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April 6, 2005

Derick P. Berlage, Esquire
Chairman
Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Project Plan No. 90001A – Air Rights Hotel
Proposed Height

Dear Chairman Berlage and Members of the Planning Board:

On behalf of The Donohoe Companies, we wanted to take this opportunity to explain to the Planning Board the justification for the proposed height of the above-referenced Air Rights Hotel Project Plan. The proposed height of the Project is one of the few, if not the only, outstanding issues, and thus will most likely be a primary focus at the upcoming hearing. In order to facilitate the hearing, we thought it would be helpful to set forth for you at this time the Applicant's reasoning for the proposed height.

The Property is zoned CBD-2. Zoning Ordinance Section 59-C-6.23 permits a maximum height of 143 feet in the CBD-2 Zone and the Sector Plan recommends a maximum height of 90 feet. The Applicant is proposing a maximum height of 116 feet, with the building stepping down to a height of 88.3 feet at its southern façade. The proposed hotel is surrounded by buildings all considerably higher than the proposed hotel. As indicated on Attachment A, the North Building located immediately to the north of the hotel on the same record lot as the proposed hotel and part of the Air Rights complex is 142 feet in height; the West Building located to the west of the hotel with frontage on Wisconsin Avenue and part of the Air Rights complex is 149 feet in height; the East Building located immediately adjacent to the Property and also part of the Air Rights complex is 114 feet in height; and the Residence Inn located directly across Waverly Street from the proposed hotel is 124 feet in height.

In order to ensure the economic viability of the hotel and the economies of scale necessary for the efficient operation of a hotel, a minimum number of rooms are required. In this regard, the Applicant evaluated the various alternative building envelopes that would accommodate the requisite number of rooms needed. As indicated by the attached Plan, in the

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end, it was determined that the building design that concentrated the entire building along Waverly Street into a smaller footprint was the most appropriate design solution.

Of critical importance in considering the proposed height of the hotel is the process by which the design, and hence the height, was determined. The proposed design resulted only after several meetings with the residents of the Town of Chevy Chase (the "Town") and the Town's Boundary Committee. The Town concluded that a hotel with a maximum height of 116 feet was significantly less intrusive on the Town than were several other designs that respected the 90 foot height recommendation, but resulted in hotels with larger footprints that were located much closer to the nearby single family residences. It was also the Town's position that the proposed 116 foot hotel presented less of an intrusion on the adjacent Elm Street Park than did the alternative designs. As indicated in the Town's March 30, 2005 letter to Planning Board Staff, the Town prefers a building with a maximum height of 116 feet located a greater distance from the residences and park than a 90 feet high building that is located closer to these uses.

One of the primary purposes of a Master Plan is to ensure that any future development is compatible with existing adjacent uses. At the same time, a Master Plan is a guide, not a legislatively determined mandate. In the case of the proposed hotel property, it is worth noting that the Sector Plan recommendation for a maximum height of 90 feet is not based on any specific evaluation of the Property (the Property owner at the time of the Sector Plan expressed no interest in the redevelopment of the Property) but rather on more general guiding principles. Thus in this instance, there is a discrepancy as to what is in fact the most compatible design. On the one hand, the Sector Plan is recommending a maximum height of 90 feet, based not on a thorough evaluation of the Property but rather on general design theories. On the other hand, the residents that live directly adjacent to the Property and are the only properties potentially impacted by the development, have concluded that a building with a smaller foot print, located further away from the Town, that results in a height slightly higher than that recommended in the Sector Plan, is more desirable. This situation epitomizes the precise reason that Master Plans are intended only as guides, that need to be "living and breathing" documents that have the ability to evolve.

The Town's determination that a hotel with a height of 116 feet is preferable to the other design alternatives is based in large measure on the existing conditions immediately adjacent to the hotel Property. This is not a situation where the proposed hotel will stand significantly higher than the other properties immediately to the north of the Town. The Town's northern boundary is currently improved with existing buildings with heights of 142, 149, and 124 feet. Thus the hotel, with a height of 116 feet stepping down to 88.3 feet, has no perceivable impact on the Town. A Planning Board decision to limit the height to 90 feet, which could result in an alternative hotel footprint that encroaches closer to the residents, simply introduces an intrusion to the Town that otherwise could be avoided.

For these reasons, we strongly believe that the proposed height of 116 feet is appropriate and that such a height satisfies the real purpose of the Sector Plan – ensuring compatibility.

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We appreciate your consideration of this matter and look forward to presenting the Project Plan to you on April 28, 2005.

Very truly yours,

HOLLAND & KNIGHT LLP



Patricia A. Harris

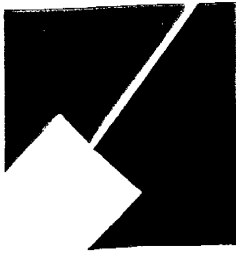
Enclosure

cc: Ms. Wynn Witthans ✓
Mr. John Carter
Mr. Allison Bryant
Wendy Perdue, Esquire
John Robinson, Esquire
Meredith Wellington, Esquire
Mr. Christopher Bruch

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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

April 13, 2005

MEMORANDUM

TO: Wynn Witthans, Development Review Division

FROM: Marilyn Clemens, Community-Based Planning Division
Bethesda-Chevy Chase Team *MC*

SUBJECT: Air Rights Hotel Project
#9-00001A

RECOMMENDATION: Approval

Community-Based Planning recommends approval of the above project with the following condition:

Reduce the height of the hotel to 90 feet as recommended in the 1994 Sector Plan for the Bethesda Central Business District.

Community-Based Planning supports the project and its proposed amenity package with the exception of its height.

COMPLIANCE WITH THE 1994 SECTOR PLAN:

Height

The proposed hotel is 20 feet over the height recommended by the 1994 Sector Plan for the Bethesda Central Business District. 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 Plan. All of the exceptions are residential projects, some approved by the Planning Board and others approved by the County Council over Planning Board recommendations. None of the projects exceeding the recommended height limits are strictly commercial nor are they on the edge of the CBD.

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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. Through this amendment, any increase in residential density or building height above a master or sector plan limit must be in proportion to the MPDUs provided on site. The process for approving height exceeding the sector plan recommendation will also require that the Director of the Department of Housing and Community Affairs, the Executive Director of the Housing Opportunities Commission, and the Chairman of the Planning Board agree, by majority vote, to find that the building height limit may be exceeded to accomplish the construction of MPDUs. By inference, exceeding the height limit would not likely be approved for a strictly commercial project.

The Air Rights Hotel together with the existing office buildings would be devoted to commercial uses. Approval of this project at more than 20 feet over the height limit, could establish a precedent to exceed the height limit on the edges of the CBD for any use permitted in the CBD zones.

Land Use

The recommended land use for the site is mixed-use. The 1994 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.

AMENITIES:

The proposed project offers many positive features that will help meet the objectives of the Sector Plan for the Bethesda CBD.

Streetscape

The applicant will improve the Waverly Street frontage by pulling the existing building overhang back from the sidewalk. The sidewalk is in shade most of the day, given the height of the buildings to the south and west of the site. The emphasis here should be on a minimum of five feet and preferably 10 feet or more of clear pedestrian passage. The proposed drop-off for the hotel has not been finalized, but must be carefully designed, given the minimal area for pedestrians. The applicant will provide the Bethesda streetscape, including pavers, trees, lights, and benches.



The existing public terrace along the Air Rights office building on the corner of Montgomery Avenue and Waverly Street will be improved with new paving and landscaping. A stairway protruding into the public sidewalk from the terrace will be relocated.

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.

Capital Crescent Trail

The applicant has agreed to provide an important connection from Pearl Street south to the Capital Crescent Trail. This will include bridging a steep slope across an easement from an adjacent property owner. The trail connection will provide a link recommended in the Bethesda bicycle network for Stage II. Improvements will be made to the surface of the trail and the walls of the tunnel, providing much needed upgrades to the popular hiker/biker trail.

Elm Street Park

Elm Street Park is one of Bethesda's five small urban parks that provide a transition between single-family residences and the CBD. The 2-acre park is a place to relax for office workers during the week and a community play-area on weekends. The applicant has worked closely with the Town of Chevy Chase to provide improvements to the park that will be a benefit for office workers and neighbors alike.

Community-Based Planning recommends approval of the Air Rights Hotel project plan with a reduction in the proposed height from 116.5 feet to 90 feet.

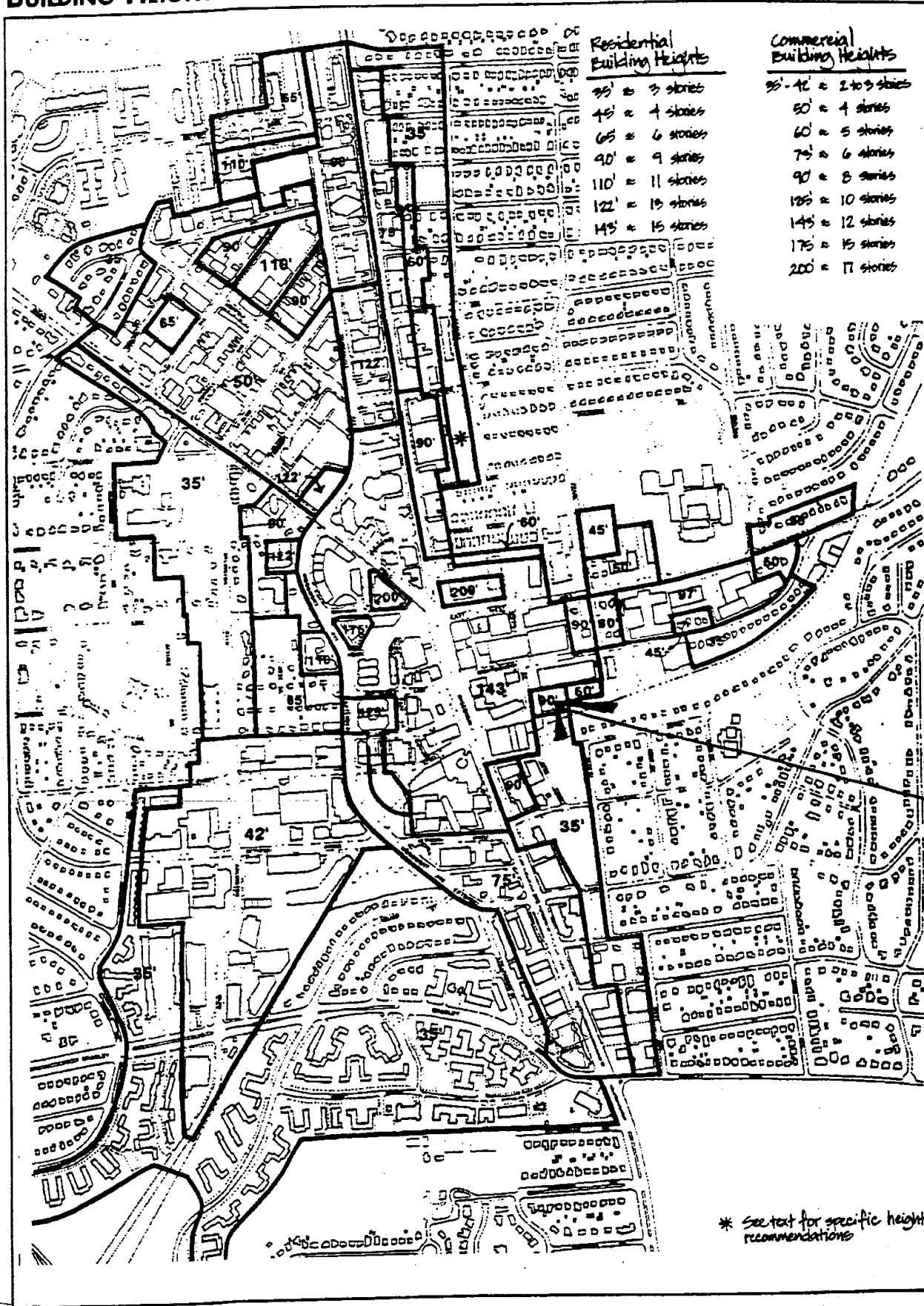
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Attachment

(B)

BUILDING HEIGHT LIMITS

FIGURE 3.2



AIR RIGHTS HOTEL

* See text for specific height recommendations

(B)

