

Resolution No. 21-14

RESOLUTION:

To approve, in part, with conditions, Project Plan Application PJT2014-00003, an Amendment to Preliminary Development Plan Application PDP1994-0001E, Duball Rockville LLC, Applicant

WHEREAS, on April 27, 1994, the City of Rockville Planning Commission approved Preliminary Development Plan PDP94-00001, Rockville Center, Inc., to redevelop the former Rockville Mall property into a phased, multiple building, mixed use development known as Rockville Center on five (5) record lots (legally subdivided as Parcels 2-F, 2-G, 2-H, 2-J and 2-K of the Rockville Town Center subdivision), located at the southwest corner of the Rockville Pike (MD 355) and East Middle Lane intersection; and

WHEREAS, on May 2, 2005, the Mayor and Council adopted Resolution No. 10-05, approving Preliminary Development Plan Amendment PDP1994-0001E, to modify the use, building heights, massing and density of two of the five blocks (Parcels 2-J and 2-K) that comprise the Rockville Center development; and

WHEREAS, the approval of PDP1994-0001E allowed Parcels 2-J and 2-K to be developed as follows: i) Parcel 2-J: 230 dwelling units, 23,000 square feet of retail/commercial space and associated parking, and ii) Parcel 2-K: 255 dwelling units, 17,000 square feet of retail/commercial space and associated parking, and iii) building heights ranging from 85 feet to 144 feet above the East Montgomery Avenue sidewalk elevation on Parcel 2-J, and 85 feet to 173 feet above the East Montgomery Avenue sidewalk elevation on Parcel 2-K; and

WHEREAS, under PDP1994-0001E, Parcel 2-J and Parcel 2-K are collectively allowed development of a mixed use project comprised of two free standing buildings, collectively containing 45,300 square feet of street level retail space, 485 dwelling units located on the upper floors of the buildings, and structured parking facilities contained within the core of each building, with hotel as a permitted use on any parcel within the PDP; and

WHEREAS, the Planning Commission approved Use Permit USE2006-00699 on March 14, 2007, allowing development of 485 dwelling units and 45,300 square feet of retail on Parcels 2-J and 2-K, which was later amended by approval of Use Permit Amendment USA2006-0699A by the Planning Commission on October 10, 2007, allowing for the addition of a 175-room hotel to Parcel 2-J, and which was further amended by approval of Minor Site Plan Amendment STP2012-00105 by the Chief of Planning on October 6, 2011, which increased the amount of dwelling units on Parcel 2-J from 230 to 263 and reduced the amount of dwelling units on Parcel 2-K from 255 to 222; and

WHEREAS, Parcels 2-J and 2-K were resubdivided as Parcels 2-M and 2-L, respectively, upon recordation of Plat No. 24566 on April 1, 2013; and

WHEREAS, on October 1, 2013, Duball Rockville, LLC ("Applicant") filed Project Plan Application PJT2014-00003 ("the Amendment Application"), pursuant to Section 25.14.07.e.2. of the Zoning Ordinance, a proposal to amend PDP1994-0001E as follows: i) to increase the number of dwelling units approved for Parcel 2-L from 222 to 400 units; ii) to allow two-year conditional approval from the school capacity limits of the Adequate Public Facilities Ordinance (APFO), permitting 178 additional dwelling units subject to the future availability of the necessary school capacity; and iii) to reduce by 25 percent the minimum number of vehicular parking spaces required for the total of 400 dwelling units that will be located on Parcel 2-L; and

WHEREAS, pursuant to Section 25.05.03.c and 25.07.03 of the Zoning Ordinance, the applicant affirmed via submission of the required affidavits that both written and electronic public notification was provided for all required area and public meetings held in association with the processing of the Amendment Application; and

WHEREAS, pursuant to Section 25.07.07.9 of the Zoning Ordinance, the Planning Commission, at its meeting of October 8, 2014, reviewed the subject Amendment Application,

and after considering the information and testimony provided, voted to not recommend to the Mayor and Council that the Amendment Application (PJT2014-00003) be approved as submitted, for such reasons as set forth in its recommendation memo dated October 29, 2014, and

WHEREAS, pursuant to Section 25.05.03.c of the Zoning Ordinance, the required newspaper notice was given that a public hearing on said Amendment Application would be held by the Mayor and Council of Rockville in the Council Chambers at Rockville City Hall on November 3, 2014, at 7:00 p.m. or as soon thereafter as it may be heard, at which parties in interest and citizens would have an opportunity to be heard; and

WHEREAS, on November 3, 2014, pursuant to the required notification, a public hearing was held by the Mayor and Council; and

WHEREAS, subsequent to the public hearing and after reviewing the testimony and exhibits in this matter, the Mayor and Council determined that the 25% parking reduction requested by the applicant did not provide sufficient parking for the residential units and that a reduction of 15% would be more appropriate and would provide a minimum of one parking space for each residential unit; and

WHEREAS, this matter having been fully considered by the Mayor and Council, the Mayor and Council having found and determined that approval of the Project Plan Application, in part, as modified, and with conditions, would promote the health, safety and general welfare of the citizens of Rockville, and the Mayor and Council having made the further findings set forth herein, based upon said amendment of Preliminary Development Plan PDP1994-0001E, the Staff Report dated October 1, 2014, the public hearing of November 3, 2014, as well as the matters contained in the record; and

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

1. The Amendment Application will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed project. The additional dwelling units will be incorporated into the building on Parcel 2-L as approved, with minimal exterior changes proposed. Vehicular access to the site will continue to be via the approved site entrances. Pedestrian safety will be enhanced through the provision of wide sidewalks around the perimeter of the building. The development will be implemented in accordance with applicable building and life safety codes. Given these factors, there is no evidence that the amendment will adversely affect the health and safety of persons residing or working in the neighborhood;

2. The Amendment Application will not be in conflict with the Master Plan (the Plan). The Approved and Adopted Master Plan assigned the land use designation of "Entertainment Corridor" and "Mixed Use Preferred Office" to the property. It is important to note that when the Mayor and Council approved Resolution No. 10-05, they found the amendment to be in substantial accordance with the Master Plan and the 2001 Town Center Master Plan, noting that the proposed development provides the critical L-shaped pedestrian spine of continuous street level retail and pedestrian activity along East Montgomery Avenue as well as additional residential density adjacent to the Rockville Metro station and in support of retail establishments in the vicinity. The proposed amendment does not alter these findings, and the additional residential units are in keeping with the Mayor and Council's initial findings. Based on these considerations, the proposed amendment is found not to be in conflict with the Plan;

3. The Amendment 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. While the original determination of adequate public facilities for Rockville Center contained in Resolution No. 10-05 remains valid per Sec. 25.20.03.a.3 of the Zoning Ordinance, the additional residential units are subject to a determination of adequate public facilities. The traffic statement submitted in accordance with the City's Comprehensive Transportation Review (CTR) shows that the proposed amendment will result in increases of 14 AM peak hour trips and 20 PM peak hour trips. Because the net increase in trips is less than 30, no additional off-site roadway or pedestrian improvements are required per the CTR. The Department of Public Works has issued conceptual approval, subject to specific conditions, for connection to the City's sewer and water systems. The amendment has no impact on Fire and Emergency Service response time, as at least two Fire and Rescue Service stations are within the ten minute response time required.

Regarding schools, school capacity at the middle school (Julius West Middle School) and high school (Richard Montgomery High School) levels is less than the 110 percent of program capacity in the test years specified by the APFS and capacity is considered available. Capacity at the elementary level (Beall Eelementary School) exceeds the 110 percent of program capacity in the test years, and the applicant must be granted conditional approval in order to increase the number of dwelling units in the project, subject to future availability of public school facilities at the elementary school level. Conditional approval ensures that the additional units will only be constructed if school capacity becomes available. Therefore, the application will not overburden existing or proposed public facilities as set forth in Article 20 of the Zoning Ordinance if conditional approval is granted for school capacity;

4. The Amendment Application does not violate any provision of the Zoning Ordinance or other applicable law. The proposed amendment does not violate any provision of the Zoning Ordinance. The property is zoned PD-RCI (Planned Development – Rockville Center Inc.) and development standards are as set forth in Resolution No. 10-05. The amendment meets these standards in terms of permitted uses, building height and setbacks. With the granting of the 15 percent parking reduction, compliance with parking requirements will be determined during the detailed review of the required Level 2 Site Plan application by the Planning Commission;

5. The Amendment Application does not adversely affect the natural resources or environment of the City or surrounding areas. The site does not contain forested areas, wetlands or other sensitive environmental features, and is mostly impervious surface currently. Site development must comply with applicable stormwater management, sediment and erosion control, forest and tree preservation, and landscaping requirements. There is no evidence that the proposed changes to the development of Parcel 2-L will adversely affect the natural resources or environment of the City or surrounding areas.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Project Plan Application PJT2014-00003, an amendment to Preliminary Development Plan Amendment Application PDP1994-0001E, be and the same is hereby approved, in accordance with the following terms, conditions and limitations set forth herein.

1. All conditions of approved Preliminary Development Plan PDP94-0001, as amended through PDP1994-0001E, as set forth in the approval letters for the Planning Commission meetings of April 27, 1994, June 19, 1996, July 22, 1998, August 2, 2000, and September 4, 2002 and Resolution No. 10-05 (collectively the “Prior PDP Approvals”), shall remain in full

force and effect except as specifically modified by Project Plan Application PJT2014-00003 and the conditions hereinafter set forth.

For the purposes of this Resolution, the Approved Project Plan shall mean this Resolution and all Exhibits to this Resolution listed below and attached hereto, including notations, references, descriptions and writings on the Exhibits.

Exhibit 1 Amended Preliminary Development Plan Land Use and Massing Plan for Parcels 2-M and Parcel 2-L, dated March 7, 2014

## 2. LAND USES AND DENSITIES.

A. Land Use Plan. Exhibit 1 is the approved Land Use and Massing Plan for Parcel 2-M and Parcel 2-L, and replaces Exhibit 1 of Resolution No. 10-05.

B. Total Land Uses and Densities. The Amended Preliminary Development Plan Allowable Uses and Densities approved are hereby modified to the following, which replaces Section 2.B of Resolution No. 10-05:

| Use               | Prior PDP   | Amended PDP |
|-------------------|-------------|-------------|
| Theatre           | 67,370 gsf  | 67,370 gsf  |
| Retail/Commercial | 107,266 gsf | 107,266 gsf |
| Residential       | 602 du      | 780 du      |
| Office            | 419,961 gsf | 419,961 gsf |

## C. Land Use and Densities by Block

The Allowable Uses and densities by block are revised as follows, which replaces Sec. 2.C of Resolution No. 10-05:

| Block | Land Uses           | Approved Gross Floor Area/DU |
|-------|---------------------|------------------------------|
| 1     | Office              | 394,261 SF                   |
| 2-F   | Retail / Restaurant | 36,700 SF                    |
|       | Subtotal            | 430,961 SF                   |
| 2     | Office              |                              |
| 2-L   | Residential         | 400 DU                       |

|     |                     |                  |
|-----|---------------------|------------------|
|     | Retail (Restaurant) | 17,000 SF        |
|     | Subtotal            | 400 DU/17,000 SF |
| 3   | Office              |                  |
| 2-M | Residential         | 263 DU**         |
|     | Retail/ Restaurant  | 23,000 SF        |
|     | Subtotal            | 263 DU/23,000 SF |
| 4   | Residential         | 117 DU (min)     |
| 2-H | Retail              | 11,260 SF        |

|       |                    |                      |
|-------|--------------------|----------------------|
|       | Subtotal           | 117 DU/<br>11,260 SF |
| 5     | Retail /Restaurant | 19,306 SF            |
| 2-G   | Office             | 25,700 SF ***        |
|       | Theatre            | 67,370 SF            |
|       | Subtotal           | 112,376 SF           |
| Total | Office             | 419,961 SF           |
|       | Retail             | 107,266 SF           |
|       | Theatre            | 67,370 SF            |
|       | Residential        | 780 DU               |
|       | Hotel *            |                      |

\* A Hotel is an allowable use in addition to the other allowable uses on any of the Planned Development (PD) lots. The Planned Development retains additional traffic capacity over and above the other allowable uses for a Hotel use within the Preliminary Development Plan area of: 100 am peak hour trips and 100 pm peak hour trips.

\*\* Total aggregate number of approved DU for Parcel 2-M and Parcel 2-L is 780 DU per PJT2014-00003. Units are allowed to be shifted between Parcel 2-M and Parcel 2-L so long as the total number did not exceed the total aggregate number of DU approved for Parcel 2-M and Parcel 2-L and constructed within approved heights.

\*\*\*By City administrative approval, retail space was converted to office on Parcel 2-G resulting in the total allowable PD office square footage on Parcel 2-G of 25,844 square feet. The permitted use for such converted space under the PDP is either office or retail without further amendment of the PD.

### 3. PARKING.

The applicant is hereby granted a 15 percent parking reduction from the minimum number of residential parking spaces required per Sec. 25.16.03.h.1.(f) of the Zoning Ordinance, for good cause shown, for the up to 400 dwelling units approved per this Amendment Application for the Parcel 2-L residential building. The Mayor and Council determined that the parking utilization study of the nearby Fenestra apartments submitted as evidence was sufficient to justify the 15% reduction.

While compliance with parking requirements is determined at the site plan stage, the Mayor and Council finds that, in addition to the 400 vehicular parking spaces that will be provided for the building's residential dwelling units, 105 spaces are to be provided for the building's commercial uses, and 200 spaces provided as replacement spaces for those lost due to the removal of the surface parking lot that is currently located on Parcel 2-L, which serves the retail pavilion on Parcel 2-G. Under this Amendment Application, the total number of vehicular parking spaces being provided in the Parcel 2-L building will be 705 spaces as a result of the reduction.

#### 4. ADEQUATE PUBLIC FACILITIES – SCHOOL CAPACITY

In accordance with Sec. 25.20.02.d. of the Zoning Ordinance, the applicant is hereby granted conditional approval of the 178 additional dwelling units proposed for Parcel 2-L, subject to future availability of the necessary elementary school facilities. The project will be placed in a queue for two (2) years from the date of the Mayor and Council's approval of this Amendment Application.

If adequate public elementary school facilities are not available at the end of the approved two (2) year validity period, the approval of the 178 additional dwelling units would become void, unless further time extensions are granted by the Mayor and Council. The applicant must satisfy the adequate public facilities test for school capacity at the elementary school level as required under the Adequate Public Facilities Ordinance (APFO) prior to commencing construction of the additional 178 dwelling units. In the event that the approval of the 178 dwelling units becomes void, the parking reduction as granted would remain valid for the 222 dwelling units previously approved for Parcel 2-L.

#### 5. CONDITIONS OF APPROVAL.

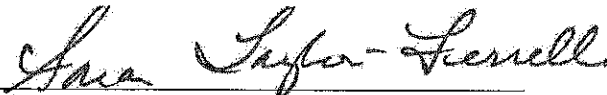
a. The applicant must submit a site plan amendment, updating the unit count and vehicular parking requirements in accordance with the parking waiver request as approved by the Mayor and Council. The site plan amendment application must also include updated garage floor plans, clearly illustrating on-site parking facilities.

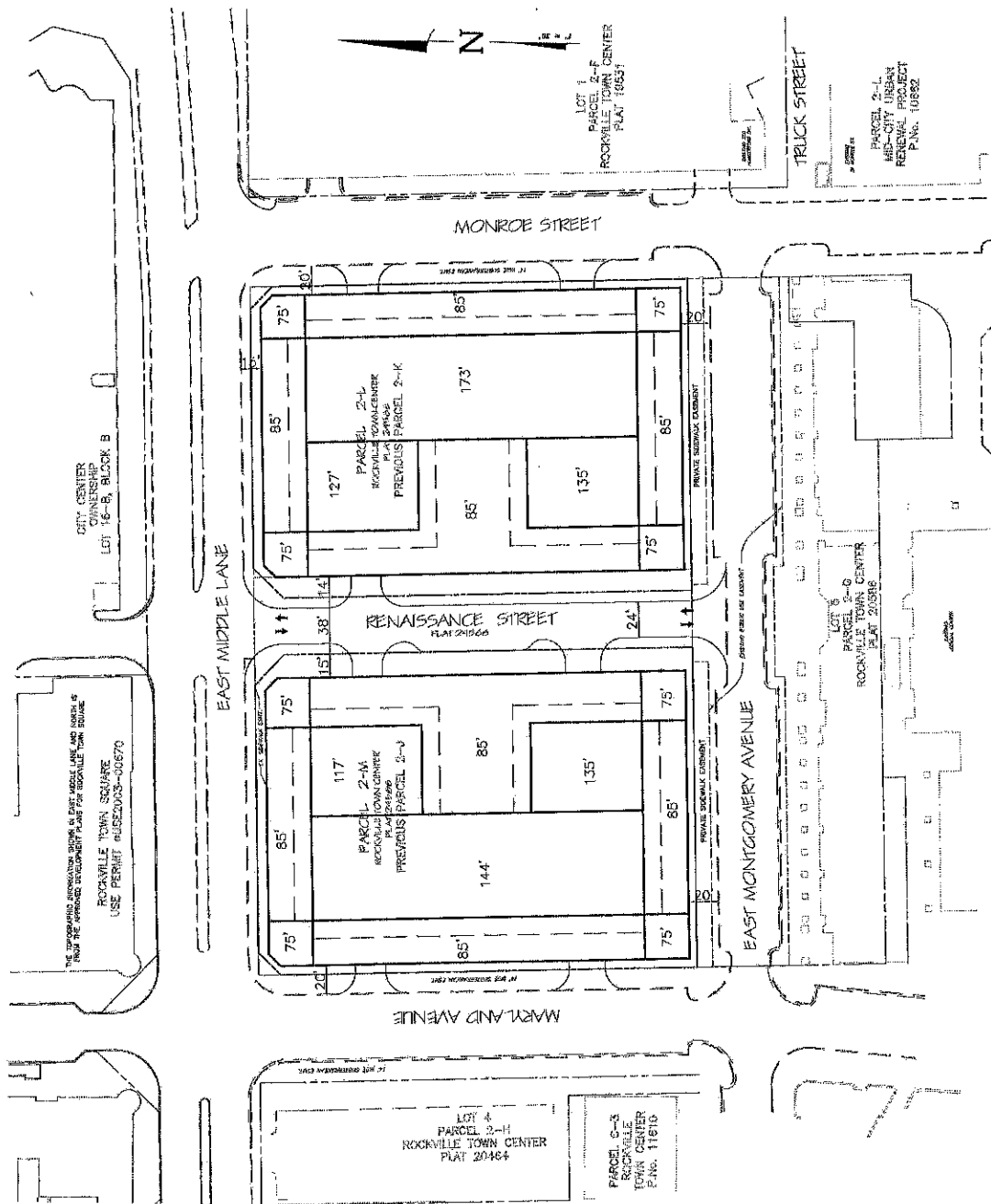
b. The proposed development must comply with all applicable conditions of approval imposed under previously approved Use Permit USE2006-00699, as amended through Minor Site Plan Amendment STP2012-00105, unless superseded by this approval.

c. In accordance with Chapter 13.5 of the City Code, fifteen (15) percent of the total number of dwelling units located on Parcel 2-L must be designated as Moderately Price Dwelling Units (MPDUs); the units must be distributed throughout the building and reflect the same distribution of bedroom sizes as the market-rate units.

\* \* \* \* \*

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  
December 8, 2014.

  
Sara Taylor-Ferrell, Acting City Clerk

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ALL BUILDING HEIGHTS NOTED ON PARCELS 2-4H, AND PARCELS 2-4I, ARE MEASURED FROM THE EAST MONTGOMERY AVENUE SIDEWALK ELEVATION. BUILDING HEIGHTS APPROVED UNDER PRIOR PRELIMINARY DEVELOPMENT PLAN APPROVALS FOR PARCELS 2-F, PARCELS 2-M, AND PARCELS 2-G, ARE MEASURED FROM THE JEFFERSON AVENUE SIDEWALK ELEVATION.

GRAPHIC SCALE  
(IN FEET)  
1 inch = 50 ft.

OWNER/APPLICANT  
DUBALL ROCKVILLE, LLC  
1111 SUNSET HILLS ROAD  
RESTON, VA 20190  
PHONE: 703-254-5633

5000-710719

AMENDED PRELIMINARY DEVELOPMENT PLAN  
LAND USE AND MASSING PLAN

**DUBALL ROCKVILLE PROJECT**  
PARCELS 2-L & 2M, ROCKVILLE CENTER

PARCELS 2-L & 2M, ROCKVILLE CENTER  
WITH E.D. CITY OF ROCKVILLE - MONTGOMERY COUNTY - MARYLAND



**THE**  
Engineers ■ Planners  
Landscape Architects ■  
45 years on

[illegible]