



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

MCPB No. 12-89
Preliminary Plan No. 120120080
Shady Grove Station
Date of Hearing: September 6, 2012

SEP 11 2012

RESOLUTION

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

WHEREAS, on November 15, 2011, EYA/CSP Associates and Montgomery County, filed an application for approval of a preliminary plan of subdivision of property to create 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 in the TOMX-2/TDR zone (the Property), located along Crabbs Branch Way, south of Shady Grove Road in the 2006 Shady Grove Sector Plan (Sector Plan or Plan) area; and


WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 1200120080, Shady Grove Station (Preliminary Plan or Application); and

WHEREAS, Planning Board staff (Staff) issued a memorandum to the Planning Board, July 13, 2012 and an addendum on August 24, 2012, setting forth its analysis and recommendation for approval, of the Application subject to certain conditions (Staff Report); and

WHEREAS, on September 6, 2012 the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 6, 2012, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120120080, subject to the following conditions:


Approved for legal sufficiency
M-NCPPC Office of General Counsel

1. This Preliminary Plan is limited to a maximum of 752 townhouse units on up to 752 lots, a maximum of 1,458 multi-family units on up to 95 lots (includes 84 lots for 2 over 2 units and 11 lots for multi-family buildings), 41,828 square feet of retail space on up to 3 lots shared with multi-family units, and a maximum of 131,422 square feet of office development on 1 lot. Additional lots are permitted for common areas, clubhouses, park and school sites, and other County facilities. Ten percent of the total number of residential units excluding MPDUs or resulting MPDU bonus density units must be Workforce Housing units, and 15% of the total number of residential units excluding workforce units must be Moderately Priced Dwelling Units (MPDUs).
2. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its letter dated June 13, 2012, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letters dated June 13, 2012 and July 20, 2012, and hereby incorporates them as conditions of the Preliminary Plan approval, except that any performance guarantees necessary to ensure that the trip reduction goals under Condition #4 are maintained will be determined by subsequent site plans. The Applicant must comply with each of the recommendations set forth in both letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. The Applicant must satisfy the Shady Grove Sector Plan's traffic mitigation requirements by entering into a Traffic Mitigation Agreement with the Planning Board and MCDOT. In the Agreement, the Applicant must participate in the Greater Shady Grove Traffic Management Organization (TMO) to assist in achieving the non-auto-driver mode share goals of the Sector Plan. As a new development generating 100 or more additional new peak-hour vehicular trips in the Shady Grove Metro Station Policy Area, the non-auto-driver mode share goals are a reduction of 65% of the employees' vehicular trips and 50% of the residential vehicular trips with no deduction of existing trips. The Agreement must be executed prior to approval of the first certified site plan.

5. The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by contributing to the Montgomery County Department of Transportation (MCDOT) \$292,500 (\$11,700 times 25 new peak-hour trips) for transportation infrastructure improvements within the greater Derwood/Shady Grove Policy Area. The PAMR payment must be made prior to issuance of any building permit.
6. The Applicant must dedicate and the record plat must reflect dedication of the following roadways as shown on the Preliminary Plan:
 - a. Crabbs Branch Way to the ultimate 120-foot right-of-way.
 - b. Shady Grove Road to the ultimate 150-foot right-of-way.
 - c. Road DD and Road JJ in the Shady Grove Station East area, that provide access to the elementary school site and Jeremiah Park, must be constructed to the Road Code Commercial Business Street standards, (2005.02 modified) with 70-foot rights-of-way.
7. Road P and Road I in the Shady Grove Station West area may be private streets subject to the following requirements:
 - a. Public easements must be granted for the roadways and must be reviewed and approved by MCDOT and M-NCPPC.
 - b. The design of the roads shall correspond to Montgomery County Road Code standard (2005.02 modified) for a similar public road, as modified in the cross-sections contained in the preliminary plan.
 - c. Installation of any public utilities must be permitted within such easement.
 - d. The roads may not be closed for any reason unless approved by MCDOT.
 - e. The public access easement must be volumetric to accommodate uses above or below the designated easement area.
 - f. Montgomery County may require the Applicant to install appropriate traffic control devices within the public easement and the easement must grant the right to the County to construct and install such devices.
 - g. Maintenance and Liability Agreements will be required for each Easement Area. These agreements must identify the Applicant's responsibility to maintain all of the improvements within the Easement Area in good fashion and in accordance with applicable laws and regulations.
 - h. Montgomery County will inspect these streets and ensure that each has been constructed in accordance with the corresponding Road Code standard for a similar public road as modified by the cross-sections contained in the preliminary plan.
 - i. The Applicant is obligated to remove snow and provide repairs to keep the roads in working order and open, and if, for any reason, the Applicant

does not, the County must have the right, but is not obliged, to remove snow and/or provide repairs.

8. Prior to the submission of a Site Plan for any development in the Shady Grove Station East area, the Applicant must record a plat of reservation for the Metro Access Road Partial Interchange. The land area indicated on the Preliminary Plan (23,973 square feet) may be enlarged after MCDOT conducts preliminary engineering for the partial interchange. This plat of reservation will be valid for a minimum of three years.
9. The Planning Board has accepted the recommendations of the Montgomery County Public Libraries (MCPL) in its letter dated June 1, 2012 and hereby incorporates them as conditions of the Preliminary Plan approval. These conditions may be amended by MCPL, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
10. The Planning Board has accepted the recommendations of Montgomery County Fire and Rescue (MCF&R) Services in its letter dated May 23, 2012 and hereby incorporates them as conditions of the Preliminary Plan approval. These conditions may be amended by MCF&R, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
11. The Applicant must dedicate to M-NCPPC the approximately 4.1 acre portion identified as "Block AA" in the Shady Grove Station East area on the Preliminary Plan for use as a local public park. The land must be dedicated to M-NCPPC through notation on the plat and by conveyance at the time of record plat in the form of a deed approved by the Office of General Counsel. At the time of conveyance, the property must be free of any trash and unnatural debris. Location and design of boundary markers and signs must be approved by M-NCPPC.
12. Regarding the Montgomery County Public Schools (MCPS) Site identified as "Block BB" in the Shady Grove Station East area on the Preliminary Plan for use as an elementary school site, the Applicant must:
 - a. Move the location of the school site to be co-located with the M-NCPPC park dedication required under condition 11.
 - b. Design the combined school and park site to be a minimum of 8.1 usable acres without any bisecting streets.
 - c. Ensure that the school and park site are served by frontage on a publicly dedicated right-of-way.
 - d. Amend the preliminary plan and plat the dedication of the school and park site in accordance with the above conditions before any site plan subject to this preliminary plan approval is filed for the Shady Grove Station East area or before January 1, 2017, whichever comes first.

13. Before the approval of the first Site Plan for Shady Grove Station East, construction of the trail system around the regional stormwater management pond at Crabbs Branch Way and Redland Road must commence. Trail design details must be coordinated with the Parks Department.
14. The Applicant must reconstruct the entire section of Crabbs Branch Way from Shady Grove Road to Shady Grove Metro Access Road to include on-street parking, shared use paths, and a landscaped median.
15. The Applicant must provide streetscape, landscaping and pedestrian improvements along Shady Grove Road, between the CSX tracks and Metro Access Road, during Site Plan review for Shady Grove Station West.
16. The Applicant must install a traffic signal at each intersection of Crabbs Branch Way and the proposed internal roads "E" and "BB", if MCDOT determines the signals are warranted.
17. The Applicant must coordinate with the Washington Metropolitan Area Transit Authority (WMATA) to provide pedestrian improvements between Road "P" and the Shady Grove Metro Station during the first Site Plan review for Shady Grove Station West.
18. The Applicant must submit a Final Forest Conservation Plan for the area covered by this Preliminary Plan, to be approved with the first Site Plan submitted.
19. The Applicant must re-examine impacts to specimen trees number 32, 39, and 54 during Site Plan review to see if these trees can be saved through site design and construction techniques that reduce impacts to the critical root zones.
20. Fifty shade trees of at least 3" caliper must be included in the Site Plan as mitigation for the removal of 18 specimen trees under the variance. If it is found that trees 32, 39, and/or 54 can be saved, the number of shade trees required may be reduced accordingly. The formula for determining mitigation is 1" of diameter replaced for every 4" of diameter removed, with replacement trees being 3" caliper minimum. These trees do not count toward afforestation requirements.
21. On-site and off-site planting requirements to fulfill the 19.94 acres of forest conservation mitigation will be determined by the Final Forest Conservation Plan.
22. The Applicant must submit a Phase II Noise Analysis prior to Site Plan approval and incorporate noise mitigation measures into the Site Plan.

23. The Applicant must obtain approval of a detailed floodplain study from the Montgomery County Department of Environmental Protection prior to Site Plan approval as required by the Stormwater Management Concept approved by MCDPS.
24. Final approval of the number and location of dwelling units, site circulation, parking, sidewalks, signs, shared use paths, open space and public use space, and sitting areas will be determined at Site Plan.
25. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for up to 12 years (144 months) from the date of mailing of the Planning Board Resolution, 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 133,250 square feet of commercial office space within 12 months of the expiration of the Phase III validity period.
26. If a Development District is proposed by Montgomery County, the Applicant must participate in the District.
27. With the exception of demolition of the existing building and site improvements on the property, in accordance with the County's Smart Growth Initiative, no clearing, grading, or recording of plats prior to the approval of the certified site plan.
28. TDRs must be secured before each plat is recorded for multi-family development. Record plat must reflect serialization and liber/folio reference for all TDRs utilized by the development. A TDR will be purchased for every three multi-family residential units.
29. The final number of Workforce Housing units, MPDUs and TDRs will be determined during Site Plan review.

30. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
31. The record plat must reflect a public use and access easement over all private streets and adjacent parallel sidewalks.
32. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels and/or easements.
33. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the site plan.
34. The Certified Preliminary Plan must contain 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 review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
35. Prior to the issuance of any residential building permit covered by this Preliminary Plan, the Applicant must make a School Facilities Payment at the elementary school level to the Montgomery County Department of Permitting Services. The Applicant is proposing townhouses and mid/low-rise multi-family dwellings with residential parking as defined by the Annual School test effective July 1, 2011 for the Gaithersburg Cluster. This amounts to \$868.78 per residential townhouse, \$456.80 per multi-family garden apartment, and \$34.42 per high/low rise residential apartment at the elementary school level. If the type of residential units changes the applicable school facilities payment, per the Annual School Test effective July 1, 2011, will apply.

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:

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

The Property is within the Metro North-CSP and Jeremiah Park neighborhoods of the Sector Plan, although the Preliminary Plan refers to Metro North-CSP as Shady Grove Station West and Jeremiah Park as Shady Grove Station East. A Sectional Map Amendment following the Sector Plan rezoned the Property to the Transit-Oriented Mixed Use/Transferable Development Rights (TOMX-2/TDR).

The Sector Plan provides specific recommendations for both areas of the Property. Shady Grove Station West is within the Metro Neighborhoods, while Shady Grove Station East is within the Plan's Transitional Area and is identified as Jeremiah Park. The Metro Neighborhoods are envisioned "as an urban village, a place that provides vitality, convenience, and a human scale of development. It should become a residential mixed-use area with some office and community-serving retail uses, and recreational areas providing a focus for community life and services. Functionally integrated with the Metro station, the proposed street pattern will create an interconnected network of streets and sidewalks that ensure good vehicular and pedestrian access to Metro."

The Sector Plan recommends that development in the Transitional Area should be "less dense than the Metro Neighborhoods with open spaces, residential uses, and public facilities to serve the planning area. The Transition Area's transitional uses are an opportunity to achieve compatibility and provide needed public facilities for the Derwood Communities." The Preliminary Plan implements the Sector Plan recommendations with office and retail uses, residential development, a local library and interconnected network of streets on Shady Grove Station West, while public facilities, including the local park and dedicated school site and residential development are on Shady Grove East. The Preliminary Plan provides a library in an alternative location from the Plan's recommendations, on the ground floor of a multi-family building instead of as a free-standing community building in a "highly prominent location." The Planning Board accepts the Department of Public Libraries' recommendation to accept the library as proposed because it is in a suitable location within the dense multi-family residential and retail area. Further, Board finds that the proposed location creates a focal point that terminates the retail area.

Street Network

The public and private streets shown on the Preliminary Plan are consistent with the Sector Plan recommendations. The Sector Plan recommends a new grid system of streets forming short walkable blocks, including Streets "J", "I", and "F" as master plan streets with a minimum 70 feet right-of-way. Streets "I and J" -identified as Roads "DD and JJ" on the preliminary plan- are on Shady Grove Station East and a portion of Streets "I and F" are on Shady Grove Station West (Road P and Road I).

The Sector Plan recommends that "at the time of preliminary plan review, specific street locations shall be determined. Recommended rights-of-way are needed to ensure adequate lanes, bus access, emergency vehicle access, pedestrian sidewalks and street parking." It further recommends that "those streets that are listed in the Street and Highway Classification table as Streets 'F' (north of Street 'H'), 'I', and 'J' in the County Service Park are illustrative of the type of right-of-way needed to improve access to Metro and local circulation. Additional streets in the County Service Park that are illustrated but not listed in the table are also of the type desired." The Preliminary Plan road alignments are analogous to the Sector Plan road network.

The Preliminary Plan implements the Sector Plan recommendation for public streets with Roads "DD and JJ" on Shady Grove Station East as public streets. These streets provide access to the local park and school site, and will be designed to the County's Road Code Business Street District Standard, 2005.02. The Preliminary Plan shows the correct dedication for these streets. Remaining streets in Shady Grove Station East will be private streets.

Roads "P" and "I," which serve the library and the multi-family residential and retail area, are private streets. The Planning Board accepts these private streets since several conditions of approval and requirements are added to ensure public access, design standards, and a maintenance liability agreement with Montgomery County Department of Transportation (MCDOT). These private streets allow greater flexibility to incorporate new Environmental Site Design (ESD) stormwater management techniques within the right-of-way. As a condition of approval, all streets throughout the development will have public access easements.

Section 50-29(a) (2) of the Subdivision Regulations states that, "except as otherwise provided in the zoning ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. In exceptional circumstance, the board may approve not more than two (2) lots on a private driveway or private right-of-way; provided, that proper showing is made that such access is adequate to serve the lots for emergency vehicles, for installation of public utilities, is accessible for other public services, and is not detrimental to future subdivision of adjacent lands. In multi-family and town house development, not subdivided into individually recorded lots, the board may approve more than two (2) lots or buildings on private roads or drives, provided there is adequate access from such roads to a public street, as above."

The Planning Board finds that the private roads shown on the Preliminary Plan achieve the status of a public road because the following criteria are achieved:

- The roads are fully accessible to the public;
- They have minimum pavement widths and be accessible to fire and emergency vehicles;

- They are designed with safe, adequate, and efficient circulation, parking, and sidewalks; and
- They provide frontage for all buildings.

The Planning Board further finds that the street network, with the specified conditions of approval, will provide unrestricted public access, is supported by other County agencies, and will implement the Sector Plan's recommendations.

Partial Interchange

A partial interchange is recommended in the Sector Plan at the southern portion of the County Service Park (CSP), east of Crabbs Branch Way. A preliminary concept for the interchange has been developed. However, the specific amount of land to reserve for the partial interchange is unknown at this time since detailed engineering has not been completed. No development is proposed in the near-term for this area, and the partial interchange requires significant engineering design. The Planning Board finds that the reservation of land should be determined prior to submission of a site plan for any development on SGS East. The funding for the partial interchange is required to be appropriated in the CIP before stage 2 of the Sector Plan may begin.

Crabbs Branch Way

Crabbs Branch Way, between Redland Road and Shady Grove Road, is classified as a commercial business street with a minimum right-of-way at 100 feet. Creating a 'main street' with a landscape median and a shared use path on Crabbs Branch Way is a recommendation in the Sector Plan. The Preliminary Plan shows a right-of-way at 120 feet, which is the existing street right-of-way, to accommodate on-street parking, a landscape median, and a shared use path on the east side of the street. The Planning Board accepts the existing right-of-way since it achieves the Sector Plan's recommendation for a 'main street' with a landscape median, shared use path, and on-street parking.

Shady Grove Road

Shady Grove Road, between the western plan boundary and I-370, is classified as a major highway with a minimum right-of-way at 150 feet. Upgrading Shady Grove Road with sidewalks, lighting, landscaping and street trees are Sector Plan recommendations. The Preliminary Plan shows a right-of-way at 150 feet with 75 feet dedication from the existing centerline of Shady Grove Road. This Preliminary Plan will provide improvements between the CSX tracks and the Metro Access Road.

Bikeway Network

The Preliminary Plan will begin to implement the bikeway recommendation for Crabbs Branch Way. The Sector Plan recommends a Class I bikeway (SP-53) along the east side on Crabbs Branch Way, from Amity Drive to Redland Road. The Preliminary Plan

will implement the shared use path on the east side of Crabbs Branch Way along the Property.

At Shady Grove Road and Crabbs Branch Way, the Sector Plan recommends an underpass under Shady Grove Road to connect both sides of the street. The Preliminary Plan will not implement this recommendation, but it will provide at grade improvements at the intersection. The Planning Board supports at grade improvements since at-grade connections are more direct and the Grove Shopping Center, which is northeast of Shady Grove Road, has not submitted any redevelopment plans and it is unknown if any potential redevelopment will occur. The Sector Plan acknowledges that both Shady Grove Station East (Jeremiah Park) and the Grove Shopping Center must redevelop in order to implement the shared use path under Shady Grove Road.

Environmental

Enhancing the natural environment with green open spaces, establishing a forest buffer along the Metro Access Road, providing noise mitigation, and using environmental site design techniques are some of the recommendations in the Sector Plan. The Preliminary Plan will utilize environmental site design techniques, such as bioswales and permeable surfaces; noise walls and parking garages adjacent to CSX tracks will provide noise mitigation measures for townhouses and multi-family residential; some trees have been retained along the Metro Access Road; new public and private open spaces are integrated throughout the development; and new streetscape is proposed with street trees. These measures will substantially implement the Sector Plan's environmental recommendations.

Staging

The Sector Plan establishes a staging plan that is centered on the potential redevelopment or retention of the CSP with different levels of residential and non-residential development allowed. The three phased staging plan specified the amount of residential development and non-residential development along with required infrastructure triggers, if the CSP was retained or redeveloped. The Sector Plan recommends that "housing capacity of 2,480 units and 520 jobs will be held for development on Jeremiah Park and the Metro North Neighborhood (CSP), unless the Executive branch determines that a land exchange is not feasible or fails to enter into an agreement with a private developer to relocate the CSP within two years of the adoption of the Plan." Further, the Executive Branch was given two years from the adoption of the Sector Plan to complete negotiations to relocate the CSP.

The Planning Board has weighed the Executive Branch's efforts to finalize negotiations with the two year reservation recommended in the Sector Plan and believes that although a development agreement was finalized after the two year reservation period expired, the efforts to achieve the intent of the Sector Plan were in substantial conformance with the Master Plan's recommendations. This Preliminary Plan allows for

the complete implementation of the total amount of development, public facilities, and infrastructure recommended in the Sector Plan. In light of this, and considering all of the Master Plan's objectives, even if the Board could not find that timing of the negotiations' completion substantially conformed to the Master Plan, the Board would find that recommendation to be no longer appropriate.

The Preliminary Plan will implement the Sector Plan's staging recommendations since it provides an elementary school site; a local library; public parks, including Jeremiah Local Park; transportation mitigation agreements will be required when a site plan is submitted; and there is sufficient capacity to accommodate the total amount of development.

Density

The Preliminary Plan density is generally consistent with Sector Plan's overall recommendations. The Sector Plan established base densities while using bonus density provisions through Workforce Housing, Transferable Development Rights (TDRs), and Moderate Priced Dwelling Units (MPDUs) to increase the amount of residential development. The Sector Plan recommends that "base density can be increased by 10 percent workforce housing, 20 percent Transferable Development Rights (TDRs), and 22 percent Moderate Priced Dwelling Units (MPDUs)."

The Sector Plan also envisioned joint development between the CSP and Casey 6 and 7, which are two properties northwest of the intersection of Shady Grove Road and Crabbs Branch Way. In March 2007, the Planning Board approved preliminary plan (#1-20070320) for Casey 6 and 7 with 340 dwelling units and 329,300 square feet of office development. These properties were owned by EYA, but were later purchased by Montgomery County and the State of Maryland to accommodate some of the current CSP uses and the maintenance facility for the Inter-county Connector (MD 200), respectively.

The Preliminary Plan proposes 689 dwelling units on SGS East and 1,521 dwelling units on SGS West. The Sector Plan recommends "up to 700 units with bonus" densities on SGS East (p.52). And, up to "1,540 units with bonus density if jointly developed with Casey 6 and Casey 7" on SGS West (p.44).

The residential density on SGS East is within the Plan's recommendation. Since joint development is no longer possible on Casey 6 and 7, the higher base density for SGS West increases the amount of residential development, including affordable housing, within close proximity to the Metro Station, and it is within the Metro Neighborhoods concept of the Sector Plan. This additional residential development will only occur on SGS West, which is within the Sector Plan's Metro Neighborhoods. The Metro Neighborhoods are envisioned as the area of the Sector Plan where the intense development will occur. Relocating additional units from the Casey properties to the Metro Neighborhoods is consistent with the overall density recommendations of the Sector Plan, and with the Plan's goal of targeting density closest to the Metro.

Unit Mix

The Sector Plan recommends a mix of residential unit types must be provided throughout the CSP. The Applicant will provide a range of units, including multi-family residential, townhouses, and 2 over 2 multi-family units as well as MPDU and Workforce units.

Building Heights

The Preliminary Plan building heights substantially conform to the Sector Plan recommendations. For Shady Grove Station West, the Sector Plan recommends "limiting building heights to eight stories closest to the Metro and stepping down to four stories along Crabbs Branch Way for a compatible transition" and "limiting townhouse building heights to 4 stories with multi-family units up to five stories. Maintain a 4 story building height along Crabbs Branch Way" for SGS East. Both multi-family residential buildings and townhouses building heights will be determined at Site Plan review. However, no buildings will exceed 70 feet in height.

Public Facilities

The Preliminary Plan provides a local library, a dedicated elementary school site, and a local park site, Jeremiah Park. The Sector Plan designates "Jeremiah Park as the preferred site for an elementary school"; it recommends "a minimum of four acres for an urban park in the Transition Area, called Jeremiah Park after Derwood's founder;" and a local library in the Metro North-CSP neighborhood.

Although the library is not located at Shady Grove Road and Crabbs Branch Way as recommended in the Sector Plan, the Planning Board finds that the library location within the most compact area of the development is appropriate. The Board also accepts the recommendations of the Department of Public Libraries. County-wide, the Department of Public Libraries is providing smaller libraries because of fiscal and budgetary challenges and new innovations in technology. Further, a large regional library was recently built in Rockville, which is one Metro stop south from Shady Grove.

The dedication of the public park and school site are important public facilities that will implement the Sector Plan recommendations. The school site is important since there are capacity limits at the elementary school level. The Planning Board finds that the location of the elementary school shown on the Preliminary Plan is contrary to the Sector Plan recommendations. Further, it does not take advantage of operational efficiencies by co-locating the school with the park. Therefore, the Planning Board finds, and as a condition of this approval requires, that the Applicant must co-locate both facilities when a Site Plan is submitted for Shady Grove Station East or by January 1, 2017, whichever comes first.

Transferable development rights (TDRs)

The Preliminary Plan is subject to Section 59-C-13.2431 and Section 59-C-13.2433 of the Zoning Ordinance, special regulations for development using transferable development rights in the TOMX/TDR zone and development approval procedures under the standard and optional method of development. The overall dwelling units per acre (dus/acre) is 24.5, while the total Floor Area Ratio (FAR) is 1.125.

Both the dwelling units per acre and FAR measures are above the standard method threshold (0.5 FAR or 20 dus/acre) that requires TDRs, but below the optional method threshold that requires TDRs (1.6 FAR or 40 dus/acre). The Applicant proposes to build 279 TDR bonus units, all multi-family, and to provide 93 TDRs (64 for SGS West and 29 for SGS East) for the development. The Planning Board finds that this is consistent with Section 59-C-13.2431 of the Zoning Ordinance, which requires TDRs in a Metro Station Policy at a ratio of one TDR for three multi-family dwelling units.

Affordable Housing

The Sector Plan encourages maximizing affordable housing, including through the provision of MPDUs and workforce housing.

The Preliminary Plan will provide 476 dwelling units (21.5 percent) of the total residential development as affordable units, Workforce Housing units and MPDUs. The Applicant will provide 169 workforce housing units throughout the development, including 116 workforce dwelling units (25 townhouses and 91 multi-family dwelling units) in Shady Grove Station West and 53 workforce dwelling units (30 townhouses and 23 multi-family dwelling units) in Shady Grove Station East. Since the adoption of the Sector Plan and the TOMX/TDR zone, the requirement for workforce housing is now optional rather than required.

The Applicant will also provide 307 Moderately Priced Dwelling Units (MDPUs) in the development, including 211 MPDU residential units (44 townhouses and 167 multi-family) in Shady Grove Station West and 96 MPDU residential units (47 townhouses and 49 multi-family) in SGS East. The Applicant is utilizing the bonus provision in the zone for MPDUs. Therefore, based on the analysis above and with the conditions of approval, the Planning Board finds the Preliminary Plan substantially conforms to the Approved and Adopted 2006 Shady Grove Sector Plan.

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

Site Location and Vehicular Site Access Points

The Property is located south of Shady Grove Road and Crabbs Branch Way and is within 1/2 of a mile from the Shady Grove Metro Station entrance. Primary vehicular access to the property is from Crabbs Branch Way.

Transportation Demand Management

The Property is within the boundary of the Greater Shady Grove Transportation Management District (TMD). The Applicant must enter into a traffic mitigation agreement to participate with the TMD and assist the County in achieving and maintaining its non-auto driver mode share (NADMS) goals as required by the conditions.

The Sector Plan recommends that any new development generating 100 or more additional new peak-hour vehicular trips in the Shady Grove Metro Station Policy Area must achieve the non-auto-driver mode share goals reduction of 65% of the employees' vehicular trips and 50% of the residential vehicular trips.

Public Transit Service

The Shady Grove Metrorail Station is located within walking distance from the subject property. Ride-On routes 43 and 61 operate along Shady Grove Road along the northern property frontage. Currently, no bus routes operate along Crabbs Branch Way between Shady Grove Road and Redland Road.

Sector-Planned Roadways and Bikeways

In accordance with the *Sector Plan* and the *Countywide Bikeways Functional Master Plan*, the classified roadways and bikeways are as follows:

1. Crabbs Branch Way is designated as a four-lane divided commercial business district street, B-2, with a recommended 100-foot right-of-way. The Applicant proposes 8-foot-wide shared use path on the east side of the road, consistent with the Countywide requirements for shared use path, SP-53.

2. Shady Grove Road, between the western plan area boundary and I-370 is designated as a six-lane divided major highway, M-42, with a recommended 150-foot right-of-way and a Countywide bike lanes, BL-30.
3. The (Shady Grove) Metro Access Road is a four-lane divided major highway, M-94, with a recommended 150-foot right-of-way and Sector Plan shared use path, B 7. In addition, the Sector Plan recommends a partial interchange with Crabbs Branch Way.
4. The entire segment of master-planned Road "F" (proposed as Road "P") is designated as a two-lane business district street, B-9, with a recommended 70-foot rights-of-way. This street is proposed as a private street serving the proposed commercial area. As specified in the conditions, the Applicant must satisfy certain "private road" requirements.
5. The relocated segment east of Crabbs Branch Way of master-planned Road "I" (proposed as Road "DD") is designated as a two-lane business district street, B-12, with a recommended 70-foot rights-of-way. This street must be a public street as it serves as access to the proposed public school site. A private maintenance and liability agreement, however, may be permitted to allow the Applicant to build stormwater management facilities within the right-of-way.
6. The segment west of Crabbs Branch Way of master-planned Road "I" (proposed as Road "I") is designated as a two-lane business district street, B-12, with a recommended 70-foot right-of-way. This street is proposed to be a private street serving the proposed commercial area. As specified in the conditions, the Applicant must satisfy certain "private road" requirements.
7. The entire segment of master-planned Road "J" (proposed as Road "JJ") is designated as a two-lane business district street, B-13, with a recommended 70-foot right-of-way. This street must be a public street as it serves as access to the proposed public school site. A private maintenance and liability agreement, however, may be permitted to allow the Applicant to build stormwater management facilities within the right-of-way.

Transportation Adequate Public Facilities Review

Table 1 below shows the net increase in the vehicular peak-hour trips generated by the proposed redevelopment during the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.).

Table 1: Net Number of Site-Generated Trips

Tenant	Square Feet or Units	Peak-Hour Trips	
		Morning	Evening
Proposed Mixed Use Redevelopment			
Residential Townhouse	752	389 (201)	431 (250)
Mid-Rise Apartments	1,458	590 (384)	688 (399)
General Office Use	131,422	215 (162)	209 (146)
General Retail Use	41,828	82 (49)	328 (189)
Public Park, Library, & Elementary School Site	n/a	n/a	
Subtotal		1,276 (796)	1,656 (984)
Trip Credit for the Existing Traffic generated by the County Service Park		290	536
Net Increase in Peak-Hour Trips		986 (506)	1,120 (448)

Total vehicular trips were reduced based on the following:

- Close Proximity to Metrorail Station: The percent of trips generated by nearby developments that use transit rather than their automobile during the weekday morning and evening peak hours based on the results of WMATA's Development-Related Ridership Survey.
- Compatible Land Uses: The percent of the trips that can use non-automobile transportation modes to travel between compatible land uses within a mixed-use development, such as between apartments/townhouses and retail businesses.

The trip credit was determined for the existing trips generated by the County Service Park facilities located along Crabbs Branch Way. Driveway counts were collected at the existing curb cuts with the selected peak hour being the highest of the three hours within morning and evening peak periods at the critical intersection of Shady Grove Road and Crabbs Branch Way. The trips shown in Table 1 above are total trips that include the new, diverted, and pass-by trips, reduced for close proximity to Metro and compatible land uses, as described in a. and b. above. The new trips are shown in parentheses after the total trips.

In accordance with the Local Area Transportation Review and Policy Area Mobility Review Guidelines, a traffic study is required to satisfy LATR test because the net number of peak-hour trips generated by the proposed redevelopment is 30 or more peak-hour trips within the weekday morning and evening peak periods. Based on the result of the traffic study, Table 2 below shows

the calculated Critical Lane Volume (CLV) values at the analyzed intersections in the following traffic conditions:

1. Existing: Existing traffic conditions as they exist now.
2. Background: The existing condition plus the trips generated from approved but un-built nearby developments.
3. Total: The background condition, minus the County Service Park trips, and plus the mixed use redevelopment trips.

As noted with an asterisk in Table 2 below, these CLV values in the total traffic condition are less than the CLV values in the background traffic condition. The net traffic impact by the proposed redevelopment was determined by removing the trips generated from the County Service Park facilities and adding the trips generated by the proposed mixed use redevelopment. As a result, the trips to/from the County Service Park travel in the reverse direction compared to the trips from/to the proposed 2,210 housing units, especially to/from the west on Shady Grove Road.

Table 2: Critical Lane Volume Values

Analyzed Intersection	Weekday Peak Hour	CLV Congestion Standard	Traffic Condition		
			Existing	Back-ground	Total
Shady Grove Road & Epsilon Drive	Morning	1,475	1,358	1,387	1,368*
	Evening		1,229	1,254	1,206*
Shady Grove Road & Briardale Road	Morning	1,475	1,380	1,409	1,390*
	Evening		1,400	1,424	1,377*
Shady Grove Road & I-370 Northbound Ramp	Morning	1,800	928	945	939*
	Evening		1,356	1,380	1,322*
Shady Grove Road & I-370 Southbound Ramp	Morning	1,800	855	874	902
	Evening		964	1,015	1,001*
Shady Grove Road & Crabbs Branch Way	Morning	1,800	1,035	1,105	1,171
	Evening		1,135	1,200	1,299
Shady Grove Road & Oakmont Avenue	Morning	1,800	1,129	1,163	1,208
	Evening		1,003	1,045	1,035*
Shady Grove Road & Solid Waste Transfer Driveway	Morning	1,800	797	831	876
	Evening		760	790	840
Shady Grove Road & Frederick Road (MD 355)	Morning	1,800	1,564	1,626	1,657
	Evening		1,427	1,492	1,550
Redland Road & Needwood Road	Morning	1,475	845	888	889
	Evening		789	831	828*
Redland Road & Crabbs Branch Way	Morning	1,800	1,104	1,174	1,263
	Evening		1,054	1,144	1,158
Redland Road & Shady Grove Metro Access Road	Morning	1,800	934	1,010	1,032
	Evening		716	775	777
Redland Road & Somerville Drive	Morning	1,800	562	620	632
	Evening		832	889	900
Crabbs Branch Way & Indianola Drive	Morning	1,800	1,094	1,125	1,220
	Evening		979	998	1,105
Indianola Drive & Frederick Road (MD 355)	Morning	1,500	1,117	1,153	1,185
	Evening		984	1,017	1,057
Redland Road & Needwood Road	Morning	1,475	1,041	1,169	1,207
	Evening		1,030	1,077	1,114

The CLV values at all analyzed intersections in all traffic conditions are less than their congestion standard and, thus, the LATR test is satisfied.

Policy Area Mobility Review (PAMR)

Under the current *Subdivision Staging Policy*, the Applicant must satisfy PAMR by mitigating 5% of the new peak-hour trips generated by the proposed mixed-use development. The Applicant proposes to pay \$292,500 (or 11,700 times 25 [5% of 506 morning peak-hour trips]) to MCDOT to fund transportation improvements located in the PAMR Derwood/Shady Grove Policy Area.

Other Public Facilities and Services

Except for schools, other public facilities and services are available and will be adequate to serve the proposed development. This site is served by public water and sewer. Gas, electric, and telecommunications services are also available to serve the property. Police stations, firehouses, and health services are currently operating within the standards set by the effective Subdivision Staging Policy.

This Application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS), which has determined that the property has adequate access for emergency vehicles.

The Property is located within the Gaithersburg High School Cluster, which requires a School Facilities Payment at the elementary school level. This amounts to \$868.78 per residential townhouse, \$456.80 per multi-family garden apartment, and \$34.42 per high/low rise residential apartment at the elementary school level. The School Facilities Payment must be made prior to the issuance of any residential building permit covered by this Preliminary Plan. Therefore, based on the analysis above and with the conditions of approval, the Planning Board finds public facilities are adequate to support and service the area of the Preliminary Plan.

3. *The size, width, shape, and orientation of the approved 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 are 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.*

Environmental Guidelines

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the site was approved on June 15, 2012. The site contains no forest, streams or their buffers, wetlands or their buffers, 100-year floodplains, or rare, threatened or endangered species.

A. *Forest Conservation*

The Preliminary Forest Conservation Plan submitted with the Preliminary Plan indicates that 5.31 acres of forest are slated for removal for the development of this project. This will result in a total afforestation and reforestation requirement of 19.94 acres. The Applicant proposes to meet this requirement through a combination of landscape credit and offsite forest conservation banking. Due to the size of the site and the amount of forest being cleared, this project does not qualify for the use of fee-in-lieu payments to meet its mitigation requirements. Final amounts of landscape credit and offsite forest banking to meet the mitigation requirement will be determined by the Final Forest Conservation Plan. The Preliminary Forest Conservation Plan does not propose any Category I easements on site. The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

B. Forest Conservation Variance

The Applicant is requesting a variance for the removal of 18 specimen trees on the Property that are 30 inches or greater in diameter. Ten are on Shady Grove Station West and eight are on Shady Grove Station East. These trees are listed in the table below:

Tree Number	Species	DBH	Status
4	<i>Quercus rubra</i>	33"	Remove
5	<i>Tilia cordata</i>	34"	Remove
14	<i>Carya tomentosa</i>	35"	Remove
16	<i>Carya tomentosa</i>	32"	Remove
20	<i>Quercus phellos</i>	30"	Remove
21	<i>Quercus phellos</i>	30"	Remove
30	<i>Pinus virginiana</i>	32"	Remove
31	<i>Fraxinus pennsylvanica</i>	32"	Remove
32	<i>Quercus rubra</i>	31"	Remove
33	<i>Acer rubrum</i>	41"	Remove
39	<i>Acer rubrum</i>	37"	Remove
54	<i>Quercus rubra</i>	41"	Remove
55	<i>Liriodendron tulipifera</i>	37"	Remove
57	<i>Liriodendron tulipifera</i>	31"	Remove
60	<i>Liriodendron tulipifera</i>	34"	Remove
61	<i>Liriodendron tulipifera</i>	30"	Remove
63	<i>Liriodendron tulipifera</i>	30"	Remove
65	<i>Liriodendron tulipifera</i>	31"	Remove

Forest Conservation Variance

Section 22A-12(b) (3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection (Protected Trees). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone (CRZ), requires a variance under Section 22A-12(b)(3) (Variance). Otherwise such resources must be left in an undisturbed condition.

An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater diameter at breast height (DBH); are part of a historic site or designated with a historic structure;

are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The Applicant submitted a variance request on June 4, 2012 for the impacts/removal to trees with the proposed layout. The Applicant proposes to remove 18 trees that are 30 inches or greater DBH and to impact, but not remove, 5 others that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Unwarranted Hardship Basis

The proposed development is in accordance with both the intent and recommendations of the Sector Plan and the Transit-Oriented Mixed Use /Transferable Development Rights (TOMX-2/TDR) zone, both of which are intended to create higher density uses in the vicinity of the Shady Grove Metro Station. The SGS West portion of the site lies closest to the Metro station and is recommended for transformation into an urban village. The SGS East portion of the site is identified as a transition area between the more intensely developed Metro neighborhoods and the existing nearby residential communities and is envisioned to provide multi-family and townhouse residential units, a local park, and an elementary school site. The combination of urban scale of development, medium-to-high density residential development, and major public facilities and amenities further constrains the site. This allows site to be intensely developed to achieve the Sector Plan's vision.

Variance trees numbering 4, 5, 14, 16, 20, 21, 30, 31, and 33 are all isolated trees that currently stand in the middle of the site, primarily in islands in the middle of parking lots. Variance trees numbering 55, 57, 60, 61, 63, and 65 occur along the site's southwestern boundary with the CSX railroad right-of-way where two large parking structures are proposed. Saving these trees would require major changes to the proposed development and would challenge the ability of the project to meet the goals of the Sector Plan.

Variance trees numbering, 32, 39, and 54 lie along the edges of the site. The proposed limits of disturbance would affect significant portions of the critical root zones of these trees and indicate that the trees will need to be removed. These three trees should be reexamined at the time of Site Plan to see if modifications can be made to the grading and limits of disturbance that would allow these trees to be saved.

Variance trees numbering 35, 36, 37, and 38 were originally proposed for removal. These trees lie along the northeast boundary of the Property at the edge of a small off-site forest stand. At staff's request, the Applicant worked to pull back adjacent development and reduce impacts to these trees. Most of the critical root zone impacted lies under an existing road around the edge of the Property; this means that most of these trees' root systems will be found in the forest behind the trees rather than under the existing pavement. Staff believes that these trees can be saved with appropriate tree protection measures.

Tree number 51, which is to be saved, will have no critical root zone impacts; therefore, technically, it does not need to be included in the variance.

Not allowing the removal of Variance trees numbering 4, 5, 14, 16, 20, 21, 30, 31, 32, 33, 39, 54, 55, 57, 60, 61, 63, and 65, and the impacts to Variance trees numbers 35, 36, 37 and 38 would require major changes to the proposed development design which is proposed to be consistent with the Sector Plan. Staff concurs that the Applicant has a sufficient unwarranted hardship to consider a variance request.

Variance Findings

The Planning Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The Planning Board finds that the removal of 18 variance trees is consistent with the requirements and constraints of the Sector Plan, the zone, and what is intended for the property, public facilities, and road networks. Granting the variance would not confer on the Applicant a special privilege that would be denied to other applicants.

The proposed design has attempted to balance all of the competing factors that constrain the site. While 18 variance trees will need to be removed, the Applicant has modified its plans to reduce the number of variance trees that must be taken. Impacts to the other variance trees have been limited and, as a result, they will likely be preserved. Given the intensity of the development, impacts to variance trees are to be expected.

The Planning Board believes that reasonable steps have been taken to minimize impact to variance trees, and that granting the variance will not confer a special privilege to the Applicant.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The Planning Board finds that the variance is based on the constraints of the site and the proposed development density, public facilities, and road network are recommended in the Sector Plan, rather than on conditions or circumstances which are the result of actions by the Applicant.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The Planning Board finds that the variance is a result of the proposed site design and layout on the Property, and not as a result of land or building use on a neighboring property. There are no conditions relating to land or building use, either permitted or nonconforming, on a neighboring property that have played a role in the need for this variance.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Planning Board finds that granting the variance will not violate State water quality standards or cause measurable degradation in water quality. The Montgomery County Department of Permitting Services (DPS) has approved a stormwater management concept, dated June 13, 2012 for the Property. The Stormwater Management (SWM) concept plan incorporates a combination of on-site structural water quality treatment facilities and Environmental Site Design (ESD) practices including micro-scale treatment facilities and alternative surfaces. Runoff in excess of the ESD treatment volume will continue to be treated by the Crabbs Branch Regional stormwater management pond. The addition of on-site ESD practices should improve the water quality of runoff generated by this property.

Mitigation for Trees Subject to the Variance Provisions

Mitigation for the Variance should be at a rate that approximates the form and function of the Protected Trees removed. There are 18 trees proposed for removal as a result of the proposed development. There will also be some disturbance within the CRZ of another 4 trees but they are excellent candidates for safe retention. No mitigation is recommended for trees impacted but retained.

Therefore, the Planning Board is requiring the replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" DBH. This means that for the 601 caliper inches of trees removed, the required mitigation will be 50 native canopy trees with a minimum size of 3" DBH. While these trees will not be as large as the trees lost, they will provide some immediate canopy and will help augment the canopy coverage. The Planning Board is also requiring the 50 native canopy trees with a minimum size of 3" DBH to the landscape plan. Because these trees are in mitigation for specimen trees removed, they do not count toward afforestation requirements.

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "Storm Water Management," Sections 19-20 through 19-35.*

A stormwater management concept plan was approved by the MCDPS on June 13, 2012, meeting stormwater management requirements through a variety of Environmental Site design techniques and structural stormwater management facilities.

BE IT FURTHER RESOLVED, that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successors in interest to the terms of this approval.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 85 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 in the Montgomery County Land Records, or a request for an extension must be filed [modify as required if Board approves phases with concurrent validity periods – or delete if phased validity periods are set forth in conditions of approval]; and

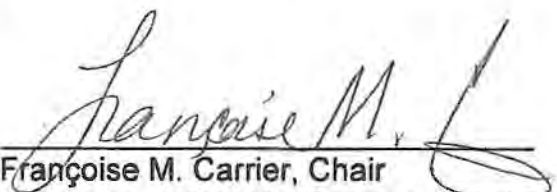
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 11 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, September 6, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

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

RECEIVED
4/23/14

MCPB No. 14-22
Preliminary Plan No. 12012008A
Shady Grove Station
Date of Hearing: April 17, 2014

APR 23 2014

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 September 11, 2012, the Planning Board approved Preliminary Plan No. 120120080, for a maximum of 752 residential townhouse units; a maximum of 1,458 multi-family residential units; 41,828 square feet of retail; and a maximum of 131,422 square feet of office development on approximately 90.34 acres in the TOMX-2/TDR Zone, located along Crabbs Branch Way, south of Shady Grove Road, ("Subject Property"), in the Shady Grove Sector Plan ("Sector Plan") area;

WHEREAS, on March 6, 2014, EYA/CSP Associates ("Applicant") filed a preliminary plan amendment to amend Condition No. 4 and Condition No. 7 (b) of Preliminary Plan No. 120120080; and

WHEREAS, Applicant's preliminary plan was designated Preliminary Plan No. 12012008A, Shady Grove Station ("Preliminary Plan," "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by the Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 4, 2014, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on April 17, 2014, Staff presented the Application to the Planning Board as a consent item for its review and action, at which time the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

APPROVED AS TO LEGAL SUFFICIENCY
Christina Sonen 4/10/14
MNCPPC LEGAL DEPARTMENT

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Preliminary Plan No. 12012008A for the modification to Preliminary Plan No. 120120080 Conditions No. 4 and 7(b), as shown below¹:

Condition No. 4

The Applicant must satisfy the Shady Grove Sector Plan's traffic mitigation requirements by entering into a Traffic Mitigation Agreement with the Planning Board and MCDOT. In the Agreement, the Applicant must agree to participate in the Greater Shady Grove Traffic Management Organization (TMO) to assist in achieving the non-auto-driver mode share goals of the Sector Plan. As a new development generating 100 or more additional new peak-hour vehicular trips in the Shady Grove Metro Station Policy Area, the non-auto-driver mode share goals are a reduction of 65% of the employees' vehicular trips and 50% of the residential vehicular trips. The Agreement must be executed prior to approval of the first building permit for a residential building.

Condition No. 7 (b)

Road P and Road I in the Shady Grove Station West area may be private streets subject to the following requirements:

- b. The design of the roads shall correspond to the Montgomery County Road Code standard (2005.02 modified) for a similar public road, as modified in the cross-sections contained in the Preliminary Plan, or as shown on the certified site plan.

BE IT FURTHER RESOLVED, that all other conditions of approval for Preliminary Plan No. 120120080 remain valid, unchanged and in full force and effect;

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, that unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, as amended, and all findings not specifically addressed remain in effect, and with the conditions of approval, that:

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. *The Preliminary Plan substantially conforms to the Sector Plan.*

This Amendment does not materially change the existing approvals for uses and development. The Amendment remains in conformance with the Sector Plan.

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

The development of the Subject Property continues to be bound to the density and uses approved with the original preliminary plan. The finding of Adequate Public Facilities, including fire and rescue access, roads, water and sewer remains valid for the approved development.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The lots are of the appropriate dimensions with respect to size, shape, width and orientation to accommodate the multiple uses expected to occur on the Subject Property. The Amendment does not change the size, width, shape and orientation of the approved lots, and remains in conformance with all applicable sections of the Subdivision Regulations.

4. *The Amendment satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The original approval by the Planning Board included provisions to satisfy the requirement of Chapter 22A as shown on the approved preliminary forest conservation plan. The Subject Property continues to be bound by the conditions of the approved forest conservation plan.

5. *The Amendment 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 meets MCDPS' standards.*

The Montgomery County Department of Permitting Services approved a stormwater management concept for the entire site at the time of the original preliminary plan approval. This Amendment does not change the elements of that concept.

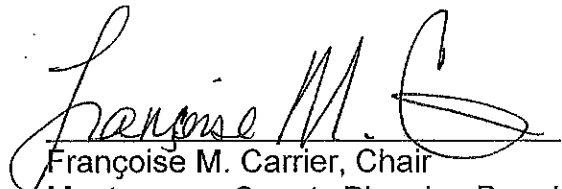
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is APR 23 2014 (which is the date that this resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor, and Commissioner Anderson absent, at its regular meeting held on Thursday, April 17, 2014, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



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

NOV 3 2014

MCPB No. 14-96
Preliminary Plan No. 12012008B
Shady Grove Station
Date of Hearing: October 23, 2014

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 September 11, 2012, by MCPB Resolution No. 12-89, the Planning Board approved Preliminary Plan No. 120120080, for a maximum of 752 residential townhouse units; a maximum of 1,458 multi-family residential units; 41,828 square feet of retail; and a maximum of 131,422 square feet of office development on approximately 90.34 acres in the TOMX-2/TDR Zone, located along Crabbs Branch Way, south of Shady Grove Road, ("Property"), in the Shady Grove Sector Plan ("Sector Plan") area; and

WHEREAS, on April 23, 2014, by MCPB Resolution No. 14-22, the Planning Board approved Preliminary Plan No. 12012008A, which permitted execution of the required Traffic Mitigation Agreement at building permit and allowed modifications to the cross-sections of certain roads as part of development of the Property; and

WHEREAS, on July 28, 2014, EYA/CSP Associates and Montgomery County ("Applicant") filed a preliminary plan amendment 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) revise lot lines; and iv) modify the location of moderately priced housing units ("MPDUs") and workforce housing units.

WHEREAS, Applicant's application to amend the previously approved preliminary plans was designated Preliminary Plan No. 12012008B, Shady Grove Station ("Preliminary Plan," "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by the Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated October 9, 2014, setting forth its analysis and

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320

Date 10/13/14

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recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on October 23, 2014, Staff presented the Application to the Planning Board as a consent item for its review and action, at which time the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and approves Preliminary Plan No. 12012008B by modifying the following conditions of the previously approved preliminary plans¹:

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120120080 as listed in MCPB No. 12-89 as amended by Preliminary Plan No. 12012008A as listed in MCPB No. 14-22, except as amended by this Application.

BE IT FURTHER RESOLVED, that all site development elements as shown on the Shady Grove Station drawings submitted to M-NCPPC on October 1, 2014, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that all other conditions of approval for Preliminary Plan No. 120120080 as amended by Preliminary Plan No. 12012008A remain valid, unchanged and in full force and effect.

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, that unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, as amended, and all findings not specifically addressed remain in effect, and 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 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.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 3rd 2014 (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 Presley, seconded by Commissioner Dreyfuss, with Chair Anderson, Commissioners Dreyfuss, Presley, and Fani-Gonzalez voting in favor of the motion, and Vice Chair Wells-Harley absent, at its regular meeting held on Thursday, October 23, 2014, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

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

MAY 7 2015

MCPB No. 15-48
Preliminary Plan No. 12012008C
Shady Grove Station
Date of Hearing: April 30, 2015

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 September 11, 2012, by MCPB Resolution No. 13-190, the Planning Board approved Preliminary Plan No. 120120080, for a maximum of 752 residential townhouse units; a maximum of 1,458 multi-family residential units; 41,828 square feet of retail; and a maximum of 131,422 square feet of office development on approximately 90.34 acres in the TOMX-2/TDR Zone¹, located along Crabbs Branch Way, south of Shady Grove Road, ("Property"), in the Shady Grove Sector Plan ("Sector Plan") area;

WHEREAS, on April 23, 2014, by MCPB Resolution No. 14-22, the Planning Board approved Preliminary Plan No. 12012008A, 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 Property;

WHEREAS, on November 3, 2014, by MCPB Resolution No. 14-96, the Planning Board approved Preliminary Plan No. 12012008B, 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 modification to the location of Moderately Priced Housing Units and Workforce Housing units;

WHEREAS, on January 9, 2015, EYA/CSP Associates and Montgomery County ("Applicant") filed a preliminary plan amendment to permit separate TMAgs applicable to the phase covered within a specific site plan for the various phases of the approved Shady Grove Station development;

¹ The property was rezoned in 2014 by the Montgomery County Council approval of the County's new Zoning Ordinance to the CRT-1.0 C0.25 R0.75 H90 T (TDR 0.89 Overlay) and CRT-0.75 C0.25 R0.5 H-60 T (TDR 0.6 Overlay) zones.

WHEREAS, Applicant's application to amend the preliminary plan, as previously amended was designated Preliminary Plan No. 12012008C, Shady Grove Station ("Preliminary Plan," "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by the Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 10, 2015, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on April 30, 2015, Staff presented the Application to the Planning Board as a consent item for its review and action, at which time the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Preliminary Plan No. 12012008C for the modification to Condition No. 4 as previously approved, which shall be as follows²:

The Applicants for phased Site Plans must satisfy the Shady Grove Sector Plan's traffic mitigation requirements by entering into separate Traffic Mitigation Agreements (TMAs) with the Planning Board and MCDOT applicable to the phase covered by the approved Site Plan and binding upon the individual Applicant for that specific approved Site Plan. In the TMAs, the Applicants must agree to participate in the efforts of the Greater Shady Grove Transportation Management District (TMD), to assist in and demonstrate good faith efforts towards achievement of the non-auto-driver mode share goals of the Sector Plan for their project. Failure to do so may result in liquidated damages or other remedies to be detailed in the TMAs. For developments on the County Service Park property (Shady Grove Station), the non-auto-driver mode share goals are a reduction of 65% of the employees' vehicular trips and 50% of the residential vehicular trips. The TMAg must be executed prior to the release of the first commercial or residential building permit in each respective Site Plan.

BE IT FURTHER RESOLVED, that all other conditions of approval for Preliminary Plan No. 120120080, Preliminary Plan No. 12012008A, and Preliminary Plan No. 12012008B remain valid, unchanged and in full force and effect;

² 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.

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, that unless specifically set forth herein, with the conditions of approval this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, as amended, and all findings not specifically addressed remain in effect.

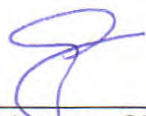
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 7 2015 (which is the date that this resolution is mailed to all parties of record); and

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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, April 30, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

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

MCPB No. 17-103

Preliminary Plan No. 12012008D

DEC 05 2017

Shady Grove Station

Date of Hearing: November 30, 2017

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 Area 2 Policy Area and, in the 2006 Shady Grove Sector Plan ("Sector Plan") area; and

WHEREAS, on April 23, 2014, the Planning Board approved an amendment to 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 to 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 to Preliminary Plan No. 12012008C (MCPB No. 15-48) to permit separate Traffic Mitigation Agreement ("TMAg") applicable to the phase covered within a specific site plan for the various phases of the approved Shady Grove Station development on the Subject Property; and

Approved as to
Legal Sufficiency:


MNCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
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WHEREAS, on June 26, 2017 EYA/CSP Associates and Montgomery County ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) to replace the unbuilt 131,422 square feet of office use with up to 43,000 square feet of general retail space on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12012008D, 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 November 15, 2017 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 30, 2017, 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 Preliminary Plan No. 12012008D to replace the unbuilt 131,422 square feet of office use with up to 43,000 square feet of general retail space subject to modified Condition Nos. 1,3 and 25 and two new conditions 36 and 37 as follows:¹

1. This Preliminary Plan is limited to a maximum of 752 townhouse units on up to 752 lots, a maximum of 1,458 multi-family units on up to 95 lots (includes 84 lots for 2 over 2 units and 11 lots for multi-family buildings), 41,828 square feet of retail space on up to 3 lots shared with multi-family units, and a maximum of 43,000 square feet of general retail development on 1 lot. Additional lots are permitted for common areas, clubhouses, park and school sites, and other County facilities. Ten percent of the total number of residential units excluding MPDUs or resulting MPDU bonus density units must be Workforce Housing units, and 15% of the total number of residential units excluding workforce units must be Moderately Priced Dwelling Units (MPDUs).

3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letters dated June 13, 2012, July 20,

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.

2012, and August 4, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval, except that any performance guarantees necessary to ensure that the trip reduction goals under Condition #4 are maintained will be determined by subsequent site plans. The Applicant must comply with each of the recommendations set forth in the letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

25. 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:

- a) Phase I – 375 residential units, including MPDUs and workforce housing units, within 60 months from the 30th day after the Resolution is mailed;
- b) Phase II – 125 residential units, including MPDUs and workforce housing units, within 36 months of the expiration of the Phase I validity period;
- c) 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
- d) 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.

36. Prior to issuance of the building permit for the retail building approved by this amendment, the Applicant must update the current Traffic Mitigation Agreement (TMAg), dated August 18, 2015, with the Planning Board and the Montgomery County Department of Transportation (MCDOT) to reflect the change in use approved by this amendment.

37. The Applicant must submit a site plan application when details for the future retailer are confirmed.

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

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.*

In the original approved Preliminary Plan No. 120120080 and respective amendments, the layout of the subdivision, including size, width, shape, orientation and density of lots and location meets all the requirements of the TOMX-2/TDR Zone. This Amendment changes the use of the office space to retail. This change of use has been reviewed against the dimensional requirements of the TOMX-2/TDR zone and it meets the requirements for the zone because the new use and design shows that the building location, size, width, shape, orientation and density of lot does not change from what was approved for the 131,422 square feet of office use.

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

The 2006 *Shady Grove Sector Plan* refers to the western segment of the Property as Metro North-CSP and the eastern segment as Jeremiah Park. The location of the proposed retail is within the Metro North-CSP neighborhood. The Sector Plan envisions these “Metro Neighborhoods”, “*as an urban village, a place that provides vitality, convenience, and a human scale of development. A residential mixed-use area with some office and community-serving retail uses, and recreational areas providing a focus for community life and services. Functionally integrated with the Metro station, the proposed street pattern will create an interconnected network of streets and sidewalks that ensure good vehicular and pedestrian access to Metro*” (page 33). The Sector Plan recommends “*Permitting up to 40,000 square feet of retail and 133,250 square feet of office uses*” on the CSP property (page 35 and 44).

The western segment of the Property already has approval for 41,828 square feet of retail use under Site Plan No. 820130220, an insignificant increase from the 40,000 anticipated. The proposed additional 43,000 square feet of retail will bring the total number of retail square feet to 84,828 square feet. Although, the retail square footage will exceed the specific master plan recommendation, by

removing and replacing the 131,422 square feet of approved office use, the total non-residential development will be significantly less than what was recommended in the master plan, with no adverse impact to the surrounding community with regard to traffic since the retail use will not exceed the trips generation associated with the approved office use, or school enrollment because the change in use will not generate students.

Allowing this retail to be constructed now, will help complete the vision of the Metro North-CSP neighborhood rather than leaving an undeveloped site at its northern entrance. The increase in the retail floorspace will help to promote the vitality and attractiveness of the area, much more so than would a vacant parcel. The Property will also continue to meet the Sector Plan recommendations including providing a mix of residential townhouses and multifamily residential units with MPDUs and Workforce Housing units as approved. And maintains the network of streets and sidewalks that provide good access to the Metro.

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

Transportation infrastructure and other public facilities are adequate to support the approved development and the proposed change from office to retail space. The Property is located within half a mile from the Shady Grove Metro Station entrance. The vehicular access to the Property 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 from office space to retail use will not alter or have any impact on the availability of services.

Master-Planned Transportation Demand Management

The Property is located within the boundary of the Greater Shady Grove Transportation Management District (TMD). The Applicant has entered into a Traffic Mitigation Agreement dated August 18, 2015, with the Planning Board and the Montgomery County Department of Transportation (MCDOT) for the Shady Grove Station-Westside development. The Agreement requires the Applicant to participate in the TMD to assist in achieving its non-auto-driver mode share goals of the Sector Plan. Traffic mitigation actions include, at least, one on-site bike sharing facility and operating a shuttle bus as required by MCDOT. As conditioned, the 2015 Agreement must be amended to reflect the

change from 131,422 square feet of general office space to 43,000 square feet of general retail space.

Adequate Public Facilities (APF) Tests

The original APF tests (Local Area Transportation Review and Transportation Policy Area Review) for Preliminary Plan No. 120120080 was conducted under the 2009-2011 Growth Policy. This amendment is reviewed under the 2016-2020 Subdivision Staging Policy because this application was submitted after January 1, 2017.

Local Area Transportation Review (LATR)

The proposed change from 131,422 square feet of office space to 43,000 square feet of general retail will result in a net decrease in the peak-hour trips during the weekday morning (6:30 to 9:30 a.m.) and the evening (4:00 to 7:00 p.m.) peak period. Both the retail and office trips were reduced by: a) the internal trips within the overall mixed-use development; and b) transit trips due to the Property's proximity to the Shady Grove Metrorail Station.

In conclusion, the proposed 43,000 square feet of general retail use will not exceed the trip generation associated with the approved 131,422 square feet of general office space, and therefore, a traffic study was not required.

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 to MCDOT \$292,500 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 and Site 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.

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

This Property is covered by approved Final Forest Conservation Plan (FFCP) No. 820130220. The Amendment does not require any changes to FFCP 820130220; therefore, the approved FFCP remains valid.

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

The Amendment does not affect the approved stormwater management concept plan (MCDPS on June 13, 2012). The Property will continue to meet stormwater management requirements through the variety of Environmental Site Design techniques and structural stormwater management facilities identified in the approved concept plan.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 05 2017 (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 Cichy, seconded by Commissioner Patterson, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Cichy and Patterson voting in favor, and Commissioner Fani-González absent at its regular meeting held on Thursday, November 30, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

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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:

Christina Sout 2/7/19

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
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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.

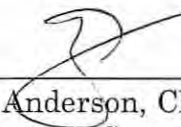
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~FEB 25 2019~~ (which is the date that this Resolution is mailed to all parties of record); and

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



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

MCPB No. 20-092
Preliminary Plan No. 12012008F
Shady Grove Station
Date of Hearing: October 1, 2020

OCT 08 2020

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 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 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 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 an amendment, Preliminary Plan 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 April 7, 2020, EYA/CSP Associates ("Applicant") filed an application for approval of an amendment to add 7,268 square feet of approved office space; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12012008F, 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 August 31, 2020 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 1, 2020 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 October 1, 2020, 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 Preliminary Plan No. 12012008F to add 7,268 square feet of approved office space, subject to the following revised conditions of approval. Unless amended herein, all previous conditions of approval remain in full force and effect.

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, 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.

4. Concurrent Site Plan Approval

- a) Before construction of Multifamily Building D on the Subject Property, the Applicant must receive Staff certification of Site Plan No. 82013022G. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, and site circulation 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.

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.

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

Adequate Public Facilities (APF)

Adequate public facilities continue to be adequate to serve the proposed development.

Traffic Statement

The March 30, 2020 traffic statement prepared by Wells & Associates. Inc. and submitted with the Preliminary Plan Amendment, details that the development program proposed in the Preliminary Plan Amendment (7,268 square feet of office uses, 84,828 square feet of retail, 2,209 dwelling units) will generate fewer overall trips during the peak hour than the development program and associated determination of adequate public facilities approved in the Preliminary Plan. Furthermore, the traffic statement notes that no changes to vehicular access are proposed with the Preliminary Plan Amendment. The

traffic statement concludes that the Preliminary Plan Amendment will neither result in any increase to the approved peak hour trip generation nor include roadway network changes. The previously planned, designed, and constructed improvements are adequate to serve the Site.

All Other Findings

All other findings remain valid, unchanged and in full force and effect.


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~OCT 08 2020~~ (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 Cichy, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, October 1, 2020, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

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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-NCPPC 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
<i>Subtotal: Approved Program</i>		<i>795</i>	<i>988</i>
<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
<i>Subtotal: Proposed Program</i>		<i>684</i>	<i>965</i>
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 Pedocem abstaining at its regular meeting held on Thursday, May 11, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board

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Shady Grove Station Preliminary Plan No. 12012008G &
Shady Grove Station West Side Site Plan No. 82013022H