



Residences at Shady Grove Station, Site Plan Amendment No. 82009007A

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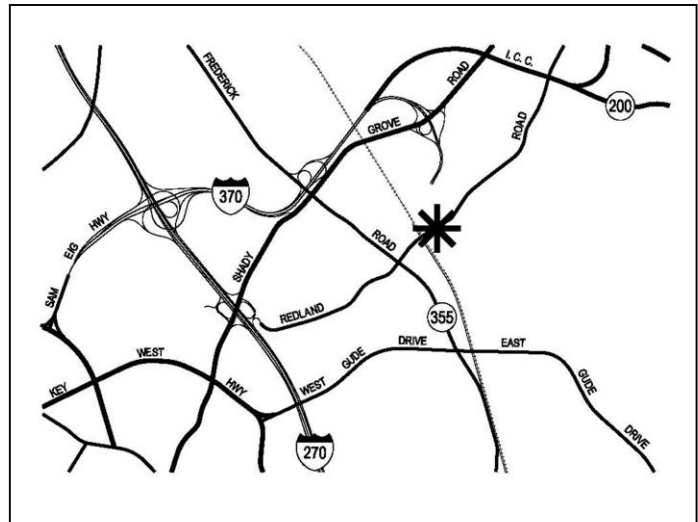
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Staff Report Date: 4/29/16

Description

- Request to reduce the number of approved multifamily dwelling units from 117 to 110 including two MPDU units, (approved gross floor area remains unchanged); shift building and garage entrance locations; add retaining walls to existing pond; and modify retaining walls, planters, site grading, and courtyard design;
- Located at the intersection of Redland Road and Yellowstone Way, in the 2006 Shady Grove Sector Plan;
- 4.26 acres in the PD-35 Zone;
- Applicant: Comstock Redland Road II, LLC;
- Submitted date: March 23, 2016.



Summary

- Staff recommends Approval with Conditions.
- Staff reviewed this amendment under the PD-35 provisions of the Zoning Ordinance in effect on October 29, 2014 pursuant to the grandfather provisions of Section 7.7.1.B.1 of the current Zoning Ordinance.

Staff Recommendation

Staff recommends approval of Site Plan No. 82009007A for the reduction of seven multifamily dwelling units resulting in a total of 149 units including 110 multifamily units, three single-family units, and 36 townhouse units; reduction in the required MPDUs from 21 to 19; shifting of the multifamily building's main entrance and garage entrance, installation of retaining walls, and other modifications subject to the following conditions. All Site Plan development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required.

Conditions

1. Development Plan Conformance
The development must comply with the conditions of Local Map Amendment G-875, dated June 24, 2008.
2. Preliminary Plan Conformance
The development must comply with the conditions of approval for Preliminary Plan No. 120090100, dated November 17, 2009, except as amended by this Application.
3. Site Plan Conformance
The development must comply with the conditions of approval for Site Plan No. 820090070, dated November 17, 2009, except as amended by this Application.
4. Transportation
 - a) Prior to the Certified Site Plan, the Applicant must update the current Traffic Mitigation Agreement dated May 4, 2010, to reflect the reduced number of housing units and amended Site Plan.
 - b) The Planning Board accepts the recommendations of Montgomery County Department of Permitting Services Right-of-Way Section (MCDPS-ROW) in its letter dated April 21, 2016, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
5. Moderately Priced Dwelling Units
 - a) The Planning Board accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated April 8, 2016, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with the recommendations as set forth in its letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
 - b) The development must provide 19 MPDUs (12.5%) on-site in accordance with Chapter 25A of the Montgomery County Code. Three of the MPDUs must be provided as single-family detached units.
 - c) Before issuance of any building permit for the multifamily building, the Applicant must update the current MPDU agreement between the Applicant and the DHCA.

6. Certified Site Plan

- a) Add a note to the Certified Site Plan stating: “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”

- b) Modify data table to reflect development standards approved by the Planning Board.

Project Description

Site and Vicinity

The 4.26-acre PD-35 zoned Property is located at the intersection of Redland Road and Yellowstone Way and is surrounded by commercial, public, and residential uses. Along Redland Road to the north is the Shady Grove Metro garage and surface parking lot with one of the Station entrances; to the west is the Maryland Motor Vehicle Administration Emissions Testing Station; and to the south and east are single-family detached and multifamily residential buildings. The Property is currently under construction and contains most of the townhouses and single-family houses approved in the original Site Plan, 820090070.



Figure 1: Vicinity Map

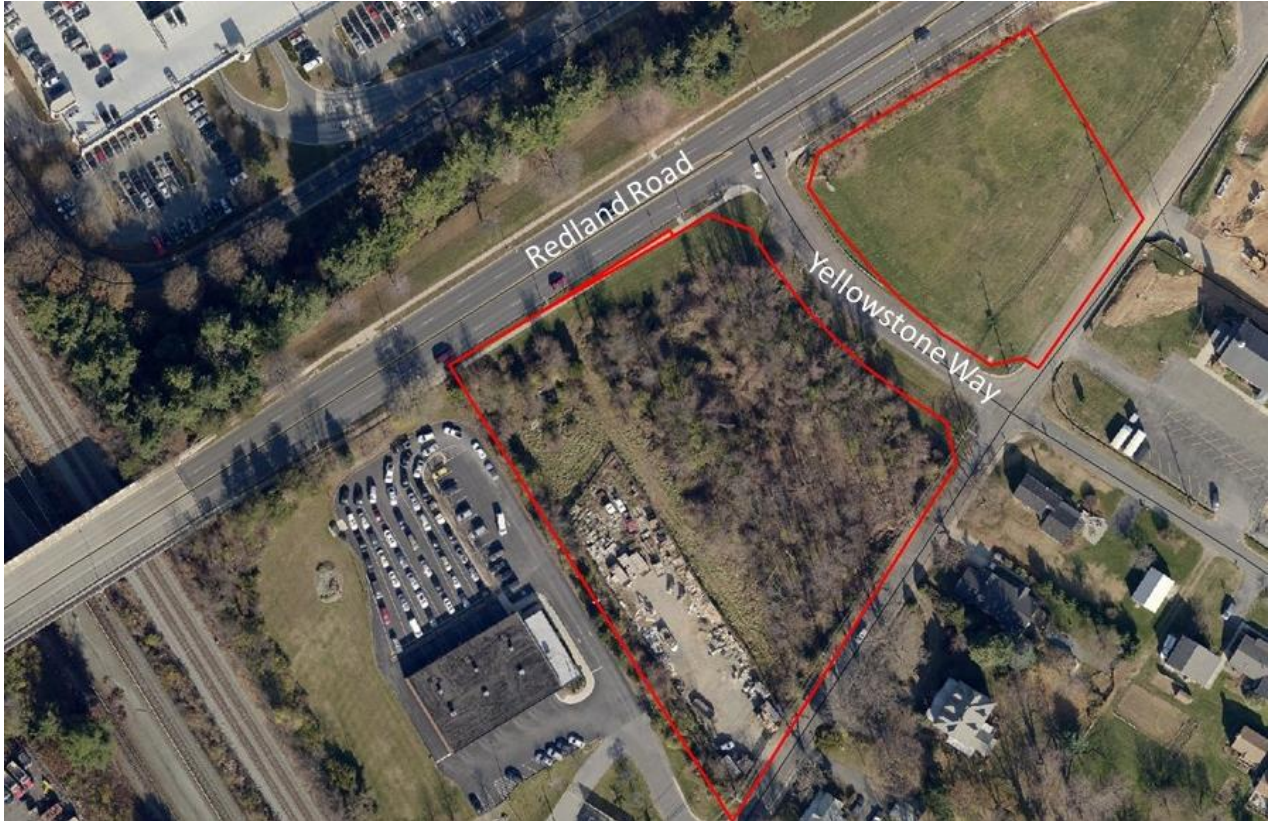


Figure 2: Site Map

Previous Approvals

Zoning Map Amendment

On June 24, 2008, the County Council, by Resolution 16-634, approved rezoning of the Property from R-90 to PD-35 Zone by Local Map Amendment G-875 for a total of up to 156 units (117 multifamily units, 3 single-family detached units, and 36 townhouse units), including 21 MPDUs (13 percent MPDUs to achieve a 5 percent density bonus).

Preliminary Plan

On November 17, 2009, the Planning Board approved Preliminary Plan No. 120090100 for a total of 156 units (36 townhouses, 3 single-family detached units, and 117 multifamily units), including 21 MPDUs.

Site Plan

On November 17, 2009, the Planning Board approved Site Plan No. 820090070 for a total of up to 156 units (36 townhouses, 3 single-family detached units, and 117 multifamily units), including 21 MPDUs.

Proposal

The Applicant is requesting to reduce the total number of units in the multifamily building approved in the original site plan. The proposed amendment will not impact the 36 townhouse units and three single-family detached units, which were also approved in the original site plan and have almost all been constructed. The proposed reduction in the number of units will not impact the overall building size, height, building footprint or the total square footage of the project.

The original approval of a total of 156 units was based on a five percent density bonus (above the base density of 149 units) for a minimum of 13% MPDUs (21 MPDU units) instead of the minimum

requirement of 12.5% MPDUs (19 MPDUs). Per the approved Site Plan, all three single-family units were MPDUs, and the remaining 18 MPDUS were in the multifamily building.

The proposed amendment will reduce the total number of units in the multifamily building from 117 to 110 – a reduction of seven units: two MPDUs, and five market rate units. The three single-family detached units and the 36 townhouse units will not change. The resultant project will therefore have a total of 149 units including the minimum required 12.5% (19) MPDUs.

Table 1: Distribution of approved and proposed unit types

Unit type	Approved Development Plan	Approved Site Plan (820090070)	This Amendment (82009007A)
Multifamily building	117 including 5% bonus density (99 market rate, 18 MPDUs)	117 including 5% bonus density (99 market rate, 18 MPDUs)	110 with no bonus density, (94 market rate, 16 MPDU)
Townhouses	36 (all market rate)	36 (all market rate)	36 (all market rate)
Single-family detached	3 (all MPDUs)	3 (all MPDUs)	3 (all MPDUs)
Total Units	156	156	149
MPDUs	21 (13.0%)	21 (13.0%)	19 (12.5%)

Along Redland Road, the proposed amendment will shift the multifamily building’s entrance by approximately 14 feet to the northeast and its garage entrance by approximately 7 feet to the northeast. The building’s southwest entry will also shift by approximately six feet to the south. The number of approved parking spaces will be reduced from 227 to 224, which is the minimum required number of parking spaces for this project.

The proposed amendment includes retaining walls that were not included in the original Site Plan but were installed by the Applicant to comply with Department of Permitting Services’ permit requirements. The amendment will also modify a retaining wall near the multifamily building. Revisions will also be made to the planter, site grading, and courtyard design. In addition, the original site plan approval drawings had incorrect data for Chieftain Avenue road dedication, which was corrected during the record plat process. Therefore, the proposed amendment updates the gross tract area of the Property based on what was included in the record plat.



Project Analysis

Master Plan Conformance

The Property is within the Metro East/Old Derwood neighborhood of the 2006 *Shady Grove Sector Plan*. The proposed amendment will not impact the development's conformance with the Sector Plan as analyzed and approved in the original site plan approval.

Environmental

The proposed amendment does not change the approved Limits of Disturbance, Forest Conservation Easement, Storm Water Management, or any other aspect of the approved Final Forest Conservation Plan (FFCP). All conditions of approval for the approved FFCP remain in force. The proposed amendment is in compliance with Chapter 22A and the *Environmental Guidelines*.

Transportation

Transportation Demand Management

The Property is located within the boundary of the Greater Shady Grove Transportation Management Organization (TMO). The Applicant has already entered into a Transportation Management Agreement

(TMAg) as a condition of approval for the original site plan. The Applicant must update the current TMAg as needed to reflect the proposed reduction in the number of units.

Master-Planned Staging Ceiling Allocation

The Subject Property is located in the *Shady Grove Sector Plan* area. The Sector Plan includes a staged implementation program with housing and jobs/employment allocations. The amendment's proposed reduction of seven units will increase the Sector Plan's remaining Stage 1 housing unit allocations by seven units.

Community Concerns

Staff received a phone call and an email from residents inquiring about the details of the proposed amendment. After Staff described the details, one resident expressed support for the amendment because it would reduce the number of units in the development.

Site Plan Findings

Pursuant to the grandfather provisions of Section 7.7.1.B.3.a of the current Zoning Ordinance, this amendment was reviewed under the standards and procedures of the zoning ordinance in effect on October 29, 2014 since the original site plan was approved on November 17, 2009.

The proposed amendment does not alter the intent, objectives, or requirements of the original site plan approval, and all other findings and conditions of approval remain in effect. The proposed amendment will not affect the building size, foot print, and height and setback, which will remain as established in the original site plan approval. Therefore, the proposed amendment will continue to meet all findings required for approval of the site plan per Section 59-D-3 of the applicable Zoning Ordinance.

Conclusion

Based on the review and analysis contained in this report, Staff recommends approval of Site Plan Amendment No. 82009007A with conditions.

Attachments

Attachment 1: G-875 County Council Resolution

Attachment 2: Site Plan Resolution

Attachment 3: Preliminary Plan Resolution

Attachment 4: Agency Approval Letters

Resolution No.: 16-634
Introduced: June 24, 2008
Adopted: June 24, 2008

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: County Council

SUBJECT: APPLICATION NO. G-875 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Jody Kline, Esquire, Attorney for Applicant, Keystone Real Estate Investments, LLC, OPINION AND RESOLUTION ON APPLICATION
Tax Account No. 04-00776834.

OPINION

Application No. G-875, filed on October 26, 2007, requests reclassification of a 4.26-acre parcel of mostly unimproved land (the "Thomas Somerville Site" in the 2006 Shady Grove Sector Plan) from the R-90 Zone to the PD-35 Zone. The Applicant proposes to develop the property with 156 residential units, including 3 single-family detached units, 36 single-family attached units and a 117 unit, multi-family, four-story building, which will have 20 Moderately Priced Dwelling Units (MPDUs). The property is known as Parcel P146 Derwood (or Parcel P146 Shady Grove Metro); and it is located at Yellowstone Way, on the south side of Redland Road between the CSX Railroad tracks and Crabbs Branch Way, in Derwood, Maryland.

The application for rezoning was reviewed by the Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) who, in a report dated March 10, 2008, recommended approval (Exhibit 33). The Montgomery County Planning Board ("Planning Board") considered the

application on March 20, 2008 and, by a vote of 3 to 0, also recommended approval, as stated in a memorandum dated March 25, 2008 (Exhibit 35).¹

A public hearing was held April 4, 2008, as scheduled. There was no opposition in this case, and the Shady Grove Advisory Committee indicated to Technical Staff that it supported the proposed rezoning and development plan (Exhibit 33, p. 28), but it did not formally participate in the hearing.² After the submission of some additional documentation, the record closed on May 15, 2008.

The Hearing Examiner recommended approval on grounds that the proposed development satisfies the intent, purpose and standards of the PD-35 Zone; that it meets the requirements set forth in Section 59-D-1.61 of the Zoning Ordinance; that the application proposes a project that would be compatible with development in the surrounding area; and that the requested reclassification to the PD-35 Zone has been shown to be in the public interest.

To avoid unnecessary detail in this Resolution, the Hearing Examiner's Report and Recommendation, dated June 3, 2008, is incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application does meet the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

The 4.26-acre subject property is a trapezoidal parcel located between Redland Road to the north and Chieftain Avenue to the south, with frontages on both streets. The property is bisected into northeastern and southwestern segments by Yellowstone Way, a 60-foot wide secondary residential street. The segment of the property on the east side of Yellowstone Way (approximately 1.3 acres) is unimproved and contains a few trees, brush and grassy area. The segment west of Yellowstone Way (totaling approximately 3.0 acres) contains a paved vehicle storage area and approximately 1.56 acres of low quality

¹ In that same memorandum, the Planning Board noted that it would review the orientation of the single-family houses on Chieftain Avenue at site plan, and a note was added to the revised development plan to so indicate. The Planning Board also mentioned that, at subdivision, it would carefully review some traffic safety issues raised by the community.

² The Advisory Committee also raised some issues with Staff about traffic control and stormwater management, which will be addressed at subdivision.

forest. The site has a very gentle slope (3 to 8%) from the southwest down to the northeast, draining towards the Crabbs Branch regional stormwater management facility, to the northeast. The subject site is not within a Special Protection Area or Primary Management Area, and there are no streams, wetlands, floodplains or steep slopes associated with erodible soils.

The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. The “surrounding area” is defined less rigidly in connection with a floating zone application than in evaluating a Euclidean zone application. In general, the definition of the surrounding area takes into account those areas that would be most directly affected by the proposed development. In the present case, Technical Staff recommended designating the surrounding area as bounded on the north by Redland Road, on the east by Crabbs Branch Way, on the south by Indianola Drive and on the west by the CSX Railway Tracks. This designation was based on description of the “Metro East—Old Derwood” area in the 2006 Shady Grove Master Plan (p. 31, Density Distribution Map). The Hearing Examiner accepted this definition, as does the District Council.

The surrounding area was described by Technical Staff in its report (Exhibit 33, pp. 6-7):

The land use within the neighborhood boundaries is predominantly residential with single-family detached residences and townhomes. The area also contains a site that is approved for proposed residential development (Baldwin Landing) for 52 single-family detached and townhomes. The area also includes a vehicle emission inspection station and an office building. Outside of the neighborhood boundaries, to the north, is located a large multi-level parking garage that serves the Shady Grove Metro Station located farther northwest. West of the neighborhood across the CSX tracks, a mixture of industrial and commercial uses exist. The areas to the east and south outside of the neighborhood boundaries consist of single-family detached dwellings, townhomes and garden apartments.

Immediately north of the subject site across . . . Redland Road is the Metro parking facility with a multi-level structure and surface parking lot in the TOMX-TDR Zone. To the east, the property abuts a vacant parcel of land owned by Montgomery County in the R-90 Zone. To the south across Chieftain Avenue, confronting the subject property, are single-family homes and the Derwood Bible Church property. The church property is approved for a residential development [*i.e.*, Baldwin Landing] of 52 single-family-detached dwellings and townhomes under the R-90/TDR Zone. To the west, the

property abuts the State Highway Vehicle Emissions Inspection Program Station in the R-90 Zone.

The zoning history was also reported by Technical Staff: The subject property was placed in the R-R Zone when the zone was enacted and mapped in the 1954 Regional District Zoning. The 1958 Countywide Comprehensive Zoning confirmed the R-R zoning of the site. The R-R Zone was renamed R-200 in 1973. The 1971 Sectional Map Amendment (SMA) for Gaithersburg Vicinity (F-657) reclassified the subject property to I-1, and the 1977 Shady Grove Sector Plan confirmed the I-1 Zone for the property. The 2006 Shady Grove Sector Plan recommended a base zone of R-90 and development under the PD-35 Zone by Local Map Amendment. The 2006 Shady Grove SMA implemented the Sector Plan's recommendation for rezoning the property's base zone to R-90.

The development includes 20 (*i.e.*, 13%) Moderately Priced Units (MPDUs), all of which will be located within the multi-family building. The orientation of the three single-family detached units on Chieftain, all of which are three stories tall, will be decided at Site plan, per the wishes of the Planning Board. The townhouse units will be three stories tall in the front and four stories tall in the rear. The design, with the single family units located along Chieftain, is intended to serve as a transition from the single-family homes in the historic Derwood neighborhood across Chieftain, to the larger multifamily building along Redland Road. Walkways provide for the connection within the development to public sidewalks, roadways and public facilities, and to the Shady Grove Metro Station via Redland Road. There will be a large courtyard running from the multi-family building to Chieftain Avenue, another courtyard (or "tot lot") surrounded by the multifamily building and a pocket park on the north side of the site, adjacent to Chieftain Avenue.

Pursuant to Code § 59-D-1.11, development under the PD-35 Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the PD-35 Zone. The Development Plan and the Land Use Plan that constitutes one of its primary parts are

binding on the Applicant except where particular elements are identified as illustrative or conceptual. Illustrative and conceptual elements may be changed during site plan review by the Planning Board, but the binding elements (*i.e.*, those that the District Council will consider in evaluating compatibility and compliance with the zone) cannot be changed without a separate application to the District Council for a development plan amendment.

The Development Plan for the present zoning application is contained in Exhibits 54(a) and (b). Exhibit 54(a), the first page of the Development Plan, shows a site layout and all of the textual development data and notes. The second page of the plan, Exhibit 54(b), shows the site layout in greater detail. The proposed Development Plan indicates that the project will be constructed in one phase, that structures shown on the development plan are conceptual and that final lot layouts and setbacks will be determined at site plan review. Technical Staff reports that the proposed development is not dependent on any capital improvements being provided by the County.

As shown in the Applicant's "Development Data," the base density allowed for the site in the PD-35 Zone is 149 units (4.26 acres @ 35 du per acre = 149 units). Because 13% MPDUs (*i.e.*, 20 MPDUs) will be provided, the permitted density is increased by 5%, to a total of 156 units, as provided for under Zoning Ordinance §59-C-7.14(c) and Montgomery County Code §25A-5(c)(3). The development data provided by Applicant will meet the development standards for the PD-35 Zone and the 2006 Shady Grove Sector Plan, including the 50% green area required by the Zone and the four-story height limitation along Redland Road called for in the Sector Plan (p. 41). The project also includes 227 parking spaces, the number called for in the Zoning Ordinance, but that number may be reduced at site plan by up to a 15% credit pursuant to Zoning Ordinance §59-E-3.33.

Applicant has also committed to dedicating, to the public right-of-way, approximately 0.54 acres of land along the site's frontages on Redland Road (.12 acres) and Chieftain Avenue (.42 acres), as specified in the Development Plan.

Section 59-D-1.61 of the Zoning Ordinance requires the District Council, before it approves any application for re-zoning to the PD-35 Zone, to consider whether the application, including the development plan, fulfills the “purposes and requirements” set forth in Code Section 59-C for the new zone. In making this determination, Zoning Ordinance §59-D-1.61 expressly requires the District Council to make five specific findings, and Maryland law requires that zoning power be exercised in the public interest.

§59-D-1.61(a): Consistency with Master Plan and other County Policies.

The first required finding is consistency with the use and density requirements of the Master Plan and with other County plans and policies.³ The subject site is located within the area analyzed in the 2006 Shady Grove Sector Plan. The Sector Plan, at p. 41, specifically addresses the subject site (known as the Thomas Somerville Site in the Sector Plan) with the following recommendations:

This vacant site, approximately 4.2 acres, is divided into two parcels by Yellowstone Way. The eastern parcel is approximately 1.2 acres and the western parcel is three acres. This Plan recommends:

- *Rezoning the site from I-1 to R-90 and permit PD-35 zoning to allow residential development at 35 dwelling units per acre.*
- *Building heights along Redland Road should be no higher than four stories.*
- *Single-family detached or duplex units should front Chieftain Avenue as a transition to the R-200 Old Derwood community and should be no higher than three stories.*
- *Parking for the larger parcel should be structured or located underground within the development.*

The District Council finds that the proposed development would be consistent with the Sector Plan’s use and density recommendations, as well as with its other specific recommendations for the site. The development would make the best use of the Metro’s proximity, and it would provide protection for old Derwood by rezoning this industrial land along Redland Road to a residential zone, as suggested on page 13 in the Sector Plan. The development would provide transition from Derwood and integrate with it.

³ For the reasons stated in the Hearing Examiner’s report (pp. 43-47), the District Council concludes that an evaluation by the Alternative Review Committee (ARC) was not required in this case.

Under the County's Adequate Public Facilities Ordinance ("APFO," Code §50-35(k)), the Planning Board has the responsibility, when it reviews a preliminary plan of subdivision, to assess whether the following public facilities will be adequate to support a proposed development: transportation, schools, water and sewage facilities, and police, fire and health services. The Planning Board's application of the APFO is limited by parameters that the County Council sets in its Growth Policy. While the ultimate test under the APFO is carried out at subdivision review, evidence concerning adequacy of public facilities is relevant to the District Council's determination in a rezoning case, as spelled out in Zoning Ordinance §59-H-2.4(f).

That section was amended recently by Zoning Text Amendment 07-17.⁴ The amended provision requires Applicant to produce "[s]ufficient information to demonstrate a reasonable probability that available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application is submitted." In this case, the application was submitted on October 26, 2007, so the new Growth Policy adopted in November of 2007 will not apply to the rezoning determination; however, the new Growth Policy will be applied at subdivision.

Under both the 2003-05 Growth Policy Element (p.14) and the 2007-2009 Growth Policy, Resolution 16-376, adopted 11/13/07, pp. 22-23, "[t]he Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated." There is no such evidence in this case, and the District Council therefore concludes those public facilities are adequate. The remaining three public facilities – transportation, schools and water and sewer service – were discussed at length in the Hearing Examiner's report. For the reasons stated therein and summarized below, the District Council finds that the proposed development will not unduly burden the County's public facilities.

⁴ Ordinance No: 16-14, effective March 17, 2008.

1. Transportation

Applicant's expert in traffic engineering did a traffic impact study for the subject development (Exhibit 20), following normal Local Area Transportation Review (LATR) procedures in conjunction with Transportation Planning Technical Staff. In the Shady Grove Metro area, the congestion standard was 1,800 critical lane volume (CLV), and it remains so under the new Growth policy. All studied intersections would continue operating below that congestion standard if the proposed development were built. Based on the study, Applicant's traffic engineer concluded that this project would not have a negative impact on the road system or create congested streets. Technical Staff accepted Applicant's traffic study and concluded that minor changes in the dwelling unit configuration would not adversely impact the studied intersections. Thus, LATR was satisfied. Policy Area Mobility Review (PAMR) was created by the new Growth Policy and therefore does not apply to this zoning application.

Based on the foregoing, the District Council finds that Applicant has demonstrated a reasonable probability that available public transportation facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

2. School Capacity:

The subject property is located within the Magruder Cluster. Enrollment at all levels in this cluster "is currently within capacity and is projected to stay within capacity." Montgomery County Public Schools (MCPS) letter attached to Exhibit 33. According to MCPS, the number of anticipated school children from the new development (14 elementary, 10 middle and 8 high school students) will not over-extend that capacity. Thus, the evidence demonstrates a reasonable probability that available public school facilities will be adequate to serve the proposed development.

3. Water and Sewer Service:

Under both the 2003-05 Growth Policy Element (p.14) and the 2007-2009 Growth Policy, Resolution 16-376, adopted 11/13/07, p. 22, "applications must be considered adequately served by water

and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, [or] is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (*i.e.*, categories I, II, and III)”

Water and sewer services are available to the site. The Washington Suburban Sanitary Commission (WSSC) indicated in a message to Technical Staff that the proposed rezoning “will not impact the WSSC’s systems or facilities.” Attachment to Exhibit 33. The WSSC further noted that water and sewer service to the property had been conceptually approved.

The District Council finds that Applicant has demonstrated a reasonable probability that available water and sewer facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

In sum, based on this record, the District Council finds that the requested rezoning does not conflict with “other applicable County plans and policies.”

§59-D-1.61(b): purposes, standards and regulations of the zone; safety, convenience and amenity of residents; and compatibility with adjacent development.

The second required finding is:

That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.

a. Compliance with the Purposes, Standards and Regulations of the Zone

Planned Development (PD) zones are a special variety of floating zone, with performance specifications integrated into the requirements of the zone. These zones allow considerable design flexibility if the performance specifications are satisfied. The applicant is not bound to rigid design specifications, but may propose site-specific criteria, within the parameters established for the zone, for elements such as setbacks, building heights and types of buildings.

Section 59-C-7.11, Purpose Clause

The PD Zones have a lengthy purpose clause, Zoning Ordinance §59-C-7.11, which is linked to the goals of the applicable master plan.

As discussed above, the proposed development will be in substantial compliance with the 2006 Shady Grove Sector Plan. Accordingly, the requested reclassification will comply with the first element of the PD Zone's purpose clause by allowing implementation of applicable Master Plan objectives.

The proposed development also complies with the purpose clause of the PD-35 Zone by providing a mix of apartments, townhouses and single family units all in one block, combining optimal land planning and efficiency. Sidewalks and the grid system of streets are provided in accordance with the Sector Plan. There are various open spaces on the site, and a recreation/athletic facility within the multi-family building. Recreation areas will be provided, including a courtyard that runs from Chieftain back to the multi-family building; a parcel at the northwest corner of Chieftain and Yellowstone that is like a pocket park, complimenting a similar corner on the confronting Baldwin Landing property; and a "tot lot" in front of the multi-family building.

The purpose clause calls for an encouragement of social and community interaction. The development plan has buildings and homes fronting sidewalks, and a sidewalk system integrated with the existing community, so there will be a high level of community and social interaction both within this project and between the project and the existing community of Derwood.

There will be a range of housing – multi-family, townhouse and single-family, all within the limitations of the PD Zone. Grading has been minimized in that the slope of the property is accommodated by having a four-story, multi-family building facing Redland Road, with parking beneath it, and by having the townhouse buildings with four stories to the rear and three in the front along the street.

The development will be of sufficient scale to get a variety of unit types with a maximum of safety, convenience and amenities for residents, assuring compatibility and coordination with existing uses.

Finally, the plan will support the comprehensive and systematic development of the county by conforming to the Sector Plan.

As pointed out by Technical Staff (Exhibit 33, p. 11):

Development of the property under the PD-35 zone will provide a range of dwelling types to satisfy the intended purpose of the zone within the immediate neighborhood, which is adjacent to the Shady Grove Metro Station. The proposed development provides for a unified form of development at an overall density and mixture of unit types that are generally consistent with the recommendations of the Shady Grove Sector Plan. The proposed development also encourages maximum social and community interaction through pedestrian and vehicular linkages and as such, it would provide for the safety, convenience and amenity of residents and assure compatibility with the surrounding residential, commercial, industrial and transit oriented uses.

The District Council finds that the subject development will provide the kind of housing mix and general-benefit open space recommended by the Purpose Clause, as well as pedestrian interconnectivity and compatibility with its surroundings.

With regard to compatibility with neighboring properties, Technical Staff stated its opinion that “[t]he proposed development is compatible with existing and future land uses in the area in terms of use, density and bulk. The Applicant has placed specific maximum height limits for the proposed multi-family building and the townhomes to ensure that compatibility exists between the uses being proposed and other uses, existing or proposed, adjacent to the proposed development.” Exhibit 33, p. 15. Based on this record, the District Council finds that the proposed development would be compatible with the neighborhood.

In sum, the proposed development is consistent with the intent and purposes of the PD-35 Zone. We turn next to the “standards and regulations” of the PD-35 Zone.

The standards and regulations of the PD-35 Zone are spelled out in Code Sections 59-C-7.121 through 7.18.

Section 59-C-7.121, Master Plan

Pursuant to Code §59-C-7.121, “no land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted master plan which shows such land for a density of 2 dwelling units per acre or higher.” The applicable Master Plan, the 2006 Shady Grove Sector Plan, recommends that the subject property be developed under the PD-35 Zone, which permits 35 dwelling units per acre (or more if MPDUs are included on site). Accordingly, this provision is satisfied in this case.

Section 59-C-7.122, Minimum Area

Code §59-C-7.122 specifies several criteria, any one of which may be satisfied to qualify land for reclassification to the PD Zone. Alternative criterion (a) requires that the site “contain sufficient gross area to construct 50 or more dwelling units under the density category to be granted.” As noted above, the subject property is recommended for the PD-35 Zone by the Master Plan, and contains 4.26 acres. Thus, the base density permitted equals 35×4.26 , which results in a base density of 149 dwelling units. This figure clearly exceeds the 50 dwelling-unit minimum under this requirement. Moreover, the development will actually have a total of 156 units because it is allowed a 7 unit bonus based on its inclusion of 20 MPDUs.

Section 59-C-7.13 and 7.131, Residential Uses Permitted

Pursuant to Code §59-C-7.131, all types of residential uses are permitted in the PD-35 Zone, but it also specifies that a minimum of 50% of the units should be over four stories tall. However, footnote 1 to this section permits the District Council to “waive the percentage requirements for one-family and multiple-family dwelling units, if it finds that a proposed development . . . (b) achieves goals, policies or recommendations stated in an approved and adopted master or sector plan.” Here, the Sector Plan limits building heights along Redland Road to no more than four stories, and units on Chieftain Avenue to no more than three stories. Sector Plan, p. 41. Therefore, the District Council finds that waiver of the over-

four-story minimum requirement is appropriate in this case. The development plan calls for a four-story building on Redland Road and three-story homes on Chieftain, consistent with the Sector Plan.

Section 59-C-7.132 and 7.133, Commercial and Other Uses Permitted

There are no non-residential uses proposed here.

Section 59-C-7.14, Density of Residential Development

The Sector Plan recommends the PD-35 Zone (at p. 41), which is a high-density category permitting a maximum of 35 dwelling units per acre. As noted above, the base density permitted for the acreage in question is 149 units. However, Code §59-C-7.14(c) permits a bonus density if the number of MPDUs provided exceeds 12.5% MPDUs. The subject Development Plan calls for 13% MPDUs and a bonus density of 7 units (5%), for a total of 156 units. Technical Staff reports that “[t]he density requested for this development will not exceed the density permitted.” Exhibit 33, p. 14. The District Council finds that Applicant’s density calculation is consistent with the bonus density permitted under Montgomery County Code §25A-5(c).

Section 59-C-7.15, Compatibility

The Hearing Examiner found that the proposed development will be compatible with other uses existing or proposed in the vicinity of the planned development, and the District Council agrees for the reasons set forth above in the discussion of the Zone’s Purpose Clause. The section also requires that only a single-family detached home be constructed within 100 feet of any adjoining single-family detached zone. The subject site is across the street from some single-family detached homes, but does not adjoin any single-family detached property, so this provision does not apply.

Section 59-C-7.16, Green Area

This section of the Ordinance requires 50% green space for the PD-35 Zone, and the Development Plan satisfies that requirement.

Section 59-C-7.17, Dedication of Land for Public Use

The Applicant's Development Plan (Exhibit 54(a)) indicates that a total of approximately 0.54 acres of land will be newly dedicated to public use along the property's frontages on Redland Road (about 0.12 acres) and Chieftain Avenue (about .42 acres). Technical Staff states, "The application satisfies all public use dedication requirements." Exhibit 33, p. 15. The District Council so finds.

Section 59-C-7.18, Parking Facilities

This section requires that off-street parking be provided in accordance with Zoning Ordinance Article 59-E. A total of 227 off-street parking spaces are required by Zoning Ordinance §59-E-3.7, and the Development Plan (Exhibit 54(a)) indicates that number will be provided; however, Technical Staff calculated that a 15 percent reduction may apply due to the location of the property within 1,600 feet of a Metro Station (§59-E-3.33(a)). If the amount of parking is reduced by 15% at site plan, then the required parking would be reduced to 193 spaces. Technical Staff determined that "[t]he proposed off-street parking is consistent with zoning ordinance requirements," and the District Council so finds. Ex. 33, p. 16.

In sum, the District Council concludes that the proposed rezoning and the Development Plan will be consistent with the purpose clause and all applicable standards for the PD-35 Zone.

b. Safety, Convenience and Amenity of Residents

The next part of "Finding (b)" required by Section 59-D-1.61 is a determination that the proposed development would provide the "maximum safety, convenience, and amenity of the residents." Since this required finding is practically identical with one of the purpose clause requirements for the PD-35 Zone, it has been discussed in that context above. The District Council finds that Applicant has provided the maximum in safety, convenience and amenities for the future residents of this development.

c. Compatibility with Adjacent Development

The final required determination under "Finding (b)" is that the proposed development be compatible with adjacent development. For the reasons discussed above in connection with the Purpose

Clause of the PD-35 Zone, the District Council concludes that the proposed residential dwelling units will be compatible with other uses existing or proposed in the vicinity of the planned development.

§59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems.

The third required finding is “[t]hat the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.”

Applicant’s traffic engineer opined that the circulation pattern shown in the site plan would be safe, adequate and efficient for the proposed use. Tr. 45. Technical Staff agreed, stating that “[t]he Development Plan also provides an efficient and coordinated vehicular and pedestrian circulation system [and that] review and analysis of the subject proposal by the Transportation Planning staff reveals that the proposed access to the site, as shown on the Development Plan, is safe and adequate.” Exhibit 33, p. 17.

Accordingly, the District Council finds that the proposed circulation systems and site access would be safe, adequate and efficient for both vehicular and pedestrian traffic.

§59-D-1.61(d): preventing erosion, preserving vegetation, forest conservation and water resources.

The subject site is not within a Special Protection Area or Primary Management Area, and there are no streams, wetlands, floodplains or steep slopes associated with erodible soils. Exhibit 33, p. 18. There are 1.56 acres of low quality forest. Tr. 78. Applicant has submitted an approved Natural Resources Inventory and Forest Stand Delineation (Exhibit 9), a Stormwater Water Management Concept Plan (Exhibit 15), and a Preliminary Forest Conservation Plan (Exhibit 10), which has been approved in modified form by the Planning Board. Tr. 85-86. Technical Staff reported no environmental issues warranting denial of this application. Moreover, as mentioned in the discussion of the Purpose Clause, above, the project design has minimized grading.

In sum, the District Council finds that Applicant has demonstrated the environmental controls required by “Finding (d).”

§59-D-1.61(e): common area maintenance.

The fifth required finding is “[t]hat any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.”

Applicant submitted an affidavit from Richard Koch, Applicant’s Managing Member, identifying Applicant’s parent company, BREF-KREI P146 LLC, as the contract purchaser of the subject site; affirming that Applicant is BREF-KREI P146 LLC’s authorized agent; and indicating that BREF-KREI P146 LLC will be responsible for maintenance of the recreational and other common areas until ownership is transferred, at which time documents will be created with provisions assuring continued perpetual maintenance of such areas by the new owner or homeowners association. Exhibit 52(c).

The District Council finds that Applicant has sufficiently demonstrated both its interest in the property and its commitment to perpetual maintenance of all recreational and other common or quasi-public areas.

The Public Interest

The Applicant must show that the proposed reclassification is sufficiently in the public interest to justify its approval. The State Zoning Enabling Act applicable to Montgomery County requires that all zoning power must be exercised:

. . . with the purposes of guiding and accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district, . . . and [for] the protection and promotion of the health, safety, morals, comfort, and welfare of the inhabitants of the regional district. [Regional District Act, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., § 7-110].

When evaluating the public interest, the District Council normally considers Master Plan conformity, the recommendations of the Planning Board and Technical Staff, any adverse impact on public facilities or the environment and public benefits such as provision of affordable housing.

The issue of Master Plan conformance was discussed above. As outlined therein, Applicant's proposal is consistent with the recommendations, goals and objectives of the 2006 Shady Grove Sector Plan. The Planning Board and its Technical Staff supported the proposed rezoning, and there has been no opposition to this project. The impact on public facilities was also discussed above. The evidence indicates that transportation, schools and water and sewer services would not be adversely affected by the proposed development.

The proposed project will bring an attractive residential development within walking distance of a Metro Station, and will provide affordable housing and streetscape improvements.

For the reasons discussed above, the District Council concludes that the proposed development would be in the public interest.

Conclusion


Based on the foregoing analysis and the Hearing Examiner's report, which is incorporated herein, and after a thorough review of the entire record, the District Council concludes that the proposed development satisfies the intent, purpose and standards of the PD-35 Zone; that it meets the requirements set forth in Section 59-D-1.61 of the Zoning Ordinance; that the application proposes a project that would be compatible with development in the surrounding area; and that the requested reclassification to the PD-35 Zone has been shown to be in the public interest. For these reasons and because approval of the instant zoning application will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-875, requesting reclassification from the R-90 Zone to the PD-35 Zone, of a 4.26-acre parcel of land, known as Parcel P146 Shady Grove Metro (Derwood), and located at Yellowstone Way, on the south side of Redland Road between the CSX Railroad tracks and Crabbs Branch Way in Derwood, Maryland, is hereby approved in the amount requested and subject to the specifications and requirements of the revised Development Plan, Exhibits 54(a) and (b), provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Development Plan approved by the District Council within 10 days of approval, as required under Code §59-D-1.64.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



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

MCPB No. 09-135
Site Plan No. 820090070
Project Name: Shady Grove Metro Parcel P-146
Date of Hearing: October 22, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on December 2, 2008, Keystone REI ("Applicant"), filed an application for approval of a site plan for 36 townhomes, 3 one-family detached units, and 1 building containing 117 multi-family units, including 13% MPDUs on 4.26 acres in size located in the PD-35 Zone, located at the intersection of Redland Road and Yellowstone Way ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820090070, Shady Grove Metro Parcel P-146 (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 12, 2009, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on October 22, 2009 the Planning Board held a public hearing on the Application (the "Hearing"); and

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

WHEREAS, on October 22, 2009, the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre, seconded by

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

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Shady Grove Metro Parcel P-146
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Commissioner Wells-Harley; with a vote of 3-0; Commissioners Alfandre, Hanson and Wells-Harley voting in favor, Commissioners Cryor and Presley being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820090070 for 36 townhomes, 3 one-family detached units, and 1 building containing 117 multi-family units, including 13% MPDUs on 4.26 acres in size located in the PD-35 Zone, subject to the following conditions:

Conformance with Previous Approvals

1. Development Plan

The proposed development must comply with the non-illustrative binding elements of the zoning approval and associated development plan G-875 approved on June 24, 2008.

2. Preliminary Plan

The proposed development must comply with the conditions of approval for preliminary plan 120090100 as listed in the approved Planning Board Resolution. This includes, but is not limited to all references to density, rights-of-way, dedication, easements, and agency approvals.

Alternative Layout

1. The original submittal must be revised as shown on the "Revised Layout" plan shown on page 6 of this staff report. This includes reducing the size and relocating the stormwater pond to the eastern edge of the site; relocating the internal stick of townhouses to front on Yellowstone Way; relocating the vehicular access to the townhouses on the eastern portion of the site from Yellowstone Way to Chieftain Avenue; and any necessary internal site improvement modifications.
2. The revised layout must be approved by DPS prior to the certification of the site plan. If the revised layout cannot be approved, this site plan must be amended.

Transportation & Circulation

1. Transportation

The Applicant must provide two (2) inverted-U bike racks in front of the apartment building in weather protected locations and four (4) bike lockers in the garage within 50 feet of the elevator to serve the residents and visitors of the apartment building. Transportation Planning Division staff shall determine the ultimate location of the bike racks and lockers at site plan certification.

Pedestrian Circulation

The Applicant must construct all internal sidewalks and seating areas to serve the proposed development as shown on the site plan with minor modifications finalized by certified site plan.

Environment

The Applicant must meet the entire 1.88-acre reforestation requirement offsite in a manner and location as specified by Montgomery County Code Section 22-A-12(e) as reviewed and approved by the final forest conservation plan.

Architecture

1. The Applicant must provide final architectural elevations for the multi-family building to ensure that articulation, balconies, alcoves, building materials, and projections are used to decrease the sense of mass along Redland Road as shown on the conceptual site perspectives provided by the Applicant.
2. Final detailing, entrances, and roof design of the detached and townhouse units must substantially conform to conceptual architectural perspectives submitted by the Applicant.
3. Front door entrances and porches must be provided on each of the cottage houses on the façade parallel with Chieftain Avenue.

Moderately Priced Dwelling Units

1. The proposed development must provide 21 MPDUs (13%) on-site in accordance with Chapter 25A of the Montgomery County Code. The Applicant is receiving a 5% density bonus for providing 13% MPDUs on-site.
2. The Applicant must obtain an agreement to build pertaining to the construction and staging of MPDUs from the Department of Housing and Community Affairs (DHCA) prior to the issuance of any building permits.
3. The three one-family detached units must be provided as MPDUs and must have at least three bedrooms. The final unit distribution and bed-rooms per unit for the 18 MPDUs within the multi-family building must be approved by DHCA.

Site Plan

1. Streetscape
 - a. Space all street trees a minimum of 40 feet apart along Redland Road and a minimum of 35 feet along Yellowstone Way and Chieftain Avenue unless physical site impediments (e.g., light fixtures or utilities) cause the spacing to change as a result of permitting.
 - b. Replace red maples along Redland Road with a variety of oak to be determined by certified site plan.
 - c. Provide Washington Globe light fixtures along Chieftain Avenue and Yellowstone Way between every other street tree. Eliminate cobra-head light fixtures on utility poles.

2. Lighting

- a. All internal paths and recreation areas must be illuminated to meet IESNA residential lighting standards.
- b. All internal fixtures must be semi-cut off fixtures.
- c. All illumination levels at county rights-of-way must not exceed 0.5 footcandles exclusive of streetlamps.

3. Recreation Facilities

- a. Recreation facilities must be constructed in conformance with the approved M-NCPPC Recreation Guidelines.
- b. The Applicant must provide, at a minimum, one tot-lot, an indoor community space, an indoor exercise facility, and three sitting areas.

4. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the certified site plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks for public and internal private streets must be installed within six months after street construction is completed. Tree planting may wait until the next growing season.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c. The development program must provide phasing for installation of on-site landscaping and lighting, recreation facilities, sidewalks and paths, open spaces, and construction and installation of landscape and site details on land to be conveyed to the County. All improvements must be completed within six months after building and street construction is completed except plantings, which may wait until the next growing season.
- d. The development program must provide phasing of pre-construction meetings, conveyance, dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

5. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".

- c. Add a note that specific plant species may be substituted with the approval of M-NCPPC staff.
- d. A landscape surety must be executed by the Applicant and the M-NCPPC prior to the release of any building permits.
- e. Modify data table to reflect development standards enumerated in the staff report.
- f. Ensure consistency off all details and layout between site plan and landscape plan.
- g. Provide limits of disturbance and other minor plan details and modifications.

BE IT FURTHER RESOLVED that all site development elements as shown on Shady Grove Metro Parcel P-146 drawings stamped by the M-NCPPC on July 15, 2009, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Planning 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 site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

This site plan application conforms to the non-illustrative elements of the development plan including a minimum green area and limitations on density, height, and the provision of additional moderately priced dwelling units. Lot layout and final locations of structures were indicated as approximate on the approved development plan and have been modified only in consultation with the appropriate regulatory agencies.

2. *The site plan meets all the requirements of the Overlay Zone as well as the applicable requirements of the underlying zone.*

The site plan is not covered by an overlay zone. The underlying zone is PD-35. The following outline details the requirements and purposes of the PD-35 zone and the plans compliance with these requirements and the purposes.

- The development data table below indicates the conformance of this site plan with the development standards of the PD-35 zone. Many of the development standards are not prescribed as specific limitations, but are

based on findings of conformance as outlined in section 59-C-7.0 of the zoning ordinance.

Project Data Table for the PD-35 Zone

Development Standard	Permitted/ Required	Approved by Development Plan	Approved by the Planning Board and Binding on the Applicant
Max. Building Height (feet/stories)	n/a	Detached: 40' Townhouse: 55' Multi-Family: 65'	Detached: 40' Townhouse: 55' Multi-Family: 65'
Min. Building Setbacks (feet)			
Street Right-of-Way	n/a	Detached: 30' ¹ Townhouse: 10' Multi-Family: 10'	Detached: 20' Townhouse: 10' Multi-Family: 10'
Front Lot Line	n/a	Detached: 4' Townhouse: 4' Multi-Family: n/a	Detached: 4' Townhouse: 4' Multi-Family: 0'
Side Lot Line	n/a	Detached: 4' Townhouse: 4' ² Multi-Family: 10'/0' ³	Detached: 4' Townhouse: 4' Multi-Family: 10'/0'
Rear Lot Line	n/a	Detached: 4' Townhouse: 4' Multi-Family: 0'	Detached: 4' Townhouse: 4' Multi-Family: 0'
Min. Green Area (% of lot)	50%	50%	50%
Base Density (units)	149 ⁴	149	149
5% MPDU Bonus Density (units)	n/a	7	7
Total Units	n/a	156	156
13% MPDUs (units)	n/a	20	21 ⁵
Unit Mix	All units are permitted	Detached: 3 Townhouse: 36 Multi-Family: 117	Detached: 3 Townhouse: 36 Multi-Family: 117
Parking Spaces	193	227	227

¹ This figure is based on a 30-foot difference from the existing right of way to the building. After dedication, this number is 20 feet as reflected in the "Proposed for Approval" column. The buildings have not moved significantly from the development plan approval.

² Side setback is only applicable for end units.

³ Side setback for multi-family building is 10 feet on the side adjacent to Parcel N231 and zero feet internally.

⁴ PD-35 allows 35 units per acre. This site is 4.26 gross acres, which permits 149 units prior to any bonus density.

⁵ 20 MPDUs were proposed, however, 21 are required (117 x 0.13+20.28). 3 MPDUs are to be located in the detached units, the remainder within the multi-family building.

- The 2006 Shady Grove Sector Plan recommends that the subject site be rezoned to the PD-35 zone to help fulfill a vision of the “Metro East/Old Derwood” area. This recommendation, in turn, fulfills the wedges and corridors concept of the General Plan by locating higher density in the transit corridor areas with access to transit. The zoning and unit mix utilizes the PD-35 zone standards to implement both the Sector Plan and the General Plan.
- The site design facilitates social interaction by locating common open spaces and recreation facilities throughout the site and by providing front doors directly on community sidewalks. The tight-knit nature of a development with this level of density will further create a sense of community. Because of the character of the site, which transitions from garden apartments to detached cottage houses within a small area, this community will have a distinct character and identity.
- There will be a minimum of five different unit types in this development of 156 total units ensuring a diversity of housing types. These include several types of multi-family units, such as studio and one- and two-bedroom units, townhouses, and detached homes.
- Open space is provided over the minimum of 50% of the site, which permits both active and passive recreation and a variety of spaces for social interaction.
- Pedestrian circulation is provided throughout, connecting all of the open spaces, recreation areas, and seating areas. Further, these internal paths connect to the public sidewalks and provide access to off-site sidewalks that lead to neighborhood parks and the Metro. Each of the units has direct access to this pedestrian circulation system.
- Although this site is not as large as many PD sites and, thus, cannot necessarily fulfill the purpose of the large-scale nature of PD developments, it is recommended in the Sector Plan and implements the goals of the larger-scale neighborhood of the Metro East area.
- This site provides safe and convenient access to internal open space and amenities as well as connections to adjacent and nearby amenities. Although not within the purview of this application, further development around this area will necessitate better access to the Shady Grove Metro Station via Redland Road and possible further traffic operation improvements such as a light at the intersection of Redland Road and Yellowstone Way.
- This application is proper for the comprehensive and systematic development of the county; accomplishes the purposes of the zone, as outlined above; and is in substantial compliance with the Sector Plan through the provision of diverse unit types, compatible building styles, and pedestrian-oriented open space amenities and circulation patterns.

- The uses proposed are compatible with other uses in the vicinity as detailed in the finding for compatibility.
- Because this development is not within a specifically designated “transit station development area” and adjoins a one-family detached residential zone, specific compatibility requirements are required according to section 59-C-7.15 (b). The term “adjoins” is here considered to be applicable because, although the one-family detached land in question is separated by a right-of-way, that right of way is understood to be governed by the least intense zone, which in this case is R-200. Typically no building other than a one-family detached residence can be constructed within 100 feet of such adjoining land, but this townhouse and multi-family development is expressly recommended by the area sector plan. Further, because of the transition of unit types and heights proposed, this development will not adversely affect nearby residential development. Thus, the waiver provision provided by section 59-C-7.15(c)(1) is found to be applicable. The heights of each of the building types comply with the requirement that no building may be constructed to a height greater than its distance from such adjoining land. The detached houses are a minimum 45 feet from the adjacent R-200 lots; the townhouses are a minimum of 70 feet; and the multi-family building is a minimum of 140 feet. All of these distances are greater than the proposed heights of the respective buildings.

3. *The locations of buildings and structures, pedestrian and vehicular circulation systems, and landscaping are adequate, safe, and efficient.*

The locations of the buildings and structures are adequate, safe, and efficient. All buildings front directly on sidewalks and either streets or open space, which provides a community with a focus on pedestrian efficiency and a safe environment around and between the buildings. The more intense structures are located towards Redland Road and the least intensive uses are located along the boundary with the existing detached-unit residential neighborhood.

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. The sidewalks provide ample internal and external connections between open spaces and facilities and nearby amenities. The internal vehicular system is double-loaded with houses on either side when possible to decrease excess paving; parking for visitors is provided along Chieftain Avenue. This parking serves a dual purpose: providing visitor parking and creating a more pedestrian-oriented street, which slows traffic and provides a sense of security along the sidewalk. Final parking layout and dimensions will be determined by MCDOT and Fire and Rescue. Vehicular ingress and egress points are found to be safe and efficient and minimize vehicular/pedestrian conflict points.

The landscaping and site design elements are adequate, safe, and efficient. Seating, lighting, and shade trees will provide an attractive and comfortable environment throughout the year. Recreation facilities, including a tot lot and indoor facilities, are augmented by the nearby park with multiple fields and courts. These facilities meet the requirements of the Recreation Guidelines for residential development adopted by the Planning Board. Streetscape, as conditioned, will set a precedent for future development around the metro station and provide a comfortable, safe place to walk from home to the nearby park and the metro, as well as to future development of the metro village area.

- 4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The diverse housing types are compatible with the existing residential neighborhood and provide a sustainable means of providing residential units for the county with direct access to the metro system. The transition from taller multi-family units along Redland Road and directly across from metro to the lower detached cottage houses ensures compatibility with the existing detached houses along Chieftain Avenue. As some of the existing houses in this neighborhood are recommended for evaluation for the Locational Atlas of Historic Resources, compatibility of use, layout, and detailing is especially important in this instance. The visual corridor along Chieftain Avenue includes the Hoshinson/Schwartz House which is a resource recommended for such evaluation. The treatment of the street including provision of streetlights, trees, parallel parking, sidewalks, and especially the cottage units ensures that this viewshed will remain sensitive to the context. In particular, the cottage units will have porches and front entrances facing Chieftain Avenue to continue the traditional pattern of development along this street.

The proposed detached unit and townhouse development on the southeast quadrant of the intersection of Yellowstone Way and Chieftain Avenue (No. 820070160, Baldwin Landing) is not expected to be developed and the existing church is hoping to expand. The proposed residential use is compatible with this existing neighborhood-oriented use. If, in the future, a development such as that proposed by the Baldwin Landing site plan does move forward, the layout and uses proposed will remain compatible.

- 5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The site plan has met all requirements of forest conservation law and water resource protection. The Applicant will meet the entire 1.88-acre reforestation requirement offsite because the 20 percent onsite reforestation standard was found to be impractical. Landscape credit will not be used to fulfill any of the reforestation requirements.

The stormwater management concept for this site has been approved. The concept consists of on-site water quality control via a surface sand filter with structural pretreatment and onsite recharge via pervious sidewalks. A waiver of on-site channel protection measure was requested and granted due to the site's proximity to the Crabbs Branch regional stormwater management facility.

BE IT FURTHER RESOLVED, that this resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this resolution is NOV 17 2009 (which is the date that this resolution is mailed to all parties of record); and

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

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Alfandre, Presley, and

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Attachment 2

Wells-Harley voting in favor of the motion, with a four-member Board, at its regular meeting held on Thursday, November 5, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

Cindy Reichelderfer
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Rockville, MD 20855

Jeff Sabatini
Redland Park Homeowners Assn.
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Mark Pierzchala
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Pat Labuda
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U.S. House of Representatives
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M-NCPPC
Development Review Division
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8787 Georgia Avenue
Silver Spring, MD 20910

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103 Leekes Lot Way
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5932 Searl Terrace
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MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

NOV 17 2009

MCPB No. 09-136
Preliminary Plan No. 120090100
Shady Grove Metro - P146
Date of Hearing: October 22, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

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

WHEREAS, on December 2, 2008, Keystone REI ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 40 lots on 4.26 acres of land located at the intersection of Redland Road and Yellowstone Way, ("Property" or "Subject Property"), in the Shady Grove Sector Plan Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090100, Shady Grove Metro - P146 ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated October 12, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following a review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on October 22, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

Approved as to
Legal Sufficiency: 
M-NCPPC Legal Department

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

WHEREAS, on October 22, 2009, the Planning Board approved the Application, subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Alfandre, Hanson, and Wells-Harley voting in favor, Commissioners Cryor and Presley being absent.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120090100 to create 40 lots on 4.26 acres of land located at the intersection of Redland Road and Yellowstone Way, ("Property" or "Subject Property"), in the Shady Grove Sector Plan Area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 40 lots for 3 one-family detached dwelling units, 36 one-family attached units, and 117 multi-family units in a four-story building. A minimum of 13% of the total units must be moderately priced dwelling units (MPDUs).
- 2) The Applicant must satisfy Policy Area Mobility Review (PAMR) by paying \$198,000 to the Montgomery County Department of Transportation (MCDOT) to be used for pedestrian safety improvements within the Shady Grove Policy Area that could include the Capital Improvements Program (CIP) Project No. 500600, Shady Grove Metro Access Bike Path. The payment must be made prior to site plan certification.
- 3) The Applicant must enter into a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Greater Shady Grove Transportation Management Organization (TMO) to assist in achieving and maintaining their trip reduction goals and the *Shady Grove Sector Plan's* transit ridership goal. The agreement must be signed and executed prior to site plan certification.
- 4) The Applicant must comply with the conditions of the MCDOT letter dated October 8, 2009. These conditions may be amended by MCDOT, provided any modifications do not conflict with other conditions of the preliminary plan approval.
- 5) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of access permits.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated April 28, 2008. These conditions may be amended by MCDPS, provided any modifications do not conflict with any other condition of the preliminary plan approval.

- 7) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan approved on March 20, 2008. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
- 8) The Applicant must dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 9) The Applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes.
- 10) The Applicant must construct a 6-foot-wide sidewalk along the property frontage on Redland Road, Yellowstone Way, and Chieftain Avenue as shown on the preliminary plan.
- 11) The applicant must construct 5-foot-wide sidewalks to serve the proposed development internally as shown on the preliminary plan.
- 12) The record plat must reflect a public use and access easement over all private streets and adjacent parallel sidewalks.
- 13) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 14) Site Plan # 820090070 must be approved by the Board and certified by the Development Review Division prior to the approval of the record plat.
- 15) No clearing or grading is allowed prior to certified site plan approval.
- 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution for the Preliminary Plan.

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

1. *The Preliminary Plan substantially conforms to the master plan.*

The Subject Property is located within the Metro East/Old Derwood Neighborhood of the Shady Grove Sector Plan. The Sector Plan identifies the following applicable recommendations for the Metro East/Old Derwood Neighborhood.

- Permit four-story, multi-family development fronting Redland road with building setbacks to match those along Redland Road in the King Farm.
- Maintain the existing interconnected street pattern and deter non-local traffic through the neighborhood with a traffic circle at the intersection of Yellowstone Way and Chieftain Avenue.
- Provide new sidewalks along all new development and extend such sidewalks where feasible into the existing community to improve pedestrian safety.
- Provide adequate recreation areas to meet residents' needs within the neighborhood, eliminating the need to cross major roads.
- Ensure that new development and redevelopment are compatible with existing residential development and historic resources.

The proposed plan conforms to the first recommendation in that it provides 117 multi-family units to be located in a four-story building that fronts on Redland Road. The proposed plan conforms to the second recommendation by maintaining the existing street pattern and deters non-local traffic by dedicating land to meet the required right-of-way width on Redland Road, Yellowstone Way, and Chieftain Avenue. Bump-outs on Yellowstone Way and Chieftain Avenue and on-street parking will also be provided as traffic calming devices in order to deter non-local traffic. A traffic circle at the intersection of Yellowstone Way and Chieftain Avenue will not be constructed at this time as there is not enough right-of-way to construct a traffic circle that meets Montgomery County Department of Transportation (MCDOT) standards. The smallest traffic circle that still meets county standards would be too large to be retrofitted within the rights-of-way of Yellowstone Way's secondary and Chieftain Avenue's tertiary residential streets. MCDOT continues to work with the community to implement other traffic calming measures within the community and does not support installing a traffic circle at this location. The proposed intersection has been reviewed and approved by the Planning Board instead of the traffic circle identified in the sector plan because the additional traffic calming measures proposed will be sufficient to replace the traffic circle. However, the Board has asked staff to prepare a letter urging the MCDOT to help the citizens of Old Derwood implement the additional traffic calming measures proposed as quickly as possible.

The proposed plan conforms to the third and fourth recommendations by providing sidewalks along all street frontages and throughout the proposed development to improve pedestrian safety, and by providing four areas of recreation within the proposed development. There is a lawn area approximately 6000 square feet in size lined with trees and benches that creates a park-like setting that is surrounded by 5-foot wide sidewalks and opens into a playground behind the apartment building. The apartment

building contains a courtyard exclusively for the residents of the building. The courtyard contains pergolas, tables, sun chairs, benches, trees, shrubs, flower beds, and a fountain. Therefore, staff finds the proposed plan substantially conforms to the recommendations of the Shady Grove Sector Plan.

The proposed plan conforms to the fifth and final recommendation by providing a residential development with a mix of units and layout that meets the applicable Sector Plan recommendations. The proposed development transitions from multi-family residential units to single-family attached units to smaller single-family detached units as you move from Redland Road to Chieftain Avenue. The applicant provided this transition to ensure the proposed development would be compatible with the existing residential development in the Derwood Neighborhood.

Therefore, the Board finds the proposed plan substantially conforms to the Shady Grove Sector Plan.

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

Roads and Transportation Facilities

The subject site is located on the south side of Redland Road on the east and west sides of Yellowstone Way. Vehicular access points from Yellowstone Way and Chieftain Avenue are proposed as full-movement accesses, while access from Redland Road is proposed as a right-turn in/right-turn out only. Vehicular access to the four-story multi-family building is provided by a right-in/right-out only driveway connection to Redland Road, and a separate garage entrance from the 20 foot-wide private street that intersects with Yellowstone Way. A series of 20 foot-wide private streets provide access to the remaining lots.

Pedestrian access is provided via 6 foot-wide sidewalks on all public streets and an internal network of 5-foot wide sidewalks to serve the development. The existing sidewalks along Redland Road are proposed to be upgraded. The Applicant proposes to provide sidewalks with handicapped ramps, crosswalks, and other pedestrian amenities along Yellowstone Way and Chieftain Avenue.

The Shady Grove Sector Plan designates Redland Road as a business district street (B-1) with a recommended 100-foot right-of-way and Class III bike lanes (B-10). Yellowstone Way is a 60-foot-wide secondary residential street, and Chieftain Avenue is a 50-foot-wide tertiary residential street. The proposed plan indicates dedication of the necessary additional rights-of-way for a total of 60 and 50 feet, respectively.

Transportation Demand Management Requirements

The transportation demand management requirements are as follows:

1. Greater Shady Grove Transportation Management District (TMD): Participate in the Greater Shady Grove Transportation Management Organization (TMO) because the site is located within the TMD with a 117-unit apartment building. Participation is required to assist in achieving and maintaining the TMD's residential trip mitigation goal of 25 percent non-auto driver mode share for the residents and 12 percent non-auto driver mode share for the apartment building residents in the weekday peak hours. The Applicant must enter into and execute a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Greater Shady Grove TMO prior to site plan certification.
2. Shady Grove Sector Plan recommends that Applicants with development located in this area assist the County in achieving the transit ridership goal of 35 percent for residents living within the *Shady Grove Sector Plan* boundaries. This requirement could be met by such trip reduction measures as offering transit subsidies to residents.

Local Area Transportation Review

Table 1 below shows the number of peak-hour trips generated by the proposed residential land uses within the weekday morning (6:30 to 9:30 a.m.) and evening peak hours (4:00 to 7:00 p.m.). In accordance with the *Local Area Transportation Review and Policy Area Mobility Review Guidelines*, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. Based on the results of this traffic study, Table 2 below shows the calculated Critical Lane Volume (CLV) values at studied intersections.

Table 1. Peak-Hour Trips

Land Use	Number of Units	Weekday Peak Hour	
		Morning	Evening
Single-Family Detached Units	3	3	3
Townhouses	36*	17	30
Multi-Family Apartments	117	50	56
Total Trips	159	70	89

* The traffic study analyzed 39 townhouses which is three more that currently proposed by the Applicant.

Table 2. Critical Lane Volumes

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total Future
Redland Road & Sommerville Road	Morning	741	767	777
	Evening	765	780	790
Redland Road & Yellowstone Way	Morning	565	586	645
	Evening	698	734	805
Redland Road & Crabbs Branch Way	Morning	1,515	1,556 1,633*	1,570 1,641*
	Evening	1,682	1,734 1,432*	1,741 1,436*
Derwood Road & Indianola Drive	Morning	655	660	675
	Evening	644	650	663
Frederick Road (MD 355) & Indianola Drive - Watkins Pond Boulevard	Morning	1,462	1,482	1,485
	Evening	1,248	1,264	1,267

The CLV values at all studied intersections are less than the congestion standard of 1,800 CLV for the Shady Grove Policy Area and, thus, the LATR test is satisfied. As indicated with asterisks above, the CLV values at the intersection of Redland Road and Crabbs Branch Way in the background and total future traffic conditions were calculated using the improvements by MCDOT's Capital Improvement Program (CIP) Project No. 500010, "Redland Road from Crabbs Branch Way to Needwood Road." The CIP project includes the following two improvements:

- Add a separate right-turn lane on the northbound approach of Crabbs Branch Way.
- Convert the existing separate right-turn lane on the eastbound approach of Redland Road to a combined right-turn/second through lane.

Construction of the CIP project has started with approved funding through 2010. Without the CIP improvements, the CLV for the weekday evening peak hour is within 41 of the 1,800 congestion standard. The CIP improvements increase the intersection capacity for the peak directional traffic movements during the weekday evening peak hour only, and result in reducing the CLV by 17%. Although the CLV during the morning peak hour increases by 5% with the CIP improvements, the CLV is still 159 under the 1,800 congestion standard.

Policy Area Mobility Review

The Policy Area Mobility Review (PAMR) test under the *Growth Policy* must be satisfied because this site is located within the Derwood/Shady Grove Policy Area. The Applicant must mitigate 18 (or 20%) of the 89 new, site-generated peak-hour trips within the weekday evening peak hours by contributing \$11,000 per PAMR trip for a total of \$198,000 to MCDOT. MCDOT will make the final decision on the use of this contribution, but it could be used towards pedestrian safety improvements in the Shady Grove Policy Area such as MCDOT's CIP Project No. 500600, Shady Grove Metro Access Bike Path. The CIP project is scheduled to be completed in Fall 2011.

Therefore, the Board finds that the proposed plan satisfies the LATR and PAMR tests and will meet the TMD requirements for trip mitigation with the recommended conditions. The Board also finds the proposed vehicle and pedestrian access and circulation to 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 development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. The application is not required to make a School Facilities Payment. Electrical, gas, and telecommunications services are available to serve the Property.

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 were 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.

When the Preliminary Forest Conservation Plan was previously approved by the Planning Board as part of rezoning case G-875, the Board determined that the required 20% minimum on-site reforestation standard as specified under 22A-12(f)(3) was not possible on this site, and that the feasibility of saving any existing forest should be determined as part of this review.

The Board has determined that it is not feasible for the Applicant to conserve forest on-site for the following two reasons:

- The Shady Grove Sector Plan recommends both a high density residential development and a mix of housing for this site due to its proximity to the Shady Grove Metro Station.
- The stormwater management requirement must be met on-site with above ground facilities per the approved DPS SWM concept.

Conserving forest on-site would decrease the available land for development, and thus, decrease the overall density attainable for the site. Achieving the desired high density residential development and providing above-ground stormwater management facilities leaves limited space for the Applicant to satisfy the reforestation requirements onsite. Therefore, given the fact that this site is in an evolving urban setting, the Board recommends that the entire 1.88-acre reforestation requirement be satisfied by offsite planting or purchase of forest conservation bank credits.

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 project on April 28, 2008. The stormwater management concept includes on-site water quality control and recharge via a surface sandfilter with structural pretreatment and onsite recharge via pervious sidewalks. A waiver of on-site channel protection measures was requested and was granted due to the site's proximity to the Crabbs Branch regional stormwater management facility.

The Board based its approval with conditions on relocation of the stormwater management facilities to the east side of the Subject Property. The concept will remain the same regarding structure-type, but has only been given cursory approval by the Stormwater Management Section of the Montgomery County Department of Permitting Services (MCDPS). Therefore, the Board approves the preliminary plan with the stormwater pond in the new location and requires an amendment for any significant alteration of this layout required by final MCDPS approval.

6. *The use of private streets in the subdivision is approved.*

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." Twelve of the thirty-six townhome lots will front onto a private street. The Planning Board finds that the proposed private streets have acquired the status of a public road. This finding is based upon the proposed road being fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road standards, except for right-of-way pavement widths.

In the case of this subdivision, the proposed streets provide frontage to twelve of the thirty-six townhome lots and meet the minimum standards necessary to make the finding that they have the status of a public road. These standards include a 20-foot pavement width 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 also be placed within an easement that ensures they remain fully accessible to the public.

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 this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is NOV 17 2009 (which is the date that this Resolution is mailed to all parties of record); and

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

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by

Commissioner Wells-Harley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, with a four-member Board, at its regular meeting held on Thursday, November 5, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board



Attachment 3

Applicant Mailing List
P 146 Shady Grove Metro
120090100
820090070

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Attn: Richard Koch

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George Sauer
Citizens for a Better Montgomery
8307 Post Oak Road
Potomac, MD 20854-3479

9/22/2009 2:15:02PM

No.	Name & Phone Number	Organization & Address	Time Allotted
1.	Joseph Parello	Shady Grove Alliance 15821 Delwood Rd Derwood, MD 20855	10
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
		TOTAL	10



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Clarence J. Snuggs
Director

April 8, 2016

Ms. Crystal Myers
Area 2 Division
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Residences at Shady Grove Station
Site Plan Amendment No. 82009007A

Dear Ms. Myers:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced Site Plan Amendment and recommends Approval of the plan. The applicant has reviewed the proposed changes with DHCA and is preparing an amendment to the MPDU Agreement to Build.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

cc: Steve Cook, VIKA Maryland LLC
Tracy Graves, Comstock Homes

S:\Files\FY2014\Housing\MPDULisa Schwartz\Residneces at Shady Grove Station DHCA Letter 4-8-2016.doc

Division of Housing

Affordable
Housing Program
FAX 240-777-3709

Multifamily Housing
Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691

Licensing & Registration Unit
240-777-3666
FAX 240-777-3699

100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-0311 • www.montgomerycountymd.gov/dhca

DPS-ROW CONDITIONS OF APPROVAL

Attachment 4
April 21, 2016

82009007A Residences at Shady Grove Station

Contact: Sam Farhadi at 240 777-6333

We have reviewed the amendments shown on site plan file:

“07-BSITE-82009007A-03.pdf V4” uploaded on/ dated **“4/15/2016”**.

We have reviewed the sight distance study for the multi-family right in/ right-out access 8' shift on Redland Road, it seems acceptable. This form has to be uploaded into MNCPPC Eplans web site.

Please note a revision to the ROW permit plans due to this change is needed.

As there is no other change in the County maintained ROW, we have no further comment for this site plan amendment at this point.