group for the lowest level below grade. The lowest level is required to be mechanically ventilated to meet code. This ventilation is provided by below-grade intake air shafts on the west side and exhaust air shafts on the east side (in the setback area). Each shaft houses two fans that require a space 7 feet wide for both fans and their required clearances. At the top of each shaft there would be a metal grate flush with grade. These areaways are completely below grade and with the grate are not visible. Therefore, the exhaust areaways are similar to an allowable basement projection into a required yard.

The use of retaining walls relates to the code requirement for the ventilation of the open parking structure above. The applicable code section is stated on Exhibit C. Tysons Park Place needs to maintain the openings above the level of the parapet wall to meet ventilation requirements for an open parking structure. It also needs to maintain a

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Ms. Barbara A. Byron

October 17, 2000

Page 3

2:1 grade slope along the eastern property line. Therefore, to maintain the slope Tysons Park Place is proposing the retaining walls. The retaining walls would be 8 feet high, facing inward toward the garage structure, and, therefore, would have no impact on any neighboring property. The request for these walls conforms to General Note #8 on the Special Exception Plat. This note states "The owner reserves the right to add retaining walls in lieu of or in addition to proposed steepened slopes."

Based on the guidelines contained in Section 9-004, Tysons Park Place believes that all of the modifications are in substantial conformance with the approved zoning of the project because they do not permit a more intensive use, do not result in an increased parking requirement, do not change the use or permit any new uses, do not reduce the amount of screening and open space, does not change the building in such a way that it would adversely impact adjacent properties and does not increase the maximum permitted density. Rather, the changes are necessary for reasons of topography, structural safety, layout and design that did not come to light until the site plan and building permit were prepared.

Tysons Park Place respectfully requests your formal determination that the modifications referenced herein and depicted on the enclosed drawings are in substantial conformity with the approved Special Exception Plat. Thank you for your time and attention to this matter. Please call me directly at (703) 770-7544 if you have any questions or if you need additional information.

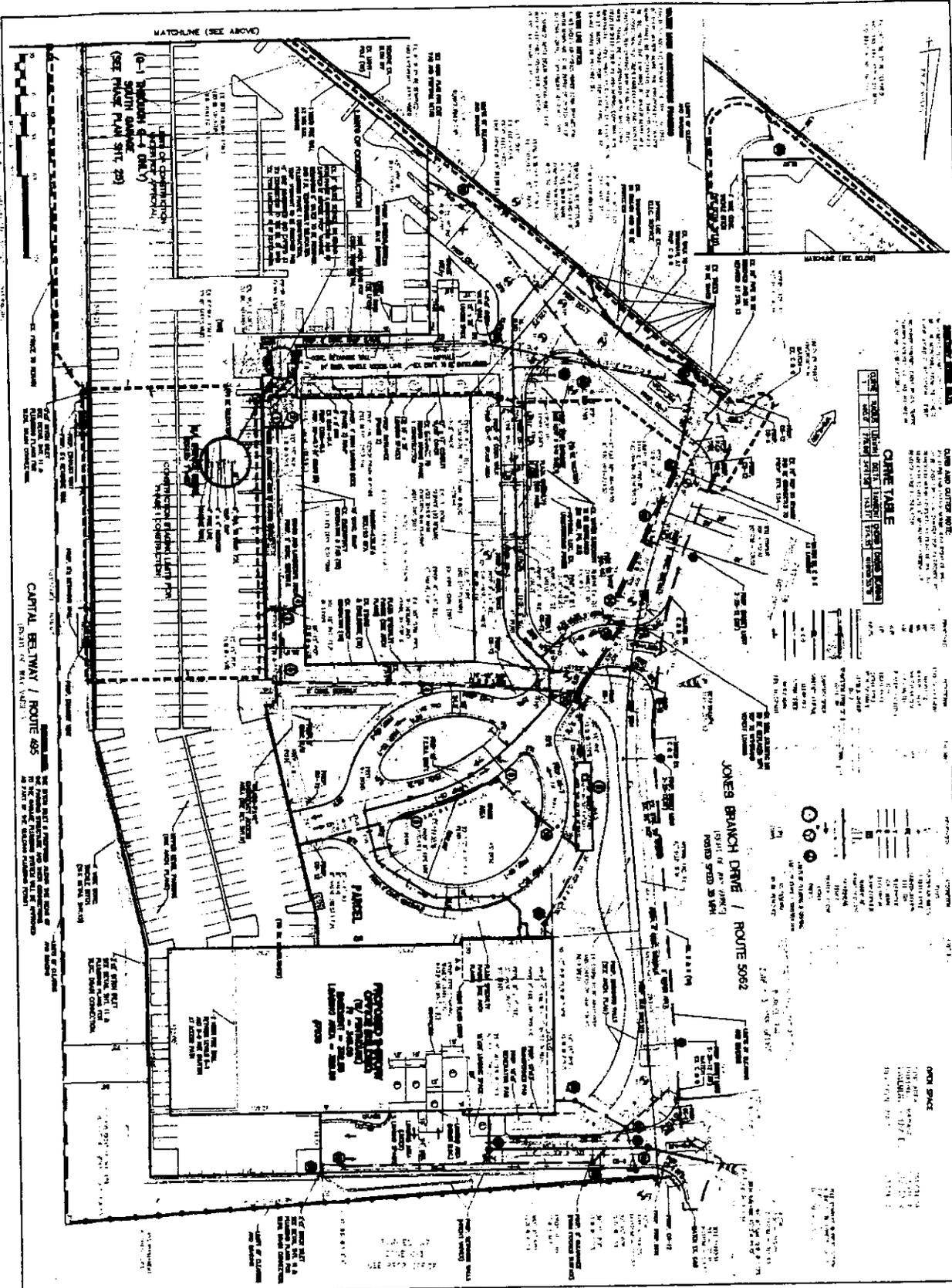
Sincerely,



David S. Houston

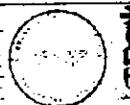
Enclosures

cc: Supervisor Gerry Connolly
Cathy Lewis, DPZ
M. Laurence Millspaugh
David K. Oliver, P.E.



SPECIAL EXCEPTION INTERPRETATION EXHIBIT

PARK PLACE II
 PROVIDENCE DISTRICT
 FAIRFAX COUNTY, VIRGINIA



WALTER L. PHILLIPS
 INCORPORATED
 CIVIL ENGINEERS LAND SURVEYORS PLANNERS LANDSCAPE ARCHITECTS
 227 PARK AVENUE FALLS CHURCH VIRGINIA 22044
 (703) 261-4400 FAX (703) 553-8000

Exhibit F

Approved Building Permits

Fairfax County, Virginia
Department of Public Works and Environmental Services
Permit Application Center
12055 Government Center Parkway
Fairfax, Virginia 22035-5504

COMMERCIAL ADDITION

Permit Number: 63000260

Issue Date: 02/28/2007

Tax Map ID: 029-4 / 07 / 10005C

Job Address: 7926 Jones Branch Dr.
Mc Lean, VA22102-3303

Plan No: Q-06-4354

Tenant Name: PARK PLACE PARKING

BLDG: N/A FLOOR: N/A SUITE: N/A

Issued To:

BF SAUL
7501 Wisconsin Av
Bethesda, Md 20814
(301)986-6316

Contractor:

OWNER IS CONTRACTOR

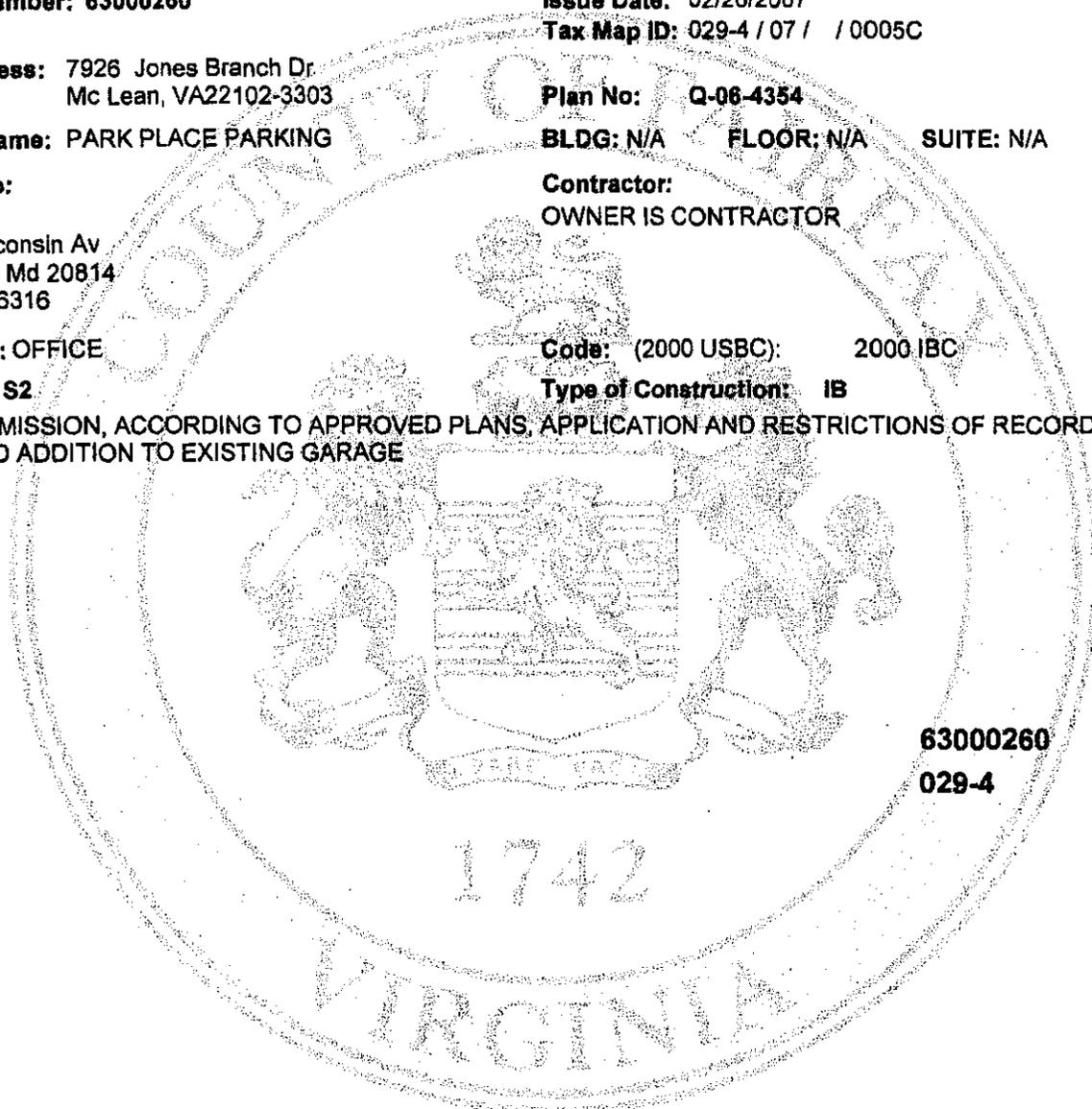
Structure: OFFICE

Code: (2000 USBC): 2000.IBC

GROUP: S2

Type of Construction: IB

HAS PERMISSION, ACCORDING TO APPROVED PLANS, APPLICATION AND RESTRICTIONS OF RECORD
TO: BUILD ADDITION TO EXISTING GARAGE



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Note to Property Owner: In accordance with Chapter 102 of the Code of the County of Fairfax, the property address must be displayed on the property in such a manner as to be visible from the public right of way. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed. Prior to beginning construction, contact your Homeowners' Association regarding any restrictive covenants governing property improvements. Sometimes, covenants may be more restrictive than the Fairfax County Code. Furthermore, requirements of covenants are not addressed by the issuance of your building permit.

The permittee is required to notify all utilities before commencing any underground construction and must receive the proper clearances from the utilities as prescribed in the Code of the County of Fairfax. (Miss Utility - 1-800-257-7777)

BUILDING OFFICIAL

To Schedule an Inspection:

Internet - www.fairfaxcounty.gov/fido
Call Center - 703-222-0455

AIRS - 703-222-2474
TTY, VA Relay - 711

Fairfax County, Virginia
Department of Public Works and Environmental Services
Permit Application Center
12055 Government Center Parkway
Fairfax, Virginia 22035-5504 PLANNQ

MISCELLANEOUS BUILDING WORK

Permit Number: 62560203

Issue Date: 01/02/2007

Tax Map ID: 029-4 / 07 / 0005

Job Address: 7926 Jones Branch Dr
Mc Lean, VA22102-3303

Plan No: Q-06-3697

Tenant Name: NORTH GARAGE

BLDG: N/A FLOOR: N/A SUITE: N/A

Issued To:

Contractor:

B F SAUL
7501 Wisconsin Av
Bethesda, Va 20814
(301)986-6200

OWNER IS CONTRACTOR

Structure: OFFICE

Code: (2000 USBC): 2000 IBC

GROUP: S2

Type of Construction: IB

HAS PERMISSION, ACCORDING TO APPROVED PLANS, APPLICATION AND RESTRICTIONS OF RECORD
TO: SHEETING AND SHORING.

Site Related Approval Conditions and Alerts

- Problem Soils - See approved grading plan, site plan and/or soils report.

62560203

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Note to Property Owner: In accordance with Chapter 102 of the Code of the County of Fairfax, the property address must be displayed on the property in such a manner as to be visible from the public right of way. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

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BUILDING OFFICIAL



To Schedule an Inspection:

Internet - www.fairfaxcounty.gov/fido
Call Center - 703-222-0455

AIRS - 703-222-2474
TTY, VA Relay - 711

Fairfax County, Virginia
Department of Public Works and Environmental Services
Permit Application Center
12055 Government Center Parkway
Fairfax, Virginia 22035-5504

COMMERCIAL RETAINING WALL

Permit Number: 80580114

Issue Date: 04/01/2008

Tax Map ID: 029-4 / 07 / 10005B

Job Address: 7930 Jones Branch Dr
Mc Lean, VA22102-0000

Plan No: Q-08-1538

Tenant Name: TYSONS PARK PLACE

BLDG: N/A FLOOR: N/A SUITE: N/A

Issued To:

Contractor:

TYSONS PARK PLACE II LLC
7501 Wisconsin Av
Suite 1500
Bethesda, Md 20814
(301)986-6000

CLARK CONSTRUCTION GROUP LLC
7500 Old Georgetown Road
Bethesda, Md 20814-0000
(301) 272-8365

Structure: OFFICE

Code: (2003 USBC): 2003 IBC

GROUP: U

Type of Construction: IIB

HAS PERMISSION, ACCORDING TO APPROVED PLANS, APPLICATION AND RESTRICTIONS OF RECORD TO: BUILD RETAINING WALL(23.83' MAX)

Retaining Wall Characteristics

Material of Wall: Segmented/Keystone

Retaining Wall is critical structure greater than 5 feet in height.

Site Related Approval Conditions and Alerts

- Problem Soils - See approved grading plan, site plan and/or soils report.
- Responsible Land Disturber: REFER TO LDS.

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Note to Property Owner: In accordance with Chapter 102 of the Code of the County of Fairfax, the property address must be displayed on the property in such a manner as to be visible from the public right of way. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

Prior to beginning construction, contact your Homeowners' Association regarding any restrictive covenants governing property improvements. Sometimes, covenants may be more restrictive than the Fairfax County Code. Furthermore, requirements of covenants are not addressed by the issuance of your building permit.

The permittee is required to notify all utilities before commencing any underground construction and must receive the proper clearances from the utilities as prescribed in the Code of the County of Fairfax. (Miss Utility - 1-800-257-7777)

BUILDING OFFICIAL

To Schedule an inspection:

Internet - www.fairfaxcounty.gov/fido
Call Center - 703-222-0455

AIRS - 703-222-2474
TTY, VA Relay - 711

Fairfax County, Virginia
Department of Public Works and Environmental Services
Permit Application Center
12055 Government Center Parkway
Fairfax, Virginia 22035-5504

NEW COMMERCIAL BUILDING

Permit Number: 70570178

Issue Date: 08/10/2007

Tax Map ID: 029-4 / 07 / 0005B

Job Address: 7930 Jones Branch Dr
Mc Lean, VA22102-0000

Plan No: Q-07-5714

Tenant Name: PARK PLACE - PHASE III

BLDG: N/A FLOOR: N/A SUITE: N/A

Issued To:

Contractor:

TYSONS PARK PLACE
7501 Wisconsin Ave
Bethesda, Md 20814
(301)986-6000

OWNER IS CONTRACTOR

Structure: OFFICE

Code: 2003 IBC

GROUP: A2
A1
S2
S1

Type of Construction: IB
IB
IB
IB

HAS PERMISSION, ACCORDING TO APPROVED PLANS, APPLICATION AND RESTRICTIONS OF RECORD TO: BUILD NEW 11 STORY COMMERCIAL BUILDING/W UNDERGROUND PARKING GARAGE / PEER REVIEW //CB

Building Characteristics

Sheltered: F

Monitored: Y

Code Modification: Y

Building Related Proffers: Y 6 OKTJC

Site Related Approval Conditions and Alerts

- Before you start work, you are required to notify the Site Inspector at 703-324-1950. Failure to notify can result in a violation and fee charge per compliance inspection.

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Note to Property Owner: In accordance with Chapter 102 of the Code of the County of Fairfax, the property address must be displayed on the property in such a manner as to be visible from the public right of way. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

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BUILDING OFFICIAL

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Call Center - 703-222-0455

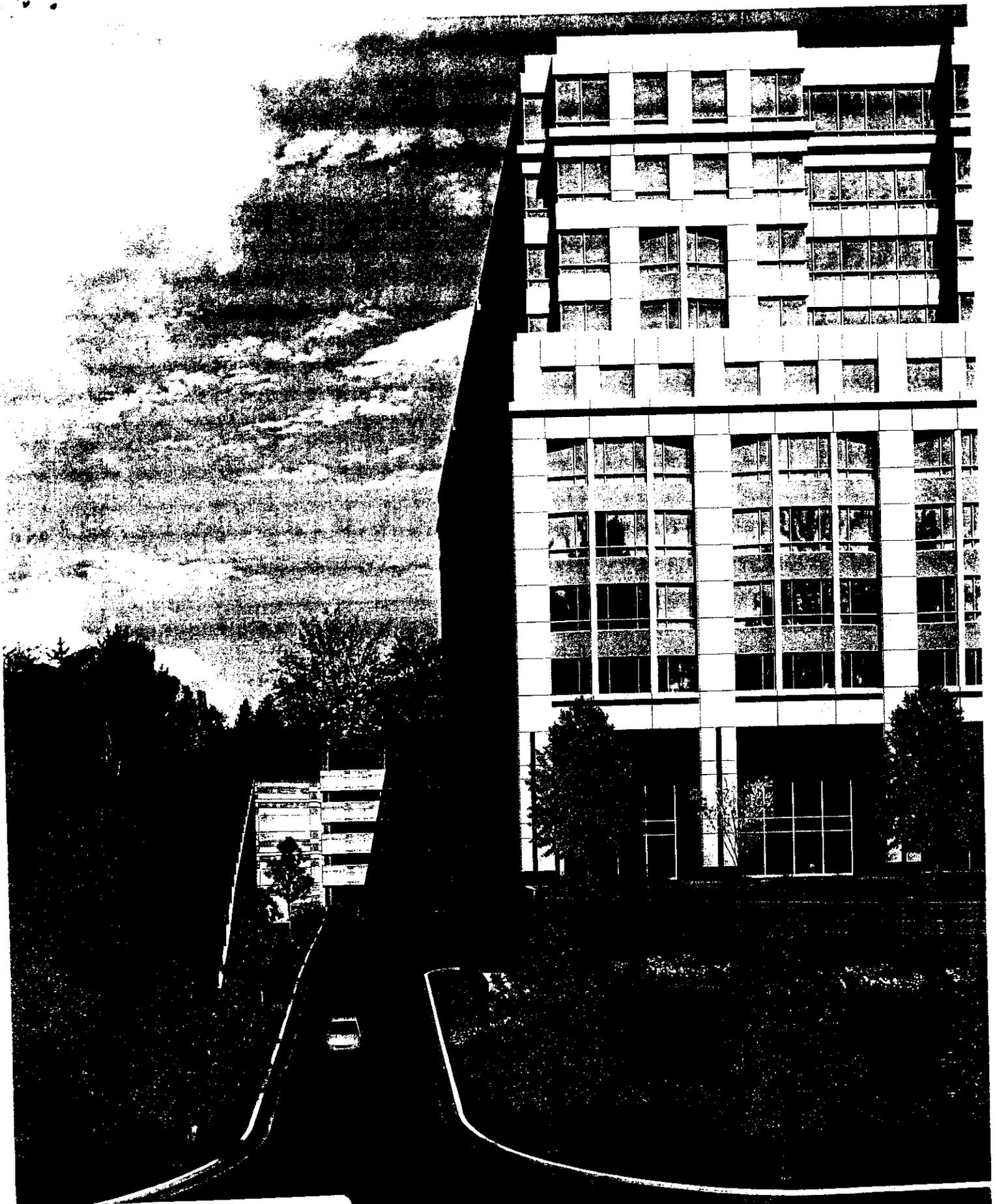
AIRS - 703-222-2474
TTY, VA Relay - 711

Exhibit G

Renderings of Proposed Retaining Wall and Landscaping



**2000 Approved Layout
with Tiers**



**2008 LEED® Related Layout
Without Tiers**