



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

MCPB
ITEM #
12/7/06



MEMORANDUM

DATE: November 21, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *R&K*
Development Review Division

FROM: Catherine Conlon, Subdivision Supervisor (301-495-4542)
Development Review Division *CAC*

REVIEW TYPE: Preliminary Plan of Subdivision – Extension

APPLYING FOR: Second request to extend the validity period of the Adequate Public Facilities Ordinance (APFO) approval for the preliminary plan

PROJECT NAME: Liberty Heights, Germantown Business Park, QIAGEN

CASE NO. 119811420 (formerly 1-81142)

REVIEW BASIS: Pursuant to Chapter 50, the Subdivision Regulations

ZONING: O-M and I-1

LOCATION: In the southwest quadrant of the intersection of MD Rte.118 and the B & O Railroad

MASTER PLAN: Germantown

APPLICANT: QIAGEN Sciences, Inc.

ATTORNEY: Holland and Knight, LLP

FILING DATE: April 11, 2006

HEARING DATE: December 7, 2006

Staff Recommendation: Grant additional six-year extension of the APFO validity period until August 29, 2012.

BACKGROUND

Preliminary Plan No. 119811420, (formerly 1-81142), Liberty Heights, Germantown Business Park (the "Subdivision"), was approved by written opinion of the Planning Board dated August 29, 1994 (Attachment A). The applicant, QIAGEN ("QIAGEN") subsequently purchased the property. Pursuant to the Planning Board's approval and Section 50-20(c)(3)(B) of the Subdivision Regulations, the validity period for the Adequate Public Facilities ("APF") approval for the Subdivision remained valid until August 29, 2006. By letter on April 4, 2006 (Attachment B), QIAGEN has requested an extension of the APF validity period until August 29, 2012. In keeping with the Planning Board's practice for extension requests, an application filed prior to the expiration of the validity period remains timely filed even if it does not go to the Board for action prior to the expiration date. The subject extension was timely filed and remains valid.

DISCUSSION

Section 50-20(c)(5) of the Montgomery County Code provides that a subdivision's APF approval may be extended by the Planning Board if:

- (A) At least forty percent (40%) of the approved development has been built, is under construction, or building permits have been issued, such that the cumulative total of the development will meet or exceed the percentage requirement of this paragraph;
- (B) All of the infrastructure required by the conditions of the original preliminary plan approval has been constructed or payments for construction have been made; and
- (C) The development is an "active project" as demonstrated by at least 10 percent of the project having been completed within the last four years before an extension request is made, or at least 5 percent of the project having been completed within the last four years before an extension request is made, if 60 percent of the project has been built or is under construction.

Section 50-20(c)(8) further establishes that the length of the extension allowed under (5) above must not exceed 6 years for projects 150,000 feet or greater, such as this Subdivision.

ANALYSIS

Staff has reviewed the extension request for compliance with (A) through (C) above. As presented in the applicant's justification letter, and summarized below, the Subdivision meets the applicable requirements.

A. Percentage Completion

The APF approval for the Subdivision limited development to a total of 400,000 square feet. QIAGEN has constructed at least 185,290 square feet, or 46.3 percent, of the total approved by the preliminary plan, pursuant to Site Plan No. 81998022A. This satisfies the requirement of Section 50-20(c)(5)(A).

B. Required Infrastructure

As noted in the attached memorandum from QIAGEN's representative, and confirmed by Transportation Planning staff, all infrastructure required by the original approval of the Subdivision has been completed. This satisfies the requirements of Section 50-20(c)(5)(B).

C. Project Activity

The building permits for the initial 185,290 square feet of development in the Subdivision were finalized in March, April and July 2002. Therefore, at least 10 percent of the project was completed within the four years before the extension request was made. This satisfies the requirements of Section 50-20(c)(5)(C).

Staff's analysis concluded that the Subdivision meets the requirements of the Subdivision Regulations in that 40% of the overall development has been built and the development is an "active project" as demonstrated by at least 10% of the project having been completed within the last four years. Transportation Planning Staff further concluded that all infrastructure required by the conditions of the original preliminary plan approval have been constructed.

CONCLUSION


Staff finds that QIAGEN's request for extension of the APF validity period for the Subdivision was timely filed and remains valid. Staff further finds that the Subdivision meets the requirements of Section 50-20(c)(5) of the Subdivision Regulations. Pursuant to Section 50-20(c)(7), no additional development, public improvements, or other conditions beyond the original preliminary plan approval are being requested, and an estimated Development Phasing Schedule for implementation of the remaining development within the extension period has been filed. Pursuant to Section 50-20(c)(8), the maximum extension for which this Subdivision qualifies is six years. Therefore, Staff recommends approval of a six-year extension of the validity period for the APF approval for the Subdivision until August 29, 2012.

Attachments:

Attachment A – August 29, 1994 Planning Board Opinion

Attachment B – April 4, 2006 Applicant Letter

Date of Mailing: August 29, 1994



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910

Action: Approved Staff Recommendation with Modifications.
(Motion of Comm. Richardson, seconded by Comm. Baptiste,
with a vote of 3-0; Comms. Richardson, Baptiste and Hussmann
voting in favor, with Comms. Aron and Holmes being absent).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-81142
NAME OF PLAN: LIBERTY HEIGHTS

On 07-28-81, GERMANTOWN ASSOC. LTD. , submitted an application for the approval of a preliminary plan of subdivision of property in the I1 zone. The application proposed to create 9 lots on 24.00 ACRES of land. The application was designated Preliminary Plan 1-81142. On 08-11-94, Preliminary Plan 1-81142 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing , the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-81142 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-81142, subject to the following conditions:

- 1) Amend agreement with Planning Board to limit development to a maximum of 400,000 square feet of office use generating no more than 1600 employees (676 new trips) and to provide for the necessary roadway improvements as outlined in 8-4-94 Transportation Planning Division memo
- 2) Record plat(s) to reflect separate parcel from proposed Street "A" to adjoining Parcel 909 so as to facilitate a common ingress/egress
- 3) Compliance with Environmental Planning Division approval regarding the requirements of the forest conservation legislation (as part of the preliminary plan) Applicant shall satisfy all conditions prior to recording of plat(s) or MCDEP issuance of sediment and erosion control permit, as appropriate
- 4) Conditions of MCDEP stormwater management approval dated 3-14-94

- Continued -

- 5) Access and improvements as required to be approved by MCDOT and MDSHA
- 6) No clearing, grading or recording of plat(s) prior to site plan approval as required
- 7) Location of buildings and parking facility plan to be approved at site plan as required
- 8) Dedication of MD Rt. 118 for 150' right-of-way and master planned A-294 for 30' right-of-way
- 9) No direct driveway access to MD Rt. 118 or Destiny Drive
- 10) Record plat(s) to reflect delineation of conservation easements over the area of wetlands buffer
- 11) Other necessary easements
- 12) Final disposition (private vs public) of access road to be determined at site plan

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8-11-94

THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue • Silver Spring, Maryland 20910-1111

RECEIVED
 AUG 05 1994
 Development Review Division

August 4, 1994

MEMORANDUM

TO: Joe Davis, Coordinator
 Development Review Division

VIA: Bud Liem, Coordinator
 Transportation Planning Division

FROM: Ki H. Kim, Planner *KHK*
 Transportation Planning Division

SUBJECT: Revised Transportation APF Review for
 Germantown Business Park, Germantown West
 Preliminary Plan No. 1-81142

This memorandum represents the Transportation Planning Division staff's revised APF review of the proposed Germantown Business Park development which is to be located south of the CSX railroad and north of the proposed A-254 in the Germantown West Policy Area. This memorandum provides the transportation conditions of approval for the subject preliminary plan which supersedes the conditions listed in our previous memoranda dated July 11, 1994, and November 6, 1989.

The proposed development under this preliminary plan includes a total of 400,000 square feet of office development.

RECOMMENDATIONS

Based on our review of the submitted traffic impact study and additional discussions with the applicant, we recommend approval of the proposed Germantown Business Park development with the following conditions.

1. The development is limited to 400,000 square feet of office development in accordance with available FY 95 staging ceiling capacity for this preliminary plan.
2. The applicant shall participate in providing a third south-bound lane on Aircraft Drive at MD 118 to be redesignated as one exclusive right-turn lane, one through/left-turn lane, and one exclusive left-turn lane.

3. At Middlebrook Road and Great Seneca Highway, the applicant shall participate in providing (1) a separate southbound (Middlebrook Road) right-turn lane, (2) a third southbound (Middlebrook Road) through lane, (3) a separate northbound (Middlebrook Road) left-turn lane, and (4) a second eastbound (Great Seneca Highway) left-turn lane.
4. The applicant shall participate in the construction of a separate right-turn lane on southbound Great Seneca Highway to westbound Clopper Road (MD 117).
5. The applicant shall participate in the construction of A-254 between Great Seneca Highway and existing MD 118.
6. The applicant shall agree that the applicant shall not receive any building permit until the following roadway improvements listed as conditions of approval are under construction:
 - a. Up to 50,000 square feet of office or total trip equivalent not to exceed a maximum of trips generated by the 50,000 square feet of office with roadway conditions two through three listed above.
 - b. Over 50,000 square feet up to 213,000 square feet of office or total trip equivalent not to exceed a maximum of trips generated by the 213,000 square feet of office with roadway conditions two through four listed above.
 - c. Over 213,000 square feet up to 400,000 square feet of office or total trip equivalent not to exceed a maximum of trips generated by the 400,000 square feet of office with roadway conditions two through five listed above.
7. The applicant shall agree that all necessary roadway design work must be complete and approved by the Montgomery County Planning Board prior to issuance of any building permits.

Summary of Local Area Transportation Review

The level of service (LOS) and critical lane volume (CLV) impacts of the proposed development on critical intersections in Germantown West are presented in Table I. The following summarizes the Local Area Review.

1. Under existing traffic conditions, all intersections analyzed are operating at an acceptable LOS. (Line 1 of Table I)
2. Under background conditions, unacceptable LOSs are projected at MD 117 intersections with MD 118 and Great Seneca Highway. (Line 2 of Table I).
3. With the addition of the site traffic to the background condition and the proposed roadway improvements by the applicant in conjunction with approval of the subject site, all intersections analyzed in the Germantown West area are projected to

3. With the addition of the site traffic to the background condition and the proposed roadway improvements by the applicant in conjunction with approval of the subject site, all intersections analyzed in the Germantown West area are projected to operate either at an acceptable LOS or better than under the background condition. (Line 3 of Table I)

Staging Ceiling Capacity Review

Based on the current FY 95 AGP Staging Ceiling capacity, there is a 7,023 job capacity available for employment development in the Germantown West Policy Area. This remaining staging ceiling capacity should be sufficient to accommodate the full development (400,000 square feet of office, equivalent to 1,000 jobs) of the subject preliminary plan.

CONCLUSION

Staff concludes that, with implementation of all roadway improvements currently programmed in the Approved Road Program and recommended in this memo to be conditioned upon approval of the subject preliminary plan, all nearby intersections are anticipated to operate within an acceptable LOS or at an improved level over background conditions. The new FY 95 AGP provides sufficient staging ceiling capacity to support approval of the subject preliminary plan in the Germantown West Policy Area.

KHK:plb\pp81142.rev
Attachments

Attachment B

William Kominers
301 215 6610
william.kominers@hklaw.com

April 4, 2006

VIA HAND DELIVERY

Mr. Derick P. Berlage
Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: QIAGEN, Germantown Business Park, Preliminary Plan No. 1-81142

Dear Chairman Berlage:

The purpose of this letter is to transmit to you an Application to extend the Adequate Public Facilities Ordinance ("APFO") validity period for Preliminary Plan No. 1-81142 (the "Preliminary Plan"). This Preliminary Plan covers the property known as Germantown Business Park (the "Property"), currently owned by QIAGEN, Inc. The current APFO approval for the Property was granted August 29, 1994, pursuant to the Preliminary Plan. QIAGEN purchased the Property, zoned O-M and I-1, in 2000.

The development on the Property is the North American Headquarters of QIAGEN, a biotechnology company whose products support research and development at places like the NIH and Human Genome Sciences. QIAGEN selected Montgomery County and the Germantown Business Park site in preference to competing proposals from several sites around the United States. Economic incentives were provided by Montgomery County and by the State of Maryland.

The APFO approval for the Preliminary Plan will currently expire August 29, 2006.¹ This Application proposes to extend the APFO validity period of the Preliminary Plan for six (6) years, so as to expire August 29, 2012. This Application is made pursuant to Section 50-20(c)(3)(iv) of the Subdivision Regulations, adopted in 1999 through Ordinance No. 14-8. This Section allows extension of non-residential APFO approvals beyond the maximum otherwise established under Section 50-20.

Attached to this letter, please find the following elements comprising or accompanying the Application:

1. Application Form, required contexts, and Fee Schedule for extension of Preliminary Plan No. 1-81142.
2. A check in the amount of \$1390.00 as the filing fee for the Application.
3. Map indicating the Property covered by this Application.
4. Opinion in Preliminary Plan No. 1-81142 (August 29, 1994)
5. Memorandum from Integrated Transportation Solutions regarding completion of required road improvements.
6. Copy of DPS computer permit records for the construction of the headquarters building on the Property.
7. Estimated Development Phasing Schedule for implementation of remaining development through proposed expiration of August 29, 2012.
8. List of adjoining and confronting property owners, applicable citizens associations and labels for the same.

The Applicant requests that the Planning Board take action on this Application before the expiration date.

¹ Although there were earlier Preliminary Plan approvals (dated November 15, 1989 and August 10, 1994), the August 29, 1994 approval substantially increased the approved density to 400,000 square feet of office use and consequently required a new adequate public facilities determination.

Criteria of Section 50-20 (c)(3)(iv) of the Subdivision Regulations

Three criteria must be met under Section 50-20 (c)(3)(iv) in order for the Planning Board to grant an extension of the validity period of an APFO approval. These criteria are:

(iv) (A) At least forty (40%) of the approved development has been built, is under construction, or building permits have been issued such that the cumulative amount of development will meet or exceed the percentage requirement of this paragraph;

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

(C) The development is an "active" project as demonstrated by at least 10 percent (10%) of the project having been completed within the last four years.

Development pursuant to the Preliminary Plan at the Germantown Business Park meets all three criteria and the Preliminary Plan therefore is suitable for extension.

Extension Criteria Have Been Met

1. Percentage Completion of Proposed Development. The Preliminary Plan and the APFO approval limited development to a total of 400,000 square feet for the entire 24.5 acre site. Since the Preliminary Plan was approved, QIAGEN has constructed at least 185,290 square feet as its North American headquarters. This component of the Project was completed in 2002

This construction, pursuant to Site Plan No. 8-98022A (approved January 24, 2000), represents the first phase of the North American headquarters, manufacturing and distribution facility for QIAGEN. The Projects consists of headquarters offices, research and development, manufacturing, warehouse and distribution. The total amount of development which the Applicant has undertaken or otherwise committed at the Germantown Business Park, represents 46.3 percent of the total approved in the Preliminary Plan.

This satisfies the requirement of Section 50-20(c)(3)(iv)(A).

2. Infrastructure Completed. All infrastructure required by the original Preliminary Plan has been completed. The attached memorandum from Craig Hedberg of Integrated Transportation Solutions, the traffic consultant for the Preliminary Plan at the time of original approval and for both site plans by QIAGEN, sets forth the improvements that were originally required and their completion. This completion was also confirmed in 2002, when site plan approval was granted by the Planning Board for the development of the last portion of the Property, Lot 1, pursuant to Site Plan No. 8-98022B.

This satisfies the requirements of Section 50-20 (c)(3)(iv)(b) for all required infrastructure to be completed.

3. Current Construction Activity. In the four (4) years preceding the date of this Application, a total of at least 185,290 square feet has been developed at the Germantown Business Park (built, under construction or building permits issued). This represents 46.3 percent of the maximum available density of the 400,000 square feet approved in the Preliminary Plan.

The building permits from the initial constitution were finalized by the Department of Permitting Services ("DPS") in 2002 (see attached prints from the DPS computer permit tracking system). As this work was completed in 2002, it satisfies the requirement of Section 50-20(c)(3)(iv)(C) for activity within the four years preceding 2006. (Use of the year in which the building permits were "finalized" is consistent with the methodology used by Planning Board Staff in previous approvals under Section 50-20(c)(3)(iv).)

Having satisfied all elements of the standards in the Subdivision Regulations, QIAGEN's endured Project and the Preliminary Plan represents a development which falls squarely within the provisions of Section 50-20(c)(3)(iv) and is suitable for extension.

Impact of Events during the Validity Period

QIAGEN has endured a sequence of several external events which have affected its originally expected development schedule. A difficult and changing national market has resulted in what has been generally recognized as a challenging period for biotechnology companies. This in turn has forced

the company to deal with unexpected changes in the business model originally projected and a lessening in the rate of growth. QIAGEN purchased the Property in 2000, when it was already six (6) years into the validity period. The previous growth rate for QIAGEN led the company to believe that the need for the full buildout would occur within that six year period.

QIAGEN has been affected, in particular, by a reduction in research spending, resulting from reduced performance of the national economy in the early 21st Century. This reduction in spending slowed QIAGEN's need for the amount of planned research and development positions and market volume that were the basis for the original development schedule. This condition caused a slower-than-expected growth in manufacturing, thereby also delaying that element of the Project. Thus, although QIAGEN has had a growth rate of about ten percent (10%) per year since the Montgomery County facility opened, that rate is a significant decline from the forty percent (40%) per year that characterized the five years preceding the purchase of the Property (and upon which the utilization of the facility was premised at the time of planning and construction).

This delay does not alter the long-term plan of QIAGEN for growth in Montgomery County. QIAGEN has made long-term commitments to this location that have surpassed Montgomery County's original expectations for performance. QIAGEN consolidated several business units from outside Maryland to its Montgomery County facility, along with all administrative functions from across North American (including finance, human resource, and IT operations). In land and facilities, QIAGEN has made a total investment of over \$75 million in Montgomery County.

All of these events have served to significantly delay the expected schedule of development and give rise to the need for the proposed extension.

Phasing

The attached Development Phasing Schedule allows for the complete absorption of all remaining density in the Project by August 29, 2012, but without setting a rigid annual schedule. This flexibility is needed to be able to accommodate market shifts in the very volatile biotechnology industry. This approach takes into account the economic constraints that affect both

Mr. Derick P. Berlage
April 4, 2006
Page 6

the biotechnology industry at large, and QIAGEN in particular as a leader in that industry. Only by viewing phasing as a flexible guide will continued implementation of this Project be able to weather the storms of future economic cycles of the industry and changing research needs and approaches, as it has been able to do with those that have occurred in the past. This approach is consistent with the phasing approved at the Shady Grove Life Sciences Center as a part of its APFO extension.

Summary

The Preliminary Plan has accommodated all of the impacts created by its original approval through completion of the required infrastructure improvements. By having demonstrated compliance with the criteria of Section 50-20(c)(3)(iv) of the Subdivision Regulations, the Project shows an appropriate degree of commitment and current activity. For these reasons, the Applicant believes that extension of the Preliminary Plan is appropriate and that the program for completion of the Project should be approved as a flexible guide for future development.

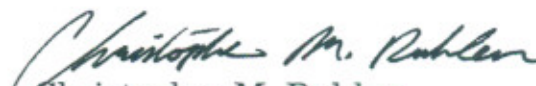
We look forward to review of the matter by the Planning Board.

Very truly yours,

HOLLAND & KNIGHT, LLP



William Kominers



Christopher M. Ruhlen

Enclosures

cc: Mr. Sean Augerson
Ms. Rose Krasnow
Ms. Catherine Conlon
Mr. David Edgerley

INTEGRATED
TRANSPORTATION
SOLUTIONS, INC.*Transportation Planning
and
Site Access Analysis***C. CRAIG HEDBERG**
President

To: William Kominers, Esq.
From: C. Craig Hedberg
Date: April 6, 2006
Subject: Germantown Business Park (Qiagen Development)
Roadway Improvements

As requested, this memorandum summarizes the status of the roadway improvements that were conditions of approval for the Germantown Business Park, which has been developed as the North American Headquarters for Qiagen.

The site is located in the northwest quadrant of the Great Seneca Highway (Md. 119)/Clopper Road (Md. 117) intersection. The Germantown Business Park APFO approval included 400,000 SF of office development, and was conditioned on four roadway improvements for full build out. Construction for all of these improvements (listed below) has been completed.

1. A third southbound lane on Aircraft Drive at Md. 118;
2. Improvements to the Great Seneca Highway/Middlebrook Road intersection;
3. A right turn lane from southbound Great Seneca Highway to westbound Clopper Road;
4. A-254 between Great Seneca Highway and "Old" Md. 118.

Therefore all of the transportation improvements included as conditions of approval for the original preliminary plan have been constructed.

cc: Mr. Sean Augerson
Mr. Christopher Ruhlen

359impq2



DPS/Application Details

Status

Commercial Building

Permit/License: 219195

Application Details[Help](#)

Permit Number **219195**
 Application Date 05/17/2000
 Issue Date 06/30/2000
 Final Date **04/12/2002**
 Work Type Build Foundation -
Industrial Building
 Square Footage 190500
 Value **\$50,000,000.00**

Site Address
 19300 Germantown RD
 Germantown
 MD 20874-
Lot - Block -
Subdiv. Clarksburg
 Outside
Application Status
 Finaled

Contractors

ID	Name	Address
Not available		

Not available

Licenses

Contractor License	Name	Address
Not available		

Not available

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(14)



DPS/Application Details

Status

Commercial Building Application Details

Permit/License: 223684 [Help](#)

Permit Number 223684
Application Date 07/11/2000
Issue Date 09/06/2000
Final Date 03/27/2002
Work Type Construct - Industrial Building
Square Footage 228946
Value \$50,000,000.00

Site Address
 19300 Germantown RD
 Germantown
 MD 20874-
Lot - Block - Subdiv. Clarksburg
 Outside
Application Status
 Finaled

Contractors

ID	Name	Address
Not available		

Licenses

Contractor	License	Name	Address
Not available			

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DPS/Application Details

Status

Commercial Building
Application Details

Permit/License: 233681

[Help](#)

Permit Number 233681
Application Date 11/01/2000
Issue Date 01/04/2001
Final Date 07/15/2002
Work Type Add - Industrial Building
Square Footage 228946
Value \$50,000,000.00

Site Address
19300 Germantown RD
Germantown
MD 20874-
Lot - Block -
Subdiv. Clarksburg Outside
Application Status
Finaled

Contractors

ID	Name	Address
Not available		

Licenses

Contractor License	Name	Address
Not available		

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DEVELOPMENT PHASING SCHEDULE

**EXTENSION OF ADEQUATE PUBLIC FACILITIES APPROVAL
QIAGEN
PRELIMINARY PLAN No. 1-81142**

Of the 400,000 square feet approved pursuant to Preliminary Plan No. 1-81142, a total of at least 185,290 square feet has been built or is under construction. A total of 214,710 square feet remains unbuilt in the pipeline.

The Applicant is unable to predict exactly when and to what extent the unbuilt density on the QIAGEN Property will commence construction, or in what sequence. The biotechnology business is subject to rapid fluctuations in space needs and financing, due to the erratic nature of the research, product development and changing structure of business units. There is a need to be flexible in meeting space requirements, so that biotechnology businesses can respond appropriately as needs arise. However, there is little predictability in the exact growth patterns, and therefore, the development sequence. In addition, due to the specialized and often unique character and design of the facilities, a longer construction period may be required. Accordingly, the Applicant proposes that future construction of the remaining 214,710 square feet will commence on an as-needed basis, but construction of the total amount remaining will be substantially under way by the end of the sixth year of the proposed extension (August 29, 2012).