

**LINOWES**  
**AND | BLOCHER LLP**  
ATTORNEYS AT LAW

August 27, 2015

Scott C. Wallace  
301.961.5124  
[swallace@linowes-law.com](mailto:swallace@linowes-law.com)

Mr. James Wasilak  
Chief of Planning  
City of Rockville  
111 Maryland Avenue, Room 217  
Rockville, Maryland 20850

Re: EYA/Tower Oaks – Application for Amendment to the Tower Oaks Planned Development

Dear Mr. Wasilak:

On behalf of our client, EYA (“EYA”) and pursuant to Section 25.14.07.e of the City of Rockville’s Zoning Ordinance (“Zoning Ordinance”), enclosed please find an application for an Amendment to the Planned Development of Tower Oaks (the “Application”), which is subject to the Concept Plan approved by the Mayor and Council by Resolution No. 25-87 on October 12, 1987, as amended by Resolution No. 21-93 (approved September 27, 1993), and as further amended by Resolution No. 1-01 (approved January 8, 2001) (collectively the “Concept Plan”).

The intent of the Application is to allow for development of a maximum of 375 for-sale dwellings units and associated amenities and infrastructure on a portion of Tower Oaks identified as “Area 5” on the Concept Plan (the “Project”). The Application, which is being processed as a Project Plan, will amend the Concept Plan approval for the Property, which currently allows office development up to a maximum of approximately 755,000 square feet on the Property.

The Project, as illustrated in the Application materials, addresses all comments from City Staff provided at the Development Review Committee meetings held on April 16, 2014 and June 25, 2015.

1. Background

The Property, zoned Planned Development – Tower Oaks (PD-TO), is currently undeveloped land in the Preserve at Tower Oaks portion of the Tower Oaks 192-acre comprehensive planned development (the “Property”). The Property contains approximately 40.74 acres and is located on the east side of Preserve Parkway approximately 1,000 feet east of the intersection of Preserve Parkway and Tower Oaks Boulevard.

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## 2. Previous Approvals

Development on the Property is subject to the terms and conditions of the Concept Plan. The Property, pursuant to the Concept Plan, is approved for approximately 755,000 SF of office uses in three buildings up to 125 feet in height and associated structured and surface parking facilities and infrastructure.<sup>1</sup>

## 3. The Project

This Application proposes to amend the Concept Plan to allow, as an alternate development option to the approved office use, the design and construction of up to 375 for-sale housing units. While not age restricted, the Project will provide homes with elevators, homes with one-floor living, homes with bedrooms on the main living level, and on-site community amenities and activities that will be attractive to the “empty nester” age demographic. As shown on the Land Use Plan submitted with the Application, the Applicant proposes 336 units with approximately 30 detached houses, 194 townhouses, and 112 condominium units. The Project will be constructed in multiple phases over almost a decade. Over time, changing market needs could necessitate an updated mix of units and counts. Accordingly, the Applicant requests approval of a maximum of 375 total units for the Project to allow sufficient flexibility to meet the needs of a future market.

12.5% of the total unit count will be provided as Moderately Priced Dwelling Units (“MPDUs”). All of the MPDUs will be provided as fee-simple, townhouse units. They will be three to four stories, have at least three bedrooms and two bathrooms, and will be approximately 1500 square feet, exceeding the City’s requirements. Their footprint will be approximately 14 feet by 34 feet, which is generally consistent with EYA’s successful MPDU offerings at Falls Grove in the City, throughout Montgomery County, and in many other locations in the region. These MPDUs will be dispersed throughout the townhouse portions of the Project and will have high quality interior finishes, and exterior finishes that are indistinguishable from the market rate units. The Applicant concurs that the final plans for the Project should include a balanced integration of the MPDU townhomes throughout the townhome portions of the project and will address this issue at the time of Site Plan.

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<sup>1</sup> If the Application is approved to allow the development of the Project, the Applicant requests the office use and density approved by the Concept Plan be retained as an alternative development option for the Property. Any such office development would be required to be reviewed and approved by one or more Site Plan applications.

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By providing all of the MPDUs as townhouse units instead of providing a portion as condominium units, the MPDUs will be more affordable to MPDU buyers because the condominium buildings have more community amenities and shared common areas - hallways, building utilities, building façades, structured parking garages, etc. – than the townhouse units, and therefore have significantly higher association fees. Condominium fees can easily be four to five times higher than homeowner association fees. For example, a 1500 square foot MPDU could have a homeowner association fee of \$150-\$200/month while a condominium of the same size could have a condominium fee of \$700 - \$1000/month.

Moreover, in the Applicant's experience, the provision of MPDU's in fee-simple homes, as opposed to in multi-family condominiums are more attractive to families in need of affordable housing. The townhomes will have their own front door, their own in-house, garage parking spaces and substantially lower association fees.<sup>2</sup> Families with children make up the preponderance of MPDU purchasers and they typically have a strong preference for fee-simple townhome as oppose to condominiums. These townhomes will result in a new set of in-demand affordable housing options for families in the City. Overall, EYA has a second-to-none track record of providing high-quality MPDU's and will deliver that same level of quality at Tower Oaks.

The Project also proposes associated amenities, including an approximately 7,000 s.f. community center that is proposed to include a pool, recreational facilities and on-site dining and grocery services for the Project's residents. Further, the Project as illustrated in the Composite Land Use Plan filed with the Application approximately a minimum of 68% open space, and approximately 14,690 s.f. of public use space. The area and location of open area and public use space will be determined at Site Plan approval, but in no case will be less than the required open areas and public use space under the MXE Zone be provided. Further, more than 14 acres of forest will retained on-site in satisfaction of the City's forest conservation goals.

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<sup>2</sup> The townhouse MPDUs will have a two-car garage as a standard feature, which meets the Zoning Ordinance requirement of 2 off-street parking spaces for townhouses. At the buyer's option, the MPDU townhouse can be designed with a one-car garage and an added den. For these units, the Applicant requests a reduction from the 2-space requirement pursuant to Section 25.16.03.h.1. On-street parking spaces will be available in close proximity to units that have a one- car garage, which will provide adequate parking for homeowners and guests. Moreover, it is the Applicant's experience with other projects it has developed that buyers like the flexibility to choose the option for a one-car garage with added den based on the buyer's particular circumstances and needs.

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Access to the Project will be from three points along Preserve Parkway. The pavement/travel lanes and sidewalks along the internal street network will be dedicated to the City as public right of way and private alleys providing access to the rear of the townhouse units. In a few areas, the typical right-of-way width and pavement width have been reduced to allow for more compact and efficient design and layout and added stormwater management provided by environmental site design features. The Application includes a detailed waiver request for ROW and pavement widths. In addition, utilities and environmental site design measures will also be installed and maintained by the Applicant in the right-of-way as non-standard features. The proposed design guidelines for the internal streets and alleys are shown on the Street Section Exhibit included with the Application.

It is anticipated that Project approvals will extend into the second quarter of 2016, and that the Project will begin construction in 2018 and be completed, in phases, by 2024/25.

#### 4. Community Outreach

A Pre-Application Area Meeting was held on March 31, 2015, and the Pre-Application Area Meeting Application was filed with the City on May 20, 2015. The minutes and sign-in sheet from that meeting were filed with the City on June 16, 2015 with the affidavit of area meeting. The Post-Application Area Meeting is scheduled for September 9, 2015. Minutes of that meeting will be submitted with the affidavit prior to DRC.

#### 5. Compliance with Zoning Ordinance's Project Plan Requirements

The Project satisfies the general findings of Section 25.07.01.b.2 of the Zoning Ordinance. First, it will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed project. The Project will instead improve currently vacant land with an attractive, mix of new residential units that will activate the area. The additional residential uses will also serve to strengthen the mixed-use character of Tower Oaks, adding activity that will enliven the area and benefit the community.

Second, the Project is not in conflict with the Plans, as defined in the Zoning Ordinance. The entire 192-acre Tower Oaks property was initially approved for mixed-use development (office, residential, hotel, health club and restaurant uses) in the Concept Plan. Since the initial approval of the Concept Plan and subsequent amendments, components of the approved office, residential and restaurant uses have been developed and all infrastructures to support the approved density has been constructed by the Tower Oak's developers.

The City's 1985 Master Plan explained the goal of a mix of commercial office and residential uses at Tower Oaks as follows:

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- Research, office and corporate headquarters could provide a residential component that could achieve a closer space/time linkage between home and work. (p. VI-18)

This goal is reinforced in the City's 2002 Comprehensive Master Plan as expressed in the following Land Use and Economic Development recommendations:

- Encourage residential land use within the City so that the "Jobs to Houses" ratio is reduced. (p. 2-1)
- Encourage an appropriate balance of office, retail, industrial and residential uses and an emphasis on mixed-use development. (p. 12-1)

The Project is entirely consistent with these goals and recommendations. The Project would locate a significant residential community immediately adjacent to an office building located at 1 Preserve Parkway, and within walking or biking distance to several other office buildings in and around Tower Oaks. Further, Tower Oaks has easy access to the employment uses in Rockville's Town Center and along the I-270 Corridor. In this way, the Project contributes to shorter commute times, and the reduction of SOV trips, in furtherance of the stated goals and recommendations of the Plans. In addition, development of a residential community in this portion of Tower Oaks will enhance the viability of the exiting office development, as well as future office development in the Tower Companies' portion of Tower Oaks, which is a key benefit of mixed-use development.

Moreover, the 2002 Comprehensive Master Plan emphasizes the need to provide a variety of housing types in the City, including homeownership opportunities:

- Ensure a mix of housing types and price ranges to meet diverse needs of different sectors of the City's population, with an emphasis on the importance of owner-occupied housing. (p. 2-1)
- Increase opportunities for homeownership for persons of all income levels. (p. 10-1)
- Maintain an appropriate mix of ownership and rental opportunities in the City. (p. 10-1)
- Encourage multifamily housing in mixed-use areas of development. (p. 10-1)
- Create a balance between different housing types. (p. 10-1)

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- Encourage the construction of housing alternatives for an aging population – may need economic incentives or flexible zoning options for development variances for this to occur. (p. 10-1)

The Project would significantly advance these goals and recommendations by offering a variety of housing ownership opportunities, including multi-family, attached and detached units, and a significant number of MPDUs. The Project creates a unique residential amenity for the City that will appeal and be accessible to a diverse range of age groups and income levels.

Third, the Project will not overburden existing and programmed public facilities. Pursuant to the Concept Plan, all of the City's adequate public facilities requirements for transportation for the Project have been satisfied. It is noted, however, that the replacement of 755,000 square feet of approved office uses with the proposed residential units will decrease the number of traffic trips generated by the Property.

As referenced above, the Project proposes both public streets and private alleys to serve the dwelling units and community amenities. This road network will be designed to provide safe and efficient vehicular and pedestrian circulation within the Property. The travel lanes meet applicable public street design standards, except in a few areas where parking lanes are reduced by bump outs to allow for additional ESD features. Any non-standard improvements will be maintained by the Owner's Association for the Project, and the Association's governing documents will require adequate funds be collected to ensure the areas will be well-maintained, including seasonal upkeep, such as snow removal and landscape maintenance, as well as structural maintenance. Retaining ownership of the sidewalk and landscape strips provides the Applicant with the flexibility to balance the shared goals of the City and the applicant, including environmentally sensitive stormwater management, efficient placement of utilities, creation and expansion of the on-site tree canopy adjacent to the streets, and use, maintenance, and upkeep of those areas for all residents.

The Property will be served with public water and sewer. The allocation of sewer capacity from the approved office use is required for the Project and is reserved for use by the Project. Adequate water service is also existing for the Property.

As to public schools, the Property is located in the Richard Montgomery Cluster, and students generated by the Project would attend Richard Montgomery High School, Julius West Middle School and Beall Elementary School. Under the City's Adequate Public Facilities Standards, school standards, the Richard Montgomery Cluster is adequate at all three school levels. Accordingly, there is adequate school capacity at all three school levels that serve the Property. Finally, fire and emergency services are adequate for the Project.

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Fourth, for the reasons stated above, and as addressed in the Application materials, the Project does not constitute a violation of any provision of the Zoning Ordinance or other applicable law. As shown on the Project Plan included with this Application, the proposed Project meets or exceeds the development standards of the Mixed-Use Employment ("MXE") zone, and as well as development standards set in the Concept Plan. Further, parking, lighting, open space, signage and landscaping for the Project are all in accord with the City's requirements. Concept open area and public use space plans are enclosed with the Application.

Fifth, the Project will not adversely affect the natural resources or environment of the City or surrounding areas. As shown on the Pre-Application Stormwater Management concept package filed with the PAM submission, the Application incorporates environmental site design into the Project's stormwater management concept. In addition, the Project proposes significant tree save measures, including a tree buffer between the Project and Woodmont Country Club to the east and south. Overall, approximately 14.19 acres of existing forest is being retained on the Property. This forest conservation acreage is unchanged from the forest conservation acreage approved with the Concept Plan for 755,000 square feet of office development on the Property.

In summary, the Project will address important City goals by providing high-quality, market rate, home-ownership housing, providing home-ownership MPDU's, preserving significant amounts of existing forest, increasing the City's tax base, increasing school facilities payments to the County, and providing a well-designed, new neighborhood that will be attractive to empty nesters and others in and around the City seeking out a high-quality, low-maintenance lifestyle.

For all of these reasons, the Project complies with the City's Project Plan finding requirements.

6. List of enclosures

Enclosed please find copies of each of the following, associated with the Application:

- (1) Completed Project Plan Application;
- (2) Checks for the necessary filing fees (including sign fee);
- (3) Comments from the June 24, 2015 Pre-Application Development Review Committee meeting
- (4) Land Use Plan (Composite and Detailed) prepared and sealed by a Licensed Land Surveyor or engineer (12 copies);
- (5) Approved NRI/FSD

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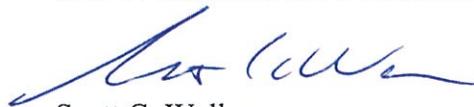
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- (6) Typical Architectural Elevations and Floor Plans (3 copies)
- (7) Transportation Scoping Intake Form;
- (8) Concept Landscape Plan (6 copies)
- (9) Preliminary Forest Conservation Plan (FCP)
- (10) Updated Storm Water Management Concept
- (11) Water and Sewer Authorization Application (enclosed for reference, application previously submitted);
- (12) Design Modification Request
- (13) Pedestrian Circulation Exhibit
- (14) Open Area Exhibit
- (15) Preliminary Color Utility Exhibit
- (16) Street Section Exhibit
- (17) Preliminary Grade Establishment Plans
- (18) Electronic version of all materials; and
- (19) Preliminary Fire Protection Site Plan

We look forward to working with you on this matter. If you have any questions or concerns, or need any additional information, please feel free to contact us.

Very truly yours,

**LINOWES AND BLOCHER LLP**



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Enclosures

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cc: Mr. Bobby Ray  
Mr. Aakash Thakkar  
Mr. Wyndham Robertson  
Mr. Jack McLaurin  
Mr. Ken Jonmaire  
Mr. Mark Morelock  
Mr. Josh Sloan  
Mr. John Clapsaddle  
Ms. Chanda Beaufort  
Mr. James Chapman