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MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-92
Preliminary Plan No. 120110080
9800 Medical Center
Date of Hearing: October 6, 2011

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, the Subject Property (as herein defined) is one of the lots included in the original Shady Grove Life Sciences Center Preliminary Plan 119882330, which was approved by the Planning Board in March, 1990, by which the Subject Property has an assigned density of 313,650 square feet of which approximately 281,379 square feet of R&D uses have been constructed; and

WHEREAS, on December 22, 2010, ARE-Maryland No. 24, LLC ("Applicant"), filed an application for approval of a preliminary plan to construct 230,929 square feet of R&D use for life sciences in addition to the originally assigned 313,650 square feet for a total of 544,579 square feet of R&D uses on a recorded lot in the LSC Zone, which property is bound by Medical Center Drive, Medical Center Way, and Shady Grove Road in the Life Sciences Center (LSC), ("Property" or "Subject Property"), in the Great Seneca Science Corridor (GSSC) Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120110080, 9800 Medical Center Drive ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated September 26, 2011, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on October 6, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910


MNCPPC Legal Department
www.MCParkandPlanning.org

Chairman's Office: 301.495.4605 Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on October 6, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Anderson; with a vote of 4-0, Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor, and Commissioner Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120110080 to construct 230,929 square feet of R&D use for life sciences in addition to the 313,650 square feet of R&D uses previously approved for a total of 544,579 square feet of R&D uses on the Property, subject to the following conditions:

1. Total development under the Preliminary Plan is limited to an additional 230,929 square feet of R&D office space for a total of 544,579 square feet of R&D office space.
2. The Applicant must plat and record a Category I Conservation Easement over all of the onsite stream buffers that lie outside approved permanent encroachments as shown on the preliminary plan. The plat with a Category 1 Easement must be recorded prior to release of any building permits.
3. The Applicant must plant forest on all stream buffers that lie outside permanent encroachments as shown on the Preliminary Plan in the first planting season after issuance of the first sediment control permit.
4. At the time of site plan and Special Protection Area (SPA) final water quality plan review, the Applicant must:
 - a. Minimize the amount of permanent encroachment within the stream buffer.
 - b. Provide a detailed plan for wetland buffer mitigation.
 - c. Provide a forest planting plan for the stream buffer. Plan specifications must be consistent with forest planting requirements in the County Forest Conservation Law and Regulations.
5. The Applicant must satisfy the Local Area Transportation Review (LATR) test by providing the following intersection improvements:
 - a. Key West Avenue-West Montgomery Avenue (MD 28) and Shady Grove Road: Extend eastbound left turns on Key West Avenue.
 - b. Great Seneca Highway (MD 119) and Sam Eig Highway: Construct a third through approach lane on the eastbound approach of Great Seneca Highway.

The recommended intersection improvements listed in 5.a. and 5.b. above must be constructed with the required length as determined by the Montgomery County Department of Transportation (MCDOT) and the Maryland State Highway

Administration (SHA) based on the Applicant's submitted traffic simulation analysis. The Applicant must submit a Letter of Intent to confirm the plan to create, fund, and privately operate a Road Club. The specific intersection improvements must be identified by the "Road Club" and permitted and bonded by the Montgomery County Department of Permitting Services (DPS) and the SHA prior to release of any building permit. The construction of these intersection improvements must be complete and open to traffic prior to issuance of any use and occupancy permit.

6. The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by contributing to the County \$11,300 per/trip for 76 trips, or a total of \$858,800 towards the off-site LATR intersection improvements listed above. If the pro rata share of the Applicant's cost of the intersection improvements is less than \$858,800, the remaining PAMR funds must be paid to MCDOT for master-planned Life Sciences Center roadway and/or intersection improvements. Any PAMR payment to MCDOT must be made prior to the issuance of any building permit.
7. The Applicant must dedicate, and the record plat must reflect, the master-planned recommended 150-foot right-of-way (75 feet from centerline) for Darnestown Road as shown on the Preliminary Plan.
8. The Applicant must construct an eight-foot wide shared use path on Shady Grove Road, with a green panel separating the path from the curb, as shown on the Preliminary Plan, prior to issuance of a building permit. Final location of the shared use path will be determined at the time of site plan review.
9. The Applicant must construct the two separate five-foot wide lead-in sidewalks from the eight-foot wide shared use path along Shady Grove Road, as shown on the Preliminary Plan, prior to issuance of a building permit. Final locations of the lead-in sidewalks will be determined at the time of site plan review.
10. The Applicant must provide a five-foot wide sidewalk on Medical Center Drive as shown on the Preliminary Plan prior to issuance of a building permit.
11. The Applicant must provide and show on the site plan the following pedestrian and bicycle improvements:
 - a. Four inverted-U bike racks near the main entrances of the two proposed buildings in a weather-protected area, and six secured bike storage units (such as lockers) in each of the two proposed buildings' garages, near the entrance, exit, or elevator in a well-lit area. The final locations and types of bicycle parking will be determined at the time of site plan review.
 - b. Handicapped ramps or depressed curbs for the users of the on-site handicapped parking spaces to access the nearby sidewalks.
12. The Applicant must enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Greater Shady Grove Transportation Management Organization (TMO). The Traffic Mitigation Agreement must be executed prior to certification of the site plan.

13. The Applicant must comply with the conditions of approval of the Montgomery County Fire and Rescue (MCF&R) letter dated June 14, 2011. These conditions may be amended by MCF&R, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
14. The Applicant must comply with the conditions of approval of the MCDOT letter dated June 20, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
15. The Applicant must comply with the conditions of DPS stormwater management concept approval letter dated March 24, 2011. These conditions may be amended by DPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
16. The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s), as applicable.
17. No clearing, grading, or recording of plats prior to certified site plan approval.
18. Final approval of the location of buildings, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
19. The certified preliminary plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
20. The Adequate Public Facilities (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
21. All necessary easements must be shown on the Record Plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report and presented at the Hearing, which the Board hereby adopts and incorporates by reference and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Property is located within the LSC of the GSSC Master Plan area. The LSC includes five districts. The Subject Property is located within the Central District. The Master Plan makes the following applicable recommendations for the Subject Property:

- Maximum 1.0 FAR ;
- Maximum 50-110-ft building height;
- The sidewalk and pedestrian improvements as shown on the Preliminary Plan;
- 150-feet of right-of-way for Darnestown Road; and
- Any new commercial square footage (above what has been previously approved and is still valid) is subject to the staging requirements of the LSC.

The Planning Board officially opened Stage 1 of the GSSC Master Plan. Stage 1 allows for approval of an additional 400,000 square feet of commercial development in the LSC. Therefore, 230,929 square feet of the 400,000 square feet permitted by Stage 1 has been allocated to the Subject Property. The total density proposed onsite is 0.69 FAR, and the proposed buildings will not exceed the 110-ft maximum building height restriction in the Master Plan.

Therefore, with the proposed sidewalk and pedestrian improvements, the Planning Board finds the Preliminary Plan is in substantial conformance with the GSSC Master Plan.

- 2. Public facilities will be adequate to support and service the area of the proposed subdivision.*

The Planning Board finds that the following public facilities provide adequate support for and service to the Property:

Site Location and Vehicular Site Access

The Property is located on the northwest quadrant of Darnestown Road and Shady Grove Road with two vehicular access points from Medical Center Drive.

Master-Planned Transportation Demand Management

The Property is located within the boundary of the Greater Shady Grove Transportation Management District (TMD). The Applicant must participate in the TMD and assist the County in achieving and maintaining its non-auto driver mode share goals.

Available Transit Service

Ride-On routes 43 and 66 operate on Medical Center Drive, and Ride-On routes 43 and 56 operate on Shady Grove Road.

Corridor Cities Transitway

The MTA preferred that alignment of the Corridor Cities Transitway (CCT) is not along the roadways fronting the property, but is proposed along nearby Broschart Road with a proposed station at the intersection with Blackwell Road, near the Property.

Master-Planned Roadways and Bikeways

In accordance with the Master Plan and the 2005 Approved and Adopted *Countywide Bikeways Functional Master Plan*, the classified roadways and bikeways are as follows:

1. Darnestown Road is designated as a six-lane major highway, M-22, with a recommended 150-foot right-of-way and a dual bikeway (bike lanes and a share use path on the north side), DB-16. The required additional right-of-way dedication is shown on the submitted plans received on July 21, 2011.
2. Shady Grove Road is designated as a six-lane major highway, M-42, with a recommended 150-foot right-of-way and a dual bikeway (bike lanes and a shared use path on the south side), DB-15. The total 150-foot right-of-way, including the dedication, is shown on the submitted plans received on July 21, 2011.
3. Medical Center Drive is a four-lane arterial, A-261d, with a recommended 100-foot right-of-way and a shared use path, LB-1, on the west side. The 100-foot right-of-way is shown on the submitted plans received on July 21, 2011.
4. Medical Center Way is a four-lane arterial, A-263, with a recommended 100-foot right-of-way and a shared use path, LB-6, on the north side. The 100-foot right-of-way is shown on the submitted plans received on July 21, 2011.

Pedestrian and Bicycle Facilities

The pedestrian and bicycle facilities will be adequate with the additional improvements required in the conditions of approval.

Local Area Transportation Review (LATR)

The table below shows the number of peak-hour trips generated by the proposed land use during the weekday morning peak period (6:30AM to 9:30AM) and the evening peak period (4:00PM to 7:00PM).

R&D Office Space		Square Footage	Site-Generated Peak-Hour Trips	
			Morning	Evening
Previously Approved by Preliminary Plan No. 119882330	Total Approved	313,650	355	331
	Built	281,379	324	303
	Not Built	32,271	31	28
Proposed by Preliminary. Plan No. 120110080	Total Proposed	544,579	571	521
	Previously Approved	313,650	355	331
	Proposed Additional	230,929	216	190

A traffic study was submitted to satisfy the LATR test because the proposed land use generates 30 or more peak-hour trips within the weekday morning and evening peak periods. The table below shows the calculated Critical Lane Volume (CLV) values from the traffic study at the analyzed intersections for the following traffic conditions:

1. Existing

2. **Background:** The existing condition plus the trips generated from approved but unbuilt nearby developments.
3. **Total Not Improved:** The background condition plus the site-generated trips, but without the improvements recommended in this report. The CLV values were analyzed with the intersection improvements required of two background developments.
4. **Total Improved:** The Total Not Improved condition analyzed with intersection improvements described in Recommendation No. 2.

Analyzed Intersection	Weekday Peak Hour	Traffic Condition			
		Existing	Background	Total	
				Not Improved	Improved
Key West Avenue - West Montgomery Avenue and Shady Grove Road	Morning	1,118	1,371 ¹	1,390 ¹	1,390 ¹
	Evening	1,165	1,467 ^{1*}	1,490 ^{1*}	1,381 ¹
Key West Avenue and Omega Drive-Medical Center Drive	Morning	1,063	1,391	1,398	-----
	Evening	1,126	1,437	1,443	-----
Key West Avenue and Broschart Drive-Diamondback Drive	Morning	1,221	1,302 ¹	1,306 ¹	-----
	Evening	1,092	1,307 ¹	1,329 ¹	-----
Key West Avenue and Great Seneca Highway (MD 119)	Morning	1,204	1,438	1,446	-----
	Evening	1,132	1,351	1,371	-----
Darnestown Road and Shady Grove Road	Morning	1,118 ¹	1,202 ¹	1,206 ¹	-----
	Evening	1,122 ¹	1,219 ¹	1,223 ¹	-----
Darnestown Road and Traville Gateway Drive	Morning	1,067	1,098	1,099	-----
	Evening	587	686	690	-----
Darnestown Road and Great Seneca Highway	Morning	1,020	1,058	1,061	-----
	Evening	994	1,091	1,100	-----
Darnestown Road and Travilah Road	Morning	1,035	1,111	1,117	-----
	Evening	933	1,096	1,100	-----
Great Seneca Highway and Sam Eig Highway	Morning	1,182 ¹	1,455 ^{1*}	1,477 ^{1*}	1,254 ¹
	Evening	1,199 ¹	1,259 ¹	1,268 ¹	1,268 ¹
Shady Grove Road and Medical Center Way-Fallsgrrove Blvd	Morning	628	919	967	-----
	Evening	731	900	934	-----

* The CLV values exceed the congestion standard of 1,450 CLV for intersections located in the R&D Village Policy Area.

¹ The CLV values calculated with the intersection improvements required of the JHU-National Cancer Institute and Crown Farm background developments.

The CLV values for all traffic conditions were analyzed with the following completed intersection improvements required of the developer of JHU-National Cancer Institute:

1. A third westbound through lane on Great Seneca Highway from Sam Eig Highway to Muddy Branch Road at the Great Seneca Highway/Sam Eig Highway intersection.
2. Modification of the traffic signal timing to operate the north/south approaches concurrently at the Darnestown Road/Shady Grove Road intersection.

The CLV values for the background, total not improved, and total improved traffic conditions were analyzed with the following intersection improvements required of two background developments (other Applicants):

1. JHU-National Cancer Institute, was required to construct a third left-turn lane on the westbound Shady Grove Road approach at the Key West Avenue-West Montgomery Avenue/ Shady Grove Road intersection (Site Plan No. 820100090).
2. JHU-National Cancer Institute was required to do the following improvements at the Key West Avenue and Broschart Drive-Diamondback Drive intersection:
 - a) Conversion of the inside through lane on the southbound approach of Diamondback Drive to a combined through second left-turn lane.
 - b) Modification of the traffic signal timing on the north/south approaches from a concurrent to a split phase.
3. The developer of the Crown Farm in the City of Gaithersburg was required to construct a third through lane on the westbound approach and a third receiving through lane on eastbound approach on Great Seneca Highway at the Great Seneca Highway/Sam Eig Highway intersection.

With the intersection improvements described above, the CLV values for all the analyzed intersections in the total improved traffic condition were less than the 1,450 congestion standard for the R&D Village Policy Area. Therefore, the LATR test is satisfied.

Policy Area Mobility Review (PAMR)

Under the relevant *Growth Policy* when the Preliminary Plan was filed, the PAMR test requires the Applicant to mitigate 35% of the 216 (i.e., equal to 76) new peak-hour trips generated by the proposed additional R&D office space within the weekday morning and evening peak periods. To satisfy the PAMR test, the Applicant must contribute \$858,800 (\$11,300 per trip), for the 76 trips required, towards the off-site LATR intersection improvements as previously described.

Therefore, with the intersection improvements and the Applicant's monetary PAMR contribution, the Board finds the Applicant has satisfied the LATR and PAMR Guidelines.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed office building. The Property is served by public water and sewer. Gas, electric and telecommunications services are also available to serve the property. Police stations, firehouses, and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The Application has been reviewed

and approved by the Montgomery County Fire and Rescue Service (MCFRS), which has determined that the Property has adequate access for emergency vehicles. The Application does not include any residential uses, so there is no impact on schools.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The lots have been reviewed for compliance with 50-29(a) of the Subdivision Regulations. The Planning Board finds that the size, shape, width, and area of the lots were appropriate for their location within the subdivision.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

On May 18, 2011, Staff approved an Existing Conditions Plan, containing roughly the same information as a simplified NRI/FSD. There are no floodplains on the Property. The western portion of the Property contains streams plus their buffers, a small area of wetlands and associated buffers. Staff has identified an intermittent stream with a channel length of approximately 380 feet. The total area of sensitive areas, including buffers, is approximately 2.1 acres. All of the sensitive areas are on the western portion of the Property.

SPA Preliminary Water Quality Plan Review

As part of the requirements of the Special Protection Area (SPA) Law, an SPA Water Quality Plan was reviewed in conjunction with the Preliminary Plan. DPS and the Planning Board have different responsibilities in the review of a Water Quality Plan. DPS has reviewed, and conditionally approved, the elements of the Preliminary/Final Water Quality Plan under its purview. The Planning Board's responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Forest Conservation

An exemption from preparing a Forest Conservation Plan (#42011103E) was confirmed for the site on May 18, 2011; therefore the Board finds the Preliminary Plan in compliance with Chapter 22A of the County code.

Site Imperviousness

The Piney Branch SPA does not include a specific impervious limit on land development projects. In SPAs without a cap on imperviousness, developments are required to demonstrate that imperviousness has been minimized. Although the Applicant is proposing an 82% increase in building square footage on the site, plus a seven level parking structure, the resulting increase in

imperviousness is only 24,039 sq. ft., for a total increase in imperviousness of 8% for an overall total of 61%.

The Board finds that the Preliminary Plan minimizes new impervious surfaces by proposing infill development that substantially builds on existing surface parking areas.

Environmental Buffers

An intermittent stream, wetlands, and associated environmental buffers are located on the western portion of the property. The environmental buffer will be protected with a Category I Conservation Easement. Although the project has been granted an exemption from preparing a Forest Conservation Plan, the Environmental Guidelines recommend expanded and accelerated forest planting in buffers within the Special Protection Area. The conditions of approval will assure compliance with this requirement.

Wetland Encroachment

One of the wetlands on the Property occurs at the top of the ephemeral stream channel just south of Medical Center Drive. The northwest corner of the existing western surface parking lot encroaches into the enhanced buffer prescribed for this wetland in the SPA Guidelines. The Preliminary Plan proposes that a parking garage be constructed approximately in the footprint of the existing western surface parking lot. As drawn, a portion of this building would continue to encroach into the wetland buffer. Because this disturbance already exists, the Board is willing to approve a small amount of continuing encroachment into the wetland buffer on the condition that mitigation is provided. Mitigation will be determined at the time of site plan review and approval. With the exception of the existing wetland buffer encroachment (which preceded the establishment of the SPA) as noted above, the Board finds that the Preliminary Plan protects the environmental buffers on the site.

County DPS Special Protection Area Review Elements

DPS has reviewed and conditionally approved the elements of the SPA Preliminary Water Quality Plan under its purview with a synopsis provided below:

Site Performance Goals

As part of the water quality plan, the following performance goals were established for the site:

1. Minimize storm flow runoff increases;
2. Minimize sediment loading and land disturbances with an emphasis on immediate stabilization;

Stormwater Management Concept

Stormwater management (SWM) will be provided through a combination of on- and off-site measures, including bio-swales, porous pavement, infiltration trenches and hydrodynamic structures. Stormwater that leaves the site will be captured and treated in the existing Gudelsky Regional SWM pond downstream of the site. Full Environmental Site Design (ESD) treatment will be required for any increase in site imperviousness.

Sediment and Erosion Control

Sediment control requirements will be established at the detailed sediment control plan stage. Care must be taken in the sediment control design to protect the existing infiltration trenches.

Monitoring of Best Management Practices (BMPs)

Construction and post-construction monitoring must be done in accordance with the BMP monitoring protocols established by DPS and the Montgomery County Department of Environmental Protection (DEP).

Therefore, with the analysis above and conditions of approval, the Board finds that the Application satisfies the requirements and meets the intents of the Environmental Guidelines and Forest Conservation Law.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the Property. This finding is based on the determination by DPS that the Stormwater Management Concept Plan approval meets DPS' standards.*

The DPS approved the stormwater management concept for the site on March 24, 2011. The stormwater management will be provided through a combination of on- and off-site measures, including bio-swales, porous pavement, infiltration trenches and hydrodynamic structures. Stormwater that leaves the Property will be captured and treated in the existing Gudelsky Regional SWM pond downstream of the Property. Full Environmental Site Design (ESD) treatment will be required for any increase in site imperviousness.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that 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; and

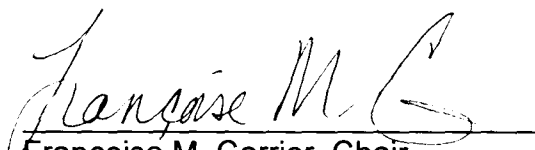
BE IT FURTHER RESOLVED, that the date of this Resolution is JAN 23 2012 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss present and voting in favor of the motion, and Commissioner Presley abstaining, at its regular meeting held on Thursday, January 19, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board