

**MEMORANDUM: LOCAL MAP AMENDMENT****DATE:** April 28, 2006**TO:** Montgomery County Planning Board**VIA:** Rose Krasnow, Development Review Chief *RK*  
Carlton Gilbert, Zoning Supervisor *CG***FROM:** Joel A. Gallihue, AICP Senior Planner (301) 495-2119 *JAG***SUBJECT:** **Local Map Amendment No. G-841:** Shady Grove Associates I & II. Reclassification of 6.92 acres from the C-2 zone to the PD-44 zone for 371 multi-family residences. Located in the northeast quadrant of the intersection of Omega Drive and Research Boulevard in the Gaithersburg vicinity approximately a half mile southwest of the interchange between Shady Grove Road and Interstate 270. 1990 Shady Grove Area Master Plan.**FILING DATE:** October 3, 2005**PUBLIC HEARING:** May 15, 2006

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**STAFF RECOMMENDATION:** APPROVAL, of the Planned Development Zone (PD-44) for 371 multi-family residences.

1. The application complies with the purpose clause of the planned development zone (59-C-7.11).
2. The requested planned development zone is compatible with the surrounding uses.
3. The rezoning conforms to the recommendations of the 1990 Shady Grove Study Area Master Plan.

## **SUMMARY**

A rezoning from C-2 to the PD-44 zone is proposed by Shady Grove Associates I & II. The subject property for the rezoning tracts measure approximately 6.92 acres in area. The property is more specifically described as Parcel "T-T", Decoverly Hall on Plat Number 22312 and Parcel "R-R", Decoverly Hall on Plat Number 20811. These undeveloped parcels are located in the Shady Grove Executive Center office park, which is subject to a preliminary plan of subdivision (1-86186), that would allow a total of 920,371 square feet of office space. The rest of the office park (710,000 square feet) has been developed, leaving a balance of approximately 210,000 square feet of office space permitted on the site.

It has been represented that the market is no longer as conducive to office development as it was when other parts of the office park were developed. The fact that an adjacent section of the office park was granted zoning for a hotel which is operating today offers some support to this representation. The permitted 210,000 square feet of office space was planned as two buildings on the site. For the past few years, the applicant consulted with various technical staff about the possibility of doing a residential project on the site. The applicant originally applied for the PD-60 zoning category for a total of 477 multi-family units. Staff raised concerns about buildings in that proposal. Since the Master Plan did not anticipate residential development and instead recommended commercial, confirming the C-2 zoning on the site, staff suggested that the 1.5 floor area ratio of the C-2 zone serve as a guide. This led to the current proposal.

The plan proposes 371 multi-family dwelling units in three buildings. The buildings would be four, five and, six stories in height. Residents of all three buildings will have use of a proposed gym and outdoor swimming pool located on the north side of the site. The two lower buildings will be designed with underground parking. The six story building takes advantage of an existing three story parking garage built for the office park and for which this site has parking rights. A pedestrian bridge may connect the parking garage to the residential building. The proposed buildings are similar in scale to other office buildings in the park.

## **BACKGROUND**

### **A. Description of Property**

The subject tracts for the proposed rezoning are located north and east of the intersection of Research Boulevard and Omega Drive. Parcel "T-T" is 3.59 acres in area (156,762 square feet), is of irregular shape, and has approximately 213'

of frontage on Research Boulevard. Parcel "R-R" is located immediately north of Parcel "T-T". Parcel "R-R" is 3.3 acres in area (144,712 square feet), is of irregular shape, and has approximately 145' of frontage on Omega Drive. The parcels make up an irregularly shaped property that can be considered "L-shaped" when viewed facing south. West of the property and at the corner of Research Boulevard and Omega Drive is the "Extended Stay" Hotel. Also west of the property and on Research Boulevard is the existing parking structure which may be connected to the six story building via a pedestrian bridge as parking spaces in this structure are dedicated for the use of this site. South of the site are existing office buildings number six and one.

Shady Grove Executive Center is a forty-five acre commercial campus that includes six office buildings and an "extended stay" hotel. The existing office buildings (appx. 680,000 square feet) in Shady Grove Executive Center were constructed in the eighties and are consistent with the research and development vision present in the master plan. Meridian Group, in a joint venture with Northwestern Mutual Life, acquired five office buildings and the vacant subject site in 2001. The Meridian Northwestern venture has since sold the office buildings to other real estate interests. The "extended stay" hotel operates as Homestead Suites Hotel and was built in 1999. Approval for the hotel was made possible by rezoning (G-740) which permitted change from the C-2 zone to the H-R zone.<sup>1</sup>

## **B. Surrounding Area –**

In a floating zone application, the evaluation of the zoning issues requires delineation of the surrounding area. The area for this application is referenced in the 1990 Approved and Adopted Shady Grove Study Area Master Plan in a discussion of an "R&D Village" area west of I-270. This area includes Traville, the Life Sciences Center, Falls Grove and The Washingtonian. It is distinguished from the "Metro Area" on the east side of I-270. The City of Rockville is across Shady Grove Road. The master plan envisioned this area as primarily offices.<sup>2</sup> The purpose of delineating the surrounding area for a floating zone application is to give the County Council a context for making a finding that the proposal is compatible with surrounding uses. While the current proposal is for intense, multi-family residential development, technical staff does not believe the impact of this use will be very noticeable given the office buildings and hotel that surround the site. Considering the way offices are used and the fact that the road facilities are sized for the offices envisioned by the plan, it would seem there would be little conflict between the uses. In the case of the subject application, the staff defines the surrounding area as bounded by Fields Road and the I-270 interchange to the north; Shady Grove Road to the east; Key West Avenue to the south; and those parcels of land fronting along the west side of Omega Drive to the west (see attached map).

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<sup>1</sup> Approved in 1997.

<sup>2</sup> The nearest residences are nearly a half-mile away.

The surrounding area is located proximate to the Research and Development (R&D) Village identified in the Shady Grove Study Area Master Plan. As such, it is characterized by several large office developments and the Crown Farm which is subject to an annexation request for proposed development. Adjoining the property to the west is an extended stay hotel approved under G-740. Adjoining the property to the north and east is the remainder of the Shady Grove Executive Center consisting of property in the C-2 and O-M zones. Confronting the property to the south is a five acre parcel in the O-M zone improved with a parking lot and storm water management facilities. Confronting to the southwest is an office building within the Decoverly Industrial Park zoned O-M. Confronting to the west is the 180 acre Crown Farm currently in the R-200 Zone although the District Council recently approved an annexation request by the City of Gaithersburg. Gaithersburg intends to apply a mixed use zoning category to the property. Other uses nearby include the Shady Grove Life Sciences Center. The Corridor Cities Transitway is planned be located in the vicinity.

### **C. Intended Use and Approval Procedures**

The applicant requests the PD-44 zone to allow the development of the site consisting of 3 buildings (4, 6,stories) 371 detached units multi-family units.

The submitted development plan enumerates the following information on the land use plan:

Area of the site – 6.92acres

Total number of units – 371 all MF (may be either rental, owned or both)

1 BR Units - 205

2-4 BR Units – 148

4-5 BR Units – 18

Number of Moderate Priced Dwelling Units – up to 56 (15%)

Number of Parking Spaces – 550<sup>3</sup>

Setback from One-Family Zone for SFA- None of the adjoining land is recommended for a one family zone.

Greenspace – 58.2% or 4.03 acres, where 50% or 3.46 acres is required.

Development Program – The phasing plan does not provide any limitation on the sequencing or scope of project. Construction of all of the project at once or in sections would have little or no impact on the surrounding area. It may be more convenient for residents to have the gym and pool built and operating when the first units open.

Binding Elements –

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<sup>3</sup> At least 255 spaces will be provided in existing parking garage located on Parcel SS which is adjacent and connected to Building 1.

1. The number of units will not exceed 371.
2. The total Floor Area Ratio ("FAR") for the property shown on this development plan will not exceed 1.5 FAR.
3. A minimum of 55% of gross area will be provided as green area. The green area will be used for passive recreational purposes and all outdoor furniture and structures located on the green areas shown on the development plan will be provided by Applicant.
4. The maximum building height shall be 87', as described in Section 59-A-1.2 of the Montgomery County Code.
5. The Applicant will meet all forest conservation requirements as set forth in Chapter 22A of the Montgomery County Code on-site and will provide a minimum of 0.72 acres of reforestation/aforestation on-site and retain the existing forest conservation covenant area containing approximately 0.44 acres.
6. All sidewalks shown on the development plan as "Proposed Sidewalk" will be provided at a minimum width of 4 feet.
7. Street trees will be provided 30 feet on center and streetlights will be provided on the private Streets A & B as shown on this development plan.
8. The Applicant will provide the pool feature in the general location adjacent to Building 2 shown on the development plan , provided that the exact design of the pool may be modified at subsequent site plan proceedings.

In addition to this rezoning application, other approval processes for this site will include a preliminary plan of subdivision, a site plan and a final plat of subdivision. Subdivision and development of this property as proposed depends upon approval of the proposed rezoning to the PD-44 zone.

**D. Zoning History –**

1. Comprehensive Zoning:

- a. SMA G-502: C-2 Zone confirmed on 2/4/1986
- b. 1958 Comprehensive Zoning: R-200 enacted and mapped.

2. Local Map Amendment:

- a. LMA G-208: R-200 to C-2 Zone 1/29/80

**E. Master Plan Recommendation –**

1. Land Use: Business - Office
2. Zoning: C-2

**F. Public Facilities**

1. ***Water and Sewer Service:***

- a. Service Categories: The property is Water Category W-1 and Sewer Category S-1
- b. Water and Sewer Service: Water and sewer lines abut the property and no extensions will be required. Local service is deemed adequate and rezoning of the property will not significantly impact existing systems.

2. **Roadways:**

According to the 1990 Shady Grove Area Master Plan, the nearby master-planned facilities include:

**Research Boulevard:** Designated by the Gaithersburg Vicinity Master Plan as an Industrial road (I-8) with 100 feet of required right-of-way. It is currently a four-lane road, with curbs, gutters, and four-foot wide sidewalks. Access is subject to County Department of Public Works and Transportation rules and regulations. At the time of subdivision review, staff anticipates an additional five feet of dedication from the centerline will be necessary to realize the required right-of-way. The plan shows connections to the existing sidewalks.

**Omega Drive:** Designated by the Gaithersburg Vicinity Master Plan as an arterial street (A-262-a) that requires 100 feet of right-of-way plus an additional 50 feet, as needed for the Corridor Cities Transitway. The facility is presently constructed as a four-lane road, with divided median, curbs, gutters and sidewalks. Access is subject to County Department of Public Works and Transportation rules and regulations.

3. **Schools:**

MCPS Staff has analyzed this proposal and has noted that this property is located within the Rosemont Elementary School, Forest Oak Middle School and Gaithersburg High School service areas. Enrollment at Rosemont Elementary School is currently within capacity and is projected to stay within capacity. Enrollment at Forest Oak Middle School is currently within capacity and is projected to stay within capacity. Enrollment at Gaithersburg High School currently exceeds capacity and is projected to exceed capacity in the future, however, the current Growth Policy schools test finds capacity adequate in the Gaithersburg cluster.

Projected student generation rates for the project were updated by MCPC staff given the revised development for 371 multi-family units and are as follows:

Elementary School Students (Kindergarten – Grade 5) = 48

Middle School Students (Grade 6 to Grade 8) = 24

High School Students (Grade 9 to Grade 12) = 23

## **ANALYSIS**

**A. Purpose of the PD-Zone:** A floating zone requires an evaluation of the purpose clause of the zone. The purpose of the PD-44 zone is as follows:

### **Sec. 59-C-7.1. P-D Zone-Planned development zone.**

#### **59-C-7.11. Purpose.**

It is the purpose of this zone to implement the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by master plans. It is intended that this zone provide a means of regulating development which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations under which it is permitted as a right under conventional zoning categories. In so doing, it is intended that the zoning category be utilized to implement the general plan, area master plans and other pertinent county policies in a manner and to a degree more closely compatible with said county plans and policies than may be possible under other zoning categories.

It is further the purpose of this zone that development be so designed and constructed as to facilitate and encourage a maximum of social and community interaction and activity among those who live and work within an area and to encourage the creation of a distinctive visual character and identity for each development. It is intended that development in this zone produce a balanced and coordinated mixture of residential and convenience commercial uses, as well as other commercial and industrial uses shown on the area master plan, and related public and private facilities.

It is furthermore the purpose of this zone to provide and encourage a broad range of housing types, comprising owner and rental occupancy units, and one-family, multiple-family and other structural types.

Additionally, it is the purpose of this zone to preserve and take the greatest possible aesthetic advantage of trees and, in order to do so, minimize the amount of grading necessary for construction of a development.

It is further the purpose of this zone to encourage and provide for open space not only for use as setbacks and yards surrounding structures and related walkways, but also conveniently located with respect to points of residential and commercial concentration so as to function for the general benefit of the community and public at large as places for relaxation, recreation and social activity; and, furthermore, open space should be so situated as part of the plan and design of each development as to achieve the physical and aesthetic integration of the uses and activities within each development.

It is also the purpose of this zone to encourage and provide for the development of comprehensive, pedestrian circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities, and thereby minimize reliance upon the automobile as a means of transportation.

Since many of the purposes of the zone can best be realized with developments of a large scale in terms of area of land and numbers of dwelling units which offer opportunities for a wider range of related residential and nonresidential uses, it is therefore the purpose of this zone to encourage development on such a scale.

It is further the purpose of this zone to achieve a maximum of safety, convenience and amenity for both the residents of each development and the residents of neighboring areas, and, furthermore, to assure compatibility and coordination of each development with existing and proposed surrounding land uses.

This zone is in the nature of a special exception, and shall be approved or disapproved upon findings that the application is or is not proper for the comprehensive and systematic development of the county, is or is not capable of accomplishing the purposes of this zone and is or is not in substantial compliance with the duly approved and adopted general plan and master plans. In order to enable the council to evaluate the accomplishment of the purposes set forth herein, a special set of plans is required for each planned development, and the district council and the planning board are empowered to approve such plans if they find them to be capable of accomplishing the above purposes and in compliance with the requirements of this zone.

Staff believes that the rezoning request meets the purpose clause of the PD zone. As discussed under above in the Master Plan analysis, there was initially question whether the proposed development would be in substantial compliance with most of the recommendations and objectives of the Master Plan. There was also some question whether integrating seemingly compatible uses could be achieved under the current conventional zoning. The Plan does not provide guidance for a residential proposal at this site. However, with the revision to the design and density, staff concluded it was not inconsistent with the Plan. Opportunities to integrate uses, though constrained in the PD zone are more likely than under the C-2 zone. Certainly circulation, access, storm water management and environmental protection and amenities are as good or better than could be achieved under the current conventional zoning.

The proposed development would achieve social and community interaction, distinctive visual character, and a balanced mix of uses in several ways. The development would have a distinctive visual character because of binding elements regarding street treatment and open space. A network of pedestrian sidewalks (per a binding element) would connect each of the multifamily buildings with one another and the rest of the development. Existing pedestrian circulation networks have been considered as a part of the zoning review and lead-in connections are shown. The land use plan and binding elements indicates a 4-foot wide sidewalk pedestrian circulation system that links the buildings to the rest of the park and sidewalks on existing streets.

The subject site is in reasonable proximity to shopping, parks and public transportation. Certainly more of a mixture of uses could come closer to meeting the unified sense of community identified in the purpose clause. The applicant even attempted to incorporate some convenience commercial into the project but noted that the commercial provisions of the PD zone (59-C-7.132. Commercial.) anticipate developments of 500 units or more.



The open space shown on the plan is the result of considerable discussion regarding the density of the development and preparation of the preliminary forest conservation plan. The resulting usable open space will redevelop an unused banking machine site to create a seating area adjacent to the conservation easement area and central to the development.

The overall proposal is approximately 6.92 acres in area. The minimum area requirement of the PD zone is met.

The proposed development provides access in the form of driveways (35' wide) to public streets. Entry from two different streets provides responders with flexibility in the event that one entrance is blocked. Rockville VFD Station 31 is located approximately 1.2 miles from the site. Secondary response alternatives include the Gaithersburg and Washington Grove Stations which are less than five miles from the site.

The submission for zoning application G-841 is accompanied by a set of plans that are sufficient for the Planning Board and District Council to make the finding that the proposed development meets the purpose of the zone and is in compliance with the adopted general plan and master plans.

Staff concludes the subject application meets the purpose clause of the PD Zone.

**59-C-7.12. Where applicable.**

**59-C-7.121. Master plan.** No land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted master plan which shows such land for a density of 2 dwelling units per acre or higher.

Staff examined this provision and reviewed it with the applicant at length. The fact is that the master plan recommends the C-2 zone. The plan does not explicitly indicate any residential density. The applicant provided staff with a rationale for contemplating, that in recommending the C-2 zone, the plan does, at least today, show land for a density of 2 dwelling units per acre. The line of reasoning is that the C-2 zone use table (Section 59 C 4.2) allows dwellings by special exception.<sup>4</sup> The special exception use (Sec. 59-G-2.36.2. Dwellings) allows dwellings in an industrial or commercial zone with a base residential density of 6.0 units per acre. A weakness to this line of reasoning is the fact that the text amendment to allow this special exception use came after the

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<sup>4</sup> The footnote for the permitted use instance is not applicable.

master plan, which recommended the C-2 zone for this site. So residential use was not contemplated in developing the plan. That said, the District Council approved both the master plan and the zoning text amendment so the policy is now set in place. In the end the same body must make a finding that this application is in “substantial compliance” with the use and density indicated in the master plan. Even more compelling was a conclusion drawn by the Hearing Examiner in the review of G-803, which was similar to the current situation for a portion of the property. In G-803, the Olney Master Plan recommended C-1 zoning for a portion of the property. In that case the Hearing Examiner concluded that the recommended commercial zone, “... can be considered moderate-density commercial, more analogous to moderate-to-high density residential than to low-density residential of less than two dwelling units per acre.”<sup>5</sup> This approach provides an example where substantial compliance was found in making this interpretation. Staff contacted the County Attorney’s office and confirmed that this rationale was acceptable. Staff accepts the reasoning, especially when the improvements made to the plan with binding elements from the time of initial submission to the present are taken into account. Technical staff has taken note that this case and the complex line of reasoning for this section of the PD zone are illustrative of some weaknesses of using the PD zone for infill development. Given the standing interpretation of policy, staff concludes that the Master Plan Density provision of the PD zone (Section 59-C-7.121) is met for this case and the District Council can make such a finding.

**59-C-7.122. Minimum area.** No land can be classified in the planned development zone unless the district council finds that the proposed development meets at least one of the following criteria:

- (a) That it contains sufficient gross area to construct 50 or more dwelling units under the density category to be granted;

Application G-841 meets this criterion because it is 6.92 acres in size and will yield 50 or more dwelling units (371 are proposed).

**59-C-7.13. Uses permitted.**

**59-C-7.131. Residential.** All types of residential uses are permitted, including accessory uses. These include the following, provided they are shown on the development plan: housing and related facilities for senior adults or persons with disabilities, a group home, and a life care facility. A life care facility is subject to the provisions of Section G-2.35.1. The various dwelling unit types must be planned and constructed in accordance with the following table. The table establishes, by density category and size of development, the minimum percentage required for each dwelling unit type within a planned development. All remaining dwelling units not included in the minimum requirements may be of any type or combination of types permitted in the applicable density category and development size, provided the maximum percentage is not exceeded in any instance.

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<sup>5</sup> Hearing Examiners Report, G-803, page 48.

The housing mix for the proposed development complies with the requirements of this section for high density (PD-44). There are 371 multi-family units proposed, placing the proposal in the 200 or more unit range. This range has a minimum of 25% multi-family units, four stories or less, and a minimum of 50% multi-family over four stories, and no maximum for this unit type. 100% multi family are proposed in four, five and six story buildings so this provision is met.

**59-C-7.132. Commercial.**

No commercial uses are proposed under this rezoning application.

**59-C-7.133. Other uses.**

(a) Noncommercial community recreational facilities which are intended exclusively for the use of the residents of the development and their guests may be permitted.

Such facilities are indicated in the proposal in the way of common open space and community recreation in the form of a gym and pool.

**59-C-7.14. Density of residential development.**

(a) An application for the planned development zone must specify one of the following density categories and the district council in granting the planned development zone must specify one of the following density categories:

The proposal is for the high-density category of forty-four units to the acre.

(b) The District Council must determine whether the density category applied for is appropriate, taking into consideration and being guided by the general plan, the area master or sector plan, the capital improvements program, the purposes of the planned development zone, the requirement to provide moderately priced dwelling units in accordance with Chapter 25A of this Code, as amended, and such other information as may be relevant. Where 2 or more parts of the proposed planned development are indicated for different densities on a master plan, a density category may be granted which would produce the same total number of dwelling units as would the several parts if calculated individually at the density indicated for each respective part and then totaled together for the entire planned development.

The PD zone is not recommended in the plan.

(c) The density of development is based on the area shown for residential use on the master plan and must not exceed the density permitted by the density category granted. However, the maximum density prescribed by Subsection (a) may be increased to accommodate the construction of Moderately Priced Dwelling Units as follows:

The area is not shown for residential use on the master plan. The permitted density in the Master Plan recommended zone of C-2 is 1.5 FAR. For this reason a binding element limits development to 1.5 FAR. Moderately Priced Dwelling Units are proposed and will permit up to 56 units to the acre but the 1.5 FAR will not be exceeded so this increase is not necessary.

(d) Notwithstanding the density provisions of this zone, the District Council may approve an increase in density for housing for senior adults or persons with disabilities, as defined in Section 59-A-2.1, within a planned development in accordance with the following requirements:

No senior housing is proposed.

(e) The District Council may approve a density bonus of up to 10% above the maximum density specified in the approved and adopted master plan for the provision of TDRs, if the use of TDRs is recommended for the site.

TDRs are not recommended for this site, nor are TDRs a part of this application.

**59-C-7.15. Compatibility.**

(a) All uses must achieve the purposes set forth in section 59-C-7.11 and be compatible with the other uses proposed for the planned development and with other uses existing or proposed adjacent to or in the vicinity of the area covered by the proposed planned development.

The proposed use is found to be compatible as shown on the plan. The proposed use and requesting density are compatible with the existing development in the surrounding area.

(b) In order to assist in accomplishing compatibility for sites that are not within, or in close proximity to a central business district or transit station development area, the following requirements apply where a planned development zone adjoins land for which the area master plan recommends a one-family detached zone:

(1) No building other than a one-family detached residence can be constructed within 100 feet of such adjoining land; and

(2) No building can be constructed to a height greater than its distance from such adjoining land.

There are no one-family detached homes in the area nor are any recommended.<sup>6</sup> The Development Plan indicates that no buildings other than one-family detached will be within 100 feet of adjoining land recommended for one-family detached zones. No property is within close proximity to a CBD or transit station.

(e) Compliance with these requirements does not, by itself, create a presumption of compatibility.

The proposed development follows the 1990 Shady Grove Area Master Plan by providing appropriate residential development and public recreation.

**59-C-7.16. Green area.**

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<sup>6</sup> Even without the Crown Farm Annexation, the Crown Farm was recommended medium density in the PD Zone.

Green area must be provided in amounts not less than indicated by the following schedule:

The green area comprises over 55 percent of the site.

**59-C-7.17. Dedication of land for public use.**

Such land as may be required for public streets, parks, schools and other public uses must be dedicated in accordance with the requirements of the county subdivision regulations, being chapter 50 of this Code, as amended, and the adopted general plan and such adopted master plans and other plans as may be applicable. The lands to be dedicated must be so identified upon development plans and site plans required under the provisions of article 59-D.

Such features are clearly shown on the land use plan and are indicated for dedication. Dedication must occur under applicable subdivision regulations which will be applied at preliminary plan of subdivision.

**59-C-7.18. Parking facilities.**

**Off-street parking must be provided in accordance with the requirements of article 59-E.**

**59-C-7.19. Procedure for application and approval.**

(a) Application and development plan approval must be in accordance with the provisions of division 59-D-1.

The information required by 59-D-1 has been submitted.

(b) Site plans must be submitted and approved in accordance with the provisions of division 59-D-3.

If the zoning applications are approved, site plans will be required.

**B. Master Plan Recommendation**

Having considered the 1990 Approved and Adopted Shady Grove Study Area Master Plan, staff supports approval of the proposed rezoning on the basis that it is consistent with the recommendations of the master plan.

This site is not specially discussed in the narrative text of the plan but it is shown on the land use plan for employment (office). The zoning maps in the plan show the property for C-2, as it is zoned. The actual zoning predates the plan recommendations and comes from a series of local map amendments in the decades before the plan. The plan simply anticipates build out of the office park.

**C. Transportation**

Having considered the traffic study and existing facilities, Transportation Planning staff recommends approval for a total of up to 480 multi-family housing units. This is met by binding element number one, which limits development to 371 units. The higher number is because the traffic study was based upon the original proposal of PD-60 with 477 units. The lower final number of units was selected to resolve other non-transportation issues, but this only lowers the impact on critical intersections, and there was no change in unit type or uses so no new traffic study was necessary for the zoning review.

## **D. Development Plan**

Development standards for the rezoning petition are consistent with the zone. The following chart shows the development standards for the rezoning application:

Section 59-C-7.19 requires that the application and development plan approval must be in accordance with the provisions of Division 59-D-1

### **Sec. 59-D-1.3. Contents of development plan.**

The development plan must clearly indicate how the proposed development meets the standards and purposes of the applicable zone. The development plan must include the following, in addition to any other information which the applicant considers necessary to support the application:

- (a) A natural resources inventory prepared in accordance with a technical manual adopted by the Planning Board and, in addition:
  - (1) other natural features, such as rock outcroppings and scenic views; and
  - (2) historic buildings and structures and their approximate ages.
- (b) A map showing the relationship of the site to the surrounding area and the use of adjacent land.
- (c) Except for the town sector zone, a land use plan showing:
  - (1) The general locations of the points of access to the site.
  - (2) The locations and uses of all buildings and structures.
  - (3) A preliminary classification of dwelling units by type and by number of bedrooms.
  - (4) The location of parking areas, with calculations of the number of parking spaces.
  - (5) The location of land to be dedicated to public use.
  - (6) The location of the land which is intended for common or quasi-public use but not proposed to be in public ownership, and proposed restrictions, agreements or other documents indicating the manner in which it will be held, owned and maintained in perpetuity for the indicated purposes.

- (7) The preliminary forest conservation plan prepared in accordance with Chapter 22A.
- (d) Except for the town sector zone, a development program stating the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems and community recreational facilities are to be developed. For the town sector zone, a development program stating the sequence of the following in relation to the development of the residential and commercial areas specified in subsection 59-D-1.3(f), below:
  - (1) Dedication of land to public use.
  - (2) Development of the arterial road system.
  - (3) Development of pedestrian and bicycle circulation systems.
  - (4) Development of community facilities and open space.
  - (5) Development of regional stormwater management facilities.
- (e) The relationship, if any of the development program to the county's capital improvements program.
- (h) In the zones indicated by "X" below, the following shall also be shown:  
*Note: only relevant portion of table is shown*

	<b>P-D</b>
(6) The density category applied for, as required in subsection 59-C-7.14(a).	X

(i) If a property proposed for development lies within a special protection area, the applicant must submit water quality inventories and plans and secure required approvals in accordance with Article V of Chapter 19. The development plan should demonstrate how any water quality protection facilities proposed in the preliminary water quality plan can be accommodated on the property as part of the project.

An approved Natural Resources Inventory/ Forest Stand Delineation (NRI/FSD) has been submitted with the Development Plan. The NRI/FSD (#4-05369) was approved on September 27, 2005 in accordance with the technical manual adopted by the Planning Board on September 25, 2003.

The development plan shows the relationship of the site to the surrounding area and the use of adjacent land. In addition, staff has required an illustrative that considers the position of this project in the office park as a whole.

The locations and uses of all buildings and structures are shown on the development plan although there is a note on the plan indicating that the exact location will be determined during preliminary plan and site plan proceedings. The plan indicates a preliminary classification of dwelling units by type and by number of bedrooms.

The location of parking areas, with calculations of the number of parking spaces, is shown on the plan as is the location of land to be dedicated to public use. Since this project is multifamily, all exterior areas will be maintained as common areas.

The submitted Land Use Plan indicates access points to the site. The western access is to Omega Drive and the southern access is Research Boulevard. No development of CIP planned roads or facilities are associated with this proposal.

No commercial development is proposed so an economic analysis is not required. The development plan indicated the PD-44 zone category.

Technical staff finds the preliminary forest conservation plan to be in accordance with Chapter 22A and recommends approval.

The 3-phase development program is indicated on the development plan but the phases may occur in any order. Technical analysis has not indicated any reason why this flexibility would be a problem but in subsequent review occupancy may be linked to completed pedestrian and recreational facilities.



<b>Development Standards for PD-44 Zone</b>		
<b>Standard</b>	<b>Permitted/Required</b>	<b>Proposed</b>
Minimum tract area	0.84 acres (sufficient for 50 dwelling units)	6.92 acres meets 59-C-7.122. Minimum area
Maximum density/ total yield	44 units to the acre + MPDU	44 units to the acre plus MPDU
Minimum percentage of units	25% MF four stories and under. 50% MF over four stories.	49% MF four stories or less and 51% MF more than four stories.
Minimum setback		
-From any detached dwelling lot or land classified in a one-family, detached, residential zone.	100 Feet	Development plan indicates this setback will be met.
Maximum Building Height	No adjoining one-family detached residential zone, so no limitation required.	87' limitation by binding element.
Minimum Green Area	50%	55% entire site
Minimum Parking	1 space/ -BR unit, 1.5 space/ 2-BR unit, 2 space/ 3-BR unit	205 1-BR units – 205 spaces 148 2-BR units - 222 spaces 18 3-BR units – 36 spaces 463 required. 550 provided.

### **E. Environmental**

Countywide Environmental Planning staff recommends approval of the zoning application and the development plan and the preliminary forest conservation plan. The PD zoning request and development plan minimize and avoid sensitive areas. In subsequent review before the Planning Board, information listed below shall be required:

1. Final Forest Conservation prepared in accordance with Section 109B of the Forest Conservation Regulations;
2. Amendment to Final Forest Conservation Plan 8-87011A in conjunction with the Preliminary Plan of Subdivision for Parcels R-R and T-T.

In regard to technical findings, this development plan must meet specific findings of Section 59-D-1.61 of the Zoning Ordinance listed at the end of this report. The required finding for environmental issues states,

*(d) "That by its design, by minimizing grading, and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for*

*water resource protection under Chapter 19 must also be satisfied. The District Council may require more detailed findings on these matters by the Planning Board at the time of site plan approval as provided in division 59-D-3.”*

The land area included in this zoning is part of a previously approved final forest conservation plan. The change in land use category requires an amendment to this plan to make sure the conditions are still met. The minimum forest required on site for this planned development is 0.4 acres. Initially this was proposed for off-site but was changed in response to concerns raised by staff that the requirement must be met on-site and other concerns about the initial density of the proposal. This discussion has resulted in a preliminary forest conservation plan that proposes to remove only 0.03 acres of forest so it can be determined that this scheme preserves existing vegetation on site. A preliminary storm water management concept plan submitted to Montgomery County Department of Permitting Services indicates on-site water quality control via filtration chambers and dry wells, which will serve to prevent erosion. Additional review will occur at the time of site plan. The District Council may require additional findings however no particular concern has arisen in the technical review of the zoning proposal to recommend specific additional findings for site plan review.

#### **F. Preliminary and Site Plan Issues**

Section 59-C-7.19 requires that Site plans must be submitted and approved in accordance with the provisions of division 59-D-3. If the County Council approves the subject rezoning, this project will require approval of a preliminary plan and site plan by the Planning Board. The site plan must be consistent with the Development Plan covering the instant zoning application. The number of dwelling units may be reduced during the review of the preliminary and site plan to meet environmental and other requirements. In this report, Technical staff has provided indications of matters to be addressed at subdivision and site plan.

**COMMUNITY CONCERNS** – Community Planning staff has spoken with residents in Washingtonian Tower that raised a general concern about increased traffic<sup>7</sup> in light of this and other new development in the area. There is no specific opposition on the record for this application.

#### **CONCLUSION –**

With respect to the subject application, staff finds that the purpose clause and the requirements of the Planned Development Zone to provide a broad range of housing types, to minimize the amount of grading necessary for construction

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<sup>7</sup> The traffic analysis has indicated that the proposed development will not have a exceed standards for required intersections. The change in use has a different distribution than the approved use and a lower average volume.

through flexibility of standards, and to provide a pedestrian network that links existing and proposed communities to public facilities have been met. Staff also recommends approval of the Development Plan and Binding Elements that accompany this application which limit the development to a maximum of 371 residential units.

## **Sec. 59-D-1.6 Approval by District Council**

### **59-D-1.61. Findings.**

Before approving an application for classification in any of these zones, the district council must consider whether the application, including the development plan, fulfills the purposes and requirements set forth in article 59-C for the zone. In so doing, the district council must make the following specific findings, in addition to any other findings, which may be necessary and appropriate to the evaluation of the proposed reclassification:

- (a) That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.
- (b) That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.
- (c) That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.
- (d) That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.
- (e) That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.

Based upon the analysis in this report, technical staff recommends that the findings of 59-D-1.61 listed above can be made for this application and believes this report provides sufficient analysis for the District Council to make the above findings.

## Attachments

1. Vicinity Map & Surrounding Neighborhood Map
2. Zoning Map
3. Development Plan
4. Composite Site Plan
5. Illustrative Elevations
6. Landscaping
7. Referral Memorandums

# G-841 SHADY GROVE EXECUTIVE CENTER



Map compiled on May 01, 2008 at 4:10 PM | Site located on base sheet no. - 220NWD8

## NOTICE

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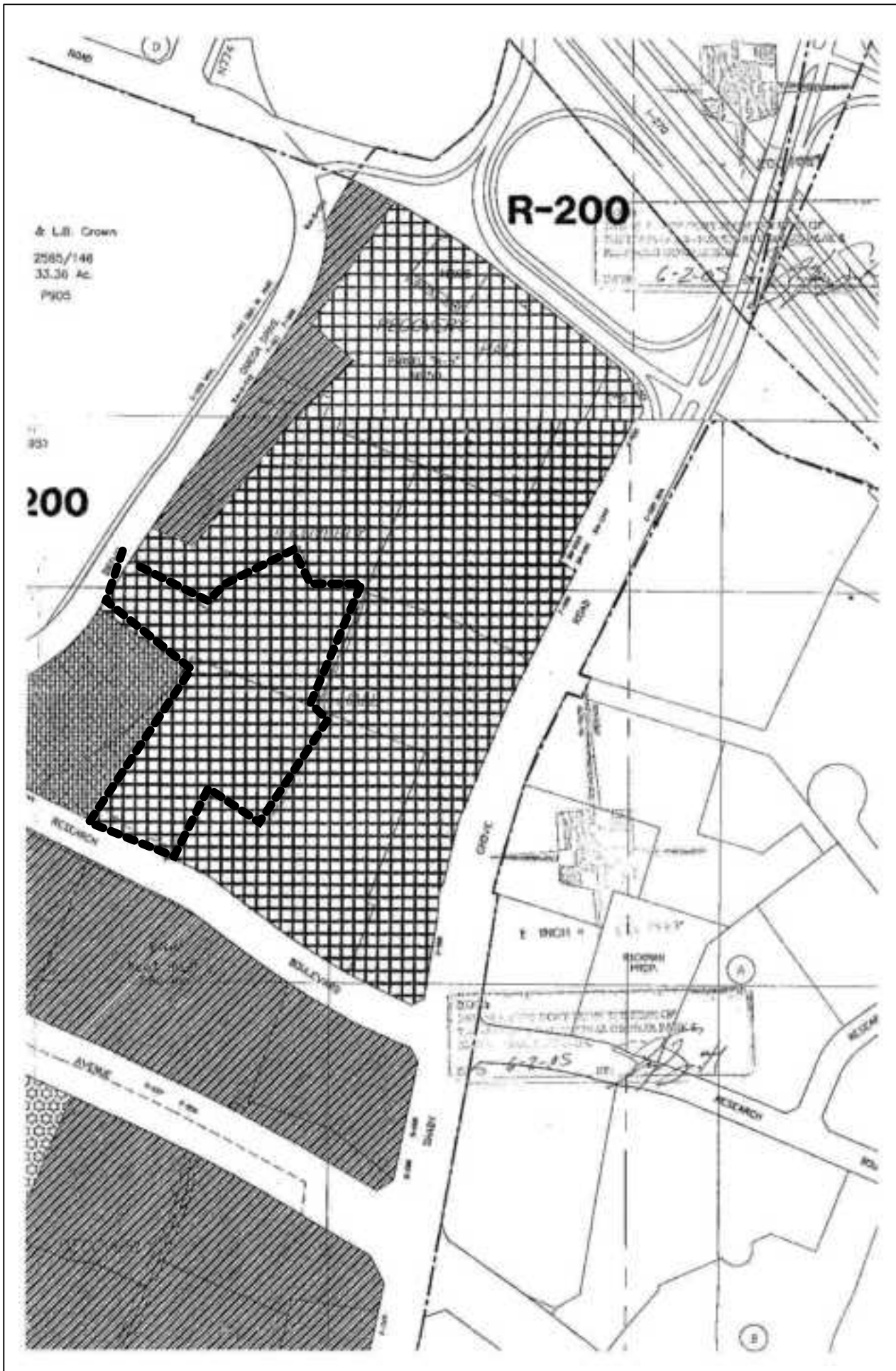
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**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
 1101 MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 8107 Georgia Avenue, Silver Spring, Maryland 20910-1000

Vicinity Map and Surrounding Area



Zoning Map with Site Outline





Development Plan



Composite Site Plan





Elevations



LISSARDI GROUP INC.

1811 LEBANON DRIVE, SUITE 200, FARMINGTON, CT 06030

TEL: 860.646.1111 FAX: 860.646.1112 WWW.LISSARDIGROUP.COM

CONCEPTUAL STREET ELEVATIONS

DATE: 08.14.18

SMART GROVE DEVELOPMENT CENTER

1811 LEBANON DRIVE, SUITE 200, FARMINGTON, CT 06030

LISSARDI GROUP





***Shady Grove Executive Center***

**LANDSCAPE PLAN**

MONTGOMERY COUNTY, MARYLAND

GARY BROWN, INC. & ASSOCIATES  
 LANDSCAPE ARCHITECTS  
 11111 RIVERCHASE DRIVE, SUITE 100  
 FARMERS BRANCH, TEXAS 75042  
 (972) 261-1111  
 www.garybrown.com

11/11/2010  
 11/11/2010

Landcape Plan



April 19, 2006

**MEMORANDUM**

TO: Joel Gallihue  
Development Review Division

VIA: Shahriar Etemadi, Supervisor  
Transportation Planning

FROM: Ki H. Kim, Planner/Coordinator  
Transportation Planning

SUBJECT: Zoning Application No. G-841  
Shady Grove Executive Center  
Research and Development Village Policy Area

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject zoning application. The site is a part of the Shady Grove Executive Center, located east of Omega Drive north of Research Boulevard in the Research and Development (R&D) Village Policy Area. The subject site is currently zoned C-2 zone and proposed to be developed for 480 multi-family dwelling units under the PD-60 zone.

**RECOMMENDATION**

Based on our review of the submitted traffic analysis and development plan, Transportation Planning staff recommends the following condition as part of the APF test for transportation requirements related to approval of this zoning application.

- Total development under this zoning application is limited to a maximum of 480 multi-family residential dwelling units as analyzed in the traffic study.

**DISCUSSION****Site Access and Vehicular/Pedestrian Circulation**

Direct access points to the site are provided from existing Omega Drive and Research Boulevard and the site is also connected to Corporate Boulevard. Staff finds that the existing access points and the vehicular circulation system shown on the development plan are adequate.

The development plan includes lead-in sidewalks from all public streets providing access points and pedestrian paths connecting inside the property. Staff finds the bikeway and pedestrian circulation system to be safe and adequate. Construction of sidewalks and pedestrian paths are proffered inside the property.

Local Area Transportation Review

A traffic analysis for rezoning was prepared to determine the impact of development of 480 multi-family dwelling units. Staff agrees with the conclusion of the study that the proposed development of the subject site does not have an adverse impact on the surrounding roadways.

Three local intersections were identified as critical intersections affected by the proposed development and were examined to determine whether they meet the applicable congestion standard of 1,475 Critical Lane Volume (CLV) for the R&D Village Policy Area. The morning and evening peak hour traffic conditions were analyzed for impact of the proposed development. The proposed development's trips were added to the existing and the background traffic (existing traffic plus traffic to be generated by the approved but unbuilt development in the area) to determine the total future traffic. The total future traffic was assigned to the critical intersections and the result of CLV calculation is shown in the following table:

Table

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour						
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Shady Grove Road/ Research Boulevard	993	1,058	1,023	1,163	1,036	1,170
Key West Av. (MD 28/ Omega Drive	1,196	1,273	1,279	1,312	1,283	1,323
Research Boulevard/ Site Entrance	361	317	361	317	400	370

As shown in the table previously, all existing traffic conditions at the intersections operate within acceptable CLV standard of 1,475 during both the morning and evening peak hours. Acceptable level of traffic conditions are projected to be maintained under the background and total development conditions.

## **CONCLUSION**

Staff concludes that the proposed multi-family residential dwelling units in the Shady Grove Executive Center under the PD-60 zoning with construction of the roadway and pedestrian path as shown on the development plan will not have an adverse impact on the surrounding roadway network.

KHK:gw

memo to Council re Shady Grove Executive Ctr G-841

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4300, www.mncppc.org

April 21, 2006

**MEMORANDUM**

**TO:** Joel Gallihue, Zoning Analyst, Development Review Division

**VIA:** Sue Edwards, Team Leader, I-270 Corridor Team *Sue*

**FROM:** Nancy Sturgeon<sup>NS</sup>, Planner Coordinator, Community-Based Planning Division

**SUBJECT:** Local Map Amendment G-841 and Development Plan Application

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Zoning case G-841 is a Local Map Amendment and development plan application to rezone two recorded parcels from commercial to residential. The parcels are adjacent to the Shady Grove Executive Center office park, which is located west of Shady Grove Road, north of Research Boulevard, east of Omega Drive, and south of an I-270 interchange. The subject site is within the boundaries of the 1990 *Shady Grove Study Area Master Plan*, which is currently being updated.

The 1990 *Shady Grove Study Area Master Plan* area included approximately 2,500 acres that straddled I-270 and included the Shady Grove Metro Station on the eastern edge and the Banks Farm on the western edge. The area east of I-270 was called the "Metro Area" and it included the Shady Grove Metro Station and the King Farm. The area west of I-270 was referred to as the "R&D Village" and included Traville, the Life Sciences Center, the Thomas Farm (now Falls Grove), the Crown Farm, and the Washingtonian Center. King Farm and Falls Grove have been annexed into the City of Rockville. The Washingtonian/Rio Center has been annexed into the City of Gaithersburg and the Crown Farm is in the process of being annexed into Gaithersburg.

**Rezoning Request and Project Description**

The applicant requests to rezone two parcels from the C-2 Zone (General Commercial) to the PD-44 Zone (Planned Development, High Density Category) through a Local Map Amendment. These "L-shaped" parcels were part of the Shady Grove Executive Center, an office park with six existing office buildings (totaling 710,000 square feet) that range from four to six stories, two parking garages, and surface parking. The 42-acre office park received Preliminary Plan approval in 1985 and Site Plan approval in 1987. The subject parcels total 6.92 acres and represent the planned location of two additional



office buildings that were approved as part of the larger office park but were never constructed. The remaining, unused commercial office space is 210,000 square feet.

The ownership of the subject site is now separate from the rest of the office park. The applicant proposes three residential buildings with up to 371 multi-family residential units. Under the PD-44 Zone, the maximum number of dwelling units per acre that could be allowed would be 44. The applicant is utilizing the 22 percent bonus density allowed when 15 percent Moderately Priced Dwelling Units (MPDUs) are provided. With the bonus, the proposed density is 53.6 dwelling units per acre, which includes 56 MPDUs.

The three buildings are planned to be four, five, and six stories in height. The three and four-story structures will include parking under the buildings. Parking for the six-story building will be accommodated in an adjacent, existing garage that was built for the office park. The parking garage and residential building may be linked with a pedestrian bridge over an internal, private street. The building heights are comparable to the existing office buildings and will be shown in feet when the site plan is submitted through the development review process. Recreation facilities include an outdoor swimming pool and an indoor gym.

### **Surrounding Uses**

Uses immediately surrounding the proposed residential project include the Shady Grove Executive Center office buildings, surface and garage parking, and a hotel. The Homestead Suites Hotel is on the northeast corner of Omega Drive and Research Boulevard. The hotel was the subject of a local map amendment in 1997 (G-740), which rezoned the parcel from C-2 to H-M (hotel-motel). Two of the proposed residential buildings will be adjacent to the hotel, across private, internal streets. Existing trees that will be preserved as a forest conservation area will provide a buffer between the hotel and one of the proposed residential buildings. This same building will be adjacent to an existing office building to the east and an existing parking garage to the south (that, as mentioned above, will be shared by both the residential and office buildings).

Outside of the immediate vicinity of the proposed project are commercial office uses across Shady Grove Road to the east, in the City of Rockville. To the south, across Research Boulevard and Key West Avenue, are office buildings as well. To the northeast is the I-270/Shady Grove Road interchange. To the northwest (Omega Drive to Fields Road) are residential uses along Fields Road, south of Washingtonian Boulevard. The Washingtonian/Rio Center in the City of Gaithersburg is located north of Washingtonian Boulevard and includes retail, entertainment, and hotels.

The Crown Farm is located directly across Omega Drive from the subject site on the west. The 182-acre Crown Farm is in the process of being annexed into the City of Gaithersburg and will develop with a variety of housing types, including single-family, townhouses, and multi-family. A significant amount of commercial is proposed near

Sam Eig Highway and Fields Road. A public high school is also planned on the Crown Farm site and is currently being shown along Omega Drive, across from the subject site.

### **Master Plan Guidance**

The subject property is within the boundaries of the 1990 *Shady Grove Study Area Master Plan*. Many years ago, the site was home to the Shady Grove Music Fair, which was rezoned from residential (RR and R-200) to C-2 in a series of local map amendments between 1960 and 1980. In the mid to late 1980s, the Shady Grove Executive Center received Preliminary Plan and Site Plan approvals for an office park. These development approvals took place while the Master Plan was being developed and the Plan expected the entire site would be built out as an office park.

The site is not specifically discussed in the narrative text of the Plan, but it is shown on several maps. The Plan contains a "Development Profile" (with a map and table on pages 16 and 17) that lists the "Shady Grove Executive Office Center" as an existing/committed commercial area. The Land Use Plan on page 49 (and the large fold-out of the same) identifies the site as employment/office. The zoning maps (pages 74, 76, and the fold-out map) show C-2 for the property with a small strip of O-M along Omega Drive at the northwestern edge of the site. Although the site is not discussed in the text, the Development Profile and land use and zoning maps show that the Master Plan expected the site to be completed as an office park, as was approved in the late 1980s.

### **Compatibility**

When assessing whether a proposed project is compatible with existing development, one area of concern is how the new development will effect or impact existing development, particularly adjacent residential uses. There are no residences in the immediate vicinity of the proposed project. The nearest residences are along Fields Road, approximately one-half mile from the subject site, and include multi-family and townhouses. As described above, the uses surrounding the proposed new residential buildings include existing office buildings, a parking garage, a hotel, and a planned public high school. Residential use will add to the mix of uses in this area, but there may be no particular benefits to the users of combining offices, a hotel, and housing in close proximity. Additional housing near jobs in the I-270 Corridor is beneficial, however.

Another aspect of compatibility is how the proposed project fits in with surrounding development in terms of comparable scale, height, and density. The applicant initially requested PD-60 for the subject site, which the Zoning Ordinance categorizes as urban high density. Staff requested that the applicant address concerns that the site design, as shown on the development plan, appeared dense and crowded. As a guideline, staff suggested that the applicant design the residential project at a density comparable to the 1.5 floor area ratio (FAR) allowed in the existing C-2 Zone. Staff was also interested



in achieving similar densities to the residential developments in the area, which average 21 dwelling units per acre and the densest project is 31 dwelling units per acre.

The applicant revised the development plan, removing one of the four buildings and reducing the density from 477 to up to 371 dwelling units. With the MPDU density bonus, the proposed project is 53.6 dwelling units per acre, which is higher than residential developments in the area. However, a reduction of over 100 dwelling units and removal of one of the proposed buildings has improved the overall site design, including the provision of green space, tree preservation, the massing and scale of the buildings, and the distance between buildings.

### **Conclusion**

While the rezoning request and proposed housing is not consistent with the Master Plan recommendations for this site, the project will contribute to the Plan goal of providing more housing options near jobs in the I-270 Corridor and the Life Sciences Center. The proposal will also increase the supply of MPDUs, which is a significant public benefit. The applicant has responded to staff concerns regarding the crowdedness of the initial concept plan by decreasing the total number of dwelling units and removing one proposed building. Community-Based Planning staff supports the requested rezoning of the subject site.

NS:tv: G:/Sturgeon/PD-44 (Shady Grove Center, G-841)

**MEMORANDUM**

TO: Joel Gallihue, Community Based Planning

VIA: Mary Dolan, Environmental Planning *MD*

FROM: Mark Pfefferle, Environmental Planning *MP*

DATE: March 6, 2006

SUBJECT: Preliminary Forest Conservation Plan G-841  
Zoning Application No. G-841: Shady Grove Executive Center

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**Recommendation**

Environmental planning staff recommends **approval** of preliminary forest conservation plan G-841, Shady Grove Executive Center with the following conditions:

1. Applicant to submit a Final Forest Conservation Plan consistent with Section 109.B. of the Forest Conservation Regulation in conjunction with the last approval by the Montgomery County Planning Board.
2. Applicant to submit an amendment to Final Forest Conservation Plan S-87011A in conjunction with the Preliminary Plan of Subdivision for Parcels R-R and T-T.

**Discussion****Environmental Guidelines**

The applicant prepared and submitted a Natural Resource Inventory Forest Stand Delineation (NRI/FSD) consistent with Environmental Guidelines (*Guidelines for Environmental Management of Development in Montgomery County, January 2000*) for Parcels R-R and T-T, Decoverly Hall. Environmental Planning staff approved NRI/FSD 4-05369 on September 27, 2005. The NRI/FSD characterizes the existing conditions on the subject property. There are no streams, wetlands, floodplains, or their associated buffers on the subject property. There is an existing 0.41-acre forest currently protected by a forest conservation easement. Black locust and black cherry trees dominate the forest. The site is not within a Special Protection Area or Primary Management Area.

## Forest Conservation – Chapter 22A

Section 22A-11(b) of the Montgomery County code requires applicants that submit a development plan also submit a preliminary forest conservation plan with the development plan. The forest conservation plan must be reviewed by the Planning Board concurrently with the development plan. The forest conservation plan, as amended by the Board, must be a condition of approval of the development application. For a development plan, a Planning Board recommendation to the District Council on the preliminary conservation plan must be made under Section 59-D-1.4.

The land area included in this rezoning case, parcels R-R and T-T, are part of previously approved final forest conservation 8-87011A. Forest conservation plan 8-87011A covers 15.5 acres and includes the 7.01 acres now submitted as part of the development plan. Forest conservation plan 8-87011A was approved using the commercial land use category. The proposed development plan modifies the land use category used in the forest conservation worksheet for the area to be rezoned. The change in land use categories modifies the forest conservation “threshold” and “breakeven” points previously used. Therefore, the approval of this preliminary forest conservation plan will require an amendment to final forest conservation plan 8-87011A. When the amendment is submitted staff will review the plan to ensure the requirements for forest conservation plan 8-87011A are still met. The Planning Board does not need to take a formal action on the amendment to Final Forest Conservation Plan 8-87011A at this time. The Planning Board does need to take a formal action on the forest conservation plan associated with this development plan.

Section 22A-12(f) of the Montgomery County code requires that any site developed as a planned unit development must include a minimum amount of forest on-site as part of meeting its total forest conservation requirements. The applicant is proposing a planned development project and therefore must meet part of its forest conservation requirements on site. The parcels subject to this rezoning case have less existing forest than the afforestation threshold. Therefore, the appropriate threshold for this site is the afforestation threshold. In order to comply with Section 22A-12(f) of the Montgomery County code, the applicant must meet the afforestation threshold on-site.

Section 22A-12(f)(2)(C) of the Montgomery County code requires that properties subject to the minimum retention requirements and with less forest less onsite than the afforestation threshold must retain all forest on-site and afforest up to the minimum standard. Based on this section of the forest conservation law, the applicant must retain the 0.4-acre forest onsite. The applicant initially proposed to meet all forest conservation planting requirements off site and has since modified their plan. The preliminary forest conservation plan now meets the afforestation threshold onsite. This will be accomplished through the retention of the existing 0.4-acre forest<sup>1</sup>, by protecting existing tree canopies and critical root zones outside of the forest, and planting of new tree cover on the 7.1-acre site. Staff recommends approval of the preliminary forest conservation plan dated February 14, 2006.

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<sup>1</sup> The applicant is proposing to remove 0.03 acres of forest. The forest conservation law allows applicants to indicate the amount of forest and forest clearing to the nearest 1/10 of an acre. The existing 0.41-acre forest can be rounded to 0.4 acres. When the applicant removes 0.03 acres of forest from the 0.41 acres of existing forest 0.38 acres of forest remains. The number can also be rounded to 0.4 acres. Removing 0.03 acres of forest is equivalent to 436 square feet of clearing.