

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-080  
Site Plan No. 81988015F  
Decoverly Hall  
Date of Hearing: July 21, 2022

AUG 10 2022

## RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on June 20, 1985, the Planning Board approved Site Plan No. 8-85034 which allowed a total of 832,100 square feet of office development on seven (7) lots 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, on January 23, 1986, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan Amendment No. 8-85034 (also known as Decoverly Hall, Parcel F), to modify site elements such as the construction of a sidewalk to connect all parking spaces and landscaping; and

WHEREAS, on June 8, 1988, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan Amendment No. 8-88015 (Amending No. 8-85034) to modify site elements on the Subject Property; and

WHEREAS, on November 24, 2010, CR Decoverly 9501 LLP filed a site plan amendment designated Site Plan No. 81988051E for the modification for Building No. 3 (Parcel KK) layout, landscaping, and height to coordinate previous approvals, and whereas was approved on February 15, 2011, as a Director Level amendment; and

WHEREAS, on March 28, 2022, Beacon Capital Partners, LLC (“Applicant”) filed an application for approval of an amendment to the previously approved site 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

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Approved as to

Legal Sufficiency: /s/ Allison Myers

M-NCPPC Legal Department

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 site plan was designated Site Plan No. 81988015F, Decoverly Hall (“Site 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 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 Site Plan Amendment No. 81988015F 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.<sup>1</sup>

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

## **NEW CONDITIONS**

### **General Approval**

1. Development on the Subject Property is limited to a maximum of 113,000 square feet (Parcel Z) and 82,000 square feet (Parcel BB) of Office, Research and Development, and/or Medical/Scientific Manufacturing and Production uses. These uses may be implemented in any combination, up to the maximum density permitted on the Subject Property.

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<sup>1</sup> 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.

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 Site 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 Site Plan approval.

#### **Certified Site Plan**

4. Before approval of the Certified Site Plan the following revisions must be made and information provided subject to Staff review and approval:
  - a) Include the Amended Site Plan resolution and other applicable resolutions on the approval or cover sheet(s).

BE IT FURTHER RESOLVED that all other site 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 all site development elements shown on the latest electronic version of Decoverly Hall Site Plan Amendment No. 81988015F, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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 site plan and as revised by previous Site Plan amendments, and all findings not specifically addressed remain in effect. This Project is being reviewed under the Zoning Code in effect on October 30, 2014 per Section

7.7.1.A.2.b: Any allowed use, up to the density limits established by the current zoning, may be located in a building or structure deemed conforming under Section 7.7.1.A.1.

Site Plan Amendment No. 81988015F modifies an existing condition of approval allowing Office use to Research and Development and Medical/Scientific Manufacturing and Production, for a 113,000 square foot building located at 9513 Key West Avenue (Parcel Z) and an 82,000 square foot building located at 15200 Omega Drive (Parcel BB). All prior findings remain valid, except as updated or modified below by the relevant finding sections below.

***2) To approve a Site Plan, the Planning Board must find that the proposed development:***

***a) satisfies any previous approval that applies to the site;***

The Amendment satisfies previously approved Preliminary and Site Plans applicable to the Overall Site.

***d) satisfies applicable use standards, development standards, and general requirements under this Chapter;***

***ii. Division 59-6 General Development Standards***

***(1) Division 6.1 Site Access***

***Vehicular Access and Circulation***

The Overall Site is currently accessed from a variety of improved roadways – Key West Avenue, Decoverly Road, Diamondback Drive, and Omega Drive. No changes are proposed for general use or for fire and rescue related access and circulation.

***Pedestrian and Bike Access***

Currently, there are some bicycle and pedestrian accommodations along the existing sections of Key West Avenue that frame the Site. The previous approval included up to 100 bicycle parking spaces and the required construction of an eight-foot-wide multi-use path along the frontage of the Property within the Decoverly Drive right-of-way, with a street tree panel.

The Amendment does not include any changes or additions to the sidewalk, bicycle parking, or bikeway infrastructure within and along the periphery of the Site and Subject Properties.

***(2) Division 6.2 Parking, Queuing and Loading***

***Parking and Loading***

Currently, the Overall Site has an abundance of surface parking (over 2,700 spaces) and a five-story structured parking garage to support the five (5) office buildings. The existing parking facilities were approved prior to October 30, 2014 and are considered to be conforming per Zoning Code Section 59.6.2.2.A and Section 59.7.7.1.A.1.

The Amendment to allow Research and Development and/or Medical/Scientific Manufacturing and Production uses on Parcel Z and Parcel BB will require less parking under the current Zoning Ordinance requirements. However, the Site Plan Amendment is not changing the existing parking count or arrangement. Existing circulation via internal access aisles and periphery roads will not alter access to parking accommodations.

The maximum parking rates identified in Section 59.6.2.4.B of the Zoning Code are the same for Office, R & D, and Medical/Scientific Manufacturing and Production uses (3.0 spaces per 1,000 square feet). The Applicant is not proposing to build new vehicular parking spaces. The parking breakouts by existing and proposed uses is summarized below:

- Existing Requirement for office: 390 min./585 max.
- Existing Provided for office: 598 spaces (out of the overall 2,706 spaces)
- Required for either new use: 195 min./585 max.
- Proposed for either new use: 563 spaces (out of the overall 2,706 spaces)

Therefore, the required parking count is within the parking minimum-to-maximum range associated with the requested change of use to R & D and Medical/ Scientific Manufacturing and Production.

***Transit***

As noted under the Preliminary Plan findings, the overall Site is currently serviced by Montgomery County Ride On bus service which operates various routes along Key West Avenue. The Project will not impact existing access to bus stops nearby the Properties.

***e) Satisfies the applicable requirements of:***

***iii. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and***

The request a change in use from office does not trigger DPS requirements for erosion, sediment control, or stormwater management as there is no land disturbance proposed.

***iv. Chapter 22A, Forest Conservation.***

With the confirmation of the new forest conservation exemption No. 42022271E, the Application complies with the requirements of Chapter 22A, Forest Conservation and the Planning Board's Environmental Guidelines.

***f) Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;***

Given the non-structural or material changes proposed, the Site Plan Amendment will not alter the existing circulation patterns through the Overall Site, the building massing of the two (2) existing office buildings under review, or amenity open spaces or site amenities.

***g) Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;***

The Project for a change in use is in substantial conformance with the vision and goals of the 2021 GSSC Minor Master Plan Amendment and 2010 GSSC Master Plan, which contains recommendations that were not superseded by the plan amendment. The primary purpose of the Minor Master Plan Amendment was to revise the staging requirements in order to allow more development within the plan area to accommodate life sciences development to support the County's economic health, employment growth and global leadership in science and innovation (2021; page 2). This Amendment specifically focuses on evaluating the staging requirements of the 2010 Master Plan and does not provide recommendations for land use, zoning, transportation, parks, trails and open space, the environment, or historic resources.

The Life Sciences Center (LSC) is planned as a concentrated and interconnected hub for science, health care, housing, open spaces, and transit. At the time of print, the 2010 Master Plan recognized that the LSC had the largest concentration of, and is the premier location for, research and biotechnology companies in the County (2010; page 15). Therefore, the Master Plan's vision for the LSC aimed to build upon the strong foundation of existing institutions, businesses, health services, academia, and research and development companies combined with an updated land use strategy.

The 2010 Master Plan establishes a blueprint for the Life Sciences Center that includes an expanded medical center, research facilities, academic institutions, and services and amenities. The Master Plan also states that life science uses should be given priority in order to help implement the vision. The 2021 Minor Plan Amendment carries this



blueprint forward and provides relief to the life sciences industry development based on recent development trends.

Additionally, the 2010 Master Plan emphasizes that transforming the suburban, auto-oriented nature of the LSC into a walkable, vibrant science center would require changing the built environment and the mix of uses over time. The Application reflect economic needs that have changed over time. With the change in use to a new subcategory of commercial and the introduction of industrial use on an existing Site, the probability of abandonment or vacancy is reduced due to the efficient use of the two buildings. The requested new uses are either of a similar intensity or marginally more intensive which remains in conformity to the zoning code, without any adverse impacts to existing and proposed developments. More importantly, the change in use Application addresses the critical need identified in both Master Plan documents to enable the continued growth of the life sciences industry in the county both for the economic competitiveness of Montgomery County and for the advancement of vital sciences.

***h) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.***

The adequate public facilities test was previously validated for the two existing buildings that are the subject of the Application. The impact of the 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.

***j) on a property in all other zones, is compatible with existing, approved or pending adjacent development.***

The requested change in use from Office to Research and Development and Medical/Scientific Manufacturing and Production is compatible with existing and approved adjacent development. The character of the surrounding area is mixed, but largely of a non-residential character particularly for confronting properties across Key West Avenue to the south. A significant portion of the surrounding area serves employment primarily for life science and institutional uses. The new uses would complement existing activities that are occurring within surrounding properties and would complement the character of this area by introducing similar uses in close proximity to the existing employment and institutional uses to create a greater mix of complementary uses.

While screening requirements do not apply for the overall Site or the two properties, existing Outlot No. 5, inclusive of its stream valley buffer, is situated to the north of

Parcel Z and Parcel BB and will continue to serve as a physical barrier from existing residential uses to the north and northwest located off of Diamondback Drive, west of Decoverly Drive. The orientation of the Site's border roadways to the west and east, Diamondback Drive and Omega Drive, respectively, create a natural barrier between multi-family residential uses. And the physical distance between the proposed non-residential uses and existing residential uses are further enhanced when substantial building setbacks from the property lines are considered.

As previously emphasized, there will be no material alterations to the building exteriors, footprints, or heights of the two buildings and the change of use will therefore have a minimal visual impact on the surrounding community and existing uses.

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 Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; 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 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).

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**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.



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Casey Anderson, Chair  
Montgomery County Planning Board