



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

MCPB No. 20-076
Site Plan No. 820200150
Village at Cabin Branch
Date of Hearing: July 30, 2020

SEP 23 2020

RESOLUTION

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

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

WHEREAS, on March 11, 2020, Classic Group, LLC ("Applicant") filed an application for approval of a site plan for 375 age-restricted units, comprised of 135 multi-family and 240 townhouses, and up to 16,000 square feet of non-residential space on 61.54 acres of MXPD zoned-land, located at the northeast quadrant of the intersection with Cabin Branch Avenue and Little Seneca Parkway ("Subject Property"), in the Clarksburg Policy Area and the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820200150, Village at Cabin Branch ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 17, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 30, 2020, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820200150 for 375 age-restricted units, comprised of 135 multi-family and 240 townhouses, and up to 16,000 square feet of non-residential space, the Subject Property, subject to the following conditions:¹

The development must comply with all binding elements of County Council Resolution No. 17-1002, approving Development Plan Amendment DPA 13-02 dated February 4, 2014, conditions of approval for Preliminary Plan No. 12003110C, and conditions of approval for Infrastructure Site Plan No. 820050150, or as amended.

Density, Height, and Housing

1. Density

The Site Plan is limited to a maximum of 375 age-restricted dwelling units, with 240 single-family attached units and 135 multi-family units, and up to 16,000 square feet of non-residential uses.

2. Building Height

- a) The maximum height of the multi-family buildings must not exceed 70 feet as measured from the building measuring point, as illustrated on the Certified Site Plan.
- b) The maximum height of the townhouse buildings must not exceed 45 feet as measured from the building measuring point, as illustrated on the Certified Site Plan.
- c) The maximum height of the non-residential buildings must not exceed 50 feet as measured from the building measuring point, as illustrated on the Certified Site Plan.

3. Moderately Priced Dwelling Units (MPDUs)

The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated May 22, 2020 and incorporates it as a condition of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

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

- a) The development must provide 12.5 percent MPDUs or MCDHCA - approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan. As permitted in Section 25A-5(l) of the County Code, the Applicant will provide an alternative payment to DHCA in lieu of providing MPDUs in the age-restricted units or arrange with DHCA for the provision of affordable senior units elsewhere in the Planning Area.

4. Cabin Branch Design Guidelines

- a) The development must comply with the Cabin Branch Design Guidelines for Site Plan Review ("Design Guidelines") dated March 2, 2018.
- b) The Applicant must submit to the M-NCPPC Staff with building permit applications for each phase of the development program, an approval from the Town Architect stating that the approved buildings within that phase are in conformance with specifications of the Design Guidelines.
- c) The Planning Board accepts the recommendations of the Cabin Branch Town Architect in its letters dated February 13, 2019 and April 24, 2019, with the revisions for the multi-family building as required under condition #10.

5. Occupancy Provisions

- a) All residential units must be Age-Restricted (restricted to persons who are fifty-five (55) years of age or older), as defined by Section 59.1.4.2. of the Zoning Ordinance.
- b) Prior to Certified Site Plan:
 - i. The Applicant must submit to Staff a covenant with the Planning Board reflecting the age restriction in a form approved by the M-NCPPC Office of General Counsel;
 - ii. The covenant must be recorded in and among the Land Records of Montgomery County prior to record plat; and
- c) The Book/Page reference must be included on the record plat.

Open Space, Facilities, and Amenities

6. Green Area, Facilities, and Amenities

- a) The Applicant must provide a minimum of 33 acres of Green Area on-site, as shown on the Certified Site Plan.
- b) Before release of the 204th building permit (the 85th percentile building permit for townhouses), the Use and Occupancy certificate must be issued for the clubhouse, fitness building, and all associated recreational facilities and open spaces must be completed.
- c) Within 6 months after completion of a given row of townhouses on a given block as identified in the record plat, the public green area and amenities adjacent to those townhouses must be completed.

- d) Within 6 months after the issuance of final Use and Occupancy certificates for the multi-family development, all public green areas and amenities on the associated block must be completed.
- e) Within 6 months after the issuance of Use and Occupancy certificates for each non-residential building, all public green areas and amenities on the associated block must be completed.
- f) Prior to the release of the 120th building permit (the 50th percentile building permit for townhouses), a natural surface trail shall be constructed to the rear (east) within the limits of the Subject Property, running parallel to I-270 that provides connections to the Cabin Branch Premium Outlets and Little Seneca Parkway. The trail must be shown on the Certified Site Plan and the final alignment shall be approved by M-NCPPC Staff.

7. Common Open Space Covenant

The record plat must reference the Common Open Space Covenant recorded at Book 28045 Page 578 (Covenant).

8. Recreation Facilities

- a) Before Certified Site Plan approval, the Applicant must meet the square footage requirements for all the applicable recreational elements and demonstrate to M-NCPPC Staff that each element meets M-NCPPC Recreation Guidelines.
- b) The Applicant must provide the minimum required recreation facilities as defined by the Recreation Guidelines and as listed on the Certified Site Plan: one woodland natural area and forested buffer, one urban plaza (entry plaza and monument), four picnic and seating areas, one courtyard, one central park (or neighborhood green), a dog run, three open grass areas (urban, small, and large), that incorporate three bird and pollinator gardens, a community garden, a bocce court, two pickleball courts, a community clubhouse (including a resident lounge), a pedestrian/connection trail system, and one fitness building.
- c) The Applicant must show on the Certified Site Plan details for the required subgrade and drainage system (if required) for all major recreational facilities, including but not limited to the woodland natural area, entry and urban plazas, picnic and seating areas, courtyards, bird and pollinator gardens, central park area, open grass areas, community gardens, bocce courts, pickleball courts, central clubhouse, pedestrian/connection trail system, resident lounge, and fitness building.

9. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the woodland natural area, entry and urban plazas, picnic and seating areas, courtyards, bird and pollinator gardens,

central park area, open grass areas, community gardens, bocce courts, pickleball courts, central clubhouse, pedestrian/connection trail system, resident lounge, and fitness building.

Site Plan

10. Site Design

- a) The Applicant must update the exterior building elevations such that the entrances facing the public street and sidewalk system appear and function as ~~provide~~ the main access to the multi-family buildings. The updated elevations must be shown on the Certified Site Plan, as approved by M-NCPPC Staff. ~~fronting the abutting public street and sidewalk system, as shown in Staff's sketch in the Staff Report. The main access must be directly connected to the central elevator lobby without doors or physical barriers.~~
- b) The access door to the trash room and utility rooms on the exterior façade of the multi-family buildings must be screened from ~~relocated away from the building façade facing the public street,~~ consistent with the Cabin Branch Design Guidelines.
- c) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations on the submitted architectural drawings, as determined by M-NCPPC Staff. The entry porticos for the multi-family buildings must be provided as shown on the updated ~~submitted~~ drawings.

11. Lighting

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

Environment

12. Forest Conservation and Tree Save

The Applicant must comply with the conditions of approval for the Amended Final Forest Conservation Plan ("FFCP"), plan number 820200150, specifically including sheets 1, 26, 27, 28, 29, 30, 31, 43, 44, and 46 of the Final Forest Conservation Plan, Plan No. 820050150, and Variance request approved as part of this Site Plan, including:

- a) Prior to plan set certification by M-NCPPC the Applicant must address all outstanding Staff comments on the FFCP and update all effected sheets of the original FFCP under Cabin Branch – Infrastructure Site Plan No. 820050150.
- b) The limits of disturbance ("LOD") shown on the Final Sediment Control Plan must be consistent with the final LOD shown on the approved amended FFCP.
- c) The Applicant must have all required site inspections performed by M-NCPPC Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- d) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

13. Water Quality

The Applicant must comply with the conditions of approval for the Final Water Quality Plan including:

- a) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its Final Water Quality Plan and Stormwater Management Concept letter dated July 13, 2020 and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Site Plan approval.
- b) Impervious surfaces are limited to no more than 43.0% of the Subject Property within the Clarksburg Special Protection Area.

14. Noise Attenuation

The Applicant must comply with the conditions of approval for noise mitigation including:

- a) The Planning Board grants a waiver under Section 2.2.2(2) of the 1983 Staff Guidelines for the Consideration of Transportation Noise ("Noise Guidelines") allowing exterior open space noise levels up to 70 dBA Ldn.
- b) Prior to the issuance of the first above grade building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that:
 - i. The installation of the noise mitigation techniques to attenuate the current noise levels to no more than 70 dBA Ldn for the exterior ground level living spaces on Lots 6-9, Lots 10-53, and Lots 54-65 in Block A, Lots 1-12 in Block B, Lots 1 and Lots 27-48 in Block C, Lots 1 and 23 in Block D, and Lot 1 in Block E are adequate.
 - ii. The building shell for residential dwelling units affected by exterior noise levels projected at or above 70 dBA Ldn, Lots 6-9, Lots 10-53, and Lots 54-65 in Block A, Lots 1-12 in Block B, Lots 1 and Lots 27-48 in Block C, Lots 1 and 23 in Block D, and Lot 1 in Block E will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- c) Before the final inspection for any residential unit on Lots 6-9 and 10-53 in Block A, Lots 54-65 in Block B, Lots 1 and 27-48 in Block C, Lots 1 and 23 in Block D, and Lot 1 in Block E, the Applicant must certify to M-NCPPC and MCDPS/Zoning and Site Plan Enforcement Staff that the noise impacted units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments.
- d) If any changes occur to the Site Plan which affect the validity of the noise analysis dated May 20, 2020, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes and new noise attenuation features may be required.
- e) For all residential unit on Lots 6-9 and 10-53 in Block A, Lots 54-65 in Block B, Lots 1 and 27-48 in Block C, Lots 1 and 23 in Block D, and Lot 1 in Block E, the Applicant must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise greater than 65 dBA Ldn. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional documents and must be included in any noise impacted sales contracts, any illustrative site plan(s) on display within any sales related offices(s); in Homeowner Association documents; with all Deeds of Conveyance of noise impacted units; and by inclusion on all certified subdivision and site plans.

Transportation and Circulation

15. Private Roads / Alleys

The Applicant must provide Private Alleys 1.1, 2, 3.1, 3.2, and 3.3, including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private

utility systems and other necessary improvements as required by the Site Plan within the delineated private road area (collectively, the "Private Road"), subject to the following conditions:

- a) The record plat must show all Private Roads / Alleys in a separate parcel. If there are structures above or below the Private Road, the record plat must clearly delineate the Private Road and include a metes and bounds description of the boundaries of the Private Road.
- b) The Private Road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq.
- c) Private Alleys 1.1, 2, 3.1, 3.2, and 3.3. are to be constructed to the standards of an alley (MC-200.01), except as modified by the Site Plan.
- d) Prior to issuance of the first above ground building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS/Zoning and Site Plan Enforcement Division, certification by a professional engineer licensed in the State of Maryland that the Private Roads / Alleys have been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.
- e) Prior to the release of the Site Plan Surety Bond, the Applicant must provide certification to M-NCPPC Staff, with copy to the MCDPS/Zoning and Site Plan Enforcement Staff, from a professional engineer licensed in the State of Maryland that all the private streets, alleys and associated sidewalks and shared use pathways have been built according to the requirements of Condition 15.d.

16. Pedestrian & Bicycle Circulation

The Applicant must provide the following pedestrian and bicycle facilities, the exact location, design and construction of which must comply with requirements set forth by the Montgomery County Department of Transportation, Division of Traffic Engineering and Operation:

- a) Prior to the release of the 50th townhouse building permit, an 8-ft wide asphalt shared-use path (SUP) is to be constructed along the east side of Cabin Branch Avenue, continuing from the exiting path to the north of Petrel St. to the south to Little Seneca Parkway. A bikeable crossing of Little Seneca Parkway shall

be built on the eastern leg of the intersection to connect the shared use path to the south east corner.

- b) Prior to the release of the 180th townhouse building permit, an 8-ft wide asphalt shared-use path (SUP) is to be constructed along the frontage with Little Seneca Parkway for the non-residential building identified on Sheet 15 of the Site Plan. This SUP shall connect to the approved path to the west of the Subject Property, as seen on Sheet 15, and continue across the southern leg of Cabin Branch Ave to connect to the segment of SUP identified in the previous condition 16.a.

17. Validity

The Adequate Public Facility Review (APF) will remain valid until February 17, 2030, consistent with the current APF validity period as approved by MCPB Approval No. 19-080 for Cabin Branch Preliminary Plan No. 12003110D, which this Site Plan is utilizing.

18. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated June 15, 2020, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.

19. Site Plan Surety and Maintenance Agreement

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

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site private lighting, indoor and outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private road construction and associated infrastructure (sidewalks, private utilities, private paths, and private bikeways onsite). The surety must be posted before issuance of any above ground building permit or Sediment and Erosion Control permit and will be tied to the development program.

- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

20. Development Program

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

- a) Prior to the release of the 168th building permit (70th percentile permit for townhouses), the Applicant must obtain a Use and Occupancy permit for the smaller non-residential building on Skimmer Street.
- b) Prior to the release of the 204th building permit (85th percentile permit for townhouses), the Applicant must obtain a Use and Occupancy permit for the larger non-residential building on Little Seneca Parkway.

21. Certified Site Plan

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

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "Minor modifications to the limits of disturbance shown on the Site Plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d) Provide the standard landscape plan notes that planting in stormwater management areas are subject to final approval by MCDPS Water Resources staff.
- e) Modify data table to reflect development standards approved by the Planning Board.
- f) Ensure consistency of all details and layout between Site and Landscape plans.
- g) Add a note to the Site Plan stating that "An on-site pre-construction meeting is required to be set up with the Department of Permitting Services (DPS), Zoning & Site Plan Enforcement Division before any building construction activity occurs on-site. The owner or his designee who has signature authority, and general contractor must attend the pre-construction meeting with the DPS Site Plan Enforcement inspector. A copy of the Certified Site Plan is required to be on-site at all times."
- h) Update the multi-family buildings to reflect revised elevations and access per Staff approval.~~and trash and utility rooms as conditioned.~~

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

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

The Site Plan is consistent with the Development Plan for the Cabin Branch Neighborhood, adopted by LMA G-806 on September 9, 2003, and as amended by Development Plan Amendment No. 13-02 ("DPA"), approved by County Council Resolution No. 17-1002 on February 4, 2014. Included on the Development Plan are a list of 11 binding elements, a series of four tables showing the acceptable range of development within the four development areas of the MXP zone, and an MXP zone yield summary for total amount of development allowed within the MXP zone portion of the Cabin Branch neighborhood. The Development Plan drawing also created an illustrative neighborhood layout and approved land uses across the neighborhood. The approved age-restricted townhouse, multi-family, and retail buildings are in areas identified on this illustrative map as appropriate for multi-family development.

Binding Elements

Of the 11 binding elements, numbers 1, 4, 6, and 8 are pertinent to the approved Site Plan. The remaining binding elements are Cabin Branch wide elements including providing off-site infrastructure, trip reduction, master planned roads, street parking and limits on office and retail uses. The pertinent binding elements are paraphrased below along with how this Site Plan adheres to them.

1. Transferable Development Rights and Moderately Priced Dwelling Units

The total Cabin Branch Neighborhood, if built to its full residential density, will require a minimum of 210 MPDUs and up to 635 TDRs, assuming a total development of 1886 units, of which 1,676 are market rate units and 210 are MPDUs which are deducted from providing TDR's.

The approved age-restricted dwelling units will be for sale units versus rental units. As such, the Applicant for this Site Plan is proposing an alternative payment to DHCA in lieu of providing the minimum 12.5%

MPDUs within the age-restricted units consistent with Section 25A-5(l). Within the overall Cabin Branch development, the cumulative total number of MPDUs is 265 and the total number of TDRs purchased is 562 out of the total 575, as per the previous site plan approval for Site Plan No. 820180060. The Site Plan is not providing any TDRs. The remaining balance of 13 TDR's corresponds to the remaining balance of units not yet approved by a site plan for the overall Cabin Branch development.

4. *Street Network*

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

A network of public streets is provided adhering to the existing character of a traditional gridded pedestrian-focused neighborhood consistent with the established 2003 DPA, the 2005 Infrastructure Plan and the Cabin Branch Community Streetscape Plan. The streets within the approved Site Plan are designated to be public except for alleyways and limited, non-connecting sections of street which are approved to be private. Most public streets would be extensions of already existing streets, except for Street A and Street B. The Site Plan area is bordered and accessed primarily along the west by the already existing Cabin Branch Avenue and to the south by Little Seneca Parkway, both 4-lane boulevards, which were constructed by others and have already been fully dedicated and constructed to public standards. Little Seneca Parkway currently terminates just west of the I-270 right-of-way. The crossing and interchange of Little Seneca Parkway and I-270 is a planned CIP project, though it has yet to receive funding.

Internally, the gridded network established in earlier plan approvals, particularly the 2005 Infrastructure Site Plan, is carried forward. Petrel street will serve as the perimeter road along the north and east for the development, running roughly in an inverted 'L' shape from Cabin Branch Ave in the north to Little Seneca Parkway in the south. Plover Street will provide additional north / south connectivity internal to the Subject Property, connecting from Petrel Street in the north to Little Seneca Parkway in the south. Along the west side of the Subject Property, Petrel Street, Skimmer Street, and Harrier Way will be extended and intersect with the extension of Plover Street. Skimmer Street will be constructed as a 2-lane boulevard and will serve as a monumental entrance to the community, terminating at Plover Street in front of the approved

clubhouse. Street A and Street B will be the only new streets within the Site Plan area that are not extensions of existing streets and will provide access to the approved townhouse units.

6. *Street Character*

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

The Site Plan is substantially conforming to the street character requirements of the binding elements. The street network will adhere to a pedestrian-friendly design. The overall layout maintains the pedestrian-focused character of the Development Plan and integrates well with the Cabin Branch community. The pedestrian-scaled street grid is extended to this Site Plan and includes continuous 5-foot wide sidewalks internal to the site along with ample internal pedestrian paths to provide additional cross connectivity for pedestrian circulation, particularly in the vicinity of the communal space around the central clubhouse. Streets have been provided with adequate greenspace within the right-of-way to accommodate street trees.

The approved townhouse, clubhouse, fitness, and non-residential buildings directly face out to their respective streets, thus creating an edge and streetscape by placing the long façade parallel to the street. The multi-family buildings also face out to the street, with the long façades placed parallel to the street, however the main lobby for the building is located and accessed from the rear façade. The rear façades for the multi-family buildings all face out to the parking areas. The main lobby, for each building, can only be accessed from the street by using one of two secondary entrances and hallways. These entrances indirectly connect with the lobby, resulting in a very diminished orientation and relationship with the streetscape. As conditioned, the Planning Board finds that the main access to the multi-family buildings, fronting the abutting public street and sidewalk system, appear and function as the main access to the buildings. ~~be directly connected to the central elevator lobby without doors or physical barriers.~~ Furthermore, the Planning Board finds that the access door to the trash room and utility rooms on the exterior façade of the multi-family buildings must be screened from ~~relocated away from the building façade facing~~ the public street. Lastly, the Planning Board finds that the exterior

architectural character, proportion, materials, articulation, and entry porticos be substantially similar to the updated schematic elevations on the submitted architectural drawings.

All the different buildings' typologies make use of massing, articulation, and design elements such as suitable landscaping and street-level entrances to activate street frontage. Parking for the different buildings is also primarily located to the side or rear of the structures, except for the front-loaded townhouses. The front-loaded townhouses provide ample driveway space to park vehicles out of designated pedestrian walkways and sidewalks, while the entrances are paired to provide adequate space for trees and plantings. Any areas where parking is visible, would be screened, landscaped, and placed behind the front building line to remove any impacts to the street character. All these design and placement approaches serve to minimize impacts to the streetscape, while also reinforcing and enhancing the overall street character.

8. *Service Public Uses:* Service/public uses may include up to 500 units for independent living for Senior Adults or persons with disabilities, assisted living, life care, or continuing care.

The Site Plan approved a cumulative total of 375 age-restricted dwelling units, with 240 townhouses and 135 units as condominiums located within five multi-family residential buildings, which falls well below the cap of 500 age-restricted units maximum allocated by the DPA. The targeted demographic for the Site Plan is envisioned to be active seniors. The difference between the DPA maximum and the approved units results in 125 units. This also complies with the MXPDP zone yield.

Development Range Tables

The Development Plan divides the MXPDP portion of Cabin Branch into four distinct areas, labeled A, B, C, and D, and includes a range of allowed densities for each land use within each area.

The Subject Property is split between area C and area D, with the age-restricted units, clubhouse, fitness building, non-residential building located in area C, and an additional non-residential building located in area D. Area C includes the MXPDP zoned area and encompasses either side of Cabin Branch Avenue from Tribute Parkway south to New Cut Road/Little Seneca Parkway. Area C's table provides a range of age-restricted dwellings between 150 and 500, retail between 0 to 30,000 square feet, and office between 0 to 1,425,000 square feet of space. The office and retail allocations have a cumulative total for non-residential space of 0

to 1,455,000 square feet of space. The Site Plan approved 375 age-restricted units and up to 4,000 square feet of non-residential space within Area C, leaving 1,451,000 square feet of non-residential space. Area D is located south of New Cut Road/Little Seneca Parkway, west of Broadway Avenue, north of West Old Baltimore Road, and bordered to the east by stream valley. Area D's table provides a range of 0 to 300,000 square feet of space for office and 0 to 10,000 square feet of space for retail. The office and retail allocation have a cumulative total of 0 to 310,000 square feet for non-residential space. At present, Area D is not supporting any office or retail. The Site Plan approved up to 12,000 square feet of non-residential space along Little Seneca Parkway, leaving 0 to 298,00 square feet of non-residential space and well within the range for Area D. The Site Plan approved a total of 375 age-restricted units and up to 16,000 square feet of non-residential space within Areas C and D. Therefore, the approved uses fall within the allowed range of densities for both Areas C and D.

The DPA and the Master Plan originally envisioned a lot more office and retail within Areas C and D. This part of the Cabin Branch development was planned to be the employment center for both Cabin Branch and Clarksburg. The Master Plan originally envisioned up to 2.4 million square feet of non-residential development for these areas. While the DPA provided some flexibility for development by allocating between 0 and 1,765,000 square feet of combined office and retail space, it was always with the presumption that there would be some substantial non-residential development within Areas C and D in the future. The current state of the office market is that there is not much being developed at this time, for example the COMSAT property has not been developed and Germantown has a large number of approved, yet unbuilt office opportunities. While this approved Site Plan includes primarily residential uses, given the current state of the office market and the amount of development occurring within the region, this Application does meet the DPA allocations for density within Areas C and D.

MXPD zone yield summary

Also included on the Development Plan is a total yield for each land use type in all of the MXPD area. A maximum of 500 units may be age-restricted within Cabin Branch, based in part on Master Plan recommendations. With this approved Site Plan, the age-restricted unit total for Cabin Branch will be 375, leaving room for up to 125 additional age-restricted units in the future.

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

The Site Plan is not subject to an urban renewal plan approved under Chapter 56.

The Subject Property is 61.54 acres in size and located in the MXPB zone, contained under Section 59-C-7.5 of the zoning ordinance. The objective and purpose of the zone is to allow implementation of comprehensively planned, multi-use centers away from central business districts or transit, and to implement Master Plan recommendations in a more flexible manner. The MXPB zone was established as part of an LMA, which found the MXPB zone to be the best way to implement the recommendations of the Clarksburg Master Plan. The approved age-restricted use was a part of the original LMA approval which dealt with many of the applicability and use requirements of Section 59-C-7.51 and 59-C-7.52 including the gross tract area for Cabin Branch, and the intensity and location of residential. The following provides a summary of the quantifiable development standards required by the MXPB zone and that are provided by this Site Plan, including the parking requirements under Section 59-E. The parking requirements are based on the requirements of the old zoning ordinance.

Zoning Data Table, MXPB Zone

<u>Development Standard</u>	<u>Required</u>	<u>DPA</u>	<u>Approved</u>
59-C-7.51			
Minimum Area	20 acres		283.5 acres ² MXPB
Gross Tract Area			61.54 acres
Net Area for Residential			20.8 acres
Net Area for Non-residential			1.18 acres
Dedication for Public Roads			8.38 acres
Private Road Parcels			1.76 acres
HOA Parcels			29.42 acres
59-C-7.53			
Maximum Permitted Residential Development (Age-Restricted)		150 - 500 units ³	375 units
SF Attached Units - Front-load (202) & Rear-load (38)		250 - 425 units ³	240 units
Multi-family Units - 5 MF Bldgs. w/ 27 units = 135 units		100 - 350 units ³	135 units
59-C-7.54			

² The Subject Property is only 61.54 acres of a comprehensively planned community totaling 283.5 acres.

³ The maximum densities noted in the DPA under the MXPB Yield Summary Chart do not reflect the sum of each maximum density within Areas A, B, C, and D. The quantities listed are provided to allow for flexibility for development within the Cabin Branch Community.

<u>Development Standard</u>	<u>Required</u>	<u>DPA</u>	<u>Approved</u>
Maximum Permitted Non-residential		0 - 30,000 SF	16,000 SF
Skimmer Street (Square Feet)			4,000 SF
Little Seneca Parkway (Square Feet)			12,000 SF
59-C-7.55			
Max. Building Height and Floors			
SFA Residential Units (Height and Floors)	50'-0" and 4 Floors		45'-0" and 2 Floors
MF Residential Units (Height and Floors)	8 Floors Max.	8 Floors Max.	70'-0" and 4 Floors
Non-residential	8 Floors Max.	8 Floors Max.	50'-0" and 2 Floors
Min. Setbacks			
SFA Residential Units			
Front Setback	TBD at Site Plan		0'-0"
Rear Setback	TBD at Site Plan		0'-0"
Side Setback (lot)	TBD at Site Plan		4'-0"
Side Setback (street)	TBD at Site Plan		4'-0"
Side Setback (alley)	TBD at Site Plan		4'-0"
MF Residential Units			
Front Setback	TBD at Site Plan		0'-0"
Rear Setback	TBD at Site Plan		0'-0"
Side Setback (lot)	TBD at Site Plan		4'-0"
Side Setback (street)	TBD at Site Plan		4'-0"
Side Setback (alley)	TBD at Site Plan		4'-0"
Non-residential Buildings			
Front Setback	TBD at Site Plan		0'-0"

<u>Development Standard</u>	<u>Required</u>	<u>DPA</u>	<u>Approved</u>
Rear Setback	TBD at Site Plan		0'-0"
Side Setback (lot)	TBD at Site Plan		4'-0"
Side Setback (street)	TBD at Site Plan		4'-0"
Side Setback (alley)	TBD at Site Plan		4'-0"
Right-of-Way Truncations	TBD at Site Plan		25'-0"
Interstate 270	200'-0"		200'-0"
59-C-7.56			
Minimum Green Area			
MXPD total	120.98 acres		161.96 acres
40% of Non-residential Area	83.10 acres		142.70 acre
50% of Residential Area	37.88 acres		19.26 acres ⁴
Provided by Site Plan	30.57 acres		33.00 acres (54%)
40% of Non-residential Area (2.09 Acres of Gross)	0.84 acres		1.00 acre
50% of Residential Area (59.45 Acres of Gross)	29.73 acres		32.00 acres
59-E-3.7 Parking			
Total Residential Units (375)	712 sp.		712 sp.
SFA Front-Load Units (202)	2.0/DU = 404 sp.		404 sp.
SFA Rear-Load Units (38)	2.0/DU = 76 sp.		76 sp.
Multifamily Units (135)	232 sp./unit type		232 sp. ⁵
1 Bedroom - 1.25 space/unit (5)	7 sp.		
2 Bedroom - 1.50 space/unit (70)	105 sp.		
3 Bedroom - 2.00 space/unit (60)	120 sp.		

⁴ Total Green Area for the MXPD zone exceeds the requirements. Excess green area is provided on non-residential site plan portions of the Property, and less green area in residential site plan areas. Major components of Green Area are the shared stream valleys and forest areas.

⁵ At the multi-family housing area, each of the 5 multi-family building provides 22 internal garage spaces (110 spaces), each of the 5 carriage garages provides an additional 5 spaces (25 spaces), 14 surface parking spaces, and 83 unit-specific parking spaces. The total number of multi-family spaces is calculated by 149 spaces plus the 83 unit-specific spaces for a cumulative total of 232 spaces.

<u>Development Standard</u>	<u>Required</u>	<u>DPA</u>	<u>Approved</u>
Non-residential on Skimmer Street 5 sp. / 1,000 SF = 5 * (4,000/1,000)	20 sp.		22 sp.
Non-residential on Little Seneca Pkwy 3 sp. / 1,000 SF = 3 * (12,000/1,000)	36 sp.		39 sp.
Bike Parking 1 sp. / 20 park sp. = 1 * (56/4)	3 sp.		4 sp.
On-Street Parking (Residential) ⁶			72 sp.
On-Street Parking (Clubhouse)			21 sp.

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

a. Buildings and Structures

The location of buildings and structures is adequate, safe, and efficient. The townhouses are positioned to provide a high level of activation along the existing and new public streets, which is a requirement of the Cabin Branch Design Guidelines and the MXPD zone. The buildings are positioned such that the long facades run parallel to the streets that they front, thus providing opportunities to frame the street, create an articulated edge to the street, and to also have most units easily accessible from grade level with access to the sidewalks. The rear-loaded townhouses are primarily located along existing Cabin Branch Avenue and create an urban edge to reinforce the existing character of Cabin Branch Avenue. The front-loaded units are more numerous and distributed through the Subject Property. The units are well articulated on the facades and the roof to provide visual interest along the interior streets, while still providing ample room to park a car outside of the public sidewalks and incorporate a green panel with street trees.

The clubhouse and fitness building are located along Skimmer Street, which is designed as the formal entrance to the development. There is a pad site for a smaller non-residential building of 4,000 SF located due west of the fitness building on Skimmer Street and Cabin Branch Avenue, providing opportunity for future non-residential development for the neighborhood. There is a larger non-residential building of 12,000 SF located at the southwest corner of Cabin Branch Avenue and Little Seneca

⁶ On-street parallel parking on public roads is subject to MCDOT and DPS-ROW review and approval at ROW permit. On-street parallel parking is not being counted towards parking requirements.

Parkway. The larger non-residential building is accessed via the roundabout at the intersection, with the building placement mostly parallel to Little Seneca Parkway. The non-residential buildings are easily reachable by existing and new sidewalk that run along Skimmer Street, Little Seneca Parkway, and Cabin Branch Avenue. The fitness building is located on the north side of Skimmer Street and is articulated with similar detail to the clubhouse. Both non-residential buildings are located within a walkable area and provides much needed neighborhood retail and non-residential space for the community. The clubhouse incorporates the same architectural character and articulation as the townhouses and is located as the eastern-most terminus of Skimmer Street. The building placements are primarily close to the street, enabling parking to be set to the side and rear of the buildings which is also a requirement of the Cabin Branch Design Guidelines.

The five multi-family buildings are located within a large cluster arrangement in between existing Plover Street, the new alignment of Petrel Street, and bounded on the south by Little Seneca Parkway. The multi-family buildings are oriented with an ~~the primary~~ entrance to the central lobby being located at the interior of the cluster, facing the parking areas, and two entrances facing ~~and not~~ the public realm of the streetscapes. The parking for the five multi-family buildings is internalized within the cluster. As conditioned, the Planning Board finds that the entrances facing the public street and sidewalk system appear and function as the main access to the multi-family buildings, such ~~be directly connected to the central elevator lobby without doors or physical barriers, so~~ that the main access to the buildings have safe, adequate and efficient access to the fronting street and sidewalk system. This will improve pedestrian access to/from the multi-family buildings and promote walkability.

The north edge of the multi-family cluster is connected to a series of winding pedestrian walkways, stormwater management areas, and the backyards of eleven townhouses that line Street A. Additionally, each multi-family building is connected to the surrounding sidewalks along Plover Street and Petrel Street by lead walkways. The walkways access two ~~secondary~~ entrances that internally connect to the central lobby and ~~diminishing the orientation to the public realm. The Planning Board finds that these two entrances~~ serve as the main access to the multi-family buildings. ~~by directly connecting with the central elevator lobby.~~ Additionally, the Planning Board finds that the access door to the trash ~~room~~ and utility rooms on ~~be relocated away from~~ the exterior building façade must be screened from ~~that faces~~ the public street to be consistent with the Cabin Branch Design Guidelines. ~~While there are a series of~~

~~screen walls, which hide some of the building infrastructure and service doors, the reconfiguration of the trash and utility rooms would remove the need to include them on the façades that face the public streetscapes.~~ Lastly, the Planning Board finds that the exterior architectural character, proportion, materials, articulation, and entry porticos be substantially similar with the schematic elevations on the updated ~~submitted~~ architectural drawings. Overall, the multi-family buildings are well articulated on the façades and the roof to provide visual interest along the streets they front.

Development of this approved Site Plan does require the use of retaining walls to create usable grade within the developable area while minimizing impacts to the adjacent forest and stream buffers. The high visibility retaining walls have an enhanced level of articulation and materiality due to their visible prominence within the Subject Property. The enhancements serve to soften the impact, while visually connecting the retaining walls to the architecture and site design. Walls are located through the Subject Property, without a concentration within any one area. The walls approach eight to ten feet in height at a few locations, however the retaining walls generally range within two to six feet in overall height. The clubhouse has a retaining wall located to the south that approaches ten feet in height, however the grading to the east and west diminishes the height to around three to four feet in height. The fitness building has a retaining wall located to the northeast of the parking lot that also approaches ten feet in height. The height at this location is limited to an area that would not be readily visible to residents or visitors within the development, as the grading to the west diminishes the height down to one foot and to east down to five feet in height. The townhouses, located off Alley 3.1, have a retaining wall located at the southeast corner that reaches ten feet in height at a limited corner area. The retaining wall is located at an area that has very low visibility and the grading diminishes the height of the wall to approximately four feet to the north and down to approximately one foot to the west. The retaining walls located along Cabin Branch Avenue and the shared-use path, near the formal entrance on Skimmer Street for the Subject Property, are broken up in a manner that provides access by stairs to the rear-loaded townhouses. Furthermore, the retaining walls are reduced in height to visibly emphasize the lead walkways leading up to the front door of each unit. Overall, these walls are not inconsistent with other walls in the Cabin Branch development and are necessary because of the terrain and adjacent environmental features.

b. Open Spaces

The location of the open spaces is adequate, safe, and efficient. The open space requirement for the MXPB zone is Green Area, and the zoning code requires 50% Green Area in residential areas and 40% Green Area in commercial areas. In the Cabin Branch neighborhood, Green Area is averaged across the entire MXPB zoned portion of the Cabin Branch Neighborhood. This Site Plan exceeds the required amount of Green Area within the Property tract, as does the greater neighborhood for the Green Area requirements. The entirety of Cabin Branch requires 120.98 acres of Green Area, and with the implementation of this Site Plan the Green Area will be approximately 161.96 acres when the neighborhood finishes developing. The primary open spaces are located throughout the Subject Property with the inclusion of the Central Park, plazas, pocket parks, seating areas, and the bird and pollinator gardens. The primary Green Area is located within the more environmentally constrained land to the east of the Subject Property and includes existing Category I Conservation Easements. There is also available open space from the setbacks between the different buildings, streets, and areas along the pedestrian walkways and sidewalks, all of which provide locations for landscaping and greenery that is consistent with the definition of Green Area. The Site Plan also provides for additional areas of private open space, which would be intended for use by the residents and their invited guests. These amenity areas are divided equally throughout the different housing units.

c. Landscaping and Lighting

The location and quantity of the approved landscaping is adequate, safe, and efficient on the Subject Property. The Site Plan is approved with landscaping to serve multiple purposes, including screening and canopy cover in-and-around streets and parking facilities, landscaping around amenity areas, and landscaping adjacent to all approved buildings. All approved buildings have extensive foundation plantings, including shrubs and ornamental grasses, helping to soften the edges of the buildings. The Site Plan includes a number of public plazas, seating areas, and pocket parks that incorporate a wide palette of plant materials that are appropriate with groundcover, shrubs, ornamental grasses, and ornamental trees to provide inviting and comfortable public open spaces, while also providing respite from public streets. Additionally, the Site Plan also includes several bird and pollinator gardens that are located adjacent to the public plazas, seating areas, and pocket parks. The inclusion of these strongly helps to promote bio-diversity and native Maryland plants within the overall Cabin Branch neighborhood. The center of the Site Plan boundary includes a Central Park space that includes community gardens. The layout and landscaping for this space is formal but accentuated with

the same diverse plant palette as the other public open spaces found throughout the approved development. Much of the approved landscaping is typical of the existing residential dwellings within the greater Cabin Branch neighborhood.

Most of the parking is reduced from view by placement at the rear of the buildings, however locations where parking would be visible is addressed by landscaping that screens and softens the visual impact. Additionally, any trash enclosures, retaining walls, and other site-related structures are also screened through planting and grading to minimize visual impacts to the streetscapes and public realm. The outdoor amenities are enclosed with extensive shrubs, evergreen and understory trees to hide the presence of parked cars. Larger canopy trees will grow to provide adequate shade during the summer months in these amenity areas. The Site Plan is providing landscaping in and around parking lot areas as required by Section 59-E-2.7 of the zoning ordinance and has provided the adequate plantings between parking and a right-of-way and will meet and exceed the minimum parking lot landscape area of 5%. The landscaping located around the perimeter of the parking will greatly add to the greenery and canopy cover.

The lighting provided with this Application is safe, adequate and efficient for ensuring good nighttime visibility within the parking lot and open space areas without negatively impacting surrounding residential dwellings. The approved lighting for the Site Plan is a combination of free-standing poles, bollards with fixtures, recessed luminaires mounted on walls and steps, and pedestrian-scale posts that provide for broad illumination for all public spaces, parking, and areas that might have security concerns. In general, the light poles are provided for all the street and parking lighting, while the bollards, luminaires, and pedestrian-scale light posts are provided for accenting and evenly lighting the public open spaces.

d. Recreation Facilities

The location and quantity of provided recreation facilities is adequate, safe, and efficient. Construction of 375 new dwelling units requires the Site Plan to meet the 2017 approved and adopted Recreation Guidelines. Consistent with the Guidelines, the Site Plan supplied recreation amenities to meet the recreation demand. To satisfy the recreation demand, the Applicant provided numerous indoor and outdoor recreation amenities. The distribution of these facilities is split between the clubhouse, fitness building, open space, and pedestrian walkways and sidewalks, providing all future residents immediate access to amenities. The Planning Board

requested the Applicant provide a natural surface trail along the rear (east side) of the Subject Property, run parallel to I-270 and providing ultimate connections to the Cabin Branch Premium Outlets and Little Seneca Parkway. All residents will have access to all amenities regardless of whether they live in a townhouse or multi-family unit. The clubhouse and central park would be the most centralized spaces for community recreation space and outdoor activities. The Applicant claimed the maximum 35% of Total Demand Points from existing offsite park facilities within the existing Cabin Branch neighborhood. The amenities being counted are a playground, picnic area, soccer field, and walking trails within Clarkmont Local Park and Cabin Branch Stream Valley Park. The approved recreation supply, both onsite and offsite, is adequate to meet the recreation demand, therefore the recreation facilities provided are adequate.

e. Vehicular and Pedestrian Circulation

Pedestrian Circulation

The location and design of the pedestrian circulation on the Subject Property is adequate, safe, and efficient. All public streets have continuous sidewalks on both sides of the street with connecting lead walkways to the townhouse and non-residential buildings, providing adequate and efficient access between the parking, amenity areas, and the building entrances within the Subject Property. The multi-family buildings front the internal parking bay and drive aisles, opposite to the public street and sidewalk system. These buildings, as approved, are connected to the sidewalk network by lead walkways. As conditioned, the walkways provide access for two separate main entrances that ~~only indirectly~~ connect internally with the central lobby. ~~The central lobby for each of the buildings faces out to the parking area, placing the primary entrance for each building at the rear and discontinuous from the public realm of streets and sidewalks.~~ The Planning Board conditioned that these buildings provide a clear front with direct, main access from ~~on~~ the public street network, which provides the most adequate and efficient access to the buildings for pedestrians and promotes walkability amongst the residents and visitors of this community.

Overall, the circulation for the Subject Property includes the existing public sidewalks along Cabin Branch Avenue and Dovekie Avenue, which provide connections to the greater Cabin Branch Neighborhood and amenities. There are additional pedestrian walkways located throughout the Subject Property that serve to link and connect the recreational amenities, open spaces, and Green Areas to residents and visitors. Four bike parking spaces have been provided near the clubhouse. Lastly, an 8'-0" wide shared-use

path will be provided along the frontage of Cabin Branch Avenue as well as the frontage with Little Seneca Parkway, which will connect with the existing shared use path on Cabin Branch Ave and provide connectivity beyond the Subject Property.

Vehicle Circulation

The location and design of vehicle circulation on the Subject Property is adequate, safe, and efficient. The Subject Property is connected to the larger Cabin Branch community by a network of public streets. As elsewhere in Cabin Branch, this network takes the form of a more traditional pedestrian-focused street grid. Access to the Subject Property is primarily from existing Cabin Branch Avenue and existing Little Seneca Parkway. Petrel Street, Skimmer Street, and Harrier Way are all approved to be extended to the east, beyond Cabin Branch Avenue, to provide direct access to the Subject Property. Additionally, Plover Street is approved to be extended to the north from Little Seneca Parkway to terminate at the extension of Plover Street. This extension would also create intersections at Skimmer Street and Harrier Way, while the intersection with Dovekie Avenue already exists. Petrel Street is also approved to continue to the east and make an approximately 90-degree bend and extend south in order to intersect with Little Seneca Parkway. The extension of Harrier Way would continue beyond Plover Street and ultimately intersect with Petrel Street, while the only additional streets that would intersect with Petrel Street would be Street A and Street B. The approved configuration for the public streets creates a safe, adequate, and efficient movement for vehicles within the Subject Property. The parking for the front-loaded townhouses is accommodated by driveways located off public streets, while the parking for the rear-loaded townhouses is located at the rear of the units and is accessed by public alleys, with additional surface parking. The parking for the multi-family buildings is accommodated by both internal and external garages located at the rear of each building, along with additional surface parking. Ultimately, as many as 93 additional on-street parallel parking spaces along Plover Street and Petrel Street, in front of dwellings could be implemented by MCDOT, DPS-ROW, and Fire and Rescue Services after Site Plan approval. The internal design of the street and block layout is also adequate for access by fire and rescue services. SWM facilities are to be incorporated outside the ROW of all streets but will be accommodated in adjacent publicly accessible and maintainable parcels.

Justification of Curbs and Gutters

The approved Site Plan has curbs and gutters along all roads and alleys shown on the Site Plan. Chapter 49.33.1 limits the use of curbs and gutters in an environmentally sensitive watershed area; the Subject Property is both within a Class IV Little Seneca Creek Watershed and the Clarksburg Special Protection Area. The Director of Permitting Services may allow installation of curb and gutter following comments from the Planning Board if:

(A) installing curbs and gutters will not significantly degrade water quality in the area;

The Applicant has obtained approval for a Preliminary Water Quality Plan, which includes curbs and gutters on the streets. The approval of the PWQP indicates that the water quality is still adequate with the curbs and gutters and will not significantly degrade water quality in the area. Additionally, the Subject Property meets all necessary stormwater management requirements.

(B) curbs and gutters are necessary for vehicular or pedestrian safety or the proper grading or maintenance of the road, or to reduce the environmental impact of the road on any park, forest, or wetland

Curbs and gutters provide vertical separation between pedestrians and vehicles, and with the addition of a tree panel and street trees, provide the necessary safety in the pedestrian realm for this project. Furthermore, the approved closed-section road allows for shortened driveway lengths to reduce imperviousness when compared to an open section road and generally supports a more compact road network that reduces impervious surface.

The Planning Board supports the use of curbs and gutters shown on the Site Plan.

LATR

Table 7 - Approved, Built, and Remaining Development

	Residential (Units)	Age- Restricted Housing (Units)	Commercial (Square Feet Ground Floor Area)
Total Approved	1,886	500	2,420,000
Built	879	0	437,000
Approved	0	375	16,000

Remaining Development	1,007	125	1,967,000
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The Subject Property is contained within the confines of the larger Cabin Branch development; Preliminary Plan 12003110D extended the APFO finding validity by 10.5 years to February 17, 2030 for all of Cabin Branch. Therefore, this Site Plan is approved under the approved and valid APFO allowance, with the approved 375 units of age-restricted housing draw from the previously approved 500 units of age-restricted housing. The Site Plan will therefore not contribute any net new trips and is exempt from additional LATR review.

Waiver of 50.4.3.E.2 - Reduction of Right-of-Way Width

This waiver request is to reduce the right-of-way width to 44 feet for two interior streets, Street 'A' and Street 'B'. Chapter 49.32.d.5 provides requirements for the construction of County roads and includes minimum ROW dimensions. Streets 'A' and 'B' are to be designated tertiary streets, for which the minimum ROW is 50 feet. These streets are designed to conform with MCDOT standard street section MC-2001.01, with the modification to add sidewalks on both sides; the unmodified standard illustrates sidewalk on only one side, despite providing the same amount of space on both sides of the road. 50.4.3.E.2.a.i provides findings required for the Board to approve a waiver of these requirements.

Street 'A' is an approximately 400-foot-long interior street that connects to Petrel and Plover public streets at both ends and will provide access to 23 townhomes. Street 'B' is an approximately 730-foot long loop that connects to Petrel Street on both ends and will serve 24 townhomes. Both streets only provide internal circulation and do not provide additional circulation beyond the Subject Property.

The Applicant, in the Waiver Request, offers that the reduction of the standard ROW will benefit the community by accommodating a more compact, and therefore more walkable, development structure in line with the DPA guidance. There is no impact to safety or long-term maintenance as the approved street sections conform to MCDOT standards, with the exception of adding sidewalks constructed to approved standards. Stormwater management, as with the remainder of the Subject Property, will be accommodated in accessible parcels outside the ROW.

Chapter 50.4.3.E.2.a.i states that "The Board may approve a narrower than standard road right-of- way if it meets minimum fire access

requirements and the Board finds that a narrower right-of-way is environmentally preferable, improves compatibility with adjoining properties, or allows better use of the tract under consideration.”

The approved 44-ft ROW for both Streets A and B have been reviewed and approved by Montgomery County Fire and Rescue Services and meet all fire access requirements. As mentioned, the more compact scale of these reduced-width ROWs supports a more compact, more walkable development pattern in support of the guidance from the DPA, which will allow a better use of the tract under consideration. Based on these findings, the Planning Board approves the waiver.

Waiver of 50.4.3.E.2.g – Horizontal Alignment

This waiver is to request a reduction of the minimum horizontal alignment for the curve in Petrel Street in the northeast corner of the Subject Property as found in Section 50.4.3.E.2.g. The Planning Board approves this waiver as per the findings detailed in this section.

Petrel street will serve as the perimeter road along the north and east for the development, running roughly in an inverted ‘L’ shape from Cabin Branch Ave in the north to Little Seneca Parkway in the south. The northeast corner is approved to be reduced from the required 150 ft. horizontal alignment for a secondary street to the 100 ft. standard for a tertiary street.

The Applicant in the Waiver Request requested that this reduction is necessary due to site topography and to support a more compact, more walkable development. The street is otherwise designed to conform to MCDOT standard street section MC-2002.02.

Horizontal alignment modification is not something the Board is granted authority under 50.4.3.E.4.c to modify, but the Board is allowed to modify any portion of Chapter 50 through a waiver in Section 50.9.3 if it makes the following findings:

1. *Due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare;*

The vision of the Cabin Branch community is to create an urban mixed-use development, with as much of a pedestrian-focused grid street pattern as possible. Due to the topography of the site, it is difficult to achieve a street layout that will simultaneously meet the requirements of the street grid of the DPA, maintain an appropriate street grade for an aging community, and limit environmental impacts to existing forest and stream valleys without sharpening the alignment of this curve. Petrel Street is otherwise designed to conform to MCDOT standard street section MC-2002.02, which is based on a minimum speed of 25 MPH which can still be accommodated on within a 100-foot minimum turning radius. The Planning Board reviewed AASHTO's *A Policy on Geometric Design of Highways and Streets* (2011) and found that a 25 MPH street can accommodate a centerline turning radii of 100 ft and that the approved curve would accommodate the recommended 150 ft. sight distance for safe stopping. The public health, safety and welfare of the public is maintained.

2. *The intent of the requirement is still met;*

The intent of the minimum centerline turning radius is still met in matching the targeted posted speed of 25 mph. Travel through this curve will still be safe.

3. *The waiver is:*

a. *The minimum necessary to provide relief from the requirements;*

Waiving the requirement of meeting the horizontal alignment standards of Chapter 50 for Street C is the minimum necessary to ensure the Application remains in compliance with Chapter 50 as well as the binding elements of the DPA. Any increase in the horizontal alignment would have a significant impact on sitewide grading, which would negatively impact the efficient use of the tract under consideration.

b. *Consistent with the purposes and objectives of the General Plan;*

Granting this waiver would remain consistent with the General Plan. This waiver does not pose a safety risk and enhances the County's vision for Clarksburg and Cabin Branch community of creating a more walkable, urban community.

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

The approved use and structures are compatible with other uses, site plans, existing, and approved development on adjacent properties. The townhouse, multi-family, clubhouse, fitness, and non-residential buildings approved on this Site Plan are all part of a larger planned Cabin Branch Neighborhood that has been the subject of an LMA and a single Preliminary Plan. North and east of the Site Plan boundary is stream valley and forest conservation. South and west of the Site Plan boundary is undeveloped land that is within the same MXPDP zone and is planned for other housing and multi-story tall employment uses. The existing buildings located across the 80-foot wide right-of-way for Cabin Branch Avenue are one-family attached and detached dwellings that are also part of the MXPDP zoned part of the Cabin Branch Neighborhood. The Subject Property will include rear-loaded townhouses oriented along Cabin Branch Avenue, providing direct compatibility with the existing rear-loaded units opposite to the west across Cabin Branch Avenue. Furthermore, the orientation and site design for the townhouses serves to reinforce Section IX. One Family Guidelines from the Cabin Branch Design Guidelines. The design of the approved townhouse, multi-family, clubhouse, fitness, and non-residential buildings with direct ground level access, foundation landscaping, building façades with fenestration and roof articulation, and street trees all help to integrate the approved development with the existing residents. The MXPDP zone has a requirement in Section 59-C-7.55 that no uses other than one-family detached dwellings may be constructed closer than 100 feet from existing one-family detached dwellings. While this setback does not apply to the detached homes on Cabin Branch Avenue because the existing development shares the same LMA and Preliminary Plan as the approved buildings within the Site Plan boundary, the setback is still 120 feet. The Site Plan is also starting the extension of Petrel Street, Skimmer Street, and Harrier Way, across Cabin Branch Avenue to the east, and the extension of Plover Street to ultimately intersect with Petrel Street to the north, with Petrel Street ultimately curving and intersecting with Little Seneca Parkway to the south. When extended, these streets will help integrate this Site Plan with the existing and future phases of the Cabin Branch Neighborhood.

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

As part of the requirements of the Special Protection Area ("SPA") Law, a SPA Water Quality Plan was reviewed in conjunction with the Site Plan. Under the provision of the law, the MCDPS and the Planning Board have different responsibilities in the review of a water quality plan.

In conjunction with planning staff, MCDPS has reviewed and approved the technical elements of the water quantity and quality control facilities including engineering and design. The Planning Board's responsibility is to determine if SPA forest conservation planting requirements, environmental buffer protection, and site imperviousness limits have been addressed or satisfied. The Planning Board finds that the approved plan meets all requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection and any other applicable law.

A. Water Quality Plan

Clarksburg Special Protection Area Water Quality Plan

The majority of the Subject Property is located within the Clarksburg SPA and is therefore required to obtain approval of a Water Quality Plan for those areas of the Application within the Clarksburg SPA under Section 19-62 of the Montgomery County Code.

A Preliminary Water Quality Plan (G-957) was approved by Planning Board Resolution dated July 24, 2015 during the review of the re-zoning of the Property, which included a Development Plan. The Final Water Quality Plan was submitted as part of this current Application and approved to protect the areas of environmental buffers, existing remaining forest, and planted forest in a Category I Conservation Easement.

MCDPS Special Protection Area Review Elements

MCDPS has established a set of performance goals that are to be met through the implementation of the Final Water Quality Plan which include:

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

In a letter dated July 13, 2020, MCDPS has found the Preliminary/Final Water Quality Plan for this Site Plan to be acceptable for their portion of the Final Water

Quality Plan under its purview including: 1) stormwater management facilities, 2) sediment and erosion control measures and 3) Best Management Practices (BMP) monitoring.

Planning Board Special Protection Area Review Elements

Following is an analysis of the Planning Board's responsibilities in the review of the Final Water Quality Plan. The Planning Board approves the elements of the SPA Water Quality under its purview.

1) Priority Forest Conservation Areas

The Application meets the requirements of Chapter 22A, Montgomery County Forest Conservation Law. The Final Forest Conservation Plan ("FFCP") was submitted with this Application which will amend the overall FFCP for the Cabin Branch development.

2) SPA Environmental Buffer Protection

The Application included no additional disturbance within the stream valley buffer (SVB) for the stream at the rear of the Project Site that has not already been accounted for in the overall FFCP for the Cabin Branch development.

3) Impervious Surfaces

There are no impervious limitations within this portion of the Clarksburg SPA; however, the Clarksburg SPA Regulations allow the M-NCPPC to review imperviousness and to work with the Applicant to reduce imperviousness. As part of the Preliminary Water Quality Plan for the Cabin Branch Development under the Cabin Branch – Infrastructure Site Plan (Plan No. 820050150), an overall goal of less than 45% imperviousness was established by the Planning Board (MCPB Resolution No. 07-131).

This Site Plan indicates an impervious level of approximately 40% for the Subject Property (Table 8). The impervious surfaces are comprised of roadways, sidewalks, stoops, driveways, walls and buildings. The overall impervious level for the Cabin Branch development, including this Application, is approximately 44.22% and continues to be on track to meet the targeted goal of 45%.

Imperviousness Calculations for the Subject Property

Total Tract Area	Impervious Surface Area	Percent Imperviousness
2,680,682 sq. ft. (61.54 acres)	1,074,168 sq. ft. (24.66 acres)	40.0%

B. Forest Conservation Plan

Final Forest Conservation Plan

Consistent with conditions 1 and 14(c) of the Resolution for the Cabin Branch - Infrastructure Site Plan Amendment No. 82005015B (MCPB Resolution No. 11-124), the FFCP for the overall Cabin Branch Development is being amended through this Application. The Cabin Branch - Infrastructure Site Plan is amended with each individual site plan as stated in conditions 1 and 14(c) to show the approved development for each area of Cabin Branch.

The entire 535-acre Cabin Branch Development has an overall FFCP which was approved with the Cabin Branch - Infrastructure Site Plan. The overall FFCP was designed to allow for the grading and installation of roads, utilities, and public amenities such as school and park sites. The intent of having one FFCP was to ensure that as this multi-year project developed, portions would not be left uncovered by an individual FCP and the whole project would remain in compliance with the Montgomery County Forest Conservation Law.

The overall FFCP includes six worksheets separated by zones or land use: MXPB-Employment, RMX-1/TDR, MXPB-Residential, Water Tower Storage Facility, Linthicum West, and "offsite Area A". Each individual site plan application is submitted with final grading and design, the FFCP and the worksheets associated with that particular site plan will be updated to reflect final design and grading details. The FFCP indicates that the individual applicants for each site plan area must meet the forest conservation worksheet requirements through a combination of on-site forest retention, on-site planting of unforested stream buffers, landscape credit, and off-site planting within the Clarksburg SPA. This Site Plan application does not alter the associated FFCP worksheets and therefore meets the requirements that are already in place on the approved FFCP.

Under the M-NCPPC implementation of the Clarksburg SPA Regulations, the Environmental Guidelines require accelerated reforestation of the SPA stream buffers and that any unforested portions of the stream buffer be afforested above and beyond the standard forest conservation requirements. Since the overall Cabin Branch Development includes land both in and out of the SPA and the tributaries drain to a common water body, the Planning Board approved the treatment of the planting requirements as if the entire development is located

within the Clarksburg SPA (MCPB Resolution No. 07-131). Therefore, conditions 1 and 14 of the Cabin Branch - Infrastructure Site Plan (82005015B) require the Applicant to plant the stream buffers in accordance with the overall FFCP including the Planting Phasing Plan. The Applicant of the overall development, Cabin Branch Management, LLC, must provide a five-year maintenance period for all planting areas credited toward meeting the forest conservation plan worksheet requirements. Amendments to the FFCP have been approved with each of the site plans approved and amendments, to date, to the Cabin Branch - Infrastructure Site Plan (82005015A through 82005015G).

The FFCP submitted for this Application conforms to the requirements established by the original overall FFCP and meets the requirements of Chapter 22A, Montgomery County Forest Conservation Law. This Application does not alter any of the existing forest conservation requirements for the overall Cabin Branch Development site established under the Cabin Branch - Infrastructure FFCP, Plan Number 820050150 or subsequent amendments. The responsibility for meeting the Forest Conservation requirements for this Application falls to Cabin Branch Management, LLC. This Application approves the removal of 0.34 acres of forest and the reforestation of 5.67 acres. The overall Cabin Branch – Infrastructure FFCP will be updated with this Application.

Forest Conservation Tree Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that there be no impact to: trees that measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to high priority vegetation, including disturbance to the critical root zone (“CRZ”) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. Development of the Property requires impact to trees identified as high priority for retention and protection, therefore, the Applicant has submitted a variance request for these impacts.

Variance Request

The Applicant submitted a variance request in a letter dated April 15, 2020 and revised on July 1, 2020. There are five specimen sized trees within the property boundary that will be impacted by construction.

Variance Trees to be Impacted

Tree Number	Species	DBH Inches	Percent Impact to CRZ	Status
184	Tulip Poplar (<i>Liriodendron tulipifera</i>)	32	3%	To be saved, but impacted
192	Tulip Poplar (<i>Liriodendron tulipifera</i>)	36	7%	To be saved, but impacted
202	Sycamore (<i>Plantus occidentalis</i>)	36	24%	To be saved, but impacted
203	Red Maple (<i>Acer rubrum</i>)	33	14%	To be saved, but impacted
204	Tulip Poplar (<i>Liriodendron tulipifera</i>)	48	1%	To be saved, but impacted

Unwarranted Hardship Basis

Per Section 22A-21(a), an applicant may request a variance from Chapter 22A if the applicant can demonstrate that enforcement of Chapter 22A would result in an unwarranted hardship. In this case, the Applicant is faced with having to impact five trees. M-NCPPC staff ("Staff") has determined that the impacts to these trees for construction are unavoidable. Trees 184 and 192 are located on the Subject Property on the northeastern and eastern side within the existing forest and Stream Valley Buffer. Both trees will be impacted by the WSSC approved alignment of the approved sewer line serving this portion of the Cabin Branch development. Each tree will only have minimal impacts to their respective CRZs. Trees 202 and 203 are located on the Subject Property in the southeast corner of the Site adjacent to the future alignment of Little Seneca Parkway and within the existing forest. Tree 204 is located within the right-of-way for the approved Little Seneca Parkway, but its CRZ extends onto the Subject Property. Trees 202, 203 and 204 will be impacted by the approved alignment of a SWM outfall.

The impacts to these five variance trees are the result of the requirements of other governmental agencies which has impacted the design of this Application. As a result, not being able to request a variance to impact these five trees would constitute an unwarranted hardship on this Applicant to develop this Site by forcing a new realignment of the approved sewer line and the SWM outfall. Therefore, the Planning Board finds that the Applicant has a sufficient unwarranted hardship to justify a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, for a variance to be granted. The Planning Board finds the following determinations

based upon the required findings in the review of the variance request and the Forest Conservation Plan:

Variance Findings

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the impact to these two trees are due to the location of the trees and the approved alignment of the approved sewer line serving this portion of the Cabin Branch development. Therefore, the Planning Board finds that the granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary alignment of the approved sewer line and SWM outfall serving this portion of the Cabin Branch development.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

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

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being slightly impacted are located within the stream valley buffer ("SVB") but will not be removed. Therefore, the Planning Board finds that the project will not violate State water quality standards or cause measurable degradation in water quality.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on March 16, 2020 in the form of an ePlans tasking. The

County Arborist completed the ePlans tasking and recommended approval of the variance request on April 28, 2020.

Variance Recommendation

The Planning Board approves the variance request.

C. Noise Guidelines

The Environmental section of the 1993 General Plan Refinement for Montgomery County contains multiple objectives directing the Planning Board to protect future residents and workers from unacceptable noise levels. The 1983 Staff Guidelines for the Consideration of Transportation Noise ("Noise Guidelines") contain strategies for mitigating the impact of transportation noise on new residential development. The Noise Guidelines Map 2-1 shows the Subject Property in the 60 dBA Ldn maximum exterior noise level area which is based on the suburban nature of development in Germantown in 1983. The Area of Application Table 2-1 of the Noise Guidelines however references that areas that are urban, adjacent to freeways, major highways or corridor areas are more appropriately reviewed with a 65 dBA Ldn guideline. The Applicant has submitted a noise analysis, performed by Phoenix Noise and Vibrations, LLC dated May 20, 2020, and has requested the Site Plan be reviewed using the 65 dBA Ldn guidance as the baseline because the Property is adjacent to I-270, a major commuter highway. The 65 dBA Ldn is a more realistic value for maximum exterior noise levels given the changes that have occurred in the Washington Metropolitan Area and the Clarksburg area since 1983.

The future noise projections for anticipated noise in 20 years shows that the eastern third of the Subject Property will be over 65 dBA Ldn, and the eastern most residential units closer to I-270 are projected to be over 70 dBA Ldn along with a number of additional lots are projected to be over 65 dBA Ldn. In order to mitigate for the projected noise levels and to bring those noise levels down to 65 dBA Ldn for the exterior spaces of the development it would require the installation of noise walls along the eastern most residential unit to be anywhere from 10-feet up to 14-feet in height. The Applicant looked at various mitigation techniques, however the topography of the property mostly sitting slightly higher than the noise source makes it difficult to do effective noise mitigation.

The Applicant's approved mitigation for noise impacts includes construction of approximately 1,800 linear feet of noise wall ranging in height from 6-feet up to 9-feet 6-inches along the eastern most property line behind Lots 10-53 in Block A and Lots 54-65 in Block B. DPS has requested that a gap be installed along the bottom of the approved sound wall to allow for the overland flow of water from the adjoining lots to flow into the bioswale structure on the far side of the noise wall. This gap will be approximately 4-inches to 6-inches in height running along the

bottom of the wall at ground level from support pier to support pier of the wall structure. This will increase the wall height to approximately 9-feet 6-inches. This gap will not increase the level of noise impacting the residential units since there will be a berm on the far side of the bioswale that is 12-inches higher than the ground level at the noise wall blocking any noise. The sound wall is located along the rear property lines for each of these lots. For most of the lots, the sound wall is approximately 25 to 30 feet from the rear wall of the residential structures. However, in the case of Lots 44-49, Block A the noise wall is approximately 15 feet from the rear wall of the residential structures and is 9-feet 6-inches high. However, the above-mentioned lots and some outdoor spaces are still impacted with noise levels above 65 dBA Ldn. The Applicant's noise analysis also discusses interior space mitigation of noise, and while certain units closest to the interstate would not be able to open windows without creating noise exposure, construction techniques can allow interior spaces with windows closed to be at or below 45 dBA Ldn, which is consistent with the Noise Guidelines.

The Noise Guidelines Section 2.2.2 allows the Board to waive part or all of the guidelines *if use of all feasible exterior attenuation measures cannot protect noise sensitive rooms on upper floors or outdoor patio areas, or if exterior attenuation is not feasible. Exterior noise attenuation measures may be infeasible due to economics, aesthetics, or site-related constraints of size, shape, or topography.* The Applicant contends they have done everything that is feasible to attenuate for noise impacts to the Property, given the size of I-270 and the topographical constraints. In order to bring the noise levels down to below 65 dBA Ldn, the Applicant would need to add an additional 5-feet to the approved noise walls bringing the height of the walls up to between 10 to 14 feet thereby increasing undesirable aesthetic and economic impacts. The Planning Board supports the mitigation approved by the Applicant as the best possible given the constraints and approves the waiver to the Noise Guidelines under Section 2.2.2(2) of the Noise Guidelines allowing a higher exterior noise level and to accept the findings of the provided noise analysis. The waiver does not affect the requirement that the interior noise levels for the residential structures must be attenuated to 45 dBA Ldn or less.

The noise analysis identifies both ground level impacts and upper level impacts. The ground level and upper level impacts effect Lots 6-9 and 10-53 in Block A, Lots 54-65 in Block B, Lots 1 and 27-48 in Block C, Lots 1 and 23 in Block D, and Lot 1 in Block E. Since the noise in the outdoor space for these units may not be fully mitigated, the Planning Board finds that the sales contracts for these units and other documents must disclose to the potential buyers that these unit's outdoor spaces are impacted by noise. The approved homes in this development have yet to be designed. After the houses have been designed for the impacted lots, a noise impact analysis for each residence will need to be performed and mitigation requirements will need to be provided for each of those homes in order

to achieve interior noise levels that will not exceed 45 dBA Ldn. Since the units on these approved lots are located within the noise impacted area identified on the 2020 noise analysis, the Planning Board finds that an engineer that specializes in acoustical treatments certify that the building shell for these units is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn and that the Applicant/developer/builder certify that they will construct the noise impacted units in accordance with the recommendations of an engineer that specializes in acoustical treatments.

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

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is _____ (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 Vice Chair Fani-González, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, September 10, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board