



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

MCPB

Item #

2

1/10/08

MEMORANDUM

DATE: December 28, 2007

TO: Montgomery County Planning Board

VIA: Catherine Conlon, Supervisor *CAC*
Development Review Division
(301) 495-4542

FROM: Stephen Smith *SS*
Development Review Division
(301) 495-4522

SUBJECT: Informational Maps and Summary of Record Plats for the Planning Board
Agenda for January 10, 2008

The following record plats are recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plan and site plan, if applicable, and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code. Attached are specific recommendations and copies of plan drawings for the record plat. The following plats are included:

220062420 **Highland Park**

PLAT NO. 220062420

Highland Park

Located in the southeast quadrant of the intersection of Waverly Street and Montgomery Avenue

CBD-2 zone; 1 parcel

Community Water, Community Sewer

Master Plan Area: Bethesda CBD

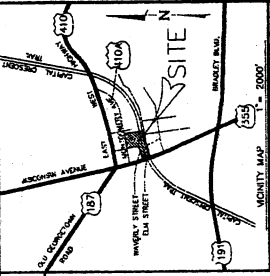
Bethesda ARC, LLC Applicant

Staff recommends approval of the this minor subdivision plat pursuant to **Section 50-35A(a)(5)**, which states as follows:

Plat of Correction. A plat may be recorded under the minor subdivision procedure to correct inaccurate or incomplete information shown on a previously recorded subdivision plat. The plat may correct drafting or dimensional errors on the drawing; failure to include a required note, dedication, easement or other restriction; incorrect or omitted signatures; and/or other information normally required to be shown on a recorded plat. All owners and trustees or the land affected by the correction must sign the revised plat. In addition, the plat of correction must clearly identify the original plat that is being replaced and contain a note identifying the nature of the correction.

Staff applied the above-noted minor subdivision criteria for this property and concludes that the proposed subdivision complies with the criteria of Section 50-35A(a)(5) of the subdivision regulations, and with the conditions required by Site Plan No. 820070010, as approved by the Board, and supports this minor subdivision record plat.

Note: The attached site plan has been reviewed by staff, but is not signed by Development Review Chief, Rose Krasnow. Staff will ascertain all of the appropriate signatures on the certified site plan, prior to requesting Chairman Hanson's signature on the record plat.



TAX MAP NO. HN342

PLAT No. 2007

PEARL STREET

LOT 14, BLOCK 5
HIGHLAND PARK
P.No. 125
S 10'26"00" E 135'00"

PARCEL B, BLOCK 5
HIGHLAND PARK
P.No. 3443
S 10'27"16" E 122'00"

PARCEL G
119,918 sq. ft.
2.75284 Acres
S 79'34"00" E 370'00"

BEETHESDA ARC LLC
L 21401 F. 372
P. No. 23639

BEETHESDA HOTEL ASSOCIATES LLC
L 33186 F. 685

WAVERTY STREET
(VARIABLE WIDTH R/W)

LOT 11, BLOCK 4
HIGHLAND PARK
P.No. 125

LOT 13, BLOCK 5
HIGHLAND PARK
P.No. 125

WAVERTY STREET
(VARIABLE WIDTH R/W)

OWNER'S CERTIFICATE
We, Bethesda ARC LLC, a Delaware limited liability company, and Bethesda Hotel Associates LLC, owners of the property shown herein, hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein for public use, was prepared by a duly licensed and qualified surveyor, and that the same is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof. We, the undersigned, do hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof. We, the undersigned, do hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof. We, the undersigned, do hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof.

SURVEYOR'S CERTIFICATE
I, the undersigned, a duly licensed and qualified surveyor, do hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof. I, the undersigned, do hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof. I, the undersigned, do hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof. I, the undersigned, do hereby certify that the plat of subdivision, dedication, easement, or other interest shown herein is a true and correct representation of the actual conditions of the property and the intentions of the owners thereof.

GRAPHIC SCALE
1 inch = 40 ft.
1 inch = 12.19 m

SUBMISSION RECORD PLAT
PARCEL G, BLOCK 5
HIGHLAND PARK
ELECTION DISTRICT No. 7
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 40' SEPTEMBER, 2007

MHG
Macris, Hendricks & Glascock, P.A.
8220 Wiggam Road, Suite 100
Montgomery Village, Maryland 20886-1276
Phone 301.670.0440
Fax 301.484.0880
www.mhg.com

FOR PUBLIC WATER AND SEWER ONLY
THE MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD
APPROVED: _____
CHAIRMAN SECRETARY-TREASURER

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MONTGOMERY COUNTY PLANNING BOARD
APPROVED: _____
CHAIRMAN SECRETARY-TREASURER

RECORD PLAT FOR MINOR SUBDIVISION REVIEW SHEET

(This form contains 3 pages)

Plat Name: Highland Park Plat Number: 220062420

Plat Submission Date: 6/28/06

DRD Plat Reviewer: P-1/TA

DRD Prelim Plan Reviewer: N/A

*For category of minor see pages 2 and 3

Initial DRD Review:

Pre-Preliminary Plan No. _____ Checked: Initial _____ Date _____

Preliminary Plan No. _____ Checked: Initial _____ Date _____

Planning Board Opinion - Date _____ Checked: Initial _____ Date _____

Site Plan Name if applicable: Air Rights HOTEL Site Plan Number: 820070010

Planning Board Opinion - Date 3-23-07 Checked: Initial RAK Date 12-28-07

Lot # & Layout ✓ Lot Area ✓ Zoning ✓ Bearings & Distances ok Coordinates ok
 Plan # ok Road/Alley Widths ✓ Easements ✓ Open Space N/A Non-standard
 BRLs N/A Adjoining Land ok Vicinity Map ok Septic/Wells N/A
 TDR note N/A Child Lot note N/A Surveyor Cert ✓ Owner Cert ✓ Tax Map ok
 SPA N/A

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>Alind</u>	<u>7/18/06</u>	<u>8/4/06</u>	<u>8/4/06</u>	<u>EXEMPT</u>
Research	Bobby Fleury				<u>ok</u>
SHA	Doug Mills				<u>No Comments</u>
PEPCO	Jose Washington				<u>P.O.E</u>
Parks	Doug Powell				<u>No Comments</u>
DRD	Steve Smith				<u>Add Easement</u>

Final DRD Review:

DRD Review Complete:

(All comments rec'd and incorporated into mark-up)

Engineer Notified (Pick up Mark-up):

Final Mylar w/Mark-up & PDF Rec'd:

Board Approval of Plat:

Plat Agenda:

Planning Board Approval:

Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:

Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:

File Card Update:

Final Zoning Book Check:

Update Address Books with Plat #:

Update Green Books for Resubdivision:

Notify Engineer to Seal Plats:

Engineer Seal Complete:

Complete Reproduction:

Sent to Courthouse for Recordation:

Initial

SJS

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No. _____

RECORD PLAT REVIEW SHEET – MINOR SUBDIVISION SEC-50-35A

Plat Name: _____
Plat Number: _____
Plat Submission Date: _____
DRD Plat Reviewer: _____

Select which Category of Minor Subdivision and fill information as required

Requirements under Sec 50-35A (A)

(1) Minor Lot Adjustment

- a) Total area does not exceed 5% of combined area affected: _____
- b) No additional lots created: _____
- c) Adjusted line is approximately parallel/does not significantly change shape of the lots: _____
- d) Date sketch plan submitted: _____
- e) Sketch plan revised or denied within 10 business days: _____
- f) Final record plat submitted within ninety days: _____
- g) Sketch shows following information:
 - i. proposed lot adjustment: _____
 - ii. physical improvements within 15 feet of adjusted line: _____
 - iii. alteration to building setback: _____
 - iv. amount of lot area affected: _____

(2) Conversion of Outlot into a Lot

- a) Outlot not required for open space or otherwise constrained: _____
- b) Adequate sewerage and water service/public or private: _____
- c) Adequate public facilities and AGP satisfied: _____
- d) Any conditions/agreements of original subdivision: _____
- e) Special Protection Area, Water Quality Plan required: _____

(3) Consolidation Of Two of More Lots

- a) Any prior subdivision conditions: _____
- b) Part of lot created by deed prior to June 1 1958: _____

(4) Further Subdivision of Commercial/Industrial/Multi-Family Lot

Any subdivision/conditions; APF agreement satisfied: _____

(5) Plat of Correction

- a) All owners and trustees signed: _____
- b) Original Plat identified: _____

(6) Plats for Residentially Zoned Parcels Created by Deed prior to June 1958

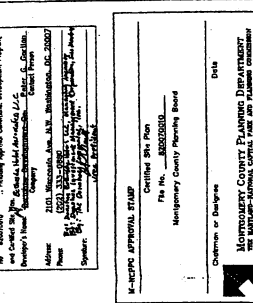
- a) Deed(s) submitted: _____
- b) Developable with only one single family detached unit: _____

(7) Plat for Existing Places of Worship, Private Schools, Country Club, Private Institution, and Similar Uses located on Unplatted Parcels

- a) Adequate Public Facilities satisfied:
- b) Street dedication required:
- c) Forest conservation:
- d) Storm water management:
- e) Special Protection Area/Water Quality Plan:
- f) Landscaping and lighting plan including parking lot layout:
- g) Approved Special Exception:

(8) Plats for Certain Residential Lots in the RDT Zone; 5 Lot Maximum

- a) Number of Lots:
- b) Written MCDPS approval of proposed septic area:
- c) Required street dedication:
- d) Easement for balance of property noting density and TDRS:
- e) Average lot size of 5 acres:
- f) Forest Conservation requirements met:



SEVERAL NOTES

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Additional Certification

_____ hereby certifies that these documents were prepared in accordance with the Child Abuse and Neglect Reporting Act, and that the information provided is true and correct to the best of my knowledge.

Signature of Reporter

Print Name of Reporter

Title of Reporter

Agency of Reporter

City of Reporter

State of Reporter

Date of Report



Est./Ref.	Material	1,024 spaces (maximum)
	<p>Required = 691.79 spaces</p> <p>Available = 148 spaces</p> <p>Shortage = 543.79 spaces</p>	
	<p>216 pieces of <i>Symposium</i> (100% of 216) = 216 spaces</p> <p>216 pieces of <i>Contemporary Music</i> (100% of 216) = 216 spaces</p> <p>Total material = 432 spaces</p>	
	<p>Auxiliary Book:</p> <p>6,600 \pm CPA @ 1.5/1k = 16.51 spaces</p> <p>1250 professional (25 \times 50) = 2.51 spaces</p> <p>Available = 19.02 spaces</p>	
	<p>With reductions for individual development (19 \times 0.1) = 691.79 spaces</p> <p>148 books, most are spaces @ 75% = 111 spaces</p> <p>148 books, most are spaces @ 75% = 111 spaces</p> <p>148 books, most are spaces @ 75% = 111 spaces</p>	
	<p>Total packing = 817 spaces</p>	

The Property is located within the Redwood National & State Park (RNPS), therefore, no special requirements that would otherwise be applicable, nor the Property qualifies for an exemption from the RNPS Act. The Property is not within the Redwood National & State Park (RNPS) and is not within the Redwood National & State Park (RNPS) and is not within the Redwood National & State Park (RNPS).



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

MAR 23 2007

MCPB No. 06-126

Site Plan No. 82007010

Air Rights Hotel

Date of Hearing: December 14, 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 vested with the authority to review site plan applications; and

WHEREAS, on July 6, 2006, Bethesda Hotel Associates/Donohoe Hospitality Services LLC ("Applicant"), filed an application for approval of a site plan for 132,421 square feet of hotel use, 4,600 square feet of existing retail, and 364,100 square feet of existing office space ("Site Plan" or "Plan") on 3.28 gross acres of CBD-2 zoned-land, located on the east side of Waverly Street, approximately 300 feet east of its intersection with Wisconsin Avenue, identified as Parcels D and E, Block 5, of Highland Park ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 82007010, Air Rights Hotel (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated November 30, 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 December 14, 2006, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, on December 14, 2006, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on December 14, 2006 the Planning Board approved the Application on the motion of Commissioner Bryant, seconded by Commissioner Robinson, with a

Approved as to
Legal Sufficiency:

TAR 3-9-07

M-NCPPC Legal Department

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

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

vote of 5-0, Commissioners Bryant, Hanson, Perdue, Robinson, and Wellington voting in favor.

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. 82007010 for 132,421 square feet of hotel use, 4,600 square feet of existing retail, and 364,100 square feet of existing office space, on 3.28 gross acres in the CBD-2 Zone, subject to the following conditions:

1. Project Plan Conformance

The proposed development shall comply with the conditions of approval for Project Plan 9-00001A as listed in the Planning Board opinion dated February 6, 2006, except as modified by the subject site plan.

2. Building Height

The height of the hotel shall be a maximum of 116 feet tall as approved on Project Plan 9-00001A. The measuring point used to measure the height of the hotel building is located in the northwest corner of the lot at the terrace level of 353.0 as approved on 9-00001A and as shown on the site plan.

3. Architecture

The building shall be constructed in substantial conformance with the architectural elevations dated November 15, 2006. The south elevation facing Elm Street Park shall be built in substantial conformance with the elevation dated November 28, 2006.

4. Transportation Division Memo

The Applicant shall comply with the following conditions of approval from M-NCPPC- Transportation Planning in the memorandum dated November 30, 2006:

- a. As it applies to the Waverly street frontage along Parcel E, the Applicant shall provide a 35-foot right-of-way from the centerline of Waverly Street.
- b. As it applies to the Waverly Street frontage along Parcel D, the Applicant shall provide an area east of the existing right-of-way line for a depth of 15 feet as a Public Improvement Easement. Prior to temporary obstruction or closures of the sidewalk, the Applicant must receive approval from the Department of Permitting Services.
- c. The Applicant shall provide 40 feet from centerline, along the frontage of the property, for Montgomery Avenue right-of-way dedication.
- d. The Applicant shall improve the drainage problem at the southern terminus of Pearl Street after approval from MCDPWT and prior to issuance of a use and occupancy permit.
- e. The Applicant shall provide a sidewalk, at least 15 feet wide along the frontage of the property on Waverly Street, except along that portion of the sidewalk

adjacent to the lay-by where the sidewalk will narrow to a minimum width of nine feet.

- f. The Applicant shall provide a bicycle and pedestrian connection which meets the Americans Disabilities Act (ADA) between the terminus of Pearl Street and the Interim Georgetown Branch Trail. The drawings for the pedestrian ramp/stairs shall be certified by a structural engineer and the construction details for the structure shall be reviewed and approved by M-NCPPC, MCDPWT, and shall be permitted by DPS. The material used in the construction of the structure should be appropriate for its possible interim nature given the possible future implementation of the Bi-County Transitway (aka "the purple line"). The structure shall be in place and available for use prior to occupancy of the hotel. In the event that MCDPWT has not obtained the necessary access easement to enable the structure to be completed prior to occupancy of the hotel, then prior to occupancy, the Applicant shall contribute adequate funds to the appropriate Bikeway CIP, or as otherwise agreed to by MCDPWT, to cover the cost of the construction of the ramp and stabilization of the retaining wall behind the ramp, which funds shall be specifically targeted to the bicycle ramp improvement. The ramp/stairway structure will be maintained by DPWT.
- g. The Applicant shall enter into a Traffic Mitigation Agreement (TMAg) to participate in the Bethesda Transportation Management Organization. The TMAg will be fully executed and signed prior to the issuance of any building permit for the new hotel.
- h. The Applicant shall provide at-grade crossings of the two driveways from Waverly Street.
- i. The Applicant shall provide two bike lockers in the garage, or a secured bicycle cage the approx. size of one parking space, and one bike rack convenient to the building entrance.

5. Final Plat

Prior to the issuance of any building permit, a Final Plat shall be recorded in the land records of Montgomery County that clearly illustrates the following information:

- a. The Applicant shall secure, from the owner of Parcel D, an approximately 20-foot wide perpetual public access easement between existing Elm Street Park and the Georgetown Branch Interim Trail. The easement shall include the existing paved path that connects the Georgetown Branch Interim Trail to Elm Street Park, at Parcel 536 (described in a deed recorded at Liber 19902 Folio 183). The location of the easement must be reviewed and approved by MNCPPC Staff and included in the certified site plan.
- b. The additional right-of-way provided adjacent to Parcel E shall be "rounded" to parallel the curb line of the street.
- c. The Waverly Street frontage along Parcel E, the Applicant shall provide a 35-foot right-of-way from the center line of Waverly Street.

- d. A 15 foot-wide Public Improvement Easement shall be provided along the Parcel D Waverly Street frontage
- e. The Applicant shall provide 40 feet from centerline, along the frontage of the property, for Montgomery Avenue right-of-way dedication.

6. Public Art

Prior to submission of the certified site plan, the Applicant shall present a fully developed and detailed program for the public art component to the Art Review Panel for approval, and shall revise the site plan drawings to incorporate the approved public art.

7. Elm Street Park

The Applicant shall renovate the portion of existing Elm Street Park south of the Elm Street road right-of-way in substantial conformance with pages L-4 and L-5 of the site plan. The plans for the park renovation involve the realignment of one of the park paths along the main desire line, correction of poor drainage, establishment of a planted wetland area in the low area near the existing artwork, removal of vertical timber walls around existing seating areas, repaving all existing paths in that portion of the park, installation of new seating areas with new benches, picnic tables (18 new "Bethesda-type" benches and approximately 15 new picnic tables), landscape planting, replacement of three existing lights with updated, more efficient fixtures, cleaning of the existing public art piece, and reseeded of all turf areas as needed. All park improvements to be approved by M-NCPPC park staff.

The Applicant shall obtain a Park Permit for construction prior to commencing any work in the park. Minor modifications may be made to elements within the park as a result of the park permit process, which will not necessitate a revision to the certified site plan. All improvements within the park shall be substantially complete prior to occupancy of the hotel or as approved by staff from the Park Development Division. Improvements to the park shall be inspected and accepted by M-NCPPC Park Development Division staff.

8. Certified Site Plan

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

- a. Replace the Development Data Table on the plans with the one in this report.
- b. Provide adequate spot elevations in the plaza, and along the new walkways in Elm Street Park to ensure ADA accessibility and positive drainage. Provide spot elevations at the top and bottom of all walls and steps and ramps.
- c. A note shall be added to all the plans which states: "All construction to be staged from Waverly Street" unless otherwise agreed to by other adjacent parties".

- d. A construction detail shall be added to the plans which demonstrates that an asphalt overlay of 1-1/2-2" in depth with paving fabric shall be added to the existing asphalt trails in the portion of Elm Street Park south of the promenade.
- e. A tree preservation plan with sufficient details to ensure the protection of the existing trees in Elm St. Park throughout the park renovation shall be approved by the Department of Parks Arborist.
- f. The streetscape details for Waverly Street shall be revised to demonstrate that the large vault covers in the sidewalk will be designed to accommodate the Bethesda Streetscape paver surface.
- g. A program for the cleaning and refurbishing of the existing sculpture in Elm Street Park shall be provided for review and approval. The program shall be developed with advice from an experienced art conservator and with the artist's representatives.
- h. The genus and species for the "shade tolerant planting" and all proposed planting alongside of the Georgetown Branch Interim Trail shall be specified.
- i. The spacing for all shrubs and groundcovers shall be added to the plant list.
- j. Additional details shall be provided on the plans that specify the color and pattern of the new concrete paving in the seating nodes and under the benches in the park.
- k. Samples of the stone proposed to be used in the stone garden in the Air Rights Center Tunnel shall be provided to staff for review and approval. Information regarding depth of stone, quantities and coverage shall be provided.
- l. Include on the building elevations the proposed location for all building mounted signage and add constructions details for the signage to the plan.
- m. Add details for the required bike rack and lockers and indicate their location on the plan.

9. Pearl Street Connection

The Applicant shall provide a bicycle and pedestrian connection which meets the Americans Disabilities Act (ADA) between the terminus of Pearl Street and the Interim Georgetown Branch Trail. The drawings for the pedestrian ramp/stairs shall be certified by a structural engineer and the construction details for the structure shall be reviewed and approved by M-NCPPC, MCDPWT, and shall be permitted by DPS. The material used in the construction of the structure should be appropriate for its possible interim nature given the possible future implementation of the Bi-County Transitway (aka "the purple line"). The structure shall be in place and available for use prior to occupancy of the hotel. In the event that MCDPWT has not obtained the necessary access easement to enable the structure to be completed prior to occupancy of the hotel, then prior to occupancy, the Applicant shall contribute adequate funds to the appropriate Bikeway CIP, or as otherwise agreed to by MCDPWT, to cover the cost of the construction of the ramp and stabilization of the retaining wall behind the ramp. Such funds shall be earmarked specifically for

the bike ramp and no other purpose. The ramp/stairway structure will be maintained by DPWT.

10. Maintenance Agreement

Prior to certified site plan approval, the Applicant shall enter into an Agreement with the Bethesda Urban Partnership for maintenance of public use areas including the specially paved area within the lay by on Waverly Street.

11. Garage Access

Parking garage access shall be accommodated from Montgomery Avenue during construction, with two lanes available during each rush hour.

12. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated October 28, 2005, unless amended and approved by DPS.

13. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of certified site plan. The Development Program shall include a phasing schedule as follows:

- a. Streetscape improvements including paving, lighting, street furniture and tree planting for Waverly Street and all on-site and off-site public open space areas including Elm Street Park, the Pearl Street ramp and stairway connection, and improvements in the Georgetown Branch Interim Trail shall be fully completed prior to release of the use and occupancy permit for the hotel.
- b. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- c. Phasing of dedications, trip mitigation or other features.
- d. The Plaza (and associated pedestrian access walkways) including all paving, planting, lighting, site furnishings and public art shall be completed prior to release of the use and occupancy permit for the hotel.

14. Demolition, Clearing and Grading

No demolition, clearing, or grading, prior to M-NCPPC approval of certified site plan of plans, except for demolition of that portion of the existing parking garage necessary to accommodate the proposed hotel footprint and all necessary alterations to reconfigure existing garage to maintain vehicular circulation, egress, and parking.

BE IT FURTHER RESOLVED that all site development elements as shown on Air Rights Hotel drawings stamped by the M-NCPPC on November 15, 2006, 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, 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 is in conformance with approved Project Plan No. 9-00001A, approved by the Planning Board on April 28, 2005.*
2. *The Site Plan meets all of the requirements of the CBD-2*

Requirements of the CBD-2 Zone

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 uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Development Standard	Existing Development	Required/Permitted by Zoning Ordinance	Approved with Project Plan 9-00001A	Approved by the Planning Board and Binding on the Applicant
Gross Tract Area (sf.):	143,174	18,000	143,174	143,174
-Prop. Waverly St. ded.	3,538			1509*
-1978 Montgomery Ave. ded.	5,550			5,550
-1910 Montgomery Ave. ded.	9,750			9,750
-1910 Waverly Ave. ded.	5,504			5,504
-Railroad St. ded.	914			914
Net Lot Area (sf):	117,258 (2.71ac.)			120,011 (2.75ac.)*
Gross Floor Area (sf.):				
- Office	364,100		364,100	364,100
- Retail	13,200		4,600**	4,600**
- Hotel			132,421	132,421
- Dwelling Units	0		0	0

Total FAR square footage		501,121	501,121
Floor Area Ratio (FAR)	4.0	3.5	3.5
Cellar space			10,134
Total square footage incl. cellar space***			511,255
Minimum Public Use Space (%/sf):			
-On-Site	20%/23,452	27%/31,789	28.6%/ 34,370
-Off-Site		105,818	104,287
Total Open Space		137,598	138,657
Maximum Building Height:	143	116****	116'
-Ex. North Building	142		
-Ex. West Building	149		
Building Setbacks (ft.):			
-From Waverly Street	NA	0	0
Total Parking for Air Rights Center	1,112	817****	1,024
<p>* In addition 2,029 sf will be placed in a Public Improvement Easement (PIE), increasing the net lot area from previous approvals.</p> <p>** Approximately 8,600 square feet of existing retail space will be eliminated</p> <p>*** Per Section 59-A-2.1 of the Zoning Ordinance, cellar space does not count towards the FAR.</p> <p>**** The Master Plan recommended a maximum height of 90 feet. The Planning Board approved a height up to 116' with 9-00001A.</p> <p>***** The site is located within a Parking District, therefore there is no minimum parking required; however, 817 parking spaces would be required for this development if located outside a parking district.</p>			

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

Consistent with the Project Plan, the Air Rights Center Hotel will be a 13-story, 216-room hotel with a prominent exposure on Waverly Street, visible from Wisconsin Avenue. In an effort to make the building more compatible with the residential character of the area southeast of downtown Bethesda, the hotel will step down at the south façade, first to 98 feet and then to 89.25 feet. The project will include a total of 132,421 gross square feet plus 10,134 square feet below grade cellar space.

The hotel façade will feature a combination of punched windows and curtain wall, and will emphasize the vertical proportions with pilasters. There will be a

two story pre-cast concrete and granite base which will anchor the building to the streetscape, and the building massing will emphasize a traditional building composition of base, middle, and top. A two-story horizontal glass top will turn vertically downward to create an inverted "L" of glazing visible from the intersection of Wisconsin Avenue and Waverly Street, and will draw the visitor towards the entry. The mechanical equipment and penthouse areas will be screened from all sides of the hotel with materials consistent with the hotel architecture. There will be a removable canopy/*porte cochere* at the main entrance to the hotel on Waverly Street. Hotel signage will be designed to be most visible from the west and north elevations and away from the residential area to the south.

The existing pedestrian link at the plaza level will be replaced with a new pedestrian concourse with meeting rooms available to hotel guests as well as people in the surrounding office areas. A connection will be made between the new two-story open space lobby of the hotel and the existing retail areas of the adjacent Air Rights complex, while maintaining the current function of "the Link". In order to encourage the use of and to help activate the new public plaza, a glass door with direct access to the plaza has been provided from "the Link".

b. Open Spaces

The plan proposes approximately 29% (34,370 sf) of the site will be in on-site public use space, exceeding the 20% minimum requirement. The open space is located primarily on the terrace in a plaza along Waverly Street, in a narrow strip paralleling Montgomery Avenue, and in the tunnel under the existing parking garage in an easement with Montgomery County, which accommodates the Georgetown Branch Interim Trail. In addition, approximately 104,287 sf of off-site public use space will be improved, located predominantly in Elm Street Park and at the end of Pearl Street.

c. Landscaping and Lighting

The proposed landscape for the Air Rights Center Project, as amended by the conditions above, is designed to provide an engaging and pedestrian-friendly urban experience and is adequate, safe and efficient. It places special emphasis on human scale and ease of access appropriate to the urban fabric of the Bethesda Central Business District. An important feature of the plan is the removal of the cantilever over the public sidewalk on Waverly Street. The cantilever created a very uncomfortable and oppressive pedestrian space and its removal will greatly improve the appearance of the street and enhance the pedestrian experience. In addition to the removal of the cantilever the proposal

includes a significant public art piece along Waverly Street and includes the renovation of the southern portion of existing Elm Street Park.

As part of the renovation of the park, an existing inefficient and circuitous path will be realigned basically following the alignment of a well worn people's choice path, and three circular seating nodes with special pavement and landscape planting will be created. The existing dated and rotting vertical timber walls that enclose seating areas throughout the park will be removed. All of the existing asphalt paths in the southern portion of the park will be overlaid with 1-1/2"-2" of asphalt, a new garden area with water loving plants will be created in a low lying wet area in the park, 18 new "Bethesda Style" benches will be added, and 10-15 new picnic tables will be provided. In addition the three existing and very outdated light poles will be replaced with newer, more efficient and attractive pedestrian-scale fixtures.

Applicant has prepared a tree preservation plan to ensure that the mature specimen trees throughout the park will be protected throughout construction.

d. Recreation Facilities

There are no recreation requirements for non-residential uses.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation will be adequate, safe and efficient. This plan encourages the development of active urban streets and improves the quality of the pedestrian environment by providing enhancement of the streetscape as envisioned by the Master Plan and by significantly improving the path network in existing Elm Street Park. An important amenity being provided by this project is the pedestrian connection at the terminus of Pearl Street. By providing this important connection to the Georgetown Branch Interim Trail, area residents will be able to safely access the trail and gain access to Elm Street Park.

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

The proposed hotel is compatible in height, mass, and building materials with other uses and other Site Plans and with existing and proposed adjacent development. The building has been located on the western edge of the site as far removed from the residential neighborhood as possible. The building has also been designed to step down in height on the southern end closest to the town of Chevy Chase.

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 Site Plan is exempt from the Forest Conservation Law, as a modification to an existing property where no more than 5,000 sf of forest will be cleared; no forest is cleared within a stream buffer or on property subject to Special Protection Area Water Quality Plan requirements; and no new subdivision is required.

The stormwater management concept consists of a waiver of on-site water quality control due to existing site constraints and the reduction of surface parking. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0cfs. Recharge is not required because this Application comprises of redevelopment. The Stormwater Concept Plan was approved by DPS on October 25, 2005.

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

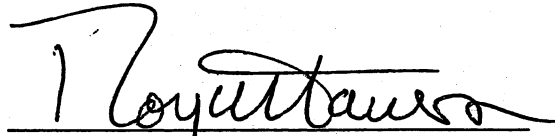
BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this Resolution is MAR 23 2007 (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, March 15, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Perdue, seconded by Commissioner Robinson, with Commissioners Hanson, Perdue, Robinson, and Wellington voting in favor, and Commissioner Bryant absent, 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 No. 820070010, Air Rights Hotel.

A handwritten signature in black ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board