



City of Rockville

MEMORANDUM

April 16, 2010

TO: Planning Commission

FROM: Castor D. Chasten, Planner III - CPDS

SUBJECT: Time Extension Request - Use Permit USE2006-00699
Duball Rockville LLC
196 & 198 East Montgomery Avenue, Rockville, Maryland, 20850

At its March 14th 2007 meeting, the City of Rockville Planning Commission considered and voted to approve the referenced application and accompanying development proposal, subject to certain conditions. The development approval represented the detailed site and building plan phase for implementation of previously approved Preliminary Development Plan amendment PDP1994-0001E. Under the use permit proposal, the applicant would redevelop two parcels (Parcel 2-J/Block 3 and Parcel 2-K/Block 2), with a mixed-use development, containing 45,300 square feet of street level retail floor space, 485 residential dwelling units located on the upper floors of the buildings, and structured parking facilities contained within the core of project development.

At its October 10, 2007 meeting, the Commission considered and voted to approve Use Permit Amendment USA2006-00699A, an amended development proposal of previously approved USE2006-00699. Commission approval of the referenced use permit amendment allows the applicant to modify the building structure that would be located on Parcel 2-J to add a 175-room hotel with limited services, retain the approved 230 dwelling units and 23,100 square feet of ground level retail floor space, and construct 715 structured parking spaces to accommodate the inclusion of the proposed hotel component. There are not proposed changes to the approved development proposal for Parcel 2-K/Block 2 under the plan as submitted.

Planning Commission
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April 16, 2010

Inclusion of the hotel component also required that the proposed 230 residential dwelling units approved for the proposed mixed-use residential building structure be modified in size and type of units constructed.

Section 25.08.02b.1. of the City of Rockville Zoning Ordinance requires **construction or operation shall commence within two years of the date of the use permit approval letter or the use permit will expire.** However, if the applicant can show good cause, the Planning Commission may grant two (2) time extensions of the application expiration date, each not to exceed one (1) year in duration, respectively.

It is important to note that in the subject case, expiration of the use permit is based on the initial approval date of USE2006-00699. Thus, in accordance with the Planning Commission's letter approving the referenced use permit dated May 23, 2007, said permit was scheduled to expire on May 23, 2009. On January 28, 2009, the Planning Commission voted to approve the applicant's request for a one-year time extension, thus keeping the use permit in full force and effect until May 23, 2010.

For the reasons as set forth in the attached request (See Attachment A), the applicant seeks a second and final one (1) year time extension of the use permit's upcoming May 23, 2010 expiration date. If granted, the use permit would remain in full force and effect until May 23, 2011, thus allowing the applicant an opportunity to fully satisfy all of the associated conditions of the project's approval.

/cdc

Attachments

Attachment "A"- Time Extension Application

Attachment "B"- Time Extension Approval Letter (2/18/09)

Attachment "C" – Use Permit Approval Letter (5/23/07)



Application for **Time Extension**

EXT

ATTACHMENT "A"

City of Rockville

Department of Community Planning and Development Services

111 Maryland Avenue, Rockville, Maryland 20850

Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: Cpds@rockvillemd.gov • Web site: www.rockvillemd.gov

Please Print Clearly or Type

Property Address Information 196 and 198 East Montgomery Avenue

Property Name Duball Rockville, LLC Project USA2006-00699A

Project Description Mixed Use Residential, Hotel and Retail Buildings and Renaissance Street

Implementing PDP1994-0001E

SUBDIVISION City Center Lot (S) Parcel 2-J/ 2-K Block _____

Zoning PD-RCI Tax Account (S) 03297617 , 03297628 , _____

Applicant Information:

Please supply Name, Address, Phone Number and E-mail Address

Applicant Duball Rockville, LLC, c/o Marc Dubick, 11111 Sunset Hills Road, #200, Reston, VA 20190

703-234-5631/ fax 703-860-0905/ DubickM@Duball-LLC.com

Property Owner Duball Rockville, LLC , same

Architect Torti-Gallas & Partners, 1300 Spring Street, 4th Floor, Silver Spring, MD 20910

301-588-4800/ fax 301-650-2255/ myagi@tortigallas.com

Engineer Macris Hendricks Glascock, 9220 Wightman Road, #120, Montgomery Village, MD

Mike Plitt, 301-670-0840/ fax 301-948-0693/ mplitt@mhgpa.com

Attorney Nancy Regelin, Esquire, Shulman Rogers, 12505 Park Potomac Avenue #600, Rockville, MD 20854,

301-230-5224/ fax 301-230-2891/ nregelin@shulmanrogers.com

STAFF USE ONLY

Application Acceptance:

Application # USA2006-0699A

Pre-Application _____

Date Accepted _____

Staff Contact _____

OR

Application Intake:

Date Received 3/18/10

Reviewed by TWT

Date of Checklist Review _____

Deemed Complete: Yes No

ORIGINAL APPLICATION NUMBER USA2006-00699A

ORIGINAL APPLICATION APPROVAL DATE 05 / 23 / 07

DATE OF ANY PREVIOUS TIME EXTENSIONS GRANTED (IF ANY) 01 / 28 / 09

A TIME EXTENSION IS NECESSARY FOR THE FOLLOWING REASON (S) See attached letter of justification

A letter of authorization from the owner must be submitted if this application is filed by anyone other than the owner.

I hereby certify that I have the authority to make this application, that the application is complete and correct and that I have read and understood all procedures for filing this application.

Dubell Rockville, LLC PO: AEC Development LLC as managing member by Paul P. ... as managing member

Please sign here: *Paul P. ... as President*

3/17/10

Application Checklist:

- Complete Application
- Filing Fee

Comments on Submittal: (For Staff Use Only)

March 18, 2010

Mr. David Hill, Chair
Rockville Planning Commission
111 Maryland Avenue
Rockville, Maryland 20850

Re: Extension of USA2006-00699A
Duball Rockville, LLC /196 & 198 East Montgomery Avenue
Our File No. 111-591-0007

Dear Mr. Hill and Members of the Planning Commission:

Duball Rockville, LLC, owner of 196/198 East Montgomery Avenue and Applicant under Use Permit USE2006-00699A (the "Use Permit") requests an extension of the term of the Use Permit for one (1) additional year. The use permit is scheduled to expire on May 23, 2010.

An extension for one year to May 23, 2011 is requested due to the continuing difficulties in the credit markets. The Applicant desires to be in a position to file for permits as soon as access to capital becomes available.

Since approval of the Use Permit Amendment, the Applicant has prepared the complex design and construction permit plans for the high-rise construction of the west building with the hotel. The Applicant was poised to file for building permits in December 2008 just as the suddenly tumultuous credit markets effectively shut down. For real estate developers who must secure a series of loans to start construction - both a construction loan and the permanent financing to take out the construction loan upon completion - the current lending climate remains difficult a year later.

The Washington Metropolitan area is likely to lead the country in the projected recovery of the multi-family real estate market. In Rockville, the delay in construction of new projects, such as the Duball Rockville residential project, will ultimately allow the market much needed time for gradual absorption of multi-family units before new projects are commenced.

The requested extension will keep the Duball Rockville project poised for implementation.

March 18, 2010
Page Two


As capital becomes available for commercial lending, an important factor as lenders evaluate projects will be the basic premise of "location, location, location". There is no question that the Rockville Town Center location of the Duball Rockville project adjacent to the new Town Center development, the Rockville Metro Station, and located in the relatively strong Rockville/Montgomery County/Washington DC Metro market satisfies the criteria for a great project in a superior location.

The Duball Rockville project is a critical component to fulfilling the City's master plan vision of, and significant investment in, a successful Town Center with the addition of a hotel, high-rise residential unit types, and retail to grow the critical mass needed for a vibrant town center. The Applicant and its investment partners were early believers in the City's vision for Town Center and continue to believe in the Duball Rockville project.

Due to the continuing difficult credit markets and the slow economic recovery, an extension of time is requested to allow the credit markets to continue to grow in confidence of the economic recovery, and to permit the Applicant the additional time it will take to close on financing to commence construction. The Applicant is anxious to commence construction of its development.

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

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

By: 
Nancy P. Regelin

NPR/mlm
Enclosure

cc : Marc Dubick, Duball Rockville, LLC



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

Recreation/Housing Divi-
 sion
 240-314-8200

MAYOR
 Susan R. Hoffmann

COUNCIL
 John B. Britton
 Piotr Gajewski
 Phyllis Marcuccio
 Anne M. Robbins

CITY MANAGER
 Scott Ullery

CITY CLERK
 Claire F. Funkhouser

CITY ATTORNEY
 Paul T. Glasgow

ATTACHMENT "B"

February 18, 2009

DuBall Rockville, LLC
 c/o John Segreti
 11111 Sunset Hills Road, Suite 200
 Reston, Virginia 20190

Nancy Regelin, Esquire
 Shulman, Rogers, Gandal, Pordy & Ecker, P.A.
 11921 Rockville Pike
 Rockville, Maryland 20852

Re: Use Permit Application USE2006-00699, 196 & 198 East Montgomery Avenue
 Rockville, Maryland 20850

Dear Mr. Segreti and Ms. Regelin:

At its January 28, 2009 meeting, the City of Rockville Planning Commission reviewed and considered your request for a one-year time extension of the deadline for commencing construction of the proposed new mixed-use development, to be located on the subject site. The development proposal represents the detailed site and building plan phase for implementation of previously approved Preliminary Development Plan amendment PDP1994-0001E. Under the Use Permit proposal, the applicant will redevelop Parcel 2-J/Block 3 and Parcel 2-K/Block 2, with a mixed-use development, containing 45,300 square feet of street level retail floor space, 485 residential dwelling units located on the upper floors of the buildings, and structured parking facilities contained within the core of project development. Use Permit Amendment USA2006-0699A approved by the Planning Commission on October 10, 2007, modified previously approved USE2006-00699, to allow the applicant to add a 175 room hotel to the Parcel 2-J/Block 3 planned mixed-use building facility.

Based on the information and testimony provided, the Commission voted unanimously to grant your request for a one-year time extension. Please be advised that all remaining approval conditions imposed on the subject use permit as amended must be fully addressed prior to issuance of building permits.


Note, construction of the approved development project must begin on or before May 23, 2010, when your one-year time extension is scheduled to expire. If however, you have not commenced construction by that date, for good cause shown, you may request a second and final one-year time extension of the May 23, 2010 expiration date. Be advised that time extensions are not automatically approved, since sufficient detail and justification is required in order for the Planning Commission to consider granting a time extension request.

Your attention in this matter is appreciated. Should you have questions please free to

Duball Rockville LLC
Nancy Regelin
February 18, 2009
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contact me at 240-314-8200.

By Direction of the City of Rockville
Planning Commission



R. James Wasilak, AICP
Chief of Planning

/cdc

cc: Planning Commission
Charles Baker, Chief of Inspection Services
Elise Cary, Assistant City Forester
Cas Chasten, Planner III - CPDS
John Hollida, Civil Engineer II - DPW
Mike Plitt, Macris, Hendricks, & Glascock, P.A.
Nazar Saleh, Civil Engineer II – Traffic & Transportation - DPW
Mark Wessel, Civil Engineer III – DPW



ATTACHMENT "C"

May 23, 2007

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

DuBall Rockville, LLC
c/o John Segreti
11111 Sunset Hills Road, Suite 200
Reston, Virginia 20190

Community Planning and
Development Services
240-311-8200
TTY: 240-311-8137
FAX: 240-311-8210

Nancy Regelin, Esquire
Shulman, Rogers, Gandal, Porcy & Ecker, P.A.
11921 Rockville Pike
Rockville, Maryland 20852

Historic Preservation Office
240-311-8230

Re: Use Permit Application USE2006-00699, 196 & 198 East Montgomery Avenue
Rockville, Maryland 20850

Inspection Services Division
240-311-8240

Dear Mr. Segreti and Ms. Regelin:

Long Range Planning
Division
240-311-8200

At its March 14th 2007 meeting, the City of Rockville Planning Commission considered and voted to approve the referenced application and accompanying development proposal, subject to certain conditions. The development proposal represents the detailed site and building plan phase for implementation of previously approved Preliminary Development Plan amendment PDP1994-0001E. Under the use permit proposal, the applicant will redevelop Parcel 2-J/Block 3 and Parcel 2-K/Block 2, with a mixed-use development, containing 45,300 square feet of street level retail floor space, 485 residential dwelling units located on the upper floors of the buildings, and structured parking facilities contained within the core of project development.

Planning Division
240-311-8220

In accordance with the plans submitted, the building to be constructed on Parcel 2-J, west of proposed Renaissance Street, would have a maximum height of 144 feet and the building constructed on Parcel 2-K, east of proposed Renaissance Street, would have a maximum height of 173 feet. Both buildings would have a maximum height of 77 feet along each street frontage, with a minimum of 30-foot setback from the exterior face of the building to the taller sections of the building. In accordance with previously approved PDP1994-0001E, at the 77-foot level, the upper floors would extend to the noted maximum building heights.

Rehabilitation/Housing
Division
240-311-8200

The proposed building structure to be constructed on Parcel 2-J will contain 230 dwelling units, 23,100 square feet of ground level retail floor space, and 631 structured parking spaces that will be located in the core of the proposed building structure. The structure to be constructed on Parcel 2-K will contain 255 dwelling units, 22,200 square feet of ground level retail floor space, and 631 structured parking spaces located in the core of that proposed building structure.

MAYOR
Larry Giannone

The proposed building structures are to be of varied colored stone, masonry, metal and glass construction, with gateway corners, detailed street level building base, and varied

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CITY ATTORNEY
Paul J. Galloway

rooflines to evoke multiple buildings built over time. The residential entrance's lobbies are oriented to Maryland Avenue and Monroe Street mid-block.

The Planning Commission voted to approve the subject Use Permit (USE2006-00699), 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 March 14, 2007 meeting. A copy of the Use Permit approval letter shall be included on the plans. These plans, along with the landscape plan, and any items listed below, will constitute the Signature Set for the project when stamped and signed by the City's Department of Community Planning and Development Services.
 - 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. Submission for approval of the Planning Commission, of a Final Record Plat of subdivision creating two new record lots and showing Renaissance Street as dedicated public right-of-way, prior to issuance of the first building permit to implement the subject use permit.
3. 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.
4. Permits for signs must be obtained from the Division of Inspection Services, according to requirements of the City of Rockville Sign Ordinance.
5. 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 for each building and fulfill the art requirement prior to issuance of the first occupancy permit for each building.
6. All new utilities installed within the Property, including transformers, are to be underground or within buildings, except as may be provided by waivers granted by the Planning Commission.
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 types. The number of MPDUs devoted to rental

or for-sale units must reflect the same ratio of rental and for-sale units as the market rate units. Fifty percent (50%) of the MPDUs shall be marketed to eligible persons over the age of fifty-five (55) years, without regard to household or family composition, during a priority marketing period conforming to the City's MPDU ordinance requirements

8. Applicant shall provide bike parking spaces at convenient and safe locations on buildings 2-J and 2-K as follows and as directed by DPW:
 - a) West Building (2-J) – 80 long term secured spaces and 9 short-term locations (inverted U-racks).
 - b) East Building (2-K) – 89 long term secured spaces and 10 short-term locations (inverted U-racks).
9. A Transportation Demand Management (TDM) Agreement must be executed prior to issuance of a building permit. This agreement will require the Applicant or its successors 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 owing 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 Town Center 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.
10. Applicant shall mill and overlay paving in Maryland Avenue and Monroe Street (curb to curb width) along the site frontage and in East Middle Lane (half of street to centerline). The Applicant shall install striping as directed by DPW.
11. On the southeast corner of East Middle Lane and Monroe Street, the Applicant shall provide an improvement to enhance pedestrian safety and vehicular movements. The improvement will consist of curb and roadway realignments as approved by DPW.
12. A license agreement for any private improvement located in, under, along, or over the public right-of-way, including but not limited to benches, planters, landscaping other than street trees and grass, private art, private tables and chairs, and temporary tie-backs must be authorized by the Mayor and Council and must be subject to a written maintenance agreement between the Property

owner and the City, in a form acceptable to the City, to be recorded among the Land Records of Montgomery County.

13. On the earlier to occur of issuance of a building permit to implement the Use Permit on either Parcel 2-J/Lot 3 or Parcel 2-K/Lot 2, Applicant shall contribute as a condition of issuance of such building permit, \$50,000 towards improvements for James Monroe Park or other public park area in Town Center Planning Area designated by the Director of the Recreation and Parks Department.
14. The Applicant shall contribute the following sums for transportation improvements in the Town Center Planning Area:
 - a) \$309,249 prior to issuance of a building permit on Parcel 2-J/Lot 3 to implement the Use Permit as follows:
 - (i) \$75,000 towards the cost of construction of the extension of Maryland Avenue from Middle Lane to Beall Avenue;
 - (ii) \$60,000 towards transportation improvements in the Town Center Planning Area;
 - (iii) \$94,249 towards transportation improvements in the Town Center Planning Area, in lieu of previously completed pedestrian and bike improvements at the intersection of MD Route 28/Great Falls Road; and
 - (iv) \$80,000 towards traffic calming or capacity improvements in the surrounding neighborhood.
 - b) \$200,000 prior to issuance of a building permit on Parcel 2-K/Lot 2 to implement the Use Permit as follows:
 - (i) \$75,000 towards the cost of construction of the extension of Maryland Avenue from East Middle Lane to Beall Avenue;
 - (ii) \$60,000 towards transportation improvements in the Town Center Planning Area;
 - (iii) \$40,000 towards Park Road/Stonestreet Avenue/Baltimore Road area transportation improvements;
 - (iv) \$25,000 towards transportation capacity, traffic calming, and planning studies for Town Center.

15. During construction on Parcel 2-J and /or 2-K, Applicant shall provide or fund a Parking Coordinator (annualized contribution of \$25,000 to be provided monthly for the applicable period) for the purposes stated in Resolution 10-05 approving PDP1994-0001E, thus commencing three (3) months before the start of construction and ending one month after each new garage is open to the public.
16. Storm drains on Parcel 2-K must be relocated and if applicable, easements abandoned. Private storm drain shall be subject to a maintenance agreement between the property owner and the City, in a form acceptable to the City. The Mayor and Council must approve extinguishment of City easements. Applicant must submit request and supporting documentation to DPW for extinguishing easements within three months of use permit approval.
17. Abandon in place the redundant 12-inch sanitary sewer line in East Middle Lane. Abandonment shall be completed as per DPW standard details.
18. Prior to the issuance of building permits, a detailed construction staging plan must be submitted that indicates how emergency exits on Parcels 2-J & 2-K that serve the theatre on Parcel 2-G will be relocated, and how smoke control and make-up air systems remain usable during construction. Applicant shall provide such plans in advance to the owner of Parcel 2-G and the operator of the theatre for comment prior to submission to the City.
19. 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 service drive in each building shall be one way eastbound upon completion. Service drive vehicles will be allowed to travel westbound temporarily during construction.
20. Truck traffic and deliveries on the south end of Renaissance Street shall be restricted between East Montgomery Avenue and the service drive entrances. Signage shall be installed to notify trucks of these restrictions.
21. Vehicular turning restrictions, such as prohibiting left-turns may be applied at the vehicular access point on Maryland Avenue as directed by DPW.
22. Detailed engineering plans for the parking garage shall be submitted to DPW at building permit stage which shall provide 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 vehicle turnarounds
- i) Turning templates for maneuvers within the garage
- j) Column locations

Note, much of the above noted information will also be provided on the use permit detail "signature set" plans that will be submitted to the Planning Division Office.

- 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 January 2, 2007 as may be amended by the Department of Public Works.
- 25. Applicant shall establish the following easements:
 - a) Public Utility Easements (PUE). Four and one-half (4.5) foot wide PUE along Maryland Avenue and Monroe Street to extend existing public utility zone in public right of way for a total of a 10-foot public utility zone. Eight (8) foot PUE along East Middle Lane is permitted as per the approved PDP. No permanent structures are permitted within the PUE. Twenty (20) feet of head clearance must be maintained above the PUE, except for building elements as approved by DPW. Awnings may be installed within this restricted area but must be removable or retractable. Such installations are at the risk of the property owner and must be removed at the cost and risk of the property owner when necessary for work in the PUE.
 - b) Sidewalks.

Maryland Avenue and Monroe Street – One (1) foot public sidewalk easement to obtain a free and clear sidewalk width of 8-feet (7-feet of the

sidewalk is in the public right of way).

East Middle Lane – One (1) foot of public sidewalk easement in addition to existing seven (7) foot platted sidewalk easement to create a total free and clear sidewalk width of an 8-foot public sidewalk easement.

Renaissance Street – Eight (8) foot public sidewalk easement along both sides of the street.

East Montgomery Avenue – Four and 6/10 feet (4.6') Easement width that accommodates a sidewalk on Applicant's property in the form of a public access easement.

- c) **Water Meter.** Public improvement easement for water meter access and maintenance.
 - d) **Stormwater Management.** Private access and maintenance easements for stormwater management facilities.
26. There shall be no amenity or building expansion zone along East Middle Lane.
 27. There shall be an additional 3.5-foot pedestrian amenity zone exclusive of the storefront zone shown on Maryland Avenue and Monroe Street. The subject area shall be hardscaped, privately owned and maintained.
 28. Public right-of-way shall be truncated as follows: 15-foot on both Maryland Avenue (east corner) and Monroe Street (west corner) of the intersection with East Middle Lane. Renaissance Street shall have a 20-foot truncation on both the east and west corner of the intersection with East Middle Lane.
 29. The paving material of the loading and garage entrances shall be determined by the Department of Public Works during the detailed engineering stage.
 30. The applicant shall dedicate Renaissance Street as public right-of-way (R/W) in conjunction with the recordation of a new subdivision plat prior to the issuance of the first building permit to implement the Use Permit. Dedication shall be a minimum of 38-feet in width, and include two 12-foot travel lanes and two 7-foot tree/amenity zones. The final width of the r/w dedication to be determined by the Final Record Plat. The Renaissance Street r/w dedication may be made subject to the reservation of rights to install, maintain, and use the following improvements in, under, or through the r/w: stormwater management facilities, storm drains, and parking garages or interconnections. Said improvements must

be subject to a written agreement between the property owner and the City, in a form acceptable to the City, to be recorded among the Land Records of Montgomery County prior to the issuance of the first occupancy permit for a building on Parcel 2-J or 2-K.

31. Post bonds and obtain all necessary permits from the Department of Public Works.
32. 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, water, sewer, storm drains, Monroe Street pedestrian improvements and any other on-site or off-site public improvements.
 - e. Street lighting plans, with proposed streetlights chosen from the City inventory.

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

33. Prior to issuance of a building permit, the Applicant shall contribute \$6,500 for the implementation of a bus shelter to be located adjacent to the property. This contribution will be incorporated into the Bus Stop Beautification CIP.
34. Submission, to DPW and the 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., brass plates, concrete scoring, band, or pavers) that identifies or differentiates between public and private maintenance and/or access of the sidewalk.
35. Stormwater appurtenances (facility, drains, pipes, etc) located under vehicular drive paths must be designed for HS-20 vehicular loading. The depth of the facility and appurtenances must be designed so that the appropriate improvements may be constructed overtop.
36. A geotechnical report with adequate subsurface exploration is required to

recommend the roadway pavement and paver sections for HS-20 loading. A Professional Engineer must stamp and seal engineering plans and studies certifying the roadway design, including paver design.

37. Submission, for review and approval of DPW, prior to the issuance of DPW permit issuance, a phasing plan during construction for pedestrian access, construction access, staging and parking. A temporary pedestrian access plan for the construction periods 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, detours, as well as efforts to minimize closure of sidewalks. Wherever possible, pedestrian access around the site shall be maintained during construction. Sidewalks may be closed during below grade excavation. Once construction reaches street grade, covered sidewalks shall be provided for pedestrian access and safety.
38. Use of on-street bike lanes during construction will not be permitted; temporary closure of right-of-way for construction activity subject to approval and permits issued by DPW.
39. Below grade excavation shall be dewatered per DPW sediment control requirements to an acceptable outfall.
40. Permanent tiebacks are not permitted in public right of way including the Renaissance Street right of way.
41. Fire hydrant at the corner of Monroe Street and East Montgomery Avenue must be inspected and leaks repaired during building excavation.
42. 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.
43. A Forestry Permit is required for this project. Conditions for issuance of the Forestry Permit are:
 - a. Submittal and approval of the Forest Conservation Plan (FCP) by the City Forester.
 - i. Review fee based on the proposed development area, completed application form, including contact information and checklist items, must be submitted with the Forest Conservation Plan.
 - ii. All proposed and existing utilities and easements must be shown on the FCP.

1. Street trees and replacement trees cannot be located within the PUE or other easements.
 2. Street trees require a minimum seven-foot tree lawn. Streets that have hardscape between trees will need a continuous soil panel under the hardscape.
 - iii. The landscape plan must be included as part of the FCP submission and will be reviewed by Forestry prior to approval of the Signature Set.
 - iv. The applicant must demonstrate that the previously approved FCP (FTPO94-2, approval date of 7-11-97) is still in compliance as part of the approval of the Duball FCP (FTP2006-00019). Duball FCP must include sheet(s) that show all previously planted trees under the originally approved 1994 FCP that were used for afforestation credit or significant replacement credit.
 - b. An executed five-year Forest and Tree Conservation Maintenance Agreement will be required for any replacement trees that are dead or missing and must be replaced in order for the plan to be in compliance.
 - c. Street trees will require a two-year Warranty and Maintenance Agreement stating that the trees under warranty for two years from the date of acceptance by the City Forester.
 - d. An approved Bond filed with the City Forester.
 - i. Bond shall cover any replacement trees per the 1994 FCP and new street trees.
 - e. An approved Sediment Control Plan.
 - i. The SCP and FCP must be consistent and will be reviewed together.
44. Applicant or its assigns will participate in a commercial management district or similar arrangement providing for Town Center maintenance, when established by the City of Rockville.
45. Streetscape sections:

Maryland Ave. & Monroe St.: 1.5-foot hardscape, 7-foot tree/amenity zone, 8-foot sidewalks (free and clear), 3.5-foot private sidewalk zone and a 2-foot storefront expansion zone and a 10-foot public utility zone.

East Middle Lane: The sidewalk section for East Middle Lane shall consist of a 7-foot tree lawn (includes a continuous soil panel) and an 8-foot sidewalk. There shall be no encroachments into the 8-foot sidewalk zone. This zone must remain free and clear of any obstructions. All building ingress/egress points along East Middle Lane such as door swings, stoops, stairs, railing, etc. may not encroach into the sidewalk or inhibit pedestrian

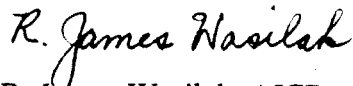
flow.

Renaissance Street: West side: 7-foot tree/amenity zone, 8-foot sidewalk (free and clear), 5-foot private pedestrian/amenity zone and a 2-foot storefront expansion zone. East Side: 7-foot tree/amenity zone with 8-foot sidewalk zone (free and clear), variable hardscape amenity zone, 2-foot storefront zone, OR, in the street parking area as shown on the site plan, 7-foot parking lane, 7-foot tree/amenity zone with 8-foot sidewalk (free and clear). Right of way will be located 7-feet behind face of curb.

46. Applicant shall present a detailed parking operation study and details of the proposed stacking parking mechanism, or any alternate parking system including valet parking, for approval by DPW and the Chief of Planning, prior to implementation of an increase of on-site parking to accommodate up to an additional 133 cars (to expand the parking capacity of the project from 1,262 to up to 1,395 spaces).

After considering all of the information provided, the Commission voted to approve the development proposal subject to the applicant's compliance with all of the referenced conditions of approval. Section 25-193(d) of the Zoning Ordinance requires **construction or operation of the proposed use must commence within two (2) years of the date of the application's approval, or the use permit becomes void.** If however, the applicant can show good cause, the Planning Commission may grant two (2) time extensions of the expiration date, each not to exceed one (1) year in duration. The applicant is advised that time extensions are not automatically approved and sufficient justification is required in order to grant time extension requests. Section 25-193(e) specifies the validity period for multiple-building Use Permits located within the Town Center zones.

By Direction of the City of Rockville
Planning Commission



R. James Wasilak, AICP
Chief of Planning

/cdc

cc: Planning Commission
Charles Baker, Chief of Inspection Services
Elise Cary, Assistant City Forester
Cas Chasten, Planner III - CPDS
John Hollida, Civil Engineer II - DPW

Mike Plitt, Macris, Hendricks, & Glascock, P.A.
Nazar Saleh, Civil Engineer II – Traffic & Transportation - DPW
Mark Wessel, Civil Engineer III – DPW

P.S. The applicant must read, sign, and return a copy of the following statement of acknowledgement.

Note: Building permits will be issued only when all of the noted conditions of approval have been met/satisfied and a copy of the following acknowledgement has been signed/executed by the applicant and returned to the City's Planning Division. The applicant is advised that the Commission's approval does not constitute approval by any agency or department having jurisdiction over the use and/or proposed site development.

I ACKNOWLEDGE RECEIPT OF USE PERMIT USE2006-00699 AND AGREE TO FULLY COMPLY WITH ALL 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)

(Please Print - Applicant's Name)