

C O R R E C T E D R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on June 22, 2006 regarding Detailed Site Plan DSP-05026 for Northgate, the Planning Board finds:

1. **Request:** The subject application is for a 17-story high-rise condominium complex (with penthouse) consisting of 204 dwelling units and 5,670 square feet of commercial office and retail space. Four (five at rear) stories of the 17 stories consist of aboveground parking structure.
2. **Development Data Summary:**

Zone(s) Use(s)	EXISTING M-U-I/DDOZ Commercial	PROPOSED M-U-I/DDOZ Condominiums, Commercial Office/Retail
Acreage	1.15	1.05 (net)
Lots	0	0
Parcels	2	2
Square Footage/GFA	2,400 (vacant)	5,670
Dwelling Units:		204
Multifamily (Condominium)		204

OTHER DEVELOPMENT DATA

Bedroom Unit Mix

Unit Type	Number of Units	Average Square Footage
1 Bedroom	88	762
1 Bedroom with Den*	13	985
2 Bedrooms	76	1,166
2 Bedrooms with Den	12	1,606
3 Bedrooms	15	1,851
Total	204	

Bedroom Percentage

Unit Type	Proposed Percentage	Percentage Per Section 27-419
1 Bedroom	43	50
2 Bedrooms	44	40
3 Bedrooms	13	10
	100	100

Notes: *Pursuant to Section 27-101.01 of the Zoning Ordinance, a den is a “habitable room, which could be used for sleeping purposes,” and is therefore considered a bedroom. Therefore, one bedroom with den units are considered two bedroom units and two bedrooms with den units are considered three bedroom units. The applicant has requested an amendment to the bedroom percentage requirements, which is discussed in Finding 7 below.

Parking Required (Per Section 27-568(a))

Uses	Parking Spaces
Residential (204 Units)	
of which 1 Bedroom	88x2 spaces/unit=176
2 Bedrooms	89x2.5 spaces/unit=223
3 Bedrooms	27x3 spaces/unit=81
Subtotal	480
Commercial (5,600 SF)	
Retail—3,000 SF	1space per 150 SF=20
Office—2,600 SF	1 space per 200 SF=13
Subtotal	33
Total	513
Of which handicapped parking spaces	11

Pursuant to Site Design, S2. Parking Areas, V. Parking Credit for Shared Parking of the Development District Overlay Zone standards, when any land and /or building is under the same ownership and used for two or more uses, the minimum number of off-street surface parking spaces shall be reduced 10 percent as follows:

Residential	432 (480-480*0.1)
Commercial	30 (33-33*0.1)

Shared Parking by Time Period (Pursuant to Table 15, Page 182 on Sector Plan)

Uses	Weekday		Weekend		Night-time
	Daytime	Evening	Daytime	Evening	
Residential (432 spaces)	60%=260	90%=389	80%=346	90%=389	100%=432
Commercial (30 spaces)	60%=18	90%=27	100%=30	70%=21	5%=2
Total Spaces	278	416	376	410	434[†]

Parking Provided 320 spaces (Parking garage)

Of which compact parking 106 spaces

Handicapped parking 8 spaces

Notes: [†] The highest number of parking spaces becomes the minimum number of spaces required; therefore a minimum of 434 spaces is required for this project. The plan is 114 parking spaces below the number required. The applicant has requested an amendment to the parking requirements. For further information, see Finding 7 below.

3. **Location:** The site is located on the west side of US 1 in the City of College Park, approximately one-half mile south of MD 193 and opposite Quebec Avenue. The site is also located in Subarea 3a (Main Street) of the Approved College Park US 1 Corridor Sector Plan where detailed site plan review is required in accordance with the development district overlay zone (DDOZ).
4. **Surrounding Uses:** The site is bounded on the east side by US 1; to the north by an existing one-story Burger King fast-food restaurant; to the west by Paint Branch and land owned by The Maryland-National Capital Park and Planning Commission; and to the south by an existing one-story Taco Bell fast-food restaurant.
5. **Previous Approvals:** The subject site was originally zoned C-S-C and improved as a fast food restaurant. The 2002 *Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment*, which was approved by the District Council on April 30, 2002 (CR-18-2002), rezoned the subject site into the M-U-I Zone and superimposed a development district overlay zone on the M-U-I Zone. The subject site along with the other site is the subject of Preliminary Plan of Subdivision 4-03139, which consolidates two existing parcels consisting of approximately three acres into two new parcels (Parcels A and B) with a common access easement to serve both lots. The access easement was approved pursuant to Section 24-128(b)(9) of the Subdivision Regulations. The Planning Board approved Preliminary Plan of Subdivision 4-03139 on May 13, 2004 (Planning Board Resolution PGCPB 04-103). The site also has an approved stormwater management concept plan, which will be valid through June 7, 2008.
6. **Design Features:** The subject site is a rectangular shaped property fronting US 1. The proposal is for a 17-story condominium building consisting of 204 condominium units, approximately 5,600 square feet of commercial office and retail, and a 4.5-story parking structure on Parcel B. The

applicant originally intended to raze the existing Taco Bell on Parcel A and rebuild it on Parcel B, and then construct a condominium building on Parcel A. Both parcels would have utilized the common access drive for access onto US 1. In fact, the applicant submitted a detailed site plan (DSP-03060) to construct a new Taco Bell on Parcel B, but that case was withdrawn because Taco Bell decided that they did not want to relocate to Parcel B. As a result, the applicant decided to put the condominium building on Parcel B, which is covered in the subject site plan.

The site plan shows an access to the site from US 1 close to the western boundary line with a turnaround leading to the lobby of the building. A pedestrian walkway lined on both sides with trees passes the turnaround area connecting to a public park at the rear of the property. The frontage along US 1 will be improved with an eight-foot-wide landscape strip and a sidewalk of varied width between the commercial storefront and US1. There are seating areas and lighting fixtures in the landscape strip. The first five stories of the building are designed as an apron consisting of parking garage, loading dock, general lobby for the condominium building, and commercial office/retail spaces fronting US 1. The condominium units, along with recreational amenities such as an outdoor pool and fitness room, start from the plaza level (the 5th floor). The 5th floor to the 17th floor consist of condominium units of the three-bedroom type (see the above Finding 2 Development Data Summary), arranged along an internal double loaded corridor with a three-elevator shaft and two emergency stairwells at both ends of the internal corridor. A penthouse has been shown on top of the 17th floor.

The building elevations are designed in a modern architectural style with horizontally presented balconies and a lot of glass. The five-story apron covers most of the site. The main elevation (east) along US 1 has a 20-foot setback from the apron and rises all the way to the penthouse. A strong horizontal division—consisting of precast/cast stone, split face block bands, and balconies—has been employed to provide visual relief from the height. The rest of the main building above the 5th floor is finished with a combination of different bricks and spandrel glass. A canopy has been used on the main elevation facing US 1 and on the south elevation where the main entrance to the lobby area is located. The three other elevations are designed in a similar way. The main elevation, with metal grill and glass, also provides a visual treatment of the garage that lies above the first floor commercial office/retail space.

The main elevation also shows the location of retail signage on the canopy and building address sign on the entrance post. But no sign details have been proposed with this detailed site plan.

COMPLIANCE WITH EVALUATION CRITERIA

7. **The 2002 Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment and the standards of the development district overlay zone (DDOZ):** The 2002 College Park US 1 Corridor Plan defines long-range land use and development policies, detailed zoning changes, design standards and a DDOZ for the US 1 corridor area. The land use concept of the sector plan divides the corridor into six areas for the purpose of examining issues and opportunities and formulating recommendations. Each area has been further divided into subareas for the purpose of defining the desired land use types, mixes, and development character. The subject site is in Area 3

(Main Street), Subarea 3a, on the west side of US 1. The vision for Area 3 is that of a neighborhood main street district featuring a compact mix of retail shopping, restaurants and offices. The sector plan also provides specific subarea recommendations for Subarea 3a such as compact development, vertical mixed-use, shared and/or structured parking. The subject application conforms to most of the recommendations except for those (P. 40) discussed as follows:

A rear service road to improve access and circulation as part of a comprehensive redevelopment effort.

Comment: The subdivision approval (4-03139) for this site does not provide the rear service road as suggested in this recommendation because the site is shallow measuring from US 1. A rear service road may render the site undevelopable. On the site plan, the applicant provides an additional deceleration lane, encompassing the site's entire frontage that will meet the intent of this recommendation. In addition, the site plan has a pedestrian walkway or promenade, which connects the frontage of US 1 to a district-wide hiker/biker trails network, located at the rear of the site that will provide a pedestrian access to the University of Maryland campus. The pedestrian walkway will be subject to final approval by the Department of Parks and Recreation.

No building balconies for housing facing directly onto US 1.

Comment: The east elevation of the proposed building shows balconies that are facing US 1. A condition of approval has been proposed in the recommendation section to require the applicant to revise the east elevation pursuant to this recommendation prior to certificate approval.

Section 27-548.25 (b) requires that the Planning Board find that the site plan meets applicable development district standards. The detailed site plan meets most of the standards with the exception of several development district standards, for which the applicant has requested an amendment. In order to allow the plan to deviate from the development district standards, the Planning Board must find that the alternative development district standards will benefit the development and the development district and will not substantially impair implementation of the sector plan.

The development district standards are organized into three categories: public areas; site design; and building design. The applicant has submitted a statement of justification that provides detailed explanation of how the proposed condominium project conforms to each development district standard. The amendments that the applicant has requested are discussed below.

PUBLIC AREAS:

P1. Road Network

A. Development should, where possible, provide for on-street parking.

Comment: US 1 is a principal arterial, undivided five-lane section highway. The annual average daily trips passing through this section of US 1 is 32,500 vehicle trips per day. The application

proposes no on-street parking. All parking provided will be within the first five story-parking garage of the condominium building. The Urban Design Section believes that the proposed off-street parking is better than the on-street parking for this site, because traffic volumes on US 1 as currently designed will not permit safe on-street parking.

SITE DESIGN

S2. Parking Areas

Comment: The applicant has requested an amendment to the parking requirements. The applicant calculated the parking requirements incorrectly. The parking reduction requested, based on S2.W. Parking Credits for Alternative Modes of Transportation, in the Statement of Justification and those shown on the site plan are not consistent. The Statement of Justification asks for a 20 percent reduction and the site plan factors a five percent reduction in the parking calculation. The correct parking calculations are as shown in Finding 5 above. This site is slightly beyond of one mile from the College Park Metro Station and therefore higher parking calculations apply to the site. If the site were within one mile of the station, the parking requirement (which is 310 spaces) would have been met. Nevertheless, the plan is short by 114 parking spaces based on the application of the Zoning Ordinance and sector plan requirements.

The applicant has provided a draft memorandum of understanding (MOU) in the third submittal claiming that the proposed condominium project will utilize University of Maryland's shuttle bus system and would like to be granted a full 20 percent reduction in the parking requirements pursuant to S2.W. Parking Credits for Alternative Modes of Transportation. This provision allows for a reduction in the minimum off-street parking requirements if they provide incentives to encourage the use of alternative modes of transportation, including contribution to the county and/or city ride-sharing program, providing private incentives for car and vanpooling, participating in usage of public programs such as WMATA's Metrochek and MTA's TransitPlus 2000, or provisions of a private shuttle bus service. The provision also requires verifiable data to be produced that support the desired reductions in the minimum off-street parking. The reduction allowed is between 5 and 20 percent. The submitted draft MOU only covers a time period from August 1, 2007, through July 31, 2008. The applicant has offered no other incentives to encourage the use of alternative modes of transportation. The above Finding 2 also shows the required parking spaces for this case after a 20 percent reduction. The proposed parking would still be short by 27 spaces after a 20 percent reduction. The applicant has also indicated that inquiries have been made about the utilization of the College Park Parking District, created pursuant to the provisions of S2.X

The applicant's attorney indicates through provision of additional information that the utilization of the University's shuttle bus service will be in perpetuity. The contract should be renewed annually to factor in inflation. The parking provisions in Site Design, S2. Parking Areas, of the Development Overlay Zone standards included in the Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment have superseded the parking requirements in Section 27-546.18 in the M-U-I Zone.

The sector plan also has a similar provision that allows the Planning Board to waive the minimum off-street parking requirement for this site because the site is located within the Main Street area as follows:

Parking Requirements for all Development Within the Main Street and Town Center

- X. To encourage the construction of off-street structured parking facilities in the main street and town center (areas 1 and 3) and to promote economic development, the Planning Board during the site Plan review process or the Planning Department during a permit review process may waive the minimum off-street parking requirements provided that:**
- 1. A parking District is established for the area in accordance with requirements of Subtitle 2, Division 27, Sections 2-399 to 2-413 of the Prince George's County Code.**
 - 2. The applicant agrees to pay a fee-in-lieu for the required number of off-street parking spaces that are to be waived and/or a special assessment as defined by the Parking District.**
 - 3. The developer has a written agreement with the university that student tenants in the building will be permitted to purchase parking permits to park on The University of Maryland campus under current student parking policy as such as may be changed from time to time.**

The proposed 320 parking spaces in this application are in the parking garage that occupies the first five story of the proposed building. In addition, the applicant has provided parking data from other similar projects in Prince George's County and other places that supports the parking ratio provided in this application. If the Planning Board grants the 20 percent reduction based on the alternative modes of transportation, the application will be only about 27 parking spaces short. The applicant has worked closely with the City of College Park where a parking district will be established for this project and agreed upon a parking credit of 76 spaces (equivalent to 17.5%) based on provision of bus service and a waiver of 38 spaces that will be assessed a fee-in-lieu and will be paid to the Parking District to be established by the City of College Park. A condition of approval to this effect has been proposed to replace Condition 1(e). The applicant has also agreed with the City of College Park on the fee ratio of each parking space and the maximum fee-in-lieu will not be more than \$245,000. A condition of approval from the City of College Park regarding parking fees has been incorporated in the recommendation section of this report.

S3. Building Siting and Setbacks

- L. The maximum lot coverage for multifamily dwellings having four or more stories shall**

be 70 percent of the overall net lot area.

Comment: The site plan does not meet this requirement and the applicant has requested an amendment. Based on the information provided by the applicant's engineer, the lot coverage is 82 percent. It should be noted that the proposed condominium project is one building and is a vertical mixed-use project that has 5,670 square feet of commercial office/retail located on the street-level floor, which accounts for more than one third of the building footprint. If this part of the building footprint were taken out of the lot coverage calculation in line with the above standards, the maximum lot coverage of this case would be less than 70 percent.

S4. Buffering and Screening

- E. The bufferyard requirements within the development district may be reduced to facilitate a compact form of development compatible with the urban character on the US 1 corridor. The minimum bufferyard requirements (landscape yard) for incompatible uses in the *Landscape Manual* (Section 4.7) may be reduced by 50 percent. The plant units required per 100 linear feet of property line or right-of-way shall also be reduced by 50 percent. Alternative compliance shall not be required for these reductions.**

A six-foot-high, opaque masonry wall, or other opaque screening treatment shall be provided in conjunction with the reduced width of the bufferyard between office/retail/commercial uses and residential uses.

Comment: A "D" bufferyard is required along the north and south property lines where the proposed residential development will be adjacent to existing fast-food restaurant uses. A "D" bufferyard requires a 40-foot landscape buffer and a 50-foot building setback, to be adjusted as allowed by the standard above. The sector plan allows a 50 percent reduction that will reduce the "D" bufferyard for this case to a 25-foot building setback and 20-foot wide landscape strip. On the north side of the property, adjacent to the existing Burger King restaurant, the building comes within one foot of the property line. On the south side, adjacent to the existing Taco Bell restaurant, the building comes within 10 feet of the property line. The applicant argues that because there are office and retail uses and parking structure on the first five floors, and the residential use only starts on the sixth floor, the building apron, consisting primarily of a parking garage, serves as an excellent buffer. Both the Taco Bell and Burger King restaurants are one story buildings. The proposed development utilizes the five-story apron consisting of commercial office/retail and parking garage as an alternate buffer from the two fast-food restaurants. This alternative buffer treatment is better than the 25-foot bufferyard setback, and it will result in a continuous street wall along the US 1 frontage. Therefore, staff is of the opinion that buffering and screening through building design as illustrated in this case along the north and south property

lines meet the intent of the sector plan and will not substantially impair implementation of the plan.

BUILDING DESIGN

B 1. Height, Scale, Massing and Size:

Comment: The sector plan is clear in that the community vision for this Main Street area is for mid-rise (four to six-story) mixed-use buildings. Specifically, the building heights map on page 201 of the sector plan indicates that the maximum height, in general, for Subarea 3a is five stories. However, the sector plan, in its economic development strategy section, reiterates that the redevelopment of this corridor is driven by the market. The sector plan's land use and zoning strategies are aimed at establishing a flexible policy and regulatory framework to facilitate market-based decisions by the private sector.

The proposed building height is 17 stories with a 16-foot high penthouse (see Finding 8 (b) below for a comparison with an existing high-rise project in close proximity to this site). The proposed building height represents a heretofore-unanticipated vision of what redevelopment opportunities and market support exist along this strip of commercial corridor. In developing height recommendations for the sector plan, the community consensus was expressed along with a recognition in the sector plan text that accommodating flexibility in redeveloping this existing commercial strip may require departure from the consensus recommendations. On page 201, Building Height, the sector plan specifically states "Upon demonstration by applicant that market and design considerations justify additional height, additional stories may be approved." The applicant has provided a market analysis dated August 16, 2005, by Novogradac & Company LLP, demonstrating that there is a market for condominiums. In a memorandum dated October 26, 2005 (Kowaluk to Wagner), the Planning Department Information Center found that the assumptions and methodology employed by the study's authors are valid and reasonable. The memorandum indicates that the "study is based on the projected market being faculty/staff at the University of Maryland. The market study recommends "Even though there will be a demand for one-bedroom units in the market, the preponderance of purchasers will prefer two-bedroom units; therefore we (Novogradac & Company LLP) suggest the developer consider altering the unit mix to include more two-bedroom units." The staff's memorandum also points out that "the market study only provides a justification based on market demand. This study does not attempt to provide a justification for increased density based on the project's financial feasibility." With regard to density, the applicant contends that "allowing the development as proposed requires a certain yield for the project to be successful." And, "in order to provide the amenities and the mixed use called for, the project requires a certain density." The applicant draws upon the consultant report and cites the findings and recommendations in that report, many of which are acknowledged in the sector plan text.

In terms of design considerations, the Urban Design Section notes that because of the small size of the site (slightly over one acre), off-street parking has to be provided in the form of structured parking beneath the buildings, which increases the building height of residential uses by five stories. Also, given the fact that the entire site is within the 100-year floodplain of Paint Branch, that piles must be driven into the soil to support all structures, and that the parking structure cannot be below grade (or below the 100-year floodplain elevation), the additional building height is justified. Because there appear to be adequate market justification and design considerations to warrant the additional building height requested by the applicant, staff is of the opinion that the alternative

development district standard will benefit the development and the development district and will not substantially impair implementation of the sector plan.

B1. Height, Scale, Massing and Size

N. Bedroom Percentages:

Bedroom percentages for multifamily dwellings may be modified from Section 27-419 of the Zoning Ordinance if new development or redevelopment for student housing is proposed and the density is not increased above that permitted in the underlying zone.

Comment: Refer to Finding 2 above for more details on bedroom percentages.

Section 27-419 allows for up to 40 percent two bedroom units, 10 percent three bedroom units and unlimited one-bedroom units. According to Section 27-101.01 of the Zoning Ordinance, a den is a “habitable room, which could be used for sleeping purposes,” and is therefore considered a bedroom. Consequently, one bedroom plus den units are considered two bedroom units and two bedroom plus den units are considered three bedroom units. The bedroom percentages for the project would then be interpreted to be 43 percent one bedroom, 44 percent two bedroom and 13 percent three bedroom units. Since the two and three bedroom units exceed the requirements of the Zoning Ordinance, the applicant has requested an amendment.

The applicant’s justification, in summary, argues that the subject dwelling units will be owner-occupied condominium units, not rental apartments, and that the market being targeted is the faculty/staff at the University of Maryland, not students. The applicant also argues that in this case a den cannot be marketed as a bedroom. If the den did not count as a bedroom, the bedroom percentages would be more in line with requirements. Staff is not opposed to such an amendment to these requirements. In this case, the alternative development district standard will benefit the development and the development district and will not substantially impair implementation of the sector plan.

8. **Zoning Ordinance:** The DSP application has been reviewed for compliance with the requirements of the M-U-I Zone and Part 10B Airport Compatibility of the Zoning Ordinance:

- a. The general purpose of the M-U-I Zone is to permit, where recommended in applicable plans (in this case the 2002 *Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment*), a mix of residential and commercial uses as infill development in areas that are already substantially developed.

Section 27-546.18. Regulation, (b), which is applicable to this review states that:

- (b) **Where an owner proposes a mix of residential and commercial uses on a single lot or parcel in the M-U-I Zone, the site plan as approved shall set out regulations to be followed. The approved regulations may reduce parking requirements by thirty percent where evidence shows that proposed parking will be adequate, notwithstanding provisions in Part 11.**

Comment: The applicant has requested additional reduction based on this provision after using the parking space reduction provision in the DDOZ parking standards. The information provided is not sufficient to justify the request. A condition of approval has been proposed in the Recommendation section to require additional information. See the above Finding 7 for a detailed parking discussion.

Section 27-546.19. Site Plans for Mixed Uses requires that:

(c) **A detailed site plan may not be approved unless the owner shows:**

1. **The site plan meets all approval requirements in Part 3, Division 9;**
2. **All proposed uses meet applicable development standards approved with the Master Plan, Sector Plan, Transit District Development Plan, or other applicable plan;**

Comment: The site plan meets all site design guidelines and Development District Standards of the he 2002 *Approved College Park US 1 Corridor Sector Plan* and the standards of the Development District Overlay Zone (DDOZ) except for those discussed in the above Finding 7.

3. **Proposed uses on the property will be compatible with one another;**
4. **Proposed uses will be compatible with existing or approved future development on adjacent properties and an applicable Transit or Development District; and**

Comment: The application proposed a mixture of residential and commercial office/retail in one building. The proposed parking will be in the parking garage located in the first five story of the building along with the commercial office/ retail. The proposed uses on the subject property will be compatible with each other and will be compatible with existing or approved future development on adjacent properties in the Main Street area of the US 1 corridor.

5. **Compatibility standards and practices set forth below will be followed, or the owner shows why they should not be applied:**
 - (A) **Proposed buildings should be compatible in size, height, and massing to buildings on adjacent properties;**
 - (B) **Primary facades and entries should face adjacent streets or public walkways and be connected by on-site walkways, so pedestrians ay avoid crossing parking lots; and**

- (C) **Site design should minimize glare, light, and other visual intrusion into and impacts on yards, open areas, and building facades on adjacent properties;**
- (D) **Building materials and color should be similar to materials and color on adjacent properties and in the surrounding neighborhoods, or building design should incorporate scaling, architectural detailing, or similar techniques to enhance compatibility;**
- (E) **Outdoor storage areas and mechanical equipment should be located and screened to minimize visibility from adjacent properties and public streets;**
- (F) **Signs should conform to applicable Development District Standards or to those in Part 12, unless the owner shows that its proposed signage program meets goals and objectives in applicable plans; and**
- (G) **The owner or operator should minimize adverse impacts on adjacent properties and the surrounding neighborhood by appropriate setting of:**
 - (i) **Hours of operation or deliveries;**
 - (ii) **Location of activities with potential adverse impacts;**
 - (iii) **Location and use of trash receptacles;**
 - (iv) **Location of loading and delivery spaces;**
 - (v) **Light intensity and hours of illumination; and**
 - (vi) **Location and use of outdoor vending machines.**
(CB-10-2001; CB-42-2003)

Comment: The proposed development is in general compliance with the above requirements in terms of building design, materials, colors, impact on the adjacent properties, parking and loading and operation, except for 5 (E) and (F), because the application does not include outdoor storage or a signage package. The mechanical equipment will be located within the building.

The submitted plan shows that many design considerations have been incorporated into the site layout and elevations. However, additional architectural detail treatments are still needed

on the main façade along U.S 1 to provide enhanced visual interest at the street level for pedestrians. A condition of approval has been proposed in the recommendation section to require the applicant provide more architectural details on the main façade along US 1.

- b. The subject application is located within the Aviation Policy Area (APA) 6 of College Park Airport as defined in Section 27-548.35.

The applicable regulations regarding APA 6 are discussed as follows:

Section 27-548.42. Height requirements

- (a) **Except as necessary and incidental to airport operations, no building, structure, or natural feature shall be constructed, altered, maintained, or allowed to grow so as to project or otherwise penetrate the airspace surfaces defined by Federal Aviation Regulation Part 77 or the Code of Maryland, COMAR 11.03.05, Obstruction of Air Navigation.**
- (b) **In APA-4 and APA-6, no building permit may be approved for a structure higher than fifty (50) feet unless the applicant demonstrates compliance with FAR Part 77.**

Comment: The subject application proposes a 17-story condominium complex with a penthouse. The total height of the proposed building is 186 feet (174 feet for 17 story building and 12 feet for the penthouse), which is more than three times higher than the above height requirement. The applicant indicates in the justification statement that the height of the proposed building is consistent with an existing project, University View, which is several parcels south of the subject site down US 1. University View consists of two buildings, the office and condominium, of which only the condominium building

has been constructed. The office building, which fronts on US 1, is approved as 133 feet and six inches in height. The residential building, which is located behind the office building and has been built, is one inch short of 170 feet. This proposed condominium complex is 16 feet higher than the tallest building in the University View project. At the time the staff report was written, the Maryland Aviation Administration had not yet responded to the referral request. A condition of approval, which is also a condition of approval for the University View project, has been proposed to require prior to certification that the applicant provide evidence that the proposed project does not provide an airway obstruction. The site plan may be revised to reduce or eliminate any perceived obstruction identified by FAA or MAA, subject to the approval of the Planning Board or its designee in consultation with the City of College Park.

Section 27-548.43. Notification of airport environment

- (a) **In all Aviation Policy Areas (APAs) after September 1, 2002, the**

General Aviation Airport Environment Disclosure Notice, in a form approved by the Planning Board, shall be included as an addendum to the contract for sale of any residential property.

- (b) Every zoning, subdivision, and site plan application that requires approval by the Planning Board, Zoning Hearing Examiner, or District Council for a property located partially or completely within an Aviation Policy Area shall be subject to the following conditions:**
 - (2) Development without a homeowners' association: A disclosure clause shall be placed on final plats and deeds for all properties that notifies prospective purchasers that the property has been identified as within approximately one mile of a general aviation airport. The disclosure clause shall include the cautionary language from the General Aviation Airport Environment Disclosure notice.**

Comment: The above conditions regarding general aviation airport environment disclosure have been incorporated into the conditions of approval in the recommendation section of this report.

- 9. **Preliminary Plan of Subdivision 4-03139:** The Planning Board approved the Preliminary Plan of Subdivision 4-03139 with 23 conditions. The preliminary plan remains valid until July 8, 2006, or until a final record plat is approved. The preliminary plan approved by the Planning Board was for a mixed-use development on 2.86 acres of land. The subject detailed site plan covers only a portion of the site approved in Preliminary Plan of Subdivision 4-03139.

At the writing of this staff report, the preliminary plan of subdivision has not yet been modified in accordance with the Planning Board's approval and received signature approval. Pursuant to Section 27-270, Order of Approvals, a detailed site plan should be approved after the approval of a preliminary plan of subdivision. A condition of approval has been proposed in the recommendation section to require that the applicant obtain signature approval for Preliminary Plan of Subdivision 4-03139 prior to certification of the subject detailed site plan.

Of the 23 conditions of approval, the conditions related to the review of the subject detailed site plan are as follows:

- 1. **Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:**
 - a. **To provide a general note that the property is located within APA-6 and is subject to the regulations of Part 10B Airport Compatibility of the Zoning Ordinance.**

- b. To label denied access to US 1 from Parcel B.**
- c. To label that the access easement is provided pursuant to Section 24-128(b)(9) of the Subdivision Regulations.**
- d. To revise the wetland note consistent with the wetland report submitted by the applicant.**

Comment: As discussed above, a condition of approval has been proposed in the recommendation section to require the applicant to fulfill the preliminary plan conditions and obtain final signature approval for Preliminary Plan of Subdivision 4-03139 prior to certification approval of this detailed site plan.

- 2. A Type II tree conservation plan shall be approved in conjunction with the detailed site plan.**

Comment: Type II Tree Conservation Plan TCPII/23/04 has been submitted with this detailed site plan and will be presented to the Planning Board in conjunction with the subject detailed site plan. A review by the Environmental Planning Section recommends approval of TCPII/23/04 subject to several conditions.

- 3. The applicant shall ensure conformance to Section 27-548.43 of the Zoning Ordinance, Notification of Airport Environment, and all applicable notice requirements for development within APA-6.**

Comment: See above Finding 8 for a detailed discussion regarding the application's conformance to Part 10B, Airport Compatibility.

- 6. The developer, his successor and/or assignees shall satisfy the Planning Board that there are adequate provisions to assure retention and future maintenance of the proposed recreational facilities.**

- 7. The private recreational facilities shall be reviewed by the Urban Design Review Section of DRD for adequacy and proper siting, prior to approval of the detailed site plan.**

Comment: The applicant proposes a recreation facility package including a 20 by 40 feet swimming pool, a social room, a fitness room and a landscape area located on the 5th floor (Plaza Level). Other amenities include the promenade trails (in order to fulfill Condition 17 below for mandatory dedication), landscape strip along the site frontage on US 1 with benches, lighting fixtures, trash receptacles, and a rooftop terrace. The condominium association will maintain the recreation facilities and amenities. A condition of approval has been proposed in the recommendation section to require all proposed recreation facilities and amenities to be ready for use by the residents prior to issuance

of any residential use and occupancy permit.

The proposed recreation facility package is acceptable. However, given the size of the project and its intended residents, the staff recommends a reading room be added to the package. In addition, the size of the proposed social room is not large enough to serve its intended use if kitchen appliances will be added as proposed by the applicant. The total gross floor area for the social room and the accessory kitchen should not be smaller than 1,000 square feet. A condition of approval has been proposed in the recommendation section of this report.

8. **US 1 and Quebec Street/north site access: Prior to the approval of the initial building permit for the subject property (Parcels A and B), the applicant shall submit an acceptable traffic signal warrant study to SHA and, if necessary, DPW&T for a signal at the intersection of US 1 and the north site access of Quebec Street, whichever one is deemed by SHA to be the better potential site for a traffic signal. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic as well as existing traffic at the direction of SHA. If a signal is deemed warranted by the responsible agency at that time, the applicant shall bond the signal prior to the release of any building permits within the subject property and install it at a time when directed by the appropriate permitting agency.**

Comment: Access to the “site” was a major issue in the review of the preliminary plan for the City of College Park, State Highway Administration, and staff of M-NCPPC. The preliminary plan proposed a consolidation of access and specifically indicated the limits of the points of access for the entire 2.86 acres. The DSP proposes a point of access at a location that is consistent with the preliminary plan approval.

10. **At the time of detailed site plan and TCP II approval, the plan shall demonstrate that the minimum requirement for tree cover of 10 percent of the gross site area has been provided.**

Comment: This condition will be carried forward and modified as condition of approval prior to certification for this DSP.

13. **Prior to signature approval of the preliminary plan, the forest stand delineation shall be revised and submitted to reflect the following:**
 - a. **Provide a DER-approved floodplain study and delineate the 100-year floodplain in accordance with the approved study;**
 - b. **Show the entire limits of the banks of Paint Branch;**
 - c. **Have the revised plan signed and dated by the qualified professional who prepared the plan.**

- 14. Prior to signature approval of the preliminary plan, the Type I Tree conservation plan shall be revised as follows:**
- a. Clearly show the banks of the stream, a 50-foot buffer from the stream, and an expanded stream buffer that includes the 100-year floodplain;**
 - b. Revise the plan to show the preservation of the 50-foot-wide stream buffer along the southwest property line;**
 - c. Revise the TCPI as needed to address other conditions of approval as necessary;**
 - d. Have the revised plan signed and dated by the qualified professional who prepared the plan.**

Comment: As discussed above, a condition of approval has been proposed in the recommendation section to require the applicant to fulfill the approved preliminary plan conditions and obtain final signature approval for Preliminary Plan of Subdivision 4-03139 prior to certification approval of the detailed site plan.

- 17. Prior to submittal of the detailed site plan, the applicant shall submit a proposal to Planning Department and Department of Parks and Recreation (DPR) staff and they shall determine if the applicant will convey to M-NCPPC 0.35± acre of parkland as shown on DPR Exhibit “A” or if the applicant will construct a trail or promenade (minimum width of eight feet) from the rear of the property extending to the pedestrian bridge to the south of the property, to be built in association with the University View project.**

Comment: Mandatory dedication was evaluated for the entire site at time of preliminary plan of subdivision. The DSP is a part of the property that is the subject of Preliminary Plan 4-03139. There are several significant changes from the preliminary plan that should be carefully considered with the DSP. The preliminary plan was reviewed as a site of 2.86 acres. That preliminary plan approved a consolidation of access for the entire site as discussed above, and proposed a recreational facilities package that included the possible dedication of land to M-NCPPC, stream restoration, and trail construction.

****While addressing these significant changes,** the applicant has chosen to construct a trail or promenade (minimum width of eight feet) from the rear of the property extending ****through M-NCPPC and the University of Maryland properties** to the pedestrian bridge to the south of the property to be built in association with ****M-NCPPC and the University of Maryland** ***[the University View project] other projects nearby,** subject to final approval by the Department of Parks and Recreation. The promenade starts from the US 1 frontage and passes a turnaround area and further connects to the trail in the rear of the property. The promenade is eight feet wide with trees on both sides along with lighting fixtures.

The Department of Parks and Recreation (DPR) in a memorandum dated June 13, 2005, raised concerns about construction of a promenade and required the applicant to undertake a feasibility study to address the concerns prior to making a final decision on how to fulfill the above condition. The applicant agrees to carry out the feasibility study **for the construction of a trail/promenade on M-NCPPC and University of Maryland property first and agrees on a condition of approval to that effect to be incorporated in the recommendation section of this report.

The applicant is proposing residential on the portion of the site previously identified for commercial. The Subdivision Regulations require a 25-foot setback from the 100-year floodplain for residential structures. The DSP should clearly delineate the existing and proposed 100-year floodplain and the required setback graphically on the site plan. A condition of approval has been proposed in the recommendation section of this report.

***The adoption of this finding establishes that Condition No. 17 of the Preliminary Plan and Condition 1.v. of the DSP does not impose any obligation fiduciary or otherwise on the owners of 8400 Baltimore Avenue or University View.*

- 20. If a trail is to be constructed in lieu of mandatory dedication of the parkland, the applicant shall incorporate the construction drawings for the trail into the detailed site plan and construct the trail prior to issuance of a use and occupancy permit for the residential building.**

Comment: As discussed above, pursuant to the requirements of DPR, the applicant has agreed to carry out a feasibility study that also includes a cost analysis of constructing a bridge across the Paint Branch, in the event that a promenade is not feasible to be constructed in accordance with the conditions proposed by the City of College Park. If the trail will be constructed, additional conditions regarding construction drawings have been proposed in the recommendation section of this report as proposed by the DPR.

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[Brackets] denotes deletion

Underlining denotes addition

- 22. Prior to signature approval of the preliminary plan, the applicant shall provide an indemnification agreement to DPR, indemnifying M-NCPPC from any damages or losses to the subject property caused by the stream erosion on adjacent parkland.**

Comment: As discussed above, a condition of approval has been proposed in the recommendation section to require the applicant to fulfill the approved preliminary plan conditions and obtain final signature approval for Preliminary Plan of Subdivision 4-03139 prior to certification approval of the detailed site plan.

- 23. The applicant shall construct a retaining wall or other engineered structure to mitigate development impact from the subject property to the environmentally sensitive areas of Paint Branch Steam Valley Park and to prevent the possibility of damage to the improvements on the site. Construction drawings shall be reviewed and approved by DPR at the time of detailed site plan review.**

Comment: A retaining wall and details have been shown on the site plan. However, no height information has been provided with this detailed site plan. A condition of approval has been proposed in the recommendation section to require the applicant to provide retaining wall height information along with the top and base elevations on the site plan.

10. *Landscape Manual:* The 2002 *Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment* and the standards of the Development District Overlay Zone (DDOZ) have modified the applicable sections of the *Landscape Manual*. In this case, the site plan is subject to residential planting requirements and buffering incompatible uses requirements of the *Landscape Manual*.
- a. Development District Overlay Zone Standards, Site Design, S4, Buffers and screening, Design standards G, requires residential uses within the development district shall comply with the Residential Planting Requirements of the *Landscape Manual*. Section 4.1 (g) of the *Landscape Manual* requires a minimum one shade tree per 1,600 square feet or fraction of green area provided. The Landscape Plan does not provide this information. A condition of approval has been proposed in the recommendation section of this report.
- b. Development District Overlay Zone Standards, Site Design, S4, Buffers and screening, Design standards E, allows a 50 percent reduction of bufferyard requirements, in terms of the width of the bufferyard and the number of the planting units, in order to facilitate a compact form of development compatible with the urban character of the US 1 corridor. Bufferyard is technically required along the north and south property lines where the proposed residential development will be adjacent to two existing fast-food restaurants. Pursuant to Section 4.7 of the *Landscape Manual*, a Type D bufferyard, which has a minimum width of 40 feet, a minimum 50 feet of building setback, and a minimum 160 plant units per 100 linear feet of property line, is technically required. However, the applicant has provided an amendment to the standards. The applicant argues that the residential units will not start until the 5th floor and above. Below the 5th floor, starting from the street level, are stories for parking and commercial office / retail uses. The two existing restaurants are one-story buildings. Along the north boundary, there is an eight-foot-wide connecting promenade to the trails behind the subject site. On the south side, there are landscape strips of various widths and an emergency pedestrian access. The design of the proposed building, which puts the residential above the commercial/office and parking garage within the apron as an alternate buffer treatment, will benefit the development by providing a continuous street wall along the US 1 frontage. The Urban Design Section is of the opinion that the alternate buffer treatment will not substantially impair implementation of the sector plan.
11. **The Woodland Conservation and Tree Preservation Ordinance:** This property is subject to the

provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet; there are more than 10,000 square feet of existing woodland on site, and there is a previously approved Type I Tree Conservation Plan TCPI/01/04, which was approved in conjunction with the approval of Preliminary Plan of Subdivision 4-03139.

- a. A detailed forest stand delineation (FSD) for this site was submitted and reviewed in conjunction with the Preliminary Plan of Subdivision 4-03139 subject to certain conditions. Since the preliminary plan of subdivision has not been certified and the development proposed in this application is different from the approved preliminary plan of subdivision, the final approval of FSD along with Preliminary Plan of Subdivision 4-03139 is required.
- b. Type II Tree Conservation Plan TCPII/24/04, submitted with this application, has been reviewed and was found to require significant revisions. A second review by the Environmental Planning Section of the revised plans indicates that TCP II/24/04 is in general conformance with the requirements of the Woodland Conservation Ordinance, if the deficiencies as identified in the conditions of approval are corrected.

12. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. The Community Planning Division in a memorandum dated May 16, 2006 indicated that the application is consistent with the 2002 General Plan Development Pattern policies for Corridors in the Developed Tier, but does not conform to the land use recommendations of the 2002 *Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment*. Specifically, the community planner notes that the height, lot coverage, and design of the parking structure of the proposed condominium building do not conform to the Development District Standards for Subarea 3a.

Comment: As previously discussed in above Finding 7, the community consensus for this busy corridor was expressed along with recognition that accommodating flexibility in redeveloping this existing commercial strip may require departure from the consensus recommendations. Page 165 of the Sector Plan states that "Modification of the Development District Standards is permitted through the process described in Section 27-548.25 (c).... The Planning Board shall find that the alternate Development District Standards will benefit the development and the development district and will not substantially impair implementation of the Master Plan, Master Plan Amendment, or Sector Plan." The applicant has requested amendments to the standards as identified by the Community Planner pursuant to Section 27-548.25 (c). The Urban Design Section has made the required findings for site plan approval, subject to certain conditions.

- b. The Transportation Planning Section in a memorandum dated June 1, 2006, provided a detailed review of the applicable transportation related conditions attached to previously approved Preliminary Plan of Subdivision 4-03139 and indicated that the proposed transit plan is not well defined. The Transportation Planner concludes that vehicular access and

circulation within the site is acceptable and the plan meets the criteria for detailed site plan approval if the transit plan is further clarified.

Comment: A condition of approval has been proposed in the recommendation section to require the applicant to provide a comprehensive transit solution to be reviewed by the Transportation Section prior to certificate approval of this DSP.

In a separate memorandum from the Transportation Planning Section dated October 25, 2005, on detailed site plan review for master plan trail compliance, the Trails Planner noted that the subject application is in conformance with prior approvals for trails. The staff recommends approval of this DSP and supports the provision of bike racks, a five-foot-wide sidewalk, and landscape strip along with other site amenities as shown on the detailed site plan.

- c. In a memorandum dated September 26, 2005, the Subdivision Section indicated that the subject detailed site plan differs significantly from the approved preliminary plan of subdivision 4-03139. The Subdivision reviewer has also listed all applicable conditions of approval attached to 4-03139. See above Finding 9 for a detailed discussion.

In a supplemental memorandum dated March 3, 2006, the Subdivision Section indicated that the DSP does not provide for a shared access to the site as approved in 4-03139. The reviewer also notes that conformance to the preliminary plan should be determined through the review of the subject detailed site plan.

Comment: The applicant has revised the site plan to provide the shared access as approved in 4-03139. Per the review by the Transportation Planning Section, the proposed development on the subject site, which constitutes approximately 37.6 percent of the size of the site as approved in Preliminary Plan of Subdivision 4-03139, will use approximately 42 percent of the approved site trip generation and thus the proposed development is within the approved development limitation.

- d. In a memorandum dated May 11, 2006, the Environmental Planning Section recommended approval of Detailed Site Plan DSP-05026 and Type II Tree Conservation Plan TCP/23/04 with two conditions, which have been incorporated into the recommendation of this report.
- e. In a memorandum dated March 9, 2006, the Permit Section provided eight comments and questions regarding parking, loading, floodplain, and building height.
- f. The Department of Environmental Resources (Watershed Branch) has indicated in a memorandum dated September 12, 2005 (Rea to Wagner), that the site plan does not show the outfall as approved in Stormwater Concept 30781-2003-01.

Comment: A condition of approval has been proposed in the recommendation section of this report to require the applicant to revise the site plan to show the outfall as approved in

the stormwater management concept plan.

- g. The Department of Parks and Recreation in a memorandum dated June 13, 2006, raised concerns about construction of the promenade and required the applicant to undertake a feasibility study prior to making final a decision on the way the applicant will fulfill the preliminary plan conditions. The DPR proposes two conditions of approval that have been incorporated in the recommendation section of this report.
- h. In a memorandum dated November 22, 2005, the Fire/EMS Department provided a standard memorandum and listed applicable regulations regarding access for fire apparatus, fire lane and location and performance of fire hydrants. The subject site plan is in general conformance with the regulations.
- i. In a memorandum dated March 9, 2006, the State Highway Administration (SHA) identified issues related to access to the site from US 1. The SHA recommends approval of the subject DSP with conditions to address the issues.

Comment: The applicant has revised the plan to address the access issues. Other issues identified by the SHA such as storm drain design plan, computations, and traffic study that are related to access permit will be reviewed and approved by the SHA and will be enforced at time of issuance of the permit by SHA.

- j. The City of College Park in a letter dated June 21, 2006 (Schum, Planning Director to Parker, Chairman of the Planning Board) explained the College Park City Council's decision on this project that includes 14 conditions as stated in the Development Agreement between the City of College Park and the applicant.

Comment: During the public hearing on June 22, 2006, the Planning Board voted to incorporate six conditions into the conditions of approval for this DSP. Those conditions have been included in the recommendation section of this report.

- k. In a memorandum dated September 13, 2005 (Bienenfeld to Wagner), the Historic Preservation Section indicates that a Phase I archeological survey is not recommended on the subject property.
 - l. At the time this staff report was written, neither the City of Berwyn Heights nor the City of Greenbelt had yet responded to the referral request.
13. As required by Section 27-285 (b), the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Type II Tree Conservation Plan (TCP/23/04) and further APPROVED Detailed Site Plan DSP-05026 for the above-described land, subject to the following conditions:

1. Prior to certificate approval of this detailed site plan, the applicant shall:
 - a. Obtain signature approval for Preliminary Plan of Subdivision 4-03139 and provide evidence of approval to the City of College Park.
 - b. Provide a written determination by the Federal Aviation Administration and/or the Maryland Aviation Administration that the proposed project does not provide an airway obstruction. The site plan may be revised to reduce or eliminate any perceived obstruction identified by FAA or MAA, subject to the approval of the Planning Board or designee in consultation with the City of College Park;
 - c. Add a site plan note to indicate that this site plan covers only Parcel B of the approved Preliminary Plan of Subdivision 4-03139;
 - d. Add a site plan note to indicate that this site is within the Aviation Policy Area (APA) 6 of College Park Airport;
 - e. Revise the parking calculation table to reflect the total required number of parking spaces as 434, a parking credit of 76 spaces (equivalent to 17.5%) due to provision of bus service and a waiver of 38 spaces that will be assessed a fee-in-lieu and will be paid to the Parking District to be established by the City of College Park.
 - f. Show a right-in, right-out restricted access to Baltimore Avenue (US 1), subject to final approval of the State Highway Administration (SHA)
 - g. Add a reading room in the recreation package and increase the GFA of the proposed social room to a minimum 1,000 square feet;
 - h. Delineate the existing and proposed 100-year floodplain and where required, the 25-foot setback graphically on the site plan;
 - i. Provide the height information along with the top and bottom elevations of the proposed retaining wall on the site plan;
 - j. Revise the site plan to show the building footprints of the two existing restaurants and label the distance between the proposed building and the existing restaurant buildings;
 - k. Revise the site plan to show streetscape along the site frontage to be parallel to Baltimore Avenue (US 1), subject to final approval of the State Highway Administration (SHA)

- l. Provide a comprehensive transit plan to be reviewed by the Transportation Planning Section and the City of College Park.
- m. Demonstrate that a minimum of 10 percent of the gross site area will be covered by trees. A site plan note shall be provided to state this fact.
- n. Show the outfall location on the site plan as approved in the approved stormwater management concept plan;
- o. Submit construction drawings for a retaining wall or other engineered structure to mitigate development impact to the environmentally sensitive areas of Paint Branch Steam Valley Park;
- p. Revise the TCPII to correctly delineate the existing and proposed 100-year floodplain from a study approved by the Department of Environmental Resources;
- q. Revise TCPII and Landscape Plan to conform to Design Standard S.6.C as follows:
 - (1) Tree cover calculations notes shall be revised to show the correct gross tract area, and the area of the parking structure shall not be deducted from the gross tract area.
 - (2) The individual ten-year tree canopy coverage areas and the total ten-year tree canopy coverage area shall be corrected if indicated.
 - (3) The plans shall be signed and dated by the qualified professionals who prepared them.
- r. Provide additional architectural details on the main façade at the street level.
- s. Add appropriate language in the Condominium Documents obligating the condominium association to provide or contract for shuttle services in perpetuity with the university of Maryland or other appropriate entity which shall provide at a minimum, access to the University of Maryland between 7 a.m. and 11 p.m. on weekdays and 10 a.m. and 1 a.m. on weekends. During peak hours, headways will be not less than 15-minute intervals. During off-peak hours, headways will not be less than 30-minute intervals. Notwithstanding any provision of the Condominium Documents to the contrary, any amendment to these Bylaws that modifies the limitation imposed in this Section must be approved by (1) the City of College Park, Maryland, which approval shall not be reasonably withheld, and (2) a vote of at least 66 2/3% of the Unit Owners.
- t. Provide evidence to show a parking district has been established for the area by the City of College Park. The applicant agrees to pay a fee-in-lieu per parking space of \$5,000 for the off-street parking spaces that are to be waived and/or a special assessment as defined by the parking district. The City of College Park shall collect the fees generated from the district,

and the fees in lieu paid from this project shall not exceed \$245,000. Fifty percent of the fees shall be paid at time of the issuance of the first building permit and the rest of the balance payable prior to issuance of the first residential use and occupancy permit.

- u. Provide parking for a minimum 75 bicycles in the parking garage and along the site's frontage.
- v. The applicant shall submit a feasibility study that** is consistent with the findings of Preliminary Plan Condition #17 and addresses the Department of Parks and Recreation (DPR) concerns about the construction of a promenade and that addresses the feasibility and cost of constructing a bridge across the Paint Branch, in the event that a promenade is not feasible to be constructed. This study shall be used as a basis to assess a fee-in-lieu of the construction. The fee assessed shall not be less than the amount of \$75,000 and shall be placed in a community account with DPR for use in the City of College Park. If the promenade is feasible to be constructed, the applicant shall provide construction drawings to be reviewed and approved by DPR staff, including but not limited to the following:
 - (1) The construction drawings shall be developed in accordance with the *Park and Recreation Facilities Guidelines*.
 - (2) The applicant shall provide to the Commission unobstructed easements over the sections of the proposed promenade on subject property for public use and park police and maintenance vehicular access.
 - *(3) The applicant shall make their best effort to obtain an easement **from M-NCPPC and the University of Maryland*[on University View or University of Maryland Property from adjacent property owners] for the construction of the

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[Brackets] denotes deletion

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connecting section of the promenade **to be located on M-NCPPC and University of Maryland property.** [located on University View or University of Maryland property]. The applicant shall [obtain] provide any needed easements over their property.

- (4) The applicant shall demonstrate, to the satisfaction of DPR, that the promenade is accessible by public safety personal and maintenance staff from both its north and south ends. The applicant shall provide any easements needed over their property.
- (5) Immediately following the submission of the construction drawings to DPR for their review and approval, the location of the trail/promenade shall be staked in the field for the review and approval by DPR staff.

- (6) The trail and/or promenade shall be designed and constructed to assure dry passage. If wet areas must be traversed, suitable structures shall be constructed. Designs for any needed structures shall be reviewed by DPR.
 - (7) Submission of three original, executed public Recreational Facilities Agreements (RFA) for construction of recreational facilities on adjacent parkland to the DPR for their approval, six weeks prior to application for grading permit. Upon approval by the DPR, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
 - (8) Submission to the DPR of a performance bond, letter of credit or other suitable financial guarantee, in an amount to be determined by the DPR, at least two weeks prior to applying first building permit.
- w. Provide the construction drawings for a retaining wall or any other engineered structure to mitigate development impact on the environmentally sensitive areas of Paint Branch Stream Valley Park to the Department Parks and Recreation for review and approval.

2. A general aviation airport environment disclosure notice shall be included as an addendum to the contract for sale of all condominium units;
3. At time of final plat, a disclosure clause shall be placed on the final plat that notifies prospective purchasers of the condominium unit that the property has been identified as within approximately one mile of a general aviation airport. The disclosure clause shall include the cautionary language from the general aviation airport environment disclosure notice;
4. Prior to issuance of any residential use and occupancy permit, the exercise room and social room shall be completed.

Prior to issuance of the 187th residential use and occupancy permit, the outdoor swimming pool and associated plaza areas shall be completed.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Squire, with Commissioners Eley, Squire, Clark, Vaughns and Parker voting in favor of the motion at its regular meeting held on June 22, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of July 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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