

Resolution No. 20-16

RESOLUTION:

To approve, with conditions, Project Plan Application PJT2016-00006, an Amendment to the Tower Oaks Planned Development, to allow for up to 375 residential units instead of 755,000 square feet of office development on the east side of Preserve Parkway, EYA Development LLC, Applicant.

WHEREAS, on October 12, 1987, the Mayor and Council approved Resolution No. 25-87 approving Comprehensive Planned Development Application CPD 1-85 for a comprehensive planned development on 192 acres, more or less, known as the Tower Oaks tract, located east of Interstate 270, north and west of Woodmont Country Club, and south of New Mark Commons, in accordance with a plan submitted under the then O-3 Zone, Comprehensive Planned Development Special Development Procedure provisions of the City of Rockville Zoning and Planning Ordinance then in effect (the "Approved Concept Plan"); and

WHEREAS the Approved Concept Plan proposed a major office park development with related services, containing approximately 2.5 million square feet of floor space and a residential component with up to 275 dwelling units; and

WHEREAS, on September 27, 1993, the Mayor and Council approved Resolution 21-93, amending the Approved Concept Plan by eliminating a proposed lake as an element of the Approved Concept Plan, and adding a public parkland element and a potential site for a stormwater management facility; and

WHEREAS, on January 8, 2001, the Mayor and Council approved Resolution No. 1-01, amending again the Approved Concept Plan subject to certain conditions, revisions and

modifications affecting development density, nonresidential floor area, and the public open space; and

WHEREAS, in accordance with the Approved Concept Plan, as amended, development is allocated among seven (7) Development Areas as shown on Exhibit “A” to the Approved Concept Plan; and

WHEREAS, in accordance with the Approved Concept Plan, development of 945,000 gross square feet of office use with a maximum building height of 125 feet is permitted within Development Area 5, as shown on Exhibit “A” to the Approved Concept Plan; and

WHEREAS, in 2008, an approximately 190,000 square foot office building and structured parking garage was constructed on 10.82 acres of land located within Development Area 5 (the “Existing Office Building”); and

WHEREAS, approximately 755,000 square feet of approved but unbuilt office density remains in Development Area 5 (the “Remaining Office Density”); and

WHEREAS, on August 27, 2015, EYA Development, LLC (the “Applicant”) filed Project Plan Application PJT2016-00006 (the “Project Plan Application” or “Application”), pursuant to Sec. 25.14.07.e of the Zoning Ordinance, proposing to amend the Approved Concept Plan to allow for the development of a maximum of 375 dwelling units, including a minimum of 12.5% Moderately Priced Dwelling Units (“MPDUs”), and associated amenities and infrastructure (the “Residential Project”) on an area consisting of the remaining 40.74 acres of unimproved land within Development Area 5 as delineated in the Land Use Plan of the Tower Oaks Planned Development (“Land Use Plan”) included with the Application and attached hereto as Exhibit “1” (the “Property”); and

WHEREAS, the Residential Project is proposed as an alternative to the development of the Remaining Office Density on the Property; and

WHEREAS, the approvals, development standards and conditions contained in this Resolution apply only to the development of the Residential Project on the Property; and

WHEREAS, pursuant to Section 25.05.03.c and 25.07.03 of the Zoning Ordinance, the Planning Commission at its meeting on April 13, 2016, reviewed the Application, and after considering the information presented and testimony provided, voted to recommend that the Mayor and Council approve the Application subject to several conditions; and

WHEREAS, pursuant to Section 25.05.03c of the Zoning Ordinance, a duly noticed public hearing on the Application was held by the Mayor and Council on June 6, 2016; and

WHEREAS, at its August 1, 2016 meeting, the Mayor and Council found and determined that approval of the Application would promote the health, safety and welfare of the citizens of Rockville, and the Mayor and Council made further findings set forth herein, based upon information presented and testimony provided as contained in the public record; and

WHEREAS, the Mayor and Council, find and determine, pursuant to Section 25.07.01.b.2 of the Zoning Ordinance, in consideration of the Application, subject to the conditions, limitations, additions, and modifications set forth herein, as follows:

1. The Application will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed development: Approval of the Residential Project pursuant to the Project Plan Application will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed development. The proposed change from an office to residential use will actually decrease the potential traffic on the road infrastructure in this area. The Applicant will also work with the County to provide Ride-On

Service or provide a shuttle or circulator vehicle for residents to have access outside the Residential Project without the use of private vehicles. In addition, the proposed residential buildings will be less visible from surrounding areas than the approved multiple office buildings, which could have been up to 125 feet in height.

Further, the Residential Project proposes a minimum of 68% open space and approximately 14,690 square feet of public use space which will provide opportunities for activities among the residents and create a sense of community. Additionally, access onto and throughout the residential community will be created via an efficient and safe network of primary and secondary residential streets and alleys. Given these factors, there is no evidence that the Residential Project will adversely affect the health or safety of persons residing or working in the neighborhood.

The Residential Project's stormwater management system meets or exceeds the City Code's requirements. The stormwater system utilizes Environmental Site Design (ESD) to the Maximum Extent Possible (MEP), and the approved Stormwater Concept Plan demonstrates that the Residential Project accommodates 100 percent of the target treatment volume through ESD measures for on-site areas of development. The stormwater system uses a number of innovative techniques such as micro-bioretenention (rain gardens), bio-swales and infiltration through the use of drywells, all of which address stormwater and environmental concerns.

2. The Application will not be in conflict with the Master Plan:

The Master Plan as approved and adopted on November 12, 2002, assigned the land use designation of the subject property as "Comprehensive Planned Development", reflecting the policy that the approved Tower Oaks development configuration reflects the City's long-term land use policy for the area. The Residential Project is consistent with the Plan's long-term

policy to minimize traffic congestion in the area by significantly reducing peak hour trips beyond what was previously approved for this site. In addition, the Residential Project encourages an appropriate balance of office and residential uses and an emphasis on mixed-use development for the Tower Oaks Planned Development. The Planned Development currently includes a residential component and the Application will further Master Plan goals to create a balance between different housing types, increase opportunities for home ownership, and ensure a mixture of housing types and price ranges to meet diverse needs of the City's population.

3. The Application will not overburden existing and programmed public facilities as set forth in Article 20 of the Zoning Ordinance and as provided in the adopted Adequate Public Facilities Standards: The original Adequate Public Facilities determination contained in Resolution No. 1-01 remains valid and in effect pursuant to Sec. 25.20.03.a.3 of the Zoning Ordinance. Even if the Plan were subject to a new Adequate Public Facilities review, the Residential Project would not burden the traffic and transportation infrastructure because its net effect would result in a reduction of 1,900 peak hour trips per day as compared to the remaining office density. Moreover, all of the off-site transportation infrastructure required to support the Residential Project (as well as the Remaining Office Density) has already been constructed and is in use.

With regard to public schools, the Property is located in the Richard Montgomery Cluster and school capacity in the test year specified by the APFS for each level (2021), with the addition of students projected to be generated by the Residential Project, is adequate at the elementary school level (95.4%), middle school level (96.9%) and high school level (112.2%).

With regard to water and sewer facilities, the Property is served with public water and sewer. The allocation of sewer capacity from the approved office use in Development Area 5 is

adequate for the Residential Project and is reserved for use by the Residential Project. Adequate water service also exists for the Property. Finally, at least two Fire and Rescue Service stations are within the required ten minute response time. Consequently, Fire and emergency services are adequate for the Residential Project.

4. The Application will not constitute a violation of any provision of the Zoning Ordinance or other applicable law: The Residential Project does not violate any provisions of the Zoning Ordinance. The Property is zoned PD-TO (Planned Development – Tower Oaks). The Residential Project will be developed in accordance with development standards set forth in the Land Use Plan, Exhibit “1”, which represent waivers of the equivalent zone development standards for the RMD-10 and RMD-25 Zones that would otherwise apply. The waivers are granted based on the compatibility of the proposed development with the existing development in Tower Oaks as well as their consistency with good planning and design principles.

5. The Application will not adversely affect the natural resources or environment of the City or surrounding areas: The Residential Project will preserve and enhance the natural resources or environment of the City and surrounding areas. The Residential Project incorporates numerous tree saving measures by retaining 14.20 acres of existing forest on-site and by including a tree buffer between the Residential Project and Woodmont Country Club to the east and south. This is in addition to incorporating ESD into the Residential Project’s stormwater management system that will target 100 percent of the target treatment volume on-site.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that the Project Plan Application PJT2016-00006, an amendment to the Planned Development of Tower Oaks initially approved by Resolution No. 25-87,

amended by Resolution No. 21-93, and further amended by Resolution No. 1-01 (collectively previously defined herein as the “Approved Concept Plan”), be and the same is hereby approved, in accordance with the following terms, conditions and limitations:

1. All conditions of the Approved Concept Plan, as amended, shall remain in effect except as specifically modified by this Project Plan Application and the conditions hereinafter set forth. The approvals, development standards and conditions contained in this Resolution apply only to the development of the Residential Project on the Property. In reviewing any future site plan for compliance with this amendment, the site plan shall be generally compliant with the referenced exhibits. For the purposes of this Resolution, the approved Project Plan Application shall mean this Resolution and all Exhibits to this Resolution listed below and attached hereto, including notations, references, descriptions and writings on the Exhibits:

<u>Exhibit “1”</u>	Land Use Plan of the Tower Oaks Planned Development, PP 2.0
<u>Exhibit “2”</u>	Project Plan Sheets, PP 1.0, 2.1, 2.2 and 2.3
<u>Exhibit “3”</u>	Preliminary Forest Conservation Plan Sheets, PFCP-5.0 – 5.5
<u>Exhibit “4”</u>	Forest Conservation Plan Area 1 Sheet, PFCP-5.1
<u>Exhibit “5”</u>	Forest Conservation Plan Area 2 Sheet, PFCP-5.2
<u>Exhibit “6”</u>	Forest Conservation Plan Area 3 Sheet, PFCP-5.3
<u>Exhibit “7”</u>	Preliminary Forest Conservation Tree List and Worksheet Sheet, PFCP-5.4
<u>Exhibit “8”</u>	Preliminary Forest Conservation Notes and Worksheets Sheet, PFCP-5.5
<u>Exhibit “9”</u>	Concept Landscape Plan Sheet, L-4.0

- Exhibit “10” Recreation Area Exhibit Sheet, L-4.1
- Exhibit “11” Concept Park Detail Plan Sheet, L-4.2
- Exhibit “12” Circulation Exhibit Sheet, EXH-8.0
- Exhibit “13” Preliminary Open Area Exhibit Sheet, EXH-8.1
- Exhibit “14” Street Section Exhibit Sheet, EXH-8.3

2. DEVELOPMENT DENSITIES AND LAND USE

A. Land Use Plan.

The Land Use Plan, Exhibit “1”, is the approved Land Use Plan for development of the Residential Project on the Property, and it reflects the amended land use designations and provides the development standards for the Residential Project. Any site plan application submitted shall be generally consistent with the approved concept layout.

B. Allowable Land Uses and Densities.

The Property is approved for the development of the Residential Project with a maximum of 375 dwelling units consisting of a mix of townhouses, single unit detached dwellings, and multi-unit dwellings, of which a minimum of 12.5% and a maximum of 13.5% of the total number of units constructed will be provided as MPDUs, subject to Section 2H below.

The permitted mix of unit types is set forth on the Development Standards table on the Land Use Plan, Exhibit “1”. The maximum height of the townhouses and single family homes to be constructed will be 50 feet, and the maximum height of the multi-family buildings will be 80 feet. The Property is also approved for the development of associated amenities to include a community center, which shall include a suitable

general market for the convenience of residents, a swimming pool, and active and passive recreation spaces.

The Remaining Office Density may be constructed on the Property as an alternative development option in the event the Property is not developed with residential uses and subject to Site Plan approval (the “Office Option”). The Development of the Remaining Office Density on the Property must comply with the applicable requirements of the Approved Concept Plan. The Office Option will terminate immediately and automatically upon the earlier to occur of the issuance of a building permit for a residential dwelling unit on the property, or five (5) years from the date of approval of the first Site Plan for residential development on the property. If the Office Option is terminated, nothing herein shall prevent an owner of the Property from seeking any necessary development approvals for any use permitted on the Property pursuant to the applicable provisions of the Rockville Zoning Ordinance.

C. Park and Recreation

The Residential Project will provide active and passive recreation spaces, open areas, public use spaces, and park areas as shown on Exhibit “9” (Concept Landscape Plan Sheet, L-4.0), Exhibit “10” (Recreation Area Exhibit Sheet, L-4.1), Exhibit “11” (Concept Park Detail Plan Sheet, L-4.2), Exhibit “12” (Circulation Exhibit Sheet, EXH-8.0), and Exhibit “13” (Preliminary Open Area Exhibit Sheet, EXH-8.1).

D. Forest and Tree Preservation

(i) The City has approved the Applicant’s Preliminary Forest Conservation Plan, attached as Exhibit “2” (Project Plan Sheets, PP-01.0 – 2.3), Exhibit “3” (Preliminary Forest Conservation Plan Sheets, PFCP-5.0 – 5.5), Exhibit “4” (Forest

Conservation Plan Area 1 Sheet, PFCP-5.1), Exhibit “5” (Forest Conservation Plan Area 2 Sheet, PFCP-5.2), Exhibit “6” (Forest Conservation Plan Area 3 Sheet, PFCP-5.3), Exhibit “7” (Preliminary Forest Conservation Tree List and Worksheet Sheet, PFCP-5.4), and Exhibit “8” (Preliminary Forest Conservation Notes and Worksheets Sheet, PFCP-5.5). In accordance with the overall Preliminary Forest Conservation Plan for the Tower Oaks Comprehensive Planned Development approved June 21, 1995, the Applicant shall retain and leave undisturbed a minimum of 14.2 acres of existing forest in the locations shown on Exhibits “2”-“8” and shall place the retained forest in a conservation easement.

(ii) The Applicant shall plant all of the required significant replacement trees on the Property.

E. Design Guidelines.

Landscaping for the Residential Project shall generally comply with the Concept Landscape Plan Sheet, L-4.0, Exhibit “9”. Lighting for the Residential Project shall be reviewed at the time of Site Plan.

F. Roads and Access

(i) Applicant’s request for a waiver from Chapter 21 of the City of Rockville Code titled “Streets and Public Improvements” was approved by the Mayor and Council on July 11, 2016 (the “Road Code Waiver”). Primary and secondary residential public roads and residential alleys for the Property shall comply with attached Exhibit “14”, Street Section Exhibit Sheet, EXH-8.3 and the approved Road Code Waiver.

(ii) The Applicant shall dedicate to the City the portion of the existing private driveway located on the northern edge of Property (the “Driveway”), and, if necessary, bring the dedicated portion of the Driveway up to City standards for public roads. The

Applicant shall further make best efforts to work with the owner of the adjacent property at 1 Preserve Parkway to dedicate the entire width of the Driveway to the City and bring the driveway up to City standards for public roads or, in the alternative, provide appropriate easements to cover the full width of the Driveway to allow for public access and maintenance. If dedication or easements cannot be acquired from the adjacent property owner, the Applicant shall be required to accommodate the need for continuous public access, to be reviewed as part of the Site Plan process.

(iii) The water line within the Driveway shall become a public main at the time of right-of-way dedication or easement recordation for public access if proposed to serve the Residential Project. If the waterline is not being proposed to serve the Residential Project, but is located within a dedicated right-of-way, it shall become a public main at dedication. A public main must be constructed to public standards. Applicant shall pay the costs for reconstruction of all or portions of the existing waterline.

G. Shuttle/Circulator Vehicle

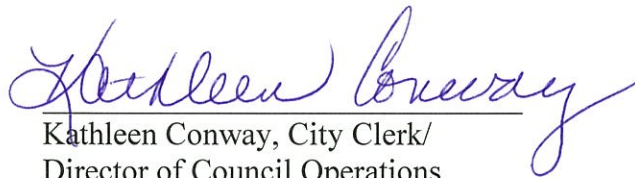
The Applicant shall request that the County extend Ride-On bus service onto Preserve Parkway, with a bus stop inside the Residential Project and/or at the entrance on Preserve Parkway. If at the time of Final Site Plan Approval the Applicant is not able to obtain confirmation that the County will extend Ride-On bus service to the Residential Project, then the Applicant shall provide a shuttle or circulator vehicle that provides residents access to areas outside the Residential Project. The shuttle or circulator for the Residential Project will be provided by the time 50% of the occupancy permits have been issued.

H. Moderately Priced Dwelling Units (MPDUs)

If the applicant receives Final Site Plan approval for at least 336 units in substantial conformance with the layout and unit mix approved by the Project Plan Amendment, then the applicant shall provide 13.5% of the total units approved as townhouse MPDUs. The final MPDU locations will be determined at the time of site plan submission and will be integrated throughout the townhouse portion of the project. The MPDUs will not be provided as single unit detached dwellings, or multi-unit dwellings.

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I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Mayor and Council at its meeting of August 1, 2016.


Kathleen Conway, City Clerk/
Director of Council Operations