

APPENDIX A

LINOWES
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ATTORNEYS AT LAW

March 25, 2005

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Honorable Derick P. Berlage, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Rock Spring Centre - Preliminary Plan No. 1-98092A and Site Plan for Phase III –
Request for Waiver of Subdivision Regulations pursuant to Section 50-38 of the
Subdivision Regulations (“Waiver Request”)

Dear Chairman Berlage:

This firm represents Penrose Development Company, LLC (“Penrose”), the developer of Rock Spring Centre, a multi-phased, mixed-use project located in the northwest quadrant of the intersection of Old Georgetown Road and Rock Spring Drive in North Bethesda. On March 28, 2005, simultaneously with the filing of this request, Penrose filed a Site Plan Application for Phase III of Rock Spring Centre, which proposes the development of a hotel, wellness center/spa, residential apartment building and a shared underground parking garage (the “Phase III Site Plan”). Penrose is also preparing and anticipates filing an application for approval of a record plat (the “Record Plat”) to create a record lot for the apartment building, identified on the Record Plat as proposed “Parcel 23” and a separate record lot, identified as on the Record Plat as proposed “Parcel 24,” for the hotel and wellness center. The shared underground parking garage is proposed to be constructed across the vertical plane of the common lot line, if projected below ground, between proposed Parcel 23 and Parcel 24. Accordingly, as fully discussed below, the purpose of this letter is to request, pursuant to Section 50-38 of the Subdivision Regulations, a waiver from the requirements of Section 50-20(b) of the Subdivision Regulations, which restricts the issuance of a building permit for a structure which is located on more than one lot or crosses a lot line.

Rock Spring Centre was approved pursuant to Preliminary Plan No. 1-98092 (the “Preliminary Plan”) for the development of 637,200 square feet (“SF”) of office uses, 340,000 SF of retail uses, a 30,000 SF community center and 1,250 multi-family residential units in multiple phases. Thereafter, an amendment to the Preliminary Plan, designated Preliminary Plan No. 1-98092A, was approved by Planning Board Opinion dated November 9, 2004, to allow the replacement of up to 97,300 SF of office space with a hotel of up to 200 rooms (the “Preliminary Plan Amendment”). Based on the Preliminary Plan Amendment, Phase III

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proposes a 157 room hotel, which will replace approximately 77,200 SF of approved office space, with the remaining 560,000 SF of approved office space to be constructed in a future phase. Phase III also consists of a 90,000 SF wellness center and 87 rental apartment units in a single building.

Because the apartment building and hotel/wellness center will be owned and financed separately, Penrose seeks to create separate record lots for these uses. However, the parking garage will serve all of the uses and will be constructed below grade in the area of both Parcel 23 and Parcel 24. Accordingly, to allow unrestricted vehicular circulation in the parking garage by guests of the hotel and wellness center and residents of the apartment building, the parking garage will be constructed under both Parcels 23 and 24 and across the subsurface parcel line of the two parcels.

In this regard, as a technical matter, Section 50-20(b) of the Subdivision Regulations normally restricts the issuance of a building permit for construction of a structure that is located on more than one lot or crosses a lot line. Therefore, to the extent that Section 50-20(b) would restrict construction of the parking garage for Phase III as proposed, we respectfully request a waiver of the requirements of Section 50-20(b) pursuant to Section 50-38(a)(1) of the Subdivision Regulations, which provides:

The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.

In the instant case, the strict application of Section 50-20(b) to the construction of the shared underground parking garage would cause significant practical difficulties for the development of the project. In particular, as noted above, the apartment building and hotel and wellness center will be owned and operated by separate entities and, therefore, must be located on separate record parcels to facilitate the ownership and financing of each of these components. However, in order to achieve a compact and efficient design for the project, and in recognition of the mixed-use, urban character of the development, the parking garage is best designed as a shared subsurface garage. The efficiency of the design and facilitation of the shared use of the parking garage would be hampered by the imposition of artificial requirements to construct the garage as two separate structures, each up to the subsurface projection of the lot line between Parcel 23 and 24. The shared parking garage will be operated through a joint management agreement and necessary cross-easements, as required by the Zoning Ordinance so each use complies with its required parking standard, will be recorded in the Land Records. This arrangement will ensure that the parking garage will function for guests and residents in an orderly, efficient manner.

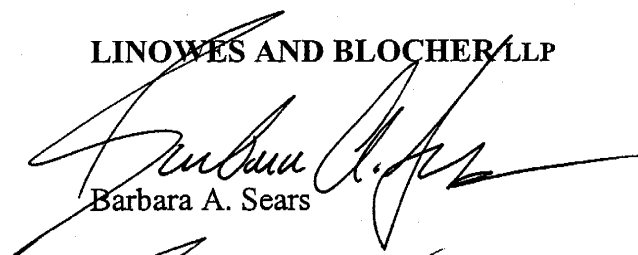
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Finally, by this request Penrose is merely seeking a waiver from the application of a technical requirement of the Subdivision Regulations; proposed Parcels 23 and 24 will be fully reviewed for compliance with all applicable record plat requirements prior to recordation. Further, compliance with all construction codes and other development laws and regulations for the garage will be ensured through the review and approval of the Phase III Site Plan and the County construction permit process for the proposed Phase III improvements, including the parking garage. Therefore, this request is the minimum necessary to provide relief from the application of Section 50-20(b) of the Subdivision Regulations and will have no impact on the public interest or safety. Further, the granting of the waiver will facilitate the development of a significant phase of Rock Spring Centre in furtherance of the recommendations of the North Bethesda/Garrett Park Master Plan, Approved and Adopted 1992, for the mixed-use development of the property. For these reasons, we respectfully request a waiver from the requirements of Section 50-20(b) of the Subdivision Regulations.

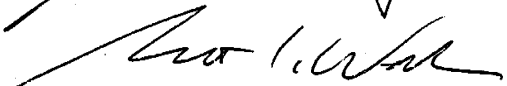
Enclosed is a completed Application Form, and a check in the amount of \$925.00 for the filing fees. We request that this Subdivision Waiver Request be considered concurrently with the Planning Board's review of the Phase III Site Plan. Should you need any additional information, please do not hesitate to contact us. Thank you for your consideration of this request.

Very truly yours,

LINOWES AND BLOCHER LLP



Barbara A. Sears



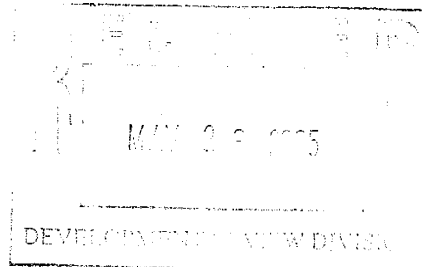
Scott C. Wallace

Enclosure

cc: Ms. Cathy Conlon
Mr. Michael Ma
Olav B. Kollevoll, Jr., Esq.
Mr. Mark Gregg
Mr. Tim McDonald
Mr. James Soltész
Mr. Steven Tawes
Ms. Irene Carrato

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May 18, 2005



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Ms. Cathy Conlon
Development Review Division
Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Rock Spring Centre - Phase III - Site Plan No. 8-05031 (the "Site Plan") and Request for
Waiver of Subdivision Regulations SRW-05004 (the "Waiver Request")

Dear Cathy:

This firm represents Penrose Development Company, LLC ("Penrose"), applicant for the above-referenced Site Plan filed on March 28, 2005 for Phase III of Rock Spring Centre. This Site Plan consists of a 157-room hotel and a 90,000-square-foot wellness center proposed to be constructed on a single record lot and an 87-unit residential apartment building to be constructed on a separate, adjacent record lot and is part of a large mixed-use urban center. Although the hotel and wellness center are proposed to be constructed on a single record lot and the apartment building on a separate single lot, the underground parking garage is proposed to be a shared garage that will extend below a portion of both lots. As a result, the underground garage structure will cross below the lot line. Therefore, simultaneously with the filing of the Site Plan, Penrose filed, for the subsurface parking garage only, the referenced Waiver Request from the requirement of Section 50-20(b) of the Subdivision Regulations. This Section restricts the issuance of a building permit for construction of a structure that is located on more than one lot or crosses a lot line. The purpose of this letter is to provide additional information in support of the Waiver Request in furtherance of your request at the April 25, 2005 Development Review Committee meeting on the Site Plan and the Waiver Request.

It is important to note the Waiver Request is necessitated by both the ownership structure and development sequencing envisioned for the two distinct components of Phase III and the urban, mixed-use nature of the Phase III development (and Rock Spring Centre generally). First, separate record lots for the hotel and wellness center and the residential apartment building are

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required because the apartment building will be owned by a separate, unrelated entity from the owner of the hotel and wellness center. Additionally, the record lots for each use will be purchased at separate times and in separate transactions.

Further, the unique nature of the hotel and wellness center represents a very substantial investment by the future owner. Similarly, the apartment building represents a very significant investment by an unrelated owner. The levels of investment in these separate portions of the project by unrelated owners, at different times and under different ownership structures, creates a situation where neither is comfortable moving forward with joint ownership of one record lot and creation of a mortgage or deed line through the minor subdivision procedures. Accordingly, the development, ownership and phasing program that is necessary to implement Rock Spring Centre generates the need for separate record lots for these individual components if the project is to be commercially reasonable. (As noted in the original Waiver Request, the shared garage will be operated through a joint management agreement with necessary cross-easements.)

The Waiver Request is also necessitated by the urban design envisioned for the project. Rock Spring Centre, as typified by Phase III, is characterized by a compact building layout incorporating large underground shared parking structures and linked by an efficient vehicular and pedestrian circulation system. This design avoids both multiple above-grade parking structures that add unnecessary mass and detract from the visual appearance of the project and multiple inefficient below-grade parking structures. To implement this design, the Phase III garage must be seamlessly and efficiently accessed by patrons of the hotel and wellness center and residents of the apartment building. In this regard, the shared parking garage in Phase III allows all parking to be hidden from view and patrons and residents to park once, and easily access each building served by the shared garage. The shared facility also allows Penrose to utilize the synergy between the mix of uses in Phase III to reduce the number of parking spaces in the structured garage.¹

In summary, we believe that the unique circumstances and characteristics of the Phase III development detailed above clearly demonstrate that requiring the subsurface shared parking facility to be developed as two structures would create practical difficulty for Penrose and would not advance the applicable objectives of the Subdivision Regulations.

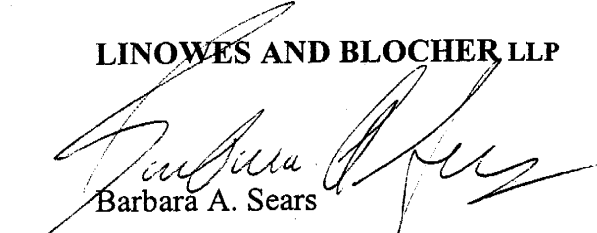
¹ The reduction in required spaces is set forth in greater detail in a parking waiver request submitted with the Phase III Site Plan.

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We hope this information has been helpful to you. Should you need any additional information, please do not hesitate to contact us. Thank you for your consideration of this request.

Very truly yours,

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