



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of February 24, 2007

**DATE:** February 22, 2007

**SUBJECTS:** On the County Board's Own Motion:

- A. An Ordinance to amend, reenact and recodify Section 27A. "C-R" Commercial Redevelopment Districts of the Arlington County Zoning Ordinance to:
  - 1) Confirm through clarifying language the County Board's discretion in rezoning property to "C-R";
  - 2) Confirm through clarifying language that the County Board, by site plan, may vary requirements of "Subsection F. Physical Requirements", pertaining to compatible exterior appearance of buildings adjacent to residential areas; and
  - 3) Confirm through clarifying language the County Board's authority to modify regulations, by site plan, regarding density and the by-right height and tapering requirements.
  
- B. GP-309-06-1 GENERAL LAND USE PLAN AMENDMENT from "Semi-Public" (Country clubs and semi-public recreational facilities, churches, private schools and private cemeteries) to "Medium Density Mixed-Use" (Up to 3.0 F.A.R. with special provisions for additional density within the "Clarendon Revitalization District" and the "Special Coordinated Mixed Use District" for the East End of Virginia Square) for the northern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North in the Clarendon Metro station area.
  
- C. Z-2534-07-1 REZONING for premises known as 1301 N. Hartford and 1210 N. Highland St. (RPC# 15070PEA, which includes #15070001 and #15070002) from "C-3" General Commercial Districts and "R-5" One-Family, Restricted Two-Family Dwelling Districts to "C-R" Commercial Redevelopment Districts.

County Manager: \_\_\_\_\_

County Attorney: \_\_\_\_\_

Staff: Colleen Connor, Jennifer Smith, and Freida Wray, Planning Division, DCPHD  
David Cristeal, Housing Division, DCPHD  
Adam Denton, Planning Division, DES

PLA-4623

- D. A site plan application for 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church with a maximum capacity of 450 seats, and an educational building for premises known as 1301 N. Hartford Street and 1210 N. Highland St. (RPC# 15070PEA, including #15070001 and #15070002).

**Applicant:**

Views at Clarendon Corporation, Inc. and  
First Baptist Church of Clarendon, Collectively  
1210 North Highland Street  
Arlington, Virginia 22201

**By:**

Arlington Partnership for Affordable Housing  
2704 North Pershing Drive  
Arlington, Virginia 22201

**C.M. RECOMMENDATIONS:**

1. Adopt the attached (Exhibit A) ordinance to amend, reenact, and recodify the Zoning Ordinance Section 27A. “C-R” Commercial Redevelopment Districts to clarify the County Board’s discretion in rezoning property to “C-R”; to clarify that the County Board may, through site plan approval, vary requirements of Subsection F. Physical Requirements pertaining to compatible exterior appearance of buildings adjacent to residential areas; and to clarify the County Board’s authority to modify regulations, by site plan, regarding density and the by-right height and tapering requirements.
2. Adopt the attached resolution (Exhibit B) amending the General Land Use Plan designation from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North in the Clarendon Metro station area;
3. Adopt the attached resolution (Exhibit C) approving a rezoning of the property bounded by North Highland Street, North Hartford Street, and 13th Street North (RPC# 15070PEA, including RPC #15070001 and RPC #15070002) in the Clarendon Metro station area from “C-3” and “R-5” to “C-R”.
4. Adopt the attached resolution (Exhibit D) approving a the site plan application for 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church of the size and design shown in the site plan drawings, and an educational building that houses a child development center, for premises known as 1301 N. Hartford Street and 1210 N. Highland St. (RPC# 15070PEA, including RPC #15070001 and RPC #15070002).

**ISSUES:**

1. The need to reaffirm the long-standing authority of the County Board to use flexibility in

approving site plans to achieve community goals in response to a Supreme Court interpretation of the County Board's Zoning Ordinance.

2. The reassessment of the previous GLUP amendment, rezoning and site plan considered under the revised Zoning Ordinance language, including amending the GLUP to the "Medium Density Mixed Use" designation on the northern portion of the site, and rezoning the site to "C-R" to enable a form of development compatible with and encouraged by the GLUP designation. There are no issues regarding the site plan proposal because no changes to the previous County Board-approved site plan are proposed.

**SUMMARY:** In October 2004, the County Board approved a General Land Use Plan (GLUP) amendment, rezoning and site plan for a mixed-use affordable housing development on the property owned by the First Baptist Church of Clarendon. Subsequent to the approval a lawsuit was filed and the Virginia Supreme Court ruled that the County Board's action was in conflict with a technical provision of the County Board's own Zoning Ordinance relating to rezonings. While the court decision did not address the substance of the County Board's approval of the rezoning and site plan, it did result in the rezoning and site plan approval being invalidated. The Supreme Court's interpretation of the Zoning Ordinance language was never the intent of the County Board and the proposed Zoning Ordinance amendments would remove any ambiguity regarding the County Board's intent in the Zoning Ordinance. Specifically, the amendments would make clear that the County Board can rezone property designated as "Medium Density Mixed-Use" to "C-R" without regard to the existing zoning. The Supreme Court interpreted the current zoning language as requiring that the property be both designated as "Medium Density Mixed-Use" and already have a zoning of "C-3".

Staff analyzed other elements of the Zoning Ordinance that were not addressed by the Supreme Court but that could be misinterpreted. Clarification to these sections is also recommended. These amendments would confirm that the County Board may modify, through its consideration and adoption of a site plan, zoning requirements related to the exterior appearance of buildings adjacent to residential areas, density, and height. The ability to make such modifications is at the core of the site plan process, which is designed and has always been used to enable the County Board to get an improved project and to achieve community goals and zoning purposes through the extensive public review of site plans and as part of a comprehensive set of site plan conditions that are designed to meet the needs of the community. The ordinance amendments would not change from what the County Board has always considered its authority to be under the Zoning Ordinance; it would simply confirm authority that the County Board has exercised in other projects.

At the request of the applicant, the County Board, on its own motion, is re-considering the site plan and rezoning. Staff has also reassessed the previous GLUP amendment. Staff recommends that the GLUP amendment, rezoning and site plan be considered under the revised Zoning Ordinance language outlined above. The language more clearly states that the density previously approved is permitted in the County Board's discretion through the site plan process. Amending the GLUP to the "Medium Density Mixed Use" designation on the northern portion of the site is consistent with the blocks similarly situated to the west, to the south of 13<sup>th</sup> Street, and to the east along Wilson Boulevard. This block, like those areas, are considered part of central

Clarendon, where “Medium Density Mixed Use” is the most prevalent land use designation. Rezoning the site to “C-R” would enable a form of development that is compatible with and encouraged by the GLUP designation. Furthermore, “C-R” zoning provides assurances to guard against a more intense development and provides more restrictive regulations on by-right development than expansion of the existing “C-3” zoning. The proposed amendment will expand the availability of “C-R” zoning over what the Virginia Supreme Court determined the ordinance previously allowed. However, only properties with a “Medium Density Mixed Use” GLUP designation could be rezoned. Therefore, the impact on low-density residential properties is minimal. In addition, the site plan requires the retention of the existing ancillary education building which houses the day care center, and also provides a lower-scale transition area between the low density residential neighborhood and the medium-scale mixed-use development proposed on the southern portion of the site.

None of the above actions would result in physically changing any elements of the site plan previously approved by the County Board, including the provision of affordable housing and retention of an important community child care center. The specifics of the project were thoroughly examined in 2004 through a series of citizen and commission meetings. The previously approved project offers a rare opportunity to obtain 70 affordable dwelling units in immediate proximity to a Metro Station. The adjacent day care center serves 185 children and is considered a vital community asset. This site plan not only preserves the center but also retains its current building, which will continue to provide an appropriate transition from the new building to the single-family neighborhood.

Staff recommends the following modifications of use regulations for the site plan: a parking reduction for the church and educational uses, 15.25% bonus density for affordable housing, density exemptions for tenant storage and the building connection, and a modification of the building height. In addition to the provision of significant affordable housing, the applicant has agreed to contribute to the Utility Undergrounding Fund, the Green Building Fund, and implement a significant Transportation Demand Management Plan. Therefore, staff recommends approval of a Zoning Ordinance Amendment to Section 27A “C-R” Commercial Redevelopment Districts to clarify the County Board’s discretion in rezoning property to “C-R”; a GLUP amendment for the northern portion of the site adjacent to 13<sup>th</sup> Street North to “Medium Density Mixed Use”; a rezoning of the entire block to “C-R”; and a site plan for a residential building containing 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church of the size and design as shown on the site plan drawings, and an educational building which houses, among other programs, a use permit approved child development center. Staff also recommends that the site plan be approved subject to the conditions of the staff report.

**BACKGROUND:** The First Baptist Church of Clarendon (FBCC) has served the Clarendon community for 95 years. The existing church sanctuary, located adjacent to North Hartford and Highland Streets, was built in the early 1950’s. The educational wing located adjacent to 13<sup>th</sup> Street was built in the early 1960’s.

On October 23, 2004, the County Board approved the following for the First Baptist Church of Clarendon site: a GLUP amendment from “Semi-Public” to “Medium Density Mixed-Use” for the southern portion of the block bordered by North Highland and North Hartford Streets, and

retaining the northern portion adjacent to 13<sup>th</sup> Street North as “Semi-Public”; a rezoning from “C-3” and a portion of “R-5” to “C-R” for the area changed to “Medium Density Mixed-Use” (30,000 sf) and retaining the northern portion of the block as “R-5” (12,667 sf); and a site plan for a residential building containing 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church of the size and design as shown on the site plan drawings, and an educational building which houses a child development center.

Subsequent to the County Board approval, a lawsuit was filed regarding this project. Ultimately, the Virginia Supreme Court ruled that the Zoning Ordinance language for the purpose paragraph of Section 27A., “C-R” Commercial Redevelopment Districts, that refers to the type of properties that may be zoned “C-R” does not permit the rezoning to “C-R” of the “R-5” portion of the property. An amendment to the County’s Zoning Ordinance language is proposed for the purpose paragraph of the “C-R” District” in order to clarify the County Board’s discretion in rezoning property to “C-R”.

In addition, the proposed Zoning Ordinance amendment would clarify the County Board’s authority to modify regulations under site plan regarding physical requirements, density, and by-right height and tapering requirements. This has always been the County Board’s intent and practice. The impact of the proposed Zoning Ordinance changes would not change what has been the County’s longstanding practice in the site plan process. Furthermore, their effect would be limited to a single zoning district, “C-R,” which is applied only in areas designated “Medium Density Mixed Use” on the GLUP. The changes reflect the flexibility needed to achieve important zoning purposes and community benefits within walking distance of the Metro—315 to 450 feet from the Metro entrance. -

Because the court decision affected the validity of the previously approved rezoning and site plan, the applicant requested that the County Board, on its own motion, reconsider the rezoning and site plan. Staff is also recommending that the County Board reconsider the GLUP designation for the northern portion of the block. While the General Land Use Plan amendment approved in 2004, from “Semi-Public” to “Medium Density Mixed-Use” for the southern portion of the block, was not affected by the Court’s ruling, a proposal to designate the entire block as “Medium Density Mixed-Use” is under consideration. This proposal was originally requested by the applicant and considered as part of the previous process. It has generally been County policy to achieve consistency between the zoning district and the General Land Use Plan designation. A proposal to rezone the entire block to “C-R”, from “C-3” and “R-5”, is also under consideration so that the County Board may review the site plan under the amended ordinance. Modifications to the Zoning Ordinance would eliminate any ambiguity on whether the density proposed in the site plan is explicitly consistent with the underlying zoning. Both the previously approved site plan and the current rezoning proposal would be considered under the newly revised Zoning Ordinance language clarifying the County’ Board’s discretion in rezoning to “C-R”.

Neither the proposed GLUP amendment nor the rezoning would change the site plan project, which is for exactly the same project as the one previously approved: a residential building containing 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church with a maximum capacity of 450 seats, and an educational building which houses a use permit

approved child development center.

**The following provides additional information about the site and location:**

Site: The site is located in the triangular block bounded by North Hartford, Highland and 13<sup>th</sup> Streets. Adjacent to the site are the following:

To the north: Across 13<sup>th</sup> Street, the Lyon Village residential neighborhood, designated “Low” Residential (1-10 units/acre) on the GLUP and zoned “R-5” and “R-6”.

To the west: Across North Hartford Street, the Hartford mixed-use office (9 stories) and residential (6 stories) site plan, designated “Medium Density Mixed-Use” on the GLUP and zoned “C-R”; a park and single family dwelling, designated “Public” on the GLUP and zoned “C-3”.

To the east: Across North Highland Street, a 7-story office building currently occupied by the Arlington County Department of Human Services, designated “Medium Density Mixed-Use” on the GLUP and zoned “C-3”; and a 2-story commercial structure, designated “Low” Residential (1-10 units/acre) on the GLUP and zoned “R-5”.

To the south: The Wilson Boulevard intersection and the Clarendon Metro Station across Wilson Boulevard.

Neighborhood: The site is located within the Lyon Village Citizens Association. However, several other civic associations are in close proximity including Lyon Park Citizens Association, Ashton Heights Civic Association and Clarendon-Courthouse Civic Association.

**Planning and Zoning:**

- A portion of the subject property was rezoned to “C-3” as a part of the comprehensive rezoning approved on July 15, 1950, when the 1950 Zoning Ordinance was adopted. This action involved re-mapping the entire County and was not done, as is current practice, on a property-specific basis. The Ordinance itself states “The location and boundaries of the districts shall be as shown on the map entitled “County of Arlington, Virginia—Amended Zoning Ordinance, July 15, 1950, which map is hereby declared to be a part of this ordinance.” The final map (which consists of a series of maps) was certified by the County Board Chairman and Clerk.
- In 1961, the General Land Use Plan designated this property as “General Commercial”. In 1974, the County Board approved a GLUP Amendment designating this block as “Semi-Public” to recognize the existing church uses on the site.
- In 1984, the County Board adopted the Clarendon Sector Plan. Foremost among the issues investigated was the commercial zoning district “C-3”. Following the creation of the “Medium Density Mixed-Use” GLUP designation in 1982, the “C-R” Commercial Redevelopment Districts was adopted on May 13, 1984, to encourage medium density mixed use development, recognize existing commercial rights, and to

provide tapering of heights between higher density office development and lower density residential uses. Included in the Clarendon Sector Plan was an area designated as the “C-R Area”, which included the church site.

- In 1990, the County Board adopted the Clarendon Sector Plan-Addendum. This plan established the guidelines for creation of an “urban village” in Clarendon and recommended GLUP and zoning amendments for implementation of those guidelines. On July 7, 1990, the County Board approved amendments to the “C-R” and “C-3” zoning districts. For the “C-R” District, urban design requirements were specified for by-right development and a new site plan option was added to achieve the redevelopment goals for the area. For the “C-3” District, a new site plan option was also created which was based on the by-right “C-R” regulations with added incentives and new urban design requirements.
- The County Board adopted a series of Policy Directives in February 2006 that set forth major overarching framework for future redevelopment in Clarendon. These Policy Directives were later adopted by the County Board as Policies when the Clarendon Sector Plan – Part 1 was adopted on June 10, 2006. While the Clarendon Sector Plan – Part 1 included policies related to density, height and building form levels for each block in Clarendon’s core area, it also recognized that, for some areas, projects and/or zoning actions had already been approved by the County Board that are different from the sector plan recommendations for new projects. The subject site plan, which had been approved in 2004, is one of those projects. The County Board adopted the final phase of the Clarendon Sector Plan – Part 2 in December 2006.

**Proposed General Land Use Plan Amendment:** The General Land Use Plan is the primary policy guide for the future development of the County. Since its original adoption in 1961, the Plan has been updated and periodically amended to more clearly reflect the intended use for a particular area. The Plan may be amended either as part of a long-term planning process for a designated area or as a result of an individual request for a specific change.

The GLUP designation for the southern portion of the block (30,000 sf) was amended in 2004 from “Semi-Public” (Personal and business services generally one to three stories, maximum 1.0 F.A.R.) to “Medium Density Mixed-Use” (3.0 FAR with special provision for up to an additional 1.0 FAR for residential). Now, a GLUP amendment from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block (12,667 sf) adjacent to 13<sup>th</sup> Street North is proposed. This GLUP designation is consistent with the proposed zoning.

**Proposed Rezoning:** The subject site is currently zoned partly “C-3” General Commercial Districts and partly “R-5” One-Family, Restricted Two-Family Dwelling Districts. The “C-3” zoning (17,602 sq. ft.) permits commercial development based on the form and placement of development rather than an amount calculated by density or floor area ratio. The “C-3” district permits commercial development at a height not to exceed 75 feet, except by site plan. The floor area is not specified but can not exceed the number of square feet that results

from compliance with the requirements stated in the Zoning Ordinance with no less than nine (9) feet between floors, except by site plan. Ten percent of the total site area is required to be landscaped open space. Generally, this means that density (or FAR) is limited by the building envelope as defined by the height and coverage requirements. Further, parking would be required at one space per 250 sq. ft. of area on the first floor and one space per 300 sq. ft. of area in the basement and floors two through five.

The area zoned “R-5” (25,065 sq. ft.) permits single-family dwellings at a maximum density of 8.7 units per acre with a minimum lot size of 5,000 square feet, a height not to exceed 35 feet, and two (2) parking spaces per dwelling unit.

This proposal would rezone the entire block to “C-R” Commercial Redevelopment Districts”, which would permit a maximum density of 3.0 FAR for office uses or up to 4.0 FAR for residential uses. The proposed zoning district is consistent with the proposed “Medium Density Mixed-Use” GLUP designation.

The following table summarizes the maximum development permitted under the existing and proposed zoning classifications.

<b>Existing Zoning</b>	<b>Density Allowed</b>	<b>Maximum Development</b>
“C-3” (17,602 sq. ft.)	By-right: No FAR limit for commercial (determined by height, parking); 6 single-family residential units per acre (6,000 sq. feet per lot). Maximum height – 75 feet.  Site Plan: 3.0 FAR with special provision for up to an additional 1.0 FAR for residential (with a minimum site area of 40,000 sq. ft.). Maximum height – 125 feet.	By-right: ~74,250 sq. ft (Commercial) or 2 single family houses. Maximum height – 75 feet.  Site Plan: Not applicable due to site area requirements
“R-5” (25,065 sf)	By right: One-family dwellings at 8.7 units/acre (5,000 sq. ft. per residential lot)	Residential Density: 5 units
<b>Proposed Zoning</b>	<b>Density Allowed</b>	<b>Maximum Development</b>
“C-R” (42,667 sq. ft.)	By-right and Site Plan: 3.0 FAR with Special Provision for up to an additional 1.0 FAR for residential (with a minimum site area of 40,000 sq. ft.). Maximum height by-right – 55 feet; by site plan – 125 feet.	By-right and Site Plan <sup>1</sup> : 170,668 sq. ft. (Residential) or 128,001 sq. ft. (Office). Maximum height by-right – 55 feet; by site plan – 125 feet.

<sup>1</sup> The Clarendon Sector Plan update recognizes the uses, density and height approved for this project by site plan in 2004, for a mixed-use development of residential and church/ancillary uses, with a height of 96.5 feet for the mixed-use residential/church structure and 35 feet for the educational building.



**Proposed Development:** The following table sets forth the statistical summary for the project.

<b>SITE AREA</b>	<b>42,667 Square Feet (.98 acre)</b>
Allocated to residential (balance)	21,722.33 square feet
Allocated to church/ancillary (@ 3.0 FAR)	20,944.67 square feet
<b>Density</b>	
Total Residential G.F.A.	111,807 square feet
Tenant storage	1,020 square feet
Building connection	1,064 square feet
Net Residential G.F.A.	109,723 square feet
<b>“C-R” Permitted Residential GFA by site plan</b>	<b>86,889.32 square feet</b>
Net Residential FAR	5.05 FAR
<b>“C-R” Permitted Residential FAR by site plan</b>	<b>4.0 FAR</b>
Number Residential Units	116 units
Number affordable units	70 affordable units
Number market-rate units	46 market-rate units
Total Church & Ancillary G.F.A.	62,834 square feet
Church offices & sanctuary	20,626 square feet
Education building	42,208 square feet
<b>“C-R” Permitted Church/Ancillary GFA by site plan</b>	<b>62,834 square feet</b>
Church/Ancillary FAR	3.0 FAR
<b>“C-R” Permitted Church/Ancillary FAR by site plan</b>	<b>3.0 FAR</b>
Total Net Residential & Church/Ancillary GFA	172,557 square feet
<b>“C-R” Permitted Total Net Residential &amp; Church/Ancillary GFA</b>	<b>149,723.32 square feet</b>
Affordable Housing Bonus	22,833.68 square feet @ 15.25%
<b>Building Height</b>	
Average Site Elevation	263.50 feet
New Residential Building	
Main Roof Elevation	360.0 feet
Main Roof Height	96.5 feet
Penthouse Roof Elevation	feet
Penthouse Roof Height	feet
Number of stories	10 stories
Existing Education Building	
Main Roof Elevation adjacent to 13 <sup>th</sup> Street	293 feet
Main Roof Height adjacent to 13 <sup>th</sup> Street	29.5 feet
Number of stories	3 stories
Main Roof Elevation interior to site (gymnasium)	302.33 feet
Main Roof Height interior to site (gymnasium)	38.83 feet
<b>“C-R” Permitted Height</b>	<b>125 feet by site plan<sup>2</sup></b>

<sup>2</sup> Under the by-right provisions of Section 27A.D.1., the height may be increased to 110 feet to achieve a taper in height from adjacent “R” or “RA” zoning districts: *When a structure is greater than 165 feet from an “R” or “RA” zoning district, height may be increased by one foot for every 3 feet beyond 165 feet, up to a maximum of 110 feet.* Under Section 36.H.5.a. the County Board has the authority to modify height and tapering requirements. Pursuant to Section 27.A.I.2.c., height shall not exceed 125 feet.

<b>Parking</b>	
Total Residential Parking	120 spaces
Residential Parking Ratio	1.03 spaces per unit
<b>"C-R" Required Residential Parking</b>	<b>116 spaces</b>
<b>"C-R" Required Residential Parking Ratio</b>	<b>1 space per unit</b>
On-site Church/Ed. Parking	0 spaces
<b>Required Church/Ed. Parking</b>	<b>1 space per 5 sanctuary seats, or off-site as indicated in the footnote below.<sup>3</sup></b>
<b>Coverage</b>	<b>68 percent</b>
<b>LEED Score</b>	<b>21 points</b>

**Density and Uses:** The proposed site plan would not change from the site plan approved in 2004. It would include a mixed use development that would retain the church use and existing educational and child care facilities, and incorporate a new residential structure. A new church would be constructed, but would preserve the existing church steeple and narthex. The new church sanctuary would be approximately two (2) stories in height (1 story plus mezzanine), have fewer seats than the existing church (reduced from 800 to 450 seats), and be ADA accessible. The existing 3-story educational building located at the rear of the site adjacent to 13<sup>th</sup> Street would also be preserved. The building would continue to house seminary and religious education programs and the child development center, and to provide space for meetings and activities associated with other community organizations such as Alcoholics Anonymous and Overeaters Anonymous. The use permit (U-2389-83-7) that currently exists on the site for a child development center with a maximum capacity of 185 children would continue. The new residential structure would be constructed above the approximately 2-story church base within a subdivided area, whereby the air rights or some other mechanism would convey to separate ownership entities between the church and the residential developer. It would contain eight (8) floors and 116 mixed-income rental units, including 60 percent affordable units (70) and 40 percent market-rate units (46). A bonus density of 15.25% for affordable housing is proposed. The proposal includes a three-level underground garage containing 120 residential parking spaces, including 4 visitor spaces. The applicant proposes a shared parking program that would allow church and child development center staff to rent unused residential spaces, as outlined in Condition #49.

**Site and Design:** One of the design goals of this project was to better integrate the steeple into the overall design of the building. The most prominent elements of the redesigned building include:

- A height of 96.5 feet, with a penthouse structure no taller than 4 feet.
- Mass located away from the steeple. The 10<sup>th</sup> floor is set back approximately 40 feet, and

<sup>3</sup> §33.C.4.a.(10) of the Zoning Ordinance: *Church sanctuaries:* One (1) space for each 5 sanctuary seats. Notwithstanding other sections of the Zoning Ordinance, required parking for churches may be located on a parking lot which is accessory to another principal use which is not open or operating on the days of the week on which the church sanctuary is regularly used if said lot is either located within 600 feet by the shortest route of effective pedestrian access, or within ¼ of 1 mile by the shortest route of effective vehicular access, and regular and frequent shuttle bus service is provided between the lot and the church during any hours when the use for which the lot is provided is not open and operating and the lot is open to persons attending meetings at the church.

the 9<sup>th</sup> floor is set back approximately 29 feet from the steeple. Floors 5 through 8 range from 13 to 18 feet from the steeple.

- Integration of the church/steeple cornice elements into the new building through the use of precast and lighter brick materials.
- Distinguishing church and residential uses by treatment of fenestration and façade materials and colors. The design concept prevalent in the church narthex and steeple is carried over to the new sanctuary. The residential component is distinguished and made compatible with nearby residential uses by the use of lighter brick materials, punched windows and balcony railings.
- Separate church and residential entrances and lobbies as well as separately owned properties for the church and the residential project.
- Existing ancillary education building remains with height of 29.5 feet above average grade adjacent to 13<sup>th</sup> Street.

An internal courtyard would separate the new building and the existing educational building. The church's book store and coffee house would open up to the courtyard, and access would also be provided from the residential use. Gated access would be available from North Hartford Street as well. Adjacent to North Highland Street, the courtyard would be screened by an approximately 14-foot tall transparent corridor that is designed to connect the new and existing buildings, as well as provide access to the residential building. The interior of the educational building would be renovated, resulting in minor renovations to the exterior. This building would remain. Vehicular access to the site would be from one curb cut on North Hartford Street. The proposal would improve the streetscape with appropriate sidewalk widths and street trees along all street frontages.

**LEED Scorecard:** The proposed site plan includes a commitment of 21 LEED points, including provision of Energy Star appliances, fixtures and building components as recommended in Condition #65. In response to the Planning Commission the applicant has agreed to meet with DES staff to identify additional sustainable elements to increase the LEED score.

**Transportation:** The Master Transportation Plan classifies 13<sup>th</sup> Street and Highland Street as neighborhood-principal streets and Hartford Street as a neighborhood-minor street. There is on-street parking adjacent to the site along all three frontages. On-street parking is currently prohibited on the west side of Hartford Street for approximately 225 feet from its intersection with Highland Street.

**Trip Generation:** A Traffic Impact Analysis (TIA) submitted by the applicant, prepared by Wells & Associates, dated February 12, 2004, assessed the impacts of the development on the adjacent street system. Since there has been no change in the project since 2004, the assessment of impacts on the adjacent street system has not changed. Development of this project will not significantly change the existing levels of service for the affected intersections. The proposed 116 unit development, along with 62,834 sq. ft. of church, education and day-care, is estimated to generate 27 more AM and 37 more PM peak hour vehicle trips than existing traffic. (The proposed development generates 98 fewer AM and 92 fewer PM peak trips than the by-right office use.)

**Streets and Sidewalks:** Existing and proposed street sections and streetscape elements are shown in the table below. In Condition #17, the developer has agreed to show in the final engineering drawings clear pedestrian sidewalk zones and modifications to the pedestrian/vehicular circulation interface at the loading/parking/service area.

	<b>Existing</b>		<b>Proposed</b>		
<b>Hartford Street</b>			<i>North</i>	<i>Mid</i>	<i>South</i>
Curb to curb distance	35.5 ft		34.0 ft	27.0 ft	27.5 ft
Clear sidewalk dimension	3 - 4 ft typical		8 ft min.	7 ft min.	8 ft min.
Street trees	none (some on-site)		5 ft x 12 ft grates	5 ft x 12 ft grates	5 ft x 12 ft grates
Parking	parallel both sides (except southern portion of west side)		parallel east side only-	parallel east side only-	none
<b>Highland Street</b>	<u>North</u>	<u>South</u>	<i>North</i>	<i>South</i>	
Curb to curb distance	35.5 ft	46 ft	34.0 ft	36.5 ft	
Clear sidewalk dimension	4.0 ft with obstructions	4.0 ft with obstructions	7.7 ft min.	8.5 ft min.	
Street trees	none (some on-site)	none (some on-site)	5 ft x 12 ft grates	5 ft x 12 ft grates	
Parking	parallel both sides	parallel both sides	parallel both sides	parallel both sides	
<b>13<sup>th</sup> Street (eastbound)</b>					
Curb to median distance	23.5 ft approx.		18 ft		
Clear sidewalk dimension	4.0 ft		8.0 ft min.		
Street trees + soldier course	none		5 ft x 12 ft pits + 8-inch soldier course		
Parking	parallel		parallel		

**Other street and sidewalk issues:**

On North Highland Street a mid-block nub and crosswalk are proposed with handicap accessible pedestrian ramps. Corner nubs with handicap accessible pedestrian ramps and crosswalks are being proposed at both ends of North Hartford Street and both ends of 13<sup>th</sup> Street North. All three corners of the block are being engineered with 15 foot radiuses. Corner nubs are also being constructed at both ends of Highland Street. All crosswalks will be of a 12 foot wide “ladder-style” design and all sidewalk clear zones will be constructed of poured concrete in a design consistent with the new sidewalk specification currently under development. All streetlights will be pedestrian scale, 12-foot tall, single-globe Carlyle lights.

Access to the underground parking garage will be restricted to a 20-foot wide curb cut on North Hartford Street and the adjacent off-street service and loading area will be restricted to an 18 foot wide curb cut.

Public Transit: Metrorail orange-line service is available approximately 450 feet from the site at the Clarendon Metro Station. Public bus transportation is also available adjacent to the site on Wilson Boulevard. Metrobus 38B provides service to Farragut Square and route 24P provides service to the Pentagon Metro Station, while ART 41 provides services to Court House and to Columbia heights. ART 66 provides a free lunchtime shuttle from Courthouse Square and ART 67 provides a free lunchtime shuttle to Virginia Square and Ballston.

Bicycle Access: An on-street bicycle route is signed along Hartford Street to the north and nearby Wilson Boulevard has designated on-street bike lanes.

**Transportation Demand Management (TDM) Plan:** Consistent with site plan development and the County's adopted TDM Policy, staff recommends that the developer implement a TDM Plan to reduce single occupancy vehicle (SOV) trips to and from the site. Staff recommends, and the applicant agrees, that the applicant implement the standard TDM strategies that are briefly summarized below:

- Designate a member of the building management team as Property Transportation Coordinator with responsibilities for completing and coordinating TDM Plan obligations.
- Provide a Transportation Kiosk in the residential lobby.
- Maintain an on-site business center for residents who wish to telecommute.
- Distribute transit information including a new resident package to include site-specific transit-related information.
- Provide a parking management plan including a schematic drawing depicting an area parking plan for all block faces abutting the site.
- Provide free SmarTrip cards for all new residents and employees.
- Conduct a transportation monitoring study of the site.
- Designate an ADA accessible multi-purpose loading, pick-up, drip-off and passenger waiting area adjacent to the North Highland Street residential entrance.

**Utilities:** Adequate sanitary sewer system capacity is available to serve the proposed development. A new 12" sewer line in N. 13<sup>th</sup> Street will need to be connected to the existing line at Herndon Street to accommodate this development. This connection will be designed by the applicant and constructed by Arlington County Department of Environmental Services.

The project will also need a new 8" water supply line along Hartford Street from 13<sup>th</sup> Street North to North Highland Street. The applicant has agreed to design and construct this new water line.

Consistent with site plan development and the Utility Undergrounding Plan, staff recommends and the applicant has agreed to remove the existing aerial utility lines located along Highland Street. The developer will be required to comply with the new Chesapeake Bay Preservation

Ordinance and the Plan of Development requirements, including a Resource Protection Area Delineation (site is not located in an RPA), a Landscape Conservation Plan, a Storm water Management Plan, and an Erosion and Sediment Control Plan.

## **DISCUSSION:**

Proposed Zoning Ordinance Amendment: Subsequent to the County Board's approval of a General Land Use Plan (GLUP) amendment in October 2004, rezoning and site plan for a mixed-use affordable housing development on the property owned by the First Baptist Church of Clarendon, a lawsuit was filed. The Virginia Supreme Court ruled that the County Board's action was in conflict with a technical provision of the County Board's own Zoning Ordinance relating to rezonings. Ultimately, the Virginia Supreme Court ruled that the Zoning Ordinance language for the purpose paragraph of Section 27A., "C-R" Commercial Redevelopment Districts that refers to the type of properties that may be zoned "C-R" does not permit the rezoning to "C-R" of the "R-5" portion of the property. While the court decision did not address the substance of the County Board's approval of the rezoning and site plan, it did result in the rezoning and site plan approval being invalidated.

The Supreme Court's interpretation of the Zoning Ordinance language was never the intent of the County Board and the proposed Zoning Ordinance amendments would remove any ambiguity regarding the County Board's intent in the Zoning Ordinance. Therefore, an amendment to the County's Zoning Ordinance language is proposed for the purpose paragraph of the "C-R" District" in order to clarify the County Board's discretion in rezoning property to "C-R". Specifically, the amendments would make clear that the County Board can rezone property designated as "Medium Density Mixed-Use" to "C-R" without regard to the existing zoning. The Supreme Court interpreted the zoning current language as requiring that the property be both designated as "Medium Density Mixed-Use" and already have a zoning of "C-3".

Staff analyzed other elements of the Zoning Ordinance that were not addressed by the Supreme Court but that could be misinterpreted. Clarification to these sections is also recommended. These proposed amendments would clarify the County Board's authority to modify regulations under site plan regarding physical requirements, density, and by-right height and tapering requirements. This has always been the County Board's intent and practice.

The zoning ordinance amendments are recommended to clarify the authority that the County Board currently has, and has used in prior "C-R" site plan approvals, to modify various provisions of the ordinance. This flexibility is necessary to achieve many types of zoning purposes, as it enables the County to obtain the substantial community benefits that developers agree to in conjunction with approval of their site plan projects. Among these benefits are affordable housing, historic preservation, preservation of open space, transportation amenities, architecture and design that creates a harmonious community, and site, streetscape, and other design that is consistent with the County's plans and the community vision. The additional control over design that the County has in site plan projects enables, among other things, the protection of nearby residential neighborhoods.

The flexibility in site plan districts enables the County to ensure that density is concentrated where it is most appropriate, and that the County can achieve the kind of community and design

envisioned in its planning documents. It is critical so that the County can realize its vision for the future. Therefore, in order to ensure that the flexibility is incorporated into the ordinance, staff recommends that the County Board adopt the attached ordinance to amend section 27A. of the Zoning Ordinance. The ordinance amendments would not change from what the County Board has always considered its authority to be under the Zoning Ordinance; it would simply confirm authority that the County Board has exercised in other projects.

**Adopted Plans and Policies:** The General Land Use Plan and Clarendon Sector Plan guide development on this site.

Proposed General Land Use Plan Amendment: A change to the General Land Use Plan (GLUP) from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block adjacent to 13<sup>th</sup> Street North (12,667 square feet) is proposed. This would result in the entire block being designated “Medium Density Mixed-Use”. This block was shown to be part of the “C-R Area” in the 1984 Clarendon Sector Plan, an area where a zoning tool (the “C-R” District) could be utilized to achieve medium-density mixed-use redevelopment consistent with the goals of the sector plan. Although a new “Clarendon Revitalization District” was created in 1990, the designated “C-R Area” was not affected by the Addendum. Very few additional recommendations were mentioned for this site in either the 1984 sector plan or the 1990 Addendum. Therefore, in 2004, staff studied the site plan proposal to determine the proper form and use for this site. If the existing church uses changed, staff concluded that any new development at this location should be generally compatible with adjacent properties to the west. In 2004, staff concluded that the appropriate building form for this site included a height of eight to ten stories that tapers down toward 13<sup>th</sup> Street North. Staff also concluded that mixed uses are appropriate for this site with a preference for residential and church/educational uses as they are less intense and more compatible with the adjacent low-density residential uses along 13<sup>th</sup> Street North and N. Highland Street.

The appropriate GLUP designation that is compatible with this form and use is the “Medium Density Mixed-Use”. This GLUP designation is intended for medium-scale, mixed-use development that provides a transition from the adjacent low-density residential neighborhood to the higher density uses located in the center of Clarendon. The “Medium Density Mixed-Use” designation for this location is also consistent with the blocks similarly situated to the west and south of 13<sup>th</sup> Street North, and also the properties to the east along Wilson Boulevard, part of Clarendon’s core area. The day care use, specifically, is seen as an important community benefit to both the County and the community because of its proximity to Metro and central location within the R-B Corridor; this use can be accommodated with the “Medium Density Mixed Use” GLUP designation. The proposed site plan under consideration for this location is consistent with this GLUP pattern of “Medium Density Mixed-Use.” Therefore, staff recommends changing the current “Semi-Public” designation to “Medium Density Mixed-Use” for the northern portion of the block described, which would be consistent with the area proposed for “C-R” zoning.

Clarendon Sector Plan: The County Board approved Policy Directives in February 2006, which were later adopted as Policies in the Clarendon Sector Plan – Part 1 on June 10, 2006. These included policies on density, use mix, and building form among others. The policies established

a framework for future redevelopment sites and also recognized existing, approved projects for some areas that were not expected to change during the life of the new sector plan, and the approved density levels and form characteristics were those determined during each prior approval process. In December 2006, the County Board adopted the Clarendon Sector Plan – Part 2, which included additional transportation, parking, and open space policies as well as urban design guidelines.

There are a limited number of the policies in the sector plan that are applicable to this block and they are consistent with the proposed site plan. The proposed GLUP amendment and rezoning for the block is consistent with the intent of the Clarendon Sector Plan. Although the FAR available under “Medium Density Mixed-Use” changed as a result of the sector plan review process, from 4.0 to 3.0, the sector plan had assumed the 2004 approved site plan density in the calculations for the area and for the mix of uses, as shown on Map 2.3, among others. The Clarendon Sector Plan indicates, on Map 2.3 among others, that the proposed site is within the “core” of Clarendon, and irrespective of the Supreme Court decision, assumed that the site plan density had been approved for this site. The block is designated with an asterisk and the legend includes the following explanation: “*Density controlled under approved site plans and /or zoning approvals. Approved density may be higher than the amount indicated on the map*”. The legend on Map 2.3 also illustrates that the density on the site would be up to 3.0 FAR for the entire block. Even if the site plan were subjected to the lower density limits, the FAR is not an absolute limit as bonus density can be considered as indicated in Policy #3: *Allow for optional increases in density, at the County Board’s discretion, on any site in the Clarendon station area in return for extraordinary community benefits including but not limited to building preservation, affordable housing, green building design (LEED), and/or public open space. The increased density may not result in a modification of the maximum building height unless otherwise noted in Adopted Policies 5-7 below*”; in this case the bonus density would be for affordable housing.

The sector plan assumed the preservation of the steeple and narthex as part of the approved site plan project. Although not a designated historic site, the project block is within the Lyon Village National Register Historic Districts, adopted in May 2002. In addition, the proposed site plan height of 96.5 feet is consistent with the height recommended in the sector plan. The step-back proposed for the project is inconsistent with the recommended location of a step-back along N. Highland Street as indicated on the Step-Back Map (Map 2.8) in the sector plan. Like the density provisions, however, the sector plan, on Map 2.7, recognized this site as an approved site plan and that “*Building heights, stepbacks, and tapers on blocks marked with asterisks are controlled under approved site plans and/or zoning approvals and the building height note (feet) may be approximate.*” Therefore, staff does not consider this aspect of the proposal to be inconsistent with the Clarendon Sector Plan. The sector plan step-backs recommendations would be difficult to achieve on this site because of the retention of the school buildings, the preservation of the steeple and narthex, the open area between the buildings, the wider sidewalks, and the significant amount of affordable housing.

The final departure from the Clarendon Sector Plan policies is in the sidewalk clear widths and the elimination of the soldier course between the curb and the tree pits/grates. The sector plan recommends a total streetscape width of 14 feet, including an 8-foot sidewalk clear width, for N.

Highland and N. Hartford Streets, and a total streetscape width of 12 feet, including an 8-foot sidewalk clear width, for 13<sup>th</sup> Street. The site plan complies with the sidewalk clear width requirement except where pinch points occur adjacent to the proposed lay-bys on N. Hartford and Highland Streets. The sector plan allows for pinch points in the streetscape adjacent to historic structures as shown on Map 3.3 (“Notes: ... *Some modification to the streetscape condition, including widths, may be necessary adjacent to buildings, frontages, and facades recommended for preservation*”). In order to minimize the impacts on the sidewalk clear widths, and to accommodate the desired elements in the roadway, the proposal eliminates the soldier course on North Hartford and Highland Streets. Staff does not view this a major impact to the streetscape, as the required sidewalk clear width, where pedestrian travel primarily occurs, would be achieved. In addition, with the narrowing of 13<sup>th</sup> Street North, the sidewalks will become wider than existing conditions.

Proposed Rezoning: The northern portion of the site is currently zoned “R-5” One-Family, Restricted Two-Family Dwelling Districts (25,065 sq. ft.) and the southern portion of the site is zoned “C-3” General Commercial (17,602 sq. ft.). The applicant originally proposed to rezone the entire site to “C-R” Commercial Redevelopment Districts. After a thorough analysis to determine the appropriate form and uses for this site and to implement staff’s proposed GLUP pattern, staff recommends rezoning the “C-3” and “R-5” areas to “C-R”.

Rezoning the “C-3” and “R-5” areas to “C-R”, would enable a form of development that is compatible with and encouraged by the proposed “Medium Density Mixed-Use” GLUP designation in terms of uses, density, and height. The “C-R” district is consistent with adjacent properties, east and west, which also have the “Medium Density Mixed-Use” GLUP designation, and are zoned “C-R” and “C-3”. At this specific location, the applicant is proposing a residential use at a base density of 4.0 FAR or 86,889.32 square feet, and church and ancillary uses at a density of 3.0 FAR or 62,834 square feet, based on site areas allocated to the different uses (which are calculated on the total site area). The proposed uses and base densities are permitted within the “C-R” zoning district through the site plan process. In addition, the applicant is proposing to provide affordable housing within the project utilizing a 15.25 percent bonus density calculated over the total proposed density. By utilizing this additional density of 22,833.68 square feet toward the residential use, and calculating it over the allocated residential site area (21,722.33 square feet), the total density for the proposed residential use is 5.05 FAR. The rezoning recommendation is different from the 2004 staff recommendation when an attempt was made to retain the “R-5” strip along 13<sup>th</sup> Street North.

The applicant is also proposing a building height of 96.5 feet. This height is within the permitted building height for “C-R” site plans, a maximum of 125 feet.

In evaluating the zoning pattern for this site, either the “C-R” or “C-3” zoning districts could provide an appropriate development through the site plan process. However, staff concludes that rezoning to “C-R” rather than maintaining and expanding the “C-3” area would offer additional assurances to guard against a more intense development and would provide more restrictive regulations on by-right development. By-right development in the “C-R” district would be limited to a building height of 55 feet as the majority of the site area falls within 165 feet of an “R” or “RA” district line. Any by-right development project would be limited by an 80 percent

coverage requirement, required to improve the streetscape consistent with the sector plan, including utility undergrounding, and required to have an exterior appearance that is compatible with residential uses in terms of bulk, coverage, and placement due to the proximity of areas designated as “Low” Residential on the GLUP.

The disadvantages of rezoning to “C-R” would be that the district currently allows the first floor of a building to be depressed below the sidewalk level creating a “moat” condition. However, staff does not consider a “moat” situation likely on this site because of the site’s size, configuration, and lack of significant grade change. Another issue with the “C-R” zoning is the introduction of by-right residential, considered more likely to occur at this location, given the size and shape of the parcel. However, any by-right development would be limited to a maximum height of 55 feet compared to the potential height under “C-3”; in the “C-3” district, a maximum height of 75 feet is permitted for by-right office uses without public improvements or community benefits as described above. Therefore, for the above reasons staff recommends that the “C-3” area and a portion of the “R-5” area be rezoned to “C-R”.

**Issues:** Through the review process, three critical issues were prevalent – zoning precedent, building taper, and affordable housing financing.

Zoning Precedent: The community was concerned about setting a precedent for rezoning “R-5” land to a commercial or higher density zoning district and if the proposed zoning ordinance amendment would affect other properties in the County.

The proposed Zoning Ordinance amendment affects a single zoning district, “C-R”. As discussed above, the changes clarify the discretion that the County Board has in re-zoning properties to “C-R”. Other proposed changes make more explicit the County Board’s existing authority in the Zoning Ordinance to modify regulations under site plan regarding physical compatibility requirements, density, and by-right height and tapering requirements. Additionally, the proposed amendment would, in fact, make the “C-R” district more similar to other zoning districts that do not presently limit the County Board’s authority to rezone from a specific zoning district.

This proposal would not set a precedent for rezoning “R-5” land to a commercial district or a higher-density zoning district. This amendment applies to those “R-5” (or other) properties that also have a GLUP designation of “Medium Density Mixed-Use” and are located within the Metro corridor. That prerequisite has not changed. The “Medium Density Mixed Use” GLUP designation is limited to the Clarendon and Virginia Square areas. The other areas currently designated “Medium Density Mixed Use” have “C-3”, “C-2”, and “C-O-1.5” zoning. All of these areas would be eligible for rezoning to “C-R”. It is important to note that those areas zoned “C-2” and “C-O-1.5” (in Virginia Square) are also eligible for and would likely take advantage of the “Mixed Use-Virginia Square” zoning as recommended in the Virginia Square Sector Plan, although, a proposal to rezone property to “C-R” could be requested and staff would evaluate whether it was an appropriate tool to meet the objectives of the sector plan for that area. The “MU-VS” zoning district would allow density up to a maximum of 5.0 FAR. Any proposed rezoning to “C-R” and any development by site plan in a “C-R” district would be the subject of an extensive public review process prior to consideration by the County Board.

For a property or area to receive a new “Medium Density Mixed Use” GLUP designation, it would have to be located in the vicinity of a metrorail station and would require an extensive public review process as part of re-planning the area. Furthermore, review and approval by the Planning Commission and County Board would be required.

Staff would have to carefully review a similar GLUP Amendment for other properties zoned “R-5” because it would represent a major policy shift to re-plan single-family residential uses and structures to higher density commercial or residential uses. All of the other properties that are zoned “R” and are adjacent to “C-3” or “C-R” zoning in the Clarendon area are single-family dwellings or apartment buildings and would require a GLUP Amendment from “Low” (1-10 dwelling units per acre) or “Low-Medium” (16-36 dwelling units per acre) Residential to “Medium Density Mixed-Use”. In the applicant’s case, the use is educational and not single-family residential, and the GLUP is not “Low” Residential. Therefore, the proposed land use changes should not be viewed as a precedent action for the rezoning of other “R-5” sites.

Building Taper: The proposed building taper was identified as a critical issue in the community discussions on this proposal during the previous review process. This was a complicated issue due to the unique characteristics of the site, which illustrates why the Zoning Ordinance was written to give the County Board flexibility to modify the height and taper requirements. The current “C-3” zoning allows a maximum height of 75 feet for by-right development. The “C-3” and “C-R” zoning districts establish complex height standards for site plan projects with heights of 55 feet tapering up to 110 feet. Further, the County Board has the flexibility to modify the tapering requirements and to increase the maximum height up to an ultimate height of 125 feet through the site plan option (See the *Modification of Use Regulations* section of this report). Site plan options are usually designed to increase height and density as an incentive to achieve community benefits and more detailed design and control over the project.

This particular site is further complicated by its triangular shape, narrow depth, and surrounding properties developed with a mixture of high-rise commercial, medium residential and low-rise “R-5” and “R-6” single family development. It is, however, within the “C-R” area, and within close proximity to Metro. Staff concludes that the proposed height of 96.5 feet at the center of the project is justified based on the following:

- Preservation of the 35-foot height along 13<sup>th</sup> Street across from “R-5” properties.
- Preservation of the existing 107.4-foot steeple.
- Provision of setbacks from the steeple at the 9<sup>th</sup> and 10<sup>th</sup> floors.
- Relationship to the 75-foot commercial building to the east.
- Relationship to the 110-foot commercial building and the 68-foot residential building to the west.
- The ability to achieve substantial community benefits while retaining significant control over the site through the site plan conditions.
- The achievement of reduced by-right options through the “C-R” zoning that limits height to 55 feet, thus significantly limiting alternative development (compared to what is allowed today).

Affordable Housing Program: The applicant proposes a substantial affordable housing program

that would result in the provision of 70 committed affordable rental units in close proximity to the Clarendon Metro Station. The affordable units would serve households earning less than 60% of the area median income. The proposed affordable housing program meets Goals 1, 3, 5, and 6 of Arlington County's Affordable Housing Goals (adopted by the County Board on December 6, 2003):

- **Goal 1, Target 1A and Goal 5, Targets 5A and 5B:** 20 of the units would be available to families with children (14 two-bedroom and 6 three-bedroom units).
- **Goal 3, Target 3B and 3C** (expand the County's supply of housing and increase the supply of new committed affordable housing units): this development would result in 70 new, committed affordable housing units.
- **Goal 6, Target 6A** (distribute committed affordable housing within the County, neighborhoods and projects). The proposed units would be in Neighborhood Service Area (NSA) D (Target is for 60% of new, non-elderly, rental committed affordable housing units in NSA's D, E and H).

In order to achieve the proposed affordable housing program, the applicant, through an appropriate affordable housing ownership affiliate, would need to secure private and other public funds through a number of sources, including tax credits through the Virginia Housing Development Authority (VHDA), the Federal Home Loan Bank, and \$6,597,185 in County AHIF/HOME loan funds.

The applicant has indicated that in order to make the project financially feasible, the number of units should remain at 116, with a mix of 70 affordable units and 46 market rate units. For more details on the affordable housing component, see accompanying Board Report that describes the applicant's request for an AHIF/HOME loan, including authorization for additional AHIF.

When this project was approved in 2004, the County Board authorized an AHIF loan for up to \$4.5 million to support the 70 on-site affordable units. The AHIF funds would supplement the other sources of funding to build the project (total project costs of \$36.6 million). Primarily because of the two-year delay, the Views at Clarendon Corporation, the non-profit developer, is requesting an additional \$2.1 million in AHIF. This additional request is due to an increased overall project budget of \$48.7 million. The cost increases of the project are associated with increases in the cost of construction that have occurred over the past two years in addition to the need for a completion guaranty from a development partner. In addition to the request for an increase in AHIF, the developer will apply for additional Low-Income Housing Tax Credits (LIHTC), state funding and private grants to cover the remainder of the cost increases.

**Modification of Use Regulations:** The applicant has requested a modification of use regulations for a parking reduction for church and community uses. Staff is also recommending that the use regulations be modified to allow 15.25% bonus density for affordable housing, to exclude GFA for tenant storage and the building connection from the density calculation, and for building height.

Parking reduction for church and community uses: While Section 33 of the Zoning Ordinance requires one parking space per five (5) sanctuary seats for churches, the Ordinance further states that the parking may be provided off site at a location which is accessory to another principle use, as long as the use for which the parking is ancillary is not open and operating during the hours in which persons are attending meetings at the church. The off-site parking must be located within 600 feet by shortest pedestrian route or within ¾ of a mile by shortest vehicular route. Historically, the existing church and child care uses have not provided parking on site, and have relied on available on-street parking and parking in local garages and surface lots, including the public parking facility located at 3033 Wilson Boulevard across North Highland Street from the site. The applicant anticipates continued use of these facilities for the church and child development center. In addition, the applicant proposes a shared parking program that would allow use of unused residential parking spaces by church and child development center staff. The number of available, unused spaces would be determined at the time of tenant lease-up. Staff supports the proposed modification of use regulations for the parking reduction. Staff recommends in Condition #49 that the developer submit a parking management plan which outlines the shared parking program, including a description of the location of the spaces and how the spaces will be managed.

Bonus Density for Affordable Housing: Section 36.H.7.a. of the Zoning Ordinance permits additional density of up to 25 percent in return for the provision of affordable housing. Furthermore, Section 36.H.7.a.(2)(b), which does not provide for modification of building heights for affordable housing under “C-R”, does allow modifications to allow bonus density for affordable housing under this district. Utilization of this provision provides for the preservation of a low rise building on the northern portion of the site adjacent to 13<sup>th</sup> Street North. An additional 22,833.68 square feet of GFA is proposed, representing 15.25 percent, or .535 FAR, of additional density over the site’s total base density. This would enable the provision of on-site affordable housing representing 60 percent of the total number of units (70 affordable units). Staff supports the proposed modification of use regulations. It would enable the County to achieve a substantial affordable housing program adjacent to a Metro Station, and at the same time offer various protections to the adjacent single family neighborhood through retention of the existing education building and the child development center which is housed in this building.

Density Exclusions: A total of 1,020 square feet of tenant storage and 1,064 square feet of building connection/corridor are proposed to be exempted from the density calculations. This is consistent with a number of previous site plans.

Building Height: The applicant is proposing to modify the building height under Section 27A.I., which states that the County Board may vary the building height and taper requirements of Section 27A.D. Furthermore, Section 27A.I.2. states that the maximum building height is 125 feet. Section 27A.D.1.a. requires a maximum height of 55 feet, except “*When a structure is greater than 165 feet from a “R” or “RA” Zoning District, height may be increased by 1 foot for every 3 feet beyond the 165 feet, up to a maximum of 110 feet.*” The proposed building’s height encroaches into a portion of the site in which the height limit is 55 feet, unless modified by the County Board. The 96.5 feet building tower would be located in the center of the site; north of the tower, the existing 29.5 feet tall education building would remain. The County Board

currently has, and will continue to have with the proposed Zoning Ordinance amendment, the flexibility to modify the tapering requirements as well as increase the maximum height up to 125 feet by site plan. The County Board has utilized this flexibility in other site plans approved under the “C-R” zoning district. For The Hudson Site Plan (SP #344), the building tower encroached into the required taper area and the County Board modified the building’s overall height from 110 feet to 122 feet. For The Hartford Site Plan (SP #298), the County Board modified the building height from 55 feet to 67.7 feet within the 165-foot restricted area.

As indicated above, this particular site is complicated by its triangular shape, narrow depth, its juxtaposition to surrounding properties developed with a mixture of high-rise commercial, medium residential and low-rise “R-5” and “R-6” single family development, and the goal of preserving the church steeple. By locating the 96.5-foot tall tower in the center of the site, and retaining the education building adjacent to 13<sup>th</sup> Street, a low rise buffer is provided adjacent to the residential neighborhood to the north. Additionally, the proposal retains the existing education building, child development center, and church steeple; provides streetscapes generally consistent with the Sector Plan update; and provides substantial community benefits, including 60 percent affordable housing located within close proximity to Metro. For these reasons, staff recommends that the County Board approve a modification of use regulations for building height.

**COMMUNITY PROCESS:** Prior to the County Board’s approval in 2004, the specifics of the project were thoroughly examined through a series of citizen and commission meetings. The following public meetings were held on this proposal in 2004 and 2007:

- Site Plan Review Committee: Three (3) meetings were held in 2004, on May 13, May 25, and, June 8, 2004. One (1) meeting was held in 2007: February 8, 2007.
- Roundtable Process: In 2004, four (4) meetings were held on August 17, 2004; August 24, 2004; August 31, 2004; and, September 11, 2004.
- Historic Affairs and Landmark Review Board: Three (3) meetings were held in 2004.
- Planning Commission: The Commission reviewed this proposal on February 12, 2007. The Commission voted to defer all items related to this proposal to the April County Board meeting, with the following additional recommendations:
  - The plans should reflect that a parking space on N. Hartford Street be moved to N. Highland Street, and a street tree be moved from N. Highland St. to N. Hartford St. Also, and also that the parking space would be universally accessible. Staff and the applicant concur, and new language has been added as Condition #17.a (7).
  - Screening on the penthouse and roof should be enhanced to use materials reflective of the steeple. Staff and the applicant concur, and new language has been added to Condition #31.
  - The crosswalk across N. Highland Street should be redesigned to improve pedestrian safety and reduce the crossing distance. Staff concurs and the applicant has agreed to redesign the crosswalk.
  - The garage door design should be improved to include verticality. Staff and the applicant concur, and new language has been added to Condition #31 to require design enhancements to both the garage and loading dock doors.
  - The applicant should make an effort to improve the LEED score. Staff concurs

and the applicant has agreed to meet with DES staff to identify additional sustainable elements to improve the LEED score.

- o Change the preamble of the “C-R” zoning district to require that this district shall be used within one-quarter mile of a metro station. Staff does not concur with this. While it has been the County Board’s practice to define the “vicinity” of a metro station as generally within one-quarter mile of the station, there may be situations where the County Board would need the flexibility and discretion to consider the specifics of a proposed rezoning in making its deliberations.

During the Planning Commission discussion of this proposal, questions were raised again whether the proposal is consistent with the 2006 Clarendon Sector Plan. As stated earlier, staff considers this project to be consistent with the sector plan. First, while this block is shown for a maximum density of 3.0 FAR, like other blocks in the core of Clarendon, a note indicates that the County Board can approve additional density above 3.0 FAR in exchange for community benefits such as affordable housing. Additionally, this block is marked with a symbol indicating that the density for this block is controlled under an approved site plan and/or zoning approval and that the density may be higher than the amount indicated on the map (3.0 FAR). The symbol was intended to apply to the October 23, 2004 site plan; thus the sector plan specifically contemplated this project. The sector plan indicates 35’ building height along 13<sup>th</sup> Street and 96.5’ for the remainder of the block as the maximum building heights for this block. The proposed site plan conforms to these height limits. Similar to other previously approved projects in Clarendon, the County Board was affirming the density level, height limits, tapers, step-backs, and other project characteristics associated with the Views of Clarendon site plan as the guiding principles for this block when the policies were adopted. Therefore, staff considers the proposed site plan to be compliant with the Clarendon Sector Plan.

In addition, no maximum density limit is set by the sector plan other than the overall building form. One of basic tenets of the sector plan is to establish a base density limit but also allow additional density above the base in exchange for extraordinary community benefits so long as the maximum building heights are not exceeded. Thus, in addition to the fact that the County Board intended to apply the approved site plan density as the density limit for this block, staff considers the current proposal as being in accord with the adopted sector plan even if one viewed the base density at 3.0 FAR. As previously stated, the sector plan clearly allows additional density so long as development does not exceed the maximum height limit, shown as 96.5’. In this case, additional density could be approved for affordable housing, which, at the level in this project is clearly an extraordinary community benefit.

It is also important to note that the “C-R” zoning district has not yet been revised to reflect the adopted Clarendon Sector Plan. The proposed amendments are in no way intended to address these changes, but only to more explicitly state the County Board’s existing discretion to modify regulations through the site plan review process and to clarify which properties may be rezoned to “C-R”. Among the issues that would need to be addressed to implement the adopted sector plan would be to modify the density limits consistent with the sector plan and to identify the appropriate level of additional density

that could be available in return for community benefits keeping within the maximum building heights. These amendments will come at a later date.

The site plan proposes an affordable housing strategy that is without precedent in terms of the ratio of affordable to market-rate units. Clearly any future implementation tool for Clarendon would recognize that this level of density, within the height limit, would be appropriate to achieve affordable housing.

- Transportation Commission: The Commission reviewed this proposal on February 15, 2007. The Commission voted to recommend approval of the site plan, with the following modifications:
  - Amend Condition #11.k. to allow construction vehicle parking, idling or standing on both North Hartford and North Highland Streets. Staff and the applicant concur, and the language has been amended.
  - Amend Condition #17 to delete the word "dual" and, in response to follow-up concerns, delete the requirement for an 8-foot wide clear zone in sidewalks. This would clarify the goal of achieving clear and level pedestrian sidewalk zones, without restricting the dimension of the clear zone. Staff and the applicant concur, and the language has been amended.
  - Amend Condition #18 to require the applicant to reduce the tree pit widths or modify tree pit locations to obtain an 8-foot wide clear zone in the sidewalk along North Highland Street. The condition requires 5'x12' tree grates, not pits, on North Highland Street. The applicant has agreed, and staff concurs, to modify the locations of the tree grates in order to achieve an 8-foot wide clear zone where possible, but not narrow the width of the tree grates.
  - Amend Condition #40 to require bicycle parking for the church and ancillary uses at a ratio of four (4) bike parking spaces for every 10,000 square feet of church/ancillary use floor area. Staff and the applicant concur, and the language has been amended.
  - Amend Condition #49 to allow residents assigned a parking space to rent or lease the space to other persons at their discretion, consistent with reasonable building security requirements, except to the extent specifically prohibited by VHDA. Staff and the applicant concur, and the language has been amended.
- Housing Commission: The Commission reviewed this proposal on February 15, 2007. The Commission voted to approve the additional \$2.1 million of AHIF, subject to awarding of 9% tax credits from the VHDA.
- County Board: In 2004, the County Board met on October 23, and voted to adopt a resolution amending the GLUP designation on the southern portion of the block from "Semi-Public" to "Medium Density Mixed-Use", and to retain the northern portion of the block as "Semi-Public"; to adopt a resolution approving a rezoning from "C-3" and a portion of "R-5" to "C-R", and to retain the northern portion of the block as "R-5"; and to approve the site plan request for a residential building, a church, and an educational building housing a child development center, subject to the conditions.

On January 27, 2007, the County Board authorized the advertisement of public hearings to consider the proposed Zoning Ordinance Amendment, General Land Use Plan

amendment, rezoning, and site plan at the Planning Commission meeting on February 12, 2007, and the County Board meeting on February 24, 2007.

**CONCLUSION:** The applicant proposes to redevelop the site to provide a significant amount of affordable housing and to continue to provide the other valuable services they provide today including the child care center. The proposal requires modification to the Zoning Ordinance requirements, but staff concludes they are reasonable in light of the community benefits. The proposal continues to provide protection for the single family neighborhoods through preservation of the education building to the north and provision of site plan conditions that meet community needs. Modification of use regulations are recommended in the site plan for a parking reduction for church and community uses, bonus density for affordable housing, density exclusions for storage and a building connection, and building height. The proposed site plan would comply with Section 36.H.3. of the Zoning Ordinance, including compliance with County standards, policies and plans; functionally relating to other structures permitted in the district and not being injurious or detrimental to the property or improvements in the neighborhood; and, promoting and protecting the public health, safety and welfare. For these reasons, staff recommends that the County Board adopt a resolution for the Zoning Ordinance amendment to the “C-R” District to clarify the County Board’s discretion in rezoning properties to “C-R” and modifying regulations under site plan, amend the GLUP from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the site adjacent to 13<sup>th</sup> Street North, rezone the block from “C-3” and “R-5” to “C-R”, and approve a site plan for a residential building containing 116 dwelling units, including 70 affordable dwelling units, a church of the size and design as shown on the site plan drawings, and an educational building which houses, among other programs, a use permit approved child development center, subject to the following conditions of the staff report:

- **The following Conditions of site plan approval (#1 through #12) are valid for the life of the site plan and must be met by the developer before issuance of the Clearing, Grading and Demolition Permit.**
- 1. The developer (as used in these conditions, the term developer shall mean the owner, the applicant and all successors and assigns) agrees to comply with the standard conditions set forth below and as referenced in Administrative Regulation 4.1 and the revised plans dated February 2, 2007 and reviewed and approved by the County Board and made a part of the public record on February 24, 2007, including all renderings, drawings, and presentation boards presented during public hearings, together with any modifications proposed by the developer and accepted by the County Board or vice versa, including those related to the church and its ancillary uses.

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

the plan into compliance with then current County policies and standards together with any modifications proposed by the owner and accepted by the County Board or vice versa.

2. The developer agrees to conduct a pre-construction meeting, and to coordinate participation in the pre-construction meeting by relevant County staff, including staff from the Departments of Community Planning, Housing and Development (DCPHD) Planning, Zoning, Inspection Services; Parks, Recreation and Community Resources (DPRCR); Environmental Services (DES) and others as necessary, prior to the issuance of any permits for the site plan. The purpose of the pre-construction meeting is to discuss the requirements of the site plan conditions.
3. Tree Protection and Replacement
  - a. The developer agrees to complete a tree survey, which shows existing conditions of the site and locates and identifies all trees which are consistent with the Tree Replacement Guidelines. The survey shall include any tree on adjacent sites whose dripline extends onto the subject site.
  - b. The developer agrees to file and implement a tree protection plan for any trees proposed to be saved by the developer or specified to be saved by the approved site plan and shown on any filing in connection with this case. This plan shall include any tree on adjacent sites whose dripline extends onto the subject site. The tree protection plan shall be developed by a certified arborist or other horticultural professional with a demonstrated expertise in tree protection techniques on urban sites and shall be submitted and approved, and found by the County Manager or his designee to meet the requirements of this site plan, before the issuance of the Clearing, Grading and Demolition Permit. At a minimum, this plan shall include:
    - (1) A site grading plan at two (2) foot intervals, including the location of all proposed improvements and utilities.
    - (2) Detailed specifications for any tree walls or wells proposed.
    - (3) A description of how and where building materials and equipment will be stored during construction to ensure that no compaction occurs within the critical root zone of the trees to be saved.
    - (4) Identification of tree protection measures and delineation of placement of tree protection.
    - (5) Any tree which is 30% or more dead as determined by the County's Urban Forrester shall be removed and replaced by the developer at his expense with the number of major deciduous and evergreen trees consistent with the

Tree Replacement Guidelines and which meet the minimum size and other requirements of Condition #14 below.

- c. The developer also agrees to replace all trees, as shown on the Tree Survey, that are removed as a result of the new construction in accordance with the Arlington County Tree Replacement Guidelines. The developer agrees to submit tree replacement calculations and a tree replacement plan in accordance with the Arlington County Tree Replacement Guidelines. The tree replacement calculations shall be developed by a certified arborist or other horticultural professional with a demonstrated expertise in assessing the condition of trees. Any replacement trees shall conform to the standards and specifications set forth in Condition #14a below and shall be installed on the project site or on County-owned land, determined by the County Manager or his designee. The developer agrees to submit and obtain approval of this plan by the County Manager or his designee as part of the final site development and landscape plan.
4. The developer agrees to produce a photographic record of development, starting with a record of the site as it appears before demolition is begun, including photographic records during construction, and ending with a photographic record of the development as it appears after completion of construction. These photographs shall comply with the following specifications:

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

The photographic record shall include the following:

- a. Before Clearing, Grading and Demolition of the site (shall be submitted before issuance of the Clearing, Grading and Demolition Permit)–Views of north, south, east and west facades, as location permits, of buildings to be demolished, as well as at least one photo of the site before any clearing or grading including the existing physical relationship with adjacent buildings and streets. The photographic record shall also include all historic aspects of the facades of the building to be demolished, consistent with the requirements described in Condition #51 below.
- b. Site Clearance (shall be submitted before issuance of the Footing to Grade Permit)–Views of cleared site facing north, south, east and west, as location permits, with adjacent buildings and streets included.
- c. Construction Phase (shall be submitted before issuance of the Shell and Core Certificate of Occupancy Permit)–At a minimum, views of the site: during

excavation, upon completion of the first floor above grade, at topping out, and during the exterior cladding phase.

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

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

If the developer uses the "Fast Track" Permit Process, the Site Clearance and Construction Phase photographs shall be submitted before the issuance of the Footing to Grade Structure Permit, or the first Building Permit, whichever comes first. The Construction Phase photographs, showing any construction to grade, shall be submitted before the Final Building Permit. The Construction Phase photographs showing all construction above grade and the Site Completion Photographs and completed compact disc showing the entire photographic history of the site shall be submitted before issuance of the Master Certificate of Occupancy.

5. In addition to funding and constructing the utility undergrounding work, the developer agrees to contribute in the amount specified in Site Plan conditions to the County utility fund before the issuance of the Building Permit or prorated consistent with an approved phasing plan for the development. The total utility fund contribution for this site is \$19,600 ( $\$50,000 \times 0.98$  acres  $\times 40\%$  market rate). These funds may, but need not, be used by the County for the purpose of providing the undergrounding of utilities along the properties which are not redeveloping in this undergrounding district. If the area of the site plan is subdivided, the contribution to be made by each owner shall be based proportionally on the amount of site area allocated to each subdivided parcel. The contribution, if not obligated by the County to pay for utility undergrounding projects within 10 years from the date of payment, will be refunded without any accrued interest to the development owners of record at the time of any refund.
6. The developer agrees to develop a plan for temporary pedestrian and vehicular circulation during construction. This plan shall identify temporary sidewalks, interim lighting, fencing around the site, construction vehicle routes, and any other feature necessary to ensure safe pedestrian and vehicular travel around the site during construction. This plan shall also outline plans for temporary pedestrian and vehicular circulation related to the child care center if the center remains on site during construction, consistent with Condition #71 below. The plan shall address drop-off and pick-up of children, parking for center staff, and safe pedestrian routes from the center to the tot lot located across 13<sup>th</sup> Street from the site. The developer agrees to provide a copy of this plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic

Association, the Hartford Condominium Association, and the Clarendon Alliance. The developer agrees to submit this plan to, and obtain approval of the plan from, the County Manager or his designee as meeting these standards, before the issuance of the Clearing, Grading and Demolition Permit. The County Manager may approve amendments to the plan, if consistent with this approval.

The developer agrees, during the hours of construction, to provide “flagmen” to assist in the direction of traffic along or around a street any time that any driving lane of such a street is partially or fully blocked due to temporary construction activities. In addition, the developer agrees to notify the appropriate civic associations and all abutting property owners in writing (or, by mutual agreement, by e-mail) at least seven calendar days in advance of any street closure, except in the case of an emergency, of more than one hour duration on any street. “Emergency” street closures may include, but not be limited to, those relating to rupture or potential rupture of a water or gas main, insecure building façade, or similar unforeseeable public danger. “Emergency” street closures shall not include closures for setting up or dismantling of a crane, exterior building construction, materials deliveries, or utilities work, or similar situations.

Where county street lighting has been removed or disconnected due to construction and not yet replaced or reconnected, the developer agrees to maintain lighting around the perimeter of the site between the start of construction and completion of the project. The lighting shall be designed to illuminate the temporary pedestrian walkways and roads around the perimeter of the site. The developer may do this by means of overhead lights (e.g. “cobra head” lights) that meet the lighting standards for Arlington County streets, or by stringing lamps of the kind used in “used car” lots or similar along sidewalks and streets along the perimeter of the site. If lighting is accomplished by the latter, such lighting shall be with 75 watt bulbs (or approximate equivalent) placed no more than 25 feet apart and 6 to 10 feet high. Lighting shall be turned on between dusk and dawn 7 days a week. Any high-intensity overhead lighting, such as lighting placed on construction cranes, shall be used only during construction hours (except lower levels after hours for safety and security reasons), and shall be placed so as not to directly illuminate residential dwellings or be a nuisance to neighboring property owners. For purposes of this condition, “completion of the project” shall mean the time when the County standard lighting fixtures are in place and operational around the perimeter of the site.

The developer agrees to maintain street surfaces adjacent to the site in a clean, smooth condition devoid of potholes at all times during the construction period. Whenever a significant portion of an adjacent road surface is disturbed for reasons relating to the construction, including utility work, the developer agrees to repair promptly the disturbed portion(s) of pavement with hot patching to return the road surface to a clean, smooth condition. The developer agrees to insure that the road surface is promptly repaired regardless of whether the excavation work or other damage to the road surface was done by the developer, the developer’s contractors, or private utility companies. The developer agrees to make reasonable efforts to schedule construction work so that digging in the street surfaces will not occur during the winter months. However, if the road surface is

disturbed during the winter months, the developer may temporarily restore the road surface using cold patching and then hot patch the disturbed surface at the earliest opportunity when weather conditions permit. If cold patching is used, it shall be properly maintained and resurfaced as necessary to maintain a clean, smooth road condition. The term "significant portion of a road" is understood to include, but not be limited to, a cut in the road surface that exceeds 10 feet in length or 100 square feet in size. This condition is in addition to any other conditions in this site plan and any County requirements relating to reconstruction and repaving of streets at the completion of construction.

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

- ~~a. A minimum of 120 days written notice to vacate.~~
- ~~b. Relocation payments, in accordance with the *Arlington County Tenant Relocation Guidelines* adopted by the County Board and in effect on \_\_\_\_\_, a copy of which are attached to the report of the County Manager for this site plan approval.~~
- ~~c. Relocation services in accordance with the *Arlington County Tenant Relocation Guidelines* adopted by the County Board and in effect on \_\_\_\_\_.~~

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

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

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

- ~~b.~~ ~~The developer will assist the County to make available to all retail tenants, either directly or through the developer, information on available commercial space in the County, business counseling services and appropriate business courses.~~
  - ~~c.~~ ~~The developer agrees to cooperate with the retail tenants by referring tenants who so request to private sources of professional assistance in regard to lease negotiation (i.e., understanding lease terms, trends and negotiation strategy), space planning and other related sources of help.~~
  - ~~d.~~ ~~Except for provisions in any lease to the contrary, the developer agrees to maintain the site, structures and systems in good repair and in a businesslike appearance until the last retail tenant vacates or until the notice to vacate expires, whichever comes first.~~
  - ~~e.~~ ~~The developer agrees to show compliance with the terms of this condition before the issuance of the Clearing, Grading and Demolition Permit.~~
9. The developer agrees to comply with all federal, state and local laws and regulations not modified by the County Board's action on this plan and to obtain all necessary permits. In addition, the developer agrees to comply with all of the agreed-upon conditions approved by the County Board as a part of this site plan approval. The County has the authority to take actions to include issuance of a stop work order when the developer is not in compliance with the agreed-upon conditions. Further, temporary Certificates of Occupancy will not be issued without approval by the Zoning Administrator.
  10. The developer agrees to file three copies of a site plan and the tabular information form, and digital copies on compact disc in JPEG, PDF, and DXF formats, which complies with the final approval of the County Board and with Administrative Regulation 4.1, with the Zoning Administrator within 90 days of the County Board approval and before the issuance of the Clearing, Grading and Demolition Permit.
  11. The developer agrees to comply with the following before issuance of the Clearing, Grading and Demolition Permit and to remain in compliance with this condition until the Master Certificate of Occupancy is issued.
    - a. The developer agrees to identify a person who will serve as liaison to the community throughout the duration of construction. This individual shall be on the construction site throughout the hours of construction, including weekends. The name and telephone number of this individual shall be provided in writing to residents, property managers and business owners whose property abuts the site, and to the Lyon Village Civic Association, the Clarendon Alliance, the Clarendon-Courthouse Civic Association, the Hartford Condominium Association, and the Zoning Administrator, and shall be posted at the entrance of the project.

- b. Before commencing any clearing or grading of the site, the developer shall hold a meeting with those whose property abuts the project, the neighboring civic associations, including the Lyon Village Civic Association, and the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance, to review the construction hauling route, location of construction worker parking, plan for temporary pedestrian and vehicular circulation, and hours and overall schedule for construction. The developer agrees to provide documentation to the Zoning Administrator of the date, location and attendance of the meeting before a Clearing, Grading and Demolition Permit is issued. Copies of plans or maps showing the construction hauling route, construction worker parking and temporary pedestrian and vehicular circulation shall be posted in the construction trailer and given to each subcontractor and construction vehicle operator before they commence work on the project.
- c. Throughout construction of the project, the developer agrees to advise abutting property owners in writing of the general timing of utility work in abutting streets or on-site that may affect their services or access to their property.
- d. At the end of each work day during construction of the project, the developer agrees to ensure that any streets used for hauling construction materials and entrance to the construction site are free of mud, dirt, trash, allaying dust, and debris and that all streets and sidewalks adjacent to the construction site are free of trash and debris. All oil spills shall be treated at the end of each day so as not to cause a hazard.
- e. The developer agrees that construction activity, except for construction worker arrival to the construction site and indoor construction activity, will commence no earlier than 7:00 a.m. and end by 6:30 p.m. on weekdays and will commence no earlier than 10:00 a.m. and end by 6:30 p.m. on Saturdays, Sundays, and holidays. "Holidays" are defined as New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving, and Christmas. Indoor construction activity defined as activity occurring entirely within a structure fully enclosed on all sides by installed exterior walls, windows, and/or doors shall end at midnight each day, and any such activity that occurs after 6:30 p.m. shall not annoy or disturb reasonable persons of normal sensitivities. The developer agrees to place a minimum of one sign per street front indicating the permissible hours of construction around the construction site, to place one additional sign within the construction trailer containing the same information, and to provide a written copy of the permissible hours of construction to all subcontractors.
- f. Storage of construction materials, equipment and vehicles shall occur on the site or an approved off-site location, or as approved by the County Manager of his designee.

- g. The applicant agrees that throughout the construction period, pedestrian access on the project-side of North Highland Street shall remain open and all pedestrian areas around the site shall be illuminated.
  - h. If the requirements of this condition are found to be either not implemented or violated during the course of construction, a correction notice will be forwarded to the developer. If the violation is not corrected within ten (10) days, a "stop work order" will be issued, and construction halted until the violation has been corrected.
  - i. During the course of construction all utility cuts in the street shall be temporarily filled consistent with the grade of the street.
  - j. The developer agrees during the hours of construction to provide flagmen to assist in the direction of traffic along or around a street any time than any y driving lane of such street is partially or fully blocked due to temporary construction activities.
  - k. Construction vehicles shall not park, idle or stand on any street designated as a neighborhood minor or neighborhood principal street on the DES website, except on Hartford Street or Highland Street between Wilson Boulevard and 13<sup>th</sup> Street.
12. The developer agrees to provide a plan for diverting construction debris as outlined by LEED Credit 2.1 as currently established by the USGBC~~from landfill disposal the demolition, construction, and land clearing debris generated by the project.~~ The plan should outline recycling and/or reuse of waste generated during demolition and/or construction. The plan should outline specific waste streams and identify the means by which waste will be managed (reused, reprocessed on site, removed by licensed haulers for reuse/recycling, disposal, etc.). The plan must include letters from contracted haulers, reprocessors, and recyclers indicating that they are able to manage waste from the project. The developer agrees to obtain the County Manager's approval of this plan prior to the issuance of the Clearing, Grading, and Demolition permit, and to implement the plan throughout demolition and construction of the project. Compliance with this condition may contribute to achieving LEED credits MR 2.1 and 2.2 (Construction Waste Management.)
- **The following Conditions of site plan approval (#13 through #32) are valid for the life of the site plan and must be met by the developer before issuance of the Excavation/Sheeting and Shoring Permit.**
13. The developer agrees to submit to the Zoning Administrator and obtain approval from the County Manager of a detailed final site development plan and a landscape plan prior to issuance of the Excavation/Sheeting and Shoring Permit. The developer agrees to provide a copy of the site development and landscape plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. The final site development plan and landscape plan shall be submitted at a scale of 1 inch = 25 feet, in conjunction with the final site

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

- a. The location and dimensions of traffic signal poles and control cabinets, utility meters, utility vaults and boxes, transformers, mechanical equipment, fire hydrants, standpipes, storm water detention facilities, the location of all existing and proposed utility lines and of all easements. The location of traffic control cabinets shall be shown on the final site engineering plan and placed so as not to obstruct pedestrian travel or be visually obtrusive. Traffic control cabinets shall not be located in the public sidewalk. Transformers shall not be placed above grade in the setback area between the building and the street.
- b. Intake and exhaust garage ventilation grates may not be located within public sidewalks or streets, or within areas between the street curb and any building which is used as a walkway. The locations of intake and exhaust garage ventilation grates shall be consistent with the drawings dated February 2, 2007. The openings in the grates shall be no greater than ½ inch and shall contain a slip resistant finish. The developer agrees to provide drawings showing how the garage will be ventilated prior to submission of the post-County Board Administrative Regulation 4.1 drawings required in Condition #10 above. Ventilation grates shall be located and/or screened so as not to be visible from public rights-of-way, or as otherwise approved by the County Manager or his

designee. The developer shall obtain approval from the County Manager or his designee on the location and screening of all ventilation grates as part of the review of the final site engineering plan and the final site development and landscape plan before issuance of the Footing to Grade Permit.

- c. The location, dimensions, materials, and pavement pattern, where applicable, for driveways and access drives, automobile drop-off areas, driveway aprons, service drives, parking areas, interior walkways and roadways, plaza areas and sidewalks, as well as for address indicator signs. Brick or a concrete unit paver shall be used on the access drives, automobile drop-off areas, plaza areas, and interior walkways and roadways. Interior walkways shall have a minimum width of four (4) feet. All plaza areas shall contain special paver treatments that coordinate in design, color and materials with the treatment of the public sidewalk. The plaza area located in front of the church at the intersection of North Hartford and Highland Streets, shall have a special design treatment. The design, materials and colors used are subject to approval by the County Manager or his designee according to adopted sector plans or other urban design standards approved by the County Board as a part of review and approval of the final site development and landscape plan.
  - d. The location and types of light fixtures for streets, parking, walkway and plaza areas, and associated utilities, as contained in the lighting plan required in Condition #50 below.
  - e. Topography at two (2) foot intervals, ~~and~~ the finished first floor elevation of all structures, and top-of-slab elevation for any proposed underground structures.
  - f. Landscaping for open space areas, plaza areas, courtyards, raised planters (including cross-sections of raised planters), surface parking areas, and service drives, including a listing of plant materials; details of planting, irrigation and drainage; and details of proposed furnishings for all areas, including but not limited to dimensions, size, style(s), materials(s), finish(s) and manufacturer(s) of seating, bollards, trash receptacles, bike racks, arbors, trellises, and water features, and other landscape elements or structures.
  - g. The location and planting details for street trees in accordance with Department of Environmental Services Standards and Specifications for planting in public rights-of-way and as shown on the approved final site engineering plan.
  - h. The limits of demolition and construction.
14. The developer agrees that all landscaping shall conform to Department of Environmental Services Standards and Specifications and to at least the following requirements:
- a. Plant materials and landscaping shall meet the then-current American Standard for Nursery Stock, and shall also meet the following standards:

- (1) Major deciduous trees (shade or canopy trees such as Oaks, Maples, London Plane Trees, Japanese Zelkovas, etc.) other than street trees—a minimum caliper of 4 to 4 1/2 inches, except as indicated in Condition #18 below.
  - (2) Evergreen trees (such as Scotch Pines, White Pines, Hemlocks, etc.)—a minimum height of 7 to 8 feet.
  - (3) Ornamental deciduous trees (such as Cherries, Dogwoods, Serviceberries, Hornbeams, etc.)—a minimum caliper of 3 to 3 1/2 inches. Multi-stem trees shall not be less than 10 feet in height.
  - (4) Shrubs—a minimum spread of 18 to 24 inches.
  - (5) Groundcover—in 2 inch pots.
- b. All new lawn areas shall be sodded; however, if judged appropriate by the County Manager or his designee, based on accepted landscaping standards and approved in writing, seeding may be substituted for sod. All sod and seed shall be state certified.
- c. Exposed earth not to be sodded or seeded shall be well-mulched or planted in ground cover. Areas to be mulched may not exceed the normal limits of a planting bed.
- d. Soil depth shall be a minimum of four (4) feet plus 12 inches minimum of drainage material for trees and tall shrubs and three (3) feet for other shrubs. This requirement shall also apply to those trees and tall shrubs in raised planters. Soil depth for raised planters shall be measured from the bottom of the planter to the top of the planter wall. The walls of raised planters shall be no higher than seat-wall height (2 1/2 feet, maximum) above the adjacent finished grade.
- e. Finished grades shall not exceed a slope of three to one or the grade that existed before the site work began.
- f. The developer agrees to maintain the site in a clean and well-maintained condition before the issuance of the Clearing, Grading and Demolition Permit and agrees to secure and maintain the site throughout the construction and phasing process. Further, the developer agrees to submit a maintenance agreement which shall ensure that all plaza areas and other landscaped areas located on private property are kept in a clean and well-maintained condition for the life of the site plan and to follow the terms of that maintenance agreement approved for that purpose by the Zoning Administrator, as required in Section 32A of the Zoning Ordinance.

- g. The developer agrees to notify the DPRCR Urban Forester at least 72 hours in advance of the scheduled planting of any street trees in the public right-of-way and to be available at the time of planting to meet with staff of DPRCR to inspect the plant material, the tree pit and the technique of planting. Soil used in the tree pit must meet the specifications for street tree planting available from the DPRCR Urban Forester.
15. The developer agrees to contact all utility companies, including the electric, telephone and cable television companies, and offer them access to the site at the time of utility installation to install their underground cables. In order to comply with this condition the developer agrees to submit to the Zoning Administrator copies of letters from the developer to the utility companies offering them access as stated above.
  16. The developer agrees to submit final site engineering plans to the Department of Environmental Services. The plans shall be drawn at the scale of 1 inch = 25 feet and be 24 inches by 36 inches in size. Neither the Excavation/Sheeting and Shoring permit nor the first Building Permit shall be issued until final site engineering plans which agree with the approved final site development and landscape plans, and the sequence of construction, has been approved by the Department of Environmental Services, as consistent with all site plan approval requirements and all County laws. Upon completion of the construction of a project, the developer agrees to submit one (1) set of as-built mylar plans for sanitary, storm sewer and water main construction to the Department of Environmental Services for recording.
  17. The developer agrees to work cooperatively with DES and CPHD staff and/or the County Manager's designee to revise the final design of the street and sidewalks on final engineering drawings to achieve the goal of achieving clear and level pedestrian sidewalk zones on all public sidewalks on the site and fixing the inadequate pedestrian /vehicular circulation interface at the loading/parking/service area. These revisions may result in modifications of the dimensions listed below in Conditions #17 and #18. The developer agrees to show on the final engineering plans pavement, curb and gutter along all frontages of this site in accordance with the then-current Arlington County Standard for concrete curb and gutter and the then-current standards for pavement and according to the following dimensions. The developer agrees to provide a copy of the final engineering plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. The pavement, curb and gutter shall be constructed prior to issuance of the first Certificate of Occupancy for occupancy of the applicable phase of the project.
    - a. North Hartford Street
      - (1) The developer agrees to construct curb and gutter approximately 6 feet northeast from the Arlington County survey centerline of North Hartford Street from the southernmost point of the property line for a length of approximately 130 feet to the north.
      - (2) The developer agrees to construct curb and gutter approximately 12.5 feet from the Arlington County survey centerline of North Hartford Street

from the intersection at 13<sup>th</sup> Street North for a length of approximately 210 feet to the north.

- (3) The developer agrees to construct a nub at the eastern corner of North Hartford Street at 13<sup>th</sup> Street North, as shown on the final engineering plan approved by the County Manager or his designee.
- (4) The developer agrees to construct handicap ramps on both sides of the street at the transition point between the two curb alignments and crosswalks of materials as approve by the County Manager, as shown on the final engineering plan approved by the County Manager, or his designee.
- (5) The developer agrees to construct handicap ramps on both sides of North Hartford Street at the southwestern corner of the and crosswalks of materials as approve by the County Manager, as shown on the final engineering plan approved by the County Manager, or his designee.
- (6) The developer agrees to construct handicap ramps on both sides of the street crossing North Hartford Street at the eastern corner of Hartford Street at 13<sup>th</sup> Street North and a twelve foot ladder-style crosswalk across North Hartford Street of materials as approved by the County, built per the Department of Environmental Services Construction Standards and Specifications then in effect.
- (7) The developer agrees that one (1) on-street parking space located along North Highland Street shall be universally accessible.

b. North Highland Street

- (1) The developer agrees to construct curb and gutter approximately 10 feet west from the Arlington County survey centerline of North Highland Street from the southernmost point of the property line for a length of approximately 120 feet to the north, as shown on the final engineering plan approved by the County Manager or his designee.
- (2) The developer agrees to construct curb and gutter approximately 17 feet from the Arlington County survey centerline of North Highland Street from the intersection at 13<sup>th</sup> Street North for a length of approximately 230 feet to the north, as shown on the final engineering plan approved by the County Manager or his designee.
- (3) The developer agrees to construct a mid-block nub on the west side of North Highland Street at the transition point between the two curb alignments, as shown on the final engineering plan approved by the County Manager or his designee.
- (4) The developer agrees to construct a nub on the west side of North Highland Street at its intersection with North Hartford Street, as shown on the final engineering plan approved by the County Manager or his designee.
- (5) The developer agrees to construct a nub on the west side of North Highland Street at its intersection with 13th Street North, as shown on the final engineering plan approved by the County Manager or his designee.

- (6) The developer agrees to construct handicap ramps at the mid-block nub of North Highland Street on both sides of the street and across their respective streets off site and a crosswalk of materials as approve by the County Manager, as shown on the final engineering plan approved by the County Manager, or his designee.
- (7) The developer agrees to construct handicap ramps along North Highland Street at the intersection of 13<sup>th</sup> Street N. and N. Hartford Street and across their respective streets off site and crosswalks of materials as approve by the County Manager, as shown on the final engineering plan approved by the County Manager, or his designee.

c. 13<sup>th</sup> Street North

- (1) The developer agrees to construct curb and gutter approximately 18 feet south from the Arlington County survey centerline of 13<sup>th</sup> Street North along the entire 13<sup>th</sup> Street North block face of the site.
- (2) The developer agrees to construct a nub on the south side of 13th Street North at its intersection with North Hartford Street, as shown on the final engineering plan approved by the County Manager or his designee.
- (3) The developer agrees to construct a nub on the south side of 13th Street North at its intersection with North Highland Street, as shown on the final engineering plan approved by the County Manager or his designee.
- (4) The developer agrees to construct handicap ramps on both sides of 13<sup>th</sup> Street North at the corner of 13<sup>th</sup> Street North at North Highland Street and crosswalks of materials as approve by the County Manager, as shown on the final engineering plan approved by the County Manager, or his designee.
- (5) The developer agrees to construct handicap ramps on both sides of 13<sup>th</sup> Street North at the corner of 13<sup>th</sup> Street North at North Hartford Street and across their respective streets off site and crosswalks of materials as approve by the County Manager, as shown on the final engineering plan approved by the County Manager, or his designee.

All improvements to curb, gutter, sidewalks and streets for pedestrian and/or vehicular access or circulation shall be in full compliance with the Americans with Disabilities Act (ADA) and any regulations adopted there under, as well as any other applicable laws and regulations. The developer further agrees that all improvements to curb, gutter, sidewalks, crosswalks, and streets for pedestrian and/or vehicular access or circulation shall be as determined by the County Manager or his designee on the final Site Development and Landscape Plan and on the final Site Engineering Plan, in accordance with the Rosslyn-Ballston Corridor Streetscape Standards or other applicable urban design standards in effect at the time of final Site Engineering Plan Approval; provided, however, that the provision of such improvements shall not increase the projected cost anticipated for such improvements as shown on the site plan drawings dated October 23, 2004 unless the County provides additional funding to offset such increased cost.

18. The developer agrees that the final sidewalk pattern/design and final selection of materials and colors to be used shall be as determined by the County Manager or his designee on the final site development and landscape plan and final engineering plan, in accordance with the Rosslyn-Ballston Streetscape Standards or other applicable urban design standards approved by the County Board and in effect at the time of the final landscape plan approval. The developer further agrees to construct the sidewalk improvements detailed below prior to the issuance of the first Certificate of Occupancy for occupancy of the applicable phase of the project, and to work cooperatively with DES and CPHD staff and/or the County Manager's designee to revise the final design and location of streets, sidewalks and street trees on the final engineering drawings and the final site development and landscape plan, to achieve the goal of achieving clear and level pedestrian sidewalk zones on all public sidewalks on the site and fixing the inadequate pedestrian /vehicular circulation interface at the loading/parking/service area. These revisions may result in modifications of the dimensions listed below and in Condition #17 above if needed to preserve the clear sidewalk zones. The sidewalks along the street frontages of this development shall be paved with poured concrete with brick or an interlocking concrete paver clear zones along the street frontages of this development shall be consistent with the County's R-B Corridor Streetscape Standards or a poured-in place "decorative" concrete design consistent with design specs: #02610, #02615 or approved alternate. Such sidewalk must comply with ADA standards of a vibration free surface texture and a limit of 1/4 inch or less rise not more than every 30 inches and shall be placed on a properly-engineered base approved as such by the Department of Environmental Services. The sidewalk treatments shall continue across all driveway aprons for loading and garage entrances along all frontages of the site plan, and there shall be no barriers to impede the flow of pedestrian traffic. The sidewalks shall contain street trees placed in either tree pits, tree grates or planting strips, consistent with the *Standards for Planting and Preservation of Trees in Site Plan Projects*, and as specified below. Placement, planting and root enhancement options shall be consistent with the *Standards for Planting and Preservation of Trees in Site Plan Projects*, and as specified below. Street trees shall not be placed within the vision obstruction area. Options for street tree root enhancement shall be a continuous planting soil panel or a continuous structural soil panel which runs under the sidewalk pavement, along the back of curb, connecting all street tree pits. All public walkways shall be constructed to County Standard. The developer agrees to maintain and replace the street trees and sidewalks for the life of the site plan. Consistent with Condition #13 above, the developer agrees to provide a copy of the site development and landscape plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. The sidewalk sections and street tree species shall be as follows:

a. North Hartford Street

- 1) From the southern corner of North Hartford Street extending approximately 130 feet northwest: 12-foot wide sidewalk measured from the back of curb, including four (4) 5-foot by 12-foot tree grates planted with 4 to 4 ½ inch caliper Zelcova street trees, placed approximately 30 feet on-center adjacent to the back of curb.

- 2) From approximately 130 feet north of the southern corner of North Hartford Street extending approximately 100 feet northwest: approximately 7 foot wide sidewalk.
  - 3) From approximately 230 feet north of the southern corner of North Hartford Street extending approximately 100 feet northwest: 11.7-foot wide sidewalk measured from the back of curb, including three (3), 5-foot by 12-foot tree grates planted with 4 to 4 ½ inch caliper Zelcova street trees, placed approximately 30 feet on-center adjacent to the back of curb.
  - 4) The developer agrees to provide a minimum 7-foot wide clear sidewalk from the face of building to the back of tree pit.
- b. North Highland Street
- 1) From the southern corner of North Highland Street extending approximately 130 feet north: 13.5-foot wide sidewalk measured from the back of curb, including two (2) 5-foot by 12-foot tree grates planted with 4 to 4 ½ inch caliper Zelcova street trees, placed approximately 30 feet on-center adjacent to the back of curb.
  - 2) From approximately 130 north of the southern corner of North Highland Street extending approximately 230 feet north: 12.7-foot wide sidewalk measured from the back of curb, including six (6), 5-foot by 12-foot tree grates planted with 4 to 4 ½ inch caliper Zelcova street trees, placed approximately 30 feet on-center adjacent to the back of curb.
- c. 13<sup>th</sup> Street North
- 1) Sidewalk of varying width with a clear walking path of not less than eight (8) feet, including seven (7), 5-foot by 12-foot tree pits planted with 4 to 4 ½ inch caliper Zelcova street trees and such ground cover as liriopie muscarii, hypericum, calycinum (Aarons Beard), or juniperus conferta (Shore Juniper), placed approximately 30 feet on-center and a minimum of eight (8) inches back from the back of curb.
19. The developer agrees that in order to accommodate the subsurface requirements of utilities and streetscape elements (including street trees), the final design of the project shall provide a structure-free zone under the public sidewalk along all street frontages, as required in the *Standards for Planting and Preservation of Trees in Site Plan Projects*. This zone shall be a minimum of five (5) feet deep and shall extend from the back of the street curb to the far edge of the public sidewalk. No subterranean structures (such as parking garages) shall intrude into this five foot deep zone. Within the zone, underground utilities and utility vaults shall not be located in a manner that interferes with the appropriate spacing and replacement of street trees, consistent with the approved final site and development and landscape plan. Utility lines shall not be located beneath street trees. The location of all existing and proposed utility lines shall be shown on both the final landscape plan and the final site engineering plan.
20. The developer agrees that the location of the water services will be determined at the time of the review of the final engineering plan in accordance with the following

standards: water meter installations shall be located behind and adjacent to the curb line in an area clear of driveways, a minimum of five (5) feet clear of other utilities and a minimum of 10 feet clear of structures; a clear space 15 feet wide by 20 feet long by 10 feet deep shall be provided for three (3) inch and four (4) inch meter installations, and 20 feet wide by 25 feet long by 10 feet deep for six (6) inch and larger meter installations; and the building walls shall be adjusted as necessary to provide these clearances.

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

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

22. The developer agrees that no existing water main or fire hydrant shall be taken out of service or made inaccessible without the prior approval of the Department of Environmental Services. This approval shall be obtained before the issuance of the Excavation/Sheeting and Shoring Permit.
23. The developer agrees to show, on the final engineering plans, water main improvements in accordance with the following. The water main improvements shall be constructed prior to the issuance of the Final Building Permit for the respective phases of construction.

The developer agrees to construct an 8-inch water line in North Hartford Street, connecting to the existing water lines in 13<sup>th</sup> Street North and North Highland Street.

24. The developer agrees to show, on the final engineering plans, ~~and to construct~~ sanitary sewer main improvements in accordance with the following. The sanitary sewer main improvements shall be constructed prior to the issuance of the Final Building Permit.

The developer agrees to design but not construct a 12-inch sewer line in North 13<sup>th</sup> Street which connects to an existing sewer line at Herndon Street.

The County will TV-Inspect the sanitary sewer lines serving the site and shall identify any improvements that are necessary to adequately service the development. The

developer agrees to repair or replace any sections or appurtenances of the sanitary sewer serving the development that are found to be deficient in construction or damaged by the developer, as identified by County staff and as shown on the final engineering plan approved by the County Manager or his designee.

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

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

26. The developer agrees to remove and replace any existing curb, gutter and sidewalk along the street frontages of this site which is in poor condition or damaged by the developer according to Arlington County standards and specifications, prior to the issuance of the first Certificate of Occupancy.
27. The developer agrees to show on the final engineering plans street lighting along all frontages of the site prior to the issuance of the Excavation/Sheeting and Shoring Permit. The plans shall include the height and color of the street light poles. The developer agrees, at its cost, to purchase and install approved Arlington County street lighting along the frontages of the site prior to the issuance of the Shell and Core Certificate of Occupancy. In addition, the developer agrees to furnish and install all conduit and junction boxes necessary for the lighting system. All construction shall meet Arlington County standards.

The developer agrees to purchase and install Virginia Power "Carlyle" standard street lights along all frontages of the site in accordance with adopted County Street Lighting Policy. The height of the street lights shall be 12 feet. The developer agrees to pay the cost of installing additional standard thoroughfare lights should the County decide that they are necessary to provide adequate lighting for street safety purposes.

28. The developer agrees to remove or place underground all existing aerial utilities within or along the periphery of the entire site plan site, as shown on the final site development and landscape plan and the final engineering plan approved by the County Manager or his designee. Any utility improvements necessary to provide adequate utility services to this development or utility work necessary to provide a terminus to the underground facilities shall be paid for by the developer and shall not result in the installation of any additional utility poles, or aerial devices. All utility relocation shall be completed prior to the issuance of the Shell and Core Certificate of Occupancy.

29. The developer agrees to provide off-street parking for all construction workers without charge to the workers. In lieu of providing parking, the developer may provide a subsidy for the construction workers in order that they may use Metro, provide a van for van pooling, or use another established method of transportation to provide for construction workers to arrive at the site. Compliance with this condition shall be determined based on a plan which shall be submitted to the Zoning Administrator before the issuance of the Excavation/Sheeting, and Shoring Permit. A copy of this plan shall be provided to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. This plan shall set forth the location of the parking to be provided at various stages of construction, how many spaces will be provided, how many construction workers will be assigned to the work site, and mechanisms which will be used to encourage the use of Metro, carpooling, vanpooling, and other similar efforts. The plan shall also provide for a location on the construction site at which information will be posted regarding Metro schedules and routes, bus schedules and routes, and carpooling and vanpooling information. If the plan is found to be either not implemented or violated during the course of construction, a correction notice will be forwarded to the developer. If the violation is not corrected within ten (10) days, a "stop work order" will be issued, and construction halted until the violation has been corrected.
30. The developer agrees to install address indicator signs on the site which comply with Section 27-12 of the Arlington County Code or successor provision in a location visible from the street and as shown on the final site development and landscape plan.
31. The developer agrees that the design of the facade treatment for the buildings and the materials to be used on the facades shall be as specified and shown on the submitted drawings dated February 2, 2007 and as presented to the County Board and made a part of the public record on February 24, 2007, including all renderings, drawings, and presentation boards presented during public hearings. The applicant agrees to refine the design of the garage and loading dock doors located on the building's west elevation , and to enhance the penthouse screening structure with materials reflective of the church steeple, which shall be reviewed and approved by the County manager as part of the approval of the site plan's façade treatment. The developer agrees to convene a meeting with the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance to review the façade treatment prior to the submission of required drawings to the County Manager or his designee. The developer agrees to submit colored drawings and renderings which label the materials and colors, and material samples, for review by the County Manager or his designee for consistency with this site plan approval prior to the issuance of the Footing to Grade Permit. The developer further agrees to obtain the approval of the County Manager or his designee of the façade treatment as being consistent with the County Board approval before the issuance of the Final Building Permit, and that, upon approval, the façade treatment will govern construction on the site.

~~The developer agrees that all retail storefronts along public rights-of-way are required to have an overall minimum transparency of 50% as measured from floor to ceiling on the~~

~~interior of the building. In addition, the portion of any retail storefront that is located between three and eight feet above grade (as measured on the exterior of the building) is required to be at least 80% transparent. The purpose of this condition is to allow pedestrians to view the activity within the retail establishment and to allow patrons and employees of the retail establishments to view the activity on the sidewalk and street, and the condition shall be interpreted to achieve that purpose. "Transparency" shall mean using glass or other transparent exterior material offering a view into an area of the retail establishment where human activity normally occurs and shall not be satisfied by views into areas blocked by display cases, the rear of shelving, interior walls, blinds, hallways, or anything else that will block the view to the interior.~~

32. All required public deeds of easement and deeds of dedication shall be submitted to the Department of Environmental Services prior to the issuance of the Excavation/Sheeting and Shoring Permit, and be approved and recorded among the land records of the Clerk of the Circuit Court of Arlington County, by the developer before the issuance of the Final Building Permit. The developer agrees that there shall be no building construction within the easement area without approval by the County Manager or the County Board. Dedications granted by the developer for street improvements shall be dedicated in fee simple to the County. Dedications granted by the developer for sidewalk improvements may be dedicated by easement to the County.
- **The following conditions of site plan approval (#33 through #41) are valid for the life of the site plan and must be met by the developer before issuance of the Footing to Grade Structure Permit.**
33. The developer agrees to submit one (1) plat, drawn at the scale of 1 inch = 25 feet and 24 inches x 36 inches in size, of the excavated area showing spot elevations which confirm that the construction drawings are consistent with the average site elevation, and with the building's ground floor elevation(s) at the building's lowest level(s), as approved by the County Board and as indicated in the plans referenced in Conditions #1 and #10 above.
34. Upon approval of the final site engineering plan the developer agrees to submit a performance bond estimate for the construction or installation of all facilities (to include street trees and all landscape materials) within the public rights-of-way or easements to the Department of Environmental Services for review and approval. Upon approval of the performance bond estimate by the Department of Environmental Services, the developer agrees to submit a performance bond in the approved amount of the estimate and agreement for the construction or installation of all these facilities (to include street trees and all landscape materials) within the public rights-of-way or easements to the Department of Environmental Services and this bond shall be executed by the developer in favor of the County before the issuance of the Final Building Permit.

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

35. The developer agrees that all new electrical transformers shall be placed underground in vaults which meet Virginia Power standards. These vaults may be placed in the street right-of-way or in driveways if approved by the County on the final site engineering plan. Ventilation grates may not be located within public sidewalks or streets, or within areas used as a walkway between the street curb and any building. The locations of the vaults shall be coordinated with other utility locations so as to have a minimum clearance of five (5) feet to conduits and manholes and a minimum clearance of 10 feet to water mains and sanitary sewers unless otherwise approved by the owner of that utility. The developer shall obtain approval from the County Manager or his designee on the location of all vault ventilation grates and utilities as part of the review of the final site engineering plan and the final site development and landscape plan before the issuance of the Footing to Grade Structure Permit.
36. The developer agrees that interior space shall be provided and used for the collection, storage, compaction, and removal of trash, as well as appropriate facilities for the recycling of reusable materials as defined by the County. The collection, storage, compaction, and removal of trash shall not occur outside the interior loading space. This space may not conflict with the use of a loading berth. Drawings showing compliance with this condition shall be approved by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit. The developer agrees to provide a copy of the plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance.
37. The developer agrees that all loading spaces shall be in the interior of the building and shall also comply with the following requirements: minimum 12-foot clear width (including entrances), 30 foot-length and 14-foot height clearance. Any loading dock to be used for trash removal shall have a minimum interior height clearance of 18 feet. All loading docks shall contain roll-down doors. Use of the loading dock for deliveries or trash pick-ups, excluding moving vans, shall be limited to the hours from 8:00 a.m. to 6:00 p.m., seven (7) days a week. The loading dock door shall also be closed when the loading dock is in use, except when necessary for entry or exit of vehicles, venting of vehicle exhaust, or when required for similar operational or safety measures.
- The developer shall submit to the Zoning Administrator a loading dock management plan which shall outline the days and hours for loading dock usage, including trash removal, residential move-ins, and church and other deliveries. The developer agrees to provide a copy of the plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. The developer agrees to obtain the County Manager's approval of a loading dock management plan prior to the issuance of the first Certificate of Occupancy for the new building, and that, upon approval, the plan shall govern use of all loading docks on the site.
38. The developer agrees that new parking garages shall be designed to allow access and use by vans, consistent with the requirements of the Virginia Building Code, which ~~At least 1% of the total new parking supply shall be accessible to vans,~~ shall be conveniently

located on the level of the garage closest to street level, and shall have a minimum clearance of 98 inches. All other areas of the garage shall have a minimum clearance of 84 inches. Compliance with this condition shall be determined by review of the building plans by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit, which review shall not relieve the developer from constructing in accordance with this condition.

39. The developer agrees to ensure that all parking spaces comply with the requirements of Section 33 of the Zoning Ordinance. Unless otherwise approved by the County Board, the number of compact spaces may not exceed the Zoning Ordinance requirement. The developer shall submit drawings showing that these requirements are met, and shall obtain approval by the Zoning Administrator before the issuance of the Footing to Grade Structure Permit.
40. The developer agrees to provide, at no charge to the user, secure bicycle storage facilities in locations convenient to office, residential and retail areas on the following basis at a minimum:

**Office and Residential Bicycle Storage Facilities:**

~~One (1) employee bicycle parking space for every 7,500 square feet, or portion thereof, of office floor area and one (1) additional such visitor space for every 20,000 square feet, or portion thereof, of office floor area.~~

One (1) resident bicycle parking space for every two (2) ~~three (3)~~ residential units, or portion thereof, of residential units and one (1) visitor space for every 50 residential units, or portion thereof, of residential units. Location requirements, as listed below, for the increased number of bicycle parking spaces may be modified subject to approval by the County Manager or his designee.

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

~~In addition, the developer agrees that for every 50,000 square feet or fraction thereof of office Gross Floor Area (GFA), one (1) shower per gender shall be installed, up to a~~

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

**Retail Bicycle Storage Facilities for the Church and its ancillary uses:**

~~Two (2) retail A total of four (4) visitor/customer bicycle parking spaces for every 10,000 square feet, or portion thereof, of the first 50,000 square feet of retail floor area; one (1) additional retail visitor/customer space for every 12,500 square feet, or portion thereof, of additional retail floor area; and one (1) additional retail employee space for every 25,000 square feet, or portion thereof, of retail floor area~~ the church and its ancillary uses. The ~~retail~~ visitor/customer bicycle spaces shall be installed at exterior locations that are convenient to the ~~retail~~ church and ancillary visitors/customers, and such locations shall be reviewed by the Department of Environmental Services. The developer agrees to obtain approval of the location, design and details of the ~~retail~~ church and ancillary visitor/customer bicycle spaces as part of the final site development and landscape plan. Facilities for ~~retail~~ church and ancillary visitors/customers must meet the County standards for bicycle racks, and be located close to ~~retail~~ church and ancillary visitor/customer entrances ~~or the closest retail vehicle parking spaces.~~

41. The developer agrees to construct all plaza areas used for vehicular access and all surface parking areas to support the live load of any fire apparatus. Architecturally designed bollards or curbs shall be used on pedestrian plazas to separate the areas intended for emergency vehicle use from areas intended for pedestrian use. No above-grade structure shall be allowed to encroach in fire lanes. The requirements of this condition shall be incorporated in the drawings submitted for the Footing to Grade Structure Permit.
- **The following conditions of site plan approval (#42 through #46) are valid for the life of the site plan and must be met by the developer before the issuance of the Final Building Permit.**
42. The developer agrees to submit one (1) original and three (3) copies of a wall check survey to confirm its consistency with the plans approved by the County Board, as referenced in Conditions #1 and #10 above.

43. Mechanical equipment shall be screened so as not to be visible from public rights-of-way.
44. The use of any penthouse shall be limited to mechanical equipment and equipment maintenance space or telecommunication transmitter and/or receiver equipment as required in Condition #56 below. The height of the penthouse structure shall be restricted to no greater than five (5) feet above the main roof.
45. The developer agrees to submit to the Zoning Administrator and the Operations Division of the Arlington County Police Department documentation that a Crime Prevention Through Environmental Design (CPTED) practitioner referred by the Police Department has reviewed and accepted the site plan for meeting CPTED design requirements.
46. The developer agrees to obtain from the Federal Aviation Administration (FAA), before the issuance of the final building permit, a written statement that the project is not a hazard to air navigation or that the project does not require notice to or approval by the FAA.
- **The following conditions of site plan approval (#47 through #53) are valid for the life of the site plan and must be met by the developer before the issuance of the First Certificate of Occupancy.**
47. The developer agrees to develop and submit a comprehensive sign plan and that all exterior signs (including identification and directional signage) shall be consistent with the guidelines contained in "Sign Guidelines for Site Plan Buildings and with Section 34 of the Zoning Ordinance. The Zoning Administrator shall determine whether the signs meet the standards of the guidelines and the Ordinance. No sign permits will be issued until a comprehensive sign plan is approved. The comprehensive sign plan shall be approved before the issuance of the first Certificate of Occupancy. All proposed rooftop signs, defined as all signs that are 35 feet or more above the ground, shall require a site plan approval or amendment.
48. The developer agrees to submit a detailed Transportation Management Plan to be approved by the County Manager or his designee before the issuance of the first Certificate of Occupancy for each respective building. The developer agrees to provide a copy of the final TDM plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. The Transportation Management Plan shall include a schedule and details of implementation and continued operation of the elements in the plan, which shall include, but not be limited to, the following strategies:
  - A. Program Participation and Funding
    1. Maintain membership in Arlington Transportation Partners (ATP), or successor entity, at no cost to the developer, on behalf of the property management company.

2. Designate a member(s) of building management as Property Transportation Coordinator to be a primary point of contact and with responsibilities for coordinating and completing TDM obligations.
3. Appropriately train the Property Transportation Coordinator and other management personnel to provide rideshare, transit, and other information provided by Arlington County intended to assist with transportation to and from the site.
4. Provide a contribution of \$ 11,600 to the Arlington County Commuter Services (ACCS) to sustain direct and indirect on-site and off-site services in support of TDM activities. Payment on this commitment will begin as a condition of issuance of the first Certificate of Occupancy for the 10<sup>th</sup> floor of the building (8<sup>th</sup> floor of residential building).

B. Physical Facilities and Improvements

1. Provide in the residential lobby or business center a Transportation Kiosk or information display, the content/design/location of which shall be approved by the developer, (static display with printed materials or dynamic display with direct electronic link to CommuterPage.com<sup>TM</sup>) to provide transportation-related information to residents and visitors.
2. Comply with requirements of Site Plan conditions to provide bicycle parking/storage facilities, a parking management plan and construction worker parking.
3. Provide effective directional signage subject to approval of a Comprehensive Sign Plan to direct residents and visitors to appropriate locations on the property, such plan to include provision for the items specified in the Parking Management Plan.
4. Maintain at least one on-site business center (including at a minimum, access to copier, fax and internet services), which shall be made available to support residents of the building who choose to work from home.
5. Designate an ADA accessible multi-purpose, loading, pick-up, drop-off and passenger waiting area near the North Highland Street entrance to the residential building to be equipped with a short-term parking meter and curb cut ramp, for use by building tenants, visitors, and employees. The developer shall provide an ADA compliant accessible pathway to the area and sufficient space for loading and unloading of wheelchairs from vans.

C. Parking Management Plan

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

D. Promotions, Services, Policies

1. Provide or administer a sustainable commute benefit program for employees of the Property, (which program shall include, at a minimum, at the developer's option, pre-tax employee contributions and/or tax-free transit or vanpool contributions of at least \$65 per month).
2. Provide website hotlinks to CommuterPage.com<sup>TM</sup> under a "transportation information" heading from the developer and property manager's websites regarding this development.
3. Provide SmarTrip cards, at a maximum cost to the developer of \$5.00 per card, per person, during the initial lease-up, for free to tenants signing leases and employees of the property management company.
4. Distribute transit and ridesharing information to residents and visitors (and extend requirement to on-site businesses) to include the following items. (In no event shall the Transportation Management Plan require the developer to seek or obtain County approval of the developer's marketing information.)
  - a. Distribute in a new-resident package material provided that includes site-specific ridesharing and transit-related information to each person signing a lease.
  - b. Place a reference to the nearest Metro Station and bus routes in promotional materials and advertisements.
  - c. Distribute information in recruiting and employment materials regarding commute options and assistance services available.
  - d. Cooperate with Arlington County to assist the County in implementing a transit-advertising program that will distribute information four times per year to all residents, tenants, employees, and visitors.
  - e. Provide access to building or grounds at times acceptable to the developer to allow ATP to promote group riding among tenants of the building, by means acceptable to the developer.
  - f. Participate in Ozone Action Days and other regionally sponsored clean air, transit and traffic mitigation promotions by posting notice of such promotions in locations within the building acceptable to the developer.

E. Performance and Monitoring

1. Submit an annual letter to the County Manager describing the TDM related activities of the preceding year.
2. Conduct a data gathering survey two years after issuance of the first Certificate of Occupancy and report findings to the County. Such report shall include a determination of mode split, average vehicle occupancy, daily person vehicle trips to and from the site, and parking availability by time of day for the site.

49. The intent of this ~~condition~~ paragraph is to ensure that at least one parking space is available in perpetuity for parking use by each residential unit in the project, unless the shared parking program outlined below is implemented. Accordingly, the developer agrees to offer the use, for rental units, and the purchase or use for condominium units, of at least one parking space for each dwelling unit, ~~unless~~ until the shared parking program outlined ~~below~~ in the last paragraph of this condition is implemented.

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

For both rental and condominium buildings, the use of the parking spaces shall not be limited to parking use by the residents of the building and their guests, ~~unless otherwise permitted by the Zoning Ordinance, and~~ but shall not be converted to storage or other use without approval of a site plan amendment. Parking for staff of the church and the child development center may be provided, consistent with the shared parking program outlined in the paragraph below. Residents assigned a parking space shall be permitted to rent or lease the space to other persons at their discretion, consistent with reasonable building security requirements, and provided it is not specifically prohibited by VHDA guidelines.

The developer agrees to submit to the Zoning Administrator a parking management plan which outlines how guest and visitor parking for the residential building, ~~and parking for retail tenants' employees and customers for retail located in the residential buildings,~~ will be provided, where the parking will be located and how guests and visitors, ~~and retail employees and customers,~~ will be directed to the parking spaces. The developer further agrees to make a minimum of 4 residential visitor parking spaces, ~~and \_\_\_ retail tenant parking spaces,~~ available within the residential garage. The developer agrees that the parking management plan shall also outline a shared parking program, describing how parking between the residential and non-residential uses will be managed. The developer agrees to provide a copy of the plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. The developer agrees to obtain the County Manager's approval of a parking management plan prior to the issuance of the first Certificate of Occupancy for the new building or for interior renovations to the educational building, whichever comes first. The parking management plan shall be submitted to the Zoning Administrator, and reviewed and approved by the County Manager, prior to the issuance of the first Certificate of Occupancy for the first residential building. The shared parking program shall include, consistent with applicable government regulations, a financial incentive or alternative for residents who forego use of an on-site parking space; this may include the developer acting as a broker for residents choosing to exercise their option to rent or lease parking spaces as described in the previous paragraph.

This condition shall not be construed to require a separate fee for the use of parking by residents, or to require that parking spaces not be available on a comparable basis to all tenants in the project.

50. The developer agrees to include a lighting plan for all internal and external public areas, including parking areas, as part of the final site development and landscape plan. Consistent with Condition #13 above, the developer agrees to provide a copy of the site development and landscape plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. This lighting plan shall be subject to review by the County Manager or his designee, including street lighting as described in Condition #27 above. The developer shall include in the site development and landscape plan certification that the lighting plan meets the minimum standards of the Zoning Ordinance, Section 2, Subsection H, and the Illumination Engineering Society of North America Standards. All lighting shall be installed consistent with the approved plan, and approved by the County Manager or his designee before the issuance of the First Certificate of Occupancy for occupancy of the applicable phase of the project.
51. The developer agrees to be responsible for documenting any historical artifact or historical natural feature uncovered during construction on the site. This documentation shall include written notation describing the artifact or natural feature, color photographs, and mapping of the location and/or depth of the site excavation at which the item was found. The developer agrees to submit a copy of this documentation to Arlington County before issuance of the First Certificate of Occupancy.

In the event an historical artifact or natural feature is found on the site, and is to be disturbed or removed from the site during construction, the developer agrees to contact the Arlington County Historic Preservation Program, Neighborhood Services Division before removing or disturbing the artifact or natural feature. Arlington County shall be given the opportunity to accept donation of the artifact or natural feature before the item is offered to any other organization or individual.

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

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

condominium or a cooperative, then the developer agrees that a copy of the conditions of this site plan approval shall be made available with the condominium's, cooperative's, or homeowners' association's bylaws or agreements prior to the issuance of the first Certificate of Occupancy following the conversion.

53. The developer agrees to make a contribution to the County's Green Building Fund of \$3,292 ( $\$0.03 \times 109,723$  square feet). The payment shall be ~~made~~ delivered to the Department of Environmental Services prior to the issuance of the ~~first~~ Certificate of Occupancy for the 10<sup>th</sup> floor of the building (8<sup>th</sup> floor of residential building), and compliance with this condition shall be provided to the Zoning Administrator in the form of a letter at the time of payment.
- **The following condition of site plan approval (#54) is valid for the life of the site plan and must be met by the developer before the issuance of the Master Certificate of Occupancy.**
54. Before the issuance of the Master Certificate of Occupancy, the developer agrees to submit drawings certifying the building height as measured from the average site elevation to both the building roof and to the top of the penthouse roof.
- **The following condition of site plan approval (#55) is valid for the life of the site plan and must be met by the developer within ~~90 days~~ six (6) months of receipt of the partial Certificate of Occupancy for full occupancy of the building.**
55. The developer agrees to obtain a Master Certificate of Occupancy within six (6) months ~~90 days~~ of receipt of the partial Certificate of Occupancy ~~for that permits~~ full occupancy of the residential building. The developer may request in writing to extend the timeframe for obtaining the Master Certificate of Occupancy. The request shall outline the reasons for the extension and shall be submitted to the County Manager or his designee for review and approval one (1) month prior to the end of the six-month time frame. The County Manager may approve such extension if he finds that the developer is diligently continuing completion of the project.
- **Post Certificate of Occupancy: the following Conditions of site plan approval (#56 through #61) are valid for the life of the site plan.**
56. In order to maintain the effectiveness of the County's public safety systems, the County reserves the right to install telecommunications transmitter and/or receiver equipment and conducting wire in or on the penthouse or top floor, and antennae and traffic monitoring systems on the roof of the proposed buildings at no charge to the County in a location and design that is acceptable to the County and the building owner based on a reasonable exercise of judgment by both upon request by the County. Upon request by the County, the developer agrees to provide access to electrical service separately metered, including auxiliary electrical power, and telephone radio control lines to the penthouse in the defined area. Any radio transmitter or receiver equipment and antenna to be installed or

used by others must not interfere with the emergency communication system of the County.

57. The developer agrees that any exterior structural addition shall be subject to the approval of the Zoning Administrator consistent with Section 36.H.2.c of the Zoning Ordinance. If the Zoning Administrator determines that any proposed improvements have a significant impact on the site plan, or otherwise meet Zoning Ordinance requirements for site plan amendments that go to the County Board, a site plan amendment shall be required. On a quarterly basis, but only to the extent the developer has made a request for one or more administrative changes during any calendar quarter, the developer shall provide a summary list of such requests to the Lyon Village, Clarendon Courthouse, Hartford Condominium Associations. The developer further agrees to provide copies of any minor site plan amendment applications to the above civic associations at the time they are submitted to the county.
58. The developer or owner agrees to remove snow from all interior streets and interior and exterior sidewalks, including accessibility ramps and gutter areas within crosswalks, within a reasonable time after snow has stopped falling but in no case later than snow removal provided for vehicular access to the site.
59. If the project includes a residential component, then the developer agrees that the maintenance of the common area, walkways, private drives and parking areas which are tied to condominium units shall be provided for by the condominium's, cooperative's or homeowners association's bylaws or agreements consistent with Section 2.D.6 of the Zoning Ordinance.
60. The developer agrees to provide parking for each building according to the approved parking ratio; when this parking is not located within the parcel designation of each building but located within the overall project, it shall continue to be committed to the entire project for purposes of administering the Zoning Ordinance.
61. The density allocated for any new construction pursuant to the site plan ~~on any~~ for the combined subdivided parcels of the site shall be the same as the approved on density for the entire site. No additional density shall be allowed on any individual parcel formed by subdivision of the site.
- **The following unique site specific conditions (#62 through #73) are valid for the life of the site plan and must be met before the issuance of the permit specified in each Condition.**
62. Prior to the issuance of any permit for any activity on the site, the developer agrees to execute a generally standard form of AHIF/HOME agreement incorporating the following terms and conditions:
  - a. County/Developer Agreement/Affirmative Marketing Plan: County/Developer Agreement/Affirmative Marketing Plan: The agreement shall include an Affirmative

- Marketing Plan in substantially that form as required by the U.S. Department of Housing and Urban Development (HUD) and including, at a minimum, the elements specified in the Developer's final Affordable Housing Plan and Affirmative Marketing Plan. The Affirmative Marketing Plan shall be in a form and substance acceptable to the County Manager, with the concurrence of the County Attorney, according to the County's criteria for such marketing plans. The developer agrees that the proposed marketing plan shall call for the initial advertising and marketing of the affordable units for a period of at least 45 days before projected occupancy.
- b. Affordable Rents/Marketing Period: The developer agrees that the affordable rents shall be set on basis of VHDA/Low Income Housing Tax Credit rent limits set for Arlington County. Rents shall not exceed the established affordability level for the rents, as published by HUD, minus a utility allowance (if applicable) as per the Utility Allowance Schedule annually approved by HUD for the Arlington County, VA Section 8 Housing Certificate/Voucher Program. A total of 70 units shall have rents at or below 60% of area median family income, of which 6 of the units shall have rents at or below 50% of the area median family income. The developer agrees to lease the affordable units to households whose incomes do not exceed these affordability levels.
  - c. Rent Increases: The developer agrees that rent increases for tenants continuing in occupancy shall be based on area median income increases as published by HUD.
  - d. Compliance Period: The developer agrees that the affordable housing plan shall require units to remain affordable for a term of 60 years from the execution of the lease for the first unit of the 70 affordable units. At any time between years 35 and 45 of the affordability period, if the applicant demonstrates to the satisfaction of the County Manager or his designee that it is unable to secure financing from a commercial lender in an amount sufficient to provide for capital needs to rehabilitate the property and maintain the affordable rents, then the applicant may request that the County Board consider additional funding or a modification to the program agreement to ensure that the property will be maintained in safe and decent condition for the full 60 year affordability period. In the event that a future County Board elects not to provide additional funding assistance needed to rehabilitate the property and maintain the affordable rents, or if the County Board does not act to modify the program agreement to allow for adequate commercial refinancing, then the commitment period may be reexamined or revert to 45 years. All proceeds from any refinancing of the property shall be used to fund capital improvements to the property or be placed in a replacement reserve account to meet capital needs unless otherwise approved in writing by the County Manager or his designee
  - e. Accessible Units: The developer agrees to maintain a minimum of 6 (4 efficiencies, 1 one-bedroom unit and 1 two-bedroom unit) of the affordable units accessible to persons with physical disabilities as described in American National Standards Institute (ANSI) A117.1 Standards Type A units. The developer agrees to market these units to households in need of such units as part of the developer's Affirmative

Marketing Plan.

- f. Supportive Housing Units: The non-profit affiliate developer or its designee shall commit a minimum of 5 of the 50% of AMI units to be utilized by County DHS consumers of supportive housing. DHS funding may be used to further lower rents to an amount not greater than \$275 per month, based on current rent levels, subject to increases allowed under the final program agreement for these units under a supportive housing program to be negotiated based on the present value of funding needed to reduce rents to the specified levels for a term of up to 15 years.
  - g. Condominium/Cooperative Option: The developer agrees to seek approval of a minor site plan amendment to address the terms by which any of the affordable units would be available for sale in the event that the developer determines to construct or later convert the project as for-sale condominiums or as a cooperative. There can be no conversion of the affordable units from rental to for-sale units until the site plan amendment is approved, except that, the developer could retain ownership of the affordable units and continue to lease them according to the terms of the housing plan without obtaining a site plan amendment.
63. The developer agrees to submit a phasing plan to the Zoning Administrator for review and approval by the County Manager or his designee prior to the issuance of any building permits for the site plan. During the phasing of construction, the developer further agrees to appropriately maintain the site and any buildings located within it. This shall include, but not be limited to, maintaining landscaping, keeping the grass mowed, and removing litter and debris from the site. Until the buildings are demolished, the developer agrees to maintain access on the site for fire emergency vehicles. Improvements required by these site plan conditions shall be constructed in phases, consistent with the phasing plan for construction of the project. Any changes in the project phasing shall require a new phasing plan approved by the County Manager or his designee prior to the issuance of any permits.
64. The developer agrees that no balconies, other than those identified in the approved site plan, shall be enclosed. Enclosure of any additional balconies shall constitute additional gross floor area and shall require a site plan amendment.
65. The developer agrees to hire a LEED certified consultant as a member of the design and construction team. The consultant shall work with the team to incorporate sustainable design elements and innovative technologies into the project so that numerous building components may earn the developer points under the U.S. Green Building Council's system for LEED certification. Specifically, the developer agrees to include sustainable elements in design and construction that are sufficient to meet the requirements for 21 LEED credits. The developer agrees to use commercially reasonable efforts to achieve additional LEED credits which would qualify the building for certified levels.

The developer agrees that all of the following types of appliances, fixtures, and/or building components used in the project shall have earned the U.S. EPA's Energy Star

label: clothes washers, dishwashers, refrigerators, ceiling fans, ventilation fans (including kitchen and bathroom fans), light fixtures (halls and common areas), and exit signs. To further enhance energy efficiency, the developer shall choose two of the types of components listed and all of those two types of components installed or used in the project shall be Energy Star qualified: programmable thermostats (in residential units); residential light fixtures; windows and doors; and HVAC systems. The developer shall submit to the County Manager a statement listing all Energy Star qualified components prior to issuance of the Core and Shell Certificate of Occupancy.

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

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

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

66. The developer agrees to deliver all refuse, as defined by the Arlington County Code, to an operating refuse disposal facility designated by the County Manager. The developer further agrees to stipulate in any future lease or property sale agreements that all tenants or property owners shall also comply with this requirement.
67. The developer agrees to have, as a part of its parking management plan, provisions relating to the towing of impermissibly parked vehicles. Such provisions shall include, but not be limited to:
  - a. Requirements for signage at the developer's parking lot(s) providing notice of all applicable parking restrictions enforced by towing, the location of the towing contractor(s)' impoundment yard, and the name and telephone number of the developer's on-site representative responsible for towing-related complaints, as well as the telephone number of the Arlington County Office of Citizen and Consumer Affairs;

- b. Disclosure by the developer and its towing contractor(s), at the developer's parking lot(s), of all fees and charges for towing; and
  - c. Evidence that the developer has a contract with the towing contractor that requires the towing contractor to clearly display all fees and charges for towing.
- 68. The developer agrees to install speed bumps adjacent to the top of garage exit ramps at locations where ramps abut the pedestrian sidewalk, in order to slow vehicular traffic prior to vehicles crossing the sidewalk. The locations of the speed bumps shall be shown on the site engineering and building plans approved by the County Manager or his designee. The garage doors shall be setback from the sidewalk a minimum distance of six (6) inches.
- 69. The developer agrees to develop procedures, subject to approval of the County Manager, whereby uniformed Arlington County Police will be authorized to enter the parking areas for purposes of enforcing compliance with County ordinances and state laws applicable to resident's motor vehicles.
- 70. The developer agrees to install and maintain in operable condition, in a manner acceptable to the County Manager or his designee, an internal antenna/amplifier system that permits public safety radio communications to transmit in the 806-825 MHz frequency and to receive in the 851-870 MHz frequency from all areas within the building. The developer agrees to provide documentation in the approved electrical engineering drawings that adequate accommodations have been made in the building to meet this requirement.
- 71. The developer agrees to develop a construction phasing and management plan which addresses continued operation of the child development center and an interim location for the church during construction of the new building. The plan shall address whether the child development center will be relocated off-site and where, or remain on the site. If the child development center remains on the site, then the plan shall outline measures to ensure the safety of children and staff. The plan shall identify specific security and safety measures to be taken on site to preclude any conflicts with construction and to ensure the safety and security of the child development center staff and children; addressing construction, structural and noise impacts; provide a plan for vehicular circulation, including child drop-off and pick-up and staff parking; provide a plan for management of construction and truck traffic; and identify the location of, and security for, construction staging. The plan shall also identify the church's temporary location, and parking provisions for the church, including the location and agreements for the provision of church-related parking. The developer agrees to provide a copy of the plan to the Lyon Village Civic Association, the Clarendon Courthouse Civic Association, the Hartford Condominium Association, and the Clarendon Alliance. The developer agrees to submit this plan to, and obtain approval from, the County Manager or his designee prior to the issuance of the Clearing, Grading and Demolition Permit.

72. The developer agrees to preserve the church steeple and narthex, as shown on the plans dated October 23, 2004, and to have an independent architectural consultant certify that the structural integrity of the church facility to be preserved will be maintained during construction of the new building. The developer agrees to submit the structural documentation and the consultant certification to, and obtain approval from, the County's Building Official prior to the issuance of the Clearing, Grading and Demolition Permit.
73. The developer agrees that no additional GFA, building expansion, nor structural changes to the buildings, beyond that in the approved drawings and other approval documents, shall be permitted or constructed on the site without an approved site plan amendment. This requirement applies to the residential, church and educational buildings. The educational building shall only be used for educational and child care purposes. Any change from the day care use shall require a site plan amendment. Furthermore, the developer agrees that any changes to spaces where GFA is not specifically counted in the density calculation shall require a site plan amendment.
74. The developer agrees that the church (including the church and ancillary educational building) will continue to provide meeting space on a non-priority basis during weekdays, evenings and Saturdays, to non-profit organizations (such as, but not limited to, the Hartford Condominium Association, Alcoholics Anonymous, Habitat for Humanity and Overeaters Anonymous) on reasonable terms and subject to the coordination of activities and uses of the site, including educational uses. The developer agrees to make the community room located in the residential buildings available to non-profit organizations a minimum of four times per month during weekdays, evenings and Saturdays, subject to coordination of activities and uses of the site. Public access to the meeting spaces may be coordinated to preclude conflicts with the operation of the child development center, and shall be provided for the life of the site plan. The developer agrees to provide, for a nominal fee, set-up and custodial services, including cleaning, preparation and re-arrangement, for use of the meeting spaces by non-profit organizations for the life of the site plan. In the event of damage or the need for excessive clean up created by a non-developer user, the developer may impose reasonable charges to such user commensurate with the cost of repairing the damage or the needed cleaning. Serving or consumption of alcoholic beverages and smoking in the meeting spaces by non-organizations may be restricted.
75. The developer agrees to secure off-site parking for the newly-constructed church. Unless otherwise approved by the County Manager, the developer shall enter into agreement with a parking provider, and the agreement shall document the number of parking spaces available to the church consistent with the requirements of Section 33 of the Zoning Ordinance. The developer further agrees to obtain the County Manager's approval of a parking agreement prior to the issuance of the first Certificate of Occupancy for the newly-constructed church. Upon termination of the initial parking agreement, the developer shall enter into subsequent agreements with parking providers, which shall be submitted for review and approval by the County Manager or his designee.

76. In addition to the regulations and requirements established with ADA Federal law, the developer agrees to install an electric eye or a power door opener for the two (2) main residential entrances located on North Highland and Hartford Streets. In addition, at the secure interior door, the developer agrees that a call box, if used, shall be mounted and measured at the lowest given height under the ADA with hands-free remote capability. The entrance to the lobby of the residential elevators ( if there is one) from the parking garage will have an automatic door opener

PREVIOUS COUNTY BOARD ACTIONS:

June 3, 1938 (effective June 25, 1938)	The Zoning District Map adopted April 26, 1930 shows the subject site to be zoned "Heavy Industrial" and "Residence A" Districts, per the Zoning Ordinance adopted by the County Board on June 3, 1938.
May 16, 1942	Approved a rezoning from "Heavy Industrial" to "C-2" General Commercial; "Residence A" renamed as "R-5"
July 15, 1950	Approved a rezoning from "C-2" area General Commercial to "C-3" General Commercial
October 23, 1959	Deed of Vacation recorded between Arlington County Board and the Trustees of the First Baptist Church of Clarendon to relocate 13 <sup>th</sup> Street North
August 12, 1961	Adopts General Land Use Plan indicating "General Commercial" for the subject block.
January 11, 1969	Approved a use permit (U-1803-69-1) for a child development center for up to 45 children with a review in June 1969.
June 4, 1969	Continued use permit (U-1803-69-1) for one (1) year.
June 3, 1970	Continued use permit (U-1803-69-1) for one (1) year.
June 5, 1971	Approved a use permit (U-1863-71-2) to increase enrollment of the child development center to 75 children with a review in one (1) year.
June 3, 1972	Continued use permit (U-1863-71-2) for one (1) year.
June 6, 1973	Continued use permit (U-1863-71-2) for one (1) year.
March 9, 1974	Approved a use permit (U-1960-74-3) for a nursery school for 95 children with a review in June 1974.

June 5, 1974	Continued use permits (U-1863-69-1) and (U-1960-74-3) for one (1) year.
December 7, 1974	Approved a General Land Use Plan Amendment from “General Commercial” to “Semi-Public”.
June 17, 1975	Continued use permits (U-1863-69-1) and (U-1960-74-3) for one (1) year.
August 2, 1975	Approved a use permit (U-2027-75-4) to increase enrollment for a child development center to 121 children with a review in one (1) year.
June 12, 1976	Continued use permits (U-1960-74-3) and (U-2027-75-4) for one (1) year.
June 4, 1977	Continued use permits (U-1960-74-3) and (U-2027-75-4) for one (1) year.
June 3, 1978	Continued use permits (U-1960-74-3) and (U-2027-75-4) with no further review.
September 13, 1980	Approved a use permit (U-2257-80-5) to operate a school from September 2, 1980 to December 22, 1980.
August 25, 1981	Approved a use permit (U-2301-81-6) to operate graduate courses with review in one (1) year.
August 7, 1982	Discontinued use permit (U-2301-81-6) to operate graduate courses.
August 13, 1983	Approved use permit (U-2389-83-7) to increase enrollment of a child development center to 150 children.
August 15, 1984	Continued use permit (U-2389-83-7) for a child development center for a maximum of 155 children with a review in three (3) years.
August 15, 1987	Continued use permit (U-2389-83-7) for a child development center for a maximum of 155 children with a review in three (3) years.
August 11, 1990	Continued a use permit (U-2389-83-7) for a child development center with a review in five (5) years.

May 16, 1992	Approved a use permit amendment (U-2389-83-7) to increase enrollment from 155 to 185 children during summer months only to include a summer day camp, with a review in one (1) year.
November 14, 1992	Approved a use permit amendment (U-2389-83-7) to increase year-round enrollment from 155 to 185 children, weekdays, 7:30 a.m. – 6:00 p.m.; with a review in one (1) year.
November 22, 1993	Continued a use permit (U-2389-83-7) for a child development center for 185 children with no further review.
October 23, 2004	Approved a GLUP amendment from “Semi-Public” to “Medium Density Mixed-Use” for the southern portion of the block bordered by North Highland and North Hartford Streets, and retained the northern portion adjacent to 13 <sup>th</sup> Street North as “Semi-Public”; a rezoning from “C-3” and a portion of “R-5” to “C-R” for the area changed to “Medium Density Mixed-Use”, and retained the balance of the northern portion as “R-5”; and a site plan for a residential building containing 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church of the size and design as shown on the site plan drawings, and an educational building which houses a child development center.
January 27, 2007	Authorized advertisement for the February 2007 Planning Commission and County Board meetings a Zoning Ordinance Amendment to Section 27A, “C-R” Commercial Redevelopment Districts; a General Land Use Plan Amendment from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block where the “Semi-Public” designation was retained; a rezoning from “C-3” and “R-5” to “C-R”; and a site plan exactly the same as the one previously approved on October 23, 2004.

EXHIBIT A

**AN ORDINANCE TO AMEND, REENACT AND RECODIFY THE ZONING ORDINANCE SECTION 27A. “C-R” COMMERCIAL REDEVELOPMENT DISTRICTS TO: CLARIFY THE COUNTY BOARD’S DISCRETION IN REZONING PROPERTY TO “C-R”; TO CLARIFY THAT THE COUNTY BOARD MAY, THROUGH SITE PLAN, VARY REQUIREMENTS OF SUBSECTION F. PHYSICAL REQUIREMENTS PERTAINING TO COMPATIBLE EXTERIOR APPEARANCE OF BUILDINGS ADJACENT TO RESIDENTIAL AREAS; AND TO CLARIFY THE COUNTY BOARD’S AUTHORITY TO MODIFY REGULATIONS, THROUGH SITE PLAN APPROVAL, REGARDING DENSITY AND THE BY-RIGHT HEIGHT AND TAPERING REQUIREMENTS;**

*BE IT ORDAINED THAT, Section 27A.C-R Commercial Redevelopment Districts, of the Arlington County Zoning Ordinance is hereby amended, reenacted, and recodified as hereafter set forth to clarify the County Board’s discretion in rezoning property to “C-R” including property zoned “R-5”, to clarify that the County Board, through site plan approval, may vary requirements of Subsection F. Physical Requirements pertaining to compatible exterior appearance of buildings adjacent to residential areas; and to clarify the County Board’s authority to modify regulations through site plan approval, regarding density and the by-right height and tapering requirements which amendments will: facilitate the creation of a convenient, attractive, and harmonious community; protect against destruction of or encroachment upon historic areas; promote the creation and preservation of affordable housing; promote the efficient administration and enforcement of the ordinance; facilitate the provision of schools, parks, playgrounds, recreational facilities and other public requirements; protect against overcrowding of land, undue density of population in relation to the community facilities existing or available; encourage economic development activities that provide desirable employment and enlarge the tax base; and for other reasons required by the public necessity, convenience, general welfare and good zoning practice;*

**SECTION 27A. "C-R" COMMERCIAL REDEVELOPMENT DISTRICTS**

The purpose of the "C-R" classification is to encourage medium density mixed-use development; to recognize existing commercial rights; and to provide tapering of heights between higher density office development and lower density residential uses. The district is designed for use in the vicinity of the metrorail stations ~~and, to be eligible for the classification, a site shall be located within an area~~ on property designated "medium density mixed-use" ~~and zoned "C-3" on the General Land Use Plan.~~

\* \* \*

**I. Site Plans.**

The county board may approve site plans, as specified in subsection 36.H., and may vary the requirements of subsections D., E., F., G. and H. above. Under site plans, the following regulations shall apply **unless modified by the County Board:**

1. *Density:* **Except as modified by the County Board in accordance with Section 36.H. of the Zoning Ordinance** ~~T~~the following sets forth the maximum densities which may be approved:

~~The ratio of floor area to land area shall not exceed the following, except as set forth in subsection 1.a. below:~~

Site Area	Maximum Total F.A.R.	Maximum Office F.A.R.
20,000--29,999 square feet	2.0	2.0
30,000--39,999 square feet	3.0	3.0
40,000 square feet and above or full block	4.0	3.0

- a. In addition, ~~T~~to encourage appropriate consolidation of property for site plans (that which include an entire block), an additional 0.25 F.A.R. office may be approved and the residential density may be reduced to 0.75 F.A.R.

~~{b. — Reserved.}~~

2. *Height:*

- a. ~~When a site plan includes an entire block, the office height may be approved to exceed the standard height by no more than one (1) story or fifteen (15) feet. If a site plan is approved consisting of additional office height, the residential height shall be reduced by ten (10) feet.~~
- b. ~~When a site plan preserves a building which is designated as a contributing building eligible for preservation in an adopted revitalization district and in accordance with subsection D.2. above, the height taper requirements set forth in subsection D.1. above may be modified by the county board.~~
- c. ~~Under no circumstances shall the height of any building exceed one hundred twenty five (125) feet and under no circumstances shall a penthouse height extend more than fifteen (15)~~

~~feet above the one hundred twenty five foot height limit.~~

**The by-right height and tapering requirements may be modified by the County Board in accordance with Section 36. H. of the Zoning Ordinance. In addition, when a site plan preserves a building which is designated as a contributing building eligible for preservation in an adopted revitalization district and in accordance with subsection D.2. above, the height and taper requirements set forth in subsection D.1. above may be modified by the County Board. Under no circumstances shall the height of any building exceed one hundred twenty-five (125) feet and under no circumstances shall a penthouse height extend more than fifteen (15) feet above the one hundred twenty-five-foot height limit.**

\* \* \*

EXHIBIT B

**GENERAL LAND USE PLAN RESOLUTION**

WHEREAS, the County Board of Arlington County (“County Board”) has been presented with proposed amendments of the General Land Use Plan (“GLUP”), a part of the County’s Comprehensive Plan, to amend the General Land Use Plan designation from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North in the Clarendon Metro station area; and

WHEREAS, the County Manager has recommended that the proposed amendments be approved; and

WHEREAS, the Planning Commission held a duly advertised public hearing and recommended that the proposed amendments be deferred; and

WHEREAS, the County Board of Arlington County held a duly advertised public hearing on the proposed amendments to the GLUP on February 24, 2007; and

WHEREAS, the County Board of Arlington has considered the foregoing recommendations and the purposes of the GLUP and the Comprehensive Plan, as well as the Clarendon Sector Plan, as set forth in these documents, the Arlington County Zoning Ordinance and the Code of Virginia.

NOW, THEREFORE, be it resolved that, based on the aforementioned considerations, deliberations and all public comments, the County Board of Arlington County finds that the following proposed amendments to the GLUP should be, and hereby are, approved.

- Change the land use designation from “Semi-Public” (Country clubs and semi-public recreational facilities, churches, private schools and private cemeteries) to “Medium Density Mixed-Use” (Up to 3.0 F.A.R. with special provisions for additional density within the “Clarendon Revitalization District” and the “Special Coordinated Mixed Use District” for the East End of Virginia Square) for the northern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North in the Clarendon Metro station area as shown on the attached map (Attachment A).

EXHIBIT C

**REZONING RESOLUTION**

WHEREAS, the Views at Clarendon Corporation, Inc. and the First Baptist Church of Clarendon have requested a rezoning of RPC# 15070PEA, including RPC #15070001 and RPC #15070002, (“Property”) for premises known as 1301 N. Hartford and 1210 N. Highland St. FROM “C-3” General Commercial Districts and “R-5” One-Family, Restricted Two-Family Dwelling Districts TO “C-R” Commercial Redevelopment District as shown on the attached map; and

WHEREAS, the County Manager has recommended that the proposed rezoning be approved; and

WHEREAS, the Planning Commission held a duly advertised public hearing and recommended that the proposed rezoning be deferred; and

WHEREAS, the County Board of Arlington County held a duly advertised public hearing on the proposed rezoning on February 24, 2007; and

WHEREAS, the County Board of Arlington has considered the recommendation of the County Manager as set forth in his report dated February 22, 2007, the recommendations and the purposes of the GLUP and the Comprehensive Plan, as well as the Clarendon Sector Plan, as set forth in these documents, the Arlington County Zoning Ordinance and the Code of Virginia; and

WHEREAS, the County Board finds that the requested rezoning, to “C-R” Commercial Redevelopment District for premises known as 1301 N. Hartford and 1210 N. Highland St is consistent with the visions and goals on the General Land Use Plan for the Property, and the visions and goals of the “Clarendon Sector Plan”; and

WHEREAS, the County Board finds that the rezoning to “C-R” Commercial Redevelopment is required by the public necessity, convenience, general welfare, and good zoning practice, and promotes the welfare of the County as part of an overall zoning plan by, among other things, furthering the land use policies and objectives of the County including those set forth in the Comprehensive Plan and the Clarendon Sector Plan, among others, and serving important public purposes including but not limited to the creation of a convenient, attractive, and harmonious community, the provision of adequate transportation, schools and other public requirements, the protection and preservation of historic areas, and the creation of affordable housing.

THEREFORE, be it ordained, that RPC# 15070PEA, including RPC #15070001 and RPC #15070002 is hereby rezoned FROM “C-3” General Commercial Districts and “R-5” One-Family, Restricted Two-Family Dwelling Districts TO “C-R” Commercial Redevelopment District as shown on the attached map (Attachment B).



EXHIBIT D

**SITE PLAN RESOLUTION**

WHEREAS, the Views at Clarendon Corporation, Inc. and the First Baptist Church of Clarendon have requested approval of a site plan application for 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church of the size and design shown in the site plan drawings, and an educational building that houses a child development center, for premises known as 1301 N. Hartford Street and 1210 N. Highland St. (RPC# 15070PEA, including RPC #15070001 and RPC #15070002); and

WHEREAS, the County Manager has recommended that the proposed site plan be approved; and

WHEREAS, the Planning Commission held a duly advertised public hearing and recommended that the proposed site plan be deferred; and

WHEREAS, the County Board of Arlington County held a duly advertised public hearing on the proposed site plan on February 24, 2007; and

WHEREAS, the County Board of Arlington has considered the recommendation of the County Manager as set forth in his report dated February 22, 2007, the recommendations and the purposes of the GLUP, the Comprehensive Plan, and the Clarendon Sector Plan, as set forth in these documents, and has further considered the Arlington County Zoning Ordinance and the Code of Virginia; and

WHEREAS, the County Board finds that the proposed site plan substantially complies with the County's Comprehensive Plan and is consistent with the visions and goals on the General Land Use Plan for the Property; and

WHEREAS, the County Board finds that the proposed site plan substantially complies with officially approved neighborhood and area development plans, including the visions and goals of the "Clarendon Sector Plan" and, in particular finds that the density, height, and form of the development proposed in the site plan application conforms with the policies of the Clarendon Sector Plan relating to the Property specifically as such policies were adopted by the County Board in February and June of 2006, and as such policies were incorporated in the finally approved Sector Plan as the density, height, and form of development on the Property intended by the County Board to be consistent with the Sector Plan notwithstanding the September 15, 2006 decision of the Virginia Supreme Court; and

WHEREAS, the County Board finds that the proposed site plan substantially complies with the uses permitted and use regulations applicable to the Property as set forth in the Zoning Ordinance or as modified by the County Board; and

WHEREAS, the County Board finds that the proposed site plan functionally relates to other structures permitted in the commercial redevelopment zoning district and will not be injurious or

detrimental to the property or improvements in the neighborhood, and is so designed and located that the public health, safety and welfare will be promoted and protected.

THEREFORE, be it ordained that the site plan application for 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church of the size and design shown in the site plan drawings, and an educational building that houses a child development center, for premises known as 1301 N. Hartford Street and 1210 N. Highland St. (RPC# 15070PEA, including RPC #15070001 and RPC #15070002) is hereby approved (Attachment C).