



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

JUL 15 2009

**MCPB No. 09-71**  
**Preliminary Plan Amendment No. 11999043C**  
**Fishers Place at Twinbrook Metro**  
**Date of Hearing: June 18, 2009**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

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

WHEREAS, on October 3, 2008, JBG/Twinbrook Metro, LLC ("Applicant"), filed an application for approval of an amendment to a previously approved preliminary plan of subdivision of property that would amend the approved uses from 586,000 square feet of research and development uses, 186,000 square feet of office uses, and 8,000 square feet of retail uses, to 288,105 square feet of research and development, 444,915 square feet of office, and 5,540 square feet of retail on four lots on 11.82 acres of land located on the north side of Fishers Lane, 300 feet east of the intersection of Twinbrook Parkway ("Property" or "Subject Property"), in the Twinbrook Sector Plan Amendment to the North Bethesda/Garrett Park Master Plan area ("Master Plan"); and

WHEREAS, Preliminary Plan 119990430, which was approved on May 27, 1999, entitled 564,000 square feet of research and development and office uses; Preliminary Plan Amendment 1199043A, which was approved on June 21, 2001, entitled 401,000 square feet of research and development uses, 306,200 square feet of office uses, and 8,000 square feet of retail uses; and Preliminary Plan Amendment 1199043B, which was approved on November 4, 2004, entitled 586,000 square feet of research and development uses, 186,000 square feet of office uses, and 8,000 square feet of retail uses; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 11999043C, Fishers Place at Twinbrook Metro ("Preliminary Plan" or "Application"); and

Approved as to  
 Legal Sufficiency:

*[Handwritten Signature]* 7/1/09

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WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 8, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on June 18, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 18, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Robinson; with a vote of 3-1, Commissioners Alfandre, Hanson, and Robinson voting in favor; Commissioner Cryor voting in opposition; and Commissioner Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan Amendment No. 11999043C to amend the approved uses from 586,000 square feet of research and development uses, 186,000 square feet of office uses, and 8,000 square feet of retail uses, to 288,105 square feet of research and development, 444,915 square feet of office, and 5,540 square feet of retail four lots on 11.82 acres of land located on the north side of Fishers Lane, 300 feet east of the intersection of Twinbrook Parkway ("Property" or "Subject Property"), in the Twinbrook Sector Plan Amendment to the North Bethesda/Garrett Park Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to four lots for 444,915 square feet of office, 288,105 square feet of research and development, and 5,540 square feet of retail uses.
- 2) The certified preliminary plan must delineate an unencumbered accessway over Driveway A. On the portion of Driveway A that is adjacent to the northeast side of proposed Buildings 1 and 2, the delineated accessway must encompass the area between the back of the curb to the exterior wall of the underground parking garage; on the portion of Driveway A that is adjacent to the southeast side of proposed Building 2, the delineated accessway must encompass the area between the back of curb to the back of curb on each side of the driveway. A note must be placed on the plan that refers to the delineated unencumbered accessway as follows: "No buildings or other additional structures, other than those shown on the approved preliminary plan, may project over, under, or within this area." The delineated



- unencumbered accessway and the accompanying note must be shown on any site plan that is approved pursuant to this preliminary plan.
- 3) The certified preliminary plan must delineate an unencumbered area for a future extension of Wilkins Avenue. The delineated area must encompass the portions of Lots 13 and 14 that are bounded by the northern lot line of Lots 13 and 14, the eastern lot line of Lot 14, the western lot line of Lot 13, and a line that is parallel to and 40 feet from the northern lot line of Lots 13 and 14. A note must be placed on the plan that refers to the delineated area as follows: "No buildings or other additional structures, other than those shown on the approved preliminary plan, may project over, under, or within this area." The delineated area and the accompanying note must be shown on any site plan for Lots 13 or 14 that is approved pursuant to this preliminary plan.
  - 4) Prior to certification of the preliminary plan, the "Proposed Development Program" chart on the plan must be revised to accurately reflect the approved land uses in Condition 1 above.
  - 5) The applicant must satisfy the Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) tests by contributing \$261,000 towards M-NCPPC's Capital Improvements Program (CIP) Project No. 048703, Rock Creek Trail Pedestrian Bridge over Veirs Mill Road. The contribution must be made in full towards the M-NCPPC's CIP Project prior to certification of the site plan.
  - 6) In connection with 5615 Fishers Lane, the applicant must amend the existing Fishers Place Traffic Mitigation Agreement to participate in the North Bethesda Transportation Management District (TMD) to reflect the proposed additional commercial space. This amended Traffic Mitigation Agreement must be executed prior to certification of the site plan. In connection with 12709 Twinbrook Parkway, the Applicant must amend the existing Fishers Place Traffic Mitigation Agreement to participate in the North Bethesda Transportation Management District (TMD). However, in the event that the ownership of 12709 Twinbrook Parkway is transferred to another party, the contract purchaser may assume this obligation by entering into a new Traffic Mitigation Agreement to participate in the North Bethesda Transportation Management District (TMD) or by amending the existing Traffic Mitigation Agreement pertaining to the 12601 Twinbrook Parkway property, prior to the issuance of a building permit for 12709 Twinbrook Parkway.
  - 7) The applicant must provide the following bicycle parking:
    - a. Four (total) inverted-U bike racks (each accommodating two bicycles). Two racks are to be placed near the main entrance of proposed Buildings 1 and 2 and two racks are to be placed at the main entrance of proposed Building 3.
    - b. Twelve bike lockers (each holding one bicycle) located in the garage on Lot 16, in a well-lit location.



- The ultimate locations will be shown on the certified site plan.
- 8) The applicant must comply with the conditions of the MCDPS stormwater management approval dated April 25, 2001. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
  - 9) The applicant must comply with the conditions of the MCDOT letter dated May 15, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
  - 10) The applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of access permits.
  - 11) No clearing or grading prior to certified site plan approval.
  - 12) Final approval of the number and location of buildings, floor area, on-site parking, site circulation, and sidewalks will be determined at site plan.
  - 13) The Adequate Public Facility (APF) review for the preliminary plan will remain valid until June 16, 2017.
  - 14) All other conditions of Preliminary Plan 119990430, Preliminary Plan Amendment 11999043A, and Preliminary Plan Amendment 11999043B that were not modified herein, as contained in the Planning Board's opinions dated June 16, 1999, August 3, 2001, and January 19, 2005, respectively, remain in full force and effect.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The 2008 Twinbrook Sector Plan Amendment to the 1992 North Bethesda/Garrett Park Master Plan recommends that the area along Fishers Lane, including the Subject Property, be developed as a technology employment area with mixed uses including advanced technology and biotechnology. The sector plan recommends that the Subject Property be rezoned from I-1 to TMX. The zoning ordinance, however, includes a provision that allows development to proceed under the standards of the previous I-1 zone. The proposed subdivision substantially conforms to the sector plan because the Subject Property contains existing office and research and development uses and will contain additional proposed office and research and development uses as recommended in the sector plan. The subdivision proposes buildings that are oriented towards the street, also as recommended in the sector plan.



The sector plan also recommends that two streets, Washington Avenue and Wilkins Avenue, be extended from their current termini at Parklawn Drive to Twinbrook Parkway. The alignments for one or both of these future streets may ultimately traverse the Subject Property. In order to protect the future alignments of these streets, condition #3 requires establishment of two areas, one for each of the streets, into which buildings or other structures may not project. As conditioned, these future street connections will be protected until such time as right-of-way is dedicated or acquired in the future, and the subdivision substantially conforms to the Master Plan.

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

#### Local Area Transportation Review (LATR)

In accordance with the Local Area Transportation Review and Policy Area Mobility Review Guidelines, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the existing and proposed land uses generates 30 or more peak-hour trips within the weekday morning and evening peak periods. As indicated in the traffic study, the Critical Lane Volume (CLV) value exceeds the congestion standard of 1,550 CLV for the North Bethesda Policy Area at two intersections – Twinbrook Parkway/Veirs Mill Road and Rockville Pike/Twinbrook Parkway. The applicant must satisfy LATR by mitigating 100% of site-generated trips with a non-automobile transportation improvement. The applicant will contribute \$261,000 towards M-NCPPC's CIP Project No. 048703, the Rock Creek Trail pedestrian bridge over Veirs Mill Road. This bridge project will provide a safe grade-separated crossing of the Rock Creek Trail over Veirs Mill Road, a multilane major highway. The Rock Creek Trail is an off-road regional path extending from the District of Columbia boundary line to Rock Creek Regional Park. The pedestrian overpass bridge is located adjacent to the North Bethesda Policy Area and the regional trail leads towards the Twinbrook Policy Area.

#### Policy Area Mobility Review

Under the current Growth Policy, the Policy Area Mobility Review (PAMR) test requires the applicant to mitigate 40% of the net 127 new peak-hour trips generated by the proposed additional commercial development within the weekday morning and evening peak periods. The non-automobile transportation improvement to mitigate the LATR impact will also satisfy PAMR.

Vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed improvements.



### Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property is served by public water and public sewer. Montgomery County Fire and Rescue Service has determined that the Property has 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 Growth Policy resolution currently in effect and will be adequate to serve the Property. Electrical, gas, and telecommunications services are also available to serve the Property.

### Extension of Adequate Public Facilities Review

The current adequate public facilities determination for this subdivision was approved with Preliminary Plan Amendment 11999043C on August 3, 2001 with an expiration date of June 16, 2011. Subsequently, the approval period was extended to June 16, 2013 by Subdivision Regulation Amendment 09-1, adopted by the County Council on March 31, 2009. The applicant has requested a four year extension of the APF validity period to June 16, 2017.

Pursuant to Section 50-20(c)(5) of the Subdivision Regulations, the Planning Board may approve one or more additional extensions of a determination of adequate public facilities, up to six years, if:

(A) at least 40% of the approved development has been built, is under construction, or building permits have been issued;

(B) all of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and

(C) occupancy permits have been issued for at least 5 percent of the project within the 4 years before an extension request is filed.

Approximately 481,980 square feet (62%) of the total density approved pursuant to the preliminary plan (780,000 square feet), have been built, and use and occupancy permits for approximately 118,905 square feet (15%) of the total were issued in the last four years. Finally, all of the infrastructure requirements of the preliminary plan have been satisfied.



The Planning Board finds that an extension of the APF validity period is consistent with Section 50-20(c)(5) of the Subdivision Regulations, and, therefore, the APF validity period is extended to June 16, 2017.

The Property shall be constructed in accordance with the following phasing schedule, in compliance with Section 50-20(c)(7)(A) of the Subdivision Regulations:

- Phase I – The first four buildings at 12725 and 12735 Twinbrook Parkway and 5625 and 5635 Fishers Lane, which have been completed.
- Phase II – 5615 Fishers Lane and 12709 Twinbrook Parkway, which will be completed by June 16, 2017.

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

The Subject Property is the subject of an approved forest conservation plan, which required 1.77 acres of afforestation. The afforestation requirement was met on-site with a credit for existing tree cover and proposed landscaping, totaling 1.92 acres. The proposed limits of disturbance in the subject application do not conflict with the approved forest conservation plan.

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

The MCDPS Stormwater Management Section approved the stormwater management concept for the Application on April 25, 2001, and reconfirmed the approval on August 7, 2008. The stormwater management concept includes on-site water quantity control via underground storage and on-site water quality control via "stormfilter" and "stormceptor" structures.

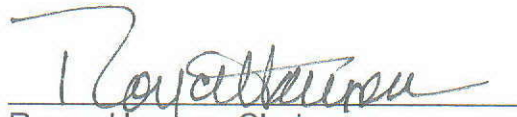
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is                     , JUN 15 2009 (which is the date that this Resolution is mailed to all parties of record); and

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 Robinson seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Cryor and Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, July 9, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board