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September 13, 2022

*Via Electronic Mail*

Ms. Stephanie Dickel  
Regulatory Supervisor  
Montgomery County Planning Department  
2425 Reedie Drive  
Wheaton, Maryland 20902

Re: Request for Extension of Plan Validity Period – Falkland North  
Preliminary Plan No. 12007056A

Dear Ms. Dickel:

On behalf of Falkland Road Residential, LLC, an affiliate of JBG Smith (“Applicant”), and in accordance with Subdivision Ordinance Section 50.4.2.H, we hereby request a two-year extension of the Preliminary Plan validity period for the Falkland North development.

On September 10, 2015, the Planning Board approved a Sketch Plan, Preliminary Plan Amendment and Site Plan Amendment for the development of 1,250 dwelling units and 120,000 square feet of nonresidential uses (the “Approvals”). Preliminary Plan Condition No. 29 of the Preliminary Plan Resolution dated September 28, 2015 provides for an 85-month APF validity period for Phase 1 (i.e. October 28, 2022) and a 145 month APF validity period for all subsequent phases of the development (i.e. October 28, 2030). Pursuant to Subdivision Ordinance Section 50.4.2.G.2, the Preliminary Plan remains valid for 60 months from the initiation date, or October 28, 2020.

As a result of Subdivision Regulation Amendment 20-01 which provided a two year legislative extension to all valid approvals, the APF validity period is now extended to October 28, 2024 for the first phase of the project and October 28, 3032 for all subsequent phases. The Preliminary Plan validity period is now extended to October 28, 2022. This subject request to extend the Preliminary Plan validity period for two years will allow the Preliminary Plan validity period to run parallel with the APF validity period such that both the Preliminary Plan and APF validity periods would remain valid until October 28, 2024.

Subdivision Section 50.4.2.H.3.a.i allows the Planning Board to extend the validity period of a preliminary plan if the Board finds that:

[D]elays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant.

Since shortly after the Planning Board's approval of the Falkland North development, the Applicant has worked diligently with Maryland Transit Authority ("MTA") in connection with MTA's acquisition of a portion of the Falkland North property to accommodate the Purple Line. These negotiations finally culminated in late 2018 with the recordation of a deed reflecting the Applicant's conveyance of 25,115 square feet of land area in fee simple to MTA and the granting of a temporary construction easement involving 22,394 square feet of land area to facilitate the construction of the Purple Line.

Subsequent to reaching agreement with MTA, MTA completed the following:

1. Removal of two separate buildings, both of which was connected to two other buildings, thus requiring reestablishment of new exterior walls and reestablishment of utility connections;
2. Temporary relocation of tenants in the two remaining buildings referenced above during the construction period to reestablish these buildings; and
3. Removal of a portion of the parking and re-establishment of the parking elsewhere on the site.

In a letter dated July 30, 2020, the State Highway Administration informed the Applicant that they would continue to need the temporary construction easements. Given that the Purple Line construction within and adjacent to the temporary construction easement the Applicant granted to MTA has not yet been completed, we expect that the construction easements will need to remain in place for at least the next 18 months to two years.

Despite the Applicant completing its obligations to accommodate the Purple Line construction, the Applicant does not want to consider any development on the Property in accordance with the Approvals until the work associated with the Purple Line is completed and the Property restored. Almost seven years after the approval of the development, and due to delays in the Purple Line construction, it is impossible to predict with any certainty when the construction of that portion of the Purple Line adjacent to the Property will be completed. In addition, given that the recordation of the plat will likely trigger an increase in the property taxes, it is most logical for the Applicant to postpone the recordation of the plat until it is clear that the development will commence.

For these reasons, and given that the APF validity period for Phase 1 of the development is due to expire on October 28, 2024, the Applicant respectfully requests that the Plan Validity

period be extended for two years to October 28, 2024 in order to coincide with the APF validity period.

In furtherance of this request, attached please find a Plan Validity Application form and the \$2,750 application fee. We appreciate your consideration.

Sincerely,



Patricia A. Harris

encls.

cc: Mrs. Kristi Smith  
Mrs. Samantha Martino



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

**MCPB No. 10-163**  
**Preliminary Plan No. 120070560**  
**Falkland North**  
**Date of Hearing: November 18, 2010**

**DEC 14 2010**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on January 12, 2007, Home Properties Falkland Chase, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property and submitted a revised application on June 16, 2010, that would create one lot on 9.77 acres of land in the CBD-R1 zone, located in the northeast quadrant of the intersection of 16th Street and East-West Highway (MD 410) ("Property" or "Subject Property"), in the Silver Spring Sector Plan area ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application, together with the revised application was designated Preliminary Plan No. 120070560, Falkland North (formerly Falkland Chase) ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated November 8, 2010, which was revised on November 10, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions (together, the "Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on November 18, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to  
Legal Sufficiency:

*[Signature]* 11/29/10  
MNCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320 B-1

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WHEREAS, on November 18, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor, Commissioner Alfandre absent.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120070560 to create one lot on 9.77 acres of land in the CBD-R1 zone, located in the northeast quadrant of the intersection of 16th Street and East-West Highway (MD 410), in the Silver Spring CBD Sector Plan area, subject to the following conditions:

1. Approval under this Preliminary Plan is limited to 1 lot for a maximum of 70,000 square-feet of retail uses and a maximum of 1,250 multi-family residential units. A minimum of 12.5% of the residential units must be Moderately Priced Dwelling Units (MPDUs). A minimum of 4.72% of the residential units must be Workforce Housing Units (WFHs).
2. The proposed development must comply with the conditions of the preliminary Forest Conservation Plan. The Applicant must satisfy all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits. Conditions include:
  - a. The final forest conservation plan must include detailed and specific tree protection measures, prepared by an certified arborist for all impacted trees.
3. Prior to approval of any site plan, the Applicant must prepare and submit a noise analysis that considers all transportation sources immediately adjacent to the subject site. The noise analysis must identify the existing 60, 65, and 70 dba Ldn noise contours, 20 year projected 60, 65, and 70 dba Ldn noise contours, and methods to treat the exterior and interior noise to acceptable levels.
4. The Applicant must comply with the conditions of approval for Project Plan 920070080.
5. The final number of dwelling units and MPDUs and WFHs will be determined at Site Plan.
6. The Applicant must dedicate and the record plat must show dedication for the following rights-of-way along the Property frontage consistent with the *Silver Spring CBD Sector Plan*:
  - a. East-West Highway – a minimum of 59 feet from the roadway right-of-way centerline for a distance of 300 feet east of 16<sup>th</sup> Street centerline and a minimum of 55 feet from the roadway right-of-way centerline for the remainder of site frontage.
  - b. 16<sup>th</sup> Street – a minimum of 60 feet from the roadway right-of-way centerline.

7. Prior to recordation of the plat, the Applicant must record a covenant stating that, at the Maryland Transit Administration's (MTA) request, the Applicant will dedicate to MTA for public use for the Purple Line Locally Preferred Alternative (LPA), at no cost, the area designated on the certified Preliminary Plan as "Future Dedication" or any such lesser area within the designated area as is determined by MTA to be necessary. The covenant may specify that such dedication shall be made when the County or State has incorporated the Purple Line improvements in an adopted County Capital Improvements Program ("CIP") or State Consolidated Transportation Program ("SCTP") which provides for appropriation of funds equal to the estimated costs of designing and constructing any portion of the Purple Line improvements. The covenant will remain in effect for 15 years from the date of the mailing of the Planning Board resolution. The record plat must include a reference to the recorded covenant.
8. The Applicant must grant and the record plat must show an access easement on the Property to the Maryland Transit Administration (MTA), as referenced in a letter dated November 3, 2010, from MTA, between 16<sup>th</sup> Street and the proposed Purple Line Locally Preferred Alternative alignment. The access easement must be shown on the certified Preliminary Plan.
9. The Applicant must submit an updated traffic study and an updated signal warrant analysis for the proposed development as part of any future site plan to support the final approval of the proposed configurations of the East-West Highway and 16<sup>th</sup> Street site access driveways, and the proposed traffic signal at the shared East-West Highway driveway. These documents must be provided to Maryland State Highway Administration (SHA) and Transportation Planning Division staff as part of the site plan review.
10. The Applicant must coordinate with SHA and provide necessary pedestrian safety improvements at the East-West Highway/16<sup>th</sup> Street intersection (specifically to the southeast corner of the intersection). The Applicant must satisfy all design requirements related to this pedestrian safety improvement at least 30 days prior to any Planning Board hearing on the site plan for the development.
11. The Applicant must submit to Transportation Planning Division staff an implementation schedule that is tied to the development construction schedule for all required site frontage, site access, and access control improvements at least 30 days prior to any Planning Board hearing on the site plan for the development. The required public roadway improvements must be open to traffic prior to the issuance of any building occupancy permit for the development.
12. The Applicant must enter into a Traffic Mitigation Agreement ("Agreement") with the Planning Board and the Montgomery County Department of Transportation (DOT) to participate in the Silver Spring Transportation Management District (TMD). The final Agreement must be executed prior to the release of any building permit for the proposed development.

13. The Applicant must comply with the conditions of the MCDPS stormwater management approval dated September 13, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
14. The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated July 30, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
15. The Applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated November 1, 2010. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
16. The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of access permits.
17. No clearing, grading or recording of plat prior to certified site plan approval.
18. The record plat must show all necessary easements.
19. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid according to the following schedule:  
 Phase I: issuance of building permits for at least 700 dwelling units, including MPDUs, and 70,000 square feet of retail uses – the APF review for this phase will remain valid 85 months from the date of mailing of the Planning Board Resolution.  
 Phase II: issuance of building permits for at least 300 additional dwelling units, including MPDUs – the APF review for this phase will remain valid for 109 months from the date of mailing of the Planning Board Resolution.  
 Phase III: issuance of building permits for the remaining 250 dwelling units, including MPDUs – the APF review for this phase will remain valid for 145 months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Sector Plan.*

The Preliminary Plan is consistent with the Silver Spring CBD Sector Plan. The Sector Plan provides for the development of downtown Silver Spring under the following themes: transit-oriented, commercial, residential, civic, green and pedestrian friendly. The Falkland North project is in line with these themes as it provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the Silver Spring Transit Center. It furthers

the Plan's goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

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

A traffic study dated July 27, 2010, was submitted for the subject Preliminary Plan for Adequate Public Facilities (APF) review purposes because the development proposed on the Property – 70,000 square-feet of retail and 1,250 high-rise residential units in place of existing 182 garden style apartment units – is expected to generate 30 or more total peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

Using Silver Spring CBD trip generation rate for retail uses and discounted CBD trip rates for the residential uses, and after accounting for existing residential uses on the Property, the study estimated that the proposed Falkland North development will generate 299 net new peak-hour trips during the morning peak period and 446 net new peak-hour trips during the evening peak period.

For comparison purposes, the study also determined that if non-Silver Spring CBD trip generation rates were used, the development would generate 467 net new peak-hour trips during the morning peak period and 753 net new peak-hour trips during the evening peak period. The development, therefore, generates a lower number of trips during the morning (467 vs. 299 peak-hour trips) and evening (753 vs. 446 peak-hour trips) peak periods as a result of being located within the Silver Spring CBD.

- Local Area Transportation Review (LATR)

As shown in the traffic study, the capacity analysis demonstrates that under total traffic conditions, CLV at intersections included in the traffic study would be below the applicable congestion standard for Silver Spring CBD Policy Area (1,800 CLV). The Preliminary Plan, therefore, satisfies the LATR requirements of the APF test.

- Policy Area Mobility Review (PAMR)

To satisfy the PAMR requirements of the APF test, the Silver Spring CBD Policy Area requires mitigation of ten percent of new peak-hour trips generated by a development.



The site trip comparison summary provided in the traffic study demonstrates that the proposed development as a result of being located within the Silver Spring CBD will generate approximately 36 percent fewer peak-hour trips during the morning peak period and 41 percent fewer peak-hour trips during the evening peak period when compared to similar land uses outside the Silver Spring CBD. Since the trip mitigation being provided by virtue of the CBD-area project site is more than the PAMR trip mitigation requirement for the Silver Spring CBD Policy Area, the Preliminary Plan satisfies the PAMR requirements of the APF test.

Vehicular and pedestrian access will be safe and adequate with the proposed improvements. Vehicular improvements include using existing curb cuts to consolidate site entrances for adjacent sites off 16th Street and East-West Highway. The project will provide pedestrian improvements along the primary site frontages and through the project via a new internal private street.

The Subject Property is adjacent to the proposed Purple Line light rail route, and a portion of the Property will be needed for the proposed right-of-way. The Applicant is willing to convey the necessary area of the Property to the MTA at no cost. The approval includes a condition that reflects this through recordation of a covenant.

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and public sewer. The Application is currently under review by the Montgomery County Fire and Rescue Service who must determine as part of future site plan approval that the Property has appropriate access for fire and rescue vehicles. A final fire access approval has not been issued as part of this Preliminary Plan because more detail is needed about the design of buildings along the existing and proposed WMATA property to determine how the rear of the buildings will be adequately served. Providing adequate fire access and/or protection may include provision of interior fire suppression systems and/or changes to the location and configuration of buildings, which will be depicted on the site plan. Other public facilities and services, such as police stations, firehouses, schools, and health services, are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. The Application is not within a school moratorium area, and a school facilities payment is not required. Electrical, telecommunications, and natural gas services are also available to serve the Subject Property.

Although the adequate public facilities (APF) review validity period for typical preliminary plans is seven years, Section 50-20 of the Subdivision Regulations authorizes a validity period of up to 12 years. The Planning Board

approves a phased 12-year APF validity period for this Preliminary Plan because the complex nature and size of this project creates the need for a lengthy construction period. The Applicant is proposing to construct in three phases, the last of which would begin within 12 years after approval of the Application. Therefore, a phased 12-year APF validity period is appropriate, and a condition reflecting that is included in the approval.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The proposed lot size is appropriate, because it accommodates a mixed-use development with internal private access driveways. The width of the lot is suitable given the multiple points of access that are necessary to accommodate the commercial and residential parking garages. The shape is appropriate because a rectangular lot remains in its current configuration, which is appropriate for the corner orientation of the Property.

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

A preliminary forest conservation plan was approved with the Preliminary Plan. There is a planting requirement of 1.19 acres of forest. This requirement will be met off-site, as there are no priority planting areas on-site. There are 21 specimen trees ( $\geq 30$ " DBH), 21 large trees ( $\geq 24$ " DBH), and one County champion tree on-site. Thirty-nine of these 43 trees are proposed for removal as part of this development. In addition, two off-site specimen trees are proposed for removal. Four of those trees are proposed for retention on the site. However, when detailed plans are developed, retaining these trees may not be possible given the extent of disturbance on-site.

#### Forest Conservation Variance

Section 1607(c) of the Natural Resources Article, Maryland Annotated Code, identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a variance. 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 Code. The law requires no impact to and the retention and protection to the greatest extent possible of all trees that measure 30" diameter at DBH or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; and rare, threatened and endangered species. Since this project did not obtain approval of a

preliminary forest conservation plan prior to October 1, 2009 and the Applicant is proposing to remove 21 trees greater than 30 inches DBH onsite, 3 trees greater than 30 inches DBH offsite, and 1 County champion, a variance is required.

The Applicant has requested a variance to remove the following trees:

	Tree Removal Descriptions		
	DBH	TYPE	COND.
A	30	WHITE PINE	Fair
B	30	WHITE PINE	Fair
C	30	RED OAK	Fair
D	40	TULIP POPLAR	Good
E	42	TULIP POPLAR	Fair
F	32	RED OAK	Fair
H	38	TULIP POPLAR	Fair
J	31	TULIP POPLAR	Fair
K	33	BOX ELDER	Fair
L	35	BOX ELDER	Poor
M	32	TULIP POPLAR	Fair
N	40	TULIP POPLAR	Fair
O	30	BLACK LOCUST	Fair
P	38	PIN OAK	Fair
Q	34	PIN OAK	Fair
R	38	WHITE PINE	Fair
S	32	WHITE PINE	Poor
T	30	WHITE PINE	Fair
U	36	WHITE PINE	Poor
Offsite V	42	ELM	Poor
Offsite W	44	BLACK OAK	Poor
X	32	TULIP POPLAR	Fair
Offsite Y	33	TULIP POPLAR	Fair
CC	31	YELLOWWOOD	Poor
ZZ	11	HAWTHORNE	Poor

While trees C, D, E, and F may be retained, the ability to do this will be dependent on final design details. Therefore, the Applicant is requesting a variance to remove these trees but will continue to work towards saving these trees with the submission of the site plan.

In accordance with Section 22A-21(e), the Applicant has met all of the following criteria required for the Board to grant the 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 as the removal and/or disturbance of the specimen trees noted above are the minimum

necessary in order to develop the Property. Furthermore, the variance is necessary and unavoidable in order to develop Property according to the Sector Plan. Any redevelopment of this site would require similar levels of disturbance and tree loss. The same criteria have been applied to other projects where the impacts and removals are unavoidable.

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

The variance is not based on conditions or circumstances which are the result of actions of the Applicant. The Property is located in the Silver Spring Central Business District and is zoned CBD-R1. The distribution of trees throughout the site and next to existing buildings increases the difficulty of retaining the trees. In specific, the County champion 11" DBH hawthorn tree (tree ZZ) is essentially a foundation planting of one of the existing buildings.

3. Is not based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

The variance is not the result of a condition, either permitted or non-conforming, on a neighboring property. The neighboring properties are developed residential or commercial properties, or public rights-of-way.

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 specimen trees being removed or disturbed are not within a stream buffer, wetland, or a special protection area. The development will actually improve the water quality generated from the site because the new development will introduce stormwater management onto a location that currently has none. Three environmental site design measures are proposed to be implemented to the maximum extent practicable within the development on the site. These measures are green roofs, rainwater harvesting, and micro bioretention. Approximately 40% of the proposed rooftops are planned to be green roofs. Two cisterns are proposed within the underground garage to collect approximately 2 inches of runoff from remaining rooftops and green space. Seven micro bioretention facilities are proposed throughout the site to address the water quality volume requirement for the development. These micro bioretention facilities more than provide treatment for the water quality volume required on-site. The micro bioretention facilities not located above structure are proposed to have a stone reservoir below to allow infiltration in order to meet the recharge volume requirements.

Although the County Arborist recommended mitigation for the impact to critical root zones of the specimen trees, the Planning Board does not find that any additional mitigation is necessary to offset the impact of critical root zones for the following reasons:

1. Removal and impact to the trees greater than 30 inches are internal to the site and unavoidable to achieve the Sector Plan densities.
2. The Applicant is planting 217 new canopy trees either internal to the site or along 16th Street and East West Highway as part of the landscape plan.
3. The forest conservation plan generates a 1.19 acre forest planting requirement for a property that currently has no forest.

As a result of the above findings, the Planning Board approves the Applicant's request for a variance from individual tree retention requirements of the Forest Conservation Law to remove the 25 trees. The variance approval is assumed into the Planning Board's approval of the forest conservation plan.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on September 13, 2010. The stormwater management concept includes on-site channel protection and water quality control via the use of environmental site design techniques and off site stream restoration.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Land Records of Montgomery County, Maryland or a request for an extension must be filed; 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 DEC 14 2010 (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 Presley, seconded by Commissioner Alfandre, with Vice Chair Wells-Harley and Commissioners Alfandre and Presley voting in favor of the motion, and with Chair Carrier and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, December 9, 2010, in Silver Spring, Maryland.

  
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Marye Wells-Harley, Vice Chair  
Montgomery County Planning Board



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

SEP 28 2015

MCPB No. 15-39  
Preliminary Plan No. 12007056A  
Falkland North  
Date of Hearing: September 10, 2015

**RESOLUTION**

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

WHEREAS, on November 18, 2010, the Planning Board, by Resolution MCPB No. 10-163, approved Preliminary Plan No. 120070560, creating one lot on 9.77 acres of land for a maximum of 70,000 square feet of retail uses and a maximum of 1,250 multi-family residential units, including a minimum of 12.5% moderately priced dwelling units ("MPDUs") and 4.72% workforce housing units ("WFHUs") in the CBD-R1 zone, located in the northeast quadrant of the intersection of 16<sup>th</sup> Street and East West Highway ("Subject Property"), in the Silver Spring CBD Policy Area, *Silver Spring Central Business District and Vicinity Sector Plan* ("Sector Plan") area; and

WHEREAS, on December 3, 2014, Falkland Road Residential, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to create one lot and one outlot for a maximum of 1,156,329 square feet of multi-family residential uses, consisting of up to 1,250 multi-family units including 12.5% MPDUs and 4.72% other affordable housing units, and up to 120,000 square feet of nonresidential (retail, restaurant, or service) uses on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12007056A, Falkland North ("Preliminary Plan", "Amendment" 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 August 28, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320

M-NCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

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Falkland North  
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WHEREAS, on September 10, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record 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 Preliminary Plan No. 12007056A to create one lot and one outlot for a maximum of 1,156,329 square feet of multi-family residential uses, consisting of up to 1,250 multi-family units including 12.5% MPDUs and 4.72% other affordable housing units, and up to 120,000 square feet of nonresidential (retail, restaurant, or service) uses on the Subject Property, subject to the following conditions:<sup>1</sup>

1. All conditions imposed by the approval of Preliminary Plan No. 120070560 in Planning Board Resolution MCPB No. 10-163 dated December 14, 2010, are superseded by the conditions contained herein.
2. Approval is limited to one lot for a maximum of 1,276,329 square feet of total development, including up to 1,250 dwelling units, including 12.5% moderately priced dwelling units (MPDUs) and 4.72% other affordable housing units, as described in the amended Declaration of Restrictive Covenant with M-NCPPC that is attached to the August 28, 2015, Falkland North Staff Report as Attachment C, and up to 120,000 square feet of nonresidential (retail, restaurant, or service) uses, and one outlot for future Purple Line dedication.
3. The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 320150020.
4. Prior to issuance of an associated Sediment Control Permit from the Montgomery County Department of Permitting Services ("MCDPS"), the Applicant must obtain approval of a revised Final Forest Conservation Plan ("FFCP") from the Planning Department, subject to the following:
  - a. The Applicant must revise the FFCP to clarify the mitigation planting requirements of at least 199.5 caliper inches of replacements.
  - b. The tree save component of the FFCP addressing impacted trees and transplanting specifications must be prepared by a Maryland licensed tree care expert who is also an ISA certified arborist.

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



5. The certificate of compliance that satisfies the 1.25-acre total afforestation requirement (or as determined by the approved revised FFCP) must be submitted by the Applicant and approved by M-NCPPC Office of the General Counsel prior to any clearing, grading or demolition within the project area.
6. Prior to certification of any site plan, the Applicant must provide Staff with a noise analysis that identifies existing and 20-year-projected noise contours showing any portions of the Subject Property under that site plan that are subject to noise levels exceeding 65 dBA.
7. Prior to issuance of any above-grade building permit, the Applicant must provide certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn and must commit to construct the units in accordance with these design specifications, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation.
8. Prior to certification of any site plan, the Applicant must submit for Staff approval the details for and location of noise mitigation techniques to attenuate current noise levels to no more than 65 dBA Ldn for areas of common outdoor activity.
9. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide Staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accordance with the approved specifications for noise attenuation.
10. The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("MCDHCA") in its letter dated August 27, 2015, and hereby 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 MCDCHA, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
11. The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated January 28, 2015, and hereby 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

12. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated December 30, 2014, and does hereby incorporate 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, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
13. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements which are associated with each plat, as required by MCDOT.
14. The Applicant must show on the applicable final record plat(s) the following right-of-way dedications, Public Improvement Easements, or Public Access Easements consistent with the 2000 Approved and Adopted *Silver Spring Central Business District and Vicinity Sector Plan* and Montgomery County Code Chapter 50 Subdivision Regulation requirements:
  - a. East-West Highway (MD 410): Dedication necessary to provide:
    - i. A minimum of 59 feet between the property line and right-of-way centerline to support a master planned future right-of-way of 118 feet within 300 feet of the 16<sup>th</sup> Street intersection.
    - ii. A minimum of 55 feet between the property line and right-of-way centerline to support a master planned future right-of-way of 110 feet for the remainder of the Subject Property's East-West Highway frontage.
  - b. 16<sup>th</sup> Street (MD 390): Dedication necessary to provide 60 feet between the property line and right-of-way centerline to support a master planned future right-of-way of 120 feet.
15. The Applicant must install short term public bicycle parking along the retail frontages and near public open space. Secure long-term bicycle parking must be installed internal to the residential buildings or garages for residents' use.
16. The Applicant must enter into a Traffic Mitigation Agreement ("TMAg") with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District and must execute the TMAg prior to the release of any above grade building permit for development on the Subject Property, exclusive of any sheeting and shoring permit. The TMAg must include trip mitigation measures recommended by MCDOT.
17. Prior to recordation of the plat, the Applicant must record a deed of easement covering the driveway at the eastern boundary of the Subject Property, as shown on the Preliminary Plan, granting the adjoining property owner and any successors and assigns the non-exclusive right to use the driveway for public access from East-West Highway to the adjoining property upon that property's

- redevelopment. The deed of easement must be reviewed and approved by the M-NCPPC General Counsel's Office prior to recordation, and its liber and folio number must be reflected on the record plat.
18. Prior to recordation of the plat, the Applicant must record a covenant stating that, at the Maryland Transit Administration's ("MTA") request, the Applicant will dedicate to MTA for public use for the Purple Line Locally Preferred Alternative (LPA), at no cost, the area designated on the certified Preliminary Plan as "Future Dedication" or any such lesser area within the designated area as is determined by MTA to be necessary. The covenant may specify that such dedication shall be made when the County or State has incorporated the Purple Line improvements in an adopted County Capital Improvements Program ("CIP") or State Consolidated Transportation Program ("SCTP") which provides for appropriation of funds equal to the estimated costs of designing and constructing any portion of the Purple Line improvements. The covenant will remain in effect for 15 years from the date of the mailing of the Planning Board resolution. The record plat must include a reference to the recorded covenant.
  19. The Applicant must grant and the record plat must show an access easement on the Subject Property to the MTA, as referenced in a letter dated November 3, 2010, from MTA, between 16th Street and the proposed Purple Line Locally Preferred Alternative alignment. The access easement must be shown on the certified Preliminary Plan.
  20. 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. Other limitations for site development may also be included in the conditions of the Planning Board's approval.
  21. The record plat must show necessary easements.
  22. The final number of MPDUs and other affordable housing units as per condition #2 above will be determined at the time of site plan(s) approval.
  23. Prior to recordation of the plat, the Applicant must record in the land records the executed amended Declaration of Restrictive Covenant. The liber and folio of the recorded document must be referenced on the plat.

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 Preliminary Plan No. 12007056A  
 Falkland North  
 Page 6

24. No clearing, grading or recording of plats prior to certified site plan approval.
25. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
26. Include the stormwater management concept approval letter and Preliminary Plan resolution on the approval or cover sheet(s).
27. The Applicant must construct all road and frontage improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes.
28. Prior to recordation of any plat, Site Plan No. 82012005A must be certified by Staff.
29. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid according to the following schedule:

Phase 1, consisting of up to 368 dwelling units and up to 96,000 square feet of non-residential use, will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution. All remaining phases beyond Phase 1, consisting of all of the remaining development, will remain valid for one-hundred and forty-five (145) months from the date of mailing of the Planning Board resolution.

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 Preliminary Plan substantially conforms to the Master Plan.*

The Subject Property is within the boundaries of the *Silver Spring Central Business District and Vicinity Sector Plan*. The Sector Plan contains six themes that guide the vision for the Silver Spring CBD: (1) a transit-oriented downtown, (2) a commercial downtown, (3) a residential downtown, (4) a civic downtown, (5) a green downtown, and (6) a pedestrian friendly downtown.

1. TRANSIT-ORIENTED DOWNTOWN. The Sector Plan's land use and development recommendations strive to balance the needs of commuter and

local traffic, of walkers and drivers, and to maximize the investment in Silver Spring's transit infrastructure.

The Subject Property, by virtue of its location within the CBD, is convenient to various public transportation resources including the Silver Spring Metro and MARC station and various bus lines and the future Silver Spring Purple Line station. The Application also provides streetscape improvements, a new shared use path along East West Highway and is in close proximity to the Capital Crescent Trail as a benefit to walkers and bicyclists. The private internal drives provide safe and efficient on-site circulation for both pedestrian and vehicles. Given the nature of the development and the location of the Subject Property, it is reasonable to anticipate that residents and visitors will make use of multiple modes of transportation when accessing the Subject Property.

**2. COMMERCIAL DOWNTOWN.** Silver Spring's location, infrastructure, and position in the metropolitan area market will continue its role as an employment center. New retail development will serve the local community with a mix of chain and independent businesses offering convenience and specialty shopping, restaurants, and entertainment.

The Application provides for the development of up to 120,000 square feet of retail use that will provide opportunities for various types of commercial uses. The ground-floor retail and restaurant uses provided for, in combination with a possible large grocery store, will create a diverse offering that will serve the surrounding residential uses, as well as the existing and future residents of the Subject Property.

**3. RESIDENTIAL DOWNTOWN.** The Sector Plan seeks to create a mix of housing choices, including low-rise high-density apartments and townhouses, supported by parks, shopping, cultural, civic, and employment uses with transit and Beltway access to make a convenient and thriving community.

The Application will provide greater housing opportunities in the Silver Spring CBD and will allow residents to live near their work. The Application provides for the development of up to 1,250 new residential units in the CBD, within walking distance of the Silver Spring Metro Station and several bus routes. These new residences will help support the existing commercial and office uses in the CBD, as well as the non-residential component of the Application.

The Application contains diverse housing opportunities by including a variety of market rate unit sizes and layouts to facilitate the availability of new housing in a range of types and rents within walking distance of the Metrorail and Metro Bus stops. The Application provides both mid-rise and high-rise multi-

family residential development. This, in combination with the adjacent garden style apartments, creates a mix of housing choices. Because the Application includes a significant number of MPDUs and other affordable housing units, it will facilitate economic diversity located near transit and important services.

4. **CIVIC DOWNTOWN.** The Sector Plan views civic facilities as partners in economic revitalization. New and regenerated facilities will draw people downtown, returning it to the center of community life and creating opportunities for economic and social connections.

The on-site public open space and amenities respond to the need for community facilities, including civic spaces, within the CBD. The Application facilitates a variety of opportunities for people to gather and socialize, including outdoor café seating areas, pedestrian walkways, benches and private courtyards. The design of the public open space and amenities, including the streetscape improvements and Market Street<sup>2</sup>, will appeal to a diverse population seeking varied experiences.

5. **GREEN DOWNTOWN.** The Sector Plan envisions shaded, tree-lined streets and well-placed green parks and plazas, creating a comprehensive system of open spaces that provide economic, environmental, and aesthetic benefits through downtown.

A minimum of 10% public open space will be provided on-site after completion of all phases of development. The Application will provide diverse public open spaces that collectively create a vibrant and active pedestrian environment. In connection with phase two of the development, the Applicant will also restore the stream on the South Parcel. This stream restoration and beautification will provide an important amenity for residents and for the Silver Spring CBD.

6. **PEDESTRIAN FRIENDLY DOWNTOWN.** The Sector Plan encourages the development of active streets and sidewalks, busy with people walking to shop, commute, or for pleasure. They will become a defining feature downtown, and will support activity, creating the setting for community.

The combination of residential and ground-floor commercial uses on the Subject Property will serve to activate the streets. The Application has been designed to create a space that allows for internal vehicular circulation but favors the pedestrian experience. As such, streetscape improvements, in accordance

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<sup>2</sup> Although not officially a street, the internal driveway that enters the property from East West Highway has been named "Market Street" by the Applicant for their promotional purposes.

with the Silver Spring Streetscape Plan, will be implemented to create a more attractive pedestrian environment. Market Street will be lined with trees and on-street parking to promote safe and efficient internal circulation of vehicles, pedestrians and bicyclists.

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

A traffic study (dated August 2014) was submitted for the Application per the *Local Area Transportation Review ("LATR")/Transportation Policy Area Review ("TPAR") Guidelines* since the Application was estimated to generate more than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

#### Trip Generation

A site trip generation summary for the Application, provided in the Staff Report, shows that the Application will generate 369 peak-hour trips during the weekday morning peak period and 608 peak-hour trips during the weekday evening peak period. When compared to existing uses, the Application will result in an increase of 328 peak-hour trips during the morning peak period and 549 peak-hour trips during the evening peak period.

#### LATR Review

A summary of the capacity analysis/Critical Lane Volume ("CLV") analysis for the weekday morning and evening peak-hour periods, presented in the Staff Report, shows that the total (Build) condition will remain within the policy area congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, the Application will satisfy the LATR requirements of the APF test.

#### TPAR Review

Since the Subject Property is within the Silver Spring CBD Policy Area, the Application is exempt from both the roadway and transit tests set forth in the *2012-2016 Subdivision Staging Policy*. As a result, the Applicant is not required to pay transportation impact tax to satisfy the TPAR requirement.

#### Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Subject Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in

effect and will be adequate to serve the Subject Property. The Subject Property is within the Einstein High School cluster area, which is currently operating between 105-120% of capacity at the high school level, and a school facilities payment is required. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The size, width, shape, and orientation of the lot is appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated. The Application substantially conforms to the Sector Plan. The Application complies with the land use recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. As evidenced by the Preliminary Plan, the Subject Property is sufficiently large to efficiently accommodate the mix of uses.

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

A. Forest Conservation

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

The preliminary forest conservation plan addresses the Subject Property and portions of the fronting rights-of-way that are being modified by the Application. Although there is no existing forest on or near the Subject Property, an afforestation requirement of 1.25 acres is triggered by the associated forest conservation worksheet requirements. The afforestation plantings will be satisfied in an offsite forest conservation bank since there is no priority planting area present, and most of the onsite tree plantings must be designated toward satisfying the variance mitigation requirements

B. Forest Conservation Variance



Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to 31 Protected Trees as identified in the Staff Report. 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.

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

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

The Subject Property is located in a CBD near a Metrorail station and transit center where greater density is recommended by the Sector Plan. Any redevelopment of this site would require similar levels of disturbance and tree loss. Some of the impacts and removals are required to provide offsite pedestrian connections and safety upgrades. Therefore, the variance would be granted to any applicant in a similar situation.

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

The Variance is based on development allowed under the existing zoning and the need to achieve adequate pedestrian safety upgrades. Furthermore, the distribution of trees throughout the Subject Property and next to existing buildings increases the difficulty of retaining the trees. The Variance can be granted if the impacts are avoided or minimized and that any necessary mitigation is provided.

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 Variance is a result of the site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

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

Granting this Variance will not violate State water quality standards or cause measurable degradation in water quality. Stream restoration providing water quality benefits will be performed in the Falklands South Parcel as part of the Application. On and offsite tree plantings will provide additional benefits towards water quality. The Subject Property currently has no stormwater management, whereas the MCDPS issued a letter accepting the Stormwater Management Concept for the Subject Property on January 28, 2015. Stormwater management goals met onsite via the use of green roof and micro-biofiltration and structural filtration. The MCDPS review and ultimate approval of the sediment and erosion control and storm water management plans will further ensure that appropriate standards are met.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Planning Board approved replacement of Protected Trees at a ratio of approximately one inch DBH for every four inches DBH removed. No mitigation is required for Protected Trees impacted but retained.

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The MCDPS Stormwater Management Section approved the stormwater management concept on January 28, 2015. According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent practicable through the use of green roof, micro-biofiltration, and structural filtration.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 28 2015 (which is the date that this Resolution is mailed to all parties of record); and

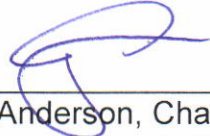
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Falkland North  
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BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent 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 Presley, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, September 10, 2015, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board

July 30, 2020

**Sent by Email**

Patrick L. O'Neil, Esq.  
Lerch, Early & Brewer, Chtd.  
3 Bethesda Metro Center  
Suite 460  
Bethesda, Maryland 20814

*Email: [ploneil@lerchearly.com](mailto:ploneil@lerchearly.com)*

Re: Notification of Partial Completion  
Property: Falkland Road Residential, LLC; MTA Item No. 01418  
Project No.: T-1042-0230 (Purple Line project)

Pursuant to paragraph 6.7 of the "**Contract for Sale Agreement Between Maryland Transit Administration and Falkland Road Residential, L.L.C.**" (Agreement), the Maryland Department of Transportation Maryland Transit Administration (MDOT MTA) issues this Notification of Partial Completion, for the purpose of informing Falkland Road Residential, L.L.C., that construction is complete on, or at, Buildings 1517 and 1549.

Because MDOT MTA still needs possession of at least a portion of the Temporary Construction Area, this "Notification" is only as to *partial* completion of construction on the property to which Falkland Road Residential, L.L.C., holds title.

At this point, however, MDOT MTA is requesting Falkland Road Residential L.L.C., to schedule a joint inspection of these buildings as stipulated in our Agreement.

Should you have questions regarding this notice, I can be reached by email at [ookunola@mdot.maryland.gov](mailto:ookunola@mdot.maryland.gov) or by telephone at 410-545-8754.

Sincerely,



Olu A. Okunola, Director  
MDOT State Highway Administration  
Office of Real Estate

Cc: Larry Hammond, Director of Real Estate, MDOT MTA, Purple Line Project  
Peter Ismay, Assistant Attorney General, MDOT State Highway Administration  
Marcus Lai, Senior Vice President, Residential Asset Management, JBG Smith

DEED TO THE MARYLAND TRANSIT ADMINISTRATION  
A Modal Agency of the  
MARYLAND DEPARTMENT OF TRANSPORTATION

MONTGOMERY COUNTY, MD

APPROVED BY me

PTE File No: PL-3-161  
Contract Item No. SHA 900047/MTA 01418  
R/W Contract No.: T-1042-0230

OCT 31 2018

\$ N/A RECORDATION TAX PAID  
\$ N/A TRANSFER TAX PAID

THIS DEED made this 25<sup>th</sup> day of October in the year 2018, from FALKLAND ROAD RESIDENTIAL, LLC, Grantor, unto MARYLAND TRANSIT ADMINISTRATION, a Modal Agency of THE MARYLAND DEPARTMENT OF TRANSPORTATION, Grantee.

WHEREAS, MARYLAND TRANSIT ADMINISTRATION, finds it necessary to acquire the land, easements, rights and/or controls, located in Montgomery County and shown and/or indicated on State Highway Plat numbered 59218 (Rev. 2/26/16) which plat has been or is intended to be filed for record with and electronically recorded by the Maryland State Archives, in order to lay out, open, establish, construct, extend, widen, straighten, grade and improve as a part of the Maryland-National Capital Purple Line, the area, together with the appurtenances thereto belonging, under its Right of Way Project No. 10420130 and known as Maryland-National Capital Purple Line, and to thereafter use, maintain and/or further improve said area, as a part of the Maryland-National Capital Purple Line; and

NOW, THEREFORE, THIS DEED WITNESSETH: That for and in consideration of the above premises, and the sum of Five Million Two Hundred Ninety-Two Thousand Seven Hundred Sixty-Four and 00/100 Dollars (\$5,292,764.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor does hereby grant and convey unto MARYLAND TRANSIT ADMINISTRATION, its successors and assigns, FOREVER IN FEE SIMPLE, all right, title and interest, free and clear of all liens and encumbrances, in and to:

ALL THE LAND AND PREMISES, including improvements identified as Buildings 1519 and 1551 and part of Buildings 1517 and 1549, containing 25,115 square feet or 0.577 of an acre(s) of land, more or less, together with the appurtenances thereto belonging, or in anywise appertaining, lying between the outermost lines designated "Right of Way Line" as shown shaded on State Highway Plat numbered 59218 (Rev. 2/26/16), all of which plat is made a part hereof, so far as the property and/or rights may be affected by the said proposed project, and the appurtenances thereto belonging, or in anywise appertaining.

TOGETHER with the temporary right during the period of construction to use the area of land containing 22,394 square feet or 0.514 of an acre of land, more or less, as shown on State Highway Plat numbered 59218 (Rev. 2/26/16) for the purpose of fine grading and erosion and sediment control. Upon completion of this construction, all right to utilize this area by the MARYLAND TRANSIT ADMINISTRATION shall cease to exist.

A reduced copy of State Highway Plat numbered 59218 (Rev. 2/26/16) is attached hereto and incorporated herein as Exhibit "A."

Being part of the land conveyed by a Deed dated MARCH 29, 2013 and recorded among the Land Records of Montgomery County, Maryland in Liber 46502, folio 113 unto FALKLAND ROAD RESIDENTIAL, LLC.

In Reference to PART of the following:  
Address: 1545 N. FALKLAND LANE, SILVER SPRING, MD 20910  
TAX ID# 13-00959802 (Fee Simple & TCE)

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, roads, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

AND GRANTOR DOES hereby covenant and agree, on behalf of itself, its successors and assigns, to abide by and respect each and every control or restriction set forth in this instrument of writing, it being the intention of this conveyance to perpetuate all the rights and privileges granted to MARYLAND TRANSIT ADMINISTRATION, by this deed. It is expressly understood and agreed that these covenants shall run with and bind upon Grantor, its successors and assigns, forever.

Front Foot Benefit Charges paid in full  
WASHINGTON SUBURBAN SANITARY COMMISSION

By Deen Dosh 10-30-18  
Property Assessment Supervisor D-1

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 56827, p. 0097, MSA\_CE63\_56784. Date available 11/07/2018. Printed 01/03/2023.

NO FEE

IT IS UNDERSTOOD AND AGREED that the actual consideration paid by Grantee to Grantor shall constitute full and final payment for the Grantee's acquisition of the land, easements, rights, privileges and controls, as well as Grantee's use thereof, all as described herein including, if applicable, any damages available under Section § 12-104 of the Real Property Article of the Annotated Code of Maryland.

TO HAVE AND TO HOLD the land and premises above described and mentioned and hereby intended to be conveyed unto the proper use and benefit of **MARYLAND TRANSIT ADMINISTRATION**, its successors and assigns, forever in fee simple, together with the rights, easements, privileges and controls hereinbefore mentioned.

AND Grantor covenants that it has neither done, nor suffered to be done, anything to encumber the property, easements and/or rights, hereby conveyed and that it will execute such other and further assurance of same as may be requisite and will specially warrant the herein conveyed property.

Grantor, on behalf of itself and its successors and/or assigns, in executing this Deed, hereby waives any and all rights to repurchase the herein property, or any portion thereof, including but not limited to those rights pursuant to Section 8-309 of the Transportation Article of the Maryland Annotated Code as that section exists now or as it may be amended in the future.

WHEREAS, Grantor is a resident entity, pursuant to Section §10-912(a)(4) of the Tax-General Article of the Annotated Code of Maryland, the undersigned is an agent of Grantor, and the undersigned has the authority to sign this document on Grantor's behalf.

IN TESTIMONY WHEREOF, the said party of the first part has set its hand and seal the day and year first above written.

GRANTOR:

**FALKLAND ROAD RESIDENTIAL, LLC**

By: **JBGS/Company Manager, LLC, a Delaware limited Liability Company, its Managing Member**

By: **JBG Smith Properties LP, General Partner and Sole Owner**

By: *[Signature]*  
Name: **Aaron Herman**  
Title: **Assistant Secretary and Authorized Representative Maryland**

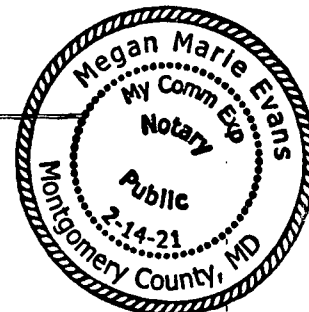
STATE OF \_\_\_\_\_  
COUNTY OF Montgomery

I HEREBY CERTIFY, that on this 25 day of October, 2018, before me, the subscribed, a Notary Public of the State and County aforesaid, personally appeared **Aaron Herman**, Assistant Secretary and Authorized Representative of **JBG Smith Properties, LP** General Partner and Sole Owner of **JBGS/Company Manager, LLC**, Managing Member of **FALKLAND ROAD RESIDENTIAL, LLC**, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he, being authorized so to do, executed the same for the purposes therein contained on behalf of the Seller.

AS WITNESS MY HAND AND NOTARIAL SEAL, this 25 day of October, in the year 2018.

*[Signature]* (SEAL)  
Notary Public  
My Commission Expires: 2-14-21

Return Recorded Deed to:  
Property Title & Escrow, LLC  
Suite 220  
7008 Security Blvd.  
Baltimore, MD 21244



MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 56827, p. 0098, MSA\_CE63\_56784. Date available 11/07/2018. Printed 01/03/2023.

I HEREBY CERTIFY that this instrument was prepared under my supervision, an attorney admitted to practice by the Court of Appeals of Maryland.

  
Peter Ismay, Assistant Attorney General

**Grantor:**  
**FALKLAND ROAD RESIDENTIAL, LLC**  
4445 Willard Avenue, Suite 500  
Chevy Chase, MD 20815

**Grantee:**  
**MARYLAND TRANSIT ADMINISTRATION**  
6 St. Paul Street, 3<sup>rd</sup> Floor  
Baltimore, MD 21202

**Street Address of Property:**  
1545 N. Falkland Lane  
Silver Spring, MD 20910  
**Tax ID No.** 13-00959802  
**Title Insurer:** Fidelity National

As a transfer of property to an agency of the State of Maryland, this instrument is not subject to recordation tax (Pursuant to §12-108(a) of the Tax-Property Article of the Annotated Code of Maryland) and transfer tax (Pursuant to §13-207(a)(1) of the Tax-Property Article of the Annotated Code of Maryland).

This instrument is being presented for recording by, or on behalf of, an agency of the State of Maryland, which is a party to this instrument. Therefore, for the reasons described in a letter from the Office of the Attorney General dated December 21, 2001, this instrument is to be recorded without charge for the recording fee and Real Property Records Improvement Fund surcharge which would otherwise be due pursuant to §3-601 of the Real Property Article and §13-604 of the Courts and Judicial Proceedings Article, respectively, of the Annotated Code of Maryland.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 56827, p. 0099, MSA\_CE63\_56784. Date available 11/07/2018. Printed 01/03/2023.

X=1302661  
Y=483501

X=1303598  
Y=483564

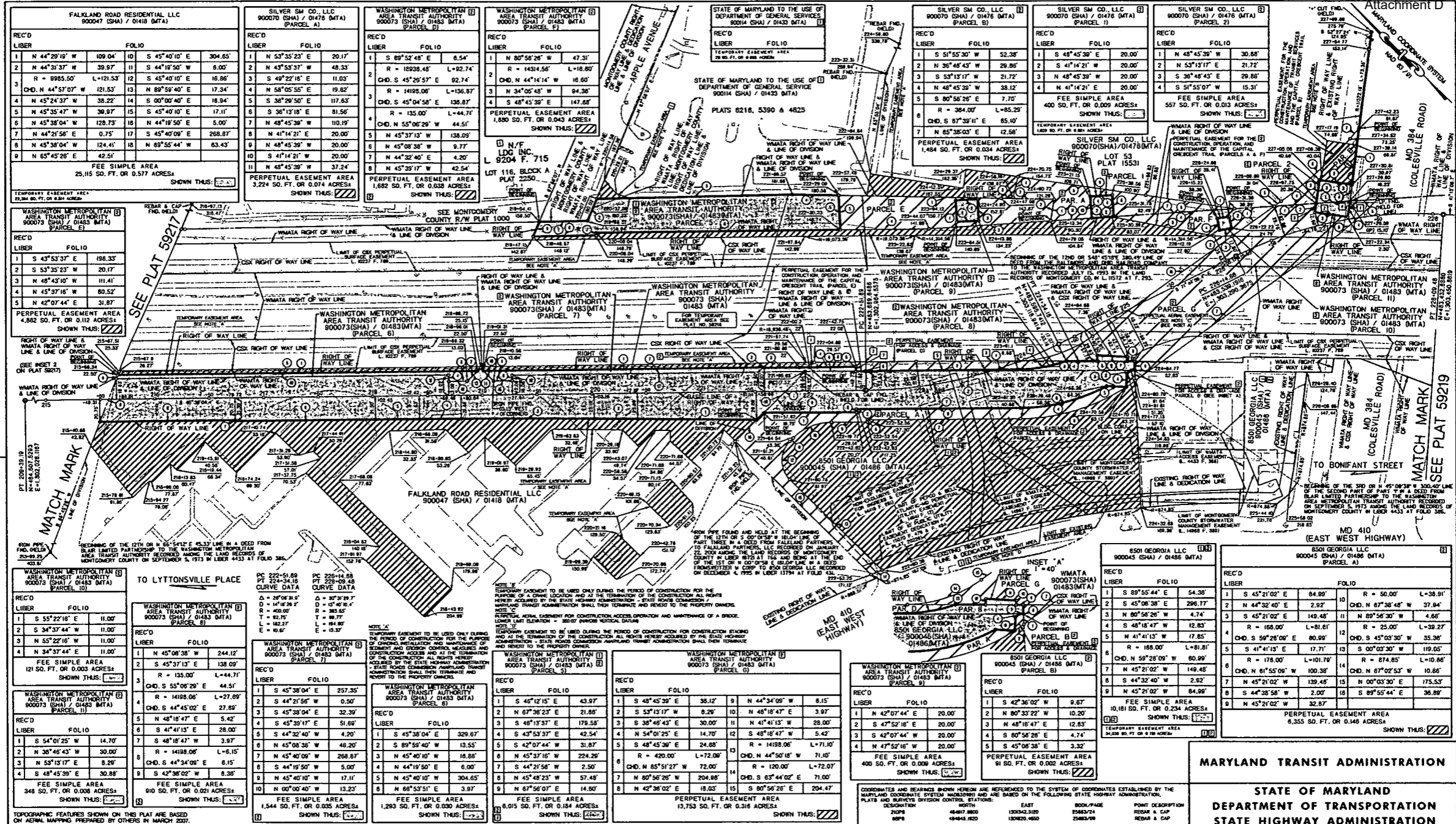


Exhibit A

BOOK: 5687 PAGE: 100

TOPOGRAPHIC FEATURES SHOWN ON THIS PLAT ARE BASED ON AERIAL MAPPING PREPARED BY OTHERS IN MARCH 2007.

I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN HEREON ARE CORRECT AND ARE BASED ON THE FIELD SURVEY PERFORMED UNDER MY SUPERVISION, AND THE RECORD DESCRIPTIONS THEREOF, AND THAT THIS PLAT MEETS THE REQUIREMENTS AS CONTRACTED FOR BY THE MARYLAND DEPARTMENT OF TRANSPORTATION - STATE HIGHWAY ADMINISTRATION.

*Thomas M. Yonkum*  
THOMAS M. YONKUM  
PROP. L.S. 534 (EXP. 2-25-2017)

FEBRUARY 28, 2018

LEGEND

	RENEWABLE EASEMENT FOR SUPPORTING SLOPES
	RENEWABLE EASEMENT FOR RIGHT OF SPECIAL PURPOSE AS INDICATED BY NOTATION ON PLAT
	RENEWABLE EASEMENT FOR SPECIAL PURPOSE AS INDICATED BY NOTATION ON THIS PLAT
	EASEMENT FOR DRAINAGE EASEMENT AS INDICATED BY NOTATION ON THIS PLAT
	PERPETUAL EASEMENT TO DISCHARGE FLOW OF WATER FROM OR INTO EXISTING WATERWAY OR NATURAL DRAINAGE COURSE
	PERPETUAL EASEMENT TO DOWNWASH FLOW OF WATER UPON EXISTING GROUND
	APPROXIMATE GENERAL EASEMENT FLOW PATTERN (NOT TO SCALE OR ENLARGEMENT PURPOSE ONLY)

BOOKS	REVISIONS	PART OF PLATS	LOCATED IN
2567 (BAHD) 2568 (BAHD) 2569 (TRAV)	12/09/2014 3/26/2018	378 379 380 REV. 08-18-1973 340 REV. 08-18-1973 341 REV. 08-18-1973 342 REV. 08-18-1973 343 REV. 08-18-1973 344 REV. 08-18-1973 345 REV. 08-18-1973 346 REV. 08-18-1973 347 REV. 08-18-1973 348 REV. 08-18-1973 349 REV. 08-18-1973 350 REV. 08-18-1973 351 REV. 08-18-1973 352 REV. 08-18-1973 353 REV. 08-18-1973 354 REV. 08-18-1973 355 REV. 08-18-1973 356 REV. 08-18-1973 357 REV. 08-18-1973 358 REV. 08-18-1973 359 REV. 08-18-1973 360 REV. 08-18-1973 361 REV. 08-18-1973 362 REV. 08-18-1973 363 REV. 08-18-1973 364 REV. 08-18-1973 365 REV. 08-18-1973 366 REV. 08-18-1973 367 REV. 08-18-1973 368 REV. 08-18-1973 369 REV. 08-18-1973 370 REV. 08-18-1973 371 REV. 08-18-1973 372 REV. 08-18-1973 373 REV. 08-18-1973 374 REV. 08-18-1973 375 REV. 08-18-1973 376 REV. 08-18-1973 377 REV. 08-18-1973 378 REV. 08-18-1973 379 REV. 08-18-1973 380 REV. 08-18-1973 381 REV. 08-18-1973 382 REV. 08-18-1973 383 REV. 08-18-1973 384 REV. 08-18-1973 385 REV. 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2567 (BAHD)	12/09/2014	378	LOCATED IN	MONTGOMERY	COUNTY
2568 (BAHD)	3/26/2018	379	PREPARED BY	MERCADO CONSULTANTS, INC.	
2569 (TRAV)		380	PLAT ENGINEER	SECK WARD	
		381	CONSTRUCTION PROJECT:		
		382	CONSTRUCTION PROJECT NO.		
		383	ISSUED	April 20, 2014	
		384	CHIEF, PLATS AND SURVEYS DIVISION		

MARYLAND TRANSIT ADMINISTRATION

STATE OF MARYLAND  
DEPARTMENT OF TRANSPORTATION  
STATE HIGHWAY ADMINISTRATION  
STATE ROADS COMMISSION

RIGHT OF WAY PROJECT: MARYLAND-NATIONAL CAPITAL PURPLE LINE 10420130

RIGHT OF WAY PROJECT NO. FEDERAL AID PROJECT NO. SCALE 1" = 40'

ISSUED April 20, 2014  
THOMAS M. YONKUM  
CHIEF, PLATS AND SURVEYS DIVISION

PLAT No. 59218-4

X=1302661  
Y=483907



<b>State of Maryland Land Instrument Intake Sheet</b> <b>County: Montgomery County</b> <b>PURPLE LINE –PARTIAL FEE TAKE &amp; TEMPORARY CONSTRUCTION EASEMENT –</b> <b>DO NOT CHANGE TAX ROLLS</b> <i>Information provided is for use of the Clerk's Office, State Department of Assessments and Taxation and County Finance Office only.</i> (Type or Print in Black Ink Only--All Copies Must Be Legible)								
<b>1</b>	<b>Type(s) of Instruments</b>	<input type="checkbox"/> Check Box if Addendum Intake Form is Attached <input checked="" type="checkbox"/> Deed of PARTIAL FEE TAKE & TEMPORARY CONSTRUCTION EASEMENT <input type="checkbox"/> Mortgage <input type="checkbox"/> Other <input type="checkbox"/> Other						
<b>2</b>	<b>Conveyance Type Check box</b>	<input checked="" type="checkbox"/> Improved Sale Arms-Length[1] <input type="checkbox"/> Deed of Trust	<input type="checkbox"/> Lease <input type="checkbox"/> Unimproved Sale Arms-Length[2]	<input type="checkbox"/> Multiple Accounts Arms-Length[3]	<input type="checkbox"/> Not an Arms-Length Sale[9]			
<b>3</b>	<b>Tax Exemptions</b> (if Applicable) Cite or Explain Authority	Recordation State Transfer County Transfer	EXEMPT – PURPLE LINE – TRANSFER TO STATE OF MARYLAND EXEMPT – PURPLE LINE – TRANSFER TO STATE OF MARYLAND EXEMPT – PURPLE LINE – TRANSFER TO STATE OF MARYLAND					
<b>4</b>	<b>Consideration And Tax Calculation</b>	<b>Consideration Amount</b>		<b>Finance Office Use Only</b>				
Purchase Price/Consideration		\$5,292,764.00		<b>Transfer and Recordation Tax Consideration</b>				
Any New Mortgage		\$		Transfer Tax Consideration	\$			
Balance of Existing Mortgage		\$		X( )%	= \$			
Other:		\$		Less Exemption Amount	\$			
Other		\$		Total Transfer Tax	\$			
Full Cash Value		\$		Recordation Tax Consideration	\$			
				X( )per \$500	= \$			
				TOTAL DUE	\$			
<b>5</b>	<b>Fees</b>	<b>Amount of Fees</b>		<b>Doc. 1</b>	<b>Doc. 2</b>	Agent:		
Recording Charge				\$				
Surcharge		\$		\$		Tax Bill:		
State Recordation Tax		\$		\$		C.B. Credit:		
State Transfer Tax		\$		\$		Ag. Tax/Other:		
County Transfer Tax		\$		\$				
Other		\$		\$				
Other	\$		\$					
<b>6</b>	<b>Description of Property</b> SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(l)	<b>District</b>	<b>Property Tax ID No.(1)</b>	<b>Grantor Liber/Folio</b>	<b>Map</b>	<b>Parcel No.</b>	<b>Var.LOG</b>	
13		00959802	46502/00113	JN23	P393	(5)		
<b>Subdivision Name</b>		<b>Lot(3a)</b>	<b>Block (3b)</b>	<b>Sect/AR(3c)</b>	<b>Plat Ref.</b>	<b>SqFt/Acreage (4)</b>		
<b>Location/Address of Property Being Conveyed (2)</b>								
1545 N. FALKLAND LANE, SILVER SPRING, MD 20910								
<b>Other Property Identifiers (if applicable)</b>						<b>Water Meter Account No.</b>		
PTE FILE NO. PL-3-161								
Residential <input type="checkbox"/> or Non-Residential <input checked="" type="checkbox"/> Fee Simple <input checked="" type="checkbox"/> or Ground rent <input type="checkbox"/> Amount: Partial Conveyance? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Description/Amt. of SqFt/Acreage Transferred: Partial Fee take only 25,115 Sq. Ft. or 0.577 Acres +/-								
If Partial Conveyance, List Improvements Conveyed:								
<b>7</b>		<b>Transferred From</b>	<b>Doc.1 – Grantor(s) Name(s)</b>			<b>Doc.2 – Grantor(s) Name(s)</b>		
			FALKLAND ROAD RESIDENTIAL, LLC					
			<b>Doc.1 – Owner(s) of Record, if Different from Grantor(s)</b>			<b>Doc.2 – Owner(s) of Record, if Different from Grantor(s)</b>		
<b>8</b>	<b>Transferred</b>	<b>Doc.1 – Grantee(s) Name(s)</b>			<b>Doc.2 – Grantee(s) Names(s)</b>			
		Maryland Transit Administration of the Department of Transportation						
<b>New Owner's (Grantee) Mailing Address</b>								
EASEMENT PORTION ONLY: Maryland Transit Administration 6 St. Paul Street, 3 <sup>rd</sup> floor, Baltimore, MD 21202 Attn: George Fabula, Real Estate PROPERTY OWNER ADDRESS: 4445 Willard Avenue, Suite 500, Chevy Chase, MD 20815								
<b>9</b>	<b>Other Names To Be Indexed</b>	<b>Doc.1 – Additional Names to be Indexed (Optional)</b>			<b>Doc.2 – Additional Names to be Indexed (Optional)</b>			
<b>10</b>	<b>Contact/Mail Information</b>	<b>Instrument Submitted By or Contact Person</b>				<input checked="" type="checkbox"/> Return to Contact Person		
		Name: DARLENE CARTER						
		Firm: Property Title & Escrow, LLC				<input type="checkbox"/> Hold for Pickup		
		Address: 7008 Security Blvd, Suite 220, Baltimore, MD 21244						
		Phone: 410-594-7474				<input checked="" type="checkbox"/> Return Address Provided		
<b>11</b>	<b>IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER</b>							
		<b>Assessment Information</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Will the property being conveyed be the grantee's principal residence?					
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Does transfer include personal property? If yes, identify:					
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).					
<b>Assessment Use Only – Do Not Write Below This Line</b>								
		<input type="checkbox"/> Terminal Verification		<input type="checkbox"/> Agricultural Verification		<input type="checkbox"/> Whole <input type="checkbox"/> Pad <input type="checkbox"/> Tran. Process Verification		
Transfer Number:		Date Received:		Deed Reference:		Assigned Property No.:		
Year		Geo.	Map	Sub.	Block			
Land		Zoning	Grid.	Plat	Lot			
Buildings		Use	Parcel	Section	Occ.Cd.			
Total		Town Cd.	Ex.St.	Ex.Cd.				

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 56827, p. 0101, MSA\_CE63\_56784. Date available 11/07/2018. Printed 01/03/2023.

LR - Government  
Instrument 0.00  
Agency Name: MARYLAND  
TRANSIT ADMIN  
Instrument List: Deed  
Describe Other:  
Ref:

=====  
Total: 0.00  
11/01/2018 09:21  
CC15-AV  
#11212775 CC0602 -  
Montgomery  
County/CC06.02.06 -  
Register 06



**DOCUMENT VALIDATION PAGE  
FOR CLERK'S USE ONLY  
(EXCLUDED FROM PAGE COUNT FOR CERTIFIED COPY)**

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**BARBARA H. MEIKLEJOHN**  
Clerk of the Circuit Court for Montgomery County  
50 Maryland Avenue  
Rockville, Maryland 20850  
Recording and Licensing  
(240) 777-9470