



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

Staff Report: Falkland North (formerly Falkland Chase) REVISED
Project Plan 920070080
Preliminary Plan 120070560

ITEM #s: _____ & _____

MCPB HEARING

DATE: November 18, 2010

REPORT DATE: November 8 10, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
 Robert Kronenberg, Supervisor *RK*
 Cathy Conlon, Supervisor *CC*
 Development Review Division

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APPLICATION DESCRIPTION:

A mixed-use development totaling 1,276,329 square feet, including 70,000 square feet of retail uses and 1,250 dwelling units (including 157 MPDUs and 59 WFHUs), on 9.77 acres of CBD-R1 land in the Silver Spring CBD;

APPLICANT: Home Properties Falkland Chase, LLC

FILING DATE: Project Plan: September 21, 2006 (original submission); June 16, 2010 (revision)
 Preliminary Plan: January 12, 2007 (original submission); June 16, 2010 (revision)

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY:

The Falklands site was originally submitted in 2006 for a mixed-use project on the north side of East-West Highway and leaving in remainder the two parcels on the opposite side of East-West Highway and 16th Street. The development of the property triggered a review by the Historic Preservation Commission, resulting in an agreement to development the north side. The site presents an opportunity to develop a transit-oriented mixed-use development and create a gateway into both Silver Spring and Washington, D.C.

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SITE DESCRIPTION

Vicinity

The subject property is located in the northeast quadrant of the intersection of 16th Street and East-West Highway (MD 410) at the edge of the Silver Spring CBD. The adjacent uses consist primarily of multi-family residential dwellings, including low-rise walk-up garden apartments and high-rise buildings, but also include an office building, single-story retail uses, and a post office. The site is within walking distance of the Silver Spring Metro and MARC commuter rail stations, as well as the future Transit Center and Capital Crescent Trail.

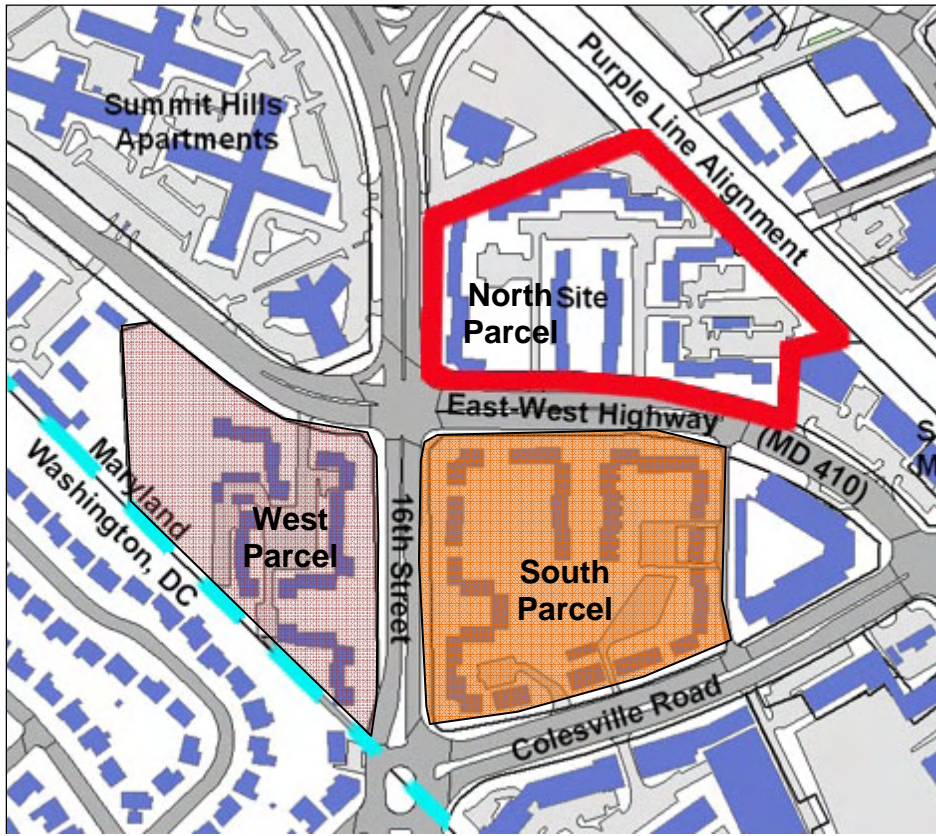


Vicinity Map

The larger Falklands residential community consists of three parcels distributed about the intersection of East-West Highway and 16th Street. The North Parcel, the subject site, is located in the northeast quadrant; the South Parcel in the southeast quadrant; and the West Parcel in the southwest quadrant.

Site Analysis

The property is currently developed with multi-family housing and has no forest but numerous significant and specimen-sized trees. The property is within the Rock Creek watershed, a Use I watershed. The site features moderate grade changes and an existing incised stream.



Parcel Map



Aerial Photo Looking North

PROJECT DESCRIPTION

Previous Approvals

On November 3, 2006, the Applicant submitted Project Plan 920070080 for a 1,157,757 square-foot mixed-use development at this location that included 1,020 multi-family dwelling units and 62,000 sf. of retail uses. Pursuant to section 24A-10 of the County Code (historic preservation ordinance: moratorium on alteration or demolition), when the property owner submitted a project plan application for the redevelopment of the site's north parcel, the Planning Board evaluated the historical and architectural significance of the Falkland Apartments. On December 6, 2007, after finding all three of the site's parcels eligible for designation in the Master Plan for Historic Preservation, the Board directed Planning staff to initiate an amendment to that Master Plan.

On September 4, 2008, the Planning Board approved the *Planning Board Draft Amendment to the Master Plan for Historic Preservation: Falkland Apartments, #36/12*. The amendment recommended that the Falkland Apartments' south and west parcels be added to the Master Plan. Faced with the challenge of weighing the benefits of historic preservation with those related to other planning objectives, the Board found that the north parcel did not merit designation because greater public benefit could be achieved through the redevelopment of the north parcel than by the parcel's designation. The Board did retain the north parcel on the *Locational Atlas* until such time as a site plan(s) for the entirety of the north parcel were approved. The County Council approved the Falkland Apartments amendment on March 31, 2009, thereby adding the south and west parcels of the Falkland Apartments to the Master Plan for Historic Preservation.

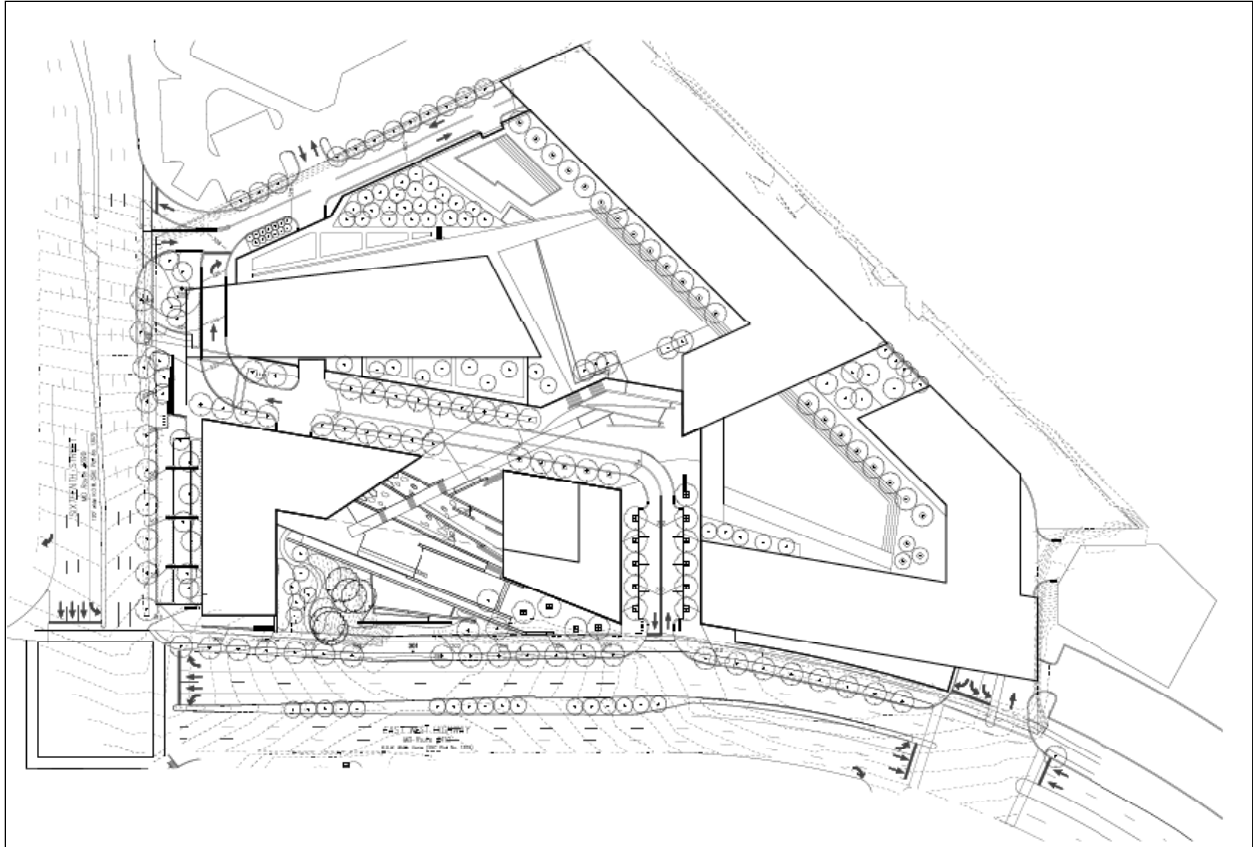
Pursuant to this decision the Applicant entered into a Declaration of Restricted Covenant specifying certain proffers and expectations incumbent upon the submission of a revised proposal (Appendix A). These include, among other provisions:

- 4.72% of the final number of approved dwelling units will be subject to the County's Workforce housing law for a period of 20 years, and an equivalent number must be provided as Workforce housing off-site within the larger Falkland residential community for a period of 20 years.
- As an off-site public amenity, the Applicant must restore and beautify the stream area on the South Parcel.
- All new buildings shall at a minimum earn a LEED-Silver certification.
- Street frontage, use, and architectural review, to be applied at Site Plan.
- Requirements for the bedroom mix of residential units.

Proposal

Land Use and Site Design

The proposed development would provide a multi-building mixed-use development with a total of 1,276,329 sf., including 70,000 sf. of retail and 1,250 multi-family and townhouse dwelling units (including 12.5% MPDUs and 4.72% Workforce Housing Units). Each of the four proposed buildings will be oriented to a street, either the perimeter public streets or a proposed private internal street, and will include residential units. Those buildings along East-West Highway will include ground-floor retail accessible from the sidewalk or open space. Parking will be provided along the internal private street and in underground garages.



Project Plan

The Applicant's design team proposes a dynamic and complex interrelation of building massing, landscaped areas, hardscaped plazas, and driveways. More specific exploration of the articulation of each of the proposed masses and their relationships to the other constituent elements will be conducted as part of Site Plan review.

Vehicular and Pedestrian Circulation

Vehicular access to the site for both loading and parking will come primarily from two intersections at opposite corners of the site, to be shared with adjoining existing developments, including an office building off 16th Street and a strip retail center off East-West Highway. A third proposed intersection, off East-West Highway, will provide additional internal private vehicular access to on-street and underground parking. Pedestrian access to and within the site will be provided from the public sidewalks along the adjoining and intersecting public and private streets, as well as internal paths and walkways.

Public Amenities and Open Space

The proposed development would provide a minimum of 65,545 sf. of on-site public use space (20% of the net lot area) and 70,159 sf. of off-site public amenity space (21.4% of the net lot area). The on-site space includes a public garden, a plaza with a water feature, and other pedestrian-access areas. The primary off-site amenity will be the restoration and beautification of the stream area on the South Parcel (see Appendix B).

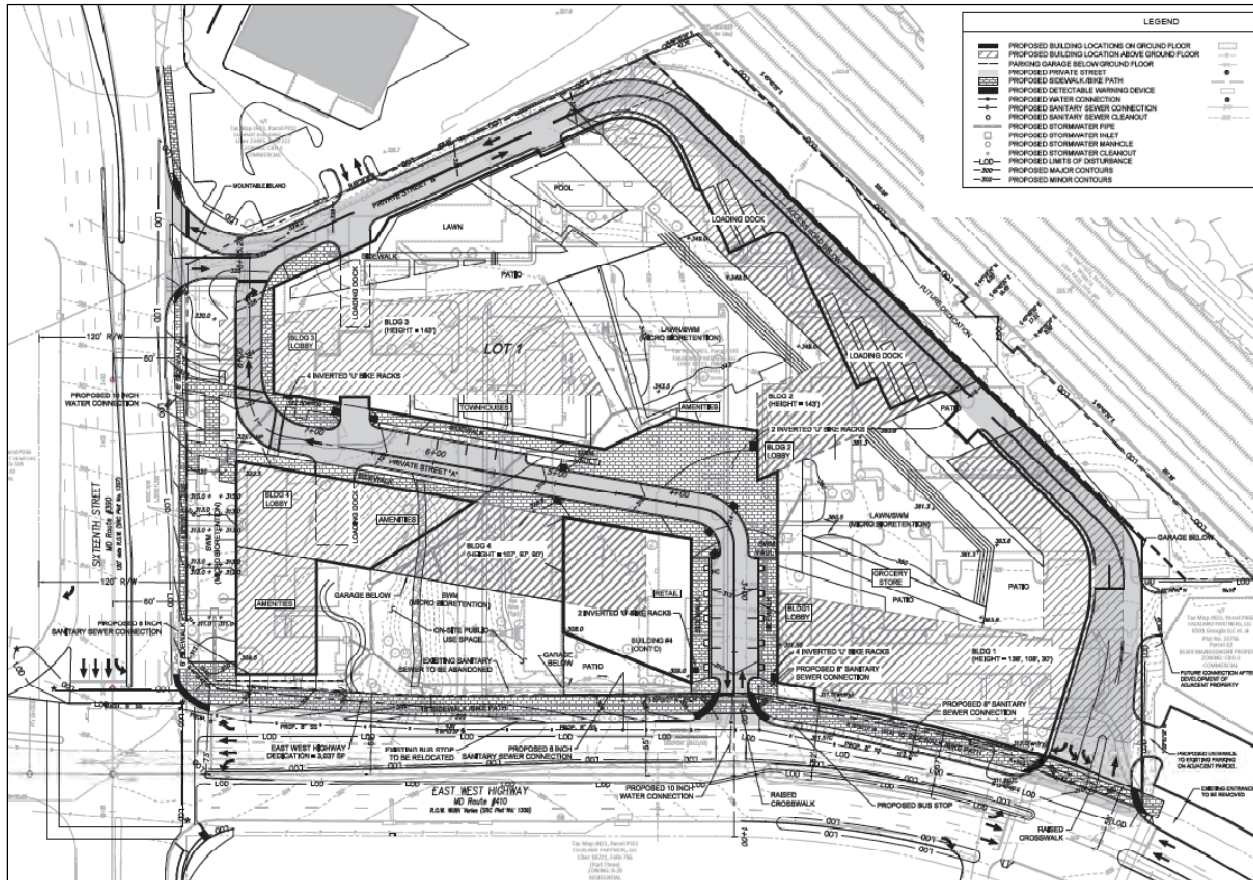
For residents, the project will feature additional landscaped spaces connected to the public open space system, as illustrated in the diagram below. Final details of the proposed open space and public amenities will be determined during the review of the site plan.



Open Space Concept

Subdivision of Land

The boundaries of the Subject Property were created in 1937 as a result of dedication for East-West Highway and 16th Street (Plat #851), which established Parcel #4 (Parcel 393 on a tax map). Garden apartments were subsequently built on Parcel #4 as well as Parcel #1 and Parcel #2 along the southern side of East-West Highway. The Applicant proposes to record a 325,809 square foot lot, referred to as Lot 1 on the preliminary plan, which contains all of Parcel #4 and provides 3,037 square feet of right-of-way dedication along the southeastern corner of the Property for East-West Highway.



Preliminary Plan

PROJECT ANALYSIS

Sector Plan

The Master Plan provides for the development of Downtown Silver Spring under the following themes: Transit-Oriented, Commercial, Residential, Civic, Green and Pedestrian Friendly. The Falkland North project is in line with these themes as it provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the Silver Spring Transit Center. It furthers the Plan's goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

Transportation

Transportation Planning Staff and the staff of other applicable agencies have reviewed the adequacy and safety of the pedestrian, cyclist, and vehicular circulation patterns and impacts. A detailed review of their analysis is incorporated below in the Preliminary Plan Findings section of the staff report. The Purple Line and Metropolitan Branch Trail are located immediately north of the site. A portion of the site along this boundary will be ~~placed in reservation~~ [recorded with a covenant](#) for future dedication as right-of-way.

Environment

There is no forest on-site; however, there are 42 significant trees on the property. Twenty-one of these trees are larger than 30” diameter at breast height (DBH) and qualify as specimens. There is also a County champion tree on-site – an 11” glossy hawthorn. The trees are scattered around the site and located amongst and adjacent to the existing buildings.

There is a drainage channel located between two of the existing buildings, which is designated as a stream. The stream was piped, with an outfall on Parcel 55, across Colesville Road, but the ephemeral channel remains. As there is currently no groundwater involvement, this channel is not buffered.

Green Space

The 2010 *Green Space Guidelines for the Silver Spring Central Business District* identifies the stream valley at the Falklands as a high-priority green space. The restoration, preservation, and beautification of the stream valley offer a unique opportunity to create a truly natural park within an urban environment.

Development Standards

The subject project plan amendment is zoned CBD-R1, which is governed by the development standards in Section 59-C-6.23 of the Montgomery County Zoning Ordinance. As the data table shows, all of the requirements of the zone are met by the subject project plan.

Project Data Table for the CBD-R1 Zone

Development Standard	Permitted/Required	Proposed for Approval
Gross Tract Area (sf.)	18,000	425,443
Previous Dedications (sf.)		96,597
Proposed Dedications (sf.)		3,037
Net Lot Area (sf.)		325,809
Maximum Density (FAR)	3	3
Maximum Density, total (sf.)	1,276,329	1,276,329
Maximum Density, non-residential (FAR)	0.6	0.16
Maximum Density, non-residential (sf.)	255,266	70,000
Maximum Dwelling Units, total		1,250
Minimum MPDU (%)	12.5	12.5
Minimum MPDUs (du)		157**
Minimum Workforce Housing (%)	N/A	4.72*
Minimum Workforce Housing (du)		59**
Building Height, Maximum (ft.)	143	143
Building Setback, Minimum	N/A	0
Parking Spaces, Maximum	1,672	1,672
On-Site Public Use Space, Minimum (% of NLA)	20	20
On-Site Public Use Space (sf.)	65,162	65,545
Off-Site Public Amenity Space (% of NLA)		21.4
Off-Site Public Amenity Space (sf.)		70,159

* as required and limited by the Declaration of Restrictive Covenant

** final number of MPDUs and WFHUs will depend on the final number of units

FINDINGS

Project Plan

According to Section 59-D-2.43 of the Montgomery County Zoning Ordinance, in reaching its determination on a project plan the Planning Board must consider the following:

(a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under chapter 56.

(b) Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the

development and are planned, designed and situated to function as necessary physical and aesthetic open areas among and between individuals structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.

(c) Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.

(d) Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.

(e) The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.

(f) The adequacy of provisions for construction of moderately priced dwelling units in accordance with chapter 25a if that chapter applies.

(g) The staging program and schedule of development.

(h) The adequacy of forest conservation measures proposed to meet any requirements under chapter 22a.

(i) The adequacy of water resource protection measures proposed to meet any requirements under chapter 19.

As the following Findings demonstrate, the subject project plan amendment adequately addresses each of these considerations, as conditioned in the Staff Recommendation.

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board and in concert with the considerations enumerated above form the basis for the Board's consideration of approval. In accordance herewith, the Staff makes the following findings:

(a) As conditioned, the proposal complies with all of the intents and requirements of the zone.

Intents and Purposes Of The CBD Zones

The Montgomery County Zoning Ordinance states the purposes which the CBD zones are designed to accomplish. The following statements analyze how the proposed Project Plan conforms to these purposes:

(1) "To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master

or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board.”

The Falkland North Project Plan (#900070080) is consistent with the February 2000, Approved and Adopted Silver Spring CBD Plan. The Master Plan provides for the development of Downtown Silver Spring under the following themes: Transit-Oriented, Commercial, Residential, Civic, Green and Pedestrian Friendly. The Falkland North project is in line with these themes as it provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the Silver Spring Transit Center. It furthers the Plan’s goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

- (2) *“To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents.”*

The proposed mixed-use development includes residential and retail uses in very close proximity to the Silver Spring Metro Station. The diversity of retail bays, in conjunction with the diversity of unit types, will provide great flexibility to accommodate the various needs of residents, workers who pass by the site on foot to and from the Metro and by wheeled conveyance, as well as shoppers who work in nearby offices or live in the adjacent developments.

- (3) *“To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas.”*

The proposed building heights transition from the maximum height immediately adjacent to the train tracks and the office buildings north of the site to a lower scale of the low-rise garden apartments south of East-West Highway. The proposed internal private street reintroduces a more urban street grid, improving access along and through the site and creating better public spaces.

- (4) *“To promote the effective use of transit facilities in the central business district and pedestrian access thereto.”*

The proposed development is located 300 feet from the Silver Spring Metro Station and immediately adjacent to Metro Bus lines. The significant foot traffic moving to and from the Metro from the residences west of the site will be greatly served by streetscape improvements and retail opportunities in this development.

- (5) *“To improve pedestrian and vehicular circulation.”*

Vehicular circulation around the site will take advantage of existing entrances from the adjacent public streets by sharing entrances for both the retail and residential

parking and loading. Additional vehicular access to the internal private street will assist visitors to the site as well as residents.

Provision of a greater mix of land uses and public spaces along the public roads will greatly enhance the pedestrian experience along the edges of the site, while the private street, landscaped spaces, and plazas will attract pedestrians into and through the site.

- (6) *“To assist in the development of adequate residential areas for people with a range of different incomes.”*

The proposed development will provide a variety of housing types within the proposed 1,250 dwelling units, including townhouse and multi-family apartment configurations. In addition to the minimum 12.5% MPDU requirement, the Applicant is also providing workforce housing, as well as a minimum mix and distribution of unit types, in accordance with the terms of the Declaration of Restrictive Covenant, signed August 2, 2010.

- (7) *“To encourage land assembly and most desirable use of land in accordance with a sector plan.”*

The proposed development is located on a single existing parcel. In accord with the Sector Plan, the project promotes redevelopment of the site in a way that locates a diversity of housing and retail opportunities near transit and provides a variety of public green open space and pedestrian linkages along and through the site. Further, the proposed restoration of the stream on the south parcel will help to restore some of the civic grandeur of the adjacent historic site.

Further Intents of the CBD-R1 Zone

Section 59-C-6.213 of the Zoning Ordinance list further intents of the CBD-R1 zone:

“To foster and promote the orderly development of the fringes of the Central Business Districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and

“ To provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts”; and

“...to foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.”

The proposed development meets these intents by expanding the diversity of dwelling units and retail opportunities at the edge of the CBD in an area dominated by

residential uses. Multi-family apartments and townhouse units will complement the garden and high-rise apartment buildings in the area, while the proposed ground floor retail, in addition to potentially including a supermarket to serve the surrounding neighborhood, includes smaller retail bays that could readily accommodate neighborhood-oriented retail and service needs.

Requirements of the CBD-R1 Zone

The table on page 10 of the staff report demonstrates the conformance of the project plan with the development standards under the optional method of development. Among other standards, the proposed development meets the area, public use space, building height, and density requirements of the zone.

According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.”

To this end, the proposed development is proffering a system of linked open spaces and pedestrian paths and associated improvements on both the North Parcel and South Parcel, including landscaped gardens and the restoration and beautification of the existing stream.

- (b) *The proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.*

As described above, the Project Plan is consistent with the Sector Plan by providing for the redevelopment of this property at the edge of the CBD consistent with the themes of Transit-Oriented, Commercial, Residential, Civic, Green and Pedestrian Friendly development. It provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the Silver Spring Transit Center and furthers the Plan’s goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

- (c) *Because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.*

The proposed development promotes compatibility with existing and potential development primarily by defining the public streets and sidewalks as attractive and activated public spaces that will encourage further pedestrian traffic along and through the site. The building heights step down from the taller buildings along the railroad tracks to the lower heights along East-West Highway and the low-rise garden apartments of the Falklands South Parcel, while the massing of the proposed buildings on the North Parcel correspond with the existing historic structures to the south.

(d) As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.

A draft traffic management agreement has been reviewed and approved by State and County transportation agencies. Other public facilities exist on or near the site and no expansion or renovation of these services will be required of the County. The Applicant is providing all of the required 1,672 parking spaces on-site, and will not burden County parking facilities. Further, requirements for public safety and fire, which will only be minimally impacted given the nature of the land use, will have to be approved by the respective agencies prior to site plan approval.

(e) The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.

A standard method project would only allow a density of 1 FAR on this site. Further, the requirement for public amenities would be removed and the public use space requirement would be reduced by one-half. Because infill development and density at transit hubs are core values of smart growth and in light of the number and quality of public amenities being proffered, the optional method of development is much more desirable and more efficient for this particular site.

(f) The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.

The proposed development will provide 12.5% MPDUs as required by Chapter 25A. A final agreement between the Applicant and the Department of Housing and Community Affairs will be required at the time of site plan review. Additionally, as outlined in the Declaration of Restrictive Covenant, the Applicant must provide 4.72% of the total number of units as Workforce Housing Units on-site, and an identical number off-site within the other Falkland Parcels.

(g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:

The proposed development will be located on a single lot and does not propose any open space or density transfers.

(h) As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.

The project is subject to the requirements of the forest conservation law. As conditioned, the proposal satisfies the requirements.

(i) As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.

The proposed development is subject to the water quality resources protection requirements. The stormwater management concept consists of channel protection and water quality control via the use of on-site Environmental Site Design and off-site Stream Restoration.

Preliminary Plan

The preliminary plan has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed lot was reviewed for compliance with the dimensional requirements for the CBD-R1 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in Table 1, below. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

In order to approve a preliminary plan of subdivision, the Planning Board must make the following five findings pertinent to Chapter 50:

(a) The proposed lot and associated uses comply with the recommendations of the Approved and Adopted Sector Plan

The Preliminary Plan is consistent with the February 2000, Approved and Adopted Silver Spring CBD Plan. The Master Plan provides for the development of Downtown Silver Spring under the following themes: Transit-Oriented, Commercial, Residential, Civic, Green and Pedestrian Friendly. The Falkland North project is in line with these themes as it provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the Silver Spring Transit Center. It furthers the Plan's goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

(b) Public facilities will be adequate to accommodate commercial and residential buildings containing a total of 1,276,329 square feet, including 1,250 dwelling units and 70,000 square-feet of commercial uses.

[A traffic study dated July 27, 2010, was submitted for the subject preliminary plan for Adequate Public Facilities \(APF\) review purposes because the development proposed on the property – 70,000 square-feet of retail and 1,250 high-rise residential units in place of](#)

existing 182 garden style apartment units – is expected to generate 30 or more total peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

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

For comparison purposes, the study also determined that if non-Silver Spring CBD trip generation rates were used, the development would generate 467 net new peak-hour trips during the morning peak period and 753 net new peak-hour trips during the evening peak period. The development, therefore, generates a lower number of trips during the morning (467 vs. 299 peak-hour trips) and evening (753 vs. 446 peak-hour trips) peak periods as a result of being located within the Silver Spring CBD. The CBD and non-CBD trip generation estimate for the proposed development is summarized in Table 1.

TABLE 1
SUMMARY OF SITE TRIP GENERATION
FALKLAND NORTH DEVELOPMENT

<u>Trip Generation</u>	<u>Morning Peak-Hour</u>			<u>Evening Peak-Hour</u>		
	<u>In</u>	<u>Out</u>	<u>Total</u>	<u>In</u>	<u>Out</u>	<u>Total</u>
<u>Based on Silver Spring CBD Rates</u>						
<u>70,000 SF Retail</u>	<u>18</u>	<u>17</u>	<u>35</u>	<u>70</u>	<u>70</u>	<u>140</u>
<u>1,250 High-rise Residential Units¹</u>	<u>61</u>	<u>246</u>	<u>307</u>	<u>251</u>	<u>107</u>	<u>358</u>
<u>Less Existing Garden Apartments – 182 Units</u>	<u>-13</u>	<u>-30</u>	<u>-43</u>	<u>-29</u>	<u>-23</u>	<u>-52</u>
<u>Net “new” trips</u>	<u>66</u>	<u>233</u>	<u>299</u>	<u>292</u>	<u>154</u>	<u>446</u>
<u>Based on non- Silver Spring CBD Rates</u>						
<u>20,000 SF Specialty Retail</u>						
<u>New</u>	<u>7</u>	<u>7</u>	<u>14</u>	<u>27</u>	<u>27</u>	<u>54</u>
<u>Pass-by (40% of PM Trips)</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>-11</u>	<u>-11</u>	<u>-22</u>
<u>50,000 SF Grocery Store</u>						
<u>New</u>	<u>81</u>	<u>74</u>	<u>155</u>	<u>322</u>	<u>297</u>	<u>619</u>
<u>Pass-by (40% of PM Trips)</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>-129</u>	<u>-119</u>	<u>-248</u>
<u>1,250 High-rise Residential Units</u>	<u>94</u>	<u>280</u>	<u>374</u>	<u>267</u>	<u>170</u>	<u>437</u>
<u>Less Existing Garden Apartments – 182 Units</u>	<u>-15</u>	<u>-61</u>	<u>-76</u>	<u>-57</u>	<u>-30</u>	<u>-87</u>
<u>Net “new” trips</u>	<u>167</u>	<u>300</u>	<u>467</u>	<u>419</u>	<u>334</u>	<u>753</u>

Note: Based on M-NCPPC trip generation rates.

¹ Site trip generation estimate reflects 18 percent reduction allowed to non-CBD residential trip generation rates by LATR/PAMR Guidelines when used in CBD areas.

- Local Area Transportation Review (LATR)

A summary of the capacity/Critical Lane Volume (CLV) analysis results for the intersections included in the traffic study for the weekday morning and afternoon peak-hours as presented in the traffic study is provided in Table 2.

TABLE 2
SUMMARY OF CAPACITY CALCULATIONS (CLV)
FALKLAND NORTH DEVELOPMENT

<u>Intersection</u>	<u>Traffic Conditions</u>					
	<u>Existing</u>		<u>Background</u>		<u>Total</u>	
	<u>AM</u>	<u>PM</u>	<u>AM</u>	<u>PM</u>	<u>AM</u>	<u>PM</u>
<u>East-West Hwy/Rosemary Hills Dr</u>	634	668	672	712	684	724
<u>East-West Hwy/16th St</u>	1,418	1,313	1,454	1,405	1,471	1,529
<u>East-West Hwy/Colesville Rd</u>	850	945	983	1,074	1,027	1,120
<u>East-West Hwy/NOAA Dr/Shop Ctr Dr</u>	385	526	435	580	442	611
<u>16th St/Spring St</u>	783	911	827	971	852	1,013
<u>16th St/Second Ave</u>	890	861	918	880	922	911
<u>Spring St/Second Ave</u>	566	810	640	937	676	1,011
<u>Spring St/Georgia Ave</u>	1,333	1,065	1,450	1,297	1,463	1,325
<u>Colesville Rd/Georgia Ave</u>	1,207	1,044	1,308	1,171	1,318	1,177
<u>Colesville Rd/Wayne Ave/Second Ave</u>	727	730	828	812	841	854
<u>Colesville Rd/16th St/N. Portal Dr/Eastern Ave</u>	1,374	1,360	1,409	1,405	1,425	1,425
<u>16th St/Proposed Right-in/Right-out Dr</u>	--	--	--	--	548	796
<u>East-West Hwy/Proposed Right-in/Right-out Dr</u>	--	--	--	--	503	526
<u>East-West Hwy/Proposed Full-movement Dr</u>	--	--	--	--	818	894

Source: Falkland North Traffic Impact Study. Kimley-Horn Associates, Inc. July 27, 2010.

- Notes: 1. CLV's above assume no shared driveways with Silver Spring Metro Plaza and Summit Office Building developments.
 2. The traffic study assumed a 55,000 SF grocery store and 15,000 SF of specialty retail on the property.
 3. Congestion Standard for Silver Spring CBD Policy Area: 1,800 CLV

As shown in Table 2, the capacity analysis demonstrates that under total traffic conditions, CLV at intersections included in the traffic study would be below the applicable congestion standard for Silver Spring CBD Policy Area (1,800 CLV). The preliminary plan, therefore, satisfies the LATR requirements of the APF test.

- Policy Area Mobility Review (PAMR)

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

The site trip comparison summary provided in Table 1 demonstrates that the proposed development as a result of being located within the Silver Spring CBD will generate approximately 36 percent fewer peak-hour trips during the morning peak period and 41 percent fewer peak-hour trips during the evening peak period when compared to similar land uses outside the Silver Spring CBD. Since the trip mitigation being provided by virtue of the CBD-area project site is more than the PAMR trip mitigation requirement for the Silver Spring CBD Policy Area, the preliminary plan satisfies the PAMR requirements of the APF test.

Vehicular and pedestrian access will be safe and adequate with the proposed improvements. Vehicular improvements include using existing curb cuts to consolidate site entrances for adjacent sites off 16th Street and East-West Highway. The project will provide pedestrian improvements along the primary site frontages and through the project via a new internal private street. ~~The application satisfies the LATR and PAMR requirements as outlined in the attached November 4, 2010 memorandum from Transportation Planning Staff (see Appendix D).~~

The subject property is adjacent to the proposed Purple Line light rail route, and a portion of the property will be needed for the proposed right-of-way. The Applicant is willing to convey the necessary area of the property to the MTA at no cost. The revised staff recommendation includes a condition that reflects this through recordation of a covenant. As such, the original condition placing the right-of-way area in a three-year reservation is not needed and has been removed from the recommendation.

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

Although the adequate public facilities (APF) review validity period for typical preliminary plans is seven years, Section 50-20 of the Subdivision Regulations authorizes a validity period of up to 12 years. Staff recommends that the Planning Board approve a phased 12-year APF validity period for this preliminary plan because the complex nature and size of this project creates the need for a lengthy construction period. The applicant

is proposing to construct in four phases, the last of which would begin within 12 years after approval of the application. Therefore, a phased 12-year APF validity period is appropriate, and a condition reflecting that is included in the revised staff recommendation.

- (c) *The Applicant proposes to record 1 lot with a net lot area of 325,809 square feet after right-of-way dedication for East-West Highway. The lot size, width, shape and orientation are appropriate.*

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

- (d) *A preliminary forest conservation plan has been submitted and approved that satisfies all the applicable requirements of the Chapter 22A.*

A preliminary forest conservation plan was submitted with the preliminary plan. There is a planting requirement of 1.19 acres of forest. This requirement will be met off-site, as there are no priority planting areas on-site. There are 21 specimen trees ($\geq 30''$ DBH), 21 large trees ($\geq 24''$ DBH) onsite, and one County champion tree. 39 of these 43 trees are proposed for removal as part of this development. In addition, two off-site specimen trees are proposed for removal. Four trees are proposed for retention on this site. However, when detailed plans are developed, retaining these trees may not be possible given the extent of disturbance on-site.

Forest Conservation Variance

Section 1607(c) of the Natural Resources Article, Maryland Annotated Code, identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Code. The law requires no impact to and the retention and protection to the greatest extent possible of all trees that measure 30'' diameter at DBH or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; and rare, threatened and endangered species,. Since this project did not obtain approval of a preliminary forest conservation plan prior to October 1, 2009 and the applicant is proposing to remove 21 trees greater than 30 inches DBH onsite, 3 trees greater than 30 inches DBH offsite, and 1 County champion, a variance is required.

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

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

Offsite
Offsite
Offsite

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

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The variance request was referred to the Montgomery County Arborist on September 23, 2010. The County Arborist has reviewed the variance request (see Attachment B) and recommended approval with unspecified mitigation for critical root zone replacement.

According to Section 22A-21(e) of the County Code, in reaching its determination on the variance the Planning Board, must consider 4 factors. As the following findings demonstrate, in staff's opinion, the subject forest conservation plan and variance adequately addresses each of these factors:

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

Granting the variance will not confer a special privilege as the removal and/or disturbance of the specimen trees noted above are the minimum necessary in order to develop the property. Furthermore, the need for the variance is necessary and unavoidable in order to develop property according to the master plan. Any

redevelopment of this site would require similar levels of disturbance and tree loss. The same criteria have been applied to other projects where the impacts and removals are unavoidable.

- 2. Is it based on conditions or circumstances which are the result of the actions by the applicant?*

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

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

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

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

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

Mitigation

The County Arborist recommended mitigation for the impact to the critical root zones of the specimen trees. When necessary, staff requests mitigation for the removal of trees, but never requests mitigation for impacts to critical root zones of individual trees. The typical

mitigation requested by staff is based on the caliper of tree inches lost and the availability to replant on site.

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

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

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

(e) Stormwater runoff volumes will be adequately controlled from the proposed development.

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

RECOMMENDATION AND CONDITIONS

Project Plan

Approval of project plan 920070080 subject to the following conditions:

1. Development Ceiling
The proposed development is limited to 1,276,329 total square feet of gross floor area.
2. Building Height and Mass
The proposed development is limited to the building footprints as delineated in the project plan drawings submitted to MNCPPC dated October 22, 2010, unless modified at site plan review, and to a maximum of 143 feet in height from the approved building height measuring point as determined by the Department of Permitting Services.
3. Historic Preservation
The Applicant must obtain a Historic Area Work Permit for work associated with the stream restoration on the south parcel.
4. Environment
 - a. The proposed development shall comply with the preliminary forest conservation plan. The applicant shall satisfy all conditions prior to any clearing, grading or demolition on the site. Conditions include:
 - i. Applicant must provide 1.19 ac credits of afforestation to meet forest conservation requirements.
 - ii. Approval of a final forest conservation plan consistent with the approved preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
 - b. Final forest conservation plan must meet all requirements of Chapter 22A, Forest Conservation Law and COMCOR 18-01AM, Forest Conservation Regulations, and must include detailed and specific tree protection measure for impacted trees prepared by an ISA-certified arborist.
 - c. A traffic noise analysis must be performed and submitted with the site plan application to determine the current and projected noise levels, so that the amount of architectural treatment needed can be determined.
5. Declaration of Restrictive Covenant
The Applicant must comply with the terms of the Declaration of Restrictive Covenant between Home Properties Falkland Chase, LLC, and M-NCPPC, executed August 2, 2010.
6. Public Use Space and Amenities
 - a. The Applicant must provide a minimum of 20% of the net lot area for on-site public use space and a minimum of 21.4% of the net lot area for on and off-site

- public amenity space. The final design and details will be determined during site plan review.
- b. The proposed public use space and amenities must be easily and readily accessible to the general public and available for public enjoyment.
7. Issues to be Addressed Prior to Site Plan Approval
- a. The Applicant must address the existing north-south axis that runs through both the subject parcel and the historic parcel to the south by terminating it on the subject property in a clear and unambiguous fashion.
 - b. The architectural character of the proposed buildings must promote compatibility with the historic character of the other Falkland parcels.
 - c. The Applicant must demonstrate how the proposed public use space will attract pedestrian activity from both residents and passers-by.

Preliminary Plan

Approval of Preliminary Plan 120070560 pursuant to Chapter 50 of the Montgomery County Subdivision Regulations and subject to the following conditions.

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

- b. 16th Street – a minimum of 60 feet from the roadway right-of-way centerline.
7. ~~Prior to the issuance of any building permit, the Applicant must record a reservation plat which shows an area of the Property to be placed in reservation for right of way for the proposed Purple Line Locally Preferred Alternative (LPA). The area of reservation shown on the plat must be consistent with the area shown on the Preliminary Plan as “Future Dedication.” The reservation will be in effect for three years from the date of the mailing of the Planning Board resolution, but the reservation will expire before the end of the three year period in the event that MTA either acquires the property in the reservation area or otherwise releases the Property from reservation.~~
Prior to recordation of the plat, the Applicant must record a covenant stating that, at the Maryland Transit Administration’s (MTA) request, the Applicant will dedicate to MTA for public use for the Purple Line Locally Preferred Alternative (LPA), at no cost, the area designated on the certified Preliminary Plan as “Future Dedication” or any such lesser area within the designated area as is determined by MTA to be necessary. The covenant may specify that such dedication shall be made when the County or State has incorporated the Purple Line improvements in an adopted County Capital Improvements Program (“CIP”) or State Consolidated Transportation Program (“SCTP”) which provides for appropriation of funds equal to the estimated costs of designing and constructing the Purple Line improvements in the location described above. The covenant will remain in effect for ten years from the date of the mailing of the Planning Board resolution. The record plat must include a reference to the recorded covenant.
8. The Applicant must grant and the record plat must show an access easement on the property to the Maryland Transit Administration (MTA), as referenced in a letter dated November 3, 2010, from MTA, between 16th Street and the proposed Purple Line Locally Preferred Alternative alignment. The access easement must be shown on the certified preliminary plan.
9. The Applicant must submit an updated traffic study and an updated signal warrant analysis for the proposed development as part of any future site plan to support the final approval of the proposed configurations of the East-West Highway and 16th Street site access driveways, and the proposed traffic signal at the shared East-West Highway driveway. These documents must be provided to Maryland State Highway Administration (SHA) and Transportation Planning Division staff as part of the site plan review.
10. The Applicant must coordinate with SHA and provide necessary pedestrian safety improvements at the East-West Highway/16th Street intersection (specifically to the southeast corner of the intersection). The Applicant must satisfy all design requirements related to this pedestrian safety improvement at least 30 days prior to any Planning Board hearing on the site plan for the development.
11. The Applicant must submit to Transportation Planning Division staff an implementation schedule that is tied to the development construction schedule for all required site frontage, site access, and access control improvements at least 30 days prior to any Planning Board hearing on the site plan for the development. The required public roadway improvements must be open to traffic prior to the issuance of any building occupancy permit for the development.

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

APPENDICES

- Appendix A: Declaration of Restrictive Covenant
- Appendix B: Stream Restoration Narrative
- Appendix C: Preliminary Plan Data Table and Checklist
- Appendix D: Staff Memoranda

Appendix A: Declaration of Restrictive Covenant

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (this "**Declaration**") is made this 2nd day of August, ~~2008~~²⁰⁰⁹, by **HOME PROPERTIES FALKLAND CHASE, LLC**, a Delaware limited liability company, formerly known as Falkland Partners, LLC ("**Declarant**"), for the benefit of the **MARYLAND-NATIONAL CAPITAL PARKING AND PLANNING COMMISSION**, a body corporate and politic created and existing under the laws of the State of Maryland (the "**Planning Commission**").

R E C I T A L S:

- A. Declarant is the fee simple owner of a parcel of land located in Montgomery County, Maryland described on Exhibit "A" to this Declaration (the "**North Parcel**"). The North Parcel is part of a larger tract of land owned by Declarant.
- B. The North Parcel is currently improved by several apartment buildings (the "**North Parcel Buildings**") and related facilities.
- C. The North Parcel and North Parcel Buildings are identified as an historic resource in the Locational Atlas and Index of Historical Sites in Montgomery County, Maryland (the "**Historical Atlas**") maintained by the Planning Commission in accordance with Chapter 24A of the Montgomery County Code. As such, the North Parcel and North Parcel Buildings are subject to being included as an historic site in the Master Plan for Historic Preservation adopted by Montgomery County (the "**Historical Master Plan**").
- D. Declarant has filed with the Montgomery County Planning Board of the Planning Commission (the "**Planning Board**") an application for approval of a project plan and preliminary subdivision plan providing for the redevelopment of the North Parcel. Declarant intends to amend such plans and file a site plan covering the entire North Parcel (collectively, the "**Revised Development Plans**") in connection with such redevelopment. The redevelopment of the North Parcel in accordance with the Revised Development Plans will necessarily require the removal of the North Parcel and North Parcel Buildings from the Historical Atlas, the elimination of the North Parcel and North Parcel Buildings from consideration for designation in the Historical Master Plan, and the actual demolition of the North Parcel Buildings. Declarant, in an effort to demonstrate that redevelopment of the North Parcel will provide substantial public benefits, shall proffer as part of its application for Planning Board approval of the Revised Development Plans the commitments by Declarant described in Exhibit "B" to this Declaration (the "**Proposed Developer Commitments**"). The Planning Board has adopted a resolution providing that if and when the Revised Development Plans are approved by the Planning Board, with or without condition, the North Parcel and North Parcel Buildings shall automatically be removed from the Historical Atlas, without the requirement of any further action by the Planning Board (except ministerial action to confirm and implement the removal).
- E. In furtherance of its contemplated redevelopment of the North Parcel and to maintain the current status of the North Parcel while the Revised Development Plans are being prepared and processed, Declarant is willing to make certain voluntary covenants for the benefit of the Planning Commission as set forth below in this Declaration.

NOW, THEREFORE, in consideration of the above Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Declarant declares and covenants as follows:

1. During the Forbearance Period (defined below), Declarant shall not demolish or substantially alter the exterior features of the North Parcel Buildings, including by neglect, without the prior approval of the Planning Board, except as may be reasonably necessary in the case of fire or other casualty, condemnation, or unsafe or hazardous condition or in connection with the construction or planned construction of public improvements on or about the North Parcel, including, without limitation, any public transit facilities. **“Forbearance Period”** means the period that (a) commences upon the date that the Revised Development Plans are finally approved (beyond appeal) by the Planning Board, and the North Parcel and North Parcel Buildings are removed from the Historical Atlas without having been included in the Historical Master Plan, and (b) terminates upon the earliest to occur of the following: (i) issuance of a building permit in connection with the redevelopment of the North Parcel pursuant to the approved Revised Development Plans (the **“Development Commencement Date”**), (ii) ninety (90) days after Declarant notifies the Planning Board in writing that Declarant is abandoning the Revised Development Plans or otherwise abandoning its plans to develop the North Parcel in accordance with the Revised Development Plans (the **“Application Abandonment Date”**), or (iii) June 30, 2018 (the **“Forbearance Period Outside Termination Date”**). Nothing in this Declaration shall be deemed to prevent Declarant from electing at any time not to pursue the Revised Development Plans or not to proceed with the development of the North Parcel in accordance with the Revised Development Plans.

2. Declarant shall have the right, in its sole discretion, to extend the Forbearance Period beyond the Forbearance Period Outside Termination Date from time to time as Declarant may deem appropriate. Such extension shall be effected by Declarant recording an amendment to this Declaration in the Land Records setting forth the extension. In the event of any such extension, Declarant shall promptly furnish a copy of the amendment to the Planning Commission.

3. Despite the foregoing, if (a) neither the Development Commencement Date nor Application Abandonment Date have occurred by the end of the Forbearance Period, (b) Declarant has determined not to extend the then applicable Forbearance Period Outside Termination Date, and (c) this Declaration would otherwise expire on such Forbearance Period Outside Termination Date in accordance with the terms of Paragraph 1 above, this Declaration and the demolition and alteration restrictions applicable during the Forbearance Period shall nonetheless remain in full force and effect and shall automatically be extended until ninety (90) days after Declarant gives written notice to the Planning Commission advising that the Forbearance Period Outside Termination Date has passed without the Development Commencement Date having occurred and that the term of this Declaration will expire ninety (90) days from the date of the notice. Upon any termination of the Forbearance Period in accordance with this Declaration, this Declaration shall be deemed terminated and of no further force or effect, except that Paragraph 15 shall survive termination.

4. Nothing in this Declaration shall be deemed to prohibit or impair, or require the Planning Board’s approval for, (a) any ordinary repairs or maintenance to the exterior of the

North Parcel or North Parcel Buildings, (b) any landscaping work on or about the North Parcel, or (c) any work or alterations to the interior of the North Parcel Buildings.

5. Declarant agrees that the Proposed Developer Commitments may be incorporated by the Planning Board as conditions to approval of the Revised Development Plans and that Declarant shall not object to such conditions, provided that such conditions are not greater in scope or more onerous to Declarant than the Proposed Developer Commitments as stated in **Exhibit "B"**.

6. This Declaration is made for the sole benefit of the Planning Commission and the Planning Commission shall have the sole right to enforce the terms of this Declaration. In the case of any breach or threatened breach of this Declaration, the Planning Commission may exercise any rights or remedies available at law or in equity for such breach, including, without limitation, a suit for specific performance or injunctive relief. No other person or entity may enforce this Declaration or shall have any right or remedy with respect to this Declaration. This Declaration is not intended to create, nor shall it be construed as creating, any rights in or for the benefit of the general public or any tenants of the North Parcel Buildings nor shall it affect or benefit any real property outside of the North Parcel or the owners or tenants of such real property.

7. Declarant acknowledges that the Revised Development Plans remain subject to review and approval by the Planning Commission according to its regulatory processes and that nothing in this Declaration obligates the Planning Commission to grant such approval. This Declaration shall not affect, in any manner whatsoever, any public action, review or approval process involving the Planning Commission or for which the Planning Commission is responsible, including, without limitation, any proceedings under the Subdivision Regulations. No representations or commitments have been made by the Planning Commission or anyone on behalf of the Planning Commission regarding the approval of the Revised Development Plans.

8. The covenants, agreements, rights, benefits, obligations and liabilities created in this Declaration shall be deemed to touch, concern, run with, and be binding upon the land with respect to the North Parcel. This Declaration shall bind Declarant and its successors and assigns and inure to the benefit of the Planning Commission and its successors and assigns (except that the Planning Commission shall not be entitled to assign its right to enforce this Declaration). This Declaration may be amended by an instrument in writing executed by Declarant, its successors or assigns, and recorded in the Land Records. All amendments shall require the written approval of the Planning Commission, except that amendments extending the Forbearance Period Outside Termination Date as provided in Paragraph 2 above shall not require such approval.

9. The liability and obligations of Declarant or any successor under this Declaration shall only apply to Declarant or such successor during the term in which it owns a fee simple interest in the North Parcel. When Declarant or any successor owner of the North Parcel ceases to own a fee simple interest in the North Parcel, the liability and obligations thereafter accruing under this Declaration (but not any accrued and unperformed liability or obligations) shall be the liability and obligations of its transferee in title to the North Parcel.

10. Declarant represents that it has all requisite power and authority to execute, deliver, and perform its obligations under this Declaration. This Declaration constitutes the legal, valid, and binding obligation of Declarant and is enforceable against it in accordance with its terms.

11. The Recitals set forth in this Declaration and all Exhibits attached to this Declaration are incorporated in and made a part of this Declaration.

12. No delay or omission by the Planning Commission in enforcing the provisions of this Declaration shall impair or be construed to be a waiver of any such right of enforcement.

13. This Declaration shall be governed by and construed in accordance with the laws of the State of Maryland, excluding choice of law principles.

14. Each provision of this Declaration is intended to be severable. If any term or provision of this Declaration shall be determined to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Declaration and shall not affect the validity of the remainder of this Declaration.

15. Upon written request by Declarant from time to time, the Planning Commission shall execute, acknowledge, and deliver to Home Properties a written statement certifying to Declarant and/or its transferees or mortgagees that, to the best of its knowledge, information, and belief, there are no outstanding defaults by Declarant under this Declaration (or specifying the details of any default by Declarant outstanding at that time) and addressing such other matters as may be reasonably requested by Declarant, its transferees or mortgagees. In addition, upon any termination of this Declaration, the Planning Commission shall execute, acknowledge, and deliver to Declarant such written instrument, in recordable form, as Declarant may request to confirm the termination of this Declaration and Declarant shall be entitled to record such instrument in the Land Records. Any document submitted by Declarant to the Planning Commission in accordance with this Paragraph shall be executed, acknowledged and delivered by the Planning Commission to Declarant within ten (10) business days after receipt by the Planning Commission. Documents executed by the Planning Commission under this Paragraph may be relied upon by Declarant and any prospective transferee or mortgagee of Declarant.

16. All notices, requests, demands or other communications under this Declaration shall be in writing and deemed given (a) when delivered personally, with signed receipt of delivery, (b) on the day deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, (c) on the day deposited with a recognized overnight courier service which requires signed receipt of delivery (such as Federal Express), or (d) on the day transmitted by fax, provided that notice is also sent the same day by one of the foregoing methods of delivery. In all events, such notices and communications shall be addressed as follows (or to such other address which a party may from time to time hereafter designate by notice given in accordance with this Paragraph):

If to Declarant: Home Properties
Washington Regional Office
8229 Boone Boulevard
Suite 500
Vienna, Virginia 22182
Attn: Donald R. Hague, Senior Vice President/Development
Telecopy No.: (703) 370-7368

with a copy to: Home Properties
850 Clinton Square
Rochester, New York 14604
Attn: Kathleen K. Suher, Esq.
Telecopy No.: (585) 340-5949

If to Planning Commission: The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910
Attention: Planning Director

with a copy to: The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910
Attention: Associate General Counsel

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant and the Planning Commission have signed, sealed and delivered this Declaration as their own free act and deed as of the day and year first written above.

Witness/Attest

Declarant:

HOME PROPERTIES FALKLAND CHASE, LLC.,
a Delaware limited liability company, formerly known as
Falkland Partners, LLC

By: HOME PROPERTIES, L.P.,
a New York limited partnership,
its sole member

By: HOME PROPERTIES, INC.
a Maryland corporation,
its general partner

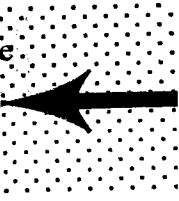
By: [Signature]
Name: Donald R. Hague
Title: Senior Vice President/Development

Witness/Attest

Planning Commission:

**MARYLAND-NATIONAL CAPITAL PARKING AND
PLANNING COMMISSION,**
a body corporate and politic created and existing under the
laws of the State of Maryland

By: [Signature]
Patricia Colihan Barney
Executive Director



[Signature]
Barbara Walsh
Secretary-Treasurer

Acting

[Signature]
Approved for legal sufficiency
M-NCPPC Office of General Counsel

State of VIRGINIA

County of FAIRFAX

I HEREBY CERTIFY that on this 3RD day of JULY, 2008, before me, a Notary Public in and for the State and County aforesaid, personally appeared DONALD P. HAGUE, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, as SENIOR VICE PRESIDENT / ^{DEVELOPMENT} of Home Properties, Inc., a Maryland corporation and general partner of Home Properties, L.P., a New York limited partnership and sole member of Home Properties Falkland Chase, LLC, a Delaware limited liability company, and acknowledged that he/she, being authorized to do so, executed the foregoing and annexed instrument as the act and deed of the said corporation for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Christian Villavicencio

Notary Public

My Commission Expires: 11-30-2009

[NOTARIAL SEAL]

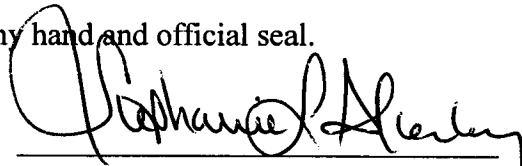


State of Maryland

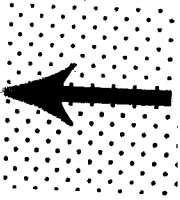
County of Montgomery

I HEREBY CERTIFY that on this 2nd day of August, ²⁰¹⁰~~2008~~, before me, a Notary Public in and for the State and County aforesaid, personally appeared Patricia Colman Barney, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, as Executive Director of Maryland-National Capital Parking and Planning Commission, a body corporate and politic created and existing under the laws of the State of Maryland, and acknowledged that he/she, being authorized to do so, executed the foregoing and annexed instrument as the act and deed of the said body for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

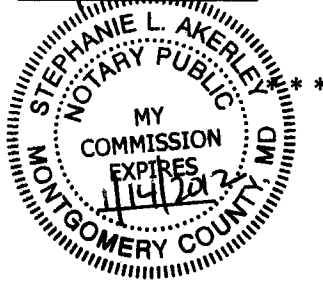


 Notary Public



My Commission Expires: 1/14/2012

[NOTARIAL SEAL]



ATTORNEY'S CERTIFICATION

I hereby certify that I am an attorney duly licensed to practice before the Court of Appeals of Maryland, and that this Declaration was prepared by me or under my supervision.

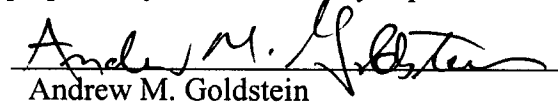

Andrew M. Goldstein

EXHIBIT "A"
(Description of North Parcel)

(See attached)

PART THREE:

Being a portion of Parcel #4 as shown on a Plat of Street Dedication recorded among said Land Records in Plat Book 13 as Plat No. 851 and being more particularly described as follows:

BEGINNING at an iron pipe found at the Southwesterly corner of Parcel #3, Rosemary Woods as shown on a Plat recorded among the Land Records in Plat Book 70 as Plat No. 6645 and being on the Easterly right of way line of 16th Street, 120 feet wide; thence departing said 16th Street and binding on said Parcel #3, Rosemary Woods

- 1) North 65 degrees 36' 39" East, 409.65 feet to an iron pipe set; thence
- 2) North 66 degrees 45' 39" East, 43.76 feet to an iron pipe set at the Northwesterly corner of a Declaration of Taking by The Washington Metropolitan Area Transit Authority and described in Part 1 of Parcel MB309 of a deed recorded among said Land Records in Liber 4433 at folio 386; thence departing said Parcel #3, Rosemary Woods and binding on said Declaration of Taking Parcel
- 3) South 45 degrees 40' 35" East, 305.04 feet to a point; thence
- 4) South 44 degrees 19' 24" West, 6.00 feet to a point; thence
- 5) South 45 degrees 40' 35" East, 16.45 feet to a point; thence

- 6) North 89 degrees 58' 55" East, 17.66 feet to a point; thence
- 7) South 00 degrees 01' 05" East, 17.25 feet to a point; thence
- 8) South 45 degrees 40' 35" East, 17.11 feet to a point; thence
- 9) North 44 degrees 19' 24" East, 5.00 feet to a point; thence
- 10) South 45 degrees 40' 35" East, 267.96 feet to an iron pipe set on a Northwesterly line of Parcel No. 6 as shown on a Plat entitled "Parcels Nos. 6 & 7, a Division of Parcel No. 5, Property of Blair Management Corporation" and recorded among said Land Records in Plat Book 14 as Plat 938; thence departing said Declaration of Taking Parcel and binding on said Parcel No. 6;
- 11) North 89 degrees 58' 02" West, 90.36 feet to an iron pipe set; thence
- 12) South 00 degrees 01' 58" West, 181.04 feet to an iron pipe set on the Northerly right of way line of East West Highway, variable width; thence departing said Parcel No. 6 and binding on said East West Highway
- 13) 147.44 feet along the arc of a non-tangent curve to the left, having a radius of 868.51 feet and a chord bearing and distance of North 71 degrees 19' 46" West, 147.26 feet to a point; thence
- 14) North 13 degrees 47' 45" East, 3.00 feet to a point; thence
- 15) North 78 degrees 50' 17" West, 183.95 feet to a point; thence
- 16) North 89 degrees 56' 21" West, 256.34 feet to a point; thence
- 17) South 00 degrees 03' 39" West, 9.05 feet to a point; thence
- 18) North 85 degrees 21' 01" West, 173.84 feet to a point; thence
- 19) North 44 degrees 36' 42" West, 35.68 feet to a point on the Easterly right of way line of said 16th Street; thence departing said East West Highway and binding on said 16th Street
- 20) North 00 degrees 01' 59" East, 319.95 feet to the point of beginning containing 328,846 square feet or 7.54927 acres of land, more or less.

TAX ID NO. 13-959802

TOGETHER WITH a non-exclusive easement and right of way for purposes of parking and Ingress and egress over the property, more particularly described as "Easement East Center Line" as set forth in Amendment to Declaration of Easements, Covenants and Related Agreements recorded in Liber 6956 at folio 126, re-recorded in Liber 6979 at folio 494.

EXHIBIT "B"

PROPOSED DEVELOPMENT COMMITMENTS

1. 12.5% of the final number of total units on the North Parcel shall be subject to the County's MPDU program.
2. 4.72% of the final number of total residential units on the North Parcel shall be subject to the County's workforce housing program for 20 years.
3. A number of units equal to 4.72% of the final number of total units on the North Parcel shall be subject to the County's workforce housing program for 20 years and located in existing buildings on the South and West Parcels.
4. The affordable units reserved for families with income less than 65% of the Annual Median Income ("AMI") at Woodleaf Apartments in Silver Spring will be extended through 2029 and the number of units subject to the Program adjusted such that it equals 4.63% of the final number of total units on the North Parcel.
5. A 1+-acre green area running through the South Parcel shall be designated as off-site public use space to be improved by Declarant by stream restoration, landscaping, pathways, entrances to East-West Highway, 16th Street and Colesville Road, and include signage, seating areas and an educational trail with interpretative panels. A public use easement shall be placed on this area once the improvements are complete.
6. The streetscape along the East-West Highway frontage of the North Parcel shall provide sufficient right of way for, and Declarant shall construct, a five-foot wide brick public sidewalk and a ten-foot wide bicycle path separated from the street by a five-foot brick area with tree pits.
7. A tenant relocation program for those tenants in the North Parcel who were tenants prior to August 1, 2006, to include the following:
 - Waiver of application fees and transfer security deposits from a North Parcel apartment to any other Declarant-owned apartment for residents in good standing. For residents in good standing who opt to move to an apartment not owned by the Declarant, Declarant will pay any reasonable application fee and security deposit offset by any security deposit refund due from Falkland.
 - Payment of \$500 of North Parcel residents' relocation expenses (moving, utility, hook-up, etc.). Once formal notice has been given that a resident must relocate, that resident would receive the assistance mentioned above, as well as being entitled to all rights under Montgomery County Code and Regulations including relocation assistance equal to two months' rent.

- Residents of the North Parcel who relocated to the South or West Parcels will continue to pay their current rent for the remainder of their lease term (e.g., a resident of the North Parcel who is paying \$1175 for a 1-bedroom unit with a lease that expires in May 2008 would continue to pay \$1175 for a South or West Parcel 1-bedroom unit through May 2008).

8. Architectural standards addressing the following:

- percent of glass to solid wall area on the exterior of the buildings
- acceptable exterior building materials for the buildings
- an acceptable range of widths of the floor plates for any building over four stories

Prior to filing its Revised Development Plans, Declarant shall consult and endeavor to reach agreement with the Planning Director on the above items. Declarant shall not contest the authority of the Planning Board to condition approval of the Revised Development Plans upon standards setting forth the percent of glass to solid wall area on the exterior of the building, acceptable exterior building materials, or the width of floor plates for any building over four stories. The foregoing will not be construed to prevent Declarant from advocating its position with respect to or contesting the specific details of the architectural standards.

9. Structured parking shall not be visible from street except for necessary egress and ingress areas, ventilation and similar equipment.
10. Surface parking shall be limited to curbside locations.
11. All commercial and/or residential buildings shall be certified LEED Silver or the equivalent and Declarant shall make commercially reasonable efforts to achieve LEED certified gold or its equivalent.
12. Each residential or mixed use residential building containing residential units shall contain the following minimum unit mix: 10% efficiency, 10% one bedroom, 10% two bedroom, and 7.5% three bedroom.
13. Commercial space shall be provided along the East-West Highway frontage.
14. 65% of the lot frontage along East-West Highway shall have buildings that front on East-West Highway and of this 65% a minimum of 50% of the ground-level space shall have retail uses.
15. Prior to filing the Project Plan component of the Revised Development Plans, Declarant shall make commercially reasonable efforts to secure a grocery store user so that a grocery store may be included in the Revised Development Plans.

Appendix B: Stream Restoration Narrative

Falkland South Stream Restoration Narrative

Nelson Byrd Woltz Landscape Architects, September 20, 2010

As part of the Falkland North project, the stream valley on the interior of the Falkland south parcel will be restored and converted into a public nature park. It could be described as a miniature greenway as this part of the project will run through the middle of the Falkland south parcel from north to south following the course of the stream. There will be walking paths, pedestrian scaled lighting, benches, and foot bridges. The park is intended to provide a scenic natural corridor for passive recreation (strolling, nature watching, and contemplative activities) and a verdant interior to the residential buildings that line the perimeter of the south parcel.

Originally, the Falkland South development was laid out to take advantage of the views into the stream valley in the center of the block. Many of the large trees in the stream valley were preserved and are existent today. The stream, which emerges from a pipe at the north end of the site, was preserved and many of its natural features such as rock outcrops left intact. Unfortunately, the stream has been severely impacted by urban development in the area. The channel is deeply incised and many of the banks very eroded. Some sides of the banks have been reinforced with gabion walls to stem the erosion and entrenchment of the stream channel. Many nearby roof leaders and storm pipes drain directly into the stream so it is assumed that the water quality is poor. In addition, the surrounding forested stream valley, while still having impressive native trees is almost entirely devoid of the native groundcovers, shrubs, and rich leaf mulch that were undoubtedly part of the forest prior to development of Silver Spring. Instead, the majority of the ground is denuded with exposed earth or struggling ivy and lawn. The primary goal of the stream restoration effort is to restore the stream valley to approximate its original healthy natural state as much as is possible in the current urban context. Visually, the stream valley is to look natural and display many of the characteristics of a native hydric forest: native trees, shrubs, and a lush and verdant understory. The stream channel will be raised, banks laid back, and planted with native groundcovers to resemble a more natural stream profile. Re-grading of the stream will be carefully executed to save the majority of the nearby trees and new trees along its banks will be planted. Stone covered weirs and rough stone riffles in the stream will slow the velocity of the flow protecting the stream from urban storm surges. Small flood plain areas will be established and planted with native, wildlife beneficial plants. Biofilters and storage catchments in the flood plain areas will absorb some of the excess flow and provide certain water quality and quantity mitigation.

The result of the restoration will be to regenerate a natural corridor in the center of the south parcel that was so important to the historic concept of the place. This will provide an accessible connection to nature for the community and many of the strategies used in the restoration will have benefits to the larger environment. The stormwater facilities will improve water quality positively affecting the Rock Creek downstream. Native plantings will provide wildlife food and habitat especially for pollinators and migrant songbirds. Restoration of the stream channel should allow for the reemergence of healthy aquatic life.

Appendix C: Preliminary Plan Data Table and Checklist

Preliminary Plan Data Table and Checklist

Plan Name: Falkland North				
Plan Number: 120070560				
Zoning: CBD-R1				
# of Lots: 1				
# of Outlots: 0				
Dev. Type: Optional				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval the Preliminary Plan	Verified	Date
Minimum Lot Area	18,000 sf	325,809 sf	EG	10/28/10
Minimum Public Use Space	20%	Must meet minimum	EG	10/28/10
Height	143 ft	Must not exceed maximum	EG	10/28/10
FAR	3.0	3.0	EG	10/28/10
MPDUs	12.5%	Must meet minimum	EG	10/28/10
TDRs	None		EG	10/28/10
Site Plan Req'd?	Yes		EG	10/28/10
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street	Yes	EG		10/28/10
Road dedication and frontage improvements	Yes	MCDOT & SHA comments		7/30/10
Environmental Guidelines	Yes	Staff memo		11/1/10
Forest Conservation	Yes	Staff memo		11/1/10
Master Plan Compliance	Yes	Staff memo		11/1/10
Stormwater Management	Yes	Agency letter		9/13/10
Well and Septic	N/a	EG		10/28/10
Local Area Traffic Review	Yes	Staff memo		11/4/10
Policy Area Mobility Review		Staff memo		11/4/10
Fire and Rescue	Required at site plan	EG		10/28/10
School cluster in moratorium?	No	EG		10/28/10

Appendix D: Staff Memoranda



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

MEMORANDUM

TO: Catherine Conlon, Supervisor, Development Review
Elza Hisel-McCoy, Development Review

VIA: Mark Pfefferle, Acting Chief, Environmental Planning *MP*

FROM: Amy Lindsey, Environmental Planning *AL*

DATE: November 1, 2010

SUBJECT: Preliminary Plan 12007056
Project Plan 920070080
Falkland North

RECOMMENDATION:

Environmental Planning staff recommends approval of the preliminary and project plans subject to the following conditions:

1. The proposed development shall comply with the preliminary forest conservation plan.
2. The applicant must submit a final forest conservation plan and obtain approval of that plan prior to any clearing, grading or demolition on the site. Conditions include:
 - a. The final forest conservation plan must include detailed and specific tree protection measures, prepared by an certified arborist for the impacted trees.
3. The applicant must prepare and submit a noise analysis that considers all transportation sources immediately adjacent to the subject site. The noise analysis must identify the existing 60, 65, and 70 dba Ldn noise contours, 20 year projected 60, 65, and 70 dba Ldn noise contours and methods to treat the exterior and interior noise to acceptable levels.

BACKGROUND

The 7.55-acre property is located in Silver Spring at the northeast intersection of Sixteenth Street and East West Highway. The property is currently developed with multi-family housing and has no forest but numerous significant (24 inches and greater) and specimen-sized trees (30 inches and greater). There are no environmentally sensitive features on the site but at one time there may have been an intermittent or perennially stream onsite. The development of the site, including the existing buildings, the

surrounding buildings, and the railway cut has changed the hydrology. There are no signs of a stream onsite and water discharged from the site is a direct result of rainfall. The property is within the Rock Creek watershed; a Use I watershed.

The applicant is proposing to remove the existing buildings on-site and develop the property with multi-family residential and mixed-use buildings and necessary infrastructure including underground parking. The property is zoned CBD-R1.



ISSUES

Specimen Tree Loss

This development plan is emblematic of one of the tensions of downcounty redevelopment. As a land use policy, the County wants to concentrate development close to Metro stations and other mass transit locations. The County would also like to maintain and increase tree cover in urban areas for environmental, livability, economic, social, design, and health reasons. But in order to develop this property at a density appropriate for its location – less than 1000 feet from a Metro station, the site will need to be regraded and underground parking built. Retaining large trees is often impossible under these conditions.

In the case of this development, the large trees are located next to the existing buildings and will be impacted by both the demolition of existing development and the construction of the new buildings. All trees on the site and some off-site but directly adjacent to the property are proposed for removal. There are five trees, located next to the drainage channel, which may be retained. The retention of these trees is dependent on design details which will be determined at site plan.

This issue brings up one of the important environmental aspects of downcounty urban redevelopment. While the new development will necessitate removal of many large trees, it will also provide environmental benefits to balance this loss. These benefits include:

- A future increase in the total tree canopy through planting at all vertical levels of building.
- Stormwater management on a property where there is not stormwater management controls.
- An increase of density within easy walking distance of mass transit, employment, commercial and retail centers removing future automobile traffic.
- Vegetated roofs to remove particulate matter from the air and reduce energy needed to power the buildings.

In an ideal situation, this property would be redeveloped without removing all of the large trees. Unfortunately, it is not possible, in this case.

Noise

The development site is subject to transportation noise from three sides – East West Highway, Sixteenth Street, and CSX/Wmata rail lines. The rail lines handle approximately 60 passenger and freight trains per day and many more Metro trains. The intersection of East West Highway and Sixteenth Street contributes to transportation noise through both driving and idling on both streets. The Montgomery County Environmental Planning publication “Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” has established the following classifications for external noise impacts:

Maximum Guideline Value	Appropriate Usage
55 dBA Ldn	Rural and low density residential
60 dBA Ldn	Suburban densities. Noise attenuation is recommended to attain this level
65 dBA Ldn	Urban ring, freeway, and major highway corridors. Noise attenuation is strongly recommended to attain this level

These are the maximum levels generally accepted for outdoor recreation areas. In the case of this property, most of the proposed outdoor recreation areas are shielded from transportation noise by the buildings. Interior noise levels must meet the 45 dBA Ldn standard also established by the Noise Guidelines. Staff is requesting a condition of approval that will require the applicant to establish baseline (existing) noise conditions, forecast future noise levels, and identify the necessary treatment levels to reduce noise to acceptable levels if the project levels are at unacceptable levels.

REGULATORY FRAMEWORK

Environmental Guidelines

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) to M-NCPPC for review and approval. Environmental Planning staff approved NRI/FSD 420110500 on October 20, 2010. There is no forest on-site; however, there are 42 significant trees on the property; 21 of these trees are larger than 30” diameter at breast height (DBH) and qualify as specimens. There is also a County champion tree on-site – an 11” glossy hawthorn. The trees are scattered around the site and located amongst and adjacent to the existing buildings.

There is a drainage channel located between two of the existing buildings, which is the site of a historic stream. The stream was piped, with an outfall on Parcel 55, across East West Highway, but the ephemeral channel remains. As there is currently no groundwater involvement, this channel is not buffered.

Forest Conservation

A preliminary forest conservation plan was submitted with the preliminary plan and is recommended for approval (see Attachment A).



Development of the subject site generates a 1.19 acre planting requirement. All forest conservation requirements are proposed to be met off-site, as there are no priority planting areas on-site and no minimum retention requirement. The location of the offsite planting will be determined and know by approval of the future site plan. There are 21 specimen trees ($\geq 30''$ DBH), 21 large trees ($\geq 24''$ DBH and $<30''$ DBH) onsite, and one County champion tree. The applicant is proposing to remove 39 of the 43 trees as part of this development. In addition, two off-site specimen trees are proposed for removal. Four trees are proposed for retention on this site. However, when detailed plans are developed, it may not be possible due to the extent of disturbance on-site.

Forest Conservation Variance

Section 1607(c) of the Natural Resources Article, Maryland Annotated Code, identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or any disturbance within a tree’s critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Code. The law requires no impact to and the retention and protection to the greatest extent possible of all trees that measure 30” diameter at DBH or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; and rare, threatened and endangered species,. Since this project did not obtain approval of a preliminary forest conservation plan prior to October 1, 2009 and the applicant is proposing to remove 21 trees greater than 30 inches DBH onsite, 3 trees greater than 30 inches DBH offsite, and 1 County champion, a variance is required.

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

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

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

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The variance request was referred to the Montgomery County Arborist on September 23, 2010. The County Arborist has reviewed the variance request (see Attachment B) and recommended approval with unspecified mitigation for critical root zone replacement.

According to Section 22A-21(e) of the County Code, in reaching its determination on the variance the Planning Board, must consider 4 factors. As the following findings demonstrate, in staff's opinion, the subject forest conservation plan and variance adequately addresses each of these factors:

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

Granting the variance will not confer a special privilege as the removal and/or disturbance of the specimen trees noted above are the minimum necessary in order to develop the property. Furthermore, the need for the variance is necessary and unavoidable in order to develop property according to the master plan. Any redevelopment of this site would require similar levels of disturbance and tree loss. The same criteria have been applied to other projects where the impacts and removals are unavoidable.

2. Is it based on conditions or circumstances which are the result of the actions by the applicant?

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

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

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

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

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

Mitigation

The County Arborist recommended mitigation for the impact to the critical root zones of the specimen trees. When necessary, staff requests mitigation for the removal of trees, but never requests mitigation for impacts to critical root zones of individual trees. The typical mitigation requested by staff is based on the caliper of tree inches lost and the availability to replant on site.

In the case of Falkland North, Environmental Planning staff does not believe any additional mitigation is necessary to offset the impact of critical root zones for the following reasons:

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

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

GENERAL NOTES

1. Owner/Applicant: Home Properties, Falkland Chase, LLC
8229 Boone Boulevard
Vienna, VA 22182
2. Site Address: Parcel 376 - 5.61 N. Falcon Lane
Silver Spring, Maryland 20910
3. Tax ID: 2203, 9822, 76
4. Parcel: P98
5. Total Tract Area: 7.59 Acres
6. Total Forest Area: 7.59 Acres
7. K&S&G: 2/28/42
8. Planning Area: Silver Spring (PA 36)
9. USGS Quad: 2204000000000000
10. USGS Quad: 2204000000000000
11. NE: Wetlands Inventory
12. NE: Tree Cry Site Map
13. Current and proposed tree locations are based on a survey by Parcel 376 Survey dated 11/14/14 and a re-survey by Parcel 376 Survey dated 11/14/14 and a vertical datum of NAVD83. All tree locations shown are based on the 11/14/14 survey. All tree locations shown are based on the 11/14/14 survey.
14. Parcel 376 Survey dated 11/14/14 and a vertical datum of NAVD83. All tree locations shown are based on the 11/14/14 survey.
15. Acreage: 5.61 AC
Forest Area: 7.59 AC
Priority Area: 0.00 AC

FOREST CONSERVATION WORKSHEET

NET TRACT AREA	AREA	DBH	HGT	SP	CM
A. Total Tract Area	7.59				
B. Total Forest Area	7.59				
C. Total Forest Area (Public Domain)	0.00				
D. Total Forest Area (Private)	7.59				
E. Other Deductions (Type N)	0.00				
F. Net Forest Area	7.59				

LAND USE CATEGORY (from Tree Trunk to Mainstem)

AREA	DBH	HGT	SP	CM
0	0	0	0	0
1	1	1	1	1
2	2	2	2	2
3	3	3	3	3
4	4	4	4	4
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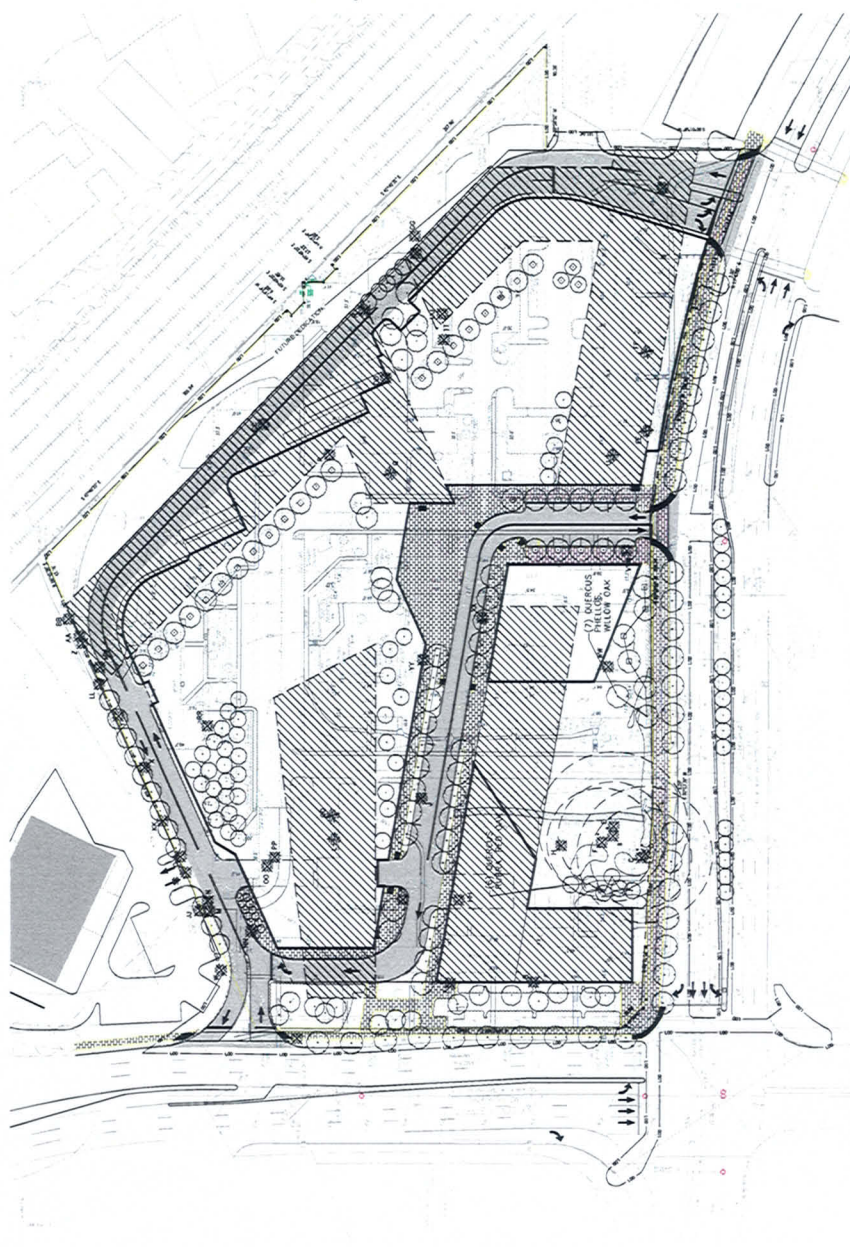
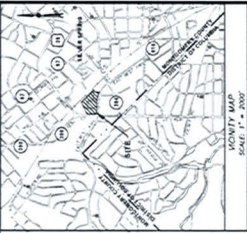
LEGEND

- EXIST. EDGE OF ROAD
- EXIST. MAJOR CONTOURS
- PROPERTY BOUNDARY
- PROP. EDGE OF PAVEMENT
- PROP. BUILDING
- PROP. WATER FEATURE
- PROP. SIDE WALK
- PROP. RETAINING WALL
- PROP. BI-COUNTY TRANSIT WAY (BY OTHERS)
- LIMIT OF DISTURBANCE
- TREE RETENTION AREA
- CRITICAL ROOT ZONE (1.5' RADIUS PER 1" DBH)
- PROP. SHRUB
- PROP. ORNAMENTAL TREE
- PROP. DECIDUOUS SHADE TREE
- 24" DBH TREE TO BE REMOVED

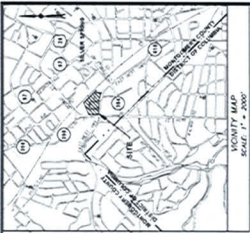
NOTE: AFForestation REQUIREMENTS WILL BE MET BY OFFSITE MITIGATION

NOTE: EVERY EFFORT WILL BE MADE TO RETAIN THESE TREES. FINAL DETERMINATION AND TREE PROTECTION MEASURES WILL BE DETAILED ON THE FINAL FOREST CONSERVATION PLAN

NOTE: THE CRITICAL ROOT ZONES OF THE EXISTING TREES TO BE RETAINED HAVE BEEN SHOWN. HOWEVER, THESE AREAS ARE BASED ON THE FOREST CONSERVATION WORKSHEET AND ITEM 'J'. ONLY THE INFORMATION SHOWN HEREIN HAS BEEN USED TO PROVIDE CREDIT FOR LANDSCAPE.



<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	DESCRIPTION										<p>APPLICANT/DEVELOPER</p> <p>HOME PROPERTIES HOME PROPERTIES FALKLAND CHASE, LLC 8229 BOONE BOULEVARD, SUITE 100, VIENNA, VA 22182 703-900-2288</p>	<p>DESIGNER</p> <p>NELSON BYRD WOLTZ ARCHITECTS 408 Park Street Charlottesville, Virginia, 22902 T: 434-984-1358 F: 434-984-1358 WWW.NBW.COM</p>	<p>CONSULTANT</p> <p>Kimley-Horn and Associates, Inc. 2000 KIMLEY-HORN AND ASSOCIATES, INC. 10000 Lee Highway Suite 500 Brentwood, Maryland Phone: (410) 343-7100 Fax: (410) 343-7101 www.kimley-horn.com Engineering, Planning, and Environmental Consultants</p>	<p>SCALE: 1" = 50'</p> <p>DESIGNED BY: MGC CHECKED BY: MGC DATE: 07/17/2018</p> <p>SHEET 1 OF 1</p>
NO.	DATE	DESCRIPTION														



VIRGINIA COUNTY MAP
 SCALE: 1" = 50'
 DESIGNED BY:
 DATE: 07/17/2010

GENERAL NOTES TO BE PRINTED ON PLANS

DATE: 07/17/2010
 SCALE: 1" = 50'
 DESIGNED BY:
 DATE: 07/17/2010

1. SITE TO BE DEVELOPED IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS AND ORDINANCES.
2. ALL UTILITIES SHOWN ARE BASED ON RECORD PLANS AND FIELD SURVEY. THE CLIENT SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
3. ALL UTILITIES SHALL BE PROTECTED AND DELETED AS NECESSARY TO ACCOMMODATE THE PROPOSED IMPROVEMENTS.
4. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE APPROPRIATE AGENCIES.
5. THE PROPOSED IMPROVEMENTS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE LATEST EDITIONS OF ALL APPLICABLE STANDARDS.
6. THE CLIENT SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES DURING CONSTRUCTION.
7. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
8. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE.
9. THE CLIENT SHALL BE RESPONSIBLE FOR PAYING ALL COSTS ASSOCIATED WITH THE PROJECT.
10. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EASEMENTS AND RIGHTS OF WAY.
11. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY ENVIRONMENTAL PERMITS.
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SCALE: 1" = 50'
 DRAWN BY: WEC
 DESIGNED BY:
 DATE: 07/17/2010

FALKLAND NORTH
 REVISED PRELIMINARY FOREST
 CONSERVATION PLAN
 PARCELS 1608, 1674, 1675, 1676 DISTRICT
 SILVER SPRING, MONTGOMERY COUNTY, MARYLAND

APPLICANT/DEVELOPER
HOME PROPERTIES*
 HOME PROPERTIES FALKLAND CHASE LLC
 8229 BOONE BOULEVARD SUITE 500, VIENNA VA 22182
 703-370-7383

NO.	DATE	REVISIONS	DESCRIPTION

MSL LIMIT BOX
 INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE.

**NELSON
 BYRD
 WOLTZ**
 LANDSCAPE
 ARCHITECTS
 408 Park Street
 Charlottesville
 Virginia, 22902
 T 834-984-1558
 F 834-984-1558
 www.nbw.com

**Kinley-Horn
 and Associates, Inc.**
 1000 Park West
 Suite 500
 Bethesda, Maryland
 Phone: (301) 283-2100
 Fax: (301) 283-2101
 www.kinley-horn.com





DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

October 5, 2010

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Falkland North, DAIC 120070560, NRI/FSD recertification (DAIC # 420070010)
applied for on 11/10/2009

Dear Ms. Carrier:

The County Attorney's Office has advised me that the provisions contained in Section 5-1607 of Title 5 (Natural Resources) of the Maryland Code apply to any application required by Chapter 22A of the Montgomery County Code submitted after October 1, 2009. Since the application for the above referenced request is required to comply with Chapter 22A based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC) and was submitted after this date, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

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

Applying the above conditions to the plan submitted by the applicant results in the following findings:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this condition.
2. Based on a discussion on March 19, 2010 with representatives of the Maryland Department of Natural Resources Forest Service and the MNCPPC, the disturbance of trees, or other vegetation, is not interpreted as a condition or circumstance that is the direct result of the actions by the applicant and, therefore, the variance can be granted under this condition, as long as appropriate mitigation is provided for the resources disturbed.
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this condition.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this condition.

Therefore, I recommend that this applicant qualify for a variance conditioned upon mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law. Until other guidelines are developed, I recommend requiring mitigation based on the area of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

October 28, 2010

Ms. Françoise Carrier, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Falkland North
Project Plan No. 920070080 and Preliminary Plan No. 120070560

Dear Ms. Carrier: *Françoise*

I am writing to express the County's support for the above project and preliminary plans, which are scheduled to be heard by the Planning Board on November 18, 2010.

The proposed mixed-use development will provide a total of 1,250 dwelling units, including 157 MPDUs (12.5%), within 800 feet of the future Silver Spring Transit Center. The applicant has also proffered the following additional affordable housing:

1. The reservation of 4.72% of the units on-site as Workforce Housing units for a period of 20 years.
2. The reservation of a number equivalent to 4.72% of the units on the North parcel as Workforce Housing Units on the Applicant's other Falkland Chase properties for a period of 20 years; and
3. The reservation of a number equivalent to 4.6% of the units on the North parcel as affordable units for families at the applicant's Woodleaf Apartments in Silver Spring. Specifically, at the Woodleaf Apartments, commencing on the date the applicant receives a building permit for redevelopment of the North parcel, and running for a period of 20 years, the applicant will reserve half of the affordable units for families making no more than 50% of the annual median income, and half for families making no more than 65% of the annual median income.

If all 1,250 dwelling units are approved at site plan, these proffers will result in 176 affordable units (59 Workforce Housing units on-site; 59 Workforce Housing units on the Applicant's other Falkland Chase properties; and 58 affordable units at the Woodleaf Apartments), in addition to the required MPDUs.

Office of the Director

Ms. Françoise Carrier
October 28, 2010
Page 2 of 2

In addition to the large number of affordable housing units that will be created as a result of this development, approval of the plans for Falkland North will promote smart growth and contribute significantly to the continued revitalization of Silver Spring. I therefore strongly recommend that the Planning Board approve the project and preliminary plans.

Sincerely,



Richard Y. Nelson, Jr.
Director

RYN:lss

cc: Donald R. Hague, Home Properties, Inc.
Michael Eastwood, Home Properties, Inc.
Rose Krasnow, Chief, Development Review Division, M-NCPPC
Robert Kronenberg, Development Review Division, M-NCPPC
Elza Hisel-McCoy, Development Review Division, M-NCPPC
Erin Grayson, Development Review Division, M-NCPPC
Joseph T. Giloley, Chief, Division of Housing and Code Enforcement, DHCA
Christopher J. Anderson, Manager, Single Family Programs, DHCA
Lisa S. Schwartz, Senior Planning Specialist, MPDU Office, DHCA

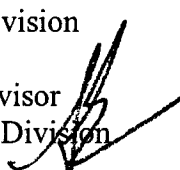



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

DATE: November 4, 2010

TO: Neil Braunstein, Planner/Coordinator
Elza Hisel-McCoy, Planner/Coordinator
Development Review Division

VIA: Shahriar Etemadi, Supervisor 
Transportation Planning Division

FROM: Cherian Eapen, Planner/Coordinator 
Transportation Planning Division
301-495-4525

SUBJECT: Preliminary Plan No. 120070560
Project Plan No. 920070080
Proposed Falkland North Development
Home Properties ("Applicant")
Northeast corner of East-West Highway and 16th Street
Silver Spring CBD Policy Area

This memorandum summarizes Transportation Planning staff's review of the subject preliminary and project plan applications for the proposed Falkland North development to the northeast corner of East-West Highway (MD 410) and 16th Street (MD 390) in Silver Spring. The proposed development will replace 182 garden style apartment units that currently exist on the property, and will consist of approximately 70,000 square-feet of retail (including a full service 50,000 square-foot grocery store and 20,000 square-foot of specialty retail) and 1,250 high-rise residential units. The property is zoned CBD-R1 and is within the Silver Spring CBD Policy Area.

RECOMMENDATIONS

Transportation Planning staff recommends that the Planning Board require the following conditions to be part of the transportation-related APF requirements to approve this preliminary plan:

1. The Applicant must limit development on the property as part of this preliminary plan to 70,000 square-feet of retail and 1,250 high-rise residential units.

2. The Applicant must dedicate and show on the final record plat the following rights-of-way along property frontage consistent with the 2000 Approved and Adopted *Silver Spring CBD Sector Plan*:
 - a. East-West Highway – minimum of 59 feet from the roadway right-of-way centerline for a distance of 300 feet east of 16th Street centerline and a minimum of 55 feet from the roadway right-of-way centerline for the remainder of site frontage.
 - b. 16th Street – minimum of 60 feet from the roadway right-of-way centerline.
3. The Applicant must place in reservation the area shown on the Preliminary Plan as “Future Dedication” for the Purple Line Locally Preferred Alternative (LPA) alignment (see Attachment No. 1 – Purple Line LPA Sheet 14 of 75 and Attachment No. 2 – Letter dated November 3, 2010, from Maryland Transit Administration (MTA)) for a period of three years from the date of mailing of the Planning Board Resolution. The reservation may be allowed to expire prior to the end of the three year period in the event the Applicant dedicates the referenced property to MTA or if the MTA releases the property from reservation.
4. The Applicant must grant an access easement on the property to MTA as referenced in Attachment No. 2 – Letter dated November 3, 2010, from MTA, between 16th Street and the proposed Purple Line Locally Preferred Alternative alignment, and must show the access easement on the approved preliminary plan for the development.
5. The Applicant must satisfy all design requirements associated with the proposed East-West Highway and 16th Street site access driveways and site access controls conditioned in SHA letter dated November 1, 2010 (see Attachment No. 3).
6. The Applicant must submit an updated traffic study and an updated signal warrant analysis for the proposed development at the time of the submission of design details necessary for the final approval of the proposed East-West Highway and 16th Street site access driveways and the proposed traffic signal at the shared East-West Highway driveway. These documents must be provided to Maryland State Highway Administration (SHA) and Transportation Planning Division staff at least 90 days prior to any Planning Board hearing on the site plan for the development.
7. The Applicant must coordinate with SHA and provide necessary pedestrian safety improvements at the East-West Highway/16th Street intersection (specifically to the southeast corner of the intersection). The Applicant must satisfy all design requirements related to this pedestrian safety improvement at least 30 days prior to any Planning Board hearing on the site plan for the development.
8. The Applicant must submit to Transportation Planning Division staff an implementation schedule for all required site frontage, site access, and access control improvements that is tied to the development construction schedule at least 30 days prior to any Planning Board hearing on the site plan for the development.

9. The Applicant must enter into a Traffic Mitigation Agreement (“Agreement”) with the Planning Board and the Montgomery County Department of Transportation (DOT) to participate in the Silver Spring Transportation Management District (TMD). The final Agreement must be executed prior to the release of any building permit for the proposed development.

DISCUSSION

Site Location

The proposed Falkland North development is located within the northeast quadrant of East-West Highway (MD 410)/16th Street (MD 390) intersection in Silver Spring and is adjacent to the proposed Silver Spring Transit Center, which will include the Silver Spring Metro, Metrobus, MARC, and future Purple Line Stations. The property is bounded by East-West Highway to the south, 16th Street to the west, CSX/Metrorail/future Purple Line tracks/Summit Office Building to the north, and the Metro Plaza Silver Spring development (approved Preliminary Plan No. 120090380) to the east.

Access

The Falkland North property is currently developed with 182 garden style apartment units and has access to/from East-West Highway via an inbound driveway (one-way) approximately 510 feet to the east of 16th Street and an outbound driveway (one-way) approximately 290 feet to the east of 16th Street. The proposed development, which will replace the existing apartment units on the property with approximately 70,000 square-feet of retail and 1,250 high-rise residential units, will modify access to the site. The modified site access will include:

1. A signalized, full-movement shared driveway with Metro Plaza Silver Spring along East-West Highway at the southeastern corner of property (approximately 780 feet to the east of 16th Street and 480 feet to the west of Colesville Road), coinciding with the closure of Metro Plaza Silver Spring full-movement driveway to East-West Highway,
2. A right-turn in/right-turn out driveway along East-West Highway approximately 500 feet to the east of 16th Street, and
3. A shared driveway with Summit Office Building along 16th Street at the northwestern corner of the property that permits right-turns in and right-turns out with an additional southbound 16th Street median break that permits left turn movement into the shared driveway only (approximately 400 feet to the north of East-West Highway and 325 feet south of Spring Street).

As noted above, the Falkland North development is proposing two shared driveways and a right-turn in/right-turn out driveway for access to/from the property. The shared driveways connect within the property and form a “perimeter road” that facilitates internal travel between East-West Highway and 16th Street. The right-turn in/right-turn out driveway on East-West Highway also connects internally to the “perimeter road”.

The Applicant is currently coordinating the design of the shared driveways with adjacent property owners, SHA, and Transportation Planning Division staff. The Applicant is also coordinating with the owner of Metro Plaza Silver Spring, SHA, and Transportation Planning Division staff on a possible traffic signal for the proposed future shared driveway with Metro Plaza Silver Spring and on the potential closing of existing Metro Plaza Silver Spring full-movement curb-cut along East-West Highway frontage.

Sector Plan Roadways and Bikeway Facilities

The 2000 Approved and Adopted *Silver Spring CBD Sector Plan* describes the following roadway and bikeway facilities:

1. 16th Street, along the western property boundary, as a major highway (M-9) with a minimum right-of-way width of 120 feet.
2. East-West Highway, along the southern property boundary, as a major highway (M-20) with a minimum right-of-way width of 118 feet for a distance of 300 feet east of 16th Street centerline and a minimum right-of-way width of 110 feet for the remainder of site frontage. The Sector Plan also recommends an off-road shared-use path (Route #5) along the north side of East-West Highway between 16th Street and Georgia Avenue.

In addition, the *Purple Line Functional Plan* places the Locally Preferred Alternative for the Purple Line along the northern property boundary as shown on Attachment No. 1 and Attachment No. 4.

Adequate Public Facilities Review

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

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

For comparison purposes, the study also determined that if non-Silver Spring CBD trip generation rates were used, the development would generate 467 net “new” peak-hour trips during the morning peak period and 753 net “new” peak-hour trips during the evening peak period. The development therefore generates a lower number of trips during the morning (467 vs. 299 peak-hour trips) and evening (753 vs. 446 peak-hour trips) peak periods as a result of being located within the Silver Spring CBD. The CBD and non-CBD trip generation estimate for the proposed development is summarized in Table 1.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
FALKLAND NORTH DEVELOPMENT**

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
<i>Based on Silver Spring CBD Rates</i>						
70,000 SF Retail	18	17	35	70	70	140
1,250 High-rise Residential Units ¹	61	246	307	251	107	358
Less Existing Garden Apartments – 182 Units	-13	-30	-43	-29	-23	-52
Net “new” trips	66	233	299	292	154	446
<i>Based on non- Silver Spring CBD Rates</i>						
20,000 SF Specialty Retail						
New	7	7	14	27	27	54
Pass-by (40% of PM Trips)	--	--	--	-11	-11	-22
50,000 SF Grocery Store						
New	81	74	155	322	297	619
Pass-by (40% of PM Trips)	--	--	--	-129	-119	-248
1,250 High-rise Residential Units	94	280	374	267	170	437
Less Existing Garden Apartments – 182 Units	-15	-61	-76	-57	-30	-87
Net “new” trips	167	300	467	419	334	753

Note: Based on M-NCPPC trip generation rates.

¹ Site trip generation estimate reflects 18 percent reduction allowed to non-CBD residential trip generation rates by LAT/PAMR Guidelines when used in CBD areas.

- **Local Area Transportation Review**

A summary of the capacity/Critical Lane Volume (CLV) analysis results for the intersections included in the traffic study for the weekday morning and afternoon peak-hours as presented in the traffic study is provided in Table 2.

TABLE 2
SUMMARY OF CAPACITY CALCULATIONS (CLV)
FALKLAND NORTH DEVELOPMENT

Intersection	Traffic Conditions					
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
East-West Hwy/Rosemary Hills Dr	634	668	672	712	684	724
East-West Hwy/16 th St	1,418	1,313	1,454	1,405	1,471	1,529
East-West Hwy/Colesville Rd	850	945	983	1,074	1,027	1,120
East-West Hwy/NOAA Dr/Shop Ctr Dr	385	526	435	580	442	611
16 th St/Spring St	783	911	827	971	852	1,013
16 th St/Second Ave	890	861	918	880	922	911
Spring St/Second Ave	566	810	640	937	676	1,011
Spring St/Georgia Ave	1,333	1,065	1,450	1,297	1,463	1,325
Colesville Rd/Georgia Ave	1,207	1,044	1,308	1,171	1,318	1,177
Colesville Rd/Wayne Ave/Second Ave	727	730	828	812	841	854
Colesville Rd/16 th St/N. Portal Dr/Eastern Ave	1,374	1,360	1,409	1,405	1,425	1,425
16 th St/Proposed Right-in/Right-out Dr	--	--	--	--	548	796
East-West Hwy/Proposed Right-in/Right-out Dr	--	--	--	--	503	526
East-West Hwy/Proposed Full-movement Dr	--	--	--	--	818	894

Source: Falkland North Traffic Impact Study. Kimley-Horn Associates, Inc. July 27, 2010.

- Notes:
1. CLV's above assume no shared driveways with Silver Spring Metro Plaza and Summit Office Building developments.
 2. The traffic study assumed a 55,000 SF grocery store and 15,000 SF of specialty retail on the property.
 3. Congestion Standard for Silver Spring CBD Policy Area: 1,800 CLV

As shown in Table 2, the capacity analysis demonstrates that under Total Traffic (i.e., Build) Conditions, CLV at intersections included in the traffic study would be below the applicable congestion standard for Silver Spring CBD Policy Area (1,800 CLV). The preliminary plan therefore satisfies the LATR requirements of the APF test.

Policy Area Mobility Review

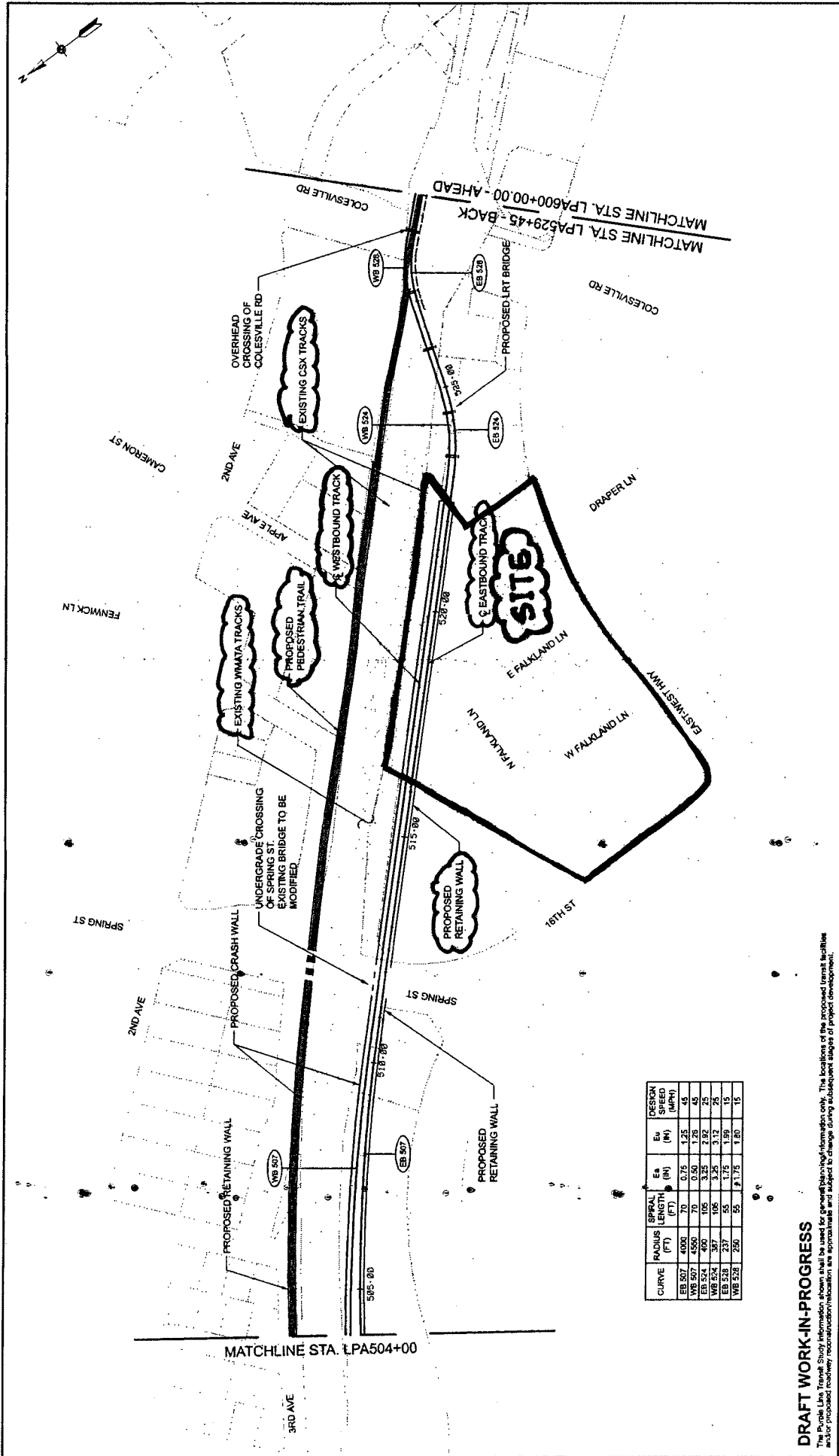
To satisfy the PAMR requirements of the APF test, the Silver Spring CBD Policy Area requires mitigation of ten percent (10%) of "new" peak-hour trips generated by a development.

The site trip comparison summary provided in Table 1 demonstrates that the proposed development as a result of being located within the Silver Spring CBD will generate approximately 36 percent less peak-hour trips during the morning peak period and 41 percent less peak-hour trips during the evening peak period when compared to similar land uses outside the Silver Spring CBD. Since trip mitigation above is more than the PAMR trip mitigation requirement for the Silver Spring CBD Policy Area, the preliminary plan satisfies the PAMR requirements of the APF test.

SE:CE:tc
 Attachments

cc: Bill Barron
John Marcolin
Robert Kronenberg
Tom Autrey
Mike Madden
Greg Leck
Sarah Navid
Corren Giles
Ed Papazian
Harvey Maisel

mno to nb on FN.docx



CURVE	RADIUS (FT)	SPRAL LENGTH (FT)	EA (IN)	EA (MM)	DESIGN SPEED (MPH)
EB 507	4000	70	0.75	1.25	45
WB 507	4000	70	0.75	1.25	45
EB 524	4000	70	0.75	1.25	45
WB 524	4000	70	0.75	1.25	45
EB 528	200	35	1.75	1.80	15
WB 528	200	35	1.75	1.80	15

DRAFT WORK-IN-PROGRESS
 The Purple Line Transit Study information shown shall be used for general planning information only. The locations of the proposed transit facilities and/or proposed roadway reconstruction/indication are approximate and subject to change during subsequent stages of project development.

CONTRACT NO. _____
 DRAWING NO. LPA-12
 SHEET NO. 14 OF 75
 DATE: AUGUST 2009
 SCALE AS SHOWN
 PURPLE LINE
 LOCALLY PREFERRED ALTERNATIVE LRT - PLAN
 STA. LPA504+00 TO STA. LPA529+45
 MATCHLINE STA. LPA529+45 - BACK
 MATCHLINE STA. LPA600+00.00 - AHEAD

Attachment No. 1



MARYLAND TRANSIT ADMINISTRATION

MARYLAND DEPARTMENT OF TRANSPORTATION

Martin O'Malley, Governor • Anthony G. Brown, Lt. Governor
Beverly K. Swaim-Staley, Secretary • Ralign T. Wells, Administrator

Attachment No. 2

November 3, 2010

Mr. Neil Braunstein, AICP
Maryland-National Capital Park and Planning Commission
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Mr. Braunstein:

I am writing to provide the Maryland Transit Administration's (MTA) recommendation to the Montgomery County Planning Board for the proposed Falkland North Preliminary Plan. Our recommendation requests that a portion of the subject property be dedicated for the use of the Purple Line light rail line, and that a portion of the subject property also be dedicated as a permanent easement for providing access to the trackway of the Purple Line.

As you are aware, Maryland Governor Martin O'Malley announced the Locally Preferred Alternative (LPA) for the Purple Line on August 4, 2009 and the project is now advancing through the Federal New Starts evaluation process. In terms of the Falkland North site, the LPA is a light rail double track line that would be located in the Silver Spring area along the south side of the CSX and Metro corridor, and specifically across the Falkland North site proposed for redevelopment.

The MTA has met with the property owner and their development team, including Mr. Michael Eastwood of Home Properties, on a number of occasions to share with him and his associates the Purple Line conceptual plans that would traverse the Falklands property, thereby impacting a portion of the proposed development on the Falkland North site. We have been coordinating with representatives of Home Properties to develop a design that would allow for the construction and operation of the Purple Line, in addition to completion of the Falklands North development. We appreciate their willingness to provide the portion of their property required for the Purple Line and their cooperative spirit in working closely with us.

As a result of these discussions, the recommended area of dedication based on the conceptual alignment of the Purple Line and the space required for access during construction and future maintenance is shown on the attached Falkland North Revised Preliminary Plan. The alignment through this area is constrained due to setback requirements from CSX and the requirements for a crash wall as well as the structure and

Mr. Neil Braunstein

Page Two

grades needed to cross over the railroad tracks to enter the Silver Spring Transit Center. This recommended dedication line runs parallel to the Purple Line with an outer limit that measures 15 feet from the centerline of the southernmost track, resulting in an area with an approximate length of 619 feet and a width of 40 feet.

The easement area that is required to provide vehicular access to the dedicated area is 20 feet wide and approximately 75 feet long and ties into the site's access road at the northern corner of the site. The overall elevation and slope of the easement is to be coordinated with the developer. The elevation of the northern part of the easement must match the Purple Line's top of rail elevation and the slope must be such that a maintenance vehicle can reach the Purple Line's trackway from the site's access road. Vehicular access to the Purple Line is critical for construction and ongoing maintenance and is accommodated through this access point.

The vertical clearance over top of the Purple Line is 32 feet from the proposed top of rail of the Purple Line to the bottom of any proposed structure. The Purple Line is on a structure through the property because it is climbing to the level needed to cross over the Metro and CSX tracks. Therefore, any structure over the Purple Line would need to be 32 feet above the rail on the bridge structure, **not** 32 feet above the existing ground.

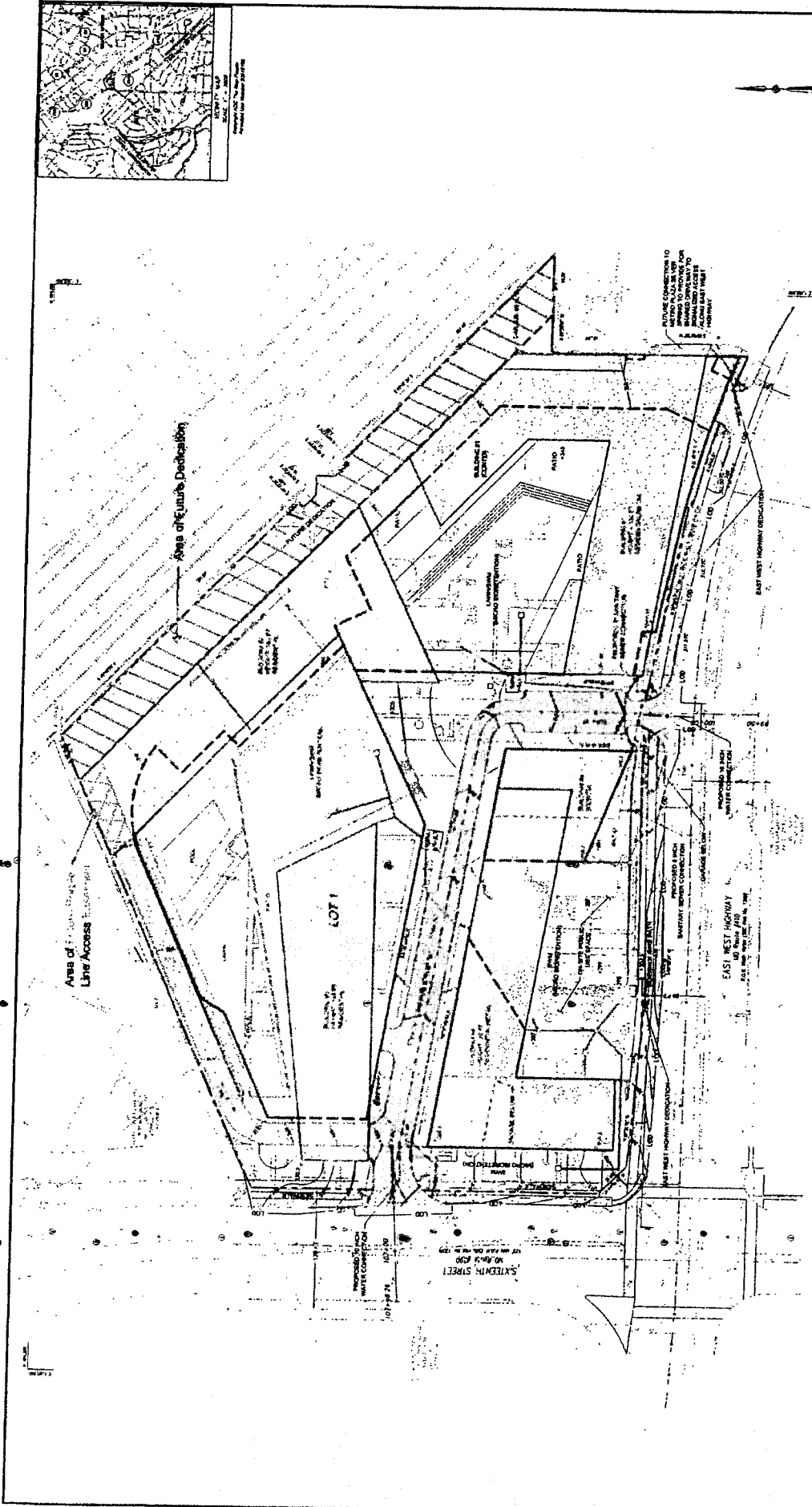
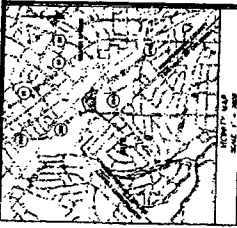
We urge the property owner and his developer to continue to coordinate with the MTA as their development plans for the site further advance and we would be glad to provide more detailed information as the design progresses. MTA looks forward to continue working with the Montgomery County Planning Board and staff planners in advancing the Purple Line plans. Please do not hesitate to contact me at 410-767-3694 or at mmadden@mta.maryland.gov, if you have any further questions or need additional information.

Sincerely,



Michael D. Madden
Chief, Project Development
Office of Planning

cc: Tom Autrey, Transportation Planner, Montgomery County M-NCPPC
Cherian Eapen, Montgomery County, M-NCPPC
Gary Erenrich, Special Assistant to Director, Montgomery County DOT

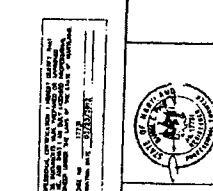


NELSON BYRD WOLTZ ARCHITECTS
 408 Park Street
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 10000 Lakeside Drive, Suite 100
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 www.kirbyhorn.com

MR. VALENTI
 DESIGNATED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF JEFFERSON, VIRGINIA, ON 01/21/2009, FOR A TERM OF 12 MONTHS. HIS EXPIRES ON 01/21/2010.

APPLICANT/DEVELOPER
HOME PROPERTIES*
 HOME PROPERTIES, LLC
 8328 BOONE BOULEVARD SUITE 300, VERNON, VA 22082
 703-793-7363



FALKLAND NORTH
REVISED PRELIMINARY PLAN
 1. PARCELS WITH ELECTION DISTRICT SLAVE SPUR, MORTGAGOR COUNTY, JEFFERSON

PLAN # 1-20070560

SCALE: 1" = 20'
 DRAWN BY: JG
 CHECKED BY: JG
 DATE: 07/22/2009

SHEET 1 OF 2



Martin O'Malley Governor
Anthony G. Brown, Lt. Governor

Deborah K. Swahn-Staley, Secretary
Nellie Anderson, Assistant Secretary

1000 North Rock Creek Drive, Silver Spring, MD 20910

November 1, 2010

Ms Catherine Conlon
Supervisor, Development Review
Subdivision Division
Maryland National Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-5760

Re: Montgomery County
Falkland North
MD 410 (East West Highway) @ 16th Street

Attachment No. 3

Dear Ms. Conlon

The State Highway Administration (SHA) appreciates the opportunity to review the plans for the Falkland North development. We offer the following comments:

- An access permit will be required from SHA's EAPD office. All improvements must meet SHA standards and requirements.
- SHA supports the shared right-in/right-out entrance proposed on 16th Street. The specific design aspects, such as the radii, will be reviewed and approved prior to site plan approval. We recognize that it is the desire of the applicant and the adjacent property owner to have southbound 16th Street lefts-in. This will be dependent on median break approval by the Deputy Administrator. The applicant must submit supporting documentation to this office requesting the median break. Therefore, the shared right-in/right-out entrance is approved at the preliminary plan phase however, approval of the lefts-in will be conditioned on future approvals.
- There are pending design issues regarding the proposed right-in/right-out entrance along MD 410. SHA needs to see better on-site circulation and utilization of this access point to justify its placement. This access can remain on the preliminary plan at this phase with the condition that the applicant demonstrates how this access point will be better-utilized in a manner acceptable to SHA, that the access is designed to SHA's requirements, and that this coordination and approval must take place prior to site plan approval.
- SHA supports the shared full movement entrance along MD 410. While it is the desire of the applicant and adjacent property owner to have double lefts out of the site onto MD 410, this design needs review and approval by SHA. At this preliminary plan phase, SHA approves the entrance with one lane in, one left turn lane out, and one right turn lane out. Upon a further operational review by SHA, should it be determined that a double left turn lane is justified, SHA will notify the applicant and MNCPPC.
- SHA has reviewed the TIS and Signal Warrant Study dated July 27, 2010. SHA is still reviewing the merits of a traffic signal at the shared full movement access along MD 410. It cannot be assumed at this phase that a signal will be approved however, the shared entrance can proceed as un-signalized if necessary. As an un-signalized entrance, double left turn exiting lanes cannot be allowed therefore, only a single left turn exiting lane will be approved at this time. Should SHA determine that a traffic signal is justified, SHA will notify the applicant and MNCPPC.

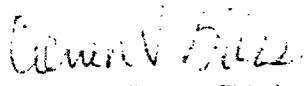
Ms. Catherine Conlon

Page 2

- The applicant will be required to make ADA improvements at the intersection of MD 410 and 16th Street, at the proposed full movement shared access along MD 410 and at the other entrances serving the property. This can be addressed prior to site plan or during the active access permit phase with SHA.

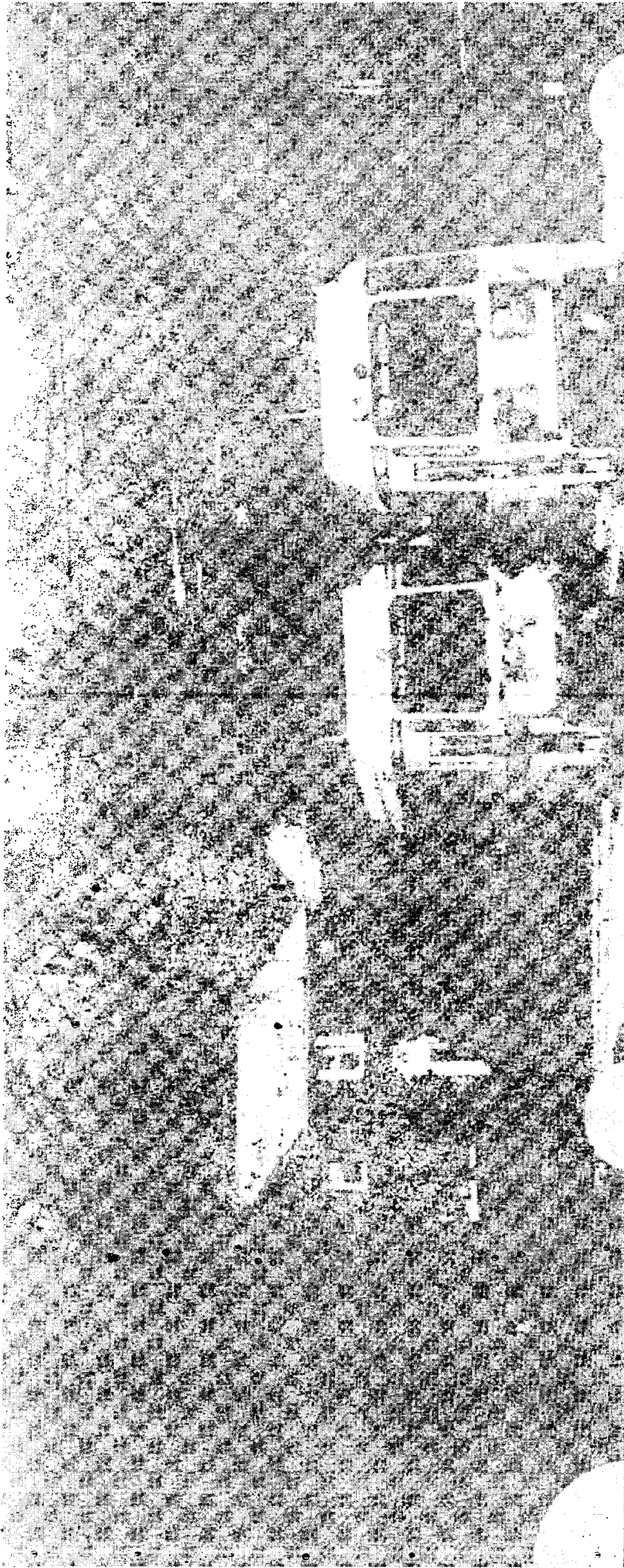
If you have any questions or require additional information, please contact Ms. Corren V. Giles at (410) 545-5595, toll free at (800) 876-4742, or via email at cgiles@sha.state.md.us.

Sincerely,


Steven D. Foster, Chief
Engineering Access Permits Division

SDF/cvg

Cc:	Mr. Shahnar Etemadi	<i>sent via email</i>
	Mr. Michael Eastwood	<i>sent via e-mail</i>
	Mr. Dan Pino	<i>sent via e-mail</i>
	Mr. Felecia Murphy	<i>sent via e-mail</i>
	Ms. Kate Mazzara	<i>sent via e-mail</i>
	Mr. Victor Grafton	<i>sent via e-mail</i>
	Mr. Mark Loeffler	<i>sent via e-mail</i>



Public Hearing Draft

November 2007

purple line

Functional Plan

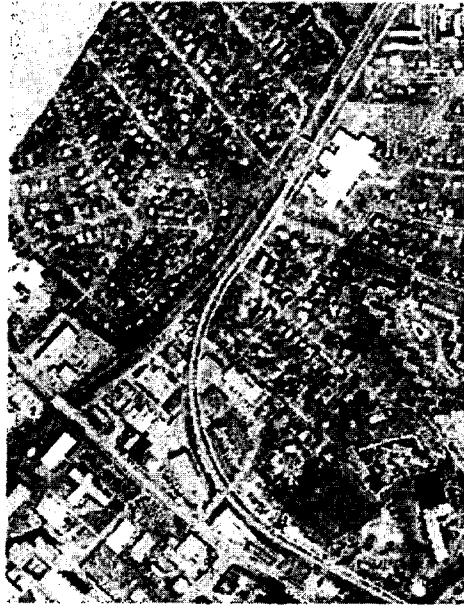
City of Denver, Department of Transportation

1500 Broadway, Suite 1000, Denver, CO 80202

Table 8. Synchro, LLC. Branch right-of-way overlays.



Table 9. Newell Associates, Inc. Silver Spring Transit Center.



The Purple Line is within both the Georgetown Branch right-of-way and the CSX/MARTA right-of-way as it continues east to the Silver Spring Transit Center.

Table 8	Table 9	Table 10	Table 11
01/11/2011	01/11/2011	01/11/2011	01/11/2011
01/11/2011	01/11/2011	01/11/2011	01/11/2011
01/11/2011	01/11/2011	01/11/2011	01/11/2011

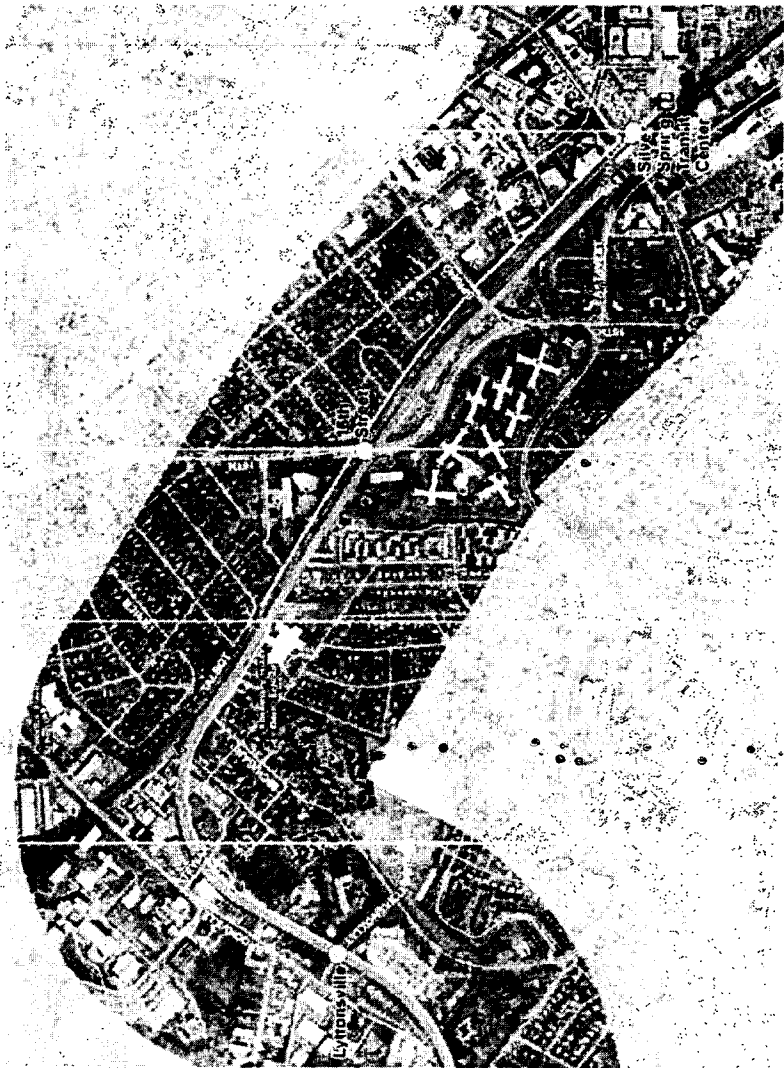


Table 8

Lytonsville Place Stewart Avenue Varies an estimated 40 to 58 feet Varies an estimated 40 to 58 feet

Notes

This area includes area for future expansion of yard and shop area

The Purple Line and adjacent trail cross Stewart Avenue at grade

The Georgetown Branch right-of-way terminates in the vicinity of Stewart Avenue

Future expansion for yard and shop will require estimated additional 3 acres (comprising 11 different parcels excluding publicly owned land) west of Lytonsville Place, south of Brookville Road and north of Georgetown Branch right-of-way. Additional strip acquisitions adjacent to and along the south side of existing Georgetown Branch right-of-way will be required to accommodate tracks and trails on this curve while still providing area for yard expansion on north side of existing right-of-way. Total right-of-way width required for tracks and trail is estimated at 100 feet

Table 9

Stewart Avenue Beginning of CSX/MMATA right-of-way with CSX/MetroRail/MARC/Amtrak service Varies an estimated 49 to 65 feet and includes a one-acre parcel at the segment's southeast end Varies an estimated 55 to 65 feet and includes a one-acre parcel at the segment's southeast end

Notes

This segment of the Purple Line and trail identified as right-of-way is owned by CSX

Additional strip acquisitions would be from property owned by other private parties

Additional strip acquisitions adjacent to and along the south side of the existing right-of-way will be required to accommodate tracks and trail on this curve. Total right-of-way width required for tracks and trail is estimated at 80 to 85 feet

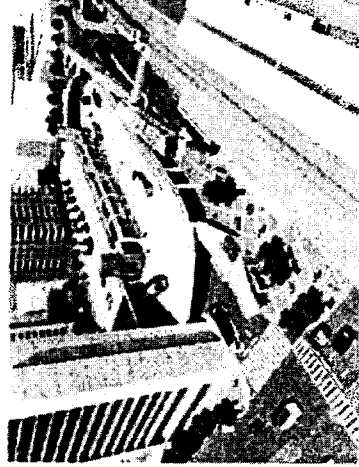


Table 10 16th Street Station



Table 11 16th Street to Silver Spring Transit Center



Key features of the 16th Street Station concept plan include:

- station platforms immediately east of the existing 16th Street bridge
- kiss-and-ride lanes potentially incorporated into station area plan
- pedestrian connections to apartments on the west side of 16th Street.

Key features of the Purple Line Silver Spring Transit Center Station include:

- the platform on an aerial structure above Metrorail and MARC track level
- elevator and escalator access from Purple Line level to Metrorail and MARC level
- access to the Transit Center's second level via pedestrian bridge from Metrorail and MARC level
- access to street level via elevator and escalator from either Transit Center or Metrorail and MARC track level
- connections to Metrorail Red Line, local buses, MARC, inter-city bus, and taxis at transit station.

Key features of the concept plan for the Capital Crescent Trail from Lyttonsville to the Silver Spring Transit Center include:

- the trail adjacent to and south of tracks from Lyttonsville Place to at-grade crossing of Stewart Avenue
- the trail remaining at grade above and south of tracks as they transition into CSX/MMATA right-of-way
- the trail south and adjacent to relocated Talbot Avenue from Michigan Avenue south to where trail crosses to north side of CSX/MMATA right-of-way
- the trail between crash wall and retaining wall from where it crosses to north side of right-of-way to just north of Spring Street
- the trail continues on north side of rail right-of-way below both 16th Street and Spring Street bridges
- the trail will cross Colesville Road on a bridge over Colesville Road and enter the Silver Spring Transit Center adjacent to Metrorail/MARC tracks (on the Transit Center's second level)
- the trail will be on an elevated structure at or near the second level through the Transit Center, with direct access to the trail within the Transit Center for rail and bus users
- the Capital Crescent Trail and Metropolitan Branch Trail will connect directly and at the same level at the Transit Center
- the elevated trail structure will have a fourteen foot width (inside clear) and to the extent possible maintain a level grade and direct path through the Transit Center
- the Metropolitan Branch Trail will cross the Purple Line tracks at grade near the end of Bonifant Street, at a crossing with warning signs and/or lights as needed for safety.

Table 10. Right-of-way width for the proposed 16th Street Station, 16th Street Bridge, and 16th Street Trail.

Right-of-way	16th Street Station	16th Street Bridge	16th Street Trail
Beginning of CSX/MATA right-of-way with CSX/Metrorail/MARC/Amtrak service	Varies from 70 to 130 feet	Varies from 70 to 130 feet	Varies from 70 to 130 feet
Notes	Both the trail and Purple Line pass under the existing 16th Street bridge, which will be modified or replaced to accommodate the trail and the Purple Line.	Both tracks and trail are recommended on the north or east side of right-of-way in the Georgetown Branch Master Plan Amendment	Trail is parallel to and south of a relocated Talbot Avenue on segment between Michigan Avenue and Lanier Drive Strip acquisitions of an estimated 10 to 15 feet will be required in addition to existing right-of-way. East of Rosemary Hills Elementary School, an estimated minimum total 120-foot right-of-way for the combined CSX and Purple Line facilities is required until the trail (on north side of right-of-way) and Purple Line (on south side of right-of-way) reach Stewart Avenue. An estimated minimum total 160-foot right-of-way is required from the beginning of the CSX right-of-way to the 16th Street station to accommodate the trail on the north side and the station platforms and track on the south side of the right-of-way
Notes	Both the trail and Purple Line pass under the existing 16th Street bridge, which will be modified or replaced to accommodate the trail and the Purple Line.	Both the trail and Purple Line pass under the existing 16th Street bridge, which will be modified or replaced to accommodate the trail and the Purple Line.	Both the trail and Purple Line pass under the existing 16th Street bridge, which will be modified or replaced to accommodate the trail and the Purple Line.

Table 11. Right-of-way width for the proposed 16th Street Station, 16th Street Bridge, and 16th Street Trail.

Right-of-way	16th Street Station	16th Street Bridge	16th Street Trail
16th Street Station	Varies from 75 to 165 feet	Varies from 75 to 165 feet	Varies from 75 to 165 feet
Notes	The track will be on an aerial structure crossing from the south side of the right-of-way to the north side where the tracks and trail will join and cross Calesville Road before entering the Transit Center.	The Purple line tracks at the Transit Center are on an aerial structure above the Metrorail and MARC tracks	An estimated 180-foot right-of-way is required to accommodate the trail (north side of right-of-way) and tracks (south side of right-of-way)



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

September 13, 2010

Mr. Daniel Pino
Kimly-Horn & Associates, Inc.
7201 Wisconsin Avenue, Suite 500
Bethesda, MD 20814

Re: Stormwater Management **CONCEPT** Request
for Revised Falkland North
Preliminary Plan #: 1-200705060
SM File #: 230368
Tract Size/Zone: 7.55/CBD-R-1
Total Concept Area: 7.55ac
Lots/Block: N/A
Parcel(s): P393
Watershed: Rock Creek

Dear Mr. Pino:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of channel protection and water quality control via the use of on site Environmental Site Design and off site Stream Restoration.

The following **item(s)/condition(s)** will need to be addressed **during/prior to** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The green roof coverage must be maximized for all of the proposed buildings based on final building layout design. A minimum 40% coverage is required for each building.
5. The on site ESD volume must be maximized prior to considering any off site mitigation proposals.
6. SWM maintenance/inspection access must be provided to all SWM devices.
7. Incorporate all interested government agencies comments and concerns into the design of the off site stream restoration phase of this project. A coordination meeting with all interested agencies may be required prior to final design.
8. Submit a SWM concept reconfirmation request once all of the on site building design and off site stream restoration details are finalized and prior the first submission of detailed plan review.

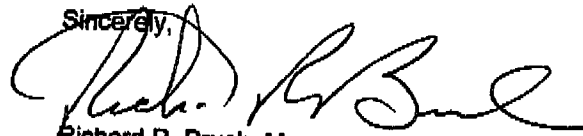
This list may not be all-inclusive and may change based on available information at the time.

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

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

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:fla CN 230368

cc: C. Conlon
M. Pfefferle
SM File # 230368

QN - On Site/Off Site; Acres: 7.55ac
QL - On Site/ Off Site; Acres: 7.55ac
Recharge is provided



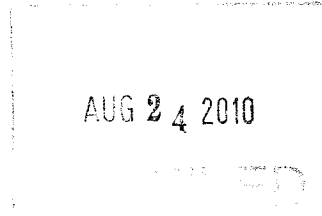
DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

July 30, 2010

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



RE: Preliminary Plan #1-20070560
Falkland North

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated May 10, 2010. This plan was reviewed by the Development Review Committee at its meeting on July 26, 2010. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

All comments of the MCDOT letter dated June 5, 2007 apply unless modified below.

1. All public sidewalk and bikepath facilities need to be located within dedicated right of way.
2. Provide ADA compliant handicap access within the site and across site driveways.
3. Based on site visits, we observed considerable jaywalking and request that MSHA recommend an appropriate solution as part of this development.
4. We request MSHA consider sight distances at the proposed entrances with respect to proposed landscaping plan, pedestrian activity, etc.
5. If there is a need to provide different materials on the East-West Highway shared use path (to differentiate the sidewalk from the bikepath) we recommend the use of brick for the sidewalk and concrete with saw cut joints for the bikepath.
6. The applicant will be required to improve the existing bus stop on East-West Highway to meet ADA standards; there is currently a grade differential at this location. Please coordinate with Ms. Stacey Coletta of our Division of Transit Services. Ms. Coletta may be reached at 240-777-5836.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

Ms. Catherine Conlon
Preliminary Plan No. 1-20070560
July 30, 2010
Page 2

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Dewa Salihi, our Development Review Area Engineer for this vicinity, at (240) 777-2197 or at dewa.salihi@montgomerycountymd.gov.

Sincerely,



Gregory M. Leck, P.E., Manager
Development Review Team

Enclosure (1)

M:\subdivision\SAI IHD01\Preliminary Plans\1-20070560 Falkland North\1-20070560 Falkland North.doc

cc: Michael Eastwood; Home Properties Falklands Chase, LLC
Dan Pino; Kimley-Horn and Associates, Inc.
Erin Girard; Linowes and Blocher, LLP
Shahriar Etemadi; M-NCPPC TPD
Corren Giles, MSHA-EAPD
Preliminary Plan Folder
Preliminary Plans Notebook

cc-e: Erin Grayson; M-NCPPC DRD
Cherian Eapen; M-NCPPC TPD
Sarah Navid; DPS RWPR
Henry Emery; DPS RWPR
William Haynes; DOT TEO
Dewa Salihi; DOT TEO

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



Beverley K. Swain-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

November 1, 2010

Ms. Catherine Conlon
Supervisor, Development Review
Subdivision Division
Maryland National Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Montgomery County
Falkland North
MD 410 (East West Highway) @ 16th Street

Dear Ms. Conlon:

The State Highway Administration (SHA) appreciates the opportunity to review the plans for the Falkland North development. We offer the following comments:

- An access permit will be required from SHA's EAPD office. All improvements must meet SHA standards and requirements.
- SHA supports the shared right-in/right-out entrance proposed on 16th Street. The specific design aspects, such as the radii, will be reviewed and approved prior to site plan approval. We recognize that it is the desire of the applicant and the adjacent property owner to have southbound 16th Street lefts-in. This will be dependent on median break approval by the Deputy Administrator. The applicant must submit supporting documentation to this office requesting the median break. Therefore, the shared right-in/right-out entrance is approved at the preliminary plan phase however, approval of the lefts-in will be conditioned on future approvals.
- There are pending design issues regarding the proposed right-in/right-out entrance along MD 410. SHA needs to see better on-site circulation and utilization of this access point to justify its placement. This access can remain on the preliminary plan at this phase with the condition that the applicant demonstrates how this access point will be better utilized in a manner acceptable to SHA, that the access is designed to SHA's requirements, and that this coordination and approval must take place prior to site plan approval.
- SHA supports the shared full movement entrance along MD 410. While it is the desire of the applicant and adjacent property owner to have double lefts out of the site onto MD 410, this design needs review and approval by SHA. At this preliminary plan phase, SHA approves the entrance with one lane in, one left turn lane out, and one right turn lane out. Upon a further operational review by SHA, should it be determined that a double left turn lane is justified, SHA will notify the applicant and MNCPPC.
- SHA has reviewed the TIS and Signal Warrant Study dated July 27, 2010. SHA is still reviewing the merits of a traffic signal at the shared full movement access along MD 410. It cannot be assumed at this phase that a signal will be approved however, the shared entrance can proceed as un-signalized if necessary. As an un-signalized entrance, double left turn exiting lanes cannot be allowed therefore, only a single left turn exiting lane will be approved at this time. Should SHA determine that a traffic signal is justified, SHA will notify the applicant and MNCPPC.


My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

- The applicant will be required to make ADA improvements at the intersection of MD 410 and 16th Street, at the proposed full movement shared access along MD 410 and at the other entrances serving the property. This can be addressed prior to site plan or during the active access permit phase with SHA.

If you have any questions or require additional information, please contact Ms. Corren V. Giles at (410) 545-5595, toll free at (800) 876-4742, or via email at cgiles@sha.state.md.us.

Sincerely,


Steven D. Foster, Chief
Engineering Access Permits Division

SDF/cvg

Cc:	Mr. Shahriar Etemadi	<i>sent via email</i>
	Mr. Michael Eastwood	<i>sent via e-mail</i>
	Mr. Dan Pino	<i>sent via e-mail</i>
	Mr. Felecia Murphy	<i>sent via e-mail</i>
	Ms. Kate Mazzara	<i>sent via e-mail</i>
	Mr. Victor Grafton	<i>sent via e-mail</i>
	Mr. Mark Loeffler	<i>sent via e-mail</i>