



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

MCPB No. 18-070  
Subdivision Regulation Waiver No. SRW201801  
**Viva White Oak**  
Date of Hearing: July 12, 2018

AUG 08 2018

**RESOLUTION**

WHEREAS, Montgomery County Code Section 50.4.1.B.7. generally, requires detailed graphic representation of the lot and block layout; all proposed roads (both public and private); location and width of all proposed pedestrian and bicycle facilities; all sites for public uses and open spaces; location, type, and width of all existing and proposed rights-of-way; and the proposed use of all lots on the preliminary plan and the scaled dimensions and approximate area of each use; and

WHEREAS, Montgomery County Code Section 50.10.5. generally, requires the Planning Board to establish, by resolution, fees necessary to cover the cost of administering Chapter 50; and

WHEREAS, on June 28, 2018, Montgomery County and Global Lifesci Development Corporation ("Applicant") filed a Section 50.9 request for Subdivision Regulation Waiver of Section 50.4.1.B.7., which generally requires detailed graphic representation of the subdivision, and of Section 50.10.5. which establishes the standard review fees for regulatory plans administered under Chapter 50, on approximately 280 acres of land in the CR-1.0: C-1.0, R-0.5, H-220 Zone, located between Cherry Hill Road and Industrial Parkway, along FDA Boulevard ("Subject Property"), in the 2014 *White Oak Science Gateway Master Plan* ("Master Plan") area; and

WHEREAS, the Planning Board may grant a waiver of the requirements of the Subdivision Regulations under Section 50.9. if: 1) due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare, 2) the intent of the requirement is still met, 3) the waiver is the minimum necessary to provide relief from the requirements, and 4) the waiver is consistent with the purposes and objectives of the General Plan; and

WHEREAS, Applicant's request for a Subdivision Regulation Waiver was designated Subdivision Regulation Waiver No. SRW201801, Viva White Oak ("Waiver" or "Application"); and

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Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
M-NCPPC Legal Department  
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WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff"), Staff issued a memorandum to the Planning Board, dated July 2, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 12, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Subdivision Regulation Waiver No. SRW201801 and waives the requirements of Sections 50.4.1.B.7. and 50.10.5. on the Subject Property, subject to the following conditions:<sup>1</sup>

Section 50.4.1.B.7.

1. The Applicant must submit only what is deemed necessary by applicable agencies to adequately complete the review of Preliminary Plan 120180240.
2. Each subsequent Preliminary Plan Amendment must satisfy all submittal requirements of Section 50.4.1.

Section 50.10.5.

1. The Applicant must pay \$240,000.00 for review of the first Preliminary Plan and the Preliminary Forest Conservation Plan.
2. The Applicant must pay the review fee by August 1, 2018, or the Application shall be deemed automatically withdrawn.
3. The Applicant must pay the standard fees, according to the standard fee-schedule and worksheet, for each subsequent Preliminary Plan Amendment and Forest Conservation Plan.

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. due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare;

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<sup>1</sup> 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.

Section 50.4.1.B.7. generally, requires detailed graphic representation of the lot and block layout; all proposed roads (both public and private); location and width of all proposed pedestrian and bicycle facilities; all sites for public uses and open spaces; location, type, and width of all existing and proposed rights-of-way; and the proposed use of all lots on the preliminary plan and the scaled dimensions and approximate area of each use. Graphic representation of this level of detail is not necessary for the initial Preliminary Plan, since the initial Preliminary Plan will only establish the large Outlots, Lots and Parcels that comprise the larger Land Bays and the master-planned road locations and cross-sections. Approving the requested waiver of this section will allow the Applicant to proceed with constructing the master-planned roadways immediately, as required by the General Development Agreement (GDA) entered into between the Applicant and the County, as approved by the County Executive and the County Council. Furthermore, as agreed to by the Applicant, the initial Preliminary Plan will be conditioned to prohibit building permits to be issued on any portion of the Property (except for construction of the master-planned roads) until subsequent Preliminary Plan Amendments and Site Plans have been filed for each large Outlot, Lot or Parcel where development is sought.

Section 50.10.5. requires the Planning Board to establish, by resolution, fees necessary to cover the cost of administering Chapter 50. While establishing the large Outlots, Lots and Parcels and master-planned roads with the initial Preliminary Plan, the Applicant will also be seeking Adequate Public Facilities (APF) approval for the maximum 12,180,270 square feet of development permitted on the Property. Based on the standard fee calculation of the Preliminary Plan and Preliminary Forest Conservation Plan, which is calculated on number of lots and square footage proposed, this equates to approximately \$1,458,790.05 for the initial filing fee. Additionally, since subsequent Preliminary Plan Amendments of the larger Outlots, Lots and Parcels will be considered major amendments, the same calculation (which established the initial filing fee of \$1,458,790.05) will be performed again for each subsequent Preliminary Plan Amendment. Not modifying the filing fee of the initial Preliminary Plan and Preliminary Forest Conservation Plan would essentially result in double-charging the Applicant for review of the proposed development after all of the subsequent Preliminary Plan Amendments have been filed.

As previously stated in the Sketch Plan report, the GDA permits 2,000,000 square feet of development in the first phase. Thus, the proposed fee is roughly proportional to the first phase of development permitted by the GDA.

Given the limited scope of the initial Preliminary Plan, knowing the Applicant is accepting the condition to prohibit issuance of any building permits (except for master-planned roads) on the Property, and knowing that this is an unusually large project expected to be constructed in many phases over many years, the Planning Board accepts the proposed fee of \$240,000 for the initial Preliminary Plan and Preliminary Forest Conservation Plan.

Therefore, due to the unusual size of the project, the limited scope of the initial Preliminary Plan, the condition prohibiting issuance of any building permits (except for master-planned roads) on the Property until subsequent Preliminary Plan Amendments and associated Site Plans are filed for the Outlots, Lots or Parcels where development is sought, and any subsequent Preliminary Plan Amendments being considered major amendments and fees being calculated based on the standard fees adopted by the Planning Board, the Planning Board finds that the requirements of Sections 50.4.1.B.7. and 50.10.5. are not needed to ensure the public health, safety, and general welfare in this case.

2. *the intent of the requirement is still met; and*

Compliance with the graphic representation criteria of Section 50.4.1.B.7. will be satisfied at subsequent Preliminary Plan Amendments, when the large Outlots, Lots and Parcels are further subdivided and are under concurrent Site Plan reviews. Regarding Section 50.10.5, since the Preliminary Plan Amendments will likely be considered major amendments, fees will be established according to the standard calculations adopted by the Planning Board and will be based on the actual square footage and uses proposed by the subsequent Preliminary Plan Amendments and associated Site Plans. Thus, the Planning Board finds the intent of the requirements of Sections 50.4.1.B.7. and 50.10.5. will still be met.

3. *the waiver is:*

a. *the minimum necessary to provide relief from the requirements; and*

The Planning Board finds the requested waiver to be acceptable and the minimum necessary to provide relief from the requirements, while implementing the Preliminary Plan as agreed to during review of the Sketch Plan for this unusually large, multi-phased project, which is expected to take several years to fully build.

b. *consistent with the purposes and objectives of the General Plan.*

Based on the conditions of approval listed in this report, and the Binding Elements, Conditions of Approval, and Findings of the previously approved Sketch Plan, the Planning Board finds the requested waiver permits the Applicant to proceed with its Preliminary Plan approval consistent with the purposes and objectives of the General Plan.

**BE IT FURTHER RESOLVED** that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; 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     AUG 08 2018     (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 Commissioner Fani-González, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, July 26, 2018, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board