



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

FEB 22 2022

MCPB No. 22-012
Preliminary Plan No. 12013019A
United Therapeutics, 1000 Spring Street
Date of Hearing: January 20, 2022

RESOLUTION

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

WHEREAS, on September 12, 2013, the Planning Board, by Resolution MCPB No. 13-132, approved Preliminary Plan No. 120130190, creating one lot on 1.79 acres of land in the CBD-1 zone (current zoning is CR-3.0 C-2.0 R-2.75 H-90 T), located in the southeast quadrant of the intersection of Spring Street and Colesville Road ("Subject Property"), in the Silver Spring CBD Policy Area and 2000 Silver Spring Sector Plan ("Sector Plan") area; and

WHEREAS, on July 28, 2021, United Therapeutics Corporation ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) to convert 10,000 square feet of previously approved retail use and 1,000 square feet of office/laboratory use to 11,000 square feet of daycare use on the Subject Property; and

WHEREAS Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12013019A, United Therapeutics, 1000 Spring Street ("Preliminary Plan," "Amendment," 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 January 7, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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Approved as to
Legal Sufficiency: Matthew T. Mills
M-NCPPC Legal Department

WHEREAS, on January 20, 2022, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 20, 2022, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Verma, with a vote of 5-0; Chair Anderson, Commissioners Cichy, Patterson, Rubin and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12013019A to convert 10,000 square feet of previously approved retail use and 1,000 square feet of office/laboratory use to 11,000 square feet of daycare use on the Subject Property the following conditions:¹

Modified Conditions

1. Approval under this preliminary plan is limited to one lot for a maximum of 121,724 square feet of development, including ~~111,724~~ 110,724 square feet of office space/laboratory space and ~~10,000 square feet of retail~~ 11,000 square feet of daycare use.

3. Transportation

- a) The Applicant must limit future development on the Site to ~~115,000~~ 110,724 square feet of office/ laboratory space and ~~10,000 square feet of general retail~~ 11,000 square feet of daycare use.
 - b) The Planning Board has reviewed and accepts the recommendations of the Maryland Department of Transportation State Highway Administration (MDOT SHA) in its letter dated May 17, 2013, and email dated January 10, 2022 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 letters, which may be amended by MDOT SHA 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 MDOT SHA.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letters dated August 30, 2013, and August 17, 2021 and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply

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

with each of the recommendations as set forth in the letters, which may be amended by MCDOT 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 MCDOT.

10. The Adequate Public Facility (APF) review for the ~~Preliminary Plan~~ new 11,000-square foot day care will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5). The APF approval for the remainder of the Project (110,724 square feet of office space/laboratory space) will remain valid for eighty-five (85) months from the date of mailing of the original Planning Board Resolution (which is October 15, 2013) and including any extensions granted.

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

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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.

Per Chapter 50.4.2.D. Required Findings, to approve a preliminary plan the Board must find that:

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

The Applicant identified errors in previous calculations of the Tract area and previous dedications, which therefore also impacted calculations pertaining to the Site area. These corrections are summarized in Table 3 below.

Table 3: Corrected Preliminary Plan Data Table

	Previously Approved Preliminary Plan No.12013190	Corrected Preliminary Plan Amendment No. 1201319A
Tract	77,822 square feet (1.29 <u>1.79</u> * acres)	89,766 square feet (2.06 acres)
Previous dedications	10,239 square feet (0.24 acres)	22,029 square feet (0.51 acres)
Site	67, 583 square feet (1.56 acres)	67,737 square feet (1.56 acres)

*Note, the posted Staff Report showed the previously approved total tract area as 1.29 acres, but it was actually 1.79 acres. This table shows the correction.

Aside from the corrections to the project density and prior dedications, the Application to convert the previously approved space for retail and some of the office use for a daycare will not alter the layout, the size, width, shape, orientation, and density of lot, of the subdivision in a way that substantially differs from what was previously approved. Furthermore, the approved daycare facility is a permitted use in the CR Zone. Therefore, the Subject Preliminary Plan Amendment is appropriate for the Site.

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

The approved revision to a portion of the former public use space will not change the overall Application and building's compliance with the recommendations of the Sector Plan. The Sector Plan identified several goals that the building and the Project satisfied at the time of the Prior Approvals. The goals were: (1) a transit oriented downtown; (2) a commercial downtown; (3) a residential downtown; (4) a civic downtown; (5) a green downtown; and (6) a pedestrian downtown. The Planning Board found that the approved building at that time would act as a "permanent gateway feature" for those entering the Silver Spring CBD from the north on Colesville Road, and "one of the most visible entrances to the Silver Spring CBD". As mentioned above, the approved Application continues to conform to the Sector Plan.

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

The Application is approved to move an existing daycare use on the campus from 8830 Cameron Street to the ground floor of the existing building located at 1000 Spring Street. The approved daycare facility seeks approval for a maximum of 78 children, which results in an increase in enrollment of 37 children. To ensure that there are adequate public facilities to accommodate the approved change in use on the Site and increase in enrollment of the daycare on the campus, the Applicant was required to submit an estimate of the number of new person trips to be generated by the Subject Preliminary Plan Amendment in compliance with the 2021 Local Area Transportation Review Guidelines (LATR).

Local Area Transportation Review

At the current location, 41 children are enrolled. Approximately 60 percent of those children are children of UT employees; the remaining children are “friends and family,” which includes children from the greater Silver Spring community, and this ratio is expected to continue with the approved increase in enrollment. The Applicant submitted a Transportation Exemption Statement, dated September 28, 2021 in compliance with the 2021 LATR Guidelines. Compared to the approved uses on the Site (10,000 square feet of retail and 1,000 square feet of office use) and assuming a 60% internal trip capture, the Application was estimated to generate a total of 18 additional person-trips in the morning peak hour and 22 fewer trips in the evening peak hour. As the estimated number of net new person trips is not greater than 50 in either the morning or evening peak hour, the Applicant was not required to further analyze the transportation impacts, and a finding for adequate transportation facilities can be made.

Other Public Facilities

School Adequacy is not required as there is no residential density included in the Application. The Property is currently served by public water and sewer, classified in the S-1 and W-1 categories, and will be adequate to serve the approved Amendment. Dry utilities including electricity, gas, and telephone are also available to the Property. Other utilities, public facilities, and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth Infrastructure currently in effect.

4. all Forest Conservation Law, Chapter 22A, requirements are satisfied;

The Forest Conservation Plans and related variance were previously approved as part of Certified Site Plan No. 820140110 on March 9, 2015. With the current Applications,

no major changes to the exterior of the building are included in the Application and no impact to trees associated with the neighboring historic property are expected; therefore, the Applications maintain compliance with the requirements of Chapter 22A Forest Conservation Law.

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

Stormwater management ("SWM") was previously approved for United Therapeutics 1000 Spring Street by Sediment Control Permit No. 269715, dated August 4, 2015, with corresponding Stormwater Concept approval SM 252053. As part of this Amendment, the existing SWM facilities will remain on site and there will be no impact to existing drainage areas on site. The approved Amendment does not affect any stormwater management features previously constructed. DPS has acknowledged the existing facilities and does not require additional plans. See approved Stormwater Management Exemption Letter dated May 4, 2021.


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 22 2022 (which is the date that this Resolution is mailed to all parties of record); and

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

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Commissioner Rubin, with Chair Anderson and Commissioners Cichy, Patterson, Verma, and Rubin voting in favor of the motion at its regular meeting held on Thursday, February 10, 2022, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board