

Voluntary Concessions, Community Benefits, Terms and Conditions  
Reserve at Tinner Hill  
May 13, 2013

In association with the requested rezoning and special exceptions to allow the mixed-use redevelopment of 540 and 580 South Washington Street, RPC #'s 52-308-008 and 52-308-004 respectively, Lincoln Property Company/Reserve at Tinner Hill (the "Developer") voluntarily proposes to make the following concessions for the benefit of the community and the City of Falls Church (the "City"):

1. Affordable Housing. The Developer agrees to provide within the residential component of the project, 6% of the units as Affordable Dwelling Units (ADUs). There shall be fourteen (14) units, four (4) two bedroom units and ten (10) one bedroom units. The unit sizes, features, and types shall be comparable to the market rate units. ADUs shall be dispersed throughout the project.

The Developer agrees to accept Restrictive Covenants, which shall define terms and conditions of the ADUs regarding issues including, but not limited to, rent control periods, lease rates, parking, waiver of amenity fees, and occupancy.

- i. The Restrictive Covenants shall run with the land and shall be an encumbrance on the ADUs for a term of 20 years. The Restrictive Covenants shall be recorded with the City's land records.
- ii. The monthly rent for the ADU units shall be affordable to those households at 60% of the HUD Area Median Income, updated annually.
- iii. If the Developer provides parking for market rate units, then the Developer shall provide an equal number of parking spaces for each comparable ADU unit. If a parking fee is imposed, the same parking fee shall apply to comparable ADU units. The Developer shall have the right to require the payment of security deposits and other deposits or fees for ADU units that are also charged to market rate units.
- iv. The Developer will not impose a charge for common area amenities for ADU units. The rent charged to ADU tenants is inclusive of all amenity fees.

Tenants of the ADUs shall have all duties, rights, and privileges as all tenants in the project. The Developer shall comply with all applicable fair housing laws.

A minimum of one of the ADU units shall be accessible as defined by the American With Disabilities Act (ADA). As provided by federal law, all ADU and market units shall be ADA adaptable.

In the event the Developer creates a residential condominium and markets units for sale individually, the Developer shall offer the ADU units for sale at affordable prices consistent with the City's generally applicable regulations governing for sale ADU's. Affordability shall be on the same basis as these rental ADU units.

2. Pedestrian-Oriented Design Elements and Aerial Utilities: In order to create a more pedestrian-oriented environment and beautify the South Washington/South Maple Ave Street gateway to the City, the project will include the following:

a) Streetscape improvements will be constructed and furnished by the Developer along South Washington Street, S. Maple Ave and Tinner Hill. The improvements along South Washington Street shall be in a 20 foot public easement and the improvements along S. Maple Avenue and Tinner Hill Street shall be in an easement area. The improvements shall include, but not be limited to, brick sidewalks, bike racks, lighting, landscaping, refuse and recycling receptacles, stormwater management as it pertains to the site, street furniture, utility undergrounding, and other features, in substantial conformance with on the City Council approved CDP/SE. This design may include features such as rolled curbing, utility hookups and other features that facilitate the use of the streetscaped areas and of S. Maple Ave., and Tinner Hill Street for seating, tables, eating, festivals, fairs, promotional activities of retailers and office tenants both on an individual and collective basis . This area shall also be useable for similar activities by the public as scheduled by the City. The terms of use, substantially as set out here, shall be a condition of the site plan approval and shall be contained in the easement. At the discretion of the City Manager, the developer shall maintain the streetscape improvements in the easement area. A bus stop with appropriate signage, shelter, and landing pad amenities shall be constructed at a location to be determined in coordination with the City during Site Plan approval; in lieu of providing the improvements, the Developer shall be able to make a payment to the City of fifteen thousand dollars (\$15,000.00). The bus shelter type shall be approved by the City. Streetscape elements shall be consistent with that constructed at Pearson Square as determined by the Planning Commission at Site Plan.

b) All on-site utility connections will be placed underground, so long as the associated off-site easements can be commercially reasonably obtained by the Developer. A utility undergrounding plan and layout shall be approved by the City in accordance with the requirements of the public utility. In addition, the Developer will coordinate its efforts with the City's plans for undergrounding utility poles in the vicinity of the subject project. Switchgear equipment, transformers, tanks, and generators will be located within the buildings or in underground vaults.

3. Transportation Improvements: The developer shall provide the following:

a) A traffic signal at South Washington and Tinner Hill at a cost not to exceed \$250,000. The developer shall be responsible for the design, Traffic Impact

Assessment, warrant study, easement/right of way acquisition, coordination of VDOT review, and installation of this traffic signal. Should the cost exceed \$250,000 the developer shall notify the City in writing of the additional cost and the City shall pay the additional costs within 60 days of invoices being provided to the City by the Developer. In the event, necessary easements/rights of way cannot be acquired in the needed time frame from an owner for a commercially reasonable cost, the City agrees to acquire the easements/rights of way using the powers available to the City.

- b) A painted crosswalk across South Washington Street and a mid-block crosswalk across S. Maple Ave. Design and location of S. Maple Avenue crosswalk to be decided and finalized through the site plan process, and may include special treatment, such as brick pavers.
  - c) Large Truck Restrictions: Large wide body, 50-foot and plus, semi-trailer trucks will be prohibited from entering the subject site during peak am and pm vehicular traffic hours (i.e. 8 to 9 am and 5 to 6 pm) for loading or other non-emergency purposes, to the extent possible through administrative measures under the control of the property management. In addition, the Developer agrees to permit truck deliveries and trash/recycling trucks to the times of day that correspond with the City Noise ordinance: between the hours of 7:00 a.m. and 9:00 p.m. weekdays; and between the hours of 9 a.m. and 9:00 p.m. on Saturdays, Sundays, and local legal holidays. The use of signage at the residential loading space, reserved moving time reservations and similar measures shall be deployed for residential household moves to limit large truck access to off-peak periods. "Move ins" by residents shall be prescheduled during 7:00 a.m. and 9:00 p.m. weekdays and 9:00 a.m. and 9:00 p.m. on weekends and local legal holidays.
  - d) Bicycle Storage: The Developer shall provide secure bicycle storage facilities for both residential and commercial users of the project.
  - e) A Charging Station. A charging station for electric vehicles shall be provided.
  - f) Transportation Demand Management. In conjunction with the development and operation of the proposed mixed-use project, the TDM strategies identified in the attached "Transportation Demand Management" plan dated February 11, 2013, will be employed subject to adjustment during the Site Plan Approval process.
4. Environmental Mitigation: The property is located near Tripps Run. In order to protect this natural feature, the redevelopment will include several elements that will benefit the environmental quality of the stream. Any contaminated soil encountered during excavation will be removed from the site and properly mitigated. Additionally, since the existing property has no stormwater management, the installation of a stormwater filtration system will result in a significant reduction in the site's pollutant load on the

nearby stream. In addition to these beneficial features, the project will include the following concessions:

- a) Storm drainage from areas where cars travel that are exposed to rainfall and/or runoff (e.g., drive aisles, surface parking) will be directed to an appropriately sized BMP(s).
  - b) As part of construction, the developer will mitigate all contaminated soil from the site. Developer will conduct its redevelopment work in accordance with applicable environmental state and federal regulations and provide documentation to the City.
  - c) All designs for BMPs will be approved by the City Engineer.
5. Underground Parking: Developer agrees to ensure that the parking garage is constructed in a manner that permits public safety radio signals to be transmitted and received within the garages. The Developer, therefore, shall install the necessary equipment and perform a radio transmission test upon completion of the project, but prior to the first Certificate of Occupancy being issued for the ability to transmit and receive public safety radio signals from the interior of the parking garages, including the subterranean parking garages. Should the test verify that the radio signals are transmitted and received, the requirements shall have been met. Should the test fail, the Developer shall find a solution acceptable to the City and the Developer so as to resolve the problem within ninety (90) days of this test.
6. School Capital Cost Contribution: The Developer agrees to voluntarily contribute seven thousand five hundred and eleven dollars (\$7,511.00) (excluding any ADUs) for each residential unit to offset school capital costs. The total contribution shall be paid at the time of the issuance of the first residential certificate of occupancy.
7. LEED Criteria: The Developer agrees to have the project designed such that a Leadership in Energy and Environmental Design (“LEED”) Accredited Professional (“LEED AP”) can and will certify that the project is likely to yield at least the points necessary to achieve status of LEED Silver. Prior to Site Plan approval, the Developer will provide the City with a LEED checklist as prepared by a LEED AP. Following completion of construction and occupancy, and in accordance with LEED guidelines, the Developer will prepare the necessary documentation to seek official LEED certification from the U.S. Green Building Council. Prior to the issuance of building permits, the Developer will post a fifty thousand dollar (\$50,000.00) bond or letter of credit for the residential component of the building. If the building achieves the intended LEED certification, then the associated bond or letter of credit will be released by the City. If the project does not achieve the intended LEED certifications within three (3) years after the issuance of the a certificate of occupancy for the last residential unit, the City will redeem the associated bond or letter of credit for City environmental improvements at the project location and/or vicinity with the scope at the City’s sole discretion.
8. Commercial Spaces and Portico Retail Spaces: The portion of the project labeled as “commercial spaces” on the CDP/SE shall be used for all uses listed in the B-1 Zoning

District, except that after 12 years from the date of the first certificate of occupancy for this area, professional offices shall no longer be permitted without agreement of the City Council . This shall include the “portico retail” spaces along S. Maple Avenue. Shafts to the roof for future restaurant cooking and dishwasher exhaust vents shall be provided for the commercial space (including the grocery store referenced in paragraph 10 below). Outdoor displays and dining shall be allowed in the areas shown in the Site Plan.

9. Grocery Store: About 29,000 square feet of space (including about 4,000 square feet of mezzanine space) in the North end of the building is planned for a grocery store. [A grocery store is a type of store that sells retail food and ancillary items, which may include items such as fruits and vegetables, prepared foods, and household items] The approval of the special exception by the City Council shall not be final until the City Manager states in writing to the City Council that he has determined there exists an executed copy of a lease with a grocery store tenant of a term no less than ten (10) years for this grocery store space. The Manager shall notify the City Council with a copy of the notification sent to the developer, of having received the executed lease no later than ten (10) business days from the delivery of the lease to the City Manager by the Developer, in which event the special exception approved by the City Council shall be deemed automatically final. Final site plan approval shall be contingent upon confirmation that the grocery lease is in effect. Should the grocery store space cease to be used as a grocery store use, then this “grocery store space” shall then be considered a commercial space as described in paragraph 9 above to be used for retail, commercial and restaurant uses.
10. Support for Celebration of “Tinner Hill”. The developer agrees to support the efforts of the Tinner Hill Heritage Foundation by a community commitment of \$100,000 thru several specific actions. These include designating the project name as “The Reserve at Tinner Hill”, preserving the monument as part of the project redevelopment (preferably at or near its current location) and incorporating the history of the area into the S. Washington Street streetscape and the “Gateway” park at the southern end of the project, between S. Washington and S. Maples streets. The streetscape and park will highlight historical information through the use of interpretive or figurative art, plaques, signage, enhanced paving, seating and other amenity elements that will create an urban heritage trail that will link this project to several other historic and heritage trails in the City. The developer will work with the local boards and commissions such as CATCH, the Historic Commission and local organizations such as the Tinner Hill Heritage Foundation to develop the content of amenity and art elements to be included in the streetscape and parks. The developer will provide space for the brochures and other explanatory materials.
11. Gateway Park. A hardscaped and landscaped park area at the Western end of the project will be constructed as shown on the concept plan which will be open to the public except at such times as it is put into use by the tenants of the project for such things as music performances, festivals, fairs, farmers’ market, promotional activities of retailers and office tenants, both on an individual and collective basis. The City may also use the Park

for such activities. The developer shall maintain the Park. The developer shall be able to place tables, chairs, umbrellas and similar furniture in the area contiguous to the building to support business in the building. The terms of use, substantially as set out, here shall be a condition of the site plan approval and shall be contained in an easement.

12. Bike racks shall be provided as determined at Site Plan. Should the City elect to join a bikeshare program, the Developer will coordinate with the City efforts to locate a suitable site for the facility.
13. Other Terms and Conditions
  - a) Developer acknowledges that the Special Exception as granted, runs with the land and is not transferable to other land.
  - b) Developer acknowledges that if granted, the Special Exception will be contingent upon the conditions noted above, and shall not relieve the Developer from compliance with the provisions of all applicable ordinances, regulations, or adopted standards.
  - c) Developer acknowledges that the Special Exception shall automatically expire, without notice, thirty-six (36) months after the date of approval unless the use has been established or construction has commenced and been diligently pursued, in accordance with Section 48-90. (d), (6) of the City of Falls Church Zoning Ordinance.
  - d) Site plan approval is defined as approval of the site plan for the subject project by the Planning Commission. Developer shall apply within 90 days of that Site plan approval for the associated administrative staff approvals and related bonds using good faith efforts to complete these approvals in a timely manner. There may be consideration of one extension of 3 months for the above timeframe at the discretion of the Planning Director/General Manager of the Department of Development Services (DDS).
  - e) Should the Developer sell its interests or a portion thereof, rights, approvals, or convey a controlling interest to their respective corporations or similar legal entity, any purchaser of such interests, rights, approvals, or controlling interest shall be bound by the terms and conditions contained herein.
  - f) Developer voluntarily submits the foregoing concessions, terms, and conditions to the City Council to be incorporated by reference within the Resolution for the Special Exception, should City Council grant the applications for Special Exception.
  - g) Developer acknowledges that the City Council has the legislative prerogative to grant or deny the application based upon the City Council's fair determination of the best interests of the public within the limits of the applicable laws as balanced against the private property rights of the Developer.

- h) The Developer acknowledges, understands and agrees that the property shall only be developed in accordance with the Special Exception as granted.
- i) The City of Falls Church Commissioner of Revenue and/or his designated staff shall have access to the garage and parking on site at all times for inspection of window stickers related to personal property taxes for vehicles. The Commissioner of Revenue shall be provided all credentials necessary to have access to the parking by vehicle at all times. In the even the access methods are changed or updated, the Commissioner of the Revenue shall be provided notice and updated access credential within thirty (30) calendar days.
- j) Prior to demolition there shall be a demolition parking and staging plan approved by the City Manager. Once a contractor has been selected for the project, the Developer shall work with the City Staff to prepare a construction parking plan and construction traffic and staging plan for the life of the construction phase of the project.
- k) The Developer shall designate a representative to serve as a liaison to the community for the period leading up to the issuance of the Certificate of Occupancy and for a period of two years thereafter. The name and telephone number of the liaison shall be provided to the Zoning Administrator.

Binding Effect of Voluntary Concessions, Terms and Conditions: Each reference to the Developer in this Voluntary Concessions, Terms and Conditions Agreement shall include within its meaning and shall be binding upon the Developer's successor in interest of the site or any portion of the site.

Lincoln Property Company, Southwest

By:   
Name: RICHARD N. ROSE  
Title: VICE PRESIDENT