

USE PERMIT (U-2945-98-5):

UPDATE

AUGUST 1, 2020

WALGREENS AT 2820 COLUMBIA PIKE

Contents:

- I. Background
- II. Current Status
- III. Outstanding Issues
- IV. Conclusion

I. BACKGROUND

- County Board Action History:

A use permit for a pharmacy with a drive-through window at 2820 Columbia Pike was approved by the Arlington County Board on December 12, 1998. The complexity and scale of the project required total site redevelopment, coupled with a unique feature (“Pike Park”). For this reason, the County Board approved an unusually large number of use permit conditions (25 of them, see ATTACHMENT #1) requiring the submittal of numerous building, parking, signage, landscaping, utility undergrounding, and traffic circulation plans. Consequently, the majority of the use permit conditions are time sensitive, requiring the applicant to submit these plans in order to be granted construction permits. Only five (5) of the 25 conditions can be currently applied to site repair or maintenance. They are as follows:

- 7G. Further, the developer agrees to submit to the County a maintenance agreement which shall ensure that all plaza and landscaped areas located on private property are kept in a clean and well-maintained condition after the expiration of the two (2-year guarantee required in condition number 7.a. above and to follow the terms of the maintenance agreement approved for that purpose by the Zoning Administrator.**
- 7i The applicant agrees to maintain the street trees along the frontages of the site.**
- 19. The developer agrees to identify a representative who shall be available to the adjacent to the residential community to discuss any concerns of the community associated with the operation of the drug store. The developer agrees to provide the name and telephone number of this representative to the Columbia Heights and the Douglas Park Civic Associations and CPRO before issuance of the Certificate of Occupancy for the Eckerd Pharmacy. The name and the telephone number of the representative shall also be sent to the County Zoning Administrator.**
- 22. The developer agrees to remove snow from all interior drive and parking areas and interior and exterior sidewalks within a reasonable time after the snow has stopped.**

24. *The developer agrees to have on-site trash and debris picked up by an employee once per day.*

Since the 1998 approval, the use permit was misplaced by County staff and was consequently dropped as a public hearing item. The last comprehensive County Board review of this use permit was on March 15, 2006, with a scheduled review in 2008 that never took place. The use permit records were re-discovered in 2012, which enabled the use permit to be scheduled for County Board review. Two additional amendments were subsequently approved: 1) an approval for an open-air market (the “Farmer’s Market”) on January 24, 2012, and 2) an approval of the Capital Bikeshare Station within the plaza (a.k.a. “Pike Park”) on July 13, 2013. The Capital Bike Share Station was approved with a few minor conditions that relocated some minor landscaping, in order to accommodate the Station (see ATTACHMENT #2). However, neither of these two approved amendments were designated a review period by the County Board. As a result, there has been no public review of the entire use permit or its conditions since March 2006.

There is an option for the public to appeal or complain about a use permit’s management, which would require a rescheduling of the use permit as a County Board agenda item. However, this appeal process is limited to 30 days from the date of the last County Board meeting. Since there were no appeals within the period following the 2006 County Board meeting, this use permit was never rescheduled.

- Certificate of Occupancy History

When the Walgreens Corporation acquired roughly half of the Rite-Aid Corporation pharmacy chain in 2019, this site then became a Walgreens pharmacy in November 2019. At that time, a Certificate of Occupancy was filed but not yet approved, because the new pharmacy was not yet completely installed. The County Zoning Office informed them that an inspection was necessary in order to have the Certificate of Occupancy approved, and Walgreens agreed to set an inspection appointment as soon as they completely occupying the site.

However, even though they were up and operating by February 2020, Walgreens management failed to follow through with the County Zoning Office. It was the Columbia Heights Civic Association residents who, in reporting site maintenance problems, brought the property to the attention of the Zoning Office in March 2020. A zoning inspection finally took place in June 2020.

II. CURRENT CONDITIONS

- County Board Status

The Use Permit has become an administrative review item, and is therefore not scheduled to appear on any County Board agenda. The County Zoning Office is therefore responsible for monitoring this use permit. However, its administrative status could change, should the use permit applicant fail to comply with the approved use permit conditions. Failure to comply would shift the use permit from an administrative case to a zoning enforcement case, possibly resulting in the County Planning office to recommend that the County Board approve a “Request to Advertise”.

Should the Board approve the “Request to advertise, the use permit would then be advertised as an agenda item for the following County Board meeting. At that meeting, the use permit would be heard along with the other agenda items, and would receive full public review. Public testimony from neighborhood representatives and individuals regarding use permit operations, would then be permitted.

- Certificate of Occupancy Status

The standard multi-agent procedure to issue an approved Certificate of Occupancy (“C-O”), is for the Zoning Office to collect a site evaluation from an inspector, to give the C-O application preliminary approval, then to circulate it among other County agencies for their review. Should all the pertinent County agencies approve of the C-O application for their part, the Zoning Inspection Supervisor then declares the C-O with a final approval and that it is ready to be issued. The 2820 Columbia Pike Walgreens C-O application is to date, not yet been given final approval, because It’s review is still being circulated among County agencies. Evaluating the applicant’s compliance with the use permit conditions is part of this review.

III. OUTSTANDING ISSUES

Given the use permit’s inconsistent history of public review, the following issues regarding site maintenance have developed:

- Use permit conditions required the applicant to install street tree pits, street trees, and brick paver sidewalks along the property’s three frontages, but the conditions do not identify those responsible for maintaining those sidewalks. The surface has deteriorated in places, especially along South Walter Reed Drive, increasing the risk of pedestrian hazards. This issue is complicated by the fact that ownership of the three sidewalks is unevenly divided between the County and the property owner (B.M. Smith).
- The same problem exists for rear of the site, in which property ownership overlaps unevenly with the landscaped berm of the County’s 11th Street South right-of-way. This landscaped strip has become overgrown with weeds and trash, and it is unclear who is responsible for maintaining it.
- The applicant is not in compliance with the use permit conditions requiring the submittal of a landscape maintenance plan and daily trash collection.
- The applicant is not in compliance with the use permit condition requiring an on-site contact.

IV. CONCLUSION

A tele-meeting among several B.M. Smith property representatives, two CPRO officials, a County planner, and myself took place on July 16, 2020 in order develop a Memorandum of Understanding (MOU). The intent of the MOU is to clarify responsibilities for managing the use permit conditions, and to create an action plan that will restore and maintain the site. The MOU is still in progress. CPRO president is currently in the process of securing a reliable contact representing the Walgreens tenant.

Reggie Nixon, Columbia Heights Civic Association

ATTACHMENT #1:
APPROVED USE PERMIT CONDITIONS
FOR (U-2945-98-5) AT 2820 COLUMBIA PIKE

Approved Conditions:

- The following conditions number one through five of the use permit approval must be met by the developer (as used in all of the conditions 1 through 24, the term “developer” includes the owner, the applicant, and their successors and assigns) before issuance of the Clearing, Grading and Demolition Permit:

1. The developer agrees to limit new signage to nine (9) building and window-mounted signs totaling 163.45 square feet and shown on the comprehensive sign plan dated November 16, 1998. The nine (9) building and window-mounted signs shall be located as follows: seven (7) on the Columbia Pike side (north) of the building, and two (2) on the South Walter Reed Drive side of the building. This approval includes the proposed free-standing monument-style identification sign at the intersection of South Walter Reed Drive and Columbia Pike. This approval does not include the “exit” sign facing the neighborhood along the southern (rear) property line. The final design of the sign plan consistent with this approval and these conditions including precise locations, size, materials and the method of illumination shall be subject to the approval of the County Manager or his designee.

2. The developer agrees to comply with plans as revised by these conditions and reviewed and approved by the County Board and made a part of the public record at the County Board meeting of December 12, 1998, together with any modifications proposed by the developer and accepted by the County Board or vice versa. The developer shall dedicate easements to the County for public access and use necessary for the development and operation of the plaza and the metered public parking spaces on South Edgewood Street in accordance with plans approved by the County Board at the December 12, 1998 County Board meeting. These easements shall be shown on all final site development and landscape plans to be submitted. At a minimum, these easements shall be valid for

the term of Eckerd's lease and any extension, renewals, or assignments thereof. The approval of this use permit expires one (1) year after the date of County Board approval if the approved plan is not under construction.

3. The developer agrees to develop a plan for temporary pedestrian and vehicular circulation during construction. This plan shall identify temporary sidewalks, fencing around the site, and any other feature necessary to ensure safe pedestrian and vehicular travel around the site during construction. This plan shall be determined by the Department of Public Works to meet these standards before issuance of the Clearing, Grading and Demolition Permit.

4. At all times, the developer agrees to comply with all state and local laws and regulations not modified by the County Board's action on this plan and shall obtain all necessary permits.

5. The developer agrees to file three (3) copies of a final site development and landscape plan which complies with the final approval of the County Board with the Zoning Administrator within 90 days of County Board approval and before issuance of the Clearing, Grading and Demolition Permit.

- The following conditions of the use permit approval must be met by the developer before issuance of the Excavation/Sheeting and Shoring Permit or the first Building Permit, whichever comes first:

6. The developer agrees to submit a detailed final site development and landscape plan at a scale no larger than 1/16 inch = 1 foot before issuance of the Excavation/Sheeting and Shoring Permit or first Building Permit, whichever comes first, and the plan shall be approved by the County Manager or his designee before issuance of the final Building Permit. In order to facilitate comparison with the final site-engineering plan, the landscape plan shall be at the same scale as the engineering plan. The County may require more detailed plans appropriate to landscape installation at a larger scale (1/16 inch = 1 foot, 1/8 inch = 1 foot, or 1/4 inch = 1 foot). 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 consistent with the intent of the site development plan approval. The landscape plan shall include a Street Tree Plan which shall be reviewed by the Department of Parks, Recreation and Community Resources (DPRCR) and shall be accompanied by the site engineering plan, and the two (2) plans shall be compared to ensure that there are no conflicts between street trees and utilities. Neither plan shall be approved until the landscape plan and the site engineering plan are determined to be consistent. The installation of all plant materials shown on the final landscape plan shall take place before issuance of the First Certificate of Occupancy. The final site development and landscape plan shall include the following details:

- a. The location and dimensions of all traffic signal poles and control cabinets, utility meters, utility vaults and boxes, transformers, mechanical equipment, fire hydrants, standpipes, storm water detention facilities, and the location of all existing and proposed utility lines and of all existing and proposed 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. New traffic control cabinets shall not be located in the public sidewalk. Transformers shall not be placed in the setback area between the building and the street;
- b. The location, dimensions, and materials for driveways, driveway aprons, parking areas, interior walkways, and sidewalks as well as for address indicator signs;
- c. The location and types of light fixtures for the building, streets, parking, and walkway areas;
- d. Topography at two (2) foot intervals and the finished first floor elevation of all structures;
- e. Landscaping for plaza areas, raised planters, and surface parking areas, including a listing of plant materials and showing details of planting, irrigation, and drainage; and
- f. The location and planting details for street trees in accordance with Department of Public Works standards and specifications for planting in public rights-of-way and as shown on the approved final site engineering plan.

g. The applicant agrees that the building architecture and streetscape details shall be consistent with the Columbia Pike 2000 Plan Urban Design Guidelines, and with the urban design recommendations of the Arlington County Planning Division. The applicant shall cooperate with County officials in the location, design, and maintenance of the bus shelter located at the corner of Columbia Pike and South Edgewood Street. The building shall have a predominately brick facade. The building shall include a pedestrian entrance facing Columbia Pike. The South Edgewood Street building facade shall include display windows that the applicant will maintain along with other architectural features.

h. Prior to approval by the County Manager or his designee, the applicant shall send a copy of the final landscape plan to the Columbia Pike Revitalization Organization and the Presidents of the Columbia Heights and Douglas Park Civic Associations for review and comment. The applicant shall convey those comments to the County at the time of submission of the final site development and landscape plan for approval by the County Manager or designee.

7. All landscaping shall conform to Department of Public Works standards and specifications and to the following requirements:

a. Planting materials shall be of good nursery stock and a nursery guarantee shall be provided by the developer for two (2) years including the replacement and maintenance (to include but not be limited to pruning, feeding, spraying, mulching, weeding, and watering) of all landscape materials following issuance of the Master Certificate of Occupancy;

b. Planting materials and landscaping shall meet American Standard for Nursery Stock Z50.1-73 and shall also meet the following standards:

(1) Major deciduous trees (shade or canopy trees such as Oaks, Maples, London Planes, Japanese Zelkovas, etc.) - a height of 12 to 18 feet with a minimum caliper of 3 to 3 1/2 inches.

(2) Evergreen trees (such as Scotch Pines, White Pines, Hemlocks, etc.) - a minimum height of 8 to 10 feet.

(3) Ornamental deciduous trees (such as Cherries, Dogwoods, Serviceberries, Hornbeams, etc.) - a height of 10 to 14 feet with a minimum caliper of 1 1/2 to 2 inches.

(4) Shrubs - a minimum spread of 18 to 24 inches.

(5) Groundcover - in 2 inch pots.

c. All new lawn areas shall be sodded; however, if judged appropriate by the County Manager or his designee, based on accepted landscaping standards, seeding may be substituted for sod. All sod and seed shall be State-certified;

d. 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;

e. Soil depth shall be a minimum of four feet for trees and tall shrubs and three feet for other shrubs; and

f. Finished grades shall not exceed a slope of three (3) to one (1) or the grade that existed before the site work began.

g. The developer agrees to maintain the site in a clean and well-maintained condition before 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 to the County a maintenance agreement which shall ensure that all plaza and landscaped areas located on private property are kept in a clean and well-maintained condition after the expiration of the two (2) year guarantee required in condition number 7.a. above and to follow the terms of the maintenance agreement approved for that purpose by the Zoning Administrator.

h. The developer agrees to notify the DPRCR Urban Forester at 703-358-6557 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 the staff of the 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.

i. The applicant agrees to maintain the street trees along the frontages of the site.

8. 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 letters from the developer to the utility companies offering them access as stated above.

9.

a. The developer agrees to construct driveway entrances and curb and gutter in accordance, where applicable, with the Virginia Department of Transportation and Arlington County Standard R-20 for concrete curb and gutter and the appropriate construction standards R-1.0, -1.1, -1.2, -1.3, and -1.4 for pavement.

b. The developer agrees to remove and replace existing curb, gutter and sidewalk along the street frontages of this site that is in poor condition or damaged by the developer according to Arlington County and Virginia Department of Transportation standards and specifications.

10. The developer agrees to construct and maintain a public plaza in accordance with engineering plan dated November 16, 1998. The developer also agrees to construct streetscape features along the South Walter Reed Drive and South Edgewood Street, as recommended in the Columbia Pike 2000-A Revitalization Plan. South Walter Reed Drive shall include eight (8)-foot sidewalks with either full brick paver materials or brick pavers in combination with concrete, street trees with grates, and Carlyle style street lights. The applicant shall retain the brick pavers along South Edgewood Street. All public walkways shall be constructed to County standards. The developer shall guarantee street trees for two (2) years after final acceptance of the right-of-way improvements by the Department of Public Works. Before acceptance of the right-of-way improvements, a bond and an agreement for this guarantee period shall be submitted to the Department of Public Works by the developer and executed by the developer in favor of the County. The sidewalk sections and street tree species shall be generally consistent with the plans prepared by Bohler Engineering, P.C. and presented to the County Board at the

December 12, 1998 County Board meeting.

11. The developer agrees to submit final site engineering plans to the Department of Public Works. The plans shall be drawn at the scale of 1 inch = 25 feet and be 24 inches by 36 inches in size. The Excavation/Sheeting and Shoring Permit shall not be issued for this site until final site engineering plans and the sequence of construction has been approved by the Department of Public Works.

12. The developer agrees to provide at its sole expense, underground utility services to the pharmacy, including any transformers needed to serve the proposed restaurant, such as electric, telephone services, etc. and similar or related structures or facilities. No new aerial utilities shall be permitted along the periphery of the site and any utility link shall not result in the installation of any new utility poles on or off-site. The developer agrees to cooperate with County utility undergrounding projects along public street frontages of the site, including the granting by the developer to the approximate entities of any easements that may be necessary in the future, so that existing utility lines can be placed underground. The plan shall be designed so that there are no new utility poles or pole-mounted transformers provided on or off-site.

13. The developer agrees to install address indicator signs which comply with Chapter 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.

- The following conditions of use permit approval must be met by the developer before issuance of the Footing to Grade Structure Permit or first Building Permit, whichever comes first:

14. All required easements and right-of-way agreements, including those needed for the public plaza and public parking, shall be submitted to the Department of Public Works for approval and be recorded by the developer before issuance of the Footing to Grade Structure Permit or first Building Permit, whichever comes first.

15. The developer agrees to submit a performance bond estimate for the construction of all facilities (to include street trees and all landscape materials) within the public rights-of way or easements to the Department of Public Works for review and approval upon

approval of the final engineering plan and before issuance of the Footing to Grade Structure Permit. Upon approval of the performance bond estimate, the developer agrees to submit a performance bond 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 Public Works and this bond shall be executed by the developer in favor of the County before the issuance of the Footing to Grade Structure Permit.

16. The final design of the loading area including the proposed screening shall be approved as part of the final landscaping plan.

17. The developer agrees to ensure that all parking spaces comply with the requirements of Section 34 of the Zoning Ordinance. Unless otherwise approved by the County Board, the number of compact spaces may not exceed 40 percent of the total number of spaces provided. The proposed parking plan shall also be reviewed and be subject to approval by the Department of Public Works. Drawings showing that these requirements are met shall be approved by the Zoning Administrator before issuance of the Footing to Grade Structure Permit.

- The following condition of use permit approval must be met by the developer before issuance of the final Building Permit:

18. Mechanical equipment, and trash and loading areas shall be adequately screened so as not to be visible from public rights-of-way.

- The following conditions of use permit approval must be met by the developer before issuance of the first Certificate of Occupancy:

19. The developer agrees to identify a representative who shall be available to the adjacent residential community to discuss any concerns of the community associated with the operation of the drug store. The developer agrees to provide the name and telephone number of this representative to the Columbia Heights and the Douglas Park Civic Associations and CPRO before issuance of the Certificate of Occupancy for the Eckerd Pharmacy. The name and the telephone number of the representative shall also be sent to the County Zoning Administrator.

20. The developer agrees to pay the capital cost for the installation of approved Arlington County street lighting consisting of "Carlyle" style street lights along the Columbia Pike frontage and along the South Walter Reed Drive and South Edgewood Street frontages of the site as shown on the final engineering plan as approved by the County Manager or his designee. In addition, the developer agrees to furnish and install at its sole expense, all conduit and junction boxes necessary for the street lighting system. All construction shall meet Virginia Power standards.

21. The developer agrees to provide a bicycle parking rack on-site.

- Post Certificate of Occupancy:

22. The developer agrees to remove snow from all interior drive and parking areas and interior and exterior sidewalks within a reasonable time after the snow has stopped.

23. The developer agrees to limit the operation of the drive-through window to Pharmacy related transactions. Merchandise sold at the drive-through window shall be restricted to items located behind the Pharmacy counter.

24. The developer agrees to have on-site trash and debris picked up by an employee once per day.

25. The applicant agrees to fabricate and install a park name sign (Pike Park). The sign location and design and additional tree plantings agreed to by the applicant, shall be approved by the County Manager or his designee as a revision to the approved landscape plan. The new trees and replacement plantings shall be installed within three (3) months (June 2004). The park name sign (Pike Park) shall be installed as soon as possible but no later than six (6) months (September 2004).

ATTACHMENT #2
APPROVED CAPITAL BIKE SHARE
USE PERMIT AMENDMENT CONDITIONS

1. The applicant agrees that the bikeshare station may be installed as shown on the plans entitled “Capital Bikeshare – Columbia Pike and Walter Reed Drive,” dated April 15, 2013 and attached to this report.
2. The applicant agrees that the County Manager may review and approve minor adjustments to the location of the bikeshare station and associated appurtenances, but no part of the station may be placed more than five (5) feet from the location shown on the use permit drawings referenced in Condition #1, provided the final installed location meets the following requirements:
 - a. The location shall be in the same parcel or easement as the approved location
 - b. Minimum clear sidewalk width shall be as shown on the use permit drawings referenced in Condition #1
 - c. No station shall conflict with existing utilities or with existing trees (except as depicted in the use permit drawings referenced in Condition #1)
3. The applicant agrees to comply with all Federal, State, and local laws and regulations.
4. The applicant agrees to submit a revised landscape plan for the plaza associated with U2945-98-4 depicting the relocated shrubs and bench associated with the bikeshare station.

The landscape plan shall be reviewed and approved by the County Manager or her designee prior to the issuance of the Certificate of Occupancy for the bikeshare station.
5. The applicant agrees to designate a community liaison to communicate with surrounding neighbors regarding issues or complaints about the bikeshare station. The name, telephone number, and email address of the liaison shall be submitted to the Zoning Administrator, the Columbia Heights Civic Association, the Douglas Park Civic Association, the Penrose Civic Association, the Arlington Heights Civic Association, and the Columbia Pike Revitalization Organization (CPRO) prior to the issuance of the

Certificate of Occupancy for the bikeshare station.