



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

MCPB No. 21-038
Site Plan No. 820210060
United Therapeutics 242T
Date of Hearing: April 15, 2021

JUN 01 2021

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, on January 13, 2021, United Therapeutics Association ("Applicant") filed an application for approval of an optional method site plan for the construction of a 65,000 gross square foot medical/science manufacturing and production building up to 100 feet in height on 1.6 acres of EOF 3.0 H-100' & R-60 zoned-land, located at 8830 and 8808 Cameron Street ("Subject Property"), in the Silver Spring CBD Policy Area and 2000 North and West Silver Spring Master Plan ("*Master Plan*") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820210060, United Therapeutics 242T ("Site 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 April 5, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 15, 2021, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, on April 15, 2021 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Fani-Gonzalez, seconded by Commissioner Verma, with a vote of 5-0; Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson and Verma voting in favor.

A

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820210060 for the construction of a 65,000 gross square foot medical/science manufacturing and production building up to 100 feet in height on the Subject Property, subject to the following conditions:¹

Density & Height

1. Density

The development is limited to a maximum of 65,000 gross square feet of medical/ scientific manufacturing and production uses.

2. Height

The development is limited to a maximum height of 100 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

Public Benefits

3. The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines* for each one.

- a. Major Public Facilities – Prior to Certified Site Plan, the Applicant must donate the 3,778 square feet of existing solar panels from the 8830 Cameron Street building to the Parks Department.
- b. Transit Proximity – Provide final calculation of points on Certified Site Plan.
- c. Connectivity between Uses, Activities, and Mobility Options
 - i. Minimum Parking – The Applicant must not provide/construct more than 47 parking spaces onsite.
- d. Quality Building and Site Design
 - i. Exceptional Design – The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as otherwise approved by Staff.
- e. Protection and Enhancement of the Natural Environment
 - i. Cool Roof – The Applicant must install a cool roof as shown on the Certified Site Plan with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.
 - ii. Vegetated Roof – The Applicant must install a vegetated roof with a soil depth of a minimum of 4 inches covering a minimum of 33% of the

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.

building's roof, excluding space for mechanical equipment, as illustrated on the Certified Site Plan.

4. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the pedestrian connection from Cameron Street to South Noyes Drive.

Site Plan

5. 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 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 or BUG-equivalent 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 the lot line, excluding areas impacted by street lights within the right-of-way.
- e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

Environment

6. Final Forest Conservation Plan

- a. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b. Prior to demolition or any land-disturbing activities occurring onsite the Applicant must receive approval of a Certificate of Compliance, in a form approved by M-NCPPC Office of the General Counsel, for an off- site forest mitigation bank, or payment via fee-in-lieu, to satisfy the afforestation requirement for a total of 0.25 acres (or as determined on the Final Forest Conservation Plan).

- c. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- d. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the Forest Conservation Plan.
- e. The Applicant must plant the variance tree mitigation plantings on the Subject Property, with a minimum size of 3 caliper inches, totaling at least 7.5 caliper inches as shown on the approved Forest Conservation Plan. All onsite trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
- f. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the mitigation trees and maintenance credited toward meeting the requirements of the FCP.
- g. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

7. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its stormwater management concept letter dated March 8, 2021 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.

Transportation & Circulation/ Adequate Public Facilities (APF)

8. Transportation

Before the release of any Use and Occupancy Certificate, the Applicant must coordinate with and gain approval from MCDOT on a Level 1 Basic Transportation Demand Management (TDM) Plan, as required for all projects proposing a total of 40,000-80,000 SF in an Orange Policy Area, in accordance with Section 42A-26 of the Montgomery County Code.

9. Pedestrian & Bicycle Circulation

- a. The Applicant must provide 10 long-term bicycle parking spaces (short-term spaces not required).
- b. The long-term spaces must be in a secured, well-lit bicycle room in the cellar of the building (accessible by a designated pathway along the southern driveway ramp).
- c. The Applicant must provide 6 all-gender shower/changing rooms and 6 changing lockers.

10. Validity

The Adequate Public Facilities Review (APF) will remain valid for sixty (60) months from the date of mailing of the Planning Board Resolution for the Site Plan.

11. Department of Permitting Services-Right-of-Way

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way (DPS-ROW) Section in its letter dated February 19, 2021, 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.

12. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated March 5, 2021, 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.

13. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, 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 59.7.3.4.K.4 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 material, on-site lighting, site furniture, trash enclosures, retaining walls, fences, private utilities and paths and associated improvements of development, including sidewalks, 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.

14. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

15. Record Plat

Prior to issuance of the first above grade building permit, the Applicant must record the record plat among the Montgomery County Land Records.

16. 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 Sketch and Site Plan resolutions on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c. 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."
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Add Public Benefits table and calculations as approved by the Planning Board on the cover sheet.

- f. Ensure consistency of all details and layout between Site and Landscape plans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 820210060, United Therapeutics 242T, 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 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 development satisfies any previous approval that applies to the site.*

The Site Plan conforms to all binding elements of Sketch Plan No. 320210040.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

- a. Use Standards

The R-60 portion of the Subject Property was granted a special exception in 1967 (CBA-2164) for off-street parking in connection with a commercial use. The special exception was ultimately transferred to United Therapeutics in 2011 and continues to be used for off-street parking in connection with the commercial use at 8830 Cameron Street. On March 16, 2021, the County Council enacted a related Zoning Text Amendment, ZTA 20-06, which allows Planning Board approval of a Site Plan to

supersede a special exception for surface parking in a residential zone at the option of the Site Plan Applicant. ZTA 20-06 applies to the R-60 zoned portion of the Subject Property, which is included in the Site Plan.

b. Development Standards

The Tract is approximately 1.60 acres or 69,787 square feet, zoned EOF 3.0 H-100' and R-60. The following Data Table shows the Application's conformance to the development standards of the zones.

United Therapeutics Project 242T Site Plan Data Table

Section 59.4	Development Standard	Permitted/Required	Approved
	EOF 3.0 H-100' 8830 & 8808 Cameron St	n/a	35,542 (0.82)
	R-60 8830 Cameron St		34,245 (0.79) 69,787 sf (1.60 ac)
	Prior Dedication Proposed Dedication Site Area	n/a	9,661 sf (0.22 ac) 0 sf 60,126 sf (1.38 ac)
	Residential Density (GFA/ FAR) R-60	1 unit/ 6,000 sf	0
	Commercial Density (GFA/ FAR) EOF 3.0 H-100	106,626 sf (3.0)	65,000 sf (1.83 FAR)
	Total Maximum GFA/ FAR	106,626 sf (3.0)	65,000 sf (1.83 FAR)
	Building Height (max)	100 feet	100 feet
	Public Open Space (min)	0%	0%
	Minimum Setbacks (feet)		
	Front	0	0
	Side	0	0
	Rear	0 ¹	20 ²
	Parking³		
	Vehicle (medical/science manufacturing and production)	65/195	47
	Bicycle (long/short)	6/0	10/0
	Loading	1	1

¹Subject to Residential Compatibility Standards of Section 59.4.1.8.A.1.b of the Zoning Ordinance, the required rear setback is zero, in accordance with the general building setbacks under Section 59.4.6.3.E.3 "rear setback, abutting all other zones".

²The Applicant is providing a rear setback of 20 feet consistent with the rear setback requirements of the R-T 12.5 Standard Method development standards under Section 59.8.2.4.B.1.

³Final number of vehicle and bicycle parking spaces to be determined at building permit.

Section 59.4.1.8 – Residential Compatibility

The Residential Compatibility Standards of Section 59.4.1.8.A.1.a (which triggers 59.4.1.8.A.2) and 59.4.1.8.B do not apply to this Site. The Zoning Ordinance states that height and setback standards are applicable to a property in the employment zone that “abuts a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use”. The Department of Permitting Services (“DPS”) has determined, in a letter dated March 10, 2021, that while the adjacent property is within a Residential Townhouse Zone, it is an HOA common parcel (Parcel A) that is improved with paving, striping and curbs, not a residential use that abuts the Subject Property, therefore the standards for height under 59.4.1.8.B and setbacks under 59.4.1.8.A.2 do not apply. The Planning Board and Staff, having conducted their own independent review and analysis, concur with the determination made by the Department of Permitting Services. What does apply for this project is Section 59.4.1.8.A.1.b (setback measurement). Section 59.4.1.8.A.1.b states that “On a property in a Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone for which Section 4.1.8.A.1.a does not apply the minimum side and rear setbacks are equal to the setbacks required for “Side setback, abutting all other zones” and “Rear setback, abutting all other zones” in the applicable standard method development standards tables in Division 4.4 through Division 4.8.” Although the rear setback required for the EOF zone is zero in this circumstance, the new building is set back 20 feet from the property line, consistent with the rear setbacks required in the adjacent R-T 12.5 Zone.

In addition, Planning Staff analyzed and evaluated the project, based on the compatibility section in the Zoning Ordinance, and requested the Applicant show compatibility with the adjacent townhouses from the townhouse lot line, demonstrating that the project meets the 45 degree angular plane, measured from structure to structure. Although DPS and Planning Staff agree that Sections 59.4.1.8.A.1.a and 59.4.1.8.B do not apply to this project, as depicted in the figure in the Staff Report, the building does not protrude beyond a 45 degree angular plane, as measured from the townhouse lot line to the new building. This is consistent with how Staff approaches similar projects that are located adjacent to properties that are zoned R-60 but not improved with a residential use, such as a park or parking lot, and therefore the project addresses the Zoning Ordinance requirements appropriately. The abutting HOA parcel is not vacant nor used for an agricultural or

residential use, and pursuant to applicable Maryland law, the paving, striping, landscaping, sidewalks and curbs in the HOA parcel, meet the definition of “improved.”

In addition, per Section 59.1.4.2 of the Zoning Ordinance, “confronting” is defined as “Properties that are directly across a right-of-way with a master plan width of less than 80 feet from each other based on a line between the 2 properties that is drawn perpendicular to the right-of-way.” The HOA common parcel (private street) is not a master-planned right-of-way, therefore Section 59.4.1.8.B.2.b. does not apply.

In regard to the compatibility requirements as they pertain to the existing single-family residential homes to the north, the existing R-60 zoned parking lot associated with the Subject Property and included in the Site Plan application, separates the building in the EOF zone from the single-family detached homes, and therefore the building does not abut or confront (as defined in the Zoning Ordinance) the single-family homes to the north. Although, these requirements do not apply, Planning staff requested the Applicant provide a plan showing where the setback would start, as shown in the Staff Report. This diagram shows where a height setback would start, set 30 feet back from the residential lot to the north and where the setbacks would end at the 100-foot height, which falls in the associated parking lot.

Section 4.6.4.B.4 - Form Standards

Form standards for Optional Method Development projects within the EOF zone are established by the site plan approval process. The Site Plan conforms to the intent of the form standards, including transparency, blank walls and active entrances. At the ground level, the transparent glazing is approximately 24% with one main pedestrian entrance fronting on Cameron Street. The upper floors vary in material such as louvered screen walls, metal panels in terra cotta color, corrugated grey metal panels, and spandrel glazing to avoid any blank walls. In addition, as stated in the Applicant’s Statement of Justification (Attachment B):

United Therapeutics new production facility has been designed to maximize the capacity of the site and the building footprint to achieve production capacity for optimal throughputs of organ manufacturing. The materials utilized on the facade have been selected to respond to the spaces they enclose, such as louvers at mechanical floors, glazing at circulation corridors, and metal panel rainscreen where durability and privacy are priorities. The cleanrooms pose a particular challenge for glazing conditions,

where daylighting and views are desirable but indoor environmental conditions are paramount, as they drive the form and design features that can be employed for this specialized building and, therefore, must take precedence for functionality.

Each facade was individually designed to break down the building's scale into reasonable proportions that vary in material and color around the perimeter, drawing from the existing Campus palette. Glazing has been provided wherever possible and is the primary material on the main elevation that fronts Cameron Court. Undulating ribbons of curtainwall span across every occupied floor, and project into the mechanical levels to minimize the height of louvers in between. The percent of transparent glazing at the ground level is approximately 24%, spanning the width of the entrance lobby from floor to ceiling and extending the full height of the stair tower, a distinctive visual element, which is located to the north of the entrance.

At upper occupied floors, transparent glazing is provided at approximately 15% of the main facade. The entire curtainwall system, including spandrel glazing, makes up 88% of the main elevation of each occupied floor and extends into the normally unoccupied mechanical levels.

Side and rear elevations are broken up with multiple colors, textures and planes. As an example, the north facade includes louvered screen walls, metal panels in terra cotta color, corrugated gray metal panels, and spandrel glazing. None of these materials accounts for more than 37% of this facade.

c. General Requirements

i. *Division 4.7. Optional Method Public Benefits*

In accordance with the Zoning Ordinance, Section 59.4.7.1., the Site Plan will provide the following public benefits to satisfy the requirements: Major Public Facilities, Transit Proximity, Connectivity and Mobility, Quality of Building and Site Design, and Protection of the Natural Environment.

United Therapeutics 242T Public Benefits

Public Benefit	Incentive Density Points	
	Max Allowed	Approved
59.4.7.3.A: Major Public Facilities		
Solar Panel Contribution	40	40
59.4.7.3.B: Transit Proximity		
½ mile of SS Metro	15	15
59.4.7.3.C: Connectivity and Mobility		
Minimum Parking	10	10
59.4.7.3.E: Quality of Building and Site Design		
Exceptional Design	10	5
59.4.7.3.F: Protection and Enhancement of the Natural Environment		
Cool Roof	10	5
Vegetated Roof	15	7.5
TOTAL		82.5

Major Public Facilities

Solar Panel Contribution: The Applicant requests points under this category for the donation of 3,778 square feet of solar panels from the 8830 Cameron Street building to the Parks Department in order to assist the Department's goals to expand the use of solar energy in its facilities. The Applicant and Parks have preliminarily identified three potential sites for the use of the panels. The contribution value is estimated at \$315,000 and based on the formula within the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines* which utilizes lot area and area of contribution, the Proposal maxes out at 40 points, which the Planning Board approves.

$$(((L+F)/N*2)+((C/N)*4))*100$$

$$(((0+0))/26,150)*2)+((3,778/26,150)*4))*100 = 57.79 \text{ (maximum 40 allowable points)}$$

Transit Proximity

The Applicant requests points under this category for the Site being located within ½ mile of major public transit including the Silver Spring Metro Station and Transit Center. The Planning Board approves 15 points for this category.

Connectivity and Mobility

Minimum Parking: The Applicant requests 10 points for providing fewer than the maximum allowed number of parking spaces. Points for

this incentive are granted on a sliding scale from no points for providing the maximum allowable number of on-site spaces to 20 points for providing no more than the minimum number of spaces on site. At this time, the Applicant is proposing 47 parking spaces, which is 148 spaces fewer than the maximum allowed in this zone. The Planning Board approves 10 points for this category.

$$\begin{aligned} & ((A-P)/(A-R))*10 \\ & ((195-47)/195-65))*10 = 11.38 \text{ (maximum 10 allowable points)} \end{aligned}$$

Quality of Building and Site Design

Exceptional Design: The Applicant requested 10 points for exceptional design based on the six criteria listed in the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines*. While only one building is provided with this application, the Applicant sees this as an extension of the existing United Therapeutics Campus. The building will utilize materials similar to other structures within the Campus to maintain a consistent composition, while proposing a building massing that is unique in size and shape. Each façade was individually designed to break down the building's scale and varies in material and color. The materials respond to the spaces they enclose, such as louvers at mechanical floors, glazing at circulation corridors, and metal panel rainscreen where durability and privacy are priorities. At upper floors, transparent glazing is provided. Sustainable features have been incorporated into the site and building design, such as solar panels, green roof, cool roof, stormwater reclamation, geoexchange wells for heating and cooling, and next generation battery storage to reduce emergency generator needs.

In the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines*, under the category of Exceptional Building and Site Design, it states that, "Exceptional design is both pro-urbanist and pro-environmentalist." As such, projects should create a sense of place, enhance the public realm and support an active mixed-use environment. Although the Planning Board understands the necessity of a singular use that in this case cannot support the public realm of the street it frames, nor provide active ground floor uses that would help activate the street, it still remains a well-designed building set back from the primary Spring Street. It is a nice, well-designed building that does not, and cannot, support the greater urban design of this portion of the Spring Street corridor, therefore the Planning Board does not support the full award of 10 points for exceptional design. While the Planning Board understands the design limitations given the

use and nature of the building, the design does not fully achieve the 6 criteria within the *Commercial/Residential and Employment Zones Implementation Guidelines*, particularly for enhancing the public realm in a distinct and original manner and providing innovative solutions in response to the immediate context. The Planning Board approves 5 points (half of the total possible points) for this specific development.

Protection and Enhancement of the Natural Environment

Cool Roof: The Applicant requests 5 points for providing a cool roof on areas of the rooftop that do not contain green roof, solar, or mechanical areas. The cool roof area will incorporate a mixture of materials that will collectively meet or exceed a solar reflectance index (SRI) of 75. The Planning Board approves 5 points in this category.

Vegetated Roof: The Applicant requests 7.5 points for the installation of vegetated roof covering at least 33% of the roof with a minimum depth of 4 inches. The Planning Board approves 7.5 points in this category.

$$\begin{aligned} &\text{Area of green roof / net roof area} \\ &3,400/10,120 = 0.335 \text{ (33\% of roof area)} \end{aligned}$$

ii. *Division 6.1. Site Access*

Vehicular access and loading for the Site will be provided from Cameron Street, via the new consolidated curb cut, which will also provide access to the designated off-street loading area and the cellar access driveway ramp. Long-term bicycle parking will be provided within the cellar, accessed by the driveway ramp.

Pedestrian access to the Site will be from the established sidewalk network. An existing mid-block pedestrian connection between the terminus of Cameron Street and South Noyes Drive will be enhanced by additional planting and improved lighting.

iii. *Division 6.2. Parking, Queuing, and Loading*

Parking for the new building will be provided in the reconfigured surface parking lot accessed from the existing driveway on the bulb of the Cameron Street cul-de-sac. The surface parking lot has a capacity of 47 vehicles as well as 3 motorcycle spaces. The 47 spaces break down into the following categories: 43 typical parking spaces, 2 spaces with electrical charging stations, one ADA van space, and one ADA typical space. With 47 total spaces, this is fewer than the required minimum

65 parking spaces, which is permitted as the Site is located within the Silver Spring Parking Lot District boundary (Section 59-6.2.3.H.1.a).

Vehicular and loading access will occur via Cameron Street via the consolidated curb cut on Cameron Street. Loading for the Project will occur internal to the Site. The Project demonstrated that the designated space can safely accommodate an SU-30 truck.

iv. *Division 6.3. Open Space and Recreation*

In the EOF zone, properties with tract areas ranging between 1 acre and 3 acres and having 1 frontage are not required to provide any public open space, per Section 59.4.6.4.B.1 of the Zoning Ordinance.

v. *Division 6.4. General Landscaping and Outdoor Lighting*

Landscaping and lighting, as well as other site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by employees, visitors, and those utilizing the mid-block pedestrian connection.

As shown in the Development Standards table, the Site Plan meets all general requirements and development standards of Division 4.6 of the Zoning Ordinance, the optional method public benefits provisions of Division 4.7 of the Zoning Ordinance, and the general development requirements of Article 59-6 of the Zoning Ordinance.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

The Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services (MCDPS) on March 8, 2021. The Project will meet required stormwater management goals via ESD to the MEP via green roof, rainwater harvesting, rain garden and micro-bioretenion facilities. Due to site constraints, a partial waiver of stormwater management was granted by MCDPS.

b. Chapter 22A, Forest Conservation

The Board finds, as conditioned, this Application meets the requirements of Chapter 22A of the Montgomery County Code. A Forest Conservation Plan was submitted along with the Site Plan. The Forest Conservation Plan shows that within the 1.68-acre site area, there is no existing forest, and thus no forest clearing is proposed; the Forest Conservation

Worksheet included in the Plan shows a calculated Afforestation Requirement of 0.25-acres, which the Board recommends be met through fee-in-lieu or via credits purchased from an off-site, planted Forest Conservation Bank.

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. 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 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% 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.

The subject Application includes disturbance/removal of trees that are $\geq 30"$ DBH, therefore a variance is required. The Applicant submitted a variance request on February 16, 2021 (Attachment D) for the removal of one subject tree that is considered high-priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Specimen Trees to be Removed

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
1	White Pine	30"	49%	Fair	REMOVE

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, for a variance to be granted. In addition to the required findings outlined numerically below, the Planning Board has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship because the limited site area, in the highly developed area adjacent to Downtown Silver Spring, has resulted in the critical root zone of the subject tree being very constricted by neighboring properties without

adequate area for alternative development layouts. The existing office building on the site has run its course, and redevelopment of the site will allow for continued operations while providing a more efficient building design. The 30" white pine is located on a sloped, narrow terrain which is difficult to access and maintain. This has also led to neglect of maintenance of the tree. The use of the Property for a new office building is permitted by the applicable zoning and is a reasonable and significant use of the Property. In addition, there are few other design alternatives which could reasonably retain the tree because the Applicant will primarily retain the footprint of the existing site while upgrading the facilities, which includes rehabilitating the existing surface parking lot and providing improved landscaping and lighting. A more comprehensive redesign of the site would ultimately result in more impact to both Tree-1 as well as neighboring trees and landscaped areas. Denying the Applicant's request to remove this variance tree would take away the Applicant's opportunity to upgrade the existing site while otherwise minimizing overall site disturbance and maintaining the current level of access and circulation to the site. With these factors (small site with few alternatives for layout changes, the need to update the existing site, and tree location), in mind the Board has reviewed this Application and agrees that there is an unwarranted hardship.

Variance Findings

The Planning Board made the following determination based on the required findings for granting of the requested variance:

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

The Applicant's proposal to construct an updated office building as part of a strategic economic development project (SEDP) with medical and scientific uses, improve site access/circulation for Fire & Rescue, and implement onsite stormwater management provides much needed services for the area. Further, the construction activities have been limited to maintain much of the existing hardscape, which ensures no net increase in impervious surfaces and lessens the overall impact to adjacent mature trees. Further, the Applicant's proposal will provide environmental benefits via mitigation plantings. With these factors considered, the Planning Board concludes the variance request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

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

As stated above, the requested variance and associated tree impacts are due to the concerns related to the limited site area, constructing an improved office building to replace the aging, existing facility, and improvement of site access. The variance request submitted by the Applicant reflects efforts to maintain the site footprint to the extent possible which limits the environmental impacts which could otherwise occur. The design also allows for the implementation of onsite stormwater management, which is greatly needed and is cited as a Master Plan concern. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant.

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 result of the site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

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

The Subject Property does not currently contain any stormwater management features as the existing site and surroundings were developed prior to modern stormwater management practices and standards. The Applicant provides a development which will meet current State and local stormwater management standards; this will be verified by the submission of a Stormwater Management Plan to the Department of Permitting Services. A measurable degradation in water quality is not anticipated as the development will provide Best Management Practices (BMP) areas to meet ESD requirements for the Site in order to achieve water quality standards. This Application does not increase impervious surfaces, as the development maintains much of the existing site layout. This development will also provide stormwater management on-site, where there are currently no such measures. Thus, the Application will ultimately result in an improvement of water quality, rather than cause measurable degradation.

Mitigation for Trees Subject to the Variance Provisions

There is one subject tree that will be removed in association with this Application. Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. As a result of the removal of one subject tree for a total of 30" DBH removed, resulting in a mitigation requirement of at least 7.5 caliper inches of native canopy trees sized at least 3" caliper inches each. In the included Forest Conservation Plan, the Applicant has provided more than this minimum requirement. The Planning Board supports this approach, which will greatly enhance the natural features onsite and aid in reducing stormwater impacts.

County Arborist's Recommendations

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 for a recommendation prior to acting on the request. The Applicant's request was forwarded to the County Arborist on February 17, 2021.

Recommendation on the Variance

As a result of the above findings, the Planning Board approves the Applicant's request for a variance from the Forest Conservation Law to remove one subject tree associated with the application.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

The Project provides adequate, safe, and efficient parking and circulation patterns. The Project consolidates the cellar access and loading driveway entrances on Cameron Street to limit impacts to the pedestrian environment along the Cameron Street frontage. The building provides pedestrian entrances from Cameron Street to contribute to an active streetscape. The surface parking lot driveway on the northern end of the Cameron Street cul-de-sac bulb is to remain. The Project provides a safe and well-integrated building located just outside the Silver Spring CBD.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Project substantially conforms to the recommendations for the Property included in the 2000 *North and West Silver Spring Master Plan*. Specifically, this Master Plan seeks to enhance stable neighborhoods, upgrade local commercial centers, and improve pedestrian and bikeway connections. The recommendations focus on:

1. **Community Preservation, Stability, and Character** to preserve the existing residential character and reinforce the many desirable features of the North and West Silver Spring neighborhoods.
2. **Commercial Centers - Character and Viability**, to improve appearance, vehicular and pedestrian access, and overall economic health of commercial centers.
3. **Neighborhood-Friendly Circulation Systems**, to improve pedestrian access and safety.
4. **Parks, Community Facilities, and Environmental Resources**, to continue to acknowledge these resources as essential elements of community life.

The Property is located in the North Silver Spring area which reconfirmed the existing zoning. Any new or infill development should be compatible with the existing residential character. The Land Use Map identified the existing use of this site as office and parking, the Medical/Scientific Manufacturing and Production use with associated surface parking will generally be in the same location as the existing buildings, meeting the intent of the Master Plan.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

The development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

Section TL2.6 of the 2021-2024 Growth and Infrastructure Policy states that the requirements of the Subdivision Staging Policy must not apply to a development or a portion of a development where the following criteria are met: the primary use is for bioscience facilities, as defined in Section 52-39 of the County Code, and an application for preliminary plan, site plan, or building permit that would otherwise require a finding of Adequate Public Facilities is approved after January 1, 2021 and before January 1, 2025, and an application for building

permit is filed within 3 years after the approval of any required preliminary plan or site plan. This Project satisfies all three criteria, therefore the Adequate Public Facilities finding is satisfied with the transportation exemption statement dated December 10, 2020.

9. The development is compatible with the character of the residential neighborhood.

The Subject Property is partially located within a residential detached zone (R-60). This portion of the Property is currently developed as a surface parking lot. The Project will reduce the size of this parking lot from 88 to 47 spaces and will surround the parking lot with fresh landscaping, including shrubbery and trees to further buffer this area from the residential neighborhood to the rear, generally improving the existing character of this area.

10. The development is compatible with existing and approved or pending adjacent development.

The Project has been designed to be compatible with the surrounding existing and proposed development. To the south, the Project will blend with the composition of other existing United Therapeutics structures by utilizing similar materials; to the north, the Project will enhance existing pedestrian connections with the residential neighborhood along S. Noyes Drive, and increase buffer areas and screening through landscaping.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including testimony, 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 § 59-7.3.4.H; 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 JUN 01 2021 (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 Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor of the motion at its regular meeting held on Thursday, May 27, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board