



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

MAR 27 2014

MCPB No. 14-12
 Preliminary Plan No. 120110160
 Shady Grove Adventist Hospital
 Date of Hearing: January 23, 2014

RESOLUTION

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

WHEREAS, on March 24, 2011, Adventist HealthCare (“Applicant”), filed an application for approval of a preliminary plan of subdivision that would create 7 lots and allow for a maximum of 1,133,856 square feet of hospital and life-science related uses (626,910 square feet of previously approved, 506,946 square feet of new) on approximately 39.16 acres of land in the LSC Zone, located in the northeast quadrant of the intersection of Broschart Road and Medical Center Drive (“Subject Property”), in the LSC Central District of the Great Seneca Science Corridor Master Plan (“Master Plan”) area; and

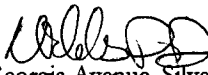
WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120110160, Shady Grove Adventist Hospital (“Preliminary Plan” or “Application”); and

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 January 13, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 23, 2014, 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 January 23, 2014, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor and Commissioner Anderson absent.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120110160 to subdivide the Subject Property to create 7 lots and

Approved as to  3/13/14
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allow for a maximum of 1,133,856 square feet of hospital and life-science related uses (626,910 square feet of previously approved, 506,946 square feet of new), subject to the following conditions:¹

1. Total development on the Subject Property is limited to an additional 506,946 square feet of medical-related uses for a total of 1,133,856 square feet of medical-related uses.
2. Prior to record plat, the Applicant must dedicate the Master Plan recommended 150-foot right-of-way for Broschart Road (150 feet from the opposite right-of-way line along the Subject Property frontage). The Applicant must reflect the dedication on the record plat.
3. Prior to record plat, the Applicant must dedicate the Master Plan recommended 100-foot right-of-way for Blackwell Road (100 feet from the opposite right-of-way line along the Subject Property frontage). The Applicant must reflect the dedication on the record plat.
4. The Applicant must satisfy the Local Area Transportation Review ("LATR") test by providing the following intersection improvements:
 - a. Key West Avenue-West Montgomery Avenue (MD 28) and Shady Grove Road:
 - i. Extend the third left-turn lane on eastbound Key West Avenue through participation in the previously established Road Club of the developers of Preliminary Plan No. 120110080, 9800 Medical Center Drive and Preliminary Plan No. 11986115C, Johns Hopkins University (JHU)-Montgomery County Medical Center (MCMC).
 - ii. The Applicant must contribute the equivalent pro rata cost of adding a fourth westbound lane towards implementation of the Corridor Cities Transitway.
 - b. Key West Avenue (MD 28) and Omega Drive-Medical Center Drive: Reconfigure the left-most through lane on southbound Omega Drive to a second left-turn lane consistent with the same condition of approval required of the developer of Preliminary Plan No. 120120180/Site Plan No. 820120130, Mallory Square.
 - c. Great Seneca Highway (MD 119) and Sam Eig Highway: Construct a third eastbound through lane on Great Seneca Highway with the necessary traffic signal modifications through the participation in the Road Club of the developers of Preliminary Plan No. 120110080, 9800 Medical Center Drive, and Preliminary Plan No. 11986115C, JHU-MCMC.

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. Great Seneca Highway and Muddy Branch Road: Construct a second left-turn lane on northbound Muddy Branch Road and a second left-turn lane on westbound Great Seneca Highway with the necessary traffic signal modifications through participation with the developer of Preliminary Plan No. 11986115C, JHU-MCMC.
5. The Applicant must submit a Letter of Intent to confirm its plan to identify, create, fund, and construct the intersection improvements by the previously established or a new privately-operated Road Club. Prior to release of any building permit, the intersection improvements above must be permitted and bonded by the Montgomery County Department of Permitting Services ("DPS") and the Maryland State Highway Administration ("SHA").
6. Prior to release of any building permit, the Applicant must execute a Traffic Mitigation Agreement with the Planning Board and the Montgomery County Department of Transportation ("MCDOT") to participate in the Greater Shady Grove Transportation Management Organization and assist in achieving its Stage 2 non-auto driver mode share of 18%, in compliance with the *Great Seneca Science Corridor Master Plan*.
7. Business district streets B-8 (Road G), B-12 (Road K), B-15 (Road N), and B-16, as shown on the Plan, may be implemented as private streets subject to the following conditions:
 - a. Prior to record plat, the Applicant must grant public access easements for the private streets and adjacent parallel sidewalks. The public access easement agreement must be reviewed and approved by MCDOT, DPS, the Office of the County Attorney, and the Maryland-National Capital Park and Planning Commission ("M-NCPPC"), and the boundaries of the easement areas must be shown on the record plat. The easement agreement must include, at a minimum, provisions for the following:
 - i. The public access easement must include volumetric dimensions to accommodate uses above and below the designated easement areas for the private streets as described below:
 1. The full 70 feet of public access easement along north-south Road G/master-planned business district street, B-8, on the Subject Property and four adjacent properties.
 2. The full 60 feet of public access easement along east-west Road K/master-planned planned business district street, B-12, on the Subject Property and one adjacent property.
 3. The full 70 feet of public access easement along east-west Road N/master-planned planned business district street, B-15, on the Subject Property.
 4. The full 70 feet of public access easement along east-west Traville Gateway Drive Extended/ master-planned business

district street, B-16, on the Subject Property, except the section accepted as 50 feet in front of the hospital, as shown on the Preliminary Plan.

- ii. Installation of public utilities must be permitted within the public access easement areas.
 - iii. The private streets may not be closed for any reason unless approved by MCDOT.
 - iv. Montgomery County may require the Applicant to install appropriate traffic control devices within the public access easement areas, and the County must have the right to construct and install such devices.
 - v. At the time of record plat, Maintenance and Liability Agreements for each easement area must be entered into by the Applicant. These Agreements must identify the Applicant's responsibility to maintain all the improvements within the easement areas in good fashion and in accordance with applicable laws and regulations.
 - vi. MCDOT must inspect the private streets once they are constructed and verify that they have been constructed in accordance with the corresponding Road Code standard for a similar public road.
 - vii. The Applicant is obligated to remove snow and provide repairs to keep the roads open and in working order and if, for any reason, the Applicant does not, Montgomery County must have the right, but not the obligation, to remove snow and/or provide repairs within the easement areas.
 - viii. Montgomery County may charge the Applicant stormwater management fees if County facilities are to be utilized.
- b. The public access easement must be shown on the record plat, and all private streets must be located within their own parcel, separate from the proposed development.
8. The Applicant must construct the private streets to corresponding public road standards and in accordance with Montgomery County Road Code standard 2005.02 for streets B-8, B-15, and B-16 and Road Code standard 2005.01 for street B-12, including sidewalks and amenities, unless modified by MCDOT and the Planning Board at the time of site plan review. The design of these master-planned roads must also comply with the *Great Seneca Science Corridor Master Plan*, and the Master Plan's Urban Design Guidelines. The final extent, delineation and alignment of these streets shall be determined at the time of site plan review.
 9. The Applicant must ensure that any subsequent site plans for the Subject Property reflect the latest Maryland Transit Administration ("MTA") alignment and

- design of the CCT along the east side of Broschart Road and the CCT station on the Applicant's side of Broschart Road near the intersection of Blackwell Road.
10. The Applicant must show on the entire cross-section of the adjacent streets and intersections including the CCT Station, curb cuts on the opposite side, and crosswalks and handicapped ramps on all intersection legs at the time of site plan review.
 11. Prior to issuance of any Use and Occupancy Certificate, the Applicant must construct the master-planned 8-foot wide shared use paths LB-1, LCS Loop, along Medical Center Drive and SP-66, CCT, along Broschart Road.
 12. The Applicant must show the required number of bicycle parking spaces by providing inverted-U bike racks for visitors near the main entrance in a weather-protected area and bike lockers or secured bike rooms for employees at the time of site plan review.
 13. The Applicant must submit a Final Forest Conservation Plan with subsequent site plans for the Subject Property. The Applicant may install plantings or make payments of the fee in lieu pursuant to the approved Final Forest Conservation Plan on a pro-rata share basis with each site plan.
 14. Prior to any clearing or grading on the Subject Property, the Applicant must submit and obtain approval of the forest conservation financial security instrument.
 15. The Applicant must include three native canopy trees of at least 3" dbh in mitigation for the removal of variance tree T-17. These trees should be shown on the landscape plans submitted with the site plan.
 16. The Planning Board has accepted the recommendations of MCDOT in its letter dated January 6, 2014, and hereby incorporates 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 this Preliminary Plan approval.
 17. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
 18. The Planning Board has accepted the recommendations of the DPS stormwater management concept approval letter dated April 5, 2011, and hereby incorporates 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 DPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 19. No clearing and grading of the site or recording of plats can occur prior to approval of the certified site plan except for demolition of the existing structures.
 20. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the Preliminary Plan with respect to lot configuration or

right-of-way location, width, or alignment (except the modifications required by these conditions), the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the site plan.

21. The Certified Preliminary Plan 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, 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, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

22. All necessary easements must be shown on the record plat.

23. Phased Validity Periods:

a. The Adequate Public Facility (APF) approval for the Preliminary Plan will remain valid subject to the following phasing schedule:

- Phase I: Issuance of building permits for the originally approved 626,910 square feet of development (523,480 square feet of built and 103,430 square feet of approved but unbuilt) before July 25, 2019.
- Phase II: Issuance of building permits for 256,946 square feet of development (for a cumulative total of 883,856 square feet) within 85 months from the date the Preliminary Plan Resolution is mailed.
- Phase III: Issuance of building permits for 250,000 square feet of development (for a cumulative total of 1,133,856 square feet) within 145 months from the date the Preliminary Plan Resolution is mailed.

b. The validity period of the Preliminary Plan is subject to the following phasing schedule; by which time the record plat(s) for the land area that will be needed to construct the buildings in each APF phase must be recorded:

- Phase I: By July 25, 2019;
- Phase II: 61 months from the date the Preliminary Plan Resolution is mailed;
- Phase III: 121 months from the date the Preliminary Plan Resolution is mailed.

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

herein²), 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 Master Plan.*

Site Specific Recommendations

The Preliminary Plan complies with the following Master Plan recommendations that are specific to the Subject Property:

- Allow a maximum of 1.5 FAR for properties in the center of the district (bounded by Key West Avenue, Medical Center Drive, and Broschart Road);
- Require submission of a Concept Plan prior to approval of any future individual development projects for Adventist Health Care to address the Plan's guidelines, including the location of the CCT, the highest densities and height at transit, the mix of uses, creation of a local street network, and provision of open spaces;
- Locate the highest density and tallest buildings adjacent to the transit station to form an identifiable center;
- Create an identifiable LSC Loop along Medical Center Drive that connects pedestrians to other transit centers, the network of natural pathways along the stream buffers, and open spaces;
- Design Broschart Road as an urban street, lined with buildings and activating uses;
- Design Blackwell Road with a building edge and improved connections;
- Provide at least 15% of the net tract area as public use space;
- Include the following public open spaces:
 - LSC Loop;
 - Stream buffers;
 - Urban square at the CCT Station;
 - Urban promenade to connect between buildings and public spaces.
- Locate a CCT Station along Broschart Road near Blackwell Drive in the vicinity of Adventist Health Care and Johns Hopkins University; and
- Extend Blackwell Road between Medical Center Drive and Broschart Road;
- Provide dedications allowing for:
 - 100-feet of right-of-way for Blackwell Road;
 - 150-feet of right-of-way for Broschart Road; and
 - Master planned business district streets B-8, B-12, B-15, and B-16.

² This Resolution reflects several minor corrections to the Staff Report and the information presented by Staff to the Board at its January 23, 2014 hearing. Staff proposed these corrections in a memorandum dated March 6, 2014 and presented to the Board as part of its consent agenda on March 20, 2014, along with this Resolution.

CCT Location

The Master Plan recommends that the CCT route travel along the subject site on the east side of Broschart Road. A station, to be accompanied by an urban square, is recommended on the northwest corner of the Subject Property.

The Applicant's Preliminary Plan and Concept Plan provide for the dedication and design of the CCT on the west side of the Subject Property. The Applicant has also designed an urban square to complement the planned CCT station when constructed. The Preliminary Plan reflects the general alignment of the CCT recommended in the Master Plan, but final alignment of the CCT will be determined during site plan review when the detailed site layout is designed. MTA believes the CCT can be accommodated within the eventual 150-foot right-of-way of Broschart Road as shown on the Preliminary Plan. During site plan review, the final alignment should maximize comfort and usability for pedestrians and transit users, and optimize access to the open spaces and circulation system.

Density and Height

The Master Plan recommends the LSC zone with a density limit of 1.5 FAR for the Subject Property. Maximum building heights are recommended at 110 feet on the eastern and southern portion of the Subject Property and 150 feet on the northwestern portion of the Subject Property, which is closer to transit.

The Applicant's Preliminary Plan and Concept Plan adhere to the Master Plan recommendations regarding density and height. As shown, within the building envelopes of allowed height, the 1.5 FAR is dispersed between lower buildings on the southern and eastern portions of the Subject Property, while the taller buildings are located on the northern portion of the site at the intersection of Broschart and Blackwell Roads.

The Master Plan also recommends that Adventist Health Care and JHU design the east side of Broschart Road as an urban street, lined with buildings and activating street level uses. The lot and street layout of the Preliminary Plan will accommodate the Master Plan's vision for this density and street edge. Activating uses and a confronting CCT Plaza will be expected in future phases as the buildings on the northern end of the Subject Property, closest to the intersection of Broschart and Blackwell Roads, come in for site plan review.

Circulation System & Mobility

The Preliminary Plan conforms to the Master Plan's recommendations for circulation and mobility. The Applicant's dedication of the CCT right-of-way on Broschart Road and right-of-way for Blackwell Road will allow for the Master Plan recommended vehicular and transit improvements along the Subject Property's peripheral roads. All Master Plan recommended roads internal to the Subject Property will be built to

public road standards and located in their own separate and distinct parcels, thus achieving the mobility and design objectives of the Master Plan, but they will be maintained privately with public access easements over the right-of-way width that would otherwise be required. These interior roads are discussed in greater detail below.

The Applicant's Preliminary Plan and Concept Plan address the additional Master Plan circulation and mobility recommendations, and they show the CCT alignment and station, the extension of Blackwell Road, pedestrian sidewalks and paths, the LSC Loop Connection, and Broschart Road as envisioned in the Master Plan. In particular, they represent Broschart Road as an urban street with the proposed CCT alignment and significant building frontage. The internal streets, which form an urban-scale network of blocks, will have sidewalks that connect to adjacent properties and the open spaces within the Subject Property. These sidewalks will connect to master-planned paths, including the LSC Loop, that run with the major roads along the periphery of the Subject Property.

Public Use Space

The Applicant's Preliminary Plan and Concept Plan provide for the LSC Loop, the urban square at the proposed CCT Station, and the connections between buildings and open spaces envisioned by the Master Plan. In addition, the Preliminary Plan shows numerous corridors between buildings allowing access to parking or serving as mid-block connections. Staff will ensure that the space between buildings ties into the larger open space areas of the Subject Property during site plan review. Each of the applicable master-planned open spaces is shown on the Applicant's Preliminary Plan and Concept Plan. As shown on the Preliminary Plan, 20% of the net tract area will be devoted to public use space, with the final percentage to be determined at time of site plan.

Therefore, the Planning Board finds the Preliminary Plan and Concept Plan to be in substantial conformance with the Master Plan.

Master Planned Roadways B-8, B-12, B-15, and B-16

The Master Plan identifies four business district rights-of-way on the Subject Property. They are Roadways B-8, B-12, B-15, and B-16. According to the Master Plan, business district street B-12 should be dedicated and constructed as a 60-foot wide right-of-way, while business district streets B-8, B-15, and B-16 should be dedicated and constructed as 70-foot wide rights-of-way.

The Applicant has requested to maintain these roads as private roads with public access easements instead of dedicating the roads to the public. Although the Master Plan envisions these roadways to be dedicated to public use, the business district

roads developed as private roads with public access easements granted to the County are in substantial conformance with the Master Plan, as conditioned by this approval.

The Planning Board supports the Applicant's request due to the unique circumstances of the Subject Property. The Subject Property has been developed and maintained as a hospital campus environment, and the Applicant will retain ownership of the land in order to control the overall design, appearance, and character of the hospital campus. Although B-8 and B-12 have been shown to overlap adjoining properties, all property owners affected have agreed to the Applicant's request to keep the internal roads private. These internal roads, unlike the perimeter roads (i.e., Broschart Road, Blackwell Road, and Medical Center Drive), are not essential to the primary road network for the Master Plan area. Additionally, as private rights-of-way with public access easements, they will still provide alternate route options for pedestrians, cyclists, and vehicles. Also, the roads will be constructed to the public road standards identified in the Master Plan and Design Guidelines, and public access easements will ensure that the roads reflect the master-planned right-of-ways for B-8, B-12, B-15, and B-16 (with the exception of the small segment of B-16 that will be 50-feet wide as shown on the Preliminary Plan).

Due to the layout of the Subject Property, the ultimate right-of-way width, as shown in the Master Plan, for a small segment of B-16 will not be fully achieved. The Board approves a width of 50 feet, instead of the Master Plan recommended 70 foot right-of-way, due to existing building entrances, parking lots, and vehicular and pedestrian circulation patterns on either side of the business district street.

The Applicant will be responsible for maintenance of Roadways B-8, B-12, B-15, and B-16. As conditioned above, the Applicant is required to plat the roads (at a minimum curb to curb) in separate parcels, while the public access easement will cover the larger cross section including the sidewalks envisioned by the Master Plan.

Master Plan Staging Considerations

The Master Plan specifically exempts healthcare services from density limitations applied to Stage 1 of development in the Master Plan area. Thus, as allowed in the Implementation Guidelines and the Master Plan, the Planning Board approves the Preliminary Plan although all of the commercial capacity for Stage 1 has been allocated and Stage 2 is not yet open. The approved 506,946 square feet of new LSC uses will count against the commercial capacity for Stage 2.

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

The Planning Board finds that the following public facilities provide adequate support for and service to the Property.

Vehicular Access Points

The Subject Property will have adequate vehicular access points located at the following intersections:

- Business district street, B-8, and Blackwell Road;
- Business district street, B-12, and Medical Center Drive;
- Business district street, B-15, and Broschart Road;
- Business district street, B-16, and Medical Center Drive;
- Service Road and Broschart Road (if not closed to accommodate the Corridor Cities Transitway and its extension southward to Medical Center Drive, which will be determined at future site plan review).

Master-Planned Roadways and Bikeways

In accordance with the Master Plan and the 2005 *Countywide Bikeways Functional Master Plan*, the Preliminary Plan classifies the roadways and bikeways as follows:

1. Medical Center Drive is designated as a four-lane arterial, A-261d, with a recommended 100-foot right-of-way and a dual bikeway, LB-1, with a shared use path on the west side and a signed shared roadway;
2. Broschart Road is designated as a four-lane arterial, A-261b, with a recommended 150-foot right-of-way where 50 feet is for the CCT right-of-way and a shared-use path, SP-66, on the east side;
3. Blackwell Road is designated as a four-lane business district street, B-1, with a recommended 100-foot right-of-way and a dual bikeway, LB-4, with a shared use path on the north/opposite side and a signed shared roadway;
4. Master-planned Road "G" is designated as a business district street, B-8, with a recommended 70-foot right-of-way and no bikeway;
5. Master-planned Road "K" is designated as a business district street, B-12, with a recommended 60-foot right-of-way and no bikeway;
6. Master-planned Road "N" is designated as a business district street, B-15, with a recommended 70-foot right-of-way and no bikeway; and
7. Traville Gateway Drive is designated as a business district street, B-16, with a recommended 70-foot right-of-way and no bikeway.

Available Transit Service

Existing transit services will be adequate to support and service the Subject Property. Currently, the following three Ride-On routes that directly serve the hospital are:

1. Ride-On route 43 operates between the Shady Grove Metro Station and the Traville Transit Center including along Medical Center Drive with buses running every 30 minutes on weekdays.
2. Ride-On route 56 operates between the Lakeforest Transit Center and the Rockville Metro Station with buses running every 30 minutes on weekdays.
3. Ride-On route 66 operates between the Shady Grove Metro Station and the Traville Transit Center including along Broschart Road with buses running every 30 minutes on weekdays only.

On-Site Pedestrian and Bicycle Facilities

As shown on the Preliminary Plan and Concept Plan, the Applicant will provide pedestrian circulation improvements to connect the buildings, improved internal vehicular north-south connections between the buildings (including the existing Rehabilitation Hospital and proposed Behavioral Health buildings), pedestrian and vehicular directional signage, and the necessary sidewalks, handicapped ramps, and pedestrian crosswalks. The final locations of and materials for such improvements will be determined by subsequent site plans.

Bicycle facilities as shown on the Preliminary Plan are be adequate. Final locations and types of storage and parking facilities will be determined at site plan review.

Master-Planned Transportation Demand Management

The site is located within the boundary of the Greater Shady Grove Transportation Management District (TMD). The Applicant must participate in the TMD and assist the County in achieving and maintaining its non-auto driver mode share goals.

Local Area Transportation Review ("LATR")

A traffic study was required to satisfy the LATR test because the Preliminary Plan generates 30 or more total peak-hour trips within the weekday morning and evening peak periods. The traffic study analyzed projected impacts to sixteen (16) intersections. The calculated CLV values at four of sixteen (16) intersections exceed the applicable CLV congestion standard. Therefore, the Applicant must satisfy the LATR test by providing improvements at four intersections.

The improvements required by the conditions of approval at the intersection of Great Seneca Highway (MD 119) and Sam Eig Highway reduce the total calculated CLV values at that intersection below the applicable congestion standard. However, even with the required improvements, the total calculated CLV at the three other intersections exceed the applicable congestion standards.

For the Key West Avenue and Omega Drive-Medical Center Drive intersection and the Great Seneca Highway (MD 119) and Muddy Branch Road intersection, the required improvements will reduce total CLV values by 150% or more of the site-generated trips (i.e., equaling 150% of the difference between the total and background CLV values). Under the *LATR and TPAR Guidelines*, the Planning Board may approve development in areas where local area conditions exceed the congestion standard if the applicant agrees to reduce CLV by 150% of the CLV impact generated by the development.

For the fourth intersection, at Key West Avenue and Shady Grove Road, the Applicant must extend the third left-turn lane on eastbound Key West Avenue through participation in a previously established Road Club. Although necessary, this improvement will neither allow the intersection to meet the CLV congestion standard nor result in a 150% reduction of the evening total CLV value compared with the background CLV value. While the addition of a fourth westbound lane on Key West Avenue could result in the total improved CLV value remaining at 1,421 during the AM peak hour and being reduced from 1,514 to 1,405 during the PM peak hour, this additional improvement is difficult to implement due to the relocation of utilities and acquisition of additional right-of-way.

In accordance with the *LATR and TPAR Guidelines*, the Board finds that the addition of a fourth westbound lane at Key West Avenue and Shady Grove Road cannot be feasibly implemented by the Applicant. In lieu of the additional intersection improvement, the Applicant must contribute the equivalent cost of constructing the additional improvement towards implementation of the Corridor Cities Transitway. With this and the other conditions required for this Application, the LATR test is satisfied.

Transportation Policy Area Review ("TPAR")

Under the current *Subdivision Staging Policy*, for a complete application for subdivision submitted before January 1, 2013, the Applicant had the choice to satisfy its "policy area review" test by choosing to comply with either the Transportation Policy Area Review ("TPAR") test or the Policy Area Mobility Review ("PAMR") test. The Applicant selected the TPAR test to satisfy the "policy area review" test.

In this case, the TPAR test will not require payment of the transportation impact tax because the approved land use is a hospital with a transportation impact tax of zero percent according to the DPS impact tax rates. Thus, the Planning Board finds the TPAR test is satisfied.

Other Public Facilities and Services

The development will be served by public water and sewer systems. The Montgomery County Fire and Rescue Service reviewed the Application and determined that the Subject Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses, and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following the construction of the project. Electric, gas, and telecommunications services are available and adequate.

- 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 size, shape, and width of the approved lots allow the development to meet the Master Plan goal to provide a more urban and walkable grid network of sidewalks, streets, and blocks while allowing the Hospital to expand as future needs for healthcare services dictate. This Application has also been reviewed for compliance with the Montgomery County Code, Chapter 50-29(a) of the Subdivision Regulations, and Chapter 59, the Zoning Ordinance. The Planning Board finds that the size, shape, width, and area of the lots are appropriate for the location of the subdivision.

Lot Frontage on a Private Street

Section 50-29(a)(2) of the Subdivision Regulations requires "that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road."

The Preliminary Plan's internal, private streets provide the only frontage to one of the seven approved lots. However, these private streets will be constructed to the minimum public road standards and will have at least 20-foot pavement widths with adequate turning radii at intersections where needed for emergency access, an appropriate paving cross-section elsewhere for private vehicles, and an appropriate circulation and turnaround pattern. The private roads will be placed in their own separate parcels at least as wide as the road pavement, and will have public access easements that ensure they remain fully accessible to the

public. Accordingly, the Board finds that private roads B-8, B-12, B-15, and B-16 have attained the status of public roads under the Subdivision Regulations.

The lots are designed in such a way to meet all other requirements of the Subdivision Regulations, including access, frontage, dedication for public uses, adequacy of public facilities and conformance to Master Plan recommendations.

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

A. Forest Conservation Law

The Board finds that, as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Forest Conservation

The Subject Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code), and the Applicant submitted a Preliminary Forest Conservation Plan ("PFCP") for Planning Board approval. For purposes of Forest Conservation, the net tract area of the Subject Property is 38.94 acres. The submitted Preliminary Forest Conservation Plan has an afforestation requirement of 5.84 acres.

In this case, (1) no priority planting areas exist on the Subject Property, (2) the majority of the Subject Property is already developed with buildings and paving, (3) the density of development approved in this Preliminary Plan will approximately double the approved density on the Subject Property, and (4) the intent of the Master Plan for the Subject Property is to accommodate future growth of the Shady Grove Adventist Hospital to serve the health needs of a growing community. Therefore, the Planning Board finds that no appropriate areas exist for on-site planting and that a fee-in-lieu payment is an appropriate option for mitigation in this case. Accordingly, the Applicant may satisfy its afforestation requirement with off-site reforestation, payment of a fee-in-lieu pursuant to Section 22A-12(g)(2)(C), or some combination of the two methods of mitigation.

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the Subject Property on February 29, 2012. The Subject Property contains no forests, streams or their buffers, wetlands or their buffers, or 100-year floodplains. There are no records of Rare, Threatened or Endangered Species on the Subject Property. The

Preliminary Plan is therefore in compliance with the *Environmental Guidelines*.

SPA Preliminary Water Quality Plan Review

As part of the requirements of the Special Protection Area ("SPA") Law, an SPA Water Quality Plan was reviewed in conjunction with the Preliminary Plan. DPS and the Planning Board have different responsibilities in the review of a Water Quality Plan. DPS has reviewed, and conditionally approved, the elements of the Preliminary/Final Water Quality Plan under its purview. In accordance with its responsibilities, the Planning Board has determined that required environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

a. Environmental Buffers

There are no environmental buffers on the Subject Property; therefore, the requirement to protect environmental buffers is not applicable to this Preliminary Plan.

b. Forest Conservation and Planting Requirements

As described above, the Applicant will meet all applicable forest conservation and planting requirements through off-site reforestation and/or payment of a fee-in-lieu.

c. Site Imperviousness

The Piney Branch SPA does not include a specific impervious limit on land development projects. In SPAs without a cap on imperviousness, developments are required to demonstrate that imperviousness has been minimized. Montgomery County Executive Regulations 29-95, Regulations for Water Quality Review-Special Protection Areas, require that the Water Quality Plan must include a plan describing the proposed development that minimizes impervious areas and, if applicable, meets any required imperviousness limits. The existing 39.16 acre site contains 1,017,701 square feet of impervious surfaces, for a total imperviousness of 59.7%. The Preliminary Plan includes 1,090,833 square feet of impervious surfaces. Even though this represents an overall increase in imperviousness on the Subject Property of 4.2% (to 63.9%), the increase results from a Preliminary Plan that more than doubles the development density on the site through infill development. This increase in imperviousness is small in proportion to the new development approved. Operational requirements of the hospital campus, including the need to focus on accessibility for

mobility-challenged individuals, limit possibilities for reducing impervious surfaces further.

The Board finds that the Preliminary Plan minimizes new impervious surfaces by proposing infill development that substantially builds on existing surface parking areas.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to one (1) Protected Tree as identified in the Staff Report (Variance Tree T-17). In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

- 1. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The Preliminary Plan is in accordance with both the intent and recommendations of the Master Plan and the LSC zone approved for this site. The Master Plan notes that population growth and demographic changes will create demand for additional capacity at Shady Grove Adventist Hospital, and it supports an expanded, first-class medical center. Not allowing the removal of Variance Tree T-17 would require moving the Diagnostic and Outpatient Services building or substantially modifying its design. The intensity of the development of the hospital campus, coupled with other constraints from the provision of the Master Plan-recommended road grid and stormwater management requirements, further inhibit the ability to preserve this tree. Because there is no feasible alternative to the Preliminary Plan that would permit the tree to be saved, granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.

- 2. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The Variance is based on the constraints of the Subject Property and the development density and road network as recommended in the Master Plan, rather than on conditions or circumstances which are the result of actions by the Applicant.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property*

There are no conditions relating to land or building use, either permitted or nonconforming, on a neighboring property that have played a role in the need for this Variance.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality. Removal of Variance Tree T-17 will be more than compensated for by the installation of greatly enhanced stormwater management treatments and establishment of tree cover exceeding what is currently present on the Subject Property as part of the development.

Mitigation for Trees Subject to the Variance Provisions

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. Therefore, tree replacement shall occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" DBH, which is consistent with mitigation required on previously approved plans. The Planning Board therefore requires the Applicant to identify 3 native canopy trees with a minimum size of 3" DBH on the landscape plan (at the site plan phase) to mitigate the loss of Variance Tree T-17.

Based on the analysis above, the Planning Board finds the Preliminary Forest Conservation Plan meets the Environmental Guidelines and Forest Conservation Law.

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 DPS that the Stormwater Management Concept Plan meets applicable standards. DPS issued a letter accepting the Stormwater Management Concept approval for the Preliminary Plan on April 5, 2011. Stormwater management will be provided through a combination of on- and off-site measures, including porous pavement, micro biofilters and a green roof. Stormwater that leaves the site will be captured and treated in the existing Western and Gudelsky Regional SWM ponds downstream of the site.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 144 months (12 years) 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 among the Montgomery County Land Records or a request for an extension must be filed; and

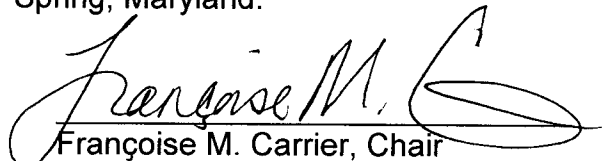
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 27 2014 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, and Commissioners Anderson, Dreyfuss, and Presley voting in favor, and Vice Chair Wells-Harley absent, at its regular meeting held on Thursday, March 20, 2014, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board