



Cabin Branch, Preliminary Plan Amendment No. 12003110D

CVA

Chris Van Alstyne, Senior Planner, Area 3, Chris.VanAlstyne@montgomeryplanning.org, 301-495-4629

SP

Sandra Pereira, Supervisor, Area 3, Sandra.Pereira@montgomeryplanning.org, 301-495-2186

RAW

Richard Weaver, Chief, Area 3, Richard.Weaver@montgomeryplanning.org, 301-495-4544

Completed: 06/28/19

Description

Cabin Branch, Preliminary Plan Amendment No. 12003110D

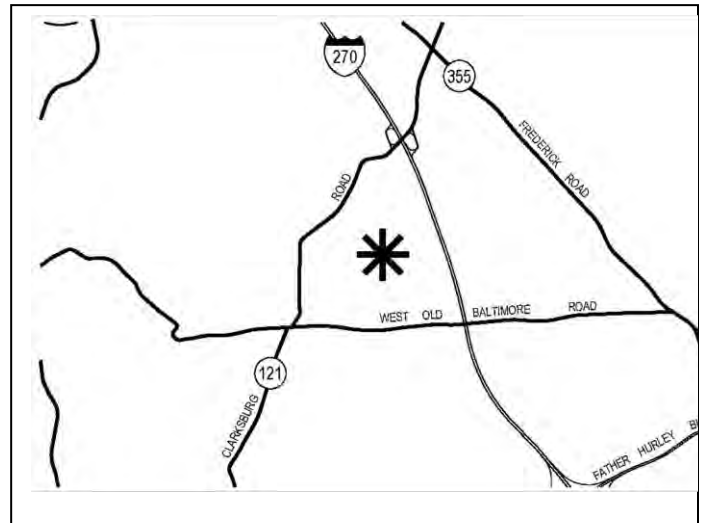
Application to extend the Preliminary Plan validity period and APF finding by 3 years for Preliminary Plan 12003110B which approved 1,886 dwelling units, 2.42 million sq. ft. of commercial space, and 500 senior housing units; located between Clarksburg Rd (MD 121), West Old Baltimore Road and I-270, approximately 1 mile south west of Clarksburg; 540 acres; CRT – 0.5, C-0.25, R-0.25, H-130, CRT – 0.5, C-0.25, R-0.25, H-65 Zone and TDR zones; Clarksburg Master Plan area.

Recommendation – Approval with conditions

Applicant: Cabin Branch Management, LLC

Accepted Date: March 16, 2019

Review Basis: Chapter 50, Sections 4.2.H and 4.3.J



Summary

- Staff recommends **Approval with Conditions**.
- The Applicant requests to amend the Preliminary Plan to extend the staged plan validity period and APF finding by three years for each of the four development stages from their respective date of expiration.
- The Applicant justifies the extension as necessary due to the difficult ongoing economic conditions as well as the significant investment provided by the Applicant to public infrastructure.
- Staff has not received any correspondence regarding this Application.

SECTION 1 – RECOMMENDATIONS AND CONDITIONS

Preliminary Plan Amendment No. 12003110D: Staff recommends approval with conditions of the Preliminary Plan amendment for a 3-year APF validity extension and a 3-year Preliminary Plan validity extension. These extensions will be in addition to any remaining validity period for APF and Plan validity. The 3-year Preliminary Plan Validity extension will apply to each of the 4 approved stages of the plan as detailed in the conditions below. All previous conditions of approval for the Preliminary Plan remain in full force and effect except for the following modifications:

Staff recommends striking condition 26 for the Preliminary Plan validity period and staging sequence and hereby replacing it with the following:

26) The Preliminary Plan will remain valid for 126 months from the initiation date of this Planning Board Resolution. Record Plats must be recorded based on the following staging sequence:

- Stage I (expires 36 months from the initiation date of this Planning Board Resolution): 420 dwelling units, 125 senior housing units and 380,000 square feet commercial.
- Stage II (expires 66 months from the initiation date of this Planning Board Resolution): 404 dwelling units, 250 senior housing units, 380,000 square feet commercial.
- Stage III (expires 96 months from the initiation date of this Planning Board Resolution): 388 dwelling units, 125 senior housing units, 380,000 square feet commercial.
- Stage IV (expires 126 months from the initiation date of this Planning Board Resolution): All remaining development.

Staff recommends striking condition 27 for the adequate public facility validity period and hereby replacing it with the following:

27) The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for 126 months (10.5 years) from the initiation date for Preliminary Plan Amendment No. 12003110D.

SECTION 2 – SITE LOCATION AND DESCRIPTION

Site Location and Description

The Subject Property is a large, mixed use development approximately 540 acres in size located in Clarksburg, approximately 1 mile southeast of the village center, bounded by Clarksburg Road (MD 121) to the north, I-270 to the east, and West Old Baltimore Road to the south (“Subject Property”). The Subject Property is within the Clarksburg Master Plan (Master Plan) area. The surrounding area is a mix of agricultural use (RNC zone), low-density residential (RE-1 and RE-2), and employment zones (Figure 1).

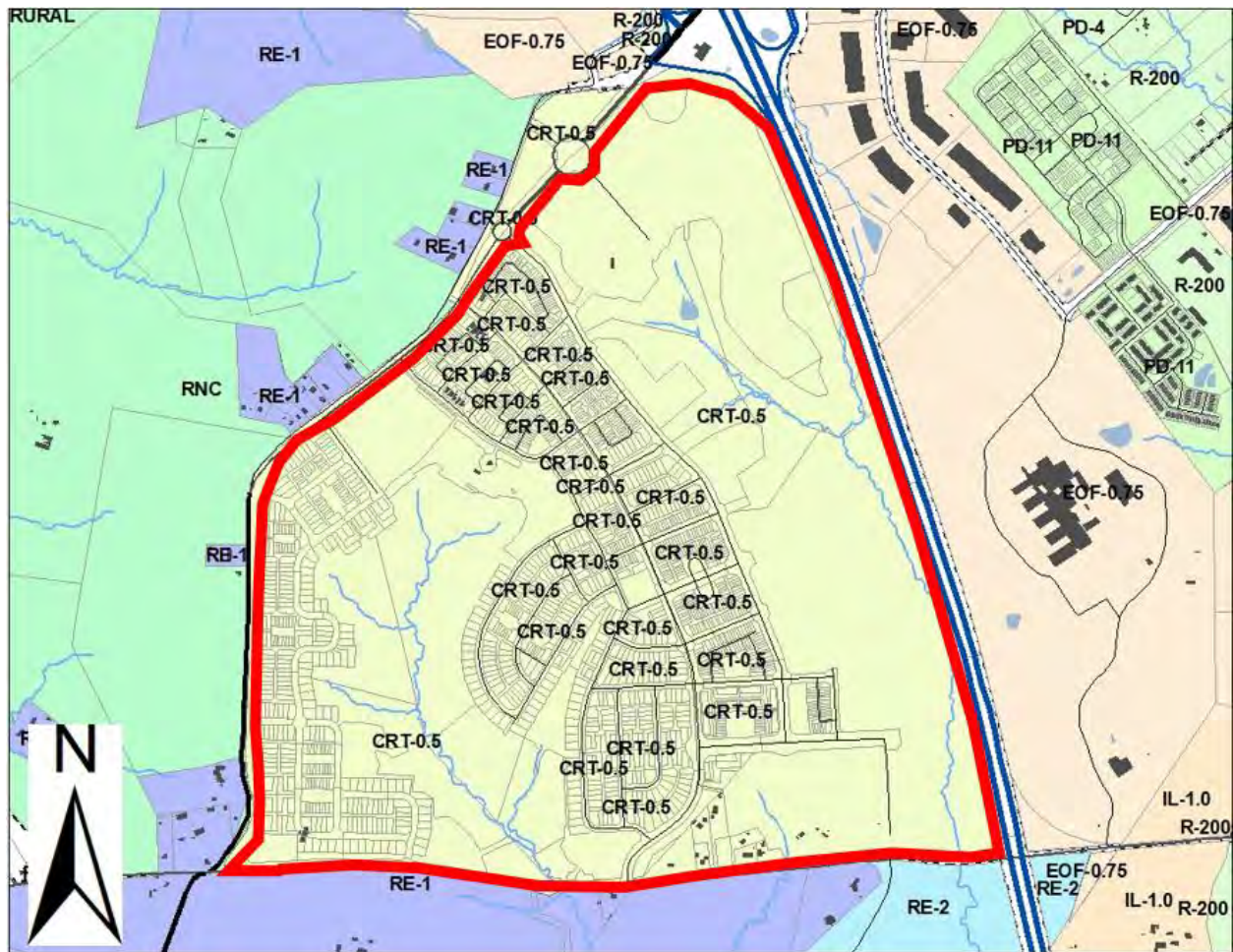


Figure 1 – Vicinity Map



Figure 2 – Aerial Map

SECTION 3 – APPLICATIONS & PROPOSAL

Previous Approvals

The Montgomery County Planning Board approved Preliminary Plan of Subdivision 12003110A, as amended for the Subject Property for 1,886 dwelling units, 2,420,000 square feet of commercial space, and 500 senior housing units. The total built as the writing of this report are detailed in Table 1 below:

Table 1: Approved and Built Development

	Residential (Units)	Senior Housing (Units)	Commercial (Square Feet Ground Floor Area)
Approved	1,886	500	2,420,000
Built	879	0	437,000
Unbuilt	1,007	500	1,983,000

The approved development history, which includes 8 Site Plans as amended for various sections of the Property, is detailed in Table 2 below:

Table 2: Cabin Branch Development History

Case No.	Resolution	Type	Status
G-806	9/9/2003	Local Map Amendment	approved
120031100	6/30/2003	Preliminary Plan	approved
12003110A	6/22/2004	Preliminary Plan Amendment	approved
12003110B	10/6/2008	Preliminary Plan Amendment	approved
12003110C	12/23/2014	Preliminary Plan Amendment	approved
820050150	9/19/2007	Infrastructure Site Plan	approved
82005015A	6/9/2008		
82005015B	3/17/2012		
82005015C	11/27/2012		
82005015D	05/02/2013		
82005015E	6/2/2014		
82005015F	9/23/2014		
82005015G	7/25/2017		
820060290	10/20/2008	Winchester I Site Plan	approved
82006029A	7/11/2012		
82006029B	3/14/2013		
82006029C	9/12/2014		
820060240	9/29/2010	Gosnell Site Plan	approved
82006024A	9/25/2018		
820070140	4/23/2013	Toll I	approved
82007014A	10/9/2016	Site Plan	
82007014B	3/29/2016		
820100030	04/23/2013	Toll II	approved
		Site Plan	
820110080	07/11/2012	Winchester II	approved
		Site Plan	
820120150	04/04/2013	Winchester III	approved
		Site Plan	
820180060	04/13/2018	Cabin Branch Multi-Family	approved
82018006A	04/10/2019		
MR08001	4/3/2008	Mandatory Referral	transmittal
16-35	4/1/2009	Subdivision Regulation	approved
17-04	4/1/2011	Subdivision Regulation	approved

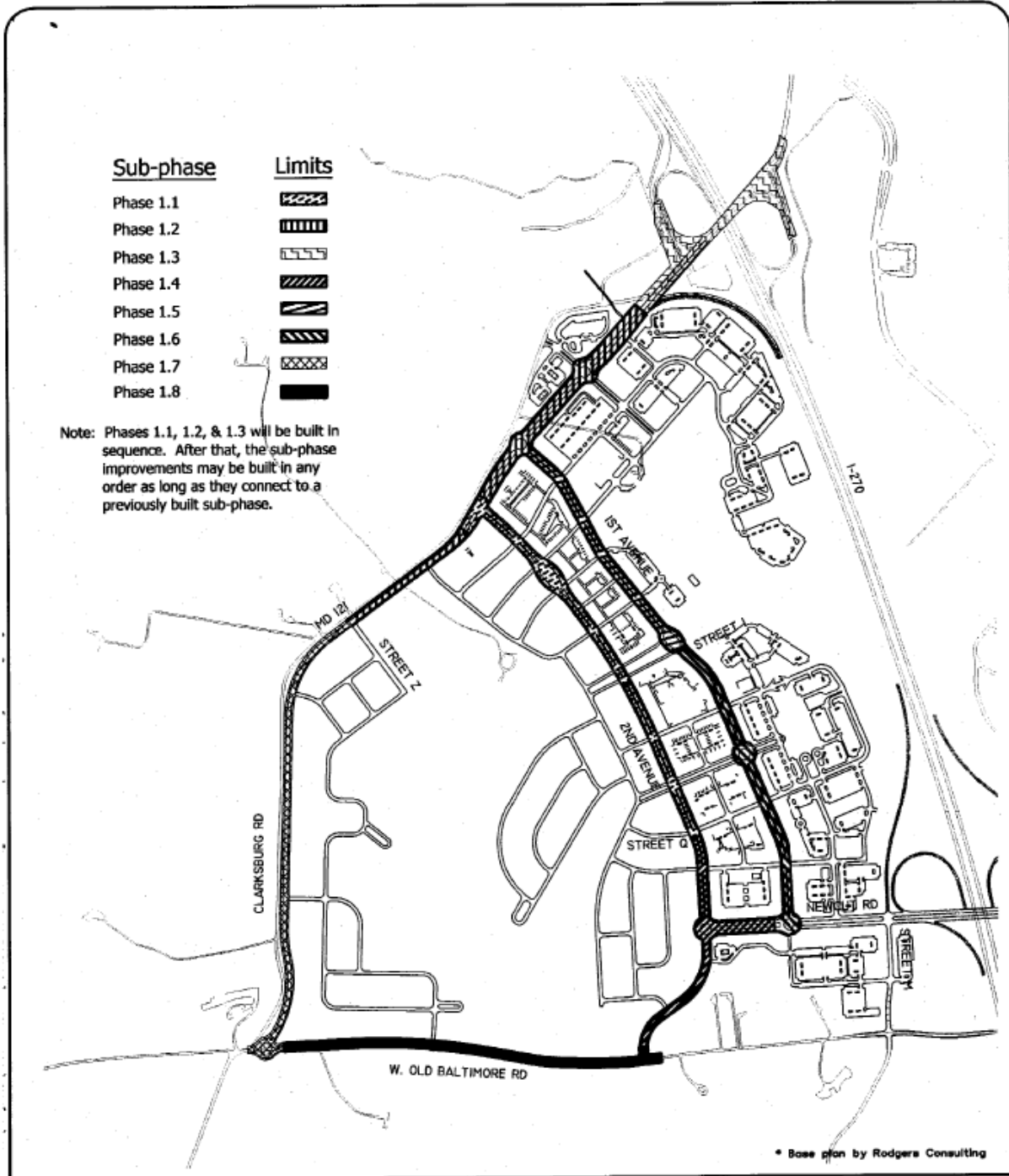


Figure 3 – Approved Preliminary Plan 12003110B

Proposal

The Applicant, Cabin Branch Management, LLC, requests a three-year extension to the Preliminary Plan as well as to the APF finding. A staged development, the plan validity for Stage I expired in May of 2019, necessitating this extension for the continuation of this project. The corresponding APF extension is needed as a subsequent requirement that Preliminary Plans must have APF validity through the duration of the Plan validity period.

Preliminary Plan 12003110B (Attachment A) set a staged validity period of 121 months for the full project, setting an original expiration date of 11/06/2018. The Preliminary Plan likewise set a corresponding APF validity period of 121 months for an expiration date of 11/06/2018. The Montgomery County Council adopted legislation granting four separate 2-year extensions, for a total of eight years, of all preliminary plans and findings of APF valid as of March 31, 2009. This legislation extended the full validity of the Preliminary Plan to November 6, 2026. The current staged validity schedule as revised by the automatic legislative extensions is detailed below in Table 3:

Table 3: Approved Staged Development Validity Period

Stage	Approved Development	Original Plan Validity Expiration	Council Modified Validity Expiration
Stage I	420 dwelling units 125 senior housing units 380,000 square feet commercial	05/6/2011	05/06/2019
Stage II	404 dwelling units 250 senior housing units 380,000 square feet commercial	11/06/2013	11/06/2021
Stage III	388 dwelling units 125 senior housing units 380,000 square feet commercial	05/6/2016	05/06/2024
Stage IV	All Remaining Development	11/06/2018	11/06/2026

This extension as proposed by the Applicant will allow the continued development of the Cabin Branch site. The application for this amendment was received on 3/19/2019.

SECTION 4 – CITIZEN CORRESPONDENCE AND ISSUES

The Applicant has met all proper signage, noticing and pre-submission meeting requirements for the submitted Application. To date, Staff has not received any correspondence regarding this Application. Correspondence received after posting of the Staff Report will be forwarded to the Planning Board for discussion at the Hearing.

SECTION 5 – ANALYSIS AND FINDINGS, Sect. 50.4.2.D

The proposed Amendment does not alter the original intent and all findings of Preliminary Plan No. 12003110B remain in full force and effect, except as modified by the findings below.

Adequate Public Facilities Validity – Section 50.4.3.J

This Application is being reviewed under 50.4.3.J.7 which sets the procedures to extend the validity period for an APF finding. The Planning Board must consider the following findings:

- a. *Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.*
 - i. *The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period expires.*

The Application was filed on March 19, 2019. This is prior to the expiration date for Stage 1 of the Preliminary Plan of May 6, 2019.

- ii. *The applicant must submit a new development schedule or phasing plan for completion of the project for approval.*

This application modifies the approved development schedule as follows (Table 4):

Table 4: Approved and Proposed Staged Validity Period

Stage	Approved Development	Current Preliminary Plan Validity Expiration	Proposed Preliminary Plan Validity Expiration*
Stage I	420 dwelling units 125 senior housing units 380,000 square feet commercial	05/6/2019	August 2022
Stage II	404 dwelling units 250 senior housing units 380,000 square feet commercial	11/06/2021	February 2025
Stage III	388 dwelling units 125 senior housing units 380,000 square feet commercial	05/6/2024	August 2027
Stage IV	All Remaining Development	11/06/2026	February 2030

*based on estimated month of Preliminary Plan initiation

- iii. *For each extension of an adequate public facilities determination:*
 - (a) *the applicant must not propose any additional development above the amount approved in the original determination;*

The Applicant does not propose any development beyond that approved in the original determination.

(b) The Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;

No additional public improvements are being required.

(c) The Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest.

A full review of the Property's transportation adequacy was conducted for the 2008 Preliminary Plan No. 12003110B (Attachment B). Site Plan 820050150 and its amendments A-G provided the infrastructure framework for the development. The Applicant has provided significant investment in public infrastructure, including the reconstruction and rerouting of MD-121 and West Old Baltimore Road west of I-270, the improvement of the MD-212/I-270 interchange which included a new overpass, and the construction of Broadway and Cabin Branch Avenues.

Additionally, a traffic study (Attachment C) was conducted for the Clarksburg Premium Outlets in 2014. The study found that major intersections would continue to operate well below the 1,425 CLV congestion threshold for the major intersections detailed in Table 5. The Subject Property is therefore found to be in line with the original expectations of the existing APF determination with no need for an additional study to be conducted at this time. An extension will not be adverse to the public interest.

Table 5: Future Congestion Projections

Intersection	Total Future AM Peak Hour CLV (1,425 Standard)	Total Future PM Peak Hour CLV (1,425 Standard)
Clarksburg Road (MD 121)/ I-270 NB off-ramp	762	1,118
Clarksburg Road (MD 121)/ I-270 SB off-ramp	610	883
Clarksburg Road (MD 121)/ Goldeneye Ave (Whelen Rd)	614	770
Clarksburg Road (MD 121)/ Cabin Branch Avenue	483	669

Source: Clarksburg Premium Outlets Local Network Transportation Analysis. Wells and Associates, Inc. April 2, 2014

(d) an application may be made to extend an adequate public facilities period for a lot within a subdivision covered by a previous adequate public facilities determination if the applicant provides sufficient evidence for the Board to determine the amount of previously approved development attributed to the lot.

Not Applicable.

b. *The Board may approve an amendment to the new development schedule approved under paragraph 7.a.ii if the applicant shows that financing has been secured for either:*

i. *completion of at least one new building in the next stage of the amended development schedule; or*

ii. *completion of infrastructure required to serve the next stage of the amended development schedule.*

The Applicant has constructed most of the major infrastructure needed to serve the remaining stages of the project, including improvements to major public highways, the construction of new internal roads and avenues, as well as the provision of water, sewer, and electric utilities.

c. *Exclusively residential subdivisions.*

This Application is not an exclusively residential subdivision. This finding and its sub-findings are not applicable.

d. *Nonresidential or mixed-use subdivisions.*

This Application is being reviewed under section e; this finding and subsequent sub-findings are not applicable.

e. *The Board may extend a determination of adequate public facilities once for up to 12 more years beyond the otherwise applicable validity period if the Board finds that:*

i. *the preliminary plan for the development required a significant commitment of funds by the applicant, amounting to at least \$3 million, as adjusted annually by the consumer price index, to comply with specified infrastructure conditions;*

The Applicant has provided significant investment in public infrastructure, including the reconstruction and rerouting of MD-121 and West Old Baltimore Road west of I-270, the improvement of the MD-212/I-270 interchange which included a new overpass, and the construction of Broadway and Cabin Branch avenues. The combined investment in these projects exceeds \$90 million (Attachment D).

ii. *the applicant has met or exceeded the required infrastructure conditions during the original validity period; and*

The Applicant has met and exceeded the required infrastructure conditions during the original validity period for the project. The Applicant has constructed most of the major infrastructure needed to serve the remaining stages of the project, including improvements to major public highways, the construction of new internal roads and avenues, as well as the provision of water, sewer, and electric utilities.

- iii. the applicant's satisfaction of the required infrastructure conditions provides a significant and necessary public benefit to the County by implementing infrastructure goals of an applicable master plan.*

The Applicant's satisfaction of the required infrastructure conditions has provided a significant, necessary public benefit, meeting the goals of the Clarksburg Master Plan. This includes the construction of Cabin Branch Avenue, reconstruction of Clarksburg Road and the Clarksburg Road MD-212/I-270 interchange.

Preliminary Plan Validity – Section 50.4.2.H

The Preliminary Plan Amendment requests a three-year (36-month) validity extension for each of the 4 stages of development for the Preliminary Plan. These 36 months are in addition to any months of validity remaining for each stage of development as approved by Preliminary Plan No. 120031100 and extended by County Council legislation. To approve a Preliminary Plan validity extension, the Board must make the following analysis and findings as part of its approval.

1. Extension Requests

- a. Only the Board is authorized to extend the validity period. The applicant must submit a request to extend the validity period of an approved preliminary plan in writing before the previously established validity period expires.*

The Applicant submitted a timely plan validity extension request to the Planning Board. The request was received on 3/19/2019 which is prior to the validity expiration for Stage I of the development on 5/6/2019.

- b. The Director may approve a request to amend the validity period phasing schedule of an approved preliminary plan if the length of the total validity period of the preliminary plan is not extended. The applicant must submit the request in writing before the previously established validity period of the phase expires.*

Not applicable.

- c. The written request must detail all reasons to support the extension request and include the anticipated date by which the plan will be validated. The applicant must certify that the requested extension is the minimum additional time required to record all plats for the preliminary plan.*

The Applicant has provided a justification statement for the requested extension to the plan validity (Attachment D). The current validity period for Stage I of the application expired on 5/6/2019. The request for 36 months of extended validity will allow the Applicant to continue the development of what is a large-scale and complex project. Due to the significant and long-lasting economic difficulties imposed by the 2007 recession, the Applicant has stated that they have been unable to proceed with the project at the originally planned speed and schedule. The resulting economic changes to the northern half of Montgomery County has

significantly reduced demand for office, retail and general commercial use, for which this application has nearly 2 million square feet of ground floor retail remaining. Additionally, demand for housing has softened in the Clarksburg region. The Applicant has stated that these structural economic issues have been the result of significant, unusual and unanticipated events beyond their control. The Applicant proposes through this application to shift each of the four stages of the development 3 years out, finalizing the buildout of the Subject Property by 11/06/2029. The additional three years is the minimum time required for this scale of development, which accounts for the need to plan and finance new construction, obtain any additional Planning Board approvals, receive permits for and construct new structures. Although the majority of the approved development remains to be built, this extension will provide the Applicant a development window comparable to that expected for similar projects of this scale.

2. Effect of failure to submit a timely extension request.

The request was received in a timely manner; therefore, the sub-sections herein do not apply.

3. Grounds for extension.

a. The Board may only grant a request to extend the validity period of a preliminary plan if the Board finds that:

- i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or*
- ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.*

The Applicant's validity extension justification (Attachment D) states that significant, unusual and unanticipated events, beyond their control and not caused by the Applicant, have impaired their ability to validate the plan, and that an undue hardship would result if the validity period is not extended. The Applicant provided justification detailing reasons for the extension as part of the submitted Application, chief among them being the significant and long-lasting effects of the 2007 recession which has reduced demand for new construction in the northern half of the county. To date, the Applicant has expended extensive resources in pursuing development on the Subject Property of over \$90 million, much of which was invested in public infrastructure that serves the greater community. Should the plan not be extended, the Applicant risks losing these major investments.

b. The applicant bears the burden of establishing the grounds in support of the requested extension.

The Applicant provided Staff with justification (Attachment D) outlining the validity extension request and the necessary justifications. As mentioned, the Applicant justified the request primarily based on the significant and long-lasting adversity of the 2007 recession and subsequent negative economic changes to northern Montgomery County which Staff finds to

qualify as a “significant, unusual and unanticipated event(s), beyond their control and not caused by the Applicant.”

4. *Planning Board considerations for extension.*

- a. *The Board may condition the grant of an extension on a requirement that the applicant revise the plan to conform with changes to the requirements of this Chapter since the plan was approved.*

Staff does not recommend the Board require the Applicant to conform to any changes that have occurred in Chapter 50 since the initial approval date.

- b. *The Board may deny the extension request if it finds that the project, as approved and conditioned, is no longer viable. The Board must consider whether the project is capable of being financed, constructed, and marketed within a reasonable time frame. The Applicant must demonstrate the project’s viability upon request by the Board or the Director.*

Staff does not recommend that additional information on the feasibility of the project be required. Staff recognizes that much of the remaining development is composed of approximately 1.86 million sq. ft. of approved office space. Following the recession, the market for office space in the I-270 corridor, and up-county in general, has been anemic. Nevertheless, there is hope that a recovery in demand for commercial space will occur in the near future.

5. *Planning Board action.*

- a. *After a duly noticed public hearing, the Board must determine whether it should grant a request for an extension. The requirements for noticing and conducting a public hearing must follow the requirements for a preliminary plan.*

The Preliminary Plan Amendment was noticed as other amendments pursuant to the requirements of Chapter 50 and the Development Manual and is scheduled for a public hearing before the Board as required.

- b. *If voting to approve an extension, the Planning Board must only grant the minimum time it deems necessary for the applicant to validate the plan.*

The Applicant has requested a 3-year extension to the Preliminary Plan and states this is the minimum necessary to complete the validation. Staff agrees with the Applicant’s request as a reasonable amount of time given the scale and complexity of this development.

- c. *The Board may only grant an extension to a preliminary plan within the plan’s APFO validity period, unless a further extension is allowed by law.*

As part of this application, the APFO validity period will be extended by an additional three years to match the Preliminary Plan validity Period.

- d. *An applicant may request, and the Board may approve, more than one extension.*

This is the first request for a plan validity extension made for the current Preliminary Plan approval.

- e. Once a phasing schedule is approved by the Board as part of a preliminary plan approval, the Board must treat any revision or alteration to the schedule other than an amendment approved under Section 4.3.J.7 as a minor amendment to the preliminary plan. Board approval of a revised phasing schedule is required to extend the total length of the validity period.*

This application is being reviewed as a minor amendment to the Preliminary Plan with a full review and hearing by the Planning Board.

SECTION 5: CONCLUSION

Preliminary Plan Amendment No. 12003110D meets all requirements established under Section 50.4.2.D, 50.4.2.H, and 50.4.3.J of the zoning ordinance. Based on this analysis, the Applicant has qualified for an extension of the APF validity period and Preliminary Plan validity period. Staff recommends approval of this Application, with the conditions as enumerated in the Staff Report.

ATTACHMENTS

Attachment A –Resolution for Preliminary Plan No. 12003110B

Attachment B – Results of 2008 Traffic Study for Preliminary Plan No. 12003110B

Attachment C– 2014 Traffic Study for Site Plan No. 820140160

Attachment D – Applicant Statement of Justification



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OCT 6 2008

MCPB No. 08-117
Preliminary Plan No. 12003110B
Cabin Branch Amendment B
Date of Hearing: April 3, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

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 July 2, 2004, Cabin Branch, LLC, ("Applicant"), filed an application to amend a previously approved preliminary plan of subdivision that was approved for 1,600 residential dwelling units, 1,538,000 square feet of commercial space and 500 dwelling units for senior housing to allow an additional 286 residential dwelling units and an additional 882,000 square feet of commercial space for a total of 1,886 residential dwelling units, 2,420,000 square feet of commercial space and 500 dwelling units for senior housing on 540 acres of land located on property generally bordered by MD Route 121 to the west and north, Interstate 270 to the east and West Old Baltimore Road to the south ("Property" or "Subject Property"), in the Clarksburg Planning Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 12003110B, Cabin Branch Amendment B ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum ("Staff Report"), to the Planning Board, dated March 21, 2008, setting forth its analysis, and recommendation for approval of the Application, subject to certain conditions; and

DBL 9/19/08
Approved for legal sufficiency
M-NCPPC Office of General Counsel

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on April 3, 2008, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, the Planning Board held a public hearing ("Hearing") on the Application; and

WHEREAS, 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 approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 3-0, Commissioners Bryant, Hanson, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan Amendment No. 12003110B, to allow 286 additional residential dwelling units and 886,000 square feet of additional commercial space on the Property, subject to the following conditions which supersede, in their entirety, any and all previously approved conditions of approval:

- 1) Applicant is bound by all binding elements for Local Map Amendment G-806.
- 2) Total development under this Application is limited to the following uses and density:
 - 1,886 residential dwelling units
 - 2,420,000 square feet of commercial space
 - 500 dwelling units of senior housing

- 3) The Applicant shall satisfy the following transportation improvements:

To satisfy Policy Area Transportation Review for the approved development under the original approval, the Applicant must:

- a. Construct, in accordance with the staging sequence referenced below, Newcut Road as a four-lane divided arterial roadway between West Old Baltimore Road and the eastern business district roadway parallel to I-270.
- b. Upgrade, in accordance with the staging sequence referenced below, West Old Baltimore Road to a two-lane arterial roadway standard between Broadway Avenue and Clarksburg Road (MD 121), as outlined in the Department of Public Works and Transportation's (now, Department of Transportation or "DOT") March 10, 2008, letter to M-NCPPC.

- c. Construct, in accordance with the staging sequence referenced below, two parallel, two-lane business district roadways between Newcut Road and MD 121 in lieu of a four-lane divided arterial roadway.
- d. Upgrade, in accordance with the staging sequence referenced below, MD 121 to an arterial roadway standard between West Old Baltimore Road and I-270 and upgrade the interchange ramps of MD 121 and I-270 that provides for six-lanes of traffic (both ways) on the MD 121 bridge over I-270.

To satisfy Local Area Transportation Review (LATR) for the total build out of development, the Applicant must also provide the following improvements:

- e. Construct, in accordance with the staging sequence referenced below, the following improvement at the MD 121/I-270 northbound on/off ramp:
 - Add a northbound left-turn lane to provide for dual left turn lanes.
 - Add a separate westbound left-turn lane.
 - Signalize the intersection.
 - Widen the Clarksburg Road bridge (MD 121) over I-270 to accommodate one additional through lane in each direction and a media island subject to SHA's requirements.
 - Add a westbound through lane on MD 121. This third westbound through lane would be dropped at the I-270 southbound loop ramp.
 - Add eastbound right-turn lane for I-270 northbound ramp.
 - Provide two lanes on the I-270 northbound ramp.
 - Provide non-automobile transportation amenities which include 2 LED traffic signals, 2 bus shelters, 1 super bus shelter, (defined as a larger than standard bus shelter with heating and lighting), and 3 bike lockers subject to approval by DPWT. If any of the non-auto amenities described here are not acceptable to DPWT, the Applicant must provide other improvements (at the discretion of M-NCPPC-Transportation Planning staff) equal to mitigating the same level of traffic to pass LATR.

- f. Construct, in accordance with the staging sequence referenced below, the following improvements at the MD 121/I-270 southbound on/off ramp:
 - Add a westbound through lane.
 - Signalize the intersection.
 - Add an eastbound lane to southbound on-ramp I-270.
- g. Construct, in accordance with the staging sequence referenced below, the following improvements along the MD 121 frontage:
 - Six-lane roadway section from the I-270 southbound on/off ramp intersection to the first site entrance (Street "A"/Whelan Lane). The entrance would include a two-lane roundabout with right-turn bypass lanes to add and drop the third lane for Clarksburg Road.
 - Four-lane roadway between Street "A"/Whelan Lane and First Avenue.
 - Two-lane section from First Avenue to West Old Baltimore Road and roundabout at West Old Baltimore Road at this intersection.

The preceding roadway improvements (3a through 3g) must be constructed in accordance with the sequence described in the Cabin Branch Roadway Improvement Phasing Table and associated Diagram dated March 20, 2008 (see Attachment to this Resolution). Construction of all roadway improvements tied to each phase must be complete and open to traffic prior to the issuance of any building permit for the next phase of development.

- h. Construct the following improvements at the MD 121/Gateway Center Drive intersection:
 - Reconfigure the existing intersection to provide two lanes for through movement to, and from, the east.

This improvement must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

- i. Construct the following improvements at the Stringtown Road Extended/ Gateway Center Drive intersection:

- Widen eastbound Stringtown Road Extended to provide dual left-turn lanes.
- Convert a southbound Gateway Center Drive through/right lane in to a through lane and construct a free right turn lane with a channelized median.

These improvements must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

- j. Construct or participate on a pro rata share in the following improvements at the MD 121/Frederick Road (MD 355) intersection:

- Re-stripe northbound MD 355 to convert from a through-right and a right-turn lane to a through-left and a right-turn lane.
- Modify the traffic signal to meet the requirements of SHA traffic operation with new lane configuration.

These improvements must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

- k. Construct or participate on a pro rata share in the following improvements at the MD 355/West Old Baltimore Road intersection:

- Widen eastbound approach of West Old Baltimore Road to provide for a separate right-turn lane
- Widen the northbound approach of MD 355 to provide for a separate left-turn lane and a three-lane section on MD 355 between West Old Baltimore Road and Brink Road.
- Widen southbound approach of MD 355 to provide separate right-turn lane at West Old Baltimore Road.

These improvements must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

- I. Construct or participate on a pro rata share in the following improvement to MD 355 at Brink Road.

- Widen MD 355 south of Brink Road to a four-lane divided section to join the existing four-lane section at Willstone Manor Lane.

This improvement shall be complete and open to traffic before the issuance of 1400th residential building permit and for more than 570,000 square feet of commercial space.

- m. Prior to the issuance of 1,256 residential building permits (not including the 500 units of senior housing), widen the MD 121 northbound off-ramp to 2 lanes. Should the construction of a grade separated interchange at Newcut Road/I-270 be funded in the Maryland Consolidated Transportation Program by the time that the Applicant has obtained bids for the widening of the northbound off-ramp, the Applicant shall then transfer to SHA a sum equal to the actual bid cost of construction for the northbound off-ramp improvement for use in construction of the Newcut Road/I-270 interchange and such contribution shall be considered as having met the Applicant's obligation for such improvement.
 - n. If any of the road improvements identified in the above paragraphs either are now, or become obligations of other projects, applicants of other projects may participate in the joint funding of such improvements. The basis of participation on a pro rata share is the sum of total peak hour trips generated by the subject development over the sum of total peak hour trips generated by all developments required by the Planning Board to participate in the construction of the particular improvement.
- 4) Prior to certification of the initial site plan, the Applicant, M-NCPPC Transportation Planning staff, and DPWT staff shall consider mutually acceptable trip reduction measures. The parking ratios for non-residential uses in the Cabin Branch Community will also be determined at the time of Site Plan review considering the trip reduction goals.
 - 5) All road rights-of-way shown on the approved preliminary plan must be dedicated, by the Applicant, to the full width shown in the Adopted June 1994, Clarksburg Master Plan unless otherwise designated on the preliminary plan.

- 6) All road right-of ways shown on the approved preliminary plan must be constructed, by the Applicant, to the full width mandated by the Clarksburg Master Plan, and to the design standards imposed by all applicable road codes unless modified by DOT or the Montgomery County Department of Permitting Services ("DPS").
- 7) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan including: reforestation of the stream buffers starting in the first growing season after DPS issuance of the initial sediment control permit; and a 5-year maintenance period for all planted areas. Final forest conservation plan(s) to be approved at the time of site plan(s). The Applicant must satisfy all conditions prior to recording of plat(s) or DPS issuance of sediment and erosion control permits.
- 8) Record plat to reflect a Category I easement over all areas of forest conservation and stream valley buffers.
- 9) Record plat to reflect common ingress/egress and utility easements over all shared roadways and driveways.
- 10) Record plat to reflect to the Board of Education, dedication of an elementary school site as shown on the approved preliminary plan or as modified by Infrastructure Plan or Site Plans. Applicant to grade the site to elevations that are acceptable to MCPS and construct any retaining walls as are necessary to support the program requirements of an elementary school facility. The bounds of the school parcel shall exclude any retaining walls.
- 11) Applicant to convey to M-NCPPC, in fee simple, the agreed area of contiguous land that is located between the proposed elementary school site and proposed Fulmer Avenue (Street H), Bryne Park Drive and Stilt Street (Street J) and continuing south along the Little Seneca Tributary to West Old Baltimore Road. The northern portion of the conveyed land must include at least 10 acres of contiguous land that is suitable for active recreation uses divided only by the historic home (including circular driveway) which is to be dedicated to the HOA or other party acceptable to M-NCPPC staff. Parkland must be conveyed prior to recordation of plat for that particular land area and conveyed free of trash and unnatural debris. Park boundaries must be staked and signed to distinguish from private properties.
- 12) At the time of individual site plan review, the Applicant must work with M-NCPPC staff to finalize and clearly delineate the exact park dedication boundaries that are acceptable to Parks Department staff. Park boundaries

shall be easy to identify, manage, sign and shall be clearly distinguishable from HOA property and private property.

- 13) No retaining walls or stormwater management ponds or facilities to be located on dedicated parkland.
- 14) Within the conveyed local park acreage, Applicant to provide, at Applicant's expense, the following active recreational facilities and amenities:
 - At least one (1) adult sized soccer field,
 - one (1) multi-age playground acceptable to M-NCPPC staff,
 - an open grass play area as prescribed below
 - a picnic area with two (2) shelters,
 - eight (8) foot minimum width hard surface trails within the park to serve the various facilities, except ten (10) feet wide where needed for maintenance access,
 - one drinking fountain,
 - park signage,
 - information kiosks,
 - a portable restroom pad and enclosure as determined by staff,
 - appropriate fencing for safety purposes along any retaining wall or steep slopes (as acceptable to M-NCPPC staff),
 - park landscaping,
 - Local park parking for at least 120 cars, including at least 60 spaces on the conveyed parkland. Parallel parking spaces along the park side of the adjacent roads should be appropriately striped and marked to delineate the individual parking spaces available for park users.

Park conveyance and facility layout to be substantially as set forth on the approved Infrastructure Plan, with final details of park design, engineering, grading and layout to be determined in coordination with, and acceptable to, M-NCPPC park staff prior to individual certified site plan approval. Facilities to be constructed to park standards and specifications after procurement by Applicant of appropriate park permit. Copies of applicable standards and specifications will be provided to Applicant by time of certified site plan approval.

- 15) The open grass play area adjacent to the historic house to include some relatively flat area(s) that is suitable for informal ball-type play. The final grading plan must incorporate this flat play area and be acceptable to M-NCPPC Parks Department staff.

- 16) Applicant to construct hard surface and natural surface trails on conveyed parkland and throughout the community to connect open spaces, elementary school and parkland together in an accessible, pedestrian friendly manner. Applicant to work with M-NCPPC staff prior to certified site plan approval to establish exact locations of needed trails in order to provide recreational opportunities to the communities and businesses within the subdivision. The trails within parkland must be constructed to park standards and specifications.
- 17) Compliance with the DPS conditions of approval of the Preliminary Water Quality Plan and stormwater management concept letter dated, May 13, 2004.
- 18) Compliance with conditions of approval of DOT letter dated, May 14, 2004 and March 9, 2008 unless otherwise amended by DOT.
- 19) Access and improvement along Clarksburg Road (MD 121) and I-270 as required by the State Highway Administration ("SHA").
- 20) Clearing and grading on-site must be in accordance with the Infrastructure Site Plan; no recordation of plats prior to approval of certified site plan.
- 21) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 22) No encroachment into stream buffers for stormwater management or sediment control facilities, except for necessary outfalls and temporary sediment control facilities in unforested buffers, without prior approval by the Planning Board.
- 23) Applicant to work with M-NCPPC staff before individual site plan approvals to reduce onsite cut and fill from that shown on the preliminary plan, and minimize the height of retaining walls wherever possible.
- 24) Maintenance of common open space facilities, including retaining walls and historic structure to be addressed prior to approval of any and all subsequent site plan approvals.
- 25) A landscape and lighting plan must be submitted as part all future site plan applications for review and approval by M-NCPPC staff.
- 26) Staging sequence of development shall be revised as follows:

The Preliminary Plan will remain valid for one hundred and twenty one (121) months from the date of mailing of the Planning Board Resolution for this Planning Board action. Record plats must be recorded based on the following staging sequence:

- Stage I (expires 31 months from the date of mailing of the Planning Board Resolution): 420 dwelling units, 125 senior housing units and 380,000 square feet commercial.
- Stage II (expires 61 months from the date of mailing of the Planning Board Resolution): 404 dwelling units, 250 senior housing units and 380,000 square feet commercial.
- Stage III (expires 91 months from the date of mailing of the Planning Board Resolution): 388 dwelling units, 125 senior housing units and 380,000 square feet commercial.
- Stage IV (expires 121 months from the date of mailing of the Planning Board Resolution): All remaining development.

Prior to the expiration period, the final record plat for all remaining lots within each phase must be recorded, or a request for an extension must be filed.

- 27) The Adequate Public Facility review for the Preliminary Plan will remain valid for one hundred and twenty one (121) months from the date of mailing of the Planning Board Resolution.
- 28) TDRs must be recorded in accordance with Section 59-C-10.3.132 and 59C-10.3.133 of the Montgomery County Zoning Ordinance.
- 29) Other necessary easements must be shown on the record plats.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of Staff, 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 540-acre property is located within the Cabin Branch Neighborhood of the 1994 Clarksburg Master Plan Area. The Master Plan states that the opportunity to provide a transit-oriented residential neighborhood is one of the most important public policy objectives. In summary, the Master Plan objectives are as follows:

- Provide a mix of uses including employment.
- Encourage an employment pattern that is supportive of I-270 as a high-technology corridor.
- Create a transit-oriented land use pattern.
- Maximize access to the proposed open space system.
- Provide a suitable transition to the rural/open space character south of West Old Baltimore Road towards Boyds.
- Provide an interconnected roadway system.
- Create a strong neighborhood focal point by concentrating public and retail uses in the same general area.
- Place special emphasis on protection of the west fork of Cabin Branch because of its high water quality and tree cover.

The Cabin Branch Neighborhood is the only portion of the western side of I-270 that is proposed for significant residential development. Most of the development in the Cabin Branch Neighborhood is recommended to occur on the Subject Property. The Master Plan states the recommended mix of uses for this neighborhood as follows:

Residential	1,950 dwelling units plus MPDU units
Employment	2.4 million square feet
Public Uses	Places of worship, childcare, community building, elementary school, and park

This Application envisions a comprehensively planned, mixed-use, transit-oriented and pedestrian-friendly community consistent with the goals of the Clarksburg Master Plan. The Board notes that further refinement of the site design along MD 121 and West Old Baltimore Road should occur at time of individual site plan review to insure compatibility of the proposed project with the surrounding Ten Mile Creek and Boyds communities.

The Planning Board finds that the proposed conceptual development as shown on the Preliminary Plan drawing is in conformance with the goals and objectives of the Clarksburg Master Plan.

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

The proposed lots generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application has been reviewed pursuant to the Local Area Transportation Review ("LATR") guidelines establish in the Annual Growth Policy. A complete, updated, traffic study for this amended plan was reviewed by M-NCPPC, Transportation Planning staff, DOT, and SHA. The developer(s) of the project are required to construct and/or participate in numerous local and regional projects to meet the requirements of the LATR review. The transportation projects discussed in the Staff Report and required by the conditions of approval combine to meet the LATR requirements and are staged in a controlled sequence. The transportation projects also specify certain sidewalks, bikepaths, and shared use paths that will meet the pedestrian circulation requirements for the project. The Planning Board finds that the transportation projects will satisfy the LATR requirements; both vehicular and pedestrian access and circulation requirements are met through the conditions of approval.

Other public facilities and services are available and will be adequate to serve the proposed units. Public sewer and water service are available to the Property as testified to by MCDEP staff at the Hearing. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. The Applicant is required to dedicate a school site to the Montgomery County Public Schools to address the future school needs of the Application. Other public facilities and services such as police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. All other local utilities such as, electrical and telecommunications services are also available to serve the Property.

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

Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. The lots were reviewed for compliance with the dimensional requirements for the RMX-1/TDR and MXPB zones as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Plan.

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

The Planning Board had previously approved a preliminary forest conservation plan that considered the total development of the entire site. A final forest conservation plan was approved with the Infrastructure Plan. The forest conservation plan proposes removal of 58.97 acres of forest and retention of 71.58 acres. The developers will be required to plant 58.32 acres of forest to meet the requirements of the Montgomery County Forest Conservation Law under Chapter 22A of the Montgomery County Code. Since this is an optional method of development, the developers will be required to meet all forest conservation requirements on the Subject Property as shown on the final forest conservation plan.

Under the M-NCPPC's implementation of the Special Protection Area ("SPA") regulations, the Environmental Guidelines require accelerated reforestation of stream buffers within SPAs. Approximately 243 acres of the 540-acre site are within the Clarksburg SPA. Those portions of the site that drain to Cabin Branch, a Use I-P waterway, are not in the SPA except for two pods that were included because of the potential for groundwater contamination. The Cabin Branch tributary and the tributary immediately abutting and parallel to I-270, both drain to Little Seneca Lake. Since the property includes land both in and out of the SPA and the tributaries drain to a common water body, the Planning Board required that the planting requirements be treated as if the entire site were located within the Clarksburg SPA. Therefore, the Planning Board requires that the Applicant plant the stream buffers after DPS approval of the first sediment control/grading permit and that the Applicant provide a five-year maintenance period for all planting areas credited toward the forest conservation plan.

The Planning Board finds that the Application complies with the requirement of Chapter 22A.

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 DPS that the Stormwater Management Concept Plan and SPA Water Quality Plan meet DPS's standards.*

A water quality plan is required for this development as part of the SPA regulations. Under the SPA law, DPS and the Planning Board have different responsibilities in the review of the water quality plan. DPS has reviewed and conditionally approved the elements of the final water quality plan under its purview. The Planning Board is responsible for determining if the site

imperviousness, environmental guidelines for SPAs, and forest conservation requirements have been satisfied. The Board finds that as conditioned the preliminary water quality plan meets the applicable requirements and should be approved.

6. *Other issues.*

The Planning Board heard testimony from three interested speakers at the Hearing. The first was Jim Clifford, Esq., representing the interests of the Miller family who reside on the south side of West Old Baltimore Road, and immediately adjacent to the Subject Property. Mr. Clifford spoke to the potential need for the Miller family home and property to be acquired for the future improvements to West Old Baltimore Road. He testified that the Miller family understood that their property was not needed for improvements to West Old Baltimore Road and had recently made \$80,000 in improvements to the home. More recently, the Millers learned that, due to wetland permitting issues for the nearby stream, the road will need to be expanded onto the Miller property and the house will need to be demolished. While not adamantly opposed to the development, Mr. Clifford asked on behalf of the Miller family that the Planning Board provide some assurance as to when the house and property would need to be acquired so that the Miller family could do some estate planning for the aged matriarch of the family.

The Planning Board also heard testimony from Greg Leck of DOT, who suggested that the improvements to West Old Baltimore Road were developer dependent. The developers and the Miller family would have to negotiate a purchase price for the required property. If such a settlement could not be achieved, only then would the developer be able to approach the County for a request to condemn the needed property. In response to this concern the Applicant's counsel indicated that the Applicant would be in contact with Mr. Clifford to start the negotiation process. The condemnation of the Millers home is beyond the scope of this proceeding.

The Planning Board also heard testimony from a Jim Cook, a resident on West Old Baltimore Road, who had a number of concerns with the Preliminary Plan. The first concern was with the phasing of the road improvements. Mr. Cook generally supported the phasing schedule that was tied to issuance of building permits, but expressed his belief that the improvements to West Old Baltimore Road and MD 355 were required too late in the development process. Mr. Cook was concerned that the intersection was already failing according to the LATR guidelines and that the improvement to this intersection should be accelerated in the phasing schedule since the development will add even more traffic prior to improvements to the intersection.

The Applicant's counsel argued that the Applicant's obligations under the current Plan include more stringent conditions of approval for this intersection, above those recommended in the original approval for the Application (12003110A). He pointed out that these include additional improvements to the intersection and a requirement that they be completed by issuance of the 1400th building permit which was not specified in the original condition language. In response to query by the Board, Staff concurred with the Applicant's representative that the staging for traffic improvements for this intersection and all other roadways included in the Application will satisfy the LATR requirements in a timely manner. Based on this discussion and the details of the LATR review, the Board finds that the proposed staging for traffic improvements is appropriate.

Mr. Cook was also concerned about the park trail connections from the development to the Black Hill Regional Park. He suggested that the specifics of the connections should be fully developed within the context of the Preliminary Plan, not at site plan as the conditions of approval stipulate. The Board elected to retain the language of the conditions as proposed.

Mr. Cook generally supported the condition of approval that requires developer funds to be diverted to the I-270/Newcut Road interchange should this project be included in the Capital Improvements Program in a timely manner, but worried that the funds might be diverted to the MD 121 interchange instead. Staff responded that the proposed language will ensure the funds are applied correctly and the Board elected to retain the proposed condition of approval.

Mr. Cook also expressed concern that the future Homeowners Association for Cabin Branch may be unfairly saddled with cumbersome maintenance costs for the retaining walls planned within the Cabin Branch community. Staff stated that they shared these concerns and will continue to work to reduce the heights of retaining walls as part of the individual site plan reviews. The Planning Board agreed that site plan is the appropriate time to further address this concern.

Mr. Cook finally expressed concern about the inclusion of "two-over-two" units as single family, attached units in the unit count mix for the overall development. His concern was that by defining these units as single family attached, it would allow additional multi-family units to be built. This concern was echoed by Kathy Hulley, President of the Clarksburg Civic Association. Staff, however, testified that the Zoning Ordinance allows two-over-two units to be classified as single family attached if there is appropriate usable open "yard" space for each unit, which must be the case in this instance. The Board was satisfied that application of the Zoning Ordinance standards as part of the site

plan review will prevent the unit mix of multi-family and single family attached from being skewed.

Ms. Hulley also agreed with Mr. Cook's concern about future HOA retaining wall maintenance costs and additionally expressed her own concerns about the look of the shopping center and the commercial center planned as part of the Application. It may be appropriate to address these issues as part of site plan review, but not in the context of a preliminary plan review. Ms. Hulley also took issue with the potential design of the water tower planned for the Cabin Branch community, a mandatory referral issue.

Finally, Ms. Hulley questioned the viability of the Limited Liability Corporation, Cabin Branch, LLC, the lead developer responsible for the infrastructure required for the Property, and who, if anyone, would be responsible should it fail as an entity. Her fear was that the HOA would ultimately become responsible for completion of the infrastructure.

In response to Planning Board query about this concern and the Board's ability to address it as part of a plan review, Legal staff advised that the Board's responsibility was to ensure that infrastructure be in place prior to, or commensurate with, development which the phasing schedule conditions require. The Applicant's counsel opined that while this concern may not be within the purview of the Planning Board, the Board's conditions of approval run with the land, not with individual developers. In the event of an unlikely failure of the LLC, or any of the individual developers, anyone who wished to develop on the Cabin Branch property would be subject to the same conditions of approval. The Applicant's counsel further argued that the LLC contains prominent members of the development community and are well capitalized. Based on this discussion, the Board is satisfied that while there is no guarantee of the LLC's survival, the conditions of approval of this Application will remain effective.

BE IT FURTHER RESOLVED, that the date of this Resolution is OCT - 6 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).

* * * * *

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 Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, and Cryor, present and voting in favor of the motion, and Commissioners Alfandre and Presley abstaining, at its regular meeting held on Thursday September 25, 2008, in Silver Spring, Maryland.

A handwritten signature in dark ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board

Cabin Branch On-Site Road Improvement Phasing Schedule 3/20/08

Approved Phasing 12003110A	Proposed Phasing 12003110B	Improvement(s)	Approved Development 12003110A	Proposed Development 12003110B
1.1		2nd Avenue (A-304 West) - from MD 121 to Street Q. 2-lane business district road	210 units 190,000 s.f.	
1.2		MD 121 - from Street Z to the I-270 interchange, 2-lane to 4-lane to 6-lane	210 units 125 Senior units 190,000 s.f.	
1.3		MD 121/I270 interchange and bridge improvements	210 units 125 Senior units 190,000 s.f.	
1.4	2.1	2 nd Ave (A-304 West) - Street Q to W. Old Balt. Rd., 2-lane business district road Newcut Rd. (A-302) - from 2 nd Ave to 1 st Ave, 4-lane divided road	194 units 125 Senior units 190,000 s.f.	57 units 101,250 s.f.
1.5	2.2	1 st Ave (A-304 East) - from MD 121 to Street I, 2-lane business district road	194 units 190,000 s.f.	57 units 101,250 s.f.
1.6	2.3	1 st Ave (A-304 East) - from Street I to Newcut Rd. (A- 302), 2-lane business district road	194 units 125 Senior units 190,000 s.f.	57 units 101,250 s.f.
1.7	2.4	MD 121 - from W. Old Balt. Rd. to Street Z, 2-lane arterial	194 units 190,000 s.f.	57 units 101,250 s.f.
1.8	2.5	W. Old Balt. Rd. (A-7) - MD 121 to Newcut Rd., upgrade to 2-lane arterial	194 units 208,000 s.f.	57 units 101,250 s.f.
	2.6	Non-automobile transportation amenities		58 units 101,250 s.f.

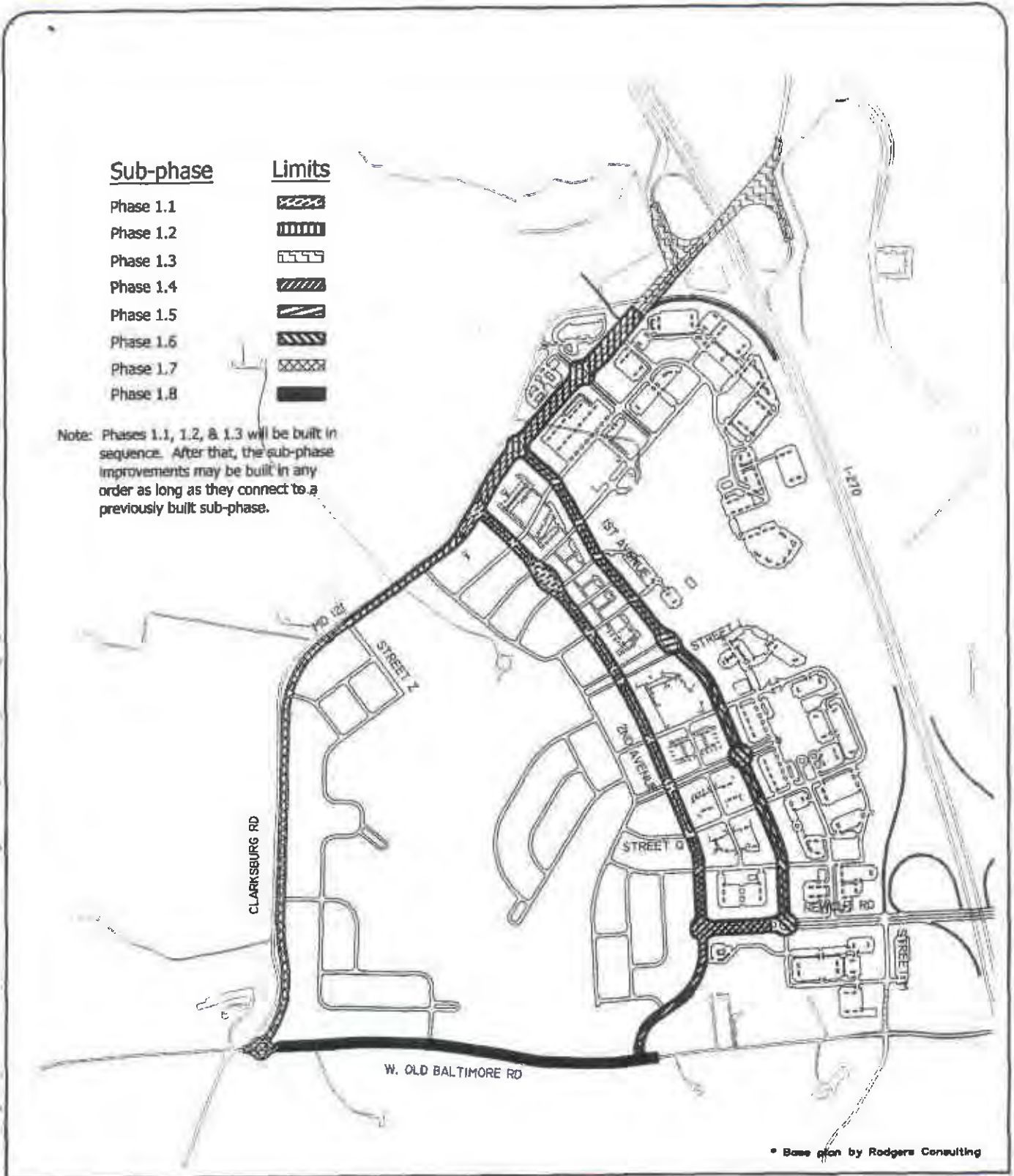


Figure 1
Phase 1 Policy Area Improvement Sub-phasing



Table I
Intersection Capacity Analysis with CLV
Under Various Development Schemes During the Peak Hour

Intersections Analyzed	Existing		Background		Amendment B**	
	AM	PM	AM	PM	AM	PM
MD 121/I-270 NB off-ramp	473	440	959	1058	1449	1437
MD 121/I-270 SB off-ramp	321	217	561	530	1327	994
MD 121/Whelan Road (Street "A")	253	278	425	411	1330	1355
MD 121/West Old Baltimore Road	208	359	466	664	586	765
MD 121/Gateway Center Drive	716	937	441	434	538	632
MD 121/MD 355	1360	1553	1367	1624	1430	1594
MD 355/Stringtown Road	1283	1334	1658	1814	1419	1658
Stringtown Road/Gateway Center Drive	N/A	N/A	987	1446	939	1170
MD 355/West Old Baltimore Road	1525	1475	2181	2340	2080	1862
MD 355/Brink Road	1526	1468	1565	2036	1077	1344

**** Roadway improvements to be provided by the applicant as a part of original approval and Amendment B are included in this total traffic condition.**

As shown in the above table, all existing intersections analyzed are currently operating at acceptable CLVs (CLV standard is 1,450) except the MD 355 intersections with West Old Baltimore Road and Brink Road during both the AM and PM peak hours and at the intersection of MD 355 and MD 121 during the PM peak hour. Under the background development (developments approved but not built) condition, MD 355 intersections with Stringtown Road, West Old Baltimore Road, Brink Road, and the MD 121 exceed the acceptable congestion standard. With all of the prescribed roadway improvements, all of the examined intersections will operate at either an acceptable condition or at a better level than the background condition. Thus, the proposed application will meet the LATR requirements.

CLARKSBURG PREMIUM OUTLETS AT CABIN BRANCH

LOCAL NETWORK TRANSPORTATION ANALYSIS

April 2, 2014



WELLS + ASSOCIATES

INTRODUCTION

This document provides a summary of the local transportation network with the Clarksburg Premium Outlets at Cabin Branch. The Cabin Branch Community is located west of the I-270/Maryland 121 (Clarksburg Road) interchange in the Clarksburg policy area of Montgomery County, Maryland.

Overall, the project includes 1,886 households and 2,420,000 square feet of commercial space. Improvement associated with the Cabin Branch Community with the Outlet Center is shown schematically on Figure 1.

BACKGROUND TRAFFIC

Existing traffic counts (March 19, 2013) and pipeline development trips as shown in Wells + Associates April 2013 Cabin Branch LATR Update were used as background traffic conditions.

TRIP GENERATION

The numbers of trips that will be generated by Cabin Branch and the Outlet Center upon completion of the Outlet Center have been estimated and are shown on Table 1.

TRAFFIC FORECASTS

The site generated traffic volumes shown in Table 1 were assigned to the local roadway network according to the directional distributions described in the LATR Update. The site generated traffic volumes were added to total background traffic volumes to yield total future traffic forecasts shown on Figure 2.

TOTAL FUTURE INTERSECTION CLV's

Total future peak hour Critical Lane Volumes (CLV) were calculated at the key intersections based on the total future lane usage and traffic controls shown on Figure 1 and the Cabin Branch Traffic Forecasts with Outlet Center shown on Figure 2. The results are presented in Attachment A and summarized in Table 2.

CONCLUSIONS

The current CLV standard in the Clarksburg planning area is 1,425 and the traffic analysis of Cabin Branch with Outlet Center indicates the study intersections will operate well below the 1,425 CLV standard. This conclusion is expected since the roadway improvements have been scaled to accommodate build-out of Cabin Branch and the traffic forecasts represent a portion of the total commercial development.

Table 1
Cabin Branch Development with Outlet Center
Development Program & Trip Generation Analysis

Land Use	Code	Size	Units	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Residential									
Single Family Detached	M-NCPPC	938	D.U.	152	455	607	506	284	790
Townhouses	M-NCPPC	581	D.U.	52	251	303	210	104	314
Multi-Family	M-NCPPC	<u>271</u>	<u>D.U.</u>	<u>22</u>	<u>89</u>	<u>111</u>	<u>84</u>	<u>44</u>	<u>128</u>
Residential Subtotal		1,790	D.U.	226	795	1,021	800	432	1,232
Internal to Retail		15%		-14	-35	-50	-51	-47	-98
Internal to Employment		15%		-4	-6	-11	-8	-6	-15
New Residential Trips				208	753	961	741	378	1,119
Service/Public Use (S/P)									
Elderly Housing	M-NCPPC	500	D.U.	14	26	40	30	25	55
New Residential and S/P Trips Total		2,290		222	779	1,001	771	403	1,174
Commercial/Employment									
Retail	M-NCPPC	9,000	S.F.	15	13	28	58	53	111
Outlet Center	ITE (823)	<u>450,000</u>	<u>S.F.</u>	<u>220</u>	<u>82</u>	<u>302</u>	<u>258</u>	<u>290</u>	<u>548</u>
Retail Subtotal		459,000		235	95	330	316	343	659
Internal to Residential		15%		-35	-14	-50	-47	-51	-98
Internal to Employment		15%		-4	-6	-11	-8	-6	-15
New Retail Trips				196	74	270	260	286	546
General Office	M-NCPPC	3,500	S.F.	5	1	6	4	21	25
Hotel	ITE (310)	<u>87,500</u>	<u>S.F.</u>	<u>38</u>	<u>26</u>	<u>64</u>	<u>37</u>	<u>35</u>	<u>72</u>
Employment Subtotal		91,000	S.F.	43	27	70	41	56	97
Internal to Residential		15%		-6	-4	-11	-6	-8	-15
Internal to Retail		15%		-6	-4	-11	-6	-8	-15
New Employment Trips				30	19	49	29	39	68
New Commercial/Employment Trips		550,000	S.F.	226	93	319	289	325	614
Total Cabin Branch External Trips				448	873	1,320	1,060	729	1,788
Approved Cabin Branch Trips November 2004				2,451	1,220	3,671	1,386	2,577	3,963
Comparison - CB w/Outlet vs. Approved				-2,004	-348	-2,351	-327	-1,849	-2,175



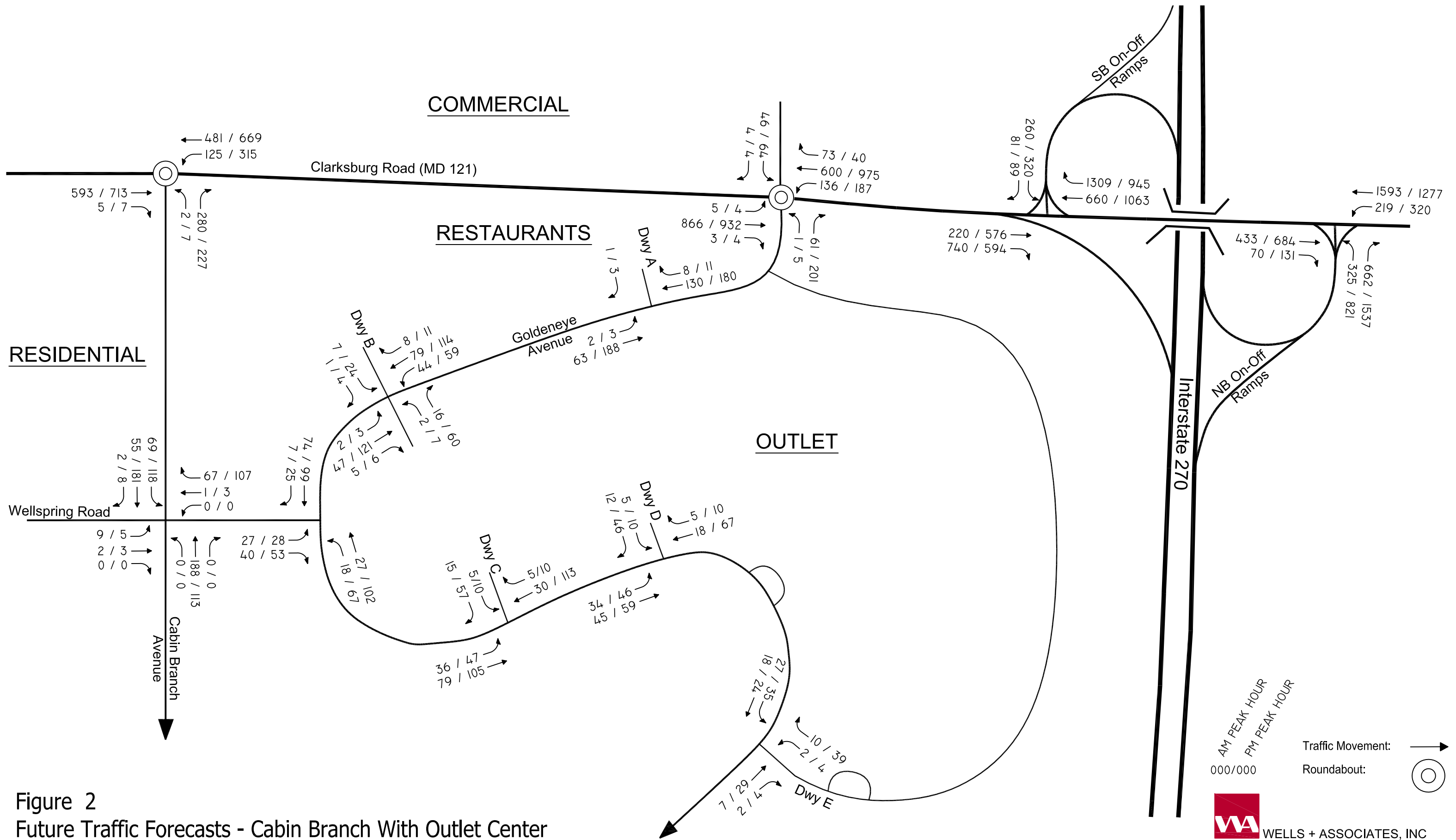

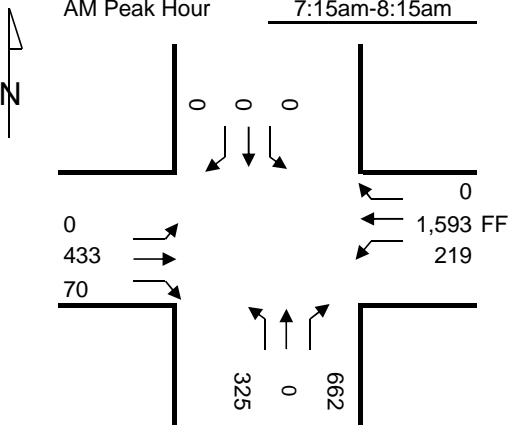
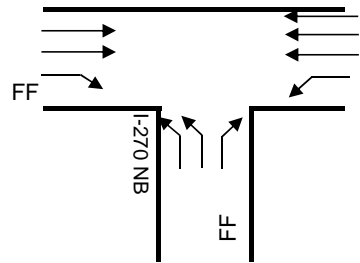
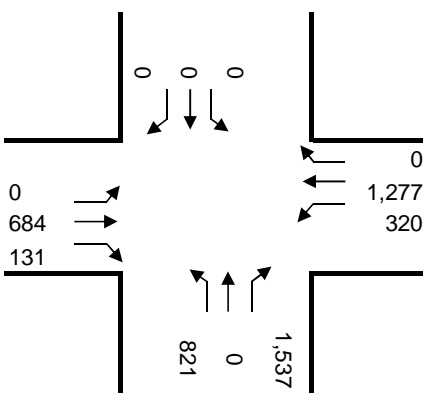



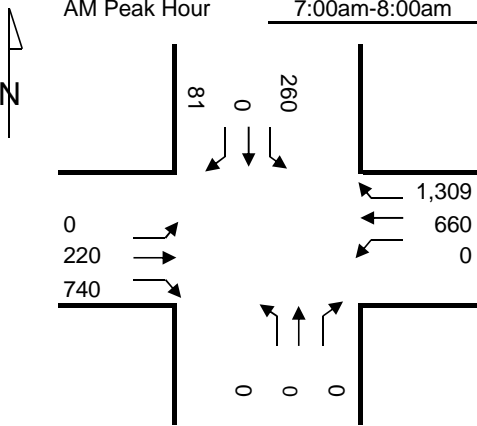
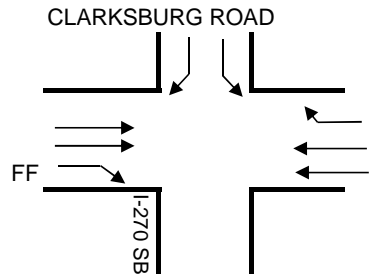
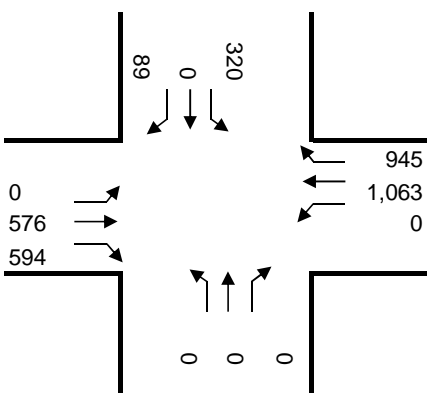
Figure 2
Future Traffic Forecasts - Cabin Branch With Outlet Center


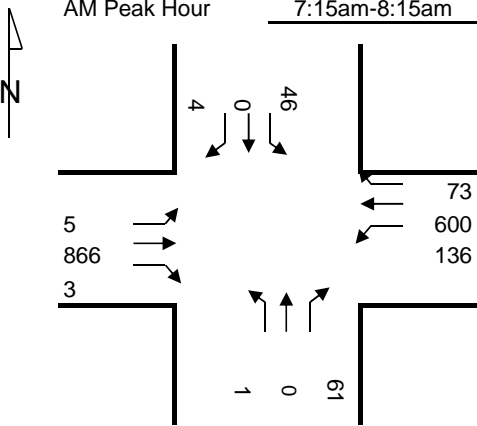
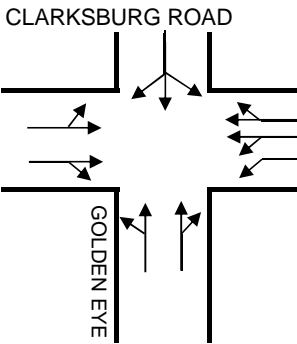
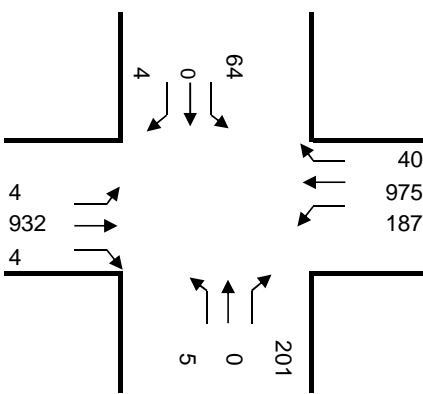
Table 2**Cabin Branch Development with Outlet Center
Intersection Critical Lane Volume Summary**

INTERSECTION	Time Period	Total Future w/ Outlet Center
		CLV STD 1,425
Clarksburg Road (MD 121)/ I-270 NB off-ramp	AM Peak	762
	PM Peak	1,118
Clarksburg Road (MD 121)/ I-270 SB off-ramp	AM Peak	610
	PM Peak	883
Clarksburg Road (MD 121)/ Goldeneye Ave (Whelen Rd)	AM Peak	614
	PM Peak	770
Clarksburg Road (MD 121)/ Cabin Branch Avenue	AM Peak	483
	PM Peak	669

Attachment A - CLV Worksheets

Critical Lane Volume Level of Service Calculations	Intersection: <u>Clarksburg Road</u> At: <u>I-270 NB off-ramp</u> County/State: <u>Montgomery Co, MD</u> Scenario/Design Year: <u>Outlet Center</u> Computed by: <u>JW</u>	<div style="text-align: center;">  WELLS + ASSOCIATES </div> <div style="font-size: small;"> TRANSPORTATION, TRAFFIC, AND PARKING CONSULTANTS 5 Wirt Street SW, Leesburg, Virginia 20175 Phone: (703)443-1442 Facsimile: (703)443-1225 </div> Run Date: <u>9/4/2014</u>																																																	
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p>AM Peak Hour <u>7:15am-8:15am</u></p>  </div> <div style="width: 30%; text-align: center;"> <p>Lane Configuration</p>  <p>CLARKSBURG ROAD</p> </div> <div style="width: 30%;"> <p>PM Peak Hour <u>5:00pm-6:00pm</u></p>  </div> </div>																																																			
Intersection Control: Signal <u> x </u> Stop <u> </u> Ways <u> </u>			<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <tr> <th>Number of Lanes</th> <th>Lane Use Factor</th> <th>Level of Service</th> <th>Critical Lane Volume</th> </tr> <tr> <td>1</td> <td>1.00</td> <td></td> <td></td> </tr> <tr> <td>2</td> <td>0.53</td> <td></td> <td></td> </tr> <tr> <td>3</td> <td>0.37</td> <td></td> <td></td> </tr> <tr> <td>4</td> <td>0.30</td> <td></td> <td></td> </tr> <tr> <td>2 left</td> <td>0.53</td> <td></td> <td></td> </tr> </table>	Number of Lanes	Lane Use Factor	Level of Service	Critical Lane Volume	1	1.00			2	0.53			3	0.37			4	0.30			2 left	0.53																										
Number of Lanes	Lane Use Factor	Level of Service	Critical Lane Volume																																																
1	1.00																																																		
2	0.53																																																		
3	0.37																																																		
4	0.30																																																		
2 left	0.53																																																		
RTOR/Overlap (AM): NB <u> </u> SB <u> </u> EB <u> </u> WB <u> </u>			<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <tr> <th>Phase</th> <th>Movement</th> <th>Volume</th> <th>Lane Use Factor</th> <th>Lane Volume</th> <th>Opposing Lefts</th> <th>Critical Lane Volume</th> <th>*</th> </tr> <tr> <td>EB</td> <td>T</td> <td>433</td> <td>0.53</td> <td>229</td> <td>219</td> <td>448</td> <td></td> </tr> <tr> <td>WB</td> <td>T</td> <td>1593</td> <td>0.37</td> <td>589</td> <td>0</td> <td>589</td> <td>*</td> </tr> <tr> <td>NB</td> <td>L</td> <td>325</td> <td>0.53</td> <td>172</td> <td>0</td> <td>172</td> <td>*</td> </tr> <tr> <td>SB</td> <td>none</td> <td>0</td> <td>1.00</td> <td>0</td> <td>0</td> <td>0</td> <td></td> </tr> <tr> <td colspan="6" style="text-align: right;">SUM:</td> <td>762</td> <td></td> </tr> </table>	Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*	EB	T	433	0.53	229	219	448		WB	T	1593	0.37	589	0	589	*	NB	L	325	0.53	172	0	172	*	SB	none	0	1.00	0	0	0		SUM:						762	
Phase	Movement	Volume		Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*																																											
EB	T	433		0.53	229	219	448																																												
WB	T	1593	0.37	589	0	589	*																																												
NB	L	325	0.53	172	0	172	*																																												
SB	none	0	1.00	0	0	0																																													
SUM:						762																																													
RTOR/Overlap (PM): NB <u> </u> SB <u> </u> EB <u> </u> WB <u> </u>																																																			
<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <tr> <th>Phase</th> <th>Movement</th> <th>Volume</th> <th>Lane Use Factor</th> <th>Lane Volume</th> <th>Opposing Lefts</th> <th>Critical Lane Volume</th> <th>*</th> </tr> <tr> <td>EB</td> <td>T</td> <td>684</td> <td>0.53</td> <td>363</td> <td>320</td> <td>683</td> <td>*</td> </tr> <tr> <td>WB</td> <td>T</td> <td>1277</td> <td>0.37</td> <td>472</td> <td>0</td> <td>472</td> <td></td> </tr> <tr> <td>NB</td> <td>L</td> <td>821</td> <td>0.53</td> <td>435</td> <td>0</td> <td>435</td> <td>*</td> </tr> <tr> <td>SB</td> <td>none</td> <td>0</td> <td>1.00</td> <td>0</td> <td>0</td> <td>0</td> <td></td> </tr> <tr> <td colspan="6" style="text-align: right;">SUM:</td> <td>1,118</td> <td></td> </tr> </table>			Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*	EB	T	684	0.53	363	320	683	*	WB	T	1277	0.37	472	0	472		NB	L	821	0.53	435	0	435	*	SB	none	0	1.00	0	0	0		SUM:						1,118		
Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*																																												
EB	T	684	0.53	363	320	683	*																																												
WB	T	1277	0.37	472	0	472																																													
NB	L	821	0.53	435	0	435	*																																												
SB	none	0	1.00	0	0	0																																													
SUM:						1,118																																													

Critical Lane Volume Level of Service Calculations	Intersection: <u>Clarksburg Road</u> At: <u>I-270 SB Ramp</u> County/State: <u>Montgomery Co, MD</u> Scenario/Design Year: <u>Outlet Center</u> Computed by: <u>JW</u>	<div style="text-align: center;">  WELLS + ASSOCIATES </div> <div style="font-size: small;"> TRANSPORTATION, TRAFFIC, AND PARKING CONSULTANTS 5 Wirt Street SW, Leesburg, Virginia 20175 Phone: (703)443-1442 Facsimile: (703)443-1225 </div> Run Date: <u>9/4/2014</u>																																																					
<div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <p>AM Peak Hour 7:00am-8:00am</p>  </div> <div style="text-align: center;"> <p>Lane Configuration</p>  </div> <div style="text-align: center;"> <p>PM Peak Hour 4:45pm-5:45pm</p>  </div> </div>																																																							
Intersection Control: Signal <u> x </u> Stop <u> </u> Ways <u> </u>			<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <tr> <th>Number of Lanes</th> <th>Lane Use Factor</th> <th>Level of Service</th> <th>Critical Lane Volume</th> </tr> <tr><td>1</td><td>1.00</td><td></td><td></td></tr> <tr><td>2</td><td>0.53</td><td></td><td></td></tr> <tr><td>3</td><td>0.37</td><td></td><td></td></tr> <tr><td>4</td><td>0.30</td><td></td><td></td></tr> <tr><td>2 left</td><td>0.53</td><td></td><td></td></tr> </table>	Number of Lanes	Lane Use Factor	Level of Service	Critical Lane Volume	1	1.00			2	0.53			3	0.37			4	0.30			2 left	0.53																														
Number of Lanes	Lane Use Factor	Level of Service	Critical Lane Volume																																																				
1	1.00																																																						
2	0.53																																																						
3	0.37																																																						
4	0.30																																																						
2 left	0.53																																																						
RTOR/Overlap (AM): NB <u> </u> SB <u> </u> EB <u> </u> WB <u> </u>																																																							
RTOR/Overlap (PM): NB <u> </u> SB <u> </u> EB <u> </u> WB <u> </u>																																																							
<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Phase</th> <th>Movement</th> <th>Volume</th> <th>Lane Use Factor</th> <th>Lane Volume</th> <th>Opposing Lefts</th> <th>Critical Lane Volume</th> <th>*</th> </tr> </thead> <tbody> <tr> <td>EB</td> <td>T</td> <td>220</td> <td>0.53</td> <td>117</td> <td>0</td> <td>117</td> <td></td> </tr> <tr> <td>WB</td> <td>T</td> <td>660</td> <td>0.53</td> <td>350</td> <td>0</td> <td>350</td> <td>*</td> </tr> <tr> <td>NB</td> <td>none</td> <td>0</td> <td>1.00</td> <td>0</td> <td>0</td> <td>0</td> <td></td> </tr> <tr> <td>SB</td> <td>L</td> <td>260</td> <td>1.00</td> <td>260</td> <td>0</td> <td>260</td> <td>*</td> </tr> <tr> <td colspan="6" style="text-align: right;">SUM:</td> <td>610</td> <td></td> </tr> </tbody> </table>								Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*	EB	T	220	0.53	117	0	117		WB	T	660	0.53	350	0	350	*	NB	none	0	1.00	0	0	0		SB	L	260	1.00	260	0	260	*	SUM:						610	
Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*																																																
EB	T	220	0.53	117	0	117																																																	
WB	T	660	0.53	350	0	350	*																																																
NB	none	0	1.00	0	0	0																																																	
SB	L	260	1.00	260	0	260	*																																																
SUM:						610																																																	
<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Phase</th> <th>Movement</th> <th>Volume</th> <th>Lane Use Factor</th> <th>Lane Volume</th> <th>Opposing Lefts</th> <th>Critical Lane Volume</th> <th>*</th> </tr> </thead> <tbody> <tr> <td>EB</td> <td>T</td> <td>576</td> <td>0.53</td> <td>305</td> <td>0</td> <td>305</td> <td></td> </tr> <tr> <td>WB</td> <td>T</td> <td>1063</td> <td>0.53</td> <td>563</td> <td>0</td> <td>563</td> <td>*</td> </tr> <tr> <td>NB</td> <td>none</td> <td>0</td> <td>1.00</td> <td>0</td> <td>0</td> <td>0</td> <td></td> </tr> <tr> <td>SB</td> <td>L</td> <td>320</td> <td>1.00</td> <td>320</td> <td>0</td> <td>320</td> <td>*</td> </tr> <tr> <td colspan="6" style="text-align: right;">SUM:</td> <td>883</td> <td></td> </tr> </tbody> </table>								Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*	EB	T	576	0.53	305	0	305		WB	T	1063	0.53	563	0	563	*	NB	none	0	1.00	0	0	0		SB	L	320	1.00	320	0	320	*	SUM:						883	
Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*																																																
EB	T	576	0.53	305	0	305																																																	
WB	T	1063	0.53	563	0	563	*																																																
NB	none	0	1.00	0	0	0																																																	
SB	L	320	1.00	320	0	320	*																																																
SUM:						883																																																	

Critical Lane Volume Level of Service Calculations	Intersection: <u>Clarksburg Road</u> At: <u>Whelan Lane/Golden Eye</u> County/State: <u>Montgomery Co, MD</u> Scenario/Design Year: <u>Outlet Center</u> Computed by: <u>WC</u>	<div style="text-align: center;">  WELLS + ASSOCIATES </div> <div style="font-size: small;"> TRANSPORTATION, TRAFFIC, AND PARKING CONSULTANTS 5 Wirt Street SW, Leesburg, Virginia 20175 Phone: (703)443-1442 Facsimile: (703)443-1225 </div> Run Date: <u>9/4/2014</u>																																																																																																	
<div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <p>AM Peak Hour 7:15am-8:15am</p>  </div> <div style="text-align: center;"> <p>Lane Configuration</p>  </div> <div style="text-align: center;"> <p>PM Peak Hour 4:45pm-5:45pm</p>  </div> </div>																																																																																																			
Intersection Control: Signal _____ Stop _____ Ways _____																																																																																																			
RTOR/Overlap (AM): NB _____ SB _____ EB _____ WB _____																																																																																																			
RTOR/Overlap (PM): NB _____ SB _____ EB _____ WB _____																																																																																																			
			<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Number of Lanes</th> <th>Lane Use Factor</th> <th>Level of Service</th> <th>Critical Lane Volume</th> </tr> </thead> <tbody> <tr><td>1</td><td>1.00</td><td></td><td></td></tr> <tr><td>2</td><td>0.53</td><td></td><td></td></tr> <tr><td>3</td><td>0.37</td><td></td><td></td></tr> <tr><td>4</td><td>0.30</td><td></td><td></td></tr> <tr><td>2 left</td><td>0.53</td><td></td><td></td></tr> </tbody> </table>	Number of Lanes	Lane Use Factor	Level of Service	Critical Lane Volume	1	1.00			2	0.53			3	0.37			4	0.30			2 left	0.53																																																																										
Number of Lanes	Lane Use Factor	Level of Service	Critical Lane Volume																																																																																																
1	1.00																																																																																																		
2	0.53																																																																																																		
3	0.37																																																																																																		
4	0.30																																																																																																		
2 left	0.53																																																																																																		
<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Phase</th> <th>Movement</th> <th>Volume</th> <th>Lane Use Factor</th> <th>Lane Volume</th> <th>Opposing Lefts</th> <th>Critical Lane Volume</th> <th>*</th> </tr> </thead> <tbody> <tr><td>EB</td><td>LTR</td><td>874</td><td>0.53</td><td>463</td><td>72</td><td>535</td><td>*</td></tr> <tr><td>WB</td><td>LTR</td><td>809</td><td>0.37</td><td>299</td><td>5</td><td>304</td><td></td></tr> <tr><td>NB</td><td>LTR</td><td>62</td><td>0.53</td><td>33</td><td>46</td><td>79</td><td>*</td></tr> <tr><td>SB</td><td>LTR</td><td>50</td><td>1.00</td><td>50</td><td>1</td><td>51</td><td></td></tr> <tr> <td colspan="6" style="text-align: right;">SUM:</td> <td>614</td> <td></td> </tr> </tbody> </table>			Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*	EB	LTR	874	0.53	463	72	535	*	WB	LTR	809	0.37	299	5	304		NB	LTR	62	0.53	33	46	79	*	SB	LTR	50	1.00	50	1	51		SUM:						614		<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Phase</th> <th>Movement</th> <th>Volume</th> <th>Lane Use Factor</th> <th>Lane Volume</th> <th>Opposing Lefts</th> <th>Critical Lane Volume</th> <th>*</th> </tr> </thead> <tbody> <tr><td>EB</td><td>LTR</td><td>940</td><td>0.53</td><td>498</td><td>99</td><td>597</td><td>*</td></tr> <tr><td>WB</td><td>LTR</td><td>1202</td><td>0.37</td><td>445</td><td>4</td><td>449</td><td></td></tr> <tr><td>NB</td><td>LTR</td><td>206</td><td>0.53</td><td>109</td><td>64</td><td>173</td><td>*</td></tr> <tr><td>SB</td><td>LTR</td><td>68</td><td>1.00</td><td>68</td><td>5</td><td>73</td><td></td></tr> <tr> <td colspan="6" style="text-align: right;">SUM:</td> <td>770</td> <td></td> </tr> </tbody> </table>	Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*	EB	LTR	940	0.53	498	99	597	*	WB	LTR	1202	0.37	445	4	449		NB	LTR	206	0.53	109	64	173	*	SB	LTR	68	1.00	68	5	73		SUM:						770	
Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*																																																																																												
EB	LTR	874	0.53	463	72	535	*																																																																																												
WB	LTR	809	0.37	299	5	304																																																																																													
NB	LTR	62	0.53	33	46	79	*																																																																																												
SB	LTR	50	1.00	50	1	51																																																																																													
SUM:						614																																																																																													
Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*																																																																																												
EB	LTR	940	0.53	498	99	597	*																																																																																												
WB	LTR	1202	0.37	445	4	449																																																																																													
NB	LTR	206	0.53	109	64	173	*																																																																																												
SB	LTR	68	1.00	68	5	73																																																																																													
SUM:						770																																																																																													

Critical Lane Volume
Level of Service
Calculations

Intersection: Clarksburg Road

At: Cabin Branch Ave

County/State: Montgomery Co, MD

Scenario/Design Year: Outlet Center

Computed by: Wells



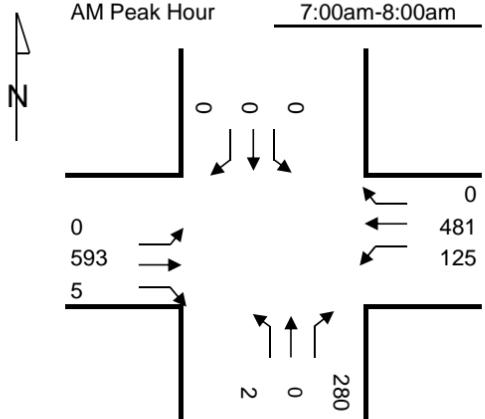
WELLS + ASSOCIATES

TRANSPORTATION, TRAFFIC, AND PARKING CONSULTANTS
5 Wirt Street SW, Leesburg, Virginia 20175
Phone: (703)443-1442 Facsimile: (703)443-1225

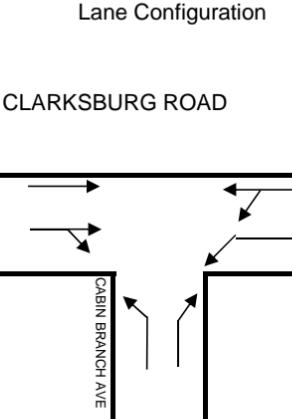
Run Date: 9/4/2014

AM Peak Hour

7:00am-8:00am

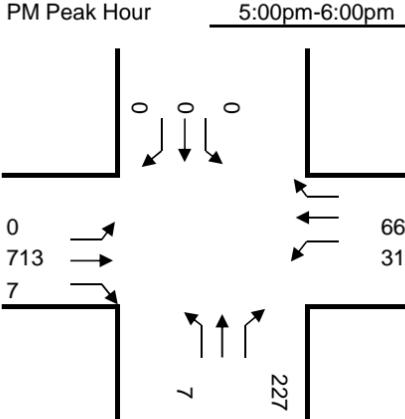


Lane Configuration



PM Peak Hour

5:00pm-6:00pm



Intersection Control:

Signal

Stop

Ways

RTOR/Overlap (AM):

NB

280

SB

EB

WB

RTOR/Overlap (PM):

NB

315

SB

EB

WB

Number of Lanes	Lane Use Factor	Level of Service	Critical Lane Volume
1	1.00		
2	0.53		
3	0.37		
4	0.30		
2 left	0.53		

Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*
EB	TR	598	0.53	317	66	383	
WB	T	481	1.00	481	0	481	*
NB	L	2	1.00	2	0	2	*
SB	none	0	1.00	0	0	0	
SUM:						483	

Phase	Movement	Volume	Lane Use Factor	Lane Volume	Opposing Lefts	Critical Lane Volume	*
EB	TR	720	0.53	382	167	549	
WB	T	669	1.00	669	0	669	*
NB	R	-88	1.00	-88	0	-88	*
SB	none	0	1.00	0	0	0	*
SUM:						669	

Robert R. Harris
Attorney
301-841-3826
rrharris@lercheearly.com

March 15, 2019

Via Electronic Mail and First Class Delivery

The Honorable Casey B. Anderson, Chairman
and Members of the Montgomery County Planning Board
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910
casey.anderson@mncppc-mc.org

Re: Cabin Branch Amendment B – Preliminary Plan No. 12003110B
Letter Justifying Request for Extension of Preliminary Plan Validity Period &
Adequate Public Facilities Determination

Dear Chairman Anderson and Members of the Board:

Cabin Branch Management, LLC (the "**Applicant**") is the developer of a large, mixed-use project in Clarksburg better known as Cabin Branch B (the "**Project**"). Pursuant to Section 50.4.2.H of the Montgomery County Subdivision Regulations (the "**Subdivision Regulations**"), the Applicant seeks a three-year extension of the staged Preliminary Plan Validity Period. This extension would otherwise extend the Preliminary Plan Validity Period beyond the related Adequate Public Facilities Ordinance validity period (hereinafter the "**APF Approval**" or "**APF Validity Period**"), so the Applicant is also requesting a three-year extension of the APF Approval pursuant to Section 50.4.3.J.7.e.

The Project is a large, planned community that will ultimately provide 1,886 dwelling units, up to 2,420,000 square feet of commercial space, and 500 senior units on 540 acres. Given the size of the Project, the approval provided for four stages of development, broken down based on a specified number of dwelling units, senior housing units, and commercial square footage in each of the four stages. The first stage of development – specifically with respect to senior housing – is currently set to expire on May 6, 2019, with the other stages following in sequence. Unfortunately, despite the Applicant's considerable level of investment in infrastructure improvements and the like, circumstances beyond the Applicant's control have hindered its ability to develop the Project consistent with the timeframe approved with Preliminary Plan No. 12003110B (the "**Preliminary Plan**"). Accordingly, the purpose of this letter is to inform you of the Project's status, and to substantiate the merit of the requested extensions.

Site Description and Preliminary Plan Approval

The property is generally bordered by MD Route 121 to the west and north, Interstate 270 to the east, and West Old Baltimore Road to the south (the "**Property**") in the planning area covered by the *1994 Approved and Adopted Clarksburg Master Plan* (the "**Master Plan**"). The Preliminary Plan provided for phased validity periods within a 121-month timeframe, as follows¹:

- **Stage I** (expires 31 months from the date of mailing of the Planning Board Resolution): 420 dwelling units, 125 senior housing units and 380,000 square feet commercial.
- **Stage II** (expires 61 months from the date of the mailing of the Planning Board Resolution): 404 dwelling units, 250 senior housing units and 380,000 square feet commercial.
- **Stage III** (expires 91 months from the date of mailing of the Planning Board Resolution): 388 dwelling units, 125 senior housing units and 380,000 square feet commercial.
- **Stage IV** (expires 121 months from the date of mailing of the Planning Board Resolution): All remaining development.

Pursuant to the above, as well as the automatic extensions approved by the Montgomery County Council², the Applicant calculates the expiration dates of the staged Preliminary Plan Validity Period as follows³:

- **Stage I – May 6, 2019**
- **Stage II – November 6, 2021**
- **Stage III – May 6, 2024**
- **Stage IV – November 6, 2026**

Thus, the looming expiration of Stage I, and the incompleteness of the 125 senior housing units included in that stage, necessitates an extension of the Preliminary Plan Validity Period. In the interest of consistency and to maintain a reasonable time frame for construction, the Applicant is requesting a three-year extension for each of the four phases for the overall Project (*i.e.*, each

¹ See Condition No. 26 of Preliminary Plan.

² Montgomery County Ordinance 18-04, effective March 31, 2015. The ordinance automatically extended the validity period of any preliminary subdivision plan that was valid on March 31, 2009, including any multi-phase plan, for 8 years after the date when the validity period would otherwise have expired.

³ The Preliminary Plan mailing date was October 6, 2008.

stage is itself extended for three years and the stages then run consecutively). An amended schedule that reflects the requested Preliminary Plan Validity Period extension is attached hereto as **Exhibit A**.

Likewise, the Applicant requests an extension of the Project's APF Approval to synchronize it with the requested Preliminary Plan Validity Period extension. Approval of the Project was conditioned upon a 121-month validity period for the determination of adequate public facilities.⁴ While this APF Approval is not set to expire until November 6, 2026, this date would fall before the expiration dates of Stages III and IV, should the Board extend the Preliminary Plan Validity Period. In recognition of this inconsistency, the Applicant respectfully requests the Board to grant an extension of the APF Validity Period by three years (36 months) to maintain compatibility and to ensure that both validity periods are aligned. Moreover, and perhaps more significantly, the Board may only grant an extension to a preliminary plan within its APF Validity Period, unless a further extension is allowed by law.⁵ Thus, the Applicant asserts that the best course of action is to coordinate the expiration date of the APF Approval with the expiration date of Stage IV, as was originally approved.

Basis for the Extensions

The Project required a massive amount of infrastructure and site work even before construction of individual dwelling units and commercial space began. The developers constructed an entirely new trunk line sewer as well as a new water loop to serve those portions of Clarksburg west of I-270. Other major site work included installation of numerous storm water management facilities and water and sewer systems throughout the Property, the extension of electric, telephone, natural gas, and cable services, and the construction of significant roadway improvements and new roads called for in the Master Plan, including improvements to the I-270/121 interchange, construction of a new 121 overpass on I-270, complete reconstruction of Maryland Route 121 and West Old Baltimore Road west of I-270, and construction of Broadway and Cabin Branch Avenues. **To date, the combined private investment in this infrastructure exceeds \$90 million.** The Applicant anticipates another \$24 million is needed to complete all infrastructure work. In addition to these improvements, the Applicant has already constructed on-site park facilities, and is in the process of constructing others that will amount to \$2 million in cost. It has also dedicated a site for an elementary school and has graded that site for its future construction.

Once the Project site was able to accommodate the construction of dwelling units and commercial space, the Applicant immediately began with such development. Unfortunately, the great recession impacted the Project, and the County's emergence from that economic downturn took longer than desired. The State of Maryland's rejection of plans for construction of a new hospital on the Property also prolonged the Project. As such, the Applicant was forced to

⁴ See Condition No. 27 of Preliminary Plan.

⁵ See Section 50.4.2.H.5.c. The Applicant does not concede that an extension beyond the expiration date of the Project's APF Approval would be disallowed. Nevertheless, given the policy implications of Section 50.4.2.H, the Applicant believes an extension of the current APF Validity Period is the appropriate course of action.

reconsider other commercial uses in lieu of a hospital and medical offices. We are pleased to inform you, however, that approximately 900 dwelling units have already been completed (or are under construction). The Clarksburg Premium Outlet center is complete and has become a major asset for the County. Overall development is proceeding more rapidly at this time, but the Project will not achieve the timetables envisioned when it was initially approved.

A. Preliminary Plan Validity Period Extension

The Board may grant a request to extend the validity period of a preliminary plan pursuant to Section 50.4.2.H of the Subdivision Regulations if the Board finds that:

- i. *Delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or*
- ii. *The occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.*

The delays in validating the Preliminary Plan (the "**Plan**") have not been caused by the Applicant. Rather, the Applicant has experienced significant, unusual, and unanticipated events beyond its control, which have substantially impaired its ability to validate the Plan. Shortly after the Project was approved, the Great Recession halted not only the Applicant's Project, but the majority of development in the County. Moreover, the State's rejection of plans for construction of a new hospital on the Property contributed to significant delays. These are circumstances that cannot be attributed to the Applicant, and an exceptional hardship will result if the Plan Validity Period is not extended. The combination of a collapsed economy, coupled with the tremendous amount of work and expense needed for infrastructure improvements and to prepare the site for development, make this extension request a worthy and credible ask.

As discussed above, the Applicant has undertaken substantial efforts to implement the conditions of the Plan. To underscore this point, we are attaching **Exhibit B**, which details: (1) the cost of all completed road improvements, or those in progress; (2) costs related to public water and sewer installations; (3) the cost of the public park improvements; and (4) the total private infrastructure costs for the project to date. The Applicant's unwavering commitment to the Project cannot be understated. For these reasons, the Plan Validity Period should be extended as requested to avoid an exceptional loss of time, capital, and effort.

B. Adequate Public Facilities Approval Extension

The Planning Board has the authority to extend the validity period for a determination of adequate public facilities ("**APF**"). To approve of an extension of the APF Validity Period, the

Applicant must not propose any additional development above the amount approved in the original determination. Accordingly, the Applicant is not proposing any new development above that approved by the Preliminary Plan. The Subdivision Regulations set forth the criteria for the granting of an extension. The Applicant qualifies for the granting of an extension under Section 50.4.3.J.7.e, as illustrated below.

Section 50.4.3.J.7.e of the Subdivision Regulations states that the Board may extend a determination of adequate public facilities once for up to 12 more years beyond the otherwise applicable validity period if the Board finds that:

- i. *The preliminary plan for the development required a significant commitment of funds by the applicant, amounting to at least \$3 million as adjusted annually by the consumer price index, to comply with specified infrastructure conditions; (Satisfied – The Preliminary Plan for development required the Applicant to commit approximately \$94 million in infrastructure costs. See Exhibit B);*
- ii. *The applicant has met or exceeded the required infrastructure conditions during the original validity period (Satisfied – The Applicant has met or will meet the required infrastructure conditions during the original APF Validity Period, which is set to expire on November 6, 2026. See Exhibit B); and*
- iii. *The applicant's satisfaction of the required infrastructure conditions provides a significant and necessary public benefit to the County by implementing infrastructure goals of an applicable master plan (Satisfied – the infrastructure provided by the Applicant provides a significant and necessary public benefit to the County. Much of the infrastructure is specifically called for in the Master Plan and is necessary for the functionality of Clarksburg).*

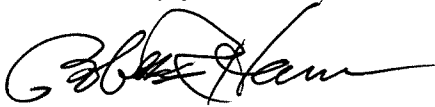
As evidenced by Exhibit B, the Preliminary Plan necessitated a commitment of approximately \$94 million in funds. In addition, the Applicant has met or exceeded the required infrastructure conditions, the satisfaction of which has led to the construction of necessary public benefits to the County, and the implementation of various infrastructure objectives delineated in the Master Plan. Section 50.4.3.J.7.e permits extending the determination of adequate public facilities for up to *twelve additional years*. Nevertheless, the Applicant is only requesting a three-year extension of the Project's APF Approval, a modest request given the relevant criteria and the Applicant's impressive infrastructure efforts to date.

As the people of Clarksburg have long maintained, we need to complete the vision for Clarksburg established in the 1994 Master Plan in order to meet public commitments and expectations. Approving the requested extensions will allow the Applicant to fully execute the Project and make this vision a reality.

On behalf of the Applicant, I want to sincerely thank the Planning Board for its consideration of these extension requests. This request satisfies the provisions of the Subdivision Regulations for extensions, and is deserving of a favorable review. Cabin Branch is truly a landmark

development in the Clarksburg Planning Area, and this extension will allow the Applicant to complete it in a reasonable period of time. For all of the reasons articulated herein, the Applicant respectfully requests the Planning Board to approve both extensions for the Project.

Cordially yours,

A handwritten signature in black ink, appearing to read "Robert R. Harris", with a stylized, cursive script.

Robert R. Harris

Attachments

Exhibit A
Development Timeline with Requested Preliminary Plan Validity Period

Stage	Extended Expiration Date	Development
I	May 6, 2022	420 dwelling units, 125 senior housing units and 380,000 square feet commercial
II	November 6, 2024	404 dwelling units, 250 senior housing units and 380,000 square feet commercial
III	May 6, 2027	388 dwelling units, 125 senior housing units and 380,000 square feet commercial
IV	November 6, 2029	All remaining development

Exhibit B
Private Investments Related to Infrastructure Improvements

1. Cost for Road Improvements: **\$47,992,124.35**

Road Improvement	Preliminary Plan No. 12003110B Condition Reference	Status
Little Seneca Parkway	3a.	Complete
West Old Baltimore Road between MD 121 and Broadway Avenue	3b.	In progress
Broadway Avenue and Cabin Branch Avenue	3c.	Complete
MD 121 upgrade	3d.	Phase 1 complete; Phase 2 in progress
MD 121 / I-270 northbound on/off ramp	3e.	Complete
MD 121 / I-270 southbound on/off ramp	3f.	Complete
MD 121 Frontage	3g.	Bullet 1 – complete Bullet 2 – complete Bullet 3 – in progress

2. Cost of Public Water & Sewer Installations: **\$17,474,071.29**

(Does not include the sewer and water installations by WHI and NVR.)

3. Cost of Public Park Improvements: **\$4,467,136.97**

(Clarkmont Park & Trails)

4. Private Infrastructure Costs to Date: **\$24,074,853.35**

- Gas and electric infrastructure - \$1,676,023.56
- Off-site right-of-ways - \$551,080.33
- Forest conservation costs - \$1,054,091.32
- Byrne Park Drive - \$1,572,999.63
- Fulmer Avenue - \$706,339.25
- Dunlin Street - \$330,997.26
- Stilt Street - \$589,764.90
- School site - \$1,385,316.07
- Recreation center and pool - \$4,645,908.37
- Site amenities - \$2,981,116.71
- Stormwater management ponds - \$8,581,235.95

(Does not include any WHI or NVR costs)