

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DEC 02 2022

MCPB No. 22-104  
Preliminary Plan Amendment No. 12020010B  
PSTA  
Date of Hearing: November 17, 2022

## RESOLUTION

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

WHEREAS, on July 29, 2021, the Planning Board, by Resolution MCPB No. 21-082, approved Preliminary Plan No. 120200100, creating 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 on 44.8 acres of land in the Commercial/Residential (CR): CR-1.0, C-0.5, R-1.0, H-150 zone, located at 9710 Great Seneca Highway (MD 119), east of Darnestown Road and south of Key West Highway (MD 28) ("Subject Property"), in the R & D Village Policy Area and within the Life Sciences Center West District of the 2010 *Great Seneca Science Corridor Master Plan* ("Master Plan") and 2021 *Great Seneca Science Corridor Minor Master Plan Amendment* ("Minor Master Plan") areas; and

WHEREAS, on September 6, 2022, The Elms at PSTA, LLC ("Applicant") filed an application for approval to modify the timing and next steps of Preliminary Plan Condition No. 26.a, to allow the Applicant to continue coordination that is underway with the adjacent property owner of 9850 Key West Avenue and the Montgomery County Department of Transportation (MCDOT) regarding the acquisition of approximately 10,062 square feet of right-of-way necessary to connect the extension of Medical Center Drive between Key West Avenue and Blackwell Road; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12020010B, PSTA ("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

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

Planning Board, dated November 7, 2022, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on November 17, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the motion of Commissioner Branson, seconded by Commissioner Piñero, with a vote of 5-0; Chair Zyontz, Vice Chair Presley, Commissioners Branson, Hill and Piñero voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12020010B to modify the timing of right-of-way acquisition from the adjacent property owner of 9850 Key West Avenue necessary to connect the extension of Medical Center Drive between Key West Avenue and Blackwell Road by modifying and replacing in their entirety the following two conditions herein:<sup>1</sup>

### **Modified Conditions**

#### Outside Agencies

3. The Planning Board reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its revised Preliminary Plan letter dated July 8, 2021, its revised TIS letter dated July 8, 2021, and its revised letter dated November 16, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided 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 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 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. The Applicant will enter into an agreement with MCDOT for the County to acquire the right-of-way within 9 months of the mailing date of this Resolution for this

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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.

Amendment, in the event the right-of-way cannot be acquired from the adjacent property owner.

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

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and 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, with the conditions of approval, that:

All prior findings under Section 50.4.3 of the County Code not specifically addressed remain in force and effect. 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 No. 120200100 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 Applicant's provision of Medical Center Drive to Key West Avenue is a master-planned roadway extension that serves multiple purposes including direct access for the abutting properties, porosity, and connectivity throughout the immediate neighborhood, to accommodate the Life Sciences Center Loop Trail and the recently reimagined Corridor Cities Transitway (CCT) alignment, and for vehicular access to the retail bay at the intersection of Medical Center Drive and Blackwell Road. The 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 No. 12020010. The modification will not affect the compatibility of the development with respect to the surrounding neighborhood. Preliminary Plan Amendment B remains in conformance with all applicable environmental regulations, the development standards of the Commercial/Residential (CR) Zone, and the 2010 *Great Seneca Science Corridor (GSSC) Master Plan* and 2021 *GSSC Minor Master Plan Amendment*.

The Montgomery County Department of Transportation (MCDOT) issued a revised letter of approval for the condition of approval modification. As a result, a minor administrative change to condition No. 3 references 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.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 02 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 the motion of Commissioner Hill, seconded by Commissioner Branson, with a vote of 4-0; Chair Zyontz, and Commissioners Branson, Hill, and Piñero, voting in favor of the motion, Commissioner Presley necessarily absent, at its regular meeting held on Thursday, December 1, 2022, in Wheaton, Maryland and via video conference.

  
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Jeffrey Zyontz, Chair  
Montgomery County Planning Board