

VIKA Maryland, LLC  
20251 Century Blvd.  
Suite 400  
Germantown, MD 20874  
301.916.4100  
[vika.com](http://vika.com)

01.18.2022

M-NCPPC  
Douglas Johnsen  
Planner Coordinator  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

RE: Milestone Innovation Center  
Variance Request for Specimen Tree Removal/Impact

Dear Mr. Johnsen:

Introduction

W-M Milestone Holdings VII, LLC (the "Applicant"), an affiliate of the Matan Companies, is the owner of a 44.33-acre property located on the north side of Interstate 270, between Ridge Road (on the east) and Dorsey Mill Road (to the west), within the Germantown Forward Sector Plan area (the "Property"). The Applicant is submitting applications to amend the approved Preliminary Plan (No. 11987271C) and Site Plan (82001009E) applicable to the Property (collectively, the "Amendments") and thereby introduce a meaningful mixed-use concept to the existing Milestone Business Park. The Property is currently improved with four buildings and a parking structure. The Amendments seek to convert the available density into three research and development facilities and two parking structures.

As part of the proposed Project, Applicant seeks a variance for the removal of one specimen tree on the Property. This variance request complies with M-NCPPC and Maryland state law, which require Applicant to file for a variance from these laws to remove or impact any specimen tree (tree 30" or greater in Diameter at Breast Height [DBH] or tree with a DBH equal to or greater than 75% of the current State Champion of its species as designated by MDNR); trees that are part of an historic site or associated with an historic structure; any tree designated by the State or County as a national, State, or County champion tree; or any tree, shrub or plant identified on the Rare, Threatened, or Endangered (RTE) species list provided by the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.

The Applicant seeks a variance to remove one (1) specimen tree as shown



in the following table:

TREE NO.	BOTANICAL NAME	COMMON NAME	D.B.H. (in.)*	CONDITION	CRZ IMPACT %	DISPOSITION
76	Quercus alba	White oak	30.2	Good	100.00	REMOVE

### Justification of Variance

Section 22A-21 of the County Ordinance authorizes the County to approve variances to the Forest Conservation Law allowing disturbances to certain trees, including specimen trees. An applicant seeking a variance must present a request in writing and the applicable approving authority must make certain findings and descriptions prior to approval. Applicant's variance request satisfies the required findings as follows:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

The project is a redevelopment of existing developed commercial office properties. Tree #76 is located on a vegetated island within a paved parking area at the east end of the property where building #7 is proposed. The east end of the site is physically constrained between an existing building to remain and the property limits, within which a building, driveway, and parking area are designed with an entrance and connection to the remaining property to the west. Specimen tree #76 is located in the center of the proposed building which cannot be feasibly redesigned to avoid the tree without losing a significant amount of building space. Avoidance of tree #76 would preclude implementation of a significant portion of the Project, considerably undermine the economic viability of redevelopment of the Property, and prevent achievement of the **County's** adopted planning goals.

- (2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;

Denial of the variance would also deprive Applicant of rights commonly enjoyed by others in similar areas. The **project meets the Sector Plan's** recommendation for a mix of specific uses by introducing research & development uses and additional office to the Property as a complement to the existing primarily office and light industrial uses. This project establishes compatible relationships between redevelopment of the site and existing neighborhoods through limits on density and uses; The proposed Project will



update and upgrade the existing central plaza with views and openings to invite activation of the space. Existing seating areas will be demolished to open up the space, and new seating will be created above the sunken plaza space to create overlooks into an inviting central area. The new design will save a majority of the existing trees in order to preserve the otherwise positive character of the space and its surroundings. New paving, outdoor seating, landscaping and pedestrian lighting will be upgraded to enhance the plaza. Bio retention areas will be added to diversify the feel of the space and to satisfy new storm water regulations. The proposed construction incorporates design elements that engage the surrounding publicly accessible spaces and walkways. Denial of the variance would prevent implementation of these improvements of the existing space and compatibility of the surrounding neighborhoods commonly enjoyed by others in similar areas.

Approval of the variance will allow Applicant to create a greatly improved research and development office center that is consistent with the existing land uses in the area. Approval will also allow for the creation of pathways connecting the project to the adjacent communities along improved landscaped greenways for intangible yet significant community enjoyment of natural areas. All of these goals are consistent with the rights enjoyed by nearby property owners.

- (3) Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of the granting of the variance;

The granting of **Applicant's variance request will not result in a** violation of State water quality standards, nor will a measurable degradation in water quality occur as a result. On the contrary, the Project will implement measures to improve water quality. In addition to the Specimen tree replacement plantings onsite, additional canopy cover from landscape plantings will mitigate heat island effects and increase groundwater infiltration. The Project also integrates current state-of-the-art stormwater management practices, **which will improve upon the Property's previous** stormwater management system and enhance water quality.

- (4) Provide any other information appropriate to support the request.

**Approving Applicant's variance request is justified for other reasons** as well. **The project meets the Sector Plan's recommendation for a mix of** specific uses by introducing research & development uses and additional office to the Property as a complement to the existing primarily office and light industrial uses. The proposed density is well below the contemplated Sector Plan density limit, the new garages will meet appropriate height limits in



relation to the residential communities to the north, and the improved open-plaza is a hallmark of the Project in line with the pedestrian-friendly green commons envisioned by the Sector Plan.

Furthermore, the variance does not arise from a condition related to land or building use, either permitted or nonconforming, on a neighboring property.

Thank you for your consideration of Applicant's tree variance request. The supporting information provided in this letter establishes that denial of the variance would result in unnecessary hardship or practical difficulty, as well as demonstrates Applicant's extensive efforts to minimize impacts. Please contact me with any questions, or if you require additional information.

Sincerely,

VIKA Maryland, LLC

*Joshua Sloan*

Joshua Sloan, RLA, ASLA, AICP

Director of Planning and Landscape Architecture / Vice President

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