



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

ITEM # \_\_\_\_\_  
MCPB 12/13/07

**MEMORANDUM**

DATE: December 3, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*  
Robert Kronenberg, Supervisor *RK*  
Development Review Division

FROM: Joshua C. Sloan *JS*  
Development Review Division  
(301) 495-4597



REVIEW TYPE: Limited Site Plan Amendment

PROJECT NAME: Orchard Center at Westfarm  
CASE #: 81997024D

APPLYING FOR: Reduction of 79,772 square feet of approved office use density from Site Plan 81997024C.

REVIEW BASIS: Div. 59-D-3.7

ZONE: I-3, C-6, and US 29/Cherry Hill Road Employment Area Overlay Zone

LOCATION: Southwest quadrant of the intersection of Cherry Hill Road and Broadbirch Drive.

MASTER PLAN: Fairland

APPLICANT: Adventist Healthcare, Inc.

FILING DATE: June 20, 2007

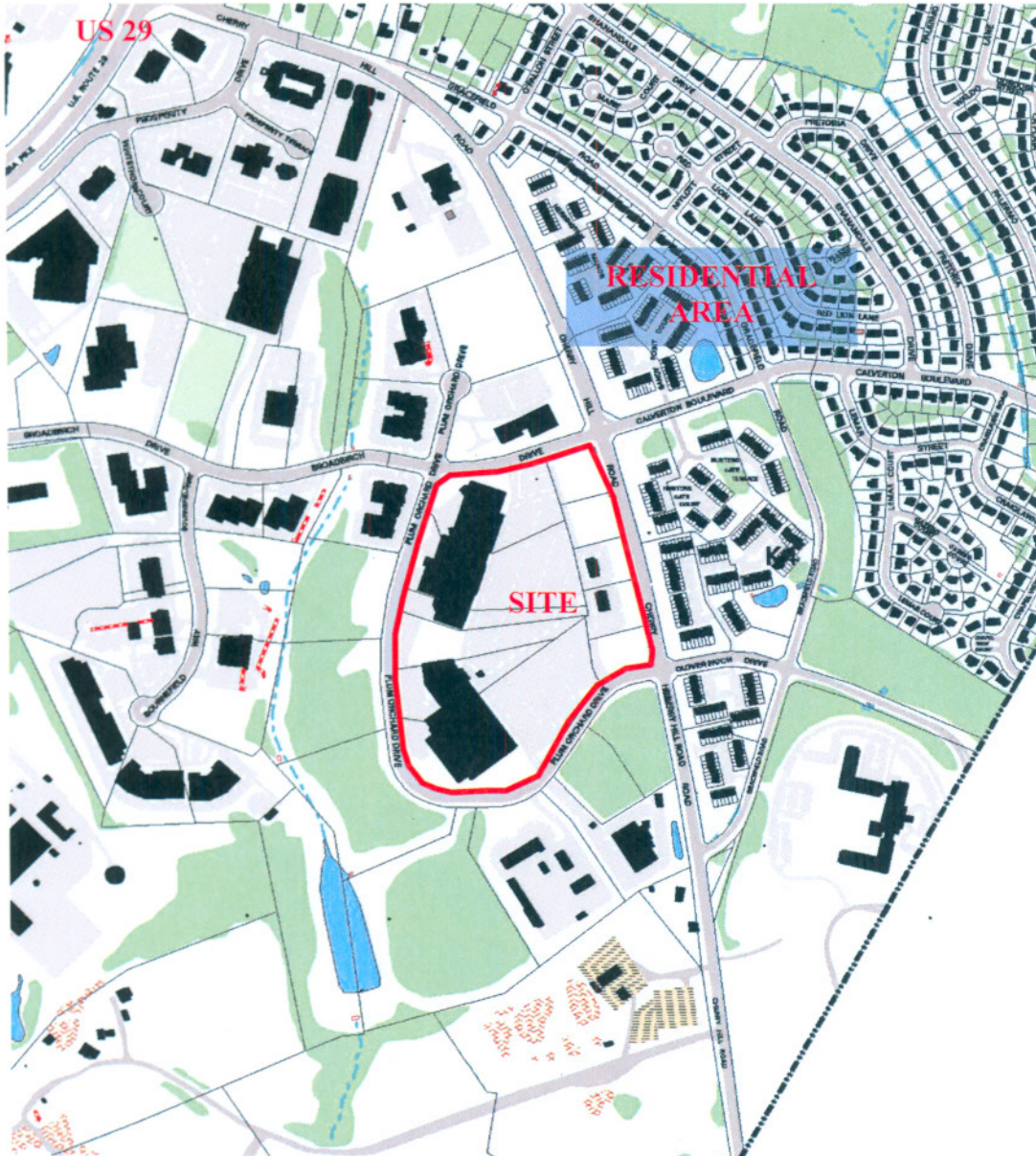
HEARING DATE: December 13, 2007

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**STAFF RECOMMENDATION:** Approval of the proposed amendment to Site Plan 81997024C.

## SITE DESCRIPTION AND VICINITY

The subject site is a portion of West\*Farm Technology Park known as the Orchard Center Retail Center. It is located on Cherry Hill Road between Broadbirch Drive to the north and Plum Orchard Drive to the south and west. A bit further to the north is the intersection of Cherry Hill Road and U.S. Route 29. The site is improved with a retail shopping center including a Target, Superfresh, Kohl's, and other retail, restaurant, and service uses. The adjacent area is primarily office and commercial with a large amount of high-density residential across Cherry Hill Road.



Vicinity Map



## BACKGROUND

### Preliminary Plan Approvals

The following excerpts, taken from the recent Staff Report by Subdivision Staff and presented to the Planning Board on November 29, 2007, detail the preliminary plan approvals and amendments. All relevant opinions and resolutions are attached to the Preliminary Plan Staff Report.

#### *Original Approval*

The Subject Property was originally subdivided in 1982 with the Planning Board's approval of Preliminary Plan No. 119820680. At that time, the entire property was zoned I-3. After this original approval, three of the subdivided lots were sold to Kaiser Permanente, one was sold to Altek, and Westfarm Development, LLC retained ownership of the rest. The original plan approval established limits on vehicle trips rather than specific limits on density, but in 1990, density limits were imposed for the land owned by Kaiser and West\*Farm under two separate Development Administration Agreements. These agreements were made between the County and the property owners to implement density limitations that were then being proposed in a County Trip Reduction Master Plan Amendment for the MD Route 29 area. The lot sold to Altek was not made subject to this requirement.

The West\*Farm agreement established a density limitation of 0.4 Floor Area Ratio (FAR), based upon the gross tract area owned by them at the time. This density limitation translated into a maximum development density of 1,968,699.4 square feet (calculated as office use or equivalent) for the land then owned by West\*Farm. A separate limitation was established for the Kaiser properties<sup>1</sup>. As part of the West\*Farm agreement, the Planning Board required that notations be made on the record plats for the West\*Farm properties, making reference to the agreement and its limitations. In order to make the notation on the record plats and confirm the reduction in development potential from the original subdivision for purposes of Adequate Public Facilities Ordinance review, a new preliminary plan of subdivision was processed in 1991 for the West\*Farm owned property. The 1991 plan, Preliminary Plan No. 119910390 was approved by the Board with the conditions specified in an Opinion dated August 1, 1991.

The 1997 Fairland Master Plan recommended a new zone and land use for approximately 45 acres of the then I-3 zoned land owned by West\*Farm (see Attachment B). The Master Plan proposed to establish a retail "power center" under a new zoning classification, the C-6 zone. This zone was created as a Euclidean Zone in conjunction with the Master Plan and the 45 acres were rezoned by Sectional Map Amendment in 1997. Preliminary Plan No.

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<sup>1</sup> The previous density limits for the Kaiser-owned land are not being amended by the current application, so they are not discussed in any detail. However, detailed information concerning the history and development of the entire West\*Farm Technology Park is included in a memorandum attached to the Preliminary Plan Amendment Staff Report, updated November 14, 2007, from Community Based Planning Staff.

119970770 and Site Plan No. 819970240 were processed in 1997 for development of the 45 acre C-6 zone area as the Orchard Center. The Planning Board's July 28, 1997 Opinion for the Preliminary Plan approval (Attachment E) established a density limitation for the Orchard Center of 460,000 square feet of retail use by allocating a part of the density previously established by Preliminary Plan No. 119910390 when the property was zoned I-3. The Planning Board accepted a ratio of two square feet of office space being equivalent to one square foot of retail space for the conversion based on trip generation from each use. As a result, 920,000 square feet of office use were deducted from the then-remaining balance of the original maximum development density of 1,968,699.4 square feet for Preliminary Plan No. 119910390.

#### *Proposed Preliminary Plan Amendments*

Sale of each parcel at Orchard Center by West\*Farm to a retail user included a covenant that limited the usable density to only the amount sold to that user. Most of this square footage has now been built although, in some instances, the retail purchasers/users have not utilized the full amount of density they purchased. The requested preliminary plan amendments would permit the Applicant to reallocate 79,772 square feet of office density that was never sold to a retail user from Orchard Center back to the remaining I-3 zoned lots that were included in Preliminary Plan No. 119910390. To accomplish this reallocation, the Applicant proposed amendments to all three of the previously approved preliminary plans. In staff's opinion, however, only the 1991 and 1997 plans need to be amended. The amendment to the 1997 plan modifies the previously approved limits on development to reallocate the 79,772 square feet of office density: The amendment to the 1991 plan adds a reference to the 1997 approval, and the current amendment. Such a reference between the plans actually should have been made at the time of the original 1997 approval since the 1991 plan was affected.

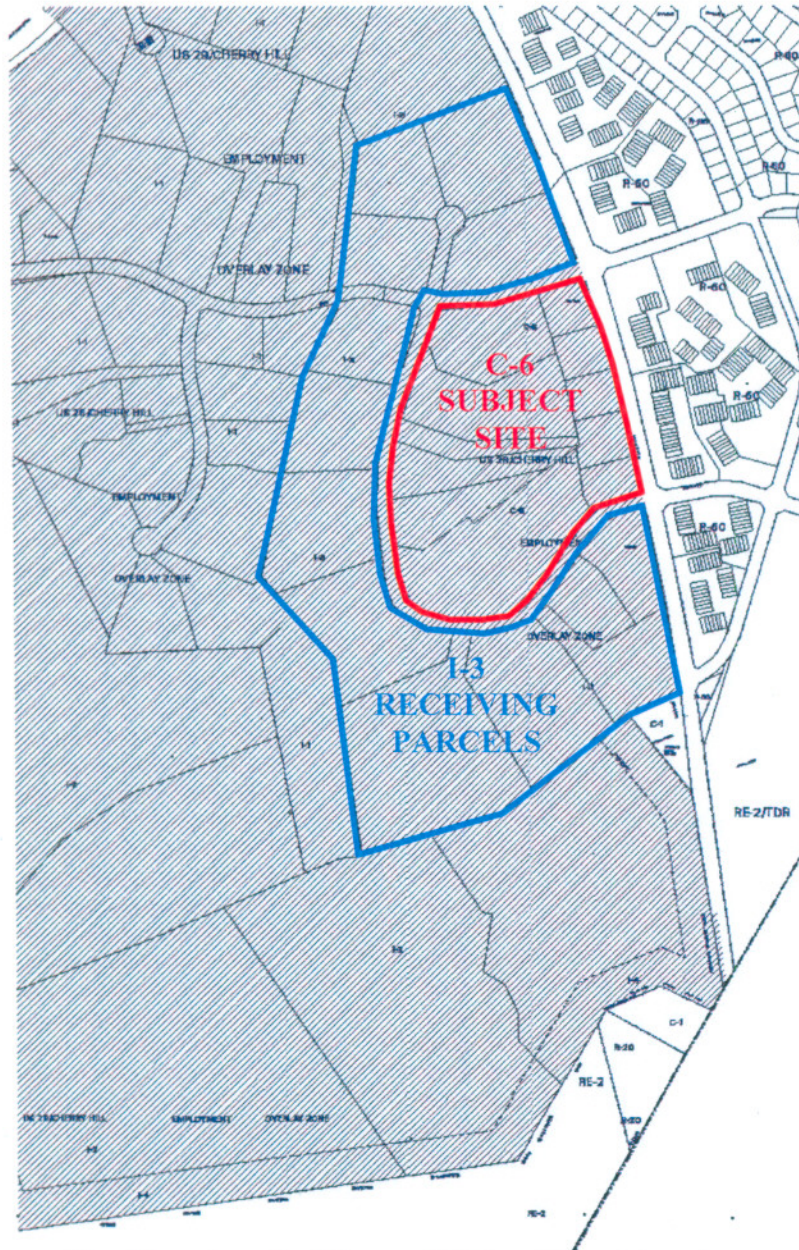
In support of this request, the Applicant has provided a letter dated June 20, 2007 (Attachment F) that provides background information and the data to support the availability of the density they wish to reallocate. As noted in the letter, this density would be added to the unused density remaining in the I-3 portion of the Westfarm Technology Park, which includes density from lots originally owned by both Kaiser Permanente and West\*Farm, and made available to one purchaser for use on a consolidation of the remaining vacant lots. Adventist HealthCare, Inc. has already purchased the Kaiser lots and is under contract to purchase the West\*Farm lots to facilitate the possible relocation of the Washington Adventist Hospital from Takoma Park to this location. That proposal requires separate Special Exception and Site Plan review and is not part of this amendment.

#### Site Plan Approvals

Site Plan 819970240, Orchard Center at West\*Farm, was approved with conditions by the Planning Board on July 28, 1997 (Attachment A). The approved plan proposed 460,000 square feet of commercial retail use. This is equivalent, based on a prior Planning Board approval, to 920,000 square feet of office use space. As of today,



all of the parcels covered by this site plan have been sold along with 840,228 square feet of the available office space. The remaining 79,772 square feet of available office space density is still within West\*Farm's possession.



*Site Plan Area & Adjacent I-3 Zoned Receiving Areas*

Conformance to Conditions of Approval

The proposed development shall comply with the conditions of approval for Site Plan 819970240 as listed in the Planning Board opinion dated July 28, 1997 except as modified by this amendment.



## PROPOSED AMENDMENTS

The applicant, Adventist Healthcare, Inc., filed the subject Site Plan Amendment 81997024D on June 20, 2007. The proposed amendment requests the following modification:

1. Reduce the approved 0.23 Floor Area Ratio (FAR) (460,000 square feet) for the C-6 zoned subject site by 39,886 square feet of commercial retail density resulting in a FAR of 0.212 (420,114 square feet). This is equivalent, as noted above, to 79,772 square feet of office density and reverts to the I-3 zoned portion of the site subject to the approvals granted with preliminary plans 19820680, 119910390, and 119970770

It is the intention of the Applicant to use this density, in combination with additional available density in the surrounding I-3 zoned portion of the site, to propose a hospital facility with associated medical uses.

## PUBLIC NOTICE

A letter regarding the subject site plan amendment was sent to all parties of record by the Applicant on June 1, 2007 (Attachment B). The letter gave notice of a public meeting to present the amended site plan and respond to questions from the community. One pre-submission meeting was held on the subject site plan amendment on June 14, 2007. A second Notice of Application was sent to all parties of record on June 26, 2007 (Attachment C). Staff did not receive any comment from the parties of record during the period of the review.

## STAFF RECOMMENDATION

The proposed modifications to the site plan do not alter the overall design character of the development, with respect to the original approval. The reduction from the previously approved density will not alter the character of the existing development and will allow for the originally intended development flexibility for the entire area. Because this is only a request to modify allowed density, there are no material changes to the existing site. The reallocation of the density to the rest of the site, however, may have ramifications that must be analyzed carefully during the review of any forthcoming proposals. Staff, therefore, recommends **approval** of Site Plan Amendment 81997024D.

## ATTACHMENTS

- A. Site Plan 819970240 Opinion
- B. Notice of Pre-Submission Meeting
- C. Notice of Application

Date Mailed: July 28, 1997



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation  
(Motion of Comm. Baptiste, seconded by  
Comm. Holmes with a vote of 3-0;  
Comms. Holmes, Baptiste and Hussmann  
voting in favor; Comms. Aron and  
Richardson absent).

MONTGOMERY COUNTY PLANNING BOARD

AMENDED OPINION

DATE MAILED: July 28, 1997  
SITE PLAN REVIEW: #8-97024  
PROJECT: Orchard Center at Westfarm

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*Action: Approval subject to conditions. Motion was made by Commissioner Baptiste, seconded by Commissioner Holmes, with a vote of 3-0, Commissioners Baptiste, Holmes and Hussmann voting for. Commissioners Richardson and Aron were absent.*

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The date of this written opinion is July 28, 1997 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before August 28, 1997, (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, then this site plan shall remain valid until September 1, 2003 (which is the date that the adequate public facilities validity period associated with the Preliminary Plan, 1-91039, is set to expire), as provided in Section 59-D-3.8.

On June 17, 1997, Site Plan Review #8-97024 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required;
2. The Site Plan meets all of the requirements of the zone in which it is located;



3. The locations of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;
4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development;
5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The Montgomery County Planning Board APPROVES Site Plan Review #8-97024 which consists of ~~430,000~~ 460,000 square feet of commercial retail subject to the following conditions:

1. Standard Conditions dated July 11, 1995, Appendix A.
2. Before issuance of a building permit for any sign that does not conform to the standards of Chapter 59-F, the applicant must obtain an appropriate variance from the Sign Review Board for any sign that does not conform to the standards of Chapter 59-F.

**APPENDIX A: STANDARD CONDITIONS OF APPROVAL DATED July 11, 1997:**

1. Submit a Site Plan Enforcement Agreement and Development Program for review and approval prior to approval of the signature set as follows:
  - a. Development Program to include a phasing schedule as follows:
    - 1) Street tree planting, if required, must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
    - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
    - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
    - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
    - 5) Clearing and grading to correspond to the construction phasing, to minimize soil erosion (as authorized by the May 29, 1997 Preliminary Plan 1-97077 approval);
    - 6) Coordination of each section of the development and roads;
    - 7) Phasing of dedications, stormwater management, sediment/erosion control, forestation, trip mitigation or other features.



- b. Site Plan Enforcement Agreement to reference the transportation management program that was implemented on October 11, 1994.
2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include for staff review prior to approval by MCDPS (as authorized by the May 29, 1997 Preliminary Plan 1-97077 approval):
  - a. Limit of disturbance;
  - b. Methods and location of tree protection;
  - c. Forest Conservation areas;
  - d. Conditions of DPS Concept approval letter dated April 28, 1995;
  - e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading as authorized by the May 29, 1997 Preliminary Plan 1-97077 approval;
  - f. The development program inspection schedule.
  - g. Conservation easement boundary
3. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and MCDPS issuance of sediment and erosion control permit.
4. No clearing or grading prior to Planning Department approval of signature set of plans except as authorized by the May 29, 1997 Preliminary Plan 1-97077 approval.



June 1, 2007

NOTICE OF PRE-SUBMITTAL MEETING FOR SITE PLAN

Name of Plan:	Orchard Center Site Plan
Site Plan Number:	Amendment to Site Plan No 8-97024
Current Zoning:	C-6
Applicant:	Westfarm Development, LLC
Related Plans:	Preliminary Plan Nos 1-97077, 1-91039 and 1-82068
Geographical Location:	West side of Cherry Hill Road, between Broadbirch Drive and Plum Orchard Drive in Silver Spring, Maryland

The above-referenced site plan amendment is currently scheduled to be filed with the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") on or about June 20, 2007.

You are invited to a **pre-submittal meeting** on **June 14, 2007, at the Courtyard Marriott Silver Spring North, on 12521 Prosperity Drive, in Silver Spring, MD, 20904, from 7:30 p.m. to 8:30 p.m.** to review a copy of the site plan amendment; representatives from Washington Adventist Hospital and its development team will be available to answer questions.

The purpose of this site plan amendment is very limited. The purpose is to reduce the allowable development at the Orchard Center by 79,772 square feet of office space equivalent and return that square footage to the I-3 Zone portion of the West\*Farm Technology Park subdivision from where it originally arose. The applicant for this site plan amendment is Westfarm Development, LLC. No additional new development capacity is proposed and no change is proposed in the physical character of Orchard Center. This site plan amendment is intended only to document the reduction of the density at Orchard Center and its return to its source.

In addition to this site plan amendment, there will be further amendments to other related approvals associated with the reallocation and use of this density in conjunction with the relocation of Washington Adventist Hospital to West\*Farm Technology Park. The overall plan for use of this development density as a part of the relocation will be discussed at the meeting.

After the site plan amendment is filed, it will be reviewed under the provisions of the Montgomery County Code. The site plan amendment could change due to specific reviews and changes suggested by M-NCPPC and other County and State agencies. After the site plan amendment is filed, M-NCPPC will schedule a public hearing on the site plan to obtain public comment. Notices of the public hearing will be sent to adjoining and confronting property owners and civic associations no later than ten (10) days before the hearing.



Notice of Pre-Submittal Meeting for Site Plan  
June 4, 2007  
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After the site plan is filed, questions may be directed to the M-NCPPC's Development Review Division at (301) 495-4595.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Geoffrey Morgan", with a horizontal line extending to the right.

Geoffrey Morgan  
Vice President, Expanded Vision





NOTICE OF APPLICATION  
ADJACENT AND CONFRONTING PROPERTY OWNERS  
APPLICATION TO BE CONSIDERED BY  
THE MONTGOMERY COUNTY PLANNING BOARD

**Site Plan Amendment No. 81997024D**

Name of Plan:	<b>Orchard Center at Westfarm</b>
Plan Number:	<b>81997024D (Amendment to Site Plan No. 8-97024)</b>
Current Zoning:	<b>C-6; U.S. 29 Overlay</b>
No. Proposed Lots/Area Included:	<b>11</b>
Geographical Location:	<b>Southwest quadrant of intersection of Cherry Hill Road and Broadbirch Drive in Silver Spring, Maryland</b>

The above-referenced Application for an Amendment to Site Plan No. 8-97024 (the "Plan") has been filed with the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") and is being reviewed under the provisions of the Montgomery County Code.

Copies of the original Plan and a letter submitted to the Planning Board describing the proposed changes in the Plan are enclosed. This Application may change because of specific reviews and changes suggested by M-NCPPC and other county and state agencies. If you have any comments, please send them to the Development Review Division, Maryland-National Capital Park and Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20910-3760.

The purpose of this Application is to amend the conditions of the approved Plan with regard to the amount of density approved for the Property. This Application is a part of a series of amendments to a site plan and three preliminary plans in order to reallocate a portion of the approved density from its currently assigned location to the area of the original preliminary plans from which it arises. The result will be to reduce or increase, as appropriate, the amount of density allocated to each preliminary plan as part of returning the approved density to its place of origin. No net change occurs in the overall total density among the plans. (For further information, please see the enclosed letter.)

The Montgomery County Planning Board will hold a public hearing on the above-referenced Plan Application to obtain public comment. Written notification of the public hearing date will be sent to you no later than ten (10) days before the hearing.

Notice of Application

81997024D

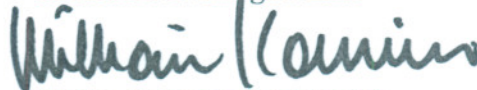
June 26, 2007

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To review the complete Application files, to obtain information about proposed Staff recommendations, or to offer your comments on the Plan to Staff, please contact Robert Kronenberg, Site Plan Supervisor of the Development Review Division, at (301) 495-4595 (main number) or (301) 495-2187 (direct dial). If you plan to comment at the hearing, the Planning Board encourages you to contact the Development Review Division in advance.

Sincerely,

Holland & Knight LLP

A handwritten signature in black ink that reads "William Kominers". The signature is written in a cursive style with a large initial "W".

WILLIAM KOMINERS

(301) 654-7800

Enclosures

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