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November 18, 2022

Mr. James Wasilak, AICP
Chief of Zoning
City of Rockville Department of Planning and
Development Services
111 Maryland Avenue
Rockville, Maryland 20850

**Re: Project Plan Amendment Application for 2200 and 2000 Tower Oaks Boulevard
("Tower Preserve")**

Dear Mr. Wasilak:

Michael Harris Properties, LLC ("Applicant") is filing this Project Plan Amendment for Tower Preserve (the "Application") pursuant to Chapter 25 of the City Code (the "Zoning Ordinance"). The land area included in this Application consists of: 1) the approximately 6.1-acre (265,749 square-foot) property located at 2200 Tower Oaks Boulevard ("Property")¹ proposed for redevelopment with a residential townhouse community; and 2) the approximately 2.73-acre (118,791 square-foot) property located at 2000 Tower Oaks Boulevard ("Office Property"),² for which a parking waiver for the existing office building is being sought. Because no physical changes to the Office Property or the existing office building located thereon are being sought, the below analysis focuses primarily on the Property proposed for redevelopment. The justification for the parking waiver related to the Office Property is provided in a separate document included with the Application.

The Property

The Property is within the PD-TO (Planned Development-Tower Oaks) zone and is generally located on the east side of Tower Oaks Boulevard, 460 feet south of its intersection with Wootton

¹ The Property is more particularly described as Parcel D, Block D, Tower Oaks, as shown on Plat No. 23507 recorded among the Land Records of Montgomery County, Maryland on October 27, 2006 ("Record Plat").

² The Office Property is more particularly described as Parcel C, Block D, Tower Oaks, as shown on the Record Plat.

Parkway. The Property also includes a private access road connecting Tower Oaks Boulevard to Wootton Parkway, 400 feet east of its intersection with Tower Oaks Boulevard. The Property contains a surface parking lot and is otherwise unimproved. The unimproved areas of the Property are largely open grassy lawn, although there are also clusters of trees in the southeastern and southwestern corners of the Property.

Surrounding Area

All of the land surrounding the Property is within the PD-TO zone and is similarly part of the mixed-use, comprehensive planned development known as Tower Oaks. As noted in the *City of Rockville 2040 Comprehensive Plan* (“2040 Plan”), Tower Oaks was originally planned to include “2 million square feet of office space, a hotel, restaurants, 275 dwelling units, and a 12-acre lake for recreational purposes and stormwater management. The original plan has been amended three times, eliminating the lake and altering the land use mix based on changing market trends, and has never been fully implemented.” 2040 Plan at p. 367. A sediment control pond³ occupies the parcel to the Property’s immediate south. Abutting the Property to the east is a vacant parcel that is heavily wooded and will become City parkland. The parcel to the west across Tower Oaks Boulevard is currently vacant and heavily wooded, but is approved for commercial development. Townhouse communities exist both to the north, across Wootton Parkway, and to the east along Preserve Parkway.

Previous Approvals

The previous approvals for the Property include the following:

- Comprehensive Planned Development Application CDP-1-25 (“CPD”): The Mayor and Council initially approved the CPD on October 12, 1987 by Resolution No. 25-87. The CPD has been amended three times since its original approval.⁴ Currently, the CPD allows for a 300-room hotel and 75,000-square-foot fitness center on the Property.
- Comprehensive Planned Development Detailed Application CPD2005-0001M (the “Detailed Plan”): The Planning Commission approved the Detailed Plan on January 9, 2006. Like the CPD, the Detailed Plan allows for the development of the Property with a 200-room hotel, 100 hotel residences, and 75,000-square-foot fitness center with underground parking.

³ Following construction of the Project, the sediment control pond will be converted to a stormwater management pond pursuant to the Amended and Restated Memorandum of Understanding: Tower Oaks Regional Stormwater Management Facility – 2019, dated March 13, 2020 and recorded among the Land Records in Book 62479 at Page 410.

⁴ The CPD has been amended by: 1) Resolution No. 21-93 (approved September 27, 1993); 2) Resolution No. 1-01 (approved January 8, 2001); and 3) Resolution No. 20-16 (approved August 1, 2016). Zoning Ordinance § 25.14.27(a).

- Minor Site Plan Amendment No. STP2012-00102 (the “Site Plan Amendment”): The Chief of Planning approved the Site Plan Amendment in October 2011. The Site Plan Amendment allows for the existing temporary surface parking lot on the Property.

The Zoning Ordinance requires approval of a Project Plan amendment by the Mayor and Council in order to add new uses not provided for in the PD-TO governing documents and for other substantial deviations from the approved development. Zoning Ordinance § 25.14.07(e)(1). The governing documents for the PD-TO zone include the Zoning Ordinance as it existed on March 15, 2009, as well as the resolutions approving the CPD and amendments thereto. Zoning Ordinance § 25.14.27(a). As noted above, the CPD allows for a 300-room hotel and a 75,000-square-foot fitness center on the Property. The Tower Oaks planned development was originally intended to center around approximately two million square feet of office use, and the approved hotel and fitness center were intended to support and complement the extensive planned office development. However, the vast majority of the approved office density has not been constructed, and market demand for the hotel and fitness center has not materialized. In Area 5 of the Tower Oaks planned development, a previously-approved office site was recently replaced by 217 townhomes, 30 single-family detached, and 128 multi-family units. The forthcoming Project Plan Amendment proposes to amend Area 4 of the approved Concept Plan (now called a Project Plan) and PD-TO governing documents to add an additional potential townhome residential use to the 300-room hotel and 75,000-square-foot fitness center uses.

Project Description

The Applicant proposes to improve the Property with up to 83 townhomes served by a network of public streets and private alleys. As noted, 15 percent of the townhomes will be moderately priced dwelling units (“MPDUs”). Additionally, the townhomes will vary in size to serve a variety of families and market segments.

As shown on the conceptual site plan included with this Application, the townhomes will front on public streets or open space. This orientation will result in an urban walkable community and will activate the adjacent areas. While the majority of the townhomes will have rear-loaded garages accessed via private alleys, the townhomes that form the periphery of the community will be front-loaded due to physical site constraints.

An approximately 15,000-square-foot community green will be provided in the heart of the Project. All residents of the community will have sidewalks connecting them to this open space. Townhomes will line the central open space, making it feel safe and inviting and creating a gathering space for residents. The central open space will also include a memorable feature, such as a fountain or artwork, that will contribute to the visual interest of the community green and further create a sense of place.

Access to the Project will be provided by converting the existing private access drive into a public street connecting Tower Oaks Boulevard to Wootton Parkway. The access drive will be reconfigured to have two travel lanes with bicycle and pedestrian sidewalks on either side (except for a limited area in the northeast corner where a sidewalk will only be on the northwest side due

to site constraints). Additionally, an ingress-only entrance will be provided at the southwest corner of the community. This new entrance will fully support fire and safety vehicles for ingress and egress through a mountable curb area. Overall, the proposed condition will allow for safe and efficient bicycle, vehicular, and pedestrian access to the Project, office buildings, restaurants, and other residential communities in Tower Oaks.

Compliance with Section 25.07.01.b.2(a)-(e) of the Zoning Ordinance

As detailed below, the Project addresses all findings required for approval under Section 25.07.01.b.2(a)-(e) of the Zoning Ordinance:

(a) The Project Plan Application will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed project;

The Project will not adversely affect the health or safety of persons residing or working in the neighborhood. The area of Tower Oaks in which the Property is located is dominated by commercial uses and devoid of human activity after the workday ends. Future residents of the Project will fill in this gap in human activity, enlivening the area in the evenings and contributing to its safety. The proposed townhomes will also complement the existing commercial uses, which largely consist of offices and restaurants. The future residents represent potential patrons for the restaurants and potential employees for nearby offices.

The Project provides safe and efficient circulation within, as well as in and out of the proposed townhome community via the new public street in lieu of the existing private access drive, and, as discussed in detail below, will not burden the public facilities in the area, including schools and transportation.

(b) Be in conflict with the Plan;

The Project is not in conflict with the 2040 Plan. The Property is designated as “Office Commercial Residential Mix” (“OCRM”) on the Land Use Policy Map. 2040 Plan, pg. 269. OCRM “is the most flexible category, allowing a wide choice in mixing office, commercial, and residential uses. Uses such as research & development, breweries, distilleries, and small manufacturing may be appropriate if they do not adversely impact surrounding properties.” *Id.* at 252. In line with this flexibility, the Project Plan Amendment proposes the townhome community as an alternative to the hotel and fitness center previously approved for the Property. This will allow greater flexibility for the Property’s development, as well as a contribution to the overall mix of uses in Tower Oaks.

The Property is also within the Tower Oaks Planning Area. *Id.* at 369. The 2040 Plan makes several recommendations for the Tower Oaks area’s evolution “away from its 1980s vision of a suburban, highway-oriented office park with hotels, toward more of a residential district.” *Id.* at 368. The Project supports this recommendation, and also includes new open space and bike and pedestrian infrastructure that support the 2040 Plan’s objectives. *Id.*

The 2040 Plan further recommends the preservation of tree canopy and natural features in Tower Oaks. *Id.* Unlike other parcels within the Tower Oaks area, which have more extensive tree cover, the Property is largely covered by surface parking and a grassy field with some clusters of trees. Locating the Project on the Property therefore minimizes impacts to tree canopy within the Tower Oaks area. This is generally consistent with the approved Forest Conservation Plan for the Property under the existing Detailed Plan.

Finally, the Project advances the 2040 Plan's housing goals and recommendations. The Project will significantly contribute towards the 2040 Plan goal of "[f]oster[ing] sufficient market-rate housing development to provide housing affordable for the wide range of those who live, and wish to live, in Rockville." *Id.* at 193. As noted above, the Project proposes 83 townhomes of varying sizes, 15 percent of which will be MPDUs. The Project also contributes to the 2040 Plan goal of providing missing middle housing through infill projects by locating new townhomes on an underutilized parcel within the Tower Oaks area. *Id.* at 199.

(c) Overburden existing and programmed public facilities as set forth in Article 20 of this Chapter and as provided in the adopted Adequate Public Facilities Standards;

The Project will be served by adequate public facilities in accordance with the City's Adequate Public Facilities Ordinance (codified in Article 20 of the Zoning Ordinance) and Adequate Public Facilities Standards ("APFS").⁵

Schools

Bayard Rustin Elementary School, Julius West Middle School, and Richard Montgomery High School will serve the Project. For FY2023, capacity is adequate for both Bayard Rustin Elementary School (96.2% capacity) and Julius West Middle School (95.3% capacity).⁶ While capacity is currently inadequate at Richard Montgomery High School (125.3%) under the FY2023 School Test, it is anticipated that the construction of the new Crown High School will ameliorate this deficiency and create sufficient capacity to accommodate the Project.

Traffic

Included with the Application is a CTR scoping form. The Adequate Public Facilities determination for the CPD contained in Resolution No. 1-01 remains valid and in effect pursuant to Sec. 25.20.03.a.3 of the Zoning Ordinance. The Project will result in a reduction of 202 AM peak hour and 405 PM peak hour trips per day as compared to the hotel and fitness center approved

⁵ Under Section 25.20.01.b of the Zoning Ordinance, any development within the City must comply with the APFS.

⁶ See the Growth and Infrastructure Policy FY 2022 School Test (https://montgomeryplanning.org/wp-content/uploads/2021/06/AttachmentA_FY22_AnnualSchoolTest.pdf).

for the Property, as shown on the CTR scoping form.⁷ Therefore, no new Adequate Public Facilities determination for traffic is required.

Water and Sewer Service

The Project will also be served by existing public water and sewer facilities, which are adequate.

Emergency Services

Existing public safety and fire and rescue facilities are also adequate. The nearest fire station is approximately 0.3 miles away. The nearest police station is approximately 2.8 miles away.

(d) Constitute a violation of any provision of this Code or other applicable law; or

The Project will comply with the Zoning Ordinance and other provisions of applicable law, as detailed below.

Zoning Ordinance

The Project complies with the applicable requirements of the PD-TO zone. Within the PD-TO zone, development must adhere to either the approved development standards in the governing documents or the equivalent zone standards. In this case, the equivalent zone is the MXE zone. Zoning Ordinance § 25.14.27(b)(1). The Project's compliance with the applicable development standards of the MXE zone is detailed on the data table shown on the Site Plan.⁸

The Project will provide adequate parking for the proposed development. One hundred sixty-six (166) parking spaces are required and 222 spaces are provided. Parking for the Project includes 56 visitor parking spaces – a ratio of 0.67 spaces per townhome.

The existing surface parking lot on the Property serves the office building located on the Office Property, and, as noted above, the Project proposes to eliminate this parking area. In addition to the existing surface lot, Detailed Application CPD2005-001M required a second 56-space surface parking lot to be constructed on the Property upon full occupancy of the office building, if full occupancy preceded the construction of the hotel and health club garage. Parking for the office building will be reduced from the overall maximum of 654 parking spaces⁹ (required under applicable Zoning Ordinance provisions for shared uses) to 535 parking spaces. As part of this Project Plan Amendment, 2000 Tower Oaks Boulevard, LLC is requesting flexible parking standards pursuant to Section 25.16.03.h.1 of the Zoning Ordinance to allow all parking for the

⁷ The trip reductions stated above are based on the Applicant's previous proposal for 85 townhomes. Because the Applicant has reduced the unit count to 83 townhomes, the Project's impact on transportation systems is anticipated to be even lower.

⁸ Due to the single-family attached nature of the proposed development, certain RMD-10 zone standards may also be applicable. These will be addressed at the time of Site Plan.

⁹ The total parking approved for the office building is 654 spaces consisting of the 535 surface and garage parking spaces located on the Office Property, the existing 63-space surface parking lot on the Property, and the unbuilt 56-space surface parking lot that was authorized to be constructed on the Property.

office building to be provided exclusively in the existing garage and surface parking on the Office Property. A justification for the adjustment, including a formal Parking Ratio Analysis and Comparison Study, has been submitted with this Project Plan Amendment.

Additionally, the Project achieves compliance with the applicable provisions of Article 17 of the Zoning Ordinance. As shown on the Landscape Plan, the Project provides all required landscaping and screening in accordance with the City's Landscaping, Screening and Lighting Manual and the Forest and Tree Preservation Ordinance (Chapter 10.5 of the City Code).

Other Applicable Law

The Project Plan Amendment is generally consistent with the approved Forest Conservation Plan for the Tower Oaks Planned Development, with the exception of the proposed elimination of one existing forest conservation easement, with appropriate mitigation proposed. Specifically, the Applicant proposes to eliminate an existing forest conservation easement in the southwest corner of the Property and offset its elimination with plantings, both on and off-site, near the stream valley buffer located to the east of the Property. In this manner, the Project Plan Amendment conforms to the applicable requirements of the Forest and Tree Preservation Ordinance (Chapter 10.5 of the City Code). The Project Plan Application also includes a stormwater management concept package, which establishes compliance with the applicable requirements of Chapter 19 of the City Code (Sediment Control and Stormwater Management).

Regarding adherence to Chapter 21 of the City Code (Streets, Roads, Right-of-Way, and Public Improvements) the Applicant seeks waivers pursuant to Section 21-42 of the Code. The requested waivers are as follows:

- A waiver from the City's Standard Roadway Section for a Secondary Residential Street to allow for reduced right-of-way and pavement widths for Public Streets A, B, and C. Specifically, a Secondary Residential Street is required to have a total right-of-way width of 62', consisting of 12-foot travel lanes, 7-foot parking lanes, two 8-foot buffers, and two 5-foot sidewalks. Public Streets A, B, and C are proposed as follows:
 - Public Street A: The existing private access drive will be converted to "Public Street A" with a total right-of-way width varying between 40'+/- and 72'+/-, consisting of varying sections (from south to north) as described below:
 - 72'+/- right-of-way consisting of the following
 - The outbound (westbound) side to Tower Oaks Boulevard consists of two travel lanes with minimum lane width of 11 feet each, one 5-foot bike lane separated from the travel lane by a 2-foot paved stripped buffer, and a 5-foot +/- sidewalk.

- The inbound (eastbound) side from Tower Oaks Boulevard consists of one 11-foot travel lane, one 5-foot bike lane separated from the travel lane by a varying width paved stripped buffer, a 7-foot +/- tree panel and a 5-foot sidewalk; transitioning to
 - 68'+/- right-of-way consisting of two 11-foot travel lanes (one in each direction) and one 11-foot turning lane (outbound or westbound to Tower Oaks Boulevard), two 5-foot bike lanes separated from travel lanes by a 2-foot-wide paved stripped buffer, two 7-foot +/- tree panels and two 5-foot sidewalks; transitioning to
 - 60'+/- right-of-way consisting of two 11-foot travel lanes (one in each direction), two 5-foot bike lanes separated from travel lanes by a 2-foot-wide paved stripped buffer, a 7-foot +/- tree panel and two 5-foot +/- sidewalks; transitioning to
 - 40'+/- right-of-way consisting of two 12-foot +/- travel lanes (one in each direction) to accommodate motor vehicles and bicycles, a 6-foot +/- buffer and a 5-foot +/- sidewalk on one side and a 5-foot +/- buffer to the face of an existing retaining wall on the other side.
- Public Street B: a total right-of-way width of 55 feet, consisting of two 11-foot travel lanes, a 7-foot parking lane, an 8-foot buffer (both sides), and a 5-foot sidewalk (both sides); and
- Public Street C: a total right-of-way width of 55 feet, consisting of two 11-foot travel lanes, a 7-foot parking lane, an 8-foot buffer (both sides), and a 5-foot sidewalk (both sides).
- A waiver to allow for existing private utilities, including dry utilities and a grease trap, to remain within the right-of-way of Public Street A.¹⁰
- A waiver to allow for deviations from the paving requirements for Public Street A. The existing paving consists of 2" bituminous surface course, when code requires a 3" course, and a 6" graded aggregate base course is existing, when only a 4" course is required.
- A waiver to allow for the existing triangular island (pork chop) to remain within the Public Street A right-of-way at its intersection with Wootton Parkway.

A justification letter for the above-listed waivers is included with this Application.

¹⁰ Pursuant to Section 25.17.03(a) of the Zoning Ordinance, utilities may be placed within the right-of-way only with the express written permission of the City. The Applicant requests that such permission be granted.

(e) Adversely affect the natural resources or environment of the City or surrounding areas.

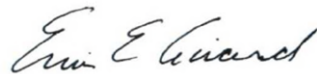
The Project will not adversely affect the natural resources or environment of the City or surrounding areas. As shown on the Stormwater Management Concept Plan submitted with this Application, a combination of micro bio-filters and the adjacent pond will provide full treatment for the Project. Furthermore, as noted above, the Project is generally consistent with the approved Forest Conservation Plan for the Tower Oaks Planned Development but will eliminate one existing forest conservation easement, with appropriate mitigation proposed.

Conclusion

As reviewed above, the Project, as proposed in the Application, complies with relevant provisions of the City Code and applicable laws, and will be compatible with surrounding uses and properties. The Applicant looks forward to working with the City to advance the Project through the development review process.

Sincerely,

MILES & STOCKBRIDGE P.C.



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cc: Mr. Harris Schwalb
Mr. Ben Bulloch
Mr. Stuart Miller
Mr. Eric Posner
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