

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

July 29, 2025

MCPB No. 25-088

Preliminary Plan Amendment No. 11987271E

Milestone Innovation Center

Date of Hearing: July 24, 2025

## **RESOLUTION**

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

WHEREAS, on February 7, 1991, the Planning Board approved Preliminary Plan No. 119872710 by Opinion dated May 16, 1991 and a second Opinion dated July 22, 1996, creating 3 lots on 98.9 acres of land in the I-3 zone, located on the north side of I-270, between Ridge Road and Dorsey Mill Road (“Subject Property”), in the 1989 *Germantown Master Plan Area* (“Master Plan”) area; and

WHEREAS, on April 24, 2003, the Planning Board approved Preliminary Plan No. 11987271A by Resolution dated May 30, 2003, Milestone Business Park, to extend the adequate public facilities (APF) determination for five years beyond the existing expiration date; and

WHEREAS, on February 3, 2011, the Planning Board approved Preliminary Plan No. 11987271B by Resolution No. 11-09 dated March 15, 2011, Milestone Business Park, to grant a new validity period for the APF determination; and

WHEREAS, by request of the Applicant and as approved by Planning Staff on March 7, 2022, Preliminary Plan Amendment No. 11987271C and Site Plan Amendment No. 8001009E were vacated; and

WHEREAS, on March 17, 2022, the Planning Board approved Preliminary Plan No. 11987271D by Resolution No. 22-03 dated April 1, 2022, Milestone Innovation Center, to allow 308,500 square feet of Research and Development and 161,500 square feet of Office uses in three (3) new buildings for a total maximum development of 1,125,000 square feet; and

WHEREAS, on March 1, 2025, Germantown Milestone 1, LLC; Germantown Milestone 2, LLC; Germantown Milestone 4, LLC; and Germantown Milestone 5, LLC (collectively, the “Applicant”) filed an application for approval of an amendment to the previously approved

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Approved as to  
Legal Sufficiency:

/s/ Emily Vaias  
M-NCPPC Legal Department

preliminary plans to extend the plan validity period for an additional two years, to align with the APF validity period on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan Amendment No. 11987271E, Milestone Innovation Center ("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 Planning Board, dated July 14, 2025, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 24, 2025, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 11987271E to extend the plan validity period by two years by modifying and replacing in its entirety the following condition:<sup>1</sup>

2. The Preliminary Plan will remain valid for five (5) years from the initiation date of MCPB Resolution No. 22-03 approving Preliminary Plan Amendment No. 11987271D (as defined in Montgomery County Code Section 50.4.2.G), which will be until April 1, 2027, to align with the approved Adequate Public Facilities validity period, and prior to the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

BE IT FURTHER RESOLVED that all other preliminary plan 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/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 as revised by previous amendments,

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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.

and all findings not specifically addressed remain in effect.

**3. *Grounds for extension (Section 50-4.2.H).***

**a) *The Board may only grant a request to extend the validity period of a preliminary plan if the Board Finds that:***

- i. *Delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or***
- ii. *the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.***

**b) *The applicant bears the burden of establishing the grounds in support of the requested extension.***

As covered in the Statement of Justification, the Applicant inherited approved development plans that have been significantly impacted by unforeseen changes in the commercial office and life sciences markets in Montgomery County. These changes were not and could not have been anticipated during the prior owner's property development planning. The stagnation in the commercial office sector and the downturn of the biotech and research and development markets have created substantial disruption, making it very challenging for the Applicant to implement the approved Project. These market conditions, which are outside the Applicant's control, necessitate additional time to assess the viability of the approved plans and determine how best to move forward. Given this significant and unanticipated change in circumstances, the Applicant requests an extension of the plan validity period to allow for a comprehensive reassessment of the market.

In addition to assessing current market conditions for the Property, the Applicant will also need to consider proposals for revisions to the Master Plan, which is currently underway. The current Master Plan provides detailed, location specific recommendations for the Property. These recommendations include Corridor Cities Transitway (CCT) elements; a mix of research and development, employment, technology, and retail uses; and specific requirements on setbacks, building heights, green space, and parking.

The recommendations no longer align with current market realities, particularly considering the slowdown in employment and office growth that was originally projected.

Given its central location, land area, and proximity to existing transit and infrastructure, the Milestone Innovation Center site is an important site which is likely to have site-specific recommendations in the Master Plan amendment. The Master Plan update is anticipated to be adopted in the fall of 2026. In the meantime, the current plan validity period, which expires on April 1, 2025, does not provide sufficient time for the Applicant to explore a residential component on the Property, or participate in the Master Plan process.

The requested extension will allow the Applicant to engage in the Master Plan review process, assess market feasibility, and develop a Project that aligns with pending Master Plan's recommendations. Without this extension, the Applicant would face exceptional hardship, as the 2022 development approvals have been made infeasible by significant external factors beyond the Applicant's control.

**4. *Planning Board considerations for extension***

***a) The Board may condition the grant of an extension on a requirement that the applicant revise the plan to conform with changes to the requirements of this Chapter since the plan was approved.***

None of the recent changes to the Subdivision Ordinance (Chapter 50) are pertinent to the scope of the Subject Application. Therefore, no revisions to the previously approved Preliminary Plan Amendment are needed for compliance with the Subdivision Ordinance.

***b) The Board may deny the extension request if it finds that the project, as approved and conditioned, is no longer viable. The Board must consider whether the project is capable of being financed, constructed, and marketed within a reasonable time frame. The Applicant must demonstrate the project's viability upon request by the Board or the Director.***

The Applicant indicated that the Preliminary Plan is still viable with potential modifications mainly to include residential development on portions of the Property. The approved development will remain and become more marketable once the Master Plan update is complete, and the Applicant concludes its market feasibility assessment for residential uses on the Site.

**5. Planning Board Action.**

- a) After a duly noticed public hearing, the Board must determine whether it should grant a request for an extension. The requirements for noticing and conducting a public hearing must follow the requirements for a preliminary plan.***

The Applicant has complied with all noticing requirements as set forth in Chapter 50 and the Administrative Procedures for Development Review.

- b) If voting to approve an extension, the Board must only grant the minimum time it deems necessary for the applicant to validate the plan.***

Section 50-4.2.H.5.c limits extensions to a preliminary plan to within the plan's APF validity period, therefore, it cannot go beyond two years. Two years is the minimum time needed for the Applicant to reasonably assess potential development options and record plats to validate the Preliminary Plan.

- c) The Board may only grant an extension to a preliminary plan within the plan's APF validity period, unless a further extension is allowed by law.***

The Adequate Public Facilities (APF) validity period is set to expire April 1, 2027. The request of the Subject Application is to align the preliminary plan validity period to the same expiration date. Therefore, the Subject Application meets the requirements of this finding.

- d) An applicant may request, and the Board may approve, more than one extension.***

The Subject Application is the first request for an extension of the plan validity period. Another extension request may be required in the future if the Applicant is unable to record plats for the Property before April 1, 2027.

- e) Once a phasing schedule is approved by the Board as part of a preliminary plan approval, the Board must treat any revision or alteration to the schedule other than an amendment approved under Section 4.3.J.7 as a minor amendment to the preliminary plan. Board approval of a revised phasing schedule is required to extend the total length of the validity period.***

Preliminary Plan No. 1197821D was approved for a single phase of development, and the Subject Application does not propose any revisions or alterations to the phasing of the Project. Therefore, this finding does not apply.

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, 2025

(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 Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, July 24, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board