

ATTACHMENT A

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Resolution No.: 13-865

Introduced: April 29, 1997

Adopted: April 29, 1997

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

By: County Council

**Subject: APPLICATION NO. G-713 FOR AMENDMENT TO THE ZONING ORDINANCE MAP,
Lerch, Early and Brewer, Attorneys for Camalier Limited Partnership and Davis Brothers/Montgomery
Farm Limited Partnership, Applicants, OPINION AND RESOLUTION ON APPLICATION
Tax Account No. 4-1-47746**

OPINION

Application No. G-713 requests reclassification from the R-H Zone to the MXPB Zone of 53.4 acres known as Rock Spring Centre, located at the northwest quadrant of the intersection of Old Georgetown Road and Rock Spring Drive, Bethesda, in the 4th Election District.

The Hearing Examiner recommends that the revised development plan and the application be approved. This recommendation is based on conclusions that the development plan will comply with the objectives, purposes, and requirements of the MXPB Zone and the provisions of §59-D-1.61 of the Zoning Ordinance; that the proposed development will be compatible with the surrounding area; that the proposed development will constitute a proper use for the coordinated, comprehensive, adjusted, and systematic development of the regional district; and that the proposed development is consistent with the applicable master plan. The Technical Staff and Planning Board provided similar recommendations. The District Council agrees with the findings and conclusions of the Hearing Examiner, the Technical Staff and the Planning Board.

The irregularly-shaped parcel is located in the North Bethesda-Garrett Park Planning Area at the southwest corner of the intersection of Old Georgetown Road and the I-270 Spur. The site is almost completely surrounded by roads including the I-270 Spur on the north, Old Georgetown Road on

the east, Rock Spring Drive on the south, and Rockledge Drive on the west. The site forms the last remaining portion of the original 270-acre Davis family farm and is largely unimproved except for the Davis Estate House, a barn and shed which are all located in the southeast corner of the property.

The site contains natural features that will restrict future development. The topography reflects slopes generally ranging between 2 to 10%, although there are some areas having slopes of 15% or greater. Open fields are located in the northeastern and southwestern portions of the site. An intermittent stream runs through the central portion of the site which is joined by a northern fork fed by a spring. The stream valley includes wetlands and some large trees, many of which have diameters of 30" or more. There are several other mature tree groves to the south and west of the stream valley. About 27.7 acres contain trees and include young seedlings, samplings, and mature oaks.

The zoning history reveals that the site was initially classified under the R-90 Zone by the 1954 comprehensive zoning. This zoning was reconfirmed by comprehensive zoning in 1958. However, in 1966, the property was reclassified to the R-H Zone under Local Map Amendment No. E-646, and the property has remained in that classification ever since. The last comprehensive zoning reconfirmed the R-H Zone in 1993.

The surrounding area is bounded by the Capital Beltway on the south, the I-270 Spur on the west, Tuckerman Lane on the north, and the I-270 Spur on the east. This area contains mature development, significant population, and a variety of land uses. The Rock Spring Office Park, which is located immediately west of the site, constitutes a major land use and contains 19 buildings used as corporate offices for a number of national and regional employers. These offices were developed under the C-P and I-3 Zones. The State Highway Administration plans major road projects at or near Rock Spring Park. A direct interchange connection between Rock Spring Park and I-270 will be provided in the near future. Other planned or completed nearby road projects include I-270 interchange

improvements at Old Georgetown Road and at Democracy Boulevard, installation of HOV lanes along the I-270 corridor, and an HOV access to Rock Spring Park at Fernwood Road.

Other commercial uses in the area include the Georgetown Park Shopping Center, located immediately south of Rock Spring Drive, and the Wildwood Shopping Center, located directly southeast of the site on the east side of Old Georgetown Road. These uses were developed under the C-1 Zone. Significant medium density residential development is also located in close proximity to the site. The residential communities of Luxmanor and Timberlawn are located on the north side of the I-270 Spur along both sides of Old Georgetown Road. The communities of Fernwood, Marymont, Ashburton and Stratton Woods are located on the south side of Democracy Boulevard and west of Old Georgetown Road. The communities of Wildwood Manor, Lone Oak and Alta Vista Gardens are located on the east side of Old Georgetown Road and south of the I-270 Spur. These residential areas were developed under the R-200, R-90, R-60, R-30, and PD-9 Zones and include a variety of housing types such as single-family detached homes, townhouses, apartments and condominiums. There are several institutional uses located in the area. The Walter Johnson High School is located immediately south of the subject property. The Davis Library is located on the south side of Democracy Boulevard. The Tilden/Woodward Middle School is located along the east side of Old Georgetown Road a short distance north of Tuckerman Lane. Several religious institutions are located along both sides of Old Georgetown Road.

The proposed development represents a large scale project that would include retail and office uses, entertainment and institutional uses, residential areas, public amenities, and an open space network. The applicants propose a range of densities with maximum levels of 1,250 residential units, including 226 MPDUs, 1,050,000 square feet of combined retail and office space, 185,000 square feet of institutional uses, 30,000 square feet for a community center, and 90,000 square feet for a theater or cinema. The proposal includes 7,485 total residential and commercial parking spaces in parking garages

located near perimeters of the site. The applicants propose dedication of land for the North Bethesda Community Center, a transitway, direct access ramps from I-270, and public streets. The proposal also includes as private open space the existing Davis Estate House grounds and a large wooded central park area.

The proposed development will also have a significant impact on local roads which currently operate at unacceptable levels of service. Up to 7,000 people will be drawn to the site as employees and residents and more people will be attracted as customers and clients of the businesses located there. The proposed development is predicted to yield almost twice the number of vehicular trips that would likely be generated under the current zoning. The development will also cause significant congestion at intersections along Old Georgetown Road unless adequate and timely mitigation is provided. In view of these circumstances, the applicants submitted a revised phasing plan, dated April 14, 1997, which keys four separate phases to financial commitments for traffic mitigation, participation in the North Bethesda Transportation Management District, comprehensive review of separate phases by the Planning Board under specified performance standards, subdivision and site review, improvements to the I-270 interstate, and provision for a development plan amendment in the event that performance standards cannot be met. The phasing plan ensures that adequate and timely mitigation will be provided to support the proposed development.

The District Council determines that the application satisfies the requirements of the MXPDP Zone. The revised development plan complies with the objectives and purposes of the MXPDP Zone. The proposed development will revitalize one of the premier office parks in Maryland and will attract business and retail trade to this area of the County with substantial residual benefits including recreational and cultural amenities for residents and workers, enhanced employment opportunities, and increased tax revenues.

There is a high degree of correlation between the elements of the development plan and the master plan. The *1992 Amendment to the North Bethesda-Garrett Park Master Plan* provided for 25 site-specific development guidelines which were the result of collaborative efforts by public officials, community representatives, and the Applicants. The 25 points cover phasing, affordable housing, offices and retail use, circulation and parking, building locations, height, and land uses. During the hearing process the Applicants agreed to incorporate all 25 points into the development plan as binding elements and they are now part of the plan.

The development plan satisfies the 20-acre minimum area and locational requirements of the MXPD Zone. The proposal meets the permitted use limitations required under §59-C-7.52. The residential landbay consists of 21.326 acres or 39.8% of the site which is within the 40% limitation of the zone. The retail, office, entertainment and institutional uses are grouped under a commercial landbay area of 34.14 acres. The retail component will consist of a maximum of 220,000 square feet which represents 19% of the total commercial floor area and is within the 20% limitation of the zone.

The proposed residential density is within the limitations specified in §59-C-7.53. The plan shows that residential density will be within the 44 dwelling units per acre limitation for residential areas exclusive of moderately priced dwelling units. Some 89 residential units will be located within the commercial area which is within the 75 dwelling units per acre limitation for commercial areas. The commercial density is proposed at a floor area ratio of 0.75 which complies with the density limitation specified in §59-C-7.54. The proposal meets all the compatibility requirements of §59-C-7.55 in terms of setbacks, building height and use. The revised phasing plan will ensure adequate traffic mitigation so development will not be incompatible with the area road network.

Green space, dedication and parking requirements are all satisfied. The revised development plan proposes a total residential green space area of 50.16% and a commercial green area of 41.3%, both of which exceed the minimum green area requirements specified by §59-C-7.56. The revised

development plan specifies dedication of 3.5 acres for the Rockledge Connector Interchange, 0.14 acres for transit station with air rights for the transitway, 0.3 acres for the community center, and 12.0 acres for internal streets with ownership to be determined at the site plan stage.

The District Council finds that the development plan complies with the requirements of §§59-D-1.61(a) through (e). In this respect, the development plan is in compliance with the use and density recommendations of the master plan and in conformity with other County plans and policies. Similarly, the proposed development will satisfy the zoning requirements, especially with respect to compatibility with area road capacity because of the safeguards contained in the revised phasing plan. The proposed vehicular and pedestrian circulation systems are safe, adequate and efficient. The site design contains sufficient open space area to ensure the preservation of many existing trees and the protection of sensitive environmental features of the site. Perpetual maintenance of common areas will be provided under agreements to be entered into at the site plan review stage which will ensure that the Applicants or their successors in interest will be required to provide for the perpetual maintenance of all recreational, common, or quasi-public areas.

The District Council also finds that the application is proper for the comprehensive and systematic development of the county, is capable of accomplishing the purposes of the zone, and is compatible with the General Plan and applicable master plan.

For these reasons and because to grant the instant application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, and to protect and promote the health, safety, morals, comfort and welfare of the inhabitants of the Regional District, the application will be granted in the manner set forth below.

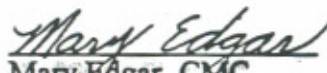
ACTION

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

The revised development plan, submitted as Ex. 695(a) and Ex. 780(a), is approved; and

Zoning Application No. G-713, for the reclassification from the R-H Zone to the MXPB Zone of 53.4 acres known as Rock Spring Centre, located at the northwest quadrant of the intersection of Old Georgetown Road and Rock Spring Drive, Bethesda, in the 4th Election District, is granted in the amount requested, provided that, within 10 days of receipt of this resolution, the Applicants must submit the revised development plan for certification in accordance with §59-D-1.64 and include on the face of the plan a notation which incorporates by reference the revised phasing plan, dated April 14, 1997, Ex. 780(b).

This is a correct copy of Council action.


Mary Edgar, CMC
Secretary of the Council



Resolution No: 13-1442
 Introduced: September 29, 1998
 Adopted: September 29, 1998

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

By: District Council

Subject: Approval of Development Plan Amendment (DPA) 99-1

Background

1. On July 17, 1998, Lerch, Early and Brewer, Chartered, Attorneys for Camalier Limited Partnership, filed a DPA to clarify the phasing component of the development plan for 53.4 acres known as Rock Spring Centre located at the northwest quadrant of Old Georgetown Road and Rock Spring Drive, North Bethesda, in the 4th Election District.
2. The site was initially approved for the MXPB Zone under Zoning Application G-713 for a mixed use residential, office and retail project to be developed in four distinct phases. The DPA proposes to clarify the phasing component so that the Applicant can apply for available threshold capacity under the policy area transportation review without alteration to the performance standards that will govern review of intersection capacity.
3. The Technical Staff of the Maryland-National Capital Park and Planning Commission, by memorandum dated July 27, 1998, recommended approval of DPA 99-1 without modification. The full Planning Board conducted a public meeting on July 30, 1998, and unanimously recommended approval of DPA 99-1 without modification.
4. On August 4, 1998, a letter was filed in opposition and requested a hearing under the provisions of §59-D-1.74(b)(1). A hearing was convened on August 21, 1998. As a result of revisions to the DPA, the opposition was withdrawn and the Hearing Examiner recommended approval of the revised DPA.
5. On September 29, 1998 the District Council reviewed DPA 99-1 and concluded that the DPA meets the requirements of the Zoning Ordinance and its approval would be in the public interest.

Action

For these reasons and because to grant the DPA would aid in the accomplishment of a coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District, the DPA will be approved in the manner set forth below.

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

DPA 99-1, which proposes to clarify the phasing component of the development plan for 53.4 acres known as Rock Spring Centre located at the northwest quadrant of Old Georgetown Road and Rock Spring Drive, North Bethesda, in the 4th Election District, is approved, subject to the specifications and requirements of the revised DPA; provided that within 10 days after receipt of this resolution, the Applicant must submit the revised development plan for certification by the Hearing Examiner in accordance with §59-D-1.64 with reference to Ex. 780(b) as modified by DPA 99-1 and include the revised phasing plan as an attachment.

This is a correct copy of Council action.


Mary A. Edgar, CMC
Secretary of the Council

AMENDED PHASING ELEMENT OF DEVELOPMENT PLAN

APRIL 14, 1997

AS REVISED BY DPA 99-1 ON SEPTEMBER 29, 1998

One or more preliminary plans may be filed for Rock Spring Centre in order to establish the Applicant's priority status for threshold capacity available in the North Bethesda Planning Policy Area. The actual number of preliminary plans, or portions of a preliminary plan, approved for Rock Spring Centre (one or more), and the amount of development approved in the preliminary plan or plans (number of residential units and non-residential square footage), will be determined on the basis of threshold capacity and local area review capacity available. As capacity becomes available in the North Bethesda Planning Policy Area, the Planning Board may approve a preliminary plan or a portion of a preliminary plan for development that correlates to the available capacity. The determination of compliance with all conditions of the Phasing Plan including the transportation performance standards contained in conditions I.C., D. and F., II.E. and F, III.C. and D., and IV.C. and D. of the Phasing Plan will occur at the time of Preliminary Plan approval or approvals by the Montgomery County Planning Board for each phase, part of a phase, or combination of phases, for which threshold capacity is available and for which the Applicant provides a current traffic analysis and measurements.

PHASE I: SUBDIVISION APPROVAL FOR ANY DEVELOPMENT CANNOT BE GRANTED UNTIL ALL REQUIREMENTS OF THE ADEQUATE PUBLIC FACILITIES ORDINANCE, INCLUDING POLICY AREA THRESHOLD CAPACITY AND LOCAL AREA REVIEW ARE SATISFIED FOR SUCH DEVELOPMENT. SITE PLAN(S) FOR PHASE I SHALL NOT RECEIVE APPROVAL UNTIL THE FOLLOWING HAS TAKEN PLACE:

LOCAL INTERSECTION IMPROVEMENTS AS REQUIRED TO MEET A.P.F.
ARE APPROVED

- A. Local intersection improvements as required to meet A.P.F. are approved;
- B. At the commencement of Phase I, either the IBM improvements along Old Georgetown Road are included in the C.I.P. or equivalent capacity is achieved from other mitigation measures;
- C. At the commencement of Phase I, the Applicants or their successors in interest must enter into an agreement to provide funding for operational improvements at the intersection of Old Georgetown Road and Tuckerman Lane which are necessary to meet APFO requirements;
- D. At the commencement of Phase I, the Applicants or their successors in interest must enter into an agreement to provide funding for other improvements or traffic mitigation measures determined by the Planning Board as necessary to accommodate Phase I in its entirety;
- E. At the commencement of Phase I, the Applicants or their successors in interest must participate in the North Bethesda Transportation Management District (TMD) on a continuous basis, and provide all necessary funding commitments for mitigation or improvements as deemed by the TMD to be necessary to accommodate Phase I in its

entirety even if the TMD transportation management fee is not extended beyond January 1, 2000; and

- F. If acceptable improvements or mitigation measures are not feasible to accommodate Phase I development in its entirety, as determined by the Planning Board at the commencement of Phase I or at any time during subdivision review of Phase I, this phasing plan will automatically terminate and any further development will not be approved until authorized by the District Council under the development plan amendment (D.P.A.) process.

<u>Phase</u>	<u>Use</u>	<u>Component Size/Description</u>
I	Residential	300 to 400 dwelling units*

Internal roads, pedestrian paths, infrastructure and parking to serve above uses.

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PHASE II: SUBDIVISION APPROVAL FOR ANY DEVELOPMENT CANNOT BE GRANTED UNTIL ALL REQUIREMENTS OF THE ADEQUATE PUBLIC FACILITIES ORDINANCE, INCLUDING POLICY AREA THRESHOLD CAPACITY AND LOCAL AREA REVIEW ARE SATISFIED FOR SUCH DEVELOPMENT. SITE PLAN(S) FOR PHASE II SHALL NOT RECEIVE APPROVAL UNTIL THE FOLLOWING HAS TAKEN PLACE:

- A. COMPLETION OF CONSTRUCTION OF I-270 H.O.V. LANE PROJECT
(I-495 TO CLARKSBURG)
- B. LOCATION APPROVAL BY FEDERAL HIGHWAY ADMINISTRATION AND
LOCATION/DESIGN APPROVAL BY STATE HIGHWAY ADMINISTRATION
FOR RAMP ACCESS TO ROCK SPRING PARK FROM THE INTERSTATE
SYSTEM;
- C. RAMP ACCESS TO ROCK SPRING PARK FROM THE INTERSTATE
SYSTEM IS INCLUDED IN APPROVED ROAD PROGRAM AS ELIGIBLE FOR
LOCAL AREA REVIEW;
- D. The applicants or their successors in interest must
continue to participate in the North Bethesda TMD and
provide all necessary funding commitments for
mitigation or improvements as deemed by the TMD to be
necessary to accommodate all of Phase II even if the
TMD transportation management fee is not extended
beyond January 1, 2000;
- E. At the commencement of Phase II, the applicants or
their successors in interest must enter into an

agreement to provide funding for other improvements or mitigation measures determined by the Planning Board, as necessary to accommodate all of Phase II in its entirety, and in making this determination the Board must apply performance standards that require specified improvements or mitigation to achieve a CLV of no more than 1,700 at the intersection of Old Georgetown Road and Tuckerman Lane, and a CLV of no more than 1,600 at the intersections of Old Georgetown Road with Rock Spring Drive and Democracy Boulevard and the performance standards must be applied in place of normal APFO requirements for each subdivision review under Phase II, unless the CLV standard is revised in which case, the revised standard will apply; and

- F. If the performance standards cannot be met, as determined by the Planning Board at the commencement of Phase II or at any time during subdivision review of Phase II, this phasing plan will automatically terminate and any further development will not be approved until authorized by the District Council under the development plan amendment process.

<u>Phase</u>	<u>Use</u>	<u>Component Size/Description</u>
II	Retail (Including Market Square, Cafes and Restaurants)	150,000 to 220,000 sq. ft.***
	Entertainment	Up to 90,000 sq. ft., i.e. theater****
	Residential	400 to 950 dwelling units***
	Institutional	Up to 185,000 sq. ft., i.e.**** religious/educational
	Office	Up to 280,000 sq. ft.
	N. Bethesda Community Center	Site for 25-30,000 sq. ft. multi-story building**

Internal roads, pedestrian paths, infrastructure and parking to serve above uses. Agreement for dedication of the right-of-way for ramp access from I-270 into Rock Spring Park will occur in conjunction with the first subdivision application for post Phase I development following location approval by Federal Highway Administration and Location/Design approval by State Highway Administration for ramp access from the east spur of I-270 into Rock Spring Park, but not later than 3 years from said Location/Design approval. Actual dedication will occur at time of plat recordation. Said dedication for ramp access shall be subject to the owner's rights to utilize capacity created thereby, as determined by the Planning Board, applying customary allocation practices.

PHASE III: SUBDIVISION APPROVAL FOR ANY DEVELOPMENT CANNOT BE GRANTED UNTIL ALL REQUIREMENTS OF THE ADEQUATE PUBLIC FACILITIES ORDINANCE, INCLUDING POLICY AREA THRESHOLD CAPACITY AND LOCAL AREA REVIEW ARE SATISFIED FOR SUCH DEVELOPMENT. SITE PLAN(S) FOR

PHASE III SHALL NOT RECEIVE APPROVAL UNTIL THE FOLLOWING HAS
TAKEN PLACE:

- A. CONSTRUCTION OF RAMP ACCESS TO ROCK SPRING PARK FROM
THE INTERSTATE SYSTEM HAS COMMENCED;
- B. The applicants or their successors in interest must
continue to participate in the North Bethesda TMD and
provide all necessary funding commitments for
mitigation or improvements as deemed by the TMD to be
necessary to accommodate all of Phase III as approved
even if the TMD transportation management fee is not
extended beyond January 1, 2000;
- C. At the commencement of Phase III, the applicants or
their successors in interest must enter into an
agreement to provide funding for other improvements or
mitigation measures determined by the Planning Board,
as necessary to accommodate all of Phase III in its
entirety, and in making this determination the Board
must apply performance standards that require specified
improvements or mitigation to achieve a CLV of no more
than 1,700 at the intersection of Old Georgetown Road
and Tuckerman Lane, and a CLV of no more than 1,600 at
the intersections of Old Georgetown Road with Rock
Spring Drive and Democracy Boulevard and the
performance standards must be applied in place of
normal APFO requirements for each subdivision review

under Phase III, unless the CLV standard is revised in which case, the revised standard will apply; and

- D. If the performance standards cannot be met, as determined by the Planning Board at the commencement of Phase III or at any time during subdivision review of Phase III, this phasing plan will automatically terminate and any further development will not be approved until authorized by the District Council under the development plan amendment process.

<u>Phase</u>	<u>Use</u>	<u>Component Size/Description</u>
III	Residential	unbuilt balance, if any***
	Retail	unbuilt balance, if any***
	Office	up to 280,000 sq. ft.***
	Internal roads, pedestrian paths, infrastructure and parking to serve above uses.	

PHASE IV: SUBDIVISION APPROVAL FOR ANY DEVELOPMENT CANNOT BE GRANTED UNTIL ALL REQUIREMENTS OF THE ADEQUATE PUBLIC FACILITIES ORDINANCE, INCLUDING POLICY AREA THRESHOLD CAPACITY AND LOCAL AREA REVIEW ARE SATISFIED FOR SUCH DEVELOPMENT. SITE PLAN(S) FOR PHASE IV SHALL NOT RECEIVE APPROVAL UNTIL THE FOLLOWING HAS TAKEN PLACE:

- A. Construction of ramp access to Rock Spring Park from the interstate system has been completed in its

entirety so that both northbound and southbound ramps are available for traffic to enter and exit the Park.

- B. The applicants or their successors in interest must continue to participate in the North Bethesda TMD and provide all necessary funding commitments for mitigation or improvements as deemed by the TMD to be necessary to accommodate all of Phase IV as approved in its entirety even if the TMD transportation management fee is not extended beyond January 1, 2000;
- C. At the commencement of Phase IV, the applicants or their successors in interest must enter into an agreement to provide funding for other improvements or mitigation measures determined by the Planning Board, as necessary to accommodate all of Phase IV in its entirety, and in making this determination the Board must apply performance standards that require specified improvements or mitigation to achieve a CLV of no more than 1,700 at the intersection of Old Georgetown Road and Tuckerman Lane, and a CLV of no more than 1,600 at the intersections of Old Georgetown Road with Rock Spring Drive and Democracy Boulevard and the performance standards must be applied in place of normal APFO requirements for each subdivision review under Phase IV, unless the CLV standard is revised in which case, the revised standard will apply; and

D. If the performance standards cannot be met, as determined by the Planning Board at the commencement of Phase IV or at any time during subdivision review of Phase IV, this phasing plan will automatically terminate and any further development will not be approved until authorized by the District Council under the development plan amendment process.

<u>Phase</u>	<u>Use</u>	<u>Component Size/Description</u>
IV	Office	unbuilt balance***

Internal roads, pedestrian paths, infrastructure and parking to serve all uses.

ALL PHASES: Notification. Simultaneously with the submission, whether formal or informal, of documentation, of whatever kind or by whatever name, to the Planning Board for any review or approval of any phase of this project, the applicants or their successors in interest shall send written notification of such submission, including a description of same, to the North Bethesda Congress of Citizens Associations, Luxmanor Citizens Association, Wildwood Manor Citizens Association and Saint Mark Presbyterian Church (collectively, "the Organizations"). On request from any of the Organizations, the applicants or their successors in interest shall promptly provide, at no cost to the requestor(s), a complete copy of the documentation submitted to the Planning Board. The Organizations shall provide similar notification to the applicants, or applicants' successors in interest, of submissions by any of the Organizations.

* The Applicant may have up to 200 additional dwelling units, or their residential equivalent (i.e. an elderly housing facility or nursing and care home), approved in Phase One if they can successfully demonstrate that all requirements of the Adequate Public Facilities Ordinance of the Montgomery County Code, including Policy Area Threshold capacity and Local Area Review are satisfied.

** The Master Plan guideline #3 does not require the Community Center until later stages. The Applicant will make the Community Center site available to Montgomery County to allow its construction within the second phase of development.

*** The overall Development Program for residential, retail and office uses shall not exceed the Master Plan limits of 1250 dwelling units (including 226 MPDUs), and 1,050,000 square feet of commercial comprised of retail in the range of 150,000 to 220,000 square feet and office in the range of 830,000 to 900,000 square feet.

**** May be constructed in Phase II or beyond, however total square footage will not exceed the Development Plan Limits of 185,000 square feet of Institutional and 90,000 square feet of Entertainment uses.

In addition, in conformity with the Hearing Examiner's recommendation regarding the Estate House, the Applicants amend the Development Plan to include the following condition:

"Upon rezoning of the property to the MXPD zone for the development provided for in this Plan, the landowners will agree to lease the existing estate house to the County for use as an interim community center. Subsequently, as part of the development of the site, the Davis estate house would be used for some purposes

such as a day-care center, conference center, meeting place, or other uses to serve residents and/or employees consistent with the covenant upon this land."

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD
OPINION

Preliminary Plan No.: 1-98092
Project: Rock Spring Center
Date of Hearing: May 27, 1999

Action: **APPROVAL SUBJECT TO CONDITIONS.** *(Motion to approve was made by Commissioner Holmes; duly seconded by Commissioner Bryant; with a vote of 5-0, Commissioners Holmes, Bryant, Hussmann, Richardson and Perdue voting in favor.)*

The date of this written opinion is October 25, 1999. Any party authorized by law to take an administrative appeal must initiate such an appeal as provided in the Maryland Rules of Procedure. If no administrative appeal is timely filed, then this Preliminary Plan shall remain valid as set forth in Section 50-35(h).

INTRODUCTION

On May 8, 1998, Camalier Limited Partnership and Davis Brothers Montgomery Farm Limited Partnership ("Applicant") filed a preliminary plan application seeking approval of the first portion of the Rock Spring Center project. The application was designated Preliminary Plan No. 1-98092.

After due notice, the Montgomery County Planning Board ("Planning Board") held a public hearing on the application on May 27, 1999, in accordance with the requirements of Maryland Code Ann., Art. 28 ("Regional District Act"), the Montgomery County Code, Chapter 50 ("Code"), and the Planning Board's Rules of Procedure. At the public hearing, the Planning Board heard testimony from its expert technical staff ("Staff"), the Applicant, neighboring property owners and community and civic organizations, and received evidence into the record on the application.

In presenting the application to the Planning Board, Staff prepared packets of information which included, *inter alia*, a Staff report and analysis of the proposal dated May 21, 1999; plan drawings; vicinity maps; Transportation Staff memo dated May 21, 1999; other information supplied by the Applicant including a traffic study dated April 16, 1999; correspondence from the community; and the Planning Board's letter to the Highway Design Division of the Maryland Department of Transportation State Highway Administration ("MDSHA"), dated March 24, 1999, regarding Mandatory Referral No. 98809-SHA-1. Staff distributed the information packets to the Planning Board and they are part of the record on the application.

THE SUBJECT PROPERTY

The subject property is located in North Bethesda in the northwest quadrant of the intersection of Old Georgetown Road (MD 187) and Rock Spring Drive, south of and adjoining the east spur of Interstate I-270. The site contains approximately 53.4 acres and is zoned MXPD (Mixed Use Planned Development). The property is bordered on the north by I-270, on the east by Old Georgetown Road, on the south by Rock Spring Drive, and on the west by Rockledge Drive.

The Rock Spring Office Park, which was developed under C-P and I-3 zoning, is located immediately west of the site and contains corporate offices for several national and regional employers. The properties located directly south and southeast are zoned C-1 and contain office and other commercial uses. The Walter Johnson High School is also located immediately south of the site. Several residential communities are also located in close proximity to the site to the north across I-270, to the east across Old Georgetown Road, and to the south. The nearby residential communities are zoned R-200, R-90, R-60, R-30 and PD-9, and include single-family detached houses, townhouses, apartments and condominiums. In addition, MDSA plans major road projects in the site area, including a new interchange connecting Rock Spring Park and I-270 via realigned Rockledge Drive ("the Rockledge Connector"), and I-270 interchange improvements at Old Georgetown Road and at Democracy Boulevard.

The property is irregularly-shaped and improved only by the Davis Estate House, a barn and a shed, which are located in the southeastern corner of the site. An intermittent stream and stream valley corridor runs diagonally southeast to northwest through the central portion of the site, ultimately draining under I-270. The stream valley contains a substantial stand of mature trees and undergrowth. The property is served by public water and sewer.

The Applicant proposes the ultimate buildout of the subject site with 1,355,000 square feet of office, entertainment/retail, institutional and community center uses and 1,250 multi-family dwelling units. However, because of traffic capacity limitations under the current staging ceiling for the North Bethesda Policy Area, the subject application requests approval of the residential component of the project and only approximately 70% of the non-residential component (637,200 square feet of office space, 310,000 square feet of entertainment/retail and a 30,000 square foot community center). The remaining non-residential development will be reviewed when additional capacity for the policy area becomes available.

The center of the site will be restored as a park/open space and will serve as the unifying element of the project. The residential component will occupy the northern portion of the site, with 4-story midrise buildings located along I-270 and two high-rise buildings positioned closer to the center of the property. The commercial development will be located in the southern portion of the site and will include a variety of uses integrated into a pedestrian-scaled "main street". The western end of the "main street" will include an anchor retail use and cinema. A town square, market hall, restaurants, retail uses and outdoor activities will be located in the center. The eastern end of the "main street" will include a fountain plaza, the restored Davis Estate House, retail and office uses. A portion of the site will also be provided for the North Bethesda Community Center. The buildings will be oriented to provide views into the park and views from the park back into the public areas. The open space system will include the forested stream valley, passive recreation areas in the park, developed urban open spaces and informal mowed ornamental gardens surrounding the Davis Estate House. Access will be provided from Rock Spring Drive, Rockledge Drive and Old Georgetown Road. The entrance to a parking structure, mostly below grade, will be located at a controlled intersection off Rock Spring Drive. A pedestrian gateway will lead from the parking area into the central town square. Some additional parking will be located along the main street. Stormwater management will consist of on-site water quantity and quality control via infiltration (or sand filters) for the first flush and a flow splitter which will bypass the larger storm flow via an enclosed pipe system to a downstream in-stream hybrid wet/dry stormwater management facility.

The proposed in-stream quantity control facility will serve the subject property and the new I-270/Rockledge Connector interchange.

In addition to the construction of internal roads, pedestrian and bicycle pathways and parking facilities, the Applicant will dedicate right-of-way and participate in funding MDSHA's I-270 and Old Georgetown Road interchange improvements, construct a segment of the Rockledge Connector, make improvements along Old Georgetown Road, provide an easement for the future dedication of right-of-way for the North Bethesda Transitway and provide landscaping and street trees along the frontage of the subject property. The Applicant will also join and participate in the North Bethesda Transportation Management Organization to assist the North Bethesda Transportation Management District in achieving and maintaining its 39% non-driver traffic mitigation goal.

PROJECT BACKGROUND

The subject property is located within the area covered by the 1992 Approved and Adopted North Bethesda-Garrett Park Master Plan ("Master Plan"). The Master Plan recommends that the subject property be developed as a new town center for North Bethesda under MXPD zoning, with a mixture of land uses including affordable housing, offices, retail uses and parking. The Master Plan also recommends a direct connection between Rock Spring Park and the I-270 East Spur and provides designations for the adjacent and nearby roadways. In addition, the Master Plan provides guidelines for the North Bethesda Transitway, including an easement along Rock Spring Drive for the future dedication of all necessary right-of-way for the transitway, station, bikeway and bus pull-off as well as for streetscaping between the transitway and the realigned roadway. The Master Plan also requires that the North Bethesda Policy Area be moved to Stage II before additional staging ceiling may be allocated to North Bethesda.

In accordance with the Master Plan recommendations, the District Council rezoned the site to the MXPD Zone in April 1997 (Zoning Case No. G-713). The rezoning approval was conditioned upon several roadway improvements in the site area, including the programmed construction of the I-270 interchange at the Rockledge Connector, the construction of ramps between the I-270 split and the new interchange, and improvements to the I-270/Old Georgetown Road interchange and I-270 West Spur at Democracy Blvd. interchange. The conditions also provided maximum calculated critical lane volumes for several nearby intersections. The Planning Board subsequently held a public hearing, on July 30, 1998, to clarify the phasing element of the development plan (Development Plan Amendment No. 99-1). In addition, in March 1999, the Planning Board moved the North Bethesda Policy Area to Stage II, basing its decision on the progress that had been made in implementing the transportation infrastructure and transportation demand management programs in North Bethesda.

The Planning Board also recently considered several of the proposed roadway improvements for the site and surrounding area under Mandatory Referral No. 98809-SHA-1. On March 18, 1999, MDSHA staff presented the I-270/Rockledge Drive/Old Georgetown Road interchange and the Old Georgetown Road/Tuckerman Lane intersection improvements to the Planning Board. In considering these projects, the Planning Board noted the importance of the improvements for better circulation and improved entry to the Rock Spring Park area. The

Planning Board forwarded its comments regarding the importance of the project and the need for improved landscaping and additional right-of-way to MDSHA's Highway Design Division on March 24, 1999.

THE SUBDIVISION CRITERIA

An application for subdivision requires the Planning Board to undertake its legislatively delegated authority under the Regional District Act and the Montgomery County Code ("Code"). The Planning Board administers Chapters 50 ("Subdivision Regulations") and 59 of the Code ("Zoning Ordinance"). In order to gain approval, the application must meet all of the requirements of the Subdivision Regulations as well as those in the Zoning Ordinance applicable to the subject preliminary plan.

Section 50-35 of the Subdivision Regulations provides the approval procedure for preliminary plans of subdivision. After a hearing on the Preliminary Plan, the Planning Board must act to approve or disapprove the plan, or to approve the plan subject to conditions and/or modifications necessary to bring the plan into accordance with the Code and all other applicable regulations.

Among other requirements, Section 50-35 provides that the plan must include provisions for erosion and sediment control and that it must substantially conform to the applicable master plan. In addition, Section 50-35(k) of the Code (the "Adequate Public Facilities Ordinance" or "APFO") directs the Planning Board to approve preliminary plans of subdivision only after finding "that public facilities will be adequate to support and service the area of the proposed subdivision . . . [including] roads and public transportation facilities . . . in accordance with the guidelines and limitations established by the County Council in its Annual Growth Policy."

DISCUSSION OF ISSUES

In its report and through testimony at the public hearing, Staff described the subject property, the proposal, the surrounding neighborhood, existing traffic conditions and planned road improvements. Staff noted that the Applicant has requested a slight modification of the square footage allocation to slightly decrease the office space (from 650,000 square feet to 637,200 square feet) and increase the retail space (from 310,000 square feet to 340,000 square feet) in order to include the proposed community center in the subject application. Staff testified that the subject application is in conformance with the development standards for the MXP Zone; the District Council's adopted resolution approving Zoning Application No. G-713; and the amended phasing element of the Development Plan. In addition, the Staff found that the subject application is consistent with the recommendations of the Master Plan and that it complies with the provisions of the Subdivision Regulations. Staff recommended approval of the plan, subject to conditions.

Transportation

The main issue raised at the public hearing concerned the adequacy of roads and public transportation facilities in the site area. Staff testified that the subject application satisfies the policy area and local area components of Subdivision Regulations APFO review.

Regarding the Policy Area Review, or threshold capacity, Staff testified that development of the site is limited to 1,250 housing units and approval of 637,200/office and 340,000/retail comprising of a total of 977,200 square feet of non-residential uses. Available staging ceiling consists of a total of 3,667 jobs (417 jobs remaining in the current staging ceiling, 3,000 jobs for the Rockledge Connector access to I-270 East Spur, and 250 jobs for the improvements to Old Georgetown Road.) Staff explained that, until recently, there was no staging ceiling available in the North Bethesda Policy Area. However, in their work sessions on the FY99 Annual Growth Policy ("AGP"), the County Council recognized the possibility that the I-270 East Spur Interchange and improvements to Old Georgetown Road might become available to be counted for AGP capacity during FY99.

Accordingly, the County Council directed the Planning Board to add 3,250 jobs and 1,200 housing units when the following three conditions were met: (1) the transportation improvements are fully funded within the next four years; (2) an agreement is signed between the Applicant and MDSHA delineating the responsibilities for each in the interchange project and related improvements; and (3) Staff has confirmed that the capacity associated with the interchange and improvements to Old Georgetown Road has not changed. Staff advised the Planning Board that a completed agreement between the Applicant and MDSHA is anticipated and the other two conditions have been met. Staff also noted that the policy area was moved to Stage II in March, 1999, which satisfied the Master Plan requirement that the policy area be moved to Stage II before new capacity can be allocated to North Bethesda.

To satisfy Local Area Transportation Review ("LATR"), Staff recommended several conditions, including: (1) the realignment of Rockledge Drive associated with the construction of the Rockledge Connector; (2) a signed agreement with MDSHA obligating the Applicant to participate in funding the I-270 interchange improvements and to construct a segment of the Rockledge Connector; and (3) full bonding of the design and construction of improvements contiguous to the site along Old Georgetown Road and at the interchange of the I-270 West Spur and Democracy Boulevard. Staff also noted that the Applicant's traffic study and the subject application include several proposed improvements to add capacity to nearby intersections.

Staff further stated that the subject application satisfies the conditions imposed in Zoning Case No. G-713 regarding APF review. Staff explained that construction of 1) the future I-270/Rockledge Connector interchange, 2) the improvements to the I-270/Old Georgetown Road interchange, and 3) improvements to the intersection of Old Georgetown Road and Tuckerman Lane, are all programmed for construction within two years.

In response to a question from Chairman Hussmann about the Planning Board's recommendations on the mandatory referral, Staff stated that MDSHA has not yet finalized the interchange design. However, MDSHA has indicated that it is trying to accommodate the Planning Board's recommended improvements. Staff further noted that obtaining the land for the recommended pedestrian access and landscaping improvements should not be a problem because the proposed conditions for the subject application require the Applicant to provide the land.

The Applicant testified that the State, the County and the Applicant have worked together to ensure the provision of the direct access connection into Rock Spring Park from the interstate system, known as the "Rockledge Connector". The Rockledge Connector is a critical part of the

application, which will vastly change the dynamics of the existing traffic conditions along Old Georgetown Road and Rock Spring Drive and improve the transportation system in the site area.

Neighboring property owners and citizen associations submitted correspondence and a petition into the record detailing their concerns. Several neighbors and representatives of community organizations also testified at the public hearing. They contended that the subject application does not comply with the conditions of the District Council's rezoning decision and its approval would undermine the intent and purpose of the APFO. They stated that allowing the MDSHA I-270 improvements to be counted for LATR review at this time would be premature and would result in excessive traffic congestion. The neighbors noted that the Applicant and MDSHA have not yet signed an agreement regarding funding of the roadway improvements, as required by the conditions in Zoning Case No. G-713. They also testified that the Applicant and Staff are relying upon future MDSHA improvements, for which full funding has not been appropriated, to meet current LATR requirements. They explained that the funds necessary for the completion of the MDSHA projects are appropriated for only the current year and procedurally not appropriated for the out-years, but are described as "for Planning Purposes Only".

In addition, the neighbors' argued that 1) the current project budget, including the programmed funds, does not include necessary sound barriers, safety barriers or visual screening; 2) that the final interchange design is not complete; 3) that there are unresolved issues regarding whether and when MDSHA will require adjoining residential property to achieve the road improvements and the costs of obtaining that property; and 4) that significant delays may result from legal challenges and/or the need for approval of additional funding.

The neighbors also contended that the LATR Guidelines contain conflicting requirements. They stated that the language of Section VII.A of the LATR Guidelines, which allows the Applicant to include programmed transportation improvements into its LATR analysis and relies on the use of the Montgomery County Approved Road Program (ARP) to identify roads that are "programmed," requires that 100 percent of the construction funds be already appropriated for a project to be included. However, the ARP criteria for inclusion of a road in LATR requires that 100% of construction funds be programmed in the MDSHA Consolidated Transportation Program within the five-year program period, rather than appropriated. In addition, the neighbors expressed concern about Staff's reliance on the County Executive to determine construction funding requirements and the likely timing of construction. They contended that the Planning Board illegally delegates a portion of its authority to administer the APFO by relying on the ARP criteria, which are determined by the County Executive.

In response to the neighbors' concerns, the Applicant testified that it has signed the agreement with MDSHA regarding the implementation of the Rockledge Connector improvements. In addition, the Applicant and Staff explained that the provisions of the LATR Guidelines are not conflicting, but that the terms used to define "programmed" road improvements are different for County and State projects. Thus, County road projects require that 100% of construction funds must be "appropriated" or otherwise committed, but State projects require that 100% of construction funds must be "programmed" in the MDSHA Consolidated Transportation Program (CTP) within the five-year program period. The I-270/Rockledge Connector improvements are State projects. Therefore, including the programmed I-270 improvements in LATR for the subject application is timely and appropriate. Staff also explained that, because of past difficulties in

determining which road improvement projects should be counted for development review, the Planning Board, the County Executive and the County Council agreed several years ago that the ARP would be the defining document for determining which road projects can be counted for APF and LATR purposes. They agreed that the County Executive is in the best position to determine what funding will be committed in the County budget, which projects will move ahead when, and to coordinate projects with the State. Finally, in response to a question from Chairman Hussmann, Staff stated that funding in the out-years, beyond the current and budget years, is described as "For Planning Purposes Only" for all projects in the CTP.

Noise

In its report, Environmental Staff stated that the subject property will be heavily impacted by noise from the surrounding roads. Staff also found that setbacks and physical barriers would be of limited value in noise attenuation. Therefore, Staff supported the Applicant's use of intervening noise-compatible uses (e.g., parking structures), building orientation, acoustical design and building layout to mitigate noise on the site.

Through testimony at the public hearing, the owners of property adjoining the interchange to the north expressed concerns about the noise that will be generated by the new interchange improvements. They testified that their concerns are relevant to the subject application because funding for necessary sound barriers, which could cost up to three million dollars, is not included in the MDSHA project budget. They also contended that the environmental impact study and MDSHA's noise analysis for the road improvements are flawed and that MDSHA's plan revisions will result in even more noise than originally projected. In addition, the neighbors advised the Planning Board that WSSC plans to clearcut its 50-foot easement for a water main project along I-270, which will eliminate the existing noise barrier between the houses and I-270 and increase the need for new barriers. Finally, the neighbors expressed concern that the environmental impacts of MDSHA's revised design for the I-270/Rockledge Connector interchange and ramps, in particular the replacement of a retaining wall with a dirt slope, and WSSC's clearcutting have not been studied.

FINDINGS

After review and consideration of the evidence of record, including testimony given at the public hearing, the Planning Board finds that Preliminary Plan No. 1-98092 is in accordance with the Subdivision Regulations, the Zoning Ordinance and the Regional District Act. The Planning Board further finds that the Preliminary Plan is consistent with the recommendations of the 1992 Approved and Adopted North Bethesda-Garrett Park Master Plan, the conditions imposed in Zoning Case No. G-713 and the amended phasing element of the Development Plan. The Planning Board also finds that the proposed conditions will ensure the appropriate use of the subject property, and adequate access and road improvements, forest conservation measures and stormwater management. The Planning Board accepts the Montgomery County Department of Permitting Services' ("MCDPS") determination that the Stormwater Management Concept meets MCDPS' standards and finds that the subject application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. In addition, the Planning Board finds that the Applicant's compliance with the conditions of approval of the

preliminary forest conservation plan will meet the requirements of Montgomery County Code Chapter 22A. Therefore, the Planning Board adopts Staff's recommended conditions.

Regarding the adequacy of public facilities, the Planning Board adopts Staff's findings and recommendations and finds that the site is adequately served by public facilities, including roads and public transportation, pursuant to the Fiscal Year 1999 Annual Growth Policy. The Planning Board further finds that Staff's use of the ARP to determine which road improvements are available for LATR purposes is appropriate. The Planning Board also finds that the CTP contains the same "For Planning Purposes Only" notation on funding for road improvements in the out-years for all projects. Such a delineation of funds is reasonable and the funds may be treated as "programmed".

Finally, the Planning Board acknowledges the neighbors' concern about the need for sound barriers along the interchange improvements, but notes that the interchange design issues were discussed at length at the public hearing on the mandatory referral and are not the subject of the current public hearing. Nevertheless, the Planning Board has significant interests in the design of the interchange and will reiterate its concerns to the MDSHA in a stronger, more pointed letter regarding the design issues and the protection of the adjacent community.

CONCLUSION

Based on the testimony, evidence and exhibits presented, as well as the contents of the Preliminary Plan file, the Planning Board finds Preliminary Plan No. 1-98092, as modified by the Applicant, to be in accordance with the Subdivision Regulations of the Montgomery County Code and the provisions of the Maryland Code Ann., Art. 28. Therefore, the Planning Board approves Preliminary Plan No. 1-98092, as modified by the Applicant, subject to the following conditions:

- 1) Prior to recording of plat(s), Applicant to submit an Adequate Public Facilities (APF) Agreement with the Planning Board limiting development to 637,200 square feet of Office, 340,000 square feet of Retail, including a 30,000 square foot Community Center, and 1,250 Multi-Family Dwelling units; and providing for the roadway improvements and conditions outlined in the revised Transportation Planning Division memorandum dated May 27, 1999 and the Maryland Department of Transportation (MDSHA) memorandum dated May 11, 1999.
- 2) Prior to submission of site plan application, Applicant and MDSHA must ratify the Memorandum of Understanding for the necessary participation in roadway improvements and securing the necessary rights-of-way.
- 3) Compliance with the provisions and phasing elements contained in County Council Resolution No. 13-865 for Zoning Application G-713.
- 4) Compliance with the conditions of approval of the preliminary forest conservation plan. The Applicant must meet all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permit, as appropriate.

- 5) Final dedication line of Rockledge Drive and Rockledge Connector to be established by record plat.
- 6) Terms and conditions of access to be finalized and approved by MCDPW&T prior to recording of plats per memorandum dated 5-24-99.
- 7) Record plat to reflect area of transit alignment and proposed station location.
- 8) Conditions of MCDPS stormwater management approval, dated 5-20-99.
- 9) No clearing, grading or recording of plats prior to site plan approval.
- 10) Final building location, public use space and other amenities to be reviewed and approved at site plan.
- 11) Other necessary easements.
- 12) Upon determination of the County to use a portion of this site for a community center, Applicant shall dedicate to the County, without cost to the County, that portion of the site designated for use as a community center.

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**Date Mailed: November 9, 2004****Action:** Approved Staff
Recommendation**Motion** of Commissioner Perdue,
seconded by Commissioner Bryant,
with a vote of 5-0.
Chairman Berlage and Commissioners
Bryant, Perdue, Wellington and
Robinson voting in favor.**MONTGOMERY COUNTY PLANNING BOARD****OPINION**

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

NAME OF PLAN: Rock Spring Center

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FINDINGS

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

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

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

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

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

CONDITIONS OF APPROVAL

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

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

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

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

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

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

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

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

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

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


Ellyn Dye, Technical Writer

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MR 11/9/04
Approved for legal sufficiency
M-NCPPC Office of General Counsel



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

MCPB No. 11-15
Preliminary Plan No. 11998092B
Rock Spring Centre
Date of Hearing: February 17, 2011

MONTGOMERY COUNTY PLANNING BOARD

CORRECTED 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 July 24, 2008, Davis Brothers Montgomery Farm LP, Camalier LP, and DRI Development Services ("Applicant"), filed an application for approval of an amendment to its preliminary plan of subdivision of 50.54 acres of land in the MXP zone, located in the northeast quadrant of the intersection of Rockledge Drive and Rock Spring Drive ("Property" or "Subject Property"), in the North Bethesda Garrett Park Master Plan area ("Master Plan"); and

WHEREAS, this preliminary plan application is to amend preliminary plan no. 119980920 approved on October 25, 1999, for ~~637,200~~ 637,200 sf. of office space, 220,000 sf of retail space, 90,000 sf of entertainment uses, a 30,000 sf community center, and 1,250 multi-family dwelling units, previously amended by preliminary plan no. 1199809A approved on September 23, 2004, that added a 200-room hotel and reduced the general office space to 539,900 sf; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 11998092B, Rock Spring Centre ("Preliminary Plan" or "Application") to, once again amend the previously approved preliminary plan by reconfiguring internal parcel lines within the unplatted existing parcel, creating 21 parcels, and amending the approved land uses by i) increasing the office space by 10,000 sf to 549,900 sf, ii) reducing the retail space by 10,000 sf to 210,000 sf; and

Approved as to
Legal Sufficiency:

Amey M. 4/4/11

8787 Georgia Avenue, Suite 200, Bethesda, MD 20814

M-NOPPC Legal Department Chairman's Office: 301.495.4605 Fax: 301.495.1320
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncfpc.org

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 4, 2011, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on February 17, 2011, 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

WHEREAS, on February 17, 2011, 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, and Commission 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. 11998092B, subject to the following conditions:

- 1) Approval under this Preliminary Plan Amendment is limited to 1,250 multi-family dwelling units, 549,900 square feet of office uses, 210,000 square feet of retail uses, 200,000 square feet of hotel uses with up to 200 guest rooms, 90,000 square feet of entertainment uses, and a 30,000-square-foot community center. This condition modifies the first listed Condition of Approval, but identified as Condition of Approval #5 of the Planning Board Opinion dated November 9, 2004.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable. Conditions include:
 - a. Provide detail for the invasive species management plan, in terms of species and treatment methods, and specify the necessary supplemental plantings.
 - b. Revise the worksheet to account for clearing which occurred in the staging area fronting Old Georgetown Road. Adjust notes, tables and legend accordingly.
 - c. Identify the off-site forest mitigation bank and the appropriate amount of credits needed.
 - d. Clarify and correct all plan references to the phase II encroachments within the boundaries of the current phase, by providing a general note to restore and/or reforest the disturbed areas prior to final release of the final forest conservation plan bond associated with the current phase.

- e. Revise the legend symbols with the plan graphics for all items so they match, including but not limited to the existing/proposed forest lines and the individual tree symbols.
 - f. Adjust legend, worksheet and any other plan reference to exclude large landscape areas from phase III (maximum landscape credit has been already been credited in a previous phase).
 - g. Provide permanent boundary monuments at each corner of the forest conservation easements. Include additional posts along boundary lines as needed so that the spacing does not exceed approximately 150'.
 - h. Delete the cultivar reference from the reforestation list. Specify only standard native plant materials for reforestation.
- 3) The Category I Easement areas as shown on the Final Forest Conservation Plan (FFCP) must be recorded by plat prior to land disturbing activities occurring onsite.
 - 4) The Applicant must submit financial security for the planting requirements and invasive management work specified on the FFCP prior to any land disturbing activities occurring onsite.
 - 5) The certificate of compliance for the off-site forest mitigation bank must be submitted by Applicant and approved by M-NCPPC Associate General Counsel Office prior to land disturbing activities occurring onsite.
 - 6) The Applicant must perform the initial invasive species control work following the preconstruction meeting, and prior to the release of building permits (to be performed along with the pre-construction measures such as tree protection). The supplemental native plantings must occur as soon as possible but no later than two growing seasons after the pre-construction meeting date.
 - 7) The Applicant must dedicate all public road rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan, unless otherwise designated on the Preliminary Plan.
 - 8) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes.
 - 9) The Applicant must dedicate to Montgomery County the approximately 0.57-acre portion of the Subject Property that is identified as proposed "Parcel M", for public recreation use per County Council Resolution 13-865. The land must be dedicated to Montgomery County through notation on the plat and by conveyance prior to recordation of the plat in the form of a deed approved by Montgomery County. At time of conveyance, the Property must be free of any trash and unnatural debris.
 - 10) The record plat must reflect a public use and access easement over all private streets and adjacent parallel sidewalks.
 - 11) The record plat must reflect an easement for future dedication for the North Bethesda Transitway along the Rock Spring Drive Property frontage. The easement will be valid for so long as the North Bethesda Transitway is shown on

- the official Montgomery County Master Plan of Highways. Prior to recordation of the plat, an easement document must be recorded in the land records of Montgomery County that sets forth the terms of the easement for future dedication. The easement document must state that, at any time that the county makes a request for such dedication, the Applicant will dedicate to Montgomery County for use as right-of-way for the North Bethesda Transitway the area shown in easement on the record plat. The record plat must note the liber and folio of the easement document.
- 12) Prior to approval of any site plan for development on proposed Parcel M or proposed Parcel O, the Applicant must obtain approval of a preliminary plan amendment that establishes an easement for future dedication for right-of-way for the North Bethesda Transitway along the Property frontage of Old Georgetown Road on the same terms and conditions as set forth in Condition 11.
 - 13) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated January 4, 2011. 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 December 22, 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 satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
 - 16) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
 - 17) Site Plan #820090030 must be approved by the Board and the certified site plan must be signed by Montgomery County Planning Department Staff prior to approval of the record plat.
 - 18) 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 during the site plan process. 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."
 - 19) The Preliminary Plan will remain valid until November 25, 2013. 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. This

condition modifies Condition of Approval 13 of the Planning Board Opinion dated October 25, 1999.

- 20) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid until November 25, 2013.
- 21) All remaining applicable previous conditions stated in the Planning Board Opinion of October 25, 1999, and the Planning Board Opinion of November 9, 2004, remain in full force and effect, unless specifically amended by this Preliminary Plan.

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 subject to revision as presented at the Hearing, 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 Master Plan.*

The Planning Board found the original preliminary plan (119980920) and the previous amendment (11998092A) in substantial conformance with the North Bethesda Garrett Park Master Plan. The current amendment does not affect the Application's conformance with the Master Plan, and the Planning Board's prior findings remain valid.

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

Local Area Transportation Review (LATR)

The 10,000-square-foot increase in office use and the 10,000-square-foot decrease in retail use will cause an overall reduction in morning and evening peak hour trips, as compared to previous approvals. Therefore, this Preliminary Plan Amendment satisfies the LATR requirements of the APF test.

Policy Area Mobility Review

This Preliminary Plan Amendment does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the Application is not subject to Policy Area Mobility Review.

Other Public Facilities and Services

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 has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has 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 Growth Policy resolution currently in effect and will be adequate to serve the Property. With respect to public schools, The Planning Board found the original preliminary plan (119980920) and the previous amendment (11998092A) to be adequately served. The current amendment does not add any additional dwelling units and is still under a valid APF approval, and, therefore, does not affect the adequacy of public schools. The Planning Board's prior findings remain valid. Electrical, telecommunications, and natural gas services are also available to serve the Subject Property.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The proposed size, width, shape and orientation of the parcels that will be recorded are appropriate for the location of the subdivision.

The parcels were reviewed for compliance with the dimensional requirements for the MXP zone as specified in the Zoning Ordinance, and will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

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

The Subject Property contains existing recorded Category I Conservation Easements areas related to earlier phases of the project. Below is a brief outline of plans associated with the Rock Spring Centre:

Natural Resources Inventory / Forest Stand Delineation (NRI/FSD):
419941990 Original approval 8/9/1994
Re-approval 1/28/1998
Revised on 6/25/1999

Final Forest Conservation Plan (FFCP):
820040170 (820030360) approved on 5/17/2004.

820000340/820000350 approved on 7/13/2006. Later revised for parcel 23 storm water management encroachments and forest conservation easement abandonment on 5/13/2009.

The approved FFCP for the Rock Spring Centre, Residential Towers (the site containing a large abandoned foundation) shows temporary construction access within the footprint area of the current phase. The overlapping area presently contains electric utilities such as poles, lines and conduits, and also has portions of the tower crane foundation, a steeply graded slope, and security fencing within areas of the current phase. The phase II work was intended to be finished prior to start of the current phase. However, under the present conditions, there would be difficulty in completing all of the currently proposed work (such as at the north end of East Street and the nearby reforestation) unless the Phase II work is completed first (due to the severe limitations of working near a deep foundation wall and steeply graded slope above it). A plan note will clarify that a portion of the reforestation work is delayed until phase II is further underway. Therefore, portions of the forest conservation bond covering the current phase will have to be retained until the required restoration and plantings can be appropriately completed and accepted.

The final forest conservation plan is for the entire area covered by the previously approved preliminary plan of subdivision and preliminary forest conservation plan. The forest conservation planting requirements in the final forest conservation plan are based on the areas of forest cleared and retained shown on the preliminary forest conservation plan. Areas of forest that were previously cleared must be accounted for in the final forest conservation plan for the entire Rock Spring site as included in the Preliminary Plan of subdivision and the final forest conservation plan.

Forest Conservation Variance

Section 5-1607(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 under 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 inches 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.

The Planning Board notes that although this project did have a Preliminary Forest Conservation Plan approved prior to the October 1, 2009, the effective date for the variance requirements, the current proposal shows additional impacts and/or removals of subject trees, beyond the previous approvals. Applicant is proposing to remove and/or impact 14 trees greater than 30 inches DBH onsite. The newly proposed impacts to the trees that are 30 inches or greater in diameter trigger the requirement for a forest conservation variance.

According to Section 22A-21(e) of the County Code, in reaching its determination on the variance the Planning Board, must consider four factors. As the following findings demonstrate, the subject forest conservation plan and variance adequately addresses each of these factors:

- a. Will it confer on the Applicant a special privilege that would be denied to other applicants?

The general impacts of the proposed development have been shown on previously approved plans. Refinement of the approved concept is an anticipated and necessary part of the development process, rather than a unique or special consideration for the Applicant. The flexibility of the previous concept is underscored by the lack of a defined easement boundary from the previous approvals (except for minor established forest conservation easement areas not affected by the current proposal). Furthermore, the current proposal has improved the condition for other trees that are 30 inches in diameter or greater, when compared to previous approvals. Therefore, the Planning Board finds that the variance request would be granted to any Applicant in a similar situation.

- b. Is it based on conditions or circumstances which are the result of the actions by the Applicant?

The impact and removals are necessary and unavoidable to implement the plan as proposed. The Planning Board finds that the variance can be granted under this condition because mitigation for the impacts is provided above and beyond forest conservation requirements. The proposed supplemental native plantings associated with the stream valley buffer encroachments can also be counted as mitigation for the impacts/removals subject to the variance. However, the Planning Board required that additional native canopy tree plantings occur at the location of tree V-2. That large tree currently occupies a landscape bed within the traffic circle located partially within the stream valley buffer, which was credited toward forest conservation requirements. Once the declining tree

is removed the area would be completely open. The Planning Board required approximately five native canopy trees for the area in question. Locations, quantities and sizes of the plantings will be determined on the revised Final Forest Conservation Plan.

- c. Is it based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property?

The requested variance is a result of the current Application on the Subject Property and is not related to land or building use on a neighboring property.

- d. Will it violate State water quality standards or cause measurable degradation in water quality?

The one tree subject to a variance that is also associated with the stream valley buffer (tree V-2) is being removed due to its declining health rather than proposed construction impacts. Replanting of native canopy trees will occur at the same location. Furthermore, stormwater management for the Rock Spring Centre is currently provided in a wetland pond designed to serve the entire project providing both water quality and quantity controls. Under more recent stormwater management regulations, each new phase provides additional water quality measures. Phase III has an approved stormwater Management Concept Plan, and the final stormwater management plans are under review by MCDPS. Those plans include green roofs, bio-filtration facilities, and level spreaders for roof drains, which create sheet flow across grass areas as a vegetative treatment practice. Structural measures include dry wells and underground structural water quality facilities. The stormwater management plan will be ultimately approved for this project by MCDPS. The approved stormwater management plan will ensure that water quality standards will be met in accordance with State and County criteria.

In conformance with the above findings, the Planning Board approves the Applicant's request for a forest conservation variance to remove and/or impact 14 trees that are 30 inches or greater in diameter.

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 on January 4, 2011. The stormwater management concept includes consists of on-site channel protection measures via the existing Rock Creek Centre pond located northwest of the intersection of Rockledge Drive and Rock Forest Drive. On-site water quality control will be provided by green roofs, disconnects, bioretention facilities, grass swales, and permeable concrete.

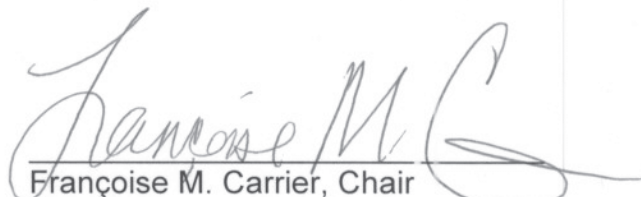
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the effective date of this Resolution is March 30, 2011 (which is the date that this the original Resolution was mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Alfandre, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Presley voting in favor of the motion, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, April 21, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



NOV 30 2006

MCPB Resolution No. 06-99

Site Plan No. 82003036B

Rock Spring Center Apartment Tower I

Date of Hearing: October 12, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is required to review site plan applications; and

WHEREAS, on August 28, 2006, Penrose Development Company, LLC ("Applicant"), filed an application for approval of a site plan amendment ("Site Plan Amendment" or "Plan") for a 19-story residential building containing 351 apartments, including 32 Moderately Priced Dwelling Units ("MPDU"), and a clubhouse on 3.09 acres of land ("Property" or "Subject Property") in the Mixed Use Planned Development ("MXPD") zone in the North Bethesda & Garret Park Master Plan area; and

WHEREAS, this Site Plan Amendment proposed to modify the Site Plan No. 8-03036, originally approved for the Subject Property on November 20, 2003 and last amended by Site Plan No. 8-03036A in November of 2004; and

WHEREAS, Applicant's Site Plan Amendment application was designated Site Plan No. 82003036B, Rock Spring Center Apartment Tower I (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 2, 2006, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on October 12, 2006, Staff presented the Application to the Planning Board at a public hearing for its review and action (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on this Application and approved the Application on the motion of Commissioner Wellington, seconded by Commissioner Robinson, with Commissioners Hanson, Perdue, Wellington and Robinson voting in favor, with Commissioner Bryant absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 82003036B, Rock Spring Center Apartment Tower I, for a 19-story residential building containing 351 apartments, including 32 MPDU, and a clubhouse on 3.09 acres of land in the MXP zone, subject to the following conditions:

1. Transportation

Provide bike racks conveniently located on the site to support use of the Class I bikeway within close proximity of the site and to assist in achieving and maintaining the Trip Reduction Goals of North Bethesda Transportation Management District (TMD).

2. Environmental Planning

The proposed development shall comply with all conditions for final forest conservation plan approval.

3. Department of Permitting Services

The proposed development is subject to Stormwater Management Concept approval conditions dated May 22, 2003, unless amended and approved by the Department of Permitting Services.

4. Moderately Priced Dwelling Units (MPDUs)

The proposed development shall provide 32 MPDUs on site in accordance with the Alternative Agreements between the Applicant and the Montgomery County Department of Housing and Community Affairs dated May 25, 2004, and January 11, 2005.

5. Pedestrian Circulation

- a. Provide a minimum 5-foot clearance for the internal pedestrian pathway system to ensure safe and convenient pedestrian circulation.
- b. Extend the proposed sidewalk along the east boundary of the site southwards and connect the sidewalk with the proposed future pathway near the southeastern corner of the site.

6. Site Plan Enforcement Agreement

Submit a revised Site Plan Enforcement Agreement including a Development Program for review and approval prior to approval of the signature set as follows:
Development Program to include a phasing schedule as follows:

- a. Street tree planting shall progress as street improvement is completed, but no later than six months after completion of the proposed building.
- b. All sidewalks, pathways, landscaping, outdoor lighting, and recreation facilities shall be completed prior to issuance of any occupancy permit for the proposed building.
- c. Clearing and grading to correspond to the construction phasing, to minimize soil erosion and forest loss.
- d. Coordination of each section of the development and roads.
- e. Phasing of stormwater management, sediment/erosion control, recreation, forestation, community paths, or other features.

7. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Limits of disturbance.
- b. Methods and locations of tree protection per recommendations of an ISA certified arborist.
- c. Forest Conservation easement areas.
- d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- e. The development program, inspection schedule, and Site Plan resolution.
- f. Show bus stop location(s) and provide bus shelter(s).
- g. Provide sidewalk lighting along the east side of the proposed high-rise building.
- h. Bike racks location and details.

BE IT FURTHER RESOLVED THAT, all site development elements as shown on the site and landscape plans stamped by the M-NCPPC on October 2, 2006 shall be required except as modified by the above conditions:

BE IT FURTHER RESOLVED THAT, the Planning Board's decision is based on the following findings proposed by Staff, in its Report, which is supported by the evidence of record:

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with*

an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan;

As amended in accordance with the above conditions, the Plan is consistent with the approved Development Plan (DPA 99-1) in land use, density, location, building height and development guidelines.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

As amended in accordance with the above conditions, the Plan meets all of the requirements of the MXUPD Zone and the developments standards are limited as specified in the data table below:

Data Table

Development Standards	Development Standard Approved by the Board and Binding on the Applicant
Min. Tract Area (ac.):	3.09
Max. Residential Density (d.u./ac.)	114
Number of Dwelling Unit	
1-bedroom	172
2-bedroom	165
3-bedroom	14
Total	351
MPDU	32 ¹
Total Gross Floor Area (s.f.)	442,220
Building Setbacks (ft.)	
from detached homes	550
from street (the tower portion)	50
from street (the garage portion)	30
Green Area (%)	59
Max. Building Height (story):	19 (190 feet ²)
Parking Spaces	
Total	508 ³
Motorcycle	29

Bike

20

1. Per Alternative Agreements between the Applicant and the Montgomery County Department of Housing and Community Affairs dated May 25, 2004.
 2. Measured from the elevation of the approved street grade (Rock Forest Drive) opposite the middle of the front of the building.
 3. 492 spaces in garage and 16 spaces at plaza.
3. *The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The buildings and structures are safe, adequate and efficient. The Plan proposes a 19-story, 351-unit residential building, a 2-story clubhouse and a 3-level underground parking garage. The high-rise portion of the building will be set back 50 feet from the street and at least 550 feet from any detached homes. The underground garage will provide adequate and convenient parking for future residents and their visitors. The proposed clubhouse and the tower form a drop-off court.

b. Open Spaces

The open spaces are safe, adequate and efficient. The Plan proposed 1.73 acres of green space throughout the site, including paved courtyard, landscaped green space, lawn areas, pool, and forest conservation areas.

The stormwater management concept for the proposed development consists of (1) on-site channel protection measures via the use of the dry pond located in the southwest quadrant of the interchange of I-270 and Rockledge Drive, and (2) on-site water quality control via underground storm filter near Rock Forest Drive. A recharge weir is proposed along the back edge of the permanent construction.

The Plan proposes to save 0.33 acre of forest and remove approximately 15 specimen trees. Reforestation will be required for the overall Rock Spring Center, which includes this site, with first preference given to onsite reforestation.

c. Landscaping and Lighting

The landscaping and lighting are safe, adequate and efficient. The Plan's landscaping on the site consists of a mix of shade, evergreen and

flowering trees along the street frontage, internal driveways, and around the proposed drop-off court and green space areas. A portion of the existing vegetation, about 0.33 acres, will be saved along the south boundary of the site. Additional plant materials are needed along the southern edge of the structure to provide adequate screening along the retaining walls.

The Plan proposes various lights along the street and throughout the site, including streetlights on 13-foot-high poles, internal sidewalk lights on 11-foot-high poles, wall-mounted lights, and uplighting for landscaping. Additional lighting should be provided along the proposed sidewalk on the east side of the high-rise building.

d. Recreation

Recreation facilities are safe, adequate and efficient. The Plan proposes recreation facilities, including landscaped green space, lawn areas, pathways, outdoor sitting and picnic areas, swimming pools, exercise room, media room, library, party room and meeting room, will provide future residents with a variety of passive and active recreation opportunities.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient. Access to the development will be via a divided monumental entrance driveway consisting of two ingress and two egress lanes off Rock Forest Drive. The ramp leading to the underground parking garage will be located approximately 60 feet from the street off of the entrance driveway. The driveway slopes up approximately 6 feet toward the clubhouse and turns eastwards into a drop-off court, which is formed by the clubhouse and the L-shaped high-rise building and will be paved with special pavers. A separate driveway to the loading area is proposed at the northeastern corner of the site.

The Plan proposes a sidewalk along the Rock Forest Drive frontage and an internal pathway system connecting building entrances with outdoor facilities and the public sidewalk. The Plan also shows a 5-foot-wide sidewalk along the east boundary of the site between Rock Forest Drive and the building's lobby exit doors on the its east side. This sidewalk will be connected with the future pathway system leading to the retail section of Rock Spring Center through the central green space. In addition, a minimum 5-foot clearance (ADA requirements) should be maintained

throughout the project's internal pedestrian pathway system to ensure safe and convenient pedestrian circulation.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed development's structures and uses are compatible with other site plans and adjacent existing and proposed uses. The proposed high-rise residential building and associated clubhouse and underground parking structure are part of Rock Spring Center, which is planned as a 53.4-acre, mixed-use development containing residential, retail, office, entertainment, institutional, and community center uses. The subject development, the high-rise component of the Center, will be bounded by the existing garden apartment complex to the north, stream buffers to the west and south, and a residential use to the east. It is an integral part of the overall mixed-use development and will be compatible with existing and proposed adjacent development.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection. The final forest conservation plan proposes to remove nearly all the forest on the site, including approximately 11 significant trees (larger than 24" cal. trees), and saving approximately 0.2 acre of forest at the southern corner. As it now stands, clearing over the entire Rock Spring property of 53.4 acres totals 20.8 acres of the pre-development 26.6 acres of forest, resulting in a current reforestation requirement of 12.9 acres. First preference will be given to onsite reforestation as area allows.

BE IT FURTHER RESOLVED, that the Record of this Application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived; and

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

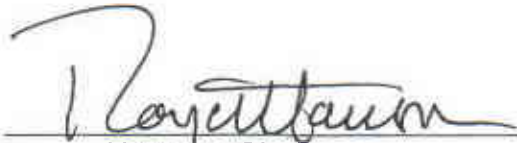
BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this resolution is NOV 30 2006 (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).

* * * * *

At its regular meeting, held on Thursday, November 9, 2006, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Robinson, seconded by Commissioner Wellington, with Commissioners Hanson, Perdue, Robinson, and Wellington voting in favor, and Commissioner Bryant abstaining, ADOPTED the above Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Site Plan Amendment No. 82003036B, Rock Spring Center Tower I, to the Prior Site Plan 8-03036A.



Royce Hanson, Chairman
Montgomery County Planning Board



NOV 30 2006

MCPB Resolution No. 06-100

Site Plan No. 82004017B

Rock Spring Center Apartment Tower II

Date of Hearing: October 12, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is required to review site plan applications; and

WHEREAS, on August 28, 2006, Penrose Development Company, LLC ("Applicant"), filed an application for approval of a site plan amendment ("Site Plan Amendment" or "Plan") for a 19-story residential building containing 352 apartments, including 32 Moderately Priced Dwelling Units ("MPDU"), and a clubhouse on 1.96 acres of land ("Property" or "Subject Property") in the Mixed Use Planned Development ("MXPD") zone in the North Bethesda & Garret Park Master Plan area; and

WHEREAS, this Site Plan Amendment proposed to modify the Site Plan No. 82004017, originally approved for the Subject Property on February 26, 2004 and last amended by Site Plan No. 82004017A on June 16, 2006; and

WHEREAS, Applicant's Site Plan Amendment application was designated Site Plan No. 82004017B, Rock Spring Center Apartment Tower II (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 2, 2006, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on October 12, 2006, Staff presented the Application to the Planning Board at a public hearing for its review and action (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on this Application and approved the Application on the motion of Commissioner Wellington, seconded by Commissioner Robinson, with Commissioners Hanson, Perdue, Wellington and Robinson voting in favor, with Commissioner Bryant absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 82004017B, Rock Spring Center Apartment Tower II, for a 19-story residential building containing 352 apartments, including 32 MPDUs, and a clubhouse on 1.96 acres of land in the MXP zone, subject to the following conditions:

1. Prior Approval

The terms and conditions of all applicable prior regulatory approvals and agreements remain in full force and effect, except as affected by this site plan amendment.

2. Moderately Priced Dwelling Units (MPDUs)

The proposed development shall provide 32 MPDUs on site in accordance with the Alternative Agreements between the applicant and the Montgomery County Department of Housing and Community Affairs dated May 25, 2004, and January 11, 2005.

3. Transportation

Prior to approval of the certified site plan, the applicant shall enter into a traffic mitigation agreement (TMAg) with the Planning Board and Montgomery County Department of Public Works and Transportation (DPWT) to participate in the North Bethesda Transportation Management Organization (TMO) to assist with the North Bethesda Transportation Management District (TMD) in achieving and maintaining the 39% non-driver mode share goal for workers and 30% for residents.

4. Site Plan Enforcement Agreement

The applicant shall submit a revised Site Plan Enforcement Agreement for review and approval prior to approval of the certified site plan. The Development Program shall be revised to include a phasing schedule as follows:

- a. Street tree planting shall progress as street improvement is completed, but no later than six months after completion of the proposed building.
- b. All sidewalks, pathways, landscaping, outdoor lighting, and recreation facilities shall be completed prior to issuance of any occupancy permit for the proposed building.
- c. The required bus shelters and proposed sidewalk to Old Georgetown Road shall be installed prior to issuance of any occupancy permit for the proposed building

unless amended by the site plan approval for the remaining portion of Rock Spring Center.

- d. Clearing and grading to correspond to the construction phasing, to minimize soil erosion and forest loss.
- e. Coordination of each section of the development and roads.
- f. Phasing of stormwater management, sediment/erosion control, recreation, forestation, community paths, or other features.

5. Certified Site Plan

Prior to approval of certified site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Revised development standards and program summary.
- b. Revised recreation facility calculation.
- c. Forest Conservation easement areas.
- d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- e. The development program, inspection schedule and Site Plan resolution.
- f. Show bus stop locations and provide bus shelters on Rock Ledge Drive and Rock Spring Drive as required by the Montgomery County Department of Public Works and Transportation.

BE IT FURTHER RESOLVED THAT, all site development elements as shown on the site and landscape plans stamped by the M-NCPPC on October 2, 2006 shall be required except as modified by the above conditions:

BE IT FURTHER RESOLVED THAT, the Planning Board's decision is based on the following findings proposed by Staff, in its Report, which is supported by the evidence of record:

- 1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan;*

As amended in accordance with the above conditions, the Plan is consistent with the approved Development Plan (DPA 99-1) in land use, density, location, building height and development guidelines.

- 2. *The Site Plan meets all of the requirements of the zone in which it is located.*

As amended in accordance with the above conditions, the Plan meets all of the requirements of the MXUPD Zone and the developments standards are limited as specified in the data table below:

Data Table

Development Standards	Development Standard Approved by the Board and Binding on the Applicant
Min. Tract Area (ac.):	1.96
Max. Residential Density (d.u./ac.)	180
Number of Dwelling Unit	
1-bedroom	173
2-bedroom	165
3-bedroom	14
Total	352
Gross Floor Area (sq. ft.)	429,448
MPDUs on-site (d.u.)	32 ¹
Building Setbacks (ft.)	
from detached homes	550
from Rock Forest Drive (garage)	30
from Rock Forest Drive (tower)	50
from Rock Ledge Drive	547
Green Area (%)	59
Building Height (story):	19 (198 feet) ²
Parking Spaces	
Total	559 ³
Motorcycle	29
Bike	20

1. Per Alternative Agreements between the Applicant and the Montgomery County Department of Housing and Community Affairs dated May 25, 2004.
2. Measured from the elevation of the approved street grade (Rock Forest Drive) opposite the middle of the front of the building.
3. 551 spaces in garage and 8 spaces at plaza.

3. *The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The buildings and structures are safe, adequate and efficient. The Plan proposes a 19-story, 198-foot residential building, a swimming pool, and a 3-level underground parking garage. The high-rise portion of the building will be set back at least 50 feet from the street and at least 550 feet from any detached homes. The underground garage will provide adequate and convenient parking for future residents and their visitors. The revised building design is compatible with surrounding development and still meets the urban design vision established by the Master Plan for this area.

b. Open Spaces

The open spaces are safe, adequate and efficient. The Plan proposed 1.16 acres of green space throughout the site, including paved courtyard, landscaped green space, lawn areas, pool, and forest conservation areas.

The stormwater management concept for the proposed development consists of (1) on-site channel protection measures via the use of the dry pond located in the southwest quadrant of the interchange of I-270 and Rockledge Drive, and (2) on-site water quality control via underground storm filter near Rock Forest Drive. A recharge weir is proposed along the back edge of the permanent construction.

The Plan proposes to save 0.33 acre of forest and remove approximately 15 specimen trees. Reforestation will be required for the overall Rock Spring Center, which includes this site, with first preference given to onsite reforestation.

c. Landscaping and Lighting

The landscaping and lighting are safe, adequate and efficient. The Plan's landscaping on the site consists of a mix of shade, evergreen and flowering trees along the street frontage, internal driveways, and around the proposed drop-off court and green space areas. A portion of the existing vegetation, about 0.33 acres, will be saved along the south boundary of the site. Additional plant materials are needed along the

southern edge of the structure to provide adequate screening along the retaining walls.

The Plan proposes various lights along the street and throughout the site, including streetlights on 13-foot-high poles, internal sidewalk lights on 11-foot-high poles, wall-mounted lights, and uplighting for landscaping. Additional lighting should be provided along the proposed sidewalk on the west side of the high-rise building.

d. Recreation

Recreation facilities are safe, adequate and efficient. The Plan proposes recreation facilities, including landscaped green space, lawn areas, pathways, outdoor sitting and picnic areas, swimming pools, exercise room, media room, library, party room and meeting room, will provide future residents with a variety of passive and active recreation opportunities.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient. Access to the development will be via a divided monumental entrance driveway consisting of two ingress and two egress lanes off Rock Forest Drive. The ramp leading to the underground parking garage will be located approximately 60 feet from the street off of the entrance driveway. The driveway slopes up approximately 6 feet toward the clubhouse and turns westwards into a drop-off court. A separate driveway to the loading area is proposed at the northeastern corner of the site.

The Plan proposes a sidewalk along the Rock Forest Drive frontage and an internal pathway system connecting building entrances with outdoor facilities and the public sidewalk. The Plan also shows a 5-foot-wide sidewalk along the west boundary of the site between Rock Forest Drive and the building's lobby exit doors on the its west side. A minimum 5-foot clearance (ADA requirements) should be maintained throughout the project's internal pedestrian pathway system to ensure safe and convenient pedestrian circulation.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed development's structures and uses are compatible with other site plans and adjacent existing and proposed uses. The proposed high-

rise residential building and associated underground parking structure are part of Rock Spring Center, which is planned as a 53.4-acre, mixed-use development containing residential, retail, office, entertainment, institutional, and community center uses. The subject development, the high-rise component of the Center, will be bounded by the existing garden apartment complex to the north, stream buffers to the west and south, and a residential use to the east. It is an integral part of the overall mixed-use development and will be compatible with existing and proposed adjacent development.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection. The final forest conservation plan proposes to remove nearly all the forest on the site, including approximately 11 significant trees (larger than 24" cal. trees), and saving approximately 0.2 acre of forest at the southern corner. As it now stands, clearing over the entire Rock Spring property of 53.4 acres totals 20.8 acres of the pre-development 26.6 acres of forest, resulting in a current reforestation requirement of 12.9 acres. First preference will be given to onsite reforestation as area allows.

BE IT FURTHER RESOLVED, that the Record of this Application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived; and

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

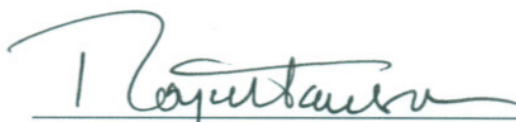
BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this resolution is NOV 30 2006 (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).

* * * * *

At its regular meeting, held on Thursday November 9, 2006, in Silver Spring, Maryland, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Robinson, seconded by Commissioner Wellington, with Commissioners Hanson, Perdue, Wellington, and Robinson present and voting in favor, and Commissioner Bryant abstaining. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Site Plan Amendment No. 82004017B, Rock Spring Center Tower II, to the prior Site Plan 8-04017A.



Royce Hanson, Chairman
Montgomery County Planning Board

MAR 30 2011



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-16
Site Plan No. 820090030
Project Name: Rock Spring Centre
Date of Hearing: February 17, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on April 29, 1997, the District Council approved Zoning Case No. G-713 (Resolution No. 13-865) to rezone the Davis Camalier Parcel of 53.4 acres from the Residential High-Rise (R-H) Zone to the MXPB Zone; and

WHEREAS, on September 29, 1998, the District Council approved Development Plan Amendment (DPA) 99-1 (Resolution No. 13-1442) to include a phasing plan with required infrastructure and development for each phase of this project; and

WHEREAS, the Planning Board approved with conditions Preliminary Plan No. 119980920 (Resolution dated October 25, 1999), and as amended, Preliminary Plan Nos. 11998092A (Resolution dated November 9, 2004) and 11998092B (of even date herewith) for 549,900 square feet of office uses, 210,000 square feet of retail uses, 200,000 square feet of hotel uses with up to 200 guest rooms, 90,000 square feet of entertainment uses, 1,250 multi-family dwelling units, and a 30,000-square-foot community center; and

WHEREAS, for the Subject Property (as hereinafter defined), the Planning Board previously approved Site Plan No. 820050310 (Resolution dated February 2, 2006), and Applicant filed an application for Site Plan No. 820060270 that was never brought before the Planning Board for review; and

WHEREAS, with the intention of superseding Site Plan Nos. 820050310 and 820060270, on August 29, 2008, Davis Brothers Montgomery Farm LP, Camalier LP, and DRI Development Services ("Applicant"), filed an application for approval of a Site Plan for a mixed-use development with 210,000 SF of retail, 549,900 SF of office,

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 100, Bethesda, MD 20814-4000 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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E-Mail: mcp-chairman@mncppc.org

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90,000 SF of below grade entertainment facilities, a 200-room hotel, and 161 residential dwelling units (including 44 MPDUs) ("Site Plan" or "Plan") on a 30.17 acres portion ("Property" or "Subject Property") of the 53.4 acres Davis Camalier property included in the approved Preliminary Plans on MXPB-zoned land, located in the northeast quadrant of the intersection of Rockledge Drive and Rock Spring Drive; and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820090030, Rock Spring Centre (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 4, 2011, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on February 17, 2011, the Planning Board held a public hearing on the Application and the concurrent Preliminary Plan Amendment No. 11998092B (the "Hearing"); and

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

WHEREAS, on February 17, 2011, the Planning Board approved the Application subject to conditions on the motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Dreyfuss, Hanson, Presley, and Wells-Harley voting in favor, and Commissioner Alfandre absent.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820090030 for a mixed-use development with 210,000 SF of retail, 549,900 SF of office, 90,000 SF of below grade entertainment facilities, a 200-room hotel, and 161 residential dwelling units (including 44 MPDUs), on 30.17 gross acres in the MXPB zone, subject to the following conditions:

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 11998092B.

2. Development Plan Conformance

The proposed development must comply with the binding elements of the Zoning Case No.G-713 (Resolution No. 13-865) and its associated Development Plan Amendment 99-1(Resolution No. 13-1442). Before a building permit for the

second office building can be issued, the Applicant must obtain a Development Plan Amendment to revise the binding elements associated with a community center to comport to the dedication of 0.57 acres of land to the County for recreational use. The revised DPA, if needed, should show the location of the 0.57 acres of land that the county required for recreational use. Any such revision to the Development Plan must also include an update to reflect the hotel use initially approved in Preliminary Plan No. 11998092A and Site Plan No. 820050310, regardless of its invalidation by this Site Plan approval.

3. Previous Site Plans

a) Site Plan No. 820050310

Approval of the subject site plan will invalidate the approved Site Plan No. 820050310.

b) Site Plan No. 820060270

Approval of the subject site plan will invalidate the submitted Site Plan application No. 820060270.

Environment

4. Forest Conservation

a) The Applicant must submit a revised Final Forest Conservation Plan (FFCP) addressing the following comments:

- i. Detail the invasive species management plan, in terms of species and treatment methods, and specifying the necessary supplemental plantings.
- ii. Revise the worksheet to account for clearing which occurred in the staging area fronting Old Georgetown Road. Adjust notes, tables and legend accordingly.
- iii. Identify the off-site forest mitigation bank and the appropriate amount of credits needed.
- iv. Clarify and correct all plan references to the phase II encroachments within the boundaries of the current phase, by providing a general note to restore and/or reforest the disturbed areas prior to final release of the FFCP bond associated with the current phase.
- v. Revise the legend symbols with the plan graphics for all items so they match, including but not limited to the existing/proposed forest lines and the individual tree symbols.
- vi. Adjust legend, worksheet and any other plan reference to exclude large landscape areas from phase III (maximum landscape credit has been already been credited in a previous phase).
- vii. Provide permanent boundary monuments at each corner of the forest conservation easements. Include additional posts along boundary lines as needed so that the spacing does not exceed approximately 150'.

- viii. Delete the cultivar reference from reforestation list. Specify only standard native plant materials for reforestation.
 - b) The Category I Easement areas as shown on the Final Forest Conservation Plan (FFCP) must be recorded by plat prior to land disturbing activities occurring onsite.
 - c) Submission of financial security for the planting requirements and invasive management work specified on the FFCP to occur prior to any land disturbing activities occurring onsite.
 - d) The certificate of compliance for the off-site forest mitigation bank must be submitted by Applicant, then approved by M-NCPPC Associate General Counsel Office prior to land disturbing activities occurring onsite.
 - e) Applicant must perform the initial invasive species control work following the preconstruction meeting, and prior to the release of building permits (to be performed along with the pre-construction measures such as tree protection). The supplemental native plantings must occur as soon as possible but no later than 2 growing seasons after the pre-construction meeting date.
5. Stormwater Management
The development is subject to Stormwater Management Concept approval conditions dated December 22, 2010, unless otherwise amended and approved by the Montgomery County Department of Permitting Services.
6. LEED Certification
The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform M-NCPPC staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

Parks, Open Space, & Recreation

7. Common Open Space Covenant
Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff before release of the first building permit, that

Applicant's Documents establishing the Umbrella Association for the development incorporate by reference the Covenant.

8. Recreation Facilities

- a) The Applicant shall meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate on the certified site plan that each element is in conformance with the approved *M-NCPPC Recreation Guidelines*.
- b) The Applicant shall provide the following recreation facilities: a tot lot, an open play area II, fifteen picnic/seating areas, a pedestrian system, and natural areas.

9. Maintenance of Public Amenities

The Applicant or its successors and assigns is responsible for maintaining all publicly accessible amenities including, but not limited to a tot lot, an open play area II, fifteen picnic/seating areas, a pedestrian system, natural areas to the extent permitted by the conservation easement, bicycle facilities, water feature with signage, and plaza areas.

Transportation & Circulation

10. Transportation

Prior to certified site plan approval, the Applicant must enter into an updated Traffic Mitigation Agreement (TMA) with the Planning Board and the Montgomery County Department of Transportation (MCDOT) to reflect the current land use. The Applicant is required to participate in the North Bethesda Transportation Management District (TMD) to assist in achieving and maintaining the 39% non-auto driver mode share goal for this TMD area.

11. Rock Spring Drive Median

The Applicant must include the final design for the Rock Spring Drive median on the certified site plan, including adequate soil depth, plant materials, street trees (where feasible), barrier fencing, and curb treatment, subject to final approval by MCDOT, MCDPS, and MCPS.

12. Pedestrian Circulation

- a) Provide a sidewalk on the south side of Rock Forest Drive between Rockledge Boulevard and the roundabout.
- b) The proposed sidewalk connections on Walter Johnson High School property are subject to modification by MCPS at time of permitting which are consistent with the configuration as shown on the site plan.
- c) Eliminate the 6-foot wide sidewalk along the Rock Spring Drive frontage since it is parallel and in close proximity to the Class I Bikeway/shared use path

along the Rock Spring Drive frontage between Old Georgetown Road and Rockledge Drive.

Housing & Schools

13. Moderately Priced Dwelling Units (MPDUs)

- a) The proposed development must provide 44 MPDUs on-site consistent with the requirements of Chapter 25A.
- b) The MPDU agreement to build shall be executed prior to the release of any residential building permits.

14. Public Schools Coordination

- a) Prior to any construction on school property for the mid-block connection and associated pathways, the developer and MCPS must execute a Right-of-Entry Agreement that sets forth terms to include coordination of the work with the school principal and establishing a construction schedule in a manner that does not interfere with the daily operation of the school and its ancillary facilities.
- b) The Applicant must obtain and bear all costs for surveys, engineering design, permitting, testing, bonds/letters of credit and the like, testing, inspections approvals, as-built plans and certifications required for construction of and MCPS use of the school site improvements proposed.

Site Plan

15. Site Design

- a) Provide additional landscaping/trellis on the roof top of the residential parking structure so that a portion of the exposed pavement on the roof as reflected during the Hearing is covered and/or shaded.
- b) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A15-1, A15-2, A16-1-A16-7 of the submitted architectural drawings dated November 12, 2010, as determined by M-NCPPC staff.
- c) Prior to certified site plan approval, the Applicant must submit a detailed proposal for the graphic panels, screens and grills on the facades of the parking structures. Any signage proposed must be consistent with the sign ordinance Section 59-F.

16. Landscaping

- a) Provide green screens, with the minimum length of 60 feet, on the western facades of Buildings 1 and 2 along Rockledge Drive and on the southern façade of Buildings 4 and 7 along Main Street.

- b) Street trees on Main Street must be a minimum of 3 to 3-1/2-inch caliper. All other trees on the private streets must be a minimum of 2-1/2 to 3-inch caliper.
- c) Provide a continuous amended soil panel for all streets trees on private streets. The soil panel must be a minimum of 10-foot wide on Main Street, and a minimum of 5-foot wide on all other streets.
- d) Provide streets trees at 35'-0" on center along Main Street and West Street.
- e) Provide planted tree pits with the interior dimensions of 5' x 12' on all private streets except for corner locations where physical constraints prevent it.

17. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA recommendations for residential and commercial development.
- b) All onsite down-light fixtures must be full cut-off fixtures.
- c) Deflectors and/or shields must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting residential uses.
- d) Illumination levels for onsite light fixtures must not exceed 0.5 footcandles (fc) at any property line abutting county roads.
- e) The height of the light poles must not exceed 20 feet for light fixtures on internal private streets, 10 feet for light fixtures on the pedestrian paths, and 16 feet for the linear fluorescent light fixtures on the pedestrian plazas.
- f) The height of the light poles must not exceed 24 feet for light fixtures on non-residential garage tops and 12 feet for residential garage tops, as measured from the surface of the parking level to the top of the light pole.
- g) Light fixtures on non-residential garage tops must be setback a minimum of 50 feet from the edge of the parking structure.
- h) Provide a security lighting analysis in order to minimize light fixtures on the top of the residential garage.

18. Landscape Surety

The Applicant shall provide a performance bond(s) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) The amount of the surety shall include plant material, on-site lighting, recreational facilities, site furniture, bicycle facilities, cascading fountain, and entry feature with signage within the relevant block of development. Surety to be posted prior to issuance of first building permit within each relevant block of development and shall be tied to the development program.
- b) Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.

- c) Completion of plantings by block, to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d) Provide a Site Plan Surety & Maintenance Agreement for the above materials and facilities that outlines the responsibilities of the respective parties and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

19. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- b) The improvements on Rock Spring Drive must be completed prior to opening the access to East Street off Rock Spring Drive.
- c) Provide each section of the development with necessary roads.
- d) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- e) Landscaping and lighting associated with each building shall be completed as construction of each building is completed.
- f) On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities must be installed as construction of each building is completed.
- g) Recreation facilities including the tot lot and the open play area II must be completed prior to issuance of the 100th residential building permit.
- h) Pedestrian pathways, sidewalks and seating areas associated with each building must be completed as construction of each building is completed.
- i) The central Plaza area including seating, special paving, plantings and cascading water feature on the south side of Main Street must be completed prior to issuance of the use and occupancy permit for Building 6C.
- j) The Plaza area including seating, special paving, and plantings between Streets H and G must be completed prior to issuance of the use and occupancy permit for Buildings 6A and 6B.
- k) The Plaza area including seating, special paving, and plantings on the east side of Building 3 must be completed prior to issuance of the use and occupancy permit for Building 3.

- l) The entry feature including project sign and landscaping on the Rock Spring Drive entrance must be completed prior to issuance of the use and occupancy permit for Building 8.
- m) If construction is phased, parking requirements will be addressed via an interim parking plan to be approved by M-NCPPC and DPS Staff prior to issuance of the building permit for that particular use.
- n) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, parking and other features.

20. Certified Site Plan

Prior to 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 final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b) Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c) Add a note to the site plan stating that "All utility lines on private and public streets must be placed underground per 59-C-7.57."
- d) Modify data table to reflect development standards enumerated in the staff report.
- e) Update parking calculations table and recreation calculations table to reflect calculations in staff report.
- f) Ensure consistency off all details and layout between site plan and landscape plan.
- g) Label proposed light fixtures on garage tops.
- h) Provide a cross section illustrating the visibility of the light fixtures on the garage tops from Rock Spring Drive and residential buildings, and visibility of the light fixtures on the residential garage tops from the residential units above, and estate house parcel.
- i) Add design elements to the top level of the garage structures of Buildings 4 and 7, which may include trellis, concrete patterns, landscaping, and/or architectural treatments, to soften the appearance of the parking areas.

21. Site Plan Amendments

- a) Minor modifications to landscaping, lighting, recreation and paving materials may be approved by M-NCPPC and documented with M-NCPPC and DPS Site Plan Enforcement. These minor modifications include substitution of materials (planting, lighting, recreation facilities), relocation due to placement of utilities and modifications to grading. Minor modifications can be adjusted in the field only with the approval of M-NCPPC. Minor modifications shall be

considered "Administrative" or "Director Level" amendments in accordance with the Development Manual procedures.

- b) Major modifications to the site plan must follow the procedures outlined in Development Manual.

BE IT FURTHER RESOLVED, that all site development elements as shown on Rock Spring Centre drawings stamped by the M-NCPPC on November 12, 2010, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and 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, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan conforms to all non-illustrative elements and binding elements of the Zoning Case No. G-713 (Resolution No. 13-865) as later amended by Development Plan Amendment 99-1 (Resolution No. 13-1442) in terms of land use, density, location and development guidelines. G-713 and DPA 99-1 incorporated the Development Guidelines for the Davis Parcel on the North Bethesda/Garrett Park Master Plan (p.102-105) as binding elements. The binding elements established density limits for the original 53.4-acre Rock Spring Centre tract. With this Site Plan, the maximum residential density of 1,250 dwelling units (including 226 MPDUs) for the entire site has been reached together with the maximum density for entertainment and retail use. Additional density for office and institutional uses is still available.

Development Guideline 5.c) requires that the Applicant dedicate land for a 23,000 square foot community center. Originally, the Applicant proposed a community center above the movie theater on Parcel C. However, the County has decided to forego locating the community center on the Rock Spring Centre property and instead is investigating other options to meet the recreational needs of the surrounding community. The Planning Board finds that the Applicant is complying with the Development Guideline 5.c) and the binding element by dedicating a 0.57-acre parcel (Parcel M) on the northeast corner of the site to the

County for future public recreation use and, if necessary, amending the Development Plan as required by Condition 2 herein.

2. *The Site Plan meets all of the requirements of the MXPB zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements and development standards of the MXPB Zone. The Site Plan is below the maximum residential and commercial densities allowed by the zone and also conforms to the density recommendations in the Master Plan. With respect to green area, the Site Plan is above the minimum requirements of the zone for the commercial and residential portions of the development. The Site Plan qualifies for Mixed Use parking credit under 59-E-3.1. As a result, the number of required parking spaces is 3,005. The Site Plan proposes a maximum of 3,162 parking spaces, of which 100 are located at-grade and the remainder are located within parking structures. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Development Standards	Approved by the Planning Board and Binding on the Applicant
Gross Tract Area (GTA) (acres)	30.17 (1,314,205 SF)
Density	
Commercial (GSF)	<u>759,900</u>
- Office	549,900
- Retail/restaurant	210,000
Entertainment (GSF)	90,000
Community center (GSF)	Dedicate 0.57 ac parcel ^(a)
Institutional (GSF)	
Residential (D.U.s)	
- Multi-family	161 ^(b)
- MPDUs	44 ^(c)
Hotel (GSF)	200,000 ^(d)
- Rooms	200
Max. Residential Uses (% of GTA) 59-C-7.52(a)(4)	33.9 ^(e)
Max. Residential Density (d.u./ac.) 59-C-7.53(a)	23.4 ^(f)
Max. Retail Uses (% of commercial uses) 59-C-7.52(b)(2)	20
Max. Commercial/ Industrial Density (FAR)	0.33 ^(g)

59-C-7.54	
Max. Building Height (ft)	
Building 1	249.5
Building 2	272.0
Building 3	39.0
Building 4	87.5
Building 5	33.0
Building 6A	35.5
Building 6B	29.0
Building 6C	26.0
Building 7	179.0
Building 8	32.0
Building 9A/B	71.0
Building 9C	75.0
Min. Green Area (% of GTA) 59-C-7.56	
- Residential	86.8 (15.71 acres) ^(h)
- Commercial/industrial	54.7 (6.2 acres)
- Overall total	(21.9 acres)
Min. Building Setbacks (ft)	
- From private streets	0
- From County Roads	22
Max. Parking Spaces	3,162 ⁽ⁱ⁾
Min. Handicap Spaces	
- Van spaces	21
- Regular	50
Min. Bicycle spaces (59-E-2.3(a))	93 ⁽ⁱ⁾
Min. Motorcycle spaces (59-E-2.3(d))	46 ⁽ⁱ⁾

^(a) The Applicant will dedicate a 0.57-acre parcel to Montgomery County for future public recreation use.

^(b) The number of dwelling units approved under Phase I and Phase II combined with the proposed 161 d.u. equal the maximum of 1,250 d.u. allowed under DPA 99-1 for the entire Rock Spring Centre. Phase I (Site Plan No. 82000034A & 820000350) approved a total of 386 d.u. Phase II (Site Plan No. 82004017B & 82003036B) approved a total of 703 d.u.

^(c) This represents 27% of the 161 residential dwelling units being provided with this site plan. The number of MPDUs approved under Phase I and Phase II combined with the proposed 44 MPDUs equals the required 226 MPDUs under DPA 99-1 for the entire Rock Spring Centre. Phase I (Site Plan No. 82000034A & 820000350) approved a total of 71 MPDUs (although only 70 MPDUs were built). Phase II (Site Plan No. 82004017B & 82003036B) approved a total of 112 MPDUs.

^(d) Preliminary Plan Amendment #11998092B approved the conversion of 97,300 SF of approved office and 102,700 SF institutional uses for a 200,000 SF hotel (200 rooms).

^(e) Calculated as the sum of all residential parcels (Parcel 22, Avalon Bay = 10.44 acres; Parcel 20, High Rise Residential = 3.09 acres; Parcel 21, High Rise Residential = 1.96 acres; and proposed Parcel J = 2.6 acres) divided by the overall Gross Tract Area (53.4 acres).

^(f) The overall residential density for the Rock Spring Centre, a total of 1,250 units for the 53.4-acre site was established with DPA 99-1.

^(g) The overall commercial density for the Rock Spring Centre, a total of 1,050,000 GSF comprised of retail and office space for the 53.4-acre site was established with DPA 99-1.

^(h) Green Area for the residential portion was calculated as shown on the table below:

Parcels	Total Area	Green Area Provided
Parcel 20, High Rise Residential	3.09 acres	1.73 acres
Parcel 21, High Rise Residential	1.96 acres	1.18 acres
Parcel 22, Avalon Bay	10.44 acres	4.62 acres
Parcel 23, Open Space	—	0.85 acres
(proposed) Parcel J, Residential	2.6 acres	1.01 acres
(proposed) Parcel P, Forest Conservation Area	—	6.32 acres
TOTAL	18.09 acres	15.71 acres

- (i) Calculated at one bicycle space per 20 vehicle spaces, up to 20 spaces per facility per 59-E-2.3(a).
(ii) Motorcycle spaces calculated at 2% of vehicle spaces, up to 10 spaces per facility per 59-E-2.3(d).
(iii) The Site Plan exceeds the minimum parking requirement of 3,005 spaces, which takes into account a mixed-use parking credit per Section 59-E-3.1, calculated as follows:

	Density	Parking Ratio	Z.O. required w/out sharing
Office	549,900	2.7 sp./1000 GSF	1,485
Retail	157,500	5/1000	788
Restaurant	34,650	25/1000	867
Restaurant outdoor seating	9,000	15/1000	135
Entertainment	48,000	5/1000	240
Cinema	1,875	0.25	469
Residential 1-BR	66	1.25	83
Residential 2-BR	95	1.5	143
Hotel	200	0.7	140
Hotel meeting space	7000	10/1000	70
TOTAL			4,420

	Weekday				Weekend				Nighttime	
	Daytime (6am - 6pm)		Evening (6pm-midnight)		Daytime (6am - 6pm)		Evening (6pm-midnight)		(Midnight-6am)	
Office	100%	1485	10%	148.5	10%	148.5	5%	74.25	5%	74.25
Retail	60%	472.8	90%	709.2	100%	788	70%	551.6	5%	39.4
Restaurant	50%	433.5	100%	867	100%	867	100%	867	10%	86.7
Restaurant outdoor seating	50%	67.5	100%	135	100%	135	100%	135	10%	13.5
Entertainment	40%	96	100%	240	80%	192	100%	240	10%	24
Cinema	40%	187.6	100%	469	80%	375.2	100%	469	10%	46.9
Residential 1-BR	50%	41.5	100%	83	100%	83	100%	83	100%	83
Residential 2-BR	50%	71.5	100%	143	100%	143	100%	143	100%	143
Hotel	75%	105	100%	140	75%	105	100%	140	75%	105
Hotel meeting space	50%	35	100%	70	100%	70	100%	70	10%	7
TOTAL		2,996		3,005 *		2,907		2,773		623

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures (as shown on Attachment A)

The location of buildings and structures is safe, adequate and efficient. The Site Plan proposes to develop the southwest corner of the Davis Camalier Parcel as a mixed-use center with residential, office, hotel, retail, and entertainment uses established along existing public streets and a new grid of internal private streets. This location within the larger site allows preserving environmentally sensitive areas located in the central portion of the property and the existing estate house.

The proposed grid is generally oriented in a north-south and east-west direction with the apex on Main Street and the area enclosed by Streets "H" and "G", referred to as the "Plazas corridor." Both Main Street and the Plazas corridor are lined with ground floor retail uses, which help to activate the pedestrian realm. Buildings 5 and 8, fronting on the south side of Main Street, are single-story retail buildings (heights 33 and 32 feet, respectively) and setback from Rock Spring Drive to accommodate an easement for the North Bethesda Transitway along the entire frontage.

Both Buildings 4 and 7 on the north side of Main Street accommodate the bulk of the retail parking in several stories of above grade structured parking over ground-floor retail uses. Building 4 includes a total of 554 parking spaces and Building 7 a total of 1,114 parking spaces. Additionally, Building 4 includes one level of below-grade entertainment uses, and the west side of Building 7 includes a 200-room hotel tower of 179 feet in height that functions as a landmark for this project.

Along the Plazas corridor, small 1-story pavilions (Buildings 6A, 6B and 6C) include retail uses and restaurants with outdoor seating that take advantage of the plazas and amenities provided. Buildings 1 and 2 with the respective heights of 249.5 feet and 272 feet front onto West Street, which will run parallel to Rockledge Drive. These buildings include ground level retail, several stories of parking and several stories of office space. Building 3 with ground floor retail and below grade entertainment serves as a terminus for the Plazas corridor.

The multi-family residential buildings (9A/9B and 9C) front onto East Street and provide a linkage to the existing multi-family buildings along the

northern edge of the Rock Spring site. The residential buildings with a combined total of 161 units, including 44 MPDUs, have 2 levels of parking and 4 levels of residential units for a total height of 71 and 75 feet.

Overall, building locations and massing take into consideration existing environmental features, solar orientation, and visibility from abutting streets. The building heights are consistent with the "mix of building heights" recommended in the Sector Plan and the massing is consistent with the Sector Plan recommendation to "locate the high buildings on the central park or at the southwest corner of the site, with the highest buildings on the northeast-southwest axis" (p.105).

Building Program

Building	Maximum Height		Parking Spaces	Accessible		Uses				
	Feet	Stories		Cars	Vans	Office	Retail	Entertainment	Hotel	Residential
1	249.5	17	470	6	3	214,000	10,411			
2	272.0	20	666	11	4	335,900	26,114			
3	39.0	1*					30,062	42,000		
4	87.5	7**	554	8	3		35,992	48,000		
5	33.0	1					11,761			
6A	35.5	1					6,195			
6B	29.0	1					1,649			
6C	26.0	1					1,539			
7	179.0	14	1,114	16	6		63,115		183,295	
8	32.0	1					23,106			
9A/B	71.0	6***	181	4	2					119,774
9C	75.0	6***	77	3	1					69,961
Total			3,062			549,900	209,944	90,000	183,295	189,735
									16,705****	
									200,000	

* One story below grade

** 6 Parking levels above 1 retail level @ street and one story below grade.

*** 4 Levels residential above 2 levels of parking

****NOTE: Additional Hotel GBA Allowed up to a maximum of 200,000 SF

In order to achieve the density and mix of uses envisioned by the Master Plan for this location, structured parking is appropriate and adequate to meet the parking needs of this development. With the conditions of approval, concerns with regard to the high visibility of the above grade parking garage structures have been addressed.

b. Open Spaces

The open spaces provided are safe, adequate, and efficient. The main area of open space runs diagonally across the center of the site, overlapping with the environmentally sensitive areas. Although this area will be available as an amenity for the residents, workers, and visitors, it will not have trails, paths or lighting to avoid disturbance of the natural systems. Within the project the main

open spaces provided are urban in nature and are intimately related to the proposed retail and restaurant uses. Most open spaces along the Plazas corridor have benches, tables and chairs. In addition, the Plaza between Building 6C and Rock Spring Drive has a multi-level cascading fountain which provides a backdrop for the plaza and adequately buffers the noise from Rock Spring Drive. The Plaza at the entrance to the movie theaters (Building 3) adequately functions as a gathering place with seating provided. The open space between the two residential buildings accommodates the playground area in addition to providing a well designed grassy area with benches for residents and visitors. Spatially, this space will be a partial foreground for the Estate House and, as such, view sheds were maximized.

c. Landscaping and Lighting

The landscaping is safe, adequate and efficient. It consists of street trees along all the internal and external streets, a mix of shade and ornamental trees in the plazas and open spaces, and a mix of native shrubs, evergreens and shade trees along the forest edge. Street trees will be planted in tree pits with ground cover and continuous amended soil panels. Except for Main Street, which has 10-foot wide amended soil panels due to the wider sidewalks provided, the remaining streets have 5-foot wide amended soil panels. The larger trees of 3 to 3-1/2-inch caliper proposed on Main Street have a stronger presence, achieve an immediate visual effect and convey a "more established" character than smaller trees. For practical purposes, larger trees provide more shade and will screen some of the above grade parking structures faster than smaller trees. The character of the street will be enhanced with the architectural treatment and green screens on the above-grade parking structures.

The residential buildings have traditional foundation plantings around the perimeter of the building. The foundation plantings consist of evergreen shrubs, groundcover and ornamental trees. Between the two residential buildings, the landscaping provided adequately frames an area of lawn and a tot lot. The landscaped roof structure on the top surface of the residential parking will create a more serene environment for the residences and complement the existing estate house. To the rear of the residential buildings (east side), the landscaping softens the views from Old Georgetown Road.

At the Rock Spring Drive access to the site, the landscaping combined with the proposed water feature adequately contributes to a sense of arrival and creates a gateway for the project. The building setbacks from Rock Spring Drive create an open area that is landscaped in such a way as to allow visibility into the project. The rears of Buildings 5 and 8, including loading areas, are adequately screened from Rock Spring Drive with green screens and vines.

The lighting provided is safe, adequate and efficient. The lighting plan includes post top light fixtures with 25-foot aluminum posts located on the Montgomery County roads, light fixtures with a 20-foot pole on the internal private streets, decorative light fixtures with a 10-foot round pole on the pedestrian paths, linear fluorescent fixtures with a 16-foot pole on the pedestrian plaza between Buildings 5 and 8 and between the two residential buildings, and post top light fixtures with 24-foot poles on garage tops. The plan also proposes wall-mounted light fixtures on the top of the parking garages, and catenary light fixtures suspended on cables attached to the buildings and stretching above private streets H and G. These extend the pedestrian experience from the plazas, across those streets to the building wall.

d. Recreation Facilities

The recreation facilities provided are safe, adequate and efficient. The mixed-use development provides a tot lot and an Open Play Area II located between the two residential buildings, fifteen picnic/seating areas throughout the site, a pedestrian system, and natural areas. These facilities conform to the 1992 *M-NCPPC Recreation Guidelines*. They adequately meet the recreation demands of the future residents, as demonstrated in the Recreation Calculations tables below, while providing safe opportunities for leisure and recreation.

Demand		D1	D2	D3	D4	D5
Housing Type	Number of Units	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Hi-Rise (5 or more)	161	6.44	6.44	6.44	123.97	74.06
		6.44	6.44	6.44	123.97	74.06

On-Site Supply		D1	D2	D3	D4	D5
Recreation Facility	Quantity Provided	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Tot Lot	1	9.00	2.00	0.00	4.00	1.00
Picnic/Sitting	15	15.00	15.00	22.50	75.00	30.00
Open Play Area II	1	3.00	4.00	4.00	10.00	1.00
Pedestrian System	1	0.64	1.29	1.29	55.79	33.33
Natural Areas	1	0.00	0.32	0.64	12.40	3.70
	total:	27.64	22.61	28.43	157.18	69.03

Adequacy of Facilities			D1	D2	D3	D4	D5
d.	Total Supply	90%	27.64	22.61	28.43	157.18	69.03
e.	Demand		5.8	5.8	5.8	111.58	66.66
f.	Adequate?		yes	yes	yes	yes	yes

e. Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are safe, adequate and efficient. Full access movement to the site is provided via Rock Forest Drive off Rockledge Drive. Restricted access, with right-in right-out movements only, is permitted off Old Georgetown Road, Rock Spring Drive and Rockledge Drive. Internally, a grid of private streets provides access to the individual buildings and allows for efficient circulation throughout the site. Existing Rock Forest Drive, which provides access to the Avalon Bay apartments on the northern end of the site, will be connected to the proposed streets and will be part of an internal loop road.

Parking garage entrances and loading areas have been reduced and/or co-located wherever possible to minimize disruptions to the pedestrian environment while still accommodating safe vehicular movements. The majority of the loading and parking garage access will occur off North Street and West Street, which will help to preserve the pedestrian character of Main Street and Streets H and G.

Main Street will be the primary retail street with on-street parking on both sides. Only Buildings 5 and 8 will have access to the respective loading areas off Main Street. West Street connects to Main Street and continues on-street parking on both sides, except for parking garage entrances and loading access points. Buildings 1 and 2 have co-joined their respective parking garage entrances and loading areas at the same location with access off West Street. Building 4 has loading access off West Street. North Street abuts the forest preserve area and provides access for the loading and parking garage of Building 7. North Street also provides access to the parking garage of Building 4 and includes a reserved area for drop-off to the movie theater. East Street provides access to the parking garages of the two residential buildings and has on-street parking along Building 7.

Pedestrian access to the site is accommodated via a sidewalk along the Rockledge Drive frontage, a Class I bikeway/shared use path along the Rock Spring Drive frontage, and sidewalks on all new private streets. In addition to the

vehicular access points, pedestrians can also access the site at the intersection of Rockledge and Rock Spring Drives and at a mid-block location along Rock Spring Drive where the central plaza is located. A pedestrian mid-block crossing will be provided on Rock Spring Drive between the Walter Johnson High School and the site at a location agreed by several agencies, including MCDOT, MCDPS, MCPS, Walter Johnson High School, as well as Staff and the Applicant. Several improvements along Rock Spring Drive including a median with fence and landscaping will be added to maximize pedestrian (especially student) safety at this mid-block location.

Within the site, Main Street and the Plazas Corridor will be the main pedestrian destination. The majority of the retail entrances and outdoor amenity spaces are located here. Sidewalks are wider (approximately 20 feet) to facilitate pedestrian movement. The area between Buildings 4 and 7, including Streets H and G, is paved with unit pavers, which unify this area as the center/core of the development while giving emphasis to the pedestrian. Along North Street and a portion of East Street, the sidewalk abuts the edge of the natural preserve which allows this protected area to be better appreciated.

In accordance with the 1992 North Bethesda/Garrett Park Master Plan, the Site Plan provides an easement for future right-of-way dedication for the North Bethesda Transitway and a station on the southern portion of the site along Rock Spring Drive.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The mixed-use center is compatible with surrounding uses including numerous corporate headquarters for high technology companies and high tech professional and service firms. The center is also compatible with the High School across Rock Spring Drive to the south. Student safety in accessing the center has been addressed with several improvements on Rock Spring Drive, including a mid-block crossing and a median with fencing and landscaping.

The massing and height of the residential buildings took into consideration the proximity to the estate house and the residential neighborhoods across Old Georgetown Road to the east. Proposing heights ranging between 71 and 75 feet and dividing the massing into two separate buildings with an open space in between helps to create a compatible relationship with the estate house and the existing residential neighborhoods to the east. Additionally, the massing and height of the residential buildings is consistent with the Sector Plan recommendations to "reduce heights and visibility of structures to Luxmanor by

stepping down buildings heights towards Luxmanor and by including appropriate screening and architectural treatment to break up massing" (p.105).

The proposed development will have a higher presence on Rockledge Drive than other existing developments, which are characterized by having an inward focus and greater setbacks from roads. In contrast, Buildings 1 and 2, with the heights of 249.5 and 272 feet, respectively, will be highly visible from Rockledge Drive due to the proposed height, massing and reduced setbacks. This will enrich the character of Rockledge Drive by providing a building edge, and framing the road with a vertical element complimentary to the width of the road. Buildings 1 and 2, the tallest proposed, are located at the western edge of the site, which is the farthest from the existing residential communities and abutting the more commercial and industrial uses found along Rockledge Drive.

The hotel tower functions as a landmark feature for this development while providing an anchor for the Plazas Corridor. Buildings 5 and 8 along Rock Spring Drive are intentionally low to allow visibility towards the interior of the development and to favor the southern exposure of Main Street and the public spaces. The additional requirements of MXP Zone related to external compatibility (Sec. 59-C-7.54) do not apply because this site does not have adjoining properties developed with one-family detached homes or adjoining properties recommended for residential zoning and land use.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD # 419941990) was originally approved on August 9, 1994, later re-approved on January 28, 1998, and revised on June 25, 1999. The current phase under this Site Plan includes approximately 6 acres of forest clearing and accounts for an additional clearing of approximately 1.5 acres occurring in a future phase. Environmentally sensitive features, such as environmental buffers and steep slopes, occur on-site and within portions of the current phase. The previous and current plans include permanent encroachments into the Stream Valley Buffer (SVB). Mitigation for the permanent impacts is met by the proposed control of invasive species and the planting of supplemental native species throughout the remaining forest retention areas (above and beyond forest conservation requirements). The submitted Final Forest Conservation Plan (FFCP Phase III) addresses overall forest conservation requirements for the entire site and specific tree save issues for the currently proposed development.

This Application requires a variance to the Forest Conservation Law, granted under the provisions of Section 22A-21, because this portion of the overall site did not obtain approval of a Preliminary Forest Conservation Plan prior to October 1, 2009, and it proposes to remove and/or impact 14 trees greater than 30 inches DBH. The Applicant has requested a variance to remove the trees, which was granted in the Planning Board approval of Preliminary Plan No. 11998092B.

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for Phase III on December 22, 2010. The stormwater management concept includes greenroofs, bio-filtration facilities and level spreaders for roof drains which create sheet flow across grassy areas as a vegetative treatment practice. Structural measures include dry wells and underground structural water quality facilities.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and 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-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this Resolution is MAR 30 2011 (which is the date that this Resolution is mailed to all parties of record); and


BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

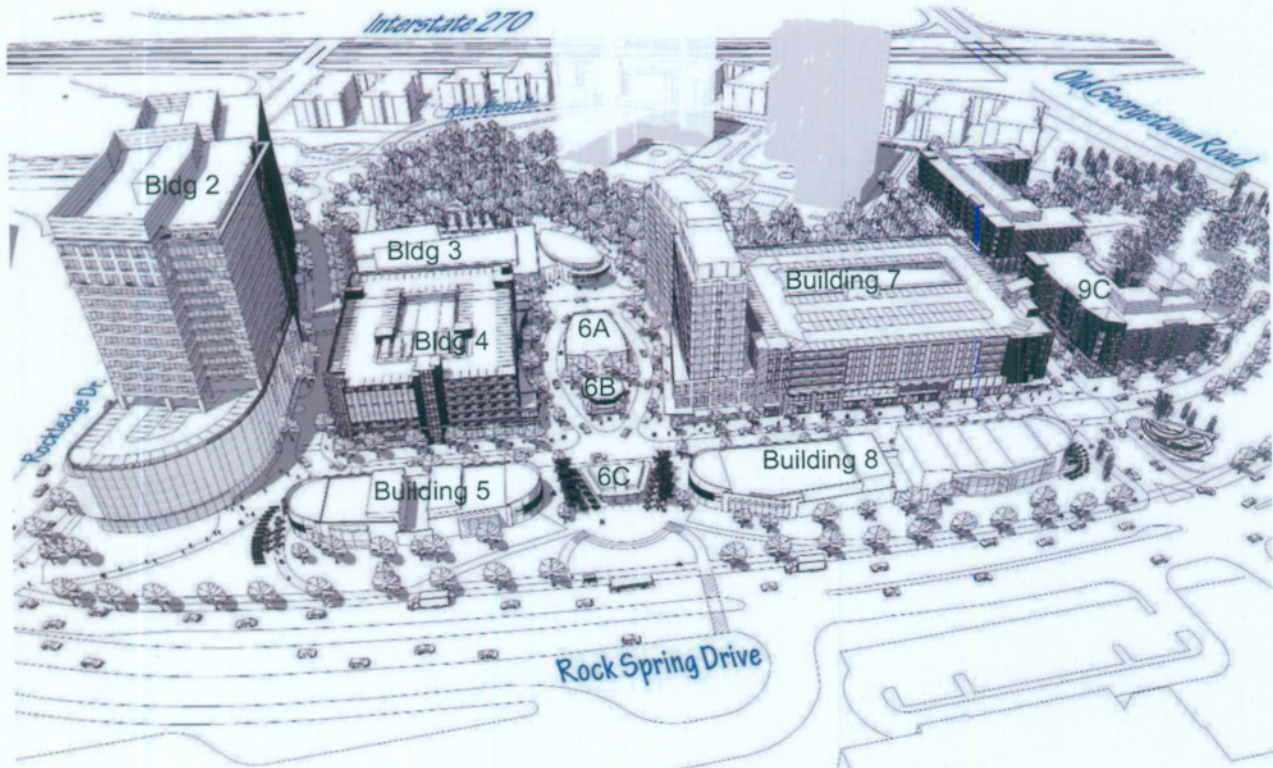
CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by

Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor of the motion, and with Commissioner Alfandre absent, at its regular meeting held on Thursday, March 17, 2011, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board



Illustrative perspective rendering looking North



Illustrative Plan