

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

AUG 10 2022

MCPB No. 22-079
Preliminary Plan Amendment No. 11985245B
Decoverly Hall
Date of Hearing: July 21, 2022

RESOLUTION

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

WHEREAS, on October 2, 1986, the Planning Board approved Preliminary Plan No. 1-85245 which created seven (7) lots for a total of 832,100 square feet of office development on 44.09 acres of land in the O-M Zone, located north of Key West Avenue between Omega Drive and Diamondback Drive ("Overall Site"), in the 1985 *Gaithersburg and Vicinity Master Plan* area; and

WHEREAS, the Planning Board Opinion dated January 10, 2005 approved Preliminary Plan Amendment No. 1-85245A (also known as the Avalon at Decoverly Phase 2) to create one (1) lot for 168 garden apartments located at the southeast quadrant of the intersection of Decoverly Drive and Diamondback Drive on the Subject Property; and

WHEREAS, on March 26, 2022, Beacon Capital Partners, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to seek to modify the allowable use in two (2) of the existing office buildings on the Overall Site from Office to Research and Development (limited use) and Medical/Scientific Manufacturing and Production (permitted use) on the Subject Property, limited to two buildings located at 9513 Key West Avenue (Parcel Z) and 15200 Omega Drive ("Subject Properties"); located in the Employment-Office (EOF) 1.5, H-75 Zone and in the 2021 *Great Seneca Science Corridor Minor Master Plan Amendment* ("Master Plan"); and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan Amendment No. 11985245B, Decoverly Hall ("Preliminary Plan," "Amendment," or "Application"); and

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Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

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 11, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 21, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Vice Chair Verma, seconded by Commissioner Patterson, with a vote of 4-0-0; Chair Anderson and Commissioners Cichy, Patterson, and Verma voting in favor with Commissioner Rubin being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 11985245B to modify the allowable use, for an existing 113,000 square foot building located at 9513 Key West Avenue (Parcel Z) and an existing 82,000 square foot building located at 15200 Omega Drive (Parcel BB), from Office to Research and Development (limited commercial use) and Medical/Scientific Manufacturing and Production (permitted industrial use) by modifying existing and adding several new conditions.¹

All previously approved plans, findings, and conditions of approval remain in full force and effect, except for the following conditions:

MODIFIED CONDITION

Condition 1 of Preliminary Plan No. 1-85245, as modified herein (the deleted text is in ~~strikeout~~, new text is underlined):

General Approval

Condition No. 1

1. ~~Agreement with the Planning Board limiting development to 832,100 square feet of office space with reference on the plat. Such agreement shall be incorporated into the Site Plan Enforcement Agreement.~~

NEW CONDITIONS

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.

General Approval

1. This Preliminary Plan Amendment is limited to two (2) lots, known as Parcel Z and Parcel BB, to allow for 113,000 square feet and 82,000 square feet respectively, of Commercial use within the Office subcategory, Research and Development subcategory, and Industrial use within the Medical/Scientific Manufacturing and Production subcategory.
2. Where Research and Development is designated as the sole use in either building on Parcel Z or Parcel BB, it must satisfy the applicable limited use standards of Section 59-3.5.8.C of the Zoning Code.

Outside Agencies

3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Right-of-Way Section in its letter dated May 13, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Right-of-Way Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

Other Approvals

4. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

Certified Preliminary Plan

5. Prior to submittal of the Certified Amended Preliminary Plan, the Applicant must make the following changes:
 - a) Show resolutions and approval letters on the approval or cover sheet(s).

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

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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 or as modified by subsequent amendments, and all findings not specifically addressed remain in effect.

Preliminary Plan Amendment No. 111985245B approves the modification of the allowable use, for an existing 113,000 square foot building located at 9513 Key West Avenue (Parcel Z) and an existing 82,000 square foot building located at 15200 Omega Drive (Parcel BB), from Office to Research and Development ("R & D") and Medical/Scientific Manufacturing and Production. The Preliminary Plan Amendment does not alter the intent of the previous findings, which remain applicable, except as modified below.

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.

a) The Lot(s) and Use comply with the basic requirements of Chapter 59

The lots were initially reviewed for compliance with Chapter 59 in relation to maximum density, height, setback compatibility, and minimum open space as specified in the Zoning Ordinance in effect on October 29, 2014. In the EOF zone, proposed Research and Development and Medical/Scientific Manufacturing and Production are allowed as limited and permitted uses, respectively. The scope of the Preliminary Plan Amendment is limited to a change of use only and will not alter the size, width, shape, or orientation of the original subdivision.

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

The Preliminary Plan is in substantial conformance with the 2021 *Great Seneca Science Corridor Minor Master Plan Amendment* and remain consistent with the 2010 *Great Seneca Science Corridor Master Plan* and the *Environmental Guidelines*.

The Overall Site and Properties are designated Life Sciences Center North and Washingtonian Cluster: Residential and Office within the 2010 *Great Seneca Science Corridor Master Plan* area. The change in use remains consistent with the Master Plan goals to promote a wide array of life science uses in the Master Plan area.

The Amendment is also consistent with the recommendations of the 2021 *Great Seneca Science Corridor Minor Master Plan Amendment* which recognizes "the pressing need to accommodate life sciences development to support the county's economic health, employment growth and global leadership in science and innovation." The primary purpose of the Minor Master Plan Amendment was to revise the staging requirements

in order to allow more development within the Master Plan area to accommodate life science uses. The Amendment achieves the Master Plan objectives by changing the use in two of the existing buildings in the Decoverly subdivision from traditional office use to Research and Development and Medical/Scientific Manufacturing and Production uses.

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

a) Roads and other Transportation Facilities

Vehicular circulation through the Subject Properties and to surrounding roads is primarily accomplished through several public roadway segments: Key West Avenue, Diamondback Drive, and Omega Drive. The change of use will not have any impact to circulation along existing roadway facilities, nor does it propose new road facilities or access points. These roads remain adequate for the overall Site and the Subject Properties.

The overall Site is currently serviced by Montgomery County Ride On bus service which operates various routes along Key West Avenue. There is an existing bus stop situated on the Property's frontage along Key West Avenue. The Project will not impact existing access to bus stops nearby the Properties, nor does it propose new public transit connections.

b) Local Area Transportation Review (LATR)

The Applicant submitted a Local Area Transportation Review (LATR) Exemption Statement for the change of use for the two (2) existing office buildings located 9513 Key West Avenue and 15200 Omega Drive. The buildings are expected to generate approximately 130 fewer person trips (131 fewer inbound and one (1) more outbound) during the AM peak hour and 132 fewer person trips (25 fewer inbound and 107 fewer outbound) during the PM peak hour. The net new trips generated by the change in use falls below the threshold of 50 or more net new peak-hour person trips in the AM and PM peak hours. Therefore, no LATR is required for this Project.

More importantly, regardless of whether the future uses ultimately function as R & D use or as Medical/Scientific Manufacturing and Production use, the trip generation rates drop from the existing office land use classification. Neither commercial nor industrial use would exceed the 50-person trip threshold, so that a traffic study would not be triggered, as shown in Table 1.

Table 1: Trip Generation for R & D versus

Medical/Scientific Manufacturing & Production

Existing						Existing					
	ITE Code	ITE AM Trips	ITE PM Trips	Person AM Trips	Person PM Trips		ITE Code	ITE AM Trips	ITE PM Trips	Person AM Trips	Person PM Trips
Office	710	297	289	391	381	Office	710	297	289	391	381
Proposed						Proposed					
R & D	760	198	189	261	249	Medical Manufacturing	140	128	152	167	199
Change		-99	-100	-130	-132	Change		-169	-137	-224	-182

The change in use from Office to Research and Development and Medical/Scientific Manufacturing and Production at 9513 Key West Avenue and 15200 Omega Drive will result in fewer person trips than its existing land use and will have a negligible impact on the transportation network surrounding the area.

c) Other Public Facilities and Services

As concluded in the original Preliminary Plan Resolution, the Project will be served by adequate public facilities (APF), including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. While the current validity period deadline is January 27, 2025, for the remaining unbuilt building², the adequate public facilities test was previously validated for the two existing buildings that are the subject of the Application. The impact of the proposed change in use from Office to Research and Development and Medical/Scientific Manufacturing and Production does not include changes in density, height, parking, or circulation patterns.

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

a) Forest Conservation Plan/Exemption

An exemption (No. 42022271E) from Article II of the Forest Conservation Law was confirmed for this application on June 22, 2022 under Section 22A-5(k) of the Forest Conservation Law. The Preliminary Plan Amendment will not result in the cutting of more than 5,000 additional square feet of forest (no forest is being removed for this application), and development or redevelopment of the property does not require resubdivision. Therefore, with the confirmation of the forest conservation exemption, the Applications comply with the requirements of Chapter 22A, Forest Conservation.

² The initial validity period deadline for the Site was subsequently extended by a Planning Board extension followed by a series of legislative actions, including the Montgomery County Council's adoption of Ordinance No. 18-04 that pursuant to Section 4(c) granted a six-year extension, which extended the APF period to January 27, 2023. Per Ordinance No. 20-01, Section 4(e), the current validity period deadline is January 27, 2025.

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

The original Preliminary Plan received a Stormwater Management concept approval. The Preliminary Plan Amendment for the change in use does not require a new stormwater management concept plan management or trigger any sediment control requirements as there is no land disturbance. Further, per the change of use clause in \Section.59.19-2 of the Zoning Code a permit is not required for any minor land-disturbing activity that is not associated with a change of use from residential to any other use.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 10 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 Vice Chair Verma, seconded by Commissioner Cichy, with a vote of 4-0-1; Chair Anderson, Vice Chair Verma, and Commissioners Cichy, and Patterson, voting in favor of the motion, Commissioner Rubin abstaining, at its regular meeting held on Thursday, July 28, 2022, in Wheaton, Maryland and via video conference.



Casey Anderson, Chair
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