



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

JUN 04 2018

MCPB No. 18-044
Site Plan No. 82013022C
Shady Grove Station Phase 1 West (Shady Grove Station, Westside)
Date of Hearing: May 31, 2018

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, on February 3, 2014, the Planning Board, by Resolution MCPB No. 13-190, approved Site Plan No. 820130220 for up to 1,521 residential dwelling units, 41,828 square feet of retail, and space for a public library on approximately 41.8 gross acres of TOMX-2/TDR zoned-land, located in the southwest corner of the intersection of Crabbs Branch Way and Shady Grove Road ("Subject Property"), in the 2006 *Shady Grove Sector Plan* ("Sector Plan") area; and

WHEREAS, on November 3, 2014, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82013022A (MCPB No. 14-97), to i) modify the alley pavement widths from 20 feet to 18 feet; ii) permit landscaping in alleys and deeper decks for residential units with a deck option; iii) adjustment to lot lines; and iv) modify the location of MPDUs and Workforce Housing units, all as approved by the previous site plan on the Subject Property; and

WHEREAS, on February 16, 2017, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82013022B (MCPB No.17-006), to i) revise party walls of select townhomes; ii) update the footprint of Building A and interior courtyards; iii) update the location of electric transformers; iv) update materials and design of garage screening; and v) revise the Final Forest Conservation Plan infrastructure improvements for the trail and WMATA entrance approved under Mandatory Referral MR2014019 and Site Plan 820130220 on the Subject Property; and

Approved as to
Legal Sufficiency:

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MNCPPC Legal Department
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WHEREAS, on February 9, 2018, EYA/CSP Associates (“Applicant”) filed an application for approval of an amendment to the previously approved Site Plan to transfer 61 dwelling units from Building C to Building D, increase the maximum building height to 79 feet, amend architecture elevations and streetscape plans, revise select townhouse party walls, and update plans for final Building A design; and

WHEREAS, Applicant’s application to amend the site plan was designated Site Plan No. 82013022C, Shady Grove Station Phase 1 West (“Site Plan,” “Amendment,” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 18, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on May 31, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82013022C to transfer 61 units from Building C to Building D; increase the maximum building height to 79 feet; amend architecture elevations and streetscape plans; revise select townhouse party walls; and update plans for final Building A designs by modifying or adding the following conditions:¹

Condition No. 4.a. of Site Plan No. 820130220 is superseded by the following condition:

4. Transferable Development Rights (TDRs)
 - a. Prior to record plat for each multifamily building, the Applicant must secure TDRs with the following schedule: 19 TDRs for Building A; 18 TDRs for Building B; 12 TDRs for Building C; and 15 TDRs for Building D. The Applicant must reflect serialization and liber/folio references for these TDRs on the applicable record plat(s).

New Conditions for Site Plan 82013022C:

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

1. Compliance with Previous Preliminary Plan Approvals

All previously approved conditions in the Resolutions for Preliminary Plan 120120080 and subsequent Preliminary Plan Amendments remain in full force and effect.

2. Compliance with Previous Site Plan Approvals

All previously approved conditions in the Resolutions for Site Plan 820130220 and subsequent Site Plan Amendments remain in full force and effect except as modified by this Amendment.

3. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS)-Water Resources Section in its revised stormwater management concept letter dated February 20, 2018, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities

4. Traffic Mitigation Agreement

Prior to issuance of any building permit, the Applicant must update the existing Traffic Mitigation Agreement (TMAG) with the Planning Board and MCDOT in order to reflect the shift of dwelling units from Building C to Building D.

5. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Service (MCFRS) Fire Code Enforcement Section in its letter dated September 13, 2018 and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

6. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of the Department of Housing and Community Affairs (DHCA) in its letter dated March 23, 2018, and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend, provided that the amendments do not conflict with other conditions of the Site Plan approval.

7. Site Design

- a) The exterior architectural character, proportion, materials, and articulation on Building "D" must be substantially similar to the schematic elevations shown on Sheets 09-BARCH-82013022C-A2d.0.pdf, 09-BARCH-82013022C-A2d.1.pdf, and 09-BARCH-82013022C-A2d.2.pdf of the submitted architectural drawings revised in this amendment, as determined by M-NCPPC Staff.
- b) Prior to the issuance of the Use and Occupancy Permit for the storefronts in Building D, provide Planning Staff with details of the design of the decorative signage and / or exterior retail components in the delineated areas along Crabbs Branch and Gramercy Boulevard.

8. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 [59-D-3.5(d)] of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of the building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.
- d) The bond or surety shall be clearly described within the Site Plan Surety & Maintenance Agreement including but not limited to all relevant conditions and specific Certified Site Plan sheets depicting the limits of development.

9. Replatting

Prior to issuance of a building permit for a townhouse on one of the lots listed below, the Applicant must obtain approval of a new record plat:

- a) Plat No 24946, Block E, Lots 1, 2, 22, 23, 24

- b) Plat No 24945, Block J, Lots 14, 15

10. Certified Site Plan

Before 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 stormwater management concept approval letter, development program, and Site Plan resolution (and other applicable resolutions) on the approval or cover sheet(s).
- b. Ensure consistency of all details and layout between site plan and landscape plan.
- c. The Master Plant list on Sheet 08-BLL-82013022C-LP9.pdf must be updated to incorporate all the plantings on the Site.
- d. Add a note to clarify that the square footage approved within building C is reduced by 64,962 square feet.
- e. Clearly delineate the area of the blank wall on Building D elevations along Crabbs Branch and Gramercy Boulevard that will be covered with decorative signage and/or exterior retail components.
- f. Provide detail of the perforated metal panels that will be used to screen Building D along Columbus Avenue, with information regarding the landscape intended to cover these panels.
- g. Provide detail of the screening of the transformers along the Columbus Avenue frontage of Building D, using a design consistent with the air foils being used to screen the garage behind the transformers.
- h. Revise the roof overhangs on Building D to make them deeper.

BE IT FURTHER RESOLVED that all other site plan conditions and findings of approval for this project remain valid, unchanged and in full force and effect, unless modified herein; and

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Shady Grove Station Phase 1 West 82013022C, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the 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.

The Property is not subject to a development plan, diagrammatic plan, schematic development plan, or project plan. As conditioned above, the Site Plan is subject to the binding elements and conditions of the approved Sketch Plan, and all previously approved Preliminary Plans and Site Plans.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

This Amendment increases the maximum height allowed for multifamily buildings from 70 feet to 79 feet. The Zoning Code (effective on October 29, 2014) does not have a maximum height limitation for the TOMX/TDR-2 Zone. All other development standards remain unchanged from prior approvals. There is no urban renewal plan associated with this Property.

Development Standards	TOMX/TDR-2 Optional Method	Approved in Site Plan 820130220	Approved in this Amendment
Maximum Density of Development	2 FAR	1.42 FAR	1.42 FAR
Maximum Building Heights (59-C-13.235)	N/A	50 feet- Townhouses 70 feet- Multi-family	50 feet- Townhouses 79 feet- Multi-family

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

This Amendment does not include any changes to the footprints of the multifamily buildings, nor any substantive changes to open spaces, recreation facilities or pedestrian and vehicular circulation systems. The party walls of select townhouses have been modified, but the changes are interior and do not impact the overall footprints of the townhouses. The landscape and streetscape plans have been updated to reflect as-built conditions around building A and to allow for more stormwater management around Building D. The changes in this Amendment are adequate, safe and efficient.

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

The changes approved in the Site Plan Amendment are compatible with existing uses regarding height, scale and massing as reflected by the Sector Plan recommendations and the approved Preliminary Plan. The height of Building D is increased to 79 feet closest to the Metro Station, but the Building's mid-rise character along Crabbs Branch Way is retained. Future redevelopment of the eastern portion of Shady Grove Station will provide up to 700 residential units, a four-acre public park, and an elementary school site. A future office building at the intersection of Shady Grove Road and Crabbs Branch Way, although approved as part of the Shady Grove Station Preliminary Plan, is not part of this Site Plan.

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.*

This Amendment does not include changes to the Forest Conservation Plan, and it maintains compliance with Chapter 22A regarding forest conservation. A revised Stormwater Management Concept Plan associated with this Amendment was approved on February 20, 2018.

BE IT FURTHER RESOLVED that this Resolution 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 this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 04 2018 (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 Patterson, seconded by Commissioner Fani-González, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, May 31, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board