



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

JUL 29 2021

MCPB No. 21-082
Preliminary Plan No. 120200100
PSTA
Date of Hearing: July 22, 2021

RESOLUTION

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

WHEREAS, on January 27, 2020, The Elms at PSTA, LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision on 44.8 acres of land in the Commercial/Residential (CR): CR-1.0, C-0.5, R-1.0, H-150 zone, located at 9710 Great Seneca Highway ("Subject Property"), in the R & D Village Policy Area and within the Life Sciences Center West District of the 2010 *Great Seneca Science Corridor Master Plan* ("Master Plan") area that would create 1,039,136 square feet of residential uses for up to 290 lots and up to 35 parcels for up to 630 dwelling unit(s), including a minimum of 30% MPDUs, and a maximum of 1,740 square feet of commercial uses; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120200100, PSTA ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 12, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 22, 2021, 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

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Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by motion of Commissioner Cichy, seconded by Commissioner Verma, with a vote of 4-0, Chair Anderson, Commissioners Cichy, Fani-Gonzalez, and Verma voting in favor, with Commissioner Patterson being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120200100 to create 1,039,136 square feet of residential uses for up to 290 lots and up to 35 parcels for up to 630 dwelling unit(s), including a minimum of 30% MPDUs, and a maximum of 1,740 square feet of commercial uses, on the Subject Property, subject to the following conditions:¹

General Approval

1. This Preliminary Plan is limited to 1,039,136 square feet of residential uses up to 290 lots and up to 35 parcels for up to 630 dwelling unit(s), including a minimum of 30% MPDUs, and a maximum of 1,740 square feet of commercial uses.

Adequate Public Facilities and Outside Agencies

2. The determination of Adequate Public Facilities ("APF") and Preliminary Plan will remain valid for ten (10) years from the date of mailing of this Planning Board Resolution, according to the phases outlined below. Because the APF and Preliminary Plan validity periods are longer than the typical five years, phasing schedules in accordance with Sections 4.1.C.9.b, 4.2.G.2.b.iv, and 4.3.J.5.b of the Subdivision Regulations are required.
 - a. The phasing schedule for the APF validity period which relates to the issuance of building permits, is as follows:
 - i. Phase I: A minimum of 4 building permits (for the multi-family buildings) must be issued within 60 months of the Initiation Date of the Preliminary Plan as defined in Section 50.4.2.G of the Subdivision Code.
 - ii. Phase II: A minimum of 114 building permits must be issued within 96 months of the Initiation Date of the Preliminary Plan.
 - iii. Phase III: The balance of the building permits must be issued within 120 months of the Initiation Date of the Preliminary Plan.
 - b. The phasing schedule for the Preliminary Plan validity periods are the dates that final record plats for all property delineated within that phase on the approved Preliminary Plan must be recorded in the Montgomery

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.

County Land Records, unless a request for an extension is filed and approved, are as follows:

- i. Phase I: Within 36 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 2 multifamily lots which will contain four (4) multi-family buildings with up to 298 residential units, including MPDUs, and 1,740 square feet of commercial use with associated residential amenities;
- ii. Phase II: Within 72 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 115 lots, consisting of 112 townhouse lots, two (2) stacked two-over-two townhouse lots (encompassing 134 residential units, including MPDUs), and one (1) pool house lot, and the 3.17-acres of public open space with an athletic field at the intersection of Great Seneca Highway and Medical Center Drive (collectively Parcel G);
- iii. Phase III: Within 108 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 70 lots, consisting of 69 townhouse lots and one (1) stacked two-over-two townhouse lots (encompassing 103 residential units, including MPDUs), the 0.50-acre civic green (Parcel B), and 0.20-acres of land for the mews (Parcel C and Parcel D, Block D); and
- iv. Phase IV: Within 120 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 95 townhouse lots, including MPDUs.

Outside Agencies

3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its revised Preliminary Plan letter dated July 8, 2021 and its revised TIS letter dated July 8, 2021 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording any plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
5. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated June 23, 2021, as amended in the MDSHA email dated July 7, 2021 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter which may be

amended by MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

6. Before the issuance of MDSHA access permits, the Applicant must satisfy the MDSHA's requirements for access and improvements.
7. 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 June 24, 2021 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
8. 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 June 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 MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("MCDHCA"), in its email dated June 7, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the email, which MCDHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Environment and Noise

Forest Conservation

10. The Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department prior to issuance of a Sediment Control Permit from the MCDPS. The Final Forest Conservation Plan must be substantially consistent with the approved Preliminary Forest Conservation Plan.
11. Prior to the start of any demolition, clearing, grading, or construction for this development Application, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement 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 by deed. The Book/Page for the easement must be referenced on the record plat.

12. 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 variance mitigation trees and maintenance credited toward meeting the requirements of the Forest Conservation Plan (FCP).
13. The Sediment and Erosion Control Plan and Storm Water Management Plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the Final Forest Conservation Plan (FFCP).
14. 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.
15. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in a form approved by M-NCPPC Office of General Counsel, in an M-NCPPC approved off-site forest bank within the Muddy Branch watershed or any watershed within Montgomery County, subject to Staff approval, if there are no available credits within the same watershed as the Subject Property to satisfy the reforestation requirement for a total of 11.74 acres of mitigation credit. The off-site requirement may be met by making a fee-in-lieu payment if mitigation credits are not available at any bank.

Noise

16. A noise study must be submitted with the Site Plan, showing existing noise impacts on the Property and projected noise impacts based on the proposed development. The noise study must include recommendations for limiting projected noise impacts to no more than 65 dBA Ldn for the exterior public use spaces (to the extent feasible), and projected interior levels not to exceed 45 dBA Ldn.

Underground Utilities

17. Prior to the issuance of use and occupancy permits and final inspection for the dwelling units, as applicable, the undergrounding of new utility lines serving these lots and within the Subject Property must be completed.

Transportation

Bicycle and Pedestrian

18. In accordance with the 2016-2020 Subdivision Staging Policy, the Applicant must “fix or fund” the improvements of all public pedestrian infrastructure within 500-feet of the Subject Property that does not comply with the Americans with Disabilities Act (“ADA”) requirement, as shown on the Certified Site Plan, as determined by MCDPS ROW Permitting:
 - a. Prior to Certified Site Plan, the Applicant must submit a survey of ADA compliant improvements and responsibilities which will be coordinated with the M-NCPPC, MCDOT, and MCDPS.
 - b. Prior to Certified Site Plan, an agreement must be submitted and approved that details the responsibilities and ADA compliant work or funding (or partial funding) to be completed.
 - c. The work or funding (or partial funding) must be completed prior to use and occupancy permits and/or final inspection, as applicable, that corresponds with each of the four (4) approved project phases.
19. The Applicant must design and construct a twelve-foot wide Life Sciences Center Loop Trail along the Site’s Medical Center Drive frontage (the “LSC Loop”) in accordance with the 2016 *Life Sciences Center Loop Trail Design Guidelines*. Details and specifications of the LSC Loop must be provided at the time of future Site Plan(s), in a manner acceptable to MCDOT and M-NCPPC.
20. The Applicant must depress the grade of the bicycle lanes beneath the grade of the sidewalk and provide a roll curb with a 2 inch to 3-inch curb reveal on Blackwell Road and Medical Center Drive, or as approved by MCDOT and MCDPS.

Existing Frontage Improvements

21. The Applicant must dedicate and show on the record plat(s) all land necessary to accommodate 100 feet from the existing centerline along the Subject Property frontage for Key West Avenue (MD 28) for an ultimate 200-foot right-of-way.
22. Prior to the recordation of the first plat, the Applicant must satisfy all necessary requirements of MDSHA to construct a ten-foot wide (10 ft.) asphalt sidepath along the Property frontage on Key West Avenue (MD 28).
23. Prior to the recordation of the first plat, the Applicant must satisfy all necessary requirements of MDSHA to construct a ten-foot wide (10 ft.) foot wide asphalt sidepath along the Property frontage on Great Seneca Highway (MD 119).

24. Prior to the recordation of the first plat, the Applicant must satisfy all necessary requirements of MCDPS to construct a ten-foot-wide (10 ft.) asphalt sidepath along Street D that connects to Darnestown Road.

New Streets

25. The Applicant must dedicate the following rights-of-way and ensure construction of all necessary road improvements for the following public streets, as shown on the Preliminary Plan, to the design standards imposed by all applicable road codes, and as modified by MCDOT's approved design exceptions:
- a) Street A East with 55-foot right-of-way
 - b) Street B East with 55-foot right-of-way
 - c) Street C West with 46-foot right-of-way
 - d) Street C East with 48-foot right-of-way
 - e) Street D with 59-foot right-of-way
 - f) Blackwell Road with 73-foot right-of-way
26. The Applicant must dedicate 150-foot-right-of-way for Medical Center Drive and will design and construct all necessary improvements as shown in the Medical Center Drive road cross-section on the Certified Preliminary Plan.
- a. The Applicant shall contact the adjacent property owner to acquire the right-of-way necessary to make the connection of Medical Center Drive with Key West Avenue. The Applicant will coordinate with MCDOT if an agreement cannot be reached with the adjacent property owner. If the necessary right-of-way cannot be acquired prior to recordation of the first plat, then a Preliminary Plan amendment will be required.

Roads

27. The Applicant will need to obtain the MCDOT's and/or State Highway Administration's approval of the detailed/engineered traffic signal construction plans for the three new traffic signal locations as detailed below.
- a. Blackwell Road and Great Seneca Highway Traffic Signal
 - i. Detailed, engineered traffic signal plans shall be provided for review and approval by MCDOT with the application for the corresponding access permit.
 - ii. The traffic signal must be installed and operational prior to the issuance of the building permit that includes the 200th dwelling unit on the Site, or must be installed prior to the new segment of Blackwell Road opening to traffic and acceptance for maintenance by MCDOT, whichever occurs first.
 - b. Medical Center Drive and Great Seneca Highway Traffic Signal

- i. Detailed, engineered traffic signal plans shall be provided for review and approval by MCDOT with the application for the corresponding access permit.
 - ii. The traffic signal must be installed and operational prior to the issuance of the building permit that includes the 300th dwelling unit on the Site, or must be installed prior to the new segment of Medical Center Drive opening to traffic and acceptance for maintenance by MCDOT, whichever occurs first.
 - c. Medical Center Drive and Key West Avenue Traffic Signal
 - i. Detailed, engineered traffic signal plans shall be provided for review and approval by MCDOT and MDSA with the application for access permit.
 - ii. The traffic signal must be installed prior to opening the new segment of Medical Center Drive to traffic and acceptance for maintenance by MCDOT.
 - d. If the County has already installed the traffic signals, the Applicant will make the payment at the installation time listed above. This payment will be used to fund other traffic signals in the County.
28. Prior to obtaining the access permits for the Site, the Applicant shall pay a fee-in-lieu to the MCDOT in the amount of \$9,800, which represents 2 percent of the design and installation costs, with contingency, of a signal at Great Seneca Highway (MD 119) and Decoverly Drive (total cost $\$350,000 \times .02 = \$7,000 + 40$ percent contingency).
29. Prior to obtaining access permits for the Site, the Applicant shall pay a fee in lieu to the MCDOT representing 2 percent the cost of an improvement (with a 40 percent contingency) to mitigate storage for the eastbound left turn lane for the intersection of Key West Avenue (MD 28) and Great Seneca Highway (MD 119), subject to the review and approval of the MCDOT and the MDSA.
30. At the signing and marking stage, the Applicant shall submit a plan for review and approval to MCDOT showing the design to mitigate the queuing for the eastbound left turn lane at the Darnestown Road and Great Seneca Highway intersection. The design will require coordination with the MCDPS and should account for any other relevant potential improvement, including improvements required of Site Plan No. 82001012D. Prior to the first use and occupancy permit or final inspection for any building on Site, as applicable, the improvement must be completed.

Record Plats

31. There shall be no clearing or grading of the Site prior to certification of the Final Forest Conservation Plan.

- 32. The record plat must show necessary easements.
- 33. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 34. The record plat must reflect all areas under common ownership.
- 35. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Liber 28045 Folio 578 ("Covenant").

Open Space, Facilities and Amenities

- 36. The Applicant must provide a minimum of 7.45 acres (324,522 square feet) of public use open space (16% of the tract) on-site and all amenities and streetscape improvements within the Property, as illustrated on the Certified Preliminary Plan.

Other Dedications

- 37. At the time of record plat associated with the building permits for dwelling units in Block B, the Applicant must convey 0.59-acres of land identified as Parcel A, Block C.
- 38. Prior to recordation of the plat for Parcel B, Block D, the Applicant must record a public use easement for the 0.50-acre civic green identified as Parcel B, Block D as shown on the Certified Preliminary Plan and reference the easement on the plat.
- 39. The Applicant must dedicate in a form acceptable to MCDOT Parcel F, Block F within 180 days of receiving written notice from Montgomery County that the County has approved engineered plans to construct the segment of Street C to Great Seneca Highway. A note stating this condition shall be placed on the Preliminary Plan and the Site Plan as well as the applicable plat and any deed to run with the title of the land.
- 40. The Applicant must dedicate in a form acceptable to MCDOT Parcel B, Block A within 180 days of receiving written notice from Montgomery County that the County has approved engineered plans and funds dedicated in the CIP to construct the segment of Street A from Blackwell Road to Key West Avenue. A note stating this condition shall be placed on the Preliminary Plan and Site Plan as well as the applicable plat and any deed to run with the title of the land.

41. The HOA declaration, recorded in the land records, must contain details about the dedication of Parcel B, Block A for the future construction of Street A to Key West Avenue. The Applicant must place and maintain visible signage on each end of the future street dedication stating the following: "This area is reserved for the future construction of the road extension of Street A to Key West Avenue."
42. The HOA declaration, recorded in the land records, must contain details about the dedication of Parcel F, Block F for the future construction of Street C to Great Seneca Highway. The Applicant must place visible signage on each end of the future street dedication stating the following: "This area is reserved for the future construction of the road extension of Street C to Great Seneca Highway."

Moderately Priced Dwelling Units (MPDUs)

43. The Applicant must provide a minimum of 30% MPDUs for the multi-family buildings, two-over-two stacked townhouses, and single family attached townhouses, as shown on the Certified Preliminary Plan.
44. The final number of MPDUs as required by condition No. 43 above will be determined at the time of site plan approval.

Certified Preliminary Plan

45. The Applicant must include the stormwater management concept approval letter, Preliminary Plan Resolution, and all applicable agency approval letters on the approval or cover sheet(s).
46. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
47. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a) Show the Planning Board Resolutions and all agency approval letters within the Certified Preliminary Plan set.
 - b) Revise the data table to reflect the Planning Board approval, including the addition of square footages to the data table.

- c) The Certified Preliminary Plan shall reflect the revised frontage improvements from the south (or west) edge of Medical Center Drive to its north (or east) edge as enumerated in MCDOT's revised letter dated July 8, 2021, to bring the Project into conformance with road construction requirements.
- d) Revise the General Notes to state that proposed new utilities lines within the Subject Property shall be placed underground by the Applicant as part of the Project.
- e) Include the construction phasing drawing within the Certified Preliminary Plan set.
- f) Revise the Street A and Street B transition at Blackwell Road that shows Street A terminating into parallel parking as follows:
 - i. Remove 36'x18' of the parallel parking spaces on each side of the parking entrance in the multi-family apartment building parking lot at the terminus of Street A.
 - ii. Remove approximately 18' x 18' of the parking each side of the parking lot at the terminus of Street B.
 - iii. Replace the parking with a vegetated area of grass and trees for screening and a physical transition from the street to the parking to signify the prominence of Street A in relation to Street B.

Future Site Plan

- 48. Before clearing or grading or recording a plat for the Subject Property, the Applicant must receive Staff certification of a Planning Board-approved Site Plan. The number and location of site elements, including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined through site plan review and approval.
- 49. If an approved site plan or site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan or site plan amendment.
- 50. The Applicant must evaluate the use of additional design and materials that minimize carbon emissions and maximize energy conservation as reflected by the GSSC Master Plan sustainability priorities.
- 51. The Applicant must review the design of the surface parking fronting on Key West Avenue (MD 28) to ensure the intent of the CR Zoning District is met.

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 layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The Planning Board finds that the proposed lots comply with Chapter 59 in relation to maximum density, height, setback compatibility, and minimum open space. The Preliminary Plan meets the dimensional requirements for standard method of development in the CR zone (CR 1.0, C 0.5, R 1.0, H 150) as specified in the Zoning Ordinance, as shown in Table 1 below.

Table 1: Standard Method Development Standards in the CR Zone

Description	Required/ Permitted	Approved
Tract Area		1,953,230 sf. (44. 84 ac.)
Maximum Density		
Total	up to 2,096,488 sf.	1,029,761 sf.
Commercial	up to 1,048,244 sf.	1,740 sf.
Residential	up to 2,096,488 sf.	1,022,771 sf.
Maximum Height	150 ft.	75 ft.
Minimum Public Use Space*	15% (6.73 acres)	16% (7.45 acres)
Minimum Common & Public Open Space	10% (4.48 acres)	10% (4.48 acres)
Setbacks	Determined by Site Plan.	Determined by Site Plan.
Form	Determined by Site Plan.	Determined by Site Plan.
MPDUs Required	12.5%	30%
Minimum Parking Spaces Required**	986 Spaces	1,544 spaces (Determined by Site Plan.)

*Minimum 10% requirement of the CR Zone exceeded by the GSSC Master Plan for 15%.

** A baseline maximum is not established for multi-living units within the CR Zone that is outside a Parking Lot District or Reduced Parking Area.

Preliminary Plan Validity

The Applicant is seeking approval of a phased Project that will cumulatively exceed the 36-month Preliminary Plan validity period for a single-phased project.

Per Section 50.4.1.C.9 of the Subdivision Regulations of the County Code, where an Applicant proposes a multi-phased project, it must submit plat recording and construction phasing schedules that indicate the portions of the Preliminary Plan for which record plats will be obtained during each proposed phase, up to the expiration of the validity period for the determination of APF. The Preliminary Plan Validity period and phasing schedule is outlined as follows:

- Phase I: Within 36 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 2 multifamily lots which will contain four (4) multi-family buildings with up to 298 residential units, including MPDUs, and 1,740 square feet of commercial use with associated residential amenities;
- Phase II: Within 72 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 115 lots, consisting of 112 townhouse lots, two (2) stacked two-over-two townhouse lots (encompassing 134 residential units, including MPDUs), and one (1) pool house lot, and the 3.17-acres of public open space with an athletic field at the intersection of Great Seneca Highway and Medical Center Drive (collectively Parcel G);
- Phase III: Within 108 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 70 lots, consisting of 69 townhouse lots and one (1) stacked two-over-two townhouse lots (encompassing 103 residential units, including MPDUs), the 0.50-acre civic green (Parcel B), and 0.20-acres of land for the mews (Parcel C and Parcel D, Block D); and
- Phase IV: Within 120 months of the Initiation Date of the Preliminary Plan, plats must be recorded for a minimum of 95 townhouse lots, including MPDUs.

The Planning Board approves the requested 10-year Plan Validity Period and phasing schedule.

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

The Preliminary Plan substantially conforms to the recommendations within the 2010 *Great Seneca Science Corridor Master Plan* (“Master Plan”), as outlined below for various areas of emphasis.

a. Land Use

Generally, the *GSSC Master Plan* provides a blueprint for the future that will transform the Life Sciences Center (LSC) into a vibrant place served by transit and enhanced by activating uses, open spaces, and amenities. The Master Plan states to: “replace the Public Safety Training Academy (PSTA) in the LSC West District with a new residential community that includes supporting retail, open spaces, and community facilities.” Further, the Subject Property is located within the CR Zoning District which allows for a variety of densities and heights. The CR zone promotes different housing types, transportation infrastructure, and major public amenities, all of which the Project provides. The Plan also demonstrates a mix of uses and heights to facilitate compatibility. While the CR Zone offers additional density by an optional method, the Project satisfies the lower density standard method option of up to 0.5 FAR. Therefore, the Preliminary Plan substantially conforms to the vision of the *GSSC Master Plan* and contemplates major elements of the plan vision, while also complying with the requirements of the zoning district.

Density and Building Height

The *GSSC Master Plan* envisions the greatest density on the Property being located at the future CCT stop on the Property’s Medical Center Drive frontage. Thus, the proposed design locates the proposed multi-family units near the future CCT stop. In this location, the Project also includes a space for retail and a central civic green, as envisioned by the *GSSC Master Plan*. The Project’s overall density is within the Master Plan’s density recommendations.

Buildings within one-eighth mile of the future CCT stations should be at least 60 feet high. In all other areas, the desired minimum building height is 36 feet (three stories of occupied space) in order to retain land for future higher densities (pg. 16). The Project includes building heights for the multi-family units closest to the future CCT station as 75 feet high and the townhouses at 40 feet high that are further away. Therefore, the proposed building heights are consistent with the Master Plan’s recommendations.

Affordable Housing

Generally, the *GSSC Master Plan* recommends new housing in the Life Sciences Center to create more opportunities to live near work. The new

development consists of a mix of residential units made up of townhouses, two-over-two stacked townhouses, and multi-family apartment units that are located in close proximity to existing and future transit options, including the planned CCT station at the civic green, to make transit use accessible and more viable in this area. The Application provides 30% MPDUs which exceeds the minimum 12.5% MPDU requirement per Chapter 25A-5 of the Montgomery County Code.

Also, Section 25A-5(k) of Chapter 25A of the County Code states: “...MPDUs must be reasonably dispersed throughout the development,” and further requires that the pace of MPDU production reasonably coincides with the pace of the construction of market rate units. The updated MPDU locations and counts, as provided to MCDHCA and shown on the Preliminary Plan, were approved by MCDHCA on June 7, 2021 as noted in the approval email attached to the Staff Report dated July 12, 2021.

Public Facilities

The 2010 GSSC Master Plan recommends the inclusion of an elementary school on the PSTA site, as needed:

“If a new elementary school is needed, it could be combined with a local park on the northern portion of LSC West. If the school is needed and if the northern area is chosen, the proposed local street (see B-5 on Map 29 on page 54) should be eliminated to create adequate space for a park/school site. If the school is not needed, a local public park for active recreation should be provided. This park should be large enough to accommodate a regulation size rectangular field. In addition to the park/school site, development should be accompanied by a new public urban park to serve as the central civic open space for the residential community. This public green space should be near the CCT station and one-half to one acre in size to create a gathering place and focal point for the community. (pg. 38)”

Based on coordination between the Planning Department, Park Planning and Stewardship, Montgomery County Public Schools (MCPS), Montgomery County Department of General Services (MCDGS), and the Washington Suburban Sanitation Commission (WSSC), it was determined that Parcel V could be the location for a potential school site, which is not within the footprint of the PSTA property.

The Subject Property’s abutting land is known as Parcel V, “Shady Grove Life Sciences Center” Plat No. 21631. Parcel V is approximately 6.5 acres and is owned by Montgomery County, but is not a part of the current application. It

is the existing location of the National Cybersecurity Center of Excellence. Presently, Parcel V is being considered as a future co-located school and park to address the *Great Seneca Science Corridor (GSSC) Master Plan* recommendation that calls for a combined park/school site. Detailed planning and design of the school site is not warranted at this time, but would occur in the future, if necessary.

The Applicant will convey 0.59 acres from a portion of the Subject Property under this Application to increase the size of Parcel V for future development. However, a key challenge is a WSSC high-pressure water main underneath Parcel V, so the 6.5 acres of land could be further reduced for a future redevelopment. There is also an understanding that utility relocation costs may be associated with locating a school on Parcel V.

The GSSC Master Plan recommends that if a school is not need on the Site, then a local park and a full-sized regulation athletic field should be provided on the PSTA Site. The Proposal provides 3.17-acres of public use open space with a youth size soccer field located at the corner of Medical Center Drive and Key West Avenue. This open space area will not be dedicated to the Parks Department as a local park because it does not meet their minimum acreage requirements for a local park with surface parking accommodations and other amenities, but it will be maintained under private ownership with a public access easement. In light of the smaller field provided, the Applicant is required to provide an open space area that can deliver athletic functions, either as youth size soccer field or futsal/soccer court facilities, which carries an athletic field function in a smaller space compared to the regulation size adult field that is recommended. The proposed soccer field meets the necessary dimensional requirements and aims to provide the athletic function that is envisioned. The Planning Board finds that the Project is in substantial conformance with the Master Plan recommendations.

Public Open Space

Page 38 of the Master Plan states “.....*In addition to the park/school site, development should be accompanied by a new urban park to serve as the central civic open space for the residential community. This public green space should be near the CCT station and one-half to one acre in size to create a gathering place and focal point for the community.*”

The *GSSC Master Plan* has a higher standard for public use space, with a 15% requirement, compared to the 10% requirement of the Zoning Ordinance. The Applicant includes over 7 acres of public use space under private ownership, equating to 16% of the tract, within the footprint of the Subject Property. These spaces include the preservation of the existing stream valley area, a civic green, and a 3.14-acres of open space with a regulation-sized

field. Spread out throughout the Site, each of these places provided a gathering space for passive and active activities for both residents and visitors. The proposed public use space is also connected to a system of existing and new sidewalks and a future shared-use trail that is the signature feature of the LSC West District. The Preliminary Plan complies with the Master Plan recommendation for public use space and the zoning requirement for common and public open space.

Urban Form and Open Spaces

Some urban form and open space recommendations that apply to the Subject Property include concentrating the highest density and building heights (150 feet) near the CCT station and creating the LSC Loop Trail along Medical Center Drive and Decoverly Drive to connect pedestrians with other transit centers, the network of natural pathways along the stream buffers, and the open spaces. The Project exceeds the minimum requirement of 15% for public use space, it will deliver the LSC Loop Trail, and each proposed apartment building and townhouse has been oriented towards each fronting civic green, open space, or public right-of-way. Additionally, the 1,740 square feet of retail has been co-located within the apartment building closet to the proposed civic green and is highly visible to the future CCT station.

Transit

Transit is an essential element of the *GSSC Master Plan* and is the basis for the land use and zoning recommendations and prescribes that a strong public and private commitment to the Plan's transit proposals will help ensure that the LSC is connected internally as well as to the rest of the Corridor.

Presently, several bus routes that provide local and regional connections are located around the perimeter of the Subject Property. The *GSSC Master Plan* envisions new public transportation options, including the Corridor Cities Transitway (the "CCT"), a 14-mile bus rapid transit option, and the Life Sciences Center Loop Trail ("LSC Loop Trail"), a 3.5-mile pedestrian and cycling trail that will eventually connect into other trails. New side paths along Key West Avenue and Great Seneca Highway are proposed to complement existing sidewalks to connect to bus stops and to the station stop of the CCT located at the intersection of Medical Center Drive and Blackwell Road.

Staging Requirements

The *GSSC Master Plan* consists of four (4) development stages and requirements with specific triggers to strategically coordinate development with transportation and other necessary infrastructure. Currently, the *GSSC Master Plan* remains in Stage One, which provides development capacity for 400,000 square feet of commercial uses and 2,500 residential units. The

Application includes a maximum of up to 630 residential units. Therefore, there is sufficient development capacity per the staging requirements to accommodate this Application.

b. Environment

The *GSSC Master Plan* provides broad environmental sustainability recommendations, including preserving natural resources, improving water and air quality, and reducing carbon emissions.

Resource Protection and Preservation

To preserve and enhance natural resources and their associated functions, the *GSSC Master Plan* emphasizes avoidance of impacts to natural resource areas, new roads that minimize impacts to existing resources, and to use required forest and tree planting to enhance and expand existing resources.

Further, the Plan recommends that impacts to the forested area at the corner of Great Seneca Highway and Key West Avenue be minimized (pg. 39). The Preliminary Plan meets the intent of the Master Plan by preserving and protecting the stream valley area on the PSTA site. New roads and parking areas comply with the *Planning Board's Environmental Guidelines* and do not encroach into sensitive areas. Additionally, one of the proposed multi-family buildings has been placed to buffer the stream valley from the surface parking lot within the development.

Stream Buffer and Water Quality

Per the Master Plan, "*The LSC's existing stream buffer areas should be integrated with the [LSC] Loop, offering passive outdoor experiences.*" The protection of the 3.35-acre stream valley buffer area contributes to climate resiliency and biological diversity. This stream buffer area will also have a connection to the future LSC Loop Trail via a network of sidewalks.

To protect water quality, the Master Plan recommendations include site design and construction options that minimize imperviousness, such as reduced parking requirements and the use of structured parking, the use of bioswales, planter beds, rain gardens, pervious pavement, the incorporation of non-paved areas into open spaces, the use of vegetated roofs and walls and increasing tree canopy and incorporating tree canopy and infiltration techniques into portions of the LSC Loop.

Some of these goals are being met by combining forest conservation requirements with street trees and landscaping plantings, all of which are native species. New tree plantings contribute to increasing tree canopy throughout the Site, reaching a minimum of 25 percent canopy coverage. This

goal is also being achieved through the incorporation of some tree canopy into portions of the LSC Loop Trail along Medical Center Drive that accommodates areas for canopy tree plantings alongside the shared use trail alignment. The Project incorporates Environmental Site Design to the maximum extent practical with the use of micro-bioretenion areas and other techniques to assist with filtering and retaining water on-site.

The Preliminary Plan meets the intent of the Forest Conservation law, the Environmental Guidelines, and the *GSSC Master Plan*. Moreover, the Applicant was directed to pursue additional sustainable features to enhance the development, particularly with the four (4) multi-family buildings, including energy conservation and building design features that keep roofs cool, such as green roofs or cool roofs, to further the Master Plan's recommendations. At this time, no additional sustainability measures are proposed with this Application. Therefore, a condition of approval includes the consideration of additional sustainable features to be addressed under the Site Plan review.

c. Transportation

To accommodate vehicular circulation through the Property and to surrounding roads, the Preliminary Plan includes the dedication of rights-of-way and the future construction of the following roadway segments and related infrastructure: Street A, Street B, Street C West, Street C East, Street D, Medical Center Drive, and Blackwell Road.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

a. Roads and Other Transportation Facilities

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

i. *Existing Facilities*

The Subject Property is served by major roadways which primarily include Great Seneca Highway (MD 119) and Key West Avenue (MD 28). Pedestrian and bicycling paths also exist along the perimeter roadways of the Property.

Transit Service

Medical Center Drive is currently master planned to provide the Corridor Cities Transitway (CCT) Bus Rapid Transit (BRT) service. If delivered as currently designed in the Maryland Transit Administration's 30 percent

Environmental Assessment design drawings, in the northbound direction the CCT will enter the Subject Property by crossing Great Seneca Highway (MD 119) at Medical Center Drive, where the Applicant will design and install a traffic signal. The CCT will travel within the median of Medical Center Drive through the Site, stopping at the Life Sciences Center West Station, which will be delivered during construction of the CCT. The CCT will then exit the Site in the northbound direction by crossing Key West Avenue (MD 28)—where an additional signal will be designed and installed—and continuing onto Johns Hopkins Drive. In the event a master-planned connection in the Belward Farm is not available when the CCT is ready for implementation, the CCT will turn left onto Key West Avenue (MD 28) toward Muddy Branch Road.

Currently, several bus routes that provide local and regional connections are located around the perimeter of the Property.

ii. Proposed public transportation infrastructure

The Preliminary Plan includes the dedication of right-of-way and construction of several Master Plan roads and bikeways adjacent to and within the LSC West district as recommended by the 2010 *Great Seneca Corridor Master Plan*.

Master Planned Rights-of-Way

The Preliminary Plan is consistent with the 2010 *Great Seneca Corridor Master Plan*, the 2018 *Bicycle Master Plan*, and the 2016 *Life Sciences Center Loop Trail Design Guidelines*, and the draft 2021 *Complete Streets Design Guidelines* for several master-planned roadways and bikeways.

Great Seneca Highway: Per the *GSSC Master Plan*, Great Seneca Highway (MD 119) is master-planned as a 150-foot wide six-lane Controlled Major Highway. This road is currently constructed as master-planned and no widenings are necessary; however, the 2018 *Bicycle Master Plan* recommends a sidepath along the west side of the roadway adjacent to the Site. The Applicant will provide the sidepath and adequate separation of no less than six-feet wide between the facility and the roadway.

Key West Avenue (MD 28): This road is master-planned as a 200-foot wide eight-lane Controlled Major Highway. The roadway is currently constructed as a six-lane 150-foot wide roadway. The Applicant will dedicate the required 25 feet to meet the intent of the master plan; however, the Planning Department has not requested the construction of

an eighth lane with this Application due the inconsistency of this request with the forthcoming *Complete Streets Design Guidelines*, which does not envision roads larger than six lanes. Since an additional travel lane would not be constructed along the roadway beyond the Site's frontage, the State Highway Administration (SHA) concurs with this approach. The Applicant will provide the 2018 *Bicycle Master Plan* required ten-foot sidepath, which will include separation of no less than six-foot wide between the facility and the roadway.

Medical Center Drive: The 2010 *Great Seneca Science Corridor Master Plan* proposes to extend Medical Center Drive between Great Seneca Highway (MD 119) and Key West Avenue (MD 28). This roadway is master-planned to be a four lane 100 to 150-foot wide roadway, including two transit lanes.

The Planning Department and MCDOT coordinated to provide the Applicant with a recommended roadway cross-section to meet the intent of the *GSSC Master Plan* and County Code requirements. The Applicant does not intend to construct the additional two lanes of the roadway along Medical Center Drive due to costs and therefore does not comply with Section 49-33F of the County Code: "The construction of half roads or any road of less than the width required by this Article is prohibited." The Applicant is constructing new residential units along both sides of Medical Center Drive, from Key West Avenue to Great Seneca Highway; therefore, there is no future development that would contribute to the remainder of the road construction if left unaddressed. Additionally, the roadway cross-section requested a condition that would allow the ease of implementation for the CCT and requested 20.5-foot-wide paving to accommodate Fire and Safety, a future two-lane section that is striped with an 8.5-foot parking lane, a single 12-foot lane on both sides of the median, and strategically located neckdowns near intersections where parking ends. The Planning Department and MCDOT requested the installation of parking along Medical Center Drive to help pronounce the urban design elements in the neighborhood that were envisioned in the *GSSC Master Plan*. Parking coupled with tree panels also help to bring the 150-foot-wide cross section down to the pedestrian scale and create safer and more inviting conditions for use of the LSC Loop. The Applicant's proposed cross-section illustrates larger turning radii that are not ideal and emergency access bays instead of the requested parking along the entire stretch of this road. Where the Applicant offers to provide bump-outs, trees can be added. However, in the future, these trees would need to be removed and the area bump-outs would need to be paved to create the second travel lane. This creates a public burden for future costs of retrofitting. As conditioned, the Certified Preliminary Plan shall reflect

the revised frontage improvements from the south (or west) edge of Medical Center Drive to its north (or east) edge as enumerated in MCDOT's revised letter dated July 8, 2021, to bring the Project into conformance with road construction requirements.

Regarding bicycle and pedestrian facilities, the roadway also is master planned to include the Life Sciences Center (LSC) Loop Trail, which is both a central element and staging figure of the 2010 *Great Seneca Science Corridor Master Plan*. The LSC Loop Trail is intended to be a 10- to 12-foot-wide branded trail that will contribute to the area's sense of place. The 2018 *Bicycle Master Plan* recommended two-way separated bicycle lanes on either side of the roadway. The Applicant will provide the recommended bicycle facilities on the south side of Medical Center Drive; however, because it does not make sense to have both the separated bicycle lanes and the LSC Loop Trail on the north side of Medical Center Drive, the Applicant will consolidate facilities and provide one 12-foot-wide branded facility. As directed by the 2016 *Life Sciences Center Loop Trail Design Guidelines*, the Applicant will provide a palate of branding elements, such as seating, art, or pavement markings, with the future Site Plan submission.

The 2010 *Great Seneca Science Corridor Master Plan* recommends a grid of streets extending through the Site. These include Street D, Street L, Street N, and Blackwell Road Extended.

Blackwell Road: Outside of the boundaries of the Site, the existing segment of Blackwell Road currently terminates at Great Seneca Highway (MD 119). The 2010 *GSSC Master Plan* proposes the westward extension of the roadway through the Subject Property and the adjacent Shady Grove Professional Center, terminating at Darnestown Road opposite to Yearling Drive. The extension is master-planned as a two-lane 80-foot wide Business District Street with one-way separated bike lanes on each side of the street. The Applicant will dedicate a 73-foot section, which accommodates two travel lanes, on-street parking, six-foot tree panels, the separated bicycle lanes, and two six-foot-wide sidewalks. The Applicant's design exception justification noting the deviation from the typical Business District Street standard is acceptable.

Road D, Road N, and Road L: These roadways are master-planned in the 2010 *Great Seneca Science Gateway Master Plan*. (Note: The Application uses different nomenclature for these roads compared to the Master Plan of Highways and Transitways.) These roads are planned as 70-foot wide two-lane Business District Streets. There are no bicycle facilities master-planned for these streets. The Project's grid of streets differs from what is

master planned, and the Applicant proposes to not construct two key connections on the basis that their benefits are limited as there are no near-term plans to relocate the existing Pepco substation located on Darnestown Road adjacent to the Site.

The future road connections envisioned within the Preliminary Plan include a master-planned north-south roadway through the Applicant's proposed multi-family parking lot (proposed Parcel B, Block A) and a master-planned east-west roadway extending to Great Seneca Highway (MD 119) (Proposed Parcel F, Block F). As conditioned, the Applicant will subdivide the Subject Property in the locations of the future connections and convey them to the County once certain elements are satisfied. These parcels are acceptable to ensure the future realization of these longer-term road connections when they are warranted.

Applicant's Proposed Grid Street Sections: The Applicant's proposed design exceptions for the sections of the Site's re-aligned street grid were reviewed and approved by MCDOT. Proposed roadways Street A, Street B, Street C West, Street C East, Street D, Medical Center Drive, and Blackwell Road are designed to comply with the Department's forthcoming *Complete Streets Design Guidelines* and create a tighter-feeling neighborhood streetscape. As previously noted, the Project includes a 10-foot-wide sidepath along Street D, which will extend south of the roadway to the intersection of Darnestown Road and Travilah Road to improve bicycle and pedestrian connectivity. The Project will also provide Street C West, to be reclassified from Business District street and constructed as a tertiary street since it is proposed as a one-way street and does not serve business uses.

Bicycle Parking

The 2018 *Bicycle Master Plan* envisions a high-quality bicycle parking station within the Site located proximate to the Corridor Cities Transitway (CCT) station. Bicycle parking for the proposed multi-family and retail components of the Project will be assessed at the of site plan review including locations such as the public open spaces, the LSC Loop Trail, the future CCT station, and the Project's 1,740 square foot retail bay.

iii. Proposed private transportation infrastructure

Section 59.6.2 of the Zoning Ordinance prescribes the minimum amount of parking spaces per dwelling unit for the Project. Adequate parking will be provided to support the proposed townhouses, two-over-two's, and multi-family apartments, and each proposed lot will independently meet

its parking requirement. There is no private transportation infrastructure contemplated with the Preliminary Plan.

a. Local Area Transportation Review (LATR)

The Applicant scoped and provided a Local Area Transportation Review (LATR) study on January 9, 2020, which has been analyzed against the 2016 LATR Guidelines due to the date of scoping. Subsequently, the Applicant provided a revised study dated April 15, 2021. The study bounds included ten intersections proximate to the Site. The Proposal's trip generation suggests that both vehicular and pedestrian LATR analyses are required. The total delay at the ten studied intersections account for the impact of ten pipeline (i.e. "background") yet-to-be constructed development projects.

Based on results of the analysis and additional requested signal warrant analyses, the Applicant will provide traffic signals at the following locations:

- a) Great Seneca Highway and Medical Center Drive
- b) Great Seneca Highway and Blackwell Road
- c) Key West Avenue (MD 28) and Medical Center Drive/Johns Hopkins Drive

The Site generates minimal traffic at the intersection of Great Seneca Drive and Decoverly Drive; however, the analysis suggests that improvement is necessary to ensure the intersection operates below the acceptable delay threshold for the policy area. Improvements to the intersection are currently moving through the permitting process with the State Highway Administration per work conditioned of property owners in the vicinity participating in the Road Club. The Applicant will provide a fee-in-lieu to the Montgomery County Department of Transportation (MCDOT) in the amount of \$9,800, which represents two percent of the design and installation costs, with contingency, of a signal at Great Seneca Highway (MD 119) and Decoverly Drive (total cost $\$350,000 \times .02 = \$7,000 + 40$ percent contingency).

The LATR analysis also examined queuing which is an issue at two locations:

- a) Great Seneca Highway (MD 119) and Key West Avenue (MD28)
- b) Great Seneca Highway (MD 119) Darnestown Road

Similar to other intersections in the vicinity, the Applicant's share of the storage requiring mitigation is minimal and the Applicant will address the deficiencies proportionally. For the intersection of Great Seneca

Highway (MD 119) and Key West Avenue (MD 28), the Applicant will pay a fee-in-lieu to the MCDOT representing two percent the cost of an improvement (with a 40 percent contingency) to mitigate storage for the eastbound left for the intersection of Key West Avenue (MD 28) and Great Seneca Highway (MD 119), subject to the review and approval of MCDOT and the MDSHA. Initially, the static Highway Capacity Manual analysis found queuing issues for the southbound left movement, but following an additional microsimulation analysis, the Applicant identified the eastbound movement as the more constrained movement.

The Applicant will submit a plan for review and approval to MCDOT showing the design to mitigate the queuing for the eastbound left turn lane at Darnestown Road and Great Seneca Highway intersection. The design will require coordination with the Department of Permitting Services and should account for any other relevant potential improvement, including improvements required of Site Plan No. 82001012D.

Pedestrian Adequacy Test

Per the 2016 LATR Guidelines, the Applicant performed the pedestrian adequacy test. The required delay analysis suggests that, in some cases, average pedestrian crossing wait time exceeds vehicular delay, suggesting that crossing conditions should not be worsened with vehicular improvements. The Applicant must also “fix or fund” the improvements of all public pedestrian infrastructure within 500-feet of the Subject Property that does not comply with the Americans with Disabilities Act (“ADA”) requirement.

b. Other Public Facilities and Services

The Project will be adequately served by public water and sewer, and dry utilities including gas, electricity, and telephone, and police, fire, and health services.

i. *Schools Capacity*

This Project is subject to the 2020-2024 Growth and Infrastructure Policy and the updated FY2022 Annual School Test, which is effective as of July 1, 2021. The proposed Project is served by Stone Mill Elementary School, Cabin John Middle School and Thomas S. Wootton High School. With a net of 630 units that are not age-restricted, the Project is estimated to generate 66 elementary school students, 33 middle school students and 43 high school students within an Infill Impact Area. These estimates do not exceed the adequacy ceilings and therefore, no partial Utilization Premium Payments are required.

ii. *Adequate Public Facilities and Phasing*

Per Section 50.4.3.J.5.a of the Subdivision Regulations, the applicable validity period for Adequate Public Facilities (APF) remains valid for no less than 5 and no more than 10 years after the Preliminary Plan is approved. The Applicant is seeking a 10-year (120 month) APF Validity Period, subject to the following phasing schedule, as conditioned:

- Phase I: A minimum of 4 building permits (for the multifamily buildings) must be issued within 60 months of the Initiation Date of the Preliminary Plan as defined in Section 50-4.2.G of the Subdivision Code.
- Phase II: A minimum of 114 building permits must be issued within 96 months of the Initiation Date of the Preliminary Plan.
- Phase III: The balance of the building permits must be issued within 120 months of the Initiation Date of the Preliminary Plan.

To allow a validity period longer than the specified minimum, the Board must find that the size or complexity of the subdivision warrant the extended validity period and would not be adverse to the public interest. The extended 10-year validity period for the determination of APF is appropriate given the expansive 44.8 acres of land that comprises the Project, the multi-phase project and complexity of the subdivision. It is in the public interest to allow the longer validity period since the Project will incorporate recommendations envisioned by the Master Plan, including a mix of building types at varying heights (townhouses with different widths, 2-over-2 stacked townhouses, and a mid-rise apartment buildings (one with retail)) that will be strategically constructed over a long period of time, based on market demand and financing availability. Therefore, the Planning Board approves the 10-year APF Validity Period.

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

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) was approved for this Site on May 29, 2019. The Site slopes from northwest to southeast to a stream that crosses the eastern side of the Property parallel to Great Seneca Highway. There are 720 linear feet of stream channel on the Site, along with 3.35 acres of stream buffer. The stream drains to the Muddy Branch, which is a Maryland State Use Class I-P stream. There is no 100-year floodplain on the Subject Property. There is a small area of wetlands (0.09 acres) associated with the stream channel. The Site contains 8.58 acres of forest and includes a number of specimen-size trees. The Application includes just over 0.8 acres of

stream buffer encroachment where Blackwell Road extended enters the eastern side of the Site. The Application complies with the Environmental Guidelines.

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Preliminary Forest Conservation Plan shows that 5.87 acres of forest are to be cleared for development, including some off-site disturbance. Based on the forest removed, net tract area, zoning, and 2.97 acres of forest retention, the total reforestation and afforestation requirement is 11.74 acres. The Applicant will fulfill the planting requirement through off-site forest banking. If forest bank credits are not available, a fee-in-lieu of planting may be paid. The on-site forested stream buffer and all areas of forest retained for forest conservation credit must be placed in a Category I Forest Conservation Easement.

B. Forest Conservation Variance

Section 22A-12(b) (3) of County code identifies 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 Code. The Code requires no impact to trees that: measure 30 inches or greater, dbh; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The Applicant submitted a variance request on April 2, 2021 because the plan would create an impact to the CRZ of six (6) trees that are considered high priority for retention under Section 22A-12(b) of the County Code. Five (5) of these trees will be removed; the sixth tree will be saved. The Application included a variance request letter specifying the amount of critical root zone disturbance for the trees to be saved.

Unwarranted Hardship Basis - Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship,

denying an applicant reasonable and significant use of a property. There would be an unwarranted hardship if a variance were not considered.

Justification:

The *GSSC Master Plan* recommendations and zoning have identified the former Public Safety Training Academy site for substantial residential and mixed-use development to provide housing within the Life Sciences Center. The Master Plan also includes substantial services and infrastructure for this Property, including two Master Plan roads, right-of-way for the proposed Corridor Cities Transitway and the LSC Loop trail, and park and recreation facilities. A school site is being reserved on another property just to the south of the former PSTA Site. While much of the existing site is unforested, there are several areas where specimen size trees have grown up in the middle of the area planned for development, or along the edges of the proposed development where grading and infrastructure requirements must be accommodated. Denying the variance request would interfere with efficient development of the property, provision of required street grids, and the infrastructure needed to support the development.

Denial of the variance would constitute a hardship to the Applicant as the proposed mixed use of the Property, including public spaces and roads, is significant and reasonable and consistent with the Master Plan. This finding must be met when determining whether or not to consider a variance for the project. Based on this finding, a variance can be considered.

Specific justification for trees that must be removed was provided in the variance request letter. A summary of that justification cited in the variance request is summarized below:

- Tree No. 4 is in an area where unavoidable impacts are caused by required grading and stormwater management facilities.
- Trees No. 6 and 7 are in the center of the area proposed for development where retention of the trees would preclude efficient development of housing and a walkable street grid consistent with the Master Plan's urban design guidelines.
- Tree No. 10 is unavoidably impacted by housing units that have been pushed back by a requirement to provide a public right-of-way.

- Tree No. 32 stands where parking must be provided to serve onsite commercial uses, as well as a retaining wall required to create the necessary grades for efficient use of the land.
- One additional tree, No. 17, will be slightly impacted by grading necessary to construct nearby townhouses. The minimal CRZ disturbance (six percent) will allow the tree to be preserved.

Variance Findings - Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board in order for a variance to be granted. The Board makes the following findings necessary to grant the Variance:

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

Impacts to specimen trees are a result of the *GSSC Master Plan* and zoning recommendations for the Site, including dense residential and mixed-use development and substantial public transportation infrastructure facilities, as well as for infrastructure needed to support the development. The Planning Board has determined that the impacts to the trees subject to the variance requirement cannot be avoided. Therefore, the granting of this variance is not a special privilege that would be denied to other applicants.

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 which are the result of actions by the applicant, but on required plan elements.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is 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 variance will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Protected Trees

The specimen trees being removed must be replaced by planting one inch (caliper) of new trees for each four inches diameter removed, using planting stock of no less than 3 inches caliper. In a few years, the replacement trees should attain sufficient size to replace the lost water quality treatment benefits of the trees removed. In this case, 161 diameter inches of specimen trees are being removed; therefore, the Applicant must plant at least 40.25 caliper inches of new native shade trees on site to replace the specimen trees being removed. When submitted, the Final Forest Conservation Plan must show the locations of variance replacement trees, each at least three inches caliper, and totaling at least 40.25 caliper-inches.

Variance Recommendation

The FFCP meets all applicable requirements of Chapter 22A of the County Code. Therefore, the Planning Board approves the Preliminary Forest Conservation Plan and variance request with the conditions cited.

Noise

The Development abuts Great Seneca Highway to the east and Key West Avenue to the north which both carry significant traffic volume generating road noise that could negatively affect interior noise levels and open spaces. A noise study must be submitted with the Site Plan application analyzing existing and projected traffic noise levels and making recommendations for mitigating noise according to the requirements of the Planning Department's Noise Guidelines.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Division on June 24, 2021. The Application will meet stormwater management goals through environmentally sensitive design options (ESD) and alternative stormwater management practices are proposed to treat impervious run-off from the Project, including micro-bio facilities, flow-splitters, corrugated metal pipe detention units, and cartridge treatment facilities, etc.

6. *All public roads meeting the requirements and findings under Chapter 50.4.3.E.2.a for narrower than standard road right-of-way*

The majority of the townhouses and two-over-twos within the Project will be served by 20-foot-wide-private-alleyways. All other streets within the Preliminary Plan will be public streets dedicated for public use. Area for a road on a subdivision plan must include the full width of all rights-of-way recommended for the applicable road classification in the adopted master plan and in the Road Design and Construction Code. However, the Board may approve a narrower than standard road right-of-way if it meets minimum fire access requirements and the Board finds that a narrower right-of-way is environmentally preferable, improves compatibility with adjoining properties, or allows better use of the tract.

The Project includes the following modified public roads:

- Street A East with 55-foot right-of-way
- Street B East with 55-foot right-of-way
- Street C West with 46-foot right-of-way
- Street C East with 48-foot right-of-way
- Street D with 59-foot right-of-way
- Blackwell Road with 73-foot right-of-way

MCDOT granted waivers for right-of-way modifications for all streets with the exception of Medical Center Drive, which MCDOT has accepted as allowed in the County Code Section 50.4.3.E.2.a. The modified standards are intended to create a safe and urban street network consistent with the recommendations of the 2010 *Great Seneca Science Corridor* (GSSC) Master Plan. These modifications also dovetail with the *Montgomery County Complete Streets (MCCS) version 1.0 draft* by maximizing safety through calming traffic patterns, sustainability through more stormwater management facilities, and vitality through creating a space welcoming to pedestrians. MCDOT accepts the reduced width rights-of-way as allowed in County Code Section 50.4.3.E.2.a, as they all meet minimum fire access requirements, are environmentally preferable, improve compatibility with adjoining properties, and allow better use of the tracts under consideration.

The Planning Board supports the proposed right-of-way width modifications for the above noted roadways as shown on the Preliminary Plan, with final details to be determined at Site Plan.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for ten (10) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 29 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 and Verma voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, July 22, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board