NEW PLAN EXCEL REALTY TRUST INC
Form 10-K
February 26, 2007

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 10-K

x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2006

OR

o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission File Number 1-12244

NEW PLAN EXCEL REALTY TRUST, INC.

(Exact Name of Registrant as Specified in Its Charter)

Maryland	**33-0160389**
(State of Incorporation)	(I.R.S. Employer Identification No.)
420 Lexington Avenue	
New York, NY 10170	**(212) 869-3000**
(Address of Principal Executive Offices) (Zip Code)	(Registrant s Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, $0.01 par value per share	New York Stock Exchange
Series E Cumulative Redeemable Preferred Stock	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes x No o

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934. Yes o No x

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months and (2) has been subject to such filing requirements for the past 90 days. Yes x No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10 K or any amendment to this Form 10

K. o

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer x Accelerated Filer o Non-Accelerated Filer o

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

The aggregate market value of the Registrant s shares of common stock held by non-affiliates was approximately $2,508,098,812 as of June 30, 2006, based on the closing price of $24.69 on the New York Stock Exchange on that date.

As of February 21, 2007, the number of shares of common stock of the Registrant outstanding was 103,496,084.

Documents incorporated by reference: Portions of the Proxy Statement for the 2007 Annual Meeting of Stockholders of the Registrant to be filed subsequently with the SEC are incorporated by reference into Part III of this report.

TABLE OF CONTENTS

PART I

Forward-Looking Statements

This Annual Report on Form 10-K, together with other statements and information publicly disseminated by New Plan Excel Realty Trust, Inc. (we or the Company), contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Such statements are based on assumptions and expectations which may not be realized and are inherently subject to risks, uncertainties and other factors, many of which cannot be predicted with accuracy and some of which might not even be anticipated. Future events and actual results, performance, transactions or achievements, financial or otherwise, may differ materially from the results, performance, transactions or achievements expressed or implied by the forward-looking statements. Risks, uncertainties and other factors that might cause such differences, some of which could be material, include, but are not limited to:

- national or local economic, business, real estate and other market conditions, including the ability of the general economy to recover timely from economic downturns;
- the competitive environment in which we operate;
- property ownership and management risks;
- financial risks, such as the inability to obtain debt or equity financing on favorable terms;
- possible future downgrades in our credit rating;
- the level and volatility of interest rates and changes in the capitalization rates with respect to the acquisition and disposition of properties;
- financial stability of tenants, including the ability of tenants to pay rent, the decision of tenants to close stores and the effect of bankruptcy laws;
- the ability to maintain our status as a real estate investment trust (REIT) for federal income tax purposes;
- governmental approvals, actions and initiatives;
- environmental/safety requirements and costs;
- risks of real estate acquisition and development, including the failure of pending developments and redevelopments to be completed on time and within budget and the failure of newly acquired or developed properties to perform as expected;
- risks of disposition strategies, including the failure to complete sales on a timely basis and the failure to reinvest sale proceeds in a manner that generates favorable returns;
- risks of joint venture activities; and
- other risks identified in this Annual Report on Form 10-K and, from time to time, in other reports we file with the Securities and Exchange Commission (the SEC) or in other documents that we publicly disseminate.

We undertake no obligation to publicly update or revise these forward-looking statements, whether as a result of new information, future events or otherwise.

Item 1. ***Business***

General

We are one of the nation s largest owners, managers and developers of community and neighborhood shopping centers. As of December 31, 2006, we owned interests in 467 properties in 38 states, including 289 wholly-owned properties and one property held through a consolidated joint venture (collectively, our Consolidated Portfolio), as well as 177 properties held through unconsolidated joint ventures. The 467 properties include 453 community and neighborhood shopping centers with approximately 67.6 million square feet of gross leasable area (GLA), and 14 related retail assets with approximately 0.7 million square feet of GLA. In addition, we manage three properties, with approximately 0.7 million square feet of GLA, on behalf of third-party owners. Our Consolidated Portfolio includes 278 community and neighborhood shopping centers with approximately 40.7 million square feet of GLA and 12 related retail assets with approximately 0.7 million square feet of GLA. At December 31, 2006, the GLA for our Consolidated Portfolio was approximately 90.7% leased and the GLA for our total portfolio, including our pro rata share of joint venture properties, was approximately 90.9% leased.

We are a self-administered and self-managed equity real estate investment trust, which we refer to as a REIT, that was formed in 1972 and is incorporated in Maryland. We maintain our principal executive offices at 420 Lexington Avenue, New York, New York 10170, where our telephone number is (212) 869-3000.

Focused Product Strategy

Our strategy is to own and manage a quality portfolio of commercial retail properties, primarily community and neighborhood shopping centers, which will provide increasing cash flow while protecting investor capital and providing potential for capital appreciation. We seek to implement this strategy by:

- aggressively managing, and where appropriate, redeveloping and upgrading our properties;
- selectively pursuing new development opportunities;
- selectively acquiring well-located commercial retail properties, primarily community and neighborhood shopping centers, either on an individual basis, in portfolio or corporate transactions, or through joint venture arrangements;
- effecting strategic asset dispositions and recycling the capital created by those transactions;
- providing retail real estate advisory services;
- generating fee income through the management of properties owned by joint ventures in which we have an economic interest, as well as properties owned by independent third parties;
- seeking to reduce risk through geographic, tenant and retail format diversification of our portfolio; and
- continuing to maintain a strong and flexible financial position.

By focusing our portfolio primarily on community and neighborhood shopping centers with anchors and other tenants providing everyday necessities, we believe that our risk due to economic cycles is minimized.

Our ownership interests in real estate consist of our Consolidated Portfolio, which includes wholly-owned properties and properties consolidated in accordance with the provisions of Financial Accounting Standards Board Interpretation No. 46, *Consolidation of Variable Interest Entities* (FIN 46) or in accordance with the provisions of Emerging Issues Task Force (EITF) Issue No. 04-5, *Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar*

Entity When the Limited Partners Have Certain Rights (EITF 04-5), and our unconsolidated joint venture portfolio, which includes properties owned by joint ventures in which we have an economic interest. By entering into strategic joint ventures with institutional investors and other partners, we are able to generate capital sources for redevelopment, new development and acquisitions, as well as create an opportunity to earn fees for property management, leasing and other related services. Our joint ventures may grow through acquisitions from third parties or direct purchases from us. We, together with our joint venture partners, apply similar operating, investing and capital strategies to the portfolios owned by our joint ventures as we do with respect to our Consolidated Portfolio.

Aggressive Management

We aggressively manage our properties, with an emphasis on maintaining high occupancy rates and a strong base of nationally and regionally recognized anchor tenants, as well as local specialty tenants, that generate substantial daily traffic. In order to support these efforts, we have six regional offices and 11 satellite field offices throughout the country, each of which is responsible for managing the leasing, property management and maintenance of properties in its area. We regularly monitor the physical condition of our properties and the financial condition of our tenants. We continually use our leasing and management capabilities to seek opportunities for tenant expansions, renovations and refurbishments to preserve and increase the value of our properties. We are currently improving the general appearance of certain of our properties by upgrading existing facades and roofs, updating signage, resurfacing parking lots and improving parking lot and exterior building lighting. In addition, we remain focused on enhancing our property management skills and our internal capabilities, systems and infrastructure.

We seek to increase the cash flow and portfolio value of our existing properties primarily through contractual rent increases during the lease term, re-letting of existing space at increased rents, expansion and redevelopment of existing properties, development of undeveloped outparcels and the minimization of overhead and operating costs.

Redevelopment and Outparcel Development of Properties

During 2006, we completed 17 redevelopment projects in our Consolidated Portfolio, the aggregate cost of which, including costs incurred in prior years on these projects, was approximately $64.6 million. Our current redevelopment pipeline in our Consolidated Portfolio is comprised of 27 projects, the aggregate cost of which, including costs incurred in prior years on these projects, is expected to be approximately $189.4 million. In addition, during 2006, we completed four outparcel development projects in our Consolidated Portfolio, the aggregate cost of which, including costs incurred in prior years on these projects, was approximately $8.0 million. Our current outparcel development pipeline in our Consolidated Portfolio is comprised of nine projects, the aggregate cost of which, including costs incurred in prior years on these projects, is expected to be approximately $22.2 million. We intend on financing these redevelopment and outparcel development projects through cash from operations or draws on our $350.0 million unsecured revolving credit facility, which was amended and restated on August 25, 2006 (as amended, the Amended Revolving Facility).

We also redevelop properties in our joint venture portfolios and during 2006, we completed one redevelopment project, the aggregate cost of which, including costs incurred in prior years on this project, was approximately $3.9 million, of which our pro rata share was approximately $0.4 million. The current redevelopment pipeline in our joint venture portfolios is comprised of nine projects, the aggregate cost of which, including costs incurred in prior years, is expected to be approximately $125.8 million, of which our pro rata share will be approximately $14.7 million. In addition, we also develop outparcels at properties in our joint venture portfolios and during 2006, we completed two outparcel development projects, the aggregate cost of which, including costs incurred in prior years on these projects, was approximately $6.0 million, of which our pro rata share was approximately $0.3 million. The current outparcel development pipeline in our joint venture portfolios is comprised of one project, the aggregate cost of which, including costs incurred in prior years on this project, is expected to be approximately $2.2 million, of which our pro rata share will be approximately $0.1 million. We intend on financing the redevelopment and outparcel development projects in our joint venture portfolios with a variety of financing vehicles as determined from time to time by the joint venture.

New Development of Properties

We selectively enter into new development opportunities. These projects are driven by tenant demand, and as such, we generally have a lease executed with the anchor tenant prior to investing substantial capital. Such activity enhances our relationships with our anchor tenants by demonstrating our ability to serve their growth needs. Upon completion, we either hold the properties as long-term investments or sell them as part of a merchant building program. Properties that are developed as part of our merchant building program are owned in one of our wholly-owned taxable REIT subsidiaries, in accordance with the Tax Relief Extension Act of 1999, which became effective on January 1, 2001.

Our current new development pipeline in our Consolidated Portfolio is comprised of seven projects, the aggregate cost of which, including costs incurred in prior years on these projects, is expected to be approximately $92.1 million. We intend on financing these new development projects through cash from operations or draws on the Amended Revolving Facility.

We also develop properties in our joint venture portfolios and the current pipeline for such new development projects in our joint venture portfolios is one project, the aggregate cost of which, including costs incurred in prior years on this project, is expected to be approximately $26.9 million, of which our pro rata share will be approximately $1.3 million. We intend on financing any new development projects in our joint venture portfolios with a variety of financing vehicles as determined from time to time by the joint venture.

Acquisition of Properties

We focus on retail properties, primarily community and neighborhood shopping centers that generate stable cash flows and present the opportunity for value appreciation. We may seek to expand our consolidated and joint venture portfolios by making selective, opportunistic acquisitions of individual properties and portfolios of well-located community and neighborhood shopping centers and other retail properties. Such acquisitions may involve stabilized, income-producing community and neighborhood shopping centers, as well as shopping centers that require significant re-tenanting and redevelopment where our ability to leverage our relationships with retailers and to utilize our management capabilities will allow us to enhance value. We may also consider investments in geographic markets where we do not presently operate should suitable opportunities arise.

During 2006, we expanded our Consolidated Portfolio by opportunistically acquiring the following: (i) five shopping centers, (ii) two buildings adjacent to shopping centers owned by us, (iii) the remaining 90% interests in two shopping centers in which we owned the other 10% interests, (iv) a leasehold interest in a new development project and (v) six land parcels. The acquisitions were completed in separate transactions during 2006 for an aggregate purchase price of approximately $197.5 million and were comprised of properties located within our existing regional concentrations. Included in the 2006 acquisitions of shopping centers is the acquisition of Tyrone Gardens, a 209,337 square foot shopping center located in St. Petersburg, Florida, for approximately $19.0 million by NewSem Tyrone Gardens LLC, a joint venture with The Sembler Company in which we hold a 90% interest. In accordance with the provisions of EITF 04-5, this property is included as a consolidated entity in our Consolidated Financial Statements.

During 2006, we also expanded our joint venture portfolios by acquiring, together with our joint venture partners, 15 properties and one land parcel for an aggregate purchase price of approximately $336.3 million.

Disposition of Properties

We generally hold our properties for investment and the production of rental income and not for sale to customers or other buyers in the ordinary course of our business. However, to maximize shareholder value, we continually analyze each asset in our portfolio and identify those properties that can be sold or exchanged in light of prevailing market conditions and the particular characteristics of each property. Through this strategy, we seek to continually update our core property portfolio by disposing of properties that have limited growth potential or are not a strategic fit within our overall portfolio and redeploying such capital into newer properties or properties where management techniques may maximize property values. We may engage from time to time in like-kind property exchanges, which allow us to dispose of properties and redeploy proceeds in a tax efficient manner.

In addition, we may sell and contribute assets to our existing joint ventures or to newly formed joint ventures. Although selling properties to joint ventures reduces our ownership interest in such property, we continue to share in the potential upside of properties that meet our long-term investment strategy, while retaining property management responsibilities, leveraging our infrastructure and generating fee income. In addition, we may facilitate the transfer of an individual asset or portfolio of assets between our joint ventures.

During 2006, we generated proceeds of approximately $124.0 million through the dispositions of 27 shopping centers (15 of which were sold to a single buyer in a portfolio transaction), two miscellaneous properties and six land parcels, each of which were part of our Consolidated Portfolio. In addition, we generated approximately $1.3 million from our pro rata share of the dispositions of three properties and one land parcel held through our joint ventures.

Retail Real Estate Advisory Services

In order to capitalize on our asset management expertise and our broad geographic and tenant reach, we also provide retail real estate advisory services, including leasing and disposition strategies, for retailers. Our efforts may include services for our current tenants, as well as for retailers not currently leasing space in our portfolio. For example, during 2006, we were engaged by The Great Atlantic & Pacific Tea Company to advise on the sublease, assignment or other disposition of certain surplus Farmer Jack and Food Basics lease locations in the Southeast Michigan and Toledo, Ohio markets.

Portfolio Diversification

We seek to reduce risk through diversification achieved by the geographic distribution of our properties, the breadth of our tenant base and the balanced mix of both community and neighborhood shopping centers. As a result, the largest shopping center in our Consolidated Portfolio, as a percent of our total Consolidated Portfolio annualized base rent (ABR), is just 2.0% of our total Consolidated Portfolio ABR and the ten largest tenants in our Consolidated Portfolio account for 18.2% of our total Consolidated Portfolio ABR. Including our pro rata share of ABR from unconsolidated joint venture properties, our largest shopping center, as a percent of our total portfolio ABR, is just 1.8% of our total portfolio ABR and our ten largest tenants account for 17.8% of our total portfolio ABR. Our properties are strategically located across 38 states and throughout more than 165 metropolitan and micropolitan statistical areas (as defined by The United States Office of Management and Budget for application to Census Bureau data). By owning both community shopping centers and neighborhood shopping centers we are able to offer convenience shopping for the day-to-day needs of consumers, as well as a broad range of general merchandise.

Financing Strategy

General

We intend to finance redevelopments of existing assets, new developments and future acquisition opportunities with the most advantageous sources of capital available to us at the time, which may include the sale of common stock, preferred stock or debt securities through public offerings or private placements, the incurrence of additional indebtedness through secured or unsecured borrowings, and the reinvestment of proceeds from the disposition of properties or joint venture interests. We also may enter into additional joint ventures with institutions to acquire individual properties or portfolios, reducing the amount of capital required by us to make such investments. Our financing strategy is to maintain a strong and flexible financial position by:

- maintaining a prudent level of leverage in order to maintain current investment-grade credit ratings,
- maintaining a large pool of unencumbered properties, and
- managing our exposure to interest rate risk from our floating rate debt.

Financing Activities

Amendments and Restatements of Credit Agreements

On August 25, 2006, we amended and restated our then existing $350.0 million unsecured revolving credit facility and added an accordion feature to the Amended Revolving Facility that allows us, subject to certain conditions, to increase the amount that can be borrowed under the facility to $500.0 million. The Amended Revolving Facility bears interest at LIBOR plus 55 basis points (based on our current credit ratings) and incurs an annual facility fee of 15 basis points. The Amended Revolving Facility is scheduled to mature on August 25, 2010, with a one-year extension option.

On August 25, 2006, we also amended and restated our then existing $150.0 million secured term loan (as amended, the Amended Secured Term Loan). The Amended Secured Term Loan bears interest at LIBOR plus 55 basis points (based on our current credit ratings) and is scheduled to mature on August 25, 2010.

Issuance of 3.70% Senior Convertible Notes and Repurchase of $50.0 Million of Common Stock

On September 19, 2006, we completed a private offering of $200.0 million aggregate principal amount of 3.70% senior convertible notes (the 3.70% Convertible Notes) due September 15, 2026 (the September 2006 Debt Offering). At certain times and upon the occurrence of certain events, the notes are convertible into cash up to their principal amount and, with respect to the remainder, if any, of the conversion value in excess of such principal amount, cash or shares of our common stock. The initial conversion rate will be 30.5506 shares per $1,000 principal amount of notes (which is equivalent to an initial conversion price of $32.73 per share). The notes may not be redeemed by us prior to September 20, 2011 (except to preserve our status as a REIT for U.S., federal income tax purposes), but are redeemable anytime thereafter, in whole or in part, at a redemption price equal to the principal amount of the notes plus any accrued and unpaid interest (including additional interest), if any. In addition, on September 20, 2011, September 15, 2016, and September 15, 2021, or upon the occurrence of certain change in control transactions prior to September 20, 2011, note holders may require us to repurchase all or a portion of the notes at a purchase price equal to the principal amount plus any accrued and unpaid interest on the notes.

Net proceeds from the September 2006 Debt Offering were used to repurchase and retire 1,863,600 shares of our common stock at an average purchase price of $26.83 per share (approximately $50.0 million in aggregate value) and for general corporate purposes, including the repayment of outstanding borrowings under our Amended Revolving Facility.

On November 3, 2006, we filed a registration statement on Form S-3 (the Registration Statement) registering the resale of the 3.70% Convertible Notes and the shares of our common stock, which may, under certain circumstances, become issuable upon conversion of the 3.70% Convertible Notes. The 3.70% Convertible Notes were originally sold to qualified institutional buyers by means of a private placement in accordance with Rule 144A under the Securities Act of 1933, as amended. At the time of the September 2006 Debt Offering, we entered into a Registration Rights Agreement with the initial purchasers of the 3.70% Convertible Notes, which required the filing of the Registration Statement. We will not receive any of the proceeds from the sale of the 3.70% Convertible Notes or the shares of common stock issuable upon conversion of the 3.70% Convertible Notes by the selling securityholders. On November 22, 2006, December 11, 2006, December 22, 2006, January 16, 2007 and February 2, 2007, we filed prospectus supplements to the Registration Statement naming additional beneficial holders as selling securityholders of the 3.70% Convertible Notes and shares of our common stock issuable upon conversion of the 3.70% Convertible Notes.

Competition

We face considerable competition in the leasing of real estate, which is a highly competitive market. We compete with a number of other companies in providing leases to prospective tenants and in re-letting space to current tenants upon expiration of their respective leases. If our tenants decide not to renew or extend their leases upon expiration, we may not be able to re-let the space. Even if the tenants do renew or we can re-let the space, the terms of renewal or re-letting, including the cost of required renovations or concessions to tenants, may be less favorable or more costly than current lease terms or than expectations for the space. We believe that the principal competitive factors in attracting tenants in our market areas are location, price, co-tenants and physical conditions of our properties. In this regard, we aggressively manage and, where appropriate, redevelop and upgrade, our properties, with an emphasis on maintaining high occupancy rates and a strong base of nationally and regionally recognized anchor tenants, as well as local specialty tenants, that generate substantial daily traffic. In addition, we believe that the breadth of our national portfolio of properties, and the local knowledge and market intelligence of our regional operating system, make us attractive to national, regional and local retailers.

In addition, we face significant competition for acquisitions of, and investments in, properties and real estate companies with an indeterminate number of investors, including investors with access to significant capital such as domestic and foreign corporations and financial institutions, publicly traded and privately held REITs, private institutional investment funds, investment banking firms, life insurance companies and pension funds. The current market for acquisitions continues to be highly competitive. Nevertheless, we believe that our experience in operating, acquiring, developing and obtaining financing for community and neighborhood shopping centers, particularly our ability to structure acquisitions, should enable us to compete effectively. Given our operating and capital strategies, we have the capacity to acquire individual properties or portfolios on both our own balance sheet or with joint venture capital, which enables us to allocate risk and increase returns. We can also acquire stabilized, income producing properties or properties that can benefit from our re-tenanting and redevelopment competencies. In addition, because of the breadth of our portfolio, we can acquire properties across the nation and are able to efficiently absorb such properties into our scalable regional operating system.

Environmental Exposure

We are subject to federal, state and local environmental regulations that apply generally to the ownership of real property and the operations conducted on real property. Under various federal, state and local laws, ordinances and regulations, we may be considered an owner or operator of real property or may have arranged for the disposal or treatment of hazardous or toxic substances or petroleum product releases at a property and, therefore, may become liable for the costs of removal or remediation of certain hazardous substances released on or in our property or disposed of by us, as well as certain other potential costs which could relate to hazardous or toxic substances (including governmental fines and injuries to persons and property). Such liability may be imposed whether or not we knew of, or were responsible for, the presence of these hazardous or toxic substances. As is common with community and neighborhood shopping centers, many of our properties had or have on-site dry cleaners and/or on-site gasoline facilities. These operations could potentially result in environmental contamination at the properties. The cost of investigation, remediation or removal of such substances may be substantial, and the presence of such substances, or the failure to properly remediate such substances, may adversely affect our ability to sell or rent such property or to borrow using such property as collateral.

We are aware that soil and groundwater contamination exists at some of our properties. The primary contaminants of concern at these properties include perchloroethylene and trichloroethylene (associated with the operations of on-site dry cleaners) and petroleum hydrocarbons (associated with the operations of on-site gasoline facilities). We also are aware that asbestos-containing materials exist at some of our properties. While we do not expect the environmental conditions at our properties, considered as a whole, to have a material adverse effect on us, there can be no assurance that this will be the case. Further, no assurance can be given that any environmental studies performed have identified or will identify all material environmental conditions, that any prior owner of the properties did not create a material environmental condition not known to us or that a material environmental condition does not otherwise exist with respect to any of our properties.

Employees

As of December 31, 2006, we employed approximately 440 individuals (including, executive, administrative and field personnel).

Available Information

Our internet website address is www.newplan.com. The information contained on our website is not incorporated by reference into this report and such information should not be considered a part of this report. You can obtain on our website, free of charge, a copy of our annual report on Form 10-K, our quarterly reports on Form 10-Q, our current reports on Form 8-K, and any amendments to those reports, as soon as reasonably practicable after we electronically file such reports or amendments with, or furnish them to, the SEC. Also available on our website, free of charge, are copies of our Code of Business Conduct and Ethics, our Code of Ethics for Principal Executive Officer and Senior Financial Officers, our Corporate Governance Guidelines, and the charters for each of the committees of our Board of Directors the Audit Committee, the Corporate Governance and Nominating Committee and the Executive Compensation and Stock Option Committee. Copies of our Code of Business Conduct and Ethics, our Code of Ethics for Principal Executive Officer and Senior Financial Officers, our Corporate Governance Guidelines, and our committee charters are also available in print free of charge, upon request by any stockholder. You can obtain such copies in print by contacting our Senior Vice President of Corporate Communications, either by mail at our corporate office or by e-mail at corporatecommunications@newplan.com.

Financial Information about Industry Segments

Our principal business is the ownership, management and development of community and neighborhood shopping centers. We do not distinguish or group our operations on a geographical basis when measuring performance. All operations are within the United States and no tenant accounts for more than 10% of total revenue. Accordingly, we believe we have a single reportable segment for disclosure purposes in accordance with accounting principles generally accepted in the United States. See the Consolidated Financial Statements and Notes thereto included in Item 8 of this Annual Report on Form 10-K for certain information required by Item 1.

Item 1A. *Risk Factors*

Overview

Set forth below are the risks that we believe are material to investors who purchase or own our securities that are not otherwise described in this Annual Report on Form 10-K. We have separated the risks into three groups:

- risks related to our properties and business;
- risks related to our organization and structure; and
- tax risks.

The occurrence of any of the following factors or circumstances could adversely affect our cash flows, financial condition, results of operations and/or our ability to meet our operating expenses, including debt service and capital expenditure obligations, and make distributions to our stockholders, any or all of which could in turn cause a decline in the market value of our securities.

Risks Related to Our Properties and Business

The economic performance and value of our properties are subject to risks associated with real estate assets and with the real estate industry. As a real estate company, we are subject to all of the risks associated with owning and operating real estate, including:

- changes in the national, regional and local economic climate, particularly in Texas, where properties that represented 17.0% of our Consolidated Portfolio total ABR and 17.3% of our total portfolio total ABR, each as of December 31, 2006, are located;
- local conditions, including an oversupply of space in properties similar to those that we own, or a reduction in demand for properties similar to those that we own;
- the attractiveness of our properties to tenants;
- the financial stability of tenants, including the ability of tenants to pay rent;
- competition from other available properties;
- changes in market rental rates;
- the need to periodically fund the costs to repair, renovate and re-let space;
- changes in operating costs, including costs for maintenance, insurance and real estate taxes;
- earthquakes, tornados, hurricanes and other natural disasters, civil unrest, terrorist acts or acts of war, which may result in uninsured or underinsured losses;

11

- the fact that the expenses of owning and operating properties are not necessarily reduced when circumstances such as market factors and competition cause a reduction in income from the properties; and

- changes in laws and governmental regulations, including those governing usage, zoning, the environment and taxes.

Downturns in the retailing industry likely will have a direct impact on our performance. Our properties consist of community and neighborhood shopping centers and other retail properties. Our performance therefore is linked to economic conditions in the market for retail space generally, and a decrease in the demand for retail space may have a greater adverse effect on our business and financial condition than if we owned a more diversified real estate portfolio. The market for retail space has been or could be adversely affected by weakness in the national, regional and local economies, the adverse financial condition of some large retailing companies, the ongoing consolidation in the retail sector, the excess amount of retail space in a number of markets, and increasing consumer purchases through catalogues and the Internet. To the extent that any of these conditions occur, they are likely to impact market rents for retail space and could adversely affect our business.

Failure by any anchor tenant with leases in multiple locations to make rental payments to us, because of a deterioration of its financial condition or otherwise, could seriously harm our performance. Our performance depends on our ability to collect rent from tenants. At any time, our tenants may experience a downturn in their business that may significantly weaken their financial condition. As a result, our tenants may delay a number of lease commencements, decline to extend or renew a number of leases upon expiration, fail to make rental payments when due under a number of leases, close a number of stores or declare bankruptcy. Any of these actions could result in the termination of the tenant s leases, or expiration of existing leases without renewal, and the loss of rental income attributable to the terminated or expired leases. In addition, lease terminations by an anchor tenant or a failure by that anchor tenant to occupy the premises could result in lease terminations or reductions in rent by other tenants in the same shopping centers under the terms of some leases. In that event, we may be unable to re-lease the vacated space at attractive rents or at all. The occurrence of any of the situations described above, particularly if it involves a substantial tenant with leases in multiple locations, could seriously harm our performance. As of December 31, 2006, our largest tenants were The Kroger Co., Wal-Mart Stores and Sears Holdings Corp., the scheduled ABR for which, represented 4.1%, 2.4% and 2.3%, respectively, of our total ABR including our pro rata share of ABR generated by properties owned by unconsolidated joint ventures. As of December 31, 2006, The Kroger Co., Wal-Mart Stores and Sears Holdings Corp. represented 4.3%, 2.5% and 2.4%, respectively, of our scheduled ABR, excluding our pro rata share of ABR generated by properties owned by unconsolidated joint ventures.

We may be unable to collect balances due from any tenants in bankruptcy. We cannot assure you that any tenant that files for bankruptcy protection will continue to pay us rent. A bankruptcy filing by or relating to one of our tenants or a lease guarantor would bar all efforts by us to collect pre-bankruptcy debts from that tenant or the lease guarantor, or their property, unless we receive an order permitting us to do so from the bankruptcy court. A tenant or lease guarantor bankruptcy could delay our efforts to collect past due balances under the relevant leases, and could ultimately preclude collection of these sums. If a lease is assumed by the tenant in bankruptcy, all pre-bankruptcy balances due under the lease must be paid to us in full. However, if a lease is rejected by a tenant in bankruptcy, we would have only a general unsecured claim for damages. Any unsecured claim we hold may be paid only to the extent that funds are available and only in the same percentage as is paid to all other holders of unsecured claims, and there are restrictions under bankruptcy laws that limit the amount of the claim we can make if a lease is rejected. As a result, it is likely that we will recover substantially less than the full value of any unsecured claims we hold from a bankrupt tenant.

We face considerable competition in the leasing market and may be unable to renew leases or re-let space as leases expire. We compete with a number of other companies in providing leases to prospective tenants and in re-letting space to current tenants upon expiration of their respective leases. If our tenants decide not to renew or extend their leases upon expiration, we may not be able to re-let the space. Even if the tenants do renew or we can re-let the space, the terms of renewal or re-letting, including the cost of required renovations or concessions to tenants, may be less favorable or more costly than current lease terms or than expectations for the space. As of December 31, 2006, leases were scheduled to expire on a total of approximately 11.6% of the space at our properties (including our pro rata share of properties owned by unconsolidated joint ventures) through 2007. We may be unable to promptly renew the leases or re-let this space, or the rental rates upon renewal or re-letting may be significantly lower than expected rates.

Future acquisitions of properties may not yield the returns we expect, may result in disruptions to our business and may strain management resources. We intend to continue acquiring select community and neighborhood shopping centers. In deciding whether to acquire a particular property, we make certain assumptions regarding the expected future performance of that property. However, newly acquired properties may fail to perform as expected. Our management may underestimate the costs necessary to bring acquired properties up to standards established for their intended market position, which may result in the properties failure to achieve projected returns.

In particular, we may acquire large portfolios of community and neighborhood shopping centers. Large portfolio acquisitions pose risks for our ongoing operations in that:

- we may not achieve expected cost savings and operating efficiencies;
- management attention may be diverted to the integration of acquired properties;
- the acquired properties may not perform as well as we anticipate due to various factors, including changes in macro-economic conditions and the demand for retail space; and
- we may experience difficulties and incur expenses related to the assimilation and retention of employees that we have hired or intend to hire to manage and operate acquired properties.

We face significant competition for acquisitions of real properties, which may reduce the number of acquisition opportunities available to us and increase the costs of these acquisitions. We compete for acquisitions of, and investments in, properties and real estate companies with an indeterminate number of investors, including investors with access to significant capital such as domestic and foreign corporations and financial institutions, publicly traded and privately held REITs, private institutional investment funds, investment banking firms, life insurance companies and pension funds. The current market for acquisitions continues to be extremely competitive. This competition may increase the demand for the types of properties in which we typically invest and, therefore, reduce the number of suitable acquisition opportunities available to us and increase the prices paid for such acquisition properties.

Current and future development and redevelopment of real estate properties may not yield expected returns and may strain management resources. We are actively involved in several ongoing redevelopment projects, and in the past few years have become more actively involved in development projects. We also expect to invest in additional development and redevelopment projects in the future.

Redevelopment and new development of properties are subject to a number of risks, including the following:

- abandonment of development activities after expending resources to determine feasibility;
- construction and/or lease-up delays;

- cost overruns, including construction costs that exceed our original estimates;

- failure to achieve expected occupancy and/or rent levels within the projected time frame, if at all; and
- delays with respect to obtaining or the inability to obtain necessary zoning, occupancy, land use and other governmental permits, and changes in zoning and land use laws.

If any of these problems occur, overall project costs may significantly exceed the costs that were estimated when the project was originally undertaken, which will result in reduced returns, or even losses, from such investments. In addition, delays in the completion of a development or redevelopment project may provide various tenants the right to withdraw from a property.

Our current and future joint venture investments could be adversely affected by a lack of sole decision-making authority and our reliance on joint venture partners financial condition. We have invested in some cases as a co-venturer or partner in the development or redevelopment of new properties, instead of developing projects directly. These investments involve risks not present in a wholly owned development or redevelopment project, including the following:

- in these investments, we do not have exclusive control over the development, financing, leasing, management and other aspects of the project, which may prevent us from taking actions that are opposed by our joint venture partners;
- we may be required to obtain prior consent from our co-venturers or partners for a sale or transfer to a third party of our interests in the joint venture, which restricts our ability to dispose of our interest in the joint venture;
- our co-venturers or partners might have interests or goals that are inconsistent with our interests or goals, and may be in a position to take actions contrary to our interests or otherwise impede our objectives;
- our co-venturers or partners also might become insolvent or bankrupt, which may delay construction or development of a property or increase our financial commitment to the joint venture;
- such investments have the potential risk of impasse on certain major decisions, such as a sale, because neither we nor our partner or co-venturer typically have full control over the joint venture;
- any disputes that may arise between us and our joint venture partners could result in litigation or arbitration that could increase our expenses and distract our officers and/or directors from focusing their time and effort on our business; and
- we might be liable for the actions of our joint venture partners in certain circumstances, and the activities of a joint venture could adversely affect our ability to qualify as a REIT, even though we do not control the joint venture.

As of December 31, 2006, we had approximately $91.4 million of investments in and advances to 13 unconsolidated joint ventures that own an aggregate of 177 properties. The largest of these investments is our investment in the Galileo America LLC venture. We have a 5% equity interest in this joint venture, which interest was acquired on August 10, 2005 in conjunction with our sale of an aggregate of 69 community and neighborhood shopping centers to Galileo America LLC. Our investment in this joint venture is subject to the risks described above for jointly owned investments. As of December 31, 2006, this joint venture was comprised of 132 stabilized assets, two assets undergoing redevelopment and one new development asset.

Real estate property investments are illiquid, and therefore we may not be able to dispose of properties when appropriate or on favorable terms. Real estate property investments generally cannot be disposed of quickly. In addition, the federal tax code imposes restrictions on a REIT s ability to dispose of properties that are not applicable to other types of real estate companies. In particular, the tax laws applicable to REITs require that we hold our properties for investment, rather than primarily for sale in the ordinary course of business, which may cause us to forego or defer sales or properties that otherwise would be in our best interest. Therefore, we may not be able to vary our portfolio in response to economic or other conditions promptly or on favorable terms, which may adversely affect our financial position.

Some potential losses are not covered by insurance, so we could lose a significant portion of our investment in a property. We carry comprehensive liability, fire, extended coverage, rental loss and acts of terrorism insurance on all of our properties. We believe the policy specifications and insured limits of these policies are adequate and appropriate given the relative risk of loss, the cost of the coverage and industry practice. There are, however, certain types of losses, including lease and other contract claims, acts of war and acts of God, and, in some cases, flooding, that generally are not insured, either because such coverage is not available or is not available at commercially reasonable rates. If we experience a loss which is uninsured or which exceeds policy limits, we could lose a significant portion of the capital we have invested in the damaged property, as well as the anticipated future revenue from the property. Inflation, changes in building codes and ordinances, environmental considerations, and other factors also might make it impractical or undesirable to use insurance proceeds to replace a property after it has been damaged or destroyed. In addition, if the damaged properties are subject to recourse indebtedness, we would continue to be liable for the indebtedness, even if these properties were irreparably damaged.

There can be no assurance as to future costs and the scope of coverage that may be available under insurance policies. Although we believe our properties are adequately covered by insurance, we cannot predict at this time if we will be able to obtain full coverage in the future at a reasonable cost. The costs associated with property and casualty renewals may be higher than anticipated.

We have substantial scheduled debt payments, which will result in significant debt service obligations, and we may not be able to refinance debt at maturity. As of December 31, 2006, the total principal amount of our outstanding debt was approximately $1.8 billion. Therefore, our business is subject to risks normally associated with debt financing, including the risk that our cash flow will be insufficient to pay expected dividends to stockholders and meet required payments of principal and interest. We are also subject to the risk that we may not be able to refinance existing debt, which in virtually all cases requires substantial principal payments at maturity, and, even if we can, the terms of a refinancing might not be as favorable as the terms of existing debt. If principal payments due at maturity cannot be refinanced, extended or paid with proceeds of other capital transactions, including new equity capital, cash flow may not be sufficient in all years to repay all maturing debt at the relevant time(s) and we may be forced to dispose of properties on disadvantageous terms. In addition, prevailing interest rates, our results of operations and financial condition, our senior debt ratings or other factors at the time of refinancing, including the possible reluctance of lenders to make loans, may result in higher interest rates and increased interest expense, which could adversely affect our cash flow and our ability to pay distributions to stockholders.

Our degree of leverage could limit our ability to obtain additional financing and adversely affect our business and financial condition. Our organizational documents do not contain any limitation on the incurrence of debt. The degree of our leverage could have important consequences, including:

- requiring us to dedicate a substantial portion of our funds from operations to servicing our debt, thereby reducing the amount available for distributions;

- affecting our ability to obtain additional financing in the future for working capital, capital expenditures, acquisitions, development or other general corporate purposes; and

- making us more vulnerable to economic and industry downturns.

In addition, as a result of the financial and operating covenants described below, our leverage could reduce our flexibility in conducting our business and planning for, or reacting to, changes in our business and in the real estate industry.

We currently have variable rate debt obligations, which could be substantial in the future and may impede our operating performance and put us at a competitive disadvantage. As of December 31, 2006, we had approximately $265.3 million of outstanding floating rate debt, including the impact of swaps, maturing at various times up to September 1, 2011. In addition, we could increase the amount of our outstanding variable rate debt in the future in part by borrowing under the Amended Revolving Facility, which bears interest at a variable rate and had approximately $309.0 million available for draw as of December 31, 2006. The rates on our variable rate indebtedness increase when interest rates increase. Interest rates are currently low relative to historical levels and may increase significantly in the future. Increases in interest rates, or the loss of the benefits of any hedging agreements that we might have, would increase our interest expense, which would adversely affect cash flow and our ability to service debt and pay dividends to stockholders.

Hedging agreements enable us to convert floating rate liabilities to fixed rate liabilities or fixed rate liabilities to floating rate liabilities. Hedging agreements expose us to the risk that the counterparties to such agreements may not perform, even though the counterparties to hedging agreements that we enter into are major financial institutions, which could increase our exposure to fluctuating interest rates. In addition, hedging agreements may involve costs, such as transaction fees or breakage costs, if we terminate them. As of December 31, 2006, we were a party to four hedging agreements.

As discussed above, we may borrow additional money with floating interest rates in the future. Increases in interest rates, or the loss of the benefits of our existing or future hedging agreements, would increase our interest expense, which would adversely affect cash flow and our ability to service our debt. Future increases in interest rates will increase our interest expense as compared to the fixed rate debt underlying our hedging agreements and could result in our making payments to unwind such agreements.

Mortgage debt obligations expose us to the possibility of foreclosure, which could result in the loss of our investment in a property or group of properties subject to mortgage debt. As of December 31, 2006, we had approximately $437.3 million of mortgage debt outstanding, excluding the impact of unamortized premiums. If a property or group of properties is mortgaged to secure payment of debt and we are unable to meet mortgage payments, the holder of the mortgage or lender could foreclose on the property, resulting in loss of our investment. Also, certain of these mortgages contain customary negative covenants which, among other things, limit our ability, without the prior consent of the lender, to further mortgage the property, to enter into new leases or materially modify existing leases, and to discontinue insurance coverage.

Our financial covenants may restrict our operating and acquisition activities. The Amended Revolving Facility, the Amended Secured Term Loan and the indentures under which our senior unsecured debt is issued contain certain financial and operating covenants, including, among other things, certain coverage ratios, as well as limitations on our ability to incur secured and unsecured debt, make dividend payments, sell all or substantially all of our assets and engage in mergers and consolidations and certain acquisitions. These covenants may restrict our ability to pursue certain business initiatives or certain acquisition transactions. In addition, failure to meet any of these covenants, including the financial coverage ratios, could cause an event of default under and/or accelerate some or all of our indebtedness, which would have a material adverse effect on us.

A downgrade in our credit rating could negatively impact us. The floating rates of interest applicable to much of our debt, including debt under our credit facilities, are determined based on the credit ratings of our debt provided by independent rating agencies. Thus, if these credit ratings are downgraded, our interest expense will be, and our ability to raise additional debt may be, negatively impacted.

Environmental problems that exist at some of our properties could result in significant unexpected costs. We are subject to federal, state and local environmental regulations that apply generally to the ownership of real property and the operations conducted on real property. Under various federal, state and local laws, ordinances and regulations, we may be considered an owner or operator of real property or may have arranged for the disposal or treatment of hazardous or toxic substances or petroleum product releases at a property and, therefore, may become liable for the costs of removal or remediation of certain hazardous substances released on or in our property or disposed of by us, as well as certain other potential costs which could relate to hazardous or toxic substances (including governmental fines and injuries to persons and property). Such liability may be imposed whether or not we knew of, or were responsible for, the presence of these hazardous or toxic substances. As is common with community and neighborhood shopping centers, many of our properties had or have on-site dry cleaners and/or on-site gasoline facilities. These operations could potentially result in environmental contamination at the properties. The cost of investigation, remediation or removal of such substances may be substantial, and the presence of such substances, or the failure to properly remediate such substances, may adversely affect our ability to sell or rent such property or to borrow using such property as collateral.

We are aware that soil and groundwater contamination exists at some of our properties. The primary contaminants of concern at these properties include perchloroethylene and trichloroethylene (associated with the operations of on-site dry cleaners) and petroleum hydrocarbons (associated with the operations of on-site gasoline facilities). We also are aware that asbestos-containing materials exist at some of our properties. While we do not expect the environmental conditions at our properties, considered as a whole, to have a material adverse effect on us, there can be no assurance that this will be the case. Further, no assurance can be given that any environmental studies performed have identified or will identify all material environmental conditions, that any prior owner of the properties did not create a material environmental condition not known to us or that a material environmental condition does not otherwise exist with respect to any of our properties.

Changes in market conditions could adversely affect the market price of our publicly traded securities. As with other publicly traded securities, the market price of our publicly traded securities depends on various market conditions, which may change from time to time. Among the market conditions that may affect the market price of our publicly traded securities are the following:

- the extent of institutional investor interest in the company;
- the reputation of REITs generally and the reputation of REITs with portfolios similar to ours;
- the attractiveness of the securities of REITs in comparison to securities issued by other entities (including securities issued by other real estate companies);
- our financial condition and performance;
- the market s perception of our growth potential and potential future cash dividends;
- changes in our revenues or earnings estimates or recommendations by securities analysts;
- publication of research reports about us or our industry by securities analysts;
- an increase in market interest rates, which may lead prospective investors to demand a higher distribution rate in relation to the price paid for our shares;
- strategic decisions by us or our competitors, such as acquisitions, divestments, spin-offs, joint ventures, strategic investments or changes in business strategy;
- the passage of legislation or other regulatory developments that adversely affect us or our industry;

- speculation in the press or investment community;

- actions by institutional shareholders or hedge funds, including trading or hedging activity; and
- general economic and financial market conditions.

Sales of a substantial number of shares of our stock, or the perception that such sales could occur, also could adversely affect prevailing market prices for our stock. These sales also might make it more difficult for us to sell equity or equity-related securities in the future at a time and price that we deem appropriate. In addition to the possibility that we may sell shares of our stock in a public offering at any time, we also may issue shares of common stock upon redemption of units of partnership interest held by third parties in affiliated partnerships that we control, as well as in connection with grants of restricted stock or upon exercise of stock options that we grant to our officers and employees. All of these shares will be available for sale in the public markets from time to time.

Risks Related to Our Organization and Structure

Provisions of the company s charter and bylaws could inhibit changes in control of the company, and could prevent stockholders from obtaining a premium price for our common stock. A number of provisions of our charter and bylaws may delay, defer or prevent a change in control of the company or other transactions that could provide stockholders with a premium over the then-prevailing market price of our common stock or that might otherwise be in the best interests of the stockholders. These provisions include a staggered board of directors, advance notice requirements for stockholder proposals and our share ownership limit described below. In addition, our charter permits our Board of Directors to issue up to 25,000,000 shares of preferred stock, having those preferences, conversion or other rights, voting powers, restrictions, limitations as to distributions, qualifications, or terms or conditions of redemption as determined by our Board of Directors. Thus, any future series of our preferred stock may have voting or other provisions that could delay or prevent a change in control or other transaction that might involve a premium over the then-prevailing market price of our common stock or that might otherwise be in the best interests of the stockholders.

Our Board of Directors could adopt the limitations available under Maryland law on changes in control that could prevent transactions in the best interests of stockholders. Certain provisions of Maryland law may have the effect of inhibiting a third party from making an acquisition proposal or of impeding a change in control under circumstances that otherwise could provide our common stockholders with the opportunity to realize a premium over the then-prevailing market price of our common stock, including the following:

- business combination moratorium/fair price provisions that, subject to limitations, prohibit certain business combinations between us and an interested shareholder (defined generally as any person who beneficially owns 10% or more of the voting power of our outstanding shares or an affiliate thereof) for five years after the most recent date on which the shareholder becomes an interested shareholder, and thereafter a business combination with an interested stockholder must be approved by two super-majority stockholder votes unless, among other conditions, our common stockholders receive a minimum price for their shares and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares of common stock; and

- control share provisions that provide that control shares of our company (defined as shares which, when aggregated with other shares controlled by the shareholder, entitle the shareholder to exercise one of three increasing ranges of voting power in electing trustees) acquired in a control share acquisition (defined as the direct or indirect acquisition of ownership or control of control shares from a party other than the issuer) have no voting rights except to the extent approved by our shareholders by the affirmative vote of at least two thirds of all the votes entitled to be cast on the matter, excluding all interested shares, and are subject to redemption in certain circumstances.

Our Board of Directors has opted out of these provisions of Maryland law. As a result, these provisions will not apply to a business combination or control share acquisition involving the company. Our Board of Directors may, however, repeal these elections in most cases and cause the company to become subject to these provisions in the future.

Our share ownership limit may discourage a takeover of the company and depress our stock price. To facilitate maintenance of our REIT qualification and for other strategic reasons, our charter generally prohibits any person from acquiring or holding shares of our preferred and common stock in excess of 9.8% (by value or by number of shares, whichever is more restrictive) of the outstanding shares of each class or series of our stock. Our Board of Directors may exempt a person from this ownership limit under specified conditions. Absent an exemption or a waiver, shares of stock that are purportedly transferred in excess of the ownership limit will be automatically transferred to a trust for the exclusive benefit of one or more charitable beneficiaries, and the purported transferee will not acquire any rights in such shares. This ownership limit could delay or prevent a change in control of the company and, therefore, could adversely affect the stockholders ability to realize a premium over the then-prevailing market price for our shares.

We are dependent on external sources of capital, which may not be available. To qualify as a REIT, we must, among other things, distribute to our stockholders each year at least 90% of our REIT taxable income (excluding any net capital gains). In order to eliminate federal income tax, we will be required to distribute annually 100% of our net taxable income (including capital gains). Because of these distribution requirements, we likely will not be able to fund all future capital needs, including capital for property development and acquisitions, with income from operations. We therefore will have to rely on third-party sources of capital, which may or may not be available on favorable terms or at all. Our access to third-party sources of capital depends on a number of things, including the market s perception of our growth potential and our current and potential future earnings and our ability to continue to qualify as a REIT for federal income tax purposes.

Tax Risks

Failure of the company to qualify as a REIT would have serious adverse consequences to stockholders. We believe that the company has qualified for taxation as a REIT for federal income tax purposes since September 28, 1998, the date of the merger of our predecessor companies, New Plan Realty Trust and Excel Realty Trust, Inc., and that our predecessor companies qualified for taxation as REITs for federal income tax purposes since their first elections to be taxed as REITs and for each taxable year where a failure to qualify would adversely affect the company. We plan to continue to operate so that the company meets the requirements for taxation as a REIT. Many of these requirements, however, are highly technical and complex. The determination that the company is a REIT requires an analysis of various factual matters and circumstances that may not be totally within our control. For example, to qualify as a REIT, at least 95% of our gross income must come from certain sources that are itemized in the REIT tax laws. We are also required to distribute to stockholders at least 90% of our REIT taxable income (excluding any net capital gains). The fact that we hold certain of our assets through partnerships and their subsidiaries further complicates the application of the REIT requirements. Even a technical or inadvertent mistake could jeopardize the company s REIT status. Furthermore, Congress and the Internal Revenue Service might make changes to the tax laws and regulations, and the courts might issue new rulings, that make it more difficult, or impossible, for the company to remain qualified as a REIT.

If the company fails to qualify as a REIT and any available relief provisions do not apply, the company would not be allowed to take a deduction for distributions to stockholders in computing its taxable income, and it would be subject to federal and state income tax (including any applicable alternative minimum tax) at regular corporate rates. Also, unless the Internal Revenue Service granted the company relief under certain statutory provisions, the company would remain disqualified as a REIT for four years following the year the company first failed to qualify. If the company failed to qualify as a REIT, the company would

have to pay significant income taxes and would therefore have less money available for investments, debt service and dividends to stockholders. This likely would have a significant adverse affect on the value of our securities. In addition, we would no longer be required to pay any dividends to stockholders.

Even if the company qualifies as a REIT for federal income tax purposes, we are required to pay certain federal, state and local taxes on our income and property. For example, we will pay tax on any net taxable income or gain that we do not distribute in a taxable year. We may also be subject to a 4% nondeductible excise tax on the amount, if any, by which distributions paid by us in any calendar year are less than sum of 85% of our ordinary income, 95% of our capital gain net income and 100% of our undistributed income from prior years.

In addition, if we have net income from prohibited transactions, that income will be subject to a 100% tax. In general, prohibited transactions are sales or other dispositions of property held primarily for sale to customers in the ordinary course of business. The determination as to whether a particular sale is a prohibited transaction depends on the facts and circumstances related to that sale. While we have undertaken a significant number of asset sales in recent years, we do not believe that those sales should be considered prohibited transactions, but there can be no assurance that the Internal Revenue Service would not contend otherwise. The need to avoid this penalty tax could cause us to forego or defer sales of our properties that we might otherwise have sold or that might otherwise be in our best interest to sell or to own and sell such properties through a taxable REIT subsidiary. A taxable REIT subsidiary would be subject to a corporate level tax on its taxable income attributable to such sales.

Any net taxable income earned directly by our taxable affiliates, including ERT Development Corporation, is subject to federal, state and local corporate income tax. The taxation of the company at the state and local levels may differ from the federal income tax treatment of the company. To the extent that we and our affiliates are required to pay federal, state and local taxes, we will have less cash available for investment, debt service, and distributions to our stockholders.

Subject to certain exceptions, including the one discussed in this paragraph, a REIT is generally prohibited from owning securities in any one issuer if the value of those securities exceeds 5% of the value of the REIT s total assets or the securities owned by the REIT represent more than 10% of the issuer s outstanding voting securities or more than 10% of the value of the issuer s outstanding securities. A REIT is permitted to own securities of a subsidiary in an amount that exceeds the 5% value test and the 10% vote or value test if the subsidiary elects to be a taxable REIT subsidiary, which is taxable as a corporation. However, a REIT may not own securities of taxable REIT subsidiaries that represent in the aggregate more than 20% of the value of the REIT s total assets. We currently own 100% of the outstanding securities of ERT Development Corporation, which elected, effective January 1, 2001, to be a taxable REIT subsidiary of ours. Each corporate subsidiary in which ERT Development Corporation owns more than 35% of the outstanding voting securities or more than 35% of the value of the outstanding securities will also be treated as a taxable REIT subsidiary of ours. While we believe that we have satisfied the limitations on the ownership of securities with regard to our ownership of interests in ERT Development Corporation during each of the taxable years that each such limitation applied to us, given the highly complex nature of the rules governing REITs and the ongoing importance of factual determinations, we cannot provide any assurance that the Internal Revenue Service would not disagree with our determination.

Several provisions of the applicable tax laws ensure that a taxable REIT subsidiary will be subject to an appropriate level of federal income taxation. For example, a taxable REIT subsidiary is limited in its ability to deduct interest payments made to an affiliated REIT. In addition, the REIT has to pay a 100% penalty tax if the economic arrangements between the REIT, the REIT s tenants, and a taxable REIT subsidiary are not comparable to similar arrangements between unrelated parties.

The company could be disqualified as a REIT or have to pay taxes if its predecessor companies did not qualify as REITs. If either New Plan Realty Trust or Excel Realty Trust, Inc., whose businesses were combined in a merger transaction on September 28, 1998 to form the company, failed to qualify as a REIT throughout the duration of its existence, we might have had undistributed C corporation earnings and profits. If that were the case and either of our predecessor companies did not distribute such earnings and profits prior to the merger transaction, the company might not qualify as a REIT. We believe that each of the predecessor companies qualified as a REIT and that, in any event, neither of the predecessor companies had any undistributed C corporation earnings and profits at the time of the merger transaction. If New Plan Realty Trust failed to qualify as a REIT, it would have recognized taxable gain at the time of the merger transaction (and we would be liable for the tax on that gain). This would be the case even though the merger transaction qualified as a tax-free reorganization, unless we made a special election that was available under the law at the time of the merger. We made that election with respect to the assets acquired from New Plan Realty Trust. This election has the effect of requiring us, if New Plan Realty Trust was not qualified as a REIT, to pay corporate income tax on any gain existing at the time of the merger transaction on assets acquired in the transaction if those assets are sold within 10 years after the transaction. Finally, if either of the predecessor companies did not qualify as a REIT, the company could have been precluded from electing REIT status for up to four years after the year in which that predecessor company failed to qualify if the company were determined to be a successor to that predecessor company.

Item 1B. ***Unresolved Staff Comments***

None.

Item 2. *Properties*

The following table sets forth certain information as of December 31, 2006 regarding our Consolidated Portfolio properties on a state-by-state basis:

State	Number of Properties	Percent Leased	GLA (1)	Percent of Scheduled ABR (2)
Alabama	6	91.6 %	703,686	1.1 %
Arizona	3	86.8 %	601,212	1.3 %
Arkansas	1	100.0 %	60,842	0.0 %
California	11	94.6 %	1,726,058	6.2 %
Colorado	2	98.1 %	364,580	1.3 %
Connecticut	1	92.6 %	97,086	0.3 %
Delaware	1	100.0 %	30,000	0.0 %
Florida	28	90.0 %	4,754,531	13.9 %
Georgia	21	94.0 %	2,488,139	5.8 %
Illinois	10	93.0 %	1,759,856	5.4 %
Indiana	6	89.2 %	828,289	1.5 %
Iowa	2	71.4 %	279,826	0.3 %
Kentucky	9	96.7 %	1,709,912	3.7 %
Louisiana	3	99.3 %	345,573	0.5 %
Maryland	2	72.1 %	163,161	0.3 %
Massachusetts	2	82.2 %	343,532	0.6 %
Michigan	16	90.6 %	2,207,848	5.7 %
Minnesota	1	93.7 %	55,715	0.1 %
Nevada	2	74.4 %	311,512	