STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: October 4, 2006

SITE PLAN: **SP-05-0007**
SP-05-0008

TITLE: **Washingtonian North**
Infrastructure Site Plan
Office, Parking Structure & Landscaping

REQUEST: **EXTENSIONS OF APPROVAL OF FINAL SITE PLAN**

ZONE: MXD (Mixed Use Development) Zone

APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER: (as applicable)

Applicant: Boston Properties, Inc, Damona Smith Stautmanis
Attorney: Linowes and Blocher, Scott Wallace, Esq.
Engineer: Loiederman Soltesz Associates, Ed Wellington & Jim Belcher
Architect: HOK Architects, Jose Cheing

STAFF PERSON: Trudy Schwarz, Community Planning Director

Enclosures:

Staff Comments
Exhibit 1: Location Map
Exhibit 2: Letter with attachments from Scott Wallace, Esq., Linowes & Blocher dated September 5, 2006
Exhibit 3: Minutes of the September 7, 2005, Planning Commission Minutes
Exhibit 4: Minutes of the October 5, 2005, Planning Commission Minutes

STAFF COMMENTS

Staff suggests that the Commission review these extensions concurrently, as it did during the original approval and then make separate motions. These extension requests are not public hearings.

The subject property is located on Washingtonian Boulevard, north of Sam Eig Highway and south of Malcolm King Park. It is adjacent to Shady Grove IV and Washingtonian Village. See location map.

At the October 5, 2005, the Planning Commission adopted resolutions (Attachments of Exhibit #2) to approve SP-05-0007, known as the Infrastructure Plan and SP-05-0008, Office building for Washingtonian North. These plans had been reviewed at the September 7, 2005, Planning Commission meeting (Exhibit #3).

In accordance with § 24-173(a), the applicant's attorney has submitted a letter requesting an extensions of the final site plan approval for SP-05-0007 and SP-05-0008. (See Exhibit #2.) SP-05-0007, the infrastructure plan, is a site plan approval for the site access, stormwater management (SWM), rough grading for office buildings and parking garage pads, landscaping and utility installation for the project known as Washingtonian North. SP-05-0008 is a site plan approval for 220,116 square feet seven-story office space, and accompanying two and one-half parking structure.

Section 24-173 (a) states the following:

> *One or more of the uses proposed for land which is the subject of the site development plan shall be established on such land within three hundred sixty-five (365) days after the date of approval of the plan or the plan shall become void; provided, that the planning commission may extend such time upon request filed within such three hundred sixty-five (365) days and may grant further extensions upon request filed within the period of any extension; provided, that the total length of such extensions shall not exceed two (2) years.*

Since this is for two different plans, the Commission will be required to make two motions.

SP-05-0007

Staff recommends the Planning Commission grant **APPROVAL OF EXTENSION OF FINAL SITE PLAN SP-05-0007, AS IT CONFORMS WITH §24-173, WITH THE FOLLOWING TWO CONDITIONS:**

1. **COMPLIANCE WITH THE CONDITIONS OF PLANNING COMMISSION RESOLUTION SP-05-0007; AND**

2. **THIS EXTENSION OF APPROVAL EXPIRES OCTOBER 5, 2007.**

(continued to Page 3)

SP-05-0008

Staff recommends the Planning Commission grant **APPROVAL OF EXTENSION OF FINAL SITE PLAN SP-05-0008, AS IT CONFORMS WITH §24-173, WITH THE FOLLOWING TWO CONDITIONS:**

1. **COMPLIANCE WITH THE CONDITIONS OF PLANNING COMMISSION RESOLUTION SP-05-0008; AND**

2. **THIS EXTENSION OF APPROVAL EXPIRES OCTOBER 5, 2007.**

Washingtonian North

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S

MD State Plane
HPGN NAD 83/91

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City of Gaithersburg
Planning and Code Admin
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Gaithersburg, MD 20877
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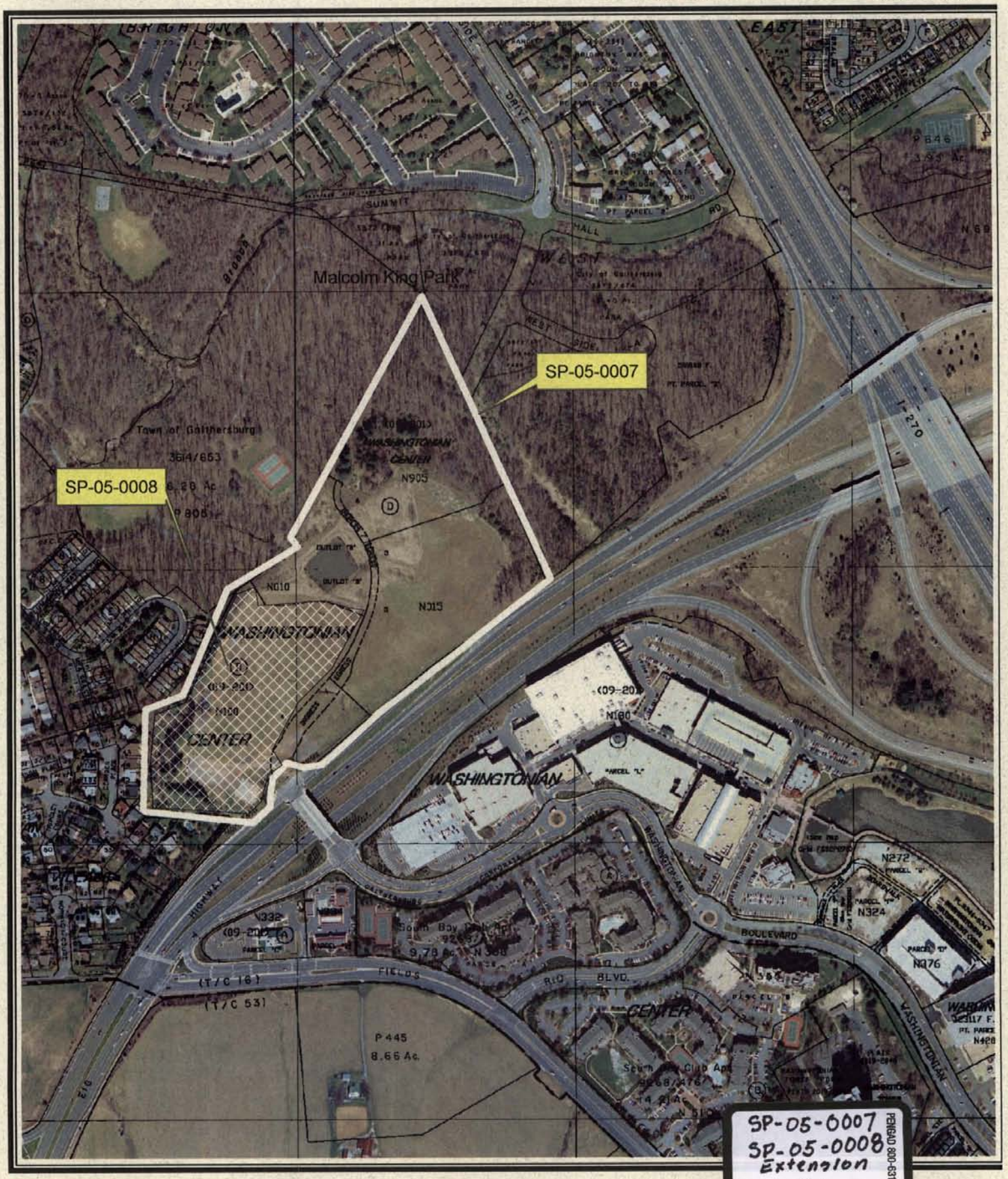
www.gaithersburgmd.gov



SP-05-0007
SP-05-0008
Extension
#1

PENGAD 800-631-6989

LINOWES AND BLOCHER LLP
ATTORNEYS AT LAW

RECEIVED
SEP - 6 2006
PLANNING & CODE ADMINISTRATION

September 5, 2006

Scott C. Wallace
301.961.5124
swallace@linowes-law.com

VIA FEDERAL EXPRESS

Mr. John Bauer, Chairman
City of Gaithersburg Planning Commission
31 South Summit Avenue
Gaithersburg, Maryland 20877

Re: Washingtonian North - Site Plan SP-05-0007 and Site Plan SP-05-0008

Dear Chairman Bauer:

This office represents Washingtonian North Associates, LLC ("Boston Properties"), the owner and developer of a 28-acre parcel located at the intersection of Fields Road and I-370. The Property is proposed for development of 850,000 square feet of office uses on an integrated campus known as Washingtonian North (the "Project"). In that regard, Site Development Plan SP-05-0007 was approved for certain infrastructure elements of the Project, including the access road, stormwater management facilities and building pads (the "Infrastructure Site Plan"), by Planning Commission Resolution dated October 5, 2005 (Attachment "1") and Site Development Plan SP-05-0008 (the "Building Site Plan," collectively, with the Infrastructure Site Plan, the "Site Plans") was approved for a 220,200 square foot office building by Planning Commission Resolution also dated October 5, 2005 (Attachment "2"). Pursuant to Section 24-173 of the Gaithersburg Zoning Ordinance, the construction of the development approved in the Site Plans must begin within 365 days of the date of approval unless an extension is approved. The purpose of this letter is to request an extension of the approval for the Site Plans until October 5, 2007 for the reasons stated below.

As noted above, the Project is approved for the development of 850,000 square feet of office uses in 3 buildings and associated structured and surface parking facilities designed to function as a cohesive employment campus. Further, the Project will be well served by an existing road network that was funded, in part, by Boston Properties. While the developer is actively marketing the Project, it has not yet secured a commitment to lease significant blocks of office space, which it requires prior to commencing construction. Consequently, Boston Properties seeks an extension of the validity period for the Site Plans for an additional year to commence construction of the building and infrastructure. Boston Properties will continue to aggressively

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SP-05-0007
SP-05-0008
EXTENSION
#2

market the Project and is confident that the Project will ultimately become a significant employment center for the City.

We look forward to discussing our request with the Planning Commission. In the interim, if you have questions, please do not hesitate to contact me.

Very truly yours,

LINOWES AND BLOCHER LLP

Scott C. Wallace

cc: Ms. Trudy Schwarz
Ms. Damona Smith Strautmanis

L&B 685092v1/02417.0051

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland

PLANNING COMMISSION
RESOLUTION APPROVING

FINAL PLAN REVIEW FOR SITE ACCESS AND STORMWATER MANAGEMENT, ROUGH GRADING FOR OFFICE BUILDINGS AND PARKING GARAGE PADS, LANDSCAPING AND UTILITY INSTALLATION, KNOWN AS SITE PLAN SP-05-0007, LOCATED ON THE NORTH 26.9264 ACRES OF THE WASHINGTONIAN CENTER, 10000 WASHINGTONIAN BOULEVARD, GAITHERSBURG, MARYLAND.

SP-05-0007

OPINION

This matter has come before the Planning Commission for approval of a final site plan for land zoned Mixed Use Development (MXD). This proceeding constitutes an action pursuant to §§ 24-160D.9(c) and 24-171(1) of the Zoning Ordinance (Chapter 24 of the City of Gaithersburg Code) which permits the Planning Commission to review and approve a site development plan (SP) following approval of a schematic development plan (SDP); and further, §24-170 whereby the Planning Commission can approve a site development plan only after certain findings have been made. This subject case involves approximately 26.9264 acres of land within the Washingtonian Center, and is located between Sam Eig Highway and Malcolm King Park.

Operative Facts

A. Background.

The Washingtonian Center was annexed into the City of Gaithersburg on July 9, 1991 comprised of 102.5711 acres of land. This development had received approval from Montgomery County by Resolution No. 10-1592, adopted November 5, 1985, approving Zoning Application No. G-439, setting forth the right to develop 4,525,000 square feet of space in conformance with a sketch plan approved as part of that application. The annexation agreement between the City of Gaithersburg, and the property owner states that the schematic development plan process is complete as set forth by the agreement, unless subsequent amendments are requested by the property owner, or any party on its behalf. On September 16, 1998, property owner Boston Properties was granted an SDP amendment in case SDP-W5 for the approval of 850,000 square feet of commercial office space. SDP-W5 amended the original access to the site and internal traffic circulation, identified three office-building locations around a pond, and identified structured parking locations and a pedestrian path. Based on SDP-W5, the applicant submitted for final site plan approval for 330,000 square feet of office space and an accompanying parking structure. The final site plan, W-1116, was

approved on September 16, 1998. On May 24, 2000, property owner Boston Properties was granted an SDP amendment in case SDP-W5(A) for the approval of 850,000 square feet of office space. SDP-W5(A) revised the building footprints of the three buildings and the parking garages, modified the stormwater management pond, and revised the location of the internal road and circulation.. On appeal, the City of Gaithersburg Board of Appeals affirmed the Planning Commission approval of SDP-W5(A) on January 11, 2001.[1]. Also on May 24, 2000, the Planning Commission granted a site plan amendment in case number W-1116(A), which amended the site plan to implement portions of SDP-W5(A). On appeal, the City of Gaithersburg Board of Appeals reversed the Planning Commission approval of W-1116(A), finding that the site plan approved in W-1116 was void because the site plan had expired, and, therefore, could not be amended by the Commission.

Following the decision of the Board of Appeals reversing the approval of W-1116(A), Boston Properties submitted a new application for final site plan approval designated as SP-00-0018, in accordance with §24-160D.9(c), for grading the footprints of all three buildings identified on SDP-W5(A) and accompanying parking structures. In addition, the application requested approval for construction of the revised entrance road, construction of associated infrastructure for the site, installation of certain landscaping, and construction of the stormwater management pond. The Planning Commission reviewed this plan on February 16, 2001, at a regularly scheduled meeting of the Commission. A resolution of approval of the site plan, SP-00-0018, was adopted by the Planning Commission at the regularly scheduled meeting on April 4, 2001.

Subsequent to the site plan approval, in accordance with §24-173 of the Zoning Ordinance, the applicant applied for and received extensions of the site development plan by the Planning Commission. These were approved on March 6, 2002, March 26, 2003, and July 7, 2004. In accordance with §24-173, site plan SP-00-0018 expired on July 7, 2005.

B. Current Application.

Following the expiration of the site development approval for SP-00-0018, Boston Properties submitted a new application for final site plan approval, in accordance with §24-160D.9(c), for grading the footprints of all three buildings identified on SDP-W5(A) and accompanying parking structures. In addition, the application requested final site plan approval for construction of the revised entrance road, construction of associated infrastructure for the site, installation of certain landscaping, and construction of the stormwater management pond. The application and plans were identical to the plans approved as SP-00-0018 in 2001. The application was designated as SP-05-0007. Tentative agendas of the September 7, 2005, Planning Commission meeting were sent to adjoining properties and interested parties on August 29, 2005. The property was posted on August 29, 2005.

The Planning Commission reviewed this matter on September 21, 2005, at a regularly scheduled meeting of the Commission. Proper notification was sent to all interested parties. The Planning Commission reviewed the subject plan concurrently

[1] The Montgomery County Circuit Court and the Maryland Court of Special Appeals subsequently affirmed the decision.

with an application for the final site plan for an office building and the parking garage on the same property (SP-05-0008). At the hearing before the Commission, the following testimony was given:

Commissioner Levy disclosed he had once chaired the Greater Neighborhood Three Committee that had dealings with the previous property owner. Commissioner Levy stated that he did not believe his background would interfere with his ability to be fair and impartial in this matter. Chairman Bauer asked if anyone in the audience had an objection to Commissioner Levy's participation in the case. A Boston Properties representative stated the applicant had no objections. No other objections were raised by anyone in attendance at the hearing.

Community Planning Director Schwarz reviewed past actions concerning this project, noting the Planning Commission previously granted schematic development plan amendment approval and final plan site plan approval for this same section of the Washingtonian property.

Attorney for the applicant, Scott Wallace, Esq., Linowes and Blocher, indicated the above plans were the same as previously approved. He voiced the applicant's agreement to staff's suggested conditions. Mr. Wallace introduced the members of his team.

Project Manager Damona Smith Stautmanis, Boston Properties Limited Partnership, voiced optimism about the market in Gaithersburg and stated that the applicant is looking forward to building the project.

Architect for the applicant, Rick Moy, HOK Architects, presented the plan and stated the approved SDP consists of three office buildings, three garages, surface parking, stormwater management pond, pedestrian path, entrance drive, and significant canopy. He identified the final site plan as Phase 1 of the project (SP-05-0008), which included a seven-story building, two and one-half story garage, existing and new trees, wetlands, pond, plantings, and limited surface parking. He presented the rendered elevations, noting a horizontal motif to minimize the vertical appearance and identified the materials as 60 percent glass and simple precast. He briefly discussed access and related the various changes the building underwent before its approval in 2001 in order to accommodate height concerns of the neighboring residents. Mr. Moy discussed the infrastructure plan (SP-07-0007), noting it includes the access road, requiring median work on Washingtonian Boulevard, stormwater management pond surrounded by a path, building pad locations and site work.

Commissioner Hopkins noted a small surface parking area next to the Phase 1 garage reflected on the illustrative plan presented by the architect, which was not on the engineering plan. Mr. Moy stated that the plan on this display this evening was an old exhibit used for illustrative purposes only, adding, however, that said parking area is not part of the proposal and would be removed from all plans.

There was no additional testimony.

Community Planning Director Schwarz recommended the Commission move

separately for the above plans and direct staff to prepare an opinion resolution for each application. Mrs. Schwarz reviewed the proposed land swap that was a condition of approval of the amendment to Schematic Development Plan [SDP-W5(A)] and noted that its purpose was to preserve a mature stand of trees by annexing it into the Malcolm King Park. She stated that staff found SP-05-0007 in compliance with City Code §§ 24-170 and 24-171 and recommends approval with conditions that she listed. She added another condition for the removal from all plans of the small parking area referenced by Commissioner Hopkins.

Chair Bauer explained that this project had been reviewed at length before its previous approval and, noting that the plan remains the same, asked for a motion for an approval resolution with the findings as stated on the original approval resolution.

Relevant Statutory Provisions

The following statutory provisions from the City of Gaithersburg Code, City Zoning Ordinance (Chapter 24 of the City of Gaithersburg Code) are among the provisions that define the nature of the Planning Commission's site plan review powers and the extent of the Commission's oversight:

Sec. 24-170. General conditions.

The City Planning Commission shall approve the site development plan only upon a finding by it that the buildings, structures and uses proposed will not:

(a) Adversely affect the health or safety of persons residing in or working on the land in question or in the neighborhood thereof.

(b) Be detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties.

(c) Constitute a violation of any provisions of this chapter or any other applicable law, regulation or ordinance.

(d) Be incompatible or inharmonious with other existing uses or with existing and proposed adjacent development.

(e) Be inharmonious or inconsistent with the environmental standards of the city adopted by the city council pursuant to section 20-9 of the City Code and any amendments.

* * *

C. Evaluation and Findings.

The Planning Commission reviewed the evidence of record in this case which included, among other things, the proposed grading plan and landscape plan, proposed forest conservation plan, proposed stormwater and sediment control plans, other exhibits and testimony of record. The Planning Commission makes the following findings:

As it had in 2001, the Planning Commission takes specific note of the 1997 Neighborhood Three Land Use Plan which states that the subject property will maintain a 100-foot buffer area between the outside property line and any developed properties. Taking into consideration its review of the approved schematic development plan, site plan, and the testimony of the applicant and staff, the Commission finds that the proposed site plan, as presented by the applicant, is in compliance with this Master Plan requirement. The Planning Commission finds that the proposed plan for the infrastructure for future office buildings is in accordance with the proposed commercial-industrial-research-office land use designated in the 2003 Master Plan.

The Planning Commission has reviewed the request to approve grading for three office building pads and accompanying parking garage structures, construction of the access road, infrastructure and stormwater management pond. The Planning Commission finds that this approval of grading and construction of roads and infrastructure will not have an adverse impact on the health or safety of persons working in the Washingtonian Center and adjacent residential neighborhoods. The Commission takes into consideration the past approvals of this site plan, and the testimony of Community Planning Director Schwarz, who participated in the Development Review Team review and approval of the plan. The Commission is satisfied, as it was in the approval of SP-00-0018, that the revised spine of the internal road is improved over the previously approved Manugistics plan such that no additional review of traffic movements into and out of the site will be necessary, and there is no traffic safety concern associated with the proposed site plan.

The Planning Commission also finds that an approval of the site plan will not cause a detriment to the public welfare or adversely affect the use of adjoining properties. With the presence of the completed interchange at Washingtonian Boulevard and Sam Eig Highway, the subject site will allow ingress/egress of traffic in a safe manner. There has been no negative change in the traffic impact since the Commission approved W-1116 in September 1998. At that time, the Planning Commission had the benefit of a traffic impact study as well as the City Traffic Engineer's review. The City Traffic Engineer determined that there will not be an adverse impact on the surrounding land uses caused by traffic. Also at the 2001 approval, the testimony of the City Traffic Engineer again reiterated that the proposed plan would not be an adverse impact on the surrounding land uses by traffic. There being no change in the evidence or the site plan presented to the Commission between 2001 and again on September 7, 2005, the Commission therefore concludes that again there will not be a detriment to the surrounding neighborhood.

The Planning Commission is satisfied that the site plan as submitted by the applicant is compatible and harmonious, as conditioned below, to the extent that only infrastructure is being approved at this time. Each office building and parking structure will require additional site plan amendment. The Planning Commission finds that the proposal will be compatible and harmonious with other existing and proposed adjacent uses, and that the site plan will allow the property owner to develop the site in a positive manner.

The Planning Commission finds that site plans and specifically the forest conservation plan subject to the conditions below are consistent with the environmental

standards adopted by the City Council. In reviewing the plans, the Planning Commission finds the application will require the fee in lieu payment in order to provide adequate reforestation and easements for tree conservation and has conditioned the plan accordingly.

Upon review of all the evidence, as conditioned below, the Planning Commission further finds that the proposed site plan will not violate Chapter 24 of the City of Gaithersburg Zoning Ordinance, nor any other applicable law, regulation or ordinance.

Conclusion

Upon consideration of all the evidence, the testimony in favor of final site plan SP-05-0007, and there being no opposition thereto, the Planning Commission concludes that said site plan, as conditioned by this opinion, is in conformance with Zoning Ordinance §24-170(a)-(e), and that the applicant has met its burden of proof.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Gaithersburg on the 5th day of October, 2005, that the applicant's proposed final site plan SP-05-0007, to approve grading for three office building pads, construction of the access road and infrastructure, and construction of the stormwater management pond, be APPROVED, subject to the following conditions:

1. The applicant is to present a specific plan of the proposed land swap, to be submitted and approved by the City Council, before a final determination on the limit of clearing is reflected on the forest conservation plan;

2. Applicant and the staff are to determine the limit of clearing for surface parking to the rear of Garage 2, including determining the trees in the area to be retained and protected during grading of the site, prior to the approval of the forest conservation plan and issuance of any site work permits;

3. Applicant is to finalize and receive approval of the Forest Conservation Plan prior to the issuance of a Site Work Permits;

4. Applicant is to record Forest Conservation Easements prior to the issuance of Site Work Permits;

5. At the time of final approval of that phase of the development, Parking Garage 1 is to be configured so that the corner of the structure is set back 25'-30' from the Sam Eig Highway right-of-way and additional landscaping is provided between the highway and the parking structure;

6. Applicant is to obtain approval by Department of Public Works, Park Maintenance and Engineering (DPWPM&E) of Sediment Control and Stormwater Management plans before the issuance of Site Work Permits;

7. Prior to the issuance of a Site Work Permit, the applicant shall pay a fee-in lieu for a portion of the required afforestation;

8. Stream stabilization project is to be constructed at the time of pond construction; and

9. Applicant is to remove the surface parking on the northwest side of Garage #3 from all plans.

ADOPTED[2] by the Planning Commission of Gaithersburg, Maryland, this 5th day of October, 2005. Commissioners Bauer, Hicks, Levy, Winborne and Hopkins, being present and voting in favor of the action.

John Bauer
Planning Commission Chairman

This is to certify that the foregoing Resolution was adopted by the Gaithersburg Planning Commission in public meeting assembled on the 5th day of October, 2005.

Greg Ossont, Director,
Planning and Code Administration

[2]Any decision by the Planning Commission may, within seventeen (17) days after the date of the action or decision rendered, be appealed by any person aggrieved by the decision to the City Board of Appeals pursuant to the provisions of Article VII of Chapter 24 of the City Code.

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland

PLANNING COMMISSION
RESOLUTION APPROVING

FINAL PLAN REVIEW FOR SITE ACCESS AND STORMWATER MANAGEMENT, ROUGH GRADING FOR OFFICE BUILDINGS AND PARKING GARAGE PADS, LANDSCAPING AND UTILITY INSTALLATION, KNOWN AS SITE PLAN SP-05-0007, LOCATED ON THE NORTH 26.9264 ACRES OF THE WASHINGTONIAN CENTER, 10000 WASHINGTONIAN BOULEVARD, GAITHERSBURG, MARYLAND.

SP-05-0007

OPINION

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separately for the above plans and direct staff to prepare an opinion resolution for each application. Mrs. Schwarz reviewed the proposed land swap that was a condition of approval of the amendment to Schematic Development Plan [SDP-W5(A)] and noted that its purpose was to preserve a mature stand of trees by annexing it into the Malcolm King Park. She stated that staff found SP-05-0007 in compliance with City Code §§ 24-170 and 24-171 and recommends approval with conditions that she listed. She added another condition for the removal from all plans of the small parking area referenced by Commissioner Hopkins.

Chair Bauer explained that this project had been reviewed at length before its previous approval and, noting that the plan remains the same, asked for a motion for an approval resolution with the findings as stated on the original approval resolution.

Relevant Statutory Provisions

The following statutory provisions from the City of Gaithersburg Code, City Zoning Ordinance (Chapter 24 of the City of Gaithersburg Code) are among the provisions that define the nature of the Planning Commission's site plan review powers and the extent of the Commission's oversight:

Sec. 24-170. General conditions.

The City Planning Commission shall approve the site development plan only upon a finding by it that the buildings, structures and uses proposed will not:

(a) Adversely affect the health or safety of persons residing in or working on the land in question or in the neighborhood thereof.

(b) Be detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties.

(c) Constitute a violation of any provisions of this chapter or any other applicable law, regulation or ordinance.

(d) Be incompatible or inharmonious with other existing uses or with existing and proposed adjacent development.

(e) Be inharmonious or inconsistent with the environmental standards of the city adopted by the city council pursuant to section 20-9 of the City Code and any amendments.

* * *

C. Evaluation and Findings.

The Planning Commission reviewed the evidence of record in this case which included, among other things, the proposed grading plan and landscape plan, proposed forest conservation plan, proposed stormwater and sediment control plans, other exhibits and testimony of record. The Planning Commission makes the following findings:

As it had in 2001, the Planning Commission takes specific note of the 1997 Neighborhood Three Land Use Plan which states that the subject property will maintain a 100-foot buffer area between the outside property line and any developed properties. Taking into consideration its review of the approved schematic development plan, site plan, and the testimony of the applicant and staff, the Commission finds that the proposed site plan, as presented by the applicant, is in compliance with this Master Plan requirement. The Planning Commission finds that the proposed plan for the infrastructure for future office buildings is in accordance with the proposed commercial-industrial-research-office land use designated in the 2003 Master Plan.

The Planning Commission has reviewed the request to approve grading for three office building pads and accompanying parking garage structures, construction of the access road, infrastructure and stormwater management pond. The Planning Commission finds that this approval of grading and construction of roads and infrastructure will not have an adverse impact on the health or safety of persons working in the Washingtonian Center and adjacent residential neighborhoods. The Commission takes into consideration the past approvals of this site plan, and the testimony of Community Planning Director Schwarz, who participated in the Development Review Team review and approval of the plan. The Commission is satisfied, as it was in the approval of SP-00-0018, that the revised spine of the internal road is improved over the previously approved Manugistics plan such that no additional review of traffic movements into and out of the site will be necessary, and there is no traffic safety concern associated with the proposed site plan.

The Planning Commission also finds that an approval of the site plan will not cause a detriment to the public welfare or adversely affect the use of adjoining properties. With the presence of the completed interchange at Washingtonian Boulevard and Sam Eig Highway, the subject site will allow ingress/egress of traffic in a safe manner. There has been no negative change in the traffic impact since the Commission approved W-1116 in September 1998. At that time, the Planning Commission had the benefit of a traffic impact study as well as the City Traffic Engineer's review. The City Traffic Engineer determined that there will not be an adverse impact on the surrounding land uses caused by traffic. Also at the 2001 approval, the testimony of the City Traffic Engineer again reiterated that the proposed plan would not be an adverse impact on the surrounding land uses by traffic. There being no change in the evidence or the site plan presented to the Commission between 2001 and again on September 7, 2005, the Commission therefore concludes that again there will not be a detriment to the surrounding neighborhood.

The Planning Commission is satisfied that the site plan as submitted by the applicant is compatible and harmonious, as conditioned below, to the extent that only infrastructure is being approved at this time. Each office building and parking structure will require additional site plan amendment. The Planning Commission finds that the proposal will be compatible and harmonious with other existing and proposed adjacent uses, and that the site plan will allow the property owner to develop the site in a positive manner.

The Planning Commission finds that site plans and specifically the forest conservation plan subject to the conditions below are consistent with the environmental

standards adopted by the City Council. In reviewing the plans, the Planning Commission finds the application will require the fee in lieu payment in order to provide adequate reforestation and easements for tree conservation and has conditioned the plan accordingly.

Upon review of all the evidence, as conditioned below, the Planning Commission further finds that the proposed site plan will not violate Chapter 24 of the City of Gaithersburg Zoning Ordinance, nor any other applicable law, regulation or ordinance.

Conclusion

Upon consideration of all the evidence, the testimony in favor of final site plan SP-05-0007, and there being no opposition thereto, the Planning Commission concludes that said site plan, as conditioned by this opinion, is in conformance with Zoning Ordinance §24-170(a)-(e), and that the applicant has met its burden of proof.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Gaithersburg on the 5th day of October, 2005, that the applicant's proposed final site plan SP-05-0007, to approve grading for three office building pads, construction of the access road and infrastructure, and construction of the stormwater management pond, be APPROVED, subject to the following conditions:

1. The applicant is to present a specific plan of the proposed land swap, to be submitted and approved by the City Council, before a final determination on the limit of clearing is reflected on the forest conservation plan;

2. Applicant and the staff are to determine the limit of clearing for surface parking to the rear of Garage 2, including determining the trees in the area to be retained and protected during grading of the site, prior to the approval of the forest conservation plan and issuance of any site work permits;

3. Applicant is to finalize and receive approval of the Forest Conservation Plan prior to the issuance of a Site Work Permits;

4. Applicant is to record Forest Conservation Easements prior to the issuance of Site Work Permits;

5. At the time of final approval of that phase of the development, Parking Garage 1 is to be configured so that the corner of the structure is set back 25'-30' from the Sam Eig Highway right-of-way and additional landscaping is provided between the highway and the parking structure;

6. Applicant is to obtain approval by Department of Public Works, Park Maintenance and Engineering (DPWPM&E) of Sediment Control and Stormwater Management plans before the issuance of Site Work Permits;

7. Prior to the issuance of a Site Work Permit, the applicant shall pay a fee-in lieu for a portion of the required afforestation;

8. Stream stabilization project is to be constructed at the time of pond construction; and

9. Applicant is to remove the surface parking on the northwest side of Garage #3 from all plans.

ADOPTED[2] by the Planning Commission of Gaithersburg, Maryland, this 5th day of October, 2005. Commissioners Bauer, Hicks, Levy, Winborne and Hopkins, being present and voting in favor of the action.

John Bauer
Planning Commission Chairman

This is to certify that the foregoing Resolution was adopted by the Gaithersburg Planning Commission in public meeting assembled on the 5th day of October, 2005.

Greg Ossont, Director,
Planning and Code Administration

[2]Any decision by the Planning Commission may, within seventeen (17) days after the date of the action or decision rendered, be appealed by any person aggrieved by the decision to the City Board of Appeals pursuant to the provisions of Article VII of Chapter 24 of the City Code.

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland

PLANNING COMMISSION
RESOLUTION APPROVING

FINAL PLAN REVIEW FOR AN OFFICE BUILDING, PARKING, AND LANDSCAPING, KNOWN AS WASHINGTONIAN NORTH, SITE PLAN SP-05-0008, LOCATED AT 10000 WASHINGTONIAN BOULEVARD, LOT 4, BLOCK D, WASHINGTONIAN CENTER GAITHERSBURG, MARYLAND.

SP-05-0008

OPINION

This matter has come before the Planning Commission for approval of a final site plan for land zoned Mixed Use Development (MXD). This proceeding constitutes an action pursuant to §§ 24-160D.9(c) and 24-171(1) of the Zoning Ordinance (Chapter 24 of the City of Gaithersburg Code), which permits the Planning Commission to review and approve a site development plan (SP) following approval of a schematic development plan; and further, § 24-170 in which the Planning Commission can approve a site development plan only after certain findings have been made. This subject case involves approximately 10.1036 acres of land within the Washingtonian Center and is located to the west of Sam Eig Highway, at its intersection with Washingtonian Boulevard.

Operative Facts

A. Background.

The Washingtonian Center was annexed into the City of Gaithersburg on July 9, 1991, comprised of 102.5711 acres of land. This development had received approval from Montgomery County by Resolution No. 10-1592, adopted November 5, 1985, approving Zoning Application No. G-439, setting forth the right to develop 4,525,000 square feet of space in conformance with a sketch plan approved as part of that application. The annexation agreement between the City of Gaithersburg and the property owner states that the schematic development plan process is complete as set forth by the agreement unless subsequent amendments are requested by the property owner, or any party on its behalf. On September 16, 1998, property owner Boston Properties was granted an SDP amendment in case SDP-W5 for the approval of 850,000 square feet of commercial office space. SDP-W5 amended the original access to the site and internal traffic circulation, and identified three office-building locations around a pond, structured parking locations and a pedestrian path. Based on SDP-W5, the applicant submitted for final site plan approval for 330,000 square feet of office space and an accompanying parking structure. The final site plan, W-1116, was approved on September 16, 1998. On May 24, 2000, Boston Properties was granted an SDP amendment in case SDP-W5(A) for the approval of 850,000 square feet of

commercial office space. SDP-W5(A) revised the building footprints of the three buildings and the parking garages, modified the stormwater management pond, and revised the location of the internal road and circulation. Also on May 24, 2000, the Planning Commission granted a site plan amendment in case number W-1116(A), which amended the site plan that sought to implement portions of SDP-W5(A). On appeal, the City of Gaithersburg Board of Appeals affirmed the Planning Commission approval of SDP-W5(A) on January 11, 2001[1]. The City of Gaithersburg Board of Appeals reversed the Planning Commission approval of W-1116(A), finding that the site plan approved in W-1116 was void because the site plan had expired and, therefore, could not be amended by the Commission. On April 4, 2001, the Planning Commission approved an Infrastructure Plan for the Washingtonian North Area, known as SP-00-0018.

Following the decision of the Board of Appeals reversing the approval of W-1116(A), Boston Properties submitted a new application for final site plan approval designated as SP-00-0018, in accordance with § 24-160D.9(c), for grading the footprints of all three buildings identified on SDP-W5(A) and accompanying parking structures. In addition, the application requested final site plan approval for construction of the revised entrance road, construction of associated infrastructure for the site, installation of certain landscaping, and construction of the stormwater management pond. The Planning Commission reviewed this plan on February 16, 2001, at a regularly scheduled meeting of the Commission. A resolution of approval of the site plan, SP-00-0018 was adopted by the Planning Commission at its regularly scheduled meeting on April 4, 2001.

The applicant, Boston Properties, submitted an application for the final site plan on the subject site (Lot 4 Block D, Washingtonian Center) on March 23, 2001, which was designated SP-01-0006. This application requested final site plan approval for a 220,116-square foot, seven-story office building and a two and one-half-story parking garage. The Planning Commission reviewed this matter at their regularly scheduled meetings of June 6 and 20, 2001. The Planning Commission adopted a resolution of approval of the site plan at its regularly scheduled meeting on July 11, 2001.

Subsequent to the site plan approval, in accordance with §24-173 of the Zoning Ordinance, the applicant applied for and received extensions of the site development plan by the Planning Commission. These were approved on June 19, 2002, July 2, 2003, and July 7, 2004. In accordance with §24-173, site plan SP-01-0006 expired on July 7, 2005.

B. Current Application.

Following the expiration of the July 7, 2004, site development approval of SP-01-0006, Boston Properties submitted a new application for final site plan approval, in accordance with §24-160D.9(c), for a 220,116-square foot, seven-story office building and a two and one-half-story parking garage. The application and plans were identical to the plans approved to SP-01-0006 in 2001. The application was designated as SP-05-0008. Tentative agendas of the September 7, 2005, Planning Commission meeting were sent to adjoining properties and interested parties on August 29, 2005. The

[1] The Montgomery County Circuit Court and the Maryland Court of Special Appeals subsequently affirmed the decision.

property was posted on August 29, 2005.

The Planning Commission reviewed this matter on September 21, 2005, at its regularly scheduled meeting. Proper notification was sent to all interested parties. The Planning Commission reviewed the subject plan concurrently with an application for the infrastructure site plan for grading, roadway improvements, and a sediment/stormwater management pond on the same lot and those adjoining lots (SP-05-0007). At the hearing before the Commission, the following testimony was given:

Commissioner Levy disclosed he had once chaired the Greater Neighborhood Three Committee that had dealings with the previous property owner. Commissioner Levy stated that he did not believe his background would interfere with his ability to be fair and impartial in this matter. Chairman Bauer asked if anyone in the audience had an objection to Commissioner Levy's participation in the case. A Boston Properties representative stated the applicant had no objections. No other objections were raised by anyone in attendance at the hearing.

Community Planning Director Schwarz reviewed past actions concerning this project, noting the Planning Commission previously granted schematic development plan amendment approval and final plan site plan approval for this same section of the Washingtonian property.

Attorney for the applicant, Scott Wallace, Esq., Linowes and Blocher, indicated the above plans were the same as previously approved. He voiced the applicant's agreement to staff's suggested conditions. Mr. Wallace introduced the members of his team.

Project Manager Damona Smith Stautmanis, Boston Properties Limited Partnership, voiced optimism about the market in Gaithersburg and stated that the applicant is looking forward to building the project.

Architect for the applicant, Rick Moy, HOK Architects, presented the plan and stated that the approved SDP consists of three office buildings, three garages, surface parking, a stormwater management pond, a pedestrian path, an entrance drive, and significant canopy. He identified the final site plan as Phase 1 of the project (SP-05-0008), which included a seven-story building, a two and one-half story garage, existing and new trees, wetlands, pond, plantings, and limited surface parking. He presented the rendered elevations, noting a horizontal motif to minimize the vertical appearance and identified the materials as 60 percent glass and simple precast. He briefly discussed access and related the various changes the building underwent before its approval in 2001 in order to accommodate height concerns of the neighboring residents. Mr. Moy discussed the infrastructure plan (SP-07-0007), noting it includes the access road requiring median work on Washingtonian Boulevard, stormwater management pond surrounded by a path, building pad locations and site work.

Commissioner Hopkins noted a small surface parking area next to the Phase 1 garage reflected on the illustrative plan presented by the architect, which was not on the engineering plan. Mr. Moy stated that the plan on this display this evening was an old exhibit used for illustrative purposes only, adding, however, that said parking area is not

part of the proposal and would be removed from all plans.

There was no additional testimony.

Community Planning Director Schwarz recommended the Commission move separately for the above plans and direct staff to prepare an opinion resolution for each application. Mrs. Schwarz reviewed the proposed land swap that was a condition of approval of the amendment to Schematic Development [SDP-W5(A)] and noted that its purpose was to preserve a mature stand of trees by annexing it into the Malcolm King Park. She stated that staff found SP-05-0008 in compliance with City Code §§ 24-170 and 24-171 and recommends approval with conditions that she listed. She added another condition for the removal from all plans of the small parking area referenced by Commissioner Hopkins.

Chair Bauer explained that this project had been reviewed at length before its previous approval and, noting that the plan remains the same, asked for a motion for an approval resolution with the findings as stated on the original approval resolution.

Relevant Statutory Provisions

The following statutory provisions from the City of Gaithersburg Code, City Zoning Ordinance (Chapter 24 of the City of Gaithersburg Code) are among the provisions that define the nature of the Planning Commission's site plan review powers and the extent of the Commission's oversight:

Sec. 24-170. General conditions.

The City Planning Commission shall approve the site development plan only upon a finding by it that the buildings, structures and uses proposed will not:

(a) Adversely affect the health or safety of persons residing in or working on the land in question or in the neighborhood thereof.

(b) Be detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties.

(c) Constitute a violation of any provisions of this chapter or any other applicable law, regulation or ordinance.

(d) Be incompatible or inharmonious with other existing uses or with existing and proposed adjacent development.

(e) Be inharmonious or inconsistent with the environmental standards of the city adopted by the city council pursuant to section 20-9 of the City Code and any amendments

* * *

Sec. 24-171. Site plan review.

In the review and approval of a site development plan, the Planning Commission shall have the following powers which shall be exercised for the purpose of avoiding adverse impact on the neighboring properties and public facilities, reducing traffic hazards and improving traffic circulation within or without the property which is the subject of the plan, preserving existing desirable natural features, assuring adequate light and air to buildings within or without the subject property, providing adequate access to such buildings by fire and rescue equipment, providing convenient access to such buildings from off-street parking spaces, avoiding overcrowding of persons and buildings within the development, ensuring the provision or development of recreational and other amenities and facilitating the creation and maintenance of common or public open space, parking areas and private drainage systems.

(a) To determine the location, size and shape of buildings;

(b) To determine the location, design and dimensions of streets, driveways and parking areas;

(c) To require parking facilities in addition to the minimum number of parking spaces otherwise required by this chapter;

(d) To determine the maximum number of dwelling units to be located within any one building;

(e) To determine the location of common open space;

(f) To establish the finished grade of the property;

(g) To establish minimum materials and design standards for private streets, driveways, parking areas and drainage systems, where such standards have not been established by ordinance;

(h) To require screen planting or fencing;

(i) To impose other conditions upon the approval of the plan where necessary to assure that the use of the property will be consistent with the purpose and intent of this chapter;

(j) To determine whether the site development plan will achieve a maximum of compatibility, safety and efficiency, considering but not limited to the following functions: Height, building design, arrangement and scale of development; vehicular circulation system, including access and off-street parking and loading; landscaping, screening, buffering, open space, lighting, signage and pedestrian circulation. The fact that a site plan complies with all of the stated general regulations, development standards or other requirements of the zone shall not, by itself, be deemed to create a presumption that the proposed site development plan is, in fact, compatible with adjacent land uses and development and, in itself, shall

not be sufficient to require approval of the site plan.

(k) To require that, as a condition to the issuance of building permits, bonds or other financial security or instrument be posted with the city, satisfactory to the city manager, to ensure the construction and/or maintenance of approved on-site, private recreational facilities, amenities, buildings and areas, and any landscaping, screening, access and parking elements being part of the approved site plan. Prior to releasing any bond or letter of credit required for elements of an approved site plan, the city manager shall provide an opportunity for interested property owners, citizen groups, and representatives of common ownership communities to provide comment concerning any perceived defects in bonded construction. Such comment must be received by the city within thirty (30) days of permittees request for release of bonds under this chapter. The city manager or his designee shall promulgate administrative procedures for notification of interested property owners, citizens groups and representatives of common ownership communities. The decision of the city manager as to this release of any bond or letter of credit shall be final and shall not be subject to any administrative appeal or review procedures provided for in §§ 24-181 and 24-187(a) of the City Code. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant or permittee, its successors, heir and assigns relinquish all claim to said cash bond; and

(l) To require that property be subdivided, resubdivided or replatted and in connection therewith, require dedication of portions of the land to public use, subject to site plan review for public improvements reasonably related to serving the residents, workers, patrons or visitors of the property or to impose a fee for the same in lieu of dedication.

Evaluation and Findings.

The Planning Commission reviewed the evidence of record in this case, which included, among other things, Planning Commission Resolution R-04-00 for the approval of the amendment to schematic development plan, the previously-approved Infrastructure Plan in case SP-00-0018, the proposed SP-05-0007 Infrastructure Plan, and the proposed SP-05-0008 Final Site and Landscape plans, as well as elevations of the building and the parking garage. The Planning Commission makes the following findings:

The Planning Commission takes specific note of both the 1997 Neighborhood Three Land Use Plan and the 2003 Master Plan, which designates this property as

commercial/industrial-research-office. The Planning Commission finds that the property should be developed in conformance with the annexation agreement promulgated at the time of annexation of this property (X-159). The property is located in the MXD (Mixed Use Development) Zone. The Commission finds that the proposed site plan as presented by the applicant, complies with this 2003 Master Plan requirement and is consistent with the conditions and requirements specified in the Neighborhood Three Land Use Plan regarding said property.

The Commission notes that the applicant has provided a 100-foot buffer area between the outside property line of the site plan and the existing adjoining residential development, as required by the1997 Neighborhood Three Land Use Plan. Taking into consideration its review of the site plan, and the testimony given at the hearing, the Commission finds that the proposed site plan, as presented by the applicant, complies with this Master Plan buffer area requirement and is consistent with the conditions and requirements specified in the 1997 Land Use Plan regarding said property.

There has been no change in the footprints of the proposed office building and parking garage from the plan approved in SP-01-0006, and the Planning Commission has already found those footprints to be in compliance with §§ 24-170(a)–(e) and 24-171. The Planning Commission has reviewed the request to construct a seven-story office building with the required parking within a two and one-half-level parking garage and landscaping for the property. The building constitutes the first phase of an office park. The Commission finds that the design features compliment the existing natural features of the property and are appropriately scaled for the property. The integration of the adjoining stormwater management pond creates an amenity for not only the users of the office park, but also for the public due to the connection to the adjacent park. The site plan also provides significant forest retention and attenuation, including the preservation of a 55-inch sycamore tree. The Commission notes that all public services are available for the proposed development. The Planning Commission finds that the site plan is harmonious and environmentally sensitive to the adjoining residential communities and the Malcolm King Park.

The Planning Commission also finds, as it did for the SDP and the site plan for the Infrastructure Plan for the site, that an approval of the site plan will not cause a detriment to the public welfare or adversely affect the use of adjoining properties. With the presence of the completed interchange at Washingtonian Boulevard and Sam Eig Highway, the subject site will allow ingress/egress of traffic in a safe manner. There has been no negative change in the traffic impact since the Commission approved W-1116 in September 1998, and SP-01-0006 in July 2001. At the time of the approval of W-1116, the Planning Commission had the benefit of a traffic impact study as well as the City Traffic Engineer's review. The City Traffic Engineer determined that there will not be an adverse impact on the surrounding land uses caused by traffic. The Commission finds that the present application (SP-05-0008) is the same as Application SP-01-0006. There being no change in the evidence or the site plan presented to the Commission between 2001 and again on September 7, 2005, the Commission therefore concludes that again there will not be a detriment to the surrounding neighborhood. For these same reasons, the Commission further finds that the proposed building and parking garage will not adversely affect the health or safety of persons residing in or working on the land in question or in the neighborhood thereof.

The Commission takes into consideration the testimony of Community Planning Director Schwarz, who participated in the Development Review Team with other City staff to review this plan for conformance to Zoning Ordinance and other City ordinances. The Commission finds that the property is located in the MXD (Mixed Use Development) Zone and that office use is allowed within the zone. The Commission finds that this plan has been reviewed by the agencies of the City and does not constitute a violation of any provisions of Chapter 24 of the City Code or any other applicable law, regulation or ordinance.

Based on the testimony, record and there being no opposition thereto, the Planning Commission finds that the proposal will be compatible and harmonious with other existing and proposed adjacent uses, and that the site plan will allow the property owner to develop the site in a positive manner.

The site plan proposes a 220,000-square foot office building with an associated parking garage containing 719 spaces. An additional 25 surface parking spaces are provided for a total of 744 spaces (of which 16 are reserved for handicapped parking). Accordingly, the plan meets the requirements for off-street parking as set forth in Zoning Ordinance §24-219 for one space per 300 square feet of development.

With regard to height, the building is shown in the Final Site Plan at 98 feet in height. The property is approved for a building up to 120 feet in height pursuant to the SDP amendment. As noted above, the density and proposed bulk of the office building and parking structure is below the density and bulk of development approved for the Property. Further, the site plan complies with the Zoning Ordinance requirements regarding green space, building coverage, and setbacks. Finally, the architecture of the proposed building is appropriately scaled for the size of the parcel and enhances, rather than overwhelms, the natural features of the site.

With regard to the location and arrangement of the structures, as noted above, the structures are sited at a lower elevation than the residential community to minimize the impact of the larger scale of these structures when compared to the residential structures. Further, the structures are oriented away from the residential community and a 100-foot wide buffer is maintained along the northern property line. The buffer area is proposed for significant planting of trees and shrubbery to supplement the existing vegetation on the site. The loading area for the Project is also located at a lower elevation than the adjacent residential community and is screened.

Access is provided via a private driveway off Sam Eig Highway (Washingtonian Boulevard extension). The access drive leading from this point forms the internal vehicular circulation system for the Project (and subsequent phases of development). As it did with the approval of SP-01-0006, the Planning Commission found that the vehicular circulation is adequate and safe for the proposed development, as previously demonstrated by the study prepared by Mr. Edward Papazian as part of the record of Final Site Plan Application SP-01-0006.

Upon review of all the evidence, as conditioned below, the Planning Commission further finds that the proposed site plan will not violate Chapter 24 of the City of Gaithersburg Zoning Ordinance, nor any other applicable law, regulation or ordinance.

Conclusion

Upon consideration of all the evidence, the testimony in favor to Final Site Plan SP-05-0008, and there being no opposition thereto, the Planning Commission concludes that said site plan, as conditioned by this opinion, is in conformance with Zoning Ordinance §§ 24-170(a)-(e) and 24-171, and that the applicant has met its burden of proof.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Gaithersburg on the 5th day of October, 2005, that the applicant's proposed Final Site Plan SP-05-0008, for a 220,200-square foot, seven-story office building with a two and one-half-story parking garage be APPROVED, subject to the following conditions:

1. Applicant is to provide Lighting, Stormwater Management and Sediment Control plans for approval by the Department of Public Works, Park Maintenance and Engineering (DPWPM&E) prior to the issuance of Site Work Permits;

2. Applicant is to work with the City and Montgomery County Department Public Works and Transportation Services to provide bus access and Gaithersburg prototype shelters on site prior to occupancy of the building;

3. Applicant is to show tentative bus shelters locations on the site plan;

4. Applicant is to escrow the cost of two City bus shelters to the City of Gaithersburg before the issuance of any Site Work Permits;

5. Applicant is to encourage employers/tenants to participate in the activities of the Greater Shady Grove TMD to facilitate reducing peak hour and single occupant vehicle trips to/from the development;

6. Applicant is to submit a building signage plan to be approved by staff prior to the issuance of occupancy for the building;

7. Applicant is to submit a Landscape plan to be approved by staff prior to the issuance of Site Work Permits; and

8. Applicant is to remove the surface parking on the northwest side of Garage #3 from all plans.

ADOPTED[2] by the Planning Commission of Gaithersburg, Maryland, this 5th day of October, 2005. Commissioners Bauer, Hicks, Hopkins Levy, and Winborne, being present and voting in favor of the action.

John Bauer
Planning Commission Chairman

This is to certify that the foregoing Resolution was adopted by the City of Gaithersburg Planning Commission in public meeting assembled on the 5th day of October, 2005.

Greg Ossont, Director
Planning and Code Administration

[2] Any decision by the Planning Commission may, within seventeen (17) days after the date of the action or decision rendered, be appealed by any person aggrieved by the decision to the City Board of Appeals pursuant to the provisions of Article VII of Chapter 24 of the City Code.

V. SITE PLANS

AFP-05-032 -- Criswell Hummer C-2 Zone
84 Bureau Drive
Signage
AMENDMENT TO FINAL PLAN REVIEW

Planner Seiden located the property and introduced the applicant.

Robert Biroonak, Art Display, stated the proposal is for a four-foot high building sign on the north elevation, a three-foot building sign high on the east elevation, and one freestanding sign to replace an existing KIA sign to the east of the driveway. He indicated the applicant is proposing a height of 15 feet for the freestanding sign.

There was no public testimony.

Ms. Seiden voiced staff's recommendation for approval of this plan, subject to the applicant's compliance with the condition listed in the motion below. She noted that the application is for a 16-foot high freestanding sign, which would be nonconforming with the Sign Ordinance. The Commission moved as follows:

> Vice-Chair Hicks moved, seconded by Commissioner Levy, to grant AFP-05-032 - Criswell Hummer, AMENDMENT TO FINAL PLAN APPROVAL, with the following condition:
>
> 1. The height of the freestanding sign is to be reduced to fifteen (15) feet.
>
> Vote: 5-0

SP-05-0007 -- Washingtonian North MXD Zone
10000 Washingtonian Boulevard
Infrastructure Plan
FINAL PLAN REVIEW

and

SP-05-0008 -- Washingtonian North Office Building 3 MXD Zone
10000 Washingtonian Boulevard
220,116-Sq. Ft. Office, Garage and
Lot 4 Improvements
FINAL PLAN REVIEW

Commissioner Levy noted that although he had chaired the Greater Neighborhood Three Committee, he did not feel it would affect his impartiality in reviewing these plans.

Community Planning Director Schwarz located the property and noted that the Planning Commission approved the above-referenced proposals over five years ago; however, they have expired, since the plans were not implemented.

Attorney for the applicant, Scott Wallace, Esq., Linowes and Blocher, indicated the above plans are the same as previously approved. He voiced the applicant's agreement to staff's suggested conditions. Mr. Wallace introduced the members of his team and stated there was no objection on the applicant's part to Commissioner Levy's participation on the subject plan reviews.

SP-05-0007
SP-05-0008
EXTENSION
#3
PENGAD 800-631-6989

Applicant's Project Manager Damona Smith Stautmanis, Boston Properties, Limited Partnership, voiced optimism about the market in Gaithersburg and stated that the applicant is looking forward to building the project.

Architect for the applicant, Rick Moy, HOK Architects, presented the plan and stated the project consists of three office buildings, three garages, surface parking, a stormwater management pond, a pedestrian path, an entrance drive, and significant canopy. He identified Phase 1 as a seven-story building, a two and one-half story garage, existing and new canopy, wetlands, a pond, plantings, and limited surface parking. He presented the rendered elevations, noting a horizontal motif to minimize the vertical appearance and identified the materials as 60 percent glass and simple precast. He briefly discussed access, and related the various building design changes it underwent before its approval in order to accommodate height concerns of the neighboring residents.

Mr. Moy discussed the infrastructure plan noting it includes the access road, which requires median work on Washingtonian Boulevard, a stormwater management pond surrounded by a path, building pad locations and site work.

Commissioner Hopkins noted a small surface parking area next to the Phase 1 garage reflected on the illustrative plan presented this evening, which was not on the engineering plan. Mr. Moy stated that the plan on display this evening was an old exhibit used for illustrative purposes only, adding, however, that said parking area is not part of the proposal and would be removed from all plans.

There was no public testimony.

Community Planning Director Schwarz recommended the Commission move separately for the above plans and direct staff to prepare an opinion resolution for each application. She reviewed the proposed land swap that was a condition of approval of the amendment to schematic development plan [SDP-W5(A)] and noted that its purpose was to preserve a mature stand of trees by annexing it into the Malcolm King Park. Mrs. Schwarz stated that staff found SP-05-007 in compliance with City Code §§ 24-170 and 24-171 and recommends approval with conditions that she listed. She added another condition for the removal from all plans of the small parking area referenced by Commissioner Hopkins.

Chair Bauer explained that this project had been reviewed at length before its previous approval and, noting that the plan remains the same, asked for a motion for an approval resolution with the findings as stated on the original approval resolution.

> Vice-Chair Hicks moved, seconded by Commissioner Winborne, to direct staff to prepare an Opinion Resolution granting SP-05-0007 - Washingtonian North Infrastructure, FINAL PLAN APPROVAL, with findings as listed in the original approval resolution and the conditions listed by staff for SP-05-0007.
> Vote: 5-0

Mrs. Schwarz stated that staff found SP-05-0008 in compliance with City Code §§ 24-170 and 24-171 and recommends approval with conditions that she listed. Commissioner Levy referenced staff's Condition 6 and questioned whether the Commission, rather than staff, should approve the signage. Based on City Attorney Borten's clarification of the Commission's responsibility for signage approval, the Commission concurred to leave Condition 6 unchanged.

> Vice-Chair Hicks moved, seconded by Commissioner Winborne, to direct staff to prepare an Opinion Resolution granting SP-05-0008 - Washingtonian North Office Building 3, FINAL PLAN APPROVAL,

using the findings listed on Approval Resolution SP-01-0006, with the following conditions:

1. Applicant is to provide Lighting, Stormwater Management and Sediment Control plans for approval by the Department of Public Works, Park Maintenance and Engineering (DPWPM&E) prior to the issuance of Site Work Permits;

2. Applicant is to work with the City and Montgomery County Department of Public Works and Transportation Services to provide bus access and Gaithersburg prototype shelters on site prior to occupancy of the building;

3. Applicant is to show tentative bus shelter locations on the site plan;

4. Applicant is to escrow the cost of two City bus shelters to the City of Gaithersburg before the issuance of any Site Work Permits;

5. Applicant is to encourage employers/tenants to participate in the activities of the Greater Shady Grove TMD to facilitate reducing peak hour and single occupant vehicle trips to/from the development

6. Applicant is to submit a building signage plan to be approved by staff prior to the issuance of occupancy for the building; and

7. Applicant is to submit a Landscape plan to be approved by staff prior to the issuance of Site Work Permits; and

8. Applicant is to remove the surface parking on the northwest side of Garage #3 from all plans.

Vote: 5-0

City Attorney Borten noted an error in the motion for the infrastructure plan and requested its correction as follows:

Commissioner Levy moved, seconded by Commissioner Winborne, to reopen the record on SP-05-0007 to amend the motion.
Vote: 5-0

Vice-Chair Hicks moved, seconded by Commissioner Winborne, to direct staff to prepare an Opinion Resolution granting SP-05-0007 - Washingtonian North Infrastructure, FINAL PLAN APPROVAL, using the findings in Approval Resolution SP-00-0018, with the following conditions:

1. The applicant is to present a specific plan of the proposed land swap, to be submitted and approved by the City Council, before a final determination on the limit of clearing is reflected on the forest conservation plan;

2. Applicant and the staff are to determine the limit of clearing for surface parking to the rear of Garage 2, including determining the trees in the area to be retained and protected during grading of the site, prior to the approval of the forest conservation plan and issuance of any site work permits;

3. Applicant is to finalize and receive approval of the Forest Conservation Plan prior to the issuance of Site Work Permits;

4. Applicant is to record Forest Conservation Easements prior to the issuance of Site Work Permits;

5. At the time of final approval of that phase of the development, parking Garage 1 is to be configured so that the corner of the structure is set back 25'-30' from the Sam Eig Highway right-of-way and additional landscaping is provided between the highway and the parking structure;

6. Applicant is to obtain approval by Department of Public Works, Park Maintenance and Engineering (DPWPM&E) of Sediment Control and Stormwater Management plans before the issuance of Site Work Permits;

7. Prior to the issuance of a Site Work Permit, the applicant shall pay a fee-in lieu for a portion of the required afforestation; and

8. Stream stabilization project is to be constructed at the time of pond construction; and

9. Applicant is to remove the surface parking on the northwest side of Garage #3 from all plans.

Vote: 5-0

AFP-04-034 -- Shell Station C-2 Zone
600 Quince Orchard Road
Elevation, Sign and Site Changes
AMENDMENT TO FINAL PLAN REVIEW

Planner Patula located the property, provided background information relating to this site, and stated it is in violation, since it underwent changes without the issuance of permits. She indicated the Planning Commission approved a plan amendment (AFP-01-012) in 2001 for redeveloping the site from the previous Chevron Station, which was not implemented. The changes made on the site are not in accordance with the approved plan.

Engineer for the applicant, Matthew Allen, Bohler Engineering, speaking in representation for Motiva Enterprises, explained that the applicant abandoned the redevelopment plan and hired a company to give the site a new image. He stated the work was done, but the company failed to obtain the permits.

Mr. Allen presented photographs of the existing site and discussed the changes already in place. He noted the proposed plan includes the changes made so that permits can be issued for the building refacing and signage, and the new Shell canopy. He indicated the plan also proposes the replacement of the existing pole sign with a monument sign, double striping the

SP-05-0007 -- Washingtonian North MXD Zone
10000 Washingtonian Boulevard
Infrastructure Plan
Final Plan
ADOPTION OF APPROVAL RESOLUTION

Community Planning Director Schwarz noted minor modifications made to the draft resolution previously furnished to the Commission. Commissioner Levy briefly referenced a revision to Condition 7 that he had recommended.

Commissioner Levy moved, seconded by Commissioner Winborne, to adopt Resolution PCR-SP-05-0007 - Washingtonian North Infrastructure, granting FINAL PLAN APPROVAL.
Vote: 5-0

SP-05-0008 -- Washingtonian North Office Building 3 MXD Zone
10000 Washingtonian Boulevard
220,116-Sq. Ft. Office, Garage and
Lot 4 Improvements
Final Plan
ADOPTION OF APPROVAL RESOLUTION

Commissioner Levy moved, seconded by Vice-Chair Hicks, to adopt Resolution PCR-SP-05-0008 - Washingtonian North Office Building, granting FINAL PLAN APPROVAL.
Vote: 5-0

SDP-05-005 -- Washingtonian Woods MXD Zone
511 Midsummer Drive
Addition to Clubhouse
SDP Amendment
ADOPTION OF APPROVAL RESOLUTION

Commissioner Levy moved, seconded by Vice-Chair Hicks, to adopt Resolution PCR-SDP-05-005 - Washingtonian Woods, granting AMENDMENT TO SCHEMATIC DEVELOPMENT APPROVAL.
Vote: 5-0

AFP-05-031 -- Washingtonian Woods Clubhouse MXD Zone
511 Midsummer Drive
2,580 Sq.Ft. 2nd Story Addition
Amendment to Final Plan
ADOPTION OF APPROVAL RESOLUTION

Commissioner Levy moved, seconded by Vice-Chair Hicks, to adopt Resolution PCR-AFP-05-031 - Washingtonian Woods Clubhouse, granting AMENDMENT TO FINAL PLAN APPROVAL.
Vote: 5-0

SP-05-0010 -- Knightsbridge Towns R-20 Zone
70 West Deer Park Road
Townhouse Development
PRELIMINARY PLAN REVIEW

PENGAD 800-631-6989
SP-05-0007
SP-05-0008
EXTENSION
#4

Planner Robinson located the property on an aerial plan and provided background information relating to this application.