



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

NOV 17 2009

MCPB No. 09-136
Preliminary Plan No. 120090100
Shady Grove Metro - P146
Date of Hearing: October 22, 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 December 2, 2008, Keystone REI ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 40 lots on 4.26 acres of land located at the intersection of Redland Road and Yellowstone Way, ("Property" or "Subject Property"), in the Shady Grove Sector Plan Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090100, Shady Grove Metro - P146 ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated October 12, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following a review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on October 22, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

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

WHEREAS, on October 22, 2009, the Planning Board approved the Application, subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Alfandre, Hanson, and Wells-Harley voting in favor, Commissioners Cryor and 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. 120090100 to create 40 lots on 4.26 acres of land located at the intersection of Redland Road and Yellowstone Way, ("Property" or "Subject Property"), in the Shady Grove Sector Plan Area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 40 lots for 3 one-family detached dwelling units, 36 one-family attached units, and 117 multi-family units in a four-story building. A minimum of 13% of the total units must be moderately priced dwelling units (MPDUs).
- 2) The Applicant must satisfy Policy Area Mobility Review (PAMR) by paying \$198,000 to the Montgomery County Department of Transportation (MCDOT) to be used for pedestrian safety improvements within the Shady Grove Policy Area that could include the Capital Improvements Program (CIP) Project No. 500600, Shady Grove Metro Access Bike Path. The payment must be made prior to site plan certification.
- 3) The Applicant must enter into a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Greater Shady Grove Transportation Management Organization (TMO) to assist in achieving and maintaining their trip reduction goals and the *Shady Grove Sector Plan's* transit ridership goal. The agreement must be signed and executed prior to site plan certification.
- 4) The Applicant must comply with the conditions of the MCDOT letter dated October 8, 2009. These conditions may be amended by MCDOT, provided any modifications do not conflict with other conditions of the preliminary plan approval.
- 5) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of access permits.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated April 28, 2008. These conditions may be amended by MCDPS, provided any modifications do not conflict with any other condition of the preliminary plan approval.

- 7) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan approved on March 20, 2008. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
- 8) The Applicant must dedicate 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.
- 9) 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.
- 10) The Applicant must construct a 6-foot-wide sidewalk along the property frontage on Redland Road, Yellowstone Way, and Chieftain Avenue as shown on the preliminary plan.
- 11) The applicant must construct 5-foot-wide sidewalks to serve the proposed development internally as shown on the preliminary plan.
- 12) The record plat must reflect a public use and access easement over all private streets and adjacent parallel sidewalks.
- 13) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 14) Site Plan # 820090070 must be approved by the Board and certified by the Development Review Division prior to the approval of the record plat.
- 15) No clearing or grading is allowed prior to certified site plan approval.
- 16) 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 for the Preliminary Plan.

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.*

The Subject Property is located within the Metro East/Old Derwood Neighborhood of the Shady Grove Sector Plan. The Sector Plan identifies the following applicable recommendations for the Metro East/Old Derwood Neighborhood.

- Permit four-story, multi-family development fronting Redland road with building setbacks to match those along Redland Road in the King Farm.
- Maintain the existing interconnected street pattern and deter non-local traffic through the neighborhood with a traffic circle at the intersection of Yellowstone Way and Chieftain Avenue.
- Provide new sidewalks along all new development and extend such sidewalks where feasible into the existing community to improve pedestrian safety.
- Provide adequate recreation areas to meet residents' needs within the neighborhood, eliminating the need to cross major roads.
- Ensure that new development and redevelopment are compatible with existing residential development and historic resources.

The proposed plan conforms to the first recommendation in that it provides 117 multi-family units to be located in a four-story building that fronts on Redland Road. The proposed plan conforms to the second recommendation by maintaining the existing street pattern and deters non-local traffic by dedicating land to meet the required right-of-way width on Redland Road, Yellowstone Way, and Chieftain Avenue. Bump-outs on Yellowstone Way and Chieftain Avenue and on-street parking will also be provided as traffic calming devices in order to deter non-local traffic. A traffic circle at the intersection of Yellowstone Way and Chieftain Avenue will not be constructed at this time as there is not enough right-of-way to construct a traffic circle that meets Montgomery County Department of Transportation (MCDOT) standards. The smallest traffic circle that still meets county standards would be too large to be retrofitted within the rights-of-way of Yellowstone Way's secondary and Chieftain Avenue's tertiary residential streets. MCDOT continues to work with the community to implement other traffic calming measures within the community and does not support installing a traffic circle at this location. The proposed intersection has been reviewed and approved by the Planning Board instead of the traffic circle identified in the sector plan because the additional traffic calming measures proposed will be sufficient to replace the traffic circle. However, the Board has asked staff to prepare a letter urging the MCDOT to help the citizens of Old Derwood implement the additional traffic calming measures proposed as quickly as possible.

The proposed plan conforms to the third and fourth recommendations by providing sidewalks along all street frontages and throughout the proposed development to improve pedestrian safety, and by providing four areas of recreation within the proposed development. There is a lawn area approximately 6000 square feet in size lined with trees and benches that creates a park-like setting that is surrounded by 5-foot wide sidewalks and opens into a playground behind the apartment building. The apartment

building contains a courtyard exclusively for the residents of the building. The courtyard contains pergolas, tables, sun chairs, benches, trees, shrubs, flower beds, and a fountain. Therefore, staff finds the proposed plan substantially conforms to the recommendations of the Shady Grove Sector Plan.

The proposed plan conforms to the fifth and final recommendation by providing a residential development with a mix of units and layout that meets the applicable Sector Plan recommendations. The proposed development transitions from multi-family residential units to single-family attached units to smaller single-family detached units as you move from Redland Road to Chieftain Avenue. The applicant provided this transition to ensure the proposed development would be compatible with the existing residential development in the Derwood Neighborhood.

Therefore, the Board finds the proposed plan substantially conforms to the Shady Grove Sector Plan.

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

Roads and Transportation Facilities

The subject site is located on the south side of Redland Road on the east and west sides of Yellowstone Way. Vehicular access points from Yellowstone Way and Chieftain Avenue are proposed as full-movement accesses, while access from Redland Road is proposed as a right-turn in/right-turn out only. Vehicular access to the four-story multi-family building is provided by a right-in/right-out only driveway connection to Redland Road, and a separate garage entrance from the 20 foot-wide private street that intersects with Yellowstone Way. A series of 20 foot-wide private streets provide access to the remaining lots.

Pedestrian access is provided via 6 foot-wide sidewalks on all public streets and an internal network of 5-foot wide sidewalks to serve the development. The existing sidewalks along Redland Road are proposed to be upgraded. The Applicant proposes to provide sidewalks with handicapped ramps, crosswalks, and other pedestrian amenities along Yellowstone Way and Chieftain Avenue.

The Shady Grove Sector Plan designates Redland Road as a business district street (B-1) with a recommended 100-foot right-of-way and Class III bike lanes (B-10). Yellowstone Way is a 60-foot-wide secondary residential street, and Chieftain Avenue is a 50-foot-wide tertiary residential street. The proposed plan indicates dedication of the necessary additional rights-of-way for a total of 60 and 50 feet, respectively.

Transportation Demand Management Requirements

The transportation demand management requirements are as follows:

1. Greater Shady Grove Transportation Management District (TMD): Participate in the Greater Shady Grove Transportation Management Organization (TMO) because the site is located within the TMD with a 117-unit apartment building. Participation is required to assist in achieving and maintaining the TMD's residential trip mitigation goal of 25 percent non-auto driver mode share for the residents and 12 percent non-auto driver mode share for the apartment building residents in the weekday peak hours. The Applicant must enter into and execute a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Greater Shady Grove TMO prior to site plan certification.
2. Shady Grove Sector Plan recommends that Applicants with development located in this area assist the County in achieving the transit ridership goal of 35 percent for residents living within the *Shady Grove Sector Plan* boundaries. This requirement could be met by such trip reduction measures as offering transit subsidies to residents.

Local Area Transportation Review

Table 1 below shows the number of peak-hour trips generated by the proposed residential land uses within the weekday morning (6:30 to 9:30 a.m.) and evening peak hours (4:00 to 7:00 p.m.). In accordance with the *Local Area Transportation Review and Policy Area Mobility Review Guidelines*, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. Based on the results of this traffic study, Table 2 below shows the calculated Critical Lane Volume (CLV) values at studied intersections.

Table 1. Peak-Hour Trips

Land Use	Number of Units	Weekday Peak Hour	
		Morning	Evening
Single-Family Detached Units	3	3	3
Townhouses	36*	17	30
Multi-Family Apartments	117	50	56
Total Trips	159	70	89

* The traffic study analyzed 39 townhouses which is three more than currently proposed by the Applicant.

Table 2. Critical Lane Volumes

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total Future
Redland Road & Sommerville Road	Morning	741	767	777
	Evening	765	780	790
Redland Road & Yellowstone Way	Morning	565	586	645
	Evening	698	734	805
Redland Road & Crabbs Branch Way	Morning	1,515	1,556 1,633*	1,570 1,641*
	Evening	1,682	1,734 1,432*	1,741 1,436*
Derwood Road & Indianola Drive	Morning	655	660	675
	Evening	644	650	663
Frederick Road (MD 355) & Indianola Drive - Watkins Pond Boulevard	Morning	1,462	1,482	1,485
	Evening	1,248	1,264	1,267

The CLV values at all studied intersections are less than the congestion standard of 1,800 CLV for the Shady Grove Policy Area and, thus, the LATR test is satisfied. As indicated with asterisks above, the CLV values at the intersection of Redland Road and Crabbs Branch Way in the background and total future traffic conditions were calculated using the improvements by MCDOT's Capital Improvement Program (CIP) Project No. 500010, "Redland Road from Crabbs Branch Way to Needwood Road." The CIP project includes the following two improvements:

- Add a separate right-turn lane on the northbound approach of Crabbs Branch Way.
- Convert the existing separate right-turn lane on the eastbound approach of Redland Road to a combined right-turn/second through lane.

Construction of the CIP project has started with approved funding through 2010. Without the CIP improvements, the CLV for the weekday evening peak hour is within 41 of the 1,800 congestion standard. The CIP improvements increase the intersection capacity for the peak directional traffic movements during the weekday evening peak hour only, and result in reducing the CLV by 17%. Although the CLV during the morning peak hour increases by 5% with the CIP improvements, the CLV is still 159 under the 1,800 congestion standard.

Policy Area Mobility Review

The Policy Area Mobility Review (PAMR) test under the *Growth Policy* must be satisfied because this site is located within the Derwood/Shady Grove Policy Area. The Applicant must mitigate 18 (or 20%) of the 89 new, site-generated peak-hour trips within the weekday evening peak hours by contributing \$11,000 per PAMR trip for a total of \$198,000 to MCDOT. MCDOT will make the final decision on the use of this contribution, but it could be used towards pedestrian safety improvements in the Shady Grove Policy Area such as MCDOT's CIP Project No. 500600, Shady Grove Metro Access Bike Path. The CIP project is scheduled to be completed in Fall 2011.

Therefore, the Board finds that the proposed plan satisfies the LATR and PAMR tests and will meet the TMD requirements for trip mitigation with the recommended conditions. The Board also finds the proposed vehicle and pedestrian access and circulation to be safe, adequate, and efficient.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. The application is not required to make a School Facilities Payment. Electrical, gas, and telecommunications services are available to serve the Property.

3. The size, width, shape, and orientation of the proposed 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 were 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.

When the Preliminary Forest Conservation Plan was previously approved by the Planning Board as part of rezoning case G-875, the Board determined that the required 20% minimum on-site reforestation standard as specified under 22A-12(f)(3) was not possible on this site, and that the feasibility of saving any existing forest should be determined as part of this review.

The Board has determined that it is not feasible for the Applicant to conserve forest on-site for the following two reasons:

- The Shady Grove Sector Plan recommends both a high density residential development and a mix of housing for this site due to its proximity to the Shady Grove Metro Station.
- The stormwater management requirement must be met on-site with above ground facilities per the approved DPS SWM concept.

Conserving forest on-site would decrease the available land for development, and thus, decrease the overall density attainable for the site. Achieving the desired high density residential development and providing above-ground stormwater management facilities leaves limited space for the Applicant to satisfy the reforestation requirements onsite. Therefore, given the fact that this site is in an evolving urban setting, the Board recommends that the entire 1.88-acre reforestation requirement be satisfied by offsite planting or purchase of forest conservation bank credits.

The Board finds the preliminary plan satisfies the requirements of the 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 approval meets MCDPS' standards.

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for the project on April 28, 2008. The stormwater management concept includes on-site water quality control and recharge via a surface sandfilter with structural pretreatment and onsite recharge via pervious sidewalks. A waiver of on-site channel protection measures was requested and was granted due to the site's proximity to the Crabbs Branch regional stormwater management facility.

The Board based its approval with conditions on relocation of the stormwater management facilities to the east side of the Subject Property. The concept will remain the same regarding structure-type, but has only been given cursory approval by the Stormwater Management Section of the Montgomery County Department of Permitting Services (MCDPS). Therefore, the Board approves the preliminary plan with the stormwater pond in the new location and requires an amendment for any significant alteration of this layout required by final MCDPS approval.

6. *The use of private streets in the subdivision is approved.*

Section 50-29(a)(2) of the Subdivision Regulations requires "...that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road." Twelve of the thirty-six townhome lots will front onto a private street. The Planning Board finds that the proposed private streets have acquired the status of a public road. This finding is based upon the proposed road being fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road standards, except for right-of-way pavement widths.

In the case of this subdivision, the proposed streets provide frontage to twelve of the thirty-six townhome lots and meet the minimum standards necessary to make the finding that they have the status of a public road. These standards include a 20-foot pavement width with adequate turning radii at intersections where needed for emergency access, an appropriate paving cross-section elsewhere for private vehicles, and an appropriate circulation and turnaround pattern. The private roads will also be placed within an easement that ensures they remain fully accessible to the public.

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 Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is NOV 17 2009 (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).

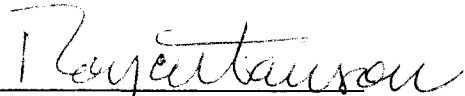
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CERTIFICATION

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 Alfandre, seconded by

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Commissioner Wells-Harley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, with a four-member Board, at its regular meeting held on Thursday, November 5, 2009, in Silver Spring, Maryland.

A handwritten signature in cursive script, reading "Royce Hanson", written in dark ink.

Royce Hanson, Chairman
Montgomery County Planning Board