



AUG 9 2011

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

MCPB No. 11-69
Preliminary Plan No. 120110300
Project Name: Parklawn North
Date of Hearing: July 21, 2011

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 April 14, 2011, Parklawn North Lot LLC ("Applicant") filed an application for approval of a preliminary plan amendment to consolidate two recorded lots and one unrecorded parcel into three recorded lots and one outlot on approximately 12.96 acres of land in the TMX-2 Zone, located on the north side of Fishers Lane approximately 1,000 feet east of the intersection with Twinkbrook Parkway ("Property" or "Subject Property"), in the Twinbrook Sector Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120110300, Parklawn North ("Preliminary Plan" or "Application"); and


WHEREAS, Staff issued a memorandum to the Planning Board, dated July 8, 2011, 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 Planning Board staff ("Staff") and the staff of other governmental agencies, on July 21, 2011, 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 July 21, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Anderson, with a vote of 4-0, Commissioners Anderson, Carrier, Presley, and Wells-Harley voting in favor, and Commissioner Dreyfuss absent.

Approved as to
Legal Sufficiency:

 7/21/11

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120110300 to create three recorded lots and one outlot on approximately 12.96 acres of land in the TMX-2 Zone, located on the north side of Fishers Lane approximately 1,000 feet east of the intersection with Twinbrook Parkway ("Property" or "Subject Property"), in the Twinbrook Sector Plan ("Sector Plan") area, subject to the following conditions:

1. Approval under this preliminary plan is limited to 3 lots and 1 outlot for 60,132 square feet of commercial office use to remain, and 520,000 square feet of general office space, including up to 1,000 square feet of ancillary retail use.
2. To satisfy the APF test and the 2009 approved and adopted *Twinbrook Sector Plan*, the Applicant must enter into a Traffic Mitigation Agreement with the Planning Board and Montgomery County Department of Transportation, to be executed prior to issuance of any building permits,
 - a. Implement effective trip reduction measures that would result in limiting the number of site-generated trips by 18% or a maximum of 718 peak-hour trips within the weekday morning peak period and 631 peak-hour trips within the weekday evening peak period; and
 - b. Participate in the North Bethesda Transportation Management Organization.
3. The Applicant must construct Wilkins Avenue Extended (B-16) along the western property line for vehicular access to the proposed parking areas. Construction of Wilkins Avenue Extended must commence prior to issuance of any use and occupancy permits, with the pavement surface to be applied no more than six months afterwards.
4. The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by mitigating 215 new peak-hour trips with the following measures:
 - a. Enter into the Traffic Mitigation Agreement described in Condition No. 2a above.
 - b. Construct at least 5,500 linear feet of an 8-foot-wide (or an equivalent of 4,374 linear feet of a 10-foot wide) hiker-biker trail/sector-planned, B-2, shared use path with the final alignment approved by the Department of Parks prior to certified site plan. This shared use path must be under construction (i.e., under permit and bond) prior to issuance of any use and occupancy permits.
 - c. Construct at least 200 linear feet of an off-site 5-foot-wide sidewalk on the opposite/west side of Wilkins Avenue Extended, B-16. The sidewalk would be part of the construction of Wilkins Avenue Extended. As recommended for Wilkins Avenue Extended, the off-site sidewalk must be under construction prior to issuance of any use and occupancy permits. As an alternative, the Applicant may construct an additional 200 linear feet

of the 8-foot wide hiker-biker trail/sector-planned, B-2, listed in condition 4.b.

- d. If the linear feet of the shared use path and/or off-site sidewalk are ultimately less than specified above, the Applicant must mitigate the remaining PAMR trips by paying \$11,300 per PAMR trip based on the required payment in effect when the preliminary plan was filed.
5. The Applicant must work with MCDOT and the Planning Board staff and submit a queuing analysis of vehicles at the two intersections along Twinbrook Parkway with Fishers Lane and Parklawn Drive prior to certified site plan. The analysis shall include the implementation of future master planned roads such as B-16. MCDOT and Planning Board staff will determine if implementation of any necessary operational improvements to address the impact of this Project, limited to signal timing change and lengthening of storage lanes within the curb to curb width, must be initiated prior to issuance of any use and occupancy permit.
6. The Applicant must comply with the conditions of approval of the MCDOT letter dated June 18, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
7. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services ("MCDPS") stormwater management concept approval letter dated June 16, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
8. The Applicant must comply with the conditions of the Montgomery County Fire and Rescue ("MCFR") Services approval letter dated June 14, 2011. These conditions may be amended by MCFR, provided the amendments do not conflict with other conditions of the preliminary plan approval.
9. All retained and planted forest areas to be placed in a Category I Conservation Easement. The Category I Conservation Easements must be shown on the subdivision plat at recordation.
10. No clearing, grading, or recording of plats prior to certified site plan approval.
11. Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and bikepaths will be determined by the site plan.
12. The Adequate Public Facilities review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
13. The Applicant must provide a public utility easement up to ten feet if necessary parallel, contiguous, and adjacent to the rights-of-way of Wilkins Avenue and Fishers Lane.
14. All necessary easements must be shown on the Record Plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, 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 sector plan.*

Twinbrook Sector Plan

The Approved and Adopted Twinbrook Sector Plan identifies the subject property as primarily in Area 5 of the Technology Employment Area; a small segment is in Area 4. The Sector Plan notes that these areas include a mix of office and laboratory uses, including a National Institutes of Health (NIH) facility and other federal agencies.

Property Recommendations

The majority of the Subject Property is within Area 5 of the Technology Employment Area. The Sector Plan recommends the following for this site:

- Route the proposed extension of Wilkins Avenue away from the stream valley buffer.
- Provide stream restoration or off-site mitigation to minimize the impact of redevelopment.
- Create a public use space at the eastern end of Fishers Lane to mirror the public open space proposed at the western end in Twinbrook Station.
- Create pedestrian connections through this site that connect with the proposed shared use path connection to the north (on Viers Mill Road).
- Development and building heights should be compatible with adjacent garden apartments.

Most of the Sector Plan's recommendations are incorporated into the Applicant's plans, including the provision of a public use space at the end of Fishers Lane; pedestrian connections made through the site; and the extension of Wilkins Avenue away from the stream valley buffer. Additional Sector Plan requirements will have to be met when the remainder of the subject property redevelops.

Urban Design for Technology Employment Area

Several design guidelines are established for the subject area, including:

- Step buildings down from a maximum of 143 feet along Fishers Lane and Parklawn Drive to approximately 60 feet along the northern edge of the planning area to establish compatibility with the existing garden apartments.
- Buildings should be of varied height and character.
- Streetscapes should be provided along all streets, particularly along Parklawn Drive and Fishers Lane.
- Orient buildings to the street and parking to the rear or side.

- Provide a major public open space along Parklawn Drive, and at the eastern end of Fishers Lane, to mirror the public open space proposed at the western end in Twinbrook Commons located adjacent to the Twinbrook Metro Station. The public use spaces should include pervious surfaces.
- Create an extension of Washington Avenue across Parklawn Drive to Fishers Lane, lined with street oriented buildings and streetscaping.
- Build the extension of Wilkins Lane with streetscaping and sidewalks.

The submitted plans will implement many of the design principles in the Sector Plan. Buildings are oriented towards Fishers Lane and Wilkins Avenue Extended; a new public open space is at the terminus of Fishers Lane; and a new extension of Wilkins Avenue has sidewalks and new streetscape.

Building Heights

The proposed building height at 110 feet is consistent with the Sector Plan's recommendations for the Technology Employment Area. The Plan recommends the "tallest buildings along Parklawn Drive and Fishers Lane with a maximum building height of 10 to 12 stories or 143 feet."

Density

As proposed, the total development at 1.14 FAR is consistent with the Plan's development limit of 1.5 FAR for the subject area. Individual lots, however, may exceed this average within the limits of the TMX-2 zone.

Street Network

The submitted plans illustrate Wilkins Avenue extended from Fishers Lane to Halpine Hamlet, the adjacent multi-family development, with a 60' right-of-way. This is consistent with the Sector Plan. The Plan recommends that "all segments of the road include bicycle and pedestrian facilities and be built using green design elements, such as bio-swales and other techniques to address stormwater management."

The Sector Plan also states that Wilkins Avenue Extension (B-16) will occur in segments and is dependent on several properties redeveloping, including the subject site. It states that "the middle link, from Fishers Lane through the Plan area's northeast corner, should meet any security needs and minimize environmental impacts. It provides access to redevelopment on that site and continues a through connection." The Application is consistent with this requirement.

Pedestrian Network

The Sector Plan makes several recommendations for the pedestrian network, including:

- A local network of sidewalks lining Twinbrook streets, but also makes regional connections with paths and sidewalks to Metro and to regional park trails.
- Construct streetscaped sidewalks throughout the Plan area. They should be eight to 10 feet wide, set off the curb, and buffered with street trees.
- Redevelopment projects should devise a streetscape plan that includes bicycle facilities, and coordinates all aspects of the street and building relationship to create pedestrian safety, comfort, and convenience.

The proposed development will improve the pedestrian environment in Twinbrook by extending Wilkins Avenue, creating a new trail connection to Upper Rock Creek and Viers Mill Road, and providing additional streetscape improvements on public streets.

Bikeway Network

The Sector Plan recommends a new Class I Shared Use Path (B-2) for Area 5 connecting to Rock Creek Regional Park. This connection is recommended as a public amenity as well as a bikeway connection. The bikeway network on page 17 of the Plan illustrates a shared use path through Lot 5, which is very steep on the north side of the property. The Plan notes an objective to “provide a connection north through the Plan area into parkland, Rock Creek Park, and to Veirs Mill Road” and to “establish a network of bikeways within the Plan area that connect to the regional bike route system, including access via the proposed shared use path from the north end of the Plan area connecting to Rock Creek Park and Veirs Mill Road.” The applicant has agreed to construct this shared use path as an off-site amenity since the topography of the northern portion of Lot 5 is steep, and the connection illustrated in the Sector Plan through Lot 5 would be difficult to achieve.

Environment

The Sector Plan’s environmental goal is “to move beyond the benefits of location through green building and site design.” Specifically, the Plan recommends:

- Increase the amount of pervious surface to improve the quality and reduce the quantity of stormwater run-off, mitigate heat island effects, and contribute to a green and pedestrian-friendly environment.
- A significant portion of paved area should be shaded through trees within five years of occupant or paved with reflective materials.
- Street trees should be spaced and sized to create 30% percent canopy coverage on redeveloped areas, and open space should be planted and substantially pervious.

As submitted, the environmental recommendations of the Sector Plan for this development phase are not yet fully achieved. But that is a function of the phasing of the development. The surface parking lot on Lot 5, which currently contains 465 spaces, should remove all stream-valley impacts and should include additional shade

trees to improve canopy coverage, planting strips, and permeable pavers that reduce stormwater runoff. These considerations must be addressed when Lot 5 is redeveloped.

Therefore, the Board finds the proposed development is in substantial conformance with the Sector Plan.

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

Site Location and Vehicular Site Access Points

The site is located on the north side of Fishers Lane approximately 1,000 feet east of Twinbrook Parkway, with vehicular access points to the proposed parking areas from the future Wilkins Avenue Extended.

Sector-Planned Transportation Demand Management

The subject commercial site is located within the boundary of the North Bethesda Transportation Management District. As recommended on page 32 of the Sector Plan, the Applicant must support the established North Bethesda TMD as specified in the 1992 approved and adopted North Bethesda/Garrett Park Master Plan. Further, the Applicant is required to participate in the North Bethesda Transportation Management Organization to assist the County in achieving and maintaining its non-auto driver mode share goals.

Available Transit Service

The Twinbrook Metrorail Station is a walking distance of approximately 2,200 feet from the subject site. Ride-On route 93 operates on Fishers Lane; Ride-On routes 26, 44, and 45 operate on nearby Twinbrook Parkway. All of these Ride-On routes connect to the Twinbrook Metrorail Station.

Sector-Planned Roadways and Bikeways

In accordance with the 2009 approved and adopted Twinbrook Sector Plan, the classified roadways and bikeways are as follows:

1. Fishers Lane is designated as an arterial, B-1, with a recommended 80-foot right-of-way, a share use path, LSP-1, and a sector-planned "major pedestrian connection" between Twinbrook Parkway and business district street, B-16. The Applicant's plan shows the shared use path along their property frontage on Fishers Lane.
2. The shared use path, B-2, between Wilkins Avenue Extended, B-16, and Veirs Mill Road. The Applicant is proposing to construct part of this shared use path off-site as a PAMR improvement.

3. Wilkins Avenue Extended is a business district street, B-16, with a recommended 60-foot right-of-way, “bike lane or a shared use path”, B-1, and a sector-planned “major pedestrian connection” between Fishers Lane and the shared use path, B-2. The Applicant is proposing to construct a shared use path along Wilkins Avenue Extended, instead of the bike lanes, to provide a Sector-Planned “major pedestrian connection.”

Pedestrian and Bicycle Facilities

Pedestrian facilities would not be adversely impacted by the proposed office building. The Applicant’s plan shows proposed pedestrian and bicycle facilities that include a shared use path along business district street, B-16, as discussed in the Sector-Planned Roadways and Bikeways section above.

The Applicant will provide the required bicycle racks in front of the building main entrance and bicycle storage in the garage on their certified site plan.

Local Area Transportation Review

Table 1 below shows the number of peak-hour trips generated by the proposed land use during the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.).

Table 1: Proposed Site-Generated Peak-Hour Trips

Proposed 520,000 square feet of General Office Use	Site-Generated Peak-Hour Trips	
	Morning	Evening
No. of Trips using LATR & PAMR Guidelines formulas	876	769
Proposed 18% Reduction of Traffic Impact	158	138
Net Site-Generated Peak-Hour Trips	718	631

A traffic study was submitted to satisfy the Local Area Transportation Review (LATR) test because the proposed land use generates 30 or more peak-hour trips within the weekday morning and evening peak periods. Table 2 below shows the calculated Critical Lane Volume (CLV) values from the traffic study for the analyzed intersections where the CLV increased is more than 5 CLVs when adding the site-generated trips. Table 2 includes the CLV values for all the traffic conditions:

1. Existing.
2. Background (trips generated from approved but un-built developments).
3. Total (traffic generated by the previously-approved land uses) without the 18% trip reduction.
4. Total with the 18% trip reduction.

Table 2: Calculated Critical Lane Volumes at the Analyzed Intersections

Analyzed Intersection	Peak Hour	Traffic Condition			
		Existing	Background	Total	Total Reduced 18%
Twinbrook Parkway & Ardennes Avenue	Morning	824	903	1,002	984
	Evening	975	1,136	1,254	1,233
Twinbrook Parkway & Fishers Lane	Morning	633	709	922	884
	Evening	892	1,031	1,324	1,271
Twinbrook Parkway & Parklawn Lane	Morning	867	1,129	1,288	1,259
	Evening	1,210	1,503	1,624	1,602
Parklawn Lane & Wilkins Avenue	Morning	279	350	359	357
	Evening	381	448	499	490
Twinbrook Parkway & Chapman Avenue	Morning	740	1,012	1,224	1,186
	Evening	975	1,309	1,429	1,407
Fishers Lane & Site Driveway	Morning	-----	-----	876	718
	Evening	-----	-----	770	631

All of the CLV values for all the analyzed intersections were less than the 1,800 congestion standard for the Twinbrook Policy Area in all traffic conditions and, thus, the LATR test is satisfied. In order to qualify for the 18% trip reduction, the Applicant is conditioned to sign a trip mitigation agreement that caps the trip generation rates at 18% below the calculated trip generation for the site. The TMAg will have a monitoring system to ensure the trips will be maintained at 18% below typical trips generated from this office building.

Policy Area Mobility Review (PAMR)

Under the current Growth Policy, the PAMR test requires the applicant to mitigate 30% of the 718 new peak-hour trips generated by the proposed office building within the weekday morning peak period, which equals mitigation of 215 trips. The Applicant proposes to satisfy PAMR as given in Table 3 below:

Table 3: Proposed PAMR Mitigation

Proposed 520,000 square feet of General Office Use	New PAMR Trips
Net Site-Generated Peak-Hour Trips from Table 1	718
PAMR Mitigation Requirement of 30%	215
Proposed 18% Reduction of Traffic Impact	158
5,500 linear feet of 8-foot wide bike path	55
Minimum 200 linear feet of five-foot wide sidewalk	2
Sum of Mitigated PAMR Trips	215

Based on the 18% trip reduction, and the construction of the 5,500 linear feet of bike path and a minimum of 200 feet of sidewalk, the proposed Application satisfies the PAMR requirements of the APF review.

Intersection Operation Analysis and Necessary Improvements

MCDOT identified the following queuing problems at two nearby intersections, Twinbrook Parkway and Fishers Lane and Twinbrook Parkway and Parklawn Lane, based on the results of the submitted traffic study.

1. Twinbrook Parkway and Fishers Lane, southbound (Twinbrook Parkway) left turn lane:
 - This left-turn lane is 125 feet long, but, the projected demand is 455 vehicles per hour in the weekday morning total traffic condition.
 - The lane length may need to be increased to prevent the projected left turn volume from spilling into the through lanes of Twinbrook Parkway.
2. Twinbrook Parkway and Fishers Lane, northbound (Twinbrook Parkway) combined through/right-turn lane:
 - The storage capacity of this lane is 340 feet long between this intersection with Fishers Lane and the next intersection with Parklawn Drive. The projected demand, however, is 831 vehicles per hour in the weekday morning total traffic condition.
 - The queue of projected demand may extend past the next intersection with Parklawn Drive.
3. Twinbrook Parkway and Fishers Lane, westbound (Fishers Lane) approach lanes:
 - For the combined through and left-turn movements, the projected demand is 803 vehicles per hour in the weekday evening total traffic condition.
 - For the exclusive right-turn lane, this lane is 375 feet long, but the projected demand is 466 vehicles per hour in the weekday evening total traffic condition, The projected demand is considered to be large when combined with the adjacent through and left-turn volumes.
 - The right-turn lane may have to be extended so that the motorists turning right would not be blocked from reaching the exclusive right-turn lane by the queue of through vehicles on Fishers Lane.
4. Twinbrook Parkway and Parklawn Drive, southbound (Twinbrook Parkway) left-turn lane:
 - This lane is 125 feet long, but the projected demand is 468 vehicles per hour in the weekday morning total traffic condition and 499 vehicles per hour in the weekday evening total traffic condition.

- The lane length may need to be increased to prevent the projected left turn volume from spilling into the adjacent through lane of Twinbrook Parkway.

The Montgomery County Department of Transportation recommended, and this approval requires, a queuing analysis that may result in operational intersection improvements. In the Twinbrook Metro Station Policy Area (MSPA), a queuing analysis can be required as specified in Section IV.F, "Finding for Inadequate Facilities", "Queuing Analysis" on page 26 of the July 2010 Local Area Transportation Review and Policy Area Mobility Review Guidelines:

"In addition to CLV analysis, staff may require queuing analysis. The general acceptable practice for evaluating queue length in CBD's and MSPA's..."

However, in the submitted traffic study, the traffic volumes projected on the intersection approaches above are based on the following:

1. The background and total traffic conditions that represent the worst-case full build-out of background developments including the large mixed-use development on the adjoining Twinbrook Metrorail Station site. However, not all background developments typically are fully built-out in the future.
2. The existing street network without the recommended build-out of the sector-planned street network that includes Wilkins Avenue Extended, B-16. As discussed in Preliminary Plan Condition No. 3 and shown on the submitted plans, the Applicant will be constructing a segment of Wilkins Avenue Extended that ultimately connects between Fishers Lane and Twinbrook Parkway. This connection could result in diverting existing and future motorists from the two intersections of Twinbrook Parkway with Fishers Lane and Parklawn Lane. Thus, the possible queuing problems could be relieved along Twinbrook Parkway.

As conditioned, the Applicant's transportation engineer must prepare and submit queuing analyses prior to submission of the certified site plan for the following traffic conditions:

1. The existing traffic condition.
2. The projected total traffic condition with the worse-case build-out of background developments in addition to the proposed development on the existing street network.
3. The projected total traffic condition with the worse-case build-out of background developments in addition to the proposed development on the build-out of the sector-planned street network.

If the queuing results in an adverse intersection operation, any improvement should consider the following:

1. Whether an operational intersection improvement to relieve a future queuing problem may be detrimental to the existing intersection operation.
2. Whether the operational intersection improvement would encourage auto-driver trips within the Twinbrook Sector Plan area and therefore be counter to the Sector Plan's transportation goal under "Area Wide Recommendations:Connections," which states:

"The Plan's proposed density and use changes must be supported by connected systems of sidewalks, paths, bike routes, and streets to make Metro truly accessible. In this relatively small plan area, attention to detail will help create effective connections that are essential to making Twinbrook a functioning residential and commercial transit-oriented community."

MCDOT should consider the impact of potential improvements to address queuing problems on the streetscape. Where operational improvements are needed, they must be under permit and bond before release of any use and occupancy permit.

Therefore, the Board finds that the proposed plan satisfies the LATR and PAMR tests. The Board also finds that with the proposed dedication and improvements vehicle and pedestrian access and circulation of the subject property will be safe, adequate, and efficient.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed office building. The site is served by public water and sewer. Gas, electric and telecommunications services are also available to serve the property. Police stations, firehouses, and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS) which has determined that the property has adequate access for emergency vehicles. The preliminary plan application does not include any residential uses.

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

The lots have been reviewed for compliance with 50-29(a) of the Subdivision Regulations. The Planning Board finds that the size, shape, width, and area of the lots are appropriate for their location within the subdivision.

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

Environmental Inventory

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the site was approved on Feb. 18, 2011. There are 0.86 acres of stream buffer on the property, of which 0.68 acres are forested. There are no wetlands or floodplains on the project site. Therefore, the Board finds this plan complies with the Montgomery County Environmental Guidelines.

Forest Conservation

For purposes of Forest Conservation, the net tract area is 16.10 acres, which includes the 12.68-acre site plus 3.42 acres of off-site disturbance. The Preliminary and Final Forest Conservation Plans propose 0.11 acres of forest clearing and 1.03 acres of forest retention out of 1.14 total acres of forest contained on-site and in off-site disturbance areas. The plan requires a combined afforestation and reforestation of 1.45 acres. This requirement is to be satisfied with a combination of on-site reforestation (0.03 acres), off-site reforestation (0.76 acres), credit for landscape tree cover (0.16 acres), and payment of a fee-in-lieu (0.50 acres).

The Applicant is requesting a variance for disturbance of four specimen trees along the western boundary. One tree, a 30-inch diameter black cherry (*Prunus serotina*), will be highly impacted by grading for the nearby parking structure, and will be removed. The location of the parking structure cannot be reasonably altered to save this tree. The remaining specimen trees are on the adjacent Parklawn Cemetery property. The protocol for determining a critical root zone (CRZ) results in a circle drawn from the center of the tree to a diameter equaling 1.5 feet for each inch of trunk diameter. In reality, tree roots do not always grow equally all around a tree. In this case, the area of critical root zone being impacted is all currently covered by existing surface parking. The likelihood of critical root mass existing beneath the surface parking is unlikely. Instead, most of the root systems for these trees are more likely located in the soil of the woodland and lawn on the cemetery property. Therefore, disturbance of the critical root zone on the subject property is not likely to significantly damage these trees. Tree protection measures, including root pruning and tree protection fencing, should be sufficient to allow these trees to be saved. A detailed analysis of the variance request and findings is provided below.

As noted, forest conservation requirements for the hiker-biker trail associated with this development will be satisfied in a separate NRI/FSD and Forest Conservation Plan.

Forest Conservation Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (“CRZ”) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The applicant submitted a variance request on March 17, 2011 for the impacts/removal to trees with the proposed layout. The applicant proposes to remove 1 tree that is 30 inches and greater, DBH, and to impact, but not remove, 3 others that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Table 4: Trees to be removed or potentially removed

Tree Number	Species	DBH	Status
V-1	<i>Prunus serotina</i>	30”	To be removed

Table 2: Trees to be affected but retained

Tree Number	Species	D.B.H	CRZ Impact	Status
V-2	<i>Acer saccharum</i>	36”	22.4%	Save
V-3	<i>Acer saccharum</i>	30”	7.4%	Save
V-4	<i>Juglans nigra</i>	36”	38.8%	Save

Unwarranted Hardship Basis

The proposed development is in accordance with both the intent and recommendations of the Sector Plan and the TMX-2 zone, both of which are intended to create higher density uses in the vicinity of the Twinbrook Metro Station. The Sector Plan recommends both transportation infrastructure and public amenities for this site that impose additional constraints on development here. These recommendations include a large plaza along the building frontage with Fishers Lane, and the master planned right-of-way for B-16 to the west. The site is further constrained by the 25’ BRL along the eastern property line, the proposed storm drain, and existing trees along the eastern property line. These factors combine to push back the building and garage on the site to accommodate the plaza and roadway, with the unavoidable consequence of impacting the variance trees. Not allowing the removal of Variance tree No. 1 and the impacts to Variance trees 2-4 would require major changes to the proposed

development program, which is generally consistent with the Sector Plan. The Board finds that this hardship warrants a variance.

Mitigation for Trees Subject to the Variance Provisions

There is one tree proposed for removal as a result of the proposed development. There will also be some disturbance within the CRZ of another 3 trees but they are excellent candidates for safe retention.

Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, the Board is requiring that replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" DBH. This means that for the 30 caliper inches of trees removed, the required mitigation will be three native canopy trees with a minimum size of 3" dbh. While these trees will not be as large as the trees lost, they will provide some immediate canopy and will help augment the canopy coverage. The Board therefore requires the addition of three native canopy trees with a minimum size of 3" dbh to the landscape plan.

The trees subject to this variance to be impacted but retained are excellent candidates for safe retention and will receive adequate tree protection measures. No mitigation is recommended for trees impacted but retained.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on May 26, 2011. On June 10, 2011, the County Arborist issued her recommendations on the variance request and recommended the variance be approved with mitigation. Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted.

- a. Will not confer on the applicant a special privilege that would be denied to other applicants.

The proposed design has attempted to balance all of the competing factors that constrain the site. While variance tree # 1 will need to be removed, impacts to the other variance trees have been limited and as a result we believe they will be preserved. Given the intensity of the development, impacts to variance trees are minimal. It is the Board's opinion that all reasonable steps have been taken to minimize impacts to variance trees, and that granting the variance will not confer a special privilege to the applicant.

- b. Is not based on conditions or circumstances which are the result of the actions by the applicant.

Upon review, the Board concurs that the requested variance is based on the constraints of the site and the proposed development density and amenities as recommended in the Master Plan, rather than on conditions or circumstances which are the result of actions by the Applicant.

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

The Board concurs that the requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.

- d. Will not violate State water quality standards or cause measurable degradation in water quality.

DPS has approved a stormwater management concept, dated June 16, 2011 for the proposed project. Currently, there are no storm water management facilities provided for the site. The SWM Concept Plan incorporates a variety of Environmental Site Design (ESD) practices including micro-biofiltration facilities, grass swales and green roof. Runoff that cannot be captured and treated using ESD practices will be detained in underground storage vaults, treated and then discharged back into the existing storm drain system. This will dramatically improve the existing condition of uncontrolled and untreated runoff from the site. The topography of the site requires that the proposed storm drain be located between the garage and the variance trees along the eastern property line. Every effort has been made to ensure that this drain is located as close to the garage as possible, thereby minimizing the impact on the variance trees. Therefore, the Board concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

The Board approves the applicant's request for a variance from Forest Conservation Law to remove one tree that is 30 inches and greater, DBH, and to impact, but not remove, 3 others that are considered high priority associated with the site. The variance approval is incorporated into the Planning Board's approval of the final forest conservation plan.

Based on the analysis above and as conditioned, the Board finds the preliminary plan satisfies the requirements of the Forest Conservation Law.

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

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for the site on June 16, 2011. The stormwater management proposes to meet required stormwater management goals via five micro-biofilters, four Silva Cells, a partial green roof, and three storage-based structural filtration facilities. Non-rooftop disconnect is being used to treat the offsite bike path.

6. *The proposed subdivision and site plan satisfy the standards of Sections 59-D-2.42 and 2.43.*

Under the TMX zone, an optional method of development project may forego the requirement to obtain separate project plan approval if at the time of preliminary plan the Board finds that the standards of Sections 59-D-2.42 and 2.43, which govern project plan approval, are met. The requirements for project plan approval have been analyzed through this preliminary plan and the accompanying site plan. As required by Section 59-D-2.42, based on the considerations listed in Section 59-D-2.43, and further discussed in the site plan approval for this development and elsewhere in this resolution, the Board finds that as conditioned the proposed development complies with the zoning and sector plan, is compatible with surrounding existing and proposed development, will not overburden existing or programmed public facilities, and meets applicable forest conservation and water quality protection standards. Moreover, the proposed development will be more efficient and desirable than a standard method development because it will provide amenities that would not otherwise be provided, and will realize master plan goals of increased employment, open space, and connectivity improvements that would not otherwise be achieved.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) 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 for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor in interest to the terms of this approval.

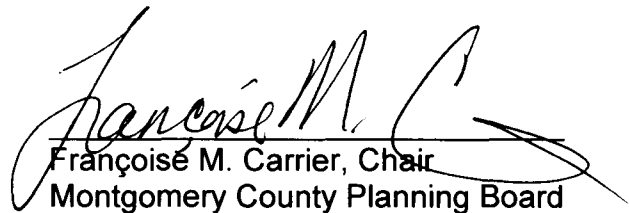
BE IT FURTHER RESOLVED, that the date of this Resolution is AUG 9 2011 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, July 28, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board