

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

**July 29, 2024**

MCPB No. 24-073

Subdivision Regulation Waiver No. SRW202401

Adventist HealthCare White Oak Medical Center

Date of Hearing: July 25, 2024

## **RESOLUTION**

WHEREAS, under Chapter 50 (the “Subdivision Regulations”), of the Montgomery County Code, the Montgomery County Planning Board is authorized to extend an adequate public facilities (“APF”) determination and to grant waivers from any requirements of Chapter 50; and

WHEREAS, on May 22, 2024, Adventist HealthCare Inc., (“Applicant”) filed an application under Section 50.9.3 of the Subdivision Regulations, to coincide with the processing of Site Plan Amendment No. 82008021L, for a waiver of the requirement of Section 50.4.3.J.7.a.i. for the purpose of extending an expired APF given the disproportionate hardship experienced by hospital administrators during the COVID-19 pandemic, for property located on the west side of Plum Orchard Drive, approximately 400 feet southwest of Broadbirch Drive and consisting of previously identified Parcels BB, CC, RR, SS, and MMM, now recorded as Parcel RRRR of the West Farm Technology Park Subdivision, recorded at Plat No. 24195 (“Subject Property”), in the Fairland/White Oak Policy Area and the 2014 *White Oak Science Gateway Master Plan* (“Master Plan”) area; and

WHEREAS, the application for a subdivision regulations waiver was designated Subdivision Regulations Waiver No. SRW202401, Adventist HealthCare White Oak Medical Center, (“Waiver” 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 12, 2024 providing its analysis and recommendation for approval of the Application (“Staff Report”); and

WHEREAS, on July 25, 2024 the Planning Board held a public hearing on the Application and voted to approve the Application by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Subdivision Regulation Waiver No. SRW202401 and waives Section 50.4.3.J.7.a.i. of the Subdivision

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Approved as to

Legal Sufficiency:

/s/ Emily Vaias

M-NCPPC Legal Department

Regulations allowing the Applicant to file the APF extension request after the date that the APF expired, as part of the accompanying Site Plan Amendment No. 82008021L.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and/or as provided 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 that:

All required findings to grant a waiver request under Section 50.9.3. are satisfied as follows:

1. ***Due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare;***

The Hospital's original APF approval was granted in 2008 and was associated with three underlying preliminary plans (Preliminary Plan Nos. 119820680, 119910380 and 119910390) with various amendments and extensions. These approvals included a multi-year, multi-phased project that evolved over the years as the healthcare industry, technology, and patient demands changed. Substantial delays in the Maryland Certificate of Need process precluded the Hospital from starting construction until 2016-2017. The COVID-19 pandemic occurred not long after the Hospital opened to patients in 2019, which created chaotic clinical conditions from early 2020 through mid-2023 when the APF validity expired on July 25, 2023.

The pandemic created particularly unusual circumstances and practical difficulty for the Hospital. COVID-19 required all the Hospital's resources for several years after its opening as administrators navigated uncertain and unprecedented working conditions. This placed a huge strain on the Hospital's resources as a critical piece of the public interest community infrastructure. The former Adequate Public Facilities (APF) / transportation capacity was evaluated under the full approved density (803,570 square feet), and the Applicant made all required infrastructure improvements to accommodate the total density. The accompanying Site Plan Amendment does not request density above the approved 803,570 square feet, and allowing the Hospital to continue to build out the remaining 209,853 square feet of approved density is in the interest of public health and safety. Denying the Applicant the ability to extend the APF validity is not needed to ensure the public health, safety or general welfare.

2. ***The intent of the requirement is still met; and***

The intent of Section 50.4.3.J.7.a.i. is to assure that projects keep track of their APF validity periods, do not "sit on" certain development rights that could prevent other

projects from moving forward, and that government can assure that adequate public facilities are provided for new development. In this case, although the Applicant did not file for the extension request before the APF expired, they had already satisfied all the prior APF requirements even though the full build out of the project had not been achieved. The failure to file was explainable due to COVID-19, the Applicant is moving ahead with additional medical facilities, and the underlying validity of the APF findings remain.

**3. *The waiver is:***

***a. The minimum necessary to provide relief from the requirements, and***

The requested waiver is the minimum needed to allow the Applicant to file for extension of the APF under Section 50.4.3.J.7.a.i. This waiver will permit the Hospital project to otherwise remain in compliance with Chapters 50 and 59.

***b. Consistent with the purposes and objectives of the General Plan.***

Granting this waiver would still allow the Hospital project, and the development under the accompanying Site Plan Amendment No. 82008021L, to remain consistent with the 2014 *White Oak Science Gateway Master Plan*. The Master Plan envisions the Property be used to promote research, academic and clinical facilities that advance the life sciences, health care services, and applied technologies.

Further, the waiver is consistent with the purposes and objectives of the General Plan. Page 77 of Thrive Montgomery 2050 emphasizes the importance of racial equity and rebalancing the geographic distribution of opportunity. It specifically states:

The identification of growth corridors in the East County – particularly along U.S. 29...is vital to reversing decades of no growth and ensuring that the benefits of growth are more equitably distributed across lines of geography, class, and race.

The Subject Property falls within the medically underserved area of East County and helps to meet significant patient demands in the area by providing a critical piece of public infrastructure to support growth.

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 Subdivision Regulation Waiver shall remain valid as provided in Montgomery County Code § 50.9.3; 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

**July 29, 2024**

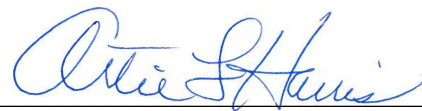
(which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution approved and adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 4-0; Chair Harris, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, Vice Chair Pedoeem necessarily absent, at its regular meeting held on Thursday, July 25, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board