



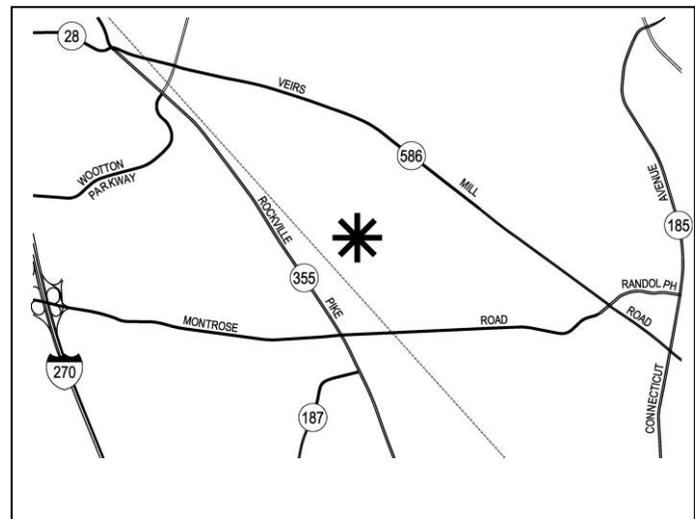
**Parklawn North: Limited Preliminary Plan Amendment 12011030B and Limited Site Plan Amendment 82011009D**

-  Patrick Butler, Senior Planner, Area 2 Division, [Patrick.Butler@montgomeryplanning.org](mailto:Patrick.Butler@montgomeryplanning.org), 301-495-4561
-  Khalid Afzal, Planner Supervisor, Regulatory Team, Area 2 Division, [Khalid.Afzal@montgomeryplanning.org](mailto:Khalid.Afzal@montgomeryplanning.org), 301-495-4650
-  Glenn Kreger, Chief, Area 2 Division, [Glenn.Kreger@montgomeryplanning.org](mailto:Glenn.Kreger@montgomeryplanning.org), 301-495-4653

Completed: 1/10/14

**Description**

- Modification of conditions No. 4.b. and No. 4.d. of the approved Preliminary Plan and conditions No. 10 and No. 11.g. of the approved Site Plan to address construction cost and delays in implementing the required off-site trail improvements;
- Located at 5601 Fishers Lane, on the north side of Fishers Lane approximately 1,000 feet east of the intersection with Twinbrook Parkway;
- Approximately 12.96 gross acres in the TMX-2 Zone, within the *Twinbrook Sector Plan* area;
- Applicant: Parklawn North Lot, LLC;
- Submittal: December 9, 2013.



**Summary**

- Staff recommends approval of the proposed Limited Preliminary Plan amendment and Limited Site Plan amendment with conditions.
- This amendment modifies the conditions of the approved Preliminary Plan and Site Plan regarding the timing and cost of the required off-site trail improvements due to significant delays in establishing the trail alignment and associated costs.
- Staff has not received any correspondence from noticed parties as of the date of this report.

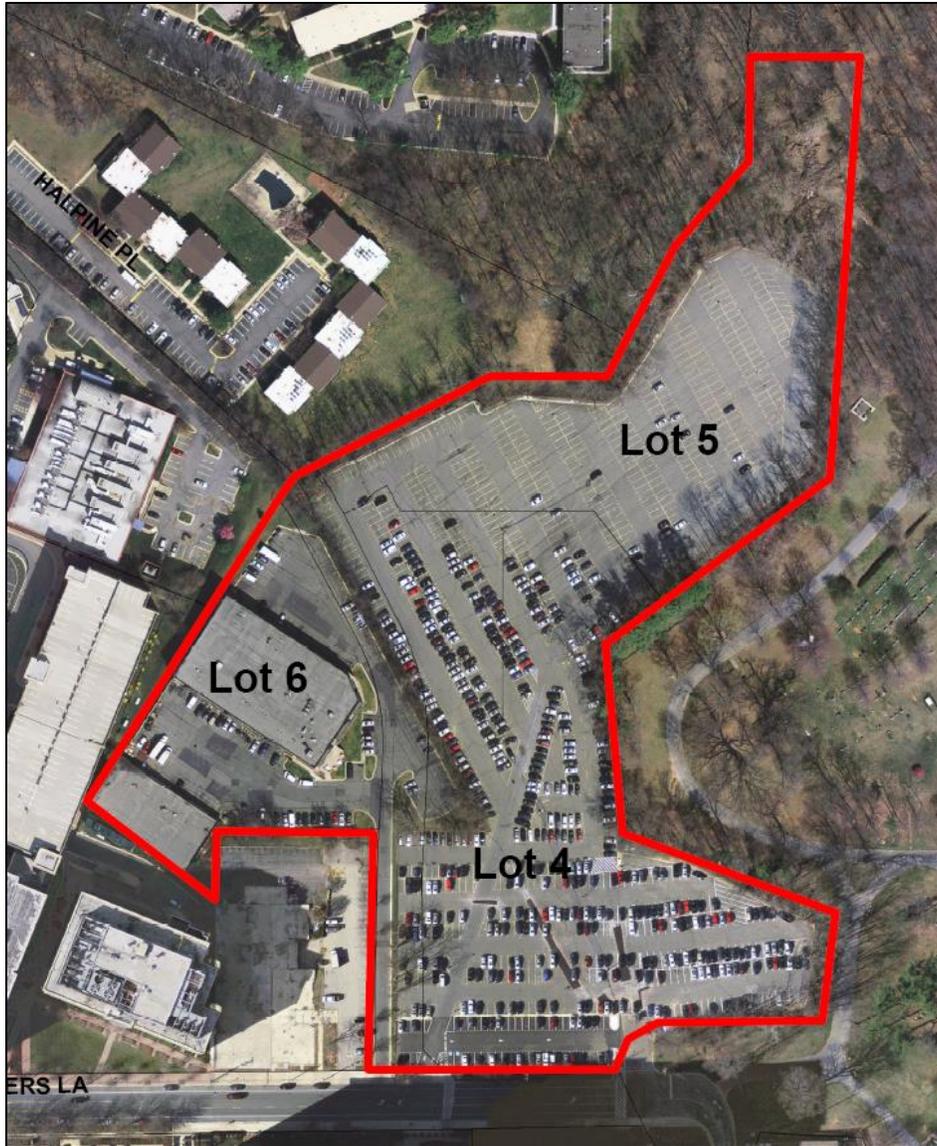
## SITE CONTEXT AND DESCRIPTION

The approximately 12.96-acre Subject Property (“Property”) is located at 5601 Fishers Lane on the north side of Fishers Lane, approximately 1,000 feet east of the intersection with Twinbrook Parkway. The Property is surrounded by TMX-2 Zone commercial uses to the west and south, an R-200 Zone cemetery to the east, and R-30 Zone multi-family housing to the north. Numerous commercial and residential uses are nearby. The Property is within the Twinbrook Sector Plan area, which is within the Twinbrook Metro Station Policy Area. Rock Creek Park is less than ¼ mile to the northeast and the Twinbrook Metro Station is approximately ½ mile to the west.



*Vicinity Map*

The Property is identified as lots 4, 5, 6 and Outlot A, Block I of Washington Rockville Industrial Park. Lots 4 and 5 are currently being improved with a government office building and a garage and surface parking, respectively. The garage is complete and operational.



*Site Aerial View*

## **PROJECT DESCRIPTION**

### **Previous Approvals**

#### Preliminary Plan

The Planning Board approved Preliminary Plan 120110300 on August 9, 2011, for 60,132 square feet of commercial office uses and 520,000 square feet of general office uses on 3 lots and 1 outlot. Pursuant to the approved Preliminary Plan, the Applicant is required to satisfy its Policy Area Mobility Review mitigation requirements in part by constructing a hiker-biker trail (the "Trail") before any Use and Occupancy Certificate is issued for the office building. The Planning Board approved Limited Preliminary Plan Amendment No. 12011030A on July 26, 2013, to extend the deadline for construction of the Trail due to significant delays in determining the Trail alignment and allow the Applicant more time to coordinate with applicable agencies and construct the Trail.

### Site Plan

The Planning Board approved Site Plan No. 820110090 on August 9, 2011, for 520,000 square feet of office development on the Property. The Board approved Limited Site Plan Amendment No. 82011009A on December 19, 2012, to extend the limit of disturbance in the approved Final Forest Conservation Plan and to make minor adjustments throughout the plan. A Limited Site Plan Amendment No. 82011009B was approved on November 6, 2013, to add security features to the site. Because Site Plan No. 820110090 also had a condition regarding timing of the Trail, the Planning Board approved Limited Site Plan Amendment No. 82011009C on July 26, 2013, to extend the deadline for construction of the Trail due to significant delays in determining the Trail alignment and allow the Applicant more time to coordinate with applicable agencies and construct the Trail.

### **Proposal**

The Applicant is requesting to modify conditions No. 4.b. and 4.d. of the approved Preliminary Plan and conditions No. 10 and No. 11.g. of the approved Site Plan as they are impacted by the changes in cost estimates and further delays in the implementation of the Trail.

### Hiker-Biker Trail Conditions

The Applicant has experienced delays in receiving the necessary permits and approvals from various public agencies and private parties. These delays have been mostly due to unforeseen challenges in finding a preferred alignment that is agreeable to the public agencies and private parties involved in the approval of the Trail location. The preferred Trail alignment has been finalized, but the Applicant now expects the construction cost to far exceed the initial estimates due to factors such as steep grades, bridged stream crossings, necessary floodplain protection measures, and extensive agency coordination.

As previously amended, both the Preliminary and Site Plans require that the application for the Trail be filed and bonded before the Use and Occupancy Certificate for the office building can be released. The conditions also require the Trail to be constructed within three years of the issuance of the Use and Occupancy Certificate.

The Applicant is proposing to modify these conditions to:

- Address the desire of all parties to have a functional Trail connection from Twinbrook to Rock Creek Park Regional Trail system;
- Assist with a timely resolution of a final Trail design that can go to bid and permitting;
- Confirm the Applicant's limited funding obligation for the construction of the Trail;
- Allow for the federal tenant to occupy the office building on schedule;
- Provide a mechanism to ensure that the PAMR mitigation payment for the project is allocated to the Trail construction to benefit the Twinbrook community.

These modifications will allow the Applicant to continue efforts to prepare a final design for bids and obtain permits for the construction of the Trail (with direction from the Department of Parks), and allow the Applicant to post a payment to address the underlying PAMR obligation prior to the issuance of the permanent Use and Occupancy Certificate for the office building. The amended conditions further stipulate that once the bids are obtained on the final Trail alignment and design (and depending on the construction costs), the Applicant, the Applicant and the Department of Parks combined, or the Department of Parks, will construct the Trail. If the Department of Parks handles all of the construction of the Trail, the conditions require that the Applicant's proffered payment of \$900,000, which is more than its PAMR obligation, will be allocated to CIP Project No. 768673 for "Trails: Hard Surface Design and Construction" (the "Trail CIP") for the Department of Parks to use for funding (along with existing or

future allocated funds in the Trail CIP). Similarly, if the Department of Parks constructs a portion of the Trail, it is envisioned that the existing Trail CIP (with potential supplemental appropriations) will be used to fund its portion if the Department of Parks chooses to do so. The proposed conditions include reporting and timely construction of the Trail in order to keep the process moving in a timely manner.

*Strike Current Preliminary Plan Resolution Condition 4.b:*

~~Construct approximately 5,500 linear feet of an 8-foot-wide (or equivalent of 4,374 linear feet of a 10-foot-wide) B-2, shared use path. The length and/or width of B-2 may be reduced by the equivalent cost of the bridge over the stream and segments of the boardwalk. A combination is also permissible, subject to Staff review, to mitigate the required 55 PAMR trips. The final alignment must be approved by the Department of Parks prior to certified site plan. Construction of the trail must be completed within 3 years of the issuance of the use-and-occupancy permit for the office building.~~

*Replace Preliminary Plan Resolution Condition 4.b with the following:*

Prior to issuance of permanent Use and Occupancy Certificates for the office building, the Applicant must place \$900,000 in escrow. This payment is inclusive of the \$621,500 required to satisfy the remaining PAMR and Adequate Public Facilities Ordinance requirements for the Project (the equivalent of 55 PAMR trips at \$11,300/trip). The escrow funds shall be used as follows:

- i. If the cost of constructing the entire Trail is equal to or less than \$900,000, the escrow funds shall be released to the Applicant to construct the full Trail. Any excess funds after construction of the Trail shall be property of the Applicant.
- ii. If the cost of constructing the entire Trail is more than \$900,000, the Department of Parks shall determine responsibility and potential phasing for the Trail construction, and in its sole discretion choose to either:
  1. Release the escrow funds to the Applicant needed to construct the designated portions of the Trail equal to or less than \$900,000 in construction costs, and the Department of Parks shall construct the remaining portions or phases of the Trail in a timely manner subject to funding availability; or
  2. Transfer the escrow funds to Department of Parks CIP No. 768673 for the Department of Parks to construct the entire Trail in a timely manner, subject to funding availability.

*Strike Current Preliminary Plan Resolution Condition 4.d:*

~~If the linear feet of the shared use path and/or off-site sidewalk are ultimately less than specified above, the Applicant must mitigate the remaining PARM trips by paying \$11,300 per PAMR trip based on the required payment in effect when the preliminary plan was filed.~~

*Strike Current Site Plan Resolution Condition 10:*

~~10. Conditions on the Hiker/Biker Trail Construction Schedule~~

- ~~a. Prior to issuance of the use-and-occupancy permit for the office building (the garage use-and-occupancy permit may be issued independent of the trail permit process):
  - ~~i. The Applicant must submit the Joint Federal/State wetlands, floodplains, and waterways permit application to the Maryland Department of the Environment.~~
  - ~~ii. The Applicant must submit the park construction permit application to the Department of Parks.~~
  - ~~iii. The Applicant must post a performance bond for construction of the trail.~~~~
- ~~b. A final forest conservation plan must be approved prior to clearing and grading.~~
- ~~c. Construction of the trail must be completed within 3 years of the issuance of the use-and-occupancy permit for the office building.~~

*Replace Site Plan Resolution Condition 10 with the following:*

10. Conditions on the Hiker/Biker Trail Construction Schedule

- a. Prior to issuance of permanent Use and Occupancy Certificates for the office building, the Applicant must place \$900,000 in escrow to either be used by the Applicant for construction of the Trail or allocated to Department of Parks CIP No. 768673, as described in Conditions 10.d. and 10.e. below. This payment is inclusive of the \$621,500 required to satisfy the remaining PAMR and Adequate Public Facilities Ordinance requirements for the Project.
- b. By April 1, 2014 and at the Applicant's sole cost, the Applicant must generate design and permit plans for the full length of the Trail and submit them to the Department of Parks for approval. Should the Department of Parks make any requests for significant changes to the design of the Trail, including but not limited to alignment shifts, engineering requirements, construction material changes or other modifications, this deadline shall be extended accordingly. The Applicant must coordinate with the Department of Parks to ensure that the design and permit plans are appropriately segmented to account for the possibility that the Applicant will only construct a portion of the Trail. The construction documents and permit plans for the Trail must be assignable to the Department of Parks, and in the event that the Department of Parks takes responsibility to construct any portion of the Trail, the construction documents and permit plans shall be assigned.
- c. Within 60 days of receiving Department of Parks approval for design and permit plans for the entire Trail, the Applicant must obtain construction bids to determine the cost of constructing the Trail, both in its entirety and in parts as designated in the design and permit plans. The Applicant must promptly transmit all bids to the Department of Parks, which shall work with the Applicant to evaluate the bids for costs and accuracy and choose acceptable design and construction options.
- d. If the cost of constructing the entire Trail is equal to or less than \$900,000, the escrow funds shall be released to the Applicant to construct the full Trail. Any excess funds after construction of the Trail shall be property of the Applicant. Should more than one bid or design option acceptable to the Department of Parks come in below the \$900,000 figure, the Applicant shall have discretion over the choice between those bids or design options.
- e. If the cost of constructing the entire Trail is more than \$900,000, the Department of Parks shall determine construction responsibility and potential phasing for the Trail, and in its sole discretion choose to either:
  - i. Release the escrow funds to the Applicant needed to construct the designated portions of the Trail equal to or less than \$900,000 in construction costs, and the Department of Parks shall construct the remaining portions or phases of the Trail in a timely manner subject to funding availability; or
  - ii. Transfer the escrow funds to the Department of Parks CIP No. 768673 for the Department of Parks to construct the entire Trail in a timely manner subject to funding availability.
- f. Prior to release of the escrow funds and any construction activities on parkland, if the Applicant is responsible for building portions of the Trail on parkland, the Applicant must obtain a Park Construction Permit for those portions of the Trail, including submission of an insurance certificate and a performance bond.

- g. Prior to release of the escrow funds, whether or not the Applicant is responsible for constructing any portions of the Trail, the Applicant must obtain all of the necessary construction and maintenance easements needed for the Trail from adjacent property owners.
- h. Beginning 30 days after the mailing date of this resolution and lasting until commencement of the construction of the Trail by the Applicant or transfer of escrow funds to the Department of Parks CIP Project No. 768673, the Applicant shall provide monthly reports on the status of the Trail to the Director of the Department of Parks and the Director of the Department of Planning, or their designees.
- i. In the event the Applicant builds all or a portion of the Trail, the Applicant must complete construction of the Trail, and the Trail must be accepted by the Department of Parks, within 2 years of the release of the escrow funds.
- j. Once the Applicant has completed its construction of designated portions of the Trail (per Condition 10.e.i.) or once the escrow funds have been transferred to the Department of Parks CIP for the Department of Parks to construct the Trail (per Condition 10.e.ii) and all of the construction documents and permit plans assigned to the Department of Parks, the Applicant is released from all responsibility for any of the Trail.
- k. Any Amendment to the approved Final Forest Conservation Plan required to construct the Trail on property not owned by the Applicant will not require an amendment to the Applicant-owned portion of the Site Plan.

*Modify Current Site Plan Resolution Condition 11.g.:*

11.g. The Applicant shall update the Development Program to reflect the hiker/biker trail **construction** requirements **as enumerated** in condition 10.

## **COMMUNITY OUTREACH**

The Applicant has complied with all submittal and noticing requirements and as of the date of this report Staff has not received correspondence from any community members.

## **FINDINGS**

### **Preliminary Plan**

All previous findings for Preliminary Plan 120110300 and 12011030A as approved by the Planning Board remain valid. The approved validity period also remains unchanged.

1. The Preliminary Plan substantially conforms to the Master Plan.  
Staff finds that the proposed amendment does not materially change the existing approval for uses and square footage. The Property is currently limited to a total of 60,132 square feet of commercial office uses and 520,000 square feet of general office uses on 3 lots and 1 outlot in the TMX-2 Zone. This amendment makes no changes to these limitations.
2. Public facilities will be adequate to support and service the area of the proposed subdivision.  
The development of this site continues to be limited to the density and uses approved with the original approval. The prior finding of Adequate Public Facilities, including fire and rescue access, roads, water and sewer remains valid for the square footages approved.

3. The size, shape, width and orientation of the proposed lots are appropriate for the location of the subdivision and for the uses contemplated.

The lots are of the appropriate dimensions with respect to size, shape, width and orientation to accommodate the uses expected to occur on this property. The proposal remains in conformance with all applicable sections of the Subdivision Regulations.

4. The Application satisfies all the applicable requirements of the Montgomery County Forest Conservation Law, Chapter 22A of the Montgomery County Code.

The original approval by the Planning Board included provisions to satisfy the requirement of Chapter 22A as shown on the approved preliminary forest conservation plan. The Property continues to be bound by the conditions of the approved forest conservation plan. Category I easements, in accordance with that plan, will be shown on the record plats.

5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.

This finding is based on the fact that the Montgomery County Department of Permitting Services approved a stormwater management concept for the entire site at the time of the original Preliminary Plan approval. This amendment does not change the elements of that concept.

Based on the findings discussed above, Staff recommends approval of this Limited Preliminary Plan Amendment.

### **Site Plan**

The proposed modifications to the approved Site Plan do not alter the overall design and/or character of the approved Site Plan. Staff recognizes that the construction of the trail has taken longer than originally expected and agrees with the Applicant that more time and flexibility is needed to allow for its completion. Staff supports the revised Site Plan conditions, which do not impact the efficiency, adequacy, or safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, or lighting.

Based on these findings, Staff recommends approval of this limited Site Plan Amendment.

### **ATTACHMENTS**

Attachment A: Parklawn North 12011030A Resolution

Attachment B: Parklawn North 8201100C Resolution



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**JUL 26 2013**

**MCPB No. 13-124**  
**Preliminary Plan No. 12011030A**  
**Parklawn North**  
**Date of Hearing: July 18, 2013**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on August 9, 2011, the Planning Board approved Preliminary Plan No. 120110300 for up to 60,132 square feet of commercial office uses and 520,000 square feet of general office uses on 3 lots and 1 outlot in the TMX-2 Zone on approximately 12.96 acres of land located on the north side of Fishers Lane approximately 1,000 feet east of the intersection with Twinbrook Parkway ("Subject Property"), in the Twinbrook Sector Plan ("Sector Plan") area;

WHEREAS, on June 28, 2013, Parklawn North Lot, LLC, ("Applicant"), filed a preliminary plan amendment to: i) amend Condition No. 4.b. of the Preliminary Plan No. 120110300 resolution; ii) correct a typographical error on page No. 5 of the of the Preliminary Plan No. 120110300 resolution regarding the allowed building height from 110 feet to 125 feet; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12011030A, Parklawn North ("Preliminary Plan," "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board on July 8, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 18, 2013, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to  
Legal Sufficiency:

*Christina Sorensen* 7/11/13  
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, at the Hearing, the Planning Board 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 No. 12011030A, which modifies Condition No. 4.b. as follows:<sup>1</sup>

4.b. Construct approximately 5,500 linear feet of an 8-foot-wide (or equivalent of 4,374 linear feet of a 10-foot wide) B-2, shared use path. The length and/or width of B-2 may be reduced by the equivalent cost of the bridge over the stream and segments of the boardwalk. A combination is also permissible, subject to Staff review, to mitigate the required 55 PAMR trips. The final alignment must be approved by the Department of Parks prior to certified site plan. Construction of the trail must be completed within 3 years of the issuance of the use-and-occupancy permit for the office building.

BE IT FURTHER RESOLVED, that all other conditions of approval for Preliminary Plan 120110300 remain valid, unchanged and in full force and effect

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference and upon consideration of the entire record, the Montgomery County Planning Board FINDS, that unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, as amended, and all findings not specifically addressed remain in effect, and with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Sector Plan.*

This Amendment does not materially change the existing approvals for uses and square footage. The Subject Property is currently limited to a total of 60,132 square feet of commercial office uses and 520,000 square feet of general office uses on 3 lots and 1 outlot in the TMX-2 Zone. This Amendment makes no changes to these limitations.

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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. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

The development of this site continues to be bound to the density and uses approved with the original preliminary plan. The finding of Adequate Public Facilities, including fire and rescue access, roads, water and sewer remains valid for the square footages approved.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The lots are of the appropriate dimensions with respect to size, shape, width and orientation to accommodate the multiple uses expected to occur on this County-owned property. The Amendment remains in conformance with all applicable sections of the Subdivision Regulations.

4. *The Amendment satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The original approval by the Planning Board included provisions to satisfy the requirement of Chapter 22A as shown on the approved preliminary forest conservation plan. The Subject Property continues to be bound by the conditions of the approved forest conservation plan.

5. *The Amendment meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

This finding is based on the fact that the Montgomery County Department of Permitting Services approved a stormwater management concept for the entire site at the time of the original preliminary plan approval. This Amendment does not change the elements of that concept.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 26 2013 (which is the date that this Resolution is mailed to all parties of record); and

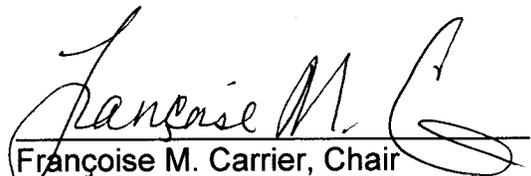
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**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 Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 18, 2013, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**JUL 26 2013**

MCPB No. 13-120  
Site Plan No. 82011009C  
Parklawn North  
Date of Hearing: July 18, 2013

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on July 21, 2011 the Planning Board, by Resolution MCPB No. 11-70, approved Site Plan No. 820110090, for 520,000 square feet of additional office development, including up to 1,000 square feet of ancillary retail use on 12.96 acres of TMX-2 zoned-land, located on Fishers Lane approximately 1,000 feet east of Twinbrook Parkway ("Subject Property"), in the Twinbrook Sector Plan ("Master Plan") area; and

WHEREAS, on December 19, 2012 the Planning Board approved an amendment to Site Plan No. 82011009A (MCPB No. 12-140) to revise the Final Forest Conservation Plan and to make minor changes to the site plan; and

WHEREAS, on April 30, 2013 Parklawn North Lot LLC, filed an application for approval of an amendment to the previously approved site plan(s) to change the condition on the trail timing, and modify the parking and the public space provided on the Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82011009C, Parklawn North ("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 5, 2013 setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 18, 2013 the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

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Approved as to  
Legal Sufficiency by *Christina Smith* 7/11/13  
Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
M-NCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Site Plan No.82011009C to modify the timing of the off-site trail construction and change parking and public use space requirements with the following conditions:<sup>1</sup>

10. Conditions on the Hiker/Biker Trail Construction Schedule

- a. Prior to issuance of the use and occupancy permit for the office building (the garage use-and-occupancy permit may be issued independent of the trail permit process):
  - i. The Applicant must submit the Joint Federal/State wetlands, floodplains, and waterways permit application to the Maryland Department of the Environment.
  - ii. The Applicant must submit the park construction permit application to the Department of Parks.
  - iii. The Applicant must post a performance bond for construction of the trail.
- b. A final forest conservation plan must be approved prior to clearing and grading.
- c. Construction of the trail must be completed within 3 years of the issuance of the use- and- occupancy permit for the office building.

11.g.The Applicant must update the development program to reflect the hiker/biker trail construction requirements as enumerated in condition 10.

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

BE IT FURTHER RESOLVED, that all site development elements as shown on Parklawn North drawings stamped by the M-NCPPC on February 13, 2013 shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning 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:

1. *The changes in public use space and parking listed in the data table below do not alter the intent, objectives, or requirements in the originally approved site plan.*

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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.

**Data Table for the TMX-2 Zone**

Development Standards	Required/Allowed	Pending Site Plan Amendment 82011002B	Approved with Site Plan Amendment 82011002C
Minimum Public Use Space (% of net lot area) (59-C-14.243)	20	22	21.5
Minimum Parking (59-C-14.214)	1204	1205	1208

2. *The change in the timing of the trail construction does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed above remain in effect.*

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-D-3.8; and

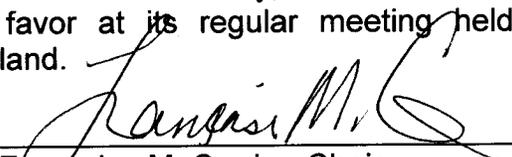
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 26 2013 (which is the date that this resolution is mailed to all parties of record); and

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).

\* \* \* \* \*

**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 Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 18, 2013, in Silver Spring, Maryland.

  
 Françoise M. Carrier, Chair  
 Montgomery County Planning Board