

Montgomery Planning
PSTA
PRELIMINARY PLAN AMENDMENT NO. 12020010B



Description

The Preliminary Plan Amendment requests to revise Condition No. 26 associated with the timing for right-of-way acquisition necessary to connect the extension of Medical Center Drive between Key West Avenue and Great Seneca Highway.

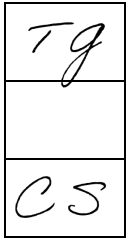
No. 12020010B

Completed: 11-7-2022

MCPB
Item No.
11-17-2022

2425 Reddie Drive
Floor 14
Wheaton, MD 20902

Planning Staff



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Carrie Sanders, Chief, Midcounty Planning, Carrie.Sanders@montgomeryplanning.org, 301.495.4653



Summary:

- Staff recommends approval of the Proposed Preliminary Plan Amendment 12020010B.
- This application was submitted as a major amendment pursuant to Sec. 50.4.2.F of the Subdivision Regulations.
- The Preliminary Plan was approved on July 22, 2021, and memorialized by MCPB Resolution No. 21-082 on July 29, 2021, to transform the County's previously vacated PSTA site into a mixed-use development project with several housing types (including 30% moderately priced dwelling units), retail, open spaces, new roads, and a segment of the LSC Loop Trail. The associated Site Plan No. 820220050 was approved on March 31, 2022.
- Preliminary Plan Amendment 12020010A received the Planning Director's Approval on September 9, 2022, to reduce the depth of the previously approved pavement detail from 16" to 6" for Streets A, B, C East, C West, and Street D due to their functionality within the Site as secondary residential streets.
- The Subject Amendment 12020010B requests approval to change the timing and process for condition of approval No. 26 associated with the acquisition of right-of-way for the extension of Medical Center Drive between Blackwell Road and Key West Avenue.
- An administrative change to Condition No. 3 is proposed to reference the newly issued agency approval letter.
- There are no changes proposed to the construction or phasing of the Project. The proposed Amendment is consistent with the findings of the original approval.
- Staff has not received community correspondence.

LOCATION/ADDRESS

9710 Great Seneca Highway

MASTER PLAN

2021 Great Seneca Science Corridor Minor Master Plan Amendment and 2010 Great Seneca Science Corridor Master Plan

ZONE

Commercial/Residential (CR): CR-1.0: C 0.5, R 1.0, H 150

PROPERTY SIZE

44.8 acres

APPLICANT

The Elms at PSTA, LLC

ACCEPTANCE DATE

September 30, 2022

REVIEW BASIS

Chapter 50, Preliminary Plan

RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 12020010B

Staff recommends approval with conditions of the Preliminary Plan Amendment to modify the timing and process associated with the acquisition of private right-of-way for the extension of Medical Center Drive to Key West Avenue. All site development elements shown on the latest electronic version of the Preliminary Plan No. 12020010B as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions. The following language modifies Condition No. 3 and No. 26, and all other conditions, approved plans, and findings remain in full force and effect:

Modified Conditions

Outside Agencies

3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its revised Preliminary Plan letter dated July 8, 2021 and its revised TIS letter dated July 8, 2021, and its letter dated November 4, 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 letters, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

New Streets

26. The Applicant must dedicate 150-foot-right-of-way for Medical Center Drive and will design and construct all necessary improvements as shown in the Medical Center Drive road cross-section on the Certified Preliminary Plan.
 - a. The Applicant shall ~~contact~~ continue its discussions with the adjacent property owner to acquire the right-of-way necessary to make the connection of Medical Center Drive with Key West Avenue. The Applicant will coordinate with MCDOT ~~if an agreement cannot be reached with the adjacent property owner.~~ regarding these efforts. If the necessary right-of-way cannot be acquired ~~prior to a Site Plan submission, then a Preliminary Plan amendment will be required.~~ within nine (9) months of the mailing date of this Resolution for this Amendment, then the Applicant must execute an agreement with MCDOT for the County to acquire the right-of-way from the adjacent property owner.

PRELIMINARY PLAN AMENDMENT NO. 12020010B

PREVIOUS APPROVALS

Mandatory Referral and Preliminary Plan

After a public hearing on July 22, 2021, the Planning Board recommended approval for Mandatory Referral No. MR2021030 to dispose of the Property for redevelopment and granted approval for Preliminary Plan No. 120200100 for 1,039,136 square feet of residential uses for up to 290 lots and up to 35 parcels for up to 630 dwelling units, including a minimum of 30% MPDUs, and a maximum of 1,740 square feet of commercial uses.

Preliminary Plan Amendment No. 12020010A was approved administratively by the Planning Director on September 9, 2022, to modify the previously approved roadway pavement detail from 16" to 6" for Streets A, B, C East, C West, and Street D due to their functioning within the Site as secondary residential streets and to update corresponding approval sheets and detail sheets within the certified set. The widths of travel lanes, sidewalks, and street buffers will remain the same as previously approved.

Site Plan

After a public hearing on March 31, 2022, the Planning Board granted approval for Site Plan Application No. 820220050 for up to 1,740 square feet of commercial use for retail and up to 630 dwelling units for 56 multi-family 2-over-2 units, 298 mid-rise multi-family units, and 276 single-family attached townhouse units. A network of open spaces, recreation facilities, and internal roads and alleys were approved for access and vehicular and non-motorized circulation to support the development. The Application proposed to build the residential units, infrastructure, and amenities in the project over nine (9) phases.

AMENDMENT PROPOSAL

On August 23, 2022, The Elms at PSTA (the Applicant) submitted the Subject Application for approval of the following modification to Preliminary Plan Condition No. 26.a which states:

“The Applicant shall contact the adjacent property owner to acquire the right-of-way necessary to make the connection of Medical Center Drive with Key West Avenue. The Applicant will coordinate with MCDOT if an agreement cannot be reached with the adjacent property owner. If the necessary right-of-way cannot be acquired prior to a Site Plan submission, then a Preliminary Plan amendment will be required.”

Planning staff supports the requested modification of Condition No. 26.a to delay the right-of-way acquisition per the Applicant's request. Justification for staff's support is provided within this Staff Report.

Circulation

The Site is bounded by Key West Avenue (MD 28) to the north and Great Seneca Highway (MD 119) to the east. There is one existing main access point to the Property via Medical Center Drive at the southern portion of the Site which will be extended into the Site. Access to the Subject Property is proposed at two locations along Great Seneca Highway (MD 119) and at multiple locations along Medical Center Drive.

In accordance with MCPB Resolution No. 21-082, the Site Plan approved the construction of seven (7) new public roadways: Public Street A, Public Street B, Public Street C West, Public Street C East, Public Street D, Medical Center Drive, and Blackwell Road – each with on-street parking on both sides or one-side. As approved by the Montgomery County Department of Transportation, all proposed streets will be constructed with modified rights-of-way with the exception of Medical Center Drive.

The Applicant will dedicate and construct the 150-foot-wide right-of-way for Medical Center Drive with four lanes (one lane in each direction with parking on both sides), along with the pedestrian and bicycle facilities. A total of 52 feet of the 150-foot roadway width will be set aside for the future Corridor Cities Transitway (CCT). The exact time of implementation of the CCT, which has an envisioned alignment along Medical Center Drive through the Site, is presently unknown.

Right-of-Way Requirements for New Access

Currently, there are right-of-way limitations to road construction because the northern portion of Medical Center Drive is off-site and under private ownership, as highlighted in Figure 1.

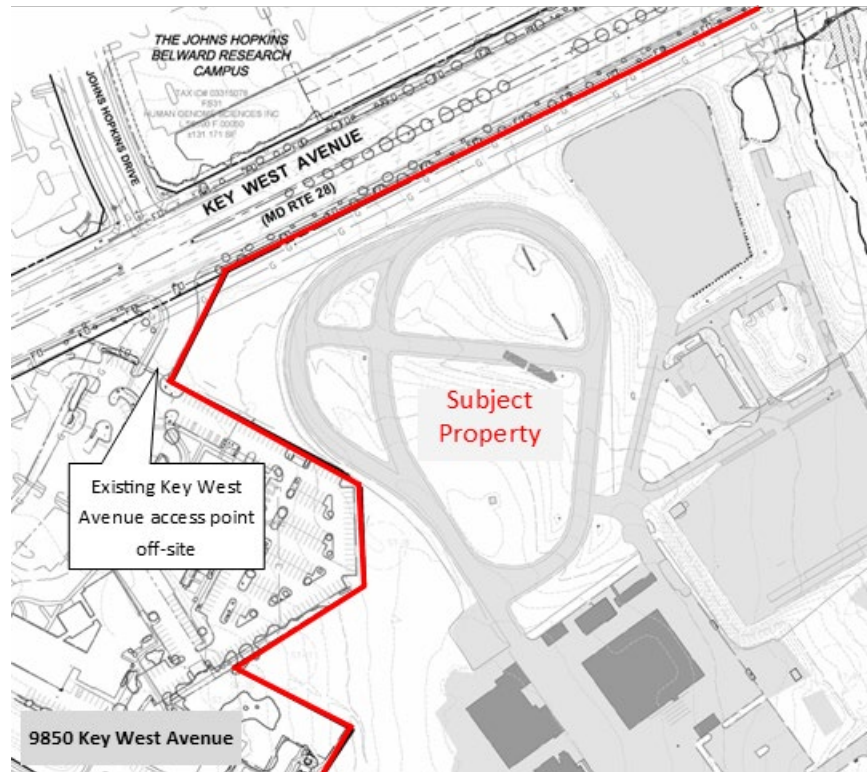


Figure 1: Existing Conditions for Key West Avenue access

The abutting site to the west, located at 9850 Key West Avenue, is improved with an existing medical office building where the Children’s National Hospital is the sole tenant. Additionally, the patrons of several retailers located within the Shady Grove Professional Center shopping center utilize this access point.

The proposed location for the reconfigured 9850 Key West Avenue access point, as illustrated in Figure 2 below, considers engineering requirements for site and stopping distances, existing and future turning movements from Key West Avenue, the site access needs for Children’s National Hospital, and the minimization of cut-through traffic to adjacent retail uses. The new access point also considers the Applicant’s installation of the required traffic signal at the intersection of Key West Avenue and Medical Center Drive, which must be installed prior to opening the new segment of Medical Center Drive to traffic and acceptance for maintenance by MCDOT (Condition No. 26.c.ii).

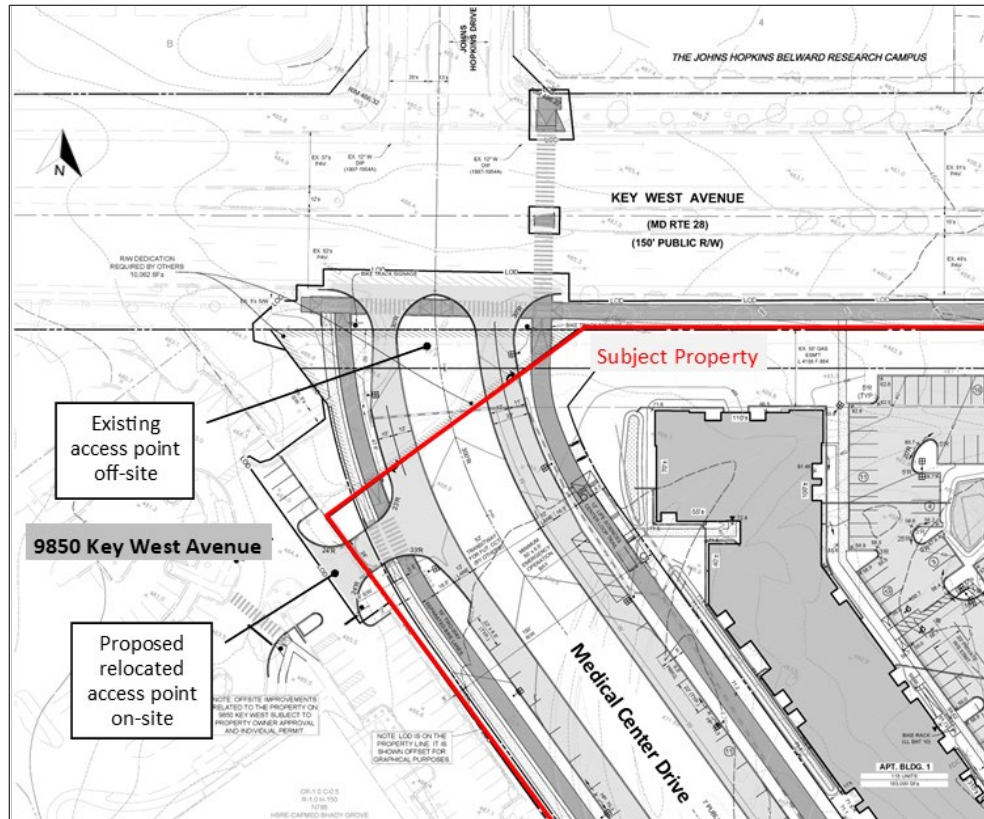


Figure 2: Reconfiguration of the Driveway Access to 9850 Key West Avenue

A twelve-foot travel lane and ten-foot-wide turn lane will be provided for southbound traffic entering Medical Center Drive from Key West Avenue. A dedicated right-turn lane provides access to 9850 Key West Avenue. As conditioned, prior to obtaining any right-of-way permit for Medical Center Drive, the Applicant must obtain MCDOT approval for the relocation of the existing driveway at 9850 Key West Avenue. Signing and marking will be finalized at the time of right-of-way permitting.

As conditioned with the approved Preliminary Plan, the Applicant will construct the planned roadway connections required through the Property, outlined within the *Master Plan of Highways and Transitways* and in accordance with the 2010 *Great Seneca Science Corridor Master Plan*. As a means of establishing the Key West Avenue and Medical Center Drive intersection that would provide access into the Site and tie directly with the existing Key West Avenue and Johns Hopkins Drive intersection, the existing driveway for the Property at 9850 Key West Avenue will be removed. In its place to maintain access into the neighboring property, new ingress and egress will be provided from the Medical Center Drive extension into the property's existing surface parking area, as illustrated in Figure 2.

The Applicant will provide a right-turn lane into the neighboring property, facilitating right-in and right-out access, as well as a travel lane for southbound vehicles. In order to reduce conflicts between multimodal travel, the proposed temporary median along Medical Center Drive will be closed to

prevent left-turn movements. These improvements require right-of-way that the Applicant does not control but were closely coordinated with the affected Property owner of 9850 Key West Avenue during the Site Plan approval process, along with various county agencies.

Condition of Approval Modifications

The segment of Medical Center Drive between Blackwell Road and Key West Avenue is proposed to be built when the approximately 10,062 square feet of right-of-way from 9850 Key West Avenue is acquired as public right-of-way. If this acquisition is not possible prior to recordation of the first plat, Condition No 26.a states that the Applicant must return to the Planning Board for an amendment to the Preliminary Plan. Accordingly, the Applicant is requesting an amendment to address the timing that is no longer apt to the circumstances.

Representatives of 9850 Key West Avenue and the Applicant have met several times since June 2020 to discuss the connection of Medical Center Drive to Key West Avenue. The Applicant offered the fully appraised value of the 10,062 +/-square foot connection to the owner of 9850 Key West Avenue in July 2022. However, the owner of 9850 Key West Avenue is currently reviewing the appraisal and offer and indicated that they will need more time for review and has not entered into an agreement with the Applicant. Given the uncertainty of the agreement timing and the current project schedule, the Applicant proposes the following modification to an existing condition which currently requires the right-of-way to be acquired at the time of record plat, which makes it unfeasible to advance the Project at this time.

26a. The Applicant shall continue its discussions with the adjacent property owner to acquire the right-of-way necessary to make the connection of Medical Center Drive with Key West Avenue. The Applicant will coordinate with MCDOT regarding these efforts. If the necessary right-of-way cannot be acquired within nine (9) months of the mailing date of this Resolution for this Amendment, then the Applicant must execute an agreement with MCDOT for the County to acquire the right-of-way from the adjacent property owner.

Construction Phasing

The Applicant was previously approved to build-out the Project across nine (9) phases which may occur in any order or may be combined. Right-of-way dedication will occur at the time of record plat. Regardless of the build-out phasing, bike, pedestrian, fire and rescue and vehicular connections and access will be available for constructed units. Under Phase 1, Medical Center Drive will be partially constructed from Blackwell Road to the Property line and from the road centerline to the right-of-way dedication for the northbound traffic lane. Along this partial segment, fire access lanes and a temporary LSC Loop connection from Medical Center Drive to the Key West Avenue 10-foot-wide sidepath would also be realized. The Proposed Amendment will not adjust the phasing schedule but will contribute to the Project maintaining its existing record plat and construction schedule.

ANALYSIS & FINDINGS

Pursuant to Section 50.4.2.F of the County Code, a major amendment includes any requests to change density that results in greater adequate public facilities impact; or make major changes to lot configuration or location, or right-of-way width or alignment; or make a change to any condition of approval, except a change to plan validity period or APF validity period. The Subject Application seeks to modify an existing condition of approval to decouple the acquisition of approximately 10,062 square feet of right-of-way from 9850 Key West Avenue from the current deadline of prior to recordation of the first plat. The revised condition would allow the Applicant to momentarily proceed and provide adequate time to continue coordination that is underway with the adjacent property owner and MCDOT. Additionally, the modified condition presents a path-forward should the adjacent property owner decide not to accept the Applicant's fair market appraisal offer for the right-of-way. Under this alternate scenario, the Applicant will enter into an agreement with the Montgomery County Department of Transportation to acquire the Medical Center Drive right-of-way. This added language is consistent with the initial intent of the Planning Board to ensure the Applicant provides this key roadway connection.

The provision of Medical Center Drive to Key West Avenue is a master-planned roadway extension that serves multiple purposes including for direct access for the abutting properties, porosity, and connectivity throughout the immediate neighborhood, to accommodate the Life Sciences Center Loop Trail and the recently reimaged CCT alignment, and for vehicular access to the retail bay at the intersection with Blackwell Road. The proposed modification to Condition 26.a. does not alter the overall character or impact the development with respect to the original findings of approval under Preliminary Plan 120200100. The modification will not affect the compatibility of the development with respect to the surrounding neighborhood. The proposed amendment remains in conformance with environmental regulations, the development standards of the Commercial/Residential (CR) Zone, and the 2010 *Great Seneca Science Corridor Master Plan* and 2021 *Great Seneca Science Corridor Minor Master Plan Amendment*.

The Amendment is consistent with the provisions of the County Code. It does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved Preliminary Plan or any subsequent applications thereof. The layout of the subdivision, including size, width, shape, orientation and density of lot, and location and design of roads remain appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.

The Montgomery County Department of Transportation (MCDOT) issued a letter of approval for the proposed condition of approval modification (Attachment A). Planning Staff proposes a change to condition No. 3 which is administrative in nature in order to reference by date MCDOT's current approval letter associated with Condition No. 26. Except for Conditions No. 3 and No. 26 of Preliminary Plan 12020010B as modified by the Subject Amendment, all previous conditions of approval and Planning Board findings associated with the technical review per Section 50.4.3 of the

County Code remain in full force and effect. Therefore, Staff recommends approval of Preliminary Plan Amendment 12020010B with the amended conditions listed at the beginning of this report.

In accordance with Section 50.4.2.G of the County Code, there shall be no effect of this Preliminary Plan Amendment on the previously approved validity period. The Amendment shall remain valid as provided in the original approval.

COMMUNITY OUTREACH

A pre-submittal community meeting is not required for a major Preliminary Plan amendment. However, the Applicant must provide public notice under Division 7.5. of the Zoning Ordinance. Therefore, the Applicant sent a notice of the Amendment to all parties of record and the notice gave the interested parties an opportunity to review and comment on the contents of the Application.

Staff did not receive any public correspondence regarding this modification during the review.

CONCLUSION

Staff recommends approval of the major Preliminary Plan amendment to change the timing and process for a condition of approval. The scope of the amendment remains in conformance with all requirements established in the Subdivision Regulations and the Zoning Ordinance and remains in substantial conformance to the recommendations of the 2010 *Great Seneca Science Corridor Master Plan* and 2021 *Great Seneca Science Corridor Minor Master Plan Amendment*. Access and public facilities will remain adequate to serve the lots, and the Application has been reviewed and recommended for approval by MCDOT.

ATTACHMENT

Attachment A: MCDOT Approval Letter dated November 4, 2022

ATTACHMENT A



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R. Conklin
Director

November 4, 2022

Ms. Tamika Graham, Planner III
Mid-County Planning Division
The Maryland-National Capital
Park & Planning Commission
2425 Reedie Drive, 13th floor,
Wheaton, MD 20902

RE: Preliminary Plan Letter
Preliminary Plan No. 12020010B
PSTA Site Amendment

Dear Ms. Graham:

We have completed our review of the preliminary plan amendment uploaded in eplans dated October 13, 2022. A previous plan was reviewed by the Development Review Committee at its April 28, 2022, meeting. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Montgomery County Department of Permitting Services (MCDPS) in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Condition 26a of the PSTA Preliminary Plan Resolution:

The Applicant must dedicate 150-foot-right-of-way for Medical Center Drive and will design and construct all necessary improvements as shown in the Medical Center Drive road cross-section on the Certified Preliminary Plan.

- a. *The Applicant shall contact the adjacent property owner to acquire the right-of-way necessary to make the connection of Medical Center Drive with Key West Avenue. The applicant will coordinate with MCDOT if an agreement cannot be reached with the adjacent property owner. If the necessary right-of-way cannot be acquired prior to recordation of the first plat, then a Preliminary Plan amendment will be required.*

Office of the Director

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

www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

Applicant's request: Condition 26a of the PSTA Preliminary Plan Resolution states that Elms at PSTA is unable record any plat for PSTA until the necessary Medical Center Drive right-of-way has been acquired from 9850 Key West Avenue. The applicant states that Elms at PSTA has not been able to acquire the right-of way and no agreement has been reached for acquisition with the owner to date. In addition, the applicant states working to record plats later this year in anticipation of receipt of building permits for vertical construction starting in late 2022 or early 2023. In order to not delay construction of the site as the plats are being recorded, the Applicant is requesting to amend Condition 26A of the PSTA Preliminary Plan Resolution as follows:

The Applicant shall continue its discussions with the adjacent property owner to acquire the right-of-way necessary to make the connection of Medical Center Drive with Key West Avenue. The Applicant will coordinate with MCDOT regarding these efforts. If the necessary right-of-way cannot be acquired prior to the recordation of the eighth plat, then the Applicant shall escrow the necessary funds, as determined by a Certified General Appraiser, for the County to acquire the Medical Center Drive right-of-way. Once these funds are escrowed, Applicant shall have satisfied its obligations regarding this portion of Medical Center Drive.

MCDOT Response: We generally **agree** with the applicant's request to amend Condition 26a. The final language for the resolution as agreed to by MCDOT and the applicant is as follows:

The Applicant shall continue its discussions with the adjacent property owner to acquire the right-of-way necessary to make the connection of Medical Center Drive with Key West Avenue. The Applicant will coordinate with MCDOT regarding these efforts. If the necessary right-of-way cannot be acquired within nine (9) months of the mailing date of this resolution for this Amendment, then the Applicant must execute an agreement with MCDOT for the County to acquire the right-of-way from the adjacent property owner.

In addition, the following language is added to the MCDOT approval letter.

The Agreement between the Applicant and MCDOT shall detail timing, funding, and responsibilities of the right-of-way acquisition and any other items necessary to acquire the property.

Ms. Tamika Graham
Preliminary Plan No. 12020010A
November 4, 2022
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Thank you for the opportunity to review this preliminary plan amendment. If you have any questions or comments regarding this letter, please contact myself for this project at brenda.pardo@montgomerycountymd.gov or at (240) 777-7170.

Sincerely,

Rebecca Torma

For Brenda M. Pardo, Engineer III
Development Review Team
Office to Transportation Policy

[SharePoint\teams\DOT\Director's Office\Development Review\Brenda\Preliminary Plan\PP12020010A PSTA Site\12020010B-PSTA-DOT Preliminary Plan Letter_10.20.22](#)

cc: SharePoint Correspondence FY 2023

cc-e:	Kate Kubit	Elm Street Development
	Mark Terry	MCDOT DTEO
	Atiq Panjshiri	MCDPS RWPR
	Sam Farhadi	MCDPS RWPR
	Rebecca Torma	MCDOT OTP