



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

OCT 15 2013

MCPB No. 13-131  
Project Plan No. 920130060  
United Therapeutics Silver Spring Campus-Phase 3  
Date of Hearing: September 12, 2013

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review project plan applications; and

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

WHEREAS, Applicant's project plan application was designated Project Plan No. 920130060, United Therapeutics Silver Spring Campus-Phase 3 ("Application" or "Project Plan"); and

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

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

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

Approved as to  
Legal Sufficiency:

*[Signature]* 10/4/13

M-NCPPC Legal Department  
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board APPROVES Project Plan No. 920130060 for 111,724 square feet of office use/laboratory space and 10,000 square feet of retail on the Subject Property, subject to the following conditions:<sup>1</sup>

1.     **Development Ceiling**  
The development is limited to 121,724 square feet; 111,724 square feet of office use/laboratory space and 10,000 square feet of retail.
2.     **Building Height and Mass**  
The development is limited to the building footprint as delineated in the Project Plan drawings submitted to the M-NCPPC dated August 5, 2013, unless modified at site plan review, and to 90 feet in height as measured from the datum point along Spring Street as shown on Project Plan drawings.
3.     **Architecture**  
The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations submitted to MNCPPC unless modified during site plan review.
4.     **LEED Certification**  
The Applicant must achieve a LEED Certified rating certification at a minimum, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a certified-level rating in the appropriate LEED rating system. The Applicant must make good faith efforts to achieve a LEED Silver rating, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a silver-level rating in the appropriate LEED rating system. Before issuance of the final use and occupancy certificate, the Applicant must inform MNCPPC Staff of the LEED Certification Level that they are applying for. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to Staff a written report for the public record purposes only from the Applicant's LEED consultant, analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional

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

identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

5. Public Use Space, Facilities & Amenities
  - a. The Applicant must provide a minimum of 10,670 square feet for on-site public use space (15.8 percent of net lot area) as shown on the Project Plan.
  - b. The Applicant must provide a minimum of 12,900 square feet of off-site amenities (19.1percent of net lot area) as shown on the Project Plan.
  - c. To address the shortfall in the amount of on-site public use space (about 4.2%), the Applicant will make a contribution of \$314,736 to the Amenity Fund towards Gene Lynch Urban Park – scheduled for construction upon completion of the Silver Spring Transit Center – or other future amenity as determined by the Planning Board, per the requirements of 59-D-2.31.
6. Forest Conservation
  - a. The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
  - b. Approval of a Final Forest Conservation Plan must be secured, consistent with the approved Preliminary Forest Conservation Plan and associated conditions, prior to any clearing, grading or demolition on the site.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920130060, United Therapeutics Silver Spring Campus stamped received by M-NCPPC on August 5, 2013, 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 Planning Board hereby adopts and incorporates by reference (except as modified herein), and having considered the entire record, all applicable elements of Section 59-D-2.42, and the relevant provisions of Section 59-D-2.43, the Planning Board FINDS, with the conditions of approval, that:

- (a) *The development complies with all of the intents and requirements of the CBD-1 zone.*

### Intent and Purposes of the CBD Zones

The Montgomery County Zoning Ordinance, Section 59-C-6.212, states the purposes that the CBD zones are designed to accomplish. The Project Plan conforms to these purposes as follows:

- (1) *"To encourage development in accordance with an adopted and approved master plan by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan and the site plan is approved on review by the Planning Board."*

The Project Plan conforms to the general recommendations of the Silver Spring CBD Sector Plan with respect to land use and employment, Sector Plan themes, zoning and density and transportation.

- (2) *"To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The Project Plan replaces an aging parking garage with office/laboratory and retail space, uses recommended in the Sector Plan for the Silver Spring CBD. The mix of office/laboratory and retail is currently proposed as follows: 111,724 square feet of office/laboratory use and 10,000 square feet of retail use. The commercial uses compliment the surrounding residential and commercial uses at the northern edge of the CBD and provide opportunities for workers, shoppers and residents to promote a sustainable downtown environment.

- (3) *"To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas."*

The existing buildings surrounding the Subject Property are comprised of a mix of multi-family residential, office and retail uses, with varying heights and densities. The Project Plan responds to its location as a gateway to the CBD by employing a contemporary design style that is attractive and striking. The public



spaces that frame the ground plane of the building create an inviting visual and activating environment. The height of the building at 90 feet is comparable to the adjacent uses and serves as a transition to the neighborhoods to the north. The improved streetscape associated with the Project Plan will complete a portion of Spring Street and upgrade Colesville Road to provide greater opportunities for pedestrians and connections to the surrounding businesses and the metro station.

*(4) "To promote the effective use of transit facilities in the central business district and pedestrian access thereto."*

The Project Plan will provide new office space within a 10 minute walk from the Silver Spring Metro Station. Additionally, several bus lines operate in the vicinity of the Subject Property, including a stop directly in front of it on Colesville Road. The Subject Property is also within walking distance to the Spring – Cameron Garage, which provides 1,344 public parking spaces. Given the proximity to multiple transit options, it is reasonable to conclude that a considerable number of employees and patrons will utilize public transit resources.

*(5) "To improve pedestrian and vehicular circulation."*

Because the existing curb cut on Spring Street will be preserved, no additional curb cuts will be added. Pedestrian circulation will be enhanced with improved streetscape elements.

A significant component of the Project Plan is the improvement of sidewalks adjacent to the Subject Property. As previously described, the streetscape along Spring Street and Colesville Road will be detailed per the Silver Spring streetscape standards.

*(6) "To assist in the development of adequate residential areas for people with a range of different incomes."*

The Project Plan does not provide residential uses, but does provide employment and retail options for residents in the adjacent multi-family buildings.

*(7) "To encourage land assembly and most desirable use of land in accordance with a sector plan."*

As part of Preliminary Plan No. 120130190, the Applicant will consolidate parcels L-1963, L-2407, L2424, L-2446, into one new platted lot with a net lot area of 67,583 square feet after right-of-way dedication for Spring Street and Colesville Road. The Application incorporates multiple parcels to promote greater density in the CBD, which also allows for a stronger site designs and a greater opportunity for activated public use spaces and amenities.

#### Further Intent of the CBD-1 zone

Section 59-C-6.213(a) of the Zoning Ordinance states further intent of the CBD-1 zone:

- (1) To foster and promote the orderly development of the fringes of the central business districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and*
- (2) To provide a density and intensity of development which will be compatible with adjacent land uses outside the central business districts.*

As previously stated, the Project Plan is designed in a manner that is compatible with the surrounding multi-family buildings and adjacent office buildings. The Project Plan will also provide a mix of office and retail, increasing the daily number of people who will work and shop in the Silver Spring Central Business District.

#### Requirements of the CBD-1 Zone

The Project Plan complies with the development standards under the optional method of development. Among other standards, the Project Plan meets the area, public use space, building height, and density requirements of the zone. According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an

environment capable of supporting the greater densities and intensities of development permitted.”

To this end, the Project Plan is providing the following package of amenities and public facilities:

- A net-zero building
- Streetscape improvements along Spring Street and Colesville Road consistent with the Silver Spring streetscape standards;
- Onsite plaza with seating, special paving and landscape areas;
- Public artwork;
- Amenity fund contribution

### **Requirements of the CBD-1 zone**

The data table below lists the required development standards approved by the Planning Board and binding on the Applicant. The Planning Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the optional method of development in the CBD-1 zone.

### **DATA TABLE**

*Project Data Table for the CBD-1 Zone*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved and Binding on the Applicant</b>
<b>Building Height (feet)</b>	90	90
<b>Setbacks (feet)</b>		
North Property Line (Spring Street)	0	0'
East Property Line (Colesville Road)	0	16'
South Property Line	0	10'
West Property Line (adjacent Ph. II building)	0	0
<b>Site Area (square feet)</b>		
Net Tract Area	n/a	67,583

Proposed Dedication	n/a	10,239
Gross Tract Area	22,000	77,822
<b>Density</b>		
Floor Area Ratio *	2.0	1.56
Office		111,724
Retail/Restaurant		10,000
<b>Public Use Space (% of net lot)</b>		
On-Site Public Use Space	20	15.8
Off-Site Amenity Space	n/a	19.1
Total Public Use & Amenity Space	20	34.9
<b>Parking</b>		
Office/Laboratory @ 2.4/1,000 [117,724 sf]	269	
Retail @ 3.5/1,000	35	
Total Parking Required	304	
Total Parking Provided		152*

\*The project is located in the Silver Spring Parking Lot District and on-site parking spaces are not required provided an applicant pays the parking lot district tax. Additional public parking spaces are provided in nearby public parking facilities. Final parking calculations will be evaluated during the site plan review.

*(b) The development conforms to the Silver Spring CBD Sector Plan.*

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

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

The Project Plan, which meets all of the themes except "Residential Downtown", will play an important role in revitalizing this part of the CBD. The Sector Plan also

designates this site, at the corner of Colesville Road and Spring Street, as a gateway location (pages 75 & 83). The proposed building will act as a prominent gateway feature for those entering the CBD from north on Colesville Road.

#### Employment, Housing, & Land Use

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

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

#### Zoning and Density

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

*(c) Because of its location size, intensity, design, operational characteristics and staging, the development is compatible with and not detrimental to existing or potential development in the general neighborhood.*

The location, size and intensity of this Application are compatible with the existing and potential development in the general neighborhood. The orientation of the various new buildings responds to the surroundings. The majority of the ground floor retail spaces have entry and exit points from the roadways and public use

areas of the site, where visibility and pedestrian activity will be greatest. The loading dock is located behind buildings, where possible, to limit truck movement through the site. The layout of the driveway is such that vehicles are directed quickly from main thoroughfares to parking garages and loading areas without having to wind through the site.

*(d) The development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction, if applicable: and, if located within a transportation management district designated under Chapter 42A, Article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*

The Application will not overburden existing public facilities and services nor those programmed for availability. Vehicular access to the site is located on Spring Street in the same location as the existing vehicular access to the parking garage, approximately 220 feet from Colesville Road. An existing access point for the public garage off of Cameron Street will be re-purposed for loading and trash removal at the new building, reducing the number of vehicles using that access point. There are two additional nearby parking garages to serve the needs of the residents and employees in downtown Silver Spring, including the Planning Place parking garage on Spring Street and Cameron Street and the City Place/Downtown Silver Spring parking garage with primary access from Ellsworth Drive. The existing pedestrian alley way between Cameron Street and Colesville Road will be widened and will include improved lighting to enhance security, along with specialty paving. The sidewalks on Colesville Road and Spring Street will be widened and be upgraded with paving, landscaping and street furnishings consistent with the Silver Spring Streetscape Standards, providing for a more inviting pedestrian experience.

*(e) The development is more efficient and desirable than could be accomplished by the use of the standard method of development.*

The Application will develop the site using the optional method of development, which is more efficient and desirable than the standard method of development. The optional method allows greater densities at key locations, such as proximity to mass transit, in exchange for greater public amenities and facilities. Construction of a standard method project under the CBD-1 zone would yield a development constructed to a maximum 1.0 FAR with a maximum 60 foot building height. For a site located in the Silver Spring CBD, buildings constructed to standard method

requirements would not be required to have significant public amenities or substantial open space, and would be insufficient to reach the critical mass and density envisioned for the Subject Property within very close proximity to the Silver Spring Metrorail station. Additionally, the increased focus on building design and public space would not be achieved under the standard method. Given the recommendations of the Sector Plan and the Subject Property's proximity to transit, employment and services, the optional method of development is much more desirable and efficient for this large site.

*(f) The development includes moderately priced dwelling units in accordance with Chapter 25A of the Montgomery County Code.*

The Application does not include residential units, therefore, this finding does not apply.

*(g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities within a lot with two or more CBD zones, the Project Plan may be approved by the Planning Board based on the following findings:*

The entire net tract area will be owned by the Applicant as part of a sale from the County for public property and is in the CBD-1 zone. The development does not propose any transfers of public open space or development density from one lot to another.

*(h) The development satisfies any applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code.*

#### A. Forest Conservation

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) # 420131040 for the site was approved on February 13, 2013. The urban site is located within The Sligo Creek watershed, a use-class I watershed.

There are a number of street trees and landscape plantings fronting the Subject Property ranging in sizes up to approximately 1' diameter at breast height (DBH). The largest of the street trees occur along Coleville Road (Route 29).

Additionally, along the south of the site there are a number of historic trees which overhang into the Subject Property from the adjacent Montgomery Arms apartment complex. The trees associated with historic setting potentially impacted by the Application range in size from 1 to 16 inches DBH. The Subject Property is not otherwise associated with any environmentally sensitive features such as forest areas, stream buffers, wetlands, 100 year floodplains or steep slopes.

The Preliminary Forest Conservation Plan (PFCP) identifies an afforestation planting requirement of 0.27 acres. The planting requirement will either be satisfied in an off-site forest conservation bank or met by payment of fee-in-lieu. A condition of approval requires that the forest conservation planting requirements be satisfied prior to land disturbing activities occurring on-site.

The trees fronting the site, including those along Coleville Road, are proposed for removal. However, amended soil panels will be provided for the replacement street trees. The trees associated with the historic setting will be protected throughout the construction process. All of the historic trees will be retained, although some pruning of limbs will be necessary for overhead clearance. Additionally, the on-site work is within the critical root zones (CRZ) of the historic trees. However, because the trees sit above the site grade, only minimal if any impact would actually occur to roots of the historic trees. A provision for root pruning is included in the forest conservation plans in the event that the roots have grown below the wall into the construction area. Construction within the CRZ and pruning of the limbs from the historic trees is subject to a forest conservation variance.

#### FOREST CONSERVATION VARIANCE

Section 22A-12(b) (3) of 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. Unless the variance is granted, 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 percent 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.

Since the project boundary affects eight trees that part of a historic site, a variance is required. The Applicant submitted a variance request on July 25, 2013 for the impact to, but retention of eight trees associated with the Application that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

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, in order for a variance to be granted. In addition to the required findings outlined numerically below, the Planning Board has determined that enforcement of the variance provision would result in an unwarranted hardship for the following reason:

The variance trees are growing at the top of a retaining wall approximately six feet above the Subject Property. The wall itself is proposed to remain undisturbed and it is unlikely that significant roots would actually be found growing on the United Therapeutics site at the bottom of the wall. Furthermore, the subject trees have low branches that are partially obstructing the existing walkway (taller pedestrians need to duck under the branches to use the sidewalk as it exists now). The walkway material will be upgraded however the walkway use is proposed to remain. Not allowing pruning of the branches or work below the wall therefore would be a hardship. The Planning Board finds that based on the existing circumstances and conditions on the Subject Property, there is an unwarranted hardship.

Variance Findings - The Planning Board finds that granting the Variance:

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

The pruning of the limbs to allow appropriate passage of the existing sidewalk (proposed to remain) would be allowed and should occur even if the site were not redeveloped. The minor impact to the subject trees CRZ is necessary for site access and would cause only minimal if any actual impacts to roots. Therefore, the variance request would be granted to any applicant in a similar situation.

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

The requested variance is based on the need for basic maintenance of an existing walkway within an urban pedestrian corridor and not 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 not 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.*

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. No subject trees are proposed for removal; furthermore, the Department of Permitting Services (DPS) staff approved the stormwater management (SWM) concept for the project on August 15, 2013. The concept incorporates green roofs, bio filtration planters and tree pits. The DPS review and ultimate approval of the sediment and erosion control and stormwater management plans will ensure that appropriate standards are met.

- (i) *The proposed development satisfies any applicable requirements for water quality resources protection under Chapter 19 of the Montgomery County Code.*

The Subject Property is located in within the Sligo Creek watershed.

The proposed Stormwater management concept for the preliminary plan stage was deemed acceptable by the Department of Permitting Services on August 15, 2013. The concept meets the required Stormwater management goals by the use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP) with the use of a green roof and micro-bioretenention/planter boxes.

- (j) *Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the Silver Spring Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.*

The off-site public use space and amenities are consistent with the goals of the Sector Plan and will better serve the public interest by contributing to the funding and construction of an off-site amenity as part of the transit station. As conditioned, the Applicant will be making a contribution to the Amenity Fund in the amount of \$314,736 to address the shortfall in the amount of on-site public use space (about 4.2%). Total on-site public use space is approximately 15.8% of net lot area.

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BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

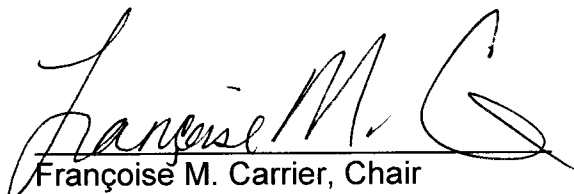
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is OCT 15 2013 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, October 3, 2013, in Silver Spring, Maryland.

  
 Françoise M. Carrier, Chair  
 Montgomery County Planning Board



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

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

OCT 15 2013

**RESOLUTION**

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

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

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

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

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

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

Approved as to  
Legal Sufficiency:

*Christina Sonnet* 9/24/13  
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Preliminary Plan No. 120130190  
United Therapeutics Silver Spring Campus-Phase 3  
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NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130190 to create 1 lot for 121,724 square feet of development including 10,000 square feet of retail and 111,724 square feet of office on the Subject Property, subject to the following conditions:<sup>1</sup>

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

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

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

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

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

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

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

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

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

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

### Employment, Housing, & Land Use

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

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

### Zoning and Density

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

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

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

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



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

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

#### Master Plan Transportation Facilities

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

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

#### Sector-Planned Transportation Demand Management

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

#### Adequate Public Facilities Review

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

- Trip Generation

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

- Local Area Transportation Review

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

- Transportation Policy Area Review

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

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

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

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

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

### Noise

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

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

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

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed and

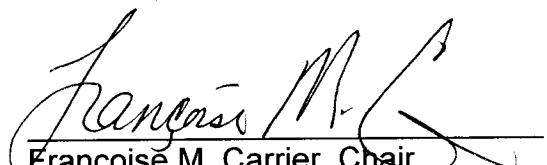
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 15 2013 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

#### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, October 3, 2013, in Silver Spring, Maryland.

  
 Françoise M. Carrier, Chair  
 Montgomery County Planning Board



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

SEP 23 2014

MCPB No. 14-53  
Site Plan No. 820140110  
United Therapeutics, Phase 3  
Date of Hearing: September 18, 2014

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on February 24, 2014, United Therapeutics Corporation ("Applicant") filed an application for approval of a site plan for 121,724 square feet of development, including 111,724 square feet of office/laboratory and 10,000 square feet of retail on 1.79 acres of CBD-1 zoned-land, located in the southwest quadrant of the intersection of Colesville Road and Spring Street ("Subject Property"), in the Silver Spring CBD Policy Area, Spring Silver CBD Sector plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820140110, United Therapeutics, Phase 3 ("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 July 3, 2014, setting forth its analysis of and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on July 17, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below;

Approved as to  
Legal Sufficiency:

8/8/14  Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org



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NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820140110 for up to 121,724 square feet of development, to include 111,724 square feet of office/laboratory uses and 10,000 square feet or retail uses on 1.79 acres of the Subject Property, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals**

1. The Applicant must comply with the conditions of approval for Project Plan No. 920130060 in Resolution No. 13-131, or as subsequently amended.
2. The Applicant must comply with the conditions of approval for Preliminary Plan No. 120130190 in Resolution No. 13-132, or as subsequently amended.

### **Environment**

#### **3. Forest Conservation**

The fee-in-lieu payment for the forest conservation requirements must be submitted by the Applicant and approved by M-NCPPC staff prior to any clearing, grading or demolition on the site.

#### **4. Stormwater Management**

The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated March 19, 2014, and hereby incorporates them as conditions of the Site 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 provided that the amendments do not conflict with other conditions of the Site Plan approval.

### **Public Use Space, Amenities and Facilities**

#### **5. Public Use Space and Amenities**

- a. The Applicant must provide a minimum of 11,421 square feet of on-site public use space (16.9% of percent of net lot area) for this project as shown on the Site Plan.
- b. The Applicant must provide a minimum of 13,294 square feet of off-site public use space consisting of special paving, landscaping, street lighting, bicycle racks, trash receptacles and relocated bus shelter as shown on the Site Plan.
- c. To address the shortfall in the on-site public use space (2,096 square feet or 3.1% of the net lot area), the Applicant will make a contribution in the amount of \$ \$231,636.70 to the Amenity Fund towards Gene Lynch Urban Park-scheduled for construction upon completion of the Silver Spring Transit

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

Center or other future amenity as determined by the Planning Board per the requirements of 59-D-2.31 of the Zoning Ordinance.

- d. The Applicant must provide the Silver Spring streetscape standard improvements, including undergrounding of utilities, along the site's frontage on Spring Street and US 29.
- e. The public use space must be accessible and open to the public.

6. Maintenance of Publicly Accessible Amenities

The Applicant is responsible for maintaining all on-site publicly accessible amenities, including but not limited to, landscaping, walkways, lighting, benches and artwork.

**Transportation and Circulation**

7. Transportation

- a. The Applicant must provide, install, maintain, and operate securable gates at both ends of the proposed mid-block pedestrian "BioPath" connection, and may restrict access to the BioPath connection. Each gate must be equipped with an emergency access "knox box," or other device specified by Montgomery County Fire and Rescue Service (MCFRS).
- b. The Applicant must provide and install three short term public bicycle parking racks ("inverted U" rack or similar) along the retail frontage and near public use space.
- c. The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated March 28, 2014, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- d. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
- e. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District and must execute the TMAg prior to issuance of the occupancy certificate for the office development. The TMAg must include trip mitigation measures negotiated with MCDOT.



## Site Plan

### 8. Site Design

The exterior architectural character, proportions materials and articulation must be similar to the schematic elevations shown on the submitted Site Plans dated August 11, 2014.

### 9. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to the Illuminating Engineering Standards of North America ("IESNA") standards for commercial development.
- b. All onsite down-light fixtures must be full cut-off fixtures.
- c. Illumination levels generated from on-site lighting shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential developed properties.
- d. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.

### 10. Surety

Prior to issuance of any building permit within each relevant phase of development, exclusive of sheeting and shoring, the Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety must include plant material, on-site lighting, site furniture, special paving, artwork, trash receptacles, stormwater management planters, bicycle racks, within the relevant phase of development.
- c. Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d. The bond/surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

### 11. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved by Staff prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:



- a. Within 6 months of issuance of the final use and occupancy permits, on-site amenities including, but not limited to, sidewalks, benches, artwork, and trash receptacles must be installed. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan.
- b. The development program must provide phasing for installation of on-site landscaping and lighting.
- c. Within 6 months of issuance of the final use and occupancy permit, landscaping associated with the building must be completed.
- d. The development program must provide phasing of stormwater management and sediment and erosion control.
- e. Within 6 months of issuance of the final use and occupancy permit, the public use space must be completed.
- f. Prior to the release of the first above-grade building permit, the Applicant must make a payment to the M-NCPPC Amenity Fund for the construction of Gene Lynch Park or such other offsite amenity that the Planning Board deems appropriate in accordance with §59-D-2.31, as set forth in Condition 5.c.

#### 12. Certified Site Plan

Prior to approval of the Certified Site Plan the following revised note must be added to the Site Plan, subject to Staff review and approval:

a. Cooling tower, Emergency Generators, and exhaust fans will be specified and designed to meet the sound standards of the County Code. Once installed, the sound output of the equipment will be tested by the Applicant's consultant after the building is occupied and subjected to full mechanical loads. If for any reason, equipment is found by the Department of Environmental Protection (DEP) not to comply with required County standards, a progression of possible measures must be taken as needed to bring the sound output of the equipment itself into compliance with the County standards. These measures may include mufflers, enclosures insulation material, restrictions on the schedule of delivery or trash pickup operations, or other appropriate measures recommended by the Applicant's consultant to address the particular sound problem.

b. Revise the data table to show the setback from US 29 as 0.0 ft

c. Provide revised final details and specifications of on-site lighting.

BE IT FURTHER RESOLVED that all site development elements shown on the site and landscape plans filed by the applicant to M-NCPPC's electronic filing system, are required except as modified by the following conditions; and



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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 Planning Board finds that the Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Application did not require a development plan, a diagrammatic plan, or a schematic development plan. As conditioned, the Site Plan is consistent with Project Plan No. 920130020 and with Preliminary Plan 120130190, with respect to square footage, public use space and amenities, massing and the provisions of the CBD-1 zone.

2. *The Site Plan meets all of the requirements of the CBD-1 zone in which it is located.*

The uses are allowed in the CBD-1 zones, and the Site Plan fulfills the specific purposes of the zone by providing a design that will produce a desirable relationship among the existing buildings in the CBD. Located at the southwest corner of the CBD, this building will serve as a gateway. Its form and prominent design will signal the entrance to the Silver Spring CBD for residents, workers, and visitors entering the area. The height of the building is comparable to the abutting and existing United Therapeutics buildings to the west. The zone permits heights up to 90 feet; the Application proposed a height of 90 feet. The building materials will be unique, but will coordinate with the surrounding buildings and fit within the urban context of a CBD.

The Property is located in the Silver Spring Parking Lot District (PLD). In accordance with Section 59-E-5 of the Zoning Ordinance, a new use that is located within a parking lot district is not required to provide the full complement of parking spaces on-site. Parking that is not provided on the site will be subject to an ad valorem tax. Additionally, public parking spaces are available to future retail and open space users and visitors to the site in the nearby public parking garage located two blocks away at the intersection of Ellsworth Drive and Fenton Street.

### **Requirements of the CBD-1 Zone**

As the data table below indicates, the Site Plan meets all the development standards of the CBD-1 Zone, including building height, density and public use space. The Zoning Ordinance does not require any setbacks from the property line for the CBD-1 Zone. The approved Project Plan set the minimum building setback from US 29 as 16 feet, reflecting the distance between the US 29 right-of-way and the ground-level building face. However, Development Condition No. 2 of the Project Plan stated:

*The development is limited to the building footprint as delineated in the Project Plan drawings submitted to the M-NCPPC dated August 5, 2013, unless modified at site plan review, and to 90 feet in height as measured from the datum point along Spring Street as shown on Project Plan drawings.*

During site plan review the building design was refined to incorporate angled mesh panels onto the building façade along the “prow” at the corner of US 29 and Spring Street and the upper floors that front US 29. The angled mesh panels have been designed to aid in temperature control and ventilation of the building, and will project from the façade beyond the ground-level building face. To allow flexibility in the installation of these panels, staff recommends revising the minimum setback along US 29 to 0.0 feet, while recognizing that the ground level building footprint will be illustrated on the Certified Site Plan and will be binding on the applicant. The Project continues to meet the requirements of the CBD-1 Zone with the smaller setback and the building footprint remains consistent with the previous approvals.

### **Data Table**

*Project Data Table for the CBD-1 Zone, Optional Method of Development*



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Development Standard	Permitted/ Required	Approved Project Plan 920130060	Proposed Site Plan 820140110
<b>Site Area</b>			
Gross Tract Area	n/a	77,822 sf	77,822 sf
Dedication to Public Use	n/a	10,000 sf	10,239 sf
-Net Tact Area	22,000 sf	67, 583 sf	67,583 sf
<b>Uses</b>			
Office/ Laboratory	n/a	111,724 sf	111,724 sf
Retail	n/a	10,000 sf	10,000 sf
Total Square Feet	n/a	121,724 sf	121,724 sf
<b>Density</b>			
	2.0	1.56	1.56
<b>Max. Building Height</b>	90 ft	90 ft	90 ft
<b>Min. Public Use Space (%)</b>			
On-Site Public Use Space	20%	10,670 sf (15.8%)	11,421 sf (16.9%)
Amenity Fund Contribution	varies	2,847 sf (4.2%)	2,096sf. (3.1%)
Total On-site Public Use Space & Amenity Fund	20%	13,517 sf (20%)	13,517 sf (20%)
Off Site Public Use Space	20%	12,900 sf (19.1%)	13,294 sf (19.6%)
Total Public Use Space & Amenity Fund	20%	26,417 SF (34.9%)	26,811 sf (39.6%)
<b>Min. Setbacks</b>			
Spring Street	0	0 ft	0 ft
US 29	0	16 ft	0 ft
Adj property to south	0	10 ft	10 ft
Adj property to west	0	0 ft	0 ft
<b>Parking</b>			
Office/ Laboratory @2.4/1000 (117,724 sf)	269		152
Retail Parking @3.5/1000 (1,000 sf)	35		0
<b>Total Vehicle Spaces</b>	304	152 <sup>1</sup>	152 <sup>1</sup>
Bicycle			14 spaces
Motorcycle			3

<sup>1</sup>The site is located in the Silver Spring parking lot district, and as such is not required to provide the full complement of parking spaces. Parking that is not provided on the site, consistent with Section 59-E, will be subject to an ad valorem tax.

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

- a. Buildings and Structures

The building location is adequate safe and efficient. The building entrance faces US 29, and signals the entrance to the Silver Spring CBD. Its location setback 12 feet from US 29 increases the pedestrian separation from the roadway. This location also provides ease of access into the building and from the adjoining sidewalks.

- b. Open Spaces

This Site Plan requires 20 percent (13,517 square feet) on site public use space under the Optional Method of Development for the CBD-1 Zone. This requirement has been met through a combination of on-site public use space and a payment to the amenity fund. The open space is located on US 29 is at the entrance to the Silver Spring CBD. The Site Plan proposes 11,421 square feet (-16.9% of the net lot area) of onsite public use space. With its elongated seating areas slightly below street grade, landscaping, and water features, this open space plaza creates an inviting area for informal performances and interactive educational opportunities for workers and visitors to the site as well as nearby residents. This open space will also include seating, specialty paving, landscaping, and interactive educational elements. The deficit of 2,096 square feet (or 3.1% of the net lot area) of public use space will be accomplished through a payment to the amenity fund for the Gene Lynch Park, located at the Silver Spring Transit Center, or another appropriate amenity. Overall, the amount of on-site open space has increased by approximately 750 square feet over the approved Project Plan thereby creating more open space in this northern edge of the Silver Spring CBD.

- c. Landscaping and Lighting

The landscaping will be adequate, safe and efficient. Presently, minimal landscaping exists on site. The streetscape improvements along Spring Street and US 29 will enhance the pedestrian environment and the undergrounding of utilities along both roadways further enhances the public realm. The new landscaping within the public open space creates a new inviting and useable green space in the CBD where one does not exist.



d. Recreation Facilities

The Application does not propose any residential units, thus recreational facilities are not required under this Site Plan.

e. Vehicular and Pedestrian Circulation

Pedestrian and vehicular circulation will be adequate safe and efficient. The development will enhance pedestrian and cyclist circulation by providing improved and wider sidewalks along US 29 and Spring Street. Pedestrian and vehicular circulation is improved through the separation of movements. Personal vehicles will be limited to the garage's sole entrance along Spring Street. Pedestrians will be protected from vehicular conflicts through wider sidewalks and specialty brick paving denoting pedestrian walkways and the onsite vehicular entrance. The inclusion of bicycle stands within the garage and adjacent to the proposed building promote another mode of circulation among the office workers and visitors in the CBD. The new mid-block connection on Cameron Street provides ease of access to the adjoining and surrounding buildings and sidewalks in the Silver Spring CBD and provides a needed connection where one presently does not exist. The upgraded bus shelter along US 29 will enhance the public transit user's experience by providing a safer location and a more defined shelter area. The building's location in close proximity to the Silver Spring/MARC transit station (within 15 to 20 minute walk) will encourage the use of transit facilities by future workers and visitors to the site.

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

The building is an extension of the existing United Therapeutics world headquarters buildings located, at Spring and Cameron Streets, west of this site. The existing campus buildings have distinctive and colorful architectural forms. This building with its unique elliptical shape and "prow" expands on the campus concept by creating a statement building at the one of the most visible entrances to the Silver Spring CBD.

The 90 foot building height is compatible with the multi-family building to the north and the office and hotel buildings abutting and confronting the site on US 29. The scale, design and orientation of the building are appropriate relative to the adjacent properties and add architectural character to the area.

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5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

On March 19, 2014, Montgomery County Department of Permitting Services (MCDPS) Water Resources Section approved a stormwater management concept plan (#252053) for this development. The approved concept plan meets all the applicable requirements of Chapter 19 regarding water resource protection, and any other applicable law.

The Planning Board approved a Preliminary Forest Conservation Plan and forest conservation variance request with the project and preliminary plan approvals, and both remain valid under this Site Plan approval. The Final Forest Conservation Plan showed minor changes and a modest increase in the Limits of Disturbance on the site. These changes increased the forest conservation requirement from 0.27 acres to 0.29 acres. The Applicant will be required to make a fee-in-lieu payment to meet the increased forest conservation requirement.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 23 2014 (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



MCPB No. 14-53  
Site Plan No. 820140110  
United Therapeutics, Phase 3  
Page 12

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 Presley, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor at its regular meeting held on Thursday, September 18, 2014, in Silver Spring, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board



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

**Memorandum**

**TO:** Gwen Wright, Planning Director

**VIA:** Mark Pfefferle, Acting Chief, Area 1 *MP*  
Elza Hisel-McCoy, Supervisor, Area 1 *CH*

**FROM:** Kathleen A. Reilly, AICP *KAR*  
Area 1

**RE:** United Therapeutics  
MINOR SITE PLAN AMENDMENT #82014011A

**DATE:** May 25, 2019

Section 59.7.7.1.B.3 of the Zoning Code addresses Amendments for Plans approved or pending before October 30, 2014. Section 7.7.1.B.3.a states that until October 30, 2039, an Applicant may apply to amend any previously approved application under the development standards and procedures of the property's zoning on October 29, 2014, subject to certain limitations.

Section 7.7.1.B.3.b of the Zoning Ordinance, however, allows Applicants to apply to amend a site plan approved before October 30, 2014, to take advantage of the parking requirements contained in Sections 6.2.3 and Section 6.2.4 of the Zoning Ordinance that went into effect on October 30, 2014.

Under Section 59.7.3.4.J.2, the Planning Director may approve in writing certain applications for an amendment to a Certified Site Plan. Such amendments, which are considered minor in nature and do not alter the intent and objectives of the plan, specifically include an amendment "to reduce the approved parking to satisfy Article 59-6."

Neither a Pre-Application meeting with the community/public/parties of record nor a Pre-Submittal meeting with the DARC Intake Section is required. However, submittal of the application to DARC is required. In addition, applicants must provide public notice under Division 7.5.

On May 10, 2019, United Therapeutics, ("Applicant") filed a site plan amendment application designated Site Plan No. 82014011A ("Amendment") for approval of the following modifications:

1. Revise electrical vaults along Spring Street to smaller size;
2. Added pole features in locations;
3. Deleted 16 solar panels from garage level array;
4. Added a roof deck;



5. Deleted 24 solar panels form roof level array;
6. Added building signage;
7. Minor revisions to plant quantities;
8. Deleted seat wall lighting fixture; and
9. Minor revisions to light fixtures.

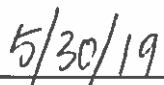
A notice of the subject site plan amendment was sent to all required parties by the Applicant on May 10, 2019. The notice gave the interested parties 15 days to review and comment on the contents of the amended site plan. Staff did not receive any correspondence regarding the application.

The proposed amendment is consistent with the provisions of Section 59.7.3.4.J.2 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements of the Planning Board in approving the site plan.

This Amendment shall remain valid as provided in Montgomery County Code § 59.7.3.4.H. The Applicant is responsible for submitting a certified site plan after approval by the Director for the specific modifications.

ACCEPTED & APPROVED BY:

  
Gwen Wright, Planning Director

  
Date Approved



DEPARTMENT OF TRANSPORTATION

Marc Elrich  
*County Executive*

Christopher R. Conklin  
*Director*

August 17, 2021

Ms. Grace Bogdan, Planner Coordinator /  
Ms. Katherine Mencarini, Planner Coordinator  
Downcounty Planning Division  
The Maryland-National Capital  
Park & Planning Commission (M-NCPPC)  
2425 Reedie Drive, 14<sup>th</sup> Floor  
Wheaton, Maryland 20902

RE: Sketch Plan: 320210090  
Preliminary Plan No.12013019A  
United Therapeutics 1000 Spring Street

Dear Ms. Bogdan / Ms. Mencarini:

A plan was reviewed by the Development Review Committee at its August 17, 2021, meeting. We have completed our review of the sketch plan and preliminary plan uploaded to eplans on May 17, 2021, and July 06, 2021, respectively, and do not have any comments.

If you have any questions or comments regarding this letter, please contact Mr. Deepak Somarajan, our Development Review Team Engineer for this project at [deepak.somarajan@montgomerycountymd.gov](mailto:deepak.somarajan@montgomerycountymd.gov) or at (240)-777-2194.

Sincerely,

*Deepak Somarajan*

Deepak Somarajan, Engineer III  
Development Review  
Office of Transportation Policy

**Office of the Director**

101 Monroe Street 10<sup>th</sup> Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX

[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

*Located one block west of the Rockville Metro Station*

Ms. Grace Bogdan  
Ms. Katherine Mencarini  
Sketch Plan: 320210090  
Preliminary Plan No.12013019A  
August 17, 2021  
Page 2

SharePoint\teams\DOT\Director's Office\Development Review\Deepak\Preliminary Plan\ 12013019A-United  
Therapeutics\ Letter\ 12013019A-United Therapeutics ltr

cc: Sharepoint Correspondence folder FY'22

cce:	Avi Halpert	United Therapeutics
	Ryan White	Rodgers Consulting, Inc.
	Atiq Panjshiri	MCDPS RWPR
	Sam Farhadi	MCDPS RWPR
	Rebecca Torma	MCDOT OTP



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**Department of Permitting Services  
Fire Department Access and Water Supply Comments**

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**DATE:** 16-Jul-13  
**TO:** Frank Bossong - fbossong@rodgers.com  
Rodgers Consulting, Inc.  
**FROM:** Marie LaBaw  
**RE:** United Therapeutics - 1000 Spring Street  
820140110

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**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **16-Jul-13** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

**\*\*\* 9/20/2021 Amendment 82014011B - Bright Horizons \*\*\***



## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Marc Elrich  
*County Executive*

Adriana Hochberg  
*Acting Director*

## M E M O R A N D U M

December 17, 2021

TO: Grace Bogden, Planner Coordinator  
Down-County Planning Division  
Montgomery County Planning Department

FROM: Eileen Kao, Chief *Eileen Kao*  
Waste Reduction and Recycling Section  
Recycling and Resource Management Division

SUBJECT: United Therapeutics - SITE PLAN NO. 820140118  
Zoning Ordinance Section 4.7.3.F. - Public Benefit Points –Recycling  
Facility Plan

The Waste Reduction and Recycling Section of Montgomery County's Department of Environmental Protection (DEP) Recycling and Resource Management Division has reviewed the proposed revised recycling facility plan for United Therapeutics, located at 1040 Spring Street, Silver Spring, MD 20910 that was emailed to DEP/Waste Reduction and Recycling staff on December 9, 2021.

Based upon our review of the revised recycling facility plan, United Therapeutics has implemented a recycling program that meets the requirements of Montgomery County's recycling regulation, Executive Regulation 1-15. Additionally, United Therapeutics has implemented additional initiatives that exceed the requirements of Executive Regulation 1-15, and merit the award of added credit based upon the nature and scale of additional environmental benefits to the community. Therefore, from our perspective, United Therapeutics has submitted adequate justification to obtain the maximum number of public benefit points.

If you have any questions, please contact Alan Pultyniewicz of my team at [Alan.Pultyniewicz@MontgomeryCountyMD.gov](mailto:Alan.Pultyniewicz@MontgomeryCountyMD.gov).

**From:** [Kwesi Woodroffe](#)  
**To:** [Ryan White](#); [Erica Rigby](#)  
**Cc:** [Robert Graham](#); [Bogdan, Grace](#)  
**Subject:** RE: United Therapeutics - 1000 Spring Street SP#82014011B  
**Date:** Monday, January 10, 2022 8:37:21 AM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Ryan,

Since the fence will be outside of the State's right of way, we have no additional comments on this project and recommend it for approval.

Thanks, Kwesi

---

**From:** Ryan White <RWhite@RODGERS.com>  
**Sent:** Friday, January 7, 2022 4:01 PM  
**To:** Erica Rigby <ERigby@mdot.maryland.gov>; Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>  
**Cc:** Robert Graham <RGraham@RODGERS.com>; Bogdan, Grace <grace.bogdan@montgomeryplanning.org>  
**Subject:** FW: United Therapeutics - 1000 Spring Street SP#82014011B

Erica,

Good Afternoon.

Please see below request for SHA approval recommendation for M-NCP&PC. I am following up with you, as we received a bounce back from Kwesi whom may have limited access.

For reference, under the SHA review within MNCPPC Eplans, it appears that SHA recommends approval, however we were looking for additional confirmation for staff.

If possible, please either provide Grace Bogdan with the SHA recommendation letter, or response to this email.

Should you have any questions, please let us know.

Respectfully,  
Ryan

**Ryan D. White, PLA**  
Principal



19847 Century Blvd, Ste. 200, Germantown, MD 20874

d.240.912.2148 o.301.948.4700 c.540.327.7435  
[www.rodgers.com](http://www.rodgers.com)

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**From:** Ryan White

**Sent:** Wednesday, January 5, 2022 2:14 PM

**To:** [kwoodroffe@sha.state.md.us](mailto:kwoodroffe@sha.state.md.us); Kwesi Woodroffe <[KWoodroffe@mdot.maryland.gov](mailto:KWoodroffe@mdot.maryland.gov)>

**Cc:** Robert Graham <[RGraham@RODGERS.com](mailto:RGraham@RODGERS.com)>; [grace.bogdan@montgomeryplanning.org](mailto:grace.bogdan@montgomeryplanning.org)

**Subject:** United Therapeutics - 1000 Spring Street SP#82014011B

Mr. Woodroffe,

I am following up my voice message to you regarding 1000 Spring Street, and the SHA approval recommendation for M-NCP&PC Planning Board.

You may recall the applicant revised the plans to remove the original proposed fence from the MSHA right-of-way.

If possible, please either provide Grace Bogdan with the SHA recommendation letter, or response to this email.

Should you have any questions, please let us know.

Respectfully,

Ryan

**Ryan D.White, PLA**

Principal



19847 Century Blvd, Ste. 200, Germantown, MD 20874

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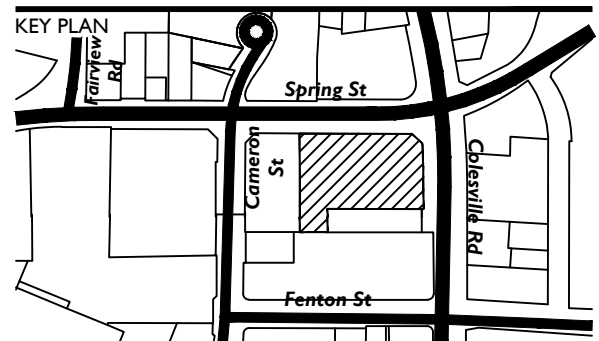


SEAL & SIGNATURE



PROFESSIONAL CERTIFICATION  
I hereby certify that these documents were prepared or approved by me and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 19970, Expiration Date 01/19/22.

**UNITED THERAPEUTICS**  
**1000 Spring Street**  
**Preliminary Plan Amendment A**  
**#12013019A**  
WSSC Grid: 211NW01, Tax Map: JN33  
Montgomery County Election District No. 13



ISSUE DATE	DESCRIPTION
2021.09.29	PLAN/PAFC Port DRG Submission

REVISIONS NO.	DATE	DESCRIPTION
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**3**

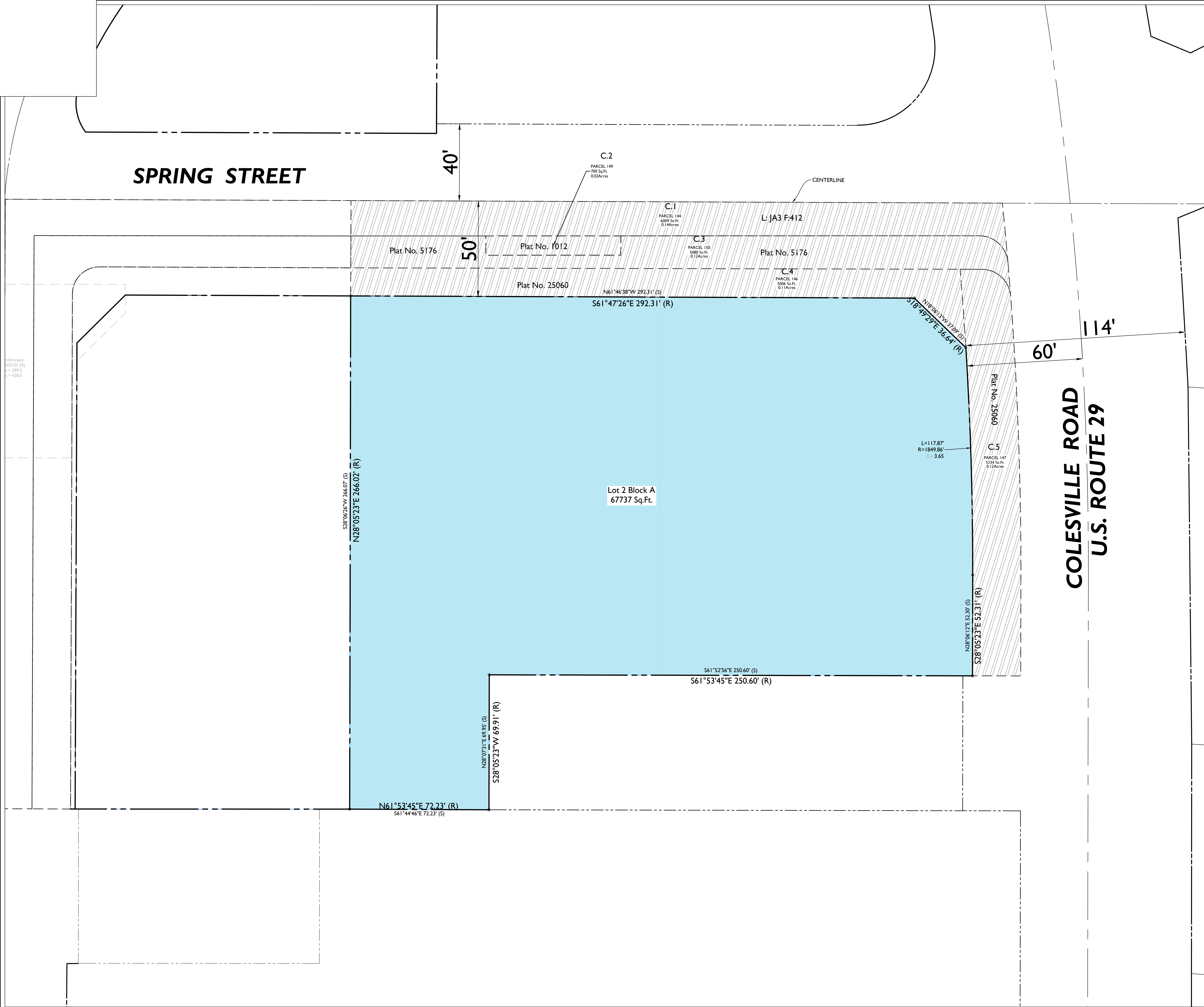
PROJECT NUMBER	1286M
DATE	2021.09.29
SCALE	1" = 20'
DRAWING TITLE	Lotting & Tract Area Exhibit
DRAWING NUMBER	PP-04.1

Application Area			
1000 Spring Street - Lot 2, Block A			
1000 Spring Street - Lot 2	1.56 ac.	67,737 sf	
1000 Spring Street - Lot 2 (Prior Dedication-C.1)	0.14 ac.	6,009 sf	
1000 Spring Street - Lot 2 (Prior Dedication-C.2)	0.02 ac.	700 sf	
1000 Spring Street - Lot 2 (Prior Dedication-C.3)	0.12 ac.	5,080 sf	
1000 Spring Street - Lot 2 (Prior Dedication-C.4)	0.11 ac.	5,006 sf	
1000 Spring Street - Lot 2 (Prior Dedication-C.5)	0.12 ac.	5,234 sf	
	2.06 ac.	89,766 sf	
Project Gross Tract Area			
Lot Area	1.56 ac.	67,737 sf	
Prior Dedication	0.51 ac.	22,029 sf	
	Gross Tract Area	2.06 ac.	89,766 sf
Proposed Lot Areas			
1000 Spring Street - Lot 2, Block A			
Lot Area	1.56 ac.	67,737 sf	
Gross Tract	2.06 ac.	89,766 sf	
Prior Dedication	0.51 ac.	22,029 sf	
Proposed Lot	1.56 ac.	67,737 sf	

- SHEET NOTES**
- Bearing & Distance with notation (S) equals Field Surveyed, notation (R) equals Recorded Plat.
  - Additional areas of dedication associated with Coleville Road including and prior to plat 387 dated 11-25-1993 have not been confirmed, and therefore have not been included in this Tract Area calculation.

**LIST OF AMENDMENT ITEMS:**

- REVISION NOTES & DATA TABLES TO AMENDMENT.
- ADD APPROVAL MEMO.
- ADDED NEW SHEET UNDER AMENDMENT.
- REVISED PLAZA ALONG COLESVILLE ROAD TO PLAYGROUND.
- ADD FENCE LINE AROUND & IN PLAYGROUND PLAZA.
- UPDATED LANDSCAPE LAYOUT AND PLANT MATERIAL TO CONVERTED PLAYGROUND AREA.
- REVISED PUBLIC OPEN SPACE.



**Lotting Plan & Tract Area Exhibit**

SCALE: 1" = 20'

