



City of Rockville

## MEMORANDUM

November 24, 2009

TO: Planning Commission

FROM: Jeremy Hurlbutt, AICP, Planner II *J.H.*

SUBJECT: Time Extension for Use Permit Application USE2006-00697, 255 North Washington Street

At its meeting of November 1, 2006, the Rockville Planning Commission reviewed and conditionally approved the above-referenced Use Permit Application (Attachment 1). The application is for approval of a multi-story building with a maximum of 10 stories, containing 287 multi-family units, a maximum of six (6) live/work units and 9,037 square feet of first floor retail and fitness center.

At its meeting of October 22, 2008, the Rockville Planning Commission reviewed and approved the first of two possible, one-year time extensions. This extended the Use Permit approval for Use Permit USE2006-00697 to December 7, 2009.

The approved application will expire on December 7, 2009, one year from the date of the first extension approval letter. The applicant, Rockville Town Center, LLC (RTC, aka: Kettler), has applied for a second time extension of one (1) year. Circumstances beyond RTC's control have delayed their ability to commence construction by December 7, 2009. The applicant wishes to obtain an additional one year extension to allow economic conditions to improve as stated in applicant's letter (Attachment 2).

Section 25.08.02b.1 of the Zoning Ordinance requires that "construction under a Use Permit approved prior to March 16, 2009 must commence within two years of the approval letter of the Approving Authority or the use permit will expire." A total of two extensions of one year each may be granted by the Planning Commission for good cause shown. Approval of this time extension would extend the validity period to December 7, 2010, with no further extensions possible.

Attachments:

1. Approval letter
2. Letter from applicant



City of Rockville  
111 Maryland Avenue  
Rockville, Maryland  
20850-2364  
www.rockvillemd.gov

Community Planning and  
Development Services  
240-314-8200  
TTY 240-314-8137  
FAX 240-314-8210

Historic Preservation Office  
240-314-8230

Inspection Services Division  
240-314-8240

Long Range Planning  
Division  
240-314-8200

Planning Division  
240-314-8220

Revitalization/Housing  
Division  
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CITY CLERK  
Claire F. Funkhouser

CITY ATTORNEY

December 7, 2006

Rockville Town Center, LLC  
c/o Kim Callahan  
8081 Wolftrap Road, Suite 300  
Vienna, Virginia 22182

Re: Use Permit USE2005-00697, 255 North Washington Street, northeast intersection of North Washington Street and Beall Avenue

Dear Ms. Callahan:

At its meeting on November 1, 2006, the City of Rockville Planning Commission reviewed and conditionally approved the above referenced Use Permit application for a multi-story building with a maximum of 10 stories, containing 287 multi-family units, a maximum of six (6) live/work units and 9,037 square feet of first floor retail and fitness center. Approval is subject to the following conditions:

1. Submit for approval by the Chief of Planning, eleven (11) copies of the Use Permit plans as shown to the Planning Commission, including the revisions required at the November 1, 2006 meeting. These plans, along with the landscape plan, architectural plans and any items listed below, will constitute the Signature Set for the project when stamped and signed by the City.
  - a) Submission, of eleven (11) copies of the approved Signing and Pavement Marking Plan to the Chief of Planning prior to the issuance of Building Permits.
2. All structures must meet the requirements of the City's construction codes, the Fire and Life Safety Codes, Maryland Building Code for the Handicapped and Federal ADA requirements.
3. Permits for signs must be obtained from the Division of Inspection Services, according to guidelines established in the City of Rockville Sign Ordinance.
4. The Applicant shall comply with the City's Publicly Accessible Art in Private Development ordinance. Applicant must provide a concept plan for review prior to issuance of building permits and fulfill the art requirement prior to issuance of the first occupancy permit for the building.
5. All new utilities installed within the Property, including transformers, are to be underground or within buildings, as directed by the Department of Public Works, or as approved by the Planning Commission, if required.

6. Submission and recordation of a final Record Plat, prior to issuance of the building permit, which is consistent with this Use Permit and preliminary subdivision plan approval, and shows all necessary easement and dedications including Public Improvement Easements, Public Sidewalk Easements and Public Utilities Easements.
7. A minimum of 15% of dwelling units shall be designated moderately priced dwelling units (MPDUs). The units shall be distributed throughout the project and shall reflect a mix of unit sizes (excluding live/work units).
8. Prior to demolition of the existing building, the Applicant shall prepare a photographic documentation of the building exterior and interior architecture, including the first floor bank office. The documentation must meet the requirements of the Maryland Historical Trust's Standards and Guidelines for Architectural and Historical Investigations in Maryland.
9. Applicant shall provide long term secure bicycle parking spaces for the residential and retail components and short term bicycle parking spaces for the residential and retail components in the number, and at safe and convenient locations, as approved by the Department of Public Works.
10. A Transportation Demand Management (TDM) Agreement must be executed by the Applicant prior to issuance of the building permit. This agreement will require the Applicant to make a contribution of sixty dollars (\$60) per dwelling unit per year for a period of ten (10) years and \$0.10 per square foot of commercial/retail space per year for a period of ten (10) years. Should one or more of the residential units be sold as individual residential units, the entire unpaid balance of the \$600 TDM fee attributable to each unit sold shall become due and owed to the City prior to transfer of ownership in such unit. These funds will be used for various programs designed to reduce the number and impact of vehicle trips within the planning area. The funds will be used for the purpose of TDM and the agreement will specify the timing and other requirements of future payments of the TDM fee. These sums will be incorporated into the TDM capital improvements program funds of the City.
11. Prior to issuance of a building permit, the Applicant shall contribute a monetary contribution of \$13,000.00 for the implementation of two bus shelters to be located adjacent to the Property. This contribution will be incorporated into the Bus Stop Beautification CIP.
12. Applicant shall mill and overlay paving in North Washington Street (curb to curb width) along the site frontage and Beall Avenue (half of street to centerline). The Applicant shall install striping as directed by DPW.
13. Applicant shall install crosswalk markings on the north side of the North Washington Street and Beall Avenue intersection and modify the sidewalk terminus on the northwest corner for handicap access to accommodate safe pedestrian crossing.

14. Benches, planters and landscaping areas are not permitted in the public right-of way or in the public sidewalk easements except as approved by the Director of Public Works. If allowed, permitted private improvements shall be covered by a private maintenance agreement between the Property owner and the City.
15. The northeast corner of the first two floors of the building shall be set back twenty-three (23) feet from the northern property line to accommodate a future service drive and sidewalk connection to the future Maryland Avenue extension.
16. The Applicant shall construct or contribute, as noted, the following traffic-calming and pedestrian safety devices in the West End neighborhood per the letter dated September 25, 2006 (Attachment #3), as approved by the West End Civic Association in lieu of the improvements outlined in the PDP:
  - a) Construction of two landscaped median entry features in the right of way of Beall Avenue at the intersection with North Washington Street, generally conforming to the attached plans prepared by MHG dated July 26, 2006.
  - b) Construction of a West End Community monument sign to be installed in the Beall Avenue landscaped median, generally conforming to the attached plans prepared by MHG dated July 26, 2006.
  - c) A Contribution of \$52,160 to the City for the West End pedestrian safety project.
  - d) Upgrade of the existing crosswalks across Henderson Circle with synthetic asphalt and thermoplastic paint.
  - e) Furnish the City with a portable speed indicator sign for use within the West End neighborhood.

The timing for the above stated improvements shall be as follows:

1. File for a Public Works Permit for the Beall Avenue landscaped medians prior to receipt of a demolition permit for the 255 North Washington Street building.
2. Bond and commence construction of Beall Avenue landscaped median, with the intent to continue, within 90 days of issuance of the building permits for the 255 North Washington Street project.
3. Complete construction of landscape medians prior to obtaining the first occupancy permit for the 255 North Washington Street project.
4. Contribute the \$52,160 referenced in condition #16c above, along with \$73,000 (per PDP requirement #4) on November 15, 2007, subject to the condition that no action has been taken by the City or third parties which would prevent, restrict or significantly delay the issuance of a demolition permit for 255 North Washington Street and the building permits to implement the improvements contemplated by the Use Permit and PDP, which in event of such prevention, restriction, or significant delay,

- contribution would be due prior to any subsequent issuance of the building permit.
5. Commence construction of the synthetic asphalt crosswalks at Henderson Circle within 30 days of obtaining a demolition permit for 255 North Washington Street.
  6. Furnish the City with a portable speed indicator sign prior to issuance of an occupancy permit.
17. Applicant shall contribute \$73,000 prior to issuance of a building permit. These funds shall be directed toward pedestrian improvements in the West End.
  18. The Applicant shall design and construct a pedestrian crosswalk, safety island, and roadway configuration across the roadway fork on North Washington Street north of the gas station and south of Dawson Avenue, in accordance with plans approved by DPW. The design shall be completed prior to issuance of the building permit and the construction of these improvements shall be done prior to issuance of the first occupancy permit.
  19. Applicant shall contribute \$67,000 toward the construction of the water main relocation in Beall Avenue prior to issuance of building permits.
  20. The Applicant shall provide to the City, a CAD drawing showing the entire roadway (curb to curb) along the Property frontage of North Washington Street and for Beall Avenue from North Washington Street to MD Rt 355. The plans shall show updated Town Square street intersections.
  21. No vehicles servicing the building shall be permitted to back into or out of the public right of way. Appropriate signage to that effect shall be installed near the service area. The loading dock, service drive and building shall be designed or modified to accommodate loading and maneuvering activities on-site.
  22. Detailed engineering plans for the parking garage shall be submitted to DPW at building permit stage which shall include additional information on:
    - a) Reference grids
    - b) Floor elevations
    - c) Circulation patterns
    - d) Typical Parking space dimensions
    - e) Safe pedestrian access
    - f) Location of staircase doors
    - g) Handicapped parking spaces
    - h) 5 foot setback or offset for vehicular turnarounds
    - i) turning templates for maneuvers within the garage
    - j) column locations
  23. All internal and external traffic control devices (i.e., signs, marking and devices placed on, over or adjacent to a roadway or pathway to regulate, warn or guide pedestrians and/or vehicular traffic shall comply with the latest edition of the Manual on Uniform Traffic Control Devices

- (MUTCD). A signing and pavement marking plans shall be submitted to DPW and approved by the Chief of Traffic and Transportation before issuance of a Public Works Permit for work in the rights-of-way.
24. Stormwater management (SWM) for the Property shall be in compliance with the SWM concept approval dated June 15, 2006 as may be amended by the Department of Public Works.
  25. Applicant shall establish the following easements:
    - a. Ten (10) foot PUE along Beall Avenue and North Washington Street. Applicant shall obtain approval from PEPCO for work within the existing PEPCO easement and/or abandonment of the PEPCO easement along North Washington Street. A PUE of less than 10' may be allowed if approved by the Director of Public Works.
    - b. A ten (10) foot public sidewalk access easement for sidewalks on Beall Avenue and North Washington Street.
  26. Applicant shall design and construct the Beall Avenue frontage including curb (granite) and gutter, bike lane, mill/overlay, street lights, sidewalks, medians, pedestrian crossings, crosswalks, striping, storm drains, and handicap ramps between North Washington Street and the Rockville Volunteer Fire Department property. The improvements to the Davers Associates property (414-416 Hungerford Drive's Beall Avenue driveway entrance) between the Applicant's Property and the RVFD property shall be limited to: i) work in the existing right-of-way for construction of the bike lane and curb and gutter and storm drainage, and ii) the construction of a sidewalk, handicap ramps, and driveway crossing to the extent of a construction easement granted by Davers Associates generally as shown on the MHG plan dated Sept 2006. Applicant shall use reasonable efforts to obtain construction easement. If DPW determines that this improvement cannot be constructed, DPW will select another project in Planning Area 4(West End and Woodley Gardens East-West) to be constructed by the applicant.
  27. Applicant to construct concrete driveway aprons at its vehicular access points on Beall Avenue and North Washington Street.
  28. Applicant shall be allowed one water and sewer connection, except as otherwise may be approved by DPW.
  29. Applicant shall underground any existing above ground utilities along site frontages.
  30. Post bonds and obtain all necessary permits from the Department of Public Works.
  31. Submission, to DPW for review and approval of the following detailed engineering plans, studies and computations:
    - a. Sediment control plans, with existing and proposed contours, for all disturbed areas;
    - b. Storm drainage study for the site with computations and drainage area map;
    - c. On-site stormwater management (SWM) system;

- d. Public improvement plans, including but not limited to, streets, streetscape and sidewalks for public use, street trees, street signage and marking, relocation of traffic signal devices, North Washington crosswalk and fork pedestrian safety project; Beall Avenue medians, Henderson Circle crosswalks, storm drain that will become public, and any other on-site or off-site public improvements.
- e. Street lighting plans, with proposed street lights chosen from the City inventory.
- f. Relocation of traffic signal poles and equipment at the Beall Avenue at North Washington Street intersection that impact sidewalk and handicap access.

All detailed engineering plans must be on 24" x 36" mylars at 1"=30' scale.

- 32. Submission, to DPW and Chief of Planning, for review and approval of the detailed engineering plans for sidewalks and the sidewalk finishes that shall be located within public sidewalk access easements including a plan (i.e., concrete scoring, band, or pavers) that differentiates between public and private maintenance and/or access of the sidewalk.
- 33. If approved by the Director of DPW, the Applicant shall prepare easements and maintenance agreements in a form acceptable to the City's Attorney office for recordation in the Montgomery County land records prior to issuance of the first residential building permit:
  - a. Public access and use easement for the landscaped greenspace at the Beall Avenue intersection with Maryland Avenue.

Maintenance agreements shall be executed by the Applicant, its successors and assigns, for maintenance of areas privately owned and covered by public use easements, public access easements, public improvement easements, and public sidewalk easements and the maintenance of upgraded features within the public right of way.

- 34. Stormwater appurtenances (facility, drains, pipes, etc) located within the area reserved for a future service drive connection to Maryland Avenue must be designed for HS-20 vehicular loading. The depth of the appurtenances must be designed so that the appropriate improvements (service drive, sidewalk) may be constructed overtop.
- 35. No private vehicular drop-off lanes are permitted along the North Washington Street and Beall Avenue frontages.
- 36. Submission, for review and approval of the Department of Public Works prior to DPW permit issuance, of a phasing plan for pedestrian access, construction access, staging and parking. Pedestrian access plan for construction period shall include, but not be limited to, the methods of maintaining pedestrian safety and access on the existing sidewalks, temporary closing of sidewalks for work in the streetscape zone, and pedestrian detours, as well as efforts to minimize closure of sidewalks.

37. Below grade excavation shall be dewatered per DPW sediment control requirements to an acceptable outfall.
38. The Payment of Montgomery County's Development Impact Tax, as applicable, and subject to allowable credits, must be made prior to issuance of the building permits.
39. The Forestry permit must be issued prior to the issuance of Public Works permits. A Forest Conservation Easement, Warranty and Maintenance Agreement and bond must be signed, received and recorded prior to issuance of a Forestry permit.
40. The applicant must provide a combined recycling and trash center in at least one location on each floor of the building.

Sincerely,




R. James Wasilak, AICP  
Chief of Planning

Note: A building permit may be issued only when the conditions of approval have been met, unless otherwise noted in the condition, and a copy of the following acknowledgment, signed and executed by the applicant, has been returned to the Planning Division office. Be advised that this approval does not constitute approval by any department or agency having jurisdiction over this development project.

Your attention is directed to Section 25-193 (d), of the Zoning Ordinance, which stipulates that construction must begin within two years of Use Permit approval, or by December 7, 2008. The Planning Commission may grant two one-year extensions. Section 25-193(e) as amended, describes the time period by which construction must occur for the phases of the development.

**I ACKNOWLEDGE RECEIPT OF USE2006-00697, AND AGREE TO FULLY COMPLY WITH CONDITIONS UPON WHICH APPROVAL WAS GRANTED. I FURTHER ACKNOWLEDGE THAT FAILURE TO COMPLY WITH THESE CONDITIONS MAY CAUSE APPROVAL TO BE REVOKED BY THE PLANNING COMMISSION.**

Rockville Town Center LLC, a Virginia limited liability company  
By: Rockville Town Center Investor LLC, a Virginia limited liability company  
By: KSI Services, Inc., a Virginia Corporation, its Manager

  
Applicant's Signature 1/23/07  
Date

John Chappelle  
Applicant's Printed Name 1/23/07  
Date

cc: Nancy Regelin, Shulman Rogers Gandal Pordy & Ecker, P.A.  
Toby S. Wilson, Engineer, Macris, Hendricks & Glascock, P.A.  
Susan Straus, Chief Engineer/Environment  
Mark Wessel, Civil Engineer III  
John Hollida, Civil Engineer II - Environment  
Nazar Saleh, Civil Engineer III - Transportation  
Elise Cary, Assistant City Forester  
Sondra Block, Attorney  
Rebecca Torma, Planner II  
Reading File  
File



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 111 Maryland Avenue  
 Rockville, Maryland  
 20850-2364  
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CITY MANAGER  
 Scott Ullery

CITY CLERK  
 Claire F. Funkhouser

CITY ATTORNEY

April 1, 2008

Rockville Town Center, LLC  
 c/o Kim Callahan  
 1751 Pinnacle Drive, Suite 700  
 McLean, Virginia 22102

Re: Use Permit Amendment USA2006-0697A, 255 North Washington Street;  
 Revision of Condition 18.

Dear Ms. Callahan:

At its meeting of March 26, 2008, the City of Rockville's Planning Commission approved modifications to condition 18 of the above referenced Use Permit Amendment approval. The previously-approved Use Permit application was for a multi-story building with a maximum of 10 stories, containing 287 multi-family units, a maximum of six (6) live/work units and 9,037 square feet of first floor retail and fitness center. All conditions associated with approval of Use Permit USE2006-00697 as amended continue to apply, and are restated as follows with the modification to condition 18.

1. Submit for approval by the Chief of Planning, eleven (11) copies of the Use Permit plans as shown to the Planning Commission, including the revisions required at the November 1, 2006 meeting. These plans, along with the landscape plan, architectural plans and any items listed below, will constitute the Signature Set for the project when stamped and signed by the City.
  - a) Submission, of eleven (11) copies of the approved Signing and Pavement Marking Plan to the Chief of Planning prior to the issuance of Building Permits.
2. All structures must meet the requirements of the City's construction codes, the Fire and Life Safety Codes, Maryland Building Code for the Handicapped and Federal ADA requirements.
3. Permits for signs must be obtained from the Division of Inspection Services, according to guidelines established in the City of Rockville Sign Ordinance.
4. The Applicant shall comply with the City's Publicly Accessible Art in Private Development ordinance. Applicant must provide a concept plan for review prior to issuance of building permits and fulfill the art requirement prior to issuance of the first occupancy permit for the building.

5. All new utilities installed within the Property, including transformers, are to be underground or within buildings, as directed by the Department of Public Works, or as approved by the Planning Commission, if required.
6. Submission and recordation of a final Record Plat, prior to issuance of the building permit, which is consistent with this Use Permit and preliminary subdivision plan approval, and shows all necessary easement and dedications including Public Improvement Easements, Public Sidewalk Easements and Public Utilities Easements.
7. A minimum of 15% of dwelling units shall be designated moderately priced dwelling units (MPDUs). The units shall be distributed throughout the project and shall reflect a mix of unit sizes (excluding live/work units).
8. Prior to demolition of the existing building, the Applicant shall prepare a photographic documentation of the building exterior and interior architecture, including the first floor bank office. The documentation must meet the requirements of the Maryland Historical Trust's Standards and Guidelines for Architectural and Historical Investigations in Maryland.
9. Applicant shall provide long term secure bicycle parking spaces for the residential and retail components and short term bicycle parking spaces for the residential and retail components in the number, and at safe and convenient locations, as approved by the Department of Public Works.
10. A Transportation Demand Management (TDM) Agreement must be executed by the Applicant prior to issuance of the building permit. This agreement will require the Applicant to make a contribution of sixty dollars (\$60) per dwelling unit per year for a period of ten (10) years and \$0.10 per square foot of commercial/retail space per year for a period of ten (10) years. Should one or more of the residential units be sold as individual residential units, the entire unpaid balance of the \$600 TDM fee attributable to each unit sold shall become due and owed to the City prior to transfer of ownership in such unit. These funds will be used for various programs designed to reduce the number and impact of vehicle trips within the planning area. The funds will be used for the purpose of TDM and the agreement will specify the timing and other requirements of future payments of the TDM fee. These sums will be incorporated into the TDM capital improvements program funds of the City.
11. Prior to issuance of a building permit, the Applicant shall contribute a monetary contribution of \$13,000.00 for the implementation of two bus shelters to be located adjacent to the Property. This contribution will be incorporated into the Bus Stop Beautification CIP.
12. Applicant shall mill and overlay paving in North Washington Street (curb to curb width) along the site frontage and Beall Avenue (half of street to centerline). The Applicant shall install striping as directed by DPW.
13. Applicant shall install crosswalk markings on the north side of the North Washington Street and Beall Avenue intersection and modify the

- sidewalk terminus on the northwest corner for handicap access to accommodate safe pedestrian crossing.
14. Benches, planters and landscaping areas are not permitted in the public right-of way or in the public sidewalk easements except as approved by the Director of Public Works. If allowed, permitted private improvements shall be covered by a private maintenance agreement between the Property owner and the City.
  15. The northeast corner of the first two floors of the building shall be set back twenty-three (23) feet from the northern property line to accommodate a future service drive and sidewalk connection to the future Maryland Avenue extension.
  16. The Applicant shall construct or contribute, as noted, the following traffic-calming and pedestrian safety devices in the West End neighborhood per the letter dated September 25, 2006 (Attachment #3), as approved by the West End Civic Association in lieu of the improvements outlined in the PDP:
    - a) Construction of two landscaped median entry features in the right of way of Beall Avenue at the intersection with North Washington Street, generally conforming to the attached plans prepared by MHG dated July 26, 2006.
    - b) Construction of a West End Community monument sign to be installed in the Beall Avenue landscaped median, generally conforming to the attached plans prepared by MHG dated July 26, 2006.
    - c) A Contribution of \$52,160 to the City for the West End pedestrian safety project.
    - d) Upgrade of the existing crosswalks across Henderson Circle with synthetic asphalt and thermoplastic paint.
    - e) Furnish the City with a portable speed indicator sign for use within the West End neighborhood.

The timing for the above stated improvements shall be as follows:

1. File for a Public Works Permit for the Beall Avenue landscaped medians prior to receipt of a demolition permit for the 255 North Washington Street building.
2. Bond and commence construction of Beall Avenue landscaped median, with the intent to continue, within 90 days of issuance of the building permits for the 255 North Washington Street project.
3. Complete construction of landscape medians prior to obtaining the first occupancy permit for the 255 North Washington Street project.
4. Contribute the \$52,160 referenced in condition #16c above, along with \$73,000 (per PDP requirement #4) on November 15, 2007, subject to the condition that no action has been taken by the City or third parties which would prevent, restrict or significantly delay the issuance of a demolition permit for 255 North Washington Street and the building permits to implement the

- improvements contemplated by the Use Permit and PDP, which in event of such prevention, restriction, or significant delay, contribution would be due prior to any subsequent issuance of the building permit.
5. Commence construction of the synthetic asphalt crosswalks at Henderson Circle within 30 days of obtaining a demolition permit for 255 North Washington Street.
  6. Furnish the City with a portable speed indicator sign prior to issuance of an occupancy permit.
17. Applicant shall contribute \$73,000 prior to issuance of a building permit. These funds shall be directed toward pedestrian improvements in the West End.
  18. **Applicant shall complete the final design documents of the North Washington Street pedestrian safety improvement as per exhibit prepared by MHG dated July 2007 prior to issuance of building permit. In addition, the Applicant shall contribute \$45,000, prior to issuance of building permit, to be used towards the construction of the pedestrian safety improvement on North Washington Street just south of Dawson Avenue and north of the Gas Station.**
  19. Applicant shall contribute \$67,000 toward the construction of the water main relocation in Beall Avenue prior to issuance of building permits.
  20. The Applicant shall provide to the City, a CAD drawing showing the entire roadway (curb to curb) along the Property frontage of North Washington Street and for Beall Avenue from North Washington Street to MD Rt 355. The plans shall show updated Town Square street intersections.
  21. No vehicles servicing the building shall be permitted to back into or out of the public right of way. Appropriate signage to that effect shall be installed near the service area. The loading dock, service drive and building shall be designed or modified to accommodate loading and maneuvering activities on-site.
  22. Detailed engineering plans for the parking garage shall be submitted to DPW at building permit stage which shall include additional information on:
    - a) Reference grids
    - b) Floor elevations
    - c) Circulation patterns
    - d) Typical Parking space dimensions
    - e) Safe pedestrian access
    - f) Location of staircase doors
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    - h) 5 foot setback or offset for vehicular turnarounds
    - i) turning templates for maneuvers within the garage
    - j) column locations
  23. All internal and external traffic control devices (i.e., signs, marking and devices placed on, over or adjacent to a roadway or pathway to regulate,

warn or guide pedestrians and/or vehicular traffic shall comply with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD). A signing and pavement marking plans shall be submitted to DPW and approved by the Chief of Traffic and Transportation before issuance of a Public Works Permit for work in the rights-of-way.

24. Stormwater management (SWM) for the Property shall be in compliance with the SWM concept approval dated June 15, 2006 as may be amended by the Department of Public Works.
25. Applicant shall establish the following easements:
  - a. Ten (10) foot PUE along Beall Avenue and North Washington Street. Applicant shall obtain approval from PEPCO for work within the existing PEPCO easement and/or abandonment of the PEPCO easement along North Washington Street. A PUE of less than 10' may be allowed if approved by the Director of Public Works.
  - b. A ten (10) foot public sidewalk access easement for sidewalks on Beall Avenue and North Washington Street.
26. Applicant shall design and construct the Beall Avenue frontage including curb (granite) and gutter, bike lane, mill/overlay, street lights, sidewalks, medians, pedestrian crossings, crosswalks, striping, storm drains, and handicap ramps between North Washington Street and the Rockville Volunteer Fire Department property. The improvements to the Davers Associates property (414-416 Hungerford Drive's Beall Avenue driveway entrance) between the Applicant's Property and the RVFD property shall be limited to: i) work in the existing right-of-way for construction of the bike lane and curb and gutter and storm drainage, and ii) the construction of a sidewalk, handicap ramps, and driveway crossing to the extent of a construction easement granted by Davers Associates generally as shown on the MHG plan dated Sept 2006. Applicant shall use reasonable efforts to obtain construction easement. If DPW determines that this improvement cannot be constructed, DPW will select another project in Planning Area 4(West End and Woodley Gardens East-West) to be constructed by the applicant.
27. Applicant to construct concrete driveway aprons at its vehicular access points on Beall Avenue and North Washington Street.
28. Applicant shall be allowed one water and sewer connection, except as otherwise may be approved by DPW.
29. Applicant shall underground any existing above ground utilities along site frontages.
30. Post bonds and obtain all necessary permits from the Department of Public Works.
31. Submission, to DPW for review and approval of the following detailed engineering plans, studies and computations:
  - a. Sediment control plans, with existing and proposed contours, for all disturbed areas;

- b. Storm drainage study for the site with computations and drainage area map;
- c. On-site stormwater management (SWM) system;
- d. Public improvement plans, including but not limited to, streets, streetscape and sidewalks for public use, street trees, street signage and marking, relocation of traffic signal devices, North Washington crosswalk and fork pedestrian safety project; Beall Avenue medians, Henderson Circle crosswalks, storm drain that will become public, and any other on-site or off-site public improvements.
- e. Street lighting plans, with proposed street lights chosen from the City inventory.
- f. Relocation of traffic signal poles and equipment at the Beall Avenue at North Washington Street intersection that impact sidewalk and handicap access.

All detailed engineering plans must be on 24" x 36" mylars at 1"=30' scale.

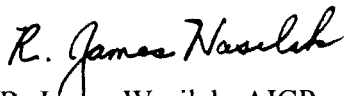
- 32. Submission, to DPW and Chief of Planning, for review and approval of the detailed engineering plans for sidewalks and the sidewalk finishes that shall be located within public sidewalk access easements including a plan (i.e., concrete scoring, band, or pavers) that differentiates between public and private maintenance and/or access of the sidewalk.
- 33. If approved by the Director of DPW, the Applicant shall prepare easements and maintenance agreements in a form acceptable to the City's Attorney office for recordation in the Montgomery County land records prior to issuance of the first residential building permit:
  - a. Public access and use easement for the landscaped greenspace at the Beall Avenue intersection with Maryland Avenue.

Maintenance agreements shall be executed by the Applicant, its successors and assigns, for maintenance of areas privately owned and covered by public use easements, public access easements, public improvement easements, and public sidewalk easements and the maintenance of upgraded features within the public right of way.

- 34. Stormwater appurtenances (facility, drains, pipes, etc) located within the area reserved for a future service drive connection to Maryland Avenue must be designed for HS-20 vehicular loading. The depth of the appurtenances must be designed so that the appropriate improvements (service drive, sidewalk) may be constructed overtop.
- 35. No private vehicular drop-off lanes are permitted along the North Washington Street and Beall Avenue frontages.
- 36. Submission, for review and approval of the Department of Public Works prior to DPW permit issuance, of a phasing plan for pedestrian access, construction access, staging and parking. Pedestrian access plan for construction period shall include, but not be limited to, the methods of maintaining pedestrian safety and access on the existing sidewalks,

- temporary closing of sidewalks for work in the streetscape zone, and pedestrian detours, as well as efforts to minimize closure of sidewalks.
37. Below grade excavation shall be dewatered per DPW sediment control requirements to an acceptable outfall.
  38. The Payment of Montgomery County's Development Impact Tax, as applicable, and subject to allowable credits, must be made prior to issuance of the building permits.
  39. The Forestry permit must be issued prior to the issuance of Public Works permits. A Forest Conservation Easement, Warranty and Maintenance Agreement and bond must be signed, received and recorded prior to issuance of a Forestry permit.
  40. The applicant must provide a combined recycling and trash center in at least one location on each floor of the building.

Sincerely,




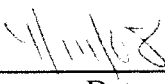
R. James Wasilak, AICP  
Chief of Planning

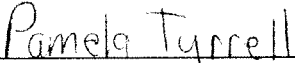
Note: A building permit may be issued only when the conditions of approval have been met, unless otherwise noted in the condition, and a copy of the following acknowledgment, signed and executed by the applicant, has been returned to the Planning Division office. Be advised that this approval does not constitute approval by any department or agency having jurisdiction over this development project.

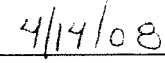
Your attention is directed to Section 25-193 (d), of the Zoning Ordinance, which stipulates that construction must begin within two years of Use Permit approval, or by December 7, 2008. The Planning Commission may grant two one-year extensions. Section 25-193(e) as amended, describes the time period by which construction must occur for the phases of the development.

**I ACKNOWLEDGE RECEIPT OF USA2006-0697A, AND AGREE TO FULLY COMPLY WITH CONDITIONS UPON WHICH APPROVAL WAS GRANTED. I FURTHER ACKNOWLEDGE THAT FAILURE TO COMPLY WITH THESE CONDITIONS MAY CAUSE APPROVAL TO BE REVOKED BY THE PLANNING COMMISSION.**

  
\_\_\_\_\_  
Applicant's Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Applicant's Printed Name

  
\_\_\_\_\_  
Date

cc: Nancy Regelin, Shulman Rogers Gandal Pordy & Ecker, P.A.  
Toby S. Wilson, Engineer, Macris, Hendricks & Glascock, P.A.  
Susan Straus, Chief Engineer/Environment  
Mark Wessel, Civil Engineer III  
John Hollida, Civil Engineer II - Environment  
Nazar Saleh, Civil Engineer III – Transportation  
Elise Cary, Assistant City Forester  
Sondra Block, Attorney  
Rebecca Torma, Planner II  
Reading File  
File

SHULMAN  
ROGERS

GANDAL  
PORDY  
ECKER

NANCY P. REGELIN, SHAREHOLDER  
T 301.230.5224 E nregelin@shulmanrogers.com

November 2, 2009

Ms. Sarah Medearis, Chair  
Rockville Planning Commission  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Extension of USE2006-00697  
Rockville Town Center, LLC  
255 North Washington Street Project  
Our File No. 117-100-002

Dear Ms. Medearis and Members of the Planning Commission:

Rockville Town Center, LLC, owner of 255 North Washington Street and Applicant under Use Permit USE2006-00697, as amended (the "Use Permit"), requests, pursuant to the Transitional Provisions of Section 25.08.02.b.1 of the Zoning Ordinance, approval of an extension of the term of the Use Permit for one (1) additional year to December 7, 2010.

USE2006-00697 was originally approved by the Planning Commission by letter dated December 7, 2006. The initial term was set to expire on December 7, 2008 and was extended for an initial term of one year by the Planning Commission to December 7, 2009.

Since the Use Permit was originally approved, the Applicant diligently and in good faith proceeded to implement the Use Permit, has already satisfied many of the Use Permit conditions including the payment of \$125,160 in cash contributions for pedestrian and transportation improvements in the West End, and filed for permits to commence construction. The building remains vacant except for its first floor tenant, Bank of America, and a small utility company, which keeps the streetscape activated on this property.

However, as the headlines have repeated every day since the first extension last December, the economy has not returned to normal in 2009, and despite the passing of a year, has still not bottomed out nor recovered. The commercial credit markets remain stagnant with construction financing of extremely limited availability. Demand has remained soft while the existing condominiums and condominium conversions back to rental are absorbed by the marketplace.


Recently the news has begun to report that there is renewed optimism for 2010. Therefore, we respectfully request an extension for an additional year to permit the economy, credit markets, and consumer confidence to become stronger before construction must commence.

November 2, 1009  
Page Two

The 255 North Washington Street project is consistent with the Preliminary Development Plan PDP2003-00006 it implements, which PDP has no expiration date and whose standards have been incorporated into the new zone, PD-KSI. More importantly, the current Use Permit already incorporates what the recently adopted zoning ordinance requires under this site's Equivalent Zone, "MXTD" – mixed use development, wide streetscape/sidewalks, green area, public use space, street level retail, diverse housing choices , bike and pedestrian connectivity, notable architecture, fenestration of facades, variable building heights and rooflines, outdoor spaces for residents, quality materials, and investment in neighborhood improvements.

We respectfully request the Planning Commission approve the one (1) year extension to the use permit for the good cause shown.

Sincerely,  
SHULMAN, ROGERS, GANDAL,  
PORDY & ECKER, P.A.

By:   
Nancy P. Regelin

NPR/

cc : Rockville Town Center, LLC  
Project Team