



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

SEP 14 2009

MCPB No. 09-96
Preliminary Plan No. 120090270
Academy Child Development Center
Date of Hearing: July 30, 2009

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 February 24, 2009, Academy Child Development Center, Inc., ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lot on approximately 1.4 acres (63,201 sf.) of land located on the north side of Darnestown Road, approximately 260 feet west of the intersection with Travilah Road ("Property" or "Subject Property"), in the Shady Grove Study Area Master Plan ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No.120090270, Academy Child Development Center ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 17, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 30, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on July 30, 2009 the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Cryor; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson and Wells-Harley, voting in favor with Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120090270 to create one (1) lot on approximately 1.4 acres of land located on the north side of Darnestown Road, approximately 260 feet west of the intersection with Travilah Road in the Shady Grove Study Area master plan, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to a child day care center and private educational institution limited to a maximum combined enrollment of 130 children and 31 staff as approved by Board of Appeals Resolution on Special Exception S-2453-A and S- 2726.
- 2) The applicant must comply with the conditions of the preliminary forest conservation plan approved by the Planning Board on July 3, 2008. The final forest conservation plan must be approved prior to any land clearing activities.
- 3) Prior to record plat, the applicant must enter into a Policy Area Mobility Review (PAMR) Mitigation Agreement with Montgomery County Department of Transportation (MCDOT) and the Planning Board to satisfy the requirements of PAMR.
- 4) The applicant must dedicate, and show on record plat, all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 5) The applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes.
- 6) The applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management concept approval dated April 17, 2008. These conditions may be amended by MCDPS provided the changes do not conflict with any other condition of the preliminary plan approval.
- 7) The applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) approval dated June 26, 2009, including the requirements for the revision to the turning restrictions at the westernmost access point. These conditions may be amended by MCDOT provided the changes do not conflict with any other condition of the preliminary plan approval.
- 8) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

- 9) Other necessary easements must be shown on the record plat.

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, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

This site is located in the 1990 Approved and Adopted Shady Grove Study Area Master Plan area. The Master Plan is silent with regards to the special exception use approved for the property and to subdivision of lands; however, in general the Master Plan makes the following statements with respect to day care facilities:

- Recommends the provision of child day care facilities and housing for the elderly at appropriate locations in the Study Area;
- Day care facilities, available in the residential neighborhoods as well as employment centers, to attract young families with children (p 20);
- Encourage the provision of child day care facilities at appropriate locations in the Shady Grove Study Area.

The Subject Property is located in the 1990 Master Plan's "gateway" for the R&D Village, and the twenty-three acres of privately owned land which includes the Subject property are crucial to the coordinated development of the Darnestown Road frontage as public use/facilities. The Property will be within the boundaries of the "Gaithersburg West Master Plan," which is currently in the development process. The child day care use continues to be in conformance with the Shady Grove Study Area Master Plan as found by the Planning Board during the review of the special exception.

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

The Subject Property was analyzed and it was found that the proposed uses will be adequately served by all public facilities. All local intersections are currently operating at an acceptable CLV level of 1,450 and are expected to continue for the background (the existing traffic plus traffic from the approved/unbuilt developments) and the total future development condition (the background traffic plus traffic from the site) during the weekday AM and PM peak hours. Therefore, this preliminary plan application meets the LATR requirements of the APF review.

All other local facilities including, police stations, water and sewer service, firehouses, schools, and health clinics were also found to be adequate to serve the proposed uses.

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

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must typically determine the appropriate "Neighborhood" for evaluating the application. The analysis Neighborhood has historically consisted of a reasonable sampling of nearby platted lots within the same zone as the property being evaluated. In this instance, however; the properties along the north side of Darnestown Road within the R-90 zone only include one lot that has been recorded by record plat; the adjacent PEPCO Substation. All other properties within this pocket of R-90 zoning are unplatted parcels which the Planning Board has historically excluded from resubdivision analysis because such parcels have never been subjected to any subdivision or zoning standards. Adjacent properties to the north, including the PSTA, are zoned R-90/TDR but remain unplatted. Properties confronting on the south side of Darnestown Road are zoned R-200/TDR or RT-10 (residential townhouse). Lots with dissimilar zoning have also historically been excluded from the analysis Neighborhood.

For this application, the Board finds that a Neighborhood needed to analyze this resubdivision does not exist, and therefore, the Board focused its evaluation of the resubdivision criteria on the base zoning standards that apply to the Property and to the appropriateness of the lots with respect to their location and intended use. For this application, the proposed lots comply with the minimum standards established within the Zoning Ordinance for this zone and the Plan complies with the findings of a standard subdivision as outlined in Section 50-29(A) of the Subdivision Regulations. The size, shape, width and orientation of the proposed lot, as discussed in the sections above, is appropriate for the location of this lot given the language in the local master plan and for the uses approved for this facility.

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

The Preliminary Forest Conservation Plan was approved by the Planning Board on July 3, 2008 in association with the Special Exception cases. This preliminary plan is in conformance with the Preliminary Forest Conservation Plan. The 0.07 acres of forest is shown to be removed and a planting requirement of 0.29 acres will be met with on-site planting and by paying a fee-in-lieu. Staff finds that the plan complies with Chapter 22A, the Montgomery County Forest Conservation Law.

- 5. The Application 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.*

A conceptual stormwater management plan was approved by DPS in a letter dated April 17, 2008. The proposed stormwater management quality concept consists of a biofiltration facility and is show on the plan. On-site channel protection volume (quantity control) is not required, as the site's peak discharge is less than 2 cubic feet per second. The runoff will be conveyed by pipe to the property line that separates Lot 1 and Parcel 60 with an outfall at the northeast end of Lot 1. The designed controls provide on-site water quality and on-site recharge via the proposed biofiltration facility. The Board finds that the project adequately addresses stormwater quality and quantity control in accordance with Chapter 19 and Chapter 50 of the County Code.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) 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 among the Land Records of Montgomery County, Maryland or a request for an extension must be; 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 14 2008 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Wells-Harley, seconded by

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Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board