



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

MCPB No. 21-074  
Preliminary Plan No. 120210040  
ELP Bethesda at Rock Spring  
Date of Hearing: July 1, 2021

**JUL 27 2021**

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on October 7, 2020, ELP Bethesda at Rock Spring LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 33.64 acres of land in the CRF 1.5, C-0.75, R-1.5, H-150 zone, located at the southeast corner of the intersection of I-270 and Westlake Terrace/Fernwood Road (“Subject Property”), in the Rock Spring Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120210040, ELP Bethesda at Rock Spring (“Preliminary Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 21, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 1, 2021, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 1, 2021, the Planning Board voted to approve the Application subject to certain conditions, on the motion of Commissioner Fani-Gonzalez, seconded by Commissioner Verma, with a vote of 5-0; Commissioners Anderson, Cichy Fani-Gonzalez, Patterson, and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120210040 to create two lots on the Subject Property, subject to

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Approved as to  
Legal Sufficiency: /s/ Delisa Coleman  
M-NCPPC Legal Department

the following conditions:<sup>1</sup>

1. General Approval

This Preliminary Plan is limited to two lots for up to 1,300 dwelling units for senior adults, 210 assisted living/memory care units, 50 skilled nursing units, and 5,300 square feet of commercial uses.

2. MPDUs

The development must provide 15% MPDUs in conformance with Chapter 25A.

3. Adequate Public Facilities/Preliminary Plan Validity

a. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for ten (10) years from the mailing date of the Planning Board Resolution, subject to the following phasing:

- i. The Applicant must obtain building permits for a minimum of 500 units within five (5) years of the resolution mailing date unless the phasing is amended pursuant to Section 50-4.3.J.7.a.
- ii. The remaining building permits must be issued prior to the ten-year APF validity period or the Applicant must apply for an APF validity extension.

b. The Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

4. Outside Agencies

a. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 16, 2021 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

b. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.

c. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated May 7, 2021 and incorporates them as conditions of the Preliminary Plan approval.

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<sup>1</sup> For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
- d. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated February 8, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
5. Local Map Amendment Approval  
The Applicant must comply with the binding elements of County Council Resolution No. 19-492 approving Local Map Amendment H-135.
  6. Future Site Plan Approval
    - a. Except for clearing and grading associated with demolition of the existing building, the Applicant must receive Staff certification of a site plan for the first phase of development before approval of a record plat application or any clearing or grading on the Subject Property. The number and location of site elements including but not limited to buildings, MPDUs, on-site parking, site circulation, sidewalks and shared pathways is determined through Site Plan review and approval.
    - b. If an approved site plan or site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan or site plan amendment.
  7. Forest Conservation
    - a. The Applicant will be permitted to file a Sediment Control Final Forest Conservation Plan (FFCP) for demolition only to accomplish the demolition of the existing building prior to the submission of a Site Plan. The Sediment Control FFCP must include a variance request for any specimen trees not already approved for disturbance or removal that will be disturbed during the demolition process. The Sediment Control FFCP will only include the LOD necessary to accomplish the demolition of the building. The area of the Sediment Control FFCP will be incorporated into the overall FFCP that will be submitted with the first Site Plan Application.
    - b. The Preliminary Plan Resolution for Plan No. 120210040 amends the following Conditions of approval for Preliminary Forest Conservation Plan No. H-135, as included in Planning Board Resolution No. MCPB 20-020:

Condition 4: Except as approved in a Sediment Control FFCP for demolition only: Prior to the start of any clearing, grading, or demolition on the Property the Applicant must record a Category I Conservation Easement over all areas of forest planting, as specified on the FFCP approved with the Site Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and recorded in the Montgomery County Land Records by deed. The Book and Page for the easement must be referenced on the record plat.

Condition 6: Except as approved in a Sediment Control FFCP for demolition only: Prior to any demolition, clearing, grading or construction on the project site, the Applicant must provide financial surety to the M-NCPPC Planning Department, in a form approved by the M-NCPPC Office of the General Counsel, for the 0.41 acres of new forest planting and for the variance mitigation trees on the Property credited toward meeting the requirements of the FFCP approved with the Site Plan.

Condition 8: Except as approved in a Sediment Control FFCP for demolition only: Prior to any demolition, clearing, grading, or construction on the Property, the Applicant must submit a five-year Maintenance and Management Agreement (MMA) in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas and landscape plantings credited toward meeting the requirements of the FFCP approved with the Site Plan.

Condition 11: Except as approved in a Sediment Control FFCP for demolition only: No clearing, grading, or any demolition may occur prior to receiving approval of the FFCP submitted with the Site Plan and satisfying any off-site planting requirements.

8. Frontage Improvements

- a. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of the following along the Property frontage:
  - i. a six to seven-foot-wide sidewalk; and
  - ii. a 10-foot wide separated bidirectional bike lane.
- b. Prior to issuance of the first residential use and occupancy permit, all frontage improvements must be completed.

9. Off-Site Improvements

- a. Prior to approval of the first Site Plan, the Applicant must finalize the design of the off-site bicycle improvements along Fernwood Road/Westlake Terrace between Motor City Drive and Democracy Boulevard.

- b. Prior to issuance of the first residential use and occupancy permit, the off-site bicycle improvements must be completed.

#### 10. Private Roads

The Applicant must provide Private Roads “Connector Internal Drive” and “Relocated Shared Entrance Drive” (between Fernwood Road and “Connector Internal Drive”) and “Central Internal Drive” including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the “Private Road”), subject to the following conditions:

- a. The record plat must clearly delineate the Private Road and include a metes and bounds description of the boundaries of the Private Road.
- b. The Private Road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq.
- c. Before issuance of a building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified, on this Preliminary Plan or a subsequent Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.
- d. A separate bond shall be set aside for ongoing maintenance requirements with respect to the private roads, in an amount approved by M-NCPPC Staff.

#### 11. Record Plat

- a. The record plat must show necessary easements, including public access easements on areas shown on the Preliminary Plan as Public Open Space.
- b. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- c. The record plat must reflect all areas under common ownership.

#### 12. Parks

- a. The Applicant must dedicate to Maryland-National Capital Park & Planning Commission (“Commission”) the 1.64-acre (approximately) portion of the Subject Property identified as “Lot 2” on the approved Preliminary Plan for

use as a public park. The land must be dedicated to the Commission at the time of record plat through notation on the plat and by providing a deed approved by the Commission's Office of General Counsel in form and substance. The Applicant reserves the right to retain a temporary construction easement along the western boundary of the park to facilitate the construction of the adjacent building and to ensure the safety of the park users. The Commission will hold the deed in escrow until park construction is complete and the land is ready for transfer to the Montgomery County Department of Parks ("Department of Parks.")

- b. Prior to issuance of the final residential use and occupancy permit for Phase 1-A, the Applicant must build a public park on "Lot 2" in accordance with Preliminary and Site Plan approvals. The Applicant must work with the Department of Parks on the design and obtain a Park Construction Permit to design and build the park to the Department of Parks standards.
- c. The Applicant will enter into an agreement with the Department of Parks to maintain the Park for the first five years following completion of the Park.
- d. The Applicant and the Department of Parks will consider an additional limited ongoing landscaping agreement whereby the Applicant assumes maintenance responsibility of flower beds and potentially other identified areas.

### 13. Certified Preliminary Plan

- a. The Applicant must include the agency approval letters and the Preliminary Plan Resolution on the approval or cover sheet(s).
- b. The certified Preliminary Plan must contain the following note:  
*Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
- c. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
  - i. Include all relevant cross-section details for the Private Roads.
  - ii. Correct vehicle parking calculation.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The Planning Board approves two lots: one for a multi-generational Park that will be dedicated to M-NCPPC, and the other for a Continuing Care Retirement Community ("CCRC") and associated facilities and amenities. The layout of the two lots is appropriate for the development of a large CCRC and public park given the recommendations of the *Rock Spring Sector Plan* ("Sector Plan" or "Plan") and the applicable requirements of Chapter 59.

Lot 1, for the CCRC, accommodates the proposed buildings and the infrastructure necessary to serve the facility as determined by County agencies, all of whom reviewed the Project and recommended Planning Board approval. The Parks Department determined that Lot 2 is an appropriate size and configuration to accommodate a multi-generational urban park that will serve the residents and employees of the CCRC and the general public. Parks will work with the Applicant on the design of the Park and the Applicant will construct it according to the Park permit process.

The lots were reviewed for compliance with the dimensional requirements for the CRF 1.5, C-0.75, R-1.5, H-150 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, open space, and setbacks in that zone. A summary of this review is included in Table 1, below.

<b>Table 1: Optional Method Development Standards  CRF-1.5 C-0.75, R-1.5, H-150 Zone (Section 59-5.3.5)</b>		
<b>Standard</b>	<b>Required/Permitted</b>	<b>Provided</b>
Tract Area		36.02 acres/1,568,824 sofa
Previously Dedicated ROW	n/a	2.37 acres/103,320 s.f.
Site Area		33.64 acres/ 1,465,504 square feet
Maximum Density (CR) <i>Non-residential (C)</i> <i>Residential (R)</i>	1.5 FAR (2,353,236 s.f.) 0.75 FAR (1,176,618 s.f.) 1.5 FAR (2,353,236 s.f.)	1.5 FAR (2,353,236 s.f.) 0.002 FAR (5,300 sf) 1.497 far (2,347,936 sf)
Minimum lot size	Established by site plan approval	32.08 (Lot 1) 1.64 acres (Lot 2)
Minimum Front setback (Fernwood Road)	0 ft. (per LMA H-135)	14 ft.
Minimum Side Setback (I-270)	100 ft. (per LMA H-135)	100 ft.
Maximum Building Height	150 ft.	150 ft.
Minimum Open Space	10% of site (3.36 acres)	33% (11 acres)
Site Plan Required	Yes	Yes
Minimum MPDUs Required	15%	15%
Vehicle Parking Spaces (min/max)	947/1597	1800 <sup>1</sup> (final parking count to be determined at site plan)

<sup>1</sup> The Applicant is seeking a Parking Waiver under Section 59-6.2.9 to exceed the maximum number of parking spaces. The parking waiver request will be evaluated at site plan.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Project substantially conforms with the recommendations of the 2017 *Rock Spring Sector Plan*. The Sector Plan recognizes the history of the Rock Spring area from its heyday as one of Montgomery County's premier office parks in the 1980s through early 2000s to the increasing vacancy rates in the late 2000s and Marriott International's plans to relocate its headquarters to a transit proximate location (page 7). According to the Plan, the relocation of Marriott would increase the office park's vacancy rate to 39%, absent other changes. The CCRC addresses the large gap that will be left in Rock Spring by the departure of the Marriott headquarters.

The CCRC is consistent with the Sector Plan's overall vision to encourage the evolution of the area into, "a well-integrated, amenity-rich district for existing employers and future residents" (p. 17). The Project will help fulfill the overall vision by accomplishing the following overarching Plan goals:

- Adding a new type of residential infill development to area's existing mix of uses, helping to reshape the area into a more well-integrated community.
  - Increasing publicly accessible green spaces within the Plan area by providing a 1.6-acre Park, a walking trail open to the public, and an enhanced streetscape for pedestrians and bicyclists.
  - Concentrating new activity along the "central spine" (Fernwood Road/Rock Spring Drive as the proposed buildings and the Park will line the Property frontage along Fernwood Road.
  - Helping to create a safe, low stress pedestrian and bicycle network with proposed streetscape improvements along Fernwood Road.
- (p. 20)

The Sector Plan includes the Property within the Rock Spring Central/Mixed-Use Business Campus District, identified as a traditional suburban format office park built primarily in the 1970s and 1980s. The Plan recommended the CR zone to provide options and flexibility for infill or redevelopment in the future should circumstances change for the office buildings. The relocation of Marriott Headquarters to downtown Bethesda provides the opportunity to introduce a greater mix of uses into the area.

The Sector Plan provides design and connectivity guidance for redeveloping properties within the central Rock Spring area. The Project directly address the following recommendations (p.36):

- Prioritizing the central spine as a pedestrian-friendly environment.

- Introducing a mix of uses and pedestrian-friendly amenities that can promote and enhance walkability to and from the central spine.
- Promote sustainable building and site development practices with a variety of interconnected open spaces and high levels of internal connectivity.

The Project prioritizes the establishment of the central spine as a pedestrian-friendly environment by orienting development towards it. The Project includes residential uses, a public park, a publicly accessible walking path, and a small amount of retail that will help connect this large property with the greater Rock Spring area.

#### Open Spaces

The Sector Plan includes open space recommendations specific to the Subject Property:

- If the Marriott site redevelops, the Plan recommends public civic gathering/green open spaces, plazas, and active recreation spaces at this location. Of the approximately 3.3 acres of required open space, one of the spaces should include a civic green of one to two acres of usable open space to accommodate large community gatherings and events. The civic green should include a large lawn area to support multiple uses including markets, festivals, and recreational uses.
- The Plan recommends creating and continuing a greenway with a walking trail along the existing tributary.  
(p. 60)

The Project provides a 1.6-acre lot that will be developed as a multi-generational Park and dedicated to the Parks Department. In addition, the Project provides a linear walking path around the western and southern sides of the Property, consistent with the Plan's open space recommendations.

#### Public Benefits

The Plan prioritizes the public benefits as follows:

- Dedication of land for needed school site is the highest priority public benefit.
- Providing 15% MPDUs is the highest priority public amenity for new residential development, unless the Property is required to dedicate land for a school or athletic field.
- Other major public facilities including land for parks and school athletic fields, dedications for the North Bethesda Transitway, a library, a recreation center, County service center, public transportation or utility upgrade.
- Diversity of uses and activities.
- Connectivity and mobility.
- Reuse of existing building. (p. 81)

The Sector Plan further states that any application for a CRF Zone must include major public benefits (p. 35). This requirement was a binding element of the Local Map Amendment H-135 approval. The Project includes the following major public benefits to fulfill this requirement:

- The construction and dedication of a 1.6-acre multi-generational park to M-NCPPC;
- Streetscape improvements beyond the Property frontage; and
- A partnership with MCPS on a workplace training program (Attachment C).

Staff reached out to the Montgomery County Public Schools (MCPS) to discuss the Application in the context of the Master Plan recommendations for a school site. MCPS did not pursue acquisition of the Property through the Subject Application. The Project includes a robust public benefits package, in addition to the major public facilities, including transit proximity, architectural elevations, exceptional design, building reuse, public open space, enhanced accessibility for the disabled, structured parking and habitat preservation and restoration.

#### Environment and Sustainability

The Project will seek public benefit points for the use of cool roofs and vegetated areas. These public benefits are included in the sustainability recommendations of the Plan. The Project will also provide pedestrian and bicycle facilities, as well as access to health services. The Planning Board encourages the Applicant to look at the sustainability recommendations of the Plan for additional sustainability features that can be incorporated into the Project during their Site Plan phase of approval.

#### Master-Planned Roadways

The Property fronts on Fernwood Road, which turns into Westlake Terrace heading west towards the bridge over the I-270 spur. Fernwood Road is 80-foot wide and transitions into the 90-foot-wide Westlake Terrace to accommodate the bridge crossing over I-270.

The Sector Plan reclassified both Fernwood Road (B-2) and Westlake Terrace from arterial to business district streets, with the number of lanes reduced from four to two to accommodate a two-way separated bike lane. The reduction of lanes is also known as a “road diet.” The intention is to create a “complete street” along Rock Spring’s central spine that is safer for people that walk, bike, and use transit. The road diet involves reducing the four through travel lanes to two travel lanes and replacing the center left turn lanes with a single two-way left turning lane. Space from the eliminated lanes will be used for a two-way separated bike lane on the south/west side of Fernwood Road and Westlake Terrace.

Master-Planned Bikeways

The 2018 *Bicycle Master Plan* recommends a two-way separated bike lane on the east side of Fernwood Road from Democracy Boulevard to Rockledge Drive, and a two-way separated bike lane on the south side of Westlake Terrace west of Rockledge Drive. However, the 2019 *Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans* switched the orientation of the separated bike lanes entirely to the west side of Fernwood Road and south side of Westlake Terrace. The two-way separated bike lane should be 10-feet wide and separated from the travel lane on Fernwood Road by a landscaped or concrete buffer. The Application includes the bikeway as recommended in the *Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans*.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

**Transportation**

Transportation infrastructure is adequate to serve the proposed development by this Preliminary Plan as described below.

Sector/Master-Planned Roadways

*Westlake Terrace:* Westlake Terrace is classified as a 90-foot two-lane Business District Street with Planned Bus Rapid Transit. The existing section has four (4) lanes; however, the 2017 *Rock Spring Sector Plan* recommends that the segment adjacent to the site reduce its number of travel lanes from four (4) to two (2) while maintaining the 90-foot width recommendation. The additional space is intended to support high-quality bicycle facilities and sufficiently wide separation from the roadway. An additional 40-foot transit easement is identified along the northern frontage of Westlake Terrace as a means to accommodate the future North Bethesda Transitway, which will provide frequent transit service from the Westfield Montgomery Mall Transit Center to either the White Flint or Grosvenor-Strathmore Metrorail stations pending recommendations of the Transitway study.

Average Annual Daily Traffic has remained consistent from 2012 to 2019, with recent Maryland State Highway Administration traffic counts indicating 8,781 vehicles per day utilizing the four (4) lane roadway. Given the decreased trip generation from the change of use from general office to a CCRC, the Applicant concurs that a lane reduction is feasible in order to allocate more space to non-vehicular facilities, as well as a means to reduce traffic speeds.

This will require the Applicant to restripe Westlake Terrace. The 90-foot-wide right-of-way and the Applicant will construct the non-vehicular elements recommended by the *Parking Lots To Places: White Flint and Rock Spring*

*Design Guidelines* including a ten-foot wide master-planned bidirectional separated bicycle lane facility.

The master-planned ten-foot separated bike lane and four-foot median will be provided between I-270 and Rockledge Drive.

The Applicant collaborated with Planning Staff and MCDOT with regards to providing bikeway connectivity to the frontage improvements along the approved Westfield Montgomery Mall development. The bidirectional separated bicycle lanes along the Property frontage will transition into the twelve-foot sidepath approved along the Westfield Montgomery Mall frontage, facilitating bicyclist circulation. As part of the restriping of Westlake Terrace and Fernwood Road, the lane markings on the bridge over I-270 will be restriped to accommodate the separated ten-foot bidirectional bike lanes with a three-foot painted buffer, transitioning to the twelve-foot sidepath at the Motor City Drive – Westlake Terrace intersection. The Planning Board supports this design and Staff will continue to work with the Applicant as the Project enters the Site Plan review stage. The improvements for Westlake Terrace are anticipated with the first phase of the Applicant's development program.

*Fernwood Road:* Fernwood Road is designated as a Business Street with planned Bus Rapid Transit, B-2, with a recommended 80-foot right-of-way in the 2017 *Rock Spring Sector Plan* area, from Rockledge Drive to Rock Spring Drive. The existing right-of-way varies in width along the Property frontage, but no additional dedication is required. In accordance with the *Parking Lots to Places: White Flint and Rock Spring Design Guidelines*, the Applicant will construct a ten-foot separated bike lane protected by a four-foot median. This segment of the Fernwood Road frontage has a six-foot planting strip between the bikeway and seven-foot sidewalk, to facilitate the planting of street trees.

From Rock Spring Drive to the existing shared signalized intersection at Thomas Branch, the existing six-foot sidewalk will be maintained to avoid cutting down existing mature trees along the property frontage. Given the priority of protecting the mature tree canopy wherever feasible and the commitment of the Applicant to install a protected bidirectional bikeway, people walking along this segment of Fernwood Road would have more than 14-feet of separation from moving vehicles. Furthermore, this segment of Fernwood Road is adjacent to the Park, which will tie directly to the public right-of-way. Pathways emanating from the sidewalk along Fernwood Road will meander through the Park will encourage and facilitate all users to the open space area while also preserving the existing mature tree canopy in the Park.

This segment of Fernwood Road is identified as a Business Street (B-2) with a recommended 80-foot right-of-way in the 2017 *Rock Spring Sector Plan* area.

The Applicant's ultimate cross-section for Westlake Terrace/Fernwood Road would accommodate the future two-way separated bike lanes, from Motor City Drive to the existing shared signalized entrance at Thomas Branch. Staff and MCDOT will continue to collaborate with the Applicant to extend the bikeway southwards to the Fernwood Road and Democracy Boulevard intersection as the Project enters the Site Plan review stage.

The internal private street network includes ten-foot travel lanes, six-foot sidewalks, tree panels, bio-retention facilities such as rain gardens, and on-street parking throughout the development. Traffic calming countermeasures such as chicanes will further the safe movement of people walking and establish the precedent for people driving that they are entering/traveling through an urban environment.

#### Road Diet Analysis

The 2017 *Rock Spring Sector Plan* recommends that travel lanes on Fernwood Road adjacent to this site are reduced from four (4) lanes to two (2) lanes. In 2020 and 2021, the Planning Department analyzed the impact of lane reductions proposed by the Sector Plan to vehicular congestion in Rock Spring. Due to decreased travel during the COVID-19 pandemic, this analysis builds on the traffic modeling completed by the Sector Plan and does not utilize new traffic counts.

The traffic modeling completed by the Sector Plan analyzes vehicular congestion to 2040. This analysis used the 2040 findings as a base and adjusted the traffic volumes forward by five years based on average annual growth rates determined between the regional MWCOG 2019 model and year 2045 model to develop 2045 turning movement volumes.

Three scenarios were then modeled for 2045: no build, road diet, and road diet with mitigation. For the road diet scenarios, the analysis assumed that all lane reductions recommended by the 2017 *Rock Spring Sector Plan* will be implemented (see Table 2 on page 71-72 of the Sector Plan for specific recommendations). Intersections were modeled with one thru lane and one turn pocket. In the road diet scenario, the congestion standard for the North Bethesda Policy Area (71 seconds) is exceeded at Fernwood Road/Democracy Boulevard and Rock Spring Drive/Rockledge Drive. However, the congestion standard can be met at both intersections by applying geometric and operational mitigation at intersections and implementing policy recommendations from the 2017 *Rock Spring Sector Plan*.

At the Fernwood Road/Democracy Boulevard intersection the recommended mitigation is to maintain the existing double lefts turn movements from Democracy Boulevard eastbound to Fernwood Road northbound and from

Fernwood Road southbound to Democracy Boulevard eastbound. The analysis also recommends maintaining two receiving lanes on Fernwood Road for 300-500' north of the intersection.

At the Rock Spring Drive/Rockledge Drive intersection the improvements recommended are purely operational and will only require updated signal heads and modified signal timing. The recommended mitigation is to maintain the existing condition but convert the permissive left-turn movements to protected left-turn movements from Rock Spring Drive westbound to Rockledge Drive southbound and from Rockledge Drive northbound to Rock Spring Drive westbound. A 20% volume reduction or mode shift, as proposed in the Sector Plan, is also assumed, which is critical to reducing future congestion at this intersection.

Several future developments will impact vehicular congestion in Rock Spring over the next 25 years. New thru-road connections constructed by the proposed Rock Spring Centre development may also reduce the congestion at this intersection in the future. Preliminary design for the North Bethesda Transitway is expected to begin in 2024, which will provide a direct connection to Metro's Red Line.

Overall, this analysis indicates that turn lanes along the Applicant's site on Fernwood Road may be reduced from four to two, without negative impacts on vehicular congestion.

#### Public Transit Service

The Subject Site is serviced by both Ride On and WMATA, with three existing bus stops located along the property's frontage with Fernwood Road. In consultation with both transit agencies, the Applicant will consolidate the three stops into two bus boarding islands, which will provide level boarding access and maintain bus vehicle movement in the travel-way. The bidirectional separated bike lanes will be constructed around both bus boarding islands, providing uninterrupted level access to the bus shelters while maintaining clear and protected separation of people biking from travel lanes. The nearest public transit routes are as follows:

- Ride On route 6 operates along Fernwood Road and Rock Spring Drive between the Montgomery Mall Transit Center and the Grosvenor-Strathmore Metrorail Station.
- Ride On route 26 operates along Fernwood Road and Rock Spring Drive between the Montgomery Mall Transit Center, the White Flint Metrorail Station, Twinbrook Metrorail Station, and the Glenmont Metrorail Station.

- Ride On route 47 operates along Fernwood Road and Rock Spring Drive between the Rockville Metrorail Station, Montgomery Mall Transit Center, and the Bethesda Metrorail Station.
- Ride On route 96 operates along Fernwood Road, Rock Spring Drive, and Rockledge Drive between the Montgomery Mall Transit Center and the Grosvenor Metrorail Station.
- WMATA route J2 operates along Fernwood Road between the Montgomery Mall Transit Center, the Medical Center Metrorail Station, the Bethesda Metrorail Station, and the Silver Spring Metrorail Station.

The North Bethesda Transitway is planned along the northside of Westlake Terrace/Fernwood Road up to Rock Spring Drive. A 40-foot transit easement has been provided along the properties to the north and no action is required as part of this request. A future bus rapid transit stop is planned at the Fernwood Road and Rock Spring Drive intersection.

#### Pedestrian and Bicycle Facilities

The Applicant will upgrade the existing five-foot wide sidewalks located to the back of curb and gutter along Westlake Terrace/Fernwood Road to a consistent seven-foot wide sidewalk with physical separation in the form of tree panels and separated bikeways. When reconstruction of the corridor occurs, lane widths will be reduced to eleven feet and the number of lanes will be reduced from four (4) to three (3). The outside lane adjacent to the bidirectional bikeway will be twelve-feet in order to provide travel access for operational apparatuses pursuant to the Fire Department Access Performance-Based Design Guide.

In accordance with the 2018 *Bicycle Master Plan*, the Applicant will construct separated ten-foot bidirectional bike lanes along the Westlake Terrace frontage. While the *Bicycle Master Plan* recommended that the bikeway transition to the north side of Fernwood Road at the Rockledge Drive intersection, the Planning Board finds that a consistent separated ten-foot bidirectional bikeway along the southern frontage of Fernwood Road is preferred to facilitate enhanced physical separation from moving vehicles, as well as the travel and ease of access for people biking.

Because the separated bicycle lanes cross multiple intersections, the Applicant will provide elements of protected intersections for the relevant intersection legs per the 2018 *Bicycle Master Plan* at Rockledge Drive, Rock Spring Drive, and shared signalized entrance. The corridor will include pedestrian refuge islands at crosswalk locations within the 4' buffer space between the bikeway and travel lane as well as mountable curbs, where feasible.

An eight-foot loop trail circumvents a portion of the Property, routing southwards from Westlake Terrace, parallel to I-270, before running eastwards

along the Thomas Branch, ultimately terminating at the Park and the forest conservation area adjacent to Fernwood Road. While privately maintained, the Applicant has committed to provide the trail as a publicly accessible pathway, with amenities and wayfinding to further enhance walking and bicycling in the *Rock Spring Sector Plan* area.

The Applicant will construct ten (10) above-grade pedestrian walkways, which provide additional separated connections for residents, staff, and visitors to access buildings and garages.

#### Local Area Transportation Review

The CCRC with 1,560 units will replace the existing 775,000-square foot office structure.

The Montgomery County Council's Resolution No. 18-671, "2016-2020 Subdivision Staging Policy," stipulates that Local Area Transportation Review adequacy tests are not required if a proposed development generates fewer than 50 weekday peak hour vehicle trips. Likewise, the Resolution dictates that up to 15,000 square feet of ancillary retail which explicitly serves residents of the development and residents or employees of surrounding uses. No parking is allocated for this ancillary retail and therefore, not included as it pertains to trip generation.

The numbers of peak-hour trips generated by the CCRC uses the Institute of Transportation Engineers' (ITE) Trip Generation rates. Nevertheless, the Applicant submitted a Traffic Statement indicating the following new Trip Generation rates:

**Trip Generation**

<b>Vehicle Trip Generation</b>	<b>AM</b>	<b>PM</b>
<b>Existing Site Generated Vehicle Trips (Driver)</b> (ITE 10 <sup>th</sup> Edition – 775,000 SF Office)	<b>755</b>	<b>796</b>
<b>Proposed Site Generated Vehicle Trips (Driver)</b> (ITE 10 <sup>th</sup> Edition – 1,560 Units Continuing Care Retirement Community)	<b>218</b>	<b>250</b>
<b>Net New Vehicle Trips (Driver)</b>	<b>-537</b>	<b>-546</b>
<b>Local Area Transportation Review Required?</b> (Are AM or PM person trips ≥ 50?)	No	No

As such, under the 2016-2020 Subdivision Staging Policy, a traffic study is not required to satisfy the LATR test, because the number of morning and evening person trips is fewer than the standard of 50 or more trips within the weekday peak hours.

**Transportation Demand Management**

Because the Project is located within an Orange Policy Area and includes more than 160,000 square feet of gross floor area, the Applicant is required to submit a Level 3 project-based transportation demand management (TDM) Results Plan prior to issuance of any building permit. A Level 3 TDM Results Plan requires a commitment by the Applicant to achieve a base non-auto driver mode share (NADMS) that is 5% higher than the North Bethesda Transportation Management District (TMD)’s goal.

**Private Roads**

Per Section 50-4.3.E.4.b, private roads must be built to the construction specifications of the corresponding public road standard. The Planning Board approves the following private internal road network that functions as modified secondary residential roads (MC2002.01, MC2002.03 and MC2002.02):

- Connector Internal Drive
- Relocated Shared Entrance Drive (between Fernwood Road and “Connector Internal Drive”)
- Central Internal Drive

The private roads will not be platted in separate parcels because the Central Internal Drive will be located over a below-grade parking structure. Instead, the private roads will be delineated within Lot 1 on the record plat with reference on

the plat to the standard Declaration of Restrictive Covenants for private roads. The private roads will be built to the construction specifications of the corresponding public road (e.g. paving detail and design data, including surface depth and structural design).

The private roads are located to intersect with Rockledge Drive and Rock Spring Drive, promoting the urban design objective of creating a street grid. However, the private roads are completely internal to the Project and do not connect with any other streets. As such, MCDOT has determined that the private roads are not needed to maintain area circulation, provide continuous corridors to serve the general public and quasi-public needs such as communication, utility and future potential transportation or other systemic needs that serve the public on a long-term basis, and are not needed to be part of the network modeled for area capacity.

A summary of each deviation from MCDOT public road standards and a justification is provided below.

- The private roads will have narrower than standard right-of-way widths and 10-foot lanes. The private roads are meant to reflect the context of the campus-like setting of the CCRC. The road design is intended to slow traffic and make the pedestrian experience as safe and pleasant as possible for the senior population. The narrow roadway widths also reduce impervious area on the site, allowing for wider grass panels, additional landscaping and integration of stormwater management facilities.
- Internal intersections will not include the standard 25-foot straight truncations. The truncations are not needed for sight distance or fire access and reducing truncations increases the area available for stormwater management. All reductions in truncations will allow for safe, adequate, and efficient vehicle turning.
- Reduced centerline radii provide traffic calming while meeting minimum requirements for fire access and sight distance.

The Planning Board approves the classification of these roads as private roads. The private roads will effectively function as public roads in the following respects: 1) adequate access and fully accessible to the public; 2) accessible to fire and rescue vehicles; and 3) designed to the minimum public road standards, except for right-of-way and pavement widths.

### **Schools**

As a facility for senior adults, the CCRC is not projected to generate any school-age children and a School Test is not required.

### **Other Public Facilities and Services**

The Property is located within water and sewer categories W-1 and S-1 and is serviced by existing water and sewer. Water and sewer needs are expected to be met by the Washington Suburban Sanitary Commission (“WSSC”) through connection to the existing water and sewer lines. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy in effect at the time that the Application was submitted.

### **Adequate Public Facilities (APF) Validity Period**

The Planning Board approves an extended APF validity period of ten years under Section 50-4.3.J.5.b and the following phasing schedule:

Years 1-5: 500 units constructed  
Years 5-8: 1310 units constructed  
Years 8-10: 1560 units constructed

The Planning Board finds that the size and complexity of the approved subdivision warrants the ten-year validity period and would not be averse to the public interest. The size of the CCRC, with up to 1,560 residential units, is much larger and more complex than a typical subdivision and will likely need the additional time to reach full build out. The pace of development is highly dependent on market forces outside the Applicant’s control.

The extended validity period is not averse to the public interest. The Project will provide the two most significant public benefits, construction of the Park and the road diet/construction of the bike path during the first phase of development.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

### **Natural Resources Inventory/Forest Stand Delineation**

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) was approved for this site on November 8, 2019. Environmental features on the site include 1.83 acres of wetlands and their buffers, 2.25 acres of 100-year floodplains, steep slopes, and 7.12 acres of stream buffers. The stream buffer surrounds a portion of Thomas Branch, which crosses the southern end of the property from east to west. Thomas Branch is a tributary of Cabin John Creek, a Maryland State Use Class 1-P stream.

Forest Conservation Plan

A Preliminary Forest Conservation Plan (PFCP No. H-135) was approved on April 3, 2020 as part of the rezoning review for this property. The Net Tract Area for the PFCP is 34.18 acres, and the afforestation threshold for the CR zone is 15%, resulting in a minimum afforestation requirement of 5.13 acres. The PFCP proposed to afforest 0.41 acres on site, protected in a Category I forest conservation easement, with final determination regarding how the total mitigation would be provided to be determined with the Final Forest Conservation Plan. The Preliminary Plan shows two on-site Category I forest conservation easements totaling 0.57 acres.

The PFCP included review of a variance request to impact 35 specimen-size trees, of which 31 were proposed for removal, and four to be impacted, but retained. Due to the preliminary nature of the zoning concept plans, the Planning Board was only able to determine that the disturbance of four trees was justified at the time of the zoning review. Those four trees were granted variance approval to be removed. The Planning Board Resolution for the PFCP approval included conditions that require the Applicant to file a Final Forest Conservation Plan and a new variance request for the entire property at the time of their first Site Plan application.

Staff and the Applicant met several times to examine the likely impacts to specimen-size trees along Fernwood Road, to see if modifications can be made to the development design to save some of these trees. Unfortunately, the combination of steep topography in the current planting zone along Fernwood Road, required frontage improvements, and zoning requirements that bring the building faces up to the road increases the likelihood that many of these trees will be lost. The ultimate impacts, and number of trees that will be removed, will be determined in the amended variance application that will accompany the Final Forest Conservation Plan submitted with the first Site Plan application for this development.

The Planning Board approves the Applicant's request to demolish the existing building prior to Site Plan approval. This action will require approval of a sediment and erosion control permit, which in turn requires approval of a Final Forest Conservation Plan with a limit of disturbance (LOD) that matches the LOD on the sediment control plans. The Resolution for PFCP H-135 (MCPB No. 20-020) includes conditions of approval requiring that a Final Forest Conservation Plan be submitted with the first Site Plan Application and requiring that several actions be taken prior to any demolition, clearing or grading on the site.

In order to permit the Applicant to proceed with demolition on the site prior to submission of a Site Plan, the Planning Board has included conditions of

approval that will allow the Applicant to file for a Sediment Control Forest Conservation Plan for demolition only. This is as an interim step in their process and defers implementation of the requirements of Conditions 4, 6, 8, and 11 included in Planning Board Resolution MCPB No. 20-020 until the FFCP for the Site Plan is submitted, approved and implemented. The area of the LOD and activities associated with the Sediment Control FFCP, including the fulfillment of forest mitigation requirements, will be incorporated into the overall FFCP for the Site Plan when it is submitted.

#### Environmental Guidelines

An entry road constructed for the Marriott Headquarters currently lies within the stream buffer to the north of the stream. The first portion of the entry road is shared with a property to the south of the Subject Property.

Planning Staff met with the Applicant for a Concept Plan review (220200070) and during the review of rezoning application No. H-135. During this time, the Applicant worked with Staff to move the existing southern entry road north out of the stream buffer beyond the shared access to the neighboring property. A paved pedestrian path will be permitted within a portion of the stream buffer to provide an opportunity for residents to walk safely around the stormwater pond and connect to existing paths that loop to the other side of the pond. The PFCP approval requires that the FFCP include “measures to enhance the stream buffer function, including restoring areas where impervious surfaces are being removed, managing invasive species, and planting buffer areas with native species where not in conflict with other easements.”

#### Noise

The Applicant submitted a Phase I Noise Analysis with their Preliminary Plan application. Future Site Plan submissions should respond to the noise issues from I-270 identified in the Phase I Noise Analysis.

- 5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Section on May 7, 2021. The Application will meet stormwater management goals through a variety of techniques including micro-bioretenion, a bioswale, and structural stormwater management provided by an existing stormwater management pond that is to remain onsite.

- 6. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.*

The Project satisfies the four binding elements of Local Map Amendment No. H-135 as follows:

- *Provide 1.5 acres of contiguous open space along Fernwood Road, to be improved as a park.*

The Applicant will construct an intergenerational park on 1.6 acres along Fernwood Road and dedicate it to the Parks Department.

- *Provide a minimum of 5,000 square feet of retail space.*

The Project includes approximately 5,300 square feet of neighborhood-serving retail, likely to be located close to the intersection of Fernwood Road and Rockledge Drive.

- *Provide at least one major public facility that meets master plan guidance, as defined in Section 4.7.3.A of the Zoning Code, with details determined by the Planning Board at Sketch and Site Plan review.*

The Project includes three major public facilities, including the 1.6-acre Park that will be dedicated to the Parks Department, the extension of the Fernwood Road bike lane diet across the I-270 bridge to the west and Democracy Boulevard to the east, and a partnership with MCPS on a job training program (Learn Grow Lead). Details of each public benefit will be determined at site plan.

- *The project will satisfy the use restrictions of a residential care facility pursuant to Zoning Ordinance Section 3.3.2.E.*

The Preliminary Plan restricts the use of the Property consistent with the definition for a Residential Care Facility pursuant to Zoning Ordinance Section 3.3.2.E.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 27 2021 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of

this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Verma, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy and Verma voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, July 22, 2021, in Wheaton, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board