



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

MCPB
ITEM #
9/06/07

DATE: August 24, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: *MB*
Neil Braunstein, Planner Coordinator (301) 495-4532
Development Review Division

SUBJECT: Request for an extension to the validity period of the Adequate Public Facilities approval – Preliminary Plan No. 119882330 – Shady Grove Life Sciences Center

Recommendation: Extend Adequate Public Facilities validity period to July 25, 2013

Discussion:

The subject preliminary plan was approved by the Planning Board on March 15, 1990, for 24 lots, to contain a total of 1,671,454 square feet of life science uses, on 180.71 acres of land located in the northwest quadrant of the intersection of Shady Grove Road and Darnestown Road (MD 28). The resolution reflecting the Planning Board's action was mailed on March 22, 1990. The Adequate Public Facilities (APF) finding remained valid until July 25, 2001. The Planning Board extended the validity period until July 25, 2007, in response to a prior extension request. Attached, please find the applicant's timely request dated June 26, 2007 to further extend the APF validity period for Preliminary Plan 119882330, (formerly 1-88233), Shady Grove Life Sciences Center, for 72 months, until July 25, 2013.

Pursuant to Section 50-20(c)(9) of the Subdivision Regulations, the Planning Board may approve one or more additional extensions of a determination of adequate public facilities, up to six years beyond the previously granted six-year extension, if:

(A) no more than 30% remains to be built of either the entire approved development or the share of the development to be built by that applicant; or

(B) the applicant will commit to reduce the amount of unbuilt development by at least 10%, and the validity period for the amount to be reduced will expire as scheduled.

This application qualifies for approval of the extension under subsection (A). As the attached Shady Grove Life Sciences Center Development Summary (Attachment 2) shows, only 16.7% of the entire approved development remains to be built. This is far below the 30% limit that would authorize the Planning Board to approve the requested extension.

Applicant's Position

The prior APF extension approval confirmed that all required infrastructure was completed and that development within the preliminary plan area was proceeding. Since that time, an additional 167,722 square feet of development has occurred on the site.

A substantial amount of the remaining development capacity of the site is expected to be used in the near future, pending the outcome of this application. For example, Adventist Healthcare, Inc. has multi-phase plans for future hospital and ambulatory care facilities on the Shady Grove Adventist Hospital campus. These plans are currently in the design stage and should be incorporated in a site plan amendment within a year.

The surrounding transportation facilities are equipped to absorb the existing and approved development. The traffic and other impacts of this development have already been accommodated by the improvements that were called for in the original approval. There is no increase in density, nor increase in impacts as a result of this APF extension. A recent (2007) traffic study prepared by Wells & Associates, LLC for the adjoining Johns Hopkins University campus site confirms that there is virtually no congestion at the nearby intersections. In addition, public transit services are constantly evolving to better serve the Life Sciences Center.

Staff Position

The approval of this preliminary plan by the Planning Board in 1990 was subject to several conditions requiring traffic improvements, as follows:

- Construction of four lanes of Key West Avenue between West Gude Drive and existing MD 28 near Research Boulevard
- Construction of an additional through lane on northbound Shady Grove Road over I-270
- Construction of four lanes of Sam Eig Highway between Fields Road and great Seneca Highway
- Participation in construction of a right-turn lane on southbound Shady Grove Road at MD 28

- Dedication of Great Seneca Highway and MD 28 in accordance with the Master Plan

Each of the improvements required by the conditions of the 1990 Planning Board approval has been completed. As such, the developer's obligations have been met, and no additional improvements are required to construct the remaining buildings on the site. As noted above, the remaining development represents 16.7% of the total development of the site, and the extension, therefore, is permitted by Section 50-20(c)(9) of the Subdivision Regulations. For these reasons, staff recommends that the Planning Board extend the Adequate Public Facilities validity period for 72 months, until July 25, 2013.

Correspondence

Staff received a letter dated July 23, 2007, from the administration of the University of Maryland, raising questions about the effect of any proposed changes to the project on its adjacent Shady Grove campus. The questions are primarily related to stormwater management issues. Staff notes that the application before the Planning Board today will not have an effect on stormwater management issues because today's approval will only extend the APF validity period and will not authorize any physical changes to the project. The stormwater management system proposed with this project was approved by DPS at the time of the original preliminary plan and cannot be changed without approval by DPS. It is staff's understanding that the project engineer will contact the University of Maryland administration directly to address their concerns.

Conclusion

Staff recommends that the Planning Board approve the requested six-year APF validity period extension, to July 25, 2013.

Attachments:

1. Extension Request Letter dated June 1, 2007.
2. Letter from James B. Salt, Assistant Vice Chancellor for Administration and Finance, University System of Maryland dated July 23, 2007



June 26, 2007

BY HAND DELIVERY

Ms. Cathy Conlon
Development Review Division
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

**Re: Shady Grove Life Sciences Center
Extension of APF Approval
Preliminary Plan No. 1-88233**

Dear Ms. Conlon:

This letter transmits the attached Application to extend the validity period of the Adequate Public Facilities Ordinance ("APF") approval for the above-referenced Preliminary Plan and provides ample justification for the requested extension under applicable law. The Preliminary Plan covers what was originally 24 lots on 180.71 acres in the Shady Grove Life Sciences Center ("SGLSC").

The applicants include the Montgomery County Department of Economic Development ("DED"), Adventist Healthcare, Inc., Alexandria Real Estate Equities, Inc., BioReliance Corporation, and J. Craig Venter Institute, which together own or control a substantial amount of the Preliminary Plan area.

The Application is made in accordance with Section 50-20(c)(9) of the Montgomery County Subdivision Regulations. This provision allows an APF approval to be extended for up to six additional years, if: (i) the approval had been previously extended under Section 50-20(c)(5) of the Subdivision Regulations, and (ii) certain criteria are met. As a result of a previous such extension, the APF approval for the Preliminary Plan will expire on July 25, 2007. This Application proposes to extend the validity period for an additional six years, until July 25, 2013.

Attached with this letter are the following materials comprising the Application:

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1. Application Form and Fee Schedule for extension of Preliminary Plan No. 1-88233;
2. Chart of Development Activity within the Preliminary Plan area;
3. Planning Board Opinion for Preliminary Plan No. 1-88233;
4. Approved Preliminary Plan for Preliminary Plan No. 1-88233 (3 copies);
5. Prior extension Application dated August, 2000;
6. Approval Letter dated December 18, 2000, granting the prior extension request under Section 50-20(c)(5) of the Subdivision Regulations;
7. List of Adjoining / Confronting Property owners and Civic Groups (within a mile radius of Blackwell Road and Broschart Road); and
8. Checks in the amount of \$1,390.00.

As required by the Application filing procedures, two copies of this letter are also enclosed.

Background

The SGLSC is a contiguous 180.71-acre property that was acquired in the 1970's by Montgomery County, Maryland (the "County"). Prior to 1990, the area was unsubdivided and zoned R-200. At that time, the SGLSC was occupied by several major institutional tenants. In order to allow some interested tenants to purchase their SGLSC properties, it became necessary to subdivide the area and rezone it to the newly-created Life Sciences Center ("LSC") Zone.

In 1990, the County subdivided the SGLSC into 24 lots through Preliminary Plan No. 1-88233. Some lots were subsequently combined. The Preliminary Plan limited development on the lots in the SGLSC to a total of 1,671,454 square feet. DED, on behalf of the County, then apportioned this allowable density among the lots in a non-uniform manner. Density records (including assigned and remaining density for each lot in the SGLSC) are maintained by DED in a chart entitled

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“Shady Grove Life Sciences Center Development Summary” (the “Chart”). In preparation for this Application, the Applicants prepared an update of the Chart, which has been reviewed and approved by interested property owners in the SGLSC. The revised Chart is attached. The rezoning of the SGLSC to the LSC Zone in 1996 did not affect the density assignments in the Chart or DED’s responsibility to maintain and manage the density allocations.

Consistent with loophole legislation regarding APF validity periods (Emergency Bill No. 25-89), the validity period for the original APF approval was scheduled to expire on July 25, 2001. The Planning Board extended the approval period until July 25, 2007 in response to a prior extension request application (attached). This request was based upon an earlier version of Section 50-20(c)(5).¹ The Planning Board’s December 18, 2000, approval letter is attached.

Criteria for Application Review

The provisions of Section 50-20(c)(9) were added to the Subdivision Regulations in Subdivision Regulation Amendment (“SRA”) No. 05-03. This Section provides alternate criteria, only one of which must be met in order for the Planning Board to grant a new extension of the APF validity period. The criteria are as follows:

The Planning Board may approve one or more additional extensions of a determination of adequate public facilities, up to the time period allowed under paragraph (8), beyond any extension allowed under paragraph (5), if:

- (A) no more than 30% remains to be built of either the entire approved development or the share of the development to be built by that applicant; or
- (B) the applicant will commit to reduce the amount of unbuilt development by at least 10%, and the validity period for the amount to be reduced will expire as scheduled.

¹ The prior extension request involved the present Preliminary Plan and also two related plans, Preliminary Plan Nos. 1-86115 and 1-88017. These other plans are not included in this current extension Application.

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This Application qualifies for approval under Subsection (A). As the attached Chart demonstrates, only 16.7% of the entire approved development capacity within the Preliminary Plan area remains to be built. This is far below the 30% that would authorize the Planning Board to approve the requested extension.

Justification

The prior extension approval confirmed that all required infrastructure was completed and that development within the Preliminary Plan area was proceeding. Since that time, an additional 69,398 square feet of development has occurred. (Compare "Pipeline SF" numbers in the Charts from the present and prior extension applications). As a practical matter, this figure is much higher because it does not include the 98,324 square feet of floor area ratio ("FAR") space that Adventist Healthcare, Inc. has added to Shady Grove Adventist Hospital through Site Plan Amendment 8-99024A (approved May 18, 2004). This figure is offset in the Chart by 109,288 square feet of existing Hospital that Adventist Healthcare, Inc. converted from previous floor area ratio ("FAR") space to non-FAR cellar space through extensive re-grading as part of the same Site Plan approval. As a result, the SGLSC has really seen at least 167,722 square feet (69,398 plus 98,324) of new development in recent years.

A substantial amount of the remaining capacity is expected to be used in the near future, pending the outcome of this Application. For example, Adventist Healthcare, Inc. has multi-phase plans for future Hospital and ambulatory care facilities on its already vibrant Shady Grove Adventist Hospital campus. These plans are currently in the design stages and should be incorporated in a site plan amendment within the next year.

The surrounding transportation facilities are equipped to absorb the existing approved development. The traffic and other impacts of this development have already been accommodated by the significant improvements that were called for in the original approval. There is no increase in density, nor increase in impacts as a result of this extension. A recent (2007) traffic study prepared by Wells & Associates, LLC for the adjoining Johns Hopkins University Campus site, confirms that there is virtually no congestion at the nearby intersections. In addition, public transit services are constantly evolving to better serve the SGLSC.

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Lastly, there is a public benefit in approving the requested extension. Biotechnology, as exemplified by the SGLSC, is the industry of County focus for development. The SGLSC was established to facilitate development of biotech and life sciences businesses. As such, the industries within the SGLSC are important County partners in the research and delivery of health services. These industries are constantly upgrading and retooling their facilities to meet the shifting demands of the rapidly-changing biotechnology world. The companies need the flexibility to quickly respond to these changing external demands without being constrained by having to amend the Preliminary Plan. The requested extension, if approved, would provide the needed flexibility to continue the steady growth of the industry at this concentrated location. The County has traditionally provided the SGLSC industries with economic and development tools which have allowed them to thrive. The granting of the requested extension would continue this responsible tradition and is in the public interest.

The SGLSC shows an appropriate degree of current and expected activity as called for by Subdivision Regulations. This activity will have no negative impacts on the surrounding area and will allow the SGLSC industries to continue their measured growth. For these reasons, the extension of the APF validity period for Preliminary Plan No. 1-88233 is appropriate and should be approved.

Very truly yours,



Robert G. Brewer, Jr.

cc: Rob Klein
Mike Rand
Rose Krasnow
Bill Kominers, Esq.
Stephen Orens, Esq.



OFFICE OF ADMINISTRATION AND FINANCE

July 23, 2007

Ms. Cathy Conlon
Supervisor
Development Review Division
Maryland – National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Ms. Conlon:

Thank you for the conversation this morning regarding the Application for Second Extension of Adequate Public Facilities Approval for Preliminary Plan 1-882330 for the Shady Grove Life Sciences Center (SGLSC). I have attached a copy of the notification letter from Mr. Patrick O’Neil of Lerch, Early & Brewer that outlines the purpose of the application and associated back-up material.

A portion of the SGLSC storm water management is accommodated on the site of the University System of Maryland’s (System) Shady Grove Education Center (SGC) which is located opposite the SGLSC on the other side of Darnestown Road (Rt. 28). The System has several questions and/or comments related to the proposed application and the impact that the SGLSC development may have on the SGC storm water management system. These questions and comments are:

- 1. We would like an original or enlarged copy of the “summary chart” attached to the notice. Our copy is difficult to read.
2. Please confirm the definition of “pipeline capacity.”
3. How does the utilization of the pipeline capacity impact the storm water management system and regional pond at SGC that now serves a portion of the SGLSC property?
a. Is any of the proposed development on the portion of the SGLSC property which is served by the storm water management system under the subject notice on SGC property?
b. What is the current status of the previously approved development on the SGLSC portion of property

- 1807 University of Maryland, Baltimore
1856 University of Maryland, College Park
1865 Bowie State University
1866 Towson University
1886 University of Maryland Eastern Shore
1898 Frostburg State University
1900 Coppin State University
1925 Salisbury University
1925 University of Baltimore
1925 University of Maryland Center for Environmental Science
1947 University of Maryland University College
1966 University of Maryland, Baltimore County
1985 University of Maryland Biotechnology Institute

1987

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that utilizes the storm water management facility on SGC property?

c. Have any changes or improvements been made to SGLSC portion of property to redirect any storm water for quality and quantity within their own property?

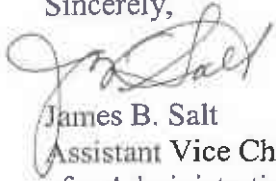
d. Has any studies of total capacity or permitted impervious areas been conducted on SGLSC property which is served by the storm water management system on SGC property.

4. What is the scope of the proposed development for the SGLSC.

Although the USM is not prepared to oppose the development of the SGLSC, we do need to know what its impact will be on our property at the SGC before we can endorse the project. Response to our questions and comments above will help us get to that endorsement.

Thank you for your consideration and if you have any questions please give me a call (301-445-1987).

Sincerely,



James B. Salt
Assistant Vice Chancellor
for Administration and Finance

cc: Stewart Edelstein
Sylvia Stewart
Jane Briggs
Mark Beck
Patrick O'Neal