



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

MCPB No. 19-009
Preliminary Plan No. 12012008E
Shady Grove Station
Date of Hearing: January 17, 2019

FEB 25 2019

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on September 11, 2012, the Planning Board, by Resolution MCPB No. 12-89, approved Preliminary Plan No. 120120080, creating 752 townhouse lots, 1,458 multi-family residential units, 41,828 square feet of retail and 131,422 square feet of office development on 90.34 acres of land in the TOMX-2/TDR Zone, located along Crabbs Branch Way, south of 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 April 23, 2014, the Planning Board approved an amendment, Preliminary Plan No. 12012008A (MCPB No. 14-22), which permitted execution of the required Traffic Mitigation Agreement ("TMAg") at building permit and allow modifications to the cross-sections of certain roads as part of the development of the Subject Property; and

WHEREAS, on November 3, 2014, the Planning Board approved an amendment, Preliminary Plan No. 12012008B (MCPB No. 14-96), which permitted the modification to alley pavement widths from 20 feet to 18 feet; landscaping in alleys and deeper decks for residential units with a deck option; adjustments to lot lines; and modifications to the location of Moderately Priced Housing Units and Workforce Housing units on the Subject Property; and

WHEREAS, on May 7, 2015, the Planning Board approved an amendment, Preliminary Plan No. 12012008C (MCPB No. 15-48), to permit separate Traffic Mitigation Agreements ("TMAg") applicable to each phase covered within a specific Site Plan for the various phases of the approved Shady Grove Station development on the Subject Property; and

WHEREAS, on November 30, 2017, the Planning Board approved an amendment, Preliminary Plan No. 12012008D (MCPB No. 17-103), to replace the unbuilt 131,422

Approved as to
Legal Sufficiency:

 2/7/19

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square feet of office use with up to 43,000 square feet of general retail space 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 preliminary plans to replace one (1) multi-family lot and 752 townhouse lots with 751 townhouse lots and 50 two-over-two townhouse lots; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12012008E, Shady Grove Station ("Preliminary 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, on January 17, 2019, the Planning Board voted to approve the Application subject to certain conditions, on 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 Preliminary Plan No. 12012008E to replace 1 lots of multi-family and 752 townhouse lots with 751 townhouse lots and 50 two-over-two townhouse lots:¹

General Approval

1. Density

This Preliminary Plan is limited to a maximum of 751 townhouse units on 751 lots, a maximum of 1,458 multi-family units on up to 119 lots (includes 109 lots for two-over-two units and ten (10) lots for multi-family buildings), 41,828 square feet of retail space on up to three (3) lots shared with multi-family units, and a maximum of 43,000 square feet of general retail development on one (1) lot. Additional lots are permitted for common areas, including parcels for private streets, clubhouses, park and school sites, and other County facilities. Ten (10)

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.

percent of the total number of residential units excluding Moderately Priced Dwelling Units (MPDUs) or resulting MPDU bonus density units must be Workforce Housing units, and fifteen (15) percent of the total number of residential units excluding Workforce House units must be MPDUs.

Adequate Public Facilities and Outside Agencies

2. Adequate Public Facilities

The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid until October 11, 2024 (144 months from the date of the mailing of the Planning Board Resolution MCPB No. 12-89), according to the phases outlined below. Because the validity period is longer than the typical seven years, a phasing schedule for the APF and Preliminary Plan validity period, in accordance with Sections 50-20(c)3(B), 50-34(g), and 50-35(h)(2)(B) of the Subdivision Regulations, is required. Plats must be recorded and building permits issued as follows:

Phase I – 375 residential units, including MPDUs and workforce housing units, within 60 months from the 30th day after the Resolution is mailed;
Phase II – 125 residential units, including MPDUs and workforce housing units, within 36 months of the expiration of the Phase I validity period;
Phase III – 250 residential units, including MPDUs and workforce housing units, 41,828 square feet of retail space, and the library within 36 months of the expiration of the Phase II validity period; and
Phase IV – 1,460 residential units, including MPDUs and workforce housing units, and 43,000 square feet of general retail space within 12 months of the expiration of Phase III validity period.

3. Outside Agencies

- a) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated September 13, 2018 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
- b) Prior to issuance of any building permits, the Applicant must work with MCDOT to execute an amended Traffic Mitigation Agreement (TMAG). The TMAG must be amended to reflect the change in the Project components, i.e., the replacement of Multifamily Building C with 69 townhouse units and the conversion of 55 townhouses with 100 for-sale 2 over 2 condominium units. Resulting changes to the number of AM and PM peak hour trips that must be reduced as required to satisfy the Non-Auto Driver Mode Share (NADMS) Goals for the Project will also need to be reflected in the amended TMAG.
- c) Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.

- d) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated October 8, 2018 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
- e) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated September 13, 2018 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
- f) The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated December 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 DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

4. Concurrent Site Plan Approval

- a) Before clearing or grading the Subject Property, the Applicant must receive Staff certification of Site Plan No. 82013022E. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks and bikepaths is determined through Site Plan review and approval.
- b) If a Site Plan for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan Amendment before Certified Site Plan.

Environment

5. Forest Conservation

- a) The Applicant must comply with the conditions of approval of Preliminary Forest Conservation Plan 12012008B, approved as part of Preliminary Plan 12012008B.

Record Plats and Certified Preliminary Plan

6. Record Plats

Prior to issuance of any building permit, there shall be no clearing or grading of the site prior to Certified Site Plan. The record plat must record this Preliminary Plan approval and create lots as shown.

7. Easements

- a) The record plat must show necessary easements.
- b) The record plat must reflect common ingress/egress and utility easements over all shared driveways.

8. Certified Preliminary Plan

Before approval of the Certified Preliminary Plan, the following revisions must be made subject to Staff review and approval:

- a) Include all applicable agency approval letters and the Preliminary Plan Resolution on the approval sheet(s).
- b) Include the following note:
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
- c) Modify the data table to reflect development standards approved by the Planning Board.
- d) Ensure consistency of all details and layout between the Preliminary, the Site Plan, PFCP, architectural plans subject to M-NCPPC Staff review and approval.
- e) Include cross-section of all public roads with a plan showing which road segments each cross-section applies to

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as 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 preliminary plan and as revised by previous amendments, and all findings not specifically addressed remain in effect.

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its*

location and the type of development or use contemplated and the applicable requirements of Chapter 59.

The lots have been reviewed for compliance with Section 50-29(a) of the Subdivision Regulations. The layout of the subdivision, including size, width, shape, and orientation of the lots continue to be appropriate for their location within the subdivision and meet all applicable requirements of the TOMX-2/TDR Zone.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Amendment remains consistent with the intent and objectives of the 2006 Shady Grove Sector Plan. The Shady Grove Station development will continue to provide a mixed-use and transit-oriented development on an underutilized site, offering a variety of housing options to a wide range of incomes, advancing the recommendations of the Shady Grove Sector Plan, and supporting the Montgomery County Executive's Smart Growth Initiative. The Amendments do not request any change that increases the approved number of dwelling units or height; do not prevent circulation on any street or path; and do not make major modifications to lot configuration, right-of-way width or alignment.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

Transportation

Master-Planned Transportation Demand Management

Transportation infrastructure and other public facilities are adequate to support the approved development and the proposed change from a multifamily building to townhouse mix. The Property is located within half a mile from the Shady Grove Metro Station entrance. Vehicular access to the area of the amendment is from six proposed curb cuts on the west side of Crabbs Branch Way and Sector-Planned Road "F" (approved as Road "P" in the original Preliminary Plan). All other public facilities will be adequate as determined in the original approvals. The change in residential mix will not alter or have any impact on the availability of services.

Local Area Transportation Review (LATR)

The Applicant is lowering the proposed number of residential units from 2,210 to 2,209, which will result in a net reduction of peak-period vehicle trips. As such, a traffic study is not required. Staff recommends the Applicant update the Transportation Mitigation Agreement language to refer to the plan's overall unit count, and to remove the breakdown of unit types.

Transportation Policy Area Review (TPAR)

The policy area review test for the original Preliminary Plan was called Policy Area Mobility Review (PAMR) under the 2009-2011 Growth Policy. To satisfy the PAMR test, the Applicant was required to contribute \$292,500 to MCDOT for transportation infrastructure improvements within the Shady Grove Policy Area, prior to issuance of any building permit. In December 2012, PAMR was replaced by the Transportation Policy Area Review (TPAR). In November 2016, the TPAR was replaced by the current General District Transportation Impact Tax under the 2016-2020 Subdivision Staging Policy (new SSP). However, for any building permits issued after March 1, 2017, the Applicant will be required to pay Impact Tax in lieu of the remaining PAMR mitigation payment in accordance with the “new” SSP. The timing and amount of the payment will be in accordance with that in Chapter 52 of the Montgomery County Code as amended.

Other Public Facilities and Services

As determined by the original Preliminary Plan findings, the Property is served by existing public water and public sewer. This amendment has been reviewed by the Montgomery County Fire and Rescue Service (MCFRS), who have determined that the proposed amendment will not impact the previous approval from MCFRS, and the Property will continue to have appropriate access to fire and rescue vehicles. Other public facilities and services, such as police stations, and health services are currently in effect and will be adequate to serve the Property. Electrical, telecommunications, and gas services are also available and adequate to serve the Property. The Property is within Gaithersburg Cluster and has capacity within this amendment based on prior approvals.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

This Property is covered by approved Final Forest Conservation Plan (FFCP) No. 820130220, and the Amendment does not require any changes to FFCP 820130220. Staff finds that the Amendment is in compliance with Chapter 22A, Forest Conservation, and in conformance with the Planning Department’s Environmental Guidelines.

5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.

The Applicant received approval of its stormwater management concept from 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.

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).

* * * * *

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