



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

MCPB No. 19-002
Site Plan No. 81997005B
Shady Grove Life Sciences Center Parcel 7 (Autolus)
Date of Hearing: January 10, 2019

JAN 22 2019

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, the Planning Board, by Opinion dated January 13, 1997, approved Site Plan No. 819970050 for a maximum of 91,453 square feet of research and development use on 8.4 acres of LSC zoned-land identified as Parcel N/Q in the Shady Grove Life Sciences Center subdivision, located in the southeast corner of the intersection of Great Seneca Highway and Medical Center Drive ("Property" or "Subject Property"), in the Great Seneca Science Corridor ("GSSC") Master Plan ("Master Plan") area; and

WHEREAS, the Planning Board, by Resolution dated August 6, 2015, approved Site Plan Amendment No. 81997005A for development of an additional 61,350 square foot building to house research and development space on the Subject Property; and

WHEREAS, on October 16, 2018, ARE Maryland No. 31, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plans for up to 143,272 square feet of development, which includes 23,272 square feet of approved but unbuilt density transferred from 9800 Medical Center Drive as permitted by Section 59-C-5.321 of the 2004 Zoning Ordinance, to construct an 85,000 square foot building for a combination office, lab, and light manufacturing facility and associated parking and landscaping on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 81997005B, Shady Grove Life Sciences Center Parcel 7 (Autolus) ("Site Plan," "Amendment," or "Application"); and

Approved as to
Legal Sufficiency

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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 December 31, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 10, 2019, 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 certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 81997005B for up to 143,272 square feet of development to construct an 85,000 square foot building for a combination office, lab, and light manufacturing facility and associated parking and landscaping subject to the following conditions. All conditions of approval of Site Plan Amendment 81997005A are superseded by the following conditions.¹

1. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 119882330 and 120110080.

2. Site Plan Conformance

The Applicant must comply with the conditions of approval for Site Plan No. 819970050, except as amended by the following conditions.

3. Density

a) The Site Plan is limited to a maximum of 143,272 square feet of development, which is comprised of the 61,728 square feet of previously approved but unbuilt density on the Property, the existing 58,272 square foot building, and the 23,272 square feet of approved but unbuilt density transferred from 9800 Medical Center Drive as permitted by Section 59-C-5.321 of the 2004 Zoning Ordinance.

b) Prior to issuance of any above grade building permit:

i. The Applicant must provide Staff evidence of the recordation of covenants against both Shady Grove Life Sciences Parcel W O/R

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.

and Shady Grove Life Sciences Parcel 7 in the Land Records of Montgomery County reflecting the density transfer from 9800 Medical Center Drive to 9950 Medical Center Drive.

- ii. The covenants must be in a form approved by the M-NCPPC Office of General Counsel.
- iii. The Applicant must recertify the Certified Site Plan to include the liber/folio of the recorded covenants on all applicable Site Plan sheets.

4. Height

The development is limited to a maximum height of 60 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

5. Forest Conservation and Tree Save

The Applicant must comply with the conditions of the approved Final Forest Conservation Plan.

- a) On or before April 10, 2019, the Applicant must submit a deed of release to Staff to abandon the entirety of Category II Conservation Easement recorded among the County Land Records in Liber 4280 at Folio 86. The deed of release must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records.
- b) Prior to the start of any clearing, grading, or demolition occurring on the Property, the Applicant must receive approval from the M-NCPPC Office of the General Counsel of a Certificate of Compliance to use an off-site forest mitigation bank for 2.64 acres of mitigation credit as shown on the Final Forest Conservation Plan submitted with the Certified Site Plan. This acreage may slightly increase at time of Certified Site Plan with any additional off-site disturbance potentially required for utility connections.
- c) The Certificate of Compliance must be recorded in the Montgomery County Land Records prior to any clearing, grading, or demolition occurring on the Property.
- d) Mitigation must be provided for the removal of three (3) trees subject to the variance provision that are not included in the forest clearing calculations. Mitigation must be provided in the form of planting native canopy trees totaling 34 caliper inches, with a minimum planting stock size of three (3) caliper inches. The trees planted for variance tree mitigation are in addition to the trees planted to satisfy the landscaping requirements. The mitigation trees must be planted on the Subject Property, in locations shown on the certified Final Forest Conservation Plan, outside of any rights-of-way, or utility easements, including stormwater management easements. Adjustments to the planting

locations of these trees is permitted with the approval of the M-NCPPC forest conservation inspector.

6. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated October 18, 2018, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

7. Public Open Space, Facilities, and Amenities

Prior to issuance of the Final Use and Occupancy Certificate:

- a) The Applicant must provide a minimum of approximately 24,719 square feet of Public Use Space on Lot 7A, as shown on the Certified Site Plan;
- b) The Applicant must construct the streetscape improvements along the Property's frontage on Medical Center Drive, as shown on the Certified Site Plan; and
- c) All Public Open Space areas must be completed, as shown on the Certified Site Plan.

8. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, all amenities and seating areas in the Public Open Space.

9. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Service (MCFRS) Fire Code Enforcement Section in its letter dated November 19, 2018 and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

10. Transportation

Prior to the issuance of the Final Use and Occupancy Certificate, the Applicant must provide the following pedestrian and bicycle facilities, as shown on the Certified Site Plan:

- a) Eleven (11)-foot-wide sidepath (to meet the intent of the Bicycle Master Plan as an interim condition prior to the construction of the Corridor Cities Transitway);
 - b) Thirteen (13)-foot-wide landscape panel;
 - c) Five (5)-foot-wide sidewalk; and
 - d) Eleven (11)-foot tree panel.
11. Prior to any Use and Occupancy Certificate, the Applicant must execute a deed of dedication for a total of 77 feet from centerline along the frontage of Lot 7A on Medical Center Drive. The deed must be reviewed and approved by the Commission's Office of General Counsel and the Montgomery County Department of Permitting Services (MCDPS), and the deed must be recorded in the Land Records of Montgomery County.
 12. Prior to Use and Occupancy Certificate, the Applicant must execute an amended Traffic Mitigation Agreement (TMAG) in a form approved by the Commission's Office of General Counsel and the Montgomery County Department of Transportation. The amended TMAG must allow for the proposed bike station to be located within the dedicated ROW.

13. Department of Permitting Services

The Planning Board accepts the recommendations of the MCDPS Right-of-Way Section in its letter dated November 28, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

14. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the site plan, as determined by M-NCPPC Staff.

15. Landscaping

Prior to the end of the first planting season after the issuance of the Final Use and Occupancy Certificate, the Applicant must install all landscape plant materials as shown on the Landscape and Lighting Plans.

16. Lighting

- a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of

this type. All onsite exterior area lighting must be installed in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on all fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

17. Site Plan Surety and Maintenance Agreement

Prior to issuance of any Sediment Control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to, plant materials, on-site lighting, indoor and outdoor recreational facilities, site furniture, retaining walls, fences, railings, sidewalks, bikeways, private utilities, paths and associated improvements of development, including storm drainage facilities, street trees and street lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

18. Development Program

The Applicant must construct the development in accordance with a development program table, subject to review and approval by Staff, before approval of the Certified Site Plan.

19. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter and other applicable agency letters, development program, and Site Plan resolutions.
- b) Show all Public Use Space areas outside of areas of dedication.
- c) Show the vehicular entryway with a continuous flush crossing through the median for pedestrians using the five (5)-foot-wide sidewalk, and pedestrians and cyclists using the eleven (11)-foot-wide sidepath.
- d) Show the pedestrian crossing connecting the island adjacent to the handicap parking and long-term bicycle parking to the building's entrance to curb grade as raised, allowing pedestrians to cross without stepping down into drive aisles.
- e) Show the layby area as constructed with non-standard paving to help guide cars through the entryway aisle and into the surface parking lot.
- f) Show short-term bicycle parking spaces via inverted U-racks or a similar design allowing for two points of contact with the bicycle frame.
- g) Show the long-term bicycle parking spaces completely enclosed and anchored to the ground.
- h) Revise the plans to comply with the shower and locker facility requirements of 6.2.6.A.4. and provide no less than two (2) showers and lockers for each gender, totaling no less than four (4) showers and four (4) lockers.
- i) Revise the Final Forest Conservation Plan to include all off-site disturbance.
- j) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- k) Modify data table to reflect development standards approved by the Planning Board.
- l) Ensure consistency of all details and layout between Site and Landscape plans.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect; and

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Shady Grove Life Sciences Center Parcel 7 (Autolus), Site Plan Amendment No. 81997005B, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning 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) *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.*
- 2) *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The Subject Property is not subject to a development plan, diagrammatic plan, schematic development plan, or a project plan.

- 3) *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The purpose of the LSC Zone is to promote research, academic, and clinical facilities that advance the life sciences, health care services, and applied technologies. The proposed uses are allowed in the LSC Zone and fulfill the purposes of the Zone by providing an 85,000-square-foot lab/office building.

Development Standards

The development meets all applicable development standards of the LSC Zone as demonstrated by the following table, which includes the 81997005A figures for reference. As stated above, this amendment supersedes Site Plan No. 81997005A.

Development Standard	Permitted/Required	81997005A Lots 7A & 7B	81997005B Lot 7A	81997005B Lots 7A & 7B
Maximum Building Height (feet) Sec. 59-C-5.31				
Proposed Building	110' (by Master Plan)	60'	60'	60'
Minimum Building Setbacks (feet)				

Development Standard	Permitted/Required	81997005A Lots 7A & 7B	81997005B Lot 7A	81997005B Lots 7A & 7B
From Medical Center Drive	N/A	25'	20'	20'
From Great Seneca Highway	N/A	50'	48'	48'
Minimum Parking Setbacks (feet)				
From streets	10'	50'	10"	10'
Minimum Public Use Space (% of lot) Sec. 59-C-5.32	20% (73,163 sf)	47.3% (173,000 sf)	24,719 sf	29.2% (106,719 sf)
Maximum Floor Area Ratio (FAR)	0.33 FAR			
Ownership Lot 7A		61,350 sf	85,000 sf ²	85,000 sf ²
Ownership Lot 7B		58,272 sf		58,272 sf
Total		119,622 sf (0.33 FAR)		143,272 sf (0.39 FAR) ¹
Parking				
Vehicle Spaces Sec. 59.6.2.4.B	Minimum 2.00 spaces/1000 sf Maximum 3.00 spaces/1000 sf	256 total spaces (155 spaces Lot 7A and 101 spaces Lot 7B ³) 2.1 spaces/1000 sf	180 spaces (4 H.C) 2.1 spaces/1000 sf	281 spaces (180 spaces Lot 7A and 101 spaces Lot 7B ²) 1.96 spaces/1000 sf
Bicycle Spaces Sec. 59.6.2.4.C	1 bicycle/5000 GFA vehicle spaces (100 max, 85% long term)	23 spaces (8 spaces Lot 7A and 15 spaces Lot 7B)	26 spaces (16 long term and 10 short term, 15 long term)	41 spaces (16 long term and 25 short term)

² Density is obtained pursuant to the density averaging provision in 59-C-5.321 as follows: 61,728 sf of residual density (from original assignment of 120,000 sf for Lot 7 and 23,272 sf of available density from 9800 Medical Center Drive.

³ Lot 7B was granted a parking waiver pursuant to Section 59.E-4.5.

Development Standard	Permitted/Required	81997005A Lots 7A & 7B	81997005B Lot 7A	81997005B Lots 7A & 7B
			and 2 short term required)	
Motorcycle/Scooter Spaces Sec. 59-6.2.3.C	2% of total vehicle spaces (10 max)	10 spaces	4 spaces	10 spaces
Parking Lot Landscaping	5% shade coverage	15%	25%	20%

Parking

Pursuant to Section 7.7.1.B.3.b of the 2014 Zoning Ordinance, the Applicant has requested to have the parking reviewed under the parking requirements of Section 6.2.3 and 6.2.4 of the 2014 Zoning Ordinance. Notably, the Property will be subject to office parking requirements that provide for a minimum of 2.0 spaces per 1,000 square feet and a maximum of 3.0 per 1,000 square feet of development. The 281 parking spaces that are proposed for the Property result in a parking ratio of 1.96 spaces per each 1,000 square feet of the total development of 143,272 square feet at the Property. This ratio is lower than the 2.0 spaces per 1,000 square feet minimum but Lot 7B was previously granted a parking waiver. The new development on Lot 7A will provide parking at a rate of 2.1 spaces per 1,000 square feet, meeting the minimum. Sixteen (16) short term and ten (10) long term bicycle parking spaces are required.

Master Plan

Zoning Ordinance Section 5.476(a) require that a site plan for development in the LSC zone “must be consistent with the recommendations of the applicable master or sector plan and design guidelines adopted by the Planning Board to implement the applicable master or sector plan.”

The Property is located within the Life Sciences Center (LSC) section of the 2010 Great Seneca Science Corridor Master Plan area (Master Plan). The LSC includes five districts, and the Property is located within the Central District. The Application meets the general recommendations of the Master Plan outlined in the Staff Report by orienting the proposed building, entrance feature, and small pedestrian plaza to Medical Center Drive. The building mirrors the curved frontage of Medical Center Drive. While the building entrance is not located directly on Medical Center Drive, the trellis structure establishes a strong visual and spatial connection. The sidewalk, bike facility, landscape buffers and seating areas help to encourage pedestrian activity along the Property frontage of Medical Center Drive.

The Public Open Space is located at the confluence of pedestrian and vehicular routes and provides a direct connection to the public realm along Medical Center Drive, while creating a sense of place. The parking lot circulation is designed to minimize conflicts between pedestrians and vehicles by creating more defined circulation patterns.

The Master Plan recommends that properties in the LSC Central District provide at least fifteen (15) percent of their net tract area as public use space. The Application provides roughly 30 percent of the entire Property as public use space, which is more than the Master Plan and the Zoning Ordinance require. The Master Plan also recommends building heights on the Property to be limited to between 50 and 110 feet in height. The Application is for a 60-foot tall building.

Page 76 of the Master Plan states that “[t]he CCT is the centerpiece of the Plan’s vision for the LSC. The Plan promotes transit-oriented development by concentrating higher density uses near future CCT stations.” Pages 84 and 85 of the Master Plan establish the recommended widths for the various rights-of-way within the Master Plan area, including Medical Center Drive. Page 84 specifies that Medical Center Drive should have a right-of-way of 100 to 150 feet, and includes a footnote specifying that “[f]ifty feet of right-of-way is intended for provision of an exclusive transitway; where a range is specified, the lower figure refers to non-transitway sections.”

The Subject Property is located on a portion of Medical Center Drive that the Master Plan identifies as including the CCT. (*See, e.g.*, Master Plan p. 36). Accordingly, the Master Plan-recommended right-of-way for that portion of Medical Center Drive adjoining the Subject Property is 150 feet. As conditioned, this Site Plan approval requires the Applicant to dedicate sufficient land to accommodate this right-of-way width and the future construction of the CCT. Although the CCT is still in the development stage and may not be constructed in the short-term, the Site Plan as proposed by the Applicant includes a sidewalk and shared use path within this dedication area. These improvements are commonly included within public rights-of-way and are consistent with the required dedication.

Design Guidelines

The GSSC Design Guidelines promote the creation of a cohesive corridor with a continuous “built environment that meets the needs of a larger community and the science community, while providing specialized sites for research and medical functions, as well as places for living and recreation.” (Page 6). The Guidelines provide general guidance through recommendations organized

around four principles: Connectivity; Design; Environment; and Diversity. While there is no requirement that all four principles be addressed by each application, the Application addresses each principal as outlined in the Staff Report.

Bicycle Master Plan

The 2018 Bicycle Master Plan recommends a two-way separated bike lane on both sides of Medical Center Drive. More coordination with the Maryland Transit Administration regarding the Corridor Cities Transitway (CCT) is needed before the final location of this two-way bike facility can be accurately determined. The Application provides an eleven (11)-foot-wide shared use path in the interim, which is consistent with the intent of the Bicycle Master Plan.

- 4) *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

Building and Structures

The proposed location of buildings and vehicular and pedestrian articulation is safe, adequate, and efficient. The proposed building will be in a clearly visible area on the Property and will be accessible to pedestrians from an internal driveway/drop-off area as well as a sidewalk along Medical Center Drive. The vehicular circulation is clearly separated from pedestrian areas and building entrances, and all planting areas and open spaces are adequately located in relation to the buildings to create a safe and efficient layout environment.

Open Space and Landscaping

The proposed site layout provides adequate landscaping for all open space areas including the plaza along Medical Center Drive and the internal common driveway/drop-off area. All planting areas and open spaces are adequately located in relation to the buildings.

As shown in the data table above, the Application includes more than the minimum open space required by the Zoning Ordinance in the LSC Zone. The development includes a public plaza that extends the front entrance, and the plaza will include landscaping, specialty pavers, benches, ornamental and shade trees, shrubs, and bio-retention areas. There is an open space along the western building façade with a seating area for employees that is not included in the Public Open Space calculations. Additional public open space is provided onsite to accommodate the required dedication.

Lighting on the property will also be provided by freestanding pole lights with full or partial cut-off fixtures, sign lights and wall lights. The lighting will be adequate for safety and security of pedestrians.

Recreation Facilities

The Application does not require recreation facilities since it does not include any residential units.

Pedestrian and Vehicular Circulation

Vehicular and pedestrian circulation will be safe and adequate. A common driveway and drop-off loop will serve both the existing and the proposed building, avoiding separate curb cuts for each building on Medical Center Drive. Pedestrians will be able to access the Property from the drop-off loop or from Medical Center Drive. Pedestrian access from the parking lot is collected via a centrally-located pedestrian connection and directed to a safe area, opposite the plaza, with clearly marked crossings across vehicular paths.

- 5) *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The building will join an existing life sciences building on the Subject Property. It will be surrounded by similar research and development, life sciences, and institutional uses. At 60 feet in height, it will be compatible with other buildings in the area, which range in height from 20 feet to 50 feet.

- 6) *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Site Plan Amendment meets the requirements of the Montgomery County Forest Conservation Law, the County's Environmental Guidelines, and the County's Stormwater Management Requirements.

Forest Conservation Law

An Amended Final Forest Conservation Plan removes 0.40-acres of Category II Conservation Easement and compensate for the easement removal at a 2:1 ratio off-site. All forest conservation requirements will be met off-site through the purchase of a total of 2.64 acres of credit from a forest conservation bank. This acreage may slightly increase at time of Certified Site Plan with any additional off-site disturbance potentially required for utility connections.

Variance Approval

The Board also approves the Applicant's variance request to impact, but not remove, three trees considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law.

Variance Findings - The Applicant has demonstrated that requiring no impact to the protected trees would result in an unwarranted hardship, as the proposed development would not be possible without the variance. Based on the review of the variance request and the Final Forest Conservation Plan, the Board made the following findings:

1. *Granting the variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is a result of the need to provide adequate parking and circulation.

2. *The need for the variance 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 potential impacts are due to the location of the trees, which will be impacted in any feasible alternative lay out. The Applicant has minimized disturbance by restraining grading associated with the driveway and parking.

3. *The need for the variance 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 result of the location of trees and the impacts by the proposed layout of the proposed development, and not a result of land or building use on a neighboring property.

4. *Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Applicant will plant 34-inches caliper native shade trees to replace the form and function of the variance trees proposed for removal. In addition, the Site will be developed in accordance with the Maryland Department of the Environment criteria for stormwater management.

Stormwater Management

The Montgomery County Department of Permitting Service (MCDPS) Water Resources Section issued a letter accepting the Applicant's stormwater management concept plan on October 18, 2018.

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 Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

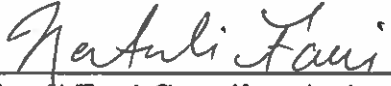
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 22 2019 (which is the date that this resolution is mailed to all parties of record); and

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 Cichy, seconded by Commissioner Patterson, with Acting Chair Fani-González and Commissioners Cichy and Patterson voting in favor at its regular meeting held on Thursday, January 10, 2019, in Silver Spring, Maryland.



Natali Fani-González, Acting Chair
Montgomery County Planning Board