

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-052
Preliminary Plan Amendment No. 12012008G
Shady Grove Station
Date of Hearing: May 4, 2023

MAY 16 2023

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 Preliminary Plan Amendment No. 12012008A (MCPB No. 14-22), which permitted execution of the required Traffic Mitigation Agreement ("TMAg") at building permit and allowed 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 Preliminary Plan Amendment 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 Preliminary Plan Amendment No. 12012008C (MCPB No. 15-48), to permit separate 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 Preliminary Plan Amendment No. 12012008D (MCPB No. 17-103), to replace the unbuilt 131,422

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Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPCC Legal Department

square feet of office use with up to 43,000 square feet of general retail space on the Subject Property; and

WHEREAS, on February 25, 2019, the Planning Board approved Preliminary Plan Amendment No. 12012008E (MCPB No. 19-009), to replace one (1) multi-family lot and 752 townhouse lots with 751 townhouse lots and 50 two-over-two townhouse lots on the Subject Property; and

WHEREAS, on October 1, 2020, the Planning Board approved Preliminary Plan Amendment No. 12012008F (MCPB No. 20-092) to add 7,268 square feet of approved office space on the Subject Property; and

WHEREAS, on March 27, 2023, EYA/CSP Associates (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan to modify Block R and a portion of Block T by substituting previously approved but unbuilt 24-foot-wide townhouses with 20-foot-wide townhouses. This Amendment increases the overall project density by 5 townhouse units, from 751 units to 756 units, and modifies the lot lines for the townhouses; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12012008G, 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 April 21, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on May 4, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Vice Chair Piñero, with a vote of 4-0; Chair Zyontz, Vice Chair Piñero, Commissioners Bartley and Hedrick voting in favor and Commissioner Pedoeem absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12012008G to modify Block R and a portion of Block T by substituting previously approved but unbuilt 24-foot-wide townhouses with 20-foot-wide townhouses; increasing the overall project density by 5 townhouse units, from 751 units to 756 units; and modifying the lot lines for the townhouses by modifying the following conditions:¹

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.

General Approval

1. Density

This Preliminary Plan is limited to a maximum of ~~751~~ 756 townhouse units on ~~751~~ 756 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, a maximum of 7,268 square feet of office use shared with a multi-family building on one (1) lot, and 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) 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.

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

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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 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 lot modifications to Blocks R and T have been reviewed for compliance with Section 50.4.3 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 in Chapter 59 for the TOMX-2/TDR Zone, which is the zoning that was in effect as of October 29, 2014.²

² Pursuant to Section 59-7.7.1.B.1 of the Zoning Ordinance, the amendment is reviewed under the zoning ordinance in effect on October 29, 2014.

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

Adequate Public Facilities (APF)

Public facilities continue to be adequate to serve the proposed development.

Transportation Exemption Statement

The Preliminary Plan Amendment does not modify block design, right-of-way widths or alignments. The January 11, 2023, traffic statement, prepared by Wells + Associates Inc. details that the Preliminary Plan Amendment (a net increase of five townhouse lots) will generate fewer overall trips during the peak hour than the development program after considering the reduction in overall project density compared to the maximum density approved by the original Preliminary Plan, as amended. As a result, adequate public facilities continue to exist to serve the Site.

As shown in the following table, the originally approved Preliminary Plan land uses would have generated 795 AM peak hour trips and 988 PM peak hour trips. The proposed Preliminary Plan Amendment generates 684 AM peak hour trips and 965 PM peak hour trips, which is 111 fewer AM trips and 23 fewer PM trips than the originally approved Preliminary Plan.

Table 1: Peak Hour Vehicle Trip Generation Proposed Program vs. Approved Program

Development/Land Use	Size	AM Peak Hour Vehicle Trips	PM Peak Hour Vehicle Trips
<i>Approved Program (Combined East and West Sides from 2012 LATR)</i>			
Office	131,422 SF	161	150
Retail	41,828 SF	49	189
Residential	2,210 DU	585	649
Subtotal: Approved Program		795	988
<i>Proposed Program (Combined East and West Sides)</i>			
Office	7,268 SF	6	10
Retail	84,828 SF	87	315
Residential	2,123 DU	591	640
Subtotal: Proposed Program		684	965
Net Total		-111	-23

Source: Wells + Associates Inc. Traffic Statement dated January 11, 2023

The Preliminary Plan Amendment will not result in increases to the approved peak hour vehicle trip generation totals nor include roadway network changes³. The previously

³ Vehicle trips were assessed to be consistent with the previously approved Local Area Transportation Review (LATR) report associated with the original Preliminary Plan and APF. More recent Growth and Infrastructure Policy

planned, designed, and constructed road improvements are adequate to serve the Property.

Schools

Based on the following school cluster and individual school capacity analysis performed using the FY2023 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this application.

Overview and Applicable School Test

Preliminary Plan No. 12012008G and Site Plan No. 82013022H for Shady Grove Station is subject to the FY23 Annual School Test, approved by the Planning Board on June 16, 2022 and effective July 1, 2022. This amendment proposes 5 additional single family attached units.

School Adequacy Test

The project is served by Washington Grove ES, Gaithersburg MS and Gaithersburg HS. Based on the FY23 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 2: Applicable FY2023 School Adequacy

School	Projected School Totals, 2026				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/Deficit		Tier 1	Tier 2	Tier 3
Washington Grove ES	589	531	90.2%	+58	No UPP	143	176	265
Gaithersburg MS	1,009	1,044	103.5%	-35	No UPP	91	167	319
Gaithersburg HS	2,443	2,669	109.3%	-226	Tier 1 UPP		263	630

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. Under the FY23 Annual School Test, Washington Grove ES and Gaithersburg MS do not require any UPP as identified in Table 2. However, Gaithersburg HS requires a Tier 1 UPP. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

(GIP) and LATR guidance use person trips. However, since APF is not being requested to be extended further, Planning Board determined that the analysis should remain consistent with the previous methodology.

Calculation of Student Enrollment Impacts

To calculate the number of students generated by the proposed plan, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net increase of five single-family attached units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject property's location within an Infill Impact Area:

Table 3: Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.195	0.000	0.096	0.000	0.139	0.000
SF Attached	5	0.166	0.830	0.091	0.455	0.116	0.580
MF Low-rise	0	0.059	0.000	0.023	0.000	0.032	0.000
MF High-rise	0	0.034	0.000	0.015	0.000	0.016	0.000
TOTALS	5		0		0		0

As shown in Table 3, on average, this project is estimated to generate no additional students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in Table 2. Therefore, none in addition to the default Tier 1 UPP are required and neither are partial payments across multiple UPP tiers.

Analysis Conclusion and Condition of Approval

As conditioned in the related Site Plan Amendment, before issuance of each building permit for the 407 to 411 single family attached residential dwelling units approved with this amendment, the Applicant must obtain an assessment from the Montgomery County Department of Permitting Services for Utilization Premium Payments (UPPs) consistent with County Code and the Growth and Infrastructure Policy, as follows:

- a. no elementary school UPP required;
- b. no middle school UPP required; and
- c. a Tier 1 high school UPP per unit.

Montgomery County may modify the per unit UPP rates prior to payment of any required UPPs. The Applicant must pay the above UPPs to the Montgomery County Department of Finance based on the rates in effect at the time of payment.

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

Chapter 22A requirements for Preliminary Plan Amendment No. 12012008G continue to be covered by existing approved Final Forest Conservation Plan (FFCP) No. 82013022E and no amendments to the FFCP are required based on the approved modifications to the townhouse width and lot lines.

These amendments continue to conform to the Planning Department's Environmental Guidelines and Noise Guidelines.

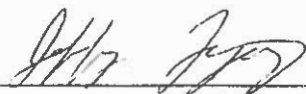
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 16 2023 (which is the date that this Resolution is mailed to all parties of record); and

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 Bartley, seconded by Commissioner Hedrick, with a vote of 4-0-1; Chair Zyontz, Vice Chair Piñero, and Commissioners Bartley, and Hedrick, voting in favor of the motion, Commissioner Pedoeem abstaining at its regular meeting held on Thursday, May 11, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
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Shady Grove Station Preliminary Plan No. 12012008G &
Shady Grove Station West Side Site Plan No. 82013022H