



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

MCPB No. 13-132
Preliminary Plan No. 120130190
United Therapeutics Silver Spring Campus-Phase 3
Date of Hearing: September 12, 2013

OCT 15 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on May 22, 2013, United Therapeutics Corporation ("Applicant"), filed an application for approval of a preliminary plan for 121,724 gross square feet of development including 10,000 square feet of retail and 111,724 square feet of office on 1.79 acres of CBD-1 zoned-land, located in the southeast quadrant at the intersection with Spring Street and Colesville Road ("Subject Property"), in the Silver Spring CBD Policy Area, Silver Spring CBD Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130190, United Therapeutics Silver Spring Campus-Phase 3 ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated August 30, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 12, 2013, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 12, 2013, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to
Legal Sufficiency:

Christina J. Somet 9/24/13
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MNCPPC Legal Department
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NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130190 to create 1 lot for 121,724 square feet of development including 10,000 square feet of retail and 111,724 square feet of office on the Subject Property, subject to the following conditions:¹

1. Approval under this Preliminary Plan is limited to one lot for a maximum of 121,724 square feet of development, including 111,724 square feet of office space and 10,000 square feet of retail.
2. The Site Plan must include appropriate onsite measures to avoid or minimize the potential noise impacts. Part of the mitigation may include a limited schedule for loading and trash pick-up.
3. Transportation
 - a) The Applicant must limit future development on the Subject Property to 115,000 square feet of office/ laboratory space and 10,000 square feet of general retail.
 - b) The Applicant must show on the final record plat the following right-of-way dedications, along property frontage consistent with the 2000 Approved and Adopted Silver Spring CBD Sector Plan and Montgomery County Code Chapter 50 Subdivision Regulation requirements:
 - I. Spring Street: an Arterial roadway located along the northern site frontage, between Cameron and Colesville, with a minimum right-of-way of 100 feet measured 50 feet from the roadway right-of-way centerline, resulting in approximately 15 feet dedication; and
 - II. Colesville Road (US 29): a Major Highway located along the eastern site frontage, between Spring Street and Fenton Street, with a minimum right-of-way of 120 feet measured 60 feet from the roadway right-of-way centerline, resulting in approximately 25 feet dedication.
 - c) The Applicant must provide, install, maintain, and operate securable gates, at both ends of the proposed mid-block pedestrian "BioPath" connection, to restrict access to the Bio Path between sunset and sunrise. Each gate must be equipped with a knox box for emergency access and is subject to approval by Montgomery County Fire and Rescue Service (MCFRS) at Site Plan.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- d) The Applicant must provide and install three short term public bicycle parking racks ("inverted U" rack or similar) along the retail frontage and near public use space. Exact bicycle rack locations to be determined at the time of Site Plan.
 - e) The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated May 17, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
 - f) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District and must execute the TMAg prior to issuance of the occupancy certificate for the office development. The TMAg must include trip mitigation measures recommended by MCDOT.
4. The certified Preliminary Pan 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, building elevations, 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, and maximum building height. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
 5. The Applicant must comply with the conditions of the MCDPS Stormwater management approval dated August 15, 2013. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 6. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 30, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT

provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

7. No clearing, grading or recording of plats prior to certified site plan approval, without permission of the Planning Board at site plan approval.
8. Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and artwork will be determined at site plan.
9. The record plat must show necessary easements.
10. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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

The Sector Plan has several goals that this project addresses. It describes the vision for Silver Spring in terms of six themes (pages 13-14). They are:

- 1) Transit Oriented Downtown
- 2) Commercial Downtown
- 3) Residential Downtown
- 4) Civic Downtown
- 5) Green Downtown
- 6) Pedestrian-Friendly Downtown

The Application, which meets all of the themes except "Residential Downtown", will play an important role in revitalizing this part of the CBD. The Sector Plan also designates this site, at the corner of Colesville Road and Spring Street, as a gateway location (pages 75 & 83). The proposed building will act as a prominent gateway feature for those entering the CBD from north on Colesville Road.

Employment, Housing, & Land Use

The applicable references in the Sector Plan refer to the need for increased choices associated with retail, office, restaurants, cultural programming, open space and pathways in this area. The specific objectives with regard to this site are met as indicated:

- The proposal creates job opportunities by providing a variety and mix of uses including the proposed office and retail uses.
- The design promotes a pedestrian and street-activating environment by applying the Silver Spring Streetscape standards to the frontage along Spring Street and Colesville Road.
- The development consolidates multiple properties for an optional method of development to accommodate the maximum density in the CBD.
- The infill development is more environmentally sustainable because it concentrates growth near transit and other day-to-day needs, thereby reducing vehicular travel and saving open space in our suburban and agricultural areas. In addition it proposes green roofs and bio-filtration techniques at grade that will significantly improve the quality of water flowing off-site during rain events.

Zoning and Density

The Subject Property is zoned CBD-1 and proposes an FAR of 1.56 for optional method commercial projects as permitted in Sect. 59-C-6.234 (b) (ii) (A) of the zoning ordinance. The Application meets the zoning and density goals of the Sector Plan.

2. Public facilities will be adequate to support and service the area of the approved subdivision.

Existing vehicular access to the site is provided on Spring Street, approximately 200 feet west of the Colesville Road intersection, and off Cameron Street, approximately 250 feet south of Spring Street. The Application proposes to maintain access at these existing locations in the following manner: Spring Street will serve as the private parking garage entrance, while the existing entrance from Cameron Street will serve as the loading/service entrance for the proposed building and the Phase I and II buildings as well. The proposed private garage will provide approximately 152 parking spaces.

The Subject Property is within a 5-10 minute walk of the Silver Spring Metrorail/ MARC Station, which is located approximately 2,500 feet (1/2 mile) away. In addition to the Metrorail Station, public transit service in the area includes:

1. RideOn Bus Routes 8, 9, 12, 13, 14, 21, 22, 28, and the VanGo Shuttle.
2. WMATA Metrobus Routes Z2, Z6, Z8, Z9, Z11, Z13, Z29, J5, Q2, Y5, Y7, Y8, and Y9.
3. Maryland Transit Authority Commuter Bus 915 and 929.

The Applicant will provide a new 10 foot-wide mid-block pedestrian connection, along the southwest property line, to improve pedestrian circulation between Colesville Road and Cameron Street. In order to maintain this pathway as a safe connection, United Therapeutics staff will restrict pedestrian access between sunset and sunrise. This space was originally being credited toward public use space, however, the Planning Board has conditioned that the narrow space be removed and accounted for by a contribution to the amenity fund.

Master Plan Transportation Facilities

The 2000 Approved and Adopted *Silver Spring CBD Sector Plan* and the 2005 *Countywide Bikeways Functional Master Plan* include the following nearby roadway/bikeway facilities:

- a. Spring Street: an Arterial roadway with master planned on-street bikeway (PB-10) located along the northern site frontage, between Cameron and Colesville, with a minimum right-of-way of 100 feet, and
- b. Colesville Road (US 29): a Major Highway located along the eastern site frontage, between Spring Street and Fenton Street, with a minimum right-of-way of 120 feet.

Sector-Planned Transportation Demand Management

As a commercial development within the Silver Spring Transportation Management District (TMD), the Applicant is required to enter into a Traffic Mitigation Agreement to participate in the Silver Spring TMD.

Adequate Public Facilities Review

A traffic study (dated April 16, 2013) was submitted in accordance with the *LATR & TPAR Guidelines* because the Application is estimated to generate 30 or more total peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. That traffic study determined traffic impacts of the Application on nearby roadway intersections during the weekday peak periods described above.

- Trip Generation

The peak-hour trip generation estimated for the Application was based on trip generation rates included in the *LATR & TPAR Guidelines*. A site trip generation summary shows that the Application would generate a total of 166 new peak-hour trips during weekday morning peak period and 181 new peak-hour trips during weekday evening peak period.

- **Local Area Transportation Review**

A summary of the Capacity/ Critical Lane Volume (CLV) analysis results for the intersections studied, during the weekday morning and evening peak periods, is presented in Table 2. The CLV values in the existing, background, and total traffic conditions for the study intersections are below the Silver Spring CBD Policy Area's congestion standard of 1,800 CLV. Based on this analysis, the Application satisfies the LATR requirements of the APF test.

- **Transportation Policy Area Review**

Since the Application is within the Silver Spring CBD Policy Area, the project is exempt from both the roadway and transit tests set forth in the 2012-2016 Subdivision Staging Policy. As a result, the Applicant is not required to pay transportation impact tax to satisfy the TPAR requirement.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The lot will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

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

The Planning Board approved the Preliminary Forest Conservation Plan with Project Plan No. 920130060. The Applicant will meet the afforestation requirement of 0.27 acres with a fee-in-lieu payment or off-site forest conservation bank. This Application satisfies the requirements of the Forest Conservation Law.

Noise

The project design includes a service area with loading docks and dumpsters located behind the Montgomery Arms Apartments. The Applicant will provide appropriate onsite measures to avoid or minimize the potential noise impacts. Part of the mitigation may include a limited schedule for loading and trash pick-up and physical buffering of HVAC units.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. MCDPS approved the Stormwater management concept on August 15, 2013. The stormwater management consists of environmental site design to the maximum extent possible through the use of a green roof and micro-bioretenion.

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)), 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 in the Montgomery County Land Records, or a request for an extension must be filed and

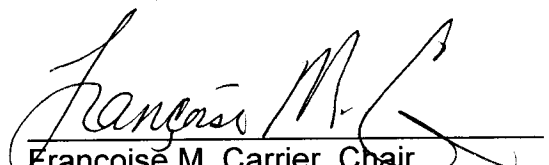
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 15 2013 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, October 3, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board