



**Staff Report: Air Rights Center / 7300 Pearl Street
Project Plan Amendment 92000001B
Preliminary Plan 120110010
Site Plan Amendment 82007001C**

ITEM #s: _____ & _____ & _____

MCPB HEARING

DATE: December 2, 1010

REPORT DATE: November 22, 2010

TO: Montgomery County Planning Board

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

FROM: Elza Hisel-McCoy, Assoc. AIA, LEED-AP Planner Coordinator Development Review Division 301.495.2115 elza.hisel-mccoy@mncppc-mc.org	Richard Weaver Planner Coordinator Development Review Division 301.495.4544 richard.weaver@mncppc-mc.org
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**APPLICATION
DESCRIPTION:**

Addition of 149,611 sf. of office uses to the Air Rights Center project, for a total 513,711 sf. of office, hotel, and retail uses, and a waiver request to reduce on-site parking, on a consolidated lot of 3.73 gross acres, located in the Bethesda CBD south of Montgomery Avenue between Waverly Street and Pearl Street, in the CBD-2 Zone.

APPLICANT: Donohoe Development Company

FILING DATE: July 27, 2010

RECOMMENDATION: Approval with conditions

**EXECUTIVE
SUMMARY:**

The proposed amendments require the re-subdivision of two parcels on the Air Rights Center property to allow the redevelopment of an existing obsolete commercial building. While offering little additional on-site public use space, the Applicant has been coordinating with the Parks Department and the Town of Chevy Chase to prepare a master plan for the redevelopment of the north end of Elm Street Park, and to implement a portion of that plan.

Approval signatures

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SITE DESCRIPTION

Vicinity

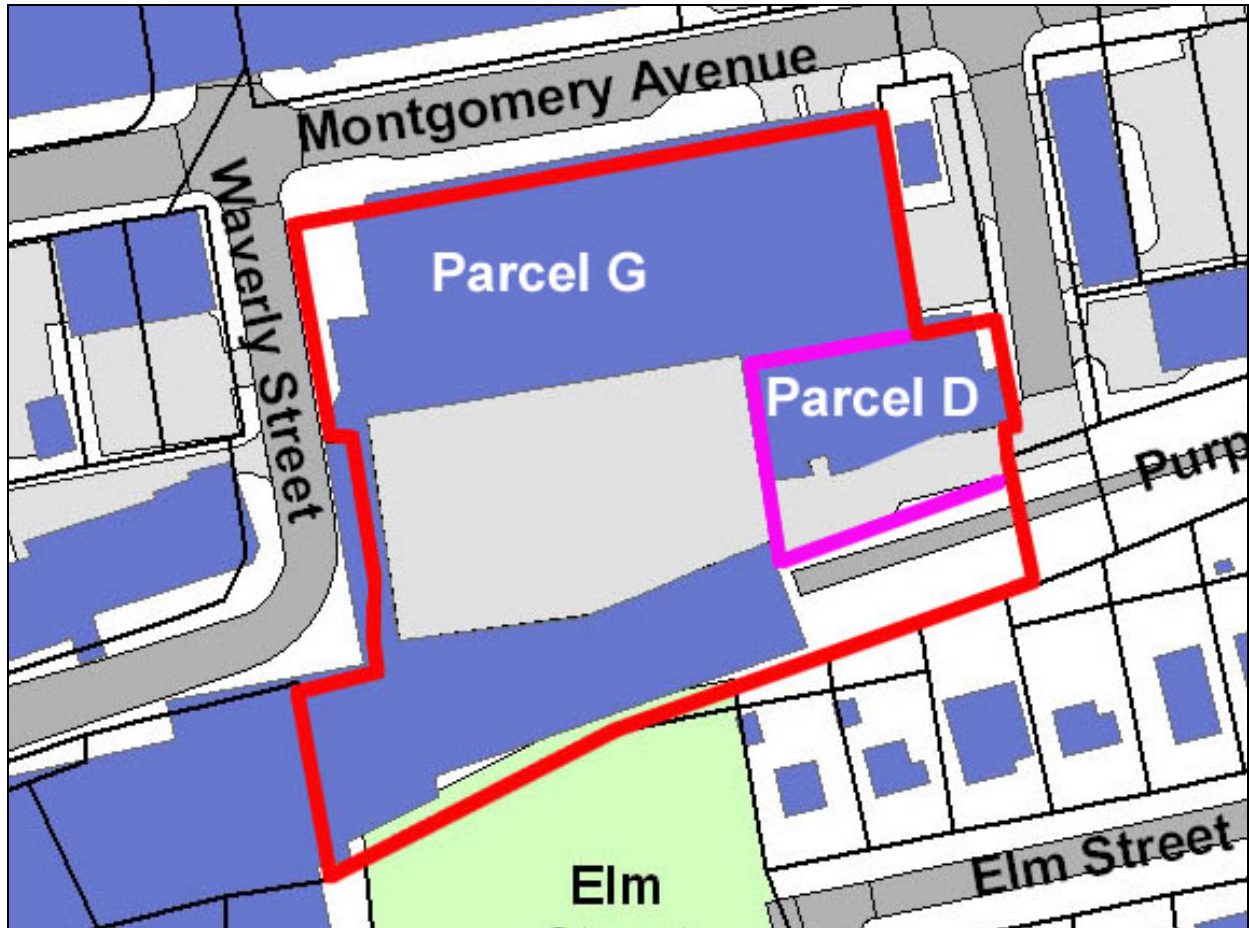
The subject property occupies the majority of a block located east of Wisconsin Avenue in the Bethesda Central Business District (CBD). The block is bound by Montgomery Avenue on the north, the Capital Crescent Trail and Purple Line alignment on the south, Pearl Street on the east, and Waverly Street on the west. The adjacent uses include high-rise commercial and residential on the north side of the Purple Line alignment and single-family homes to the south. The site is within walking distance of the Bethesda Metro Station, Elm Street Park, and the existing Capital Crescent Trail. The adjoining smaller lot in the southwest corner of the intersection of Montgomery Avenue and Pearl Street is under separate ownership and is not part of this proposal.



Vicinity Map

Site Analysis

The subject property is entirely developed and consists of two parcels. The first, parcel G, is currently improved with a 12-story office building (the North Tower) on Montgomery Avenue, a 216-room Hilton Garden Inn hotel on Waverly Street, interior retail space accessed off Waverly Street, and a structured parking garage behind. The second, parcel B, currently features a 20,818 sf. office building that will be demolished and replaced under this proposal.



Parcel Location Map



Aerial Photo Looking North

The current Capital Crescent Trail, and the future alignment of the Purple Line, is fully contained within the southern edge of the property, and runs beneath the structured parking garage en route to Woodmont Avenue. The community has limited pedestrian access if they wish to cross the trail between Elm Street Park and the southern terminus of Pearl Street, given the five-foot grade difference between the trail and the street. Currently there is no stair or other means of formally constructed access; pedestrians – primarily students walking between the Town of Chevy Chase and Bethesda-Chevy Chase High School – must scuffle up the slope or make do with makeshift facilities.

PROJECT DESCRIPTION

Previous Approvals

The proposed project is an addition to the tract area and uses of the existing Air Rights Center complex on Parcel G. The North Tower, located on Montgomery Avenue was constructed in 1980 and includes 364,100 sf. of retail and commercial uses.

The Waverly Street site, which is currently occupied by the hotel, was originally approved by the Planning Board for a 182-unit multi-family residential building through Project Plan 920000010, on December 2, 1999, and Site Plan 820010080, on January 4, 2001. The Board later superseded those approvals with Project Plan Amendment 92001001A, on April 28, 2005, and Site Plan 820070010, on December 14, 2006. These approvals allowed 132,421 sf. of hotel uses in addition to the existing 4,600 sf. of retail uses and 364,100 sf. of office uses, for a total of

501,121 sf. for the existing Air Rights Center. Minor changes to the hotel development have been approved by the Planning Director, on June 23, 2008, and June 23, 2009.

Proposal



Site Plan

Subdivision of Land

The preliminary plan would create a new platted parcel to accommodate the proposed use as well as all other existing and approved uses.

Land Use

The plan proposes the development of a 149,623 sf. office building in the southeast corner of the site, at 7300 Pearl Street.

Parking Waiver

On November 17, 2010, the Applicant submitted a request for a parking waiver (see Appendix B). Since this waiver request was not included in the original application, the Applicant revised the posted sign notices on the site and sent a supplementary notice of application to parties of record on November 12, 2010. As of this writing, staff has received no comment on the waiver from parties of record.

The parking waiver request, as drafted by the Applicant, seeks relief from 193 parking spaces. This calculation is based not on the requirements of the code – for the project as a whole – but rather by parcel. The Applicant explains this was done for purposes of negotiation with the Parking Lot District (PLD) regarding the application of the PLD tax. Analyzed by parcel, the 149,611 sf. of office space on Parcel D, 7300 Pearl Street, needs 315 parking spaces but provides only 122. The resulting difference of 193 spaces equals 61 percent of the total.

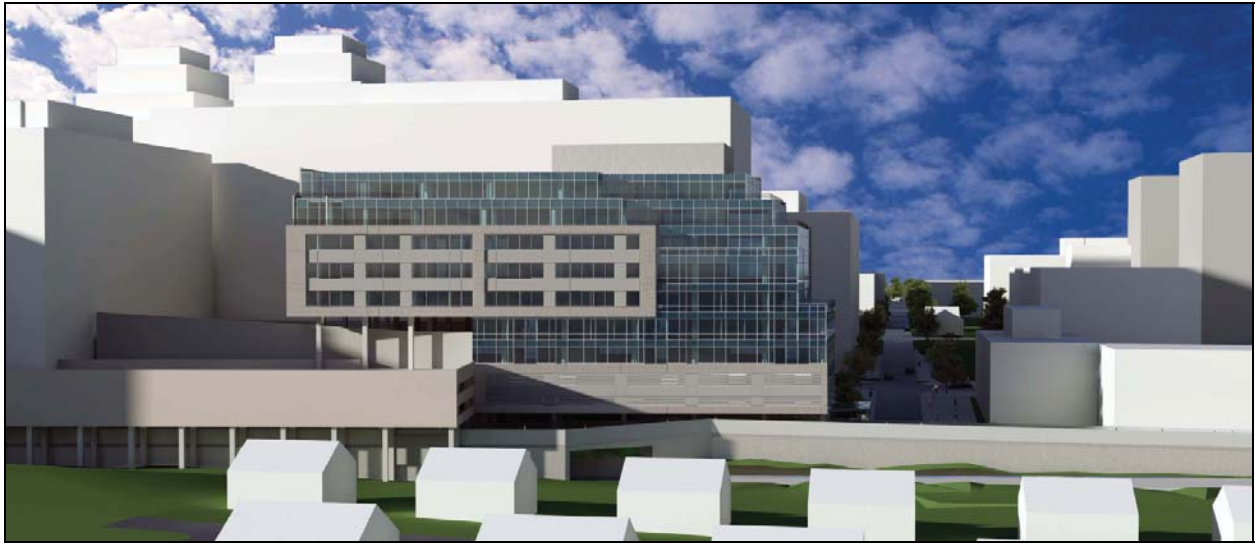
The existing office, retail, and hotel uses on Parcel G require 808 spaces, while providing 940 spaces, yielding a surplus of 132 spaces. Under a single Project Plan, this surplus works to the benefit of the new development under proposal. Thus per the zoning code, the existing and proposed uses included on the site as a whole require 1,123 parking spaces. The existing and proposed parking on site totals 1,062 parking spaces. The difference is 61 parking spaces, about 5% of the total requirement. The waiver request covers the 61 parking spaces not being provided on site.

Design

The proposed building is designed to provide street presence along Pearl Street for the CBD while minimizing its visual impact on the single-family homes south of the Purple Line. The proposed design steps the massing of the building back from the master-plan-recommended height of 60 feet, along Pearl Street, to its maximum height at the interior of the site. For specific discussion of the building height's conformance to the Sector Plan, see the Findings below.



Montgomery Avenue Perspective



Southern Elevation, Aerial Perspective

Public Amenities

The redevelopment of Parcel B will increase the overall on-site public space for the larger site, from 31,733 sf. to 32,676 sf. However, with the consolidation of parcels B and G into a single lot, the proportion of public use space, relative to the new larger net lot area, decreases from 26.5% to 24%.



Parcel Location Map, Illustrative

Off-site, in addition to the amenities provided under the approvals associated with the hotel, with these amendments the Applicant is providing:

- Streetscape improvements along Pearl Street, to extend north to the intersection with Montgomery Avenue and west along Montgomery Avenue to complete the streetscaping of that corner.
- Preparation of a master plan for the redevelopment of the north section of adjacent Elm Street Park in the Town of Chevy Chase, in coordination with Parks Department and Town staff. The Applicant previously provided similar planning for the south section of the park, pursuant to the hotel approvals.
- Redevelopment of a portion of the north section of Elm Street Park, as approved by Parks Department staff.

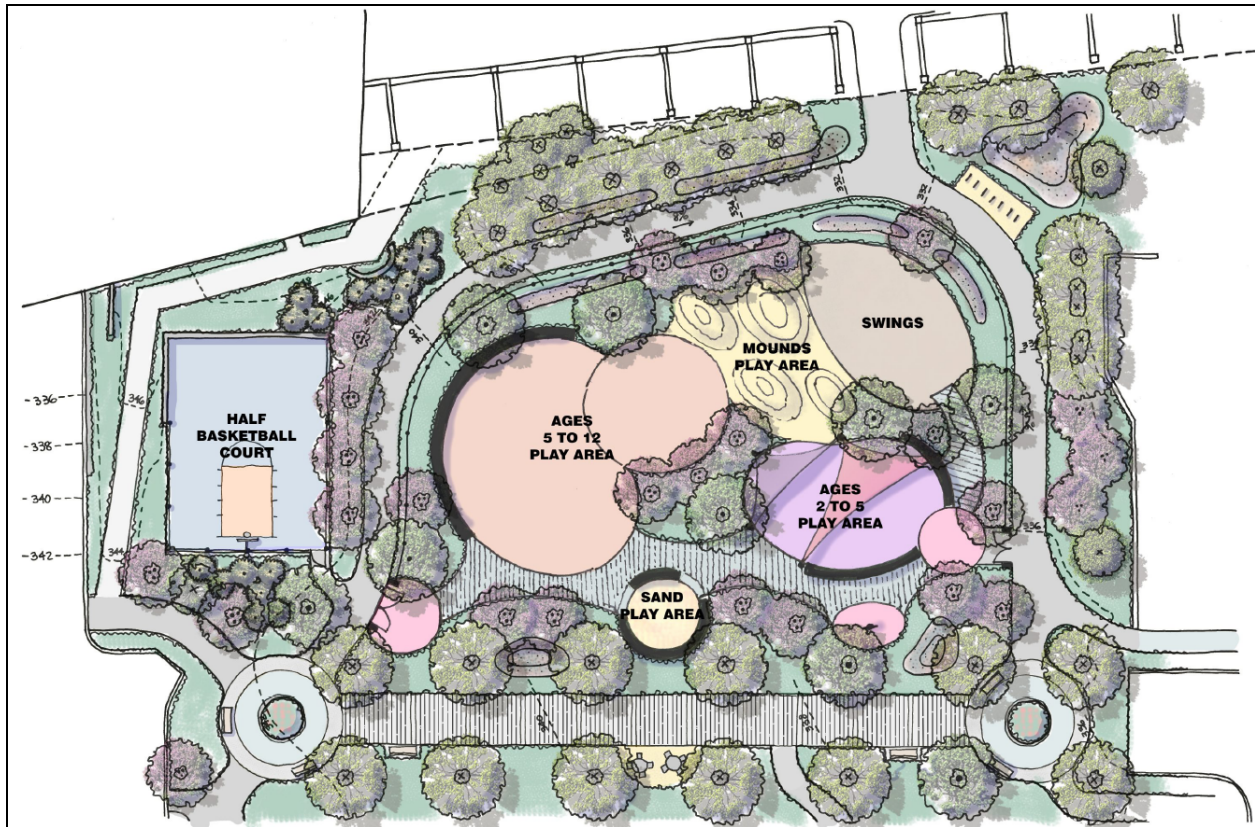
Elm Street Park

A schematic plan illustrating the redevelopment of the park was submitted for review by Park Development Division (PDD) staff as part of the subject development proposal. The plan is in conformance with the overall concept plan as presented to the Planning Board in 2000. PDD staff met with staff and officials from the Town of Chevy Chase and Development Review Division (DRD) staff in an effort to coordinate review of the proposal. At the time of this writing the Applicant is revising the schematic plan as a result of comments received by staff and the Town of Chevy Chase. It is anticipated that a new schematic plan will be available prior to the Planning Board hearing.

A budget worksheet was prepared and submitted by the Applicant and reviewed by staff. Staff compared the costs submitted by the Applicant with actual construction costs from recent bid proposals for similar park construction projects. Staff adjusted the budget worksheet numbers as appropriate, and the Applicant is in agreement with the revised worksheet. Based on the schematic plan, and using the revised budget worksheet, the total cost to reconstruct the northern portion of the park will be approximately \$1,000,000. The Applicant is proposing to construct between \$550,000-\$600,000 of improvements in the park including infrastructure, paving, lighting, fencing, landscape planting, signage, etc. The specific list of improvements is outlined in the recommended Conditions of Approval.

The remainder of the proposed plan will be constructed by the Department of Parks. This work includes the playground equipment and surfacing, renovation of the basketball court, new shade structures, ornamental gateways and public art, a drinking fountain, and rerouting of overhead utility lines. Staff proposes to include funding for design and construction of these improvements in the FY13-18 Capital Improvements Program (CIP).

Based on the Applicant's projected schedule, construction of the Applicant's park improvements could occur as early as 2012. Staff proposes to include a CIP budget request for the remainder of the work in FY13, so that funds are available to complete the remainder of the park immediately after the Applicant fulfills its obligation. The Town of Chevy Chase has also expressed a willingness to contribute towards the completion of the park. At this time the certainty and extent of their contribution has not been determined.



Illustrative Park Master Plan

Vehicular and Pedestrian Circulation

For the redeveloped commercial building, primary vehicular access for parking and loading will be from Pearl Street. Pedestrian access to the building will also come from Pearl Street. Future pedestrian and bicycle access to the elevated Purple Line is also planned from Pearl Street.

PROJECT ANALYSIS

Sector Plan

The *Approved and Adopted 1994 Bethesda Central Business District (CBD) Sector Plan* confirms the Central Business District (CBD-2) zone for the subject property. The property is located in the Plan’s Metro Core District where the highest intensities of development are expected. Increased choices and activities, highest intensity, distinctive infill buildings, and lower densities and heights near the edge of the district (p.58) are objectives of the Metro Core district.

The Plan’s guidelines for new development in the district recommend that projects:

- *Reinforce Metro Center as the focus of urban activity.* Adjacent properties should develop in a manner that complements the activities and urban open space at Metro Center.
- *Maintain a compact development with the tallest buildings concentrated in the center.* Development at perimeter locations of the Metro Core should step down in height to achieve a more gradual transition and better compatibility with the adjacent areas.

- *Locate new open space to tie into the existing “Discovery Trail” network and to expand the pedestrian connections. Where appropriate, locate new open space in a manner that reinforces the gateways and provides a transition between districts.*
- *Step down the building height to six floors along East-West Highway for the McDonald’s property on Pearl Street (p.61).*

Transportation

Transportation Planning Staff and the staff of other applicable agencies have reviewed the adequacy and safety of the pedestrian, cyclist, and vehicular circulation patterns and impacts. A detailed review of their analysis is incorporated below in the Preliminary Plan Findings section of the staff report.

Environment

Except for the portion of the property containing the existing Capital Crescent Trail, the entire site is already developed.

Development Standards

The subject site is zoned CBD-2, which is governed by the development standards in Section 59-C-6.23 of the Montgomery County Zoning Ordinance. As the data table shows, the proposed development meets all of the requirements of the zone. Although this project is within a Parking Lot District, so that parking spaces are not required to be provided, parking calculations have been made on the submitted Project Plan.

Project Data Table for the CBD-2 Zone

Development Standard	Permitted/ Required	Previously Approved	Proposed for Approval
Gross Tract Area (sf.)	18,000	143,238	162,683
Previous Dedication (sf.)			23,320
Proposed Dedication (sf.)		23,320	2,119
Net Lot Area (sf.)		119,918	137,244
Density, Maximum (FAR)	4	3.5	4
Density, Maximum (sf.)	650,732	501,121	650,732
Office (sf.)		364,100	513,711
Retail (sf.)		4,600	4,600
Hotel (sf.)		132,421	132,421
Building Height, Maximum (ft.) Measured from the building height measuring point approved by the Department of Permitting Services	143	97	97
Building Setbacks, Minimum (ft.) See the Certified Site Plan for dimensions	N/A		0
On-Site Public Use Space, Minimum (%) Per of Net Lot Area	20	26.5	24
On-Site Public Use Space, Minimum (sf.) Per of Net Lot Area		31,733	32,676
Off-Site Public Amenity Space, Minimum (%) Per of Net Lot Area		56.4	78
Off-Site Public Amenity Space, Minimum (sf.) Per of Net Lot Area		67,620	106,503
Parking Spaces, Maximum	1,123	N/A	1,062*
*The balance of 61 parking spaces is the subject of a parking waiver request			

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Throughout the review process, Development Review and Parks Department staff has been coordinating with representatives from the Town of Chevy Chase.

In a letter dated November 17, 2010, (see Appendix D) the Town of Chevy Chase identified several issues of concern, primarily:

- the proposed building height is “materially inconsistent with the sector plan’s recommendation for the site.”
- mitigation of light and noise impacts from the proposed building and associated above-grade parking;
- architectural design of the building façade facing the town;
- realization of the interim pedestrian and bicycle connection between the existing Capital Crescent Trail and Pearl Street.

Development Review and Community Planning staff have coordinated extensively with the Applicant and Town regarding the appropriate building height for 7300 Pearl Street. This

coordination involved several iterations of the building massing and façade design. The Applicant has been very responsive to the comments of MNCPPC staff and representatives of the Town, lowering the height of the building along Pearl Street to 60 feet, gradually stepping the building back to the maximum height in the interior of the block, and increasing the use of reflective materials on the southern and eastern facades to reduce the visual impact of the building.

In a letter dated November 16, 2010, (responding to an earlier e-mail draft of the Town's concerns) (see Appendix D) the Applicant agreed to address the mitigation and design issues. Regarding the interim trail connection, the Applicant maintains that location of the connection on their side of Pearl Street as suggested by the Town is not feasible, they note that their PAMR payment will go a significant distance towards realizing the connection in the near term.

Staff has included the Applicant's commitments in the conditions of approval.

Project Plan

FINDINGS

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

- (a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under chapter 56.
- (b) Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the development and are planned, designed and situated to function as necessary physical and aesthetic open areas among and between individuals structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.
- (c) Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.
- (d) Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.
- (e) The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.
- (f) The adequacy of provisions for construction of moderately priced dwelling units in accordance with chapter 25a if that chapter applies.
- (g) The staging program and schedule of development.

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

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

As the following Findings demonstrate, the subject Project Plan amendment adequately addresses each of these considerations, as conditioned by the Staff Recommendation.

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

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

Intents and Purposes Of The CBD Zones

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

(1) "To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal Project Plan is approved on review by the Planning Board."

The proposed development responds to dual goals of the master plan by promoting density near metro while reducing the visual impact of the building's height and massing as it moves towards the one-family residential units south of the Purple Line alignment.

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

While the amendment proposes only additional office space and integrated structured parking, the larger site includes both hotel and retail uses, and provides a diversity of land uses for workers, visitors, shoppers, and residents.

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

The proposed redevelopment of the office building fills out the larger Air Rights Development, complementing the existing uses and taking advantage of shared parking and loading areas. The proposed architectural treatments promote compatibility not only with the lower commercial buildings just outside the CBD to

the east, but endeavor to minimize the visual impact of the project on the residential neighborhood to the south through the use of building massing and materials. Further, pedestrian and vehicular circulation to the building remains largely unchanged from the existing accommodating arrangement.

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

The proposed development is within easy walking distance of the Bethesda Metro station and several bus lines. As conditioned, the location and accessibility of the proposed development to the local transit system is an excellent realization of the Sector Plan transit and sustainability goals, providing jobs, retail, and hotel uses within walking distance of the Metro and shopping areas.

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

The proposed development will improve Pearl Street and complete the streetscape improvements along this corner of the block. Further, the Applicant’s transportation mitigation contributions will help to improve interim access between Pearl Street and the existing Capital Crescent Trail.

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

The proposed development provides no housing directly, but promotes the development of the immediate Central Business District and has potential to provide employment opportunities for nearby multi-family and one-family residences.

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

The proposed development will consolidate two properties and will take advantage of shared facilities for parking, loading, and internal pedestrian circulation.

Further Intents of the CBD-2 Zone

Section 59-C-6.213 of the Zoning Ordinance states:

- (b) *In the CBD-R1, CBD-R2, CBD-2 and CBD-3 zones it is further the intent to foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.*
- (c) *In the CBD-2 zone it is further the purpose:*
- (1) *To provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts; and*
 - (2) *To provide an incentive for the development of residential uses to meet the needs of those employed within the central business districts and those who will be able to use the district transit facilities to travel to and from places of employment.*

The proposed development will increase the amount of office space available for employers in the Bethesda CBD. The proposed architectural treatment, including façade materials and the stepping down of the building height from the middle of the property to the edge opposite the single-family homes on the other side of the Purple Line Alignment, promote compatibility along the edge of the CBD by mitigating the visual impact of the project. The proposed building heights are consistent with development on this tract and previously approved buildings within the general area.

Requirements of the CBD-2 Zone

The table on page 13 of the staff report demonstrates the conformance of the Project Plan with the development standards under the optional method of development. Among other standards, the proposed development meets the area, public use space, building height, and density requirements of the zone.

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

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

To this end, in addition to the public use space and amenities provided under the previous Project Plan approvals for the larger development, the proposed development is proffering the following package of amenities and public facilities:

- Streetscape improvements along Pearl Street, to extend north to the intersection with Montgomery Avenue and west along Montgomery Avenue to complete the streetscaping of that corner.
- A master plan for the redevelopment of the north section of adjacent Elm Street Park in the Town of Chevy Chase, in coordination with Parks Department and Town staff. The Applicant previously provided similar planning for the south section of the park, pursuant to the hotel approvals.
- Redevelopment of a portion of the north section of Elm Street Park, as approved by Parks Department staff.

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

The proposed development is consistent with the Sector Plan's recommendations for "optional method employment uses on most CBD-2 sites at 4 FAR" (p.58). The Applicant will consolidate two Air Rights Center properties on Block 5 into one recorded lot.

As conditioned, the development substantially conforms to the Sector Plan's recommendations. Immediately west of Pearl Street, the Plan recommends heights of 60 feet and 90 feet extending to Waverly Street. The building height of the proposed addition, 97 feet, exceeds the recommended 90 feet. The highest segment of the building is located adjacent to the existing parking garage and the office building at 4550 Montgomery Avenue.

Further, the right-of-way for the Purple Line, which is approximately 65 feet wide, separates the proposed building from the Town of Chevy Chase.

The Applicant has made significant efforts to redesign the building to improve compatibility with the adjacent residential community and compliance with the Sector Plan's recommendations. Several features were added to the southern portion of the building, including minimization of reflective glass, limitation of lights, and reduced building height for certain sections of the building to establish compatibility. The proposed building has four tiers, ranging from 97 feet to 61 feet.

Specifically for the Air Rights Center area, the Sector Plan states that "on the parking deck of the second Air Rights Building, the Plan recommends a small residential building, if compatibility with the adjacent single-family area is maintained. Development should have a maximum height of 90 feet, stepping down to 60 feet toward Pearl Street." (p.61). In 2006, Hotel (#820070010), located along Waverly Street on the Air Rights property, was approved at 116 feet at its highest point, and 89 feet at its lowest point. The recommended height for this property was also 90 feet.

The proposed building's transition in height towards Pearl Street, the Capital Crescent Trail (Purple Line) and the Town of Chevy Chase is consistent with the Plan's recommendation to reduce a building's height and impact at the edges of CBD. Further, lower heights contribute to achieving compatibility with the adjacent areas.

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

Within the context of the Bethesda CBD, the proposal integrates seamlessly into the established Air Rights Center and provides a well-defined building entrance on Pearl Street. At the same time, the architectural choices for façade materials and stepped-back massing help to reduce the visual impact of the project from, and therefore promote compatibility with, the single-family homes across the Purple Line alignment that is the southern edge of the CBD in this neighborhood.

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

The proposed development is located within the Bethesda CBD, replete with public services. The proposed development will not overburden the existing utilities. As a condition of approval, the Applicant will enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Bethesda Transportation Management Organization.

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

A standard method project would only allow a density of 2 FAR on this site. Further, the requirement for public amenities would be removed and the public use space requirement would be reduced by one-half. Because infill development and density at transit hubs is a core value of smart growth and given the number and quality of public amenities being proffered, the optional method of development is much more desirable and more efficient for this particular site.

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

The proposed development does require MPDUs because it does not provide any residential uses.

- (g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and would transfer public open space or development density from one lot to another, or transfer densities within a lot with two or more CBD zones, under 59-C 6.2351 or 59-C 6.2352, the Planning Board may approve the Project Plan only if...the project will result in an overall land use configuration that is significantly superior in meeting the goals of the applicable master or sector plan and the zone than what could be achieved without the proposed transfer.*

The proposed development will transfer density between two contiguous lots under common ownership, which will be consolidated into a single lot with a preliminary plan under concurrent review with this Project Plan Amendment. As outlined above, the proposed development realizes the goals of the sector plan and the zone.

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

The project meets the requirements of the forest conservation law.

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

The Project Plan has an approved stormwater management concept. Stormwater management requirements will be met on-site via a green roof.

RECOMMENDATION AND CONDITIONS

Approval of Project Plan 92000001B subject to the following conditions:

1. Conformance with Previous Approvals

The Applicant must comply with the conditions of approval for Project Plan 92000001A, except as modified herein.

2. Development Ceiling

The proposed development is limited to 513,711 square feet of gross floor area.

3. Building Height

- a. The proposed development is limited to a maximum building height of 97 feet as determined by the Department of Permitting Services approved building height measurement point.
- b. The proposed building at 7300 Pearl Street must maintain a maximum base building height along Pearl Street of 61 feet, as measured from the sidewalk at the front of the building, before stepping back, as illustrated in the Certified Site Plan, up to the maximum height allowed above.

4. Public Use Space and Amenities

- a. The Applicant must provide a minimum of 24% of the net lot area for on-site public use space, to be easily and readily accessible to the general public and available for public enjoyment.
- b. Where sufficient right-of-way exists, the Applicant must install streetscape improvements consistent with the full Bethesda Streetscape Standard, including undergrounding of utilities, along the west side of Pearl Street and, where it does not presently exist, the south side of Montgomery Avenue.
- c. Where sufficient right-of-way does not exist to afford full implementation of the Bethesda Streetscape Standard along the west side of Pearl Street and the south side of Montgomery Avenue, the Applicant must provide interim streetscape improvements to be approved by Development Review staff prior to certified site plan.
- d. The Applicant must provide a master plan for the redevelopment of the northern portion of Elm Street Park in the Town of Chevy Chase. This plan must be approved by Parks Department staff and the Town of Chevy Chase and be included in the certified site plan.

5. Maintenance and Event Management Organization

Prior to issuance of use-and-occupancy permits, the Applicant will create and implement a maintenance plan for all on-site public use space unless an alternative arrangement is made with another entity.

Preliminary Plan

FINDINGS

Master Plan Compliance

As stated within the Project Plan review section of this report, the proposed development complies with the recommendations in the *Approved and Adopted 1994 Bethesda Central Business District (CBD) Sector Plan*. The Preliminary Plan also conforms to the Project Plan. The Property is located in the Plan's Metro Core District where the highest intensities of development are expected. Increased choices and activities; highest intensity; distinctive

infill buildings; and lower densities and heights near the edge of the district (p.58) are objectives of the Metro Core district.

Guidelines for new development in the district are to:

- Reinforce Metro Center as the focus of urban activity. Adjacent properties should develop in a manner that complements the activities and urban open space at Metro Center.
- Maintain a compact development with the tallest buildings concentrated in the center. Development at perimeter locations of the Metro Core should step down in height to achieve a more gradual transition and better compatibility with the adjacent areas.
- Locate new open space to tie into the existing “Discovery Trail” network and to expand the pedestrian connections. Where appropriate, locate new open space in a manner that reinforces the gateways and provides a transition between districts.
- Step down the building height to six floors along East-West Highway for the McDonald’s property on Pearl Street (p.61).

Staff finds that the proposed development generally conforms to the recommendations within the Sector Plan, however; of particular issue is that the building’s maximum height of 97 feet exceeds the recommended maximum height in the Sector Plan of 90 feet along the residential development to the south in the Town of Chevy Chase.

As explained in the Project Plan section, the applicant has made significant efforts to redesign the building to improve compatibility with the adjacent residential community and compliance with Sector Plan’s recommendations. Several features were added to the southern portion of the building, including minimization of reflective glass, limitation of lights, and reduced building height to establish compatibility. The proposed building has four tiers, ranging from 97 feet to 61 feet. The building’s transition in height towards Pearl Street, Capital Crescent Trail (Purple Line) and the Town of Chevy Chase is consistent with the Plan’s recommendation to reduce a building’s height at the edges of CBD. Further, lower heights contribute to achieving compatibility with the adjacent areas.

Roads and Transportation Facilities

In accordance with the *Bethesda CBD Sector Plan* and *Countywide Bikeways Functional Master Plan*, the discussion of the sector-planned roadways and bikeway is as follows:

The subject site is located in the northwest corner of Pearl Street and the future Capital Crescent Trail right-of-way. The primary vehicular access for employees and service vehicles is proposed from Pearl Street. Pearl Street abuts the site to the east and is designated as a business district street with a recommended 85-foot right-of-way and a bicycle friendly area. In accordance with the *Countywide Bikeways Functional Master Plan*, a signed shared roadway, SR-11, is designated along Pearl Street. The Applicant is requesting a waiver to

reduce the right-of-way from 85 to 60 feet wide. Refer to the discussion of the Applicant's requested waiver to reduce the *Sector Planned* recommended right-of-way below.

Montgomery Lane (i.e., the eastbound lanes of MD 410) is designated as a business district street with a recommended 80-foot right-of-way and no bikeway. Waverly Street is designated as a business district street with a recommended 80-foot right-of-way and no bikeway.

Pedestrian Access

Pedestrian access to the building will also come from Pearl Street. Future pedestrian and bicycle access to the elevated Purple Line is also planned from Pearl Street. As a public amenity requirement, a sidewalk that exists along Pearl Street must be upgraded where sufficient right-of-way exists to Bethesda Streetscaping standards. For the remainder of the west side of Pearl Street to Montgomery Lane, the Applicant will provide an interim upgrade to the existing sidewalk. The subject site is within walking distance of approximately 1,500 feet to the east of the Bethesda Metrorail Station located in the southwest corner of Wisconsin Avenue (MD 355) and Montgomery Avenue (eastbound MD 410). Ride-On route 33 and Metrobus routes J-2, J-3, and J-4 operate along Montgomery Lane. Transit service is not available along the segment of Pearl Street fronting the subject site.

Pearl Street Right-of-Way

The Bethesda CBD Sector Plan, Technical Appendix recommends that Pearl Street be within a 60 foot wide right-of-way as shown on the submitted preliminary plan. The Technical Appendix makes the following statement:

“The Sector Plan recommends retaining the right-of-way of 60 feet on Pearl Street south of East-West Highway to the Georgetown Branch to allow space for pedestrians and a Class II hiker-biker trail. Additional building setbacks may be required to achieve at least a 15-foot sidewalk on both sides of the street.”

The submitted plan accurately reflects this Sector Plan requirement.

Capital Crescent Trail

The future Capital Crescent Trail is designated along the southern property line as a shared use path, SP-6 in accordance with the *Countywide Bikeways Functional Master Plan*. The Purple Line alignment is designated along the southern property line in accordance with the *Purple Line Functional Master Plan*. The MTA's current design for the trail along the Applicant's southern border shows the trail elevated directly above the train and (going east toward Silver Spring) moving to a position north of the train tracks within the segment of the trail and Purple Line bordered by the Applicant's project. The trail is also starting to descend in this area; from a point approximately nine feet above Pearl Street to a point just east of

Pearl Street where an access point (ramp) is planned. In summary, the Applicant's southern boundary is adjacent to a critical transition point for the Capital Crescent Trail.

The Preliminary Plan reflects a perpetual easement along the southern boundary of the site that is estimated to ultimately be 66 feet wide when combined with the existing Georgetown Branch right-of-way. This width is consistent with the width provided for along a large segment of the Georgetown Branch right-of-way shown within the MTA concept plans to accommodate both the Purple Line and the adjacent trail.

The Applicant's plan includes a minimum roof height of 61 feet for the area directly above the Capital Crescent Trail. The first floor of the building is at an elevation of 330 feet above sea level. The highest elevation of the trail at any point along the southern boundary of the Applicant's site is 336 feet above sea level so the Applicant's plan reflects ample room above the trail.

The MTA has reviewed the 7300 Pearl Street Drawings C-8, C-9, C-10, and C-11 and determined that except for the retaining wall shown on the plans, there will be sufficient space for the construction and operation of the Purple Line and Trail. More specific information on the MTA review of the plans for 7300 Pearl Street is included in their letter of November 3, 2010. MTA also emphasizes that it is critical that the Applicant continue to coordinate with the MTA during each phase of the project design.

Access to the Future Capital Crescent Trail

No access to the existing trail is planned from the Applicant's site. There is a future planned access point (in the form of a ramp constructed by others) on the east side of Pearl Street. Pearl Street is about five feet above the existing trail. Staff supports consideration of the construction of an interim access point east of Pearl Street as part of the project implementation. The existing informal access point at that location is far from ideal, although it is heavily used by students walking to and from school.

Sector Plan Transportation Demand Management

As a proposed office building that would employ over 25 persons within the Bethesda TMD, the Applicant is required to enter into a Traffic Mitigation Agreement to participate in the Bethesda TMO to assist in achieving its non-auto-driver mode share goal for employees working in Bethesda TMD.

Local Area Transportation Review (LATR)

In accordance with the *Local Area Transportation Review and Policy Area Mobility Review Guidelines*, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. Based on the results of this traffic study, the table below shows the calculated Critical Lane Volume (CLV) values at the studied intersections.

Table 1 below shows the number of peak-hour trips generated by the proposed land uses within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods:

Table 1: Site-Generated Vehicular Trips

Land Use	Square Footage	Peak Hour Trips	
		Morning	Evening
Proposed General Office Space	150,000 sq. ft.	225	225
Existing General Office Space	20,818 sq. ft.	31	31
Total Net Increase in Trips		194	194

Table 2: CLV values at the Studied Intersections

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total Future
1. Pearl Street & East-West Highway	Morning	690	797	853
	Evening	560	634	703
5. Pearl Street & Montgomery Lane	Morning	535	681	776
	Evening	826	962	1,128

Table 2 shows that the CLV values at all studied intersections are less than the congestion standard of 1,800 CLV for the Bethesda CBD Policy Area and, thus, the LATR test is satisfied.

Policy Area Mobility Review (PAMR)

As a development located in the overall Bethesda/Chevy Chase Policy Area, the required trip mitigation is 30% of the new peak-hour vehicular trips generated by the proposed land uses within the weekday morning and evening peak periods. As calculated in Table 3 below, 62 new trips must be mitigated based on using Countywide trip-generation rates. However, 12 of these 62 new peak-hour trips are mitigated by being located in a Metrorail station policy area that has viable non-auto transportation alternatives. In Table 3 below, the trip credit is determined by subtracting the difference between:

1. The number of new peak-hour trips based on using the lower trip-generation rates for developments located in the Bethesda CBD, and
2. The number of new peak-hour trips based on higher trip-generation rates used on a Countywide basis.

Table 3: Trips Mitigated by being Conveniently Located near a Metrorail Station

Land Use	Square Feet	New Peak Hour Trips	
		Morning	Evening
Starting Base Condition using Countywide Trip-Generation Rates			
Proposed General Office Space	150,000sf.	247	236
Existing General Office Space	20,818sf	35	30
Base Vehicular Trips		212	206
Resultant Base Condition using Bethesda CBD Trip-Generation Rates			
Resultant Peak-Hour Trips from Table 1		194	194
Reduction: Base minus Resultant Condition		18	12
PAMR 30% New Site-Generated Trips		64	62
Additional Trips to be Mitigated		46	50

Some of the required PAMR trips can be satisfied by being located in the Bethesda CBD Metrorail Policy Area. For the remaining PAMR trips, the Applicant proposes to pay \$11,300 per PAMR trip to mitigate the remaining PAMR trips as described in the recommended conditions.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The subject property will be served by public water and sewer house connections. Gas, electric and telecommunications services are also available to serve the property. Police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The application proposes no new residential component; therefore, the application is not subject to a School Facilities Payment. The application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS) which has determined that the property has adequate access for emergency vehicles.

Environment

Forest Conservation Plan

There are no significant environmental features on the subject property and there is no forest on-site. Staff has recommended approval of the submitted forest conservation plan dated September 3, 2010, which requires that all forest conservation requirements be met off-site. The Preliminary Plan complies with Chapter 22A of the Montgomery County Code, Forest Conservation Law. Although not a requirement of Chapter 22A, the project will implement the Bethesda Streetscape Standards where right-of-way exists, therefore, street trees will be provided in accordance with those standards.

Stormwater Management

The stormwater management concept for this project was approved on April 7, 2010 by the Montgomery County Department of Permitting Services. Under this approval, stormwater management will be provided by using green roof technology for the new building. Stormwater management for the sidewalks will be addressed by using permeable pavement or grass filter strips adjacent to the sidewalks.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed lot and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The proposed subdivision was reviewed for compliance with the dimensional requirements for the CBD-2 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

RECOMMENDATION AND CONDITIONS

Approval of Preliminary Plan 120110030 pursuant to Chapter 50 of the Montgomery County Subdivision Regulations and subject to the following conditions.

1. Approval under this preliminary plan is limited to an additional 150,000 square feet of general office space added to the existing approved uses on proposed Parcel H.
2. The applicant must comply with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
3. Prior to issuance of any building permits, the Applicant must satisfy the Policy Area Mobility Review (PAMR) test by paying \$565,000 (i.e., \$11,300 per PAMR trip) to the Montgomery County Department of Transportation (MCDOT) towards the following non-auto transportation improvements within the overall Bethesda/Chevy Chase Policy Area (listed in order of priority):

- a. Implement, including property acquisition and/or all necessary means of access easement for, and construction, of an ADA-compliant interim pedestrian/bicycle connection between the existing Georgetown Branch Interim Trail and Pearl Street.
 - b. Improve the pedestrian, bicycle storage, and transit passenger waiting area underneath 3 Bethesda Metro Plaza at Washington Metropolitan Area Transit Authority's (WMATA) Bethesda Metro Station. Specific improvements will be identified in future discussions with WMATA.
 - c. Fund design, engineering, and construction of pedestrian and bicycle improvements identified by MCDOT in the overall Bethesda/Chevy Chase Policy Area.
4. The Applicant must enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Bethesda Transportation Management Organization. The Traffic Mitigation Agreement must be fully executed prior to issuance of any building permits.
5. The certified preliminary plan and certified site plan must show a perpetual easement. The Certified Preliminary Plan must also show the additional future easement area north of the perpetual easement which shall accommodate the future trail. Prior to recordation of the plat, the owner must enter into an agreement with MTA and Montgomery County to grant a future perpetual easement to be located north of the existing perpetual easement to accommodate the trail. The agreement and the required area of this easement must be referenced on the record plat.
6. The certified preliminary plan and certified site plan must show the location of the retaining wall moved outside of the 32-foot transitway easement for the Purple Line and be verified by MTA. Prior to certification of Site Plan, the applicant must provide the information related to the wall as requested on page 2 in the MTA letter of November 3, 2010.
7. The Applicant must provide twelve bike lockers in a secured bike storage area within the parking garage. Final location and details to be determined by staff at the time of Certified Site Plan.
8. The record plat must show dedication of Pearl Street thirty feet from the centerline.
9. The applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
10. The Applicant must comply with the conditions of approval for Project Plan 92000001B.
11. The certified preliminary plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks

shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined during the site plan process.

12. The Applicant must comply with the conditions of approval of the Montgomery County Department of Transportation (MCDOT) letter dated November 18, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
13. The applicant must comply with the conditions of the MCDPS stormwater management approval dated April 7, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
14. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
15. The record plat must show necessary easements

Site Plan

FINDINGS

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

Except as modified by this approval, the proposal conforms to the requirements of Project Plans 920000010 and 92000001A.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

As discussed in the Findings for the Project Plan Amendment under concurrent review, the plan meets all of the intents, purposes, and requirements of the CBD-2 zone.

As the project data table on page 13 indicates, the site plan meets all of the development standards of the zone. With respect to building height, setbacks, and density the proposed development is under all the maximum standards allowed.

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

The existing hotel and office buildings, as well as the proposed office building, line the street edge of the block with street-activating building entrances. The structured

parking garage is located on the interior of the block, but is conveniently accessed from the surrounding streets. The location of the existing and proposed buildings is adequate, safe, and efficient.

The open space provided on-site, including an elevated plaza, streetscaping, and improvements to the Capital Crescent Trail, is existing and is not significantly increased by this proposed redevelopment. The existing improvements, however, enhance the pedestrian and bicycle access through and along the site. There are no recreation facilities required for this site plan. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Master Plan, while providing a safe and comfortable environment.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Safety will be enhanced through streetscape improvements, while additional contributions toward the implementation of an accessible connection between Pearl Street and the existing Capital Crescent Trail will significantly improve the safety and facility of this movement. Vehicular access to the site efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. This balance of design with the site, the recommendations of the Master Plan, and the needs of the use is an efficient and adequate means to provide a safe atmosphere for pedestrians, cyclists, and vehicles.

Further, the proposed parking waiver will remove the need to construct additional parking within a CBD well served by transit, and will help to reduce the number of cars circulating within the site. With the reduced parking, the development remains the more adequate, safe, and efficient.

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

Within the context of the Bethesda CBD, the proposal integrates seamlessly into the established Air Rights Center and provides a well-defined building entrance on Pearl Street. At the same time, the architectural choices for façade materials and stepped-back massing help to reduce the visual impact of the project from, and therefore promote compatibility with, the single-family homes across the Purple Line alignment that is the southern edge of the CBD in this neighborhood.

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

The proposed development meets the requirements of the forest conservation law and has an approved stormwater management concept that consists of a vegetated green roof.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 82007001C, Air Rights Center/7300 Pearl Street, for a total of 513,711 sf. on 3.73 gross acres. Staff further recommends approval of the Applicant's proposed parking waiver. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on October 22, 2010, are required except as modified by the following conditions.

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan 92000001B as listed in the Planning Board resolution.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 120110010 as listed in the Planning Board Resolution, unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions.

3. Elm Street Park

a. The Applicant must provide the following in the northern portion of Elm St. Urban Park:

- i. Tree protection, as required;
- ii. Stormwater management/sediment and erosion control facilities, as required;
- iii. Demolition of all existing elements in northern portion of existing park (unless otherwise directed), following the Department of Park's Construction Waste Management Specification;
- iv. Temporary construction fencing and signage;
- v. Excavation and grading;
- vi. New 8'-10' wide asphalt bike path around perimeter of northern area with connection to Metropolitan Branch Trail;
- vii. High quality paved walkways throughout park, including east-west promenade;
- viii. Sand play area with concrete seat wall;
- ix. 12" wide flush concrete curb at playgrounds;
- x. 16"-18" high colored concrete seat wall with form liner or other pattern (approx. 265 lf.);
- xi. Ornamental metal fence (approx. 400 lf.);
- xii. Pedestrian walkway lighting;
- xiii. Bed preparation, landscape planting, and two year warranty and aftercare;
- xiv. containers, bike racks, etc.;
- xv. Park signage;
- xvi. Water line for future drinking fountain;
- xvii. All design and engineering (Landscape Architectural, Civil, Structural, MEP) fees for entire northern portion of park;

- b. Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:
 - i. The Applicant shall obtain either an exemption or stormwater concept approval from the Montgomery County Department of Permitting Services (DPS) and an exemption or approval of a Forest Conservation/Tree Protection Plan from the M-NCPPC's Environmental Planning Division.
 - ii. A complete site plan for the entire northern portion of the park shall be approved by the Park Development Division. The plan shall include the same amount of detail comparable to a typical park Facility Plan. In addition to detailed grading, the plan shall include any storm water management facilities approved as part of the stormwater concept approval and any requirements associated with Forest Conservation/tree protection. The plan shall specify all proposed materials, finishes, catalog cuts, equipment, and proposed plant lists with sizes and spacing of plant material.
 - c. Following approval of the Certified Site Plan, the Applicant shall complete Design Development and Construction documents for the park improvements listed above and for those to be provided by others. Minor revisions may be made to the design of the park during the design development/construction documentation process if approved by Parks staff, including the realignment and revised grading of the paths and play areas, and the substitution of materials, equipment and furnishings with equivalent quality materials. These types of revisions will not necessitate a formal revision to the site plan, unless otherwise recommended by staff. Submissions of plans and specifications shall be submitted to Parks staff for review and approval at the 50%, 75%, 90% and 100% complete stages.
 - d. The Applicant will be required to obtain a Park Permit for Construction before beginning construction of the park. As part of the Park Permit, the Applicant may be required to post a bond.
 - e. Construction of the park improvements must be completed by the Applicant and accepted by the Department of Parks prior to issuance of the Use and Occupancy Permit for 7300 Pearl Street.
4. LEED Certification
- The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform M-NCPPC staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating,

including their associated extra cost. Submission of this report constitutes compliance with this condition.

5. Site Design

- a. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the architectural drawings included in the Certified Site Plan.
- b. The Applicant must install lighting sensors in the south-facing and east-facing perimeter offices of the 7300 Pearl Street building in order that the office lights are off after hours when not in use.
- c. By Certified Site Plan, the Applicant must revise the building facades to remove all of the aggregate along the east façade and one additional horizontal band on the eastern portion of the south façade.
- d. The Applicant must include opaque spandrel panels and baffles or screens to the garage openings of the 7300 Pearl Street building.
- e. Trash and delivery services are limited to weekdays only between the hours of 6:00 AM and 9:00 PM.
- f. The Applicant must add new spandrel panels to the eastern façade of the existing parking garage.

6. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for commercial CBD development.
- b. All onsite down- light fixtures must be full cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.

7. Landscape Surety

Exclusive of improvements associated the Elm Street Park, the Applicant must provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety shall include plant material, on-site lighting, and site furniture within the relevant block of development. Surety to be posted prior to issuance of first building permit within each relevant phase of development and shall be tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c. Completion of plantings by phase, to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

8. Development Program

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

- a. Required streetscape improvements along Pearl Street and Montgomery Avenue must be completed prior to any use and occupancy permit, though planting may wait until the next planting season.
- b. The Applicant must complete installation the Elm Street Park improvements described in Site Plan Condition 3.e. before any building use and occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

9. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the forest conservation exemption, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c. Modify data table to reflect development standards enumerated in the staff report.
- d. Ensure consistency off all details and layout between site plan and landscape plan.

APPENDICES

Appendix A: Previous Approvals

Appendix B: Parking Waiver Request

Appendix C: Staff Review Memoranda

Appendix D: Community Correspondence

Appendix A: Previous Approvals

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 - 6 2006

Public Hearing Date: April 28, 2005

Action: Approval with conditions

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

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Project Plan Review No.: 9-00001A

Project: Air Rights Hotel

The date of this written opinion is FEB - 6 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 in Circuit Court within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions (Rule 7-203, Maryland Rules).

I. INTRODUCTION

On April 28, 2005, Donohoe Companies, Inc. ("Applicant") submitted a Project Plan Application designated as Project Plan No. 9-00001A ("Project Plan") for approval of the addition of 132,421 square feet of new hotel space ("Hotel Project") to a site that contains 4,600 square feet of existing retail and 364,100 square feet of office for a total of 501,121 square feet of commercial development on 143,174 square feet of CBD-2 zoned land ("Subject Property") in the Bethesda Central Business District ("CBD"). The proposed development includes a number of significant amenities and facilities on- and off-site including streetscape improvements, plaza improvements, improvements to the interim Capital Crescent Trail, a bike path link from Pearl Street to the interim Capital Crescent Trail; and renovation of the Elm Street Park.

II. THE SUBJECT PROPERTY

The Property is a component of the overall Air Rights Center complex. In addition to the North Building and the parking garage, the Air Rights Center complex includes the following elements that will remain:

Existing conditions of the site are as follows:

A twelve (12) story, 142-foot high, commercial building located at the southeast corner of Waverly Street and Montgomery Avenue (Part of Parcel C, Block 5, with an address of 4550 Montgomery Avenue), known as the North Building.

A six (6) level parking structure located immediately to the south of the North Building.

A ten (10) story, 114-foot high, commercial office building located east of the West Building with frontage on Waverly Street and Elm Street, also with an address of 7315 Wisconsin Avenue, known as the East Building.

A two-story connection, including street-level retail stores, located between the parking structure and the East Building.

A thirteen (13) story, 149-foot high, commercial office building located in the southeast corner of Wisconsin Avenue and Waverly Street, with an address of 7315 Wisconsin Avenue, known as the West Building.

A one-story connection located between the West Building and the East Building - an above-grade enclosed walkway referred to as "the Link." That portion of the Link located on the Property is situated parallel to Waverly Street and projects over or cantilevers the Waverly Street sidewalk for a distance of approximately five feet with 8 feet of headroom.

The existing Montgomery Avenue streetscape consists of a sidewalk made of Bethesda Streetscape that varies from 5 to 15 feet wide, with a vehicular drop-off. Honey Locust trees of approximately 12 inch caliper are planted along the street at 40-foot centers. The trees are placed within open planters, with a variety of shrubs and groundcovers. The existing Waverly Street streetscape consists of a sidewalk ranging in width from five feet wide near Wisconsin Avenue to 15 feet near Montgomery Avenue. In connection with the earlier project plan and site plan approvals, the former owner improved a portion of the Waverly Street sidewalk from Wisconsin Avenue East, for a distance of approximately 300 feet toward the Subject Property and along the East Building frontage on Montgomery Avenue.

The site slopes moderately from the north to the south and from the west to the east. The height of the proposed Hotel Project is measured from the terrace of the North Building at the corner of Waverly Street and Montgomery Avenue in accordance with the Zoning Ordinance.

III. SURROUNDING ZONING AND LAND USE

The Air Rights Center complex, including the proposed Air Rights Center Hotel Project, is located within the CBD-2 Zone. The Air Rights complex is surrounded by the CBD-2 Zone to the north, east, and west and the R-60 Zone to the south. The surrounding zoning and land uses are as follows:

North - Across Montgomery Avenue north of the North Building is County Parking Garage No. 47, located within the CBD-2 Zone.

East - Immediately to the east of the North Building is a two-story framed house, which is a Chinese grocery and carry-out. Immediately to the east of the parking structure is a two-story brick commercial building. These sites are located with the CBD-2 Zone.

West - The thirteen (13) story Residence Inn, with a height of approximately 124 feet, is located immediately west of the Property and is located within the CBD-2 Zone. The East and West Buildings are located to the west of the Property. Further west of the West Building, across Wisconsin Avenue, is a four-story office building known as 7272 Wisconsin Avenue. It contains street level theatres and retail and is located within the CBD-2 Zone.

South - The Town of Chevy Chase, which is located within the R-60 Zone, abuts the Subject Property to the southeast. The majority of the parking structure, as well as the two-story retail space connection located on the Subject Property and situated between the parking structure and the East Building, abuts the M-NCPPC Elm Street Park for a distance of approximately 280 feet. The remaining 52 feet of the parking structure abuts Lot 6, which is improved with a single-family dwelling.

IV. THE HOTEL PROJECT

The Air Rights Center Hotel Project proposes a 13-story, 216 room hotel, with approximately 2,400 square feet of meeting space. The Hotel Project will include a total of 132,421 square feet of gross floor area, plus 10,530 square feet of below grade space. In addition, 8,600 square feet of the 13,200 square feet of existing retail space will be eliminated, leaving only 4,600 square feet.

The Applicant requested approval of an amendment to Project Plan No. 9-00001, for the "Air Rights Center Hotel Project" or the "Hotel Project" pursuant to the optional method of development.

The Hotel Project will be developed within a portion of the existing parking structure that will be removed. The parking structure is part of the Air Rights Center complex on Waverly Street, at the 90 degree juncture between Wisconsin Avenue and Montgomery Avenue. The hotel entrance will be located at the bend along Waverly Street and will be covered under a porte cochere. The hotel entrance is designed to be viewed from Wisconsin Avenue. The front doors to the hotel will access Waverly Avenue with lobby space and restaurants overlooking the street. Meeting rooms, pool and exercise facilities will be located on the east side of the building, adjacent to the parking garages. The meeting and conference rooms (accessible from the Link) will be available to the commercial office tenants of the Air Rights Center as well as to the hotel patrons. Existing retail space will be reduced from 13,200 square feet to 4,600 square feet.

The Hotel will include one below grade level to be used for administrative and housekeeping operations, including the laundry facility. The ground floor will contain the reception area, luggage room, dining room and front office. Floors two and three will also contain hotel rooms across the front portion of the building. The remaining floors of the hotel, floors four through thirteen, will be devoted exclusively to hotel rooms.

The entry to the parking garage will remain on Waverly Avenue. Vehicular access to additional parking will be provided through the existing North Building driveway located on Montgomery Avenue, near Pearl Street. All of the loading operations for the hotel will occur below grade, with trucks utilizing the Montgomery Avenue vehicle entrance to access the basement of the hotel.

In keeping with the objective of orienting and integrating the hotel project to the CBD, no vehicular access to the south is provided. Pedestrian access to the Hotel Project, in addition to the primary entrance from Waverly Street, will be provided from the western side of the terrace of the North Building via the Link and from the West and East Buildings via the Link. The existing pedestrian connection from Waverly Street to the M-NCPPC Elm Street Park will remain open.

V. PRIOR APPROVALS

The Subject Property was previously approved for a 182 unit residential building, pursuant to Project Plan No. 9-00001, approved on December 2, 1999, and Site Plan No. 8-01008, approved on January 4, 2001. This Project Plan approval will supercede those earlier approvals.

VI. ARCHITECTURAL DESIGN

The Air Rights Center Hotel Project was designed with sensitivity to the Property's location on the perimeter of the Bethesda CBD. The Subject Property is bordered on the north by the intensity of the Bethesda CBD and the southern boundary of the site is

adjacent to the Town of Chevy Chase, the immediately adjacent single-family detached homes, and the M-NCPPC Elm Street Park. One of the challenges of the architectural design was to develop a structure that would serve as a transitional use between these very disparate uses. In response to the recommendations of the Town of Chevy Chase, the building is concentrated along the western portion of the Subject Property, as far away as possible from the single family homes. The building height of 116 feet allows all of the permissible density to be concentrated in this area of the site. As suggested by the Town of Chevy Chase, the building steps down from the maximum height of 116 feet to 88.3 feet to provide a visual transition.

The architectural approach for the Hotel Project implements traditional building massing of base, middle and top. Two interlocking “L” shaped masses help to compose and contain the façade. One anchors the mass at the base and side with strong horizontality, while the other, in glass, expresses a light verticality.

A three-story base anchors the design in integral color concrete and granite pilaster base. It maintains the urban street wall and steps back to the vertically oriented body of the building. A two-story horizontal blue glass top is capped by a thin metal brow, which wraps the corner as the massing steps down toward the adjacent neighborhood and park. Thin metal piers create a strong rhythm along the top and turn down the main façade to create a glass inverted “L”. As a “terminus” to an axial approach, this glass vertical bay is emphasized. A linear pedestrian drop off canopy then brings visitors to the main entry of the hotel. A series of thin light sconces at the entry tie together with the thin columns at the top.

The main body of the building is arranged in vertical E.I.F.S. piers. The light color helps to brighten this narrow street. Wide windows bring daylight to the interior while vertical mullions help to convey a residential quality. The same fenestration is wrapped around the sides and back of the building, carving into the parking structure. The Elm Street park side elevation steps down along a series of horizontal bands to bring the scale down to relate to a more residential area. This façade mass is also broken up by two vertically recessed bays on each side of the elevator core. A similar metal brow or cornice wraps this core as a feature on this elevation.

VII. PUBLIC USE AND AMENITY SPACE

The public use and amenity space provided by the Air Rights Center Hotel Project involves the renovation of a portion of the interim Capital Crescent Trail located on the Subject Property along the southern boundary (paint walls, repair trail, create attractive edging to trail using stone pattern and landscaping); the plaza at Montgomery Avenue and Waverly Street; landscaping south of the parking structure and the interim Capital Crescent Trail; and landscaping land located south of the interim Capital Crescent Trail adjacent to the residential properties along Elm Street. In addition, the Applicant proposes providing

an access easement over the Subject Property from the Elm Street Park to the Capital Crescent Trail, to provide an unobstructed means of access to the trail.

Two significant components of the public use package are the planned bike path connection from the Pearl Street right of way to the interim Capital Crescent Trail and the renovation of Elm Street Park. This Applicant's participation in the bike path connection resolves a long stated community desire and Sector Plan requirement for bike connections to the interim Capital Crescent trail. The Applicant has approached Montgomery County Department of Public Works and Transportation ("DPWT") and an adjacent landowner in order to facilitate this project. The Air Rights Center Hotel Project will construct the bike ramp and pedestrian stair to make the connection, when the land is available to them via an easement from the adjacent landowner.

The renovation of Elm Street Park was a concept that initiated with the earlier Project Plan. The improvements will follow a concept sketch that shows realigned pathways, grading improvements, replacement of older sitting areas with new, and some landscaping additions. The existing trees and gazebo structures would largely be preserved and enhanced with the new design. The existing cut-through path would be replaced with a paved path that accentuates the garden design and eliminates a muddy path that has been worn-in by resident use.

The streetscape improvements will involve renovating the public and onsite streetscape immediately adjacent to the Subject Property along Waverly Street. These will be improved in accordance with the Bethesda CBD Sector Plan recommendations with brick paving at sidewalks, streets, lights and site furnishings. The Waverly street sidewalk will be both widened and relieved of the cantilevered building mass that currently inhibits existing headroom. A new sidewalk of up to 15 feet in width will be created, open to the sky.

VII. VEHICULAR AND PEDESTRIAN CIRCULATION SYSTEM

Vehicular access to the Air Rights Hotel Project will not change from the existing vehicular patterns for vehicles entering the parking structure. The entrance to the parking structure will continue in its current location on Waverly and Montgomery Avenues. Given the nature of the hotel, the anticipated trip generation rates are minimal, and are less than the previously approved residential uses. As indicated in the traffic statement included in the Appendix, the hotel is expected to generate only 43 peak AM trips and 27 peak PM trips.

As previously described, the pedestrian way along Waverly Street will be improved in accordance with the recommended Sector Plan standards. The most important part of the Waverly Street streetscape improvements is the elimination of the cantilevered portion of the existing building that contains the Link. This improvement will open the sidewalk up

to the sky and eliminate the current, ill-designed condition. Pedestrian visibility and safety will be greatly improved where the Waverly Street sidewalk crosses the garage entrance.

The Link will be relocated further to the east in order to continue to connect the commercial components of the Air Rights Center complex and provide an interior connection from these buildings to the hotel lobby.

The existing pedestrian access way, located between the East Building and the two-story connection, which provides a connection from the Town of Chevy Chase directly to the CBD, will continue to remain open.

VIII. PARKING

The Subject Property is located within the Bethesda Parking District and as a result, no parking spaces are required to be provided on-site. Currently there are approximately 500 parking spaces located on the Subject Property that serve the existing commercial uses. These uses will share utilization of the garage with the new hotel. It is expected that few guests will drive to the hotel and more will arrive via transit or taxi. The mixed-use nature of the Subject Property enables all of the parking spaces used for the commercial office tenants to be available to the hotel guests after normal business hours and on weekends.

IX. PRELIMINARY FOREST CONSERVATION PLAN

On-site landscaping and planting will meet the Forest Conservation Plan requirement, as required.

X. STAFF RECOMMENDATION

A. Compliance With The 1994 Sector Plan:

Staff supported the Hotel Project and its proposed amenity package, with the exception of its height, and recommended approval of the Air Rights Hotel project plan with a reduction in the proposed height from 116 feet to 90 feet.

B. Height

The proposed hotel is 26 feet over the height recommended by the 1994 Sector Plan for the Bethesda CBD ("Sector Plan"). The site is located at the edge of the Metro Core District, between older existing buildings of 149 feet (Air Rights office building on Wisconsin Avenue to the west) and 124 feet (Marriott Courtyard Hotel to the northwest) and Elm Street Park. Although the site is zoned CBD-2, the specific maximum height of 90

feet is recommended for this site on page 39 of the Sector Plan. Stepping down in height from the core of the CBD to the surrounding single-family residential communities is a basic tenet of the 1994 Plan.

Since 1994, there have been exceptions to the heights recommended by the Sector Plan. All of the exceptions are residential projects, some approved by the Planning Board and others approved by the County Council. The recently approved Zoning Text Amendment No. 04-13 allows an exception to the Sector Plan height recommendations for residential projects providing MPDUs on site. The Air Rights Hotel, together with the existing office buildings, would be devoted to commercial uses.

C. Land Use

The recommended land use for the site is mixed-use. The Sector Plan recommended a small residential building on the parking deck of the Air Rights building. On page 61, it stated further that this development “should have a maximum height of 90 feet, stepping down to 60 feet toward Pearl Street.”

The Planning Board approved an Air Rights project in 2001 for 11,200 square feet of office, 364,100 square feet of retail, and 186 multi-family dwellings. The current owners of the Air Rights complex concluded the previously approved plan was not financially viable and have submitted this amendment. Because there is no longer a residential component, the project is not strictly speaking a mixed-use project. However, the 216-room business hotel and additional first floor retail will provide complementary uses for the Metro Core Area.

D. Site Access, Circulation and Pedestrian Facilities

The access point to the site will remain at the existing location from Waverly Street where traffic from all directions could safely and easily access the garage located underneath the hotel.

Waverly Street and Montgomery Avenue will be provided with adequate and safe pedestrian walkways that are connected to a comprehensive network of pedestrian facilities throughout the CBD area. The Waverly Street streetscape improvements proposed as part of this project will eliminate the cantilevered portion of the existing building to provide a better pedestrian link. This improvement will open the sidewalk up to the sky, creating a more pleasant walking experience. It also provides for more visibility and safety at the garage entrance on Waverly Street.

The Applicant will provide a bicycle and pedestrian connection (ADA ramps and stairs) between Pearl Street and the Capital Crescent Trail/Georgetown Branch Trail on the south side of the property. This connection will improve access to the trail and will

enable students of Bethesda-Chevy Chase High School who live in the neighborhoods to the south to use the trail to reach their school.

E. Public Art

The Applicant had a preliminary meeting with the Art Review Panel and has been encouraged to include an art component in the building façade along Waverly Street.

F. Capital Crescent Trail

The Applicant has agreed to provide an important connection from Pearl Street south to the interim Capital Crescent Trail. This connection is listed in the Sector Plan on page 252 under "Recommended Transportation Facilities. Route I from Woodmont Avenue to Maryland Avenue/Pearl Street." This connection will effectively connect the North Bethesda trolley trail via Norfolk Avenue in the Woodmont Triangle to the Capital Crescent Trail. The Applicant will provide the most important link in this system across a steep slope and an easement from an adjacent property owner. The Applicant will also make improvements to the surface of the trail and the walls of the tunnel, providing much needed upgrades to this popular hiker/biker trail.

G. Conclusion

Staff recommended approval of the Project Plan subject to conditions of approval, including a condition requiring the Applicant to reduce the height of the hotel to 90 feet.

XI. PLANNING BOARD HEARING

On April 28, 2005, the proposed Project Plan for the Hotel Project was brought before the Planning Board for a public hearing in accordance with the requirements of Art. 28, Md. Ann. Code ("Regional District Act"), Chapter 59 of the Montgomery County Code ("Zoning Ordinance") and the Planning Board's Rules of Procedure. At the public hearing, the Planning Board heard testimony on the Project Plan from Staff, the Applicant who was represented by legal counsel and two citizens of the Town of Chevy Chase, including the Vice Mayor, in support of the project. During the hearing, the Planning Board received evidence submitted in the record on the Project Plan, including the Staff Report setting forth Staff's findings that the proposed development does conform to the findings of the Zoning Ordinance for project plan approval.

Staff introduced the site and surrounding area and described the Hotel Project to the Board. Staff recommended approval of the Project Plan and noted that the only outstanding issue related to the height of the Hotel Project. Staff's recommendation included a condition requiring the Applicant to reduce the height of the project to 90 feet in accordance with the Sector Plan recommendations. Applicant's proposal was for 116 feet.

The Applicant, through its legal counsel, testified that it was in agreement with all of Staff's recommended conditions of approval except for the condition reducing the height of the Hotel Project. The Applicant argued that the Sector Plan requirement for a height of 90 feet related to compatibility and that the Hotel Project was compatible with the surrounding uses based on the design of the project. The Applicant stressed that the project is designed to be located further away from the residential neighborhood to lessen the impact on the neighborhood and increase compatibility. However, the Applicant noted that locating the project further from the residential community necessitated a higher structure. In support of its position, the Applicant cited to a letter in the record in support of its project from the Town of Chevy Chase. The Applicant also pointed out that the Hotel Project would not be out of character with the existing buildings in the area. In particular, the Applicant noted that the nearby Residence Inn building is already at the same rooftop elevation as the proposed height of the Hotel Project.

The Planning Board also heard testimony from two speakers who were both in support of the Hotel Project and, in particular, of the proposed height of the Applicant's project. One speaker also expressed a concern about the possibility that the staging of the project might interfere with people coming to and from her nearby building. The Applicant responded to her concern by pointing out that there is a condition of approval, which requires all construction to be staged from Waverly Street, unless otherwise agreed to by other adjacent parties.

In response to questions from the Planning Board, Staff stated that the Sector Plan recommendation serves as a guideline to the Board when making a determination based on height, and that sometimes the Board looks to the Sector Plan chart and sometimes to the surrounding conditions to make a decision on how to apply the Sector Plan recommendations. When asked the basis for the Sector Plan limitation on height at 90 feet for the Subject Property, Staff replied that there was not a specific evaluation of the Subject Property at the time of adoption of the Sector Plan. Staff maintained, however, that in their view, building the project at 90 feet and having the building encroach on the neighboring park and residential neighborhood was more compatible than building the project at a higher height.

Commissioners Perdue and Wellington disagreed with Staff's position regarding the height of the proposed building. They stated that the main issue with respect to the height of the building is the compatibility of the development with the adjacent properties and communities. Some considerations outlined by Commissioner Wellington included 1) how far away the proposed building is from adjacent communities; 2) what kind of impact does the added height have to adjacent communities; and 3) whether the height steps down to the recommended Sector Plan height.

XII. FINDINGS

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board and forms the basis for the Board's consideration of approval. In accordance herewith, the Planning Board makes the following findings:

FINDING: (a) As conditioned, the proposal complies with all of the intents and requirements of the zone as illustrated in the following information and Project Data Table:

Zoning	CBD-2	
Gross Lot Area	121,456 sf or 2.7882 Acres	
Waverly dedication:	<u>4,198 sf or 0.096 Acres</u>	
Net Lot Area:	117,258 sf or 2.6919 Acres	
Lot Area for FAR calculations:	121,456 SF or 2.7882 Acres (current plat) 5,550 SF (1978 dedication along Montgomery Avenue) 9,750 SF (1910 Montgomery Avenue dedication) 5,504 SF (1910 Waverly Street dedication) <u>914 SF (Railroad Street dedication)</u>	
	143,174 SF total with previous dedications	
Available FAR:	Optional Method: 4.0 143,174 SF x 4.0 FAR = 572,696 SF	
Existing Development	364,100 SF Existing Office at North <u>13,200 SF Existing Retail at East Building</u> 377,300 SF Existing	
Proposed Hotel:	132,421 sf	
Building Height:	143' Allowable per CBD-2 88'-4" to 118' Proposed	
Public Use Space: (Net tract area)	Required 20% or 23,452 sf	Proposed 27.1% or 31,780 sf
Parking:	Required: None, Parking District Proposed: None, Parking District (Existing garage spaces will be shared with hotel.) The site is located within the Bethesda Parking District and therefore is not required to meet the parking requirements contained in Section 59-E of the Zoning Ordinance. Approximately 500 parking spaces existing on-site will be retained.	

PROJECT DATA TABLE

	Zoning Ordinance Development Standard	Existing Development	Dev. Standard Approved by Planning Board and binding on Applicant	Total Approved Development
Minimum Gross Tract Area (sq. ft.)	22,000	143,174	-	143,174
Gross Floor Area (GFA) (sq. ft.)				
Office	-	364,100	0	364,100
Retail (general)	-	13,200	4,600*	4,600
Hotel	-	-	132,421	132,421
Total		377,300	137,021	501,121 (3.50 FAR)
Floor Area Ration (FAR)	4.0	2.64	-	3.50
Building Height (ft.)	143**	130	88'-4" to 116'***	90' to 116'
Public Use Space (sq. ft.)				
On-Site (20% minimum gross lot area)	23,452	-	31,780 (27.1%)	31,780
Off-Site	-	-	105,818	105,818
Total			137,598(113.3%)	137,598

- * Approximately 8,600 sq. ft. of existing retail space will be eliminated
- ** Recommended/Allowed by the approved Sector Plan
- *** Proposed hotel height varies from 88'-4" to 116'

FINDING (b) As conditioned, the proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.

The proposed project offers many positive features that will help meet the objectives of the Sector Plan for the Bethesda CBD. The analyses below group the recommendations, principles and guidelines by major topics and assess the Project Plan conformance with each set.

A. GOALS OF THE SECTOR PLAN

Downtown

Realize the vision of Bethesda as a diverse and lively downtown for Bethesda-Chevy Chase. Continue well-designed redevelopment within the Metro Core and reinforce the physical character and varied activities of districts radiating out from the Core so that each district has a distinct identity yet is linked into a coherent whole.

The Air Rights Center Hotel Project will help ensure the vitality of downtown Bethesda by introducing a new hotel to the Metro Core, within walking distance of the many activities in

downtown Bethesda. The hotel will have a limited kitchen, serving breakfast and possibly a light dinner. Thus, guests of the hotel, seeking lunch or dinner, may frequent the many nearby restaurants in the active Metro Core in the day and evening, as well as on weekends. Similarly, guests of the hotel will provide additional patronage to the retail opportunities throughout Bethesda. The Hotel Project will also improve the aesthetics of the CBD by adding a well-designed building over the existing “barrack-like” parking structure.

Urban Form

Encourage infill development that complements the underlying physical form of Bethesda. Create a high-quality built and pedestrian environment, including a network of pathways and open spaces. Enhance Bethesda’s commercial and residential districts with improvements appropriate to the character of each.

The project defines infill development, with the Hotel Project to be constructed within an existing parking structure. The public space requirement improves the existing conditions of the Capital Crescent Trail and the M-NCPPC Elm Street Park. The Applicant will also renovate the existing streetscape on Waverly Street in front of the Property, which will contribute to the overall pathway network within the Metro Core.

The Hotel Project enhances both the commercial district in which it is located and the adjacent residential district. Placing the hotel on a portion of the existing garage will integrate the existing commercial buildings of the Air Rights Center complex into a cohesive project, thus improving its commercial character. At the same time, the final design respects the views from the Town of Chevy Chase in order to ensure a compatible design.

Housing and Neighborhoods

Encourage and maintain a wide range of housing types and neighborhoods in and around Bethesda for people of all incomes, ages, lifestyles and physical capabilities, in keeping with County goals. Provide an adequate supply of housing, including affordable units, to reinforce Bethesda as a place to live as well as work. Protect adjacent neighborhoods from commercial intrusion, undue traffic, and environmental degradation.

The Project proposes a hotel on the Property because of its proximity to the existing office uses. Both the Applicant and the Town of Chevy Chase residents believe that the hotel is a more appropriate use for this site and will not intrude on the adjacent residential neighborhood, as would a residential project.

Employment

Provide opportunities for additional jobs in this major down-County employment center in keeping with County policy to concentrate growth in the urban ring near Metro stations and to increase the County’s revenue base.

The Air Rights Center Hotel Project will add approximately eight managerial level jobs and 51 service level jobs to the County's employment base. The location of the hotel within walking distance of the metro station and bus station makes it particularly attractive for those service level employees who rely on public transportation to commute to work. The Air Rights Hotel Project will increase the County's revenue base, by adding a 216 room hotel to an existing parking structure, which will result in a significant increase in property taxes.

Community Character

Enhance Bethesda as an appealing environment for working, shopping, and entertainment. Strengthen its attraction as a destination for visitors while ensuring that residents find a sense of community. Reinforce a unique sense of place through the themes of Bethesda as a "garden" and a "cultural district."

The addition of a new hotel in the heart of Bethesda responds directly to this goal by strengthening Bethesda's "attraction as a destination for visitors." This hotel will be oriented toward the business traveler, and likely will be patronized by tourists as well. The addition of a new hotel in Bethesda will ensure that more people, many of whom may otherwise stay at an entirely different location, will spend time in Bethesda and take advantage of the vibrant community, with its full array of retail and restaurant opportunities.

Circulation

Provide a safe and functional transportation system to serve the current and recommended land uses. Achieve a significant shift of travel from drive-alone auto use to transit, carpooling, and other alternatives. Enhance the pleasure, safety, and convenience of walking and bicycling.

An important component of the Air Rights structure is the improvement of the streetscape along the Waverly Street frontage of the hotel to meet the Bethesda streetscape standard. This will help unify this area of the Bethesda CBD with the other portions of the Metro Core.

The hotel is located within 600 feet of the Metro Station and the Bethesda bus terminal and will be accessible to public transportation systems and will decrease the number of single occupancy vehicles. The improvement of the sidewalks along Waverly Street, as well as the improvement to the Capital Crescent Trail, will enhance the pleasure, safety and convenience of walking and bicycling.

B. PLANNING AND DESIGN OBJECTIVES

Land Use Objectives

Employment Growth

Concentrate high-density office development in the Metro Core and allow lower density in full development along with housing in other districts.

Support new commerce development that enhances the Character of Bethesda by providing desired public benefits and high-quality development.

Coordinate new growth with public facilities, so as not to burden nearby residential areas. Public facility plans and impacts of growth are addressed throughout the Plan.

The hotel is located in the Metro Core and is comparable in scale to the buildings immediately surrounding it. While not an office use, the hotel's location in the Metro Core is most appropriate.

The Air Rights Hotel Project will meet and exceed the Optional Method Public Use and Amenity requirement. The focal part of the public use and amenity package is the improvements to the Capital Crescent Trail, which given the popularity of the trail, will provide a far-reaching benefit. The building will be well designed and will greatly improve the aesthetics of the Property.

The hotel use generates considerably less impact on public facilities than either residential or office use. Not only are the trip generation rates lower, but also the hotel will have no impact on the school system and very little, if any, impact on the park system, including the adjacent Elm Street Park.

Retail

Approve zoning recommendations and land use guidelines that support the continued vitality of retail in Bethesda. Such tools can influence the location of retail as development opportunities arise.

Promote improved accessibility to retail shops and awareness of the character of retail districts.

The Air Rights Hotel will contribute to retail uses in Bethesda by increasing the number of people who will shop and eat there. The hotel's enhancement of the existing streetscape along Waverly Street and the addition of an attractive building that can be viewed from Wisconsin Avenue will attract potential shoppers to this area of the Metro Core and help bolster the sales of the existing retail uses in the Air Rights complex.

Urban Design Objectives

Provide street-activating uses, such as retail stores with storefront display windows or building entrances. Activating uses help promote a safe, interesting, and lively environment.

Enhance the pedestrian environment to provide a visually diverse and stimulating experience, maximize social interaction, and encourage walking. Special attention should be given to the design of streetscapes to help maintain human scale, achieve good street definition, and enhance the visual character.

Extend the network of open spaces to serve the needs of an expanding population for a diverse range of activities in spaces that are safe, visible and perceived as public.

Improve compatibility with existing uses through urban design concepts and guidelines that address form, shadows and skyline, building heights, scale, massing, and setbacks. In general, new development should respect established patterns of development.

Allow a diversity of architectural styles that achieve good building proportions, reduce the sense of bulk, and maintain human scale. Clearly identify the building entrance in the facade design and locate it at street level.

Achieve compatibility with nearby residential areas through techniques such as stepped down heights, articulated building walls and facade treatments, and other architectural means designed to minimize building bulk and shadow impacts, and create a gradual transition.

Expand the existing network of open spaces so that it responds to existing pedestrian movements, and if possible, connect new open spaces to the existing network.

Emphasize the pedestrian environment along streets. Design buildings to provide visual interest and human scale at the street level, adjacent to sidewalks. Architectural facades should incorporate interesting details, store-front display windows, and front entrances to enliven and activate the sidewalks.

Use upgraded streetscape elements such as special pavers, lighting, tightly spaced trees, and other features to enhance significant pedestrian pathways, visually define distinct districts, and improve the overall attractiveness of the CBD.

The Air Rights Hotel Project will provide an opportunity to improve the existing streetscape along Waverly Street. The improvements to the Waverly Street streetscape eliminate the existing projection over the sidewalk and will add landscaping, pavers and lights as recommended in the Bethesda CBD Sector Plan. The two-story hotel lobby will be visible from the street and will make the street an inviting pedestrian experience.

Each of the proposed Public Use and Amenity Facilities proposed expand the quality of the pedestrian environment.

The Hotel Project is specifically designed to respect the Property's location along the perimeter of the CBD. The design of the building, its massing, height, scale and setbacks have been carefully designed to be concentrated along the western portion of the Property in response to concerns raised by the Town of Chevy Chase. The hotel structure is compatible with the other adjacent buildings within the CBD and is the greatest distance possible from

the Town of Chevy Chase. The Hotel Project construction is concentrated on Waverly Street and will not result in the shadowing of any portion of the Town.

The architectural style and design of the Air Rights Center Hotel Project will further ensure its compatibility with the adjacent Town of Chevy Chase. At the request of the residential community, several changes to the design of the hotel were made in order to ensure the hotel's compatibility with the Town. While some of those changes shifted the design of the hotel from a more residential design to a more office-like design, the Applicant nonetheless incorporated these requested changes in the final design of the hotel. These changes include stepping down the building height, making the south façade compatible to residential view, providing semi-reflective glass, eliminating balconies and prohibiting signage on the east and south facades.

C. LAND USE AND ZONING PLAN

On the parking deck of the second Air Rights Building, the Plan recommends a small residential building, if compatibility with the adjacent single-family area is maintained. The Sector Plan further provides that the development should have a maximum height of 90 feet, stepping down to 60 feet toward Pearl Street on that portion of the parking structure above the Capital Crescent Trail. The building height should include the existing parking structure. There should be no development on that portion of the deck that abuts the single-family detached houses along Elm Street.

The Sector Plan's recommendation for residential use on the Property was an effort to designate as many sites as possible for residential use in hopes of increasing the availability of housing within the Bethesda CBD. Since the adoption of the Sector Plan in 1994, more than 1,400 residential units have been approved within the CBD, which has aided in achieving this goal.

A critical provision of the Sector Plan's recommendation for the Property is the phrase, which emphasizes that compatibility with the adjacent single-family area, be maintained. The adjacent residents recognize that the development of the Property as a hotel will have minimal impact on their neighborhood, perhaps less than a residential use. The hotel is located approximately 114 feet further away from the residences than the previously approved residential use. Unlike the residential building, the hotel will have no outdoor terraces or balconies and a limited number of operable windows, eliminating any concerns about noise or intrusions of privacy.

In terms of the height of the proposed hotel, the underlying CBD Zone permits a maximum height of 143 feet while the Sector Plan recommends a height of 90 feet for the Property, with a step down to 60 feet toward Pearl Street. In order to maximize the compatibility of the proposed hotel, the entire building is concentrated on a 10,879 square foot footprint adjacent to Waverly Street, with no portion of the structure oriented toward Pearl Street or the adjacent neighborhoods. The building will be set back considerably further (65 feet versus 5 feet) from the neighborhood park than was the previously approved in the multifamily housing proposal.

The Sector Plan's recommendation for a maximum height of 90 feet was intended to ensure the compatibility of the project with the adjacent Town of Chevy Chase. In this case, the Town has clearly indicated that the proposed project better achieves the objective of ensuring compatibility with the Town, even with a height greater than that recommended. Thus, the Planning Board finds that the proposed height for the project is appropriate and conforms to the requirements of the Sector Plan.

D. TRANSPORTATION PLAN

Increase the use of non-auto driver travel for commuting.

Improve pedestrian and bicycle conditions.

Ensure that all parking facilities next to single-family neighborhoods are designed to be compatible with adjacent residences.

The development of the Air Rights Hotel within 600 feet of the Metro Station and bus terminal is in keeping with sound transportation policies and helps to ensure an increase in the use of non-auto driver travel for commuting. It is envisioned that many business travelers with meetings in the District of Columbia will stay at the hotel given its proximity to the Metro Station. A commute to the District would involve only a very short walk to the Metro and a 15-minute ride downtown on the Red Line.

The requirement that the Applicant upgrade Waverly Street, improve the Capital Crescent Trail and provide an access easement from the Elm Street Park to the Trail is consistent with the Sector Plan's goal of improving pedestrian and bicycle conditions. Finally, the parking facility that will serve the hotel will be accessible from the existing garage access point on Waverly, and therefore will be completely separated from the adjacent residential community.

E. STREETScape PLAN

Reinforce the identity of the districts by developing distinguishing streetscapes for each one while creating a unified image for the entire CBD.

Provide for the "greening" of Bethesda by planting street trees along all streets, using a variety of species to achieve horticultural diversity.

Encourage walking by creating an attractive pedestrian environment and improving pedestrian access.

The Hotel Project Plan will rehabilitate the existing sidewalk areas along Waverly Street in accordance with the standards of the Bethesda CBD Sector Plan, which, in turn, will improve the streetscape environment. These improvements will not only encourage walking by creating an attractive pedestrian environment but will also help unify this portion of the CBD with the more recently improved areas to the west.

The project is consistent with the general recommendations of the Bethesda Central Business District Sector Plan, approved and adopted July 1994, and furthers the goals and objectives of the Sector Plan.

F. HEIGHT

Although the Bethesda CBD Sector Plan recommends a maximum height of 90 feet for development within the Bethesda CBD, the Planning Board finds that allowing the Air Rights Center Hotel Project to build at a height of 116 feet is compatible with the surrounding area and in conformance with the goals and requirements of the Sector Plan. The Planning Board found that the extended height and narrower building design was more compatible than a shorter and bulkier building because a shorter, bulkier building would intrude more upon the neighboring residential area as well as upon the nearby Elm Street Park. In addition, the Planning Board found that the step down of the southern façade of the building from a maximum height of 116 feet to a height of 88.3 feet mitigates a canyon effect for the people in the surrounding areas and eliminates a wall-type affect for the Elm Street Park, thereby helping to address the recommendations of the Sector Plan by integrating the step down in building height as recommended in the Sector Plan in conjunction with a building design that is compatible with the adjacent residential neighborhood. Thus, the Planning Board finds that the proposed height of the building is appropriate and in conformance with the goals and recommendations of the Sector Plan.

FINDING: (c) As conditioned, because of its location size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.

The Air Rights Center Hotel Project will successfully integrate the existing North, East and West Buildings and the parking structure that comprise the overall Air Rights Center Complex. From a visual standpoint, the Air Rights Center Hotel Project represents the missing piece in the original development plan for the Air Rights Center complex. The development within the existing parking structure will help conceal an otherwise unattractive parking structure and provide a visually pleasing, well-designed building.

A testament to the Hotel Project's compatibility with the surrounding neighborhood is the Town of Chevy Chase's support for the project. Not only is it the Town's position that the hotel use is much preferred over the previously approved residential use, the Town also believes the design changes are beneficial. The hotel structure is concentrated as far as possible from the single-family homes located within the Town to the south and east of the Property. Several different design options were proposed, including some that reduced the overall height of the building but resulted in the density being spread out to a larger footprint that extended to the east. The community was clear that they much preferred the proposed design and location that provides for a maximum height of 116 feet.

In response to comments raised by various Town residents, the Applicant made further design changes to ensure the compatibility of the hotel with the surrounding neighborhood. Perhaps the most important change is the stepping down of the southern façade, from a maximum height of 116 feet to a height of 88.3 feet, which provides an important visual transition. In response to the recommendations of the residents of the Town of Chevy Chase, the southern portion of the building is designed to have two “step downs” from its maximum height. The maximum height of the building will be 116 feet and then the building will step down to a height of 98 feet for a distance of 13 feet and then to a height of 88.3 feet.

Other changes include the window treatment along the southern façade of the building, use of semi-reflective spandrel (non-vision) glass, elimination of balconies, and a prohibition on signage on the east and south elevations. The hotel design is effectively self-contained, with no outdoor balconies, and windows that open only a limited amount (four inches).

From an operational standpoint, the hotel will be compatible with the neighborhood and will have less impact on the neighborhood than would the previously approved residential use or an office use. All of the operations associated with the hotel will be clearly separated from the residential area. Loading will occur on the below grade parking structure, which is accessed via the driveway entrance on Montgomery Avenue, near Pearl Street. These design features help segregate the use from the lesser intensive single-family neighborhood.

In terms of size, the Hotel Project involves an additional 132,421 square feet of development, resulting in an overall density for the Property of 3.50 FAR, significantly lower than the 4.0 FAR permitted by the Zoning Ordinance. The size and height of the building are in context with adjacent buildings. The height steps down to 88.3 feet along the southern boundary as requested by the residents of the Town of Chevy Chase.

The new construction will be setback a minimum of 15 feet from Waverly Street. The redevelopment of the Property will also include removal of the existing portions of the link that currently project into the sidewalk area along Waverly Street. These changes will create a pleasant pedestrian environment on Waverly Street.

The new thirteen-story hotel will enhance the Air Rights Center complex and unify the massing of the existing buildings along Waverly Street by concentrating the height and mass of the building in the western corner of the Property, adjacent to the more intensive uses and as far away as possible from the existing single family homes located within the Town of Chevy Chase.

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

The Hotel Project will not overburden existing public services. The hotel use and the lesser amount of retail generate less trips than the previously approved residential use. Whereas the residential use generated 55 AM peak hour trips and 55 PM peak hour trips, the traffic statement prepared as part of the Project Plan Amendment indicates that the hotel will generate only 43 AM peak hour trips and 27 peak hour PM trips. The Hotel's close proximity to the Bethesda Metro Station helps promote the use of public transportation, and it is anticipated that many guests will rely on the metro to commute to meetings in the District of Columbia.

1. Local Area Transportation Review

The proposed development is for a 216-room hotel on the site. A traffic statement was submitted to compare the traffic impact of the previously approved development proposal and the current proposal. The site was approved for a 182 unit high-rise apartment complex at this location on January 4, 2001. At the time a traffic study was submitted evaluating the impact of 182 high-rise apartments, it was determined that all intersections were operating within the congestion standard of 1,800 Critical Lane Volume for Bethesda Central Business District.

The Applicant submitted a traffic statement on December 4, 2004, to provide Transportation Planning staff with a comparison between the traffic that would have been generated and distributed by 182 high-rise apartments and the 216 room hotel that would replace about 8,044 square feet of existing retail use. The result of the study indicates that the total trips generated by the hotel will be less than what would have been generated under the previously approved plan. The proposed hotel will generate a total of 12 and 28 less trips during the weekday morning and evening peak hours respectively. In addition, most travelers staying in the hotel are expected to take advantage of the metro station that is only 600 feet away from the proposed site.

Staff also evaluated the directional distribution of traffic for the two different development proposals. Our evaluation indicates that the traffic pattern for a high rise apartment complex and a hotel should be the same because they both function as producers of trips during the morning peak hours, therefore the directional distribution of traffic must be the same. Based on the directional distribution of traffic, staff concluded the assignment of traffic to area intersections will also be the same and, therefore, the traffic patterns are the same. These evaluations suggest that the proposed hotel will have less impact on the area transportation system than a 182 high-rise apartment building.

2. Road Classifications

Waverly Street is classified as a Business District Street with a recommended 80-foot right of way. This Applicant is required to provide 35 feet of right-of-way from the centerline of Waverly Street. Staff allowed a five-foot reduction to the required right-of way at this location for several reasons:

1. Waverly Street has a 90-degree angled curve in front of the property and therefore, the safe speed at this location could not be more than 15 miles per hour. The speed is one of the criteria for classification of a roadway and 15 miles per hour speed is well below a traffic speed allowed for a road, say an arterial that allows for more than 35 miles per hour speed.
2. All the street amenities, such as wide sidewalks and the tree panels that are required in front of the property to create a safe, efficient, and desirable walking experience, are provided within the reduced dedicated right-of-way.
3. If the Applicant were required to provide a full 40-foot right of way from the centerline, the underground garage and the surrounding structures would have been negatively impacted in an effort to meet the minimum requirements of building a hotel on this site.
4. There is no plan in the future to widen the road at this location.

Montgomery Avenue is classified as a Business District Street with a recommended 80-foot right-of-way. The Applicant would provide a half section of the required right-of-way, sidewalks, and other amenities.

Pearl Street is classified as a Business District with a recommended 85-foot right-of-way. No dedications are required with this plan approval.

Wisconsin Avenue is classified as a Major Highway with recommended right-of-way varying from 104 feet to 120 feet through out the Central Business District (CBD) area.

3. Water and Sewer Capacity

The site is classified as W-1 and S-1, establishing capacity for the proposed project.

Based on the above stated facts and analysis hereby expressly adopted by the Planning Board, the Planning Board finds that the proposed hotel development, as conditioned, will not overburden existing public services nor those programmed for availability concurrently with each stage of construction.

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

The development of the Air Rights Center Hotel Project is only possible as an optional method development project. The existing office development of the property exceeds the 2.0 FAR maximum permitted in accordance with the standard method of development in the CBD-2 Zone.

The optional method of development allows for 4.0 FAR. The proposed addition of the hotel results in an overall density for the property of 3.50 FAR, below the allowable 4.0 FAR.

An important benefit of the optional method of development is the increased public use space, which will be provided. The Air Rights Center Hotel Project provides an opportunity to improve the public space surrounding the Property. The public use improvements, which are provided as a result of the optional method of development, are as follows:

Net Lot Area	117,258 SF
Public Use Space Required (20%)	23,452 SF
Public Use Space Provided On-Site:	
Crescent Trail Improvements	4,731 SF
Landscaped Screening Strip	2,383 SF
Crescent Trail Full Section Improvements	12,368 SF
Crescent Trail Tunnel Pointing	2,688 SF
Plaza Renovation	9,610 SF
On-Site Total:	31,780 SF
Public Amenity Space Off-Site:	
Waverly St. Dedication/Improvements	4,198 SF
Montgomery Avenue Improvements	6,536 SF
Waverly Street Seating Area	1,340 SF
Elm Street Park	93,000 SF
Pearl Street Connection	774 SF
Off-Site Total:	105,848 SF
Total Provided:	137,628 SF
<u>Public Use Easement Area Tabulation</u>	
Public Access Easement Between Crescent Trail and Elm Street Park	250 SF
<u>Public Use Dedication Tabulation</u>	
15 Foot Waverly St. Public Dedication	4,198 SF

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

This section does not apply to the Project Plan Amendment; the commercial project provides no housing.

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

- (1) *The project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or***
- (2) *The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or***
- (3) *The project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.***

This section does not apply to the subject Project Plan Amendment.

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

This Project is exempt under the forest conservation law as set forth in Environmental Planning Division's Memorandum dated 12/23/04.

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

With the condition below, requiring Applicant to submit confirmation from MCDPS of an extension of the conditional waiver of stormwater management controls currently applicable to the Subject Property set forth in MCDPS Memorandum dated October 12, 2000, the Project Plan satisfies all applicable requirements for water quality resources protection under Chapter 19.

XIII. PLANNING BOARD ACTION AND CONDITIONS

The Montgomery County Planning Board APPROVES Project Plan No. 9-00001A, which consists of 132,421 sf of new hotel use with 4,600 sf of existing retail use, 364,100 sf of existing office use for a total of 501,121 sf of commercial development on 143,174 sf. All

site elements of the Air Rights Hotel Project Plan Amendment 9-00001A, as shown on sheets S-1, S-2, S-3, S-4, and S-7 dated 12/30/04 and sheets S-5 and S-6 dated 3/31/05, shall be required except as modified by the following conditions:

1. Building Height

The height of the hotel shall be 116 feet, stepping down to 90 feet in conformance with Project Plan Submission Sheet Number S-7 dated 12/30/04.

2. Pearl Street Bike Connection

In the event that Montgomery County Department of Public Works secures an easement from the adjacent property owner from the end of the Pearl Street right-of-way to create a bike path connection to the interim Capital Crescent Trail in order to implement Stage Two Transportation Improvements in Bethesda, this Applicant shall build the bikepath connection. The Applicant shall build a connecting staircase and/or a bike ramp type of structure per DPWT approvals. Consideration shall be given to the type of building materials to be used that would reflect the possible interim nature of the bike ramp given possible future implementation of the Bi-County Transitway (aka "the Purple Line").

3. On and Off Site Amenities

Applicant shall provide the following amenities:

On Site Public Use Space

- Create a public plaza at the corner of Montgomery Avenue and Waverly Street
- Public Art at the Stair Tower along Waverly Avenue – façade or other treatment to the stair tower linking the lower garage floors to Waverly Street and the Link above.
- Install the following improvements to the interim Capital Crescent Trail:
 - o Whitewash the interior walls and surfaces within the tunnel
 - o Landscape with stone pattern along trail
 - o Pavement restoration along the eastern edge of the trail

Off Site Public Amenity Features

- Streetscape improvements to Waverly Street right-of-way adjacent to the site. Streetscape improvements to conform to the Bethesda Streetscape Guidelines.
- Dedicate without cost to the County a public easement to provide access between the interim Crescent Trail and Elm Street Park.
- Pursuant to an agreement with MCDPWT, construct the Pearl Street Bike Connection.

- Renovate Elm Street Park, between Elm Street and Willow Lane, to include the features as shown in the Concept Plan II dated August 29, 2000 as follows:
 - o Remove old paths and upright wooden post walls;
 - o Regrade to prevent drainage problems as necessary;
 - o Install new paths;
 - o Install new benches, tables and chairs as determined by M-NCPPC to be necessary;
 - o Install landscaping, reseed; and follow tree preservation practices as required by M-NCPPC parks;
 - o Relocate any existing lighting fixtures that utilize existing wiring;
 - o All plans for improvements to conform to M-NCPPC Parks standards.

4. Waverly Street Dedication

Applicant to dedicate, by minor amendment to a record plat, the necessary right of way for Waverly Street to create a full width dedication of 70 feet, with 35 feet from centerline provided by this project.

5. Maintenance of Public Use Spaces and Amenity Areas

Applicant to enter into an agreement with the Bethesda Urban Partnership to provide ongoing maintenance for Public Use Spaces and Amenity Areas to be executed with the Site Plan Approval.

6. Transportation Planning Issues

The following conditions are part of the APF test for transportation requirements related to Local Area Transportation Review (LATR).

- a. The proposed development shall provide a 35 foot right-of-way from the center line of Waverly Street and subject the land immediately east of the dedicated right-of-way for a width of 5 feet to an easement for future dedication; provided however, that if the Sector Plan recommended right-of-way for Waverly Street is ever reduced to 70 feet or less, the easement for future dedication shall be extinguished.
- b. The Applicant has previously dedicated 40 feet from centerline, along the frontage of the property, for Montgomery Avenue right-of-way dedication.

- c. As it pertains to Applicant's property, coordinate with Montgomery County Department of Public Works and Transportation to improve drainage problems at the southern terminus of Pearl Street.
- d. Provide a sidewalk at least 15 feet wide along the frontage of the property on Waverly Street and Montgomery Avenue.
- e. Provide bicycle and pedestrian connection ramps and/or stairs between Pearl Street and the Capital Crescent Trail/Georgetown Branch Trail on the south side of the property.

7. M-NCPPC Elm Street Park - Site Plan Issues

In conjunction with the Elm Street Park improvements, the site plan for this project shall include the following:

- a. Applicant to renovate the interior path network and sitting areas between Willow Lane and the Elm Street Promenade at Elm Street Urban Park, in accordance with the concept design by Parker Rodriguez, Inc., dated August 29, 2000. Work to include 1) removal of the old paths and sitting areas, including the wooden post walls that surround the sitting areas, 2) re-grade (adding fill if necessary) the site to prevent water accumulation in the park, 3) install new paving along re-aligned trails and in sitting areas, and 4) install new benches, tables and chairs as determined by M-NCPPC staff to provide adequate seating and recreation in the park. The retaining wall that separates the Elm Street Promenade from the open space park area should be left in place except where necessary to connect the new paths to the promenade.
- b. Applicant to provide landscaping for the renovated park area to include 1) tree and shrub plantings around the new sitting areas, 2) re-seeding of the park area, and 3) additional trees and shrubs to compliment the trail and park improvements. Number of plantings, plant species and planting locations to be acceptable to M-NCPPC staff. Applicant to establish a tree preservation program acceptable to M-NCPPC staff to protect existing trees from damage during renovation.
- c. Applicant to re-locate any existing lighting features and wiring in the park as is necessary to accommodate the renovations.
- d. Applicant to provide engineering and design plans acceptable to M-NCPPC staff for park site grading, construction of improvements, and necessary stormwater management. Improvements to be constructed to park standards and specifications.

8. Issues to review with the Site Plan

In conjunction with this project's site plan submittal, the Applicant shall address the following:

- a. All plans to note "All construction to be staged from Waverly Street" unless otherwise agreed to by other adjacent parties;
- b. Final open space design and development, i.e. the Plaza at Waverly and Montgomery, to include plant material;
- c. Final plans for the Pearl Street connection to be approved with the site plan and to be reviewed simultaneously with DPWT;
- d. Parking garage access shall be accommodated from Montgomery Avenue during construction, with two lanes available during each rush hour.
- e. Applicant will evaluate the retaining wall and other areas adjacent to the interim Capital Crescent Trail at Pearl Street to determine if there is any stabilization or other maintenance required and shall make any necessary repairs;
- f. Relocate the lay-by or drop off on Waverly Street so as to allow for adequate space for entry to the hotel, drop off/pick up and pedestrian movements with minimal conflict and maximum accommodation for each function.

9. Water Quality Resources

At the time of site plan application, Applicant shall submit confirmation from MCDPS of an extension of the conditional waiver of stormwater management controls currently applicable to the Subject Property set forth in MCDPS Memorandum dated October 12, 2000.

In accordance with Montgomery County Code § 59-D-2.7, this project plan will remain valid for 24 months from the Initiation Date, as defined in § 59-D-2.7(a), provided that a complete site plan application is filed within 18 months of the Initiation Date.

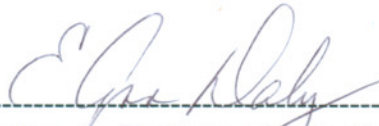
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[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

APPROVED AS TO LEGAL SUFFICIENCY
DND 1/20/06
M-NCPPA LEGAL DEPARTMENT

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 **Project Plan 9-00001A, Air Rights Hotel**. Vice Chair Perdue was temporarily absent.



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



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

MAR 23 2007

MCPB No. 06-126

Site Plan No. 820070010

Air Rights Hotel

Date of Hearing: December 14, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

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

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

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

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated November 30, 2006, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on December 14, 2006, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

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

Approved as to
Legal Sufficiency:

TAB 3-9-07

M-NCPPC Legal Department

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

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

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

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 82007010 for 132,421 square feet of hotel use, 4,600 square feet of existing retail, and 364,100 square feet of existing office space, on 3.28 gross acres in the CBD-2 Zone, subject to the following conditions:

1. Project Plan Conformance

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

2. Building Height

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

3. Architecture

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

4. Transportation Division Memo

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

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

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

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

5. Final Plat

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

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

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

6. Public Art

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

7. Elm Street Park

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

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

8. Certified Site Plan

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

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

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

9. Pearl Street Connection

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

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

10. Maintenance Agreement

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

11. Garage Access

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

12. Stormwater Management

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

13. Development Program

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

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

14. Demolition, Clearing and Grading

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

BE IT FURTHER RESOLVED that all site development elements as shown on Air Rights Hotel drawings stamped by the M-NCPPC on November 15, 2006, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference, except as modified herein, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan is in conformance with approved Project Plan No. 9-00001A, approved by the Planning Board on April 28, 2005.*
2. *The Site Plan meets all of the requirements of the CBD-2*

Requirements of the CBD-2 Zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

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

Total FAR square footage		501,121	501,121
Floor Area Ratio (FAR)	4.0	3.5	3.5
Cellar space			10,134
Total square footage incl. cellar space***			511,255
Minimum Public Use Space (%/sf):			
-On-Site	20%/23,452	27%/31,789	28.6%/ 34,370
-Off-Site		105,818	104,287
Total Open Space		137,598	138,657
Maximum Building Height:	143	116****	116'
-Ex. North Building	142		
-Ex. West Building	149		
Building Setbacks (ft.):			
-From Waverly Street	NA	0	0
Total Parking for Air Rights Center	1,112	817****	1,024

* In addition 2,029 sf will be placed in a Public Improvement Easement (PIE), increasing the net lot area from previous approvals.
 ** Approximately 8,600 square feet of existing retail space will be eliminated
 *** Per Section 59-A-2.1 of the Zoning Ordinance, cellar space does not count towards the FAR.
 **** The Master Plan recommended a maximum height of 90 feet. The Planning Board approved a height up to 116' with 9-00001A.
 ***** The site is located within a Parking District, therefore there is no minimum parking required; however, 817 parking spaces would be required for this development if located outside a parking district.

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

a. Buildings and Structures

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

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

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

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

b. Open Spaces

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

c. Landscaping and Lighting

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

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

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

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

d. Recreation Facilities

There are no recreation requirements for non-residential uses.

e. Vehicular and Pedestrian Circulation

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that the date of this Resolution is MAR 23 2007 (which is the date that this resolution is mailed to all parties of record); and

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

At its regular meeting, held on Thursday, March 15, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Perdue, seconded by Commissioner Robinson, with Commissioners Hanson, Perdue, Robinson, and Wellington voting in favor, and Commissioner Bryant absent, ADOPTED the above

Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 820070010, Air Rights Hotel.



Royce Hanson, Chairman
Montgomery County Planning Board

Appendix B: Parking Waiver Request

Holland & Knight

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patricia.harris@hklaw.com

November 17, 2010

VIA ELECTRONIC MAIL

Mr. Elza Hisel-McCoy
Maryland-National Capital Park and Planning
Commission
8787 Georgia Avenue
Silver Spring, MD 20914

Re: 7300 Pearl Street (the "Property") -- Request for Parking Waiver

Dear Mr. McCoy:

On behalf of Bethesda ARC, LLC ("ARC"), the owners of the above-referenced Property and in accordance with Zoning Ordinance Section 59-E-4.5, we respectfully request a parking waiver to reduce the required number of parking spaces on the Property. The total required number of parking spaces for the Property is 315, and 122 parking spaces are proposed. Thus, the Applicant seeks a parking waiver of 193 spaces, or 62 percent of the total number of spaces otherwise required to accommodate the proposed redevelopment. This request is made in connection with the Site Plan application (Site Plan No. 82007001C) that has been filed to develop a 149,611 square foot office building on the Property. The justification for the parking waiver is set forth herein.

As recognized in the "Summary of M-NCPPC Parking Study" prepared by Nelson/Nygaard, unnecessarily high parking standards in urban areas create a number of undesirable results, including a reduction in infill development, an increase in auto use and a decrease in positive pedestrian environments. It is for this reason that Montgomery County intends to revise the current parking standards in connection with its rewrite of the Zoning Ordinance. The proposed parking waiver for 7300 Pearl Street would address all of the unintended results of higher than necessary parking requirements.

I. Property Description

The Property consists of 19,445 square feet of gross tract area which is located in the southeast corner of Parcel B. The pending Preliminary Plan would subdivide Parcel B with existing Parcel G also owned by ARC, to create a new record lot. Parcel G is part of the overall Air Rights Complex and is improved with a 216-room hotel, an office building known as the North Tower containing 364,100 square feet of office use and 4,600 square feet of retail use, and the corresponding parking (the "Parking Facility").

The development of 7300 Pearl Street with office uses is intended in part to accommodate the anticipated office expansion needs of the existing tenants in the North Tower. The parking proposed for 7300 Pearl Street will be connected to the existing Parcel G Parking Facility. In addition, it is likely that 7300 Pearl Street and the North Tower will be connected on at least one upper floor by an elevated hallway. A pedestrian walkway extends along the ground floor of the North Tower, through the hotel to the East and West Towers of the Air Rights Complex.

The existing development on Parcel G is intended to function as an integrated, comprehensive project. The Parking Facility is located so as to conveniently serve all the uses -- the hotel, the North Tower the new 7300 Pearl Street development. Vehicles entering the parking facility located on Parcel G at any of the three entrances (on Waverly Street adjacent to the hotel, on Montgomery Avenue, at the eastern corner of the North Tower, or at 7300 Pearl Street) will be able to connect to any other portion of the parking facility and exit at any of the three locations. Importantly, the Parking Facility has 132 surplus parking spaces (the Parking Facility has 940 parking spaces, excluding 37 available tandems and 37 available reserved spaces), and the uses in the North Tower and the Hotel require a total of only 808 spaces.

II. Justification for the Parking Space Waiver

Upon redevelopment of the Pearl Street office building, the Owner anticipates that the 122 parking spaces will be more than adequate to accommodate the parking needs of the Property. This conclusion is based on several factors, as follows:

A. Existing Parking Facility

The Parking Facility currently provides approximately 132 more spaces than is required by the Zoning Ordinance. This surplus of spaces is apparent from a visual inspection of the Parking Facility during varied hours of the work day which reveals a significant number of excess, unused spaces. As noted, the Parking Facility is conveniently located adjacent to the 7300 Pearl Street Property and employees parking in it will be able to enter 7300 Pearl Street from the interior of the buildings, without having to go outside. As indicated on the attached chart, when the 940 existing parking spaces are taken into account and added to the 122 parking spaces provided on the 7300 Pearl Street Property, the overall parking deficit is effectively reduced to 61 spaces (1123-1062), or 5.4 percent.

B. Proximity to Public Transportation and Location in the Heart of the Bethesda CBD.

The Property is located in the heart of Bethesda within a very convenient walk to the Metro Station. In addition, the Property is well served by bus lines, including the J2 and J3 lines which stop along Montgomery Avenue and the bus depot at the Metro Station which provides connections to all areas of the County and is served by five WMATA bus lines and nine Ride-On lines.

C. The Number of Parking Spaces Required by the Zoning Ordinance is More Than the Property Requires in Practice.

The parking standards set forth in the Zoning Ordinance are outdated and do not reflect the current realities of commuting patterns and parking demand. The disconnect between the number of spaces required by the Zoning Ordinance and what in practice is needed is perhaps most acute in the Central Business Districts and those areas of the County well served by public transportation. This issue is recognized and is to be addressed in the redrafting of the Zoning Ordinance.

The parking requirement for an office use is determined by a site's distance to a Metro Station. In the case of 7300 Pearl Street, which is located approximately 1,100 feet from the Metro Station, 2.1 spaces per 1,000 gross square feet ("GSF") are required. The strict technical application of the Zoning Ordinance requires measuring from the Metro Station escalators to the entrance of the 7300 Pearl Street Property. The Zoning Ordinance does not permit the measurement to be taken to the closest point of the Air Rights Complex, which is less than 800 feet to the entrance of the Metro Station and which would thus require 1.9 spaces per 1,000 GSF, as opposed to 2.1 spaces per 1,000 GSF. This difference in the parking factor results in the 7300 Pearl Street Property having to provide 30 spaces more than would otherwise be required within most of the remaining portions of the Air Rights Complex. And yet, as a practical matter, because employees of 7300 Pearl Street can access the Metro Station via the elevator at the corner of Montgomery Lane and Wisconsin Avenue and can walk from 7300 Pearl Street through the entire Air Rights complex to Wisconsin Avenue, the modal split will be much more reflective of a property located closer to the Metro Station than the Property actually is. In sum, the existing parking requirement remains high and does not reflect current commuting realities and parking demand.

As the modal split in areas like Bethesda continues to increase (in 2009 the Bethesda modal split was 38 percent, according to Bethesda Transportation Solutions), the existing parking space standards increasingly do not reflect the realities of commuter behaviors and practices. As the Owner of more than 700,000 square feet of office space at the Air Rights Complex, the Owner has first hand knowledge as to the common commuter practices and thus the parking needs for office users within the Bethesda CBD.

D. Recent Parking Waivers Granted by Planning Board

The parking waiver is wholly consistent with the direction of the County Council and Planning Board in connection with projects located within transit station policy areas. This is reflected most recently in the adoption of the CR Zone, wherein the minimum parking requirements are now the maximum requirements, for sites located within close proximity to a transit station. The Planning Board is encouraging developments to provide less, not more parking, and to seek whatever waivers possible toward this end. This approach is based on the theory that limited parking will provide yet another incentive to encourage alternatives to single occupancy vehicles.

Mr. Elza Hisel-McCoy
November 17, 2010
Page 4

For the reasons discussed above, we respectfully request the Planning Board's approval of the parking waiver to accommodate the redevelopment of the Property.

Very truly yours,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read 'Patricia Harris', written over the printed name below.

Patricia Harris

Enclosure

cc: Mr. Pete Gartlan

#9834555_v1

7300 Pearl Street
Parking Waiver Request

<u>Existing Parcel G</u>	Required	Provided
Unit 1 - North Tower		
364,100 s.f. office	692	
4,600 s.f. retail	14	
Total	706	
Unit 2 - Hotel	102	
TOTAL	808	940
 <u>Pearl Street</u>		
149,611 s.f. office	315	122
Deficit		193
 TOTAL of Parcel G and Pearl Street	 1123	 1062
 <u>WAIVER REQUEST</u>	 - 193 spaces	

Holland & Knight

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November 12, 2010

Re: 7300 Pearl Street, Bethesda, Maryland

Dear Property Owner:

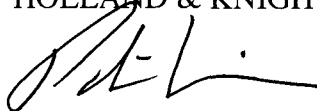
We previously notified you that a Project Plan Amendment, Preliminary Plan, and Site Plan Amendment had been filed for the 7300 Pearl Street Property. The purpose of this letter is to notify you that the Applicant has also requested that the Planning Board consider a parking waiver for the 7300 Pearl Street Property, pursuant to Zoning Ordinance Section 59-E-4.5.

Notice of the public hearing will be forwarded to you under separate cover by the Maryland-National Capital Park and Planning Commission ("M-NCPPC").

If you have any questions, please contact M-NCPPC's Development Review Division at (301) 495-4545.

Very truly yours,

HOLLAND & KNIGHT LLP



Patricia A. Harris

#9778590_v1

Adj/Conf. Property Owners

**Donohoe Development
7300 Pearl Street (092791.2)**

Rt 4540 Montgomery, LLC
Bethesda Chevy Chase Racquet Club, LP
c/o Promark Real Estate Service
16620 Frederick Ave
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Gaithersburg, MD 20877

Pearlmount Associates, LLC
c/o Chevy Chase Commercial, Inc.
4424 Montgomery Ave
Bethesda, MD 20814

Meadow Lo Corporation
c/o Mr. Roger W. Eisinger, Jr.
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Joanne L. Rood
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Chevy Chase, MD 20815

Montgomery County Maryland
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3rd Floor
Rockville, MD 2850

Bethesda ARC, LLC
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Bethesda Hotel Associates, LLC
c/o Donohoe Bethesda Hotel
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Macris, Hendricks & Glascock, P.A.
Engineers, Planners, Landscape
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Bethesda ES
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November 12, 2010

Re: 7300 Pearl Street, Bethesda, Maryland

Dear Civic Association:

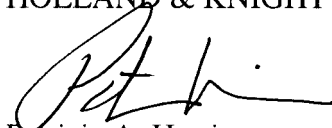
We previously notified you that a Project Plan Amendment, Preliminary Plan, and Site Plan Amendment had been filed for the 7300 Pearl Street Property. The purpose of this letter is to notify you that the Applicant has also requested that the Planning Board consider a parking waiver for the 7300 Pearl Street Property, pursuant to Zoning Ordinance Section 59-E-4.5.

Notice of the public hearing will be forwarded to you under separate cover by the Maryland-National Capital Park and Planning Commission ("M-NCPPC").

If you have any questions, please contact M-NCPPC's Development Review Division at (301) 495-4545.

Very truly yours,

HOLLAND & KNIGHT LLP



Patricia A. Harris

#9904677_v1

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Bethesda, MD 20814

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Bethesda, MD 20816

Dennis Wood
Bethesda Coalition
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Ronald Tripp
Citz. Cord. Committee on Friendship Hgt
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Mayor
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Pedro Porro
Spanish Speaking People of
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Bethesda, MD 20814

Sara Gilberston
Battery Park Citizens Assn.
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Bethesda, MD 20814

Appendix C: Staff Review Memoranda



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

MEMORANDUM

DATE: November 19, 2010

TO: Richard Weaver, Planner/Coordinator
Elza Hisel-McCoy, Site Planner
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning Division

FROM: Ed Axler, Planner/Coordinator
Tom Autrey, Supervisor
Transportation Planning Division

SUBJECT: Air Rights Center - 7300 Pearl Street
Project Plan No. 92000001B, Preliminary Plan No. 120010010, &
Site Plan No. 82000001C
Bethesda Central Business District (CBD) Policy Area

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review of the subject project plan, preliminary plan, and site plan. The Applicant is proposing to replace the existing office building of 20,818 square feet with an office building of 150,000 square feet in downtown Bethesda.

The proposed building is part of an existing development that was approved under Site Plan No. 820070010 in December 14, 2006. The previous approved land uses included another office building of 364,000 square feet (i.e., known as the North Tower), general retail space of 4,600 square feet, a 216-room hotel (i.e., Hilton Garden Inn), and central garage. In addition, the previous approval required an off-site public amenity to renovate the southern portion of the existing Elm Street Park that is located on the south side of the future Capital Crescent Trail.

RECOMMENDATIONS

We recommend the following conditions as part of the APF test for transportation requirements related to the subject project plan, preliminary plan, and site plan:

1. The Planning Board's approval under the subject Project, Preliminary, and Site Plan Amendments should be limited to an addition of up to 150,000 square feet of general office space.

2. Prior to issuance of any building permits, the Applicant must satisfy the Policy Area Mobility Review (PAMR) test by paying \$565,000 (i.e., \$11,300 per PAMR trip) to the Montgomery County Department of Transportation (MCDOT) towards the following non-auto transportation improvements within the overall Bethesda/Chevy Chase Policy Area (listed in order of priority):
 - a. Implement, including property acquisition and/or all necessary means of access easement for and construction of an ADA-compliant interim pedestrian/bicycle connection between the existing Georgetown Branch Interim Trail and Pearl Street.
 - b. Improve the pedestrian, bicycle storage, and transit passenger waiting area underneath 3 Bethesda Metro Plaza at Washington Metropolitan Area Transit Authority's (WMATA) Bethesda Metro Station. Specific improvements will be identified in future discussions with WMATA.
 - c. Fund design, engineering, and construction of pedestrian and bicycle improvements identified by MCDOT in the overall Bethesda/Chevy Chase Policy Area.
3. The Applicant must enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Bethesda Transportation Management Organization. The Traffic Mitigation Agreement must be fully executed prior to issuance of any building permits.
4. The certified preliminary plan and certified site plan must show a perpetual easement with the necessary length, width and vertical area for the Purple Line and future Capital Crescent Trail for an estimated total width of 66 feet as required by the Maryland Transit Administration (MTA) and described in the (attached) letter of November 3, 2010, from MTA.
5. The certified preliminary plan and certified site plan must show and be verified by MTA the location of the retaining wall outside of the 32-foot transitway easement for the Purple Line. Prior to certification of Site Plan, the applicant must provide the information related to the wall as requested on page 2 in the attached letter of November 3, 2010, from MTA.
6. The Applicant must provide the following bicycle parking:
 - a. Four inverted-U bike racks in front of the office building near the main entrance in a safe location that is not in between the loading dock and parking garage access points.
 - b. Eight bike lockers in the garage within 50 feet of the elevator. Transportation Planning Division staff shall determine the ultimate location of the bike racks and lockers at site plan certification.

The Transportation Planning staff supports a waiver of the required right-of-way along the site's frontage of Pearl Street. Details are provided in the discussion below.

DISCUSSION

Site Location and Vehicular Access

The subject site is located in the northwest corner of Pearl Street and the future Capital Crescent Trail right-of-way. The primary vehicular access for employees and service vehicles is proposed from Pearl Street.

Parking

The subject site is located within the Bethesda Parking Lot District. The Applicant is proposing to provide most of the required parking spaces on the site. The remaining parking spaces would be accommodated within the off-site County-operated parking Garage No. 47 that is located a short distance to the north of the site.

Available Transit Service

The subject site is within walking distance of approximately 1,500 feet to the east of the Bethesda Metrorail Station located in the southwest corner of Wisconsin Avenue (MD 355) and Montgomery Avenue (eastbound MD 410). Ride-On route 33 and Metrobus routes J-2, J-3, and J-4 operate along Montgomery Lane. Transit service is not available along the segment of Pearl Street fronting the subject site.

Pedestrian Facilities

As a public amenity requirement, a sidewalk that exists along Pearl Street must be upgraded where sufficient right-of-way exists to Bethesda Streetscaping standards. For the remainder of the west side of Pearl Street to Montgomery Lane, the Applicant will provide an interim upgrade to the existing sidewalk.

Sector-Planned Roadways, Bikeways, Trail, and Transitway

In accordance with the *Bethesda CBD Sector Plan* and *Countywide Bikeways Functional Master Plan*, the sector-planned roadways and bikeway are as follows:

1. Pearl Street is designated as a business district street with a recommended 85-foot right-of-way and a bicycle friendly area. In accordance with the *Countywide Bikeways Functional Master Plan*, a signed shared roadway, SR-11, is designated along Pearl Street. The Applicant is requesting a waiver to reduce the right-of-way from 85 to 60 feet wide. Refer to the discussion of the Applicant's requested waiver to reduce the *Sector Planned* recommended right-of-way below.
2. Montgomery Lane (i.e., the eastbound lanes of MD 410) is designated as a business district street with a recommended 80-foot right-of-way and no bikeway.

3. Waverly Street is designated as a business district street with a recommended 80-foot right-of-way and no bikeway.
4. The future Capital Crescent Trail is designated along the southern property line as a shared use path, SP-6 in accordance with the *Countywide Bikeways Functional Master Plan*.

The Purple Line alignment is designated along the southern property line in accordance with the *Purple Line Functional Master Plan*.

Waiver to Reduce Pearl Street's Right-of-Way

Transportation Planning staff support the Applicant's request to reduce the Sector-Planned recommended right-of-way from 85 feet to 60 feet as requested in the Applicant's attorney's (Ms. Patricia Harris) letter dated October 15, 2010 (attached). The right-of-way is 85 feet between the one-way MD 410 pairs between Montgomery Lane and East-West Highway. However, Pearl Street is not a through street south of Montgomery Lane. It terminates at the Purple Line/future Capital Crescent Trail right-of-way. The waiver applies only to the width of the right of way. All required design elements of a master planned Business Street must be accommodated within the prescribed a 60-foot-wide right-of-way with a required 25-foot building setback.

Purple Line and Capital Crescent Trail

The Capital Crescent Trail and the Purple Line are planned transportation facilities that border the Applicant's southern boundary. The Capital Crescent Trail will be immediately adjacent to the Applicant's project with the Purple Line located immediately south of the trail. The Capital Crescent Trail will replace the existing Georgetown Branch Interim Trail. The MTA's current design for the trail along the Applicant's southern border shows the trail elevated directly above the train and (going east toward Silver Spring) moving to a position north of the train tracks within the segment of the trail and Purple Line bordered by the Applicant's project. The trail is also starting to descent in this area – from a point about nine feet above Pearl Street to a point just east of Pearl Street where an access point (ramp) is planned. In summary, the Applicant's southern boundary is adjacent to a critical transition point for the proposed Capital Crescent Trail.

The Applicant's plan reflects a perpetual easement along the southern boundary of the site that is an estimated 66 feet wide when combined with the existing Georgetown Branch right-of-way. This width is consistent with the width provided for along a large segment of the Georgetown Branch right-of-way within which the MTA concept plans accommodate both the Purple Line and the adjacent trail.

The Applicant's plan includes a minimum roof height of 61 feet for the area directly above the Capital Crescent Trail. The first floor of the building is at an elevation of 330 feet. The highest elevation of the trail at any point along the southern boundary of the Applicant's site is 336 feet so the Applicant's plan reflects ample room above the trail.

The MTA has reviewed the 7300 Pearl Street Drawings C-8, C-9, C-10, and C-11 and determined that except for the retaining wall shown on the plans to be constructed and would provide sufficient space for the construction and operation of the Purple Line and Trail. More specific information on the MTA review of the plans for 7300 Pearl Street is included in the attached letter of November 3, 2010, from the MTA. MTA also emphasizes that it is critical that the Applicant continue to coordinate with the MTA during each phase of the project design.

Access to the Future Capital Crescent Trail

No planned access exists to the trail from the Applicant’s site. There is a planned access point (in the form of a ramp) on the east side of Pearl Street.

Pearl Street is about five feet above the existing trail. Transportation Planning staff support consideration of the construction of an interim access point east of Pearl Street as part of the project implementation. The existing informal access point at that location is far from ideal, although it is heavily used by students walking to and from school.

Sector-Planned Transportation Demand Management

As a proposed office building that would employ over 25 persons within the Bethesda TMD, the Applicant is required to enter into a Traffic Mitigation Agreement to participate in the Bethesda TMO to assist in achieving its non-auto-driver mode share goal for employees working in Bethesda TMD.

Local Area Transportation Review (LATR)

Table 1 below shows the number of peak-hour trips generated by the proposed land uses within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods:

Table 1: Site-Generated Vehicular Trips

Land Use	Square Footage	Peak Hour Trips	
		Morning	Evening
Proposed General Office Space	150,000 sq. ft.	225	225
Existing General Office Space	20,818 sq. ft.	31	31
Total Net Increase in Trips		194	194

In accordance with the *Local Area Transportation Review and Policy Area Mobility Review Guidelines*, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. Based on the results of this traffic study, the table below shows the calculated Critical Lane Volume (CLV) values at the studied intersections.

Table 2: CLV values at the Studied Intersections

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total Future
1. Pearl Street & East-West Highway	Morning	690	797	853
	Evening	560	634	703
5. Pearl Street & Montgomery Lane	Morning	535	681	776
	Evening	826	962	1,128

The CLV values at all studied intersections are less than the congestion standard of 1,800 CLV for the Bethesda CBD Policy Area and, thus, the LATR test is satisfied.

Policy Area Mobility Review (PAMR)

As a development located in the overall Bethesda/Chevy Chase Policy Area, the required trip mitigation is 30% of the new peak-hour vehicular trips generated by the proposed land uses within the weekday morning and evening peak periods. As calculated in Table 3 below, 62 new trips must be mitigated based on using Countywide trip-generation rates. However 12 of these 62 new peak-hour trips are mitigated by being located in a Metrorail station policy area that has viable non-auto transportation alternatives. In Table 3 below, the trip credit is determined by subtracting the difference between:

1. The number of new peak-hour trips based on using the lower trip-generation rates for developments located in the Bethesda CBD and
2. The number of new peak-hour trips based on higher trip-generation rates used on a Countywide basis.

Table 3: Trips Mitigated by being Conveniently Located near a Metrorail Station

Land Use	Square Feet	New Peak Hour Trips	
		Morning	Evening
Starting Base Condition using Countywide Trip-Generation Rates			
Proposed General Office Space	150,000 sq. ft.	247	236
Existing General Office Space	20,818 sq. ft.	35	30
Base Vehicular Trips		212	206
Resultant Base Condition using Bethesda CBD Trip-Generation Rates			
Resultant Peak-Hour Trips from in Table 1		194	194
Reduction: Base minus Resultant Condition		18	12
PAMR 30% New Site-Generated Trips		64	62
Additional Trips to be Mitigated		46	50

Thus some of the required PAMR trips can be satisfied by being located in the Bethesda CBD Metrorail Policy Area. For the remaining PAMR trips, the Applicant proposes pay \$11,300 per PAMR trip to mitigate the remaining PAMR trips as described in Recommendation No. 2.

EA:tc

Attachments

cc: Dave Anspacher
Sande Brecher
Glenn Cook
Gary Erenrich
Wes Guckert
Patricia Harris
Linda Komes
Mike Madden
Paul Newman
John Shaffer

mmo to Weaver & Hisel-McCoy re Air Rights Center 7300 Pearl St 92000001B, 120010010 & 82000001C.doc

Holland & Knight

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Holland & Knight LLP | www.hklaw.com

Patricia Harris
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patricia.harris@hklaw.com

October 15, 2010

VIA ELECTRONIC MAIL

Mr. Shahriar Etemadi
Maryland-National Capital Park and Planning Commission
Transportation Division
8787 Georgia Avenue
Silver Spring, Maryland 20910

Mr. Greg Leck
Development Review Team
Division of Traffic Engineering and Operations
Montgomery County Department of Transportation
100 Edison Park Drive, 4th floor
Gaithersburg, MD 20878

Re: 7300 Pearl Street -- Pearl Street Right-of-Way

Dear Messrs. Etemadi and Leck:

The purpose of this letter is to provide justifications for a 60 foot right-of-way for that portion of Pearl Street located south of Montgomery Avenue on which the 7300 Pearl Street site (the "Property") is located and for a one-foot waiver of the 15-foot building setback recommendation set forth in the Technical Appendix of the 1994 Approved and Adopted Bethesda CBD Sector Plan (the "Sector Plan").

BACKGROUND

The Applicant, Bethesda ARC, LLC, is proposing the development of a 150,000 square foot office building to be located at 7300 Pearl Street. The building will be part of the existing development currently located on Parcel G, which includes a 364,000 square foot office building known as the North Tower, a 116 room hotel and a central garage. The North Tower and the Hotel are interconnected by the central garage and a pedestrian link. The 7300 Pearl Street building will also be connected to the existing buildings by means of the parking facility. The front door of 7300 Pearl Street will be located no greater than 200 feet from the intersection of Montgomery Avenue and Pearl Street.

While the Sector Plan recommends an 85-foot right-of-way for the one block portion of Pearl Street south of Montgomery Avenue on which the proposed building is located and a 60' right-of-way for the remaining portion of Pearl Street north of the Property within the Sector Plan area, the Technical Appendix to the Sector Plan recommends a 60-foot right-of-way for all of Pearl Street south of East-West Highway. The Technical Appendix also recommends a 15-foot building setback along Pearl Street.

JUSTIFICATION

Consistent with the northern portion of Pearl Street, the Applicant recommends a 60 foot right-of-way for Pearl Street south of Montgomery Avenue, for the following reasons:

- In contrast to the Sector Plan recommendation, the Technical Appendix to the Sector Plan recommends a 60-foot right-of-way on Pearl Street south of East-West Highway to the Georgetown Branch Trail.
- The Applicant's proposed 60-foot right-of-way was based in part of the Clarett development, located one block to the north of the Property. Continuing the 60-foot right-of-way provides visual and operational consistency.
- The Sector Plan's recommendation for an 85 foot right-of-way dates back to the adoption of the Sector Plan, 16 years ago. Whatever reasoning existed in 1994 for an 85-foot right-of-way no longer appears to exist and there is simply no basis at this juncture to require an 85-foot right-of-way.
- The 60-foot right-of-way provides more than sufficient area to accommodate the typical cross section, including the sidewalk and utilities. Thus, there is no need for the 85-foot right-of-way recommended in the Sector Plan.
- There are no standards in the Road Code for an 85' right-of-way, and it is unclear what the purpose or intent of such a right-of-way would be.
- The development of 7300 Pearl Street is the final component of the overall Air Rights development on Parcel G. Functionally, Pearl Street will operate as a secondary means of access to the overall development.
- The Property is integrated with the North Tower and Hotel, through the connection of the parking facilities. Vehicles entering the site on Pearl Street will have two additional means of egress – either through the Waverly Street entrance adjacent to the Hotel or onto Montgomery Avenue under the North Tower.
- The proposed 60' right-of-way is more than adequate to satisfy all operational aspects of the proposed office building, including deliveries, trash removal and fire and rescue functions:
 - Standard deliveries will occur in a typical delivery van. As indicated by the attached turning radius diagram, the 60' right-of-way coupled with the proposed layout of the development is more than adequate to accommodate a truck turn-around.
 - The Property owner will contract with a private trash removal company. Such companies have a range of trucks in their fleet and an appropriately sized truck

will be assigned to remove the trash from the Property. The Applicant agrees to a condition of approval limiting the size of the trash removal truck.

- o Fire and Rescue Staff has indicated that given that the front door of the building on the Property will be no greater than 200 feet to the Montgomery Avenue intersection, a turn-a-round is not required, pursuant to Fire and Rescue regulations.

The proposed building setback of 14 feet meets the intent and purpose of the Technical Appendix recommendation for the following reasons:

- The 14' building setback provides more than sufficient pedestrian area in front of the building.
- A one-foot reduction in the building setback from 15 feet to 14 feet is unperceivable and will in no way affect the functionality of this area.
- The area in front of the building entrance where pedestrian traffic will be the greatest will be completely hardscaped. Landscaping along the northern frontage is introduced to soften the building entrance.
- The 7300 Pearl Street property is likely the only development that will occur south of Montgomery Avenue on the west side of Pearl Street and thus the one-foot reduction will not create any visual inconsistencies.

For the reasons set forth above, we believe that a waiver of the Sector Plan recommendation for an 85-foot right-of-way is justified and that a 60-foot Pearl Street right-of-way is more appropriate in this instance. Further, the proposed 14-foot building setback meets the intent of the Technical Appendix recommendation and is therefore also justified.

We thank you for your consideration of this issue. If you have any questions, please do not hesitate to contact me.

Sincerely yours,

HOLLAND & KNIGHT LLP



Patricia Harris

cc: Mr. Elza Hisel-McCoy
Mr. Pete Gartlan



MARYLAND TRANSIT ADMINISTRATION

MARYLAND DEPARTMENT OF TRANSPORTATION

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

November 3, 2010

Mr. Thomas Autrey
Transportation Planning
Maryland-National Capital Park & Planning
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Subject: Air Rights Center
7300 Pearl Street

Dear Mr. Autrey:

As requested, I am writing to inform the Montgomery County Planning Board of comments from the Maryland Transit Administration (MTA) regarding the proposed Air Rights Center, 7300 Pearl Street Concept Plans, relative to the proposed Purple Line project. The MTA appreciates the opportunity to comment on this proposed development that would be located along the north side of the Purple Line Transitway and Trail alignment in the Bethesda Area.

As you are aware, MTA is continuing to evaluate design plans for the Purple Line transitway and Capital Crescent Trail under the existing Air Rights building. As part of our ongoing study of the Purple Line, we have met with The Donohoe Companies, Inc. developer for 7300 Pearl Street, to coordinate on the two projects (Purple Line and 7300 Pearl Street). Our focus in these coordination efforts has been to ensure that sufficient space is provided for constructing and operating the proposed Purple Line Transitway and Trail should the proposed development for 7300 Pearl Street be constructed.

MTA has reviewed the 7300 Pearl Street Drawings C-8, C-9, C-10 and C-11. Copies of these drawings are attached for your information. Based on our review of these drawings, except for a portion of the retaining wall to be constructed, it appears that the proposed layout of the building and proposed parking lot/entrance will provide sufficient space for the construction and operation of the Purple Line and Trail as shown on the attached Purple Line Drawing MP011-HA02.

As shown on the attached Purple Line plan, the existing fence/wall shown in blue is located outside of the 32' transitway easement. However, on the 7300 Pearl Street drawing C-11, the same segment of the existing wall to be reconstructed is shown within the existing transitway easement area. MTA will be required to relocate any walls or other elements constructed within the transitway easement. In order to complete our evaluation, MTA is requesting the following regarding the construction of the wall:

Mr. Thomas Autrey
Page Two

- Commitment from the developer to construct the retaining wall outside of the 32' transitway easement.
- Elevation of the top of new retaining wall.
- Type, size and elevation of wall footings.
- Horizontal and vertical datum used for 7300 Pearl Street Plans.

MTA is requesting that the Planning Board require the developer to dedicate the property required for the construction and operation of the Purple Line and Capital Crescent Trail adjacent to the County owned right of way.

We also request that The Donohoe Companies, Inc. be required to continue to coordinate with MTA as both their development plans and the plans for the Purple Line progress to a more detailed level of design. It should be noted that the current dimensions and elevation for the Purple Line and Trail could change slightly as the project moves into the preliminary engineering phase in 2011. It is critical that MTA be given the opportunity to review the 7300 Pearl Street development plans during each phase of design.

Thank you again for the opportunity to comment on the 7300 Pearl Street development plans, and specifically in terms of the proposed Purple Line transitway and trail. We look forward to continue working closely with the Montgomery County Planning Board and staff planners as the planning and design for the Purple Line advances. Please do not hesitate to contact me at 410-767-3694 or at mmadden@mta.maryland.gov if you have any questions on this matter.

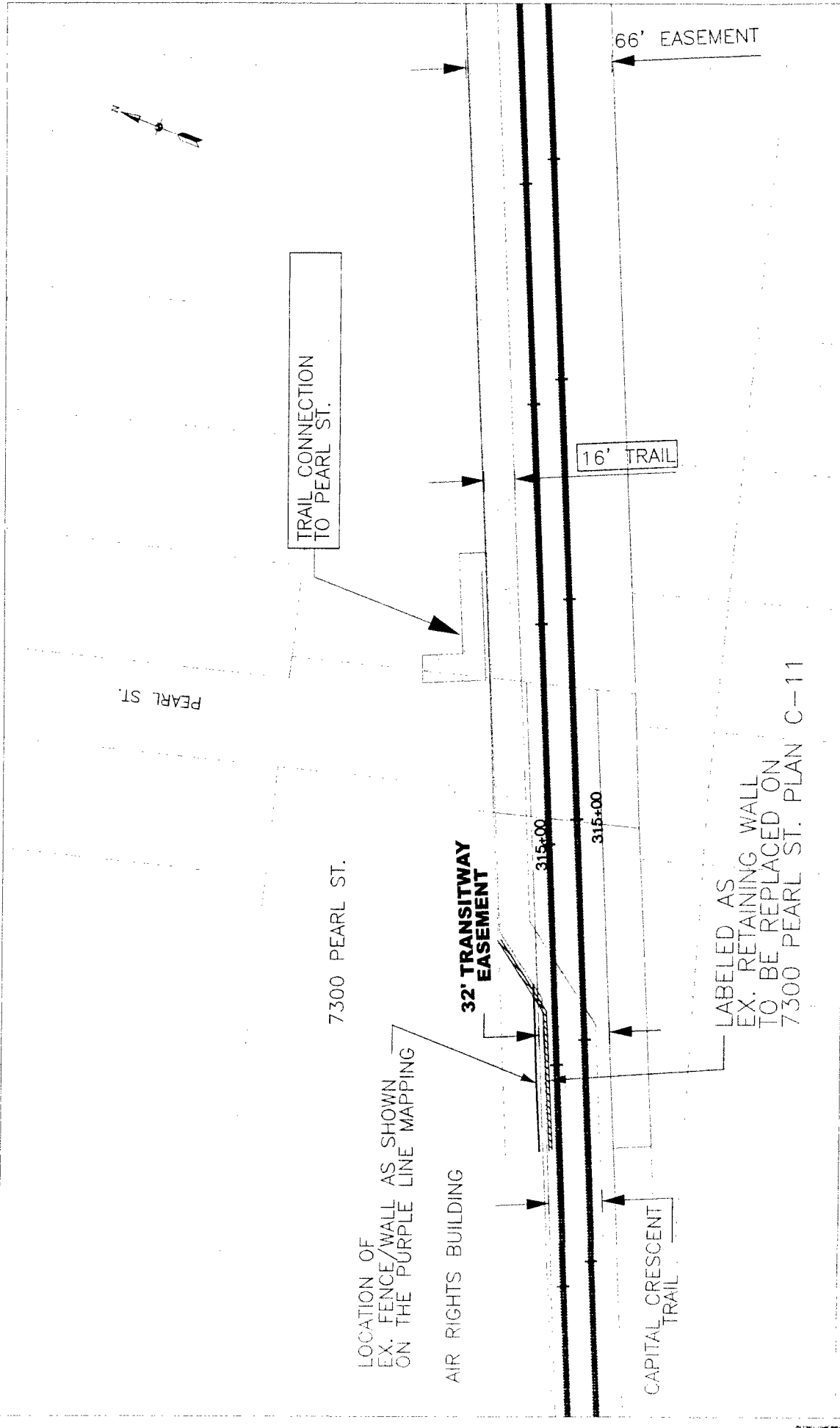
Sincerely,



Michael D. Madden
Chief, Project Development
Office of Planning

Attachments: 7300 Pearl Street Drawings C-8, C-9, C-10 and C-11
Purple Line Drawing MP011-HA02

cc: Gary Erenrich, Special Assistant to the Director, DPW&T w/attachments
Joseph A. Romanowski, Jr., RK&K, LLP w/attachment



 MARYLAND DEPARTMENT OF TRANSPORTATION ADMINISTRATION	 PK&K A DIVISION OF PARSONS BRINCKERHOFF O'NEILL & JOHNSON RUMBLE KIRKPATRICK & WHITE LLP	 LOCATION	WCC WCC	PURPLE LINE & TRAIL SOUTH OF 7300 PEARL ST.	PROJECT NO. 0000-0000 DRAWING NO. 01P011 - F102
			NO. DESCRIPTION BY DATE	DATE OCTOBER 2010	DATE OCTOBER 2010



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

November 18, 2010

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

RE: Preliminary Plan No. 120110010
Air Rights Center – 7300 Pearl Street

Dear Ms. Conlon:

We have completed our review of the revised preliminary plan that was signed and sealed on October 22, 2010. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on September 7, 2010. We recommend approval of the plan subject to the following comments:

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

1. Necessary dedication for future widening of Pearl Street (30 feet from the centerline in accordance with the master plan) and future construction of the Purple Line transit facility (in accordance with the plans of the Maryland Transit Administration).
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. A Public Improvements Easement may be necessary along the site, in order to accommodate both the interim and ultimate Capital Crescent Trail and the future Purple Line. Prior to submission of the record plat, the applicant's consultant will need to determine if there is sufficient right of way to permit these constructions. If not, the applicant will need to either dedicate additional right of way or execute a Declaration of Public Improvements Easement document. That document is to be recorded in the Land Records of Montgomery County, with the liber and folio referenced on the record plat. The width of the Public Improvements Easement, if needed, is to be determined by study.
4. Submit storm drain and/or flood plain studies, with computations, for our review and approval. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same.

Division of Traffic Engineering and Operations

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

5. The Sight Distances Evaluation certification form, for the existing driveway, has been approved. A copy of the approved form is enclosed for your information and reference.
6. In accordance with Section 50-35(n) of the Montgomery County Code, we recommend the Montgomery County Planning Board require the applicant to construct a five (5) foot wide off-site concrete sidewalk within the existing right-of-way along the west side of Pearl Street to connect with Montgomery Avenue (MD 410), as shown on the plan.
7. For safe simultaneous movement of vehicles, we recommend a driveway pavement width of no less than twenty four (24) feet to allow vehicles to enter and exit the site without encroaching on the opposing lanes. This pavement width will permit an inbound lane width of fourteen (14) feet and an exit lane width of ten (10) feet.

We support allowing the applicant to reduce this driveway width if the applicant constructs an interim Americans with Disabilities Act (ADA)-complaint pedestrian and bicycle connection between the end of Pearl Street and the existing interim Capital Crescent Trail/Georgetown Branch Interim Trail.

8. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of a Single-Unit Truck with a 20-foot wheelbase and a 30-foot overall length. The applicant had emailed a turning movement study for only a delivery van with a 13-foot wheelbase.
9. Truck loading space requirements to be determined in accordance with the Executive Branch's "Off-Street Loading Space" policy. On the site plan, delineate the location and dimensions of the proposed truck loading and/or dumpster spaces.
10. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans With Disabilities Act.
11. For any parking facility containing more than fifty (50) parking spaces, the applicant needs to furnish bicycle parking facilities as required Section 59 E-2.3 of the Montgomery County Code. Accordingly, the applicant should provide either bike lockers or inverted "U" type bike racks.
12. To promote achieving and maintaining the 37 percent non-driver traffic mitigation agreement for Stage II of the Bethesda Master Plan, we recommend the applicant be required to enter into a Traffic Mitigation Agreement (TMAg) with MCDOT and M-NCPPC. The details of this agreement should coordinate the document with Ms. Sandra Brecher, Chief of the Commuter Services Section of the MCDOT Division of Transit Services. Ms. Brecher may be reached at 240-777-5800. The TMAg should include provisions for the following parking-related concerns:
 - A. Utilize the shared parking provisions in the Zoning Ordinance.
 - B. Provide adequate numbers of carpool and vanpool parking spaces in highly visible, preferentially-located spots.
 - C. Provide adequate numbers of car sharing vehicle parking spaces in highly visible, preferentially-located spots.

13. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
14. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
15. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
16. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
17. Trees in the County rights of way – spacing and species to be in accordance with the applicable DOT standards. Tree planning within the public right of way must be coordinated with Mr. Brett Linkletter with the Division of Highway Services, Tree Maintenance Unit at (240) 777-7651.
18. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Across the Pearl Street site frontage, widen the existing pavement to sixteen (16) feet from centerline and construct curb, gutter, streetscaped sidewalk and handicap ramps, and enclosed storm drainage and appurtenances. Provide curb and gutter across the end of Pearl Street. Streetscaping to be in accordance with Bethesda CBD Streetscape Guidelines.
 - B. On Pearl Street, construct five (5) foot wide concrete sidewalk between the site and Montgomery Avenue, if required as an off-site amenity by the Montgomery County Planning Board.
 - C. Enclosed storm drainage and/or engineered channel (in accordance with the DOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
 - D. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
 - E. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

Ms. Catherine Conlon
Preliminary Plan No. 1-20110010
November 18, 2010
Page 4

- F. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. David Adams, our Development Review Area Engineer for this vicinity, at david.adams@montgomerycountymd.gov or at 240-777-2197.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

M:\sub\DCA\preletters\120110010, 7300 Pearl St, MCDOT plan review comments ltr.doc

Enclosure

cc: Paul Newman; Macris, Hendricks & Glascock, P.A
Peter Gartlan; Donohoe Development Corp.
Patricia Harris, Holland & Knight, LLP
Shahriar Etemadi; MNCPPC TPD
Edward Axler; M-NCPPC TPD
Thomas Autrey; M-NCPPC TPD
David Anspacher; M-NCPPC TPD
Richard Weaver; M-NCPPC DRD
Corren Giles; MSHA EAPD
Michael Madden; MD MTA Planning
Joseph A. Romanowski, Jr.; RK&K
Sarah Navid; MCDPS RWPR
Gary Erenrich; MCDOT Director's Office
John Shaffer; MCDOT PAS
Gail Tait-Nouri; MCDOT DTE
Brett Linkletter; MCDOT DHM
Sandra Brecher; MCDOT DTS
Dan Sanayi; MCDOT DTEO
Fred Lees; MCDOT DTEO
William Haynes; MCDOT DTE
David Adams; MCDOT DTEO



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Air Rights Center-7300 Pearl St. Preliminary Plan Number: 20110010
~~1- Pending~~
Highland Park

Street Name: Pearl Street Master Plan Road Classification: Business

Posted Speed Limit: 25 mph

Street/Driveway #1 (_____) Street/Driveway #2 (_____)

Sight Distance (feet)	OK?
Right <u>N/A</u>	<u>N/A</u>
Left <u>228 feet</u>	<u>YES</u>

Sight Distance (feet)	OK?
Right _____	_____
Left _____	_____

Comments: Proposed entrance is located at Pearl St. terminus. Existing site and R-O-W vegetation will require removal to verify line of sight.

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

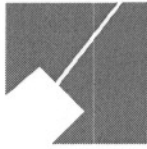
ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

James W. Handrich 6/23/10
 Signature Date
10660

PLS/P.E. MD Reg. No.

Montgomery County Review:	
<input checked="" type="checkbox"/>	Approved
<input type="checkbox"/>	Disapproved:
By:	<u>gurbel</u>
Date:	<u>11/18/10</u>



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

MEMORANDUM

Date: November 19, 2010

To: Elza Hisel-McCoy, Planner Coordinator, Development Review Division

From: Linda Komes, Project Manager, Park Development Division *LK*

Via: Mitra Pedoeem, Chief, Park Development Division *Mitra 11/19/10*
Patricia McManus, Supervisor, Park Development Division *pm*

Subject: Air Rights Center-7300 Pearl Street, Project Plan Amendment
92000001B, Preliminary Plan 120110010, Site Plan Amendment
82007001C

This Memorandum is the Park Development Division's recommendation regarding the proposal by the Donohoe Companies, Inc. to make improvements to the northern portion of Elm Street Urban Park as the public amenity feature for the subject application.

RECOMMENDATION

Park Development staff recommends the following Conditions of Approval:

1. The Applicant shall be responsible for providing the following in the northern portion of Elm St. Urban Park:
 - a. Tree protection, as required
 - b. Stormwater management/sediment and erosion control facilities, as required
 - c. Demolition of all existing elements in northern portion of existing park (unless otherwise directed), following the Department of Park's Construction Waste Management Specification
 - d. Temporary construction fencing and signage
 - e. Excavation and grading
 - f. New 8'-10' wide asphalt bike path around perimeter of northern area with connection to Metropolitan Branch Trail
 - g. High quality paved walkways throughout park, including east-west promenade
 - h. Sand play area with concrete seat wall
 - i. 12" wide flush concrete curb at playgrounds

- j. 16"-18" high colored concrete seat wall with form liner or other pattern (approx. 265 lf)
 - k. Ornamental metal fence (approx. 400 lf)
 - l. Pedestrian walkway lighting
 - m. Bed preparation, landscape planting, and two year warranty and aftercare
 - n. High quality site furnishings including benches, picnic tables, trash and recycling containers, bike racks, etc.
 - o. Park signage
 - p. Water line for future drinking fountain
 - q. All design and engineering (Landscape Architectural, Civil, Structural, MEP) fees for entire northern portion of park
2. Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:
- a. The applicant shall obtain either an exemption or stormwater concept approval from the Montgomery County Department of Permitting Services (DPS) and an exemption or approval of a Forest Conservation/Tree Protection Plan from the M-NCPPC's Environmental Planning Division.
 - b. A complete site plan for the entire northern portion of the park shall be approved by the Park Development Division. The plan shall include the same amount of detail comparable to a typical park Facility Plan. In addition to detailed grading, the plan shall include any storm water management facilities approved as part of the stormwater concept approval and any requirements associated with Forest Conservation/tree protection. The plan shall specify all proposed materials, finishes, catalog cuts, equipment, and proposed plant lists with sizes and spacing of plant material.
3. Following approval of the Certified Site Plan, the Applicant shall complete Design Development and Construction documents for the park improvements listed above and for those to be provided by others. Minor revisions may be made to the design of the park during the design development/construction documentation process if approved by Parks staff, including the realignment and revised grading of the paths and play areas, and the substitution of materials, equipment and furnishings with equivalent quality materials. These types of revisions will not necessitate a formal revision to the site plan, unless otherwise recommended by staff. Submissions of plans and specifications shall be submitted to Parks staff for review and approval at the 50%, 75%, 90% and 100% complete stages.
4. The Applicant will be required to obtain a Park Permit for Construction before beginning construction of the park. As part of the Park Permit, the Applicant may be required to post a bond.
5. Construction of the park improvements shall be completed by the Applicant and accepted by the Department of Parks prior to issuance of the Use and Occupancy Permit for 7300 Pearl Street.

BACKGROUND

Elm Street Urban Park is located in downtown Bethesda, on the east side of Wisconsin Avenue, just outside of the Central Business District, adjacent to the Air Rights development. The park is approximately two acres in size and was originally built in the early 1980's. The park consists of two discreet but connected areas, referred to as the southern and northern portions, and separated by a block-long section of the abandoned Elm Street road right of way. The former right of way was transformed into a tree lined promenade with seating areas, providing easy East-West access between the CBD and the residential neighborhoods east of Wisconsin Avenue in the Town of Chevy Chase. A direct connection to the Air Rights tunnels and the Metropolitan Branch Trail is provided within the park.

On December 2, 1999, the Planning Board approved a Project Plan, 920000010, for a 182-unit multi-family residential building as part of the adjacent Air Rights development. As part of that approval, the Applicant developed an overall park concept plan for improvements to the park and was required to implement certain improvements in the southern portion of the park as a public amenity. The development plans were subsequently amended in 2005 and 2006, with the Applicant still required to make improvements to the southern portion of the park. The improvements included the demolition of an existing deteriorated asphalt trail, timber retaining walls and seating areas, the construction of a new realigned asphalt trail and specially paved seating area nodes, resurfacing existing trails, the addition of new plantings, site furnishings and lighting, and the cleaning and restoration of an existing public art piece. The park improvements were completed in September of 2009.

The northern portion of the park remains as originally developed with two small playgrounds, a half basketball/handball court, paths and seating areas.

THE CURRENT PROPOSAL

As part of the subject 7300 Pearl Street development application, the Applicant, Donohoe Companies, Inc., is proposing to make certain improvements within the remaining northern portion of the park as an off-site public amenity. A schematic plan illustrating the redevelopment of the park was submitted for review by Park Development Division (PDD) staff as part of the subject development proposal. The plan is in conformance with the overall concept plan as presented to the Planning Board in 2000. PDD staff met with staff and officials from the Town of Chevy Chase and Development Review Division (DRD) staff in an effort to coordinate review of the proposal. At the time of this writing the Applicant is revising the schematic plan as a result of comments received by staff and the Town of Chevy Chase. It is anticipated that a new schematic plan will be available prior to the Planning Board hearing.

A budget worksheet was prepared and submitted by the Applicant and reviewed by staff. Staff compared the costs submitted by the Applicant with actual construction costs from recent bid proposals for similar park construction projects. Staff adjusted the budget worksheet numbers as appropriate, and the Applicant is in agreement with the

revised worksheet. Based on the schematic plan, and using the revised budget worksheet, the total cost to reconstruct the northern portion of the park will be approximately \$1,000,000. The Applicant is proposing to construct between \$550,000-\$600,000 of improvements in the park including infrastructure, paving, lighting, fencing, landscape planting, signage, etc. The specific list of improvements is outlined in the recommended Conditions of Approval.

The remainder of the proposed plan will be constructed by the Department of Parks. This work includes the playground equipment and surfacing, renovation of the basketball court, new shade structures, ornamental gateways and public art, a drinking fountain, and rerouting of overhead utility lines. Staff proposes to include funding for design and construction of these improvements in the FY13-18 Capital Improvements Program (CIP).

Based on the Applicant's projected schedule, construction of the applicant's park improvements could occur as early as 2012. Staff proposes to include a CIP budget request for the remainder of the work in FY13, so that funds are available to complete the remainder of the park immediately after the Applicant fulfills its obligation. The Town of Chevy Chase has also expressed a willingness to contribute towards the completion of the park. At this time the certainty and extent of their contribution has not been determined.



MARYLAND TRANSIT ADMINISTRATION

MARYLAND DEPARTMENT OF TRANSPORTATION

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

November 3, 2010

Mr. Thomas Autrey
Transportation Planning
Maryland-National Capital Park & Planning
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Subject: Air Rights Center
7300 Pearl Street

Dear Mr. Autrey:

As requested, I am writing to inform the Montgomery County Planning Board of comments from the Maryland Transit Administration (MTA) regarding the proposed Air Rights Center, 7300 Pearl Street Concept Plans, relative to the proposed Purple Line project. The MTA appreciates the opportunity to comment on this proposed development that would be located along the north side of the Purple Line Transitway and Trail alignment in the Bethesda Area.

As you are aware, MTA is continuing to evaluate design plans for the Purple Line transitway and Capital Crescent Trail under the existing Air Rights building. As part of our ongoing study of the Purple Line, we have met with The Donohoe Companies, Inc. developer for 7300 Pearl Street, to coordinate on the two projects (Purple Line and 7300 Pearl Street). Our focus in these coordination efforts has been to ensure that sufficient space is provided for constructing and operating the proposed Purple Line Transitway and Trail should the proposed development for 7300 Pearl Street be constructed.

MTA has reviewed the 7300 Pearl Street Drawings C-8, C-9, C-10 and C-11. Copies of these drawings are attached for your information. Based on our review of these drawings, except for a portion of the retaining wall to be constructed, it appears that the proposed layout of the building and proposed parking lot/entrance will provide sufficient space for the construction and operation of the Purple Line and Trail as shown on the attached Purple Line Drawing MP011-HA02.

As shown on the attached Purple Line plan, the existing fence/wall shown in blue is located outside of the 32' transitway easement. However, on the 7300 Pearl Street drawing C-11, the same segment of the existing wall to be reconstructed is shown within the existing transitway easement area. MTA will be required to relocate any walls or other elements constructed within the transitway easement. In order to complete our evaluation, MTA is requesting the following regarding the construction of the wall:

Mr. Thomas Autrey

Page Two

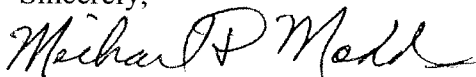
- Commitment from the developer to construct the retaining wall outside of the 32' transitway easement.
- Elevation of the top of new retaining wall.
- Type, size and elevation of wall footings.
- Horizontal and vertical datum used for 7300 Pearl Street Plans.

MTA is requesting that the Planning Board require the developer to dedicate the property required for the construction and operation of the Purple Line and Capital Crescent Trail adjacent to the County owned right of way.

We also request that The Donohoe Companies, Inc. be required to continue to coordinate with MTA as both their development plans and the plans for the Purple Line progress to a more detailed level of design. It should be noted that the current dimensions and elevation for the Purple Line and Trail could change slightly as the project moves into the preliminary engineering phase in 2011. It is critical that MTA be given the opportunity to review the 7300 Pearl Street development plans during each phase of design.

Thank you again for the opportunity to comment on the 7300 Pearl Street development plans, and specifically in terms of the proposed Purple Line transitway and trail. We look forward to continue working closely with the Montgomery County Planning Board and staff planners as the planning and design for the Purple Line advances. Please do not hesitate to contact me at 410-767-3694 or at mmadden@mta.maryland.gov if you have any questions on this matter.

Sincerely,



Michael D. Madden
Chief, Project Development
Office of Planning

Attachments: 7300 Pearl Street Drawings C-8, C-9, C-10 and C-11
Purple Line Drawing MP011-HA02

cc: Gary Erenrich, Special Assistant to the Director, DPW&T w/attachments
Joseph A. Romanowski, Jr., RK&K, LLP w/attachment

October 26, 2010

Memo

To: Elza Hisel-McCoy
Development Review Division

Via: Bill Barron
Team Leader, South Central Corridor

From: Nkosi Yearwood
South Central Corridor

Subject: Air Rights Center-7300 Pearl Street

STAFF RECOMMENDATION: Approval of the revised project and preliminary plans.

Proposed Development

The proposed office building, approximately 149, 611 square feet in size, will replace a two-story building at the southern end of Pearl Street, south to the intersection of Montgomery Avenue in Bethesda Central Business District (CBD). The new office building is immediate adjacent to the Capital Crescent Trail with the Town of Chevy Chase further south.

Sector Plan Recommendations

The Approved and Adopted 1994 Bethesda Central Business District (CBD) Sector Plan confirms the Central Business District (CBD-2) zone for the subject property. The property is located in the Plan's Metro Core District where the highest intensities of development are expected. Increased choices and activities; highest intensity; distinctive infill buildings; and lower densities and heights near the edge of the district (p.58) are objectives of the Metro Core district.

Guidelines for new development in the district are to:

- Reinforce Metro Center as the focus of urban activity. Adjacent properties should develop in a manner that complements the activities and urban open space at Metro Center.
- Maintain a compact development with the tallest buildings concentrated in the center. Development at perimeter locations of the Metro Core should step down in height to achieve a more gradual transition and better compatibility with the adjacent areas.

- Locate new open space to tie into the existing “Discovery Trail” network and to expand the pedestrian connections. Where appropriate, locate new open space in a manner that reinforces the gateways and provides a transition between districts.
- Step down the building height to six floors along East-West Highway for the McDonald’s property on Pearl Street (p.61).

Sector Plan Compliance

Density

The proposed development is consistent with the Sector Plan’s recommendations for “optional method employment uses on most CBD-2 sites at 4 FAR” (p.58). The applicant will consolidate several Air Rights Center properties on Block 5 into one recorded lot.

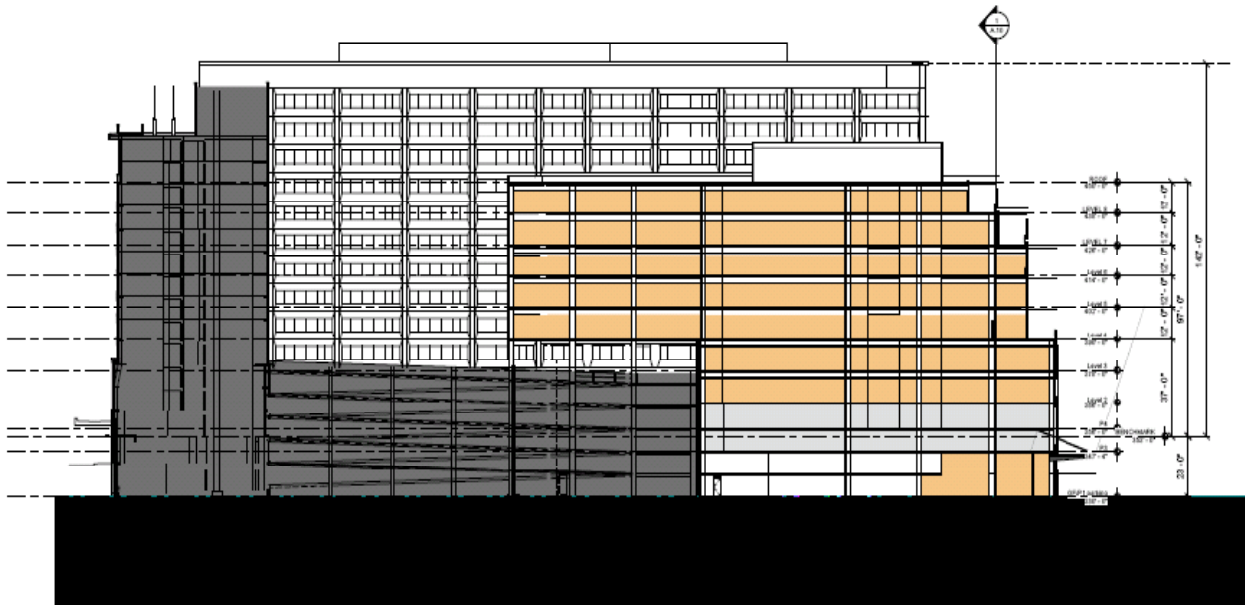
Building Height

As proposed, the 7300 Pearl Street development substantially conforms to the Sector Plan’s recommendations. However, the building’s maximum height of 97 feet exceeds the recommended 90 feet. The highest segment of the building is located adjacent to the existing parking garage and the office building at 4550 Montgomery Avenue. Further, the right-of-way for the Purple Line, approximately 65 feet, separates the proposed building from the Town of Chevy Chase. Immediately west of Pearl Street, the Plan recommends 60 feet and 90 feet extending to Waverly Street.

The applicant has made significant efforts to redesign the building to improve compatibility with the adjacent residential community and compliance with Sector Plan’s recommendations. Several features were added to the southern portion of the building, including minimization of reflective glass, limitation of lights, and reduced building height to establish compatibility. The proposed building has four tiers, ranging from 97 feet to 61 feet.

Specifically for the Air Rights Center area, the Sector Plan states that “on the parking deck of the second Air Rights Building, the Plan recommends a small residential building, if compatibility with the adjacent single-family area is maintained. Development should have a maximum height of 90 feet, stepping down to 60 feet toward Pearl Street. The building height should include the existing parking structure” (p.61). In 2006, Residence Inn Hotel (#820070010), located on Waverly Street, was approved at 116 feet at its highest point, and 89 feet at its lowest point. The recommended height is 90 feet.

The building's transition in height towards Pearl Street, Capital Crescent Trail (Purple Line) and the Town of Chevy Chase is consistent with the Plan's recommendation to reduce a building's height at the edges of CBD. Further, lower heights contribute to achieving compatibility with the adjacent areas.



The revised section shows the different tiers of the building with a lowest height along Pearl Street.

East of Pearl Street, which is in the Plan's Montgomery Triangle Corridor, properties are not in CBD zones. Recommended building heights vary from 97 to 35 feet. This Corridor is in the Commercial Office (C-O), Office Moderate, Building (OM), and Commercial Transition (CT) zones.

Urban Design and Form

The proposed office building will achieve many of the urban design and urban form principles in the Sector Plan. Along Pearl Street, the pedestrian environment will improve with a new streetscape, including street trees. The 1994 Bethesda Plan establishes several urban design and urban form principles, such as providing street-activating uses; enhancing the pedestrian environment to provide a visually diverse and stimulating experience; stepping down building heights from the Bethesda Metro Center properties to achieve desirable and compatible transitions to surrounding areas (p.40).

Streetscape

The proposed development is consistent with the Bethesda streetscape standards, including undergrounding of utilities along the property's frontage. The adjacent property, Lot 14-Block 5,

frontage will be improved with a mountable curb. This will improve the western portion of Pearl Street between Montgomery Avenue and Capital Crescent trail.

Transportation

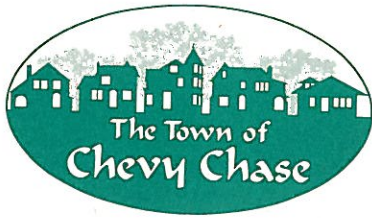
The Sector Plan recommends the right-of-way for the segment of Pearl Street between Montgomery Avenue to the Purple Line as an 85 foot right-of-way (ROW). The applicant is proposing a ROW of 60 feet, which is consistent with the Plan's recommendation for Pearl Street, north of Montgomery Avenue. Transportation Planning and Department of Transportation have indicated that the reduced right-of-way is acceptable.

Pearl Street, between the Purple Line and East West Highway, is identified as a Bike Friendly Area (J) in the Sector Plan. A Class II bikeway is recommended for this segment of Pearl Street. The proposed expanded sidewalk of 14 feet will achieve the Plan's bikeway recommendation.

Conclusion

Community Planning staff recommends the approval of the site and project plans for Air Rights Center at 7300 Pearl Street.

Appendix D: Community Correspondence



Town Council
David Lublin, *Mayor*
Kathy Strom, *Vice Mayor*
Al Lang, *Secretary*
Linna Barnes, *Treasurer*
Patricia Burda, *Community Liaison*

November 17, 2010

Elza Hisel-McCoy, Assoc. AIA, LEED-AP
Planner Coordinator
Development Review Division
Montgomery County Planning Department
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

RE: 7300 Pearl Street

Dear Elza:

After meeting with the developer and discussing the revised plans with residents most directly impacted by the project, we wanted to get back to you with our views on the revised proposal for 7300 Pearl Street.

We want to thank you and others on the planning department staff for your very useful comments and the developer for several changes that have reduced the impact of the proposal on our community. Nonetheless, we believe the revised plan still is materially inconsistent with the sector plan's recommendations for this site. Specifically, the revised plan still exceeds the height limit of 90 feet set out in the sector plan and that an oversized office building is inconsistent with the language in the sector plan which "recommends a small residential building, if compatibility with the adjacent single-family area is maintained."

Before the Town takes a formal position on the project, we outline below the following critical concerns in discussions with residents whose property abuts the project site which we have presented to the developer and with which we hope to have their full cooperation:

- 1) The potential for noise from building air conditioning on the roof and lighting from offices. We would like to confirm that any mechanical units will be fully walled to block noise and located the maximum distance possible away from town residents. Likewise, we would like to confirm that lights in the building will be put on sensors so that they are off when offices are empty.

- 2) We appreciate the widespread use of reflective materials on the walls of the building to soften its appearance, but remain very concerned that the part of the building most directly in the line of sight of residents (the new parking garage on the trail side of the building) remains covered in aggregate material that is unsightly. We urge either of two options as an alternative -- either bring down the reflective material used elsewhere to include this part of the building or install a green wall to cover this area.
- 3) Also related to this newly constructed parking area, residents are concerned that lights would remain on in this area and shine directly onto their property. We request that lights in this area (along with other areas) be placed on motion detectors and only go on when necessary.
- 4) We are also concerned about noise from the area adjacent to town residents where trucks will make deliveries and trash will be picked up. This area needs to be covered on all sides to limit noise and deliveries should be restricted to weekday hours between 9 a.m. and 6 p.m.
- 5) In meetings between town residents and the developer, there have been discussions about a planting allowance provided to residents for them to use on their properties to compensate for trees being cut down on the development side and for loss of privacy. No amounts have been specified and no formal arrangements have been agreed to. These details must be worked out and final and binding agreements reached before this project goes to the Planning Board early in December.
- 6) Residents also are concerned about the unsightly nature, light and noise from the existing parking structure upon which part of the new structure rests. We recommend new surfacing of the walls of the existing parking structure, that lights be put on motion sensors, and that the existing fan be moved away from its current close proximity to our residents.
- 7) Residents are requesting that access to Pearl Street from the trail be provided on the project site. Past promises for such access have been unfulfilled because of third-party involvement, but such access could and should be provided directly on this development site.

Finally, Town staff and residents are working with Parks Department staff and the developer to outline details for the off-site project amenity at Elm Street playground. We are hoping to have details finalized prior to the December 2nd hearing date but some outstanding issues remain.

I would like to note that last evening at 5:41 p.m., I received an emailed letter from the developer outlining their response to the items noted above. Unfortunately, I will not be able to circulate that letter and discuss with the Town Council before early next week due to the fact that Mayor Lublin is out of town through the weekend. We will respond to that letter as soon as possible.

We appreciate your efforts to address these concerns and make the proposed development more consistent with the concerns of compatibility with the single-family residential neighborhood as specified in the sector plan.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Burda". The signature is written in black ink and is positioned above the printed name.

Patricia Burda
Councilmember
Town of Chevy Chase

cc: Pete Gartlan, President of Development, The Donohoe Companies, Inc.
Patricia Harris, Partner, Holland & Knight

Holland & Knight

3 Bethesda Metro Center, Suite 800 | Bethesda, MD 20814 | T 301.654.7800 | F 301.656.3978
Holland & Knight LLP | www.hklaw.com

Patricia A. Harris
301.215.6613 Phone
301.656.3978 Fax
patricia.harris@hklaw.com

November 16, 2010

VIA ELECTRONIC MAIL

Ms. Patricia A. Burda
4108 Woodbine Street
Chevy Chase, Maryland 20815

Re: 7300 Pearl Street

Dear Pat:

Thank you for your email of November 10th which set forth the remaining outstanding concerns of the Town residents, with respect to the 7300 Pearl Street project. We appreciate the time and attention you have spent working with the Applicant in an effort to communicate and ultimately resolve the issues the Town residents have expressed with respect to the project. As indicated in our responses below, we believe the Applicant will be able to adequately address the remaining issues.

In this regard, I have set forth below responses to the seven items from your November 10th email in the order in which they appeared.

1) Rooftop Equipment and Lighting -- In regard to the potential noise from the building's roof top air conditioning equipment, the rooftop equipment penthouse, which houses all of the equipment except the cooling towers, will be completely enclosed. The penthouse is located approximately 50 feet east and south of the building footprint and the location is dictated by the location of the elevator and stair tower. The cooling towers, which must be located outside the enclosed penthouse and remain uncovered due to the towers' ventilation requirements, will be surrounded by a screen wall which will conceal them from views. Any fan noise from the cooling towers will be directed vertically, and thus mitigated. The Owner shares the Town's interest in mitigating any noise from the towers, given that they are located immediately adjacent to the North Tower's façade.

With respect to the lighting from the offices, the Applicant agrees to install lighting sensors in the perimeter offices of the 7300 Pearl Street building which face both south and east, in order that the office lights are off after hours, unless in use. Please note that the lighting

sensors will not control any emergency lighting which is required to remain on pursuant to Fire and Safety code requirements.

2) Building Design -- As you noted, the Applicant has greatly expanded the use of the all glass façade component, pursuant to earlier suggestions made by the Town. In doing so, there was a corresponding decrease in the aggregate material. The remaining aggregate material along the eastern edge of the southern façade wraps the corner onto the Pearl Street façade and from a design prospective, anchors the building. The incorporation of the two different materials is intended to reduce the perceived mass of the building. The architect has evaluated the further elimination of the aggregate material in the corner area pursuant to the Town's suggestion, and proposes removing all of the aggregate along the east façade and one additional horizontal band on the eastern portion of the south façade. It is the architect's opinion that eliminating all of the aggregate on the eastern portion of the south façade would actually increase the perceived mass of the building and compromise the design of the building, and is thus not advisable.

3) Parking Facility Lighting -- For code and safety reasons, parking facilities that may be accessed 24 hours a day, must have lights that remain on throughout the night. However, in order to mitigate any impact to the adjacent properties, the Applicant has included opaque spandrel panels and will add baffles or screens to the openings of the 7300 Pearl Street building that will diffuse the potential light originating from this area.

4) Potential Noise -- In order to address any potential noise caused by loading or trash pick-up, the Applicant has revised the design of the loading area to include an absorbing sound block wall which will both visually screen this area and mitigate any noises caused by any truck operations in this area. In addition, the Applicant agrees to restrict the typical pre-scheduled trash and delivery services during the weekday to the hours of between 6 a.m. and 9 p.m. and has recommended to Staff that this condition be included in the conditions of approval of the Site Plan.

5) Supplemental Landscaping -- In an effort to mitigate any loss of screening from the project to the residences located at 4505, 4507, 4509 and 4511 Elm Street, the Applicant agrees to assist these residents in their supplemental landscaping efforts. To this end, we would recommend that we transmit to each of these four neighbors a separate letter which outlines this agreement. In addition to supplementing the landscaping on the south side of the trail, please note that the Applicant has also added landscaping on the northern side of the trail pursuant to a prior suggestion from the Town.

6) Existing Garage -- With respect to the existing garage, the Applicant agrees to add new spandrel panels to the eastern façade. It is the Owner's intention to repair the cracks on the face of the southern elevation of the garage prior to the opening of the 7300 Pearl Street project. The garage serves the hotel (as well as the office) and as noted previously, from a code and safety standpoint, the lights in the garage must remain on throughout the night, since the garage is in operation 24 hours a day. Further, it is likely that the mitigation efforts associated with the Purple Line construction will include screen walls along the southern property line that will

shield the adjacent properties from any light originating from the existing parking or the train. With respect to the fan, while it is not feasible to relocate the fan which is required by the Fire Marshal, the Applicant will reduce the time that the fan operates, to the extent possible.

7) Pearl Street Trail Connection -- We understand the Town's desire for the Pearl Street connection to the trail and to this end, the Applicant in connection with the subject Application, has resurrected the previous efforts for the construction of the ramp at the terminus of Pearl Street. This effort has included reinitiating discussions with the 3rd party owner over whose property the ramp must cross. This owner fortunately has preliminarily indicated his willingness to grant DOT an interest in the property to accommodate the ramp. In addition, the Applicant has agreed to allocate the 7300 Pearl Street project's PAMR fees toward any additional costs associated with the construction of the ramp. Unfortunately, relocating the access ramp further to the west across the 7300 Pearl Street Owner's property is not viable. There are significant safety concerns associated with the Town's proposed location, given that in order to access the ramp, users would have to traverse that area of the property devoted exclusively to vehicular activities -- be it vehicles entering the parking garage, loading operations or trash pick-up. Both the temporary ramp as well as the permanent ramp associated with the Purple Line are proposed to be located in the southeast corner of the terminus of Pearl Street to avoid the potential safety concerns and to take advantage of the lower grades in this area resulting in better ramp design and function.

We trust that we have been responsive to the Town's concerns and look forward to hearing from you.

Very truly yours,

HOLLAND & KNIGHT LLP



Patricia A. Harris

cc: Mr. Elza Hisel-McCoy