

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item # 12
06/08/06

MEMORANDUM

DATE: May 23, 2006

TO: Montgomery County Planning Board

FROM: Catherine Conlon, Supervisor *CC*
Development Review Division
(301) 495-4542

SUBJECT: Informational Maps and Summary of Record Plats for the Planning Board
Agenda for June 8, 2006

The following record plats are recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plans and site plans, if applicable, and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code. Attached are specific recommendations and copies of plat drawings for the record plats. These three plats are associated with a Preliminary Plan approval and the approved plans are attached.

PLAT NO. 220061170

Allanwood (Preliminary plan Allanwood)

Located on the northwest corner of Allanwood Court and Allanwood Drive

R-200 Zone, 2 Lots

Community Water, Community Sewer

Master Plan Area: Aspen Hill

Oak Tree Development, LLC, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 120050800, formerly 1-05080, as approved by the Board; and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: Allanwood Plan Number: 120050800
 Plat Name: Allanwood Plat Number: 220061170
 Plat Submission Date: 11/30/05
 DRD Plat Reviewer: Tastima Alam
 DRD Prelim Plan Reviewer: Cathy Condon

Initial DRD Review:

Signed Preliminary Plan - Date 3/29/06 Checked: Initial pw Date 5/5/06
 Planning Board Opinion - Date 12/19/05 Checked: Initial pw Date 2/24/06
 Site Plan Req'd for Development? Yes No Verified By: TA (initial)
 Site Plan Name: N/A Site Plan Number:
 Planning Board Opinion - Date Checked: Initial Date
 Site Plan Signature Set - Date Checked: Initial Date
 Site Plan Reviewer Plat Approval: Checked: Initial Date

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

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>Carly Bumag</u>	<u>12/16/05</u>	<u>12/23/05</u>	<u>5/4/06</u>	<u>OK</u>
Research	<u>Bobby Fleury</u>	<u> </u>	<u> </u>	<u>12/19/05</u>	<u>OK</u>
SHA	<u>Doug Mills</u>	<u> </u>	<u> </u>	<u>N/A</u>	<u>N/A</u>
PEPCO	<u>Jose Washington</u>	<u> </u>	<u> </u>	<u>5/8/06</u>	<u>OK</u>
Parks	<u>Doug Powell</u>	<u> </u>	<u> </u>	<u>N/A</u>	<u>N/A</u>
DRD	<u>Steve Smith</u>	<u> </u>	<u> </u>	<u>12/16/06</u>	<u>Change lot #</u>

Final DRD Review:

DRD Review Complete:
 (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up):
 Final Mylar w/Mark-up & PDF Rec'd:

Initial TA Date 5/4/06
TA 5/4/06
TA 5/18/06

Board Approval of Plat:

Plat Agenda:
 Planning Board Approval:
 Chairman's Signature:

TA 6/8/06
TA 6/8/06

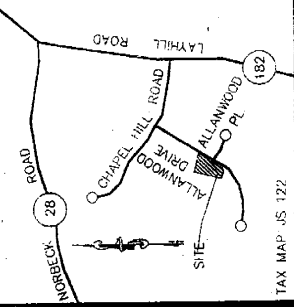
DPS Approval of Plat:

Engineer Pick-up for DPS Signature:
 Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:
 File Card Update:
 Final Zoning Book Check:
 Update Address Books with Plat #:
 Update Green Books for Resubdivision:
 Notify Engineer to Seal Plats:
 Engineer Seal Complete:
 Complete Reproduction:
 Sent to Courthouse for Recordation:

No.



VICINITY MAP
SCALE: 1" = 200'

OWNERS' CERTIFICATE:

WE, THE UNDERSIGNED, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON DO HEREBY ADOPT THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES, AND GRANT SLOPE EASEMENTS TO THE ADJACENT PROPERTY OWNERS TO THE EXTENT NECESSARY TO AVOID A VIOLATION OF ANY CITY, COUNTY, STATE OR FEDERAL LAWS, ORDINANCES, REGULATIONS, ORDINANCES, CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE OF A PUBLIC ROAD. SLOPE EASEMENTS SHALL BE MAINTAINED BY THE APPROPRIATE PUBLIC AGENCY.

WE FURTHER GRANT PUBLIC UTILITY EASEMENTS, SHOWN HEREON AS 10' PLATS AND 10' RIGHTS OF WAY, TO THE PUBLIC UTILITIES COMPANIES OF THE STATE OF MARYLAND AND PROVIDING OF PUBLIC UTILITY EASEMENTS, AS RECORDED IN LIBER 3834 AT FOLIO 457 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND. WE, OUR SUCCESSORS AND ASSIGNS, WILL CAUSE ALL PROPERTY MARKERS AND ANY OTHER REQUIRED MONUMENTATION TO BE SET BY A REGISTERED MAPPING AND SURVEYING PROFESSIONAL ENGINEER OF THE MONTGOMERY COUNTY CODE PRIOR TO OCCUPANCY OF ANY NEW HOMES.

THERE ARE NO SUITS, ACTIONS AT LAW, LEASES, MORTGAGES OR TRUSTS, OR ANY OTHER CLAIMS, LIENS, ENCUMBRANCES, EASEMENTS, RIGHTS AND THE PARTIES OF INTEREST THEREIN INDICATED BY THIS PLAN.

ATTEST: *David A. Urowsky* DAVID A. UROWSKY, PRESIDENT
DATE: 5-12-06
WITNESS: *William Deneau* WILLIAM DENEAU, VICE PRESIDENT
DATE: 5-12-06

SURVEYORS CERTIFICATE:

I HEREBY CERTIFY THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THE PLAN SHOWN HEREON IS CORRECT, THAT IT IS A SUBDIVISION OF THAT LAND OWNED BY RUSSELL E. REESE, REGISTERED PROFESSIONAL LAND SURVEYOR, MD No. 11014 AND MARYLAND LICENSE NO. 11014, AND THAT THE SAME WAS SURVEYED BY ME AND MELLODY A. DEAN BY DEED DATED APRIL 2, 1988 AND RECORDED IN LIBER 7072 AT FOLIO 620, IT ALSO BEING A RESUBDIVISION OF LOT 1, BLOCK LETTERED H IN THE SUBDIVISION KNOWN AS ALLANWOOD, AS RECORDED IN PLAT BOOK 31 AT PLAT No. 4011, MONTGOMERY COUNTY, MARYLAND. I HEREBY CERTIFY THAT ONCE ENGAGED AS DESCRIBED IN THE OWNER'S CERTIFICATE HEREON, ALL PROPERTY MARKERS AND OTHER BOUNDARY MARKERS WILL BE SET AS DELINEATED HEREON IN ACCORDANCE WITH THE PROVISIONS OF SECTION 56-24(G) OF THE MONTGOMERY COUNTY CODE. THE TOTAL AREA OF SUBDIVISION IS 1.2939 ACRES OF LAND. THERE IS NO DEDICATION BY THIS PLAN.

5-11-06
DATE: RUSSELL E. REESE, REGISTERED PROFESSIONAL LAND SURVEYOR, MD No. 11014

SUBDIVISION RECORD PLAT
LOTS 14 & 15
(A RESUBDIVISION OF LOT 1)
BLOCK H
ALLANWOOD

ELECTION DISTRICT NO. 13
MONTGOMERY COUNTY, MARYLAND
NOVEMBER, 2005 SCALE: 1" = 30'

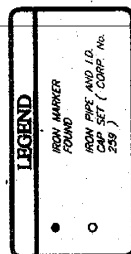
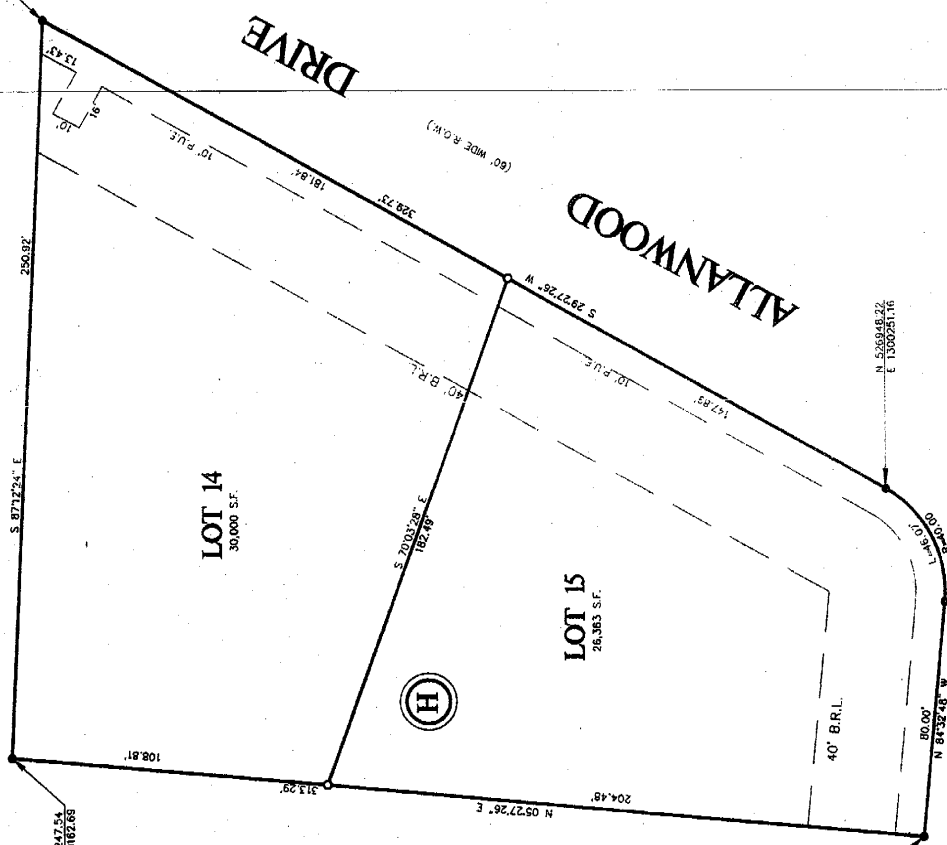
MADDOX
INCORPORATED
ENGINEERS • SURVEYORS

100 PARK AVENUE
ROCKVILLE, MARYLAND 20850-2889
(301) 765-9001

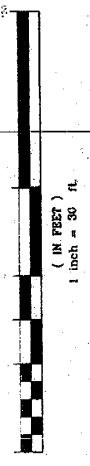
MADDOX FILE NO. 04509

PLAT NO.

A 527235.32
E 1300413.31



GRAPHIC SCALE



ALLANWOOD COURT
(60' WIDE R/W - UNIMPROVED)

NOTES:

ALL TERMS, CONDITIONS, AGREEMENTS, AND RESTRICTIONS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN ALLOWING CONSTRUCTION SHALL BE MAINTAINED BY THE MONTGOMERY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE SUPERSEDED BY ANY OTHER INSTRUMENTS OF THE PLAN UNLESS EXPRESSLY CONTAINED BY THE PLAN AS APPROVED. THE OFFICIAL PUBLIC FILES FOR ANY SUCH BOARD AND ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.

THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE PROPERTY, INCLUDING THE DIMENSIONS AND USE OF THE PROPERTY, THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO REPLACE AN INSTRUMENT AFFECTING TITLE.

THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF CHAPTER 22A OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND A PERMIT TO EXCAVATE PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT. A COPY OF THE APPROVED PLAN MAY BE VIEWED AT 107 GEORGIA AVENUE, SILVER SPRING, MARYLAND.

PROPERTY ZONED: R-200

THE PROPERTY SHOWN HEREON IS SUBJECT TO THE LIMITATIONS OF THE MONTGOMERY COUNTY FOREST CONSERVATION EASEMENT RECORDED IN LIBER 1-05080, IN LIBER 3269 AT FOLIO 230.

FOR PUBLIC WATER SUPPLY & SEWAGE SYSTEMS ONLY.

THIS PLAT IS SUBJECT TO THE LIMITATIONS OF THE MONTGOMERY COUNTY FOREST CONSERVATION EASEMENT RECORDED IN LIBER 1-05080, ENTITLED "ALLANWOOD."

THE PROPERTY SHOWN HEREON IS LOCATED ON TAX MAP J5122, W.S.S.C. GRD Z11N02.

THE PROPERTY SHOWN HEREON IS SUBJECT TO THE LIMITATIONS OF THE MONTGOMERY COUNTY FOREST CONSERVATION EASEMENT RECORDED IN LIBER 1-05080, ENTITLED "ALLANWOOD."

MD STATE PLANE NAD83/1991

AREA TABULATION

TOTAL NUMBER OF LOTS = 2
TOTAL AREA OF LOTS = 56,363 SQUARE FEET OR 1.2939 ACRES
TOTAL AREA OF DEDICATION = 0 S.F.
TOTAL AREA OF PLAT = 56,363 SQUARE FEET OR 1.2939 ACRES

N 526035.66
E 1300332.69

N 84°32'48" W
80.00'
N 80°00'
E 1300265.16
N 53°04'48" E
E 1300265.16

N 80°00'
E 1300265.16

N 84°32'48" W
80.00'

N 80°00'
E 1300265.16

N 53°04'48" E
E 1300265.16

DATE: 5/12/06
PAGE: 2/6

APPROVED: _____
CHAIRMAN

APPROVED: _____
ASST. SECRETARY - TREASURER

APPROVED: _____
M.M.C.P. & P.C. RECORD FILE NO.

APPROVED: _____
MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES

APPROVED: _____
DIRECTOR

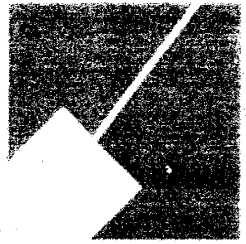
APPROVED: _____
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION MONTGOMERY COUNTY PLANNING BOARD

APPROVED: _____
CHAIRMAN

APPROVED: _____
ASST. SECRETARY - TREASURER

APPROVED: _____
M.M.C.P. & P.C. RECORD FILE NO.

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500 www.mncppc.org

Board Approval Date: 6/09/2005

Date Mailed: DEC 6 2005

Action: Approved Staff
Recommendation.

Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 5-0;
Chairman Berlage and Commissioners
Perdue, Bryant, Wellington and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05080
NAME OF PLAN: Allanwood (Resubdivision)

The date of this written opinion is _____ (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

On 3/21/05, Mr. David A. Urovsky ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 zone. The application proposed to create 2 lots on 1.29 acres of land located on the west side of Allanwood Drive, approximately 1200 feet south of Chapel Hill Road, in the Aspen Hill master plan area. The application was designated Preliminary Plan 1-05080. On 6/09/05, Preliminary Plan 1-05080 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

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

At the public hearing, staff testified and generally summarized the facts and recommended findings in its staff report, incorporated herein by reference. In particular, Staff applied the resubdivision criteria of Section 50-29(b)(2) of the Subdivision Regulations to the proposed lots, and compared them with the lots in the neighborhood as delineated by staff in its report. Staff testified that the proposed lots fall within the neighborhood ranges for the resubdivision criteria and are of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. As set forth below, the tabular summary and graphical documentation incorporated in the staff report support this conclusion:

Frontage: The existing lots range in frontage from 25.8 feet to 604.7 feet. Proposed Lot 12 has a lot frontage of 165 feet, and proposed Lot 13 has a frontage of 280 feet.

The proposed lots are within the range of lot frontages in the neighborhood. In Staff's opinion, the proposed lot will be of the same character as existing lots in the neighborhood with respect to lot frontage.

Alignment: There are 17 perpendicular, 3 parallel, and 6 radial lots in the designated neighborhood. Proposed Lots 12 and 13 will be perpendicular. The proposed lots will be in character with the existing lots with respect to the alignment criterion.

Size: The existing lots range in size from 0.30 acres (13,068 square feet) to 3.43 acres, with the majority being less than one acre in size. Proposed Lot 12 will be 0.69 acres (30,056 square feet) and Lot 13 will be 0.60 acres (26,136 square feet). The proposed lots will be in character with the existing lots in the neighborhood with respect to size.

Shape: Proposed Lot 12 will be rectangular in shape and Lot 13 will be wedge shaped. The neighborhood lot shapes consist of 1 irregular, 18 rectangular, 5

wedge shaped lots, and 2 flag lots. Staff finds the shapes of the proposed lots to be in character with shapes of the existing lots.

Width: The existing lots range in width from 100 feet to 518 feet. Proposed Lots 12 and 13 will have lot widths of 165 feet and 226.3 feet, respectively. In Staff's opinion, the proposed lots will be in character with existing lots in the neighborhood with respect to width.

Area: Lot areas in the neighborhood range from 0.1 acre (4,356 square feet) to 1.6 acres. Proposed Lots 12 and 13 will have areas of 0.35 acres (15,246 square feet) and 0.26 acres (11,325 square feet), respectively. Therefore, staff finds the proposed lots to be of the same character as other lots in the neighborhood with respect to area.

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

The Applicant appeared at the public hearing and testified in support of staff's recommendations and proposed conditions. There was no testimony in opposition to the proposed plan.

FINDINGS

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

- a) The Preliminary Plan No. 1-05080 substantially conforms to the Aspen Hill master plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.

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

- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
 - e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS standards.
 - f) As set forth in detail above, the proposed lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood, as delineated in the Staff Report dated June 3, 2005.
-
- g) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-05080 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05080, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two (2) residential dwelling units.
- 2) Compliance with the conditions of the MCDPS stormwater management approval dated April 20, 2005.
- 3) Compliance with the conditions of approval for the preliminary forest conservation plan, including: submittal of final forest conservation and sediment control plans that include a limit of disturbance, grading, and tree protection measures for on-site trees consistent with the preliminary forest conservation plan; and submittal of a Reforestation Planting Plan for 0.68 acre of offsite reforestation or purchase of equivalent offsite forest bank credit. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 4) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).

- 5) Prior to plat recordation, the applicant shall enter into a covenant to participate in the future construction costs for road improvements on Allanwood Court and for a sidewalk along Allanwood Drive. The covenant shall be recorded and the deed reference noted on the record plat for the proposed lots.
- 6) Other necessary easements.


This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

* * * * *

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, December 15, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, ADOPTED the above Opinion, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Allanwood (Resub), Preliminary Plan No. 1-05080. Commissioner Bryant was absent.



Certification As To Vote of Adoption
Technical Writer

PLAT NO. 220061590

Thomas Discovery (Preliminary plan Butz Property)
Located on Sugarland Road, approximately 2,600 south of Whites Ferry Road
RDT Zone, 3 Lots
Private Well, Private Septic
Master Plan Area: Agriculture & Rural Open Space
Robert & Thompson Butz, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 120050340, formerly 1-050340, as approved by the Board; and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: Butz Property Plan Number: 120050340
 Plat Name: Thomas Discovery Plat Number: 220061590
 Plat Submission Date: 1/31/06
 DRD Plat Reviewer: PW
 DRD Prelim Plan Reviewer: Cathy Conison

Initial DRD Review:

Signed Preliminary Plan - Date 3/22/06 Checked: Initial CNC Date 4/13/06
 Planning Board Opinion - Date 2/23/06 Checked: Initial PW Date 3/3/06
 Site Plan Req'd for Development? Yes No Verified By: TA (initial)
 Site Plan Name: Site Plan Number:
 Planning Board Opinion - Date Checked: Initial Date
 Site Plan Signature Set - Date Checked: Initial Date
 Site Plan Reviewer Plat Approval: Checked: Initial Date

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

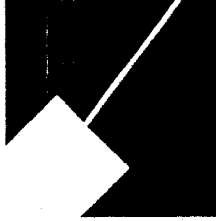
Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	J Penn	2/7	2/24	3/5	
Research	Bobby Fleury	"	"	2/8/06	OK
SHA	Doug Mills	"	"	N/A	NC
PEPCO	Jose Washington	"	"	3/3/06	OK
Parks	Doug Powell	"	"		NC
DRD	Steve Smith	"	"	2/28/06	See plat

Final DRD Review:

DRD Review Complete: Initial PW Date 4/14/06
 (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up): Initial PW Date 4/14/06
 Final Mylar w/Mark-up & PDF Rec'd: Initial TA Date 5/18/06
Board Approval of Plat:
 Plat Agenda: Initial TA Date 6/8/06
 Planning Board Approval: Initial TA Date 6/8/06
 Chairman's Signature: _____
DPS Approval of Plat:
 Engineer Pick-up for DPS Signature: _____
 Final Mylar for Reproduction Rec'd: _____
Plat Reproduction:
 Addressing: _____
 File Card Update: _____
 Final Zoning Book Check: _____
 Update Address Books with Plat #: _____
 Update Green Books for Resubdivision: _____
 Notify Engineer to Seal Plats: _____
 Engineer Seal Complete: _____
 Complete Reproduction: _____
 Sent to Courthouse for Recordation: _____

No. _____

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Board Approval Date: Oct. 10, 2005

Date Mailed: FEB 23 2006

Action: Approved Staff Recommendation
Motion of Commissioner Robinson, seconded
by Commissioner Perdue, with a vote of 3-1;
Chairman Berlage and Commissioners
Robinson, Perdue voting in favor.

Commissioner Wellington voting against,
Commissioner Bryant absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-20050340 (formerly 1-05034)
NAME OF PLAN: Butz Property

The date of this written opinion is FEB 23 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

I. INTRODUCTION

On 11/22/04, Robert & Thompson Butz ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the RDT zone. The application proposed to create 3 lots on 125.18 acres of land located at on the east side of Sugarland Road, approximately 2,600 feet south of Whites Ferry Road, in the Agricultural and Rural Open Space (AROS) master plan area. The application was designated Preliminary Plan 120050340 formerly 1-05034. On 10/10/05, Preliminary Plan 120050340 (formerly 1-05054) was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County

Planning Board heard testimony and received evidence submitted in the record on the application.

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

II. SITE AND PROJECT DESCRIPTION

The subject property, identified as Parcel 563 ("Subject Property"), is on the south side of Sugarland Road, an exceptional rustic road, approximately 2,600 feet south of Whites Ferry Road. The Subject Property contains 125.18 acres and is zoned RDT. The property includes two small creeks, stream buffers, floodplains, and wetlands. The streams and wetlands separate the property into 4 distinctive open field areas that are used for farming. The Butz family has farmed the property for more than 40 years. In the most recent growing season, the farm was planted with food grade soybeans. In the past, the family has grown hay, wheat, barley, corn, and soybeans on the farmland. The subject property includes 14 acres of onsite forest primarily located within the wetlands and stream buffers. The subject property is entirely within the Seneca Creek watershed, a Use I-P watershed.

The application proposed to subdivide the Subject Property into three (3) lots for the construction of three (3) one-family detached dwellings. As originally filed, the application was proposing five lots. After completion of septic testing and further analysis of the property, the application was revised to eliminate two of the proposed lots. The currently proposed three lots are 70.91 acres, 39.33 acres and 13.8 acres in size, respectively; with the remaining 1.14 acres of the gross tract being dedicated for road right-of-way. The two large lots will be occupied by the owners of the property who plan to continue farming. A "Declaration of Intent" to continue agricultural use has been filed for these two lots in association with the forest conservation exemption that has been granted. The smaller third lot is large enough to support agricultural activities, but is not included in the agricultural declaration of intent. A forest conservation plan with associated protection easements is, therefore, required for this lot.

The new lots will have access from Sugarland Road via private driveways. A Public Use Trail Easement has been requested along the southern property boundary to provide access for pedestrians and equestrians to the adjacent Seneca Creek State Park. The lots will be served by private wells and private septic sand mound systems.

III. RELATIONSHIP TO THE MASTER PLAN

The Agricultural and Rural Open Space (AROS) Master Plan establishes agriculture as the preferred use for land in the Rural Density Transfer (RDT) zone. Staff believes the proposed lot configuration on the preliminary plan promotes the continued use of the property for agricultural purposes. Large contiguous areas of agricultural fields will be maintained on two of the three lots. The size of the third lot is logical given its location at the northern tip of the property and the stream valley, which separates this 13.8 acres from the rest of the site. Although smaller in size, this lot would be suitable for smaller-scale agricultural uses. The proposed plan meets the goal of the master plan for agricultural preservation and the requirements for the RDT zone.

Staff concluded that the proposed preliminary plan conforms to the recommendations for preservation of agricultural uses, which are included in the Agricultural and Rural Open Space Master Plan. The proposed density on the property is less than the one lot per twenty-five acres permitted under the zone.

IV. ENVIRONMENTAL ANALYSIS

The 125-acre site includes 7 acres of stream buffers, 6.6 acres of wetlands, 2.4 acres of floodplains, and 14.3 acres of existing forest. The majority of the wetlands and floodplains have been maintained as natural areas as part of the existing farming operations. Portions of the designated stream buffers are currently part of the agricultural fields. The agricultural fields will remain in the buffers and conservation easements have not been required except for those associated with the forest conservation plan on proposed Lot 3.

The applicant submitted a preliminary forest conservation plan as part of the preliminary plan of subdivision. Under section 22A-12(f) of the Montgomery County code properties in agricultural resource areas must plant or retain a certain percentage of the forest onsite. Section 22A-5(b) of the Montgomery County Code allows exemptions from the forest conservation requirements for agricultural properties. The applicant has submitted an "Agricultural Declaration of Intent" to continue farming approximately 111-acres of the subject property. This corresponds to Lots 1 and 2, which are 71 acres and 40 acres in size. The remainder of the property, 13.8 acres, which corresponds to lot 3, is subject to a forest conservation plan. The applicant will meet the afforestation threshold on lot 3 by preserving all existing forest on lot 3 (1.6-acres) and planting 1.86-acres of new forest within the unforested stream buffer on

lot 3. The existing and new forest on lot 3 will be permanently protected by a Category I forest conservation easement.

V. PUBLIC HEARING

At the public hearing staff testified and summarized the facts and recommendations as detailed in its staff report, and recommended approval with conditions. Staff testified that the Preliminary Plan conforms to the Agricultural and Rural Open Space Master Plan and meets all necessary requirements of the Subdivision Regulations. Staff further found that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. As such, Staff recommended approval of the preliminary plan, subject to compliance with the above conditions.

The Applicant, represented by legal counsel, appeared and testified in support of the recommendation of approval and proposed conditions. The Applicant noted that when originally submitted, it proposed five lots, but has reduced the density to three lots, with approximately 97 acres of the approximately 124-acre site to be retained in active agricultural use. The Applicant also noted that existing forest will be retained, and protected in a Category I conservation easement. The Applicant entered three letters into the record supporting the application as proposed.

The Applicant raised concerns about Condition Number 8, which requires the Applicant to provide a 25' wide Public Use Trail Easement along the entire southern edge of proposed Lot 1 to facilitate non-motorized pedestrian/equestrian access from Sugarland Road to Seneca Creek State Park and nearby trails. The Applicant did not want to provide the trail at the proposed location, based on safety concerns about the impact of horses and pedestrians using the proposed trail on thoroughbred racing horses and the owner of the adjoining property. There also were concerns about trespassers into the adjoining property, and asked that it be eliminated as a condition. In response to Board questions, staff testified in support of the trail connection, and agreed to work with the Applicant to provide adequate signage and fencing along the trail, and noted that it was concerned about preserving the future use of the trail, but did not need to ensure its use at this time.

The majority of the Board supported the idea that the trail would be made available for future use, and the application in general.

Commissioner Wellington opposed the proposal, because the residential dwellings would be built with the use of sand mounds, holding the view that sand mounds violate the Agriculture and Rural Open Space master plan (Master Plan). Commissioner Robinson, who opposes sand mounds when they achieve full density, is of the view that sand mounds are consistent with the intent of the Master Plan if full density is not achieved. He noted that with the recordation of a Montgomery County

Agricultural Easement it would reduce the density from 100% to approximately 60% of density, and supported the application with the addition of a condition that requires the applicant to record such an easement as reflected in Condition No. 9, below. The Applicants proffered such a condition and a majority of the Board accepted the condition, as reflected below.

VI. FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies;¹ the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) By a preponderance of evidence, Preliminary Plan No. 120050340 (formerly 1-05034) substantially conforms to the Agriculture and Rural Open Space master plan. This conclusion is based on staff's recommendation, and on the Board's conclusion that sand mounds can be used in this project in a manner consistent with the Master Plan.
- b) The uncontested evidence of record demonstrates that public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The uncontested evidence of record demonstrates that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The uncontested evidence of record demonstrates that the application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) The uncontested evidence of record demonstrates that the application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.

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

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

VII. CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120050340 (formerly 1-05034) in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120050340 (formerly 1-05034), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to three (3) one-family detached dwelling units.
- 2) At the time of record plat application, Applicant to submit a notarized affidavit indicating that three TDR's are available for the three lots. Record Plat to contain a note indicating that three TDR's were available on the parent parcel and have been retained to create the three lots.
- 3) Compliance with the conditions of approval of the preliminary forest conservation plan approved by Environmental Planning staff on August 10, 2005.
- 4) Compliance with the conditions of approval of the MCDPS stormwater management approval dated June 15, 2005.
- 5) Compliance with conditions of MCDPWT letter dated January 30, 2005 unless otherwise amended.
- 6) Record Plat shall reflect dedication of the right-of-way for Sugarland Road along the property frontage to the full width mandated by the Agricultural and Rural Open Space Master Plan.
- 7) Compliance with conditions of MCDPS (Health Dept.) septic approval dated August 10, 2005 with correction dated September 2, 2005.
- 8) Applicant to record a deed of easement to provide a future 25' wide Public Use Trail Easement along the entire southern edge of proposed Lot 1 to facilitate non-motorized pedestrian/equestrian access from Sugarland Road to Seneca Creek State Park and the trails therein. Easement becomes perfected upon demise of owner of Lot 1.
- 9) Prior to plat recordation, the Applicant shall record an agricultural easement to preclude further subdivision of the property, and verify that any unused TDRs remaining on the property have been serialized and removed.

- 10) Other necessary easements, including the recordation of agricultural easements Montgomery County Agricultural Easement program to preclude further subdivision of the site which must be verified prior to approval of record plat.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

* * * * *

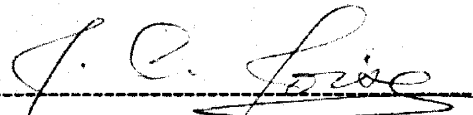
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

Approved by
NORPPC OR

MF 2/10/06
Agency
Counsel

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on **Thursday, February 16, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission by unanimous consent, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan Review No. 120050340 (formerly 1-05034), Butz Property.**



Certification As To Vote of Adoption
M. Clara Moise, Technical Writer

PLAT NO. 220061680

James Property (Preliminary plan James Property)

Located on Briggs Chaney Road, approximately 450 feet west of Old Columbia Pike

R-200 Zone, 2 Lots, 1 Parcel, 1 Outlot

Community Water, Community Sewer

Master Plan Area: Fairland

James Gladstone, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 120050960, formerly 1-050960, as approved by the Board; and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: James Property Plan Number: 120050960
 Plat Name: James Property Plat Number: 220061680
 Plat Submission Date: 2/13/06
 DRD Plat Reviewer: P Weir
 DRD Prelim Plan Reviewer: D Kinnery

Initial DRD Review:

Signed Preliminary Plan - Date 2/07/06 Checked: Initial DM Date 5/22/06
 Planning Board Opinion - Date 2/1/06 Checked: Initial PW Date 3/14/06
 Site Plan Req'd for Development? Yes No Verified By: _____ (initial)
 Site Plan Name: N/A Site Plan Number: _____
 Planning Board Opinion - Date _____ Checked: Initial _____ Date _____
 Site Plan Signature Set - Date _____ Checked: Initial _____ Date _____
 Site Plan Reviewer Plat Approval: Checked: Initial _____ Date _____

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

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>Candy Bunney</u>	<u>2/21/06</u>	<u>3/10/06</u>	<u>3/23/06</u>	<u>see comments</u>
Research	<u>Bobby Fleury</u>	<u>"</u>	<u>"</u>	<u>2/22/06</u>	<u>OK</u>
SHA	<u>Doug Mills</u>	<u>"</u>	<u>"</u>	<u>N/A</u>	<u>N/A</u>
PEPCO	<u>Jose Washington</u>	<u>"</u>	<u>"</u>	<u>4/2/06</u>	<u>OK</u>
Parks	<u>Doug Powell</u>	<u>"</u>	<u>"</u>	<u>N/A</u>	<u>N/A</u>
DRD	<u>Steve Smith</u>	<u>"</u>	<u>"</u>	<u>3/8/06</u>	<u>see plat</u>

Final DRD Review:

DRD Review Complete:
 (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up):
 Final Mylar w/Mark-up & PDF Rec'd:

Initial TA Date 5/23/06
TA 5/22/06
TA 5/23/06

Board Approval of Plat:

Plat Agenda:
 Planning Board Approval:
 Chairman's Signature:

TA 6/8/06
TA 6/8/06

DPS Approval of Plat:

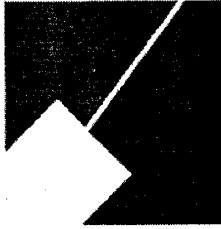
Engineer Pick-up for DPS Signature:
 Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:
 File Card Update:
 Final Zoning Book Check:
 Update Address Books with Plat #:
 Update Green Books for Resubdivision:
 Notify Engineer to Seal Plats:
 Engineer Seal Complete:
 Complete Reproduction:
 Sent to Courthouse for Recordation:

No. _____

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: FEB 01 2006

Public Hearing Date: November 17, 2005

Action: Approved Staff Recommendation

Motion of Commissioner Perdue,
seconded by Commissioner Robinson, with
a vote of 5-0;

Chairman Berlage and Commissioners
Perdue, Bryant, Wellington, and Robinson
voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 120050960 formerly 1-05096

NAME OF PLAN: James Property

The date of this written opinion is FEB 01 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

INTRODUCTION

On 05/25/05, Gladstone James ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 zone. The application proposed to create 2 lots, 1 parcel and 1 outlot on 3.55 acres of land located on the south side of Briggs Chaney Road, approximately 450 feet west of the intersection with Old Columbia Pike, in Fairland master plan area ("Subject Property"). The application was designated Preliminary Plan 120050960 formerly 1-05096 ("Preliminary Plan"). On 11/17/05, the Preliminary Plan was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Planning Board heard testimony and received evidence submitted in the record on the application.

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

SITE DESCRIPTION

The Subject Property is identified as Parcel 279 and is located on the south side of Briggs Chaney Road, approximately 450 feet west of the intersection with Old Columbia Pike. Currently vacant, the property is zoned R-200 and contains 3.55 acres.

PROJECT DESCRIPTION

This Preliminary Plan proposes to create ~~two (2)~~ residential lots, one (1) parcel and one (1) outlot for the construction of two (2) one-family detached dwelling units. The proposed lots will be served by public water and public sewer. Access to the proposed lots will be via a shared driveway from Briggs Chaney Road. The property will be subject to forest conservation requirements and a maximum of 10% imperviousness requirements.

MASTER PLAN

The Fairland Master Plan does not specifically identify the Subject Property for discussion but does give general guidance and recommendations to maintain a wide choice of housing types and neighborhoods at appropriate densities and locations. The preliminary plan proposes low-density residential which is appropriate for the R-200 zone.

ENVIRONMENTAL

Special Protection Area

The 3.55-acre site lies within the Upper Paint Branch Special Protection Area ("SPA"). Paint Branch and its tributaries upstream of I-495 are Use III streams (natural trout waters). The site drains to a tributary of the mainstem of Paint Branch. About 1.3 acres of forest exist on the site. A stormwater management ("SWM") pond, which provides SWM controls for part of the adjacent shopping center, the fire station, and

part of Briggs Chaney Road, lies on roughly one-third of the property. An environmental buffer for a stream that is located to the west of the property lies partly within the property.

DPS reviews and acts on those elements of the water quality plan that relate to water quality protection performance goals, stormwater management, sediment and erosion control, and monitoring of best management practices. DPS has reviewed and approved the elements of the preliminary water quality plan under its purview. The Planning Board's responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Site Imperviousness

The Upper Paint Branch SPA has a ten percent (10%) site imperviousness limit on land development projects. The imperviousness limit is set forth in the Environmental Overlay Zone for the Upper Paint Branch SPA. The water quality plan proposes a site imperviousness of 9.9 percent. This consists of two new single-family detached houses, a common driveway and a driveway apron for access to the SWM pond. The land area used for the calculations of the subdivision's imperviousness includes the entirety of the property, including the land on the north side of Briggs Chaney Road. The proposed subdivision meets the imperviousness limit of the Environmental Overlay Zone.

Environmental Buffers

The existing SWM pond and the SWM easement lies partly within the environmental buffer. Staff recommended that the part of the buffer that is *outside* the SWM easement and 15 feet or more from the toe of the SWM pond dam embankment should be placed in a conservation easement to allow the area to naturally regenerate into forest. This does not restrict the County from doing maintenance and repair work on any SWM pipes or structures within the conservation easement, when such work is needed. Staff did not recommend that the SWM pond dam embankment and land *within* 15 feet of the toe of the dam embankment be placed in a conservation easement because the County requires that the dam embankment and the area within 15 feet of the toe of the embankment be free of trees to avoid any damage to the dam of the SWM pond.

Forest Conservation

Although some trees are proposed to be retained as part of the construction of the two lots, the forest conservation plan does not count the tree save area as forest retention. Staff supported the proposed forest conservation plan and recommended that the tree save area not be counted as forest retention. This is because the tree save area is relatively small and narrow. If a conservation easement is placed over this area,

it would not allow much usable yard area and the easement would be fairly close to the proposed houses. Enforcement of such a small, on-lot conservation easement as an undisturbed natural area that is close to houses would be difficult. Staff recommended that the forest conservation requirements be met by reforestation at an offsite location or through buying credits in a forest bank.

STAFF RECOMMENDATION

Staff found that the Preliminary Plan is consistent with the master plan goal to maintain the medium-density residential character of the area. Staff also found that the Preliminary Plan complies with all applicable provisions of Chapter 50 of the Montgomery County Code, Subdivision Regulations. Staff recommended approval of the Preliminary Plan with conditions

PLANNING BOARD HEARING

Staff described the location of the Subject Property and the proposed development and recommended approval of the Preliminary Plan.

The Applicant was represented by a land planner who agreed with the Staff recommendation with one exception. The Applicant requested that the impervious cap be set at 10% rather than 9.9% as recommended by Staff.

After some discussion, the Planning Board agreed to allow an impervious cap of 10%, instead of 9.9%, in this case, given the possibility of slight variations that may take place during construction.

FINDINGS

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

- a) The Preliminary Plan No. 120050960 formerly 1-05096 substantially conforms to the Fairland Master Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.

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

- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) That a 10% impervious cap is appropriate in this case (rather than 9.9% as recommended by Staff) given the possibility of slight variations that may take place during construction.
- g) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120050960 formerly 1-05096 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120050960 formerly 1-05096. All site elements of the James Property Preliminary Plan dated 11/02/05 shall be required except as modified by the following conditions:

- 1) Approval under this Preliminary Plan is limited to ~~two (2) residential lots~~
- 2) Record plat to note that outlot ~~has been included in onsite impervious requirement and therefore, it may not be developed or used for density.~~
- 3) Compliance with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits. Conditions include, but are not limited to, the following:
 - a. ~~Category 1 conservation easement to be placed over environmental~~ buffer area that is outside the stormwater management easement and 15 feet from the toe of the stormwater management pond dam embankment. Conservation easement to be shown on record plat and to be included in Parcel A. Prior to approval of record plat, Applicant to identify offsite reforestation area or forest bank to meet reforestation requirements.

- 4) Prior to record plat, Applicant to enter into an agreement with the Planning Board to limit ~~impervious surfaces to no more than 10 percent.~~
 - 5) Prior to release of building permits, Applicant to demonstrate conformance to impervious surface limits as shown on the preliminary plan. Any modifications to these plans, which increase site imperviousness above 10 percent, will require Planning Board action.
 - 6) Conformance to the conditions of approval for the water quality plan during the detailed sediment control/stormwater management plan stage as stated in the DPS approval letter dated September 28, 2005.
 - 7) Record plat to reflect a ~~Category I easement over areas of stream valley buffers.~~
-
- 8) Compliance with conditions of MCDPWT letter dated, October 10, 2005 unless otherwise amended.
 - 9) The Applicant shall dedicate all road rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
 - 10) ~~Record plat to reflect common ingress/egress and utility easements over all shared driveways.~~
 - 11) Compliance with the conditions of the MCDPS stormwater management approval dated September 28, 2005.
 - 12) Other necessary easements.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

* * * * *

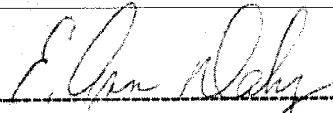
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

DYD 1/20/06

James Property
Preliminary Plan 120050960 formerly 1-05096
Page 7

CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, January 26, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan 120050960 formerly 1-05096, James Property**. Vice Chair Perdue was temporarily absent.



Certification As To Vote of Adoption
E, Ann Daly, Technical Writer

PLAT NO. 220061800

Rock Spring Park (Preliminary plan Rock Spring Centre)

Located on southwest quadrant, in the intersection of route 270 and Old Georgetown Road

MXPD Zone, 3Parcel

Community Water, Community Sewer

Master Plan Area: North Bethesda-Garrett Park

Penrose Development Company, LLC, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 11998092A, formerly 1-98092A, as approved by the Board except for the following:

- 1) The forest conservation easement change as currently reflected on the record plat shall be removed prior to Planning Board approval of the plat, unless a decision is made that a site plan amendment is not needed to make such a change.

Any other minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: Rock Spring Center Phase II Plan Number: 2-1198692A
 Plat Name: Rock Spring Park 22, 23, 24 Plat Number: 220061800
 Plat Submission Date: 3/6/06
 DRD Plat Reviewer: PW 6
 DRD Prelim Plan Reviewer: C Conlon

Initial DRD Review:

Signed Preliminary Plan - Date 12/6/99 Checked: Initial CAE Date 5/25/06
 Planning Board Opinion - Date 11/9/2004 Checked: Initial PW Date 7/3/06
 Site Plan Req'd for Development? Yes No Verified By: _____ (initial)
 Site Plan Name: Rock Spring Center Phase II Site Plan Number: 2-05031
 Planning Board Opinion - Date 2/2/06 Checked: Initial PAK Date 5.24.06
 Site Plan Signature Set - Date _____ Checked: Initial _____ Date _____
 Site Plan Reviewer Plat Approval: Checked: Initial PAK Date 5.24.06

for Pals 23 & 24 only

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

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	Amy Lindy	3/13/06	3/31/06	4/17/06	OK
Research	Bobby Fleury	"	"	4/11/06	OK
SHA	Doug Mills	"	"	N/C	N/C
PEPCO	Jose Washington	"	"	5/2/06	10' PUE
Parks	Doug Powell	"	"	N/C	N/C
DRD	Steve Smith	"	"	"	"

Final DRD Review:

DRD Review Complete:
 (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up):
 Final Mylar w/Mark-up & PDF Rec'd:

Initial	Date
<u>TA</u>	<u>5/22/06</u>
<u>TA</u>	<u>4/17/06</u>
<u>CAE</u> <i>conditional</i>	<u>5/26/06</u>

Board Approval of Plat:

Plat Agenda: TA 6/8/06

Planning Board Approval: _____

Chairman's Signature: _____

DPS Approval of Plat:

Engineer Pick-up for DPS Signature: _____

Final Mylar for Reproduction Rec'd: _____

Plat Reproduction:

Addressing: _____

File Card Update: _____

Final Zoning Book Check: _____

Update Address Books with Plat #: _____

Update Green Books for Resubdivision: _____

Notify Engineer to Seal Plats: _____

Engineer Seal Complete: _____

Complete Reproduction: _____

Sent to Courthouse for Recordation: _____

No. _____

ROCK SPRING CENTRE

CONTRACT

THIS CONTRACT IS MADE THIS 15th DAY OF FEBRUARY 1993 BETWEEN THE ROCK SPRING CENTRE DEVELOPMENT, INC. AND THE ARCHITECT/PLANNER, JAMES H. HARRIS, JR., P.C. FOR THE DESIGN AND PREPARATION OF ARCHITECTURAL AND ENGINEERING PLANS FOR THE ROCK SPRING CENTRE DEVELOPMENT, PHASE I, RESIDENTIAL DEVELOPMENT, LOCATED IN LIBERTY TOWNSHIP, WASHINGTON COUNTY, MARYLAND. THE PROJECT IS DESCRIBED IN THE SITE MAP AND THE PRELIMINARY PLANS ATTACHED HERETO. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES AND FOR THE PROTECTION OF ALL UTILITIES AND EXISTING STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CONSTRUCTION OF ALL UTILITIES AND EXISTING STRUCTURES TO BE PROTECTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND EXISTING STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND EXISTING STRUCTURES.

SCALE

1" = 100'

ROCK SPRING CENTRE

LAND USE ATTORNEY
 JAMES H. HARRIS, JR., P.C.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004

CIVIL ENGINEER
 JAMES H. HARRIS, JR., P.C.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004

OWNER
 ROCK SPRING CENTRE DEVELOPMENT, INC.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004

COMMERCIAL DEVELOPER
 ROCK SPRING CENTRE DEVELOPMENT, INC.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004

PHASE I RESIDENTIAL DEVELOPER
 ROCK SPRING CENTRE DEVELOPMENT, INC.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004

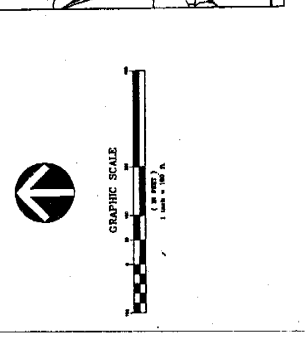
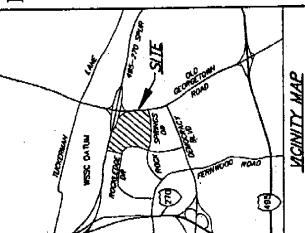
DEVELOPMENT MANAGER
 ROCK SPRING CENTRE DEVELOPMENT, INC.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004

LAND USE ATTORNEY
 JAMES H. HARRIS, JR., P.C.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004

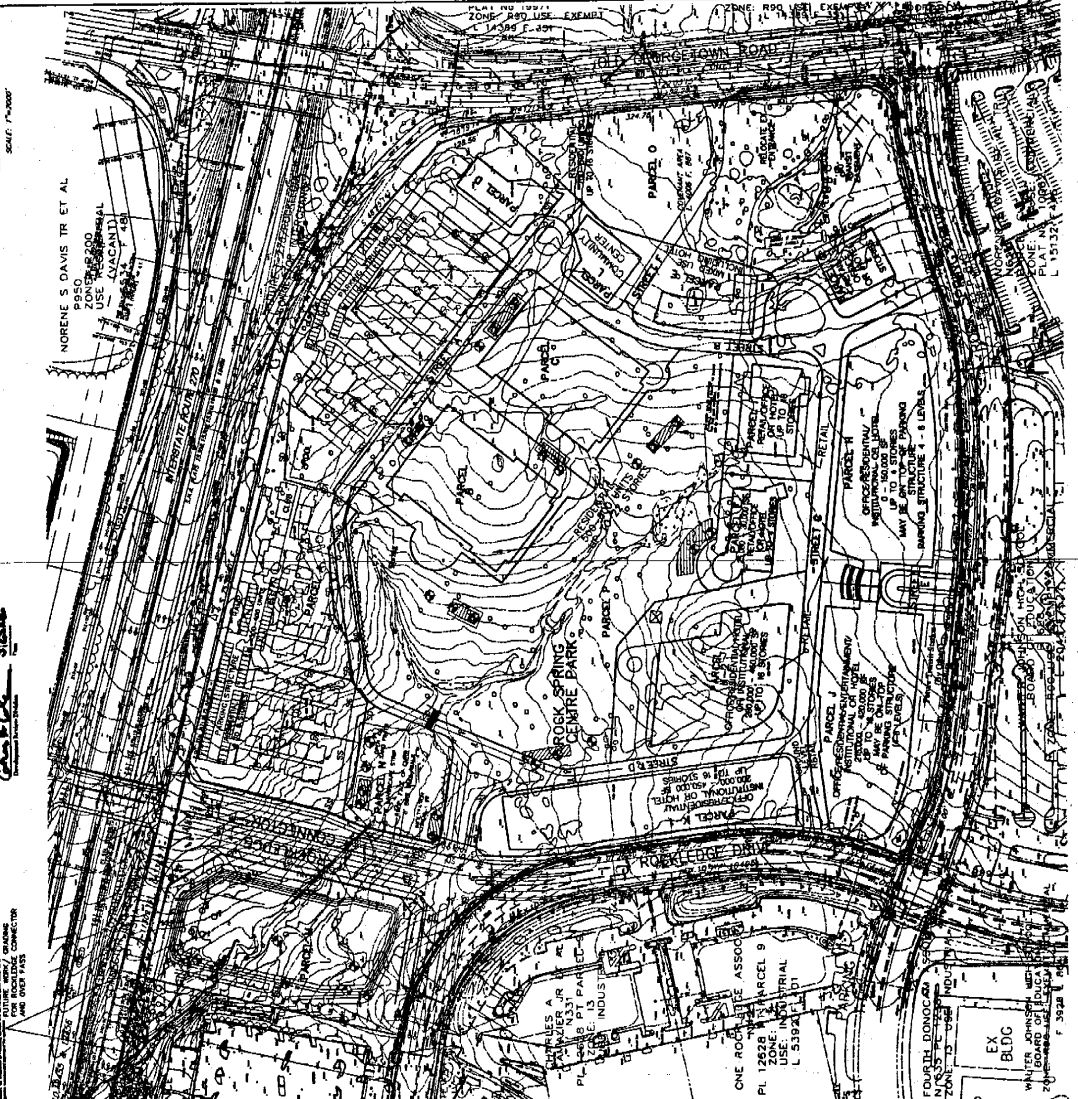
TRANSPORTATION ENGINEER
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CIVIL ENGINEER / LAND SURVEYOR
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 WASHINGTON, D.C. 20004

ARCHITECT / LAND PLANNER
 JAMES H. HARRIS, JR., P.C.
 1000 WASHINGTON AVENUE, S.W.
 WASHINGTON, D.C. 20004



NO.	REVISION	DATE	BY	CHKD.
1	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
2	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
3	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
4	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
5	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
6	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
7	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
8	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
9	ISSUED FOR PERMITTING	02/15/93	JHH	JHH
10	ISSUED FOR PERMITTING	02/15/93	JHH	JHH



PROJECT PHASING

PARCEL	USE	APPROX. NET LOT AREA
PARCEL A	RESIDENTIAL	7.44 AC
PARCEL B	SWIM POOL	3.40 AC
PARCEL C	PRIVATE ROAD	1.83 AC

PHASES II TO IV

PARCEL	USE	APPROX. NET LOT AREA
PARCEL D	RESIDENTIAL	2.49 AC
PARCEL E	RESIDENTIAL	1.32 AC
PARCEL F	RETAIL / OFFICE / HOTEL	0.53 AC
PARCEL G	OFF. / RET. / HOTEL	1.0 AC
PARCEL H	OFF. / RET. / HOTEL	0.89 AC
PARCEL I	OFF. / RET. / HOTEL	1.09 AC
PARCEL J	OFF. / RET. / HOTEL	3.13 AC
PARCEL K	OFF. / RET. / HOTEL	2.27 AC
PARCEL L	COMMUNITY CENTER	0.97 AC
PARCEL M	OPEN AREA	1.10 AC
PARCEL N	EX. OPEN AREA	4.74 AC
PARCEL O	STREET B	7.54 AC
PARCEL P	STREET C	1.30 AC
PARCEL Q	STREET D	0.70 AC
PARCEL R	STREET E	0.30 AC
PARCEL S	STREET F	0.28 AC
PARCEL T	STREET G	0.08 AC

PROGRAM SUMMARY

RESIDENTIAL	PHASE I - IV	300 - 400 UNITS
1250 TOTAL RESIDENTIAL UNITS (INCLUDING MP/US)		
OFFICE		
100,000 SQ. FT. * OFFICE		
100,000 SQ. FT. * COMMERCIAL		
100,000 SQ. FT. * ENTERTAINMENT		
3,000 SQ. FT. (APPROX.) ESTATE HOUSES		

SURVEY NOTES:

- THE VERTICAL DATUM WAS ESTABLISHED FROM A FIELD BENCH MARK.
- THE HORIZONTAL DATUM WAS ESTABLISHED FROM THE NORTHWEST CORNER OF A CONCRETE BRIDGE.
- ALL SURVEY POINTS WERE RECHECKED AND FOUND TO BE WITHIN THE TOLERANCES SPECIFIED IN THE SURVEYING SPECIFICATIONS.
- THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING SPECIFICATIONS AND THE RESULTS ARE AS SHOWN ON THESE PLANS.
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SURVEYOR'S CERTIFICATE

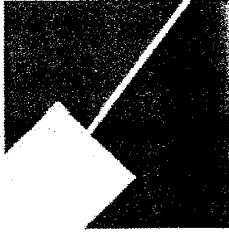
I HEREBY CERTIFY THAT THE INFORMATION SHOWN ON THESE PLANS IS COMPLETE AND ACCURATE IN ACCORDANCE WITH EXISTING SURVEYS, RECORDS AND FIELD NOTES AND THAT I AM A LICENSED SURVEYOR IN THE STATE OF MARYLAND.

CHARLES A. HARRIS, JR.
 PROFESSIONAL LAND SURVEYOR, MD NO. 10708

PRELIMINARY PLAN 1-88092A

APPROVED PRELIMINARY PLAN

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: November 9, 2004

Action: Approved Staff
Recommendation

Motion of Commissioner Perdue,
seconded by Commissioner Bryant,
with a vote of 5-0.

Chairman Berlage and Commissioners
Bryant, Perdue, Wellington and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

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

NAME OF PLAN: Rock Spring Center

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FINDINGS

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

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

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

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

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

CONDITIONS OF APPROVAL

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

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

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

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

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

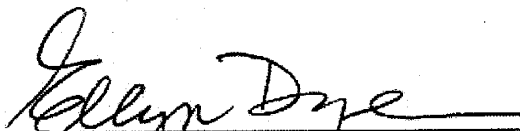
- 6) Prior to site plan approval; update the traffic mitigation agreement (TMA) with the Planning Board and DPWT to reflect the reduced office space and new hotel. The TMA participates in the North Bethesda Transportation Management Organization (TMO) to assist the North Bethesda Transportation Management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

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

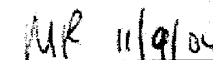
The date of this written opinion is November 9, 2004 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, as provided in the Maryland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

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

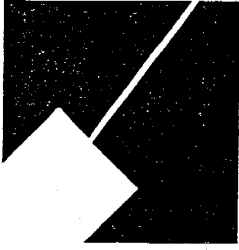
At its regular meeting, held on Thursday, November 4, 2004 in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of Commissioner Bryant, seconded by Commissioner Wellington, with Commissioners Perdue and Robinson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


Ellyn Dye, Technical Writer

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Approved for legal sufficiency
M-NCPPC Office of General Counsel

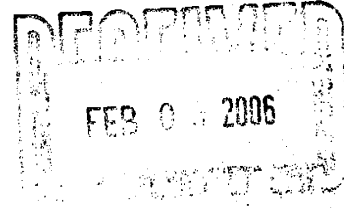
M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org



FEB - 2 2006

Date of Mailing: _____

**MONTGOMERY COUNTY PLANNING BOARD
OPINION**

Site Plan No.: 8-05031
Project: Rock Spring Center Phase III
Date of Hearing: June 9, 2005

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

The date of this written opinion is FEB - 2 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, thirty days from the date of this written opinion. This site plan shall remain valid as provided in Section 59-D-3.8.

I. INTRODUCTION

On June 9, 2005, Penrose Development Company, LLC ("Applicant"), filed an application with the Montgomery County Planning Board ("Board") for review of a proposed 157 room hotel, a 90,000 square foot wellness center, an 87 multi-family dwelling unit high-rise building, approval of a wavier to permit construction of an underground parking garage, which will cross a lot line and approval of a wavier of parking standards to reduce the number of required parking spaces from 524 to 447. The application was captioned as Site Plan Review No. 8-05031. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

II. SUBJECT PROPERTY

The subject 3.21-acre site is part of a larger 53.4-acre tract known as Rock Spring Center "The Center". The Center is bounded by the I-270 east spur to the north, Rockledge Drive to the west, Rock Spring Drive to the south, and Old Georgetown Road to the east. The subject site is located on the south side of Rock Forest Drive, approximately 690 feet east of Rockledge Drive. Immediately to the west and southwest of Rock Spring Center is the corporate office development of Rock Spring Office Park, zoned I-3 (Plat Book 531, page 51). The Walter Johnson High School is located to the south of the Center and zoned R-90. The Rock Spring Park commercial shopping center is located east of the school fronting along Old Georgetown Road and zoned C-1. Across Old Georgetown Road to the east is the community of Wildwood Manor (Plat Book 598, page 10) containing one-family detached homes and zoned R-90/TDR. The northern portion of the Center along the I-270 east spur is developed with a 390-unit apartment complex in six, four-story buildings known as Avalon Bay (Plat Book 622, page 14). It is bounded by the two apartment Towers (Towers I and II, Plat Books 623 and 624, Pages 01 and 72, respectively) to the east and undeveloped portions of the Center to the south, and west.

III. PROCEDURAL BACKGROUND

A. Zoning Application G-713

The subject property was rezoned from the R-H zone to the MXPB zone by the District Council on April 29, 1997. As part of the zoning application G-713, a Development Plan for the proposed development was approved with a number of binding elements.

B. Development Plan Amendment DPA 99-1

The approved Development Plan as part of zoning application G-713 was amended by DPA 99-1 and approved on September 29, 1998. DPA 99-1 did not change the amount of development or the phasing plan as a binding element of the approved plan. It merely clarified the phasing plan by adding additional language. All the required road improvements or traffic mitigation measurements remain.

C. Preliminary Plan

Preliminary Plan 1-98092 for Rock Spring Center was approved by the Planning Board with conditions on May 27, 1999. Preliminary Plan 1-98092 satisfied the Adequate Public Facilities test for the following land uses (given the remaining capacity of more than 1,250 housing units and only 3,667 jobs available at that time):

- a. 1,250 housing units (apartments)
- b. First stage non-residential uses of 977,200 square feet consisting of the following land uses:
 - 1) 637,200 (of the build out total of 830,000) square feet of general office use
 - 2) 220,000 square feet of general retail use
 - 3) 90,000 square feet for a movie theater (retail use)
 - 4) 30,000 square feet for a community center

The total build out in the future for non-residential uses was proposed to be a total of 1,355,000 square feet. The remaining non-residential development below had to undergo a revised Local Area Transportation Review when the 1,268 jobs become available to satisfy Policy Area Review:

- a. 185,300 square feet of general office use
- b. 185,000 square feet of institutional uses

D. Site Plan 8-00034

Site Plan 8-00034 for Avalon Bay at Rock Spring Center was approved by the Planning Board for 390 garden apartments in the northern portion of Rock Spring Center on August 3, 2000.

E. Site Plan 8-03036

Site Plan 8-03036 for Rock Spring Apartment Tower I was approved by the Planning Board for 351 apartments on November 20, 2003.

F. Site Plan 8-04017

Site Plan 8-04017 for Rock Spring Apartment Tower II was approved by the Planning Board for 352-unit residential high-rise building, a swimming pool and associated underground parking.

IV. PROPOSED DEVELOPMENT

The 3.21-acre development is Phase III of an overall five-phase development in Rock Spring Center. Phases I and II consist primarily of residential mid-rise and high-rise buildings comprised of approximately 800 dwelling units. The overall development is permitted to accommodate a total of 1250 dwelling units and approximately 900,000 square feet of commercial development in the future phases.

The subject site proposes to develop an 87-dwelling unit apartment building adjacent to Towers I and II in the northern segment of the subject tract (Parcel 23), and a 157-room hotel integrated with a 90,000 square foot wellness center, of which 58,000 square feet will be for patron use. The three uses will be connected by a below-grade parking structure. A waiver is being requested with this application to reduce the required number of parking spaces associated with the proposed uses to promote shared parking and pedestrian interaction for the entire development, especially the wellness center.

Direct access from Old Georgetown Road will be provided via Street "A" and through the continuation of Rock Forest Drive, which currently derives primary access from Rock Ledge Drive. A porte-cochere is provided at the entrance to the hotel directly off of Street "B" for valet parking for hotel patrons.

V. PUBLIC HEARING TESTIMONY

Development Review Staff ("Staff") recommended approval of the site plan, approval of a waiver to permit construction of an underground parking garage, which will cross a lot line and approval of a waiver to reduce the number of parking spaces from 524 to 447 in its memorandum dated June 3, 2005 ("Staff Report"). During the hearing, Staff presented its findings consistent with the Staff Report.

The Applicant appeared at the public hearing represented by legal counsel, who testified that the Applicant supports the Staff recommendation and does not object to any of the conditions. No other party testified in support or in opposition to the subdivision request for waiver. Additionally, the record includes no correspondence either in support of, or in opposition to, the subdivision request for waiver.

There were extensive questions from the Board to the Applicant and Staff regarding specific issues dealing with a future recreational facility to be located within the project. The Applicant explained that the final approval over the recreational facility, including any ownership issues or issues about proposed activities within the center would not be in front of the board until Phase IV of the site plan. The Applicant further explained that approval of the site plan for the wellness center portion of the development, associated waivers, was the only issue in front of the Board for approval as part of the public hearing. Following this

discussion the Board asked Legal Counsel how to ensure Board review of the proposed recreation center. Legal Counsel responded by recommending modification of Site Plan Condition 7(a) to read as follows: "Submit a preliminary design of the community center, ownership structure, and associated parking facility to demonstrate the functional feasibility of the center, for Planning Board review and approval." Legal Counsel explained that she wanted to make it clear that although geographically the wellness center would not be within the boundaries of Phase IV, its approval will be linked to Phase IV, and the revised condition makes clear that the Board is to have substantive review over the recreational facility at that time.

Additionally, Staff informed the Board that they recommended approval of a request for a waiver to reduce the number of required parking spaces from 524 to 447 based on two studies submitted by the Applicant. Staff also commented that the Department of Recreation had expressed concerns in a letter that although the Applicant had fulfilled its requirement of Phase III by selecting a location for the wellness center, it would still like to be provided with a more specific proposal for Phase IV, specifying the functional spaces and other community recreation center amenities.

Staff recommended approval of the waiver for a subdivision request. Staff informed the Board that pursuant to Section 50-20(b) of the Subdivision Regulations, a restriction exists for the issuance of a building permit for construction of a dwelling or other structure, which crosses a lot line. Additionally, site plan staff informed the Board that the requested waiver by the Applicant is covered under Section 50-38(a)(1), which provides that in order for the Board to approve the waiver it must find that practical difficulties or unusual circumstances exist that prevent the Applicant from being able to provide two separate parking garages as opposed to one and one lot as opposed to two. While the waiver is a waiver of the Subdivision Regulations, site plan staff explained that they support the waiver because practical difficulties existed in maintaining a circulation pattern for both vehicles and pedestrians as well as maintaining an efficient design, which facilitates the use of both the separately owned apartment building and the hotel/wellness center. Staff also stated that that waiver facilitates a more efficient circulation pattern and multiple access points to the parking garage supports the need for a shared parking facility on two lots and furthermore the shared parking facility also promotes the reduction of the required number of parking spaces.

Commissioner Bryant moved to adopt the staff recommendation, and proposed conditions, as with the modification to Condition No. 7 as proposed by legal counsel and to approve the staff recommendation of the waivers. Commissioner Wellington seconded the motion.

VI. FINDINGS

Based on the uncontested testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required.

The proposed development is consistent with the approved Development Plan (DPA 99-1) in terms of land use, density, location, building height and development guidelines.

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

The Site Plan meets all of the requirements of the MXPB Zone as demonstrated in the project Data Table.

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

- a. Buildings

The site is comprised of three separate buildings consisting of a 12-story (186 feet) hotel, wellness center and an 8-story (104 feet) 87-unit apartment building. The proposed heights are consistent with the 22-stories permitted in the MXPB Zone. All three buildings are connected on the ground plane by a sub-surface parking garage. The apartment building is located on the north side of the site adjacent to the residential towers, and fronting on Rock Forest Drive. The hotel is located on the southern end of the 3.21-acre tract with the Wellness Center integrated in the middle of the hotel and apartment building. The building mass continues the same Italianesque theme initiated in the towers and future defined in the future phases. The east side of the hotel and wellness center back up to the conservation area creating vistas into the natural area.

- b. Open Spaces

The green space requirement is 40 percent for the hotel and 50 percent for the apartment building. The Applicant is providing less than the required green area for both categories; however, the deficiency will be applied to Phase IV. The Applicant will need to provide additional open space in the

amount of 10 percent for the hotel and 2 percent for the apartment building. Staff believes there is more than sufficient green area to be credited toward Phase III in the future phases.

The proposed stormwater management concept consists of (1) on-site water quality and recharge control via grass swales, dry swales, a modified dry swale, drywells and a surface sand filter. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

c. Landscaping and Lighting

The proposed landscaping on the site consists of a clustered mix of shade trees along Street "A" entrance into the site from Old Georgetown Road. The private streets are lined with shade trees in tree pits, which will continue into the next phases.

The lighting plan emphasizes the primary access leading up to the central focal point on Street "A" from Old Georgetown Road and connecting with Street "B". Three light fixtures are proposed to illuminate the streets, pedestrian walkways and internal courtyards of the hotel and wellness center.

The street fixtures are 12-foot-tall Town Commons fixtures similar to other urban environments. The interior courtyard lighting consists of similar fixtures to complement the architecture and Town Commons series mounted at 10 feet.

All luminaries are equipped with shields and optical lens options such as refractors and reflectors to negate glare.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table. The on-site facilities credited toward this development include: an indoor fitness facility, indoor swimming pool, indoor exercise room and three picnic/seating areas.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient.

Access points to the site are to be provided from Street "A", which is the only access in and out of the site from Old Georgetown Road. Street "A" connects

with Street "B", which becomes the southerly extension of Rock Forest Drive. The apartment building derives access to the sub-surface parking facility from Rock Forest Drive. The hotel and wellness center is served by a porte-cochere near the intersection of the two private streets. The hotel and wellness center have a dedicated entrance to the parking garage directly adjacent to the porte-cochere, which will be valet operated.

A waiver to the parking requirements is discussed in detail in the "Summary of Issues" section of the staff report (page 6). Staff is supportive of the waiver request and reduction of 77 spaces.

Pedestrian circulation consists of a 5-foot-wide sidewalk on the south side of Street "A" connecting Old Georgetown Road to the intersection with Street "B". The streetscape includes 12-foot-wide walkways inclusive of tree pits in front of the proposed buildings.

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

The proposed structures and uses are compatible with the existing and proposed adjacent development. Phase III of the Rock Spring Center further enhances the vision of an urban center on the site with a proposed hotel and wellness center, in addition to the housing. The apartments complement the adjacent residential towers and create a transition in height for the residential component to the hotel and wellness center. The mix of uses is consistent with the urban concept proposal for this site and compatible with surrounding development.

5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The original 53.4-acre Davis-Camaliere tract was reviewed for forest conservation as part of the MXPZ zoning application G-713 and the overall Preliminary Plan 1-98092. Refinements to these original approvals are being made as each portion of the site comes in for site plan review. It is at this phase that detailed forest/tree protection plans and planting decisions are approved within the context of the final forest conservation plan requirement for each site plan. The subject site plan covers 3.21 acres of overall 53.4-acre site.

VII. PLANNING BOARD ACTION AND CONDITIONS

The Montgomery County Planning Board APPROVES Site Plan Review #8-05031 for approval of a 157 room hotel, a 90,000 square-foot wellness center and an 87 multi-

family dwelling-unit high-rise building, and approval of a waiver of parking standards to reduce the number of parking spaces from 524 to 447 on 3.21 gross acres in the MXPDP Zone with the following conditions:

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 1-98092A as listed in the Planning Board opinion dated November 9, 2004.

2. Development Plan Amendment

The proposed development shall comply with the binding elements for Zoning Map Amendment G-713 and its associated Development Plan.

3. Site Design

a. Label the retaining walls to be built by the Applicant with the Phase III development.

4. Landscaping

a. Provide details of all of the hardscape materials proposed at signature set including, but not limited to, paver and wall materials, banding, connections, dimensions and spacing.

b. Provide detailed soils analysis for the plant material located on the structured parking.

5. Lighting

a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential and commercial development.

b. All light fixtures shall be full cut-off fixtures or shall be equipped with refractors, reflectors or shields.

c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.

d. The height of the light poles outside the public right-of-way shall not exceed 12 feet.

6. Pedestrian Circulation

a. Pedestrian access from Phase III into the forest conservation area shall be shown on all plans and placed in an appropriate location, so as to protect the critical root zones (CRZ) of the specimen trees to remain. The access point and impact to the CRZ of the affected trees and any associated stress reduction measures, shall be shown on the Tree Protection Plan and reviewed and approved by M-NCPPC-Environmental Planning staff.

7. Community Center

The location of the future community center has been identified by the Applicant in the northwestern corner of the Rock Spring Center site, adjacent to Rockledge Drive and Rock Forest Drive. The community center is to be incorporated into other commercial component of the development as a vertically integrated structure. At the time of site plan review for Phase IV of the development, the Applicant shall:

a. Submit a preliminary design of the community center, ownership structure and associated parking facility to demonstrate the functional feasibility of the center, for Planning Board review and approval.

b. Establish a construction schedule for the community center to ensure timely completion of the facility as part of the overall Rock Spring Center development.

c. Coordinate with the Montgomery County Department of Recreation to:

i. Define the scope of the community center which is to be provided by the Applicant.

ii. Address the operation need of the center.

iii. Explore the possibility of providing wellness related or other type of activities at the community center.

8. Forest Conservation

The Applicant shall comply with the following conditions of approval from M-NCPPC-Environmental Planning:

a. Approval of this forest conservation plan specifically excludes final approval of the limit of disturbance and tree save associated with the Phase IV site plan area to undergo detailed review in the immediate future. While staff generally concurs in the limits, further detailed review and coordination with county DPS will be necessary before a final approval can be granted.

b. Compensatory measures in the form of invasives control and supplemental native forest planting shall be provided within the buffer area as compensation for permanent buffer encroachment, above and beyond forest conservation requirements.

c. The disposition of certain specimen trees at the edge of disturbance associated with Phase III (Trees # 57 and 58, 45" and 36" white oaks) shall be determined prior to clearing and grading after further analysis of potential hazard to proposed development, relative to the current health and structural integrity of these trees.

- d. Record plat of subdivision shall reflect a Category I forest conservation easement over all area of environmental buffers and forest conservation. Amended language to the standard forest easement reflecting a plan for the remaining central park forested buffer area shall be reviewed and approved by M-NCPPC staff prior to recordation of lots associated with Phase IV.
- e. Applicant shall be responsible on a pro-rata basis for forest conservation planting responsibilities as ultimately determined with the final forest conservation plan approval associated with the site plan for phase IV.

9. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated March 22, 2005.

10. Development Program

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

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Community-wide pedestrian pathways and recreation facilities such as the indoor swimming, exercise room and fitness facility and sitting areas shall be completed prior to occupancy of each building. Staff shall receive written notification of the scheduled completion date to schedule an inspection of the internal recreation facilities, lighting and landscaping.
- c. Landscaping associated with each building shall be completed as construction of each facility is completed.
- d. Pedestrian pathways associated with each facility and the private roads shall be completed as construction of each facility and road is completed.
- e. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- f. Provide each section of the development with necessary roads.
- g. Phasing of dedications, stormwater management, sediment/erosion control, recreation, community paths or other features.

11. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of signature set of plans.

12. Signature Set

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

- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Limits of disturbance.
- c. Methods and locations of tree protection.
- d. ~~Forest Conservation easement areas and Tree Protection Plan measures.~~
- e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- f. Details of hardscape elements associated with the site amenities.
- g. All other related conditions of approval pertaining to site design, landscaping, lighting, recreation facilities and pedestrian circulation.

* * * * *

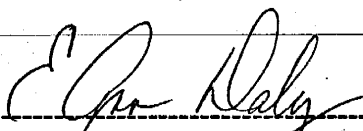
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

MC 1/20/06

Approved for legal sufficiency
M-NCPPC Office of General Counsel

CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, January 26, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Site Plan 8-05031, Rock Spring Center Phase III**. Vice Chair Perdue was temporarily absent.



Certification As To Vote of Adoption
E, Ann Daly, Technical Writer