

ELP BETHESDA AT ROCK SPRING PHASE 1B
SITE PLAN NO. 820220120



Description

Request to construct Phase 1B of a Continuing Care Retirement Community including a 5,700-square foot building with a marketing center and retail/restaurant use and a 5.37-acre privately owned linear park.

No. 820220120

Completed: 5-26-2022

MCPB

Item No.

June-9-2022

2425 Reddie Drive

Floor 14

Wheaton, MD 20902

ET

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LOCATION

10400 Fernwood Road, Bethesda

MASTER PLAN

2017 Rock Spring Sector Plan

ZONE

CRF 1.5, C-0.75, R-1.5, H-150

PROPERTY SIZE

33.64 acres

ACCEPTANCE DATE

February 9, 2022

REVIEW BASIS

Chapter 59



Summary:

- Staff recommends approval with conditions.
- This Site Plan Application requests approval to construct Phase 1B of a multi-phased Continuing Care Retirement Community (CCRC). The CCRC will comprise up to 2,353,236 square feet of total development.
- Phase 1B includes a 5,700-square foot building with the CCRC's marketing center and a retail/restaurant space in addition to a 5.37-acre privately-owned linear park (Thomas Branch Stream Linear Park).
- Phase 1B public benefits include: Quality Building and Site Design achieved through exceptional design and public open space; and Protection and Enhancement of the Natural Environment achieved through Building Lot Terminations.
- As of the date of this Staff Report, Staff has not received any correspondence about this Application.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

SITE PLAN 820220120

Staff recommends approval of Site Plan No. 820220120. The development must comply with the binding elements for Local Map Amendment LMA H-135, as listed in County Council Resolution 19-492 dated June 9, 2020; and the conditions of approval for Sketch Plan No. 320210030, as listed in MCPB Resolution No. 21-075 dated July 27, 2021, and Preliminary Plan No. 120210040, as listed in MCPB Resolution No. 21-074 dated July 27, 2021.

All site development elements shown on the latest electronic version of the Site Plan as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.¹

DENSITY AND HEIGHT

1. Density

The Site Plan is limited to a 5,700-square foot building consisting of up to 3,800 square feet of Residential Care Facility uses (for the marketing center) and 1,900 square feet of retail/restaurant uses.

2. Height

The development of the Phase 1B building is limited to a maximum height of 23 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

OPEN SPACE, FACILITIES AND AMENITIES

3. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines (2017)* for each one.

- a) Transit Proximity for confronting a master planned Bus Rapid Transit stop with a dedicated fixed path (Level 2).
- b) Quality Building and Site Design

¹ For the purposes 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.

- i. Architectural Elevations- Final elevation design must be shown on the Certified Site Plan. The exterior architectural elements must be substantially similar to architectural elevations as shown on the Certified Site Plan and as determined by M-NCPPC Staff.
 - ii. Exceptional Design
 - iii. Public Open Space –The Applicant must provide a minimum of 5.37 acres (233,917.2 square feet) of public open space on the Property with Phase 1B. Prior to the final use and occupancy permit for Phase 1B, the public open space must be completed and open to the public. Within one growing season after issuance of the final use and occupancy permit for Phase 1B, all landscaping must be installed.
 - c) Protection and Enhancement of the Natural Environment
 - i. Building Lot Terminations (BLTs) – Before issuance of the first building permit for Phase 1B, the Applicant must provide proof to the MCDPS and M-NCPPC staff of the purchase and/or payment of 0.0136 BLTs.
4. M-NCPPC Department of Parks
The Phase 1B building must contain restrooms that are available to users of the adjacent M-NCPPC Urban Park during the hours that the retail establishment is operational.
5. Maintenance of Public Amenities
The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to sidewalks, walking path, trails, benches and landscaping.

ENVIRONMENT

6. Forest Conservation & Tree Save
- a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan (“FCP”). Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
 - c) Prior to certification of the Final Forest Conservation Plan, the Applicant must include the Variance Exhibit with the plans submitted for approval.
 - d) Prior to recordation of the plat for this development Application, the Applicant must record a Category I or II Conservation Easement over all areas of forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The

Category I or II Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.

Demolition, clearing and grading are permitted within the easement prior to planting.

- e) Prior to approving the first above-ground building permit for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 3.11 acres of new forest planting and for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
- f) Prior to approving the first above-ground building permit for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Cabin John Creek watershed to satisfy the reforestation requirement for a total of 2.25 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Cabin John Creek watershed or by making a fee-in-lieu payment if no forest mitigation bank credits are available.
- g) Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install permanent conservation easement fencing and signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- h) Prior to approving the first above-ground building permit for this development Application, the Applicant must execute 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, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands. The use of herbicides should be avoided where possible.
- i) The Applicant must install the Afforestation/Reforestation plantings for Planting Areas A and B (outside of the limits of disturbance (“LOD”)) as shown on the approved FCP, prior to the release of the first Use and Occupancy Permit for the Phase 1B building, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- j) The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3.5 caliper inches totaling at least 249.75 caliper inches as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

- k) Prior to the release of the first Phase 1A residential Use and Occupancy Permit, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the FCP.
- l) The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

7. Stormwater Management

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 January 7, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

TRANSPORTATION & CIRCULATION

8. Pedestrian & Bicycle Circulation

The Applicant must provide a minimum of one short-term bicycle parking space. The short-term space must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance (weather protected preferred).

9. Fire Department Access

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 May 19, 2022 and hereby 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 amendments do not conflict with other conditions of Site Plan approval.

SITE PLAN

10. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, as determined by M-NCPPC Staff.

11. Lighting

- a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest

Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

12. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including storm drainage facilities, street trees and streetlights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

13. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

14. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution (and other applicable resolutions) on the approval or cover sheet(s).
- b) Include the Fire and Rescue Access Plan.
- c) Add the following notes:
 - i. “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
 - ii. “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
 - iii. “The Applicant must schedule a preconstruction meeting (“precon”), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan (CSP) conformance and compliance, upon approval of the Certified Site Plan. The precon must occur prior to any site work commencement and prior to any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the precon meeting with the DPS CSP staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”
- d) Modify data table and public benefit table to reflect development standards approved by the Planning Board, including the maximum building height of 23 feet.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Change plan name to “ELP Bethesda at Rock Spring Phase 1B” on all plan sheets.
- g) Include a detail for benches in the Thomas Branch Stream Linear Park area.
- h) On cover sheet C-100, remove:
 - i. General Note No. 11, which indicates that the layout, parking, etc. is approximate and subject to change; and
 - ii. General Note No. 12, which indicates that building footprints, height, etc. are illustrative and will be finalized at site plan.
- i) Identify the specific location for a short-term bicycle space associated with the Phase 1B retail/restaurant use on the Certified Site Plan.

SECTION 2: SITE DESCRIPTION

VICINITY

The area surrounding the Subject Property is primarily commercial in character and includes office buildings, Westfield Montgomery Mall, a hotel, a Home Depot and a car dealership. The vicinity also includes one residential development, the Montgomery Row townhouse community across the street from the Property on Fernwood Road. Further residential development is planned for the area with a 343-unit multi-family building on the north side of Westlake Terrace (Ourisman Ford Site Plan No. 82009014B) and a mixed-use development with 717 multi-family units at Westfield Montgomery Mall (Site Plan No. 82005003E).



Figure 1: Vicinity Map

PROPERTY DESCRIPTION

The 33.64-acre Property, identified as Lot N737 Rock Spring Park, Part of Parcels 6 and 12, is classified within the CRF 1.5, C-0.75, R-1.5, H-150 Zone (“Property or “Subject Property”). The Property is located at 10400 Fernwood Road and currently occupied by Marriott International Headquarters, who will be moving to a new location in downtown Bethesda in the near future. The Property is bordered by the I-270 spur to the west, Fernwood Road to the north and east, and an office park/hotel complex to the south. Two large office park complexes and a townhouse development are located on the north side of Fernwood Road, opposite the Property.

The Property is improved with the 775,000-square-foot Marriott headquarters office building, located towards the center of the Property, and a three-level curvilinear structured parking garage located on the western side of Property. Large surface parking lots cover much of the Property between the parking garage and the office building and along Fernwood Road. The Property contains approximately 2,718 vehicle parking spaces. A gravel road that transitions to dirt is located between the garage and the western Property line, along I-270. The Property has a number of WSSC, storm drain, and other types of existing easements.

The Thomas Branch stream runs along the southern boundary of the Property which also contains areas of wetland and FEMA designated floodplain. The Property is located within the Cabin John Creek watershed. The site drains primarily south to the Thomas Branch tributary of Cabin John Creek, which is classified by the State of Maryland as Use I-P waters. There are no forested areas onsite, but the Property contains a number of specimen trees. There are areas of steep slopes, 25% and greater, located primarily on the south and west portions of the Property.

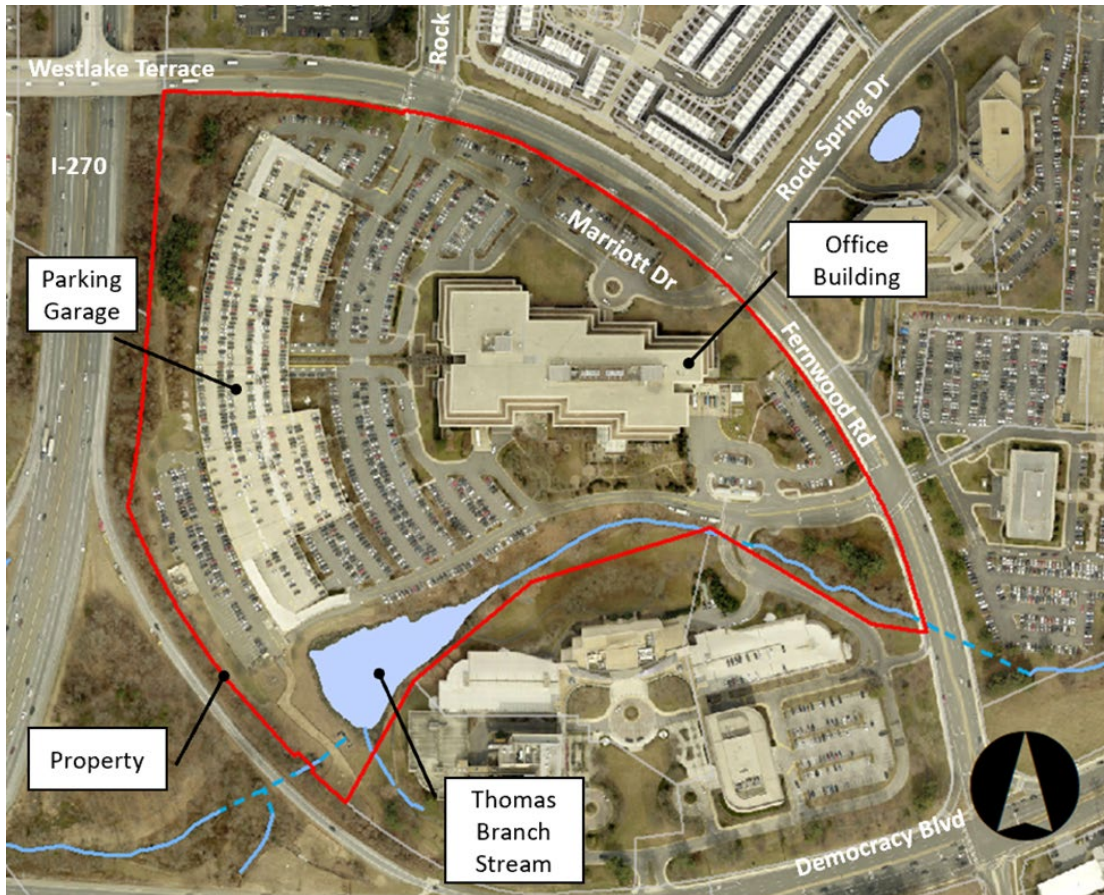


Figure 2: Aerial View of Subject Property

The Property fronts on Fernwood Road, which turns into Westlake Terrace heading west of Rockledge Drive, towards the bridge over the I-270 spur. Access to the overall Property is currently provided by four existing driveways, including three signalized, full-movement access points on Fernwood Road. The southernmost entrance is located at a signalized intersection with a shared access drive that also provides access to Bethesda Marriott Suites and the office complex (the “Camalier Property”) located directly south of the Property; this entrance leads to employee parking and loading areas.

The signalized Fernwood Road and Rock Spring Drive intersection serves as the primary entrance to Marriott International. An entrance at the signalized intersection of Rockledge Drive and Westlake Terrace/Fernwood Road provides access to Marriott employee parking. An additional right-in, right-out only driveway is located on Fernwood Road between Rockledge Drive and Rock Spring Drive.

There are three bus stops along the Property frontage. The existing sidewalk along Fernwood Road and Westlake Terrace is six-to-seven feet wide.

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

The existing office complex was the subject of Site Plan Nos. 819841670, 819850860, and 819940180, all approved under the Property's former I-3 Zone.

In 2018, Sectional Map Amendment H-126, which implemented the recommendations of the 2017 *Rock Spring Sector Plan*, rezoned the Property to CR-1.5, C-0.75, R-0.75, H-150. On June 9, 2020, the County Council approved Local Map Amendment (LMA) H-135, by Resolution 19-492, to rezone the Property to CRF-1.5, C-0.75, R-1.5, H-150 to allow for a Continuing Care Retirement Community (CCRC).

On July 27, 2021, the Planning Board approved Sketch Plan No. 320210030, by Resolution MCPB No. 21-075, and Preliminary Plan No. 120210040, by Resolution MCPB No. 21-074 for a CCRC to be built in phases (Figures 3 and 4). Sketch Plan No. 320210030 approved a maximum density of 2,353,236 square feet of total development on the Subject Property, with a maximum building height of 150 feet.



Figure 3: Rendering of Approved Sketch Plan No. 320210030

Preliminary Plan 120210040 approved the creation of 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. One lot is devoted to an Urban Park that will be dedicated to M-NCPPC and the other lot will contain the CCRC with associated facilities and amenities.



Figure 4: Project Phasing Plan (limits of approved Phase 1A shown in green, proposed Phase 1B shown in orange)

The Phase 1A Site Plan, No. 820210190, approved by the Planning Board on March 10, 2022 by Resolution MCPB No. 22-014 allows up to 928,844 square feet of development, including 512 independent living units, associated facilities and amenities, and a new Urban Park to be dedicated to M-NCPPC. Site Plan No. 820210190 invalidated and superseded all prior site plan approvals on the Property.



Figure 5: Illustrative Site Plan Showing Phase 1A Site Plan No. 820210190



Figure 6: Illustrative View of Approved Phase 1A Residential Buildings

PROPOSAL

The Phase 1B Site Plan (“Phase 1B” or “Site Plan” or “Application”) includes a one-story, 5,700-square foot proposed building at the intersection of Fernwood Road that contains 3,800 square feet for the CCRC marketing center and 1,900 square feet of retail/restaurant uses. Phase 1B also includes a 5.37-acre linear park along the Thomas Branch Stream.



Figure 7: Illustrative Site Plan Showing Phases 1A and 1B

BUILDING/ARCHITECTURE

The one-story (up to 23-foot high) Phase 1B building is designed in the same architectural style as the Phase 1A residential buildings. The proposed Phase 1B building includes the CCRC’s marketing center and a retail/restaurant space that will likely be occupied by a coffee shop. The retail portion of the proposed building fronts on Fernwood Road and is designed with floor to ceiling glass walls. The roof over the retail use will be heightened to enhance the street presence of the building. A large outdoor terrace will be provided along the front of the building and a portion of the western façade to help activate Fernwood Road.



Figure 8: Illustrative Exterior Views of Marketing Center/Café

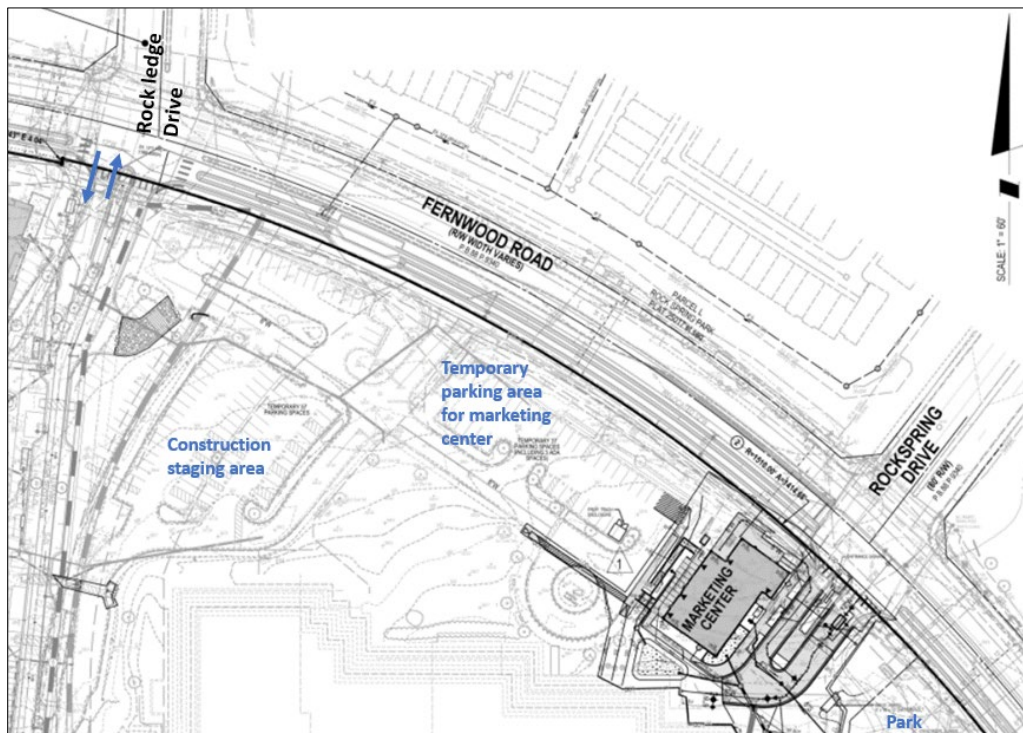


Figure 9: Marketing Center and Temporary Parking Area

Primary access to the marketing center will be along the western façade of the proposed building. Vehicular access to the marketing center will be provided off of the Rockledge Drive entrance to the Project via an existing access road. During the interim period prior to the completion of Phase 2, the existing parking along the access road will remain. The existing parking area closest to the proposed building will provide 37 spaces for the marketing center, while the existing parking area further to the west will serve as a staging area for construction. The existing landscape berm that is located between the existing parking and Fernwood Road will remain and will thus provide a visual barrier to these interim use parking areas.

OPEN SPACE/ENVIRONMENT

Phase 1B will deliver a substantial portion of the Overall Project's public open space with the restoration work to the Thomas Branch stream and the creation of the Thomas Branch Linear Park along the southern edge of the Property. This area comprises approximately 5.37 acres of the Property. The proposed improvements include stream restoration and enhanced riparian stream buffer, slope stabilization, removal of invasive species, afforestation, landscaping, construction of a nature lookout area and installation of paths and benches.



Figure 10: Public Open Space in Phases 1A & B



Figure 11: Thomas Branch Linear Park

TRANSPORTATION

Access/Circulation

Consistent with the previous Phase 1A development program, the Applicant proposes to utilize existing vehicular access at three signalized intersections along the Fernwood Road property frontage. The marketing center and retail space as part of this Site Plan application will be directly accessed by the ingress and egress at the signalized intersection of Rockledge Drive and Fernwood Road. Such vehicular access will connect to the existing 40 parking space surface lot currently located along Fernwood Road, which is proposed to remain temporarily until the construction of the mixed-use structures as part of the future Phase 2. Additionally, while the existing egress and ingress from the Rock Spring Drive signalized intersection is proposed to remain, a temporary turnaround will be constructed as part of this request due to the placement of the proposed marketing center which will sever its former connection to the surface parking area.

In succeeding phases, the private street which will extend westwards from the Rock Spring Drive driveway, threading between future Buildings RB2.1 and RB2.3, will be built to tie into a perpendicular private street, providing through access to the Rockledge Drive signalized intersection. The temporary surface parking area will be removed when Building RB2.4 commences construction as part of Phase 2, which will be reviewed under a future Site Plan application.

Pedestrian access will occur from frontage improvements approved as part of Phase 1A to the existing sidewalks located to the back of curb and gutter along Fernwood Road to a consistent six to seven-foot wide, with physical separation in the form of tree panels and/or separated bikeways. The Phase 1A “road diet” will repurpose an existing travel lane, providing sufficient space for the construction of a 10-foot separated bidirectional bikeway within the existing Fernwood Road/ Westlake Terrace public right-of-way. A new pathway is proposed south of the surface parking area to connect from Phase 1A to the marketing center and the Urban Park.

Phase 1A also included the relocation of a portion of the southern access road (proposed to be named Thomas Branch Way), which straddles the Subject Property and the Camalier property to the south, by shifting it to the north, out of the stream valley buffer. Additionally, the private streets approved with Phase 1A will provide internal circulation.

SECTION 4: SITE PLAN 820220120 FINDINGS AND ANALYSIS

1. When reviewing an application, the approval findings apply only to the site covered by the application.

The findings herein apply only to Phase 1B.

2. To approve a Site Plan, the Planning Board must find that the proposed development:

a) satisfies any previous approval that applies to the site;

The Site Plan satisfies Sketch Plan No. 320210030 and Preliminary Plan No. 120210040. The Site Plan also satisfies the binding elements of Local Map Amendment LMA H-135 as follows:

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

A 1.75-acre Urban Park, fronting on Fernwood Road, was approved with Phase 1A.

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

Phase 1B provides 1,900 square feet of retail/restaurant uses. Additional retail space must be provided in a future phase.

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

Two major public facilities, the Urban Park along Fernwood Road and the extension of the Fernwood Road diet/bike lane are provided with Phase 1A. The Applicant has proposed a job training partnership with M-NCPPC (Learn, Grow, Lead) that may qualify as a major public facility in a future phase.

4. *The project will satisfy the use restrictions of the Residential Care Facility pursuant to Zoning Ordinance Section 3.3.2.E.*

The Property will be developed as a CCRC which the Zoning Ordinance classifies as a Residential Care Facility.

- b) satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;***

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

- c) satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;***

This section is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

- d) satisfies applicable use standards, development standards, and general requirements under this Chapter;***

- i. ***Use Standards***

The Zoning Code classifies a Continuing Care Retirement Community (CCRC) as a Residential Care Facility (Over 16 Persons), which is allowed as a permitted use in the CRF Zone with no applicable use standards. A Retail Service Establishment (Up to 5,000 SF) is also a permitted use in the CRF Zone.

- ii. ***Development Standards***

Table 1: Data Table for CRF 1.5, C.75, R.1.5, H-150 Zone, Section 59.5.3.5

Development Standard	Permitted/ Required For Overall Project	Proposed for Overall Project	Proposed for Phase 1B
Tract Area	n/a	36.02 acres/ 1,568,824 SF	36.02 acres/ 1,568,824 SF
Prior Dedication		2.37 acres/ 103,320 SF	2.37 acres/ 103,320 SF
Park Dedication		1.75 acres/ 76,230 SF	1.75 acres/ 76,230 SF
Site Area		31.90 acres/ 1,389,564 SF	31.90 acres/ 1,389,564 SF
Residential Density¹ (max)	1.5 FAR/ 2,353,236 SF	1.497 FAR/ 2,347,936	3,800 SF (CCRC marketing center)
Independent Living Units	n/a	1,300	
Assisted Living Units	n/a	160-210	
Skilled Nursing Units	n/a	30-50	
Commercial Density (max)	0.75 FAR/ 1,176,618 SF	.003 FAR/ 5,300 SF	1,900 SF
Total Density (max)	1.5 FAR/ 2,353,236 SF	1.5 FAR/ 2,353,236 SF	5,700 SF
MPDU requirement (independent living units)	15%	15%	n/a
Building Height (max)	150 ft	150 ft	Up to 23 ft
Public Open Space (min)	10% / 3.36 acres	33%/ 11 acres (including 1.75-acre park dedication)	5.37 acres (9.67 acres total for Phases 1A and 1B)
Minimum Setbacks			
Front (Fernwood Rd)	0	0	27
Side (I-270)	100	108	n/a ²
¹ Cumulative density for Phases 1A and 1B shown in Table 2.			
² The existing/retained parking garage is between I-270 and the Phase 1B building.			

Table 2: Overall Development Density

Approval		Total	Commercial		Residential
		Square Footage	Square Footage	Square Footage	Dwelling Units
Overall Approval	Sketch Plan 320210030	2,353,236 SF	5,300 SF	2,347,936 SF	--
	Preliminary Plan 120210040	--	5,300 SF	--	<ul style="list-style-type: none"> • 1,300 independent living units • 210 assisted living/memory care units • 50 skilled nursing units
Phase 1A Approval	Phase 1A: Site Plan 820210190	928,844 SF	--	928,844 SF	512 independent living units
Phase 1B Proposal	Phase 1B: Site Plan 820220120	5,700 SF	1,900 SF	3,800 SF	--
Future	Future Phases	1,418,692 SF	3,400 SF	1,415,292 SF	<ul style="list-style-type: none"> • 788 independent living units • 210 assisted living/memory care units • 50 skilled nursing units

iii. **Public Benefits**

In the CRF Zone, the Applicant is required to provide 100 Public Benefit points in four categories. In Phase 1A, the Planning Board approved 105.78 points in four categories, satisfying the public benefit requirement for the overall project. Staff recommends approval of 1.64 points for Phase 1B, as described below, for a total of 107.42 points for Phases 1A and 1B.

Table 3: Public Benefits

Public Benefit	Total Points Possible	Proposed for Overall Project	Approved Phase 1A	Recommended for Phase 1B	Phases 1A & 1B
Major Public Facilities					
Urban Park- 1.75 acres		10.4	10.97	-	10.97
Extension of Bike Path	70	8.05	8.53	-	8.53
Learn Grow Lead ¹		25	-	-	-
Transit Proximity	50	30	30	-	30
Diversity of Uses					
Enhanced Accessibility for Seniors or the Disabled	20	20	-	-	-
Quality Building and Site Design					
Architectural Elevations ²	10	5	5	-	5
Exceptional Design ²	10	5	5	-	5
Public Open Space	20	20	13.48	6.52	20
Structured Parking	20	13.33	9.71	-	9.71
Protection and Enhancement of the Natural Environment					
Building Lot Termination	30	30	3.09	0.12	3.21
Cool Roof	10	10	10	(5) ³	5
Vegetated Area	10	10	10	-	10
Total		186.78	105.78	1.64	107.42

¹ Job training partnership with M-NCPPC.

² The full number of points were granted for these public benefits in Phase 1A, but the public benefits will be conditioned and provided with all development phases.

³ During Site Plan review of Phase 1A, the Applicant planned to provide cool roofs on buildings in all phases, and all ten possible points for cool roofs were awarded at that time. The Applicant has since informed Staff that only the Phase 1A residential buildings will have cool roofs, so five of the previously awarded points for cool roofs are being removed with the Subject Site Plan to reflect this change.

*Sketch Plan 320210030 was amended with Site Plan 820210190 to remove the condition requiring the Applicant to provide the Retained Building public benefit. Although a significant portion of the parking garage will remain, it did not meet the criteria for granting public benefits.

Quality Building and Site Design

- Public Open Space: Phase 1B devotes 5.37 acres of open space to public use in addition to the 4.3 acres of public open space approved in Phase 1A (the Urban Park is not included in the public benefit calculation). The public benefit calculation for the Phase 1B public open space is shown below:

(Public open space/Net lot area) *100

(5.37 acres /31.9 acres)*100= 16.38 points

The calculation results in 16.38 points but the Zoning Ordinance allows a maximum of only 20 points for public open space. Since 13.48 points were granted in Phase 1A, Staff recommends granting 6.52 points for public open space in Phase 1B.

Protection and Enhancement of the Natural Environment

- BLTs: The Applicant must purchase 0.0136 building lot termination easements, which will generate 0.12 public benefit points according to the calculation below. The amount of density approved in Phase 1A exceeded the standard method density, so the BLTs for the remaining project density are calculated as follows:

(Density*0.75)/31,500

= (5,700 *0.075)/31,500

= 0.0136 BLTs * 9 point per BLT = 0.12 points

iv. General Development Standards

(1) Division 6.1 Site Access

The Phase 1A project will use existing vehicular access at the three signalized intersections on Fernwood Road² and will eliminate the right-in/right-out driveway that is currently located mid-block between the Fernwood Road intersections with Rockledge Drive and Rock Spring Drive. The portion of the southern access road (proposed to be renamed as Thomas Spring Way) located to the west of the entrance to the adjacent property will be relocated further north, out of the stream valley buffer. The width of this access point will be reduced through the elimination of the right turn egress lane to accommodate narrower pedestrian crossing distances and additional space for stream restoration. Right turn movements exiting the shared access road will continue to be accommodated in a separate egress lane while left turn and through vehicular movements will be consolidated.

The other two access points will be located at signalized intersections in approximately the same location as the existing driveways, one at Fernwood Road and Rock Spring Drive, and the other at Fernwood Road and Rockledge Drive.

The Applicant is proposing to upgrade the existing sidewalks located to the back of curb and gutter along Fernwood Road to a consistent six to seven-foot wide, with physical separation in the form of

² Westlake Terrace terminates at the Rockledge Drive intersection and changes name designations to Fernwood Road east of the Rockledge Drive intersection.

tree panels and/or separated bikeways as part of this phase. A bi-directional separated bikeway will be provided along the Property frontage. Bikeway improvements will continue offsite to the Fernwood Road/Democracy Boulevard intersection to the south, and to across the I-270 bridge to the northwest.

(2) Division 6.2 Parking and Loading

Based on the number of vehicle parking spaces approved with Phase 1A, no additional parking is required for proposed Phase 1B. The existing surface parking area closest to the proposed building will temporarily provide 37 parking spaces, while the existing parking area further west will serve as a construction staging area. The existing surface parking lots will be removed during a subsequent phase of construction. Phase 1B does not require loading spaces.

Table 4: Parking Table for Phases 1A and 1B

	Required/Allowed	Proposed for Phases 1A & 1B
Vehicle Parking (min/max) CCRC ¹ Retail/Restaurant (1,900 sf)	314/570	1,041 ² (1,011 spaces provided in existing parking garage, 30 spaces on-street)
Motorcycle spaces	2% (10 max)	10
Electric vehicle ready	1 per 100 vehicle spaces	100
Accessible spaces	As required by state law	21
Car-share	5	5
Bicycle Parking	48 long-term spaces, 3 short-term spaces	48 long-term spaces, 3 short-term spaces
Loading Spaces	4	3 ⁴
¹ Based on 512 independent living dwelling units + 100 employees + 1900 sf restaurant. ² The Planning Board approved a parking waiver with Phase 1A, Site Plan No. 820210190 to exceed the maximum number of parking spaces allowed in Phase 1A. An additional 37 spaces in an existing surface parking lot will be temporarily available adjacent to the marketing center. This parking lot will be removed in a subsequent phase of development. ³ One short-term space must be provided adjacent to the Phase 1B building. ⁴ The Planning Board approved a parking waiver with Phase 1A, Site Plan No. 820210190, to provide one fewer loading space than required with Phase 1A.		

(3) Division 6.3 Open Space and Recreation

Two of the CCRC's major public open space components, the Urban Park and the Woodland Hill Open Space, will be delivered with Phase 1A. Phase 1B includes the 5.37-acre Thomas Branch Linear Park, a privately owned space that will be open for use by the public with a walking path and seating areas. Improvements to this area include stream restoration, and an enhanced riparian stream buffer, slope stabilization, removal of invasive species, afforestation, landscaping and construction of a nature lookout area. Phase 1A and 1B will comprise 9.67 acres of public open space and will provide residents, visitors and the general public with spaces for active and passive recreation experiences.

Since Phase 1B does not include residential development, analysis of recreational facilities is not required at this time.

(4) Division 6.4 General Landscaping and Outdoor lighting

Proposed landscaping and lighting, as well as other site amenities, will enhance the streetscape along Fernwood Road and the internal private roads. The facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The landscape design both connects the proposed development to the neighborhood while providing clear transitions from public spaces to private areas. The on-site lighting will limit the necessary light levels to streets and sidewalks, providing safe lighting at a pedestrian scale.

e) Satisfies the applicable requirements of:

i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and

The Department of Permitting Services approved the Site Development Stormwater Management Plan for Phase 1B on January 7, 2022. The plan proposes to meet required stormwater management goals via micro-bioretenment and planter boxes. Chapter 22A, Forest Conservation.

ii. Chapter 22A, Forest Conservation.

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines.

Natural Resource Inventory/Forest Stand Delineation

A Natural Resources Inventory/Forest Stand Delineation (No. 420200260) was approved on November 8, 2019. The Thomas Branch stream runs along the southern boundary of the Property, which also contains areas of wetland and FEMA designated floodplain. There are no forested areas onsite, but the Property contains a number of specimen trees.

The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The environmentally constrained area is 7.12 acres of regulated environmental buffers, which includes 2.25 acres of 100-year floodplain, 1.19 acres of wetlands and 1.83 acres of wetland buffers. There are areas of steep slopes 25% and greater located primarily on the south and west portions of the Property.

There are no known occurrences of rare, threatened, or endangered species on the Property.

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 this site.

Planning staff met with the Applicant for a Concept Plan review 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 Planning Department's Environmental Guidelines permit "small amounts of clearing and grading for other purposes within the stream buffer on a case-by-case basis so long as the modification is consistent with a comprehensive approach to protecting areas that are critical to preserving or enhancing streams, wetlands, and their ecosystems (Section V.A.1.e) under criteria detailed in the Guidelines, including that "the plan design provides compensation for the loss of buffer function."

The Applicant has been working with staff and other agencies to design measures that will enhance stream buffer function and stream water quality. The Phase 1B work includes stream restoration work on the Thomas Branch stream channel, including removal of concrete channel sections, the creation of riffles and pools, bank and bench stabilization, and installation of rock sills and a plunge pool to dissipate the energy of erosive flows. Additional work to improve stream buffer function and water quality includes invasive plant species control, afforestation, and landscaping of sections of the stream buffer. The design will also incorporate a walking path, benches, and a nature lookout area to create the Thomas Branch Linear Park, which not only enhances water quality and habitat, but also serves as an amenity for the residents. With these treatments and improvements, the submitted plans are in conformance with the Planning Department's *Environmental Guidelines*.

Forest Conservation Plan

The Preliminary Forest Conservation Plan H-135 was approved by Planning Board Resolution MCPB 20-020 dated April 3, 2020 during the review of the re-zoning of the Property, which included a Development Plan. A Final Forest Conservation Plan (FFCP) was approved by the Planning Board with

Site Plan No. 820210190 on March 10, 2022 (Planning Board Resolution MCPB 22-014). FFCP No. 820220120 has been submitted for approval with this Site Plan application. FFCP No. 820220120 will supersede all previously approved Final Forest Conservation Plans.

The Subject Property is zoned CRF 1.5, C-0.75, R-1.5, H-150 and is classified as Mixed-Use Development as defined in Section 22A-3 of Chapter 22A of the Montgomery County Forest Conservation Law (“FCL”) and specified in the Trees Technical Manual. This results in an afforestation requirement of 15% of the net tract area and a conservation threshold of 20%. The Net Tract Area is 35.15 acres. There is no forest on the site; therefore, the forest mitigation requirement is for 5.27 acres of afforestation.

The Applicant proposes to fulfill their forest conservation mitigation by planting 3.11 acres of forest on site, primarily within the stream buffer. The 2.16-acre remainder of the requirement will be fulfilled by off-site options. The hierarchy of fulfillment is to provide the off-site portion through planting forest off-site in the same watershed, if possible; to provide afforestation elsewhere in the County if no opportunities exist in the same watershed; or to pay a fee-in-lieu if there are no off-site forest planting opportunities available.

All of the planted forest and the environmental buffer areas will be protected by Category I and II Easements. Category II Easements are being used in areas where higher levels of maintenance are anticipated to control invasive species. Easements cannot be established in significant portions of the stream buffer that are already encumbered with easements from other agencies.

Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the 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. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request - The Applicant submitted a variance request in a letter dated March 16, 2022 (Attachment E). The Applicant proposes to remove 23 (twenty-three) trees that are 30 inches or greater DBH, that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law, and to impact, but retain six additional trees. Four additional trees

proposed for removal (Numbers 15, 16, 17, and 18) were approved for removal under a variance approved with PFCP H135.

Table 5: Protected Trees to be Impacted

Tree Number	Species	DBH Inches	% CRZ Impacts	Status
7	Willow Oak (<i>Quercus phellos</i>)	40.1"	12%	Fair condition.
22	Black Cherry (<i>Prunus serotina</i>)	32.5"	14%	Fair condition.
45	Red Mulberry (<i>Morus rubra</i>)	36",24", 18",26"	11%	Fair condition.
55	Willow Oak (<i>Quercus phellos</i>)	40.5"	9.5%	Good condition.
56	Willow Oak (<i>Quercus phellos</i>)	30.5"	13.7%	Fair condition.
64	Willow Oak (<i>Quercus phellos</i>)	34.1"	5%	Fair condition.

Table 6: Protected Trees to be Removed

Tree Number	Species	DBH Inches	% CRZ Impacts	Status
1	Willow Oak (<i>Quercus phellos</i>)	37.6"	100%	Very Good condition.
2	Willow Oak (<i>Quercus phellos</i>)	31"	100%	Fair condition.
3	Willow Oak (<i>Quercus phellos</i>)	33.1"	100%	Good condition.
4	Willow Oak (<i>Quercus phellos</i>)	41.8"	100%	Good condition.
5	Willow Oak (<i>Quercus phellos</i>)	35.6"	100%	Fair condition.
6	Willow Oak (<i>Quercus phellos</i>)	34.2"	100%	Fair condition.
12	Red Maple (<i>Acer rubrum</i>)	30.7"	100%	Good condition.
13	Red Maple (<i>Acer rubrum</i>)	38.4"	100%	Good condition.

Tree Number	Species	DBH Inches	% CRZ Impacts	Status
15	Willow Oak (<i>Quercus phellos</i>)	39.6"	100%	Previously approved for removal in variance included with PFCP H135
16	Willow Oak (<i>Quercus phellos</i>)	35"	100%	Previously approved for removal in variance included with PFCP H135
17	Willow Oak (<i>Quercus phellos</i>)	33.3"	100%	Previously approved for removal in variance included with PFCP H135
18	Willow Oak (<i>Quercus phellos</i>)	36.4"	100%	Previously approved for removal in variance included with PFCP H135
19	Willow Oak (<i>Quercus phellos</i>)	36.8"	100%	Good condition.
20	Willow Oak (<i>Quercus phellos</i>)	35.6"	100%	Good condition.
33	Northern Red Oak (<i>Quercus rubra</i>)	32.8"	100%	Fair condition.
37	Northern Red Oak (<i>Quercus rubra</i>)	31.8"	100%	Poor condition.
49	Willow Oak (<i>Quercus phellos</i>)	38.8"	100%	Fair condition.
50	Willow Oak (<i>Quercus phellos</i>)	33.9"	100%	Good condition.
51	Willow Oak (<i>Quercus phellos</i>)	35.3"	100%	Good condition.
52	Willow Oak (<i>Quercus phellos</i>)	44.5"	100%	Good condition.
53	Willow Oak (<i>Quercus phellos</i>)	35.1"	100%	Good condition.
54	Willow Oak (<i>Quercus phellos</i>)	40.8"	100%	Fair condition.
57	Willow Oak (<i>Quercus phellos</i>)	44"	100%	Fair condition.
58	Willow Oak (<i>Quercus phellos</i>)	43.5"	100%	Fair condition.
61	Willow Oak (<i>Quercus phellos</i>)	37.3"	100%	Good condition.
62	Willow Oak (<i>Quercus phellos</i>)	39.8"	100%	Good condition.
63	Willow Oak (<i>Quercus phellos</i>)	42.3"	100%	Fair condition.

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by the requirements of the zone and the *Rock Spring Sector Plan*, which require that the buildings be pulled up to the street frontage, and that master-planned frontage improvements, including sidewalk improvements and bicycle facilities, be constructed on the street side of the property. If these requirements are not met, the submitted plan will not be in compliance with either the zoning requirements or the *Rock Spring Sector Plan*. These requirements result in extreme damage to trees 37, 49, 51, 52, 53, 54, 57, 58, 61, 62, and 63, and necessitates their removal. These requirements also create unavoidable impacts to trees 7, 55, and 56. Trees 1, 2, 3, 4, 5, 6, and 50 are in the existing front parking lot that is to be removed to make room for two new buildings, the underground parking garage, and the marketing center and retail building on the site. This disturbance also impacts tree 64. Trees 19 and 20 are within the courtyard on the south side of the existing building that is to be demolished to clear space for a substantial part of the development. Trees 12 and 13 are within the area being disturbed to implement the stream restoration project. Tree number 33 is within the demolition zone on the west side of the existing building. Tree 22 will sustain minor impacts from construction of the walking path along the western boundary of the site. Between the frontage improvement requirements, the zoning requirements, and the demolition of the existing building, the impacts of the development will make it impossible to avoid impacts to these trees and still develop the site as intended by the zoning and the *Rock Spring Sector Plan*.

Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings

Staff has made the following determination based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the impacts to the trees is due to the location of the trees and necessary site design requirements. The Applicant proposes removal of 23 trees with mitigation. Mitigation will also be provided for the four trees previously approved for removal under the variance associated with

PFCP H135. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and the zoning, master plan and design requirements of this project.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Application proposes mitigation for the removal of these 23 trees by planting large caliper trees on-site. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision

There are 23 trees proposed for removal in this variance request and another four trees approved for removal in a variance associated with the PFCP approved at the time of rezoning, resulting in a total of 999 inches of DBH being removed. The FCP includes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately one-inch caliper for every four inches removed using trees that are a minimum of three inches caliper in size. This results in a total variance tree mitigation requirement of 249.75 inches. The Applicant proposes to fulfill this mitigation requirement with the installation of 72 3.5-inch caliper trees. These planting locations and species of these trees are shown on the Variance Exhibit submitted with Final Forest Conservation Plan.

Although these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost by the removal of these trees. These mitigation trees must be overstory trees native to the Piedmont Region of Maryland and installed on the Subject Property outside of any rights-of-way and/or utility easements.

Variance Recommendation

Staff recommends approval of the variance request.

f) Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;

An existing surface parking lot provides temporary vehicle parking for the proposed Phase 1B building. The surface parking lots will be removed during a subsequent phase of construction. Upon removal of the surface parking lots, ample parking will be provided along the private roads and in structured parking garages.

The proposed building will be directly accessed by the ingress and egress at the signalized intersection of Rockledge Drive and Fernwood Road. Such vehicular access will connect to the existing surface parking lot currently located along Fernwood Road, which is proposed to remain temporarily until the construction of the mixed-use structures as part of the future Phase 2. Additionally, while the existing egress and ingress from the Rock Spring Drive signalized intersection is proposed to remain, a temporary turnaround will be constructed as part of this request due to the placement of the proposed marketing center which will sever its former connection to the 40-space surface parking area.

Phase 1B is a one-story building with a retail/restaurant use that will help activate the Fernwood Road frontage and the nearby Urban Park. Phase 1B includes the 5.37-acre Thomas Branch Linear Park, a privately owned space that will be open for use by the public with a walking path and seating areas. Improvements to this area include stream restoration, and an enhanced riparian stream buffer, slope stabilization, removal of invasive species, afforestation, landscaping and construction of a nature lookout area. Phase 1A and 1B will comprise 9.67 acres of public open space and will provide residents, visitors and the general public with spaces for active and passive recreation experiences. The Applicant proposes a rich array of amenities in Phases 1A and 1B to future residents of the CCRC and to the surrounding area including the public park, extensive landscaping, and site furnishings.

g) Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;

The Project substantially conforms with the recommendations of the 2017 *Rock Spring Sector Plan* (Sector Plan or Plan) and *Parking Lots To Places: Urban Design Guidelines for Rock Spring & White Flint 2 Sector Plans* (Design Guidelines). 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 proposed

development addresses the large gap that will be left in Rock Spring by the departure of the Marriott headquarters.

The proposed CCRC and retail space 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 addresses 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 Site Plan prioritizes the establishment of the central spine as a pedestrian-friendly environment by orienting development towards it. Phase 1A and 1B include residential uses, a retail/restaurant space, a public park, and a publicly accessible walking path.

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)

Phase 1B includes the 5.37-acre Thomas Branch Linear Park, a privately owned space that will be open for use by the public with a walking path and seating areas. Improvements to this area include stream restoration, and an enhanced riparian stream buffer, slope stabilization, removal of invasive species, afforestation, landscaping and construction of a nature lookout area. Phase 1A and 1B will comprise 9.67 acres of public open space and will provide residents, visitors and the general public with spaces for active and passive recreation experiences. The Applicant proposes a rich array of amenities in Phases 1A and 1B to future residents of the CCRC and to the surrounding area including the public park, extensive landscaping, and site furnishings.

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 approved Phase 1A Site Plan provides the following major public benefits to fulfill this requirement: the construction and dedication of a 1.75-acre multi-generational park to M-NCPPC and streetscape

improvements beyond the Property frontage. A future phase will provide a partnership with Montgomery County Public Schools (MCPS) on a workplace training program.

Staff reached out to the MCPS early in the regulatory process 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. Fifteen percent of the CCRC's independent living units will be provided as MPDUs.

Environment and Sustainability

A major component of Phase 1B is the restoration of the Thomas Branch Stream and the creation of the Linear Park. The restoration will involve a number of environmental measures including removal of invasive species, replanting, afforestation, creation of bioretention areas and slope stabilization.

Sector/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 bicycle lane and replacing the center left turn lanes with a single two-way left turning lane. The reduction of lanes is also known as a "road diet."

Approved under the aforementioned Phase 1A, repurposed space will be used for a two-way separated bike lane on the south/west side of Fernwood Road and Westlake Terrace, currently under construction along the Property frontage.

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 Sector Plan recommends that the segment adjacent to the Property reduce its number of travel lanes from four (4) to two (2) while maintaining the 90-foot width recommendation.

A 40-foot transit easement is identified on the north side of Westlake Terrace 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.

The improvements proposed for Westlake Terrace were approved with the Phase 1A site plan.

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 from Rockledge Drive to Rock Spring Drive. The Applicant dedicated right-of-way to meet a consistent 80-feet along the entirety of the Fernwood

Road frontage. In accordance with the *Parking Lots to Places: Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans*, the Applicant is in the process of constructing a ten-foot separated bike lane protected by a four-foot median. As illustrated in Figure 12, the segment of Fernwood Road directly adjacent to the proposed marketing center is under construction to accommodate a six-foot planting strip between the bikeway and a seven-foot sidewalk, to facilitate the planting of street trees.

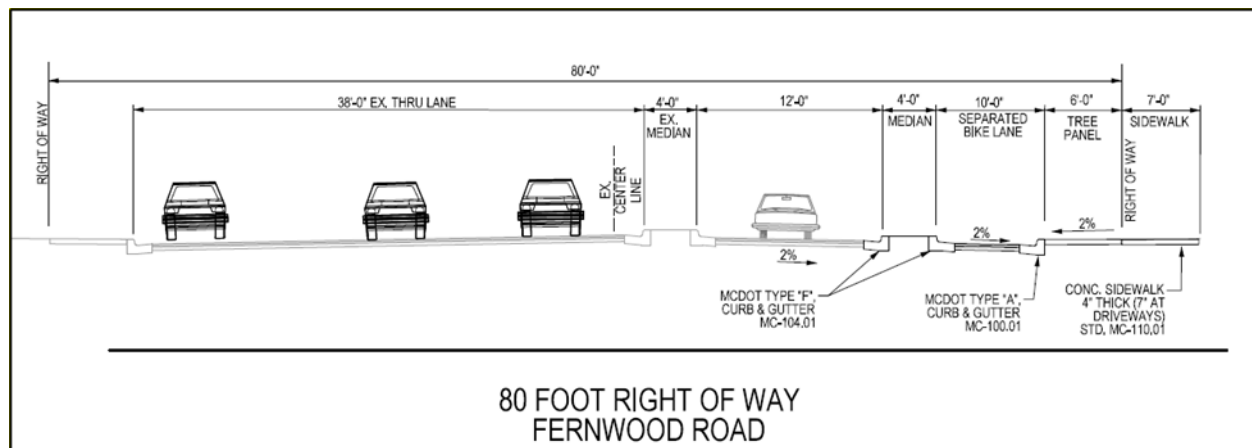


Figure 12: Approved Fernwood Road Section along Marketing Center Frontage (from Rockledge Drive to Rock Spring Drive)

Approved as part of Phase 1A, from Rock Spring Drive to the existing ingress along the Camalier property to the south of the overall property, the Applicant will maintain the existing six-foot sidewalk as a means to avoid cutting down existing mature trees along the property frontage, as indicated in Figure 13. The Applicant will repurpose space currently utilized by a deceleration lane that ties into the driveway entrance into the Camalier property. Furthermore, this segment of Fernwood Road is adjacent to the proposed Park which will tie directly to the public right-of-way. Pathways emanating from the sidewalk along Fernwood Road will meander through the Park and will encourage and facilitate all users to the open space area while also preserving the existing mature tree canopy in the Park.

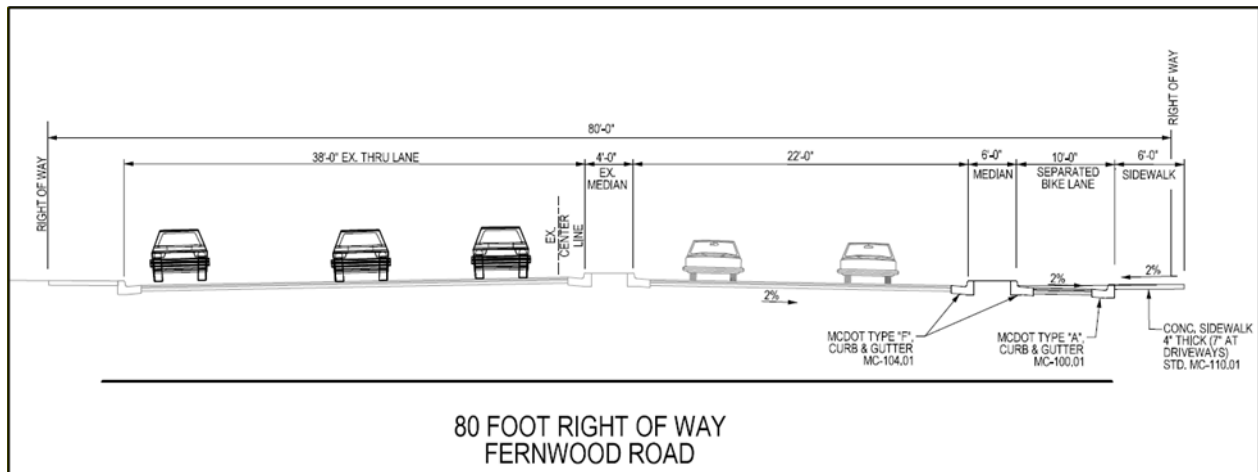


Figure 13: Approved Fernwood Road Section along Urban Park and Thomas Branch Linear Park frontages (from Rock Spring Drive to Camalier property entrance)

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. It is important to also note that repurposing of the existing deceleration lane for accommodation of the bidirectional bikeway prevents any expansion of impervious surfaces into the proposed Thomas Branch Linear Park. People walking alongside the stream restoration area, parallel to Fernwood Road will be protected by the 10-foot bikeway and its associated 6-foot raised barrier, as shown in Figure 13.

Finally, the Applicant will extend the bikeway route southwards from the Camalier property entrance to the Fernwood Road and Democracy Boulevard intersection. The segment of the Fernwood Road property frontage currently under construction includes the two-way separated bicycle lanes that will transition into an off-street ten-foot sidepath south of the Subject Property, to the Fernwood Road-Democracy Boulevard intersection. The ten-foot sidepath will be protected with concrete barriers that then transition into the existing six-foot sidewalk to the south, as an interim design before implementation of separated bicycle lanes along Fernwood Road and the extension of the Democracy Boulevard sidepath occur as part of a future redevelopment or capital project.

- h) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;***

The approval of Preliminary Plan No. 120210040 established that the proposed development will be served by adequate public services and facilities.

- i) on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and***

Not applicable; this Property is not located in a Rural Residential or Residential zone.

- j) on a property in all other zones, is compatible with existing, approved or pending adjacent development.***

The proposed building is one-story and will be lower in scale and compatible with all the surrounding development. The overall CCRC development will complement the evolution of the Rock Spring area from a commercial office park to a mixed-use community.

- 3. To approve a Site Plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.***

Not applicable, this Site Plan does not include a restaurant with a drive-thru.

- 4. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.***

Not applicable, the Subject Property was not zoned C-1 or C-2 on October 29, 2014.

SECTION 5: COMMUNITY OUTREACH

The Applicant held a pre-submittal public meeting on December 8, 2021. The meeting was conducted virtually per COVID-19 Guidelines. The Application is in compliance with all submittal and noticing requirements.

As of date of this Staff Report, no correspondence has been received about the Phase 1B Site Plan.

SECTION 6: CONCLUSION

Site Plan No. 820220120 complies with the findings required for approval in the Zoning Ordinance and is consistent with the goals and recommendations of the *Rock Spring Sector Plan*. Staff recommends approval of Site Plan No. 820220120, ELP Bethesda at Rock Spring Phase 1B, with the conditions included at the beginning of this report.

ATTACHMENTS

Attachment A: Previous Approvals

Attachment B: Agency Approval Letters

Attachment C: Site Plan

Attachment D: Final Forest Conservation Plan

Attachment E: Variance Request

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. 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



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

MCPB No. 22-014
Site Plan No. 820210190
ELP Bethesda at Rock Spring Phase 1A
Date of Hearing: January 27, 2022

MAR 10 2022

RESOLUTION

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

WHEREAS, on September 2, 2021, ELP Bethesda at Rock Spring LLC ("Applicant") filed an application for approval of a site plan for up to 928,844 square feet of development, including 512 independent living units, associated facilities and amenities, and a new Urban Park on 33.64 acres of CRF 1.5, C-0.75, R-1.5, H-150 zoned-land, located on Fernwood Road, 400 feet North of Democracy Boulevard, Lot N737 Rock Spring Park, Part of Parcels 6 and 12 ("Subject Property"), in the Rock Spring Sector Plan ("Sector Plan") area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820210190, ELP Bethesda at Rock Spring Phase 1A ("Site 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 January 14, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 27, 2022, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820210190 for up to 928,844 square feet of development, including 512

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Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

independent living units, associated facilities and amenities, and a new Urban Park, on the Subject Property, subject to the following conditions:¹

DENSITY, HEIGHT AND HOUSING

1. Density

The Site Plan is limited to a maximum of 928,844 square feet of Residential Care Facility uses, for up to 512 independent living units, for Phase 1A.

2. Height

The development is limited to a maximum height of 150 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

3. Moderately Priced Dwelling Units (MPDUs)

- a) The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (MCDHCA) in its letter dated December 21, 2021 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
- b) The development must provide 15 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
- c) Before issuance of any building permit for any residential units, the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

OPEN SPACE, FACILITIES AND AMENITIES

4. Facilities and Amenities

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.

- a) Prior to the first residential use and occupancy certificate for Phase 1A, the Applicant must construct the streetscape improvements along the Property's frontage on Fernwood Road.
- b) Before the issuance of the final use and occupancy certificate for Phase 1A, the Woodland Park/Open space area along the western Property line must be completed as shown on the Certified Site Plan and open to the public.

5. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines (2017)* for each one.

a) Major Public Facilities

- i. Before the issuance of the first residential use and occupancy permit, the right-of-way improvements on Fernwood Road/Westlake Terrace beyond the Property frontage, west and south of the Property, must be completed and open to traffic. If the Montgomery County Department of Transportation (MCDOT) has not determined a final design for the Fernwood Road/Democracy Boulevard intersection prior to the issuance of the right-of-way permit, MCDOT may accept a fee-in-lieu of construction of the Fernwood Road right-of-way improvements proposed between the entrance to the Camalier Property and the Fernwood Road/Democracy Boulevard intersection. For the fee-in-lieu, the Applicant must provide an engineer's estimate that will include contingencies and be approved by MCDOT prior to issuance of right-of-way permit and the payment must be made to MCDOT prior to issuance of the first use and occupancy permit.

- ii. Provide the Urban Park per Condition no. 6 (M-NCPPC Parks).

b) Transit Proximity for confronting a master planned Bus Rapid Transit stop with a dedicated fixed path (Level 2).

c) Quality Building and Site Design

- i. Architectural Elevations – Final elevation design must be shown on the Certified Site Plan. The exterior architectural elements must be substantially similar to architectural elevations as shown on the Certified Site Plan and as determined by M-NCPPC Staff.

- ii. Exceptional Design
 - iii. Public Open Space –The Applicant must provide a minimum of 4.3 acres (187,308 square feet) of public open space on the Property, not including the Urban Park on Lot 2.
 - iv. Structured Parking –The Applicant must provide approximately 1,011 of the proposed parking spaces within an above-grade structure.
- d) Protection and Enhancement of the Natural Environment
- i. Building Lot Terminations (BLTs) – Before issuance of the first building permit, the Applicant must provide proof to the MCDPS and M-NCPPC staff of the purchase and/or payment of 0.3438 BLTs.
 - ii. Cool Roof – The Applicant must provide a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.
 - iii. Vegetated Area – The Applicant must install plantings in a minimum of 12 inches of soil, covering a minimum of 5,000 square feet outside of the Urban Park on Lot 2, and any stormwater management easements.
6. M-NCPPC Department of Parks
- a) The Applicant must dedicate to Maryland-National Capital Park & Planning Commission ("Commission") "Lot 2," identified as the Urban Park on the approved Preliminary Plan for use as a public park. The land must be dedicated to the Commission by providing a deed in a form approved by the Commission's Office of General Counsel. There must be a note on the record plat identifying the area to be dedicated for the Urban Park.
 - b) The Commission will hold the deed in escrow until the Urban Park construction is complete and accepted by the Montgomery County Department of Parks ("Department of Parks.") and the land is ready for transfer to the Department of Parks.
 - c) The Applicant reserves the right to retain a temporary construction easement along the western boundary of the Urban Park to facilitate the construction of the adjacent building and to ensure the safety of the park users.

- d) A Park Permit for Construction must be obtained by the Applicant for construction of the Urban Park on "Lot 2". The final design must be substantially similar to the design shown on Sheets L4.51, L4.52, L5.52, L5.53, L5.54, L5.55, L5.56 and all of the elements identified on the Certified Site Plan, which the Applicant will refine with approval of the Parks Department prior to Certified Site Plan. The landscaping, site elements, and other features within the Urban Park may be modified through the approval of a Park Permit, without a site plan amendment.
- e) Prior to issuance of the final residential use and occupancy permit for Phase 1A, the Applicant must complete construction of the Urban Park on "Lot 2" and the park must be accepted by the Department of Parks as "substantially complete".
- f) The Applicant will enter into an agreement with the Department of Parks to maintain the Urban Park for the first five (5) years following final acceptance of the Urban Park construction by the Department of Parks. The Parks Department and the Applicant may extend the agreement beyond five years.
- g) In connection with the issuance of the Park Permit, if the approved park design includes high maintenance landscape elements as identified by the Department of Parks, the park permit may require a maintenance agreement between the Parks Department and the Applicant in perpetuity for these high maintenance landscape elements.

7. Recreation Facilities

The Applicant must provide the minimum required recreation facilities as shown on the Certified Site Plan.

8. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to sidewalks, walking path and trails, benches and landscaping with the exception of the public amenities proposed as part of the Urban Park which shall be maintained in accordance with Condition No. 6.f).

ENVIRONMENT

9. Forest Conservation

- a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan ("FCP"). Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c) Prior to recordation of the plat and the start of any demolition, clearing, grading, or construction for this development Application, the Applicant must record a Category I or II Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I or II Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
- d) Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 3.02 acres of new forest planting and for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
- e) Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Cabin John Creek watershed to satisfy the reforestation requirement for a total of 2.25 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Cabin John Creek watershed or by making a fee-in-lieu payment if no forest mitigation bank credits are available.
- f) Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install permanent conservation easement fencing and signage along the perimeter of the

conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

- g) Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must execute 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, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands. The use of herbicides should be avoided where possible.
- h) The Applicant must install the Afforestation/Reforestation plantings for Planting Areas A and B (outside of the limits of disturbance ("LOD")) as shown on the approved FCP, within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- i) The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3.5 caliper inches totaling at least 207.05 caliper inches as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
- j) Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the FCP.
- k) The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

10. Noise Attenuation

- a) Prior to Certification of the Site Plan, the location and details for noise mitigation techniques must be approved by Staff. Current noise levels must be attenuated to no more than 65 dBA Ldn for ground level areas of common and individual outdoor activity.
- b) Prior to the issuance of the first residential building permit, the Applicant/developer/builder must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that:
 - i. The installation of the noise mitigation techniques to attenuate the current noise levels to no more than 65 dBA Ldn for the exterior public use spaces are adequate.
 - ii. The building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn in buildings RB 1.1 and RB 1.2, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- c) Before the final inspection for any residential unit in buildings RB 1.1 and RB 1.2, the Applicant/developer/builder must certify to M-NCPPC Staff that the noise impacted units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments.
- d) If any changes occur to the Site Plan which affect the validity of the noise analysis dated July 31, 2020, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes and new noise attenuation features may be required.
- e) Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise impacted units, a Professional Engineer must certify to the Planning Department and Department of Permitting Services that the noise impacted units have been constructed in accordance with the certification of an engineer that specializes in acoustical treatments.
- f) For all noise impacted residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers/residents that those homes are impacted by transportation noise. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional documents

and must be included in any noise impacted sales contracts, leases or other forms of conveyance of any interest in or right to occupy the units, any illustrative site plan(s) on display within any sales related offices(s); in Homeowner Association documents; with all Deeds of Conveyance of noise impacted units; and by inclusion on all signature subdivision and site plans.

- g) All noise impacted units must be clearly identified on the Certified Site Plan.

11. Stormwater Management

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 October 25, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

TRANSPORTATION & CIRCULATION

12. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated November 17, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Before the release of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management (TDM) Plan from the Montgomery County Department of Transportation (MCDOT).

13. Pedestrian & Bicycle Circulation

- a) The Applicant must provide 48 long-term and 2 short-term bicycle parking spaces.
- b) The long-term spaces must be in secured, well-lit bicycle parking areas in a parking garage, and the short-term spaces must be inverted-U racks (or

approved equal) installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.

- c) The Applicant must provide one bicycle repair station.
- d) Prior to the first use and occupancy permit for Phase 1A, the Applicant must reconstruct Fernwood Road/Westlake Terrace and provide the pedestrian and bicycle improvements consistent with the Certified Site Plan, the exact location, design and construction of which must comply with requirements set forth by the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations.

14. Fire Department Access

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 January 12, 2022, and hereby 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 amendments do not conflict with other conditions of Preliminary Plan approval.

SITE PLAN

15. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, as determined by M-NCPPC Staff.

16. Lighting

- a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.

- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f) On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

17. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, retaining walls, fences, railings, Urban Park landscaping and amenities, private roads and sidewalks, private utilities, paths and associated improvements of development, including storm drainage facilities, street trees and streetlights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

18. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

19. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution (and other applicable resolutions) on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "Minor modifications to the limits of disturbance shown on the Site Plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Provide a Recreation Facilities Sheet to show the location of each recreation facility and to demonstrate that each element meets the M-NCPPC Recreation Guidelines square footage requirements.
- g) Update Final Forest Conservation Plan Sheet No. C-210 to reflect revised Variance Tree Impacts.
- h) Clearly show the limits of the Subject Site Plan.
- i) Obtain Parks Department approval for Sheets L4.51, L4.52, L5.52, L5.53, L5.54, L5.55, and L5.56.
- j) Show that the "Vegetated Area" qualifies for 10 points under the Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines.
- k) Include the public benefit chart approved by the Planning Board.

- l) Include modifications to the garage façade and any additional plantings shown in the “ELP Bethesda Garage Revised Plantings” exhibit shared with Staff via email on December 17, 2021.
- m) Change the sidewalk located along Fernwood Road, between the Camalier property and the Fernwood Road/Democracy Boulevard intersection, to a sidepath.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of ELP Bethesda at Rock Spring Phase 1A Site Plan No. 820210190, submitted via ePlans to the 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 having considered the recommendations 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 development satisfies any previous approval that applies to the site.*

The Site Plan satisfies Local Map Amendment LMA H-135, Sketch Plan No. 320210030, and Preliminary Plan No. 120210040. All prior Site Plan approvals are invalidated and superseded upon approval of the Subject Application.

- 2. The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable as there was no development plan or schematic development plan in effect on October 29, 2014.

- 3. The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

- 4. The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

- a. Development Standards

The Subject Property includes approximately 33.64 acres zoned CRF 1.5, C-0.75, R-1.5, H-150. The Application satisfies the applicable development standards as shown in the following data table:

Data Table

Development Standard	Permitted/ Required For Overall Project	Proposed for Overall Project	Approved for Phase 1A
Tract Area	n/a	36.02 acres/ 1,568,824 SF	36.02 acres/ 1,568,824 SF
Prior Dedication	n/a	2.37 acres/ 103,320 SF	2.37 acres/ 103,320 SF
Park Dedication	n/a	1.75 acres/ 76,230 SF	1.75 acres/ 76,230 SF
Site Area	n/a	31.90 acres/ 1,389,564 SF	31.90 acres/ 1,389,564 SF
Residential Density	1.5 FAR/ 2,353,236 SF	1.497 FAR/ 2,347,936	0.60 FAR/ 928,844 SF
Independent Living Units	n/a	1,300	512
Assisted Living Units	n/a	160-210	0
Skilled Nursing Units	n/a	30-50	0
Commercial Density	0.75 FAR/ 1,176,618 SF	.003 FAR/ 5,300 SF	0
Total Density	1.5 FAR/ 2,353,236 SF	1.5 FAR/ 2,353,236 SF	0.60 FAR/ 928,844 SF
MPDU requirement (independent living units)	15%	15%	15%
Building Height, max	150 ft	150 ft	150 ft
Public Open Space, min	10% / 3.36 acres	33%/ 11 acres (including 1.75- acre park dedication)	18%/ 6.05 acres (including 1.75-acre park dedication)
Minimum Setbacks (ft) Front (Fernwood Rd) Side (I-270)	0 100	0 108	31 108

In the CRF Zone, the Applicant is required to provide 100 Public Benefit points in four categories. For Phase 1A, the Planning Board approves 105.78 points in four categories as described below.

Public Benefit Points

Public Benefit	Total Points Possible	Proposed for Overall Project	Approved for Phase 1A
Major Public Facilities			
Urban Park- 1.75 acres	70	10.4	10.97*
Extension of Bike Path		8.05	8.53*
Learn Grow Lead		25	-
Transit Proximity	50	30	30
Diversity of Uses			
Enhanced Accessibility for Seniors or the Disabled	20	20	-
Quality Building and Site Design			
Architectural Elevations	10	5	5
Exceptional Design	10	5	5
Public Open Space	20	20	13.48*
Structured Parking	20	13.33	9.71
Protection and Enhancement of the Natural Environment			
Building Lot Termination	30	30	3.09
Cool Roof	10	10	10
Vegetated Area	10	10	10
Retained Building	100	10	0
Total		196.78	105.78

*The slight increase in points is a result of removing the 1.75-acre park dedication from the net lot/site area in the point calculations below.

Major Public Facilities

- Urban Park: One of the major public benefits of the Overall Project is the dedication of the 1.75-acre Urban Park to M-NCPPC. The Applicant will construct and dedicate the Urban Park with Phase 1A. The multi-generational

Urban Park will provide amenities for the surrounding community. The Planning Board approves 10.97 points using the following formula:

$$((\text{Land area conveyed/Net Lot Area}) * 2) + (\text{Constructed area of facility/Net Lot Area} * 4) * 100$$

$$=(1.75 \text{ acres} / 31.90 \text{ acres}) * 2 + 0 = 10.97 \text{ points}$$

- Extension of bike path beyond site frontage: The Applicant proposes to construct 0.68 acres of bikeway improvements beyond the Property frontage and requests 8.05 points. The Planning Board approves 8.53 points based on the following calculation:

$$((\text{Land area conveyed/Net Lot Area}) * 2) + (\text{Constructed area of facility/Net Lot Area} * 4) * 100$$

$$=(0 + (0.68 \text{ acres} / 31.9 \text{ acres}) * 4) * 100 = 8.53 \text{ points}$$

- Learn Grow Lead: This program, in partnership with Montgomery County Public Schools (MCPS), provides exposure and training to a wide variety of career paths for nearby high school students, many of whom have decided not to pursue a college degree. The Learn Grow Lead program will be provided in connection with a later phase of the Overall Project and thus no public benefit points are derived from this program in connection with Phase 1-A.

Transit Proximity

The Property confronts a master planned Bus Rapid Transit stop with a dedicated fixed path along Fernwood Road, which the Zoning Ordinance identifies as transit service proximity level 2. Since the bus stop confronts the Property, the Planning Board approves 30 points in accordance with the Zoning Ordinance specifications.

Quality Building and Site Design

- Architectural Elevations: The Planning Board approves 5 points in Phase 1A for development that provides and is bound by architectural elevations that show particular elements of the façade. The Phase 1A elevations demonstrate:
 - Minimum Amount of Transparency on the First Floor: The building has been designed to encourage interaction with the public realm by providing a high level of transparency at its base.
 - The residential towers in relation to the surrounding context: The building height varies to give character to Phase 1A as well as to respond to the existing development across Fernwood Road. An upper floor step back is used to reduce the bulk and massing of the buildings and thereby reduce the perceived height of the building. This strategy also provides more sunlight to the public realm and

open space for the top floor while providing visual interest to the building roof plane.

- While the residential buildings create a unified urban form when viewed from a distance, each building has variation in its architectural elements and details such as fenestration pattern, railing design and material color. The buildings are adequately separated to ensure the streets and open spaces are not overwhelmed, especially by shadows.
 - The first floor of all the buildings is taller than the upper floors, giving it a more predominant presence. Each building façade is articulated with projected bays and balconies to create visual interest, texture and shadow. These elements also generate an attractive cadence that is well proportioned for the urban context.
 - The buildings utilize different techniques to bring daylight into the building and help define the character of building. Fenestration strategies include different shape, size, pattern, rhythm, levels of transparency, and location of the façade apertures.
 - Durable and high-quality material will be used to achieve harmony with neighboring buildings, be environmentally sensitive and contribute to a varied urban street fabric. Bricks, precast, metal panel and aluminum windows will be the primary materials for Phase 1A.
- Enhanced Accessibility for the Disabled: Up to 260 of the units will comply with the ANSI 117.1 Residential Type A Standards for accessibility. No points are requested with Phase 1A because the accessible units will be provided in future phases.
 - Exceptional Design: The architectural design of the Phase 1A buildings advances the design principles outlined in the Sector Plan and Design Guidelines. The Planning Board approves 5 points based on the following:
 - Enhancing the Public Realm: The development of this Continuing Care Retirement Community (CCRC) will serve as one of the first major steps in transforming an outdated office park into a revitalized mixed-use community serving not only an aging and often excluded population, but the entire Rock Spring neighborhood. The incorporation of the Urban Park, bike lanes, and additional vegetation and green scape will activate the region and attract similarly attractive uses and redevelopment.

- **Materials and Form:** The building designs in Phase 1A will revolve around the connectivity aspect of the site by activating the ground level with facades framed in charcoal grey metal panels. The use of brick and metal panels applied on the buildings in varying heights will enhance the spatial experience and provide an inviting and architecturally interesting building design, acting in stark contrast to the existing office buildings in the Rock Spring Central District.
- **Creating Sense of Place:** With the Park along the Property frontage, and the expansion of the bicycle and pedestrian pathways, Phase 1A will begin to create a sense of community amongst the somewhat disjointed regions of Rock Spring that currently exist.
- **Low Impact Development:** Almost one-third of Phase 1A (6.05 acres) will be devoted to open space, consisting of the Urban Park, promenade and linear open space. The Applicant will seek Gold NGBS certification for the Project which will include a significant number of energy conservation measures.
- **Public Open Space:** In addition to the Urban Park, (which is not included in this Public Benefit Calculation) Phase 1A devotes approximately 4.3 acres of open space to public use in accordance with the Sector Plan's recommendation to incorporate additional public open green space in the Sector Plan area. The Planning Board approves 13.48 points, using the following calculation:

(Public open space/Net lot area) *100

(4.3 acres /31.9 acres)*100= 13.48

- **Structured Parking:** The Applicant proposes a total of 1,041 parking spaces with Phase 1A, of which 1,011 spaces will be located in the retained parking garage. The Planning Board approves 9.71 points using the following calculation:

$[(\text{Above-grade spaces}/\text{Total spaces}) * 10 + (\text{Below-grade spaces}/\text{Total spaces}) * 20]$

$= (1011/1041) * 10 + 0 = 9.71 \text{ points}$

Protection and Enhancement of the Natural Environment

- **BLTs:** The Applicant must purchase 0.3438 building lot termination easements, which will generate 3.09 public benefit points according to the following calculation:

$((\text{Phase 1A Density} - \text{Standard Method Density}) * 0.75) / 31,500$

$= (928,844 - 784,412) * 0.075 / 31,500$

$= 0.3438 \text{ BLTs} * 9 \text{ point per BLT} = 3.09 \text{ points}$

- Cool Roof: All roof area, with the exception of the existing parking garage, will provide the minimum required solar reflective index to qualify as a cool roof. The Planning Board approves 10 points.
- Vegetated Area: A minimum area of 5,000 square feet will include plantings in a minimum soil depth of 12 inches outside the park areas. The Planning Board approves 10 points.

Retained Building

The Applicant requests 10 points for retention of the 316,960-square foot existing above-grade parking structure. Although the Planning Board supported this proposal in the Sketch Plan, the Applicant subsequently determined that the retained parking structure does not meet the Zoning Ordinance criteria to award public benefit points. Therefore, the Planning Board does not approve any points for this public benefit.

Sketch Plan no. 320210030 condition no. 4f requires a retained building as a public benefit, but Section 59-7.3.3 allows amendments to conditions of Sketch Plan approval at the time of Site Plan if recommended by Planning Staff and agreed to by the Applicant. The Planning Board approves the amendment to Sketch Plan condition no 4f, removing the requirement to provide a retained building as a public benefit.

b. General Requirements

i. *Site Access*

The Phase 1A project will use existing vehicular access at the three signalized intersections on Fernwood Road² and will eliminate the right-in/right-out driveway that is currently located mid-block between the Fernwood Drive intersections with Rockledge Drive and Rock Spring Drive. The portion of the southern access road (proposed to be renamed as Thomas Spring Way) located to the west of the entrance to the adjacent property will be relocated further north, out of the stream valley buffer. The width of this access point will be reduced through the elimination of the right turn egress lane to accommodate narrower pedestrian crossing distances and additional space for stream restoration. Right turn movements exiting the shared access road will continue to be accommodated in a separate egress lane while left turn and through vehicular movements will be consolidated.

The other two access points will be located at signalized intersections in approximately the same location as the existing driveways, one at Fernwood Road and Rock Spring Drive, and the other at Fernwood Road and Rockledge Drive.

² Westlake Terrace terminates at the Rockledge Drive intersection and changes name designations to Fernwood Road east of the Rockledge Drive intersection.

The Applicant will upgrade the existing sidewalks located to the back of curb and gutter along Fernwood Road to a consistent six to seven-foot wide, with physical separation in the form of tree panels and/or separated bikeways as part of this phase. A bi-directional separated bikeway will be provided along the Property frontage. Bikeway improvements will continue offsite to the Fernwood Road/Democracy Boulevard intersection to the south, and to across the I-270 bridge to the northwest.

ii. *Parking and Loading*

The Project will satisfy the parking and loading requirements as demonstrated in the table below, with two associated Parking Waivers.

Parking and Loading Requirements

	Required/Allowed	Approved for Phase 1A
Vehicle Parking (min/max)	306/562 ¹	1,041 ²
Motorcycle spaces	2% (10 max)	10
Electric vehicle ready	1 per 100 vehicle spaces	100
Accessible spaces	As required by state law	21
Car-share	5	5
Bicycle Parking	48 long-term spaces, 2 short-term spaces	48 long-term spaces, 2 short-term spaces
Loading Spaces	4	3 ³

¹ Based on 512 independent living dwelling units + 100 employees.

² 1,011 spaces provided in existing parking garage, 30 spaces on-street. The Planning Board approves a parking waiver to exceed the maximum number of parking spaces allowed in Phase 1A. The parking waiver is discussed below.

³The Planning Board approves a parking waiver to address the deficiency of one loading space with Phase 1A. The parking waiver is discussed below.

Parking Waiver

The Planning Board approves a parking waiver, under Section 59-6.2.10, to exceed the maximum number of vehicle parking spaces allowed for Phase 1A. The parking waiver was noticed, with an updated application notice, in accordance with Section 59-7.5.2.D. Given that the maximum number of parking spaces allowed for this phase is 562 spaces and a total of 1,041 parking spaces is provided, primarily in the retained parking garage,

a parking waiver to allow 479 spaces above the maximum is acceptable. The parking waiver is necessitated by the size of the existing parking structure and the fact that it will be used in connection with the first phase of development.

While it is anticipated that at full buildout of the Overall Project, the number of vehicular parking spaces generated will continue to exceed the parking requirement, the number of excess spaces in Phase 1A is exaggerated given that this first phase will front-load a significant percentage of the overall parking due to the existence of the parking structure.

The Planning Board also approves a Parking Waiver to provide one less loading space than required— three loading spaces instead of four. Section 59- 6.2.8 B.2 requires that group living uses of 750,000 square feet or more must provide four loading spaces. The waiver of one loading space is justified for Phase 1A given that this phase includes only independent living units, and not the more service-intensive assisted living and nursing care uses. The Applicant is confident that three loading spaces will more than adequately serve its loading needs for this first phase, based on the 35 other CCRCs it has developed nationwide. At full buildout the Overall Project anticipates providing at least five loading spaces.

iii. Open Space and Recreation

Two of the CCRC's major public open space components, the Urban Park and the Woodland Hill Open Space, will be delivered with Phase 1A. These areas comprise over six acres and will provide residents, visitors and the general public with spaces for active and passive recreation.

The multi-generational Urban Park will include a shaded plaza with seating, a play area, trails, a fitness area, and a multiuse lawn that will engage residents of all ages and abilities in the community. As part of the subsequent phase, the Applicant will also develop an adjacent promenade encompassing approximately .26 acres (16,500 square feet) which will serve as a functional extension of the Park. The promenade will feature modern, interactive seating, such as swings, to engage nearby high school-aged students.

The Woodland Hill open space is located behind the existing parking structure and the trail in this area will turn up to the north towards Fernwood Boulevard gently climbing up hill through a newly planted and existing mature woodland area. With subsequent phases, the walking trail will connect with the Urban Park and public sidewalks though the Thomas Branch open space area on the west side of the Property.

The Application includes an analysis of on and off-site recreational facilities, Scenario ID 19477, demonstrating conformance with the Recreation Guidelines. The extensive on-site recreation facilities include a trail system, a bikeway, a dog cleaning station, indoor community space, performance space, an exercise room, a yoga room, open lawn, natural

area, a community garden, ornamental gardens, playgrounds for various age groups, resident lounge, interior courtyards, a rooftop amenity, an urban plaza, a neighborhood green, a swimming pool, a public park, a civic green, various picnic/seating areas and an outdoor fitness station.

iv. General Landscaping and Outdoor Lighting

Landscaping and lighting, as well as other site amenities, will enhance the streetscape along Fernwood Road and the internal private roads. The facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The landscape design both connects the development to the neighborhood while providing clear transitions from public spaces to private areas. The on-site lighting will limit the necessary light levels to streets and sidewalks, providing safe lighting at a pedestrian scale.

5. The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on October 25, 2021. The plan will meet stormwater management requirements through the use of via micro-bioretenention and planter boxes.

b. Chapter 22A, Forest Conservation

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

Natural Resource Inventory/Forest Stand Delineation

A Natural Resources Inventory/Forest Stand Delineation (No. 420200260) was approved on November 8, 2019. The Thomas Branch stream runs along the southern boundary of the Property, which also contains areas of wetland and FEMA designated floodplain. There are no forested areas onsite, but the Property contains a number of specimen trees.

The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The environmentally constrained area is 7.12 acres of regulated environmental buffers, which includes 2.25 acres of 100-year floodplain, 1.19 acres of wetlands and 1.83 acres of wetland buffers. There are areas of steep slopes 25% and greater located primarily on the south and west portions of the Property.

There are no known occurrences of rare, threatened, or endangered species on the Property.

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 this site.

Planning staff met with the Applicant for a Concept Plan review 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 Planning Department's Environmental Guidelines permit "small amounts of clearing and grading for other purposes within the stream buffer on a case-by-case basis so long as the modification is consistent with a comprehensive approach to protecting areas that are critical to preserving or enhancing streams, wetlands, and their ecosystems (Section V.A.1.e) under criteria detailed in the Guidelines, including that "the plan design provides compensation for the loss of buffer function." The Applicant has been working with staff and other agencies to design measures that will enhance stream buffer function and stream water quality. The Final Forest Conservation Plan submitted with the next Site Plan will include these measures.

Forest Conservation Plan

The Preliminary Forest Conservation Plan H-135 was approved by Planning Board Resolution MCPB 20-020 dated April 3, 2020 during the review of the re-zoning of the Property, which included a Development Plan. Final Forest Conservation Plan (FFCP) 820210190 was submitted as part of this Site Plan application.

The Subject Property is zoned CRF 1.5, C-0.75, R-1.5, H-150 and is classified as Mixed-Use Development as defined in Section 22A-3 of Chapter 22A of the Montgomery County Forest Conservation Law ("FCL") and specified in the Trees Technical Manual. This results in an afforestation requirement of 15% of the net tract area and a conservation threshold of 20%. Because there is no forest on the site, the afforestation figure of 5.27 acres is the forest conservation mitigation requirement.

The Applicant will fulfill their forest conservation mitigation by planting 3.02 acres of forest on site, primarily within the stream buffer. The 2.25 remainder of the requirement will be fulfilled by off-site options. The hierarchy of fulfillment is to provide the off-site portion through planting forest off-site in the same watershed, if possible; to provide afforestation elsewhere in the County if no opportunities exist in the same watershed; or to pay a fee-in-lieu if there are no off-site forest planting opportunities available.

All of the planted forest and the environmental buffer areas will be protected by a Category I easement within the stream buffer, and by Category II easements in forest planted outside of the stream buffer. Easements cannot be established in significant portions of the stream buffer that are already encumbered with easements from other agencies.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County 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 24 Protected Trees as identified in the Staff Report. Four additional trees (Numbers 15, 16, 17, and 18) were approved for removal under a variance approved with PFCP H-135. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

In this case, the unwarranted hardship is caused by the requirements of the zone and the Rock Spring Master Plan, which require that the buildings be pulled up to the street frontage, and that master-planned frontage improvements, including sidewalk improvements and bicycle facilities, be constructed on the street side of the property. If these requirements are not met, the submitted plan will not be in compliance with either the zoning requirements or the Rock Spring Master Plan. These requirements result in extreme damage to trees 37, 49, 51, 52, 53, 54, 57, 58, 61, 62, and 63, and necessitates their removal. Trees 4, 5, 6, and 50 are in the existing front parking lot that is to be removed to make room for two new buildings on the site. Trees 19 and 20 are within the courtyard on the south side of the existing building that is to be demolished to clear space for a substantial part of the development. Tree number 33 is within the demolition zone on the west side of the existing building. Between the frontage improvement requirements, the zoning requirements, and the demolition of the existing building, the impacts of the development will not make it possible to save these trees and still develop the site as intended by the zoning and the Rock Spring Master Plan.

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.*

Granting the variance will not confer a special privilege on the Applicant as the removal of the eighteen trees is due to the location of the trees and necessary site design requirements. The Planning Board approves removal of the eighteen trees with mitigation. Therefore, the granting of this variance is not a special privilege that would be denied to other applicants.

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 not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and the zoning, master plan and design requirements of this project.

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 existing conditions 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 variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not located within a stream buffer, wetland or special protection area. The Application proposes mitigation for the removal of these eighteen trees by planting larger caliper trees on-site. Therefore, the Planning Board concurs that the project 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 approved replacement of Protected Trees at a ratio of approximately one-inch caliper for every four inches removed using trees that are a minimum of inches caliper in size. This results in a total mitigation of 207.05 inches with an installation of 60 3.5-inch caliper trees. No mitigation is required for Protected Trees impacted but retained.

Noise Analysis

A Phase I Noise Analysis was prepared for the Property by Phoenix Noise and Vibration, LLC due to its proximity to high-volume roadways including Interstate 270, and the results were provided in a report dated July 31, 2020. A noise analysis is necessary to determine the projected interior and exterior noise levels requiring mitigation for residential units and outdoor recreational areas. The Montgomery County "Staff

Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” stipulate a 65 dBA Ldn maximum noise level for outdoor recreation areas and 45 dBA Ldn for indoor areas in the urban ring, freeway and major highway corridor areas.

The results of the analysis for this Property indicate that the parking garage will block noise from I-270 at the ground level and at lower levels of the residential buildings, but that the upper levels of the buildings facing I-270 will be subjected to excessive noise levels. The Noise Analysis notes that “a portion of the outdoor activity areas may be exposed to noise levels above 65 dbA Ldn.” This outdoor activity area includes the perimeter walking path adjacent to I-270. A structural noise barrier should be considered to reduce excessive noise exposure in this area.

The analysis also determined that the highest building façade noise level will approach 75 dBA Ldn. The Noise Analysis says that “residential units with impact above 65 dbA Ldn require further analysis and may require modifications to the proposed standard building construction. Depending on the noise level specific to each impacted unit, modifications may include increased window/door STC rating or slight adjustment to exterior wall construction” to ensure the guideline recommendations for interior areas are achieved.

6. The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.

The majority of the parking for the development is located within a retained parking garage located behind the Phase 1A buildings. Some parking will also be provided on-street to serve short-term parking needs of residents, visitors and park users.

An internal private street grid will provide circulation for private vehicles, pick-ups/drop-offs, deliveries. 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, which will provide dedicated zones for transportation providers serving the Property’s older adult residents as well as personal vehicles will be located within the Applicant’s internal private street network. Providing such short- and long-term vehicular amenities will prevent on-street conflicts and maintain multimodal flow on Fernwood Road/Westlake Terrace.

The internal private street network consists of ten-foot travel lanes, six-foot sidewalks, tree panels, bio-retention facilities such as rain gardens, and on-street parking throughout this phase of the overall 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. The majority of the internal private street network will be constructed in this initial phase,

with construction of the private shared street from Building RB 1.2 to the Fernwood Road and Rock Spring Drive intersection to be constructed as part of a future phase.

Building massing is consistent with the existing and proposed buildings in the vicinity and the building step backs will reduce the perceived mass and bulk of the buildings. The layout of buildings will form distinctive courtyards or 'outdoor rooms' connected visually and physically to the indoor community spaces at ground level. This approach will create a contiguous fabric of community activity at the ground level that promotes a community that is highly livable and walkable, all the while providing security and protection to its senior population.

The public open spaces are well in excess of the zoning requirements. An Urban Park will be constructed by the Applicant and dedicated to the M-NCPPC Parks Department. The Urban Park is prominently located on Fernwood Road and will provide varied facilities and amenities for residents, visitors and the general public. The Woodland open space will provide a meandering trail through existing and newly planted forest conservation areas on the western side of the Property. The Applicant proposes a rich array of amenities in Phase 1A to future residents of the CCRC and to the surrounding area including the public park, extensive landscaping, and site furnishings.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Project substantially conforms with the recommendations of the 2017 *Rock Spring Sector Plan* (Sector Plan or Plan) and *Parking Lots To Places: White Flint and Rock Spring Design Guidelines* (Design Guidelines). 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 development 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 1.75-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 addresses 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 Site Plan prioritizes the establishment of the central spine as a pedestrian-friendly environment by orienting development towards it. Phase 1A includes residential uses, a public park, and a publicly accessible walking path.

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)

Phase 1A provides a 1.75-acre lot that will be developed as a multi-generational Park and dedicated to the Parks Department. In addition, Phase 1A also provides the Woodland Hill Open Space along the Property's western border, consistent with the Plan's open space recommendations. Together these areas comprise over six acres of Public Open Space.

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 Phase 1A Site Plan proposes the following major public benefits to fulfill this requirement: the construction and dedication of a 1.75-acre multi-generational park to M-NCPPC and streetscape improvements beyond the Property frontage. A future phase will provide a partnership with Montgomery County Public Schools (MCPS) on a workplace training program.

Staff reached out to the 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.

Phase 1A includes a robust public benefits package. In addition to the major public facilities, public benefits include transit proximity, architectural elevations, exceptional design, building reuse, public open space and structured parking.

Environment and Sustainability

Phase 1A includes 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. Staff encourages the Applicant to look at the sustainability recommendations of the Plan for additional sustainability features that can be incorporated into the Project during future phases.

Sector/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.

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 Sector Plan recommends that the segment adjacent to the Property 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 with sufficiently wide separation from vehicles.

The lane reduction will require the Applicant to restripe Westlake Terrace. The Applicant proposes to maintain the 90’ right-of-way and is able to achieve the non-vehicular elements recommended by the *Design Guidelines* including a ten-foot-wide master-planned bidirectional separated bicycle lane facility.

A 40-foot transit easement is identified on the north side of Westlake Terrace 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.

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

Phase 1A continues bikeway improvements west of the Property, along Westlake Terrace, to provide a connection with the proposed bikeway associated with the approved, but unbuilt, Westfield Montgomery Mall redevelopment. The Applicant proposes to transition the bidirectional separated bicycle lanes 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 four-foot raised buffer, transitioning to the twelve-foot sidepath at the Motor City Drive – Westlake Terrace intersection. The improvements proposed for Westlake Terrace will occur as part of this first phase of the Applicant's overall 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 from Rockledge Drive to Rock Spring Drive. In order to accommodate the planned North Bethesda Transitway, a 40-foot transit easement is planned along the northern frontage of the right-of-way. The existing right-of-way varies in width along the Property frontage and the Applicant will dedicate right-of-way to meet a consistent 80' along the entirety of the Fernwood Road frontage. In accordance with the Parking Lots to Places: White Flint and Rock Spring Design Guidelines, the Applicant proposes to 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 ingress along the Camalier property to the south of the Subject Property, the Applicant proposes to maintain the existing six-foot sidewalk as a means 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. The Applicant proposes to repurpose space currently utilized by a deceleration lane that ties into the driveway entrance into the Camalier property. Furthermore, this segment of Fernwood Road is adjacent to the proposed 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.

Finally, the Applicant will extend the bikeway route southwards from the Camalier property entrance to the Fernwood Road and Democracy Boulevard intersection. As aforementioned, the two-way separated bicycle lanes will transition into an off-street ten-

foot sidepath south of the Subject Property, to the intersection. Due to existing constraints along the Camalier property frontage as a result of the channelized right turn lane at the Democracy Boulevard intersection, steep slopes along the berm, and mature canopy trees, expansion of the existing six-foot sidewalk into a ten-foot sidepath was determined by the Planning Board to be the most practical interim solution. However, the Applicant will place concrete barriers within the Fernwood Road gutter pan as a temporary form of separation due to the limited right-of-way available to construct a street buffer. The ten-foot sidepath with concrete barriers will then transition into the existing six-foot sidewalk as an interim design before implementation of separated bicycle lanes along Fernwood Road and the extension of the Democracy Boulevard sidepath occur as part of a future redevelopment or capital project.

The road diet and lane reconfiguration of Westlake Terrace/Fernwood Road as part of this site plan will implement a core goal of the *Rock Spring Sector Plan* by utilizing a mixture of separated bicycle lanes and interim sidepaths for the movement of existing and future residents of the Rock Spring community.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

The approval of Preliminary Plan No. 120210040 established that the proposed development will be served by adequate public services and facilities.

9. *The development is compatible with existing and approved or pending adjacent development.*

The Phase 1A buildings, which are the tallest within the overall CCRC Project, are strategically placed close to the western boundary of the Property, distanced from the existing Montgomery Row Townhomes. The buildings are of a scale and density that is consistent with the existing office buildings in the area and the residential developments on nearby Westlake Terrace (the approved, but unbuilt Ourisman Ford project and the Westfield Montgomery Mall mixed-use development). The CCRC use will complement the evolution of the Rock Spring area from a commercial office park to a mixed-use community.

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 this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; 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 MAR 10 2022 (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 Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy, Patterson, Verma, and Rubin voting in favor of the motion at its regular meeting held on Thursday, January 27, 2022, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

ATTACHMENT B



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Mitra Pedoeem
Director

January 7, 2022

Mr. Kyle Walker, P.E.
Soltesz
2 Research Place, Suite 100
Rockville, MD 20850

Re: **SITE DEVELOPMENT STORMWATER
MANAGEMENT PLAN** Request for ELP
Bethesda at Rock Spring, 10400 Fernwood
Road
Project Phase: Phase 1B
Site Plan No. 820220120
Preliminary Plan #: 120210040
SM File #: 286375
Total Concept Area: 704,195 sq ft/16.17 ac
Parcel(s): N737
Watershed: Cabin John Creek

Dear Mr. Walker:

Based on a review by the Department of Permitting Services Review Staff, the Site Development Stormwater Management Plan for Phase 1B of the above-mentioned site is **acceptable**. The plan proposes to meet required stormwater management goals via microbioretention and planter boxes.

The following **items** will need to be addressed **during/prior to** the final stormwater management design plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Landscaping in areas located within the stormwater management easement which are shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.



2425 Reedie Drive, 7th Floor, Wheaton, Maryland 20902 | 240-777-0311
www.montgomerycountymd.gov/permittingservices

Mr. Walker
January 7, 2022
Page 2 of 2

This letter must appear on the final stormwater management design plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Jean Kapusnick at jean,kapusnick@montgomerycountymd.gov or at 240-777-6345.

Sincerely,

Mark Etheridge

Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: jak

cc: N. Braunstein
SM File # 286375

ESD: Required/Provided 4,058 cf / 4,089 cf
PE: Target/Achieved: 1.89"/1.89"
STRUCTURAL: 0.0 cf
WAIVED: 0.0 ac.

820220120 ELP Bethesda at Rock Spring Phase 1B

Contact: Sam Farhadi at 240 777-6333

We have reviewed site plan file:

“07-SITE-820220120-C.102.pdf” uploaded on/ dated **“12/30/2021”**.

As there seems to be minimal impact to the County ROW (per the above site plan), we do not have any comments at this point.



Department of Permitting Services
Fire Department Access and Water Supply Comments

DATE: 19-May-22
TO: Keely Laretti
Loiederman Soltesz Associates, Inc
FROM: Marie LaBaw
RE: ELP Bethesda Phase 1B
820220120 (see 120210040)

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **09-May-22**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

***** Fire lane order to be processed upon receipt of Marketing Center address *****

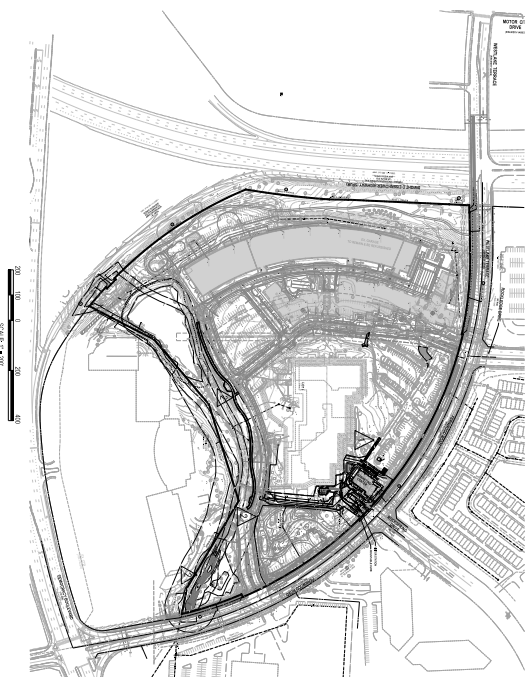
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- C-201 FINAL FOREST CONSERVATION PLAN
- C-202 FINAL FOREST CONSERVATION PLAN
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- C-205 FINAL FOREST CONSERVATION PLAN
- C-206 MITIGATION PLANTING PLAN
- C-207 MITIGATION PLANTING PLAN
- C-208 MITIGATION PLANTING PLAN
- C-209 MITIGATION PLANTING PLAN
- C-210 NOTES AND DETAILS

- L0.00 COVER SHEET
- L1.01 MARKETING CENTER SITE LAYOUT
- L1.02 THOMAS BRANCH LINEAR PARK
- L1.03 STREAM RESTORATION LAYOUT 2 OF 2
- L1.10 MARKETING CENTER ENLARGEMENT PLAN
- L1.20 MARKETING CENTER PLANTING PLAN
- L1.50 SITE SECTIONS - MARKETING CENTER
- L2.01 PLANTING SCHEDULE AND NOTES
- L4.01 HARDSCAPE LANDSCAPE DETAILS
- L4.02 HARDSCAPE DETAILS

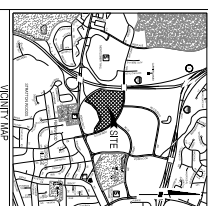
- A-100 MARKETING CENTER - FLOOR PLAN
- A-200 MARKETING CENTER - EXTERIOR ELEVATIONS
- A-202 MARKETING CENTER - EXTERIOR VIEWS
- A-301 MARKETING CENTER - WALL SECTIONS
- A-302 MARKETING CENTER - WALL SECTIONS

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BETHESDA (7TH) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

[illegible][illegible]

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**THE GRANDVIEW
PHASE 1B**

2 Research Place, Suite 100
Rockville, MD 20850
P. 301.948.2750
F. 301.948.9067
www.sciesco.com



For further information on this and other research, contact Dr. David R. Anderson at andersond@uakron.edu.
 1. Anderson, D. R. (2007). The state of affairs.
 2. Anderson, D. R. (2007). The state of affairs.
 3. Anderson, D. R. (2007). The state of affairs.

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no.	date	revision
Project Name		

0693-04-00

Date

2022-03-11

Drawing
PHASE 1B
COVER SHEET

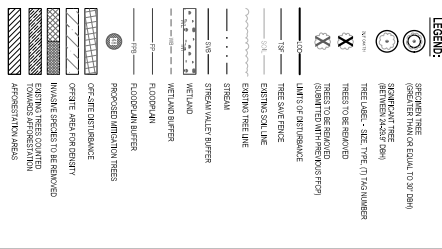
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PLANNING DEPARTMENT USE ONLY (E-PLANS)

1. THE STATE TREASURY HAS 5336 ADDRESSES AND THE ACCOUNT NUMBERS OF THE STATE ARE CLASSIFIED BY THE O.P.S.
2. THE STATE TREASURY HAS THE JOHN JOHN WATERS (2002) FBI REPORT, WHICH CLASSifies THE ADDRESSES TO THE LAWYER AND COUNTY BUREAU.
3. THE STATE TREASURY HAS THE LAWYER AND HISTORY OF THE STATE.
4. THE STATE TREASURY HAS A KNOW YOUR CUSTOMER STATE REPORT.
5. ACCOUNT LIMITS SHOW PER YEAR AND MAY 2001 TO 2002 EFFECTIVE DATE 1992000, NO MATCH TO COUNTY IDENTIFICATION NUMBERS HAS THE STATE.
6. THE STATE TREASURY HAS THE COUNTY IDENTIFICATION NUMBERS REPORT PROVIDED BY THE O.P.S. (MAY 2001), DATE JULY 20, 2003.
7. THERE ARE NO STATE OR COUNTY CHAMPION LETTERS ON THE PROPERTY.
8. THE STATE TREASURY HAS A CHAMPION LETTERS, OBSERVED ON THE STATE.
9. THE REMAINING ADDRESS IN THE INVESTIGATION REPORT BELONGS TO THE STATE.
10. STATEMENT OF THE STATE AND COUNTY IDENTIFICATION NUMBERS WILL BE PROVIDED TO THE STATE AND STATEWIDE WILL BE PROVIDED TO A LATER PHASE.
11. EXISTING STATE WITH PROPOSED FIVE ADDRESSES MAY BE COUNTED AS THE STATE.
12. THE STATE TREASURY HAS A CHAMPION LETTERS, OBSERVED ON THE STATE.



SHEET INDEX:	
"C-200 COVER SHEET	"C-206 MITIGATION PLANTING PLAN
"C-201 FINAL FOREST CONSERVATION PLAN	"C-207 MITIGATION PLANTING PLAN
"C-202 FINAL FOREST CONSERVATION PLAN	"C-208 MITIGATION PLANTING PLAN
"C-203 FINAL FOREST CONSERVATION PLAN	"C-209 MITIGATION PLANTING PLAN
"C-204 FINAL FOREST CONSERVATION PLAN	"C-210 NOTES AND DETAILS
"C-205 FINAL FOREST CONSERVATION PLAN	Modified Streets

[illegible]

Number of Acres		
2000	2005	
Remaining in agricultural use	-	
Road & Utility ROW ¹	2.17	
Total Excluded Forest	-	
Forest Termination	-	
Forest Canceled	-	
Land Use & Timberland²		
Land Use Category	ADP	
Conservation Threshold	250	
Alternative Threshold	250	
	ADP, Wetland, DRA, Urban, Rural, or DRA, protected	
Average Buffer		
Length (mi)	Width (mi)	
1.49	300	
Scenario		
Barland	Canceled	Planted
Wetlands	-	-
350 Year Floodplain	-	0.05
Private Forest	-	0.05
Private Areas	-	0.07

¹ Only forest in within 300m to be included as a part of development application.

² Excluded from riparian edge to buffer edge.

DEVELOPERS CERTIFICATE

The undersigned agrees to accede to all the features of the Approved Final Forest Conservation Plan No. _____ submitted by _____ ("applicant") to the Department of Environmental Protection, its successors, and all their appointing agencies.

Developer's Name: ELP Holdings at P.O. Sachs, LLC

(Print company name)

Contact Person or Officer: Steven Montgomery

(Print name)

Address: 701 Madison Capital Lane, Baltimore, MD 21228

Phone and Email: (410) 692-2441; steven.montgomery@elp.com

SIGNATURE: _____

ARCHITECT
ERICKSON SENIOR LIVING
 1000 PERIMETER ROAD
 BETHESDA, MD 20817
 TEL: 301.271.2111
 FAX: 301.271.2112

STRUCTURAL ENGINEER
CHAL DENTON
 1000 PERIMETER ROAD, SUITE 100
 BETHESDA, MD 20817
 TEL: 301.271.2111
 FAX: 301.271.2112

MEP ENGINEER
CHAL DENTON
 1000 PERIMETER ROAD, SUITE 200A
 BETHESDA, MD 20817
 TEL: 301.271.2111
 FAX: 301.271.2112

LANDSCAPE ARCHITECT
CHAL DENTON
 1000 PERIMETER ROAD, SUITE 100
 BETHESDA, MD 20817
 TEL: 301.271.2111
 FAX: 301.271.2112

ENGINEERING
SOLTESZ, INC.
 1000 PERIMETER ROAD
 BETHESDA, MD 20817
 TEL: 301.271.2111
 FAX: 301.271.2112

PHASE 1B SITE PLAN

THE GRANDVIEW

FINAL FOREST CONSERVATION
 1000 PERIMETER ROAD
 BETHESDA, MD 20817
 TEL: 301.271.2111
 FAX: 301.271.2112

COVER SHEET

ERICKSON SENIOR LIVING

ATTACHMENT E



March 16, 2022

Steve Findley, Planner Area 2
M-NCPPC
2425 Reedie Drive
Wheaton, MD 20902

Re: ELP Bethesda at Rock Spring – Phase 1B
Final Forest Conservation Plan – Specimen Tree Variance Request

Dear Mr. Findley,

On behalf of Erickson Living Management, LLC, Soltesz is requesting a variance for the critical root zone (CRZ) impact to twenty seven (27) specimen trees 30 inches or greater in DBH, as required under Section 22A-21 of Montgomery County's Forest Conservation Law. Four of these specimen trees were approved during the Preliminary Forest Conservation Plan Approval associated with H-135. This variance request is additionally pursuant to recent revisions to the State Forest Conservation Law enacted by State Bill 666, where it notes that the variance pertains to "trees having a diameter measured at 4.5 feet above the ground of 30 inches diameter or 75% of the diameter of the current state champion tree of that species as designated by the department". The impact to these trees results from a demolition project located in Bethesda. These trees are within the proposed LOD and will be removed or impacted due to conflicts with grading and demolition of an existing building.

Project Information

The site is located east of Dwight D. Eisenhower Highway (I-270), north of Democracy Boulevard, and bounded by Fernwood Road. The net tract area is approximately 33.64 acres, including offsite disturbance. The current zone is CR-1.5, C-0.75, R-0.75, H-150, and the proposed zoning classification is CRF-1.5, C-0.75, R-1.5, H-150.

The Preliminary Plan proposes 1,300 independent living units, 160-210 assisted living and memory care units, 30-50 skilled nursing care units, and 5,300 s.f. of retail. The proposed site plan and variance request will include a proposed marketing center, improvements to Thomas Branch Road, and linear park improvements.

Critical Root Impacts

A NRI-FSD (#420200260) has been approved by MNCPPC. The trees below that will be removed or impacted as a result of this plan of development are shown on the NRI/FSD and are numbered accordingly for reference purposes. Eight (8) specimen trees will be removed per this plan. Previously 19 trees were proposed to be removed.

ELP BETHESDA SPECIMEN (≥ 30" DBH) TREE LIST TO BE IMPACTED BUT SAVED (8 TREES)					
Tree #	COMMON NAME	BOTANICAL NAME	DBH	CONDITION	IMPACTS
Existing Trees along Fernwood Road					
7 (Ph1A)	Willow Oak	<i>Quercus phellos</i>	40.1	Fair	Save (prev. approved. final impact agreed with Parks)
Existing Trees within Stream Valley Buffer					
45 (Ph1B)	Red Mulberry	<i>Moras rubra</i>	36, 24, 18, 26	Fair	11% impact Save
55 (Ph1A)	Willow Oak	<i>Quercus phellos</i>	40.5	Good	Save (prev. approved)
56 (Ph1A)	Willow Oak	<i>Quercus phellos</i>	30.5	Fair	Save (prev. approved)
Existing Tree along Property Boundary facing I-270					
22 (Ph1A)	Black Cherry	<i>Prunus serotina</i>	32.5	Fair	Save (prev. approved)
64 (Ph1B)	Willow Oak	<i>Quercus phellos</i>	34.1	Fair	5% impact Save

ELP BETHESDA SPECIMEN (≥ 30" DBH) TREE LIST TO BE REMOVED (27 TREES including four trees previously approved for removal)					
Tree #	COMMON NAME	BOTANICAL NAME	DBH	CONDITION	IMPACTS
Group 1: Existing Tree in Parking Lot Fronting Drive where plan proposed Building RB2.3 and RB2.4					
1(Ph1B)	Willow Oak	<i>Quercus phellos</i>	37.6	Good	100%
2(Ph1B)	Willow Oak	<i>Quercus phellos</i>	31	Fair	100%
3(Ph1B)	Willow Oak	<i>Quercus phellos</i>	33.1	Fair	100%
4(Ph1B)	Willow Oak	<i>Quercus phellos</i>	41.8	Good	100%
5(Ph1B)	Willow Oak	<i>Quercus phellos</i>	35.6	Fair	100%
6(Ph1B)	Willow Oak	<i>Quercus phellos</i>	34.2	Fair	100%
50(Ph1A)	Willow Oak	<i>Quercus phellos</i>	33.9	Good	100%
Group 2: Existing Tree in Courtyard South of the Existing Marriott Building					
15(H135)	Willow Oak	<i>Quercus phellos</i>	39.6	Good	100%
16(H135)	Willow Oak	<i>Quercus phellos</i>	35	Good	100%
17(H135)	Willow Oak	<i>Quercus phellos</i>	33.3	Good	100%
18(H135)	Willow Oak	<i>Quercus phellos</i>	36.4	Good	100%
19(Ph1A)	Willow Oak	<i>Quercus phellos</i>	36.8	Good	100%

20(Ph1A)	Willow Oak	<i>Quercus phellos</i>	35.6	Good	100%
Group 3: Existing Trees west of demolished Building where plan proposes Building RB1.1, RB1.2.					
33(Ph1A)	Northern Red Oak	<i>Quercus rubra</i>	32.8	Fair	100%
Group 4: Existing Trees along Fernwood Road					
37(Ph1A)	Northern Red Oak	<i>Quercus rubra</i>	31.8	Poor	100%
49(Ph1A)	Willow Oak	<i>Quercus phellos</i>	38.8	Fair	100%
51(Ph1A)	Willow Oak	<i>Quercus phellos</i>	35.3	Good	100%
52(Ph1A)	Willow Oak	<i>Quercus phellos</i>	44.5	Good	100%
53(Ph1A)	Willow Oak	<i>Quercus phellos</i>	35.1	Good	100%
54(Ph1A)	Willow Oak	<i>Quercus phellos</i>	40.8	Fair	100%
57(Ph1A)	Willow Oak	<i>Quercus phellos</i>	44	Fair	100%
58(Ph1A)	Willow Oak	<i>Quercus phellos</i>	43.5	Fair	100%
61(Ph1A)	Willow Oak	<i>Quercus phellos</i>	37.3	Good	100%
62(Ph1A)	Willow Oak	<i>Quercus phellos</i>	39.8	Good	100%
63(Ph1A)	Willow Oak	<i>Quercus phellos</i>	42.3	Fair	100%
Group 5: Existing Stream Valley Buffer Trees					
12(Ph1B)	Red Maple	<i>Acer rubrum</i>	30.7	Good	100%
13(Ph1B)	Red Maple	<i>Acer rubrum</i>	38.4	Good	100%
Total DBH Previously removed - trees 15, 16,17, and 18 (H135)			144.30		
Total DBH Previously removed –Ph. 1A			572.30		
Total DBH Previously removed –Ph. 1B			282.40		
Total DBH Removed			999		
Total Caliper Replacement Required (1" caliper / 4" DBH)			250		
Total 3.5" Cal. Trees Planted			72		

Note: Variance Trees 15, 16, 17, and 18, also being removed during this phase, have been previously approved for removal during the Preliminary Forest Conservation Plan approval H-135.

Mitigation

All twenty seven (27) of the trees listed above to be removed are outside of forest stand areas and equate to a conglomerated DBH of 1006. This yields a requirement of seventy-two (72) 3.5" caliper trees for mitigation at a rate of 1" caliper replacement for every 4" DBH removed. All of these replacement trees are provided onsite as indicated on the Forest Conservation Plan throughout the site as street trees and within linear park. The following table lists the proposed mitigation trees for the site:

TREE VARIANCE MITIGATION PLANTING SCHEDULE					
Qty #	COMMON NAME	BOTANICAL NAME	CAL	B&B / CONT.	REMARKS
3	American Beech	<i>Fagus grandifolia</i>	3.5- 4" cal	B&B	Full, Limb to 7' from ground
3	Sweetgum	<i>Liquidambar styraciflua</i>	3.5- 4" cal	B&B	Full, Limb to 7' from ground
7	London Plane Tree	<i>Platanus x acerifolia</i>	3.5- 4" cal	B&B	Full, Limb to 7' from ground

30	Swamp White Oak	<i>Quercus bicolor</i>	3.5- 4" cal	B&B	Full, Limb to 7' from ground
1	American Basswood	<i>Acer rubrum</i>	3.5- 4" cal.	B&B	Full, Limb to 7' from ground
1	Single Oak	<i>Quercus imbricaria</i>	3.5- 4" cal	B&B	Full, Limb to 7' from ground
13	Willow Oak	<i>Quercus phellos</i>	3.5- 4" cal	B&B	Full, Limb to 7' from ground
14	American Elm	<i>Ulmus americana</i>	3.5- 4" cal	B&B	Full, Limb to 7' from ground
72	Total 3.5-4" Cal. Trees Planted				
252	Total Cal. Replaced				

Additional Application Requirements

Per Montgomery County's Forest Conservation Law Section 22A-21(b) of the *Application Requirements* states that the applicant must:

- (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) provide any other information appropriate to support the request.

(1) Pursuant to "(1) describe the special conditions peculiar to the property which would cause the unwarranted hardship":

The recommendations for the Project site as stipulated in the applicable Master Plan (Rock Spring Sector Plan) and as supplanted by the Rock Spring and White Flint 2 Design Guidelines provide guidance that in turn restricts development on the site and necessitates the removal and impact of twenty seven (27) specimen trees.

The eleven (11) trees in Group 4 fronting Fernwood Road are to be removed because of master planned road improvements. During the preliminary plan review, MCDOT and MNCPPC have requested that the sidewalk in front of the building be shifted away from the bike lane to enhance pedestrian safety which also further impacts the existing trees. The addition of a wider sidewalk shifted onto the property and a bike lane under this application will cause insurmountable impacts to the critical root zone of these eleven (11) trees.

In consultation with Don Zimar, RPF #377, RCA #446, it was determined that the canopies of the trees located on the Fernwood Road frontage extend 30-40 feet into the site requiring significant pruning in order to construct the proposed buildings. Even with a high level of commitment and attention to detail, the high level of activity caused by development will cause substantially high risk. He concluded that given the level of effort required, high risk of failure, and effect on design objectives, it is not recommended to preserve these trees.

Thirteen (13) trees in Group 1, Group 2, and Group 3 are to be removed due to the removal of the existing parking lot, existing building, and site landscaping areas, along with the new infrastructure

required for roads, utilities and stormwater, where the Sector Plan and Design Guidelines recommend that new development be located.

Two (2) trees in Group 5 are to be removed due to the removal of the existing structural stormwater features. These features are being removed in the stream valley buffer to naturalize the stream and reduce erosion per the Sector Plan and Design Guidelines.

This phase of the plan is the construction of the marketing center and linear park along the stream. Future phases are to construct additional buildings on-site. Other trees will be impacted or removed in later phases.

As these development guidelines are recommended by the County, **it would cause an unwarranted hardship** to the developer to both maintain the twenty-seven (27) specimen trees without impact and meet the requests of the applicable Master Plan and Design Guidelines.

(2) Pursuant to “(2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas”:

Enforcement of a prohibition of impacting the specimen trees would **deprive the applicant of the rights commonly enjoyed by others** who are in similar areas that have many of the same features as the subject property. The recommendations of the Master Plan and Design guidelines apply to the Rock Spring Central area, which is characterized by office buildings containing similar form and planting patterns.

The fourteen (14) trees in Group 1, Group 2, and Group 3 are all within the existing office building and parking lot which, according to the new Design Guidelines, new development should be supported (Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans, p. 44). These trees are also impacted by shifting the Shared Entrance Drive to enhance and expands the open space network and greenway connector link through the Rock Spring neighborhood in order to improve open spaces and the environment per the master plan and design guidelines. (Rock Spring Sector Plan pg. 42-48, 54-57, and 60).

The seven (7) trees in Group 4 fronting Fernwood Road are to be removed because of master planned road improvements, a relocated water line, and proposed buildings required to front onto Fernwood Road per the above master plan and guidelines (see Figure 3.19 Rock Spring Central Concept Diagram on page 57 and Figure 3.21 Illustrative Plans of Marriott International Headquarters Site Showing a Potential Redevelopment Scenario). During the preliminary plan review, MCDOT and MNCPPC have requested that the interim Fernwood Road cross section (Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans p. 75) be constructed from the centerline to the property line with the addition of the sidewalk in front of the building be shifted away from the bike lane to enhance pedestrian safety which also further impacts the existing trees. Fire and Rescue also asked for an additional 1’ of lane width for travel per code as well. The addition of a wider sidewalk shifted onto the property, a bike lane, a wider drive lane, the removal of a water line, and buildings fronting the street which are all recommended in the Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans will cause insurmountable impacts to the critical root zone of these fourteen (14) trees.

(3) Pursuant to “(3) verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance”:

The applicant recognizes that the Cabin John Creek Watershed is in poor health and that in concept, the removal of fourteen (14) specimen trees in Groups 1, 2, and 3 may arouse concern for the potential further degradation of its waters, specifically of Thomas Branch. As part of the mitigation of these removals, the entrance drive is being shifted away from the stream and parking removed in the stream valley buffer as well which will enhance the water quality of the stream. New stormwater devices are proposed as well to enhance the water quality of the stream. All other trees proposed to be removed are outside the stream valley buffer in areas recommended for development or required as part of master plan improvements for stream renovation. Stormwater regulations have revolutionized since the 1980's when the thirty existing trees were planted. The applicant is confident that the stormwater facilities installed in conjunction with the new development will not just protect the current water quality, but enhance it, and that **granting this variance will not violate state water quality standards.**

Two (2) trees in Group 5 are to be removed to improve water quality standards for the project through stream renovation. These trees are being removed in the stream valley buffer in order to remove a concrete structure conveying water, naturalize the stream, and reduce erosion per the Sector Plan and Design Guidelines. See drawings 32-SWR-820220120-001 through 007 for stream renovation design details. This area will be placed in a category I conservation easement with new reforestation.

(4) Pursuant to “(4) provide any other information appropriate to support the request”: While the proposed development necessitates the impact to twenty-seven specimen trees, it will mitigate a for those trees on-site.

Minimum criteria for Variance

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) *will confer on the applicant a special privilege that would be denied to other applicants;*
- (2) *is based on conditions or circumstances which are the result of actions by the applicant;*
- (3) *arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or*
- (4) *will violate State water quality standards or cause measurable degradation in water quality*

Pursuant to “**(1) will confer on the applicant a special privilege that would be denied to other applicants**”:

The use of this site for a continuing care retirement community (CCRC) is a permitted and approved use in the underlying CR zone for this project site. The Design Guidelines recommend acceptance of new development in the Rock Spring Central area, including infill buildings, adaptive reuse, and tear downs. In addition, the neighboring Montgomery Row property was approved to remove specimen trees in order to construct new development in accordance with the Rock Spring Sector Plan. As such, development of the site and the subsequent tree impact is **not a special privilege** to be conferred upon the applicant.

Pursuant to “**(2)** is based on conditions or circumstances which are the result of actions by the applicant; and **(3)** arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property”

The applicant has taken no **actions leading to the conditions or circumstances** that are the subject of this variance request. Furthermore, the surrounding land uses do not have any **inherent characteristics that have created** this particular need for a variance.

Pursuant to “**(4)** will violate State water quality standards or cause measurable degradation in water quality”

Per the previous response, the applicant restates its confidence that granting this variance request **will not violate State water quality standards or cause measurable degradation in State water quality standards.**

For these reasons listed above, we believe it is appropriate to grant this request for a variance. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,
SOLTESZ
Keely D. Lauretti