

ATTACHMENT A

Resolution No.:	<u>19-492</u>
Introduced:	<u>June 9, 2020</u>
Adopted:	<u>June 9, 2020</u>

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: APPLICATION NO. H-135 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Patricia Harris, Esquire, Attorney for the Applicant, ELP Bethesda at Rock Spring; OPINION AND RESOLUTION ON APPLICATION; Tax Account No. 04- 01567726.

OPINION

ELP Bethesda at Rock Spring LLC (ELP or Applicant) filed Local Map Amendment (LMA) Application No. H-135 on December 20, 2019. The application seeks to rezone approximately 33.64 (net) acres of property from the CR-1.5, C-0.75, R-0.75, H-150 to the CRF (Commercial Residential Floating Zone) 1.5, C-0.75, R-1.5, H-150. Exhibit 2. The subject property is located at 10400 Fernwood Road and is further described as Rock Spring Center Pt. Pars 6 & 12 (Tax Account No. 04-01567726).

Staff of the Montgomery County Planning Department (Planning Staff or Staff) recommended approval of the application and associated Preliminary Forest Conservation Plan (PFCP) on March 16, 2020. Exhibits 51, 52. The Planning Board recommended approval of the application and approved the PFCP at its public meeting on March 26, 2020. Exhibit 55. OZAH's public hearing proceeded as noticed on April 17, 2020. No one appeared in opposition to the application. The Hearing Examiner issued her report (HE Report) recommending approval on May 8, 2020.

On June 2, 2020, the Applicant submitted a revised Floating Zone Plan (FZP) (Exhibit 60) and draft covenants (Exhibit 61) to be approved by the Council. The public hearing included testimony and evidence that the use would be restricted to a continuing care retirement community (CCRC) for seniors, however, this had not been made a binding element in the FZP or the covenants. The revised documents correct that omission.

The Hearing Examiner reopened the record to receive the Applicant's submissions (Exhibits 59-61) and closed it immediately afterward. Exhibit 62. The Hearing Examiner issued a Supplemental Report and Recommendation (Supplemental HE Report) recommending approval

of the revised FZP on June 2, 2020. She found that there was ample evidence in the record that the Applicant intended to develop a CCRC restricted to senior housing under the FZP. The Hearing Examiner, Planning Board, and Planning Staff based their recommendations of approval on the fact that the property would be a CCRC. Exhibit 52, 55. The revised documents clarify that the use requested in the public record will be binding on subsequent approvals. The revisions made no substantive change to the Hearing Examiner's original findings.

To avoid unnecessary detail in this Opinion, the HE Report and Supplemental HE Report are incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application meets the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

Subject Property

The property currently serves as the headquarters for Marriott International. Improvements include a 775,000 square foot office building, surface parking, and an above-ground garage. It is part of the Rock Spring Office Park, located east of the eastern leg of the I-270 Spur. The Thomas Branch stream runs along the southern part of the property with associated wetlands and floodplains. An existing road traverses the environmental buffer, a portion of which provides access to the property adjacent to the south. The site has no forested areas but does have several specimen trees. Exhibit 52, p. 4.

Surrounding Area

The "surrounding area" is identified and characterized in a Floating Zone application to measure whether the development proposed by the Floating Zone Plan (FZP) will be compatible with the properties directly impacted by the use. The boundaries of the surrounding area include those properties. Once delineated, the surrounding area is "characterized" to compare the compatibility of the development proposed by the Floating Zone with the character of the area.

The Hearing Examiner agreed with Planning Staff and the Applicant that the surrounding area is bounded by Rockledge Boulevard to the east, Rockledge Drive to the north, Westlake Drive to the west and Democracy Boulevard to the south. Staff characterized the area as primarily commercial in character, including office buildings, Westfield Montgomery Mall, a hotel, a Home Depot and a car dealership. One existing residential development confronts the property across Fernwood Road. Exhibit 52, p. 3. The Applicant's expert land planner characterized the existing land uses in the surrounding area as heavily suburban and commercial. There are several approved but not yet constructed residential developments in the surrounding area. In her opinion, land uses in the area are gradually evolving into the mixed use, connected community envisioned by the Rock Spring Sector Plan. T. 33-34.

The Hearing Examiner found that the existing surrounding area is heavily suburban and commercial but is gradually transitioning to the mixed-use concept envisioned by the Sector Plan as described later in this Report. Based on this record, the District Council agrees and so finds.

Proposed Development

The Applicant proposes to redevelop the property with a CCRC containing up to 1,300 independent living units, 210 assisted living/memory care units, and 50 skilled nursing units in six buildings. Exhibit 60. Except for the marketing center, which is one story, the buildings will range in height between 7 and 13 stories. T. 39-40. ELP may develop up to 15,000 square feet of retail along Fernwood Road, although it is likely that the amount will be lower. T. 40. The project will provide the equivalent of 15% MPDUs, as required by the County Code. T. 9-10; Montgomery County Code, §25A-5(d)(1).¹ At full build-out, ELP expects to employ approximately 650 individuals. The development includes 1,800 parking spaces to serve residents and employees. T. 19, 41. ELP plans to retain part of the existing garage and add four-stories of living space above it. T. 25-26.

The FZP includes a “green necklace” around three sides of the property. T. 39. This consists of open space (a publicly accessible pathway) around the western and southern boundaries and a 1.5-acre civic park bordering Fernwood Road, also open to the public. *Id.* The compact urban design of the buildings enables the green boundary and streetscape improvements to Fernwood Road. T. 45. The project will be developed in three phases. T. 21-25.

There are four binding elements included on the FZP, which: (1) require the 1.5-acre public park, (2) require a minimum of 5,000 square feet of retail space, (3) require at least one other major public facility that meets Sector Plan guidance, to be determined at the Sketch Plan stage, and (4) restrict the use to a residential care facility defined by §59.3.3.2.E.2 of the Zoning Ordinance, which includes a CCRC. Exhibit 60.

Criteria for Approval

Every application for rezoning to a Floating Zone must be accompanied by a Floating Zone Plan (FZP) that meets certain requirements. *Zoning Ordinance*, §59-7.2.1.B.2.g. The Applicant has filed an FZP meeting those requirements (Exhibit 60), which is described in the Hearing Examiner’s Report.

The Zoning Ordinance and State law govern the standards of approval for a floating zone application. Generally, these standards fall into five categories (1) conformity to the Master Plan, (2) compatibility with adjacent uses and the surrounding area, (3) the adequacy of public services to support the proposed development, (4) technical requirements regarding whether the property is eligible to apply for a Floating Zone, and (5) whether the FZP meets the development standards of the zone requested.

¹ The exact location and method of providing these units will be determined later in the development process. At the public hearing, ELP advised that the Planning Department is considering changes to the current MPDU law (Montgomery County Code, §25A-5(d)(1)) for continuing care retirement communities. ELP will provide the requisite number of MPDUs in accord with the law in effect at later (*i.e.*, sketch or preliminary plan) phases. Changes being considered include, without limitation, provision of off-site units and fees in lieu of actual housing units. T. 10.

Conformance with the Master Plan²

The 2017 *Approved and Adopted Rock Spring Sector Plan* (Sector Plan or Plan) guides the development of this property. Cognizant that the market for office park space was declining, the Plan tried to shed the area's more suburban past by implementing four "overarching" goals for land use and design, the environment and sustainability, public facilities, and transportation and connectivity. *Plan*, p. 20. The Plan envisioned a greater mix of land uses and amenities for businesses and residents. It recommended achieving a sustainable environment by creating a larger tree canopy and reducing reliance on vehicular transportation, which overlaps with the Plan's "connectivity" goal to create safer, "low-stress" pedestrian and bicycle connections. *Id.* The Sector Plan's vision for community facilities was to include more publically accessible green spaces. *Id.* The Plan's focused redevelopment along a "central spine" on Fernwood Road bordering the subject property and extending to Rock Spring Drive to the west. Located in the "Rock Spring Central/Mixed-Use Business Campus" sub-area, the Plan recommended the existing CR Zone for the property but noted that a floating zone may be appropriate for redevelopment of the site. The floating zone recommendation was to provide "options and flexibility for infill or redevelopment in the future should circumstances change for the office buildings." Exhibit 52, p. 9.

Staff concluded that the FZP conforms to the Plan's goals by adding a new residential use to the area, providing additional green space for both the pathway and the civic park, creating new activity along the Plan's central spine, and creating a safer and lower stress pedestrian and bicycle environment with improvements to Fernwood Road. Exhibit 52, p. 9. The Hearing Examiner found that the "residential use, streetscape improvements and "road diet" along Fernwood Road, and additional multi-modal connectivity will meet the Sector Plan's goal to achieve a well-integrated, mixed use community." *Hearing Examiner's Report*, pp. 15-16. Based on this uncontroverted evidence, the District Council agrees and so finds.

Compatibility with Adjacent Uses and the Surrounding Area

Multiple standards for approval require the District Council to find that the FZP be compatible with adjacent uses and the surrounding area.³ Based on Staff's report and testimony from the Applicant's land planner, the Hearing Examiner concluded that, "the overall FAR will

² Section 59-7.2.1.E.2.a. of the Zoning Ordinance requires the District Council to find that the FZP "substantially conforms with the recommendations of the applicable master plan, general plan, and other applicable County plans." Section 59-7.2.1.E.2.b requires the FZP to be "in the public interest," which includes a review of conformity with County plans and policies and whether the development will be consistent with the coordinated and systematic development in the Regional District under State law. Section 59-7.2.1.E.2.c requires the application to further the intent of Floating Zones. The intent of Floating Zones incorporates compliance with the applicable master plan. *Zoning Ordinance*, §59-5.1.2.A.1.

³ The FZP must further the intent of Floating Zones in general and the CRF Zone in particular. *Zoning Ordinance*, §§59-7.2.1.E.2.c; 59-5.1.2.C; 59-5.3.2. Floating zones are intended to (1) establish compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses, (2) provide development standards and general compatibility standards to protect the character of adjacent neighborhoods; and (3) allow design flexibility to mitigate any negative impacts found to be caused by the new use. *Id.*, §59-5.1.2.C. One purpose of the CRF Zone is to provide "provide mixed-use development that is compatible with adjacent development." *Id.*, §59-5.3.2.C. Similarly, Section 59-7.2.1.E.2.d of the Zoning Ordinance requires the Council to find that the FZP is "compatible with existing and approved adjacent development."

not change; only the commercial/residential FAR will change to add a new use to the surrounding area as called for by the Sector Plan.” *HE Report*, p. 17. The District Council finds that the public pathway and civic park surrounding much of the property meets the Plan’s goal to preserve and enhance green area and buffers the development from adjacent uses. The upgraded streetscape and multi-modal improvements to Fernwood Drive will be more compatible with the area as it develops into a mixed-use community. The bike path improvements to Fernwood Road and green walkway provide low-stress pedestrian and bicycle connections. The FZP uses the design flexibility of the CRF Zone to orient the buildings in a compact grid pattern, leaving space to provide the green area and the civic park. For these reasons, the District Council finds the Plan is compatible with adjacent uses and the surrounding area, as did the Hearing Examiner, the Planning Board and Planning Staff.

Adequacy of Public Facilities/Public Interest

The District Council must also find that public facilities will be adequate to serve the FZP. While a more detailed review will occur later in the development process, a threshold analysis must be performed at the rezoning stage.⁴

The Applicant in this case submitted a traffic statement rather than a Traffic Study, as permitted under Planning Board’s Local Area Transportation Review (LATR) Guidelines when a development will generate fewer than 50 new weekday peak hour person trips. *Zoning Ordinance*, §59.7.2.1.E.2.e; *LATR Guidelines*, p. 8. The Traffic Statement (Exhibit 12) demonstrates that the proposed development will significantly reduce the number of weekday peak hour person trips generated by the existing office use. Having no evidence in this record to the contrary, the District Council agrees with the Hearing Examiner that the application complies with the LATR Guidelines.

Uncontroverted evidence establishes that other public facilities are adequate as well. The Applicant’s expert in civil engineering testified the existing gas, water, sewer, police and fire services are adequate to serve the proposed development. T. 62. The Applicant submitted a stormwater management strategy that has been reviewed and accepted by the Department of Permitting Services. T. 60-62. Based on this evidence, the District Council finds that public facilities will be adequate to serve the development proposed by the FZP.

The Intent and Standards of the Zone as set forth in Section 59.5.1.2.

The District Council must determine whether the FZP fulfills the intent of the Floating

⁴Section 59.7.2.1.E.2.e requires that an Applicant demonstrate that traffic generated from the proposed development “does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board’s LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts . . .” The adequacy of other facilities is part of the Council’s determination that an application will be “in the public interest...” and that it be “it will be consistent with a coordinated and systematic development of the Regional District” under State law. *Zoning Ordinance*, §59-7.2.1.E.1.b; *Md. Land Use Art.*, §21-101(a) and (b). The intent of the Floating Zones is to “implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure...” *Zoning Ordinance*, §59-7.2.1.E.1.b; 59-5.1.2.A.2.

Zones. Several of these have already been addressed.⁵ The balance of those (from Section 59-5.1.2) are:

Section 59-5.1.2.A.3. Implement comprehensive planning objectives by:

3. allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and

The Hearing Examiner found it “obvious” that the project utilizes design flexibility to integrate the use with existing land use patterns and natural features. The compact grid pattern of the development preserves and enhances environmental features and non-vehicular transportation modes. Almost one-half acre of existing impervious area will be removed from the environmental buffer. Exhibit 52, pp. 12-13. The project will incorporate 8.5 acres of green space along the environmental buffers including a walking path open to the public and a 1.5 acre civic park open to the public. The streetscape improvements along Fernwood contribute to the central spine road envisioned by the Sector Plan. The District Council concurs with the findings of the Hearing Examiner.

Section 5.1.2.B. Encourage the appropriate use of land by:

1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;

2. allowing various uses, building types, and densities as determined by a property’s size and base zone to serve a diverse and evolving population;

3. ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and

The Sector Plan itself recognizes the declining demand for commercial office space in an office park setting. *Sector Plan*, p. 5. Testimony and evidence before the Hearing Examiner demonstrate that there is a high demand for continuing care retirement communities within the area. The FZP affords the opportunity to repurpose the office park to serve a residential population without burdening school facilities. The project will also reduce the amount of impervious area by removing approximately ½ acre of an existing road on the south side of the property. The Planning Board has approved a PFCP for the project, demonstrating compliance with the County’s Forest Conservation law. The District Council finds that the FZP meets the intent of these purposes of a Floating Zone, as did the Hearing Examiner.

⁵ The intent of Floating Zones contained in Sections 59-5.1.2.A.1 and 2 and 59-5.1.2.C of the Zoning Ordinance has already been addressed in the Council’s findings relating to the compatibility of the FZP with surrounding uses and the adequacy of public facilities. The balance of the Floating Zone intent clauses are discussed here.

The Applicability of the Zone (Section 59.5.1.3.)

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a site may apply for a Floating Zone.⁶ No prerequisites are required, however, if the floating zone is recommended by the Master Plan. *Zoning Ordinance*, §5.1.3.B.

The Hearing Examiner concluded that the Sector Plan recommended a floating zone for the property, as did Planning Staff. Based on this uncontroverted evidence, the District Council finds there are no prerequisites for application of a Floating Zone.

The Purpose of Commercial/Residential Floating Zones, Permitted Uses, and Permitted Building Types, Sections 59.5.3.2 through 59.5.3.4)

Zoning Ordinance Division 59-5.3 specifies the purposes of the Commercial/Residential Floating Zone, and establishes the allowed uses, building types, and development standards.

Section 59.5.3.1. establishes the Commercial/Residential Floating Zone. Density must be expressed in increments of 0.25 FAR and height in increments of 5 feet. The Zone applied for here is the CRF 1.5, C-0.75, R-1.5, H-150 Zone, which meets those requirements.

Purpose. The District Council has already found that the FZP is compatible with adjacent development, one of the purposes of the Commercial/Residential Zones. *Zoning Ordinance*, §5.3.2.C. The remaining purposes are:

Section 5.3.2. Purpose

The purpose of the Commercial/Residential Floating zones is to:

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*
- B. allow flexibility in uses for a site...*

The cap on height and density does not change the density recommended by the Sector Plan. It only alters the mix of uses on the property to permit a residential continuing care retirement community, a new use in the area. The District Council concludes that the proposed FZP meets these purposes of the CRF Zone, as did the Hearing Examiner.

Uses and Building Types Permitted (Section 59.5.3.3 and 59.5.3.4): The CRF Zone permits only the uses allowed in the CR (Commercial/Residential Zone) and permits any building type. *Zoning Ordinance*, §§5.3.3.3, 59.5.3.4. The FZP proposes a continuing care retirement community, which is a “residential care facility for over 16 persons” permitted in the CR Zone. *Zoning Ordinance*, §59.3.1.6. This use has been added as a binding element to the FZP. Exhibit 60. The FZP meets this standard.

⁶ Section 59-5.1.3.A prohibits placement of a Floating Zone on property currently in an Agricultural or Residential Zone. As this property is zoned CR, that section does not apply.

Development Standards of the Zone (Section 5.3.5)

Density. Where a floating zone is recommended in a Master Plan, the Master Plan recommendation for the property governs the permitted density. *Zoning Ordinance*, §59.5.3.5.A.1. The Sector Plan recommended a total FAR of 1.5 for this property, as reflected by the property's existing zoning. The FZP does not change this recommendation. The District Council finds that the FZP meets the density criteria of the Zoning Ordinance, as did the Hearing Examiner.

Height and Setbacks. If a floating zone is recommended in a Master Plan, height is determined by the Master Plan. *Id.* §59.5.3.5.B. The requested zone does not change the height of the existing rezoning recommended under the Sector Plan. Both Planning Staff and the Hearing Examiner concluded that the height proposed meets this criterion, as does the District Council.

Setbacks from the site perimeter are established by the FZP. Both Planning Staff and the Applicant have submitted testimony and evidence finding that the setbacks are compatible with the surrounding area and adjacent properties. The plan proposes a significant green area along three sides of the property and will provide streetscape improvements along Fernwood Drive. The District Council finds that the perimeter setbacks are compatible and appropriate.

Lot size, parking, recreation and open space. Lot sizes are not part of the District Council's review at the rezoning stage. *Id.*, §59.5.3.5. C. The FZP demonstrates the requisite amount of open space for the residential development. *Id.*, §59.5.3.5.D. The FZP also shows the required parking for the proposed use. Exhibit 60. Planning Staff and the Hearing Examiner concluded that the FZP meets all development criteria. Based on this undisputed evidence, the District Council agrees.

Public Benefits. Section 59.5.3.5.E of the Zoning Ordinance requires development above 0.5 FAR to provide public benefits. The Sector Plan recommends a hierarchy of public benefits for this area. Staff summarized the Plan's recommendations as follows (Exhibit 52, p. 10):

- Dedication of land for needed school site as 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).

Two binding elements of the FZP address public benefits in conformance with the Sector Plan. One requires the Applicant to provide the 1.5-acre publicly accessible civic park. The other requires the ELP to provide at least one major public facility that conforms to the guidance in the Sector Plan. Exhibit 60. The details of the second public facility will be determined at the Sketch Plan stage of the development process. Exhibit 52. With these binding elements, the District

Council finds that the Zoning Ordinance requirements to provide public benefits in conformance with the Sector Plan have been met.

Conclusion

Based on the foregoing analysis and after a thorough review of the entire record, including the Hearing Examiner's Report issued May 8, 2020 and her Supplemental Report and Recommendation issued June 2, 2020, the District Council concludes that the proposed reclassification and development will meet the standards set forth in the Zoning Ordinance, and that it will be consistent with the coordinated and systematic development of the Regional District under State law.

ACTION

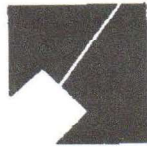
The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland, approves the following resolution:

Local Map Amendment Application No. H-135, requesting reclassification from the existing CR-1.5, C-0.75, R-0.75, H-150 to the CRF 1.5, C-0.75, R-1.5, H-150, for property located at 10400 Fernwood Road, Bethesda, Maryland (further described as Rock Spring Center Pt. Pars 6 & 12 (Tax Acct. No. 04- 01567726)) is hereby **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, Exhibit 60, provided that the Applicant files an executed Declaration of Covenants (Exhibit 61) reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council



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

MCPB No. 20-020
Forest Conservation Plan No. H135
ELP at Rock Spring
Date of Hearing: March 26, 2020

APR 03 2020

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on December 20, 2019, ELP Bethesda at Rock Spring LLC ("Applicant") filed an application for approval of a forest conservation plan on approximately 36.02 acres of land located at 10400 Fernwood Road ("Subject Property") in the North Bethesda Policy Area and Rock Spring Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No. H135 ELP at Rock Spring ("Forest Conservation 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 March 16, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 26, 2020, 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, at the hearing, the Planning Board approved the Application subject to certain conditions, by the vote certified below.

Approved as to
Legal Sufficiency:

Christina Donato by MTM

M-NCPCC Legal Department
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NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. H135 on the Subject Property, subject to the following conditions:¹

1. The Applicant must obtain approval of a Final Forest Conservation Plan (FFCP), for the entire Property, concurrently with the first Site Plan approval.
2. The Final Forest Conservation Plan must:
 - a. be consistent with the approved Preliminary Forest Conservation Plan;
 - b. show the planting locations of at least 36.1 total inches caliper of native shade trees, each at least three inches caliper, to mitigate the removal of variance trees number 15, 16, 17, and 18;
 - c. 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; and
 - d. include a new variance request to determine the disposition of the remaining variance trees
3. The Limits of Disturbance (LOD) on the FFCP must be consistent with the LOD on the Sediment and Erosion Control Plan.
4. 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 approved FFCP. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Book and Page for the easement must be referenced on the record plat.
5. The Applicant must schedule the required site inspections by M-NCPPC Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
6. Prior to any demolition, clearing, grading or construction on the project site, the Applicant must provide financial surety to the M-NCPPC Planning Department for the 0.41 acres of new forest planting and for the variance mitigation trees credited toward meeting the requirements of the FFCP on the Property.
7. Prior to release of the first Use and Occupancy Permit from the Montgomery County Department of Permitting Services for this Property, the Applicant must install the plantings for the required on-site afforestation of 0.41 acres as shown on the FFCP or as directed by the M-NCPPC Forest Conservation Inspection staff.
8. Prior to any demolition, clearing, grading or construction on the Property, the Applicant must submit a two-year Maintenance and Management Agreement (MMA) 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.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

9. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector.
10. At the direction of the M-NCPPC forest conservation inspector, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements. Exact locations of the signs to be determined by the M-NCPPC forest conservation inspector to best define the limits of the conservation easement.
11. No clearing, grading, or any demolition may occur prior to receiving approval of the FFCP and satisfying any off-site planting requirements.
12. The Applicant must amend the Preliminary Forest Conservation Plan prior to certification to reflect the variance approval for only tree numbers 15, 16, 17 and 18.

BE IT FURTHER RESOLVED that having given full consideration to 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 Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, and ensures the protection of environmentally sensitive features.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Net Tract Area is 34.18 acres, and there is no forest on the Property. The afforestation threshold for the CR zone is 15% of the Net Tract Area, or 5.13 acres. The Applicant proposes to establish an afforestation area of 0.41 acres in the stream buffer north of the stream and south of the entrance road adjacent to Fernwood Road. Final determination of how the remaining afforestation requirement of 4.72 acres will be met will be determined at the Final Forest Conservation Plan.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a

variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to four Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. Denying the variance request would deny the Applicant reasonable and significant use of the Property because removal of trees 15, 16, 17 and 18 is necessary to relocate a portion of the southern access road out of the buffer, as required by the Environmental Guidelines, while also providing safe and efficient access to the Property. Relocating the road will significantly reduce the amount of existing stream valley buffer encroachment. For these reasons, the Applicant has an unwarranted hardship to consider a variance request.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The proposed design is necessary to relocate an existing road out of the stream buffer. The design responds to the multiple site constraints and is consistent with both the zoning and Sector Plan recommendations; thus, granting the variance will not confer a special privilege to the Applicant.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is based on the constraints of the Property, access requirements and engineering challenges, rather than on conditions or circumstances which are the result of actions by the Applicant.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposed design and constraints on the Subject Property and not as a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Protected Trees requested for removal are not located in an environmental buffer or special protection area. This approval is conditioned on mitigation that approximates the form and function of the trees removed. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves replacement of Protected Trees at a ratio of approximately one-inch diameter replaced for every four inches diameter removed, as measured four and one-half feet above the ground, using replacement trees of no less than three inches caliper. No mitigation is required for Protected Trees impacted but retained.


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is APR 03 2020 (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 Vice Chair Fani-González seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, March 26, 2020, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board



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

MCPB No. 21-075
Sketch Plan No. 320210030
ELP Bethesda at Rock Spring
Date of Hearing: July 1, 2021

'JUL 27 2021

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review sketch plan applications; and

WHEREAS, on October 7, 2020, ELP Bethesda at Rock Spring LLC ("Applicant") filed an application for approval of a sketch plan for construction of up to 2,347,936 square feet of residential uses and up to 5,300 square feet of non-residential uses on 33.64 acres of CRF 1.5, C-0.75, R-1.5, H-150 zoned-land, located at 10400 Fernwood Road, Bethesda ("Subject Property") in the Rock Spring Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's sketch plan application was designated Sketch Plan No. 320210030, ELP Bethesda at Rock Spring ("Sketch 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 binding elements and 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 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.

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Sketch Plan No. 320210030, ELP Bethesda at Rock Spring, for construction of up to 2,347,936 square feet of residential uses and up to 5,300 square feet of non-residential uses on the Subject Property, subject to the following binding elements and conditions:¹

A. Binding Elements. The following site development elements are binding under Section 59-7.3.3.F of the Montgomery County Zoning Ordinance:

1. Maximum density and height;
2. Approximate location of lots and public dedications;
3. General location and extent of public open space;
4. General location of vehicular access points; and
5. Public benefit schedule.

All other elements are illustrative.

B. Conditions. This approval is subject to the following conditions:

1. Density
The Sketch Plan is limited to a maximum of 2,353,236 square feet of total development on the Subject Property.
2. MPDUs
The development must provide 15% MPDUs in conformance with Chapter 25A.
3. Height
The development is limited to a maximum height of 150 feet, as measured from the building height measuring point(s), as illustrated on the Certified Site Plan.
4. Incentive Density
The development must be constructed with the public benefit categories listed below, unless modifications are made under Section 59-7.3.3.I at the time of Site Plan. Total points must equal at least 100 and be chosen from at least four categories as required by Section 59-5.3.5.E.2. The requirements of Division 59-4.7 and the *Commercial Residential and Employment Zones Incentive Density Implementation Guidelines* must be fulfilled for each public benefit and points will be established at Site Plan approval.
 - a. Major Public Benefit;
 - b. Transit Proximity;

¹ For the purpose of these binding elements and conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- c. Diversity of Uses;
- d. Quality Building and Site Design;
- e. Protection and Enhancement of the Natural Environment; and
- f. Retained Building.

5. Future Coordination for Preliminary Plan(s) and Site Plan(s)

In addition to any other requirements for Site Plans under Chapter 59, the following must be addressed when filing a Site Plan:

- a. Fire and Rescue access and facility details;
- b. Streetscape details;
- c. Demonstration of how each public benefit satisfies the Zoning Ordinance and Incentive Density Implementation Guideline requirements;
- d. Noise study and noise mitigation;
- e. A vibrant, multi-generational, ADA compliant public park on Lot 2, to be designed in coordination with the Department of Parks;
- f. Draft TDM Plan;
- g. High quality bicycle parking, as required by the Zoning Code and described in the Planning Department's Bicycle Parking Guidelines (pages 13–15); and
- h. Application notice for parking waiver.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record and all applicable elements of the Zoning Ordinance, the Board finds that as conditioned the necessary elements of the Sketch Plan are appropriate in concept and appropriate for further review at site plan and that:

1. *The Sketch Plan meets the objectives, general requirements, and standards of the Zoning Ordinance.*

Objectives

The Sketch Plan is consistent with the purpose of the Commercial/Residential Floating (CRF) Zone to:

- a. *allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*

The Sketch Plan allows the soon to be vacant Property to be redeveloped with a Continuing Care Retirement Community ("CCRC") that will serve the increasing senior population of Montgomery County. The Project takes full advantage of the Property's prime location to introduce a residential use to an aging office park where the existing supply of office space

surpasses the demand. The Property, which is currently covered by a significant amount of surface parking, will be transformed into a neighborhood with the vast majority of parking located in above and below-ground parking garages. In addition, the CCRC will employ approximately 650 full-time staff, contributing to the mixed-use nature of the Project.

b. *allow flexibility in uses for a site; and*

The Project includes residential, retail, and employment uses. The CCRC introduces senior housing to the Rock Spring Sector Plan area and includes neighborhood-serving retail. The Project includes a generous number of amenities, including the Park and linear open space system available to the public.

c. *provide mixed-use development that is compatible with adjacent development.*

The Project includes residential, retail, and employment uses. The Project's density is 1.5 FAR and the height will vary from six to 13 stories. The CCRC will be built at a scale and density that is consistent with the existing office buildings in the vicinity and the proposed residential developments on nearby Westlake Terrace (the approved, but unbuilt Ourisman Ford and Westfield Montgomery Mall projects). The CCRC use will complement the evolution of the area from a commercial office park to the mixed-use community envisioned in the Rock Spring Sector Plan.

General Requirements

The Sketch Plan satisfies the site access, parking, loading, and open space requirements in concept, subject to further analysis and refinement at the time of site plan(s).

Development Standards

The Subject Property includes approximately 33.64 acres zoned CRF 1.5, C-0.75, R-1.5, H-150. The data table below demonstrates the Application's conformance to the applicable development standards of the zone.

Data Table

Optional Method Development Standards CRF-1.5 C-0.75, R-1.5, H-150 Zone (Section 59-5.3.5)		
Standard	Required/Permitted	Provided
Tract Area	n/a	36.02 acres/1,568,824 s.f.
Previously Dedicated ROW		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 ¹ (final parking count to be determined at site plan)

¹ 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 Sketch Plan substantially conforms to the recommendations of the Rock Spring Sector Plan.*

The Project substantially conforms with the recommendations of the 2017 *Rock Spring Sector Plan* ("Sector Plan" or "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 Sketch Plan 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 Application 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 Sketch Plan 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.

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 Application 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-feet 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. *The Sketch Plan satisfies, under Section 7.7.1.B.5 of the Zoning Ordinance, the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

Not applicable; there was not a development plan or schematic development plan in effect on October 29, 2014.

4. *The Sketch Plan achieves compatible internal and external relationships between existing and pending nearby development.*

The CCRC will be built at a scale and density that is consistent with the existing office buildings in the vicinity and two approved, but unbuilt, projects on Westlake Terrace (Ourisman Ford apartment building and Westfield Montgomery mixed-use development). The CCRC use will complement the evolution of the area from a commercial office park to a mixed-use community.

5. *The Sketch Plan provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.*

Access to the site is limited to Westlake Terrace/Fernwood Road, which provides vehicular access into the development and its associated internal circulation. Three existing signalized access points will be maintained with this Project. Westlake Terrace terminates at the Rockledge Drive intersection

and changes name designations to Fernwood Road, east of the Rockledge Drive intersection. An internal private street grid will provide circulation for private vehicles, pick-ups/drop-offs, deliveries, and other short-term parking needs.

Vehicular access to the Property's parking garages and loading areas is from Westlake Terrace/Fernwood Road. Four access points along the Business Street currently provide ingress and egress for the former office park development. One access presently located in between Rockledge Drive and Rock Spring Drive will be removed, while the existing access points, at the Rockledge Drive and Rock Spring Drive intersections as well as the existing signalized intersection adjacent to Thomas Branch, will be retained.

No parking, deliveries, or other short-term parking needs will occur within the public right-of-way. Garage entrances, on-street parking, and layby drop-off areas located within the Applicant's internal private street network will provide dedicated zones for transportation providers serving the Property's older adult residents. A raised drive plaza is included adjacent to the open space area at the Marketing Center and buildings RB1.1 and RB1.3. Providing such short- and long-term vehicular amenities will prevent on-street conflicts and maintain multimodal flow on Fernwood Road.

The Project includes four loading spaces which meet requirements set forth in Section 6.2.8.B of the Zoning Ordinance. One loading space is located within the Health Center, one behind building RB2.2 and two on the back of building RB1.1.

The number of parking spaces meet the requirement per the Zoning Ordinance, by providing 1,800 vehicle spaces, 48 long-term bike spaces, and 10 short term bike racks (located mainly adjacent to the Park). Vehicular parking spaces will be located within the existing garage, below grade garages, and as parallel parking spaces along the internal private streets. The Project provides up to 1,800 parking spaces of which, 1,061 will be located within the existing above grade parking structure and 683 will be located below grade. Fifty-six surface parking spaces will be provided, primarily as parallel parking along internal private streets.

6. *The Sketch Plan proposes an outline of public benefits that supports the requested incentive density and is appropriate for the specific community.*

Taking into account the considerations in Section 59-4.7.1.B, including the recommendations and objectives of the Sector Plan and any applicable design guidelines, the Incentive Density Implementation Guidelines, the size and

configuration of the site and its relationship to adjacent properties, similar public benefits nearby, and additional enhancements related to the individual public benefits, the Planning Board finds that the following outline of public benefits supports the Applicant's request for incentive density and is appropriate for the community surrounding the site. Final determination of public benefit point values will be determined at Site Plan(s).

Public Benefits		
Public Benefit	Incentive Density Points	
	Max Allowed	Approved in Concept
59-4.7.3.A: Major Public Benefits		
Public Park/Civic Green		9.2
Road Diet and Extension of Bike Path	70	8.05
"Learn Grow Lead" Job Program with MCPS		25
59-4.7.3.B: Transit Proximity		
Transit Proximity (Level 2)	50	30
59-4.7.3.D: Diversity of Uses		
Enhanced Accessibility for Seniors or the Disabled	20	20
59-4.7.3.E: Quality Building and Site Design		
Architectural Elevations	10	5
Exceptional Design	10	5
Structured Parking	20	13.33
Public Open Space	20	20
59-4.7.3.F: Protection and Enhancement of the Natural Environment		
Building Lot Terminations	30	30
Cool Roof	10	10
Vegetated Area	10	10
59-4.7.3.G: Building Reuse		
Retained Building	100	10
TOTAL		195.58

Major Public Benefits

Public Park/ Civic Green

The Sketch Plan includes dedication of a 1.6-acre lot to the Parks Department that will generate 9.2 public benefit points. The 1.6-acre dedication will be supplemented with almost 9 acres of additional public open space that is not factored into the public benefit formula. The Planning Board supports the Applicant's request at this time.

Road Diet and Extension of Bike Path

The Project will implement the road diet and bike lane north of the Fernwood Road centerline across the frontage of the Property. The road diet and associated improvements will extend beyond the Property frontage to the I-270 bridge to the west. Bike/pedestrian improvements will extend to Democracy Boulevard to the east, thus improving 29,490 square feet. The Incentive Density calculation is based on the net lot area of the Property that in this case is significant, and the Applicant requests 8.05 public benefit points. The Planning Board supports the Applicant's request at this time.

Learn Grow Lead

The Applicant plans to provide education and career path opportunities for Montgomery County High School students. Accordingly, through its Learn Grow Lead program, the Applicant plans to partner with Montgomery County Public Schools (MCPS) to provide internships and job training opportunities for interested and motivated Montgomery County students. MCPS supports the partnership for the Learn Grow Lead program (Attachment C). Twenty-five points are requested for this program. The Planning Board supports the Applicant's request at this time.

Transit Proximity

The Property is zoned CR and confronts a master planned BRT stop and the entire Property is within ¼ mile of the stop. Accordingly, the Property's proximity to transit will generate 30 points.

Diversity of Uses

Enhanced Accessibility for Seniors or the Disabled

A total of 260 of the 1,560-total number of units will comply with the ANSI 117.1 Residential Type A Standards for accessibility. The number of proposed accessible units exceeds the number required to earn 20 public benefit points. The Planning Board supports the Applicant's request at this time.

Quality Building and Site Design

Architectural Elevations

The Applicant requests 5 points for providing architectural elevations as part of the Certified Site Plan(s) showing the development as a unified urban form when viewed from a distance, with variation in the architectural elements of each building and details such as fenestration pattern, railing design and material color. The elevations will show building facades articulated with projected bays and balconies to create visual interest, texture and shadow. Fenestration strategies include different shape, size, pattern, rhythm, levels of transparency and location of the façade apertures. Building materials will be high quality consisting primarily of bricks, precast, metal panel and aluminum windows. The Planning Board supports the Applicant's request at this time.

Exceptional Design

The Applicant requests 5 points for building or site design that enhances the character of a setting. Per the CR Guidelines, incentive density of 5 points is appropriate for development that meets at least four of the guideline criteria. The Planning Board supports the Applicant's request at this time. The Applicant highlights the following aspects of the Project that will contribute to the exceptional design:

- Integration of the existing green belt along Thomas Branch creek and the retention pond into the Property's open space network.
- A pavilion in the public park that will serve as a landmark and frame the intersection of Fernwood Road and Rock Spring Drive.
- A retail store and small plaza that will serve as a focal point of the Fernwood Road and Rockledge Drive intersection.
- Building forms that provide continuous street walls to frame all streets to create "outdoor rooms" for public spaces.
- Strategies to modulate daylight and natural ventilation in the buildings.
- Material and color will be used as a volumetric application, as an organizing element and to create contrast between different building elements.
- Sustainable design strategies including adaptive reuse of the exiting garage, enhancement of the green belt around Thomas Creek and providing an extensive amount of public open space.

Structured Parking

The Applicant requests 13.33 points for structured parking. Up to 1,800 parking spaces will be provided of which 1,061 will be located within the existing above grade parking structure and 683 will be located below grade.

Only 56 surface parking spaces will be provided. The final parking quantity and design will be determined with subsequent site plan(s). The Planning Board supports the Applicant's request at this time.

Public Open Space

The Applicant requests 20 points for providing public open space above the requirement of the zone. Points for this incentive are granted on a sliding scale based on the percentage of the lot area. The conceptual layout proposes 8.9 acres of the 33-acre Property (not including the 1.64-acre Park dedication) as public open space. Based on the Incentive Density Guidelines calculation, the public open space would generate 24.8 public benefit points, although the maximum allowed is 20. The Planning Board supports the Applicant's request at this time.

Protection and Enhancement of the Natural Environment

Building Lot Termination (BLT)

The Applicant requests 30 points for the purchase of BLT easements to be purchased or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area. Points are granted by the calculation of BLTs as provided in Section 59-4.7.3.F of the Zoning Ordinance.

Cool Roof

All of the roofs, with the possible exception of the existing parking garage will provide the minimum required solar reflective index and the Applicant requests 10 points. The Planning Board supports the Applicant's request at this time.

Vegetated Area

The Applicant requests 10 points for providing a minimum area of 5,000 square feet of plantings in a minimum soil depth of 12 inches. The Planning Board supports the Applicant's request at this time.

Building Reuse

Up to 100 points may be granted to development that (a) maintains 75% of the structural system of the existing building; (b) uses an architectural deconstruction company or organization to remove recyclable materials prior to any demolition; and (c) submits documentation showing compliance with these criteria before the County issues a building permit for a new development. The Applicant requests 10 points for retaining the existing

above-grade parking structure. The Planning Board supports the Applicant's request at this time.

7. *The Sketch Plan establishes a feasible and appropriate phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.*

The Project will be constructed in three phases as detailed in Tables 3 and 4. Phase I is split into two sub-phases, Phase I-A and Phase I-B. The Phasing Plan reflects the anticipated sequential order of development, but the Applicant may reorder the development of the phases, overlap or stagger the development, depending upon market forces. The most significant public benefits, the Park and the off-site bicycle facilities, will be provided during the first phase of development.

Development Phasing

DENSITY OF DEVELOPMENT (S.F.)	2,353,236 s.f. total residential and 5,300 s.f. retail
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	950,236 s.f. residential
Phase I-B: Marketing Center	8,000 s.f. residential
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	1,125,000 residential and 5,300 s.f. retail
Phase III: RB 3.0, Health Center	270,000 s.f. residential
PARKING (Vehicular)	1,800 spaces total
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	1,122 spaces (7 above ground and 440 under ground, and 675 Existing Garage)
Phase I-B: Marketing Center	2 spaces (above ground)
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	676 spaces (51 above ground, 625 under ground)
Phase III: RB 3.0, Health Center	N/A
PHASED OPEN SPACE	
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Common Open Space (private, 0.25 acres); Linear Park (2.91 acres); Civic Green (1.68 acres);
Phase I-B: Marketing Center	Outdoor Seating (private, 0.03 acres)
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	Common Open Space (private, 1.32 acres); Outdoor Seating (public, 0.05 acres)
Phase III: RB 3.0, Health Center	Linear Park (6 acres)
STREETS	
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Central Internal Drive, Health Center Internal Drive, Garage Internal Drive, Relocated Shared Entrance Drive
Phase I-B: Marketing Center	N/A
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	Connector Internal Drive
Phase III: RB 3.0, Health Center	N/A

Public Benefit Phasing

PUBLIC BENEFIT POINTS	
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Major Public Facility - Road Diet and Extension of Bike Path, Park Master Plan Recommendation, & Civic Green
All Phases	Learn, Grow Lead
All Phases	Transit Proximity
All Phases	Architectural Elevations
All Phases	Exceptional Design
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Public Open Space
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	
Phase III: RB 3.0, Health Center	
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Structured Parking
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	
All Phases	Enhanced Accessibility for Seniors or the Disabled
All Phases	Purchase of Building Lot Termination
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Cool Roof
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	
Phase III: RB 3.0, Health Center	
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Vegetated Area
Phase II: RB 2.1, RB 2.2, RB 2.3 and RB 2.4	
Phase III: RB 3.0, Health Center	
Phase I-A: RB1.1 and RB 1.2, and Ex. Garage	Retained Building

BE IT FURTHER RESOLVED that the Board's approval of a sketch plan is in concept only and subject to further review at site plan, when, based on detailed review the Board may modify the Sketch Plan's binding elements or conditions based on the Montgomery County Code, the *Rock Spring Sector Plan*, or other requirements; and

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that all binding site development elements shown on the latest version of Sketch Plan no. 320210030, ELP Bethesda at Rock Spring, received by M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

* * * * *

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.



Casey Anderson, Chair
Montgomery County Planning Board



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:¹

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.

¹ 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.

Table 1: Optional Method Development Standards CRF-1.5 C-0.75, R-1.5, H-150 Zone (Section 59-5.3.5)		
Standard	Required/Permitted	Provided
Tract Area	n/a	36.02 acres/1,568,824 sofa
Previously Dedicated ROW		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 ¹ (final parking count to be determined at site plan)

¹ 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

Vehicle Trip Generation	AM	PM
Existing Site Generated Vehicle Trips (Driver) (ITE 10 th Edition – 775,000 SF Office)	755	796
Proposed Site Generated Vehicle Trips (Driver) (ITE 10 th Edition – 1,560 Units Continuing Care Retirement Community)	218	250
Net New Vehicle Trips (Driver)	-537	-546
Local Area Transportation Review Required? (Are AM or PM person trips \geq 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.



Casey Anderson, Chair
Montgomery County Planning Board