



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

MCPB No. 19-010
 Site Plan No. 82013022E
 Shady Grove Station Phase 1 West
 Date of Hearing: January 17, 2019

FEB 25 2019

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, including the zoning then in effect; 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 acres of land in the TOMX-2/TDR Zone, located in the southwest corner of the intersection of Crabbs Branch Way and Shady Grove Road ("Subject Property"), in the Shady Grove Metro Station Policy Area and the 2006 Shady Grove Sector Plan ("Sector Plan") area; and

WHEREAS, on November 3, 2014, the Planning Board approved an amendment, 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 on the Subject Property; and

WHEREAS, on February 16, 2017, the Planning Board approved an amendment, 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

Christina Sout 2/7/19

WHEREAS, on May 31, 2018, the Planning Board approved an amendment, designated Site Plan No. 82013022C (MCPB No. 18-044), 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 on the Subject Property; and

WHEREAS, on May 4, 2018, the Planning Director approved an administrative amendment, designated Site Plan No. 82013022D, to align portions of the sewer connection with prior approvals on the Subject Property; and

WHEREAS, on August 5, 2018, EYA/CSP Associates; (“Applicant”) filed an application for approval of an amendment to the previously approved site plans to replace 202 units of multi-family and 69 townhouse units with 55 townhouse units and 100 two-over-two townhouse units; and

WHEREAS, Applicant’s application to amend the site plan was designated Site Plan No. 82013022E, 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 January 7, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 17, 2019, 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 conditions, on the motion of Commissioner Fani-Gonzalez, seconded by Commissioner Cichy, with a vote of 3-0; Commissioners Anderson, Cichy and Fani-Gonzalez voting in favor, with Commissioners Dreyfuss and Patterson absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82013022E for replacing 202 units of multi-family and 69 townhouse units with 55 townhouse units and 100 two-over-two townhouse units by adding the following conditions:¹

1. Preliminary Plan Conformance

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.

The Applicant must comply with the conditions of approval for Preliminary Plan 120120080 and all subsequent Preliminary Plan Amendments.

2. Site Plan Conformance

The Applicant must comply with the conditions of approval for Site Plan 820130220 and all subsequent Site Plan Amendments.

3. Density

This Site Plan is limited to a maximum of 406 residential townhouses, 1,114 multifamily residential units (includes 100 for two-over-two units), and 41,828 square feet of non-residential (retail) development, and space for a public library.

4. Height

This Site Plan is limited to a maximum of 79 feet in building height

5. 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 October 8, 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.

6. Traffic Mitigation Agreement

Prior to issuance of any building permit, the Applicant must update the existing Traffic Mitigation Agreement (TMAg) dated August 14, 2015 with the Planning Board and MCDOT in order to reflect the revised mix of dwelling units.

7. 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.

8. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of the Department of Housing and Community Affairs (DHCA) in its letter dated December 20, 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.

9. Noise Attenuation

- a) Prior to issuance of any building permit for construction of the additional 55 townhouses and 100 two-over-two townhouse units associated with Site Plan Amendment 82013022E, the Applicant must provide certification to MNCPPC Staff from an engineer who specializes in acoustical treatment that the recommendations of the revised Noise Study dated September 25, 2018 have been implemented, including:
 - i. The location of the noise mitigation techniques to attenuate current noise levels to no more than 65 dBA Ldn for the Public Use Space areas are adequate.
 - ii. The building shells have been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b) If the Site Plan changes in any manner that affects the validity of the noise analysis for acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.
- c) Before issuance of any use and occupancy certificate for the residential units associated with this Site Plan Amendment, the Applicant must obtain certification that the noise-impacted units have been constructed in accordance with the recommendations of an engineer that specializes in acoustical treatments. The certification must be based on the testing of at least five representative residential units.

10. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the architectural drawings, as determined by MNCPPC Staff.

11. Landscaping

Prior to the end of the first planting season after the issuance of the Final Use and Occupancy Certificate, all landscape plant materials must be installed.

12. Lighting

- a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance- MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be installed in accordance with the latest IESNA outdoor

lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on all fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

13. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit and Sediment Control 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-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 materials, on-site lighting, indoor and outdoor recreational facilities, site furniture, retaining walls, fences, railings, sidewalks, bikeways, private utilities, private streets and alleys and all necessary improvements including street trees, sidewalks, and street lights, paths and associated improvements of development, and private storm drainage facilities. The surety must be posted before issuance of any 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.

14. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

15. 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) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "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."
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Remove westside dog park from the public use space calculations.

16. Transferable Development Rights (TDRs)

Prior to record plat for each multifamily building, the Applicant must secure TDRs with the following schedule: 19 TDRs for Building A; 30 TDRs for Building B; and 15 TDRs for Building D. The Applicant must reflect serialization and liber/folio references for these TDRs on the applicable record plat(s).

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

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Shady Grove Station Phase 1 West 82013022E, submitted via ePlans to the M-NCPPC as of the date of the Staff Report January 7, 2019, 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 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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.

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 Site 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 conditions of all previously approved Preliminary Plans and Site Plans.

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

This Amendment does not propose any changes in use. All other development standards remain unchanged from prior approvals. There is no urban renewal plan associated with this Site.

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 changes the footprints of Multi-family Building C to a townhouse block, reconfigures one dog park and adds two additional dog park areas. The noise walls have been extended, but the changes are minor and do not impact the overall footprints. The landscape and streetscape plans have been modified to create a better pedestrian environment along the private streets. These modifications preserve the overall circulation pattern and grid network of streets approved in the Site Plan, which will provide safe, adequate, and efficient vehicular, pedestrian, and bicycle circulation throughout the development.

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 Amendment continue to be compatible with existing uses regarding height, scale and massing as reflected by the Sector Plan recommendations and the approved Preliminary 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.*

The Site Plan remains in compliance with Chapter 22A, Forest Conservation, and in conformance with the Environmental Guidelines. No change is being made to the limits of disturbance, and the mitigation requirements of the previously approved Final Forest Conservation Plan (FFCP), No. 82013022D, remain valid for this plan. The FFCP sheets are only being revised with this Site Plan Amendment to show the changes in building footprints and site layout.

The revised stormwater concept plan for this project was deemed acceptable by the Montgomery County Department of Permitting Services on October 8, 2018. The concept proposes to meet required stormwater management goals using a

combination of ESD approaches including micro bioretention and structural filtration. The Property is not subject to a water quality plan and there are no floodplain requirements. The requirements of Chapter 19 for stormwater management are satisfied.

A Draft Revised Phase II Noise Analysis was submitted with Preliminary Plan Amendment 12012008E and Site Plan Amendment 82013022E on September 25, 2018. The Noise Analysis recommends that all townhomes closest to the railroad be evaluated for architectural treatments that will maintain interior noise levels at or below 45 dbA Ldn. The Noise Analysis also recommends that a noise barrier between twenty-two (22) to twenty-six (26) feet high be constructed between the railway and all West Side townhomes directly along the railway to reduce railway noise impacts to a manageable level when developing architectural mitigation designs to meet the indoor noise limit. These recommendations are conditioned as a part of the Noise Attenuation.

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 FEB 25 2019 (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).

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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 Vice Chair Dreyfuss, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González and Patterson voting in favor, and Commissioner Cichy absent at its regular meeting held on Thursday, February 14, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board