



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

MCPB No. 18-021
Site Plan No. 820180060
Cabin Branch Multi-Family
Date of Hearing: April 5, 2018

APR 13 2018

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on November 27, 2017, Mike Conley ("Applicant") filed an application for approval of a site plan including a final water quality plan for 272 multi-family residential dwellings in two buildings, including 25% MPDUs and 48 TDRs on 9.92 acres of CRT 0.5, C-0.25, R-0.25, H-130T zoned-land, formerly zoned MXP, located on the east side of Cabin Branch Avenue, approximately 1,900 feet south of the intersection with Clarksburg Road, including parts of parcels P345 and P645 ("Subject Property"), in the Clarksburg Policy Area and the 1994 Clarksburg Master Plan & Hyattstown Special Study Area Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820180060, Cabin Branch Multi-Family ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 23, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 5, 2018, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

Approved as to
Legal Sufficiency:

MNCPPC Legal Department
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E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820180060 for 272 multi-family residential dwellings in two buildings, including 25% MPDUs and 48 TDRs, on the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals & Agreements

1. Development Plan Amendment Conformance

The development must comply with all binding elements of County Council Resolution No. 17-1002 approving Development Plan Amendment DPA 13-02 dated February 4, 2014.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 12003110C.

Environment

3. Forest Conservation & Tree Save

The Final Forest Conservation Plan No. 820180060 amends the Final Forest Conservation Plan as part of the Cabin Branch Infrastructure Site Plan No. 820050150 (as amended). The Applicant must comply with the following conditions of the Final Forest Conservation Plan No. 820180060:

- a) All other applicable terms, conditions, and findings required by the Infrastructure Site Plan, as amended by previous site plan approvals or Infrastructure Site Plan amendments remain in full force and effect.
- b) The Applicant must install permanent Category I Conservation Easement signage along the perimeter of the conservation easements as specified on the approved Final Forest Conservation Plan (FFCP) or as directed by the M-NCPPC Forest Conservation Inspector at the time of installation of the reforestation planting material.
- c) Reforestation plantings that are located outside the limits of disturbance (LOD) must occur within the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
- d) The limits of disturbance shown on the Final Sediment Control Plan must be consistent with the final LOD shown on the approved amended FFCP.

¹ For these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- e) The Applicant must have all required site inspections performed by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- f) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

4. Water Quality

- a) The development must comply with the conditions of the Montgomery County Department of Permitting Services Preliminary (MCDPS)/Final Water Quality Plan approval letter dated February 23, 2018.
- b) The total recommended impervious surface for the overall Cabin Branch project is 45% or less within the Clarksburg SPA. Impervious surface on the Subject Property, based on the Impervious Area Exhibit submitted to ePlans, is 251,112 square feet (58 percent) of the 9.92- acre tract area. Minor changes to the total imperviousness associated with this Site Plan may be made based on field conditions or recommendations of other regulatory agencies, so long as total imperviousness of this Site Plan does not exceed 255,000 sq. ft. (59 percent of total tract area) and the overall Cabin Branch recommendation of 45% or less continues.

Open Space, Facilities and Amenities

5. Green Area, Facilities, and Amenities

- a) The Applicant must provide a minimum of 4.7 acres of Green Area on-site.
- b) Before the issuance of Use and Occupancy certificates for the last floor of each residential building, all amenity areas including recreation facilities located on the same lot as that building must be inspected and accepted as complete by MCDPS Site Plan and Zoning Enforcement Staff.

6. Recreation Facilities

- a) Before Certified Site Plan approval, the Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate to M-NCPPC Staff that each element meets M-NCPPC Recreation Guidelines.
- b) The Applicant must provide at a minimum the following recreation facilities, consistent with the onsite recreation supply table on the Certified Site Plan: one pedestrian connection/trail system, one bicycle parking garage, one dog run, one indoor community space, one fitness room, one natural area, one playground (ages 2-5), one resident lounge, one community kitchen, one swimming pool outdoors, one wading pool, eight picnic/sitting areas and one grilling area.

Transportation & Circulation

7. Transportation

- a) The record plat(s) must ensure the creation of a private road parcel on the south side of Building Two, identified as Parcel A, as shown on the Certified Site Plan. The record plat shall contain a note that this parcel is to be dedicated to Montgomery County as public right-of-way at the time that future adjacent development records plats to continue dedication of the street.
- b) The Applicant must construct the street located in Parcel A to all applicable structural and design standards as specified by Montgomery County MC-2005.02 Business District street standards. Prior to the release of bond or surety, the Applicant must provide to MCDPS Zoning & Site Plan Enforcement Staff a certification from a licensed civil engineer that the street and sidewalks have been built to the above-mentioned standards.
- c) At the time of dedication of Parcel A to Montgomery County as public right-of-way, the Applicant will be responsible for any necessary upgrades required to ensure the road meets all public standards and requirements.

8. Pedestrian & Bicycle Circulation

- a) The Applicant must provide a minimum of 12 short term bicycle spaces (bike racks) and a minimum of 92 long term bicycle spaces (bike room), as shown on the Certified Site Plan.
- b) The private bicycle spaces must be in a secured, well-lit dedicated bicycle room adjacent to one of the building access doors, or in secure bike lockers located near one of the building entrances and the public space must be an inverted-U rack (or Staff approved equivalent) installed in a location convenient to the main entrance. The specific location(s) of the public and private bicycle rack(s) must be identified on the Certified Site Plan.
- c) The Applicant must provide five-foot wide sidewalks along both sides of the new street south of Building B.
- d) The Applicant must upgrade the sidewalk crossing ramps at the existing curb cut for the northern driveway entrance for Building 1 from the existing five-foot wide ramps to eight-foot wide ramps, consistent with the eight-foot wide shared use path along Cabin Branch Avenue.

Density and Housing

9. Transfer of Development Rights (TDRs)

- a) The Applicant must acquire 48 TDRs for the development.
- b) The record plat(s) must reflect serialization and liber/folio reference for all TDRs used by the development.

10. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated February 21, 2018, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a) The development must provide 25 percent MPDUs on-site consistent with the requirements of Chapter 25A and the applicable Master Plan.
- b) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the Department of Housing and Community Affairs (DHCA) must be executed.

Site Plan

11. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets ARCH-820180060-1-A1-2.01 through ARCH-820180060-1-A1-2.04, as determined by Staff. Specifically, the Applicant must provide at a minimum the following building elements:
 - i. Distinct façade material on the top and bottom levels from that in the middle levels;
 - ii. Façade material and color in the recessed portions of the façade that differ from that on the rest of the façade;
 - iii. A mix pitched roof line articulated with eaves and gables and flat roof areas; and
 - iv. Corner façade treatment on corners along the western elevation of both buildings that is distinct from the rest of the building façade.
- b) Air conditioner compressors must not be located on the Cabin Branch Ave frontage.
- c) The Planning Board accepts the recommendations of The Cabin Branch Town Architect in its letter dated March 21, 2018, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the Town Architect may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

12. Landscaping

- a) The Applicant must install the site elements and furniture for the amenity spaces as shown on the landscape plans submitted to M-NCPPC or an equivalent approved by Staff.

- b) The Applicant must install the plantings shown on the landscape plans submitted to M-NCPPC. Any variation in plant species or quantity needs approval of M-NCPPC Staff.
- c) Landscaping shall be installed on each lot no later than the next growing season upon receiving use and occupancy certificates for the first floor of occupancy for the multi-family building on that lot.

13. Lighting

- a) Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on all wall mounted fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads and residentially developed properties.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

14. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit or sediment and erosion control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to: The Private Street improvements and associated sidewalks, trees and lighting to be built in Parcel A, on-site plant material; on-site lighting; site furniture; fencing; railings; hardscape; sidewalks; outdoor amenity areas including pools, playgrounds, grilling areas and the dog run; and any other associated improvements. The surety must be posted before issuance of the any building permit, or sediment control permit, and will be tied to the development program.

- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
- d) The bond or surety shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets.

15. Record Plats

Prior to submission of any plat application, Site Plan No. 820180060 must be certified by MNCPPC Staff.

16. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

17. Certified Site Plan

Before approval of the Certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan Resolution on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before any land disturbance."
- c) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by MCDOT."
- d) Provide the standard landscape plan note that planting in stormwater management areas are subject to the final approval by MCDPS Water Resources staff.
- e) Modify the Development Tabulations data table on sheet SP-1 to reflect development standards approved by the Planning Board, including for long term bike storage, and TDRs, and modify the footnote to match footnote 4 from the Staff data table.
- f) Ensure consistency of all details and layout between Site and Landscape plans, including the addition of the sidewalk around the exterior of the outdoor pool area.
- g) Modify the northern curb cut for Building 1 to show the upgraded ADA compliant sidewalk ramps as eight-feet wide.
- h) Add a TDR tracking table to the Site Plan showing how the TDRs have been calculated for Cabin Branch both in total, and for each approved Site Plan including the subject Site Plan.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Cabin Branch Multi-Family, No. 820180060, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan is consistent with the binding elements of Development Plan Amendment No 13-02 ("DPA"), approved by County Council Resolution No. 17-1002 on February 4, 2014. The DPA approved a maximum number of dwelling units for the entire Cabin Branch development, including a requirement that each site plan provide a proportionate number of MPDUs and TDRs based on an identified calculation, and approved 11 binding elements to be applied across the entire project.

Three of the Binding Elements are relevant to review of the Site Plan, the other eight either do not apply or are applicable to Cabin Branch as a community and not to individual site plans. The full text of each Binding Element is attached to the Staff Report; the three applicable Binding Elements are paraphrased below:

1. *Transferable Development Rights and Moderately Priced Dwelling Units:*

The DPA states that total Cabin Branch Neighborhood, if built to its full residential density, will require a minimum of 210 MPDUs and up to 635 TDRs, assuming a total development of 1,886 units, of which 1,676 are market rate units and 210 are MPDUs, which are deducted from providing TDRs. Development within Cabin Branch shall require the purchase of TDRs in conformance with this calculation. The Preliminary Plan and DPA laid out that each development should provide its fair share proportion of MPDUs and TDRs at the time of site plan review.

This Site Plan is proposing a total of 272 dwelling units including 68 MPDUs which is equivalent to 25% of the Site Plan total development,

exceeding the minimum 12.5% required of each residential development. Previous site plan approvals in the Cabin Branch Neighborhood have provided more than 12.5% MPDUs, raising the current MPDU minimum requirement for Cabin Branch to 236 MPDUs and reducing the number of required overall TDRs required to 609. The Site Plan provides 34 more MPDUs than required, raising the total number of required MPDUs for the overall Cabin Branch to 270 MPDUs and reducing the overall total number of required TDRs to 575, consistent with the calculation laid out by the DPA that MPDU units are exempt from requiring TDRs. After including the implementation of this Site Plan, the current total number of MPDUs will be 265, and the number of TDRs will be 562, which is in keeping with where the totals should be considering there are still 34 unapproved residential units in Cabin Branch.

4. Street Network:

A network of public streets shall be provided, that may be supplemented by private streets, in a grid pattern that promoted interconnectivity. The public streets shall be any Master Plan street and any residential or business streets needed to form blocks that are substantially similar to the street system shown on the Development Plan.

The primary street frontage for both buildings in this Site Plan is Cabin Branch Avenue, which was constructed by others and has already been fully dedicated and constructed to public standards. Along the south side of Building Two, the Applicant is creating a parcel for, and will construct the beginnings of a new business district street. Part of Building Two's access is through this new street. This road parcel and the street is consistent with the Development Plan drawing showing Petrel Street extending across Cabin Branch Avenue, and it will be dedicated to public use and extended east when the adjacent land to the south and east is developed.

6. Street character:

All streets will adhere to a pedestrian-friendly design to the extent practicable, which places emphasis on a building line to frame the street, and parking in the rear. Within the core, pedestrian friendly uses including retail, residential or office will be located on the first floor. The entire MXPD area will conform to a Cabin Branch Community Streetscape Plan designed to integrate the entire community.

The Site Plan conforms to the street character requirements of the Binding Elements. Both buildings place a long façade parallel to Cabin Branch Avenue and use designs such as suitable landscaping and ground floor entrances to activate the street frontage. Parking for the buildings is also located either to the side of rear of the structures, minimizing its impact to the streetscape. While some of the parking for Building One is visible to the road, it is landscaped and set behind the front building line. The first floor of the buildings will have many public spaces such as the lobbies, clubhouse and fitness facilities in addition to street accessible residential units which help create activity at the ground level creating the desired street character.

The DPA also divided Cabin Branch into four distinct analysis areas, A – D, and each area includes a range of allowed land uses and intensities for the respective area. The Subject Property is half in Area B and half in Area C. Area B allows for a range of multi-family development between 125 and 325 units, and the Site Plan provides for 132 units. Area C provides a range between 100 and 350 units and the Site Plan provides 140 new units, and a previously approved site plan provided 128 units, equaling an area total of 268 units. Therefore, the uses included in the Site Plan fall within the allowed densities in Areas B and C.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the MXPB Zone in which it is located. The objective of the MXPB zone is to allow for planned, multi-use centers away from central business districts or transit, and to allow implementation of Master Plans with flexibility. The DPA found conformance with the Master Plan and the construction of multi-family dwellings on the Subject Property was a part of the DPA. Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the MXPB Zone.

Zoning Data Table, MXPDP Zone

<u>Development Standard</u>	<u>Required</u>	<u>Approved</u>
59-C-7.51		
Minimum Area	20 acres	283.5 acres ² MXPDP
Tract Area		9.94 acres
59-C-7.56		
Minimum Green Area		
MXPDP total	120.98 acres	161.96 acres
40% of Commercial Area	83.10 acres	142.70 acres
50% of Residential Area	37.88 acres	19.26 acres ³
Provided by Site Plan		4.76 acres (48%) ⁴
Site Plan Development Standards		
Floor Area Building One	N/A	176,153 sq ft.
Floor Area Building Two	N/A	177,600 sq ft.
Building Height	8 stories max	65 ft./5 stories
Front Setback	TBD @ Site Plan	21 ft.
Rear Setback	TBD @ Site Plan	100 ft.
Side Setback (lot)	TBD @ Site Plan	90 ft.
Side Setback (street)	TBD @ Site Plan	9 ft.
Density and Parking 59-E-3.7		
Total Units		272
MPDUs	34 (15.5%)	68 (25%)
TDRs ⁵		48
Building One Parking		
Parking Market Rate (97)	142	142
Studio – 1 space/unit (12)	12	12
1 Bedroom – 1.25 space/unit (25)	32	32

² The Subject Property is only 9.94 acres of a comprehensively planned community totaling 283.5 acres.

³ Total Green Area for the MXPDP zone exceeds the requirements. Excess green area is provided on commercial site plan portions of the Subject Property, and less green area in residential site plan areas. Major components of Green Area are the shared stream valleys and forest areas.

⁴ Green Area is tracked across the entire Cabin Branch Neighborhood, so deficits in this Site Plan are compensated for with other areas.

⁵ Binding Element 1 of the DPA require the purchase of TDRs for residential developments within the Cabin Branch Neighborhood. The DPA established a method for calculating TDRs based on a total build-out of 1,886 dwelling units, including 1,676 market rate units and 210 MPDUs, resulting in 635 TDRs. Site plans approving more than 12.5% MPDUs can deduct the excess MPDUs from their pro-rata share of TDRs, reducing the Cabin Branch Neighborhood total. This Application provides 34 more MPDUs than required, resulting in a modified pro-rata share of TDRs.

<u>Development Standard</u>	<u>Required</u>	<u>Approved</u>
2 Bedroom – 1.5 space/unit (45)	68	68
3 Bedroom – 2 spaces/unit (15)	30	30
Parking MPDUs (35)	25	25
Studio – 0.5 space/unit (4)	2	2
1 Bedroom – 0.625 space/unit (11)	7	7
2 Bedroom – .75 space/unit (16)	12	12
3 Bedroom – 1 spaces/unit (4)	4	4
Visitor/Extra		19
Total		186
EV Charging		4
Handicap	6	6
Motorcycle (2%)	4	4
Bicycle – 1 bike/20 cars	10	54
Short term		6
Long Term		46
Building Two Parking		
Market Rate (107)	155	155
Studio – 1 space/unit (12)	12	12
1 Bedroom – 1.25 space/unit (33)	42	42
2 Bedroom – 1.5 space/unit (47)	71	71
3 Bedroom – 2 spaces/unit (15)	30	30
MPDU (33)	25	25
Studio – 0.5 space/unit (4)	2	2
1 Bedroom – 0.625 space/unit (9)	6	6
2 Bedroom – .75 space/unit (15)	12	12
3 Bedroom – 1 spaces/unit (5)	5	5
Visitor/Extra		12
Total		192
EV Charging		4
Handicap	6	6
Motorcycle (2%)	4	4
Bicycle – 1 bike/20 cars	10	54
Short term		6
Long Term		46

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The location of buildings and structures on the Site Plan is adequate, safe and efficient. Both Building One and Building Two are positioned with a long western façade oriented to the street, with ground floor units with direct access to the street, providing a high level of activation to Cabin Branch Avenue. The L shape to both buildings takes advantage of the buildable area on both lots and also maximizes views residents have of the adjacent forest and green areas. The building placement close to the street also enables parking to be set to the side and rear of the buildings which is a requirement of the Cabin Branch Design Guidelines.

The Site Plan requires use of retaining walls to create usable grade within the developable area while minimizing impacts to the adjacent forest and stream buffers. Walls are on the east side and south sides of Building One, between the parking lot and the existing stormwater management and forested stream valley. The walls approach eight feet tall in one small area adjacent to the stormwater facility but are generally three to five feet in height. Building Two has a retaining wall on the north side of the parking area adjacent to the stream valley that is six feet high in spots but is mostly two to four feet in height. These walls are not inconsistent with other walls within Cabin Branch and are necessary because of the terrain and adjacent environmental features.

b. Open Spaces

The location of open space on the Site Plan is safe, adequate and efficient. The open space required of the MXPD zone is Green Area, and the requirement is 50% Green Area in residential areas and 40% Green Area in commercial areas. The Green Area for Cabin Branch has been averaged across the entire MXPD zoned portion of the Cabin Branch Neighborhood. While this Site Plan runs a slight deficit of Green Area within the Subject Property boundary, the entire neighborhood is on track to exceed the Green Area requirements. The entirety of Cabin Branch requires 120.98 acres of Green Area, and with the implementation of this Site Plan, and assuming additional mixed-use development to the south, the Green Area will be approximately 162 acres when the neighborhood finishes developing. The Subject Property's Green Area and open spaces are located in the more environmentally constrained land to the east of both buildings and include

existing Category I Conservation Easements. The setback between the buildings and Cabin Branch Avenue provide additional open areas for landscaping and greenery consistent with Green Area. The Site Plan has other open spaces that are private to the community that include amenity and recreation opportunities. These amenity areas are divided between the two buildings.

c. Landscaping and Lighting

The location and quantity of the Site Plan landscaping and lighting is safe, adequate and efficient on the Subject Property. The Site Plan landscaping serves multiple purposes, including screening and canopy cover for the parking facilities, visual interest and shade in amenity areas, and visual interest around the foundations of the two buildings. All of the outdoor amenity areas have shrubs and grasses planted to help enclose the spaces and are surrounded by larger trees to provide shade during the summer. Both buildings have extensive foundation plantings including shrubs and ornamental grasses helping to soften bottom edge of the buildings. Along the western facades that face Cabin Branch Avenue, this also includes the addition of understory ornamental trees, providing additional visual relief to the building façade, and to mimic landscaping typical of the existing residential dwellings in Cabin Branch.

Perimeter Landscaping 59-E-2.72

The Site Plan is providing landscaping in and around parking lot areas as required Section 59-E-2.7 of the zoning ordinance. Most of the perimeter of the parking lots comply with the perimeter planting requirements and meet or exceed the minimum parking lot landscape area of 5%. The parking lots will appear more landscaped than 5% in large part because the facilities are long and narrow, therefore the canopy of the perimeter plantings will overhang substantial portions of the parking area.

The Applicant however requested the Planning Board provide relief to the parking lot perimeter landscape standards under 59-E-2.72 in certain areas. The code states that the Applicant must provide a landscape strip at least four feet in width and contain one canopy shade tree every 40 feet on center. The code however also allows the Planning Board to not require perimeter screening if the Board finds that parking areas are already effectively landscaped with natural features such as woods or a hill. Relief of the perimeter landscaping requirements were sought around the eastern sides of the parking

lot for both buildings, the south side of Building One adjacent to the stream valley buffer, and the south and east side of Building Two adjacent to the ESD stormwater. The Applicant's justification cites the forested stream buffers, and stormwater management facilities as providing the adequate natural screening from adjacent uses. Not providing the required perimeter minimizes impacts to the adjacent stream valley buffers and avoids impacts to necessary stormwater. The Planning Board approves the Applicant's request and agrees that there are adequate existing features that screen the proposed parking from the nearest adjacent vantage points. To mitigate for the reduction of landscape material, the Applicant has agreed to add additional canopy trees to locations within the parking lot near the impacted areas to keep canopy coverage adequate.

The lighting provided with this Application is safe, adequate and efficient for ensuring good nighttime visibility within the parking lot and open space areas without negatively impacting surrounding residential dwellings. The lighting is a combination of free-standing poles and wall mounted sconces that provide for broad illumination the parking and loading areas. The outdoor amenity spaces such as the pool deck and the children's play area and seating area are illuminated predominantly with shorter bollard type lighting, which is more in scale with the pedestrian environment creating an enjoyable evening space.

d. Recreation Facilities

The location and quantity of provided recreation facilities is safe, adequate and efficient. Under the Recreation Guidelines, construction of 272 new dwelling units requires adequate recreation amenities based on the created recreation demand. The data tables in the Staff Report illustrate how the Applicant supplies more recreation amenities points than the 272 units demand and supplies them through a wide variety of indoor and outdoor activities. As shown in the Staff Report, the recreational facilities included in the Application are adequate.

e. Vehicular and Pedestrian Circulation

The location and design of vehicular and pedestrian circulation on the Site Plan are safe, adequate and efficient. Each building has two points of access to the public road network for vehicles, one that is a right-in/right-out movement and one that allows for full movement. Parking is located to the side and rear of the buildings and there is one continuous drive isle that wraps around the sides and rear of the building adequately and safely

allowing residents and guests to find parking and to enter and leave the Subject Property. Pedestrian circulation is provided around the entire exterior of both buildings providing adequate connections from the building doors to the parking spaces, and to the pedestrian network in the larger Cabin Branch community. Ground floor units facing Cabin Branch Avenue have their own exterior entrances and lead-in sidewalks providing the required street character and activation.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The two multi-family buildings are compatible with other uses and both existing and proposed site plans within the Cabin Branch neighborhood. The Subject Property was identified on the DPA as a possible location for multi-family housing, which is implemented through this Site Plan. Stream valley buffer and forest separate the Subject Property from adjacent commercial uses and I-270 to the north and east. Opposite Cabin Branch Avenue is one-family attached and detached housing also located in the MXP zone and also part of the Cabin Branch DPA. Because of the wide right-of-way and yard setbacks, the closest one-family detached house to either multi-family building is 120 feet, exceeding the 100-foot minimum setback that would apply if the existing one-family detached dwelling were part of a different project. The design of the multi-family buildings is residential in character with mostly pitched roofs, ground floor unit access to the public street, and patterns of wall articulation and façade material that create a more traditional residential feel.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Site Plan meets all necessary requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection.

A. Final Water Quality Plan

The Subject Property is located within the Clarksburg Special Protection Area ("SPA"), therefore a Final Water Quality Plan ("FWQP") must be reviewed as part of this Site Plan review per Montgomery County Code Section 19-62. The review of a FWQP is divided between the Montgomery County Department of Permitting Services ("MCDPS") and M-NCPPC Staff, each with separate responsibilities. MCDPS has the following performance goals that are to be met through the FWQP:

1. Protect the streams and aquatic habitats.

2. Maintain the natural on-site stream channels.
3. Minimize storm flow run off increases.
4. Identify and protect stream banks prone to erosion and slumping.
5. Minimize increases to ambient water temperatures.
6. Minimize sediment loading.
7. Maintain stream base flows.
8. Protect springs, seeps and wetlands.
9. Minimize nutrient loading.
10. Control insecticides, pesticides and toxic substances.

MCDPS issued a letter finding the FWQP acceptable for their identified portion of the review, including the provided stormwater management facilities, sediment and erosion control measures, and best management practices.

The Planning Board responsibility for review includes the following three areas:

1. Priority Forest Conservation Areas

The Site Plan submitted a Final Forest Conservation Plan (“FFCP”) as part of the Application that amends the overall FFCP for the Cabin Branch neighborhood. The Subject Property contains no forest, stream valley buffer or other environmentally sensitive areas warranting protection.

2. SPA Environmental Buffer Protection

The Site Plan proposes no additional disturbance within the Stream Valley Buffers (“SVB”) that has not already been accounted for with previous FFCPs for Cabin Branch.

3. Impervious Surface Limits

The Clarksburg SPA contains no specific impervious surface limits; however, the SPA regulation allows the Planning Board to limit imperviousness as necessary to protect the environment. The Preliminary WQP for Cabin Branch identified a goal of no more than 45% imperviousness for the entire community. The Site Plan has an overall imperviousness of 58%, which is above the 45% goal locally; however, other portions of the Cabin Branch neighborhood are below 45% and the overall community remains on track to be below the target when fully built-out.

B. Forest Conservation

As conditioned, the FFCP complies with the requirements of the Forest Conservation Law. An overall FFCP for Cabin Branch was reviewed as part of the Infrastructure Site Plan No 820050150, as amended. The Infrastructure Site Plan allows future development site plans to amend the overall FFCP by submitting new FFCP sheets with each site plan review. This Application submitted the FFCP sheets impacted by the limits of disturbance proposed by the Application. This Site Plan does not alter existing Category I Conservation Easement or expand the limits of disturbance beyond those anticipated by previous amendments, and Cabin Branch Management LLC as overseer of the FFCP continues to fulfil their obligations for reforestation and resource protection.

C. Forest Conservation Variance

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

This Application will require the CRZ impact to one Protected Tree as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that, as described in the Staff Report, the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

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

Granting the variance will not confer a special privilege on the Applicant as the impact to this one tree is due to the location of the trees and necessary site design requirements imposed by governmental agencies. Because of the tree’s location just downslope of the developable area, any reasonable development of the Subject Property as a multi-family building as envisioned by the DPA and allowed for by zoning would likely impact the tree. Therefore, the Planning Board finds that the granting of this variance is not a special privilege that would be denied to other applicants

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the location of the tree, existing site conditions and necessary design requirements of this Application.

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

The requested variance is a result of the existing conditions and is not a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being moderately impacted and will not be removed. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for the Protected Tree is not required because the tree is not being removed as part of this Site Plan.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; 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 APR 13 2018 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, April 5, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board