



Site Plan 820140110 United Therapeutics Phase 3



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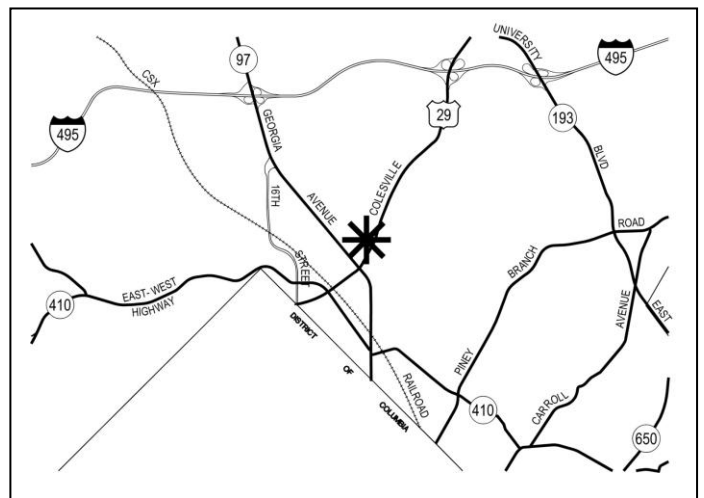


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Description

Staff Report Date: 9/5/14

- Request: To demolish an existing 3 story public parking garage and redevelop the site with a 6-story building containing 121,724 gross square feet including 111,724 square feet of office use/laboratory uses and 10,000 square feet of retail uses and 152 parking spaces.
- Location: 1000 Spring Street, at the southwest quadrant of the intersection of Colesville Road and Spring Street
- Zone: CBD-1
- Master Plan: Silver Spring CBD Sector Plan
- Submitted: February 24, 2014
- Applicant: United Therapeutics Corporation



Summary

- **Staff recommendation: Approval of the Site Plan with conditions.**
- The application proposes a six story building consisting of 111,724 square feet of office/laboratory uses and 10,000 square feet of retail uses on 1.79 gross acres.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 820140110 United Therapeutics Phase 3, for 111,724 square feet of office/laboratory uses and 10,000 square feet of retail uses on 1.79 gross acres. All site development elements shown on the site and landscape plans filed by the applicant to M-NCPPC's electronic filing system, are required except as modified by the following conditions.

Conformance with Previous Approvals

1. The Applicant must comply with the conditions of approval for Project Plan No. 920130060 in Resolution No. 13-131, or as subsequently amended.
2. The Applicant must comply with the conditions of approval for Preliminary Plan No. 120130190 in Resolution No. 13-132, or as subsequently amended.

Environment

3. Forest Conservation

The fee-in-lieu payment for the forest conservation requirements must be submitted by the Applicant and approved by M-NCPPC staff prior to any clearing, grading or demolition on the site.

4. Stormwater Management

The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated March 19, 2014, and hereby 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 – Water Resources Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

Public Use Space, Amenities and Facilities

5. Public Use Space and Amenities

- a. The Applicant must provide a minimum of 11,421 square feet of on-site public use space (16.9% of percent of net lot area) for this project as shown on the Site Plan.
- b. The Applicant must provide a minimum of 13,294 square feet of off-site public use space consisting of special paving, landscaping, street lighting, bicycle racks, trash receptacles and relocated bus shelter as shown on the Site Plan.
- c. To address the shortfall in the on-site public use space (2,096 square feet or 3.1% of the net lot area) the Applicant will make a contribution in the amount of \$231,636.70 to the Amenity Fund towards Gene Lynch Urban Park- scheduled for construction upon completion of the Silver Spring Transit Center – or other future amenity as determined by the Planning Board per the requirements of 59-D-2.31 of the Zoning Ordinance.
- d. The Applicant must provide the Silver Spring streetscape standard improvements including undergrounding of utilities, along the site's frontage on Spring Street and US 29.
- e. The public use space must be accessible and open to the public.

6. Maintenance of Publicly Accessible Amenities

The Applicant is responsible for maintaining all on-site publicly accessible amenities, including but not limited to, landscaping, walkways, lighting, benches and artwork.

Transportation and Circulation

7. Transportation

- a. The Applicant must provide, install, maintain, and operate securable gates, at both ends of the proposed mid-block pedestrian “BioPath” connection, to restrict access to the BioPath between sunset and sunrise. Each gate must be equipped with an emergency access knock box, or other device specified by Montgomery County Fire and Rescue Service (MCFRS).
- b. The Applicant must provide and install three short term public bicycle parking racks (“inverted U” rack or similar) along the retail frontage and near public use space.
- c. The Planning Board has accepted the recommendations of the Maryland State Highway Administration (“MDSHA”) in its letter dated March 28, 2014, and hereby 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 MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- d. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
- e. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District and must execute the TMAg prior to issuance of the occupancy certificate for the office development. The TMAg must include trip mitigation measures negotiated with MCDOT.

Site Plan

8. Site Design

The exterior architectural character, proportions materials and articulation must be similar to the schematic elevations shown on the submitted Site Plans dated August 11, 2014.

9. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to the Illuminating Engineering Standards of North America (“IESNA”) standards for commercial development.
- b. All onsite down-light fixtures must be full cut-off fixtures.
- c. Illumination levels generated from on-site lighting shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential developed properties.
- d. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.

10. Surety

Prior to issuance of any building permit within each relevant phase of development, exclusive of sheeting and shoring, the Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety must include plant material, on-site lighting, site furniture, special paving, artwork, trash receptacles, stormwater management planters, bicycle racks, within the relevant phase of development.
- c. Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of

General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.

- d. The bond/surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

11. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved by Staff prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Within 6 months of issuance of the final use and occupancy permits, on-site amenities including, but not limited to, sidewalks, benches, artwork, and trash receptacles must be installed. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan.
- b. The development program must provide phasing for installation of on-site landscaping and lighting.
- c. Within 6 months of issuance of the final use and occupancy permit, landscaping associated with the building must be completed.
- d. The development program must provide phasing of stormwater management and sediment and erosion control.
- e. Within 6 months of issuance of the final use and occupancy permit, the public use space must be completed.
- f. Prior to the release of the first above-grade building permit, the Applicant must make a payment to the M-NCPPC Amenity Fund for the construction of Gene Lynch Park or such other offsite amenity that the Planning Board deems appropriate in accordance with §59-D-2.31, as set forth in Condition 5.c.

12. Certified Site Plan

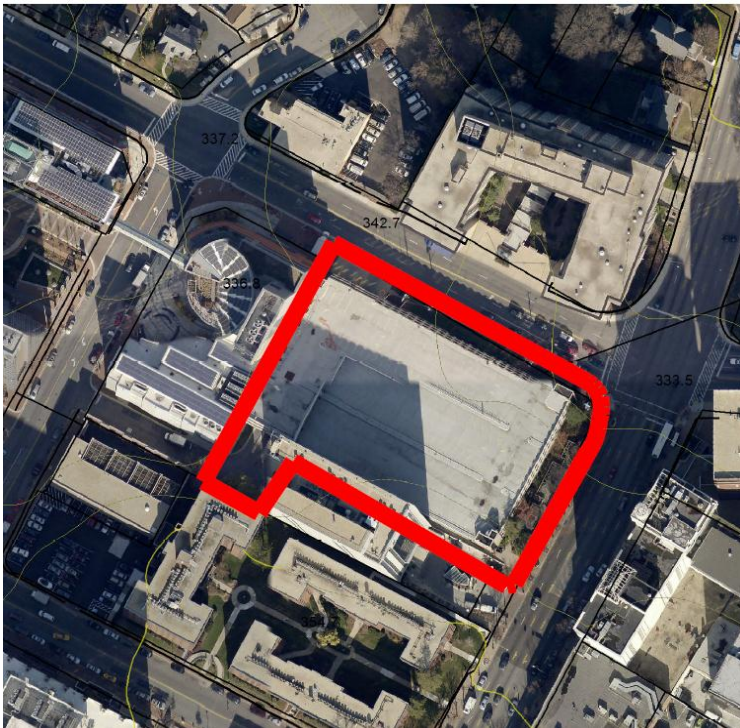
Prior to approval of the Certified Site Plan the following revisions must be added to the Site Plan subject to Staff review and approval:

- a. Cooling tower, Emergency Generators, and exhaust fans will be specified and designed to meet the sound standards of the County Code. Once installed, the sound output of the equipment will be tested by the applicant's consultant after the building is occupied and subjected to full mechanical loads. If for any reason, equipment is found by the Department of Environmental Protection (DEP) not to comply with required County standards, a progression of possible measures must be taken as needed to bring the sound output of the equipment itself into compliance with the County standards. These measures may include mufflers, enclosures insulation material, restrictions on the schedule of delivery or trash pickup operations, or other appropriate measures recommended by the applicants' consultant to address the particular sound problem.
- b. Revise the data table to show the setback from US 29 (Colesville Road) as 0.0 ft.
- c. Provide revised final details and specifications of on-site lighting.

SITE DESCRIPTION

Vicinity

The Subject Property is located at the southwest corner of the intersection of Spring Street and Colesville (US 29) Road at 1000 Spring Street. Presently, the site is improved with a three story public parking garage, Garage 21, which occupies the entire site. The site is located at the northwest edge of the Silver Spring Central Business District (CBD). North of the site and across Spring Street is an 11-story multi-family residential development, approximately 110 feet in height, known as Cole Spring Plaza. East of the site and across US 29 is an 11-story office building, approximately 110 feet in height and a Hilton Hotel. Immediately south and abutting the subject property is the Hampton Inn Hotel and the Montgomery Arms, a garden apartment complex which is designated as a historic resource. The abutting properties to the west contain the existing United Therapeutics buildings, located at the corners of Cameron and Spring Streets. The Silver Spring Metrorail station is approximately 2,500 feet south of the site on US 29.



Aerial View of Site

Site Analysis

The gross tract area for subject property is 77,822 square feet (1.79 acres) which includes previous right-of-way dedication of 10,239 square feet; thus the net tract area is 67,583 square feet. The site is a corner lot, rectangular in shape with frontage along both US 29 and Spring Street. The subject property is zoned CBD-1 currently improved with a 3 story above ground county owned parking garage. The main access point to this garage is from Spring Street while the other existing access point for deliveries and trash removal is provided from an alley located mid-block on Cameron Street. There is no on-street parking along Spring Street or US 29 adjacent to the site. A Ride-On bus stop is located along the site's frontage on US 29. There is a 7 foot change in slope across the US 29 frontage of the property.

PREVIOUS APPROVALS

Both the Project Plan 920130060 and Preliminary Plan 120130190 for this site were approved by the Planning Board on September 12, 2013, for a maximum of 121,724 square feet to include 111,724 square feet of office uses and 10,000 square feet of retail uses. Additionally, on June 22, 2012 a Mandatory Referral (#212028) for the sale of Public Parking Garage 21, the subject site, was reviewed and approved administratively by the Planning Director. Copies of resolutions and correspondence for all previous approvals are included in Attachment A.

PROJECT DESCRIPTION

The applicant proposes a mixed-use redevelopment of the property that will include office/laboratory space, retail use and public space with amenities. This elliptically shaped 6 story (90 foot) building will provide office and laboratory space to the existing United Therapeutics campus abutting the site's western property line. The building's ground level along US 29 will contain retail spaces, the building's entrance and lobby. This public use space located along the US 29 frontage will contain seating, plantings and a water feature to attract the public into the area.

The proposed building will be powered by solar photovoltaic technology and will also utilize geothermal technology and an earth labyrinth for the building's supplemental passive heating and cooling. There will be 3-story above grade parking garage, approximately 35 feet in height, located along the southern property line, adjacent to the proposed building. The garage's entrance will be on Spring Street and it will be naturally ventilated. An alley entrance to the site from Cameron Street will provide vehicular access for loading and deliveries activities. The applicant is also proposing a midblock pedestrian connection along the southern property line. Additionally, the proposed building will utilize net zero principles of energy conservation.

Architecture

The proposed building will be six stories (90 feet) and contain office and laboratory uses with retail uses on the ground floor facing US 29. The building shape is elliptical with its "prow" facing the northeast corner of the intersection of US 29 and Spring Street. There will be a 3 story above grade parking garage along the southwestern lot line of the site.

The building's design is distinctive and incorporates the principles of "net zero design" whereby all energy used by the building throughout the year will be provided by renewable energy generated on site. Solar panels will be used to generate power to the building. These panels are located on the building's south facing façade, in the "solar tray" on the roof platform and roof canopy that form the elevated structure above and extending past the end of the garage roof and also located on that portion of the south side of the garage that is not in the shadow the existing and adjacent hotel. The lower roof deck facing the public plaza, located above the ground level retail space along US 29, will be a green roof. The number of solar panels for this building is estimated to be over 2,500 panels. Mesh panels are incorporated into the building's prow and into the upper levels of the parking garage that front on US 29. These angled panels are designed to aid in the ventilation, temperature control and screening of the building. Additionally, the building's atrium (on the retail level floor) will contain a pool that provides passive cooling to the atrium space through evaporation and doubles as a heat rejection source for the building's cooling system, which increases overall efficiency of the geothermal cooling system.



Massing View from the intersection of US 29 and Spring Street

Public Use Space and Amenities

For projects in the CBD-1 Zone utilizing the Optional Method of Development, 20 percent of the net lot area as on site public use space is required. This public use space requirement can be met either completely on site or through a combination of on-site public use space and a payment to the amenity fund. This Site Plan requires 13,517 square feet of on-site public use space. The applicant has proposed 11,421 square feet (16.9% of the net lot area) of onsite public use space.

The public use space will be located along the US 29 frontage of the site. The public use space, or plaza, will meet the sidewalk near the intersection of Spring Street and Colesville Road. Heading southwest along Colesville Road the plaza will remain generally flat, while the sidewalk grade will steepen to accommodate a grade change of 7 feet along the site's frontage. The landscaped buffer between the plaza and the sidewalk has been designed to soften the transition and to accommodate the placement of street lighting and the bus shelter. The entry steps from the street into the plaza are centralized for ease of pedestrian movement and to work more naturally with the grade change along US 29. The planting beds are curvilinear and incorporate built-in stepped seating with LED lighting. These elongated lines of seating complement the fluid shapes of the building's architecture.

One feature of this open space will be the introduction of water elements, including a water wall at the south end of plaza. Other water elements in the plaza include a shallow surface pool with gently bubbling jets that will transition into the water wall. This water wall will provide a white sound backdrop in the plaza as water flows down from the wall into the surface water feature. The plaza will be visible from the intersection of US 29 and Spring Street and the inclusion of these water features has been designed to draw visitors into the open space. Seating options can accommodate impromptu gatherings or performances directly in front the building.



Aerial View of
Public Use
Space



View into Public Use Space
from US 29 looking north

Additionally, to attract people into the open space, the applicant is proposing to incorporate educational elements that engage the public in learning about and experiencing “net-zero” principles. Portions of the building’s walls fronting on the plaza will contain interactive and other displays that will explain the building’s net-zero principles, such as sustainable technologies that use solar power, conserve water, and better manage natural resources. Motion-sensitive displays behind storefront walls will activate visual media. These interactive media displays may also show energy generation within the building and also measure the building’s energy output in different graphical ways for visitors of all ages to understand. The technology for these interactive media displays will change as the technologies evolve.



View into Public Use Space from the intersection of Spring St and US 29, looking south.

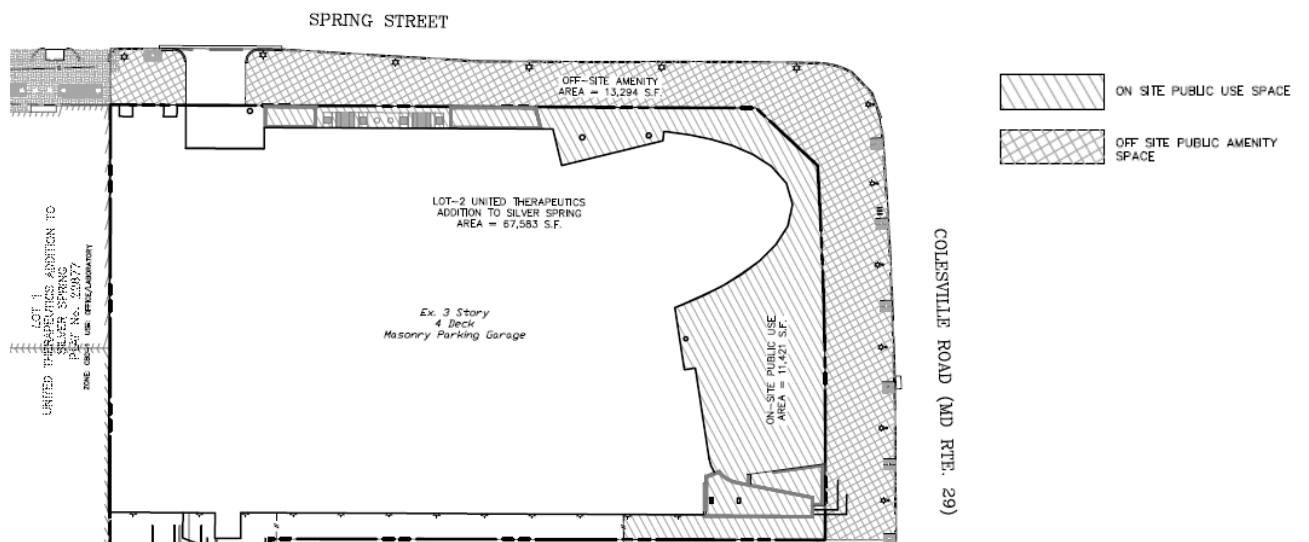
The applicant will compensate for the deficit, of 2,096 square feet (approximately 3.1% of the net lot area) of public use space by making a payment to the amenity fund for the Gene Lynch Park, located at the Silver Spring Transit Center. This amount is calculated using a two-part formula comprised of a property's assessed value and the cost of proposed streetscaping. The following table depicts this information

Amenity Fund Calculation based on Applicant's Proposal

Property Value (3.1% of assessed land value \$5,105,700)	\$158,276.70
Cost of Streetscape (2,096 sf @ \$35sf)	\$ 73,360.00
Total	\$231,636.70

The applicant is also providing 13,294 square feet of off-site public amenity space. The offsite public use space will be consistent with the Silver Spring and State Highway Administration (SHA) guidelines for streetscaping. The proposed streetscaping will consist of shade trees, trash receptacles, lawn panels, bicycle racks, benches, and ornamental pole lighting.

Proposed Public Use Space and Off Site Amenity Area



Vehicular and Pedestrian Circulation

The pedestrian and vehicle circulation systems are safe, adequate, and efficient. Currently, the site has vehicular access via Spring Street, approximately 200 feet west of the intersection with US 29. The other vehicular access is provided via Cameron Street, approximately 250 feet south of the intersection with Spring Street. Spring and Cameron Streets are owned and maintained by the Montgomery County Department of Transportation, while US 29 is owned and maintained by the Maryland State Highway Administration (SHA). Attachment B contains SHA's written comments.

This Project proposes to maintain access at these existing locations in the following manner: Spring Street will serve as the private parking garage entrance, while the existing entrance from Cameron Street will serve as the loading/service entrance for the proposed building and the other existing United Therapeutics buildings nearby.

The proposed private garage will provide approximately 152 parking spaces and will be for the use of only United Therapeutics, employees and their visitors. The underground parking garage will serve both vehicular and bicycle traffic as bicycle stands will be located within the garage. Additional bicycle parking is located along within Property's frontage on US 29 adjacent to the public open space.

Pedestrians will access the site via improved sidewalks on Spring Street and US 29. The primary point of pedestrian access to the building, its lobbies and the retail uses will be along US 29. The Applicant proposes a new 10 foot-wide mid-block pedestrian connection, between the proposed building and the hotel and apartment building along the southwestern property line. This new connection will improve pedestrian circulation between US 29 and Cameron Street. The Applicant will restrict use of the proposed mid-block connection to the hours between sunset and sunrise and install securable gates at both of the connection to ensure pedestrian safety.

Transit

The Site is within a 5-10 minute walk of the Silver Spring Metrorail/ MARC Station, which is located approximately 2,500 feet or ½ mile south the site at US 29 and Wayne Avenue. Besides the Silver Spring/MARC Metrorail Station, public transit service in the area includes:

1. RideOn Bus Routes 8, 9, 12, 13, 14, 21, 22, 28, and the VanGo Shuttle operate within the vicinity of the Site.
2. WMATA Metrobus Routes Z2, Z6, Z8, Z9, Z11, Z13, Z29, J5, Q2, Y5, Y7, Y8, and Y9.
3. Maryland Transit Authority Commuter Bus 915 and 929.

Additionally, the site has an existing bus shelter along its US 29 frontage. The applicant proposes to improve and shift this shelter approximately 8 feet away from its existing location. The shift moves the shelter away from US 29 and closer to the proposed building. This bus shelter relocation will provide transit riders increased separation from vehicular traffic. As a result of the proposed relocation, the bus shelter will be sited approximately 12 feet away from the southbound travel lanes on US 29.

Master Plan Transportation Facilities

The 2000 Approved and Adopted Silver Spring CBD Sector Plan and the 2005 Countywide Bikeways Functional Master Plan include the following nearby roadway/bikeway facilities:

- a. Spring Street: an Arterial roadway with master planned on-street bikeway (PB-10) located along the northern site frontage, between Cameron and Colesville Road with a minimum right-of-way of 100 feet, and

- b. Colesville Road (US 29): a Major Highway located along the eastern site frontage, between Spring Street and Fenton Street, with a minimum right-of-way of 120 feet.

Transportation Demand Management

As a commercial development within the Silver Spring Transportation Management District (TMD), the Applicant is required to enter into a Traffic Mitigation Agreement to participate in the Silver Spring TMD.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property is proposed to be served by public water and public sewer. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the property. Electrical, telecommunications, and gas services are also available to serve the property.

Environmental

Environmental Guidelines and Forest Conservation

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) (# 420131040) for the project was approved on February 13, 2013. This urban site is located within the Sligo Creek watershed, a Use-Class I watershed¹. There are a number of existing street trees and landscape plantings fronting the Site ranging in various sizes and up to approximately one foot diameter at breast height (DBH).

Along the southern property line of the site there are a number of trees which overhang into the subject property from the adjacent historic Montgomery Arms Apartment complex. The trees associated with the historic setting are subject to a forest conservation variance due to the proposed minor impacts associated with this project. The variance trees range in size from 1 to 16 inches DBH. A Preliminary Forest Conservation Plan (PFCP) and variance request was approved by the Planning Board as part of the September 12, 2013 hearing for the associated Preliminary Plan (120130190). The PFCP approved by the Planning Board included a 0.27 acre offsite forest conservation planting requirement. The Final Forest Conservation Plan (FFCP) submission now reflects a number of relatively minor changes that have been proposed since the previous review. These changes are discussed in the following paragraphs.

Changes to Forest Conservation and Tree Save

¹ Use I:

WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE

Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply and industrial water supply.

There are a number of proposed utility connections associated with the project that have been shifted and redesigned within the Spring Street and Cameron Street rights-of-way (ROWS). Due to a net increase in the off-site Limits of Disturbance (LOD) and the associated net tract area of the project, the afforestation planting requirements have now increased slightly to 0.29 acres; an increase from the original 0.27 acres. Thus, the forest conservation planting requirements will be satisfied by a fee-in-lieu payment.

The FFCP and associated variance approved by the Planning Board under Preliminary Plan 120130190, granted a 44.6 % impact to the critical root zone (CRZ) of Tree #11. The submitted Site Plan shifts the LOD further away from the tree thereby reducing the ultimate percent of impact to its CRZ. Therefore, the current change in the LOD does not require a revised variance request. Furthermore, staff notes that Tree #11, is growing on top of a 6' retaining wall and would have few if any roots actually affected under either LOD scenario. The impacts to the other subject trees remain the same as approved under Preliminary Plan 120130190.

The project design includes a service area with loading docks and dumpsters located along the southern property line and adjacent to the Montgomery Arms Apartments building. In addition, there are a number of generators and exhaust fans at the roof of the proposed building that could potentially generate noise impacts to this apartment building. Approved Preliminary Plan (120130190) included the following condition of approval which stated:

“The Site Plan must include appropriate onsite measures to avoid or minimize the potential noise impacts. Part of the mitigation may include a limited schedule for loading and trash pick-up”.

The submitted site plans included the following general note related to corresponding plan elements. A minor revision in red has been added by staff and the applicant concurs with this revision.

*Cooling tower, Emergency Generators, and exhaust fans will be specified and designed to meet the sound standards of the County Code. Once installed, the sound output of the equipment will be tested by the applicant’s consultant after the building is occupied and subjected to full mechanical loads. If for any reason, equipment is found by the Department of Environmental Protection (DEP) not to comply with required County standards, a progression of possible measures must be taken **as needed** to bring the sound output of the equipment itself into compliance with the County standards. These measures may include mufflers, enclosures insulation material, restrictions on the schedule of delivery or trash pickup operations, or other appropriate measures recommended by the applicants’ consultant to address the particular sound problem.*

Therefore, the noise condition has been addressed by the site plan.

LEED Certification and Net Zero

The United Therapeutic building design will incorporate numerous principles of “net zero design”. The goal is that all the energy used by the building over the course of the year will be provided by renewable energy generation at the site. The project will utilize extensive solar panels to generate electricity. Additionally, the building design will include many design features that will reduce the need for energy consumption. The net zero design will provide numerous enhancements towards the buildings sustainability, however net zero design does readily compare with LEED standards. Therefore the Project Plan for the Untied Therapeutics site included the following condition of approval (which was modified

to address a LEED equivalent). The condition as previously approved by the Project Plan is stated below and no further conditions relative to LEED standards are recommended.

The Applicant must achieve a LEED Certified rating certification at a minimum, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a certified-level rating in the appropriate LEED rating system. The Applicant must make good faith efforts to achieve a LEED Silver rating, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a silver-level rating in the appropriate LEED rating system. Before issuance of the final use and occupancy certificate, the Applicant must inform MNCPPC Staff of the LEED Certification Level that they are applying for. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to Staff a written report for the public record purposes only from the Applicant's LEED consultant, analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

ANALYSIS AND FINDINGS – Section 59-D-3.4(c)

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The application did not require a development plan, a diagrammatic plan, or a schematic development plan. As conditioned, the Site Plan is consistent with Project Plan No. 920130020 and with Preliminary Plan 120130190, with respect to square footage, public use space and amenities, massing and the provisions of the zone.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The proposed uses are allowed in the CBD-1 zones, and the Site Plan fulfills the specific purposes of the zone by providing a design that will produce a desirable relationship among the existing buildings in the CBD. This building at this southwest corner will serve as a gateway to Silver Spring. Its form and prominent design will signal the entrance to the Silver Spring CBD for all residents, workers and visitors entering the area. The height of the proposed building is comparable to the abutting and existing United Therapeutics buildings to the west. The zone permits heights up to 90 feet; the applicant is proposing a height of 90 feet. The building materials will be unique but will coordinate with the surrounding buildings and fit within the urban context of a CBD.

The subject property is located in the Silver Spring Parking Lot District (PLD). In accordance with Section 59-E-5 of the Zoning Ordinance, a new use that is located within a parking lot district is not required to provide the full complement of parking spaces on-site. Parking that is not provided on the site will be subject to an ad valorem tax. Additionally, public parking spaces are available to future retail and open space users and visitors to the site in the nearby public parking garage located two blocks away at the intersection of Ellsworth Drive and Fenton Street.

As the data table below indicates, the Site Plan meets all the development standards of the CBD-1 Zone, including building height, density, and public use space. The Zoning Ordinance does not require any setbacks from the property line for the CBD-1 Zone. The approved Project Plan set the minimum building setback from US 29 as 16 feet, reflecting the distance between the US 29 right-of-way and the ground-level building face. However, Development Condition No. 2 of the Project Plan stated:

The development is limited to the building footprint as delineated in the Project Plan drawings submitted to the M-NCPPC dated August 5, 2013, unless modified at site plan review, and to 90 feet in height as measured from the datum point along Spring Street as shown on Project Plan drawings.

During site plan review the building design was refined to incorporate angled mesh panels onto the building façade along the “prow” at corner of US 29 and Spring Street and the upper floors that front US 29. The angled mesh panels have been designed to aid in temperature control and ventilation of the building, and will project from the façade beyond the ground-level building face. To allow flexibility in the installation of these panels, staff recommends revising the minimum setback along US 29 to 0.0 feet, while recognizing that the ground-level building footprint will be illustrated on the Certified Site Plan and will be binding on the applicant. The Project continues to meet requirements of the CBD-1 Zone with the smaller setback and the building footprint remains consistent with the previous approvals.

Project Data Table for the CBD-1 Zone, Optional Method of Development

Development Standard	Permitted/ Required	Approved Project Plan 920130060	Proposed Site Plan 820140110
Site Area			
Gross Tract Area	n/a	77,822 sf	77,822 sf
Dedication to Public Use	n/a	10,000 sf	10,239 sf
-Net Tact Area	22,000 sf	67, 583 sf	67,583 sf
Uses			
Office/ Laboratory	n/a	111,724 sf	111,724 sf
Retail	n/a	10,000 sf	10,000 sf
Total Square Feet	n/a	121,724 sf	121,724 sf
Density			
	2.0	1.56	1.56
Max. Building Height	90 ft	90 ft	90 ft
Min. Public Use Space (%)			
On-Site Public Use Space	20%	10,670 sf (15.8%)	11,421 sf (16.9%)
On-Site Amenity Fund Contribution	varies	2,847 sf (4.2%)	2,096 sf (3.1%)
Total On-site Public Use Space & Amenity Fund	20%	13,571 sf (20%)	13,517 sf (20%)
Off Site Public Use Space	20%	12,900 sf (19.1%)	13,294 sf (19.6%)
Total Public Use Space & Amenity Fund	20%	26,417 SF (34.9%)	26,811 sf (39.6%)
Min Setbacks			
Spring Street	0	0 ft	0 ft
US 29	0	16 ft	0 ft
Adj property to south	0	10 ft	10 ft
Adj property to west	0	0 ft	0 ft
Parking			
Office/ Laboratory @2.4/1000 (117,724 sf)	269		152
Retail Parking @3.5/1000 (1,000 sf)	35		0
Total Vehicle Spaces	304	152 ¹	152 ¹
Bicycle			14 spaces
Motorcycle			3

¹ The site is located in the Silver Spring parking lot district, and as such is not required to provide the full complement of parking spaces. Parking that is not provided on the site, consistent with Section 59-E, will be subject to an ad valorem tax.

3. The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.

Buildings

The building location is adequate safe and efficient. The building's entrance has been oriented to face US 29 and signal the entrance to the Silver Spring CBD. Its location set back 12 feet from

US 29 increases the pedestrian separation from the roadway. This location also provides ease of access into the building and from the adjoining sidewalks.

Open Space

This Project requires 20 percent (13,517 square feet) on site public use space under the Optional Method of Development for the CBD-1 Zone. This requirement has been met through a combination of on-site public use space and a payment to the amenity fund. The open space is located on US 29 is at the entrance to the Silver Spring CBD. The Site Plan proposes 11,421 square feet (16.9% of the net lot area) of onsite public use space. With its elongated seating areas slightly below street grade, landscaping, and water features, this open space plaza creates an inviting area for informal performances and interactive educational opportunities for workers and visitors to the site as well as nearby residents. This open space will also include seating, specialty paving, landscaping, and interactive educational elements. The deficit of 2,096 square feet (or 3.1% of the net lot area) of public use space will be accomplished through a payment to the amenity fund for the Gene Lynch Park, located at the Silver Spring Transit Center or another appropriate amenity. Overall, the amount of on-site open space has increased by approximately 750 square feet over the approved Project Plan thereby creating more open space in this northern edge of the Silver Spring CBD.

Landscaping

The landscaping will be adequate, safe and efficient. Presently, minimal landscaping exists on site. The proposed streetscape improvements along Spring Street and US 29 will enhance the pedestrian environment and the undergrounding of utilities along both roadways further enhances the public realm. The new landscaping within the public open space creates a new inviting and useable green space in the CBD where one does not exist.

Pedestrian and Vehicular Circulation

Pedestrian and vehicular circulation will be adequate safe and efficient. The proposed development will enhance pedestrian and cyclist circulation by providing improved and wider sidewalks along US 29 and Spring Street. Pedestrian and vehicular circulation is improved through the separation of movements. Personal vehicles will be limited to the garage's sole entrance along Spring Street. Pedestrians will be protected from vehicular conflicts through wider sidewalks and specialty brick paving denoting pedestrian walkways and the onsite vehicular entrance. The inclusion of bicycle stands within the garage and adjacent to the proposed building promote another mode of circulation among the office workers and visitors in the CBD. The new mid-block connection on Cameron Street provides ease of access to the adjoining and surrounding buildings and sidewalks in the Silver Spring CBD and provides a needed connection where one presently does not exist. The upgraded bus shelter along US 29 will enhance the public transit user's experience by providing a safer location and a more defined shelter area. The building's location in close proximity to the Silver Spring/MARC transit station (within 15 to 20 minute walk will encourage the use of transit facilities by future workers and visitors to the site).

Recreational Facilities

The site plan does not propose any residential units, thus recreational facilities are not required under this Site Plan.

4. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The proposed building is an extension of the existing United Therapeutics world headquarters buildings located, at intersection of Spring and Cameron Streets, west of this site. The existing campus buildings have distinctive and colorful architectural forms. This building with its unique elliptical shape and “prow” expands on the campus concept by creating a statement building at the one of the most visible entrances to the Silver Spring CBD.

The 90 foot building height is compatible with the multi-family building to the north and the office and hotel buildings abutting and confronting the site on US 29. The scale, design and orientation of the proposed building are appropriate relative to the adjacent properties and add architectural character to the area.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable laws.*

A Preliminary Forest Conservation Plan and forest conservation variance request was approved by the Planning Board under the previous project and preliminary plan approvals and remains valid under this site plan approval. The Final Forest Conservation Plan shows minor changes and an increase in the LOD to the site. These changes increased the forest conservation requirement from 0.27 acres to 0.29 acres. As a condition of approval for the Site Plan, the Applicant will be required to make a fee-in-lieu payment, to meet the increased forest conservation requirement. A stormwater management concept plan (#252053) was approved by the Montgomery County Department of Permitting Services, (MCDPS) Water Resources Section on March 19, 2014. The concept plan will achieve stormwater management goals through the use of biofilters. Attachment B contains the approval letter from MCDPS

COMMUNITY OUTREACH

The applicant has met all signage, noticing, and pre-submission meeting requirements. As of the date of this staff report, staff has not received any resident correspondence on the application.

RECOMMENDATION

Staff recommends Approval of Site Plan 820140110 with conditions stated at the beginning of this report.

Attachments

- A. Resolutions Approving Project Plan 920130020 and Preliminary Plan 120130190
- B. Agencies Correspondence

M-NCPPC



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

OFFICE OF THE GENERAL COUNSEL


8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
www.mncppc.org

Tel: (301) 495-4646 Fax: (301) 495-2173

Agenda Date: October 3, 2013
Consent Agenda

DATE: September 24, 2013

TO: Montgomery County Planning Board

FROM: Christina Sorrento, Associate General Counsel
301-495-4646 

RE: United Therapeutics Silver Spring Campus Project Plan No. 920130060
(Resolution No. 13-131) and Preliminary Plan No. 120130190 (Resolution
No. 13-132)

The staff report for this project combined the Project and Preliminary Plans and the Planning Board approved both plans at the hearing on September 12, 2013. The staff report showed the Forest Conservation conditions under the Preliminary Plan approval. However, under the Forest Conservation Law, the Preliminary Forest Conservation Plan is actually approved with the Project Plan since that is the first plan reviewed and approved by the Planning Board (22A-11(b)(2)(A)). The conditions remain the same but have been moved to the Project Plan resolution to comport with the Forest Conservation Law approval requirements. The Applicant's attorney has been notified of the change.



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

MCPB No. 13-131
Project Plan No. 920130060
United Therapeutics Silver Spring Campus-Phase 3
Date of Hearing: September 12, 2013

OCT 15 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review project plan applications; and

WHEREAS, on May 22, 2013, United Therapeutics Corporation ("Applicant"), filed an application for approval of a project plan for 121,724 gross square feet of development including 10,000 square feet of retail and 111,724 square feet of office on 1.79 acres of CBD-1 zoned-land, located in the southeast quadrant at the intersection with Spring Street and Colesville Road ("Subject Property"), in the Silver Spring CBD Policy Area, Silver Spring CBD Sector Plan ("Sector Plan") area; and

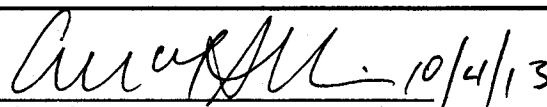
WHEREAS, Applicant's project plan application was designated Project Plan No. 920130060, United Therapeutics Silver Spring Campus-Phase 3 ("Application" or "Project Plan"); and

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 August 30, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 12, 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

WHEREAS, on September 12, 2013, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to
Legal Sufficiency:



NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board APPROVES Project Plan No. 920130060 for 111,724 square feet of office use/laboratory space and 10,000 square feet of retail on the Subject Property, subject to the following conditions:¹

1. **Development Ceiling**
The development is limited to 121,724 square feet; 111,724 square feet of office use/laboratory space and 10,000 square feet of retail.
2. **Building Height and Mass**
The development is limited to the building footprint as delineated in the Project Plan drawings submitted to the M-NCPPC dated August 5, 2013, unless modified at site plan review, and to 90 feet in height as measured from the datum point along Spring Street as shown on Project Plan drawings.
3. **Architecture**
The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations submitted to MNCPPC unless modified during site plan review.
4. **LEED Certification**
The Applicant must achieve a LEED Certified rating certification at a minimum, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a certified-level rating in the appropriate LEED rating system. The Applicant must make good faith efforts to achieve a LEED Silver rating, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a silver-level rating in the appropriate LEED rating system. Before issuance of the final use and occupancy certificate, the Applicant must inform MNCPPC Staff of the LEED Certification Level that they are applying for. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to Staff a written report for the public record purposes only from the Applicant's LEED consultant, analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional

¹ 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.

identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

5. Public Use Space, Facilities & Amenities
 - a. The Applicant must provide a minimum of 10,670 square feet for on-site public use space (15.8 percent of net lot area) as shown on the Project Plan.
 - b. The Applicant must provide a minimum of 12,900 square feet of off-site amenities (19.1 percent of net lot area) as shown on the Project Plan.
 - c. To address the shortfall in the amount of on-site public use space (about 4.2%), the Applicant will make a contribution of \$314,736 to the Amenity Fund towards Gene Lynch Urban Park – scheduled for construction upon completion of the Silver Spring Transit Center – or other future amenity as determined by the Planning Board, per the requirements of 59-D-2.31.
6. Forest Conservation
 - a. The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
 - b. Approval of a Final Forest Conservation Plan must be secured, consistent with the approved Preliminary Forest Conservation Plan and associated conditions, prior to any clearing, grading or demolition on the site.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920130060, United Therapeutics Silver Spring Campus stamped received by M-NCPPC on August 5, 2013, are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and having considered the entire record, all applicable elements of Section 59-D-2.42, and the relevant provisions of Section 59-D-2.43, the Planning Board FINDS, with the conditions of approval, that:

- (a) *The development complies with all of the intents and requirements of the CBD-1 zone.*

Intents and Purposes of the CBD Zones

The Montgomery County Zoning Ordinance, Section 59-C-6.212, states the purposes that the CBD zones are designed to accomplish. The Project Plan conforms to these purposes as follows:

- (1) *"To encourage development in accordance with an adopted and approved master plan by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan and the site plan is approved on review by the Planning Board."*

The Project Plan conforms to the general recommendations of the Silver Spring CBD Sector Plan with respect to land use and employment, Sector Plan themes, zoning and density and transportation.

- (2) *"To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The Project Plan replaces an aging parking garage with office/laboratory and retail space, uses recommended in the Sector Plan for the Silver Spring CBD. The mix of office/laboratory and retail is currently proposed as follows: 111,724 square feet of office/laboratory use and 10,000 square feet of retail use. The commercial uses compliment the surrounding residential and commercial uses at the northern edge of the CBD and provide opportunities for workers, shoppers and residents to promote a sustainable downtown environment.

- (3) *"To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas."*

The existing buildings surrounding the Subject Property are comprised of a mix of multi-family residential, office and retail uses, with varying heights and densities. The Project Plan responds to its location as a gateway to the CBD by employing a contemporary design style that is attractive and striking. The public

spaces that frame the ground plane of the building create an inviting visual and activating environment. The height of the building at 90 feet is comparable to the adjacent uses and serves as a transition to the neighborhoods to the north. The improved streetscape associated with the Project Plan will complete a portion of Spring Street and upgrade Colesville Road to provide greater opportunities for pedestrians and connections to the surrounding businesses and the metro station.

(4) "To promote the effective use of transit facilities in the central business district and pedestrian access thereto."

The Project Plan will provide new office space within a 10 minute walk from the Silver Spring Metro Station. Additionally, several bus lines operate in the vicinity of the Subject Property, including a stop directly in front of it on Colesville Road. The Subject Property is also within walking distance to the Spring – Cameron Garage, which provides 1,344 public parking spaces. Given the proximity to multiple transit options, it is reasonable to conclude that a considerable number of employees and patrons will utilize public transit resources.

(5) "To improve pedestrian and vehicular circulation."

Because the existing curb cut on Spring Street will be preserved, no additional curb cuts will be added. Pedestrian circulation will be enhanced with improved streetscape elements.

A significant component of the Project Plan is the improvement of sidewalks adjacent to the Subject Property. As previously described, the streetscape along Spring Street and Colesville Road will be detailed per the Silver Spring streetscape standards.

(6) "To assist in the development of adequate residential areas for people with a range of different incomes."

The Project Plan does not provide residential uses, but does provide employment and retail options for residents in the adjacent multi-family buildings.

(7) "To encourage land assembly and most desirable use of land in accordance with a sector plan."

As part of Preliminary Plan No. 120130190, the Applicant will consolidate parcels L-1963, L-2407, L2424, L-2446, into one new platted lot with a net lot area of 67,583 square feet after right-of-way dedication for Spring Street and Colesville Road. The Application incorporates multiple parcels to promote greater density in the CBD, which also allows for a stronger site designs and a greater opportunity for activated public use spaces and amenities.

Further Intent of the CBD-1 zone

Section 59-C-6.213(a) of the Zoning Ordinance states further intent of the CBD-1 zone:

- (1) To foster and promote the orderly development of the fringes of the central business districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and*
- (2) To provide a density and intensity of development which will be compatible with adjacent land uses outside the central business districts.*

As previously stated, the Project Plan is designed in a manner that is compatible with the surrounding multi-family buildings and adjacent office buildings. The Project Plan will also provide a mix of office and retail, increasing the daily number of people who will work and shop in the Silver Spring Central Business District.

Requirements of the CBD-1 Zone

The Project Plan complies with the development standards under the optional method of development. Among other standards, the Project Plan meets the area, public use space, building height, and density requirements of the zone. According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an

environment capable of supporting the greater densities and intensities of development permitted.”

To this end, the Project Plan is providing the following package of amenities and public facilities:

- A net-zero building
- Streetscape improvements along Spring Street and Colesville Road consistent with the Silver Spring streetscape standards;
- Onsite plaza with seating, special paving and landscape areas;
- Public artwork;
- Amenity fund contribution

Requirements of the CBD-1 zone

The data table below lists the required development standards approved by the Planning Board and binding on the Applicant. The Planning Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the optional method of development in the CBD-1 zone.

DATA TABLE

Project Data Table for the CBD-1 Zone

Development Standard	Permitted/ Required	Approved and Binding on the Applicant
Building Height (feet)	90	90
Setbacks (feet)		
North Property Line (Spring Street)	0	0'
East Property Line (Colesville Road)	0	16'
South Property Line	0	10'
West Property Line (adjacent Ph. II building)	0	0
Site Area (square feet)		
Net Tract Area	n/a	67,583

Proposed Dedication	n/a	10,239
Gross Tract Area	22,000	77,822
Density		
Floor Area Ratio *	2.0	1.56
Office		111,724
Retail/Restaurant		10,000
Public Use Space (% of net lot)		
On-Site Public Use Space	20	15.8
Off-Site Amenity Space	n/a	19.1
Total Public Use & Amenity Space	20	34.9
Parking		
Office/Laboratory @ 2.4/1,000 [117,724 sf]	269	
Retail @ 3.5/1,000	35	
Total Parking Required	304	
Total Parking Provided		152*

*The project is located in the Silver Spring Parking Lot District and on-site parking spaces are not required provided an applicant pays the parking lot district tax. Additional public parking spaces are provided in nearby public parking facilities. Final parking calculations will be evaluated during the site plan review.

(b) The development conforms to the Silver Spring CBD Sector Plan.

The Sector Plan has several goals that this Project Plan addresses. It describes the vision for Silver Spring in terms of six themes (pages 13-14). They are:

- 1) Transit Oriented Downtown
- 2) Commercial Downtown
- 3) Residential Downtown
- 4) Civic Downtown
- 5) Green Downtown
- 6) Pedestrian-Friendly Downtown

The Project Plan, which meets all of the themes except "Residential Downtown", will play an important role in revitalizing this part of the CBD. The Sector Plan also

designates this site, at the corner of Colesville Road and Spring Street, as a gateway location (pages 75 & 83). The proposed building will act as a prominent gateway feature for those entering the CBD from north on Colesville Road.

Employment, Housing, & Land Use

The applicable references in the Sector Plan refer to the need for increased choices associated with retail, office, restaurants, cultural programming, open space and pathways in this area. The specific objectives with regard to this site are met as indicated:

- The proposal creates job opportunities by providing a variety and mix of uses including the office/laboratory and retail uses.
- The design promotes a pedestrian and street-activating environment by applying the Silver Spring Streetscape standards to the frontage along Spring Street and Colesville Road.
- The development consolidates multiple properties for an optional method of development to accommodate the maximum density in the CBD.
- The infill development is more environmentally sustainable because it concentrates growth near transit and other day-to-day needs, thereby reducing vehicular travel and saving open space in our suburban and agricultural areas. In addition it proposes green roofs and bio-filtration techniques at grade that will significantly improve the quality of water flowing off-site during rain events.

Zoning and Density

The Subject Property is zoned CBD-1 and will provide an FAR of 1.56 for optional method commercial projects as permitted in Sect. 59-C-6.234 (b) (ii) (A) of the zoning ordinance. The Application meets the zoning and density goals of the Sector Plan.

(c) Because of its location size, intensity, design, operational characteristics and staging, the development is compatible with and not detrimental to existing or potential development in the general neighborhood.

The location, size and intensity of this Application are compatible with the existing and potential development in the general neighborhood. The orientation of the various new buildings responds to the surroundings. The majority of the ground floor retail spaces have entry and exit points from the roadways and public use

areas of the site, where visibility and pedestrian activity will be greatest. The loading dock is located behind buildings, where possible, to limit truck movement through the site. The layout of the driveway is such that vehicles are directed quickly from main thoroughfares to parking garages and loading areas without having to wind through the site.

(d) The development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction, if applicable: and, if located within a transportation management district designated under Chapter 42A, Article II, is subject to a traffic mitigation agreement that meets the requirements of that article.

The Application will not overburden existing public facilities and services nor those programmed for availability. Vehicular access to the site is located on Spring Street in the same location as the existing vehicular access to the parking garage, approximately 220 feet from Colesville Road. An existing access point for the public garage off of Cameron Street will be re-purposed for loading and trash removal at the new building, reducing the number of vehicles using that access point. There are two additional nearby parking garages to serve the needs of the residents and employees in downtown Silver Spring, including the Planning Place parking garage on Spring Street and Cameron Street and the City Place/Downtown Silver Spring parking garage with primary access from Ellsworth Drive. The existing pedestrian alley way between Cameron Street and Colesville Road will be widened and will include improved lighting to enhance security, along with specialty paving. The sidewalks on Colesville Road and Spring Street will be widened and be upgraded with paving, landscaping and street furnishings consistent with the Silver Spring Streetscape Standards, providing for a more inviting pedestrian experience.

(e) The development is more efficient and desirable than could be accomplished by the use of the standard method of development.

The Application will develop the site using the optional method of development, which is more efficient and desirable than the standard method of development. The optional method allows greater densities at key locations, such as proximity to mass transit, in exchange for greater public amenities and facilities. Construction of a standard method project under the CBD-1 zone would yield a development constructed to a maximum 1.0 FAR with a maximum 60 foot building height. For a site located in the Silver Spring CBD, buildings constructed to standard method

requirements would not be required to have significant public amenities or substantial open space, and would be insufficient to reach the critical mass and density envisioned for the Subject Property within very close proximity to the Silver Spring Metrorail station. Additionally, the increased focus on building design and public space would not be achieved under the standard method. Given the recommendations of the Sector Plan and the Subject Property's proximity to transit, employment and services, the optional method of development is much more desirable and efficient for this large site.

(f) The development includes moderately priced dwelling units in accordance with Chapter 25A of the Montgomery County Code.

The Application does not include residential units, therefore, this finding does not apply.

(g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities within a lot with two or more CBD zones, the Project Plan may be approved by the Planning Board based on the following findings:

The entire net tract area will be owned by the Applicant as part of a sale from the County for public property and is in the CBD-1 zone. The development does not propose any transfers of public open space or development density from one lot to another.

(h) The development satisfies any applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code.

A. Forest Conservation

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) # 420131040 for the site was approved on February 13, 2013. The urban site is located within The Sligo Creek watershed, a use-class I watershed.

There are a number of street trees and landscape plantings fronting the Subject Property ranging in sizes up to approximately 1' diameter at breast height (DBH). The largest of the street trees occur along Coleville Road (Route 29).

Additionally, along the south of the site there are a number of historic trees which overhang into the Subject Property from the adjacent Montgomery Arms apartment complex. The trees associated with historic setting potentially impacted by the Application range in size from 1 to 16 inches DBH. The Subject Property is not otherwise associated with any environmentally sensitive features such as forest areas, stream buffers, wetlands, 100 year floodplains or steep slopes.

The Preliminary Forest Conservation Plan (PFCP) identifies an afforestation planting requirement of 0.27 acres. The planting requirement will either be satisfied in an off-site forest conservation bank or met by payment of fee-in-lieu. A condition of approval requires that the forest conservation planting requirements be satisfied prior to land disturbing activities occurring on-site.

The trees fronting the site, including those along Coleville Road, are proposed for removal. However, amended soil panels will be provided for the replacement street trees. The trees associated with the historic setting will be protected throughout the construction process. All of the historic trees will be retained, although some pruning of limbs will be necessary for overhead clearance. Additionally, the on-site work is within the critical root zones (CRZ) of the historic trees. However, because the trees sit above the site grade, only minimal if any impact would actually occur to roots of the historic trees. A provision for root pruning is included in the forest conservation plans in the event that the roots have grown below the wall into the construction area. Construction within the CRZ and pruning of the limbs from the historic trees is subject to a forest conservation variance.

FOREST CONSERVATION VARIANCE

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. Unless the variance is granted, the law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75 percent of the diameter of the current

State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Since the project boundary affects eight trees that part of a historic site, a variance is required. The Applicant submitted a variance request on July 25, 2013 for the impact to, but retention of eight trees associated with the Application that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, the Planning Board has determined that enforcement of the variance provision would result in an unwarranted hardship for the following reason:

The variance trees are growing at the top of a retaining wall approximately six feet above the Subject Property. The wall itself is proposed to remain undisturbed and it is unlikely that significant roots would actually be found growing on the United Therapeutics site at the bottom of the wall. Furthermore, the subject trees have low branches that are partially obstructing the existing walkway (taller pedestrians need to duck under the branches to use the sidewalk as it exists now). The walkway material will be upgraded however the walkway use is proposed to remain. Not allowing pruning of the branches or work below the wall therefore would be a hardship. The Planning Board finds that based on the existing circumstances and conditions on the Subject Property, there is an unwarranted hardship.

Variance Findings - The Planning Board finds that granting the Variance:

1. *Will not confer on the Applicant a special privilege that would be denied to other Applicants.*
The pruning of the limbs to allow appropriate passage of the existing sidewalk (proposed to remain) would be allowed and should occur even if the site were not redeveloped. The minor impact to the subject trees CRZ is necessary for site access and would cause only minimal if any actual impacts to roots. Therefore, the variance request would be granted to any applicant in a similar situation.
2. *Is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is based on the need for basic maintenance of an existing walkway within an urban pedestrian corridor and not the result of actions by the Applicant.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is not a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. No subject trees are proposed for removal; furthermore, the Department of Permitting Services (DPS) staff approved the stormwater management (SWM) concept for the project on August 15, 2013. The concept incorporates green roofs, bio filtration planters and tree pits. The DPS review and ultimate approval of the sediment and erosion control and stormwater management plans will ensure that appropriate standards are met.

- (i) *The proposed development satisfies any applicable requirements for water quality resources protection under Chapter 19 of the Montgomery County Code.*

The Subject Property is located in within the Sligo Creek watershed.

The proposed Stormwater management concept for the preliminary plan stage was deemed acceptable by the Department of Permitting Services on August 15, 2013. The concept meets the required Stormwater management goals by the use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP) with the use of a green roof and micro-bioretenention/planter boxes.

- (j) *Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the Silver Spring Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.*

The off-site public use space and amenities are consistent with the goals of the Sector Plan and will better serve the public interest by contributing to the funding and construction of an off-site amenity as part of the transit station. As conditioned, the Applicant will be making a contribution to the Amenity Fund in the amount of \$314,736 to address the shortfall in the amount of on-site public use space (about 4.2%). Total on-site public use space is approximately 15.8% of net lot area.

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 Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

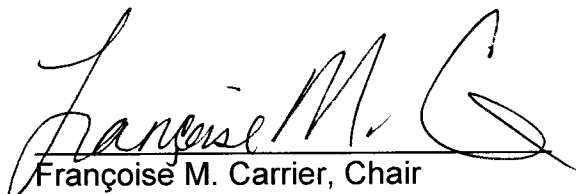
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is OCT 15 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, 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, October 3, 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

MCPB No. 13-132
Preliminary Plan No. 120130190
United Therapeutics Silver Spring Campus-Phase 3
Date of Hearing: September 12, 2013

OCT 15 2013

RESOLUTION

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

WHEREAS, on May 22, 2013, United Therapeutics Corporation ("Applicant"), filed an application for approval of a preliminary plan for 121,724 gross square feet of development including 10,000 square feet of retail and 111,724 square feet of office on 1.79 acres of CBD-1 zoned-land, located in the southeast quadrant at the intersection with Spring Street and Colesville Road ("Subject Property"), in the Silver Spring CBD Policy Area, Silver Spring CBD Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130190, United Therapeutics Silver Spring Campus-Phase 3 ("Preliminary Plan" 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 August 30, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 12, 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

WHEREAS, on September 12, 2013, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to
Legal Sufficiency:

Christina S. Smith 9/24/13
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

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130190 to create 1 lot for 121,724 square feet of development including 10,000 square feet of retail and 111,724 square feet of office on the Subject Property, subject to the following conditions:¹

1. Approval under this Preliminary Plan is limited to one lot for a maximum of 121,724 square feet of development, including 111,724 square feet of office space and 10,000 square feet of retail.
2. The Site Plan must include appropriate onsite measures to avoid or minimize the potential noise impacts. Part of the mitigation may include a limited schedule for loading and trash pick-up.
3. Transportation
 - a) The Applicant must limit future development on the Subject Property to 115,000 square feet of office/ laboratory space and 10,000 square feet of general retail.
 - b) The Applicant must show on the final record plat the following right-of-way dedications, along property frontage consistent with the 2000 Approved and Adopted Silver Spring CBD Sector Plan and Montgomery County Code Chapter 50 Subdivision Regulation requirements:
 - I. Spring Street: an Arterial roadway located along the northern site frontage, between Cameron and Colesville, with a minimum right-of-way of 100 feet measured 50 feet from the roadway right-of-way centerline, resulting in approximately 15 feet dedication; and
 - II. Colesville Road (US 29): a Major Highway located along the eastern site frontage, between Spring Street and Fenton Street, with a minimum right-of-way of 120 feet measured 60 feet from the roadway right-of-way centerline, resulting in approximately 25 feet dedication.
 - c) The Applicant must provide, install, maintain, and operate securable gates, at both ends of the proposed mid-block pedestrian "BioPath" connection, to restrict access to the Bio Path between sunset and sunrise. Each gate must be equipped with a knox box for emergency access and is subject to approval by Montgomery County Fire and Rescue Service (MCFRS) at Site Plan.

¹ 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.

- d) The Applicant must provide and install three short term public bicycle parking racks ("inverted U" rack or similar) along the retail frontage and near public use space. Exact bicycle rack locations to be determined at the time of Site Plan.
 - e) The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated May 17, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
 - f) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District and must execute the TMAg prior to issuance of the occupancy certificate for the office development. The TMAg must include trip mitigation measures recommended by MCDOT.
4. The certified Preliminary Pan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, building elevations, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, and maximum building height. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
5. The Applicant must comply with the conditions of the MCDPS Stormwater management approval dated August 15, 2013. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 30, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT

provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

7. No clearing, grading or recording of plats prior to certified site plan approval, without permission of the Planning Board at site plan approval.
8. Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and artwork will be determined at site plan.
9. The record plat must show necessary easements.
10. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

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

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

The Sector Plan has several goals that this project addresses. It describes the vision for Silver Spring in terms of six themes (pages 13-14). They are:

- 1) Transit Oriented Downtown
- 2) Commercial Downtown
- 3) Residential Downtown
- 4) Civic Downtown
- 5) Green Downtown
- 6) Pedestrian-Friendly Downtown

The Application, which meets all of the themes except "Residential Downtown", will play an important role in revitalizing this part of the CBD. The Sector Plan also designates this site, at the corner of Colesville Road and Spring Street, as a gateway location (pages 75 & 83). The proposed building will act as a prominent gateway feature for those entering the CBD from north on Colesville Road.

Employment, Housing, & Land Use

The applicable references in the Sector Plan refer to the need for increased choices associated with retail, office, restaurants, cultural programming, open space and pathways in this area. The specific objectives with regard to this site are met as indicated:

- The proposal creates job opportunities by providing a variety and mix of uses including the proposed office and retail uses.
- The design promotes a pedestrian and street-activating environment by applying the Silver Spring Streetscape standards to the frontage along Spring Street and Colesville Road.
- The development consolidates multiple properties for an optional method of development to accommodate the maximum density in the CBD.
- The infill development is more environmentally sustainable because it concentrates growth near transit and other day-to-day needs, thereby reducing vehicular travel and saving open space in our suburban and agricultural areas. In addition it proposes green roofs and bio-filtration techniques at grade that will significantly improve the quality of water flowing off-site during rain events.

Zoning and Density

The Subject Property is zoned CBD-1 and proposes an FAR of 1.56 for optional method commercial projects as permitted in Sect. 59-C-6.234 (b) (ii) (A) of the zoning ordinance. The Application meets the zoning and density goals of the Sector Plan.

2. Public facilities will be adequate to support and service the area of the approved subdivision.

Existing vehicular access to the site is provided on Spring Street, approximately 200 feet west of the Colesville Road intersection, and off Cameron Street, approximately 250 feet south of Spring Street. The Application proposes to maintain access at these existing locations in the following manner: Spring Street will serve as the private parking garage entrance, while the existing entrance from Cameron Street will serve as the loading/service entrance for the proposed building and the Phase I and II buildings as well. The proposed private garage will provide approximately 152 parking spaces.

The Subject Property is within a 5-10 minute walk of the Silver Spring Metrorail/ MARC Station, which is located approximately 2,500 feet (1/2 mile) away. In addition to the Metrorail Station, public transit service in the area includes:

1. RideOn Bus Routes 8, 9, 12, 13, 14, 21, 22, 28, and the VanGo Shuttle.
2. WMATA Metrobus Routes Z2, Z6, Z8, Z9, Z11, Z13, Z29, J5, Q2, Y5, Y7, Y8, and Y9.
3. Maryland Transit Authority Commuter Bus 915 and 929.

The Applicant will provide a new 10 foot-wide mid-block pedestrian connection, along the southwest property line, to improve pedestrian circulation between Colesville Road and Cameron Street. In order to maintain this pathway as a safe connection, United Therapeutics staff will restrict pedestrian access between sunset and sunrise. This space was originally being credited toward public use space, however, the Planning Board has conditioned that the narrow space be removed and accounted for by a contribution to the amenity fund.

Master Plan Transportation Facilities

The 2000 Approved and Adopted *Silver Spring CBD Sector Plan* and the 2005 *Countywide Bikeways Functional Master Plan* include the following nearby roadway/bikeway facilities:

- a. Spring Street: an Arterial roadway with master planned on-street bikeway (PB-10) located along the northern site frontage, between Cameron and Colesville, with a minimum right-of-way of 100 feet, and
- b. Colesville Road (US 29): a Major Highway located along the eastern site frontage, between Spring Street and Fenton Street, with a minimum right-of-way of 120 feet.

Sector-Planned Transportation Demand Management

As a commercial development within the Silver Spring Transportation Management District (TMD), the Applicant is required to enter into a Traffic Mitigation Agreement to participate in the Silver Spring TMD.

Adequate Public Facilities Review

A traffic study (dated April 16, 2013) was submitted in accordance with the *LATR & TPAR Guidelines* because the Application is estimated to generate 30 or more total peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. That traffic study determined traffic impacts of the Application on nearby roadway intersections during the weekday peak periods described above.

- Trip Generation

The peak-hour trip generation estimated for the Application was based on trip generation rates included in the *LATR & TPAR Guidelines*. A site trip generation summary shows that the Application would generate a total of 166 new peak-hour trips during weekday morning peak period and 181 new peak-hour trips during weekday evening peak period.

- Local Area Transportation Review

A summary of the Capacity/ Critical Lane Volume (CLV) analysis results for the intersections studied, during the weekday morning and evening peak periods, is presented in Table 2. The CLV values in the existing, background, and total traffic conditions for the study intersections are below the Silver Spring CBD Policy Area's congestion standard of 1,800 CLV. Based on this analysis, the Application satisfies the LATR requirements of the APF test.

- Transportation Policy Area Review

Since the Application is within the Silver Spring CBD Policy Area, the project is exempt from both the roadway and transit tests set forth in the 2012-2016 Subdivision Staging Policy. As a result, the Applicant is not required to pay transportation impact tax to satisfy the TPAR requirement.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The lot will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

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

The Planning Board approved the Preliminary Forest Conservation Plan with Project Plan No. 920130060. The Applicant will meet the afforestation requirement of 0.27 acres with a fee-in-lieu payment or off-site forest conservation bank. This Application satisfies the requirements of the Forest Conservation Law.

Noise

The project design includes a service area with loading docks and dumpsters located behind the Montgomery Arms Apartments. The Applicant will provide appropriate onsite measures to avoid or minimize the potential noise impacts. Part of the mitigation may include a limited schedule for loading and trash pick-up and physical buffering of HVAC units.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. MCDPS approved the Stormwater management concept on August 15, 2013. The stormwater management consists of environmental site design to the maximum extent possible through the use of a green roof and micro-bioretenention.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h), and that prior to the expiration 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 must be filed and

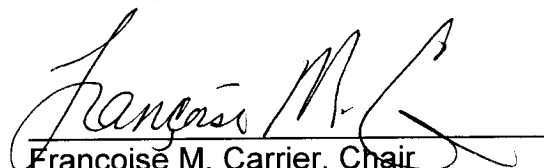
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 15 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, 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, October 3, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

June 22, 2012

Arthur Holmes, Director
Montgomery County Department of Transportation
101 Monroe Street; 10th Floor
Rockville, Maryland 20850

SUBJECT: Administrative Review of Montgomery County Public Parking Garage 21 –
Sale of Property, Intersection of Colesville Road & Spring Street, Silver Spring,
Mandatory Referral # 2012028

Dear Mr. Holmes,

Thank you for submitting the mandatory referral for the sale of Montgomery County Public Parking Garage 21 - in Silver Spring. We have reviewed the application accepted on May 29, 2012, regarding the sale of Parking Garage No. 21 located at the intersection of Colesville Road and Spring Street in Silver Spring, MD. The purchaser, United Therapeutics, intends to redevelop the site with a mixed use project that will include street front retail, office and laboratory space. The project will also include significant public use space and the renovation of the existing streetscape according the Silver Spring Streetscape Standards.

The *Silver Spring CBD Sector Plan*, February 2000, recommends a pedestrian friendly downtown with "active streets and sidewalks, busy with people walking to shop, commute or for pleasure..." The replacement of the parking garage with a mixed use project and upgraded streetscape and public use space at Colesville Road and Spring Street (per the Silver Spring Streetscape Standards) supports this vision.

The applicant provided two studies that support the position that the demolition of Garage 21 will not affect the parking needs of the Silver Spring CBD in a negative way, now or in the future when vacant or underutilized land is built out. Therefore, given the poor condition of Garage 21, the sale is reasonable. In general, however, we urge the county to be cautious about disposing parking garages in a rapidly growing CBD. Should a parking shortage develop at some point in the future, the ability to purchase land for a new facility would be greatly constrained.

Please consider this letter as administrative approval of a Mandatory Referral under Article 28 of the Regional District Act. If any questions arise, feel free to contact John Marcolin at 301 495-4547.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rose Krasnow".

Rose Krasnow
Acting Planning Director

cc: Mike Madden, Maryland Transit Administration
Rheena Mathews, Regional Planner, Maryland State Highway Administration
Brian Young, District Engineer, Maryland State Highway Administration

Martin O'Malley, *Governor*
 Anthony G. Brown, *Lt. Governor*



MARYLAND DEPARTMENT OF TRANSPORTATION

James T. Smith, Jr., *Secretary*
 Melinda B. Peters, *Administrator*

March 28, 2014

Mr. Michael Plitt
 Macris, Hendricks & Glascock, P.A.
 9220 Wightman Road, Suite 120
 Montgomery Village, Maryland 20886

RE: Montgomery County
 US 29 (Colesville Road)
 United Therapeutics – Phase 3
 SHA Tracking No: 13APMO024xx
 Site Plan No: 810140110
 Mile Post: 1.04

Dear Mr. Plitt:

Thank you for the opportunity to review the preliminary plan, dated February 27, 2014, for the proposed United Therapeutics – Phase 3 development in Montgomery County. The State Highway Administration (SHA) offers the following comments:

Office of Environmental Design (OED) Comments:

1. **Planted Tree Panel.** The plans submitted by the applicant appear to be consistent with the existing streetscape to the north and south of the subject area. However, the urban tree planting concept of this segment of US 29 is not fully consistent with the current design concepts of the SHA Landscape Design Guide for urban roadways because the existing Zelkova trees as well as the proposed Zelkova trees are located much closer to the curb than would ordinarily be preferred. Although Zelkova trees installed in iron gratings and amended soil panel as proposed will require additional pruning and maintenance costs, the OED does not object to removal of the existing trees or installation of the proposed Zelkova, grating and panel as long as it is understood that all costs related to future maintenance of this project shall be borne by the applicant or other agencies.
Note: The text at the bottom of L3.0 regarding substitution is not acceptable for plant material installed in the right of way. See comment 4 e, below.
2. **Accessory Structures and Plantings within Right of Way.** OED does not object to installation of the proposed structures and plantings within the right of way, as long as it is understood that all costs related to the future maintenance of structures and plantings shall be borne by the applicant or other agencies.
 - a. **Core 10 Steel.** Because Core 10 steel facings are likely to stain and degrade the appearance of adjacent masonry surfaces, OED recommends that other materials be considered for this use.
 - b. **Chasmanthium.** OED recommends that other species be considered in lieu of Chasmanthium latifolium, as that species has often proven to be invasive and difficult to control in ornamental landscape plantings.
3. **Guidance Documents and Landscape Plan.** The applicant shall refer to the 'Environmental Guide for Access and District Permit Applicants', the 'SHA Landscape Design Guide, the 'SHA Landscape Estimating Manual' and the 'SHA Preferred Plant List'. These documents provide guidance regarding roadside landscape design and plant materials selection. The applicant shall ensure that landscape plans are developed in conformance with SHA standards for landscaping, and include all required landscape elements described in Ch. 6.2 of the 'Environmental Guide' such as posted speeds of all adjoining roadways, right of way lines, location of overhead utility wires and poles, underground utilities, signs, etc.

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

4. SHA Landscape Notes:

- a. The applicant shall include the title and all pertinent SHA Landscape Notes per Chapter 7.0 of the 'Environmental Guide'.
 - b. The following Notes appear to be appropriate, and others may be necessary depending upon the final design of the project: 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.12, 7.14, and 7.24.
 - c. It is understood that soil materials for the amended soil panel will be defined in the plans. The applicant shall modify and insert the text of the Note required for 7.8 Soil Restoration as appropriate for this project.
 - d. The applicant shall refer to Chapter 5.6-e of the 'Environmental Guide', and shall modify and insert the text of the Note required for 7.23 Finished Materials to clearly indicate the materials to be installed in SHA right of way for this project.
 - e. The following shall be inserted into the SHA Landscape Notes:
 - I. *Zelkova trees shall be installed at least 2.5 feet from the back of curb in the locations indicated in the landscape plan. Any Modification Request regarding installation size or species will approved per 710.03.01 (b) of the 2008 SHA Standard Specifications.*
5. If you would like electronic copies of the SHA guidance documents mentioned in these comments, please contact Mr. Joe Vervier at 410-545-8590 or by email at jvervier@sha.state.md.us for assistance.

Access Management Division Comments:

1. The proposed improvements within SHA right of way will require right of dedication. The State Highway Administration requires that any right-of-way or easement donation (dedication) be platted to SHA standards. These standards may be found at <http://www.roads.maryland.gov>; - Business Center; - Surveyors Center; then follow the link to Developer Donation Plat Standards. Please contact Ms. Jane Heming, Chief, Records & Research Section, Office of Real Estate at 410-545-2829 or jheming@sha.state.md.us for existing right-of-way information. Note that any plats produced for the SHA shall be on NAD83/91 datum. Please contact Mr. Dan Sain, Assistant Division Chief, Plats and Surveys Division at 410-545-8961 or dsain@sha.state.md.us for SHA-GPS control location and information. All plats must be submitted in hard copy format for review, checking and final issuance. All subdivision plats that will be showing donated area must be approved by PSD prior to recordation at the County level. The first plat submission shall come through the Access Management Division directly to Mr. Steven Foster, attention of Mr. Erich Florence. Subsequent plat submissions may be made directly to the Plats and Surveys Division. Please contact Mr. Bill Carroll, Assistant Division Chief, Plats and Surveys Division at 410-545-8958 or bcarroll2@sha.state.md.us for additional information about the Donation Plat review process. Additionally, contact Mr. Paul Lednak, Chief, District 3 Right-of-Way at 301-513-7466 or via email at plednak@sha.state.md.us for information about the Donation Deed requirements and procedures.
2. If SHA accepts responsibility in maintenance of the landscaping items stated in the OED comments #1 and #2, a Memorandum of Agreement (MOA) will need to be executed.
3. Previously, AMD stated in the letter dated June 25, 2013 that this project would be subject to the terms and conditions of a District Office (DO) permit. That statement was an error. All work within SHA right of way associated with a commercial development must be handled as an access permit.
4. Please provide a cost estimate of all proposed work within SHA right of way.

Mr. Michael Plitt
SHA Tracking No: 13APMO024XX
Page 3
March 28, 2014

Further plan submittals should reflect the above comments. Please submit six (6) sets of revised plans, a CD containing the plans and supporting documentation in PDF format and 2 copies of the revised study, as well as a point by point response, to reflect the comments noted above directly to Mr. Steven Foster attention of Mr. Erich Florence. Please reference the SHA tracking number on future submissions. Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at <http://www.roads.maryland.gov/pages/amd.aspx>. If you have any questions, or require additional information, please contact Mr. Erich Florence at 410-545-0447, by using our toll free number in Maryland only at 1-800-876-4742 (x0447) or via email at eflorence@sha.state.md.us.

Sincerely,



for Steven D. Foster, Chief/Development Manager
Access Management Division

SDF/JWR/emf

cc: Mr. Richard Brush, Montgomery County Department of Permitting Services/
rick.brush@montgomerycountymd.gov
Mr. Bill Carroll, SHA – Plats and Surveys Division
Ms. Catherine Conlon, Montgomery County Planning Commission/
Catherine.Conlon@montgomeryplanning.org
Mr. Victor Grafton, SHA – District 3 Utility Engineer
Mr. Avi Halpert, applicant – United Therapeutics Corporation/
1040 Spring Street, Silver Spring, MD 20910
Ms. Jane Heming, SHA – Office of Real Estate
Mr. Paul Lednak, SHA – District 3 Right of Way
Mr. Mark McKenzie, SHA – Access Management Division Assistant Regional Engineer
Ms. Anyesha Mookherjee, SHA – District 3 Assistant District Engineer - Traffic
Mr. Scott Newill, SHA - Access Management Division Regional Engineer
Mr. John Ritter, SHA – District 3 Resident Maintenance Engineer – Fairland Shop
Mr. Dan Sain, SHA – Plats and Surveys Division
Mr. Joe Vervier, SHA - OED
Mr. Brian Young, SHA – District 3 Engineer
mplitt@mhgpa.com



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

August 15, 2013

Mr. Ken Jones
Macris, Hendricks, and Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279

Re: Stormwater Management **CONCEPT** Request
for United Therapeutics Addition to Silver Spring
Lot 2
Preliminary Plan #: 120130190
SM File #: 252053
Tract Size/Zone: 1.55 Ac./CBD-1
Total Concept Area: 1.87 Ac.
Lots/Block: 2
Watershed: Sligo Creek

Dear Mr. Jones:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD to the MEP by the use of green roof, planter box micro-bioretenention, and bio-filter tree pits. Also a request for a waiver of remaining ESDv and Qn is granted due to site constraints (building extends from lot line to lot line).

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Bio-filter tree pits proposed in Colesville Road right of way must be accepted by MSHA, if not then this area will be waived.
6. At time of building design have the architect look at expanding the green roof area. Also look at providing green roof under the photovoltaics, this has been done on other buildings with in the United States.
7. The internal parking is to drain to WSSC.
8. Must provide easements and covenants for the green roof and planter box micro-bioretenention facilities.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

Ken Jones
Page 2
August 15, 2013

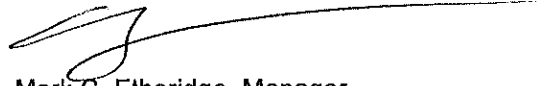
This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: jb CN252053 United Therapeutics Addition to Silver Spring Lot 2.DWK

cc: C. Conlon
SM File # 252053

ESD Acres:	0.88
STRUCTURAL Acres:	0.00
WAIVED Acres:	1.87