



**Howard Hughes Medical Institute, Limited Amendment of the Preliminary Plan to Amend the Forest Conservation Plan 12002096B**



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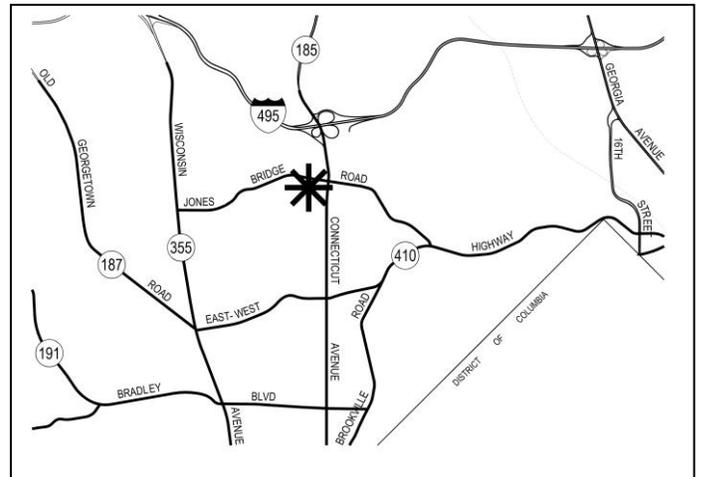


Robert Kronenberg, Chief, Area 1, [robert.kronenberg@montgomeryplanning.org](mailto:robert.kronenberg@montgomeryplanning.org), (301) 495-2187

**Staff Report Date: 9/25/15**

**Description**

- Request: Preliminary Plan Limited Amendment to Revise the Final Forest Conservation Plan to address the SHA condemnation of a portion of the subject property.
- Address: 4000 Jones Bridge Road
- Zone: LSC-0.5 H-65T
- Size: 36.44 acres
- Master Plan: Chevy Chase Lake Sector Plan
- Applicant: Howard Hughes Medical Institute
- Filing Date: November 18, 2014



**Summary**

- To accommodate expected increased traffic associated with the relocation of services and personnel from Walter Reed Hospital in the District of Columbia to the Medical Center in Bethesda, the Maryland State Highway Administration (SHA) will be implementing a series of roadway and intersection improvements, including the intersection of Connecticut Avenue and Jones Bridge Road, adjacent to the Howard Hughes Medical Institute (HHMI) campus. These improvements required SHA to take portions of the HHMI site along Jones Bridge Road, including areas previously placed in Category I Conservation Easement.
- This amendment has been submitted to address the forest conservation impacts associated with the SHA condemnation.
- Staff recommendation: **Approval** with conditions.

**RECOMMENDATION:** This Preliminary Plan and Forest Conservation Plan Amendment is limited to the changes due to the SHA condemnation along Jones Bridge Road and is recommended for approval subject to the following conditions:

- 1) The Final Forest Conservation Plan must be revised to address the following items subject to MNCPPC Staff approval:
  - a. Coordinate with Staff regarding necessary clarifications/corrections of the plan notes and specifications.
  - b. Clarify/correct plan tables to demonstrate the previous and current FCP requirements.
  - c. Delete the revised worksheet and restore the originally approved worksheet.
  - d. Eliminate the “removed” symbols for trees that are beyond the scope of the current amendment.
  - e. Provide up to 12 additional one- to two- inch caliper native plantings as needed to appropriately fill any resulting gaps within the easement area. Final quantities and locations to be determined by the Planning Department Forest Conservation Inspector.
- 2) Condition 9 of Preliminary Plan 12002096R is amended to allow modification of the Category I Easement area by deed instead of record plat.
- 3) The fee-in-lieu payment or certificate of compliance to use an off-site forest mitigation bank that satisfies the 0.40 acre mitigation requirements must be approved by M-NCPPC Staff prior to any clearing or grading within the project area.
- 4) No clearing or grading within the existing Category I Easement area will be permitted until the abandonment and new onsite easement areas are recorded.

## **SITE DESCRIPTION**

The subject property is located at the southwest quadrant of Connecticut Avenue (MD 185) and Jones Bridge Road. The site contains the campus of the Howard Hughes Medical Institute (HHMI) headquarters which was recently rezoned from R-90 to the Life Sciences Center (LSC) Zone. The area is generally surrounded by R-90 zoned properties; however, the mixed-use Chevy Chase Lake Center, including a planned Purple Line Station and access to the Capital Crescent Trail, is located to the south along Connecticut Avenue. The 36.23-acre property is recorded under plat No. 23792.



Figure 1 Air photo of subject property and vicinity

NORTH ↑

There are forested areas and numerous significant and specimen trees associated with the property, however there are no streams, wetlands, floodplains or other naturally occurring hydrologic features or associated buffers. The footprint of the existing forest conservation easements are shown by the green outlined areas in the image above. There is an engineered stormwater management wet pond located in the eastern portion of the site. The site is located within both the Bethesda main stem of Rock Creek (near Platt Ridge Drive) and the Coquelin Run tributary of Rock Creek, both of which are Use I watersheds<sup>1</sup>.

<sup>1</sup> Use I:

**WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE**

Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply and industrial water supply.

## BACKGROUND/ PRIOR APPROVALS

On November 4, 2004, the Planning Board approved (by Resolution dated January 19, 2005) a revised Preliminary Plan 12002096R and associated Forest Conservation Plan (FCP) to add 75,000 square feet of administrative office space to the campus. The associated Final Forest Conservation Plan (FFCP) was approved on May 3, 2007, and reflects the onsite conservation easement areas that exist today.

On October 20, 2005, the Planning Board approved (by Resolution dated November 18, 2005) Preliminary Plan Amendment 12002096A to address the abandonment of a minor portion of unused ROW which was found to overlap the subject property.

The HHMI site was discussed on July 16, 2012 in association with the Mandatory Referral No. [MR2012036](#) for the adjacent Jones Bridge Road modifications under SHA plans for the MD185/Jones Bridge Road Phase 2 Project, associated with a Base Realignment and Closure (BRAC). However the subject property was not formally included as part of the Mandatory Referral.

The Hayes Manor site and its historic setting occupy the southwest portion of the site (Master Plan for Historic Preservation site #35/10). The historic setting is outside the limits of disturbance for this project and the project will have no direct impact on the historic site.



Figure 4 Historic resources exhibit

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## **PROPOSED FOREST CONSERVATION PLAN CHANGES**

The State Highway Administration's (SHA) plans for the MD185/Jones Bridge Road Phase 2 project located adjacent to the Howard Hughes Medical Institute (HHMI) require permanent impact to a portion of the existing onsite Category I Conservation Easement area. HHMI submitted this amendment to address these impacts.

The plans accommodate the removal of 11,357 square feet of Category I Conservation Easement area. A portion of the proposed impacts are mitigated onsite by adding four distinct areas to the existing conservation easement on the subject property which collectively total 2,615 square feet. The net loss of forest easement area is therefore 8,742 square feet or 0.20 acres. The loss of 0.20 acres of easement will be mitigated offsite at a 2:1 ratio of planted forest. The amount of mitigation needed is 0.40 acres of planted forest.

The applicant will satisfy the mitigation requirements either by a fee-in-lieu payment or certificate of compliance from an M-NCPPC approved offsite forest bank. The offsite mitigation must be fully executed prior to clearing or grading of easement area. Furthermore, no construction work within the existing forest conservation easement area will be permitted until the abandonment and new onsite easement areas are recorded.

Since the existing conservation easement area to be abandoned is recorded by plat, the Planning Board's policy is to have a new plat recorded to abandon the portion(s) to be removed (and also reflect any new areas of easement). However, in this case the Applicant has requested that the platted easement abandonment as well as the additions to the easement be recorded by deed only. Given that the Applicant is an institutional use that has occupied the site for decades and is expected to continue to occupy the site for the foreseeable future, Staff supports this request.

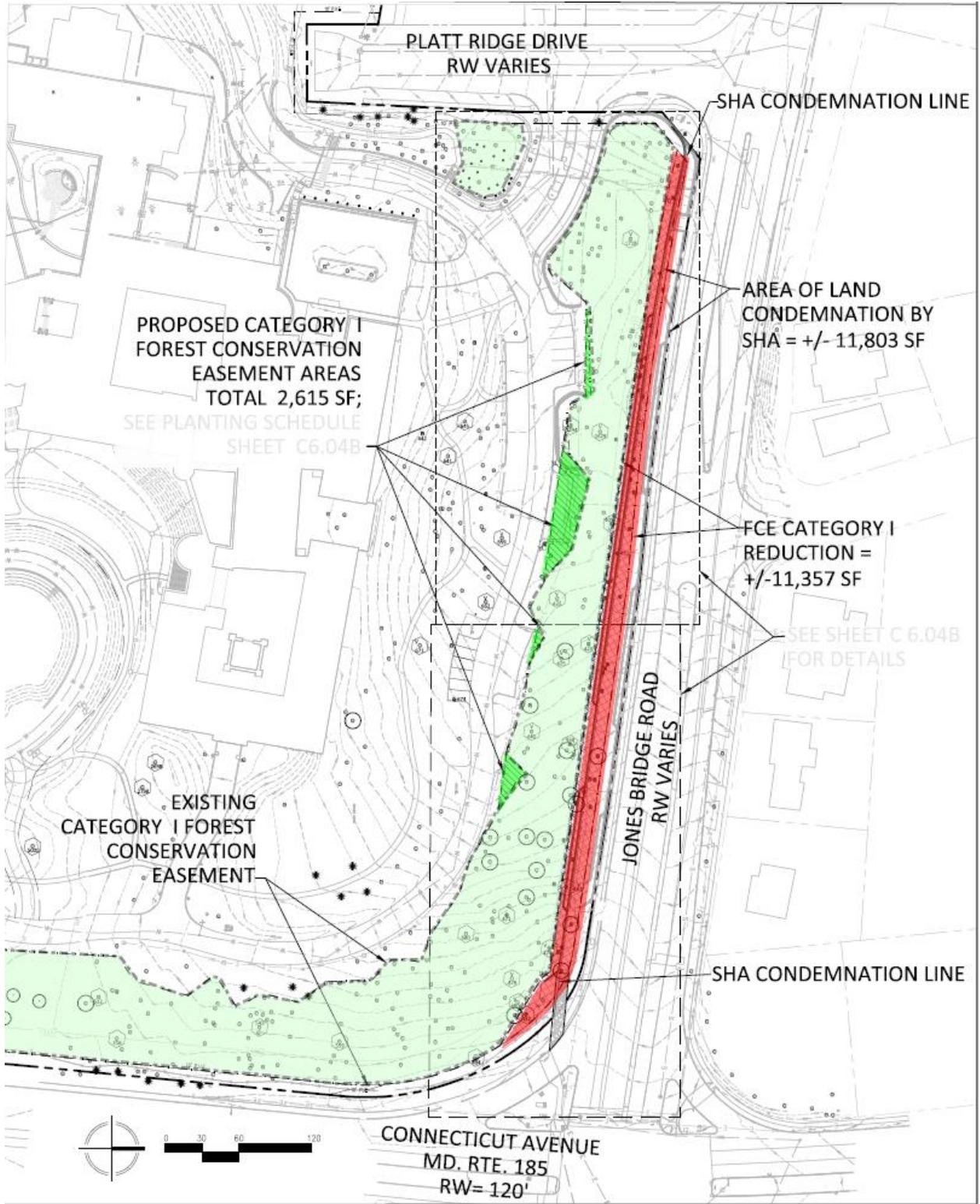


Figure 2 Exhibit of proposed changes to Forest Conservation Easement.

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## Forest Conservation Variance

Section 22A-12(b) (3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

The proposed project includes removal of six trees and disturbance within the CRZ of 11 trees which are subject to a variance due to their size measuring 30 inches DBH or greater (no trees associated with the historic site are affected). The Applicant submitted a variance request (Attachment A) for the impacts to the subject trees as listed in Table 1 and Table 2 below. The Applicants’ request is to remove six trees, and to impact, but not remove, eleven trees are that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Table 1: Subject Trees to be removed

TAG#	SPECIES	D.B.H. (in.)*	CONDITION	DISPOSITION	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %
394	Liriodendron tulipifera	38	Very Poor	REMOVE	10,207	1,104	10.82
405	Liriodendron tulipifera	33	Good	REMOVE	7,698	4,505	58.52
426	Liriodendron tulipifera	36	Good	REMOVE	9,161	3,839	41.91
438	Liriodendron tulipifera	32	Good	REMOVE	7,238	2,638	36.45
463	Liriodendron tulipifera	32	Good	REMOVE	7,238	7,238	100.00
476	Liriodendron tulipifera	35	Good	REMOVE	8,659	4,160	48.04

Table 2: Subject Trees to be impacted but retained

TAG#	SPECIES	D.B.H. (in.)*	CONDITION	DISPOSITION	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %
422	Liriodendron tulipifera	41	Good	SAVE	11,882	2,149	18.09
425	Liriodendron tulipifera	30	Good	SAVE	6,362	888	13.96
440	Liriodendron tulipifera	30	Good	SAVE	6,362	41	0.64
479	Liriodendron tulipifera	42	Good	SAVE	12,469	2,834	22.73
480	Liriodendron tulipifera	38	Good	SAVE	10,207	2,673	26.19
484	Liriodendron tulipifera	41	Good	SAVE	11,882	155	1.30
659	Liriodendron tulipifera	30	Good	SAVE	6,362	417	6.55
662	Liriodendron tulipifera	31	Good	SAVE	6,793	788	11.60
671	Liriodendron tulipifera	32	Good	SAVE	7,238	1,192	16.47
1629	Liriodendron tulipifera	37	Good	SAVE	9,677	3,012	31.13
1718	Liriodendron tulipifera	37	Good	SAVE	9,677	2,042	21.10

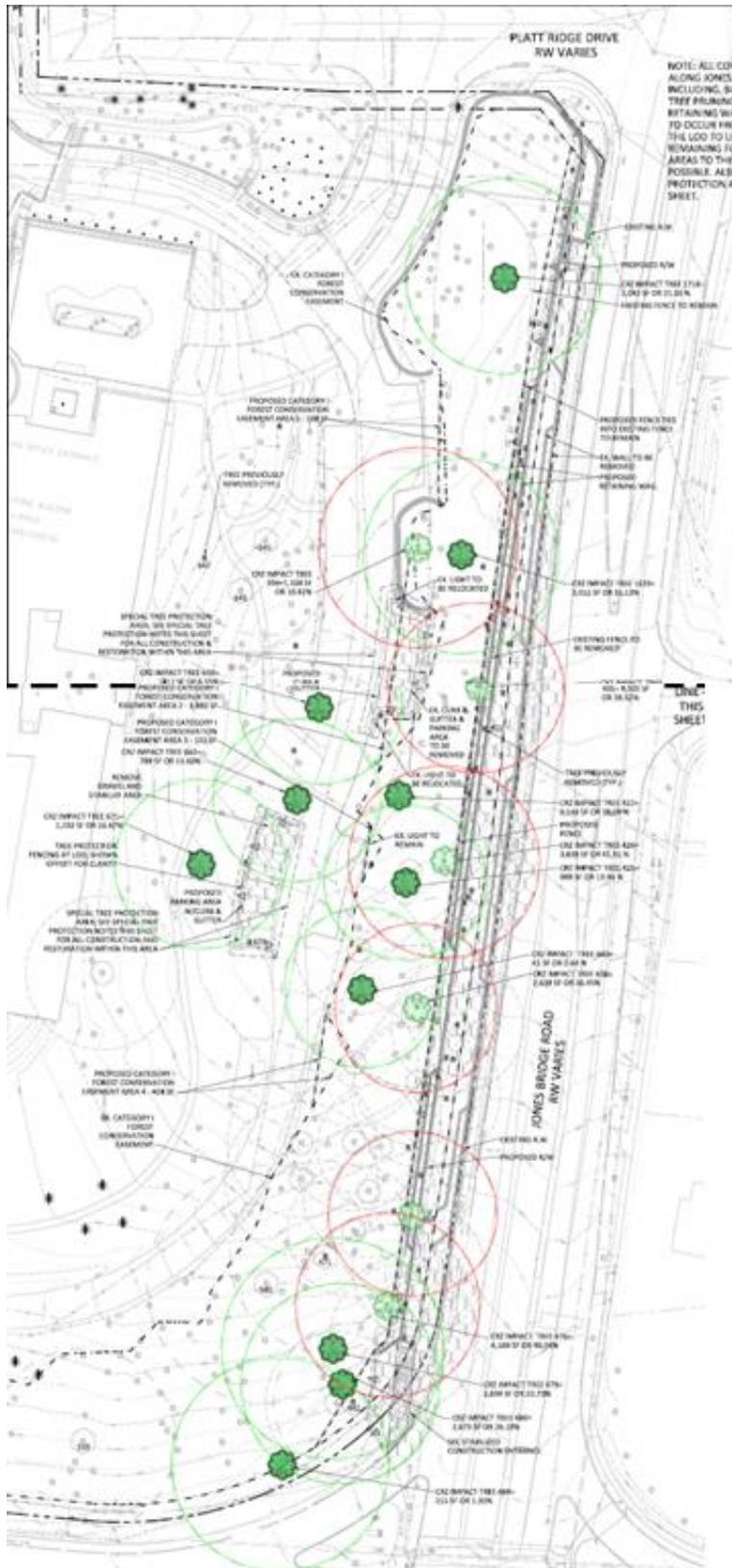


Figure 3 Forest Conservation Variance Impact/Removal exhibit NORTH →

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, the Applicant must demonstrate that enforcement of the variance provision would result in an unwarranted hardship. In this instance, the Applicant has justified that enforcement would result in an unwarranted hardship because it is not possible to entirely avoid impacts to the 17 subject trees. Furthermore, the impacts are a result of a government taking within the subject property and not related to any proposed redevelopment activity by the property owner.

### **Variance Findings**

Granting the requested variance:

1. *Will not confer on the Applicant a special privilege that would be denied to other Applicants.*

The proposed variance is to address the condemnation of portions of the site by SHA. Therefore, the variance request does not confer a special privilege on the Applicant and would not be considered for other Applicants in similar situations.

2. *Is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The requested variance is a result of a government taking for a road project within the subject property.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a direct result of a government taking within the subject property and is not based on a condition related to land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

Aside from the relatively minor footprint of the relocated wall, there is no increase of impervious area on the property remaining after the right-of-way condemnation. The Forest Conservation Plan Amendment proposes additional tree and shrub plantings which help enhance water quality. Furthermore the SHA project will provide storm water management controls addressing the water quality impacts of the road widening project. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

### County Arborist's Recommendation

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection (MCDEP) for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on September 14, 2015. The County Arborist has not issued a

response to the variance request at this time. However, the response is anticipated to be received (prior to the date of the hearing) for presentation to the Board.

The trees subject to this variance that are to be impacted but retained, are appropriate candidates for retention and will receive adequate tree protection measures. However, tulip trees are sensitive to construction impacts and some decline may occur in the future. Furthermore, some of the subject trees will be removed from the footprint of the remaining easement area and will create gaps in the forest structure and the associated buffering function. Therefore M-NCPPC staff recommends mitigation of up to 12 additional one to two inch caliper native plantings as needed to appropriately fill any gaps within the easement area. Final quantities and locations to be determined by the Planning Department Forest Conservation Inspector (after the clearing activity has occurred).

Based on the above findings, Staff recommends that the Applicant's request for a variance from the Forest Conservation Law to remove six trees and impact but retain, eleven subject trees (affecting a total of 17 subject trees) be approved by the Planning Board.

## **CONCLUSION**

Staff recommends **approval** of the proposed amendment with conditions.

## **Attachments**

Attachment A – Applicant's Variance Request

Attachment B – SHA letter

Attachment C – Previous Opinions



July 14, 2015

Mr. Marco Fuster  
 Area 1  
 M-NCPPC  
 8787 Georgia Avenue  
 Silver Spring, MD 20910

**Re: Forest Conservation Tree Variance Request  
 Howard Hughes Medical Institute  
 4000 Jones Bridge Road, Chevy Chase, Montgomery County, Maryland  
 NRI/FSD # 420022670  
 FCP # 120020960  
 VIKA # VM1759B**

Dear Mr. Fuster:

On behalf of our client, Howard Hughes Medical Institute, we are submitting this Tree Variance Request to comply with the Natural Resources, Title 5, Section 5-1607 of the Maryland Code that requires the Applicant to file for a variance to impact the critical root zone, or remove trees that either have a diameter-at-breast-height (DBH) of 30" or greater or are 75% of the diameter of the county champion for that species.

The Howard Hughes Medical Institution is a philanthropic institution that was originally zoned R-90 and developed under special exception. However, it is now zoned Life Science Center (LSC) - 0.5. NRI/FSD #420022670 for the subject property was approved March 2002 and Forest Conservation Plan #120020960 was approved May 3, 2007. Under the approved FCP, 2.77 acres of on-site forest was preserved and the requirement of 3.75 acres of reforestation was provided by way of an off-site forest bank.

This Tree Variance Request is accompanying the submission of Preliminary Plan Amendment 12002096B and Final Forest Conservation Plan Amendment 12002096B. These amendments are required, not because of development plans proposed by the applicant, but rather, because of Maryland State Highway Administration (SHA) condemnation of a portion of the subject property along Jones Bridge Road for expansion of the right-of-way. The condemnation impacts an existing retaining wall, and part of the forest maintained in a category I forest conservation easement adjacent to Jones Bridge Road. The retaining wall and six (6) parking spaces will, therefore, be relocated. The required land condemnation and relocation of the retaining wall and six (6) parking spaces will impact the critical root

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zones of nineteen (17) specimen trees with six (6) trees proposed for removal and eleven (11) trees proposed for preservation.

Tables 1 and 2 below, list the specimen trees as they are identified on the Forest Conservation Plan Amendment. Table 1 list the variance specimen trees proposed for removal and table 2 lists the variances specimen trees proposed for preservation.

**Table 1 Variance Trees Proposed for Removal**

TAG#	SPECIES	D.B.H. (in.)*	CONDITION	DISPOSITION	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %
394	Liriodendron tulipifera	38	Very Poor	REMOVE	10,207	1,104	10.82
405	Liriodendron tulipifera	33	Good	REMOVE	7,698	4,505	58.52
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463	Liriodendron tulipifera	32	Good	REMOVE	7,238	7,238	100.00
476	Liriodendron tulipifera	35	Good	REMOVE	8,659	4,160	48.04

**Table 2 Variance Trees Proposed for Preservation**

TAG#	SPECIES	D.B.H. (in.)*	CONDITION	DISPOSITION	CRZ (SF)	CRZ IMPACT (SF)	CRZ IMPACT %
422	Liriodendron tulipifera	41	Good	SAVE	11,882	2,149	18.09
425	Liriodendron tulipifera	30	Good	SAVE	6,362	888	13.96
440	Liriodendron tulipifera	30	Good	SAVE	6,362	41	0.64
479	Liriodendron tulipifera	42	Good	SAVE	12,469	2,834	22.73
480	Liriodendron tulipifera	38	Good	SAVE	10,207	2,673	26.19
484	Liriodendron tulipifera	41	Good	SAVE	11,882	155	1.30
659	Liriodendron tulipifera	30	Good	SAVE	6,362	417	6.55
662	Liriodendron tulipifera	31	Good	SAVE	6,793	788	11.60
671	Liriodendron tulipifera	32	Good	SAVE	7,238	1,192	16.47
1629	Liriodendron tulipifera	37	Good	SAVE	9,677	3,012	31.13
1718	Liriodendron tulipifera	37	Good	SAVE	9,677	2,042	21.10

The Assessment below was performed by Tim Zastrow, arborist with Bartlett Tree Care Experts July, 2014, as a visual, at-grade-level inspection with no invasive, below grade, or aerial inspections performed at the time. Decay or weakness may be hidden out of sight for large trees.

**Trees Proposed for Removal**

**1) Tree # 394**

**38" Tulip poplar (*Liriodendron tulipifera*):** Tree 394 is located within the existing on-site forest along the loop road adjacent to the property line along Jones Bridge Road, +/- 50 feet from the relocated retaining wall.



- **Field Condition:** Very Poor
- **Proposed CRZ Impact:** limited at 10.82%. The arborist is requesting that this tree be removed due to its very poor condition with advanced root and butt decay as its continued decline will cause it to become a hazard.
- **Disposition:** Tree 394 is specified to be removed.

**2) Tree # 405**

**33" Tulip poplar (*Liriodendron tulipifera*):** Tree 405 is located within the existing on-site forest, +/-88 feet northeast of tree 394, +/- 5 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** severe at 58.52%.
- **Disposition:** Tree 405 is specified to be removed.

**3) Tree # 426**

**36" Tulip poplar (*Liriodendron tulipifera*):** Tree 426 is located within the existing on-site forest +/-22 feet northwest of tree 425, +/- 9 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** severe at 41.91%.
- **Disposition:** Tree 426 is specified to be removed.

**4) Tree # 438**

**32" Tulip poplar (*Liriodendron tulipifera*):** Tree 438 is located within the existing on-site forest +/-85 feet east of tree 426, +/- 17 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** moderate to severe at 36.45%.
- **Disposition:** Tree 438 is specified to be removed.

**5) Tree # 463**

**32" Tulip poplar (*Liriodendron tulipifera*):** Tree 463 is located within the existing on-site forest +/-117 feet east of tree 438, directly in the line of the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** severe at 100%.
- **Disposition:** Tree 463 is specified to be removed.

**6) Tree # 476**

**35" Tulip poplar (*Liriodendron tulipifera*):** Tree 476 is located within the existing on-site forest +/-52 feet east of tree 463, +/- 10 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** severe at 48.04%
- **Disposition:** Tree 476 is specified to be removed.

**Trees Proposed for Preservation**

**7) Tree # 422**

**41" Tulip poplar (*Liriodendron tulipifera*):** Tree 422 is located within the existing on-site forest, +/-76 feet southeast of tree 405, +/- 40 feet from the relocated retaining wall.



- **Field Condition:** Good
- **Proposed CRZ Impact:** moderate at 18.09%.
- **Disposition:** Tree 422 is specified to be preserved.

**8) Tree # 425**

**30" Tulip poplar (*Liriodendron tulipifera*):** Tree 425 is located within the existing on-site forest, +/-50 feet east of tree 422, +/- 32 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** limited at 13.96%.
- **Disposition:** Tree 425 is specified to be preserved.

**9) Tree # 440**

**30" Tulip poplar (*Liriodendron tulipifera*):** Tree 440 is located within the existing on-site forest +/-33 feet southwest of tree 438, +/- 49 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** very limited at 0.64%.
- **Disposition:** Tree 440 is specified to be preserved.

**10) Tree # 479**

**42" Tulip poplar (*Liriodendron tulipifera*):** Tree 479 is located within the existing on-site forest +/-40 feet southeast of tree 476, +/- 28 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** moderate at 22.73%.
- **Disposition:** Tree 479 is specified to be preserved.

**11) Tree # 480**

**38" Tulip poplar (*Liriodendron tulipifera*):** Tree 480 is located within the existing on-site forest +/-20 feet northeast of tree 479, +/- 28 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** moderate at 26.19%.
- **Disposition:** Tree 480 is specified to be preserved.

**12) Tree # 482**

**30" Tulip poplar (*Liriodendron tulipifera*):** Tree 482 is located within the existing on-site forest +/-13 feet south of tree 480, +/- 31 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** moderate at 31.36%.
- **Disposition:** Tree 482 is specified to be preserved.

**13) Tree # 484**

**41" Tulip poplar (*Liriodendron tulipifera*):** Tree 484 is located within the existing on-site forest +/-53 feet southeast of tree 482, +/- 80 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** very limited at 1.30%.
- **Disposition:** Tree 484 is specified to be preserved.

**14) Tree # 659**

**30" Tulip poplar (*Liriodendron tulipifera*):** Tree 659 is located outside of the existing on-site forest along the loop road, +/- 116 feet south of tree 425, +/- 36 feet from the parking spaces that are being relocated, and is not impacted by the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** limited at 6.55%.
- **Disposition:** Tree 659 is specified to be preserved.

**15) Tree # 662**

**30" Tulip poplar (*Liriodendron tulipifera*):** Tree 662 is located outside of the existing on-site forest along the loop road, +/- 55 feet east of tree 659, +/- 32 feet from the relocated parking spaces, and is not impacted by the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** limited at 11.60%.
- **Disposition:** Tree 662 is specified to be preserved.

**16) Tree # 671**

**30" Tulip poplar (*Liriodendron tulipifera*):** Tree 671 is located outside of the existing on-site forest along the loop road, +/- 64 feet southeast of tree 662, +/- 28 feet from the relocated parking spaces, and is not impacted by the relocated retaining wall.

**Field Condition:** Good

- **Proposed CRZ Impact:** limited at 16.47%.
- **Disposition:** Tree 671 is specified to be preserved.

**17) Tree # 1629**

**37" Tulip poplar (*Liriodendron tulipifera*):** Tree 1629 is located within the existing on-site forest, +/-25 feet north of tree 394, +/- 28 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** moderate at 31.13%.
- **Disposition:** Tree 1629 is specified to be preserved.

**18) Tree # 1718**

**33" Tulip poplar (*Liriodendron tulipifera*):** Tree 1718 is located within the existing on-site forest, near the western loop road entrance from Platt Ridge drive, +/-30 feet from the relocated retaining wall.

- **Field Condition:** Good
- **Proposed CRZ Impact:** moderate at 21.10%.
- **Disposition:** Tree 1718 is specified to be preserved.

**Justification Narrative for Tree Disturbance**

To grant the requested variance, the Planning Board must find that the request:

1. Describes the special conditions peculiar to the property which would cause the unwarranted hardship;
2. Describes how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;



3. **Verifies that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and**
4. **Provides any other information appropriate to support the request**

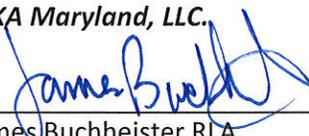
We submit the following rationale in support of the request for a Forest Conservation Tree Variance.

1. The Maryland State Highway Administration (SHA) is condemning a portion of the subject property along Jones Bridge Road for purposes of expanding the right-of-way. This condemnation not only requires revisions to existing easements, but also this Tree Variance request. The forest conservation easement will be revised to comply with Mandatory Referral No. MR2012036 which requires that "no disturbance will be permitted in the area of the category I conservation easement until a plat of the revised easement has been submitted to the Planning Board and approved.
2. Maryland SHA is condemning a portion of the property for the purpose of expanding Jones Bridge Road as part of the BRAC plan. As such, this expansion has driven the applicant into revising affected plans. The applicant is acting in good faith to accommodate the land condemnation, the cost of which is being paid by the applicant. Approval of the variance is necessary for that compliance and is in accord with the approval of the previous mandatory referral.
3. There is no net increase of impervious area on the property remaining after the right-of-way condemnation except for the relocated retaining wall. The forest conservation amendment proposes additional tree and shrub plantings which can help improve water quality. Further, the SHA project will provide stormwater management controls as required by code for all of the impacts of the road widening project, including the retaining wall. Therefore, impacting the critical root zones of eleven (11) specimen trees, and removing six (6) specimen trees will not adversely affect water quality in any measurable way.

Thank you for your consideration of this Tree Variance request. We believe that the supporting information provided with this letter justifies the variance to remove six (6) specimen trees and impact the critical root zone of eleven (11) specimen trees. If you have any questions or need more information, please do not hesitate to contact us so that we may discuss this matter further.

Sincerely,

**VIKA Maryland, LLC.**



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James Buchheister RLA  
Project Landscape Architect

Martin O'Malley, *Governor*  
Anthony G. Brown, *Lt. Governor*



James T. Smith, Jr., *Secretary*  
Melinda B. Peters, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

December 15, 2014

RE:           Montgomery County  
                  MD 185  
                  **Howard Hughes Medical Institute**  
                  **SHA Tracking No.: 14APMO044XX**  
                  **County Number: 12002096B**  
                  Mile Point: 2.22

Mr. Marco Fuster  
Montgomery County Planning Department  
Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

Dear Mr. Fuster:

Thank you for the opportunity to review the Preliminary Plan submittal for the proposed Howard Hughes Medical Institute development in Montgomery County. The State Highway Administration (SHA) review is complete and we are pleased to respond.

Based on the information provided, please address the following comments in a point-by-point response:

**Access Management Division (AMD) Comments:**

1. The SHA has no objection to the amended forest conservation easement. For any right-of-way or easement being donated (dedicated), it is required to be platted to SHA standards. These standards may be found at <http://www.roads.maryland.gov>; - Business Center; - Surveyors Center; then follow the link to Developer Donation Plat Standards. Please contact Ms. Jane Heming, Chief, Records & Research Section, Office of Real Estate at 410-545-2829 or [jheming@sha.state.md.us](mailto:jheming@sha.state.md.us) for existing right-of-way information. Note that any plats produced for the SHA shall be on NAD83/91 datum. Please contact Mr. Dan Sain, Assistant Division Chief, Plats and Surveys Division at 410-545-8961 or [dsain@sha.state.md.us](mailto:dsain@sha.state.md.us) for SHA-GPS control location and information. All plats must be submitted in hard copy format for review, checking and final issuance. All subdivision plats that will be showing donated area must be approved by PSD prior to recordation at the County level. The first plat submission shall come through the Access Management Division directly to Mr. Steven Foster, attention of Mr. Kwesi Woodroffe. Subsequent plat submissions may be made directly to the Plats and Surveys Division. Please contact Mr. Jeff Bonnerwith, Assistant Division Chief, Plats and Surveys Division at 410-545-8950 or [JBonnerwith@sha.state.md.us](mailto:JBonnerwith@sha.state.md.us) for additional information about the Donation Plat review process. Additionally, contact Mr. Paul Lednak, Chief, District 3 Right-of-Way at 301-513-7466 or [Plednak@sha.state.md.us](mailto:Plednak@sha.state.md.us) for information about the Donation Deed requirements and procedures.
2. Please provide detailed maintenance of traffic (MOT) plans for review for the proposed retaining wall relocation on Jones Bridge Road. If the MOT requires signage on MD 185 or encroaches into the state right of way, a District Permit will be required. Once the MOT plans have been reviewed, a determination will be made on whether or not a District Permit will be required.

My telephone number/toll-free number is \_\_\_\_\_

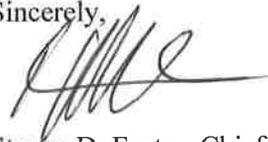
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • [www.roads.maryland.gov](http://www.roads.maryland.gov)

Mr. Marco Fuster  
SHA Tracking No.:14APMO044XX  
Page 2  
December 15, 2014

Further plan submittals should reflect the above comments. Please submit 2 sets of revised plans and a CD containing the plans and supporting documentation in PDF format, as well as a point by point response, to reflect the comments noted above directly to Mr. Steven Foster attention of Mr. Kwesi Woodroffe. Please reference the SHA tracking number on future submissions. Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at <http://www.roads.maryland.gov/pages/amd.aspx>. If you have any questions, or require additional information, please contact Mr. Woodroffe at 410-545-8771, by using our toll free number in Maryland only at 1-800-876-4742 (x8771) or via email at [KWoodroffe@sha.state.md.us](mailto:KWoodroffe@sha.state.md.us).

Sincerely,



for Steven D. Foster, Chief/ Development Manager  
Access Management Division

SDF/kw

cc: Ms. Yuqiong Bai, SHA – Highway Design Division  
Mr. Jeff Bonnerwith, SHA – Plats and Surveys Division  
Mr. John Clapsaddle, Vika Maryland, LLC  
– 20251 Century Blvd, Suite 400, Germantown, MD 20874  
Mr. Rob Cohen ([Cohen@vika.com](mailto:Cohen@vika.com)), Vika Maryland, LLC  
Mr. Greg Edwards, SHA – District 3 Resident Maintenance Engineer  
Mr. Marco Fuster ([marco.fuster@mncppc-mc.org](mailto:marco.fuster@mncppc-mc.org)), M-NCPPC  
Mr. Victor Grafton, SHA – District 3 Utility Engineer  
Ms. Jane Heming, SHA – Office of Real Estate  
Mr. Paul Lednak, SHA – District 3 Right of way  
Mr. Mark Loeffler, SHA – District 3 Utility Area Engineer  
Ms. Anyesha Mookherjee, SHA – District 3 Traffic Engineer  
Mr. Scott Newill, SHA – AMD  
Mr. Robert Obrist, Howard Hughes Medical Institute  
– 4000 Jones Bridge Rd, Chevy Chase, MD 20815  
Mr. Dan Sain, SHA – Plats and Surveys Division  
Mr. Brian Young, SHA – District Engineer (District 3)  
Mr. Greg Leck ([Gregory.Leck@montgomerycountymd.gov](mailto:Gregory.Leck@montgomerycountymd.gov)), Montgomery County  
[eplans@montgomeryplanning.org](mailto:eplans@montgomeryplanning.org)

M-NCPPC


**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

 THE MARYLAND-NATIONAL CAPITAL  
 PARK AND PLANNING COMMISSION

 8787 Georgia Avenue  
 Silver Spring, Maryland 20910-3760  
 301-495-4500, www.mncppc.org

**Date Mailed:**

JAN 19 2005

**Action:** Approved Staff  
 Recommendation

**Motion** of Commissioner Bryant, seconded by Commissioner Wellington, with a vote of 3-0; Commissioners Perdue, Bryant, and Wellington voting in favor. Chairman Berlage and Commissioner Robinson necessarily absent.

**MONTGOMERY COUNTY PLANNING BOARD**
**OPINION**

 Preliminary Plan 1-02096R  
 NAME OF PLAN: Howard Hughes

JAN 19 2005

The date of this written opinion is \_\_\_\_\_ (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

On May 14, 2003, Howard Hughes Medical Institute submitted an application for the approval of a revision to preliminary plan no. 1-02096, which concerns property in the R-90 zone. The application proposed to add 75,000 square feet of administrative office for Philanthropic Institute on 36.44 acres of land located at southwest quadrant of the intersection of Jones Bridge Road and Connecticut Avenue (MD 185), in the Bethesda-Chevy Chase master plan area. The application was designated Preliminary Plan 1-02096R. On November 4, 2004, Preliminary Plan 1-02096R was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. No speakers testified in opposition to the application and the record contains no correspondence opposing the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

## **FINDINGS**

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies<sup>1</sup>; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The Preliminary Plan No. 1-02096R substantially conforms to the Bethesda-Chevy Chase master.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.

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<sup>1</sup> The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended conditions of approval for the application.

- f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

### **CONDITIONS OF APPROVAL**

Finding Preliminary Plan No. 1-02096R in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-09096R, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to the existing uses (195,000 square feet charitable and philanthropic use), 3 residential structures, and an additional 75,000 square feet of office.
- 2) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 3) Applicant is bound by all conditions of Board of Appeals action on Special Exception Case No. S-1565A.
- 4) Compliance with conditions of Historic Area Work Permit 35/10-03K.
- 5) All road rights-of-way shown on the approved preliminary plan shall be dedicated by the applicant to the full width mandated by the Master Plan, unless otherwise designated on the preliminary plan.
- 6) Record plat to reflect a 60 feet of dedication from centerline of Connecticut Avenue.
- 7) Record plat to reflect dedication of 40 feet from centerline of Jones Bridge Road.
- 8) Prior to issuance of initial building permit for the headquarter expansion, provide funding to the Department of Public Works and Transportation (DPWT) to implement the following mitigating measures as agreed with the County Executive staff:
  - a) Funding for the installation of three bus shelters and three real time transit information signs. The location of these installations in the study area will be determined by the division of Transit Services.
  - b) Funding for the installation of 3,120 linear feet of sidewalk in the Bethesda-Chevy Chase Policy Area.

- 9) Record plat to reflect a Category I or Category II easement over all areas of forest conservation as required by the final forest conservation plan.
- 10) Compliance with the conditions of approval of the MCDPS stormwater management approval dated, October 1, 2003.
- 11) Access and improvements as required to be approved by MCDPWT prior to recordation of plat.
- 12) Access and improvements as required by SHA to be satisfied prior to recordation of plat.
- 13) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.
- 14) Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 15) Other necessary easements

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

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APPROVED AS TO LEGAL SUFFICIENCY  
JTB  
M-NCPPC LEGAL DEPARTMENT  
DATE 12/13/04

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

**CERTIFICATION OF BOARD VOTE ADOPTING OPINON**

At its regular meeting, held on **Thursday January 13, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of **Commissioner Bryant, seconded by Commissioner Wellington, with Commissioners Perdue, Bryant, and Wellington** voting in favor of the motion, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan 1-02096R, Howard Hughes**.

  
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Certification As To Vote of Adoption  
M. Clara Moise, Technical Writer

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

Date Mailed: NOV 18 2005

Public Hearing Date: Oct. 20, 2005

Action: Approved Staff  
Recommendation

**Motion** of Commissioner Robinson,  
seconded by Commissioner Wellington,  
with a vote of 4-0;  
Chairman Berlage and Commissioners  
Bryant, Wellington, and Robinson voting  
in favor. Commissioner Perdue absent.

## MONTGOMERY COUNTY PLANNING BOARD

## OPINION

Preliminary Plan 12002096A

NAME OF PLAN: Howard Hughes Medical Center

The date of this written opinion is NOV 18 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

**I. INTRODUCTION**

On 9/07/05, Howard Hughes Medical Institute ("Applicant") submitted an application for the approval of a revision to the preliminary plan of subdivision for property in the R-90 zone. The application proposed to abandon a 127 square foot section of Platt Ridge Road that was not properly abandoned as part of the previous Planning Board review. It was only after final surveys of the property were conducted that the portion of Platt Ridge Road was found to be inaccurately shown as part of the Howard Hughes property.

The application was designated Preliminary Plan 12002096A ("Preliminary Plan"). On 10/20/05, the Preliminary Plan was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the

information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the Applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

## **II. BACKGROUND**

At a regularly scheduled Planning Board hearing on November 4, 2004, the Planning Board approved Preliminary Plan No. 1-02096R for the Howard Hughes Medical Institute, which was a request to allow an additional 75,000 square feet of additional administrative office space to the existing campus located on Connecticut Avenue at Jones Bridge Road ("Subject Property"). The opinion for that decision was mailed on January 19, 2005.

As the Applicant proceeded with the final survey of the property in preparation of the record plat submittal it was discovered that there was a portion of the Platt Ridge Drive right-of-way extending into the Subject Property that had not been properly abandoned. The total area of the unused right-of-way is 127 square feet.

## **III. STAFF RECOMMENDATION**

In situations where there has been no public use of the dedicated right-of-way, the Planning Board may abandon the dedication of the right-of-way in accordance with the procedure set forth in Section 50-15 and Section 49-67A of the Montgomery County Code. Based on consultation with the Department of Public Works and Transportation and findings by the Applicant's engineer there is no existing or anticipated need for this small portion of the right-of-way to be used for public purposes. No significant modifications to the approved preliminary plan are requested under this application. This application only requests the abandonment of the unused portion of Platt Ridge Drive totaling 127 square feet so that it may be included in the lot area of the Howard Hughes Medical Institute property as part of a record plat submission. Given the scope of the request and based on the evidence that there is no existing or anticipated need for the right-of-way for public use, Staff recommended approval of the Preliminary Plan.

## **IV. PLANNING BOARD HEARING**

Staff described the Preliminary Plan application and recommended approval with conditions.

A representative of the Applicant was present at the hearing but did not offer any substantive testimony. No other speakers testified at the hearing.

In response to questions from the Planning Board, Staff indicated that all adjacent and confronting lot owners were notified of the abandonment and no comments were received.

## **V. FINDINGS**

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies<sup>1</sup>; the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds, based on the uncontested evidence of record, that with the conditions of approval:

- a) Preliminary Plan No. 12002096A substantially conforms to the Bethesda-Chevy Chase master plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

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<sup>1</sup> The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

**VI. CONDITIONS OF APPROVAL**

Finding Preliminary Plan No. 12002096A in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 12002096A to revise Preliminary Plan No. 1-02096R to include an unused portion of Platt Ridge Drive consisting of 127 square feet, subject to the following conditions:

Approval, and subject to the following conditions:

- 1) Applicant is bound by all previous conditions of approval for Preliminary Plan 1-02096R, Howard Hughes Medical Institute.
- 2) Approval of Abandonment Resolution MCPB - 0513AB prior to recordation of plat.

*This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h)). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.*

\* \* \* \* \*

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

APPROVED AS TO LEGAL SUFFICIENCY  
Dyb 11/10/05  
M-NCPPC LEGAL DEPARTMENT

**CERTIFICATION OF BOARD ADOPTION OF OPINION**

At its regular meeting, held on **Thursday, November 17, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission by unanimous consent present, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 1-2002096A, Howard Hughes Medical Center**. Vice Chair Perdue abstained.

  
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Certification As To Vote of Adoption  
E, Ann Daly, Technical Writer