



APPLICATION ACCEPTED: October 3, 2012
PLANNING COMMISSION: January 17, 2013
BOARD OF SUPERVISORS: January 29, 2013
@ 3:30 P.M.

County of Fairfax, Virginia

January 3, 2013

STAFF REPORT

APPLICATION SEA 94-P-040-02

PROVIDENCE DISTRICT

APPLICANT:	Gannett Co., Inc.
ZONING:	C-3
PARCEL(S):	29-2 ((15)) C1
ACREAGE:	16.74 acres
FAR:	1.05 FAR
OPEN SPACE:	65.78%
PLAN MAP:	Office
SE CATEGORY:	Category 1, Use 3 (Radio and television broadcasting facilities, microwave facilities, and satellite earth stations) Category 6, Use 3 (Increase in building height) Category 6, Use 17 (Waiver of certain sign regulations)
PROPOSAL:	To amend SEA 94-P-040 previously approved for an increase in building height, helistop, category 1 uses and waiver of certain sign regulations for office development to permit deletion of the helistop and modifications to previously approved development conditions.

Mary Ann Tsai

STAFF RECOMMENDATIONS:

Staff recommends approval of SEA 94-P-040-02, subject to the proposed development conditions contained in Appendix 1.

Staff recommends approval of a modification of Par. 1B of Sect. 2-414 of the Zoning Ordinance to permit existing structures to be located 65 FT from the Dulles International Airport Access Highway and Dulles Toll Road.

It should be noted that it is not the intent of 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 rezoning does not interfere with, abrogate or annul any easement, 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.

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Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Exception Amendment

SEA 94-P-040-02



Applicant:
Accepted:

GANNETT CO., INC.
10/03/2012- AMENDED 12/27/2012

Proposed:

AMEND SE 94-P-040 PREVIOUSLY APPROVED FOR EATING ESTABLISHMENT AND CHILD CARE NURSEY SCHOOL WITH IN A COMMERCIAL BUILDING; A HOTEL/MOTEL USE AND HEALTH CLUB; TO PERMIT MODIFICATIONS TO PREVIOUSLY APPROVED DEVELOPMENT CONDITIONS AND DELETE A HELISTOP AS AN ACCESSORY USE TO AN OFFICE BUILDING

Area:

16.74 AC OF LAND; DISTRICT - PROVIDENCE

Zoning Dist Sect:

04-030409-060709-0620

Art 9 Group and Use:

1-03 6-03 6-17

Located:

7950 JONES BRANCH DRIVE, MCLEAN, VA 22102

Zoning:

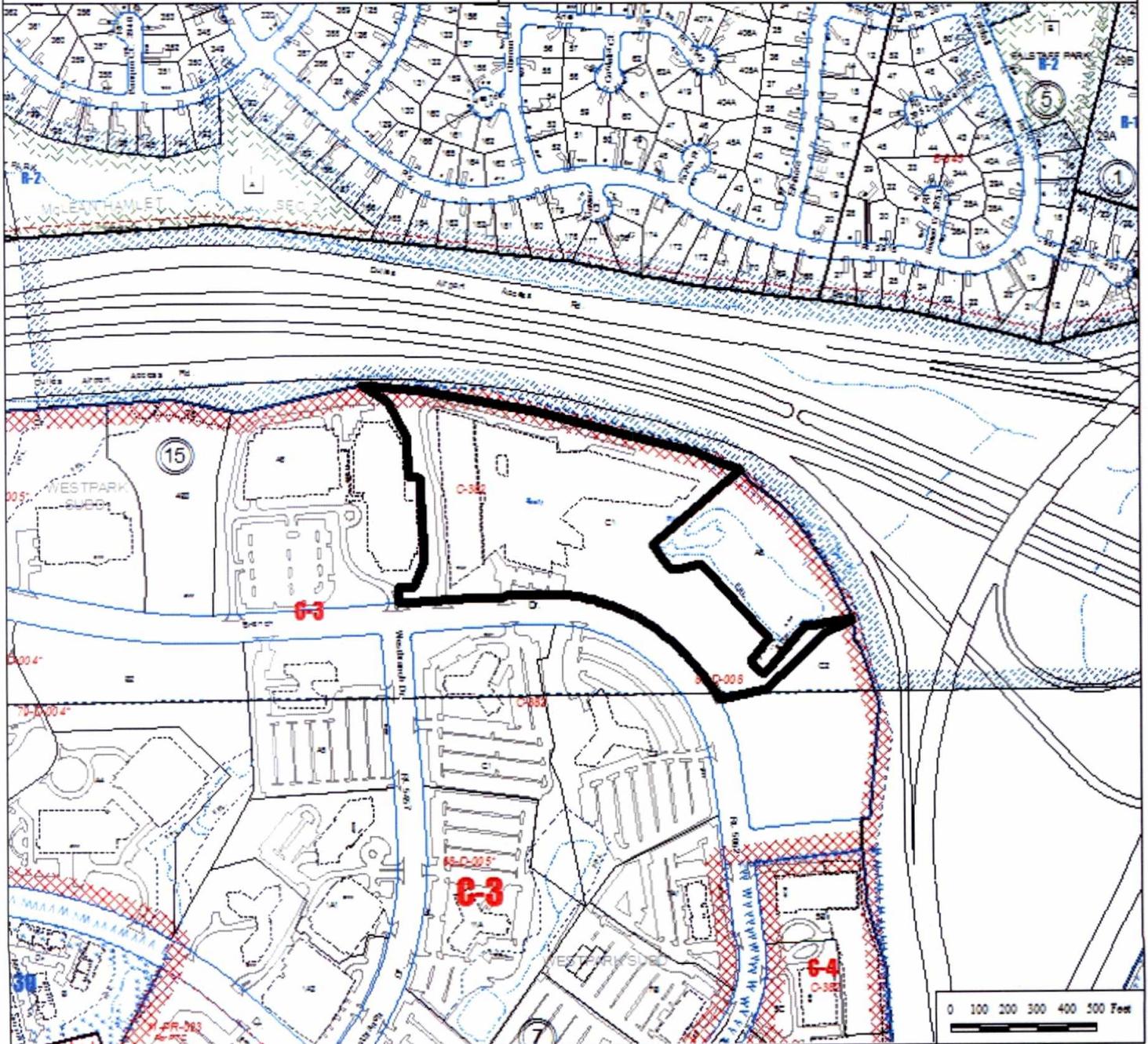
C-3

Plan Area:

2,

Map Ref Num:

029-2- /15/ / C1



**A GLOSSARY OF TERMS IS LOCATED
AT THE BACK OF THE REPORT**

DESCRIPTION OF THE APPLICATION

The applicant, Gannett Co., Inc., requests approval of a special exception amendment to amend previously approved development conditions associated with SE 94-P-040, which was approved by the Board of Supervisors on October 31, 1994. The development conditions are:

- Development Condition 4, Limitation on Use and Applicant
- Development Condition 10, Signs
- Development Condition 11, Helistop
- Development Condition 12, Communication Facilities

It is noted that the applicant is no longer pursuing establishment and operation of the previously approved Category 4 special exception for the helistop use and has submitted a revised Statement of Justification and application to reflect this change to their original application. As such, previously approved development condition 11 will be deleted. Any future proposal to establish a helistop on the site will require review and approval of a special exception application.



Figure 1: Aerial view of Gannett Co., Inc.

The applicant proposes to amend the development conditions that contain a reference to “single user.” Single user is defined in Development Condition 4 as, “a user and its affiliates (defined as subsidiaries and other entities in which the user has a direct or indirect interest of at least 33 1/3%), which, along with accessory uses, occupies 85% or more of a single building.”

In 1994 staff proposed the development conditions containing the single user limitation because at the time of the SE approval, there was a lack of specificity on the SE Plat as it related to the proposed building program (number of buildings, building location, location and character of the open space, height, number and location of parking structures, type and location of telecommunication facilities, and the location of the helistop). The applicant was not able to provide such level of detail because the proposed development was to be phased over a multi-year timeframe and the details of the design had not been worked out.

In the 18 years that have passed since the SE approval, the applicant developed the 16.74 acre site with a signature corporate headquarters building and occupies the property. In addition and in accordance with the development conditions, five acres of the original 30 acre parcel was developed as a stormwater management facility and 6.08 acres was subdivided and sold. A special exception amendment was approved specifically for the 6.08 acre site and those development conditions deleted the single user limitation as part of the special exception amendment approval for that adjacent office/hotel development.

Staff's intention with a single user was to recognize the significant benefits to the site if developed by a single user. Staff believed that with the absence of details in the development program for the site, development of the site by a single user would likely result in a more coordinated development than if the site were to be developed by numerous users. Staff further believed that a single user could better coordinate site design elements such as architecture, building materials, sign message, design, landscaping, and number and type of communication facilities.

Since development of the site is complete with the permitted square footage and FAR maximized and none remaining, the single user limitation is no longer applicable. As such, the applicant seeks approval to amend the applicable development conditions that contain "single user," by deleting the restriction and thereby allowing space within the existing building to be leased to other tenants. It should be noted that a single user limitation for an office building is uncommon and does not exist for other office buildings in the Tysons area.

The applicant is not proposing any building additions, exterior building modifications, access, or parking. The building will continue to be occupied as an office use with accessory uses or other permitted uses within the C-3 District in accordance with the previously approved proffers.

Waivers and Modifications

- Modification of Par. 1B of Sect. 2-414 of the Zoning Ordinance to permit existing structures to be located 65 FT from the Dulles International Airport Access Highway and Dulles Toll Road.

The proposed development conditions, the applicant's statement of justification, and affidavit are contained as Appendices 1 to 3, respectively.

LOCATION AND CHARACTER

The 16.74 acre site is bound by the Dulles Toll Road to the north, I-495 to the east, and Jones Branch Drive to the south. The site is developed with an 11-story office building containing 769,704 square feet of gross floor area, a parking garage, and rooftop helistop.

As shown in Figure 2, surrounding uses and zoning include:

- North:** Residential, Single Family Detached (McLean Hamlet), zoned R-2
Comprehensive Plan recommendation: Residential, 2-3 du/ac
- South:** Office, zoned C-3
Comprehensive Plan recommendation: Office
- East:** Office, zoned C-3
Comprehensive Plan recommendation: Office
- West:** Office, zoned C-3
Comprehensive Plan recommendation: Office

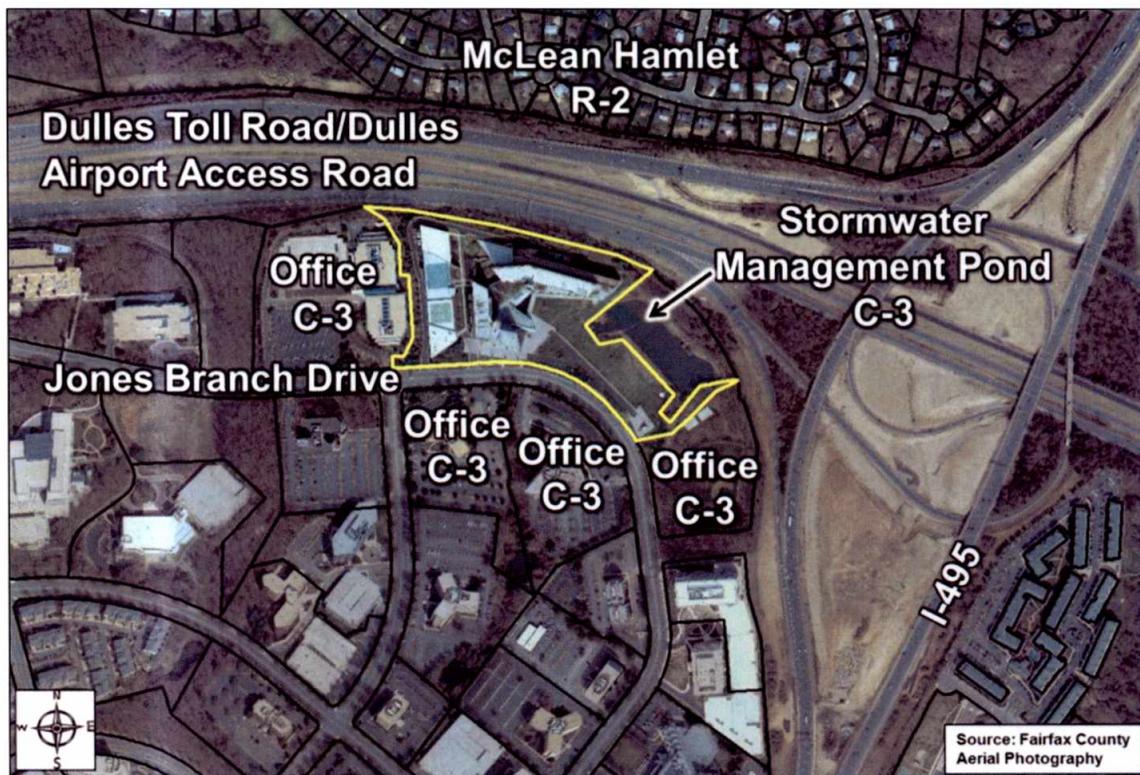


Figure 2: Aerial view of application property and surrounding uses

BACKGROUND

On October 15, 1990, the Board of Supervisors approved RZ 88-D-005 to rezone 193.54 acres of land from the I-3 and I-4 Districts to the C-3 District. The approved proffers dated October 3, 1990, permit a floor area ratio (FAR) of 0.54 on the property or a total of 4,682,689 square feet of gross floor area. The Generalized Development Plan (GDP) submitted with RZ 88-D-005 did not proffer building size, location, or footprint.

On October 31, 1994, the Board of Supervisors approved PCA 88-D-005 to subdivide 193.54 acres into five Land Bays (A through E), among other items. The subject property was identified as part of Land Bay E, which contained 30.0097 acres and is shown as Figure 3. A copy of the proffers is provided as Appendix 4.

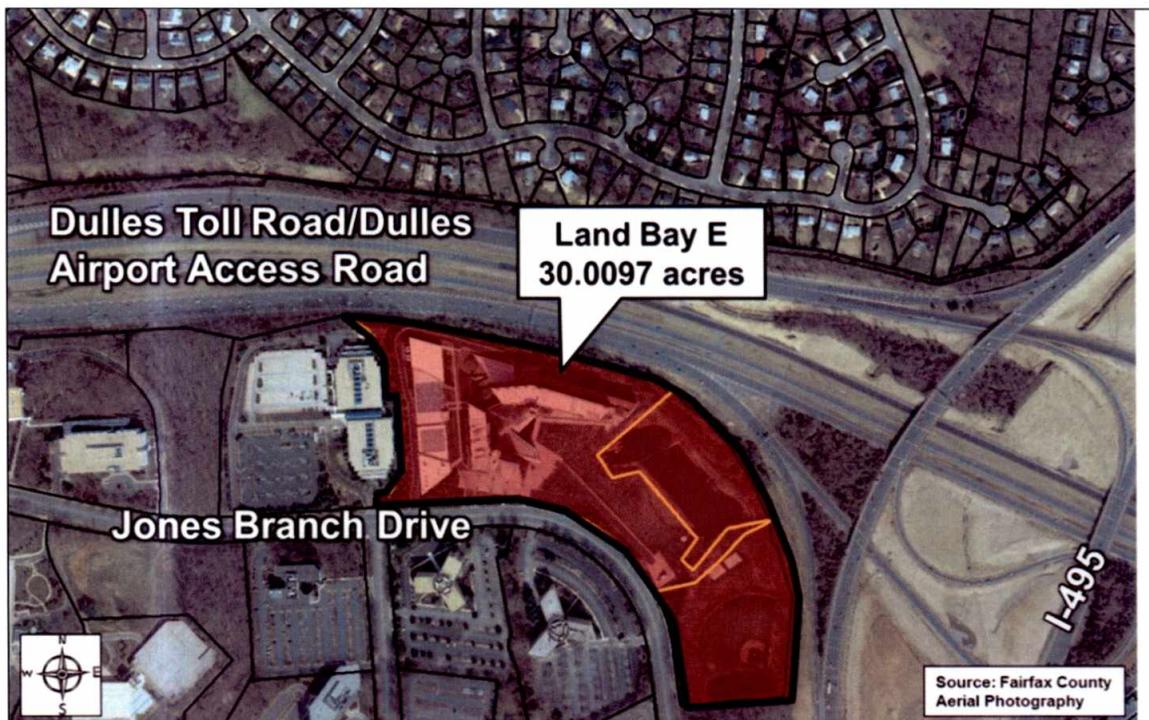


Figure 3: Land Bay E, 30.0097 acres

On October 31, 1994, the Board of Supervisors approved SE 94-P-040, subject to development conditions for an increase in building height; radio and television broadcasting facilities, microwave facilities and satellite earth stations accessory to an office building; a helistop; and waiver of certain sign regulations. A copy of the development conditions is provided as Appendix 5.

It is noted that SE 94-P-040 was approved for a 30.0097 acre site with a maximum of 1,307,223 square feet or an overall FAR of 1.0. Development Condition 5 provided that the 30.0097 acre site may be subdivided into two or more lots with one consisting of approximately 5.0 acres containing only a stormwater management facility.

In accordance with Development Condition 5, in 2007, the 30.0097 acre site was subdivided into Lot C1 (the subject property), Lot A8 (the five acre stormwater management facility), and Lot C2 (7940 Jones Branch Drive), shown in Figure 4.

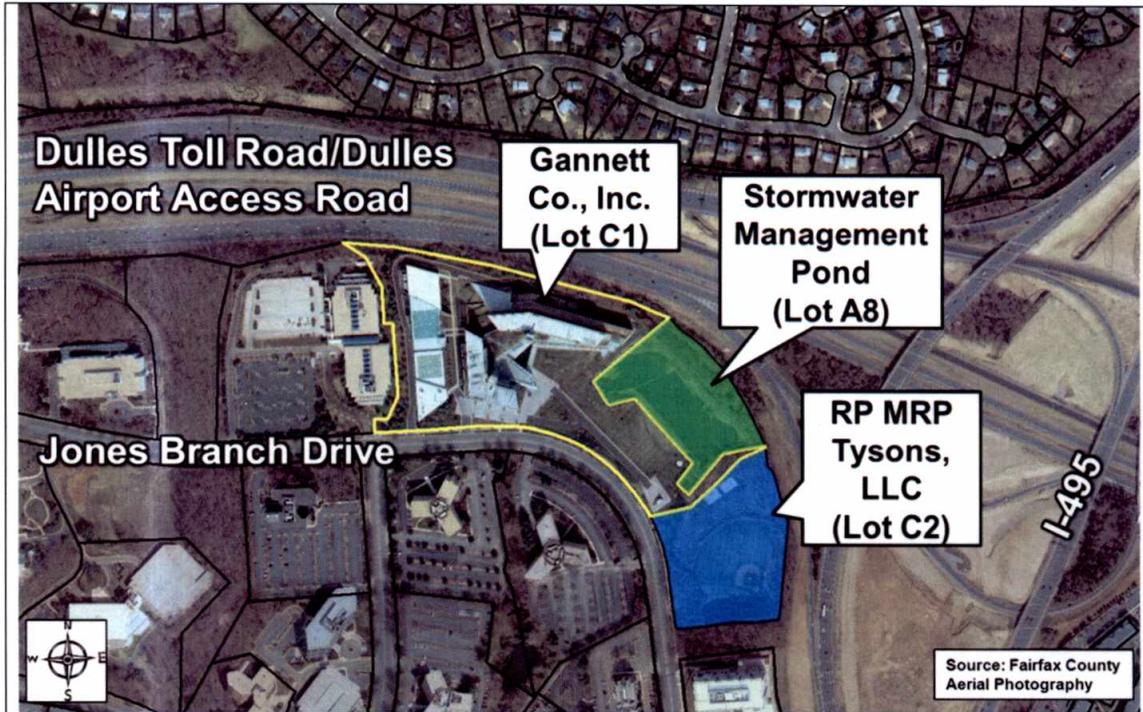


Figure 4: Subdivided lots of Land Bay E

On March 3, 2011, an interpretation of the development conditions associated with SE 94-P-040 was made on impacts to the subject property from a Certificate of Take filed by the Virginia Department of Transportation (VDOT) for the Capital Beltway High Occupancy Toll (HOT) Lanes Project (495 Express Lanes). Specifically, the VDOT taking would affect the subject property's tree preservation, landscaped open space, FAR, and building setback. The interpretation provided that because the impact to the property's tree preservation, landscaped open space, FAR, and building setback would result from a VDOT condemnation, the subject property would remain in substantial conformance with the proffers associated with PCA 88-D-005 and the SE Plat and development conditions associated with SE 94-P-040. It was noted that if compensation is taken for the acquisition area, no density credit would be provided pursuant to Sect. 2-308 of the Zoning Ordinance. As such, in the event of casualty or redevelopment, future development would be limited to 743,607 square feet of gross floor area. A copy of the interpretation letter is provided as Appendix 6.

On July 26, 2011, the Board of Supervisors approved SEA 94-P-040, a partial special exception amendment, specifically for adjacent Lot C2 (7940 Jones Branch Drive) to permit an eating establishment, health club, and child care center/nursery school within a commercial office building and a hotel option and modifications to the previously approved development conditions, which included removing the limitation of a single user. A copy of the development conditions associated with SEA 94-P-040 and parking structure elevations submitted to the

Planning Commission as part of the development conditions are provided as Appendix 7.

On September 21, 2012, an interpretation of the development conditions associated with SE 94-P-040 was made that a proposal to lease approximately 90,000 square feet of non-single user floor area on the subject property would be in substantial conformance with SE 94-P-040. To modify the use limitation specified in the SE development conditions to permit a greater area of the building to be leased, the submission of a special exception amendment and its approval by the Board of Supervisors would be required. A copy of the interpretation letter is provided as Appendix 8. This application proposes to eliminate the existing restrictions.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: II
Planning Sector: Tysons Corner Urban Center
Plan Map: Office

Fairfax County Comprehensive Plan, 2011 Edition, Area II, Tysons Corner Urban Center, Amended through 6-22-2010, District Recommendations, Page 173:

Office Subdistrict

This subdistrict is north and east of Jones Branch Drive and is developed with office buildings containing corporate headquarters as well as one of Tysons' larger hotels. The vision for this area is to continue to be a focus of corporate headquarters and regional offices. The subdistrict has two subareas: the DAAR Office Subarea and the Capital Beltway Office Subarea.

Subarea 1: DAAR Office Area

This is the northernmost portion of the West Park office development and provides a transition in building height to the single family neighborhoods to the north. Existing development includes the corporate headquarters of Freddie Mac, USA Today and Gannett.

ANALYSIS

Special Exception Plan

The applicant submitted a written request to waive submission of a special exception plat pursuant to Sect. 9-011 of the Zoning Ordinance, which permits the Zoning Administrator to waive or to modify a submission requirement if it is determined that the requirement is clearly not necessary for the review of the

application. Site modifications, modifications to existing improvements, and changes to the use of the property are not proposed. This application is only proposing modifications to the existing development conditions. Upon review, staff waived the submission requirement of a special exception plat. A copy of the applicant's waiver request is provided as Appendix 9.

Land Use Analysis

At the time of the SE approval in 1994, two concepts were central to staff's proposed development conditions:

- 1) the "single user" and
- 2) review by the Planning Commission of site, landscape, and architectural plans prior to the approval of such plans by the Department of Environmental Management (now the Department of Public Works and Environmental Services).

In 1994, in order to facilitate the opportunity to enhance Tysons Corner as a major business and employment center and in order to ensure that the provisions and intent of the Comprehensive Plan were met in regards to site design, staff proposed development conditions that specified development of the site by a single user. As mentioned earlier, staff proposed and the Board approved these development conditions containing a single user due to the lack of specificity on the SE Plat as it related to the proposed building program (number of buildings, building location, location and character of the open space, height, number and location of parking structures, type and location of telecommunication facilities, and the location of the helistop).

A single user was intended to recognize the significant benefits to the site if developed by a single user. In the absence of a more detailed special exception plat that sets the development program for the site, staff believed that development of the site by a single user would likely result in a more coordinated development than if the site were to be developed by numerous users. A single user would coordinate site design elements such as architecture, building materials, sign message and design, landscaping, and number and type of communication facilities.

Staff further imposed in the development conditions that prior to site plan, landscape plan, and architectural plan approval, such plans be submitted to the Planning Commission for review for conformance to the urban design guidelines and land use recommendations of the Comprehensive Plan, the Zoning Ordinance, and development conditions. If the site was not developed by a single user, then all site, landscape, and architectural plans would have to be submitted to the Planning Commission and to the Board of Supervisors for review and approval with the standards of such review being the same as if a new special exception was being evaluated.

In accordance with the development conditions and as development of the site occurred, the Planning Commission did review the applicant's site, landscape, and architectural plans to ensure conformance with the Comprehensive Plan, the Zoning Ordinance, and the development conditions. Development of the site is now complete with no additional square footage or FAR available for development. As such, since the single user limitation was intended for the development of the site, the single user limitation is no longer applicable.

The development conditions that the applicant proposes to amend, which reference the single user are:

Development Condition 4, Limitation on Use and Applicant – This condition provides a limitation on the use and on the applicant through a single user. Staff proposes to amend this condition by deleting the single user restriction. The conditions that led to the limitation are no longer pertinent. Since the SE approval, Capital One, Hilton, Microstrategy, among other corporations have established their corporate headquarters in Tysons without the condition of a single user.

Development Condition 10, Signs – Staff proposes to amend this condition by removing the reference to a building being occupied by a single user and to remove the portion of the condition referencing signage at 7940 Jones Branch Drive (Lot C2). Signage at 7940 Jones Branch Drive is governed by separate development conditions specific to that site contained in SEA 94-P-040. No new signs or sign area are proposed with this application. The same number of signs and sign area would remain, consistent with the existing development conditions.

Development Condition 11, Helistop – With this application, the applicant is no longer continuing the Category 4 SE helistop use. As such, this development condition has been deleted.

Development Condition 12, Communication Facilities – Staff proposes to amend this condition to permit satellite earth stations and communication antennas without the limitation that the building be occupied by a single user. The communication facilities would continue to be regulated and designed to comply with all applicable federal, state, and local regulations.

In addition to the development conditions that reference a single user, staff proposes to update additional development conditions to reflect the interpretation of SE 94-P-040 dated September 21, 2012, regarding a Certificate of Take filed by the Virginia Department of Transportation (VDOT) on a portion of the applicant's property along the Dulles Toll Road/Dulles Airport Access Road for the Capital Beltway High Occupancy Toll (HOT) Lanes Project. A copy of the interpretation is provided as Appendix 6. Based on this interpretation, staff proposes to amend Development Conditions 5, 13, 14, and 16 to reflect a future VDOT taking. The applicant is negotiating the taking with VDOT.

Development Condition 5, FAR – Development Condition 5 provides

“It is understood that the 30.0097 acre site may be subdivided into two or more lots of record, with one lot consisting of approximately 5.0 acres containing only a stormwater management facility. It is further understood that the entire amount of gross floor area (1,307,223 square feet attributed to this site) may be located on the remaining 25.01 acres of the site, notwithstanding the fact that this may result in a FAR that exceeds 1.0 when calculated solely on the 25.01 acres.”

Since the approval, the original 30.01 acre property was subdivided into the subject property, which contained 17.34 acres (755,261 square feet) and is developed with an office building containing 769,704 square feet, or an FAR of 1.019; a stormwater management facility containing 5.0 acres; and a 7.6 acre parcel (Lot C2). With a VDOT taking, the reduced parcel size for the subject project is 16.74 acres (729,164 square feet) and results in an FAR of 1.05. Therefore, an interpretation was made that the increase in FAR is the result of a VDOT acquisition. As such, the subject property would remain in substantial conformance with the proffers, SE Plat, and SE development conditions. Staff proposes to amend this development condition to reflect this interpretation.

Development Condition 13, Tree Preservation – The VDOT taking proposes to remove vegetation within a 40 foot wide tree preservation area along the property's DAAR/DTR frontage. The applicant indicated in their 2011 interpretation letter that much of the tree save area would be cleared of trees that were preserved with the development of the site. An interpretation was made that the property would remain in substantial conformance with the proffers, SE Plat, and SE development conditions provided that revegetation is completed to the extent feasible and compensatory landscaping is installed elsewhere on the site, as determined by Urban Forest Management. Staff proposes to amend this development condition to reflect this interpretation.

Development Condition 14, Landscaped Open Space – Development Condition 14 requires a minimum of 21.6% landscaped open space, to be comprised of 14% peripheral site landscaping and 7.6% landscaped open space internal to the site. While the SE Plat does not specifically delineate the landscape areas, the Plat tabulations indicate that 15% open space is required and 21.6% is provided. According to the applicant, the site provides 68% existing open space with 65.7% open space remaining after the VDOT take. An interpretation was made that the subject property would remain in substantial conformance with the proffers, SE Plat, and SE development conditions with a reduction of landscaped open space with the VDOT take. As such, staff proposes to amend the development condition to reflect this interpretation.

Development Condition 16, Setback from DAAR – Development Condition 16 provides “there shall be a minimum distance of 75 feet between all principal buildings and the Dulles Airport Access Road right-of-way.” With a VDOT acquisition, the existing front setback for the parking structure from the proposed right-of-way is reduced by 10 feet from 75 feet to 65 feet. This parking structure

is not a freestanding parking garage and is considered part of the principal building. As such, an interpretation was made in accordance with Sect. 2-417 of the Zoning Ordinance, which provides "a 20% reduction of a minimum yard requirement shall be permitted by the Director on any yard reduced in dimensions below minimum requirements at any time by condemnation or by acquisition of a portion thereof for public purposes by any governmental agency." As such, the interpretation was made that such a reduction would be in substantial conformance with the proffers, SE Plat, and SE development conditions. Staff proposes to amend the development condition to reflect this interpretation.

Transportation Analysis (Appendix 10)

Fairfax County Department of Transportation (FCDOT) reviewed the application and expressed concern that the elimination of "single user" may result in the opportunity for higher trip generating uses to be established, specifically if retail and restaurant uses are permitted by-right within the office building.

The subject property is zoned C-3, which permits by-right eating establishments, but does not provide by-right retail uses. As discussed earlier, staff's inclusion of the single user as part of the development conditions was not intended to restrict uses but rather to ensure a quality site design and development since specifics on the building footprint, architectural elevations, site layout, etc. were not provided at the time of the SE approval. While eating establishments are permitted as a by-right use in the C-3 District, the applicant is not proposing an eating establishment. An eating establishment is a common use within an office building in urban and suburban environments and can serve to reduce vehicle trips.

The building will continue to be occupied as an office use with permitted accessory uses consistent with the C-3 District regulations, proffers, and SE development conditions that govern the site. The applicant is not proposing any building additions, modifications to the exterior of the building or its landscaping, access, or parking. For these reasons, staff does not propose to limit the opportunity to provide an eating establishment within the existing building.

The subject property contains an accessory employee cafeteria and fitness center, which are accessory uses and accessory service uses that are permitted by-right in the C-3 District. Par. 1 of Sect. 10-203 of the Zoning Ordinance provides "accessory service uses shall be oriented to cater primarily to the residents or employees of the principal use with which they are associated." Accessory service uses are further limited by Par. 5 of Sect. 10-203 of the Zoning Ordinance, which provides that "the aggregate gross floor area of all accessory service uses shall not exceed fifteen (15) percent of the total gross floor area of the multiple family dwelling development, office or industrial building or parking, as shown on a site plan." The onsite accessory uses do not exceed 15% of the total gross floor area. Therefore with the Zoning Ordinance provisions identified above and with the proposed development conditions, staff believes this issue has been addressed.

FCDOT also recommends that if a traffic signal is installed at the intersection of Jones Branch Drive and Westbranch Drive, the applicant should encourage employees to use the eastern garage access to prevent left lane queue on Jones Branch Drive into the western garage access.

A review of the queuing impact would be more appropriate when a traffic signal is warranted at this location. At this time, employees arrive and depart on a staggered basis in the morning and evenings and there does not appear to be a queuing back-up onto Jones Branch Drive. Therefore, this does not appear to be an issue at this time.

Environmental Analysis

No issues.

ZONING ORDINANCE PROVISIONS

With this application, the applicant is not proposing any new exterior building modifications, additions, access, or parking. The building will continue to be occupied as an office use with accessory uses consistent with the C-3 District.

Other Zoning Ordinance Requirements:

Special Exception Requirements (Appendix 10)

General Special Exception Standards (Sect. 9-006)

Category 1 Standards (Sect. 9-104), Radio and television broadcasting facilities, microwave facilities, and satellite earth stations

Category 6 Standards (Sect. 9-607 and Sect. 9-620), Provisions for increase in building heights and waiver of certain sign regulations

The radio and television broadcasting facilities, microwave facilities, and satellite earth stations (Category 1) and increase in building height and waiver of certain sign regulations (Category 6) were all previously approved with the approval of SE 94-P-040. This application is not proposing any additional uses, building additions, or building modifications. There is no change to the previously approved Special Exception except to amend three development conditions to delete reference to a single user and to amend additional conditions to reflect a recent determination on impacts of a future VDOT taking of a portion of the subject property. With the proposed development conditions, staff believes that Special Exception requirements are met.

Waivers and Modifications

Modification of Par. 1B of Sect. 2-414 of the Zoning Ordinance is requested to permit an existing structure to be located 65 FT from the Dulles International Airport Access Highway (DIAAH) and Dulles Toll Road (DTR) right-of-way. Par. 1B of Sect. 2-414 provides that commercial buildings shall maintain a 75 FT setback from the DIAAH and DTR right-of-way. However, due to VDOT condemnation of the applicant's property along its DIAAH/DTR frontage, the existing structure will no longer maintain the required setback but did prior to condemnation. Furthermore, the 75 FT setback is proffered as part of PCA 88-P-005 and states that the 75 FT setback shall be maintained unless a waiver or modification is granted by the Board. With the approval of the PCA, the Board did grant such a waiver. Therefore, a modification of Par. 1B of Sect. 2-414 is requested.

Summary of Zoning Ordinance Provisions

All applicable standards have been satisfied with the proposed development conditions contained in Appendix 1 and modification request.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

The proposed application is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions.

Recommendation

Staff recommends approval of SEA 94-P-040-02, subject to the proposed development conditions contained in Appendix 1.

Staff recommends approval of a modification of Par. 1B of Sect. 2-414 of the Zoning Ordinance to permit existing structures to be located 65 FT from the Dulles International Airport Access Highway and Dulles Toll Road.

It should be noted that it is not the intent of 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.

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

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

APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. PCA 88-P-005, Proffered Conditions
5. SE 94-P-040, Development Conditions
6. Determination Letter, March 3, 2011
7. SEA 94-P-040, Development Conditions
8. Determination Letter, September 21, 2012
9. Request for waiver of SEA Plat submission requirement
10. Transportation Analysis
11. Zoning Ordinance provisions
12. Glossary

PROPOSED DEVELOPMENT CONDITIONS

SEA 94-P-040-02

January 3, 2013

If it is the intent of the Board of Supervisors to approve SEA 94-P-040-02 located at 7950 Jones Branch Drive, Tax Map 29-2 ((15)) C1, to delete the previously approved helistop and to permit modifications to previously approved development conditions pursuant to Sects.4-304, 9-014, 9-607, and 9-620 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This approval is granted for and runs with the land indicated in the 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, as qualified by these development conditions.
3. This Special Exception is subject to the provisions of Article 17, Site Plans. Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Gannett Special Exception Plat," prepared by Skidmore, Owings & Merrill and Dewberry & Davis and dated October 17, 1994, Sheets 1-4, and these development conditions.
4. **Limitation on Square Footage.** Development of the original site, which includes Tax Map Parcels 29-2 ((15)) A8 and C2, shall not exceed 1,307,223 square feet, or a 1.0 FAR, unless the gross square footage that may be acquired by VDOT for compensation. It is understood that the 30.0097 acre site may be subdivided into two or more lots of record, with one lot consisting of approximately 5.0 acres containing only a stormwater management facility. It is further understood that the entire amount of gross floor area may be located on the remaining 25.01 acres of the site, notwithstanding the fact that this may result in an FAR that exceeds 1.0 when calculated solely on the 25.01 acres. Notwithstanding the subdivision of Land Bay E (as established in PCA 88-D-005), the entire land bay will be considered as a single unit for the purpose of the application of the Fairfax County Zoning Ordinance. Any subdivision or site plan filed in the future on this Land Bay shall include this notation and reference the appropriate record plat unless or until the property is subject to a future rezoning.

Existing development on the application property (Tax Map Parcel 29-2 ((15)) C1) consists of 769,704 square feet. As a result of condemnation by VDOT that includes compensation, future development in the event of casualty or redevelopment shall be limited to 743,607 square feet. Within the building located on the application property, a maximum of 50% of any cellar space may be utilized for office.

5. **Height of Buildings.** The maximum building height of any portion of building(s) shall not exceed a 14 degree view angle from any property within the McLean Hamlet subdivision or 290 feet, whichever is less. Notwithstanding the above, the maximum building height of any portion of building(s) located between 50 feet and 125 feet from the Dulles Airport Access Road (DAAR) right-of-way shall not exceed 75 feet. The maximum height of any penthouse in this area shall not exceed an additional 30 feet.

All penthouses shall be screened with an architectural facade similar to that provided on the building.

6. **Building Materials.** The facade of any building that faces the Dulles Airport Access Road (DAAR) shall be constructed to prevent building glare on adjacent residential communities.
7. **Signs.** The following provisions regarding building mounted signs shall apply
- a. Building mounted signs shall be permitted on a maximum of four sides of any building located on the site. A maximum of one sign shall be permitted on each of these four sides; however, if a building has a side or sides that face onto the DAAR and/or I-495, on one side of the building that faces the DAAR and on one side of the building that faces I-495, a maximum of two signs shall be permitted on each of those sides of the building. No more than one sign shall be permitted on any side of a building that does not face the DAAR or I-495. Building mounted signs shall be back-lit only. No sign shall identify more than one business entity. The maximum area of any sign shall be determined by tracing the outer edges of the letters and logo, and shall not include the space, if any, between lines of text. The maximum size of any sign shall be 300 square feet and the total maximum sign area of building mounted signs per building shall be 1,800 square feet, as qualified below.
- 1) Each sign shall have a maximum letter height of 6 feet, except that a logo and the first letter of a name may be up to nine feet tall. The maximum length of the sign shall be 50 feet.
 - 2) When the top of the sign is placed at a building height of more than 150 feet, the maximum total sign area of 1,800 square feet and the maximum area of each sign of 300 square feet shall decrease by one-half of a square foot for each one foot decrease of building height;
 - 3) When the top of the sign is placed at a building height of 150 feet or less, the maximum sign area per sign shall not exceed 200 square feet and the maximum total sign area per building shall not exceed 400 square feet.
- b. Notwithstanding the above, any building located west of the stormwater management pond shall be further limited to

- 1) a maximum of one building mounted sign on any side of the building that faces the McLean Hamlet subdivision, shall not exceed 200 square feet in area, unless the applicant submits to the Board of Supervisors for its review and action a special exception amendment request to increase the area and number of such signs. Such a request shall be accompanied by information depicting and justifying the increase and shall contain sufficient graphic and written information as required.
- c. In addition, each building shall be permitted to have a maximum total combined signage area of 215 square feet comprised of the following: signs located on building awnings, building mounted signs located at the first floor level, and/or freestanding signs in accordance with Par. 13B of Sect. 12-203 of the Zoning Ordinance.

Other than as permitted above, all other signs on the site shall be in conformance with the provisions of Article 12 of the Zoning Ordinance.

Sign permits for all signs shall be obtained in accordance with the provisions of Article 12 of the Zoning Ordinance.

8. **Communication Facilities.** Satellite earth stations (including equipment shelters) and communication antennas shall be permitted on site as an accessory use to and for the use of all tenants. Such facilities may be ground or building mounted and shall be designed to comply with all applicable federal, state, and local statutes, ordinances, rules and regulations. Ground-based antenna towers (other than satellite antenna mounting frames no greater than ten feet in height) shall not be permitted on the site. Prior to the issuance of permits for the communication facilities, the applicant shall submit a "Radiation Hazards Assessment" to the County Department of Cable and Consumer Services and to the office of the Magisterial District Supervisor.

The assessment shall be prepared by a consultant acceptable to the Department of Cable and Consumer Services and the assessment and installation shall be subject to the Department's approval. Approval or denial shall be based upon the protection of the public health, safety, and welfare. Protective measures, such as fencing warning signs and antenna orientation shall be provided, as determined by the Department. The facilities shall be screened appropriately from public view to the maximum extent feasible without interfering with communications to and from the facilities. The facilities shall not be located within the peripheral yards shown on the Special Exception Plat or within the 75 foot setback from the Dulles Airport Access Road.

Notwithstanding the foregoing, nothing herein shall preclude the establishment by others of structure or roof top mounted mobile and land based telecommunications facilities with related unmanned equipment buildings as permitted by the provisions of Par. 1 of Sect. 2-514 of the Zoning Ordinance.

9. **Tree Preservation.** The applicant shall, subject to the review of the Urban Forester, preserve existing trees on the site within a 15 foot wide setback or to the extent feasible along the property's Dulles Airport Access Road (DAAR) and I-495 frontages. Upon completion of the VDOT condemnation, the applicant shall provide revegetation to the extent feasible and such supplemental landscaping shall be installed, as determined by Urban Forest Management, DPWES.
10. **Landscaping and Open Space.** A minimum of 35% landscaped open space shall be provided. The landscaped open space shall be comprised of peripheral site landscaping and landscaped open space located internal to the site, to include such elements as landscaped site and building entry areas, landscaped seating areas, and plazas.
11. **Parking.** Parking shall be provided in accordance with Article 11. The number of parking spaces provided on-site may be increased above the minimum Zoning Ordinance requirements as long as any additional spaces do not decrease the open space tabulation. The exterior of all parking spaces shall be landscaped.
12. **Setback from the DAAR.** There shall be a minimum distance of 65 feet between all principal buildings and the Dulles Airport Access Road (DAAR) right-of-way. However, freestanding parking structures may be located within 65 feet of the DAAR right-of-way, provided that the height of such structures is governed by a 45 degree angle of bulk plane from the right-of-way and provided that no structures are located within 40 feet of the right-of-way.
13. **Office Transportation Demand Management.** The use of mass transit, ride-sharing and other transportation strategies shall be utilized with a goal towards encouraging the use of alternative transportation modes by 15% or more of employees during the peak hour of the adjacent street network. The baseline number of weekday peak hour commercial vehicle trips shall be derived from the Institute of Transportation Engineers, Trip Generation, 9th Edition for Land Use Code = 710. Lessees/purchasers shall be advised of this transportation strategy. Transportation coordination duties shall be carried out by a designated property manager(s) or transportation management coordinator(s) (the "coordinator"). The transportation strategy management position may be a part of other duties assigned to the individual(s). The transportation management strategies shall be implemented upon issuance of certificate of occupancies when more than 15% of the building is occupied by a tenant other than Gannett and its affiliates (subsidiaries and other entities in which the user has a direct or indirect interest of at least 33 1/3%).

Strategies implemented shall include, but not be limited to, the following:

- a. Transportation Demand Management materials discussing available transit information, car/van pooling formation, carsharing and the Metrocheck program shall be distributed to lessees/purchasers.

- b. Convenient parking in preferred locations of office parking structures shall be designated for car pool/van pool use;
- c. Mass transit usage shall be encouraged and promoted by the transportation management coordinator.
- d. Pedestrian walkways linking access to adjacent properties shall be provided;
- e. Broadband, high capacity data/network connections shall be provided to each office building; and
- f. Amenities for bicycle storage and shower facilities shall be provided.

The Applicant shall participate in or otherwise become associated with a larger Transportation Management Association should one be established for this area.

The Applicant shall notify the Fairfax County Department of Transportation (FCDOT) of the date that the transportation strategies are implemented. Beginning with the first September one year after the transportation management strategies are implemented, the applicant shall conduct a multi-modal transportation survey of employees of the subject site to determine their transportation characteristics. Such initial and subsequent bi-annual surveys shall be conducted between September 1st and November 15th. This survey will help form the basis of the transportation management program to be developed in consultation with FCDOT.

Bi-annually thereafter, the applicant shall conduct a multi-modal transportation survey of the employees of the subject site to demonstrate whether the goal of at least 15% of employee trips by alternate modes has been met. The report shall be submitted to the FCDOT for review no later than January 15st. Based on the results of the surveys, the coordinator shall work with FCDOT to define new strategies to encourage the use by employees of alternative modes as may be necessary.

If the results of the first two surveys conducted reveals that at least 15% of employees have utilized alternative modes then the applicant shall continue to administer the TDM strategies then in place and no additional surveys shall be required.

If the first two surveys/traffic counts reveal that less than 15% of employees are using alternative modes, then the applicant shall meet with FCDOT to discuss whether additional strategies may be necessary. In such an event, the applicant shall conduct annual surveys in accordance with the timelines outlined above until such time as two consecutive annual surveys reveal the minimum 15% employee alternative mode use has been met. At that time, no additional surveys shall be required and the TDM strategies then in place shall be continued.

Once every five years the Applicant shall provide a report to FCDOT to show that at least 15% of employees utilize alternative modes. Based on the results of the report, the coordinator shall work with FCDOT to define new strategies to encourage the use by employees of alternative modes as may be necessary.

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, thirty (30) months after the date of approval unless a new Non-RUP has been issued to any tenant. 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.

SPECIAL EXCEPTION AFFIDAVIT

DATE: September 20, 2012
(enter date affidavit is notarized)

I, Lynne J. Strobel, attorney/agent, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

118198

in Application No.(s): SEA 94-P-040-2
(enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Gannett Co., Inc. Agent: Todd A. Mayman	7950 Jones Branch Drive McLean, VA 22102	Applicant/Title Owner of Tax Map 29-2 ((15)) C1
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C. Agents: Martin D. Walsh Lynne J. Strobel Timothy S. Sampson M. Catharine Puskar Sara V. Mariska G. Evan Pritchard Jonathan D. Puvak Elizabeth D. Baker Inda E. Stagg Elizabeth A. McKeeby	2200 Clarendon Boulevard 13th Floor Arlington, Virginia 22201	Attorneys/Planners/Agent

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

SPECIAL EXCEPTION AFFIDAVIT

DATE: September 20, 2012
(enter date affidavit is notarized)

118198

for Application No. (s): SEA 94-P-040-2
(enter County-assigned application number(s))

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name and number, street, city, state, and zip code)
Gannett Co., Inc.
7950 Jones Branch Drive
McLean, VA 22102

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Special Exception Attachment to Par. 1(b)

DATE: September 20, 2012
(enter date affidavit is notarized)

18198

for Application No. (s): SEA 94-P-040-2
(enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

David J. Bomgardner, E. Andrew Burcher,	M. Catharine Puskar, John E. Rinaldi,
Thomas J. Colucci, Peter M. Dolan, Jr., Jay	Lynne J. Strobel, Garth M. Wainman,
du Von, William A. Fogarty, John H. Foote,	Nan E. Walsh, Martin D. Walsh
H. Mark Goetzman, Bryan H. Guidash,	
Michael D. Lubeley, J. Randall Minchew,	

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Exception Attachment to Par. 1(b)" form.

SPECIAL EXCEPTION AFFIDAVIT

DATE: September 20, 2012
(enter date affidavit is notarized)

118198

for Application No. (s): SEA 94-P-040-2
(enter County-assigned application number(s))

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, and number, street, city, state, and zip code)
None

(check if applicable) [] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) [] There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: September 20, 2012
(enter date affidavit is notarized)

118198

for Application No. (s): SEA 94-P-040-2
(enter County-assigned application number(s))

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on the line below.)

None

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

Application No.(s): SEA 94-P-040-2
(county-assigned application number(s), to be entered by County Staff)

SPECIAL EXCEPTION AFFIDAVIT

DATE: September 20, 2012
(enter date affidavit is notarized)

118198

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)
None

NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

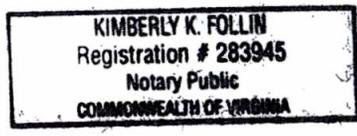
(check one) Lynne J. Strobel
[] Applicant [x] Applicant's Authorized Agent

Lynne J. Strobel, attorney/agent
(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 20 day of September 2012, in the State/Comm. of Virginia, County/City of Arlington.

Kimberly K. Follin
Notary Public

My commission expires: 11/30/2015





**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@arl.thelandlawyers.com

RECEIVED
Department of Planning & Zoning
SEP 24 2012
Zoning Evaluation Division

September 21, 2012

Via Hand Delivery

Barbara C. Berlin, Director
Zoning Evaluation Division
Fairfax County Department of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Proposed Special Exception Amendment Application (SEA 94-P-040-2)
Applicant: Gannett Co., Inc.

Dear Ms. Berlin:

Please accept this letter as a statement of justification for a proposed special exception amendment application to modify the development conditions approved with SE 94-P-040.

The Applicant is the owner of approximately 16.74 acres of land located in Tysons Corner and identified among the Fairfax County tax assessment records as 29-2 ((15)) C1 (the "Subject Property"). The Subject Property is located in the southwest quadrant of the Dulles Airport and Access Road and the Capital Beltway (I-495). Zoned to the C-3 District, the Subject Property is part of a development referred to as West*Park, which is primarily development with office buildings.

The Applicant is a Fortune 500 Company that operates its headquarters on the Subject Property. As a national multi-media corporation that produces daily newspapers, including USA Today, the Applicant operates a diverse portfolio of broadcast, digital, mobile and publishing companies. In 1994, the Applicant processed the referenced special exception application as a contract purchaser in anticipation of relocating its corporate headquarters from Arlington County to Fairfax County. The special exception was required for specific features that the Applicant wished to incorporate into its proposed headquarters building, and that were necessary to its daily business operations.

The approved special exception includes four (4) specific elements: an increase in building height; radio and television broadcasting facilities, microwave facilities and satellite earth stations accessory to an office building; a helistop as an accessory use to an office building; and a waiver of certain sign regulations. At the time of the processing of the special exception application, the Applicant had not yet designed its building, so drawings and elevations were not available. Therefore, the special exception conditions were drafted to impose limitations that would serve as quality control measures for future design and architecture. Development condition 4 creates a limitation on the use of the building, or buildings, by a "single user," which is defined as a user and its affiliates which, along with accessory uses, occupies 85% or more of

PHONE 703 528 4700 | FAX 703 525 3197 | WWW.THELANDLAWYERS.COM
COURTHOUSE PLAZA | 2200 CLARENDON BLVD., THIRTEENTH FLOOR | ARLINGTON, VA 22201-3359

LOUDOUN OFFICE 703 737 3633 | PRINCE WILLIAM OFFICE 703 680 4664

a single building. The objective of the condition was to ensure that the building constructed on the Subject Property was commensurate with its gateway designation in the Fairfax County Comprehensive Plan. As the Applicant subsequently acquired the Subject Property, and designed, constructed and occupied a signature building, development condition 4, as well as several others referring to a single user, is no longer applicable.

The Applicant proposes that the development conditions associated with SE 94-P-040 be amended as follows:

- Development condition 4, which places limitations on use by a "single user," should be deleted. The requirement to submit detailed site plans, landscape plans and architectural plans prior to site plan approval for a non-single user building are no longer applicable as building construction on the Subject Property is complete.
- Development condition 10 should be modified to allow signs as described in the condition without the limitation of occupancy by a single user.
- Development condition 11 should be amended to allow a helistop if accessory to a headquarters building.
- Development condition 12 should be amended to permit satellite earth stations and communication antennas without the limitation of occupancy by a single user. These facilities will continue to meet the operational requirements as stated in the development condition.

The Applicant does not propose any modifications to the exterior of the building or its landscaping, access or parking. The building will continue to be occupied as office with permitted accessory uses. In accordance with the requirements of Section 9-011, Paragraph 6 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"), please accept the following information regarding the proposed special exception amendment.

- The type of operation will continue to be an office building with accessory uses consistent with the C-3 District.
- Typical hours of operation for the offices will be from 7:30 a.m. to 7:30 p.m., Monday through Friday. Given the nature of the Applicant's business, which includes the publication of newspapers, the building will continue to be operational and accessible to its employees 24 hours a day, and on weekends.
- The estimated number of visitors to the Subject Property is approximately 45 to 50 persons per day.
- The number of employees on the Subject Property is approximately 1,500 at any one time.

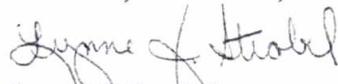
- The estimated traffic associated with the existing use is approximately 3,200 vehicles trips per day. Employees arrive and depart on a staggered basis in the morning and evening depending upon their work schedules and position. The peak hour arrival time, Monday through Friday, is between 8:00 a.m. and 9:00 a.m. in the morning, when approximately 450 vehicles enter the Subject Property, and the peak hour departure time, Monday through Friday, is between 5:00 p.m. and 6:00 p.m., when approximately 400 vehicles leave the Subject Property. While there is some use of mass transit and carpooling, trips to the office building are primarily by private vehicle.
- Given its national business presence, the Applicant has a wide area of service.
- The existing eleven (11) story office building consists of approximately 769,704 gross square feet. The distinctive exterior façade is primarily comprised of glass and the architecture is contemporary in appearance. A tower is located on each wing of the building to establish the Subject Property as a gateway to Tysons Corner. Surrounding the office building are thoughtfully landscaped areas and a water feature. The Applicant is not proposing any modifications to the existing building façade, architecture, or surrounding grounds.
- The Applicant is not aware of any hazardous or toxic substances located on the Subject Property.
- The proposed development complies with all adopted standards, ordinances and regulations in accordance with the previously approved special exception.

The Applicant's proposal is to modify several specific development conditions associated with the special exception approval in acknowledgement of the fact that the Subject Property has been developed. The development conditions were primarily established to ensure that the building located on the Subject Property and the surrounding grounds would be of a quality consistent with the vision for a gateway site. The Applicant had met this objective with its construction and, therefore, the conditions as described herein are no longer necessary.

Should you have any questions regarding the above, or require additional information, please do not hesitate to contact me. I would appreciate the acceptance of this application, and the scheduling of a public hearing before the Planning Commission at your earliest convenience. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.



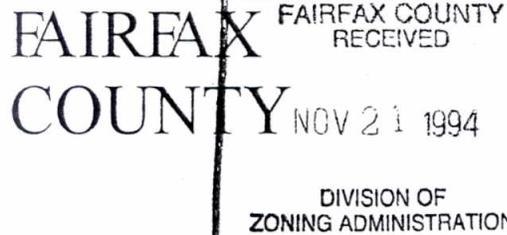
Lynne J. Strobel

cc: Kevin Guinaw

Todd Mayman

Martin D. Walsh

{A0532909.DOCX / 1 Statement of Justification 002544 000005}



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

Tel: 703-324-3151 Fax: 703-324-3926

V I R G I N I A

November 16, 1994

Thomas, D. Fleury,
Vice President Development Services
West*Group, Incorporated
1600 Anderson Road
McLean, Virginia 22102

RE: Proffered Condition Amendment
Number PCA 88-D-005
(Concurrent with SE 94-P-040)

Dear Mr. Fleury:

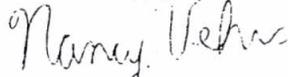
Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on October 31, 1994, approving Proffered Condition Amendment PCA 88-D-005 in the name of West*Park Associates, Limited Partnership and West*Mac Associates, Et.Al., subject to the proffers dated October 24, 1994, on subject parcels 29-2 ((15)) A4, A5, 4B2; 29-4 ((7)) 1, 1A1, 1A2, A2, A3, A4, A5, 2, 3, 4, 5A, 6, 7B, 7A1, 8, 9, 10, 11A, 12A, C1, C2; and 29-1 ((14)) A, consisting of approximately 193.54 acres in Providence District.

The Board reaffirmed:

- **Modification of the transitional screening and waiver of the barrier requirements where the application property is adjacent to residentially zoned land, pursuant to Paragraph 3 of Section 13-304, to that shown on the Generalized Development Plan (GDP), and as proffered; and**

- **Waiver of the 75 foot setback requirement from the Dulles Airport Access Road (DAAR), pursuant to Paragraph 3 of Section 2-414, to that shown on the GDP and as proffered.**

Sincerely,



Nancy Vehrs

Clerk to the Board of Supervisors

NV/ns

cc: John M. Yeatman, Director, Real Estate Dvs., Assessments
Melinda M. Artman, Deputy Zoning Administrator
Barbara A. Byron, Director, Zoning Evaluation Dvs., OCP
Robert Moore, Trnsprtn.Planning Dvs., Office of Transportation
Paul Eno, Project Planning Section, Office of Transportation
Department of Environmental Management
Y. Ho Chang, Resident Engineer, VDOT
Land Acq. & Planning Dvs., Park Authority

PROFFERS

PCA 88-D-005

October 24, 1994

Pursuant to 15.1-491(a) of the Code of Virginia, 1950 as amended, and Section 18-203 of the Zoning Ordinance of the County of Fairfax (1978 as amended) ("ZO"), subject to the Board of Supervisors' approval of the requested Proffer Condition Amendment ("PCA"), Applicants West*Mac Associates Limited Partnership, WEST*PARK Associates Limited Partnership, Washington Hall Corporation, The Association for Manufacturing Technology, and their successors and assigns (hereinafter "Applicants") hereby proffer to the following conditions. If this PCA is approved, the proffered conditions described below supersede all previously approved proffered conditions applicable to the property. The property (hereinafter referred to as the "Subject Property") consists of approximately 193.5394 acres. The word "Applicants" shall be used when proffers relate to the Subject Property in its entirety. Any future modification(s) to these proffers which affect only a specific building or land bay may be approved by the Board of Supervisors upon application for a proffered condition amendment by the individual owner of the specific building or land bay without amending this entire proffer statement or Generalized Development Plan. The word "Applicant" shall mean the owner of any specific building or land bay.

I. Generalized Development Plan ("GDP"). The location of buildings shown on the GDP dated September 5, 1990 and revised on October 4, 1994 shall be considered for illustrative purposes only. Specific tabulations for floor area ratios, open space, parking, and final location of proposed buildings and parking structures shall be determined at the time of site plan review and approval. At the time of each site plan submission, a copy of the site plan shall be submitted to the Fairfax County Planning Commission for review for conformance with these proffers. The GDP is not proffered in its entirety, but certain elements of the GDP as specifically defined and described below are proffered.

A. Floor Area Ratios ("FAR"). The total FAR on the 199.4813 acre Gross Tract Area (as defined below) for all uses permitted in the C-3 Zoning District by right shall not exceed 0.54 FAR. However, individual Building Sites (as defined below) within each Land Bay may exceed a 1.0 FAR.

Definitions:

Gross Tract Area shall be defined as the total FAR on the 189.4852 acres of land plus the 5.7961 acres of land previously dedicated to public use or right-of-way, plus the 4.2 acres of land dedicated for the Destination Station, totalling 199.4813 acres for density computation purposes.

Building Site shall be defined as the land associated with a building(s), parking and/or parking structures, open space and accessory structures as shown on the "site plan."

Land Bays shall be defined as follows (and shown on the GDP):

- o Land Bay A-1, A-2, A-3, A-4 and A-5 (consisting of 108.4447 acres of land and 1.9788 acres of land of previously dedicated right-of-way, for a total of 110.4235 acres of land for density calculation purposes);

- o Land Bay B (consisting of 1.8366 acres);
- o Land Bay C (consisting of 8.7000 acres);
- o Land Bay D-1 and D-2 (consisting of 40.4942 acres of land and 8.0173 acres for land dedicated for public use and right-of-way, for a total of 48.5115 acres of land for density calculation purposes); and
- o Land Bay E (consisting of 30.0097 acres notwithstanding that said total land area may be subdivided into two (2) or more lots of record, with one (1) lot consisting of approximately 5.0 acres containing only a stormwater management facility). It is further understood that the entire amount of gross floor area (1,307,223 square feet attributed to this land bay) may be located on the remaining +/-25 acres of the site, notwithstanding the fact that this may result in an FAR that exceeds 1.0 when calculated only on the +/-25 acres.

B. Bulk Regulations.

1. Height.

a) With the exception of buildings in Land Bays A-5, D-1 and E, the maximum height of buildings shall not exceed 90' except as qualified by paragraph B1(c) below.

b) Buildings within Land Bays A-5, D-1 and E shall not exceed 75' in height except as qualified by paragraph B1(c) below.

c) An increase in height for any building(s) in any Land Bay may be permitted by the Board of Supervisors in accordance with the applicable provisions of the ZO.

2. Minimum Yard Requirements shall meet the provisions of the ZO Requirements for the C-3 Zoning District, unless otherwise modified or waived by the Board of Supervisors.

C. Setbacks from the Dulles Airport Access Road (DAAR). Land Bays A-5, D-1 and E have frontage on the DAAR and are subject to the 75' minimum distance requirements set forth in Section 2-414 of the ZO. The 75' minimum distance requirement shall be provided unless a modification or waiver is approved by the Board of Supervisors.

D. Landscaping. Landscaping shall be provided for all future buildings in accordance with Articles 13 and 17-105, para. 8 of the ZO and the Public Facilities Manual. Unless otherwise modified or waived by the Board of Supervisors, all landscaping shall generally conform to Sheet 6 of 6 of the GDP which represents the species and quantities of existing landscaping within the Gross Tract Area. Unless otherwise modified or waived by the Board of Supervisors and/or the Director of Environmental Management, all deciduous and ornamental trees planted shall be a minimum of 2"-2 1/2" in caliper and all evergreen trees planted shall be a minimum of 6'-8' in height at the time of planting.

E. Transitional Screening and Barrier.

1. Part of Land Bay D-1 (Jones Branch Drive frontage, excluding Outparcel A). Applicants shall and have provided transitional screening along the north side of Jones Branch Drive from the centerline of Park Run Drive west to the southwest property corner of Land Bay D-1 pursuant to Transitional Screening and Barrier Modification No. 9055 dated November 23, 1987 and its referenced landscape plan dated November 18, 1987 by Huntley, Nyce and Associates. The said modification amends the required transitional yard width to 10'-15' of save area with supplemental planting and waives the barrier requirements.

2. Land Bay D-1 (Dulles Airport Access Road frontage, excluding Outparcel A). Applicants shall provide an undisturbed save area along the southern side of the DAAR right-of-way line from the northeast property corner of Land Bay D-1, west for approximately 300' to

the eastern point where the existing Storm Drainage and Conservation Easement intersects the DAAR right-of-way as shown on the GDP. The save area shall be 300 ' in length, average 50' in width, and result in a save area not less than 15,000 square feet in area. However, the averaging of the width dimension shall not result in a width dimension less than 35'. The save area shall be deemed to meet the Transitional Screening and Barrier requirements of the ZO.

3. Land Bay D-2 (along the contiguous property line between Land Bay D-2 and R-30 property to the west). The Private Open Space as defined and as shown on the GDP shall be deemed to meet the Transitional Screening and Barrier requirements of the ZO.

4. Land Bay A-5. Applicants shall and have provided transitional screening along the northern property line pursuant to Transitional Screening and Barrier Modification 8266 dated June 18, 1986 associated with the Fairfax Building Site Plan 6377-SP-01. The said modification amends the required transitional yard width from 35' to 25' of undisturbed area along the DAAR as shown on the approved site plan and waives the barrier.

5. Land Bay E. A 35' transitional screening yard shall be provided along the northern property line as generally shown on page 3 of 6 of the GDP.

F. Trail Systems. In lieu of the trail system as shown on the County-wide trails plan, continuous four-foot wide concrete sidewalks along all public street frontages shall be provided with each site plan submittal and installed prior to issuance of the first non-residential use permit for any building subject to an approved site plan showing sidewalk within the Subject Property. Applicants shall coordinate sidewalk connections with adjacent properties in the locations as shown on the GDP.

G. Storm Water Management.

1. Land Bays D-1 and D-2, Part of Land Bay A-1 (Building Site 19). Storm

Water Management (SWM) and Best Management Practices (BMP) have been reviewed, approved and constructed for this area pursuant to a Plan entitled West*Mac Storm Drainage Study 6796-D-01-1 approved by DEM on March 25, 1988. Other requirements, if any, shall be in accordance with applicable County ordinances as approved by the Department of Environmental Management (DEM).

2. Land Bay E. Stormwater Management (SWM) and Best Management Practices (BMPs) shall be provided in accordance with applicable County ordinances as approved or modified by DEM and/or the Board of Supervisors. The exact shape and size of existing Pond C (the "Pond") and associated area as shown on the GDP is subject to change with final engineering. The applicant shall endeavor to preserve existing vegetation between the SWM/BMP facility and the DAAR. Landscaping, utilizing native vegetation to the maximum extent possible shall be provided around the edge of the facility, as approved by DEM and the Urban Forester. The Resource Protection Area (the "RPA"), as approved by DEM, shall be preserved on the site. No clearing and grading shall be permitted within the RPA except for that necessary to construct and maintain the SWM/BMP facility.

3. Land Bays A-1 (Part) through A-5 inclusive, B and C. Stormwater Management (SWM) and Best Management Practices (BMPs) shall be provided in accordance with all applicable County Ordinances as may be approved or modified by the Director of Environmental Management. SWM/BMP facilities may be provided on a site-by-site basis at the time of individual site plan submittals, or SWM/BMP facilities may be provided as a "composite system", consisting of Ponds A, B, D, and Pond C (as referenced above), to provide SWM and BMP's for the currently undeveloped portion of the drainage area.

H. Conservation/Storm Drainage Easement. The area in Land Bay D-1 between

Building 26 and Building 28 is defined by the Conservation/Storm Drainage Easement recorded at Deed Book 6927 at page 249 as generally shown on the GDP. The area shall be preserved in an undisturbed state, except minor construction as provided for in the easement document (utility crossing, trails, maintenance, etc.) which shall be installed so as to minimize disturbance. Applicants agree to identify and mark archaeological site 44FX1348 contained within the Conservation Easement. If site is to be impacted by any future construction, Applicants shall contact the Environmental and Heritage Resources Branch of the Office of Comprehensive Planning 30 days prior to commencement of construction activity to determine whether a Phase II archaeological study is necessary.

I. Limits of Clearing and Grading, Private Open Space, Storm Drainage, Conservation Easements and/or Minor Flood Plain Easements. Applicants shall use best efforts to adhere to the delineation of land area for Limits of Clearing and Grading, Private Open Space, and Storm Drainage, Conservation and/or Minor Flood Plain Easements, all as generally shown on the GDP. The actual delineation of these land areas shall be established at time of final engineering and site plan approval. DEM may approve minor deviations from the limits of these land areas as shown on the GDP provided the Applicants provide on the building site or within the land bay and as adjacent or contiguous to the area of disturbance as possible, Applicants' choice of one of the following:

1. an area equal to the disturbed area; or
 2. an area equal to 125% of the difference between the area shown on the GDP and the actual disturbed area, planted with deciduous trees 2" - 2 1/2" in caliper at time of planting, evergreens 4' - 6' in height at time of planting, ground cover and foundation plants in quantities and species approved by DEM or other re-vegetation or methods acceptable to DEM;
- or

3. a combination of 1 and 2 above.

J. Private Open Space. The GDP shows certain areas designated as Private Open Space within Land Bays A-1, A-2, A-3, D-1 and D-2. This Private Open Space is generally consistent with Private Open Space indicated in the Tysons Corner Master Plan as adopted by the Board of Supervisors on June 27, 1994. The Private Open Space shall be kept in a natural state and may include passive and active recreational uses, undisturbed natural areas, wooded areas, water bodies, water courses, including SWM and BMP facilities, lawn and landscaped areas and other similar or natural features designed and arranged to produce an aesthetically pleasing effect within the Land Bay(s). The Private Open Space shall be set aside for the use and enjoyment of the Applicants. The Private Open Space shall not be dedicated as public lands and shall remain in the ownership of the Applicants. Where Private Open Space and Transitional Screening and Barrier yards coincide, the Private Open Space shall be deemed as meeting the Transitional Screening and Barrier requirements. Any area disturbed in the Private Open Space shall be replaced pursuant to Proffer I.1, except in the case where SWM/BMP's are constructed within the Private Open Space. Where SWM/BMP construction occurs, Proffer I.1 or 2 shall not be required.

II. Treatment of Cellar Space. Cellars, as defined in Article 20 of the Zoning Ordinance, may be used for any permitted use listed in Sect. 4-302 of the Ordinance; however, office use shall be limited to a maximum of 50 percent of the cellar space. The term "office" as defined herein shall not include "data processing centers", thus the 50 percent limitation on "office use" shall exclude any limitation on data processing center areas. Under no circumstances shall cellar space be computed as Floor Area, Gross, as defined in the Ordinance, for floor area ratio (FAR)

computations, regardless of use. Cellar space shall be calculated for off-street parking requirements in accordance with the provisions set forth in Article 11, Sect. 11-102 of the Ordinance.

III. Noise Attenuation. Applicants agree to provide materials and construction methods which have characteristics that limit interior noise level to 50 DBA Ldn in all future buildings located north and east of Jones Branch Drive if those areas have highway noise levels greater than 70 DBA Ldn. Principal buildings constructed within the affected area may be treated with the following acoustical attributes to mitigate noise levels:

- o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39.
- o Doors and windows shall have an STC rating of at least 28.
- o Adequate measures to seal and caulk surfaces will be provided.

IV. Transportation Proffers.

A. Destination Station. On January 11, 1991, Applicants dedicated and conveyed in fee simple to the Board of Supervisors a 4.2 acre parcel of land (hereinafter referred to as "Outparcel A") as depicted on the GDP subject to the following conditions:

1. Recordation of a restrictive covenant, which was incorporated into the Deed for Outparcel A. Said covenant limits the use of Outparcel A to a bus destination station, kiss and ride lot, or mass transit facility. Further, the covenant specifically precludes the use of the site as a general or commercial parking lot.

2. The Applicants shall provide post-development storm water detention for

Outparcel A up to but not exceeding the volume of the original design computation level as indicated on 6796-DS-01-1 as approved on March 25, 1988 associated with Outparcel A.

3. As a result of the conveyance of Outparcel A to the Board of Supervisors, any necessary approvals for Outparcel A for uses described in I.1 above shall not require Applicants to file a special exception or proffered condition amendment on Subject Property.

4. Dedication of Outparcel A is be deemed to be subject to an advanced dedication and reservation of density pursuant to Paragraph 5 of Article 2-308 for 128,065 square feet (4.2 acres x 43,560 x 0.69 FAR) and such density credit is included and may be used in FAR calculations for any buildings or sites within the 199.48 acre application.

5. Provision of a 25-foot wide transitional screening yard and barrier situated entirely upon Outparcel A along the eastern side of Outparcel A to buffer the Destination Station from Land Bay D-1.

6. The extent of this obligation extends solely to the 4.2 acre site shown on the GDP inclusive of any future right-of-way or easement dedications.

7. Upon conveyance of Outparcel A, Applicant provided to Fairfax County \$100,000.00 for an architectural and engineering design of the Destination Station.

B. Tysons Corner Area Wide Transportation Contribution.

1. Applicants shall contribute to Fairfax County \$2.85 per FAR square foot (gross floor area, excluding cellar) with the following exceptions:

- o All existing buildings shall be exempt from \$2.85 payment to the extent that there is no increase in FAR square feet (gross floor area, excluding cellar) above the area shown in "Floor Area Computation" Table appearing on sheet 5 of 6 in the GDP dated September 5, 1990.

- o Building 18 as shown on the GDP, which is 139,474 FAR square feet.
- o Buildings 26, 27, 28, 29, and 30 inclusive comprising 1,460,194 gross square feet on 48.5115 acres of land area.

2. The \$2.85 per square foot, as increased by escalations to the Engineering News Record, Construction Cost Index from the date of rezoning approval, October 3, 1990, shall be paid directly to the County of Fairfax at issuance of building permits for the applicable building area and shall be used for Tysons Corner Area Wide Transportation Improvements in order of the following priorities as determined by the Board of Supervisors:

- o Destination Station on Outparcel A.
- o Additional toll lanes and toll booths on the Dulles Access Road.
- o Metrorail or Dartrail design and development.

3. Applicants shall contribute \$7,500.00 per acre in lieu of \$2.85 square feet described in III.B.1 above for Tysons Corner Area Wide Transportation Fund improvements upon issuance of building permit for Building 30 or within five (5) years of the date of the Board's approval of this rezoning application, whichever first occurs. Said contribution shall not exceed \$101,625.00 ($\$7,500.00 \times 13.5$ acres).

Applicants have previously paid \$232,500.00 ($\$7,500.00 \times 31$ acres) for Buildings 26, 27, 28, 29 and Outparcel A. Therefore, Buildings 26, 27, 28, 29 and any density credit for Outparcel A (Destination Station 4.2 acres) shall be exempt from \$2.85 per square foot contribution as outlined in paragraph III.B.1 above.

C. Signalization. Applicants shall design and escrow funds, as determined by Virginia Department of Transportation ("VDOT"), for traffic signal equipment and installation at the intersection of Park Run Drive and Jones Branch Drive and at the intersection of Park Run Drive

and Westpark Drive, subject to the approval of VDOT. The traffic signal design and installation at the intersection of Park Run Drive and Jones Branch Drive was completed as of June 27, 1994. The traffic signal design and escrow at the intersection of Park Run Drive and Westpark Drive shall be provided when necessary warrants are met as determined by VDOT or at time of issuance of non-residential use permit for Building 30, or December 31, 1995, whichever is earlier.

D. Jones Branch Drive Improvements. On March 4, 1992, the Applicants dedicated 6351 square feet or 0.1458 acres of right-of-way along the property's Jones Branch Drive frontage of a sufficient width to provide an additional lane on the north side of the westbound approach of existing Jones Branch Drive from Park Run Drive to the east side of Springhill Road/International Drive intersection. The dedication of land associated with this proffer shall be deemed to constitute an advance dedication with reservation of density pursuant to Article 2-308, Paragraph 5 of the ZO. Applicants constructed the additional lane within the dedicated right-of-way as above described and the VDOT Bond was released on September 24, 1992.

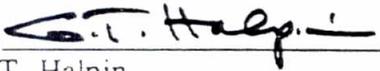
E. Transportation System Management.

1. Applicant agrees solely to provide \$30,000.00 a year for nine (9) consecutive years to partially fund a Tysons Transportation Association (TYTRAN) employed Transportation Coordinator commencing January 20, 1994 (the date of first payment) in accordance with a Final TSM Program dated October 15, 1993, and as approved by the Director of the Office of Transportation, the Applicants, and TYTRAN.

V. Contract Purchaser. Pursuant to 15.1-491(a) of the Code of Virginia, 1950 as amended, and Section 18-203 of the Zoning Ordinance of the County of Fairfax (1978 as amended), the Contract Purchaser of Land Bay E, for itself and its successors and assigns, shall be bound by these proffers if, and only if, it acquires any portion of the property.

WEST*PARK Associates Limited Partnership (Owners of Land Bays A-1, A-2, A-3, A-4, A-5, and E)

By: Eagle Management Corporation
General Partner

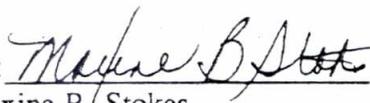
By: 
G. T. Halpin
President

The Association for Manufacturing Technology (AMT) (Owner of Land Bay B)

By: 
Albert W. Moore
President

West*Mac Associates Limited Partnership (Owners of Land Bays D-1 and D-2)

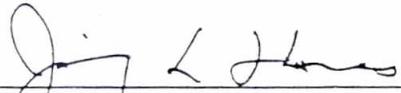
By: Federal Home Loan Mortgage Corporation
General Partner

By: 
Maxine B. Stokes
Vice President, Administration
and Corporate Properties

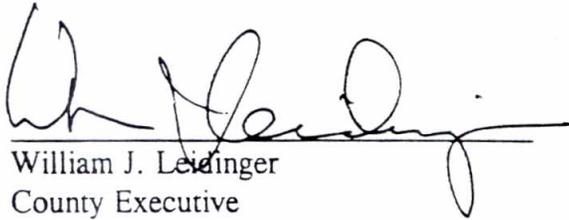
Washington Hall Corporation (Owner of Land Bay C)

By: Anthony B. Kuklin
Anthony B. Kuklin
Vice President

Gannett Co., Inc. (Contract Purchaser of Land Bay E)

By: 
Jimmy L. Thomas
Senior Vice President

Fairfax County Board of Supervisors (Owner of Outparcel A)

By: 
William J. Leiding
County Executive



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS

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V I R G I N I A

November 11, 1994

Martin D. Walsh, Esquire
Walsh, Colucci, Stackhouse,
Emrich and Lubeley, P.C.
2200 Clarendon Boulevard
Thirteenth Floor
Arlington, Virginia 22201



RE: Special Exception
Number SE 94-P-040
(Concurrent with PCA 88-D-005)

Dear Mr. Walsh:

At a regular meeting of the Board of Supervisors held on October 31, 1994 the Board approved Special Exception Number SE 94-P-040 in the name of Gannett Company, Incorporated, located at Tax Map 29-2 ((15)) Pt. A4; and 29-4 ((7)) 12A for an increase in building height (Paragraph 3 Section 9-601); radio and television broadcasting facilities, microwave facilities and satellite earth stations accessory to an office building (Paragraph 3 Section 9-101); a helistop as an accessory use to an office use (Paragraph 4 Section 9-401); and, a waiver of certain sign regulations (Paragraph 17 Section 9-601) of the Fairfax County by requiring conformance with the following development conditions:

1. This approval is granted for and runs with the land indicated in the application, as limited by Paragraph 4 below, 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 this application, as qualified by these development conditions.

2.

3. This Special Exception is subject to the provisions of Article 17, Site Plans. Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "**Gannett Special Exception Plat**", prepared by **Skidmore, Owings & Merrill and Dewberry & Davis** and dated **October 17, 1994**, Sheets 1-4, and these development conditions.
4. **Limitation on Use and Applicant.** In the event that any building on the site is not occupied by a "single user" as defined below, in addition to the requirements set forth below, prior to site plan approval, the owner/tenant of any building on the site occupied by more than a single user per building shall submit detailed site plans, landscape plans and architectural plans (including, but not limited to, building footprints, architectural design, exterior facade materials and treatments, and location, size and details of all proposed signage and telecommunications facilities) to the Planning Commission for review and recommendation and to the Board of Supervisors for review and approval based upon the applicable Special Exception standards contained in the Zoning Ordinance. The burden of such submission, review and approval for the applicant shall be the same as those for the review and approval process for a new special exception application. For the purpose of these development conditions, the term "single user" shall be defined as a user and its affiliates (defined as subsidiaries and other entities in which the user has a direct or indirect interest of at least 33 1/3%) which, along with accessory uses, occupies 85% or more of a single building.
5. **Limitation on square footage.** Development on the site shall not exceed 1,307,223 square feet, a 1.0 FAR. A maximum of fifty percent (50%) of any cellar space may be utilized for office use. It is understood that the 30.0097 acre site may be subdivided into two (2) or more lots of record, with one (1) lot consisting of approximately 5.0 acres containing only a stormwater management facility. It is further understood that the entire amount of gross floor area (1,307, 223 square feet attributed to this site) may be located on the remaining 25.01 acres of the site, notwithstanding the fact that this may result in a FAR that exceeds 1.0 when calculated solely on the 25.01 acres.
6. **Substantial conformance.** The development shall be in substantial conformance with the Urban Design Guidelines and the design recommendations contained within the Land Unit Recommendations of the Tysons Corner Urban Center Plan of the Comprehensive Plan.

3.

7. **Review of site/architectural by Planning Commission.** Prior to site plan, landscape plan and architectural plan approval, such plans shall be submitted to the Planning Commission for review for conformance with the Zoning Ordinance and these Development Conditions.
8. **Height of buildings.** The maximum building height of building(s) located to the east and south of the stormwater management pond shall not exceed 300 feet. The maximum height of any penthouse in this area shall not exceed an additional 40 feet.

The maximum building height of any portion of building(s) located to the west of the stormwater management pond shall not exceed a 14 degree view angle from any property within the McLean Hamlet subdivision or 290 feet, whichever is less. Notwithstanding the above, the maximum building height of any portion of building(s) located between 75 feet and 150 feet from the DAAR right-of-way shall not exceed 75 feet. The maximum height of any penthouse in this area shall not exceed an additional 30 feet.

All penthouses shall be screened with an architectural facade similar to that provided on the building.

9. **Building materials.** The facade of any building that faces the Dulles Airport Access Road (DAAR) shall be constructed so as to prevent building glare on adjacent residential communities.
10. **Signs.** The following provisions regarding building mounted signs shall apply to any building that is occupied by a single user. If a building is not occupied by a single user, all signs associated with that building, including building mounted signs, shall be in conformance with the provisions of Article 12 of the Zoning Ordinance.
 - a. Building mounted signs other than as permitted in paragraph 10c. below shall be permitted on a maximum of four (4) sides of any building located on the site. A maximum of one (1) sign shall be permitted on each of these four (4) sides; however, if a building has a side or sides that face onto the DAAR and/or I-495, on one (1) side of the building that faces the DAAR and on one (1) side of the building that faces I-495, a maximum of two (2) signs shall be permitted on each of those sides of the building. No more than one (1) sign shall

4.

be permitted on any side of a building that does not face the DAAR or I-495. The maximum number of building mounted signs shall be four (4) per building; however, up to two (2) additional signs per building shall be permitted if such signs are located on a side of a building that faces the DAAR or I-495 as described above. Building mounted signs shall be only for the purpose of identification of the single user and shall be back-lit only. No sign shall identify more than one (1) business entity. The maximum area of any sign shall be determined by tracing the outer edges of the letters and logo, and shall not include the space, if any, between lines of text. The maximum size of any sign shall be 300 square feet, as qualified below. The total maximum sign area of building mounted signs per building shall be 1800 square feet, as qualified below:

- 1) Where the top of the sign is placed at a building height of 300 feet, the maximum sign area per side of a building for the two sides of the building that face the DAAR and I-495 shall not exceed an area of 600 square feet, and the maximum sign area for any of the other sides of the building shall not exceed an area of 300 square feet each. Each sign shall have a maximum letter height of 6 feet, except that a logo and the first letter of a name may be nine (9) feet tall. The maximum length of the sign shall be 50 feet.
 - 2) When the top of the sign is placed at a building height of less than 300 feet but more than 150 feet, the maximum total sign area of 1800 square feet and the maximum area of each sign of 300 square feet shall decrease by one-half of a square foot for each one (1) foot decrease of building height;
 - 3) When the top of the sign is placed at a building height of 150 feet or less, the maximum sign area per sign shall not exceed 200 square feet and the maximum total sign area per building shall not exceed 400 square feet.
- b. Notwithstanding the above, any building located west of the stormwater management pond shall be further limited to the following:

5.

- 1) A maximum of one (1) building mounted sign on any side of the building that faces the McLean Hamlet subdivision, with each such sign not to exceed 200 square feet in area, unless the applicant submits to the Planning Commission for its review and action a request to increase the area and number of such signs. Such a request shall be accompanied by information depicting and justifying the increase and shall contain sufficient graphic and written information as required by the Commission.

Upon review of such information, the Planning Commission may approve or deny the request. In no circumstance, however, may the Commission grant an increase that exceeds any of the restrictions set forth in paragraph 10a above.

- 2) A maximum of one (1) building mounted sign on any side of the building that does not face the McLean Hamlet subdivision. Each such sign shall not exceed 300 square feet in area, as modified by the proportional decrease in area based upon location on the building, as set forth in paragraphs 10a above.
 - 3) A maximum of four (4) building mounted signs per building, unless an increase to a maximum of six (6) is granted pursuant to paragraph b1) above.
- c. In addition, each building on site shall be permitted to have a maximum total combined signage area of 215 square feet comprised of the following: signs located on building awnings, building mounted signs located at the first floor level, and/or freestanding signs in accordance with Paragraph 13B. of Section 12-203 the Zoning Ordinance.

Other than as permitted above, all others signs on the site shall be in conformance with the provisions of Article 12 of the Zoning Ordinance.

Sign permits for all signs shall be obtained in accordance with the provisions of Article 12 of the Zoning Ordinance.

11. **Helistop.** One (1) helistop that is an accessory use to, and for the sole use of, only one single user on the site, shall be permitted. The helistop shall be designed to meet the standards and requirements imposed by the FAA and all other applicable federal, state and local statutes, ordinances, rules and regulations. In accordance with Paragraph 3 of Section 9-304, a noise abatement study shall be submitted to the Department of Environmental Management (DEM) at the time of site plan submission for the helistop. Except in the case of an emergency, the take-off and landing flight path of all helicopters using the helistop shall be restricted to overflight of non-residential areas, as shown on the attached Exhibit dated August 10, 1994.

Except for weather-related delays, emergencies, or delays as a result of air traffic control that are not the cause of the user, no helicopter flights to and from the property shall occur between the hours of 10:30 pm and 7:00 am. In addition, the use of the helicopter shall be limited to three (3) round trips per day on a 30 day rolling average basis. Records of such helicopter flights shall be made available to the County on request.

12. **Communication facilities.** Satellite earth stations (including equipment shelters) and communication antennas shall be permitted on site as an accessory use to and for the use of all tenants in a building occupied by a single user. Such facilities may be ground or building mounted and shall be designed to comply with all applicable federal, State and local statutes, ordinances, rules and regulations. Ground-based antenna towers (other than satellite antenna mounting frames no greater than ten (10) feet in height) shall not be permitted on the site. Prior to the issuance of permits for the communication facilities, the applicant shall submit a "Radiation Hazards Assessment" to the County Department of Communications and to the office of the Magisterial District Supervisor.

The assessment shall be prepared by a consultant acceptable to the Department of Communications and the assessment and installation shall be subject to the Department's approval. Approval or denial shall be based upon the protection of the public health, safety and welfare. Protective measures, such as fencing, warning signs and antenna orientation shall be provided, as determined by the Department. The facilities shall be screened appropriately from public view to the maximum extent feasible without interfering with communications to and from the facilities. The facilities shall not be located within the peripheral yards shown on the Special Exception Plat or within the 75 foot setback from the Dulles Airport Access Road.

Notwithstanding the foregoing, nothing herein shall preclude the establishment by others of structure or roof top mounted mobile and land based telecommunications facilities with related unmanned equipment buildings as permitted by the provisions of Paragraph 1 of Section 2-514 of the Zoning Ordinance.

13. **Tree Preservation.** The applicant shall, subject to the review of the Urban Forester, preserve existing trees on the site within a 40 foot wide setback along the property's DAAR and I-495 frontages; between "Pond C" and the DAAR, except as may be required for the construction and maintenance of the pond; and, within a 40 foot wide setback along the property's southeastern property boundary.
14. **Landscaping and Open Space.** Landscaping shall be provided in substantial conformance with the guidelines set forth in the Tysons Corner Urban Center Plan and the Zoning Ordinance and the Public Facilities Manual (PFM), subject to the review of the Urban Forester. Excluding the 5.0 acre Stormwater Management/Best Management Practices (SWM/BMP) facility and surrounding area, a minimum of 21.6% landscaped open space shall be provided. The landscaped open space shall be comprised of the peripheral site landscaping as shown on the special exception plat (14%), as well as 7.6% (calculated as a percentage of the 25.01 acres of the site that excludes the 5.0 acre SWM/BMP facility and surrounding area) landscaped open space located internal to the site, to include such elements as landscaped site and building entry areas, landscaped seating areas, and plazas. An open space, landscaped amenity shall be provided on the site in substantial conformance with the guidelines established in the Tysons Corner Urban Center Plan.
15. **Parking.** Parking shall be provided in accordance with Article 11. The number of parking spaces provided on-site may be increased above the minimum Ordinance requirements as long as any additional spaces do not decrease the open space tabulation. The exterior of all parking structures shall be landscaped.
16. **Setback from the DAAR.** There shall be a minimum distance of 75 feet between all principal buildings and the Dulles Airport Access Road (DAAR) right-of-way. However, free standing parking structures may be located within 75 feet of the DAAR right-of-way, provided that the height of such structures is governed by a 45 degree angle of bulk plane from the right-of-way and provided that no structures are located within 40 feet of the right-of-way.

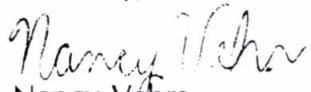
8.

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, ten (10) years after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. For purposes of this section, the commencement of construction and diligent prosecution of the first building that is subject to the provisions of this Special Exception will be deemed to have established the use on the site. 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.

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 of the Office of Comprehensive Planning 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: John M. Yeatman, Director, Real Estate Dvs., Assessments
Melinda M. Artman, Deputy Zoning Administrator
Frank Jones, Assistant Chief, PPRB, OCP
Audrey Clark, Chief, Inspection Svcs., BPRB, DEM
Barbara A. Byron, Director, Zoning Evaluation Dvsn., OCP
Robert Moore, Trnsprt'n. Planning Dvs., Office of Transportation
Paul Eno, Project Planning Section, Office of Transportation
Department of Environmental Management
Y. Ho Chang, Resident Engineer, VDOT
Land Acq. & Planning Dvs., Park Authority

NOTES:

- THIS SPECIAL EXCEPTION PLAT ACCOMPANIES AN APPLICATION FOR THE FOLLOWING APPROVALS:
 - * AN INCREASE IN BUILDING HEIGHT AS PROVIDED FOR IN PAR. 3 OF SECT. 9-601.
 - * RADIO AND TELEVISION TRANSMISSION FACILITIES, HIGHWAY FACILITIES AND ANTENNAE EACH STRICTLY ACCORDING TO AN OFFICE USE AS PROVIDED FOR IN PAR. 3 OF SECT. 9-101.
 - * A HELIPAD AS AN ACCESSORY USE TO AN OFFICE USE AS PROVIDED FOR IN PAR. 4 OF SECT. 9-601; AND
 - * A WAIVER OF CERTAIN SIGN REGULATIONS AS PROVIDED FOR IN PAR. 17 OF SECT. 9-601.
- THE PROPERTY THAT IS THE SUBJECT OF THIS SPECIAL EXCEPTION APPLICATION IS IDENTIFIED AS THE PALMIRA COUNTY RECORD MAP AS 29-2 (115) AS (PART) AND 29-4 (17) 12A.
- A STATEMENT WHICH CONFIRMS THE OWNERSHIP OF THE SUBJECT PROPERTY AND THE NATURE OF THE APPLICANT'S INTEREST IN SAME WILL BE FURNISHED ON A SEPARATE DOCUMENT.
- THE BOUNDARY INFORMATION SHOWN HEREON IS FROM A PLAT PREPARED BY OTHERS.
- THE TOPOGRAPHY SHOWN HEREON IS NOT A CONTOUR INTERVAL OF TWO FEET BY FIELD SURVEY AND AIR SURVEY PREPARED BY OTHERS.
- THE FLOORPLAN THAT IS LOCATED ON THE SUBJECT PROPERTY IS REPRESENTED ON THE GRANIC. A RESOURCE PROTECTION AREA (RPA) BOUNDARY DELINEATION HAS BEEN APPROVED WHICH CLEARLY DEFINES THE BOUNDARIES OF THE CIRCULARITY BY PRESERVATION ORDINANCE. THESE IS NO ENVIRONMENTAL QUALITY CORRIDOR (EQC) LOCATED ON THE PROPERTY.
- THERE ARE SEVERAL EXISTING UTILITY FACILITIES WHICH HAVE A WIDTH OF THIRTY-FIVE (35) FEET OR MORE LOCATED ON THE SUBJECT PROPERTY. THEY ARE REPRESENTED AS SHOWN ON THE GRANIC AND ARE BASED ON INFORMATION FROM TAX MAPS AND/OR DEEDS OF RECORD, NOT FROM ACTUAL FIELD LOCATIONS OR TITLE SEARCH, AND THIS SHOULD NOT BE REGARDED AS ACTUAL LOCATIONS.
- TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO GRAVES OR HISTORICAL OR ARCHAEOLOGICAL RESOURCES LOCATED ON THE SUBJECT PROPERTY.
- THERE ARE NO EXISTING STRUCTURES ON THE SUBJECT PROPERTY.
- PUBLIC UTILITIES, TO INCLUDE PUBLIC WATER AND SEWER, ARE CURRENTLY AVAILABLE AT THE SITE OR WILL BE EXTENDED BY THE UTILITY COMPANY OR DEVELOPER AS APPROPRIATE.
- THE POINTS OF ENTRANCE AND EGRESS TO THE PROPERTY WILL BE LOCATED TO JONES BRANCH DRIVE AT SPECIFIC LOCATIONS TO BE DETERMINED AT FINAL ENGINEERING AND SITE PLAN PREPARATION AND TO BE APPROVED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT).
- THE PROPOSED BUILDING(S) WILL BE LOCATED WITHIN THE BUILDABLE AREA AS REPRESENTED ON THE GRANIC AND AS QUALIFIED BY A DEVELOPMENT CONDITION. THE BUILDABLE AREA AS REPRESENTED IS SUBJECT TO ADJUSTMENT BASED ON THE FINAL GRADE. THE EXACT NUMBER, LOCATION, SHAPE AND SIZE OF THE BUILDING(S) AND THE RELATED SITE IMPROVEMENTS AND STRUCTURES WILL BE DETERMINED AT THE TIME OF FINAL ENGINEERING AND SITE PLAN PREPARATION, BUT IN NO INSTANCE WILL THE OPEN SPACE REPRESENTED IN THE TABULATION BE DIMINISHED AND THERE WILL BE NO INCREASE IN THE GROSS FLOOR AREA AS REPRESENTED IN THE TABULATION.
- THERE IS A MINIMUM FRONT YARD REQUIREMENT OF THE SUBJECT PROPERTY ADJACENT TO THE DILLED DRIVEWAY ACCESS FROM (DAN) AND 1-1/2 FEET REAR-OF-WAY AND ALSO ADJACENT TO JONES BRANCH DRIVE. THE YARD IS ADJACENT TO THE COMMON LOT LINES WITH SECT. 29-2 (115) AS AND 29-4 (17) 5 ARE SIDE YARDS. THE MINIMUM FRONT YARD REQUIREMENT SPECIFIED IN THE C-3 DISTRICT IS "CONTROLLED BY A 25° ANGLE OF BULK PLANE, BUT NOT LESS THAN 40 FEET." THE C-3 DISTRICT HAS NO MINIMUM SIDE YARD REQUIREMENT. HOWEVER, THE PROPOSED BUILDING(S) WILL BE LOCATED NO CLOSER THAN 40 FEET TO THE TWO SIDE LOT LINES. ALL OF THE YARD ADJACENT TO THE COMMON LOT LINES OF THE PROPOSED POND C LOT HAVE BEEN DEEMED TO BE SIDE YARDS. AS THERE IS NO MINIMUM SIDE YARD REQUIREMENT SPECIFIED IN THE C-3 DISTRICT, NO SIDE YARD WILL BE PROVIDED ADJACENT TO THE POND C LOT. THE PROPOSED BUILDING(S) WILL BE LOCATED IN STRICT ACCORDANCE WITH THESE MINIMUM YARD REQUIREMENTS.
- IN ADDITION TO THE MINIMUM YARD REQUIREMENTS SPECIFIED IN THE C-3 DISTRICT, THE PROPOSED IMPROVEMENT (BUILDING(S)) WILL BE LOCATED IN ACCORDANCE WITH THE 75 FOOT MINIMUM DISTANCE REQUIREMENT PRESCRIBED BY THE INVOLVING SET FORTH IN SECT. 2-14 OF THE ZONING ORDINANCE. FEEDBACKING PARKING STRUCTURES MAY BE LOCATED AS SPECIFIED BY A DEVELOPMENT CONDITION. LASTLY, WITHIN THE MINIMUM FRONT YARD, A 25 FOOT TRANSITIONAL SCREENING YARD (TRANSITIONAL SCREENING 2) WILL BE PROVIDED ALONG THE MINIMUM PROPERTY LINE EXTENDING FROM THE WESTERN 1/4 OF AN ACRES ON THE GRANIC.
- THE FLOOR AREA(S) REPRESENTED IN THE TABULATION IS GROSS FLOOR AREA AS DEFINED IN THE PALMIRA COUNTY ZONING ORDINANCE. THE FLOOR AREA RATIO REQUIREMENT IS BASED ON THE 30,000 GROSS FLOOR AREA AND 19 ACRES. IT IS UNDERSTOOD THAT THE BUILDING(S) MAY HAVE CELLAR SPACE(S) WHICH SPACE WILL BE CALCULATED FOR OFF-STREET PARKING REQUIREMENTS IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN PAR. 25 OF SECT. 11-103 OF THE ZONING ORDINANCE. THE USE OF THE CELLAR SPACE(S) WILL BE LIMITED TO THE RECREATION AND RELATED USES DESCRIBED IN NOTE 23 BELOW. BUILDING MECHANICAL AND ELECTRICAL AREAS; BUILDING MAINTENANCE AREAS; BUILDING AND OFFICE STORAGE AND SERVICE AREAS; COMPUTER ROOMS; AND A WAIVER OF 50% OF THE CELLAR SPACE(S) FLOOR AREA WILL BE OCCUPIED BY OFFICE USE.
- THE MAXIMUM BUILDING HEIGHT(S) REPRESENTED ON SHEET 4 OF THE GRANIC IS THE PROPOSED BUILDING ROOF ELEVATION(S) MEASURED FROM THE EXISTING TOPOGRAPHY. THE BUILDING HEIGHT(S) WILL BE MEASURED FROM A FINAL GRADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING ORDINANCE. THE FINAL GRADE, HEREON, MAY BE BASED OR LOWER THAN THE EXISTING TOPOGRAPHY, WILL BE ESTABLISHED WITH FINAL ENGINEERING. IN ADDITION, THE BUILDING(S) WILL LITTLE HAVE A PORCHES(S) DESIGNED IN PART TO SHIELD THE RECREATIONAL EQUIPMENT LOCATED ON THE ROOF. THE HEIGHT AND ROOF AREA COVERAGE OF THE PORCHES(S) WILL BE CORRELATIVE WITH THE HEIGHT AND SCALE OF THE BUILDING(S) AND WILL BE CONSTRUCTED OF MATERIALS THAT ARE AN EXTENSION OF OR HARMONIOUS WITH THE ARCHITECTURAL MATERIALS OF THE MAIN BUILDING(S). ADDITIONALLY, A PORCH (WALK) MAY BE PROVIDED AND SHALL NOT EXTEND MORE THAN SIX FEET ABOVE THE ROOF LEVEL(S). THE MAXIMUM HEIGHTS OF THE BUILDINGS AND PORCHES ARE FURTHER CONTROLLED BY A DEVELOPMENT CONDITION.
- THE NUMBER OF PARKING SPACES REPRESENTED IN THE TABULATION IS BASED ON THE GROSS FLOOR AREA REPRESENTATION IN THE TABULATION AND THE STANDARD OF 2.4 SPACES PER 1,000 SQUARE FEET OF GROSS FLOOR AREA AS SET FORTH IN ARTICLE 11 OF THE ZONING ORDINANCE. A FINAL NUMBER OF SPACES WILL BE DETERMINED AT TIME OF SITE PLAN SUBMISSION. IT IS TO BE UNDERSTOOD THAT THE FINAL NUMBER OF PARKING SPACES MAY BE INCREASED OR DECREASED FROM THE NUMBER REPRESENTED IN THE TABULATION BASED ON FINAL DESIGN AS LONG AS ANY ADDITIONAL SPACES DO NOT DECREASE THE OPEN SPACE REPRESENTED IN THE TABULATION AND AS LONG AS THE MINIMUM ZONING ORDINANCE REQUIREMENT IS MET. A MAJORITY OF THE PARKING SPACES WILL BE LOCATED IN A REAR AND/OR ABOVE GRADE PARKING STRUCTURE(S). ALL PARKING SPACES WILL BE LOCATED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 11 OF THE ZONING ORDINANCE.
- LOADING SPACES WILL BE PROVIDED IN ACCORDANCE WITH ARTICLE 11 OF THE ZONING ORDINANCE. LOADING DOORS AND UNLOADERS WILL BE SCREENED FROM THE VIEW OF ADJACENT DEVELOPMENT AND FROM THE PUBLIC UTILITIES BY SIGN, FENCING, WALLS, LANDSCAPING OR A COMBINATION THEREOF.
- STORAGE MANAGEMENT (SM) AND BEST MANAGEMENT PRACTICES (BMP) WILL BE PROVIDED IN ACCORDANCE WITH APPLICABLE COUNTY ORDINANCES AS APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (DEM). THE EXACT SHAPE AND SIZE OF THE STORAGE POND AND RELATED LOT AS REPRESENTED ON THE GRANIC IS SUBJECT TO CHANGE WITH FINAL ENGINEERING.
- OPEN SPACE WILL BE PROVIDED IN EXCESS OF THE MINIMUM PRESCRIBED FOR THE C-3 DISTRICT AND IT WILL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN SECT. 11-309 OF THE ZONING ORDINANCE.

- THE PRINCIPAL USE OF THE PROPOSED BUILDING(S) WILL BE OFFICE. IT IS TO BE UNDERSTOOD THAT SECONDARY AND RELATED USES WILL INCLUDE BUT NOT BE LIMITED TO ACTIVITIES ASSOCIATED WITH COMMUNICATIONS, RECREATION, AND THE PROVISIONS OF RECREATION, AND IN ADDITION, ACCESSORY SERVICE USES WILL BE LOCATED WITHIN THE BUILDING(S) TO SUPPORT THE PRINCIPAL USE. THE ACCESSORY SERVICE USES MAY INCLUDE OUTDOOR FACILITIES, RECREATION/FITNESS FACILITIES, A CHILD CARE AND/OR PLAY CARE CENTER, CONCESSIONS PROVIDING RETAIL SALES AND SERVICES AND OTHER SUCH USES AS SET FORTH IN PAR. 2 OF SECT. 10-203 OF THE ZONING ORDINANCE. SAID ACCESSORY SERVICE USES WILL BE SUBJECT TO THE USE LIMITATIONS SET FORTH IN SECT. 10-203 OF THE ZONING ORDINANCE.
- IT IS TO BE UNDERSTOOD THAT ADDITIONAL SITE FEATURES SUCH AS GARDENS, TRELLISES, STUNCE SIGNS, JOCKING TRAILS, PASSIVE AND ACTIVE RECREATIONAL FACILITIES, WALLS AND ABOVE GRADE UTILITY AND MAINTENANCE STRUCTURES NOT MENTIONED IN THE GRANIC MAY BE PROVIDED BUT WILL NOT BE LOCATED IN THE TRANSITIONAL SCREENING YARD AND ADJACENT TO THE NORTHERN PROPERTY LINE.
- LANDSCAPING AND TREE SAVE AREAS WILL BE SPECIFIED AT THE TIME OF FINAL ENGINEERING AND SITE PLAN PREPARATION. A TRANSITIONAL SCREENING YARD AND BUFFER WILL BE PROVIDED IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN NOTE 13 ABOVE. LASTLY, AT TIME OF SITE PLAN SUBMISSION A NOTIFICATION MAY BE REQUESTED FROM THE OFFICE OF DEM FOR THE PLACEMENT OF THE REQUIRED BUFFER SO THAT IT CAN BE BEST LOCATED TO SCREEN ANY UNDESIRABLE ELEMENTS OF THE SITE DEVELOPMENT PROGRAM.
- A FOUR FOOT WIDE CONCRETE SIDEWALK WILL BE PROVIDED ALONG JONES BRANCH DRIVE IN ACCORDANCE WITH THE PROVISIONS APPROVED IN CONNECTION WITH THE APPROVAL OF PCA 88-0-005.
- A HELIPAD IS PROPOSED AS AN ACCESSORY USE TO THE PRINCIPAL OFFICE USE OF THE PROPERTY AS QUALIFIED BY A DEVELOPMENT CONDITION. IT WILL BE LOCATED WITHIN THE BUILDABLE AREA DEFINED ON THE GRANIC. IT WILL BE DESIGNED TO COMPLY WITH THE STANDARDS AND REQUIREMENTS IMPOSED BY THE FEDERAL AVIATION ADMINISTRATION, APPLICABLE FEDERAL, STATE AND LOCAL STATUTES, ORDINANCES, RULES OR REGULATIONS. A HELIX STUDY AS REQUIRED BY THE PROVISIONS SET FORTH IN PAR. 3 OF SECT. 9-603 OF THE ZONING ORDINANCE WILL BE SUBMITTED AS A SEPARATE DOCUMENT.
- SATELLITE DISHES AND COMMUNICATION ANTENNAS ARE PROVIDED AS AN ACCESSORY USE TO THE PRINCIPAL OFFICE USE AS QUALIFIED BY A DEVELOPMENT CONDITION. THEY WILL BE LOCATED ON THE GRAND WITHIN THE BUILDABLE AREA DEFINED ON THE GRANIC OR ON THE BUILDING ROOF(S). THEY WILL BE LOCATED AND DESIGNED TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL STATUTES, ORDINANCES, RULES AND REGULATIONS AND THEY WILL BE SCREENED BY OTHER DEVICES OR FRAMES WALLS TO THE EXTENT THAT SUCH SCREENING DOES NOT AFFECT THEIR TRANSMISSION OR RECEPTION. THE MAP AND DOCUMENT REQUIRED BY THE PROVISIONS SET FORTH IN SECT. 9-603 OF THE ZONING ORDINANCE WILL BE FURNISHED IN A SEPARATE DOCUMENT.
- BUILDING MARKED SIGNS ARE PROVIDED TO IDENTIFY THE BUILDING FROM SURROUNDING NEIGHBORHOOD. SAID SIGNS AND PROPOSED TO COVER THE TWO SQUARE FEET PER SIGN THAT IS SPECIFIED IN PAR. 8 OF SECT. 12-203 OF THE ZONING ORDINANCE. THE SIGNS WILL BE BACK-LIT AND WILL BE OF SUCH NUMBER, SIZE AND CONSTRUCTION AS SPECIFIED BY A DEVELOPMENT CONDITION.
- TO THE BEST OF OUR KNOWLEDGE, ALL HAZARDOUS OR TOXIC SUBSTANCES AS SET FORTH IN TITLE 40, CODE OF FEDERAL REGULATIONS PARTS 116.4, 302.4, AND 305. ALL HAZARDOUS WASTE AS SET FORTH IN COMPARISON OF FEDERAL/STATEMENT OF WASTE MANAGEMENT (42 CFR 192) - VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS; AND/OR PETROLEUM PRODUCTS AS DEFINED IN TITLE 40, CODE OF FEDERAL REGULATIONS PART 260 WILL BE UTILIZED, STORED, TREATED AND/OR DISPOSED OF IN ACCORDANCE WITH SAID REGULATIONS.
- IT IS CURRENTLY ANTICIPATED THAT DEVELOPMENT OF THE SUBJECT PROPERTY MAY OCCUR IN TWO OR MORE PHASES. THE FIRST PHASE, WHICH COULD BE SEVERAL YEARS AFTER ALL NECESSARY APPROVALS AND PERMITS ARE OBTAINED, THE SECOND AND SUBSEQUENT PHASES WILL BE CONDUCTED AS SINCE HEREIN WARRANT.
- EXCEPT WHERE NOTED HEREON, TO THE BEST OF OUR KNOWLEDGE THE PROPOSED DEVELOPMENT OF THE SUBJECT PROPERTY CONFORMS TO ALL CURRENT APPLICABLE LAND DEVELOPMENT ORDINANCES, REGULATIONS AND STANDARDS.

TABULATION:

EXISTING BULKING	C-3
LAND AREA	30,000 AC
PROPOSED GROSS FLOOR AREA	1,307,223 SF
FLOOR AREA RATIO	4.36
PARKING SPACES REQUIRED/PROVIDED	3399
OPEN SPACE REQUIRED	(15.93)
OPEN SPACE PROVIDED	(21.62 OF 30,000 ACRES) 5.41 AC
STORAGE/AVIATION FACILITY	(16.21 OF 30,000 ACRES) 5.00 AC
TOTAL	(37.52 OF 30,000 ACRES) 10.41 AC
MAXIMUM BUILDING HEIGHT	300 FT

* SEE NOTE 16
 ** SEE NOTE 19



RECEIVED
 Department of Planning & Zoning
 OCT 03 2012
 Zoning Evaluation Division

Application No. SE 94-P-040

APPROVED S/E/S/P PLAT

SEE DEVELOPMENT CONDITIONS

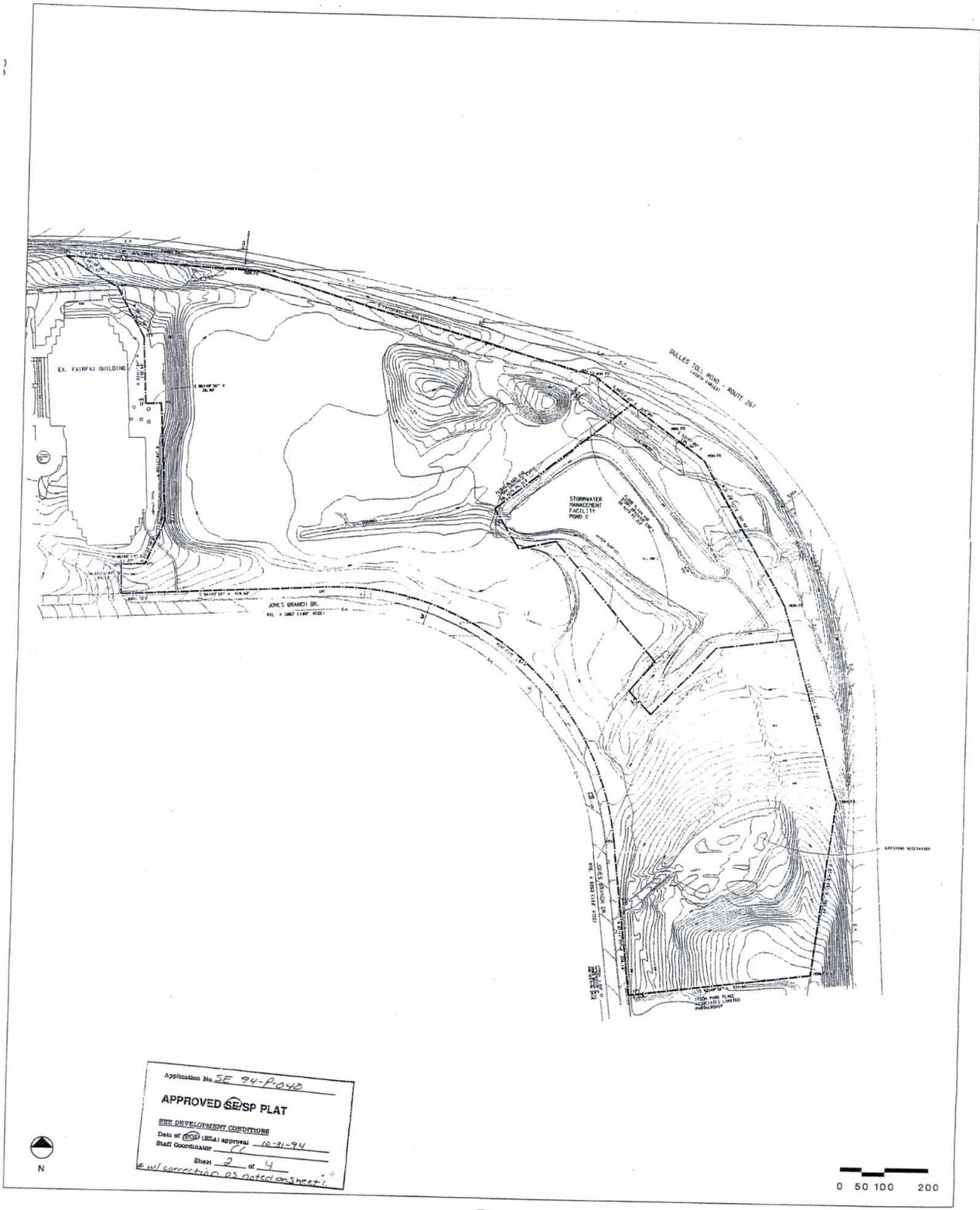
Date of (Final) (SCA) Approval 10/11/94

Staff Coordinator CC

Sheet 4 of 4

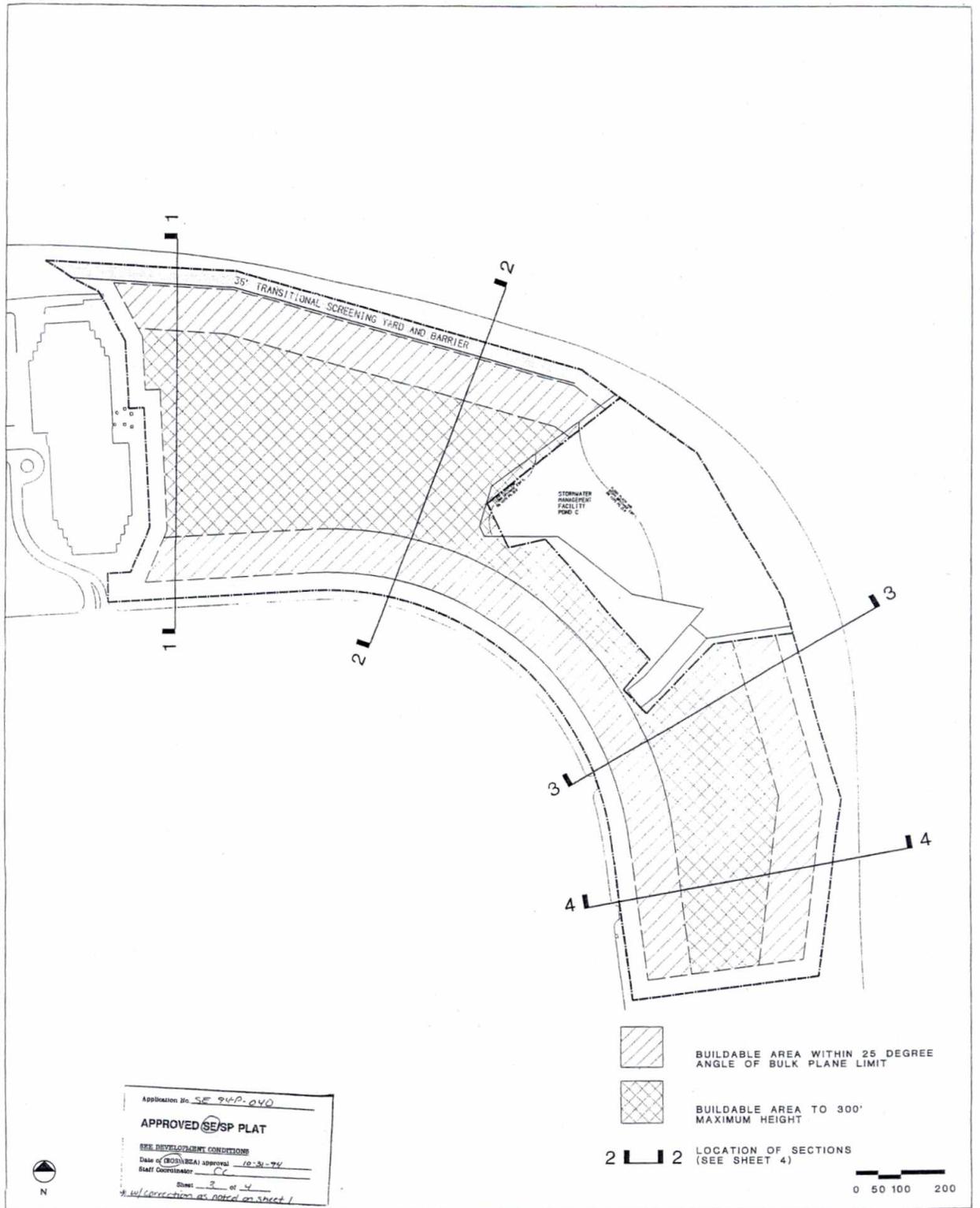
All corrections on noted on sheet 1

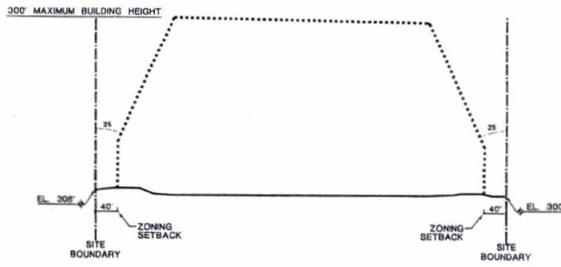




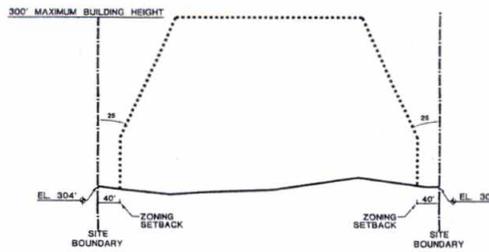
Application No. SE 94-P-040
APPROVED SE/SP PLAT
 SEE DEVELOPMENT CONDITIONS
 Date of (USDA) SURVEY 10-31-94
 Staff Coordinator [Signature]
 Sheet 2 of 4
 E.W. GANNETT CO. 23 GATESHEAD STREET



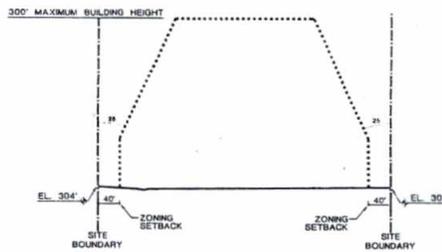




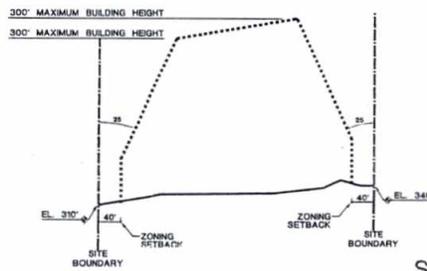
SECTION 1



SECTION 2



SECTION 3



SECTION 4

Application No. SE 94-0-010
APPROVED SE/SP PLAT
 BULK DEVELOPMENT CONDITIONS
 Date of (B/C) (B/A) approval 10/21/94
 Staff Coordinator C.C.
 Sheet 4 of 4
 All corrections as noted on sheet 1





County of Fairfax, Virginia

APPENDIX 6

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

March 3, 2011

G. Evan Pritchard
Walsh Colucci Lubeley Emrich & Walsh PC
2200 Clarendon Boulevard, 13th Floor
Arlington, VA 22201-3359

Re: Interpretation for PCA 88-D-005, SE 94-P-040; Gannett Company, Inc.;
Tax Map 29-2 ((15)) C-1; I-495 HOT Lane Impacts

Dear Mr. Pritchard:

This is in response to your letter of July 16, 2010, addendum letters of August 13, October 13, and October 20, 2010, and supplemental information provided by Virginia Department of Transportation (VDOT) on December 14, 2010, requesting an interpretation of the proffers accepted by the Board of Supervisors in conjunction with the approval of Proffered Condition Amendment PCA 88-D-005 and the Special Exception (SE) Plat and development conditions approved by the Board of Supervisors with SE 94-P-040. As I understand it, you have several questions regarding impacts to the site that would result from a certificate of take filed by VDOT for the Capital Beltway High Occupancy Toll (HOT) Lanes Project. The questions will be addressed individually below. This determination is based on your letters and exhibits titled: "Gannett/USA Today Headquarters, Landscape Plan," prepared by Dewberry & Davis, dated September 1998, date-stamped October 20, 2010, upon which the subject areas of take are depicted; and a copy of the recorded conservation easement with associated exhibits.

On October 31, 1994, the Board of Supervisors approved PCA 88-D-005, subject to proffers, to amend the previous West Park proffers to allow the current development of the Gannett site. The PCA was concurrent with SE 94-P-040, which was approved by the Board of Supervisors, subject to development conditions, to allow an increase in building height; radio and television broadcasting facilities, microwave facilities, satellite earth stations, and a helistop as accessory uses to office; and a waiver of certain sign regulations. The Gannett parcel (T.M. 29-2 ((15)) C-1) is located within Land Bay E of West Park which consists of 30.0097 acres and is proffered to a maximum overall Floor Area Ratio (FAR) of 1.0, although an individual parcel within Land Bay E may exceed an FAR of 1.0. The Gannett site currently contains 17.3384 acres (755,261 square feet) and is

improved with an eight-story office building with a Gross Floor Area of 769,704 square feet, at an FAR of 1.019, and an associated parking garage. It is noted that development of the site was originally approved pursuant to Site Plan 009773-SP-001-2 on May 16, 2003, on a land area of 24.7624 acres, which would equate to an FAR of 0.71. The site plan area was subsequently subdivided to create parcel 29-2 ((15)) A8 that includes 5.0 acres for stormwater management. The majority of the density from parcel A8 was subsequently allocated to the remaining land area of Land Bay E, subdivided as parcel 29-2 ((15)) C2 as permitted by the governing proffers.

Your letter states that several modifications to the site will occur as a result of the acquisition by VDOT of additional right-of-way and permanent slope and drainage easements associated with the HOT Lanes Project on the Dulles Airport Access Road (DAAR)/Dulles Toll Road (DTR). The VDOT acquisition land area consists of .907 acre (39,508.92 square feet) along the parcel's frontage on DAAR/DTR, which includes 0.59382 acre (26,097 square feet) for right-of-way (ROW) and 0.31336-acre (13,650 square feet) for permanent slope and drainage easement. According to the VDOT description of the acquisition, the area extends about 1,300 feet along the parcel frontage and begins with zero feet in width at the east and west boundary lines, widening to about 40 feet in width mid-property. Within this area is a proffered 40-foot wide tree save area, inclusive of a 35-foot wide transitional screening area and a conservation easement. The area consists of miscellaneous mature deciduous, evergreen and ornamental trees ranging in height from 10' to 50' to provide a visual and sound barrier along the DAAR/DTR frontage. Most of the existing vegetation is proposed for removal by VDOT due to the HOT Lanes project. The area of the property between the tree save and preservation area and the existing building consists of site landscaping, a parallel 24-foot wide drive aisle and sidewalk. It should be noted that even though the interpretation request letter references VDOT impacts to the property's frontage on I-495, you stated via phone conversation that only the property's DAAR/DTR frontage is presented for consideration with this interpretation.

Tree Preservation. The first question is whether the removal of vegetation for the VDOT project within the 40-foot wide tree preservation area along the property's DAAR/DTR frontage would allow the property to remain in substantial conformance with the proffers, the SE Plat and development conditions. SE Development Condition 13 states existing trees within the 40-foot wide tree preservation setback adjacent to the DAAR/DTR frontage shall be preserved. You indicate that with the VDOT acquisition, much of the tree save area will be cleared of trees that were preserved with the development of the site. As of this date, clearing and removal of the vegetation has occurred, with some large trees and vegetation remaining. You have stated that following completion of the ROW improvements, additional and supplemental landscaping will be provided to the extent feasible within the remainder of the vegetation area and elsewhere within the site. Given that the loss in tree save is the result of the condemnation action by VDOT, it is my determination that the existing development would remain in substantial conformance with the proffers, SE Plat and development conditions, provided that revegetation is completed to the extent feasible and compensatory landscaping is installed elsewhere on the site, as you have proposed, both as determined by OFM, DPWES.

Landscaped Open Space. The second question is whether a reduction of landscaped open space would allow the project to remain in substantial conformance with the proffers, the SE Plat and development conditions. Development Condition 14 requires a minimum of 21.6% landscaped open space, to be comprised of 14% peripheral site landscaping as shown on the Plat and 7.6% landscaped open space internal to the site. While the SE Plat does not specifically delineate the landscape areas, the Plat tabulations state that 15% open space is required with 21.6% open space provided. According to your exhibit, the site provides 68% existing open space, with 65.78% open space remaining after the fee take. The peripheral site landscaping on the other boundaries and the landscaped open space within the site are not affected. It is my determination that, given the loss in landscaped open space as the result of VDOT action, the existing development would remain in substantial conformance with the proffers, the SE Plat and development conditions.

Transitional Screening. The third and fifth questions, which are related, ask whether the elimination of the required 35-foot transitional screening yard on the property's frontage adjacent to DAAR, and located within the required 40' tree save area discussed above, would constitute a violation of the proffers, the SE Plat and development conditions. Proffer I. E. 5. states "a 35-foot transitional screening yard shall be provided along the northern property line as generally shown on page 3 of 6 of the GDP." VDOT proposes a permanent slope and drainage easement (13,650 square feet) adjacent to the fee take area to accommodate a steep topography that will remain as a result of the additional ROW take. A 25-foot wide storm water drain and associated easement also located within the subject area will be relocated. You state that as a result of the fee take for right-of-way, slope easement and storm water drain and easement, a minimal amount of the provided landscaping in the subject area will remain to provide the required 35-foot transitional screening. You have stated that landscaping will be provided to the extent feasible within the subject area of the site following completion of the ROW improvements. It is my determination that, given the reduction of the 35-foot transitional screening yard is a result of the VDOT acquisition, the existing development would remain in substantial conformance with the proffers, SE Plat and development conditions, provided that revegetation is completed to the extent feasible, as determined by UFM, DPWES.

Loading Dock Screening. The fourth question is whether the removal of trees and vegetation provided for the screening of the loading dock area, would constitute a violation of the proffers, SE Plat and development conditions. SE Plat Note 17 states that loading docks will be screened from view of adjacent developments and public streets. With the removal of vegetation for ROW and slope easement, a majority of the landscape screening provided with development for the screening of the loading dock area has been removed. You have stated that additional landscaping will be provided to the extent feasible, subject to approval of UFM, DPWES, following completion of ROW improvements. Given that the removal of landscape screening for the loading dock is a result of the VDOT acquisition, it is my determination that the existing development would remain in substantial conformance with the proffers, the SE Plat and development conditions, provided that plantings are replaced to the extent feasible, as determined by UFM, DPWES.

FAR. The sixth question is whether an increase in the FAR as a result of the VDOT acquisition would allow the property to remain in substantial conformance with the proffers, SE Plat and development conditions. Proffer I. A. states individual sites, including Land Bay E, may exceed 1.0 FAR. Sheet 5 of the GDP approved with the PCA further notes *"It is understood that the 30.0097 acres that comprise Land Bay E may be subdivided into two or more lots of record, with one lot consisting of approximately 5.0 acres containing only a stormwater management facility. It is further understood that the entire amount of gross floor area (1,307,223 square feet attributed to this Land Bay) may be located on the remaining +/- 25 acres of the site, notwithstanding the fact that this may result in an FAR that exceeds 1.0 when calculated only on the +/- 25 acres."*

Development Condition 5 of SE 94-P-040 also includes the same statement. Since approval, the 30.01 acre property has been subdivided into the subject site, which contains 17.34 acres (755,261 square feet) and is developed with an office building containing 769,704 square feet, or an FAR of 1.019; a 5.0 acre parcel for stormwater management; and a 7.6 acre parcel for future development. After fee take acquisition on the subject site, the reduced parcel size is 16.74 acres (729,164 square feet), which would result in an FAR of 1.05. Given that the increase in FAR is the result of the VDOT acquisition, it is my determination that the existing development would remain in substantial conformance with the proffers, SE Plat and development conditions. If compensation is taken for the acquisition area, no density credit is provided to the property pursuant to Section 2-308 of the Zoning Ordinance. As such, for future development in the event of casualty or redevelopment, the GFA of the Gannett site (Lot C-1) in West Park would be reduced by 26,097 square feet and would be a maximum of 743,607 square feet.

Conservation Easement. The seventh question is whether a reduction of the area of the conservation easement required by the proffers would constitute a violation of the proffers, SE Plat and development conditions. Proffer I. I. states, with regard to the conservation easement, that the applicant shall use best efforts to adhere to the delineation of conservation easements, as generally shown on the GDP, and that the actual delineation of the area shall be established at time of final engineering and site plan approval. Your letter and copy of the recorded easement indicate that much of the conservation easement falls within the proposed VDOT take area and will be disturbed and reduced by the take. According to the recorded document, the conservation easement contains 13,942 square feet; after the VDOT take, 1,210 square feet of the conservation easement will remain. Given that the reduction in the conservation easement is due to the VDOT acquisition, it is my determination that the existing development would remain in substantial conformance with the proffers, SE Plat and development conditions. Please note however, that according to DPWES, the subject conservation easement area has been used as credit toward compliance with Best Management Practices (BMP) for stormwater management. In order to maintain compliance, the property owner must provide other BMP measures on the site, subject to DPWES approval.

Building Setback. The eighth question, asked with the addendum letter dated October 13, 2010, is whether a reduction of the 75-foot building setback for the existing parking structure would constitute a violation of the proffers and development conditions. Proffer 1. C. states that setbacks

in Land Bay E with frontage on DAAR are subject to 75-foot minimum distance requirements set forth in the Zoning Ordinance. SE Development Condition 16 specifies a 75 foot setback for principal buildings, and qualifies the location of freestanding parking structures. Your letter states that with the VDOT acquisition, the existing front setback of the parking garage from the proposed right-of-way is reduced 10 feet, from 75 feet to 65 feet. This parking structure is not freestanding and is therefore considered part of the principal building.

Pursuant to Section 2-417 of the Zoning Ordinance, you may request a reduction of the approved setback up to 20 percent (15 feet) from the Director of DPWES. Given that the reduction in setback is a result of the VDOT condemnation, it is my determination that the granting of a reduction by the Director pursuant to Section 2-417 of the Zoning Ordinance for the building setback would be in substantial conformance with the proffers, the SE Plat and development conditions.

These determinations have been made in my capacity as the duly authorized agent of the Zoning Administrator and only addressed the issues discussed above. If you have any questions regarding this interpretation, please feel free to contact Carrie Lee at (703) 324-1290.

Sincerely,



Barbara C. Berlin, AICP
Director, Zoning Evaluation Division, DPZ

BCB/CDL/O:\clee01\ActAssign\Interpretations\PI\Gannett Co._HOT Lane Impacts.doc

Attachments: A/S

cc: Linda Q. Smyth, Supervisor, Providence District
Kenneth Lawrence, Planning Commissioner, Providence District
Eileen McLane, Zoning Administrator
Ken Williams, Plan Control, Land Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, ZED, DPZ
Brian J. O'Sullivan, VDOT, 6363 Walker Lane, Ste. 500, Alexandria, VA 22310
File: PCA 88-D-005, SE 94-P-040, PI 1007 069, SEI 1007 025, Imaging, Reading



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& WALSH PC

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July 16, 2010

RECEIVED
Department of Planning & Zoning
JUL 19 2010
Zoning Evaluation Division

Via Email and U.S. Mail

Regina C. Coyle, Director
Fairfax County Dept. of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: HOT Lanes Condemnation at 7950 Jones Branch Dr., Fairfax County Tax
Map No. 029-2-15-0000-C1 (the "Property")

Dear Ms. Coyle:

Our firm represents Gannett Co., Inc., the owner of the above-referenced Property. VDOT has filed a certificate of take among the land records of Fairfax County, Virginia in Deed Book 21109 at page 1701 as part of the Capital Beltway HOT Lanes Project. We would like to confirm that, after the taking, the Property will remain in substantial conformance with the previously approved proffers and approved special exception.

On October 31, 1994, the Board of Supervisors approved SE 94-P-040, concurrent with PCA 88-D-005, for an increase in building height, radio and television broadcasting facilities, microwave facilities, satellite earth stations accessory to an office building, a helistop as an accessory use to an office use, and a waiver of certain sign regulations. A copy of SE 94-P-040 is attached hereto for your convenience. The property is also governed by the guidelines listed in the notes on the Special Exception Plat. A copy of the Special Exception Plat is attached hereto for your convenience.

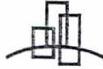
The proposed take area will impact the following features of SE 94-P-040 and the Special Exception Plat:

- 1) The proposed VDOT take area includes .907 acres of land within the 40 foot wide setback and tree preservation area along the property's DAAR and I-495 frontages as specified in Condition 13. If the take and permanent easement areas are cleared of vegetation, there will be virtually no trees preserved within the tree save area along the DAAR frontage in front of the Gannett building.
- 2) The proposed VDOT taking will result in a significant reduction in the overall site open space of .907 acres and will effect the landscaped open space requirements contained in Condition 14.

PHONE 703 528 4700 | FAX 703 525 3197 | WWW.THELANDLAWYERS.COM
COURTHOUSE PLAZA | 2200 CLARENDON BLVD., THIRTEENTH FLOOR | ARLINGTON, VA 22201-3359

LOUDOUN OFFICE 703 737 3633 | PRINCE WILLIAM OFFICE 703 680 4664
{A0198078.DOC / 1 Letter of interpretation 002544 000003}

ATTORNEYS AT LAW



WALSH COLUCCI
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& WALSH PC

- 3) The proposed VDOT taking will effectively eliminate the required 35 foot transitional screening yard as steep slopes in much of the area, in addition to a 25 foot wide storm water drain easement, will make it difficult or impossible to achieve a new transition screening yard.
- 4) When vegetation is cleared as part of the proposed VDOT taking, much of the screening provided by existing plants will be eliminated, and the loading dock area will be exposed. Note 17 from the Special Exception Plat, requires that loading docks be screened from the view of adjacent developments and public streets.
- 5) When the proposed right-of-way and permanent easement areas are cleared of vegetation, the tree save areas and screening yard provided on the site plan will largely be eliminated.
- 6) The proffered FAR listed in SE 94-P-040 will be increased with the take.
- 7) Much of the conversation easement, as required by the proffers, falls within the proposed VDOT permanent area and will likely be disturbed by the take.

Sometime in the near future, we will submit an exhibit further illustrating the impact of the taking described above. Upon receipt of this exhibit, please confirm that the Property will remain in substantial conformance with the approved proffers and approved special exception following the taking. If you have any questions or require additional information to respond to this request, please do not hesitate to contact us. We appreciate your attention to this matter and look forward to your response.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.



G. Evan Pritchard

Enclosures:

- 1.) SE 94-P-040
- 2.) Special Exception Plat



**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

cc: Eileen M. McLane
Kevin Guinaw
Todd Mayman
Martin D. Walsh

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{A0198078.DOC / 1 Letter of interpretation 002544 000003}

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**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

August 13, 2010

RECEIVED
Department of Planning & Zoning

AUG 17 2010

Zoning Evaluation Division

Via E-mail and First Class Mail

Carrie Lee
Fairfax County Department of Planning & Zoning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035

Re: HOT Lanes Condemnation at 7950 Jones Branch Dr., Fairfax County Tax Map No.
029-2-15-0000-C1 (the "Property")

Dear Carrie:

Please find enclosed with this letter the exhibit corresponding to our interpretation request of July 16, 2010. If you have any questions or need any further information to process the request, please let me know at your earliest convenience.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

G. Evan Pritchard

Enclosure

cc: Todd Mayman, Martin D. Walsh



G. Evan Pritchard
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gepritchard@arl.thelandlawyers.com
Fax: (703) 525-3197

**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

RECEIVED
Department of Planning & Zoning
OCT 15 2010
Planning Evaluation Division

October 13, 2010

Via E-mail and First Class Mail

Carrie Lee
Fairfax County Department of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

Re: HOT Lanes Condemnation at 7950 Jones Branch Dr., Fairfax County Tax Map No. 029-2-15-0000-C1 (the "Property")

Dear Carrie:

As we discussed today by telephone, the taking also impacts the setback for the parking structure located on the Property. At its closest point, the parking structure will be located within sixty-five (65) feet of the I-495 right of way. Please address this issue in your response to our interpretation request of July 16, 2010. If you have any questions or need any further information to process the request, please let me know at your earliest convenience.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

G. Evan Pritchard

cc: Todd Mayman, Martin D. Walsh

A0204670.DOC



County of Fairfax, Virginia

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

July 27, 2011

Lynne J. Strobel
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, VA 22201

RE: Special Exception Amendment Application SEA 94-P-040

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on July 26, 2011, the Board approved Special Exception Amendment Application SEA 94-P-040 in the name of RP MRP Tysons, LLC. The subject property is located 7940 Jones Branch Drive on approximately 6.08 acres of land zoned C-3 in the Providence District [Tax Map 29-2 ((15)) C2]. The Board's action amends Special Exception Application SE 94-P-040 previously approved for increase in building height, radio and television broadcasting facilities, microwave facilities, satellite earth stations and helistop and waiver of certain sign regulations to permit a hotel, additional uses and associated modifications to site design and development conditions pursuant to Sections 4-304, 9-607, and 9-620 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions which supersede all previous development conditions

:

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Amendment (SEA) Plat approved with the application, as qualified by these development conditions.
3. This Special Exception Amendment is subject to the provisions of Article 17, Site Plans. Despite Note 20 on SEA Plat, any plan submitted pursuant to this special exception amendment shall be in substantial conformance with the approved Special Exception Amendment Plat entitled "7940 Jones Branch Drive" prepared by Urban Engineering and Associates, Inc. and dated August 2007 and revised through May 18, 2011 (the "SEA Plat"), and these conditions. Minor modifications to the approved special exception amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
<http://www.fairfaxcounty.gov/bosclerk>

4. Modifications may include changes to the principal building footprints in Options 2A and 2B, as long as the width of the plaza/autocourt between those buildings shall be no less than 120 feet. Said modifications shall not decrease distances to peripheral lot lines or open space, increase the approved overall square footage, and shall maintain points of access as shown on the SEA Plat.
5. **Limitation of Use and Applicant.** There shall be no limitation on the number of users occupying the building or buildings located on Tax Map Parcel 29-2 ((15)) C2. ("Parcel C2").
6. **Limitation on Square Footage.** Development of the original site, that includes 29-2 ((15)) A8 and C1, shall not exceed 1,307,223 square feet, or a 1.0 FAR, less the gross square footage that may be acquired by VDOT for compensation on Parcel C2. Area that is dedicated in fee simple shall retain density credit upon showing proof from VDOT at site plan that no compensation was received for it. It is understood that the 30.0097 acre site may be subdivided into two (2) or more lots of record, with one (1) lot consisting of approximately 5.0 acres containing only a stormwater management facility. It is further understood that the entire amount of gross floor area, attributed to this site may be located on the remaining 25.01 acres of the site, notwithstanding the fact that this may result in a FAR that exceeds 1.0 when calculated solely on the 25.01 acres. Notwithstanding the subdivision of Land Bay E (as established in PCA 88-D-005), the entire land bay will be considered as a single unit for the purpose of the application of the Fairfax County Zoning Ordinance. Any subdivision or site plan filed in the future on this Land Bay shall include this notation and reference the appropriate record plat unless or until the property is subject to a future rezoning.
7. **Height of Buildings.** The maximum building height of any portion of building(s) located on Tax Map Parcel 29-2 ((15)) C2 shall not exceed 300 feet. The maximum height of any penthouse in this area shall not exceed 40 feet.
8. **Building Materials of Building(s).** The façade of any building that faces the Dulles International Airport Access Highway (DIAAH) shall be constructed so as to reduce building glare on adjacent residential communities. Any building located on Tax Map parcel 29-2 ((15)) C2 may include exterior or interior illumination as an architectural feature of the building. However, this illumination shall not include colored lighting or lights that change and shall conform to the provisions of the Zoning Ordinance.
9. **Building Materials of Optional Hotel.** The hotel, if constructed, shall be architecturally compatible with the office building. Exterior building materials shall be a combination of materials selected from pre-cast concrete, glass, metal panels, masonry, cementitious panels, stucco, brick or materials of similar quality.
10. **Hotel Operation:** The hotel in Option 2B may exceed 215 rooms subject to the provision of the required number of parking spaces. The number of employees for the proposed hotel shall be limited to 270 (or the full time equivalent).

11. **Fitness Center:** The hours of operation for the health club in Option 2B shall be 7 days a week from 5 a.m. to 11 p.m. The number of employees for the proposed health club shall be limited to 20.
12. **Signage.** Signage shall comply with the Fairfax County Zoning Ordinance. In addition, for any building located on Parcel C2, there shall not be more than one building-mounted sign above the second floor on each the north and west faces of the office building.
13. **Crane Lighting.** Construction cranes shall have lighting in conformance with Federal Aviation Administration (FAA) guidelines and regulations.
14. **Helistop.** A helistop shall not be permitted.
15. **Communications Facilities.** Satellite earth stations (including equipment shelters) and communication antennas shall not be permitted. This shall not preclude building mounted land based telecommunication facilities that are permitted uses in the C-3 District.
16. **Tree Preservation:** A Tree Preservation plan (the "Preservation Plan") shall be submitted as part of the first and all subsequent site plan submissions. The Preservation Plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of the Urban Forest Management Division (UFMD), of DPWES. The Preservation Plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees ten (10) inches in diameter and greater, and twenty-five (25) feet to either side of the limits of clearing and grading as shown on the SEA Plat for the entire site. The Preservation Plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the SEA Plat and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture.
17. **Limits of Clearing and Grading.** The limits of clearing and grading shall strictly conform to that shown on the SEA Plat, subject to allowances specified in these Development Conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. 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 SEA Plat, they shall be located in the least disruptive manner necessary as determined by the UFMD of DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD of DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

18. **Landscaping and Open Space.** Concurrent with the submittal of the first and subsequent site plans, a landscaping plan shall be submitted for the review and approval of Urban Forest Management. Landscaping shall be provided that is consistent in quantity and quality with that depicted on the SEA Plat. Additional landscaping treatment shall be provided along retaining walls if the walls exceed 4 feet in height. At least 15 percent of the gross land area of Parcel C2 shall be designated as landscaped open space as depicted on the SEA Plat.
19. **Parking.** Parking shall be provided in accordance with Article 11 of the Zoning Ordinance, or as may be approved either in conjunction with a Shared Parking Agreement as reviewed and approved by DPWES or Parking Redesignation Plan under Sect. 11-101. The number of parking spaces provided on-site may be increased above the minimum Ordinance requirements, or decreased, as long as any additional spaces do not decrease the open space tabulation or increase the height and footprint of the proposed parking structure. The exterior of all parking structures shall be landscaped as depicted on the SEA Plat.
20. **Setback from the DIAAH.** There shall be a minimum distance of 75 feet between all principal buildings and the DIAAH right-of-way. However, free standing parking structures may be located within 75 feet of the DIAAH right of way as depicted on the SEA Plat.
21. **Parking Structure.** The entire garage façade shall be constructed with high-quality architectural block, stone, stone-like material, colored pre-cast concrete or a comparable material. Where visible, the garage façade shall incorporate architectural treatments such as "ribbing", eyebrows or other details that complement the architecture of the adjacent office building. Plantings along the frontage of the parking structure shall be provided as shown on the SEA Plat. Planter boxes containing vines and/or low growing shrubs and/or a green screen with vegetation shall be provided along the top edge of the parking structure closest to the DIAAH subject to review of Urban Forest Management (UFM). All minimum planting areas, as determined by the Public Facilities Manual (PFM), shall be met at the time of site plan review and approval for plantings proposed on the parking structure. During site plan review and prior to site plan approval, elevations of the parking structure shall be submitted to the Planning Commission for comment and review.
22. **Location of Plantings in Easements.** If plantings are proposed within any on-site Fairfax County Water Authority (FCWA) easements, on-site storm drainage easements, or utility easements, permission from the owner of such easements shall be obtained prior to site plan approval. If such permission cannot be obtained, any change in landscaping shall remain in substantial conformance with the alternatives depicted on the SEA Plat or an amendment to this SEA shall be required.
23. **Noise.** Prior to site plan approval, a noise study shall be submitted to the Environmental Review Development Branch (EDRB) of the Department of

Planning and Zoning demonstrating that noise in any outdoor amenity area will not exceed 65 dBA. Should the hotel option be selected, prior to site plan approval for the hotel, a noise study shall be submitted to the (ERDB) of the Department of Planning and Zoning (DPZ) for review and approval which demonstrates interior noise levels for the hotel shall not exceed 45 dBA. Prior to issuance of any Non-RUP for a child care center and/or nursery school on the property, a noise study shall be submitted to ERDB for review and approval which demonstrates that the noise levels for the outdoor play area shall not exceed DNL 65 dBA and that levels for the indoor facility shall not exceed 45 dBA. Any noise study shall be conducted in accordance with the attached guidelines.

24. **Outdoor Seating.** Outdoor seating may be provided for any proposed eating establishment so long as such seating does not block any sidewalks or other pedestrian connections as depicted on the SEA Plat. Benches enhanced landscaping and/or other outdoor amenities may be provided in or around the autocourt.
25. **Sidewalks.** Public access easements in a form acceptable to the County Attorney shall be provided by the applicant over the sidewalks along Jones Branch Drive and the Jones Branch Connector.
26. **Child Care Center/Nursery School.** A child care center and/or nursery school may be located within an office building. The facility shall be for the exclusive use of the employees of on-site tenants and shall not be open to the general public. The facility shall be approximately two thousand (2,000) square feet and shall be limited to a maximum enrollment of no more than thirty (30) children at any given time and no more than five (5) employees.
27. **Low Impact Development (LID).** The site shall incorporate the two proposed rain gardens as depicted on the SEA Plat for Option 1. The proposal may include an above or below ground cistern on the property in addition to the depicted rain gardens on the SEA Plat. Options 2A and 2B shall include LID features as feasible. Any LID feature/facility shall be provided in accordance with the Public Facilities Manual (PFM) as determined by DPWES.
28. **Offsite Detention of Stormwater.** If a waiver of on-site stormwater management/best management practices (SWM/BMP) is not granted by DPWES and an on-site SWM/BMP facility cannot be provided in substantial conformance with the SEA Plat, then a Special Exception Amendment (SEA) shall be obtained prior to site plan approval.
29. **Revegetation of RPA.** A revegetation plan for the RPA located in the northern portion of the property, Tax Map 29-2 ((15)) C2, shall be submitted concurrently with the first and all subsequent site plan submissions for review and approval by Urban Forest Management, DPWES, and shall be in substantial conformance with that shown on the SEA Plat. The plan shall propose an appropriate selection of species based on existing and proposed site conditions to restore the area to a native

forest cover type. The plan shall include, but not be limited to, the following:

- a. plant list detailing species, sizes and stock type of trees and other vegetation to be planted
- b. soil treatments and amendments if necessary
- c. mulching specifications
- d. methods of installation
- e. maintenance
- f. mortality threshold
- g. monitoring
- h. replacement schedule

30. Commitment to LEED certification

Prior to approval of the site plan, the applicant will execute a separate agreement and post, a "green building escrow," in the form of cash or a letter of credit from a financial institute acceptable to DPWES as defined in the Public Facilities Manual. If the applicant selects either option 1 or 2A (the office with restaurant options), the escrow amount will be \$154,000. If the applicant selects Option 2B (the office and the hotel option), the escrow amount will be \$296,000. This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of certification, by the U.S. Green Building Council, under the most current version of the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system, Leadership in Energy and Environmental Design—Core and Shell (LEED®-CS) rating system, or other LEED rating system determined, by the U.S. Green Building Council, to be applicable to the building. The provision to the Environment and Development Review Branch of DPZ of documentation from the U.S. Green Building Council that each building has attained LEED certification will be sufficient to satisfy this commitment. If the applicant fails to provide documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification within two years of issuance of the final non-RUP for the building, the escrow will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.

31. Release of LEED Escrow.

- A. If the applicant provides to the Environment and Development Review Branch of DPZ, within two years of issuance of the final non-RUP for the building, documentation demonstrating that LEED certification for the building has not been attained but that the building has been determined by the U.S. Green Building Council to fall within three points of attainment of LEED certification, 50% of the escrow will be released to the applicant; the other 50% will be released to Fairfax County and will be posted to a fund

within the county budget supporting implementation of county environmental initiatives.

- B. If the applicant fails to provide, within two years of issuance of the final non-RUP for the building, documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification or demonstrating that the building has fallen short of certification by four points or more, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.

- C. If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, that USGBC completion of the review of the LEED certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

- D. The applicant will include, as part of the site plan submission, a statement certifying that a LEED®-accredited professional who is also a professional engineer or licensed architect is a member of the design team, and that the LEED-accredited professional is working with the team to incorporate sustainable design elements and innovative technologies into the project with a goal of having the project attain LEED certification.

- E. The applicant will include, as part of the site plan submission and building plan submission, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system, Leadership in Energy and Environmental Design—Core and Shell (LEED®-CS) rating system, or other LEED rating system determined to be applicable to the building(s) by the U.S. Green Building Council, that the applicant anticipates attaining. A professional engineer or licensed architect will provide certification statements at both the time of site plan/subdivision plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain certification of the project.

- F. Prior to approval of non-RUPs, the applicant will provide to the Environment and Development Review Branch of DPZ a letter from a

LEED®-accredited professional certifying that a green building maintenance reference manual has been prepared for use by future building occupants (including tenants of properties to be rented or leased), that this manual has been written by a LEED-accredited professional, that copies of this manual will be provided to all future building occupants and that this manual, at a minimum:

- Prior to approval of non-RUPs, the applicant will provide to the Environment and Development Review Branch of DPZ a letter from a LEED®-accredited professional certifying that a green building maintenance reference manual has been prepared for use by future building occupants (including tenants of properties to be rented or leased), that this manual has been written by a LEED-accredited professional, that copies of this manual will be provided to all future building occupants and that this manual, at a minimum:
 - provides a narrative description of each green building component, including a description of the environmental benefits of that component and including information regarding the importance of maintenance and operation in retaining the attributes of a green building;
 - provides, where applicable, product manufacturer's manuals or other instructions regarding operations and maintenance needs for each green building component, including operational practices that can enhance energy and water conservation;
 - provides, as applicable, either or both of the following: (1) a maintenance staff notification process for improperly functioning equipment; or (2) a list of local service providers that offer regularly scheduled service and maintenance contracts to assure proper performance of green building-related equipment and the structure, to include, where applicable, the HVAC system, water heating equipment, water conservation features, sealants, and caulks; and provides contact information that building occupants can use to obtain further guidance on each green building component.
- G. Prior to approval of non-RUPs, the applicant will provide an electronic copy of the manual in .pdf format to the Environment and Development Review Branch of the Department of Planning and Zoning.
- H. Prior to site plan approval, the applicant will designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

32. **Road Improvements, Signalization and Pedestrian Improvements.** All improvements to Jones Branch Drive, including construction of road improvements, signalization and pedestrian improvements shall be provided as shown on the SEA Plat at the time of site plan approval.
33. **Right of Way Dedication**
The areas shown as to be dedicated shall be dedicated in fee simple to the Board of Supervisors at time of site plan approval, or upon demand of Fairfax County or VDOT, whichever shall occur first; but no earlier than thirty (30) days of approval of this application. The area adjacent to the Jones Branch Connector which is noted as "Reserved" on the SEA Plat shall be dedicated in fee simple to the Board of Supervisors upon demand should the area be necessary for the establishment of a Circulator to serve Tysons Corner. Additional easements for sidewalks, grading and construction necessary to complete Phases 1 or 2 of the Jones Branch Connector needed within the 40 foot setback area shall be provided upon demand of Fairfax County or VDOT. In this event, a Special Exception Amendment will not be required. Any landscaping removed in conjunction with installation of improvements within said easements shall be replaced by Fairfax County and/or VDOT as necessary.
34. **TDM Program.** The following transportation demand management plan (the "TDM Plan") shall be implemented in order to encourage the use of shuttle and/or bus circulators, high-occupancy vehicle commuting modes, walking and biking all in order to reduce automobile trips generated by the proposed development:
- A. Program Manager. Prior to the issuance of the first Non-RUP for the proposed office building, an individual shall be designated by the applicant to act as the Program Manager ("PM") for the Property, whose responsibility will be to implement the TDM strategies. The duties of the PM may also be a part of other duties assigned to the individual(s). Written notice shall be provided by the applicant to the Fairfax County Department of Transportation ("FCDOT") of the appointment of the PM within ten (10) days of such appointment, and thereafter, within ten (10) days of any change in such appointment.
- B. TDM Plan. Ninety (90) days after the appointment of the PM, the TDM Plan for the property shall be submitted to FCDOT for review and approval. The TDM Plan and any amendments thereto shall include provisions for the following with respect to the proposed office building;
- i. Information Dissemination. Metro maps, schedules and forms, ridesharing and other relevant transit option information available to owners/tenants and employees shall be made available in a common area of the office building; such as a central lobby;

- ii. Ride Matching. Coordination and assistance with vanpool and carpool formation programs, ride matching services including adjacent office buildings, and established guaranteed ride home programs shall be provided to employees of the office building;
 - iii. Car Sharing Information. Information regarding the use of car sharing program(s) to tenants and employees (such as ZipCar/FlexCar) shall be made available to owners/tenants and employees in a common area of the office building;
 - iv. Subsidies. Tenants of the proposed office building shall be encouraged to offer subsidies to carpool users of HOT lanes; and,
 - v. Website. A TDM project website shall be developed and maintained by the PM that includes targeted information including multi-modal transportation information, real-time travel and transit data, the possibility of online transit pass sales or value loading and connections to supporting links.
 - vi. Restaurant Discounts. The proposed restaurant shall be encouraged to offer discounts and/of other incentives to employees of the office building who stay on-site to eat dinner or lunch.
- C. FCDOT Response. If FCDOT has not responded with any comments to the PM within sixty (60) days of receipt of the TDM Plan, the TDM Plan shall be deemed to be approved. If FCDOT responds with comments on the TDM Plan, the PM shall meet with FCDOT staff within fifteen (15) days of receipt of the County's comments. The PM shall then submit the revised TDM Plan no later than thirty (30) days after the meeting and begin implementation of the approved program.
- D. Vehicle Trip Objectives. In conjunction with Option 1 or Option 2A (493,362 gross square feet of office and 10,000 gross square feet of restaurant), the goal of the TDM Plan shall be to initially reduce the number of vehicle trips generated by the proposed office building(s) by fifteen percent (15%) in both the AM and PM peak hours from what would be projected by using methods based on ITE, 8th Edition, Trip Generation rates and/or equations (the "ITE Trip Generation Rate") for Land Use Code 710 (General Office). Therefore, the maximum trip limits for total driveway counts would be as follows:

AM PEAK HOUR TRIPS			PM PEAK HOUR TRIPS		
		580			612

If a restaurant is not constructed as part of Option 1 or 2A, the trip objectives defined above shall still apply.

In conjunction with Option 2B, the goal of the TDM Plan shall be to reduce the number of vehicle trips generated by the proposed development in both the AM and PM peak hours from what would be projected by using methods based on ITE, 8th Edition, Trip Generation rates and/or equations (the "ITE Trip Generation Rate") for Land Use Code 710 (General Office), 931 (Quality Sit-down Restaurant) and 310 (Hotel). The goal is to achieve an overall reduction of 15 percent during the AM peak hour and an overall reduction of 14 percent during the PM peak hour. These overall reductions account for both a 15 percent TDM reduction in the office component and the internal trip reductions associated with the synergy created between the office and hotel uses. Therefore, the maximum trip limits for total driveway counts under Option 2B would be as follows:

AM PEAK HOUR TRIPS			PM PEAK HOUR TRIPS		
		522			572

(The total number of trips shown includes trips generated by the office, the hotel and the restaurant)

If a restaurant is not constructed as part of Option 2B, the trip objectives defined above shall still apply.

Should a Tysons Circulator begin operation that serves this site, the TDM trip objectives shall cause a reduction of vehicle trips generated by the proposed uses in Option 1 and Option 2 by an overall twenty percent (20%) in both the AM and PM peak hours from what would be projected.

- E. Annual Trip Counts & Coordination with FCDOT. Beginning one year following issuance of the first Non-RUP for the proposed office building, trip counts shall be completed in October of each year and provided to FCDOT (the "Trip Counts"). The Trip Counts shall be conducted at the site driveways during the peak hour, as defined below, during a week without any holidays and when Fairfax County Public Schools are in session. The Trip Counts shall be compared against the maximum trip limit totals identified in this Development Condition to determine whether the trip reduction goals are met and shall be used by the PM to determine whether changes to the TDM Plan are needed to ensure that the vehicle trips are within the Vehicle Trip Objectives targeted goal. Results of the Trip Counts will be submitted to FCDOT within thirty (30) days of completing them. If the Trip Counts reveal that changes to the TDM Plan are needed, such changes shall be coordinated

between the PM and FCDOT and such changes shall be implemented and the TDM Plan shall be adjusted accordingly. The PM shall coordinate the preparation of trip counts materials and the methodology for validating the results of the Trip Counts with FCDOT at least thirty (30) days prior to completing each year's Trip Counts, and shall collect and analyze the results.

- i. Peak Hour. The relevant weekday AM or PM "peak hour" shall be that 60-minute period during which the highest volume of mainline through volumes occurs between 6:00 and 9:00 AM and 4:00 to 7:00 PM, respectively, as determined by mechanical and/or manual traffic counts along Jones Branch Drive conducted by a qualified traffic engineering firm. To determine the peak hour, the Trip Counts shall be collected beginning on a Monday at 2400 hours and continuing to the following Thursday at 2400 hours during a week when public schools are in session that does not contain a federal holiday. The methodology for determining the peak hour may be modified, in agreement between the applicant and FCDOT in order to respond to technological and/or other improvements in trip counting.
- ii. Termination. Annual Trip Counts shall be conducted unless and until it can be demonstrated to FCDOT that the maximum trip limits has been met. After the goal has been met for two (2) consecutive years, the Trip Counts will be taken every other year. If it is demonstrated that the goal has been met for two consecutive biennial trip counts, the Trip Counts shall be terminated although the TDM Program will continue.

In lieu of the Trip Counts and subject to the approval of FCDOT, surveys of employees in the office building may be used to determine compliance with TDM goals. The content and sample size of such surveys shall be approved by FCDOT. Should the survey data not provide a means to adequately determine compliance, Trip Counts as described herein, or other method acceptable to FCDOT shall be employed.

F. Remedy for Non-Attainment.

- i. TDM Remedy Fund. The purpose of the TDM Remedy Fund, as further described below, shall be to fund additional TDM strategies, which may be required if annual or biennial trip counts reveal that the Vehicle Trip Objectives described in these development conditions (the "Vehicle Trip Objectives") are not met. At site plan approval for the first building on the site the applicant shall set up a TDM Remedy Fund based on \$0.05 per square foot of office space. Funds from the TDM Remedy Fund shall be drawn on only for purposes of remedying the non-attainment of the Vehicle Trip Objectives.

- ii. Maximum Fund Contributions. Notwithstanding subparts (i) of this Development Condition, no more than Seventy-Five Thousand Dollars (\$75,000.00) shall be required of the applicant to remedy non-attainment of Vehicle Trip Objectives over the life of the TDM Plan.
 - G. Should a hotel be constructed on the property, Metro maps, schedules and forms and other relevant transit option information shall be made available in a common location, such as a central lobby. The hotel concierge shall be familiar with said information that provides alternatives to single occupancy vehicle use.
 - H. The applicant shall work with FCDOT to review/adjust the TDM goals and accompanying trip reduction thresholds associated with the Property upon implementation of circulator service to/from the site. If circulator service to/from the site becomes available, a Trip Count shall be conducted three years after the service begins in order to determine any additional reductions which could be achieved. The Trip Count will be compared to previous Trip Reduction Counts (conducted under "E" of this Condition) to determine the appropriate adjustments to the TDM goals resulting from implementation of the Circulator.
35. **Bus Shelter.** A pad for a bus shelter shall be built by the applicant in a location as determined in consultation with WMATA and FCDOT as part of site plan review. As an alternative, a pad and bus shelter may be constructed and maintained by the applicant.
36. **Bicycle Racks and Lockers.** Bicycle racks for the proposed office building shall be installed throughout the parking garage, in specific locations to be approved by FCDOT as part of site plan review (collectively, the "Bike Racks"). In conjunction with Option 1 and Option 2A, the Bike Racks shall accommodate at least seventy (70) bicycles, including fifty (50) employee bicycles and twenty (20) visitor bicycles. In addition, ten (10) bicycle lockers (the "Bike Lockers") shall be provided throughout the parking garage for employees. In conjunction with Option 2B, the Bike Racks shall accommodate at least forty-five (45) bicycles, including thirty-three (33) employee bicycles and twelve (12) visitor bicycles. In addition, six (6) Bike Lockers shall be provided throughout the parking garage for employees. The Bike Racks and the Bike Lockers shall be installed prior to the issuance of the Non-RUP for the proposed office building.
37. **Exercise and Shower Facilities.** In conjunction with Option 1 and Option 2A, an exercise and shower facility shall be installed in one of the two proposed office building(s) prior to the issuance of the Non-RUP. The exercise facility shall be a minimum of 1,000 square feet and at least four (4) showers shall be installed and made available to employees.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or

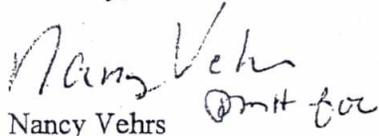
adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception Amendment shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, sixty (60) 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.

The Board also:

- Waived the front yard bulk standards for section 2-418 along all front yards to that shown on the SEA Plat
- Waived the transitional screening and barrier requirements, in favor of what is shown on the SEA Plat
- Waived the trail depicted in the Comprehensive Plan along the Dulles International Airport Access Highway/I-495
- Directed the Director of the Department of Public Works and Environmental Services to permit a deviation from the tree preservation target, as identified in the Public Facilities Manual
- Modified the loading space requirement shown on the SEA Plat

Sincerely,


Nancy Vehrs

Clerk to the Board of Supervisors
NV/ph

SEA 94-P-040
July 27, 2011

-15-

Cc: Chairman Sharon Bulova
Supervisor Lynda Smyth, Providence District
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration
Regina Coyle, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation. Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
District Planning Commissioner
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



County of Fairfax, Virginia

MEMORANDUM

DATE: December 7, 2012

TO: Suzanne Lin, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Barbara J. Lipka, Executive Director *BJL*
Planning Commission Office

SUBJECT: Planning Commission Action Re: 7940 Jones Branch Drive (SEA 94-P-040),
Site plan # 24989-SP-002-2, elevations for proposed parking garage, Providence
District

On Wednesday, December 5, 2012, the Planning Commission voted unanimously to approve the elevations submitted for the proposed structured parking garage at 7940 Jones Branch Drive, as meeting the requirements set forth in Condition #21, as approved in conjunction with SEA 94-P-040, in accordance with normal procedures.

Attached for your information is the verbatim from the Commission's action on this plan. Should you have any questions on this action, please do not hesitate to contact me at 324-2865.

Attachment (a/s)

cc: Linda Smyth, Supervisor, Providence District
Ken Lawrence, Commissioner, Providence District
Michelle Brickner, Director, Land Development Services, DPWES
Lynne Strobel, Esq., Walsh Colucci Lubeley Emrich & Walsh PC, applicant's rep.
December 5, 2012 Date File
O-6(b) File





County of Fairfax, Virginia

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

September 21, 2012

Lynne J. Strobel
Walsh, Colucci, Lubeley,
Emrich and Walsh, P.C.
2200 Clarendon Boulevard
Thirteenth Floor
Arlington, Virginia 22201

Re: Interpretation for SE 94-P-040 Gannett, Tax Map 29-2 ((15)) C1: Single User

Dear Mr. Walsh:

This is in response to your letter of August 31, 2012 (attached), requesting an interpretation of the Special Exception (SE) Plat and development conditions approved by the Board of Supervisors in conjunction with SE 94-P-040. As I understand it, the question is whether the leasing by Gannett of 90,000 square feet of non-single user floor area would be in substantial conformance with the SE Plat and development conditions.

On October 31, 1994, the Board of Supervisors approved SE 94-P-040, subject to development conditions, for an increase in building height; radio and television broadcasting facilities, microwave facilities and satellite earth stations accessory to an office building; a helistop and waiver of certain sign regulations.

SE Development Condition 4 reads as follows:

Limitation on Use and Applicant. In the event that any building on the site is not occupied by a "single user" as defined below, in addition to the requirements set forth below, prior to site plan approval, the owner/tenant of any building on the site occupied by more than a single user per building shall submit detailed site plans, landscape plans and architectural plans including, but not limited to, building footprints, architectural design, exterior façade materials and treatments and location, size and details of all proposed signage and telecommunications facilities) to the Planning Commission for review and recommendation and to the Board of Supervisors for review and approval based upon the applicable Special Exception standards contained in the Zoning Ordinance. The burden of such submission, review and approval for the applicant shall be the same as those for the review and approval process for a new special exception application. For the purpose of these development conditions, the term "single user" shall be defined as a user and its affiliates (defined as subsidiaries and other entities in

Lynne J. Strobel
Page 2

which the user has a direct or indirect interest of at least 33 1/3%) which, along with accessory uses, occupies 85% or more of a single building.

You indicate that Gannett is contemplating a lease of approximately 90,000 square feet, which together with other small leases would exceed the maximum of 15% that defines the building as occupied by a single user in accordance with the development conditions. The building will continue to be occupied as office use and no changes are proposed to the exterior of the building, landscaping, access, parking or signage. The proposed lease and existing small leases would total 165,000 square feet, which would constitute 21.5% of the total floor area (769,704 square feet) for the Gannett building.

It is my determination that the proposed leasing of 90,000 square feet of non-single user floor area would be in substantial conformance with SE 94-P-040. Further, it is my determination that to modify the use limitation specified in the SE development conditions, the submission of a special exception amendment application and its approval by the Board of Supervisors would be required. It is my understanding that such an application will be filed by September 21, 2012.

This determination has been made in my capacity as duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please feel free to contact me or Kevin Guinaw at (703) 324-1290.

Sincerely,



Barbara C. Berlin, AICP, Director
Zoning Evaluation Division, DPZ

N:\Interpretations\SE 94-P-040 Gannett.docx

Attachments: A/S

Cc: Linda Q. Smyth, Supervisor, Providence District
Kenneth A. Lawrence, Planning Commissioner, Providence District
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ken Williams, Plan Control, Land Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, ZED, DPZ
File: SE 94-P-040, SEI Action Assignment Number, Reading file, Imaging



Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@arl.thelandlawyers.com

WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

RECEIVED
Department of Planning & Zoning
SEP 04 2012
Zoning Evaluation Division

August 31, 2012

Via E-mail and Scheduled Express

Barbara C. Berlin, Director
Zoning Evaluation Division
Fairfax County Department of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Request for Interpretation of Development Conditions
SE 94-P-040
Fairfax County Tax Map Reference: 29-2 ((15)) C1 (the "Subject Property")
Applicant: Gannett Co., Inc.

Dear Ms. Berlin:

Please accept this letter as a request for an interpretation of development conditions associated with a previously approved special exception in accordance with the provisions of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The referenced special exception application was approved by the Board of Supervisors at its hearing held on October 31, 1994. The application was granted subject to sixteen (16) development conditions as listed in a letter issued by the Clerk to the Board of Supervisors dated November 11, 1994. A copy of the letter confirming the special exception approval and listing the approved development conditions is enclosed for your convenient reference.

The Applicant processed the referenced special exception application in 1994 in anticipation of relocating its corporate headquarters from Arlington County to Fairfax County. A special exception was required for specific features that the Applicant wished to incorporate into its proposed headquarters building. The special exception application and approval include four (4) specific elements: an increase in building height; radio and television broadcasting facilities, microwave facilities and satellite earth stations accessory to an office building; a helistop as an accessory use to an office building; and a waiver of certain sign regulations. At the time of the processing of the special exception application, the Applicant had not yet designed a building to be its national headquarters. As design drawings and elevations were not available, development conditions were drafted to impose limitations that would serve as quality control measures for the design and architecture. The conditions were meant to ensure that the building to be constructed on the Subject Property would be of a quality expected with a headquarters. To this end, the conditions include certain limitations on the use of the building, or

buildings, by a "single user," which is defined as a user and its affiliates which, along with accessory uses, occupies 85% or more of a single building.

Subsequent to the approval of the special exception application, the Applicant proceeded to design a signature building to meet the vision of a gateway to Tysons Corner. A site plan was approved and the building was subsequently constructed on the Subject Property. The existing building contains approximately 769,704 gross square feet, and the Applicant has continuously occupied the building since 2001. A portion of the property that was originally subject to the special exception application was later conveyed for development by others. The conveyance resulted in a subdivision and the creation of a new tax parcel referenced as 29-2 ((15)) C2. A special exception amendment referenced as SEA 94-P-040 was processed on the property identified as 29-2 ((15)) C2, and specific development conditions control that property.

As a result of the economy and a reduced workforce, the Applicant wishes to sublease a portion of its existing building. Currently, the Applicant is contemplating a lease of approximately 90,000 square feet which, together with other existing smaller leases, exceeds the maximum 15% that defines the building as occupied by a single user in accordance with the development conditions. A closer reading of development condition 4, however, reveals that the concept of a "single user" building was established only to ensure high quality design and architecture prior to construction. As detailed in the development condition, if the building is not occupied by a single user "prior to site plan approval," an additional review is required of site plans, landscape plans and architectural plans. As the building has already been constructed and occupied for more than ten (10) years, this limitation is no longer relevant or enforceable as a sublease of an existing office building does not generate the need for a site plan. The building will continue to be occupied as office use and no changes will be made to the exterior of the building or its landscaping, access or parking. In addition, as related to development condition 10, any subtenant will not be permitted to have a building mounted sign and, therefore, the provisions of development condition 10 that allows additional sign area will continue without modification. The same analysis may be applied to development condition 12 associated with communication facilities.

I would appreciate your concurrence that the limitations of development condition 4, that establishes the concept of a "single user," are no longer applicable and more than 15% of the Applicant's existing building may be sublet. As there are no modifications proposed to the existing building or the Subject Property, this request is for an interpretation of development conditions only and not for minor modifications. The existing building and all of its physical features will remain unchanged. I have also enclosed a copy of the approved special exception plat submitted in conjunction with the referenced special exception. The lack of detail on the special exception plat is further evidence that the development conditions were drafted to ensure quality standards. As illustrated on Sheets 3 and 4 of the special exception plat, only a building envelope was shown as controlled by a 14 degree view angle. Given the lack of specificity on the approved special exception plat, it becomes clear why the limitations of the development conditions associated with a single user were imposed.

In accordance with the requirements of the Zoning Ordinance, I have enclosed a check in the amount of \$520.00 payable to Fairfax County that represents the filing fee for interpretation requests. I have also enclosed two (2) copies of this request with the enclosures pursuant to your policy. Should you have any questions regarding this request, please do not hesitate to contact me. As the Applicant is currently working with a potential tenant, I would appreciate a response at your earliest convenience. As always, I appreciate your consideration.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.



Lynne J. Strobel

LJS/kae

Enclosures

cc: Kevin Guinaw (w/encls.)
Todd Mayman
Martin D. Walsh



Lynne J. Strobel
 (703) 528-4700 Ext. 5418
lstrobel@arl.thelandlawyers.com

WALSH COLUCCI
 LUBELEY EMRICH
 & WALSH PC

September 21, 2012

RECEIVED
 Department of Planning & Zoning
 SEP 24 2012
 Zoning Evaluation Division

Via Hand Delivery

Barbara C. Berlin, Director
 Zoning Evaluation Division
 Fairfax County Department of Planning & Zoning
 12055 Government Center Parkway, Suite 801
 Fairfax, Virginia 22035

Re: Proposed Special Exception Amendment Application (SEA 94-P-040-02)
 Modification of Submission Requirements
 Fairfax County Tax Map Reference: 29-2 ((15)) C1 (the "Subject Property")
 Applicant: Gannett Co., Inc.

Dear Ms. Berlin:

Please accept this letter as a request to modify the submission requirements of Section 9-011 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The requirements of Section 9-011 of the Zoning Ordinance include the submission of 23 copies and a reduction of a special exception plat that contains specific information as outlined in the Zoning Ordinance. However, the Zoning Administrator may waive or modify the requirement if it is determined that the submission of a plat is not necessary for the review of the application.

The Applicant is the owner of the Subject Property, that has been developed with an office building, parking structure, landscaping and related improvements. The improvements were constructed in accordance with a special exception referenced as SE 94-P-040. The development conditions impose several limitations associated with the occupancy of the building located on the Subject Property. The Applicant has submitted an amendment to the special exception to modify these development conditions. The proposed modifications have no impact on the existing improvements, and no physical changes are proposed to the office building, parking structure, landscaping, access, parking or any aspect of the Subject Property as developed.

As there are no site modifications, no proposed modifications to existing improvements, and no changes to the use of the Subject Property, a special exception plat in accordance with the strict requirements of Section 9-011 is not necessary for the review the special exception amendment application. As the application is solely based on proposed modifications to development conditions, I hereby request that the requirement for a special exception plat be waived in its entirety.

Page 2

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me. I would appreciate a response at your earliest convenience as the special exception amendment application has been submitted concurrently with this request. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

A handwritten signature in cursive script, appearing to read "Lynne J. Strobel".

Lynne J. Strobel

LJS/kae

cc: Kevin Guinaw
Todd Mayman
Martin D. Walsh

{A0533167.DOCX / 1 Berlin ltr re: modification of submission requirements 002544 000005}



County of Fairfax, Virginia

MEMORANDUM

DATE: November 20, 2012

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

FROM: Angela Kadar Rodeheaver, Chief
Site Analysis Section, DOT

FILE: 3-5(SEA 94-P-040-02)

SUBJECT: SEA 94-P-040-02; Gannett Co., Inc.
Land Identification Map: 29-2 ((15)) C1

This department has reviewed the SEA application, received October 10, 2012, to modify the development conditions approved with SE 94-P-040. We have the following comments:

- FCDOT is concerned that the elimination of "single user" will result in the opportunity for higher trip generating uses to be established. It is our understanding that the current zoning category will not allow retail and restaurant uses by-right. This should be confirmed and if they are not precluded, it is recommended that a condition be included requiring the submittal of a Special Exception application.
- If a signal is installed at the intersection of Jones Branch Drive and Westbranch Drive, the Applicant should encourage employees to use the eastern garage access to prevent left lane queue on Jones Branch Drive into the western garage access.

AKR/AY

COMMERCIAL DISTRICT REGULATIONS

PART 3 4-300 C-3 OFFICE DISTRICT**4-301 Purpose and Intent**

The C-3 District is established to provide areas where predominantly non-retail commercial uses may be located such as offices and financial institutions; and otherwise to implement the stated purpose and intent of this Ordinance.

4-302 Permitted Uses

1. Accessory uses and accessory service uses as permitted by Article 10.
2. Churches, chapels, temples, synagogues and other such places of worship.
3. Commercial swimming pools, tennis courts and similar courts, indoor.
4. Cultural centers, museums.
5. Eating establishments, limited by the provisions of Sect. 305 below.
6. Financial institutions.
7. Funeral homes.
8. Health clubs.
9. Mobile and land based telecommunication facilities, subject to the provisions of Sect. 2-514.
10. New vehicle storage, limited by the provisions of Sect. 305.
11. Nursery schools and child care centers.
12. Offices, to include the display and sales of scientific, electronic or medical equipment of a type not customarily retailed to the general public.
13. Private schools of general education, private schools of special education.
14. Public uses.
15. Quasi-public athletic fields and related facilities, limited by the provisions of Sect. 305 below.
16. Telecommunication facilities.

4-303 Special Permit Uses

For specific Group uses, regulations and standards, refer to Article 8.

1. Group 4 - Community Uses, limited to:

FAIRFAX COUNTY ZONING ORDINANCE

- A. Swimming clubs and tennis clubs/courts
2. Group 5 - Commercial Recreation Uses, limited to:
 - A. Bowling alleys
 - B. Commercial swimming pools, tennis courts and similar courts, outdoor
 - C. Indoor archery ranges, fencing and other similar indoor recreational uses
 - D. Miniature golf courses, indoor
 - E. Skating facilities, indoor
3. Group 7 - Older Structures, limited to:
 - A. Restaurants
 - B. Rooming houses
4. Group 8 - Temporary Uses.

4-304

Special Exception Uses

For specific Category uses, regulations and standards, refer to Article 9.

1. Category 1 - Light Public Utility Uses.
2. Category 3 - Quasi-Public Uses, limited to:
 - A. Colleges, universities
 - B. Conference centers and retreat houses, operated by a religious or nonprofit organization
 - C. Congregate living facilities
 - D. Independent living facilities
 - E. Medical care facilities
 - F. Private clubs and public benefit associations
 - G. Quasi-public parks, playgrounds, athletic fields and related facilities
 - H. Alternate uses of public facilities
 - I. Dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls

COMMERCIAL DISTRICT REGULATIONS

3. Category 4 - Transportation Facilities, limited to:
 - A. Electrically-powered regional rail transit facilities
 - B. Helistops
 - C. Regional non-rail transit facilities
4. Category 5 - Commercial and Industrial Uses of Special Impact, limited to:
 - A. Commercial off-street parking in Metro Station areas as a temporary use
 - B. Drive-in financial institutions
 - C. Eating establishments
 - D. Establishments for scientific research and development to include assembly, integration and testing of experimental prototype products as an incidental use
 - E. Golf courses, country clubs
 - F. Hotels, motels
 - G. Parking, commercial off-street, as a principal use
 - H. Service stations
 - I. Theaters
 - J. Vehicle sale, rental and ancillary service establishments, limited by the provisions of Sect. 9-518

4-305

Use Limitations

1. All business, service, storage, and display of goods shall be conducted within a completely enclosed building, except outdoor seating provided in association with an eating establishment, those permitted uses, accessory uses set forth in Part 1 of Article 10, and special permit and special exception uses which by their nature must be conducted outside a building.
2. Nursery schools and child care centers shall be subject to the standards set forth in Sect. 9-309.
3. All refuse shall be contained in completely enclosed facilities.
4. All uses shall comply with the performance standards set forth in Article 14.
5. Eating establishments shall be permitted by right only when such use is located in a building which has a gross floor area of at least 100,000 square feet and is designed to contain at least one or more other uses permitted by right. Eating establishments which

FAIRFAX COUNTY ZONING ORDINANCE

do not meet these limitations may be allowed by special exception in accordance with the provisions of Article 9.

6. Quasi-public athletic fields and related facilities shall be permitted by right in accordance with the following:
 - A. Such use is not specifically precluded or regulated by any applicable proffered condition, development condition, special permit or special exception condition;
 - B. Such use shall be permitted on an interim basis for a period not to exceed five (5) years, provided, however, that upon request by the property owner, subsequent extensions of up to five (5) years each may be approved by the Board;
 - C. No structure or field shall be located within 100 feet of any adjoining property which is in an R district;
 - D. The use of lighting or loudspeakers for the athletic field or facility shall not be permitted;
 - E. Notwithstanding the provisions of Article 13, transitional screening shall not be required unless determined necessary by the Director;
 - F. Parking to accommodate such use shall be provided on-site. In the event such use is to be located on-site with another use, the Director may allow existing off-street parking to serve such use provided the hours of operation of the two uses do not coincide; and
 - G. There shall be sign which identifies the athletic field as an interim use of the site. No such sign shall exceed thirty-two (32) square feet in area or be less than ten (10) square feet in area, exceed eight (8) feet in height or be located closer than five (5) feet to any street line.
7. New vehicle storage shall be permitted by right in accordance with the following:
 - A. When located within a parking structure that is accessory to another use, and provided that the spaces devoted to a new vehicle storage are in excess of the minimum number of off-street parking spaces required in accordance with Article 11 for the use to which the structure is accessory. The owner shall submit a parking tabulation in accordance with Article 17 that demonstrates that such excess parking spaces are available for new vehicle storage.
 - B. The layout of the new vehicle storage shall not hinder the internal vehicle circulation within the parking structure, and there shall be no mechanical parking lift devices or fencing associated with the new vehicle storage.
 - C. There shall be no signs identifying the use and/or the associated vehicle, sale, rental and ancillary service establishment.
 - D. Notwithstanding the provisions of Article 13, transitional screening shall not be required.

COMMERCIAL DISTRICT REGULATIONS

4-306 Lot Size Requirements

1. Minimum lot area: 20,000 sq. ft.
2. Minimum lot width: 100 feet
3. The minimum lot size requirements presented in Par. 1 and 2 above may be waived by the Board in accordance with the provisions of Sect. 9-610.

4-307 Bulk Regulations

1. Maximum building height: 90 feet, subject to increase as may be permitted by the Board in accordance with the provisions of Sect. 9-607
2. Minimum yard requirements
 - A. Front yard: Controlled by a 25° angle of bulk plane, but not less than 40 feet
 - B. Side yard: No Requirement
 - C. Rear yard: Controlled by a 20° angle of bulk plane, but not less than 25 feet
3. Maximum floor area ratio: 1.00
4. Refer to Sect. 13-301 for provisions that may qualify the minimum yard requirements set forth above.

4-308 Open Space

15% of the gross area shall be landscaped open space

4-309 Additional Regulations

1. Refer to Article 2, General Regulations, for provisions which may qualify or supplement the regulations presented above.
2. Refer to Article 11 for off-street parking, loading and private street requirements.
3. Refer to Article 12 for regulations on signs.
4. Refer to Article 13 for landscaping and screening requirements.
5. Refer to Article 17 for uses and developments which are subject to site plan provisions.

ARTICLE 10

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

PART 1 10-100 ACCESSORY USES AND STRUCTURES

10-101 Authorization

Accessory uses and structures are permitted in any zoning district, unless qualified below, but only in connection with, incidental to, and on the same lot with a principal use or structure which is permitted within such district.

10-102 Permitted Accessory Uses

Accessory uses and structures shall include, but are not limited to, the following uses and structures; provided that such use or structure shall be in accordance with the definition of Accessory Use contained in Article 20.

1. Amusement machines, but only accessory to eating establishments, motels, hotels, bowling alleys, skating facilities, and establishments for billiards, ping pong, indoor archery, and other indoor games of skill, and retail sales establishments with greater than 5000 square feet of floor area open to the general public.
2. Antenna structures.
3. Barns and any other structures that are customarily incidental to an agricultural use, but only in the R-A through R-1 Districts on a tract of land not less than five (5) acres; provided, however, a stable or other structure for livestock or domestic fowl may be permitted on a lot of less than five (5) acres where such livestock or domestic fowl are kept in accordance with the provisions of Sect. 2-512 or Sect. 8-917. In no instance shall such structures be used for retail sales except as may be permitted for a plant nursery by the provisions of Part 5 of Article 9.
4. Carports.
5. Child's playhouse, not to exceed 100 square feet in gross floor area, and child's play equipment.
6. Doghouses, runs, pens, rabbit hutches, cages, and other similar structures for the housing of commonly accepted pets, but not including kennels as defined in Article 20.
7. Fallout shelters.
8. Garages, private.
9. Garage and yard sales, in R districts, shall be permitted not more than twice in any one calendar year and shall be limited to items not specifically purchased for resale.
10. Gardening and composting.

FAIRFAX COUNTY ZONING ORDINANCE

11. Guest house or rooms for guests in an accessory structure, but only in the R-A through R-E Districts, and provided such house is without kitchen facilities and is used for the occasional housing of guests of the occupants of the principal structure, and not as rental units or for permanent occupancy as housekeeping units.
12. Home child care facilities.
13. Inoperative motor vehicles, as defined in Chapter 110 of The Code, provided such vehicles are kept within a fully enclosed building or structure or are kept completely screened or shielded from view in accordance with Chapter 110 of The Code.
14. Motor vehicle fuel storage tanks in the C and I districts and in R districts when accessory to a use other than a dwelling.
15. Parking and loading spaces, off-street, as regulated by Article 11.
16. Parking of one (1) commercial vehicle per dwelling unit in an R district subject to the following limitations:
 - A. No solid waste collection vehicle, tractor and/or trailer of a tractor-trailer truck, dump truck, construction equipment, cement-mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district.
 - B. Any commercial vehicle parked in an R district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.
17. Porches, gazebos, belvederes and similar structures.
18. Quarters of a caretaker, watchman or tenant farmer, and his family, but only in the R-A through R-E Districts on a parcel of twenty (20) acres or more.
19. Recreation, storage and service structures in a mobile home park.
20. Residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel.
21. Servants quarters, but only in the R-A through R-4 Districts on a lot of two (2) acres or more. Servants quarters located in a structure detached from the principal dwelling shall comply with the applicable zoning district bulk regulations for single family dwellings.
22. Signs, as permitted by Article 12.
23. Statues, arbors, trellises, clotheslines, barbeque stoves, flagpoles, fences, walls and hedges, gates and gateposts, and basketball standards to include rim, net and backboard.
24. Storage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling.

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

and the total area for such outdoor storage does not occupy more than 100 square feet. In C or I districts, where permitted by zoning district regulations and Sect. 2-504, outdoor storage, junk, scrap and refuse piles shall be limited to that area designated on an approved site plan, except that 250 square feet of accessory outdoor storage and display in accordance with Sect. 17-104 may be permitted without site plan approval.

25. Storage structure, incidental to a permitted use, provided no such structure that is accessory to a single family detached or attached dwelling in the R-2 through R-20 Districts shall exceed 200 square feet in gross floor area.
26. Swimming pool and bathhouse, private.
27. Temporary portable storage containers shall be allowed in any yard on lots containing a dwelling, subject to all of the following:
 - A. On lots developed with single family detached dwellings:
 - (1) Temporary portable storage containers shall be permitted on a lot containing 36,000 square feet or less for a period not to exceed 30 consecutive days within a 6 month period. On lots that are greater than 36,000 square feet, temporary portable storage containers shall be permitted for a period not to exceed 60 consecutive days within a 6 month period. However, in cases where a dwelling unit has been damaged by casualty, a temporary portable storage container may be allowed for longer time periods than indicated above in accordance with Part 8 of Article 8.
 - (2) Temporary portable storage containers shall not exceed a cumulative gross floor area of 130 square feet.
 - B. On lots developed with single family attached or multiple family dwellings:
 - (1) Temporary portable storage containers shall be permitted for a period not to exceed seven (7) consecutive days within a six (6) month period, however, in cases where a dwelling has been damaged by casualty, a longer period may be permitted in accordance with Part 8 of Article 8.
 - (2) Temporary portable storage containers shall not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.
 - C. Temporary portable storage containers shall not exceed eight and one-half (8½) feet in height.
 - D. Temporary portable storage containers shall not be located in any required open space, landscaped area, on any street, sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation, and shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection. Such containers shall also be subject to the sight distance provisions of Sect. 2-505.

FAIRFAX COUNTY ZONING ORDINANCE

- E. Signage on temporary portable storage containers shall be in accordance with Par. 2S of Sect. 12-103.
- 28. Tennis, basketball or volleyball court, and other similar private outdoor recreation uses.
- 29. Wayside stands, but subject to the following limitations:
 - A. Shall be permitted only in the R-A through R-4 Districts, on a lot containing at least two (2) acres.
 - B. Structures shall not exceed 400 square feet in gross floor area.
 - C. Shall be permitted only during crop-growing season, and such structures shall be removed except during such season.
 - D. Shall be for the expressed purpose of sale of agricultural products grown on the same property, or the sale of products of approved home occupations conducted on the same property. For the purpose of this Ordinance, plants which are balled, burlapped and bedded shall not be considered as growing on the same property.
 - E. Shall not be subject to the location requirements set forth in Sect. 104 below, but shall be located a minimum distance of twenty-five (25) feet from any lot line.
 - F. Shall be located so as to provide for adequate off-street parking spaces and safe ingress and egress to the adjacent street.
 - G. Notwithstanding the provisions of Article 12, a wayside stand may have one (1) building-mounted sign, mounted flush against the stand, which does not exceed ten (10) square feet in area.
- 30. The keeping of animals in accordance with the provisions of Sect. 2-512.

10-103

Use Limitations

- 1. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- 2. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.
- 3. All uses and structures accessory to single family detached dwellings, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the area of the minimum required rear yard.
- 4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect. 10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure.

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

5. The following use limitations shall apply to fences:
 - A. Barbed wire fences are prohibited in all zoning districts except on lots exceeding two (2) acres or more in size in the R-A through R-1 Districts. Barbed wire strands may be used to enclose storage areas, other similar industrial or commercial uses or swimming pools where the strands are restricted to the uppermost portion of the fence and do not extend lower than a height of six (6) feet from the nearest ground level.
 - B. It shall be unlawful for any person to construct, install, maintain, or allow or cause to be constructed, installed, or maintained, an electric fence upon any lot of two (2) acres or less in area, located within a subdivision as defined in Chapter 101 of The Code, The Subdivision Ordinance.
6. The following use limitations shall apply to home child care facilities:
 - A. The maximum number of children permitted at any one time shall be as follows:
 - (1) Seven (7) when such facility is located in a single family detached dwelling.
 - (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.
 - B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation.
 - C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.
 - D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
 - E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.
 - F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

FAIRFAX COUNTY ZONING ORDINANCE

- G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

10-104

Location Regulations

1. If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building, except as qualified in Sect. 2-412.
2. The required minimum yards referenced in this Section shall refer to the minimum yards in the applicable zoning district for the principal building(s) with which the accessory-type building is associated.
3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.
 - A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.
 - B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:
 - (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and
 - (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.
 - C. In any side or rear yard on any lot, a fence or wall not exceeding seven (7) feet in height is permitted. However, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, is permitted:
 - (1) In any side or rear yard of a reverse frontage lot; or

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

- (2) For that portion of a side or rear yard of a residential lot where the side or rear lot line is within 150 feet of a major thoroughfare and abuts common or dedicated open space, where such open space is located between the lot line and the major thoroughfare.
- D. In any yard of an industrial use permitted by the provisions of this Ordinance, a fence or wall not exceeding eight (8) feet in height is permitted.
 - E. Notwithstanding the above provisions, a fence or wall which is an integral part of any accessory use, such as a tennis court or swimming pool, shall be subject to the location regulations of Par. 12 below. However, a modification to the location regulations may be permitted with approval of a special permit by the BZA in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a rezoning or a special exception in accordance with Part 6 of Article 9 for containment structures associated with outdoor recreation/sports facility playing fields/courts and golf courses that are not constructed in association with a privately used playing field/court on a lot containing a single family dwelling.
 - F. In addition, for noise barriers which reduce adverse impacts of highway noise on properties located adjacent to major thoroughfares, or which reduce noise impacts of commercial and industrial uses on adjacent properties, an increase in height and/or modification to the corresponding location regulations set forth above may be permitted with approval of a special permit by the Board of Zoning Appeals in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a proffered rezoning or a special exception in accordance with the following:
 - (1) A noise impact study shall be submitted with the application. The study shall demonstrate the need for such a barrier and the level of mitigation to be achieved, and shall include the height of the barrier, the proposed location of the barrier on the property, the acoustical design and structural features of the barrier, the type of building materials to be used in construction of the barrier and the proposed measures to mitigate any visual impacts of the barrier on adjacent property, to include the location and design of the barrier, use of berming and landscaping.
 - (2) The Board shall determine that the proposed height and location of the noise barrier are necessary in order to achieve mitigation of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties.
 - (3) Before establishment, the noise barrier shall be subject to the provisions of Article 17, Site Plans or other appropriate submission as determined by the Director.
 - G. Notwithstanding the above, a fence or wall which is to be provided in conjunction with a public use may be of such height and location as approved by the Board.

FAIRFAX COUNTY ZONING ORDINANCE

- H. In addition, the Board may approve in conjunction with a proffered rezoning or a special exception for another use, or the BZA in conjunction with a special permit for another use, an increase in fence and/or wall height and/or modification to the corresponding location regulations set forth above, and/or an increase in gate and/or gate post height and/or modification to the corresponding location regulations set forth in Par. 4 of Sect. 10-104 below in accordance with the following:
- (1) In order to show the visual impact of the fence, wall, gate and/or gate post on nearby properties, the height, location, color and materials of the proposed fence, wall, gate and/or gate post and any associated berming or landscaping shall be submitted with the application.
 - (2) The Board/BZA shall determine that the proposed fence, wall, gate and/or gate post is in character with the existing development on the site, is harmonious with the surrounding development, and will not adversely impact the use and/or enjoyment of any nearby property. The Board/BZA may impose such conditions as it deems necessary to satisfy this criteria.
- I. Notwithstanding the above, the Zoning Administrator shall have the authority to approve up to a five (5) percent increase in fence and/or wall height for an existing fence and/or wall in any yard which does not comply with the requirements set forth above. This provision shall not be applicable to such fences and/or walls that are subject to height increases pursuant to Sect. 8-923. Such an increase may be approved by the Zoning Administrator in accordance with all of the following:
- (1) The sight distance requirements of Sect. 2-505 shall be met.
 - (2) The increase in fence and/or wall height is due to variations in topography on the site or of the fence materials.
 - (3) Any existing noncompliance was done in good faith and through no fault of the property owner.
 - (4) Such fence and/or wall height increase shall not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.
 - (5) All such requests shall be accompanied by illustrations supporting the need for the height increase and identifying the location(s) for which the relief is sought.
- J. Notwithstanding the above provisions, posts, not wider than six (6) inches by six (6) inches, finials, post caps, lighting fixtures, or similar decorative features as determined by the Zoning Administrator, may exceed the maximum height of any fence and/or wall by not more than nine (9) inches provided such features are spaced an average distance of not less than six (6) feet apart and a minimum distance of not less than three (3) feet apart. In addition, all other applicable provisions of this Ordinance shall be met, including the outdoor lighting provisions of Part 9 of Article 14.

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

4. Trellises, gates and gate posts may be located within any required minimum front yard as follows:
 - A. Two (2) trellises, not to exceed eight (8) feet in height nor four (4) feet in width.
 - B. Four (4) gate posts without limit as to height or width.
 - C. Two (2) gates not to exceed eight (8) feet in height.
 - D. Gates and gate posts exceeding four (4) feet in height shall not exceed in maximum width fifteen (15) percent of the lot width.
5. Ground-supported antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may be permitted in any R district as follows:
 - A. Structures seventy-five (75) feet or less in height shall not be located closer to any lot line than a distance equal to one-fifth (1/5) of their height.
 - B. Structures greater than seventy-five (75) feet in height shall not be located closer to any lot line than a distance equal to their height.
6. Off-street parking and loading spaces shall be located in accordance with the provisions of Article 11.
7. Signs shall be located in accordance with the provisions of Article 12.
8. Wayside stands shall be located in accordance with the provisions of Par. 28 of Sect. 102 above.
9. The following regulations shall apply to the location of structures for the housing of animals:
 - A. Barns and other structures used in connection with agriculture, to include structures for the keeping, confining or sheltering of any poultry or livestock, except horses and ponies, shall be located no closer than 100 feet to any lot line. Additional provisions governing the location of hog pens are set forth in Chapter 41.1 of The Code.
 - B. Barns and other structures used for the confining or sheltering of livestock and domestic fowl, as permitted by the provisions of Sect. 2-512, shall be located no closer than fifty (50) feet to any lot line; provided, however, that any such structure used for the confining or sheltering of horses and ponies as permitted by Sect. 2-512 or in connection with agriculture shall be located no closer than forty (40) feet to any front or side lot line nor closer than twenty (20) feet to a rear lot line.
 - C. Cages, lofts, hives, pens and other structures which are seven (7) feet or less in height and which are used for the keeping of homing, racing, or exhibition (fancy) pigeons or honeybees shall be located no closer than three (3) feet to any lot line.

FAIRFAX COUNTY ZONING ORDINANCE

Any such structure which exceeds seven (7) feet in height shall be located in accordance with the provisions set forth in Par. 12 below.

- D. Doghouses, runs, pens, rabbit hutches, cages and other similar structures for the housing of dogs and other commonly accepted pets shall be located in accordance with the provisions set forth in Par. 12 below, except in no instance shall a structure, run or pen for three (3) or more dogs be located closer than twenty-five (25) feet to any lot line.

The BZA may approve a modification to the location regulations set forth in this Paragraph in accordance with the provisions of Part 9 of Article 8.

- 10. The following regulations shall apply to the location of freestanding accessory storage structures:
 - A. For purposes of determining height, the height of an accessory storage structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
 - B. An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.
 - C. An accessory storage structure which does not exceed eight and one-half (8 ½) feet in height may be located in any part of any side yard or rear yard, except as qualified in Sect. 2-505.
 - D. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located in any part of any minimum required side yard.
 - E. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
 - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located:
 - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
 - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
- 11. Solid waste and recycling storage containers may be located in any yard, provided that any container located in a minimum front yard shall be located no closer than fifteen (15) feet to a front lot line and shall be screened from view from the abutting street by either plantings or solid fencing. Notwithstanding the provisions of Par. 3 above, the maximum height of such solid fencing shall not exceed one (1) foot above the solid waste and

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

recycling storage containers. In addition, no containers shall be located in any required parking space, driveway, parking aisle, open space or landscaped area.

12. The following regulations shall apply to the location of all freestanding structures or uses except those specifically set forth in other paragraphs of this Section:
 - A. For purposes of determining height, the height of an accessory structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
 - B. An accessory structure or use, which does not exceed seven (7) feet in height, may be located in any part of any side or rear yard, except as qualified in Sect. 2-505.
 - C. No accessory structure or use, except a statue, basketball standard or flagpole, shall be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line and twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM.
 - D. No accessory structure or use which exceeds seven (7) feet in height shall be located in any minimum required side yard.
 - E. No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
 - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:
 - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
 - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
13. Except as may be qualified by Sect. 2-505, conventional television antennas and satellite dish antennas designed to receive television or video programming with a diameter or diagonal measurement of 39 inches (one meter) or less shall be permitted in any yard on any lot.
14. Except for lighting fixtures mounted on poles that are associated with outdoor recreation/sports facilities playing fields/courts and as noted below, the mounting height of lighting fixtures on light poles shall not exceed a maximum height of forty (40) feet as measured from the ground level or the surface on which the light pole is mounted to the bottom of the lighting fixture. Light poles mounted on the top of parking decks or parking structures shall not exceed a maximum height of twenty (20) feet as measured from the top of the pole to the surface on which the pole is mounted. Light poles shall be located in accordance with the following:

FAIRFAX COUNTY ZONING ORDINANCE

- A. On lots developed with single family dwellings:
 - (1) Light poles that are no greater than seven (7) feet in height may be located in any yard;
 - (2) Light poles that exceed seven (7) feet in height shall be subject to the location regulations of Paragraphs 12C, 12D, 12E and 12F above.
- B. On all other lots:
 - (1) Light poles that do not exceed seven (7) feet in height may be located in any yard;
 - (2) Light poles greater than seven (7) feet in height shall be subject to the minimum yard requirements, with the exception of angle of bulk plane, of the zoning district in which located.

The above locational provisions shall not be applicable to parking lot light poles, which may be located in any yard. All light poles, to include parking lot light poles, shall be subject to the provisions of Part 9 of Article 14.

- 15. Temporary portable storage containers shall be located in accordance with the provisions of Sect. 102 above.

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

FAIRFAX COUNTY ZONING ORDINANCE

PART 2 10-200 ACCESSORY SERVICE USES

10-201 Authorization

Accessory service uses, as defined in Article 20, are permitted in connection with certain principal uses as set forth below when expressly authorized in the zoning district regulations.

10-202 Permitted Accessory Service Uses

Accessory service uses shall include, but are not limited to, the following uses; provided that such use shall be in accordance with the definition of Accessory Service Use contained in Article 20.

1. Accessory to a principal use of multiple family dwellings in the R-12, R-16, R-20, R-30 and in the PDH, PDC and PRC Districts when such dwelling or dwelling complex has a minimum of 250 dwelling units:
 - A. Eating establishments.
 - B. Child care centers.
 - C. Garment cleaning establishments.
 - D. Personal service establishments.
 - E. Quick-service food stores.
 - F. Retail sales establishments selling convenience merchandise.
2. Accessory to a principal use of offices, industrial establishments, or institutional buildings in the C-1, C-2, C-3, C-4, I-1, I-2, I-3, I-4, I-5 and I-6 Districts:
 - A. Business service and supply service establishments.
 - B. Child care centers.
 - C. Eating establishments.
 - D. Garment cleaning establishments.
 - E. Health clubs, spas, sauna and steam baths, swimming pools, tennis courts and other such similar facilities.
 - F. Personal service establishments.
 - G. Prescription establishments and the selling of pharmaceutical supplies.
 - H. Quick-service food stores, limited to the C-3, C-4 and I-4 Districts.

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

- I. A dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use.
 - J. Repair service establishments.
 - K. Retail sales establishments selling convenience merchandise.
3. Accessory to a principal use of offices or industrial establishments in the I-5 and I-6 Districts, in addition to the uses set forth in Par. 2 above:
- A. Drive-in financial institutions.
 - B. Fast food restaurants.
 - C. Quick-service food stores.

10-203 Use Limitations

In addition to the use limitations applicable in the zoning district in which located, all accessory service uses shall be subject to the following use limitations:

- 1. Accessory service uses shall be oriented to cater primarily to the residents or employees of the principal use with which they are associated.
- 2. With the exception of those uses set forth in Par. 3 and 4 below, all accessory service uses shall be located in the same building as the principal use.
- 3. Accessory service uses in the C-4 District may be located in a freestanding building separate from the principal use, and an eating establishment in the I-1 through I-5 Districts may also be located in a freestanding building; but such freestanding buildings shall be allowed only in those locations shown on an approved development plan or site plan for an office facility or industrial park.
Those accessory service uses set forth in Par. 2E of Sect. 202 above, which by their nature must be conducted outside a building, shall be located on the same lot as the principal use.
- 4. Drive-in financial institutions, fast food restaurants and quick-service food stores in the I-5 and I-6 Districts may be located in a freestanding building; provided, however, that such uses shall not have frontage or direct access to a street defined in the adopted comprehensive plan as a major or minor arterial, and such uses shall be an integral design element of a site plan for an industrial building or building complex containing not less than 30,000 square feet of gross floor area.
- 5. The aggregate gross floor area of all accessory service uses shall not exceed fifteen (15) percent of the total gross floor area of the multiple family dwelling development, office or industrial building or park, as shown on a site plan.
- 6. No accessory service use shall be located above the second floor of the building in which located, with the exception of:

FAIRFAX COUNTY ZONING ORDINANCE

- A. The residence of a proprietor or owner, which may be located on any floor.
- B. An eating establishment which may be located in a rooftop penthouse.
- 7. Signs for accessory service uses shall be regulated by the provisions of Article 12.
- 8. For child care centers that are accessory to a principal use of multiple family dwellings, the following use limitations shall apply:
 - A. The child care center may be located within common areas of the building or development such as party rooms or club houses, but in no event shall the use be located within individual dwelling units.
 - B. Enrollment shall be limited to children who live in the building or complex where the child care center is located. The maximum daily enrollment shall not exceed 99 children.
 - C. In addition to the usable outdoor recreation space requirements of Chapter 30 of The Code or usable outdoor recreation space requirements promulgated pursuant to Title 63.2, Chapter 17 of the Code of Virginia, whichever is applicable, usable outdoor recreation space shall be limited to:
 - (1) That area not covered by buildings or required off-street parking spaces.
 - (2) That area outside the limits of the minimum required front yard.
 - (3) Only that area which is developable for active outdoor recreation purposes.
 - D. Such use shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

ZONING ORDINANCE PROVISIONS

9-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.

9-104 Standards for all Category 1 Uses

1. In addition to the general standards set forth in Sect. 006 above, all Category 1 special exception uses shall satisfy the following standards:
 1. Category 1 special exception uses shall not have to comply with the lot size requirements or the bulk regulations set forth for the zoning district in which located.
 2. No land or building in any district other than the I-5 and I-6 District shall be used for the storage of materials or equipment, or for the repair or servicing of vehicles or equipment, or for the parking of vehicles except those needed by employees connected with the operation of the immediate facility.
 3. If the proposed location of a Category 1 use is in an R district, there shall be a finding that there is no alternative site available for such use in a C or I district within 500 feet of the proposed location; except that in the case of electric

transformer stations and telecommunication central offices, there shall be a finding that there is no alternative site available in a C or I district within a distance of one (1) mile, unless there is a substantial showing that it is impossible for satisfactory service to be rendered from an available location in such C or I district.

4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

9-404 Standards for all Category 4 Uses

In addition to the general standards set forth in Sect. 006 above, all Category 4 special exception uses shall satisfy the following standards:

1. Except for electrically-powered regional rail transit facilities, as further qualified in Sect. 405 below, all buildings and structures shall comply with the bulk regulations of the zoning district in which located.
2. Any rooftop surface or touchdown pad which will be utilized as an elevated helistop shall be designed and erected in a manner sufficient to withstand the anticipated additional stress.
3. Except in the I-6 District, all maintenance, repair and mechanical work, except that of an emergency nature, shall be performed in enclosed buildings.
4. All facilities shall be so located and so designed that the operation thereof will not seriously affect adjacent residential areas, particularly with respect to noise levels.
5. Except for elevated helistops, no area used by aircraft under its own power shall be located within a distance of 200 feet from any lot line. Elevated helistops shall be located in accordance with the bulk regulations of the zoning district in which located.
6. All areas used by aircraft under its own power shall be provided with an all-weather, dustless surface.
7. Except for elevated helistops, all areas used by aircraft under its own power shall be surrounded by a chain link fence, not less than six (6) feet in height, with suitable gates to effectively control access to such areas. Access to the landing area of an elevated helistop shall be through limited access points.
8. Before establishment, all uses, including modifications or alterations to existing uses, except regional non-rail transit facilities and electrically-powered regional rail transit facilities operated by WMATA, shall be subject to the provisions of Article 17, Site Plans. Regional non-rail transit facilities and electrically-powered regional rail transit facilities operated by WMATA shall be established in conformance with the provisions of the agreement between WMATA and the County.

9-607 Provisions for Approving an Increase in Building Heights

As set forth in the C-3, C-4, C-6, C-7, C-8, C-9, I-1, I-2, I-3, I-4, I-5, I-6 and Sully Historic Overlay Districts, and as applicable to all Group 3, Institutional Uses and Category 3, Quasi-Public Uses, the Board may approve a special exception for an increase in height

above the maximum building height regulations specified for the zoning district or a given use, but only in accordance with the following provisions:

1. An increase in height may be approved only where such will be in harmony with the policies embodied in the adopted comprehensive plan.
2. An increase in height may be approved only in those locations where the resultant height will not be detrimental to the character and development of adjacent lands.
3. An increase in height may be approved in only those instances where the remaining regulations for the zoning district can be satisfied.
4. An increase in height up to 60 feet may be approved in the Sully Historic Overlay District when located within the historic district and within 500 feet of the Sully Historic Overlay District perimeter boundary and when it can be demonstrated by the applicant that the proposed structures, including all rooftop structures excluded from the maximum height regulations pursuant to Sect. 2-506 and those portions of the roof excluded from the building height calculations in accordance with the definition, are compatible with and do not have detrimental impacts on the Sully property in terms of mass, scale, color and visual impact and when such increase in height is in compliance with Federal Aviation Administration standards. Other factors to be considered when determining the impact of an increase in height may include, but not be limited to, changes to existing topography, presence of existing vegetation and the building lighting and signage. The actual building height as measured from the grade to the top of any roof or rooftop structure shall not exceed 65 feet.

9-620 Waiver of Certain Sign Regulations

1. The purpose of this special exception is to provide some relief where appropriate for those signs in the C and I districts which, because of certain unusual circumstances as specified below, do not provide identification as intended by the sign regulations. In the C and I districts, the Board may approve, either in conjunction with the approval of a rezoning or as a Category 6 special exception, a modification or waiver of the sign regulations in accordance with the following:
 1. Such waiver may be for an increase in sign area, increase in sign height or different location of a sign, not otherwise provided by Sect. 12-304. Such waiver shall not allow the erection of a freestanding sign or off-site sign, not otherwise permitted by this Ordinance, or the establishment of any sign prohibited by the provisions of Sect. 12-104.
 2. Such waiver may be approved only when it is demonstrated by the applicant that there are unusual circumstances or conditions in terms of location, topography, size or configuration of the lot; access to the lot; unusual size or orientation of the structure on the lot; or other unique circumstance of the land or structure that impacts the applicant's ability to provide for a reasonable identification of the use.

3. It is determined that such waiver will be in harmony with the policies of the adopted comprehensive plan.
4. A waiver of the sign provisions may be approved only in those locations where, based upon a review of the relationship of the sign to the land, buildings and conforming signs in the neighborhood, it is determined that the sign will not have any deleterious effect on the existing or planned development of adjacent properties and that it is consistent with the purpose and intent of Article 12.

GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

ABANDONMENT: Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of-way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

ACCESSORY DWELLING UNIT (OR APARTMENT): A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT: Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance regulations. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

AGRICULTURAL AND FORESTAL DISTRICTS: A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

BARRIER: A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

BEST MANAGEMENT PRACTICES (BMPs): Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by nonpoint sources in order to improve water quality.

BUFFER: Graduated mix of land uses, building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

CHESAPEAKE BAY PRESERVATION ORDINANCE: Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

CLUSTER DEVELOPMENT: Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

COUNTY 2232 REVIEW PROCESS: A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

dBA: The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

DENSITY: Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

DENSITY BONUS: An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

DEVELOPMENT CONDITIONS: Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

DEVELOPMENT PLAN: A graphic representation which depicts the nature and character of the development proposed for a specific land area: information such as topography, location and size of proposed structures, location of streets trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

EASEMENT: A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, utility easement, construction easement, etc. Easements may be for public or private purposes.

ENVIRONMENTAL QUALITY CORRIDORS (EQCs): An open space system designed to link and preserve natural resource areas, provide passive recreation and protect wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Vol. 1 of the Comprehensive Plan.

ERODIBLE SOILS: Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

FLOODPLAIN: Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

FLOOR AREA RATIO (FAR): An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

FUNCTIONAL CLASSIFICATION: A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

GEOTECHNICAL REVIEW: An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

HYDROCARBON RUNOFF: Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

IMPERVIOUS SURFACE: Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

INFILL: Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

INTENSITY: The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

Ldn: Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

LEVEL OF SERVICE (LOS): An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

MARINE CLAY SOILS: Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

OPEN SPACE: That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to provide light and air; open space may function as a buffer between land uses or for scenic, environmental, or recreational purposes.

OPEN SPACE EASEMENT: An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for some public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, upon request of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

P DISTRICT: A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to promote a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

PROFFER: A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the land. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning action of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

PUBLIC FACILITIES MANUAL (PFM): A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

RESOURCE MANAGEMENT AREA (RMA): That component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

RESOURCE PROTECTION AREA (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

SITE PLAN: A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP): Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

STORMWATER MANAGEMENT: Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

SUBDIVISION PLAT: The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS: This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

URBAN DESIGN: An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

VACATION: Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers by operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

VARIANCE: An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 18-404 of the Zoning Ordinance.

WETLANDS: Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

Abbreviations Commonly Used in Staff Reports

A&F	Agricultural & Forestal District	PDH	Planned Development Housing
ADU	Affordable Dwelling Unit	PFM	Public Facilities Manual
ARB	Architectural Review Board	PRC	Planned Residential Community
BMP	Best Management Practices	RC	Residential-Conservation
BOS	Board of Supervisors	RE	Residential Estate
BZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CBC	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DU/AC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		