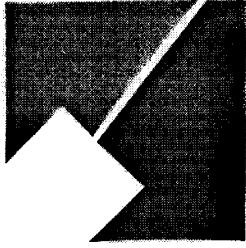


APPENDIX B

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: November 9, 2004

Action: Approved Staff
Recommendation

Motion of Commissioner Perdue,
seconded by Commissioner Bryant,
with a vote of 5-0.

Chairman Berlage and Commissioners
Bryant, Perdue, Wellington and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-98092A (Amendment to Previous Conditions of Approval)

NAME OF PLAN: Rock Spring Center

On September 11, 2003, Applicant Penrose Development Company, LLC, submitted an application for the approval of a preliminary plan of subdivision of property in the MXPB zone. The application proposed to create 17 lots (previously approved); 1250 Multi-family Dwelling Units (previously approved); a 200 room hotel (requested amendment); 537,900 square feet of general office (requested reduction in square footage); 340,000 square feet of general retail (previously approved); 30,000 square foot community center (previously approved) on 53.4 acres of land located at the southwest quadrant of the intersection of I-270 and Old Georgetown Road (MD 187). The application was designated Preliminary Plan 1-98092A. On September 23, 2004, Preliminary Plan 1-98092A 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. The property is located in the North Bethesda-Garrett Park Master Plan area.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action following the public hearing, from the

applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

This plan was previously approved, and was resubmitted to the Board to amend the previous approval as follows: (1) to add a 200-room hotel, and (2) reduce the previously-approved 637,000 square feet of general office space to 538,000 square feet of general office space. The applicant submitted traffic studies that demonstrated with this change there are adequate public facilities to support this change, as analyzed in the Transportation Division staff report in the record.

The Applicant appeared, represented by legal counsel, and testified in support of staff's recommendations and accepted all of the conditions of approval as recommended by staff.

There is no evidence or testimony in the record that rebuts staff's findings or recommendations.

Staff recommended approval of the plan, subject to the following conditions:

- 1) Amend condition No.1 of Planning Board opinion dated, October 25, 1999 for Rock Spring Center to read as follows:

Permit the replacement of 97,300 square feet (from the previously approved total of 637,200 square feet) of general office space with a 200-room hotel and the following:

- 537,900 square feet of general office
- 340,000 square feet of general retail, including a 30,000 square foot community center
- 1250 multi-family dwelling units

The applicant shall comply with the conditions, as applicable, outlined in the revised Transportation Planning Design memorandum dated, May 27, 1999 and the Maryland Department of Transportation (MDSHA) memorandum dated, May 11, 1999.

- 2) Prior to site plan approval; update the traffic mitigation agreement (TMA) with the Planning Board and DPWT to reflect the reduced office space and new hotel. The TMA participates in the North Bethesda Transportation Management Organization (TMO) to assist the North Bethesda Transportation Management

District (TMD) in achieving and maintaining it's the 39% non-driver traffic mitigation goal.

- 3) Undergo further APF review, including an updated traffic study, for the remaining originally proposed and unapproved land uses for office, retail and institutional uses. The originally proposed build-out was a total of 1,335,000 square feet of non-residential uses.
- 4) All remaining previous conditions of the October 25, 1999 Planning Board opinion and letter of extension dated August 2, 2002 for Rock Spring Center remain in full force and effect.

The applicant appeared and testified in support of the staff recommendation. There is no written evidence or verbal testimony in the record contrary to staff's recommendation, and thus all evidence in the record is uncontested.

FINDINGS

Having given full consideration to the uncontested recommendations of its Staff; the recommendations of the applicable public agencies¹; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The Preliminary Plan No. 1-98092A substantially conforms to the North Bethesda Garrett Park Master Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.

- f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.
- g) The Board finds that any objection not raised prior to the closing of the Record is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-98092A in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-98092A subject to the following conditions:

- 5) Amend condition No.1 of Planning Board opinion dated, October 25, 1999 for Rock Spring Center to read as follows:

Permit the replacement of 97,300 square feet (from the previously approved total of 637,200 square feet) of general office space with a 200-room hotel and the following:

- 537,900 square feet of general office
- 340,000 square feet of general retail, including a 30,000 square foot community center
- 1250 multi-family dwelling units

The applicant shall comply with the conditions, as applicable, outlined in the revised Transportation Planning Design memorandum dated, May 27, 1999 and the Maryland Department of Transportation (MDSHA) memorandum dated, May 11, 1999.


- 6) Prior to site plan approval; update the traffic mitigation agreement (TMA) with the Planning Board and DPWT to reflect the reduced office space and new hotel. The TMA participates in the North Bethesda Transportation Management Organization (TMO) to assist the North Bethesda Transportation Management District (TMD) in achieving and maintaining it's the 39% non-driver traffic mitigation goal.
- 7) Undergo further APF review, including an updated traffic study, for the remaining originally proposed and unapproved land uses for office, retail and institutional uses. The originally proposed build-out was a total of 1,335,000 square feet of non-residential uses.

- 8) All remaining previous conditions of the October 25, 1999 Planning Board opinion and letter of extension dated August 2, 2002 for Rock Spring Center remain in full force and effect.

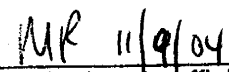
The date of this written opinion is November 9, 2004 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, as provided in the Maryland Rules of Procedure.

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, November 4, 2004 in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of Commissioner Bryant, seconded by Commissioner Wellington, with Commissioners Perdue and Robinson voting in favor of the motion, ADOPTED the above Opinion, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law in Preliminary Plan No. 1-98092A.


Ellyn Dye, Technical Writer

W:\MISC.MMR\opinions\final rock spring center 1-98092.doc


Approved for legal sufficiency
M-NCPPC Office of General Counsel



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

2-2-99
get full mem

MEMORANDUM

DATE: May 21, 1999
TO: Montgomery County Planning Board
VIA: Joseph R. Davis, Acting Chief, Development Review Division
FROM: A. Malcolm Shaneman, Acting Supervisor Development Review Division

JRD

Shaneman

REVIEW TYPE : Preliminary Plan of Subdivision
APPLYING FOR: One Million Three Hundred Fifty-Five Thousand Square Feet of Development Including Office/Entertainment/Retail/Institutional Space and Community Center, and One Thousand Two Hundred and Fifty Multi-Family Dwelling Units

PROJECT NAME: Rock Spring Center
CASE NO. 1-98092
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations Approved and Adopted North Bethesda Sector Plan

ZONE: MXPDP (Mixed Use Planned Development)
LOCATION: Northwest Corner of Old Georgetown Road and Rock Spring Drive, South of I-270
MASTER PLAN: North Bethesda-Garrett Park

APPLICANT: Camalier Limited Partnership and Davis Brothers Montgomery Farm Limited Partnership
FILLING DATE: May 8, 1998
HEARING DATE: May 27, 1999

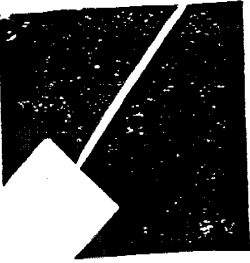
STAFF RECOMMENDATION: Approval of Nine Hundred and Sixty Thousand Square Foot Office/Entertainment/Retail Space, at this time, Subject to the Following Conditions

- (1) Prior to recording of plat(s), Applicant to submit an Adequate Public Facilities (APF) Agreement with the Planning Board limiting development to 650,000

square feet Office, 310,000 square feet Retail and 1,250 Multi-Family Dwelling Units; and providing for the roadway improvements as outlined in the Transportation Planning Division memorandum dated 5-21-99 and the Maryland Department of Transportation (MDSHA) memorandum dated May 11, 1999

- (2) Prior to submission of site plan application, Applicant and MDSHA must ratify the Memorandum of Understanding for the necessary participation in roadway improvements and securing the necessary rights of way
- (3) Compliance with the provisions and phasing elements contained in County Council Resolution No. 13-865 for Zoning Application G-713
- (4) Compliance with the conditions of approval of the preliminary forest conservation plan. The Applicant must meet all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permit, as appropriate
- (5) Final dedication line of Rockledge Drive and Rockledge Connector to be established by record plat
- (6) Terms and conditions of access to be finalized and approved by MCDPW&T prior to recording of plats per memorandum dated 5-24-99
- (7) Record plat to reflect area of transit alignment and proposed station location
- (8) Conditions of MCDPS stormwater management approval dated 5-20-99
- (9) No clearing, grading or recording of plats prior to site plan approval
- (10) Final building location, public use space and other amenities to be reviewed and approved at site plan
- (11) Other necessary easements

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

2 3 100

May 21, 1999
REVISED MAY 27, 1999

See full m

MEMORANDUM

TO: Malcolm Shaneman, Coordinator
Development Review Division

VIA: Ronald C. Welke, Coordinator
Transportation Planning

FROM: Ed Axler, Planner *EA*
John Matthias, Transit and HOV Coordinator *JM*
Transportation Planning

John Carter, Acting Division Chief *JCC*
Margaret Kaii-Ziegler, Planner
Community-Based Planning Division

SUBJECT: Preliminary Plan No. 1-98092
Rock Spring Centre
North Bethesda Policy Area

This memorandum is Transportation Planning staff's adequate public facilities (APF) review and in compliance with the currently adopted regulations and guidelines for the subject preliminary plan.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions as part of the APF test for transportation requirements related to approval of this preliminary plan:

1. To satisfy Policy Area Review and to be in accordance with the available staging ceiling, limit the preliminary plan to the following mixed-use development:
 - a. 1,250 housing units
 - b. First stage non-residential uses of 960,700 square feet (as now permitted with the 3,667 available jobs) consisting of the following:

- 1) 650,700 (of the buildout total of 830,000) square feet of general office use
- 2) 220,000 square feet of general retail use
- 3) 90,000 square feet for a movie theater (retail use)

The total build out in the future for non-residential uses would be a total of 1,355,000 square feet.

2. The remaining non-residential development below must undergo a revised Local Area Transportation Review (LATR) when the 1,227 jobs become available to satisfy Policy Area Review:

- a. 179,300 square feet of general office use
- b. 185,000 square feet of institutional uses
- c. 30,000 square feet for a community center

3. To satisfy Local Area Transportation Review (LATR):

- a. Realign Rockledge Drive associated with the construction of the future Rockledge Connector.
- b. Enter into a signed agreement with the Maryland State Highway Administration (SHA) to participate in funding SHA's Consolidated Transportation Program Project No.151158 for the I-270-related improvements described below and included in the discussion at the mandatory referral hearing held on March 18, 1999:

Associated with Phase II for the future interchange of the I-270 East Spur and the Rockledge Connector, construct the segment of the Rockledge Connector between realigned Rockledge Drive and the terminus of SHA's I-270 overpass.

Satisfying the conditions in Zoning Case No. G-713:

- 1) SHA programmed this I-270 project for has construction within two years to build Phase II for the I-270 interchange at the Rockledge Connector and advance Phase III for the ramps between the I-270 split and the Rockledge Connector Interchange. The final design is under review.
- 2) SHA advanced the programmed construction of Phase III for the I-270 interchange with Old Georgetown Road and ramps between the Rockledge Connector and Old Georgetown Road.

~~The interchange of the I-270 East Spur with Old Georgetown Road will be reconstructed and upgraded to include improvements at the intersection of the I-270 North off-ramp to Old Georgetown Road. At this intersection, the westbound I-270 approach will be widened from two to three lanes to add a second left-turn lane from the westbound I-270 North off-ramp to southbound Old Georgetown Road.~~