



Toll Brothers – Phase 2 Cabin Branch: Limited Major Site Plan Amendment No. 82010003A

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SP Sandra Pereira, Supervisor, Upcounty Planning, Sandra.Pereira@Montgomeryplanning.org 301-495-2186

PB Patrick Butler, Chief, Upcounty Planning, Patrick.Butler@Montgomeryplanning.org, 301-495-4561

Completed: 3/25/21

Description

Request to amend condition 21b to remove the fence requirement at the rear of lots 35 – 48 and lots 58 - 60 on Block AD and replace it with trees and landscaping within the green space along West Old Baltimore Road; 108.56 acres.

Location: On the west side of West Old Baltimore Road approximately 2,750 feet west of I-270.

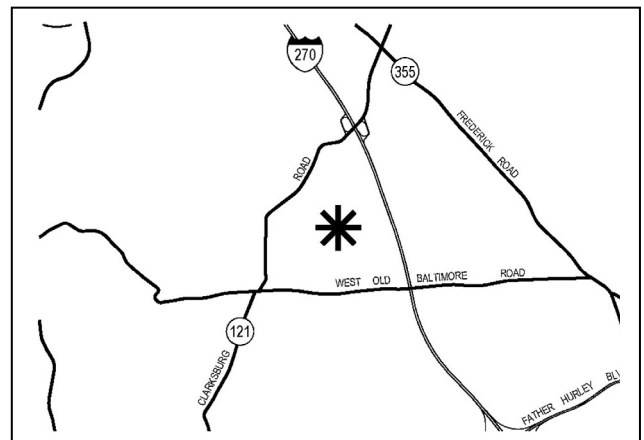
Zone: CRT-0.5, C-0.25, R-0.25, H-65T, but reviewed under the former MXPd and RMX-1/TDR-3 Zones

Policy Area: 1994 Clarksburg Master Plan and Hyattstown Special Study Area

Applicant: Bentley Park, LLC

Submittal Date: 12/2/2020

Review Basis: Chapter 59, Zoning Ordinance in effect on October 29, 2014



Summary

- Staff recommends Approval of the Limited Major Site Plan Amendment, with conditions.
- This Amendment was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014 and is subject to the grandfathering provisions of Section 59.7.7.1.B.3 of the Zoning Ordinance.
- The Site Plan Amendment amends the fencing requirement for the rear of lots within Block AD along West Old Baltimore Road by providing trees and landscaping in place of uniform fencing.
- No community correspondence has been received as of the date of this Staff Report.

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SECTION 1 – RECOMMENDATIONS AND CONDITIONS

Site Plan Amendment No. 82010003A: Staff recommends approval with conditions of the Site Plan Amendment. All conditions of approval of Site Plan No. 820100030 remain in full force and effect, except for condition No. 21.b, which is modified below. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions:

21. High Visibility Lots Treatment

Provide enhanced architectural treatments such as stone/brick walls, seat walls, architectural fences, and landscaping to all lots proposed for treatment by the Town Architect with particular treatment for those lots listed below. All lot treatments are subject to review and approval of Staff prior to certified Site Plan.

- b. Block AD, Lots 35-48, Lots 58-60: Provide ~~trees and landscaping~~ ~~uniform fencing~~ for the rear yards for each of these lots ~~visible from along~~ West Old Baltimore Road; ~~for the walls at the rear of Lots 35, 48, and 60 along West Old Baltimore~~, use stone materials, such as a stone base and columns, consistent with Cabin Branch monument signage;

SECTION 2 – SITE LOCATION AND DESCRIPTION

Site Location and Vicinity

The Subject Property is located approximately 2,750 feet west of I-270 and on the west side of West Old Baltimore Road, within the northeast quadrant of the intersection of Clarksburg Road and West Old Baltimore Road in Clarksburg ("Property" or "Subject Property"). The area around the Subject Property is developed primarily with single-family residential uses, both attached and detached, with RMX-1 / TDR-3 zoned properties.

Located to the north of the Subject Property is the Clarksburg Premium Outlets and to the west is Ten Mile Creek Conservation Park. To the south are Black Hill Regional Park and Little Seneca Lake, and to the east of the Subject Property is the greater Cabin Branch neighborhood.

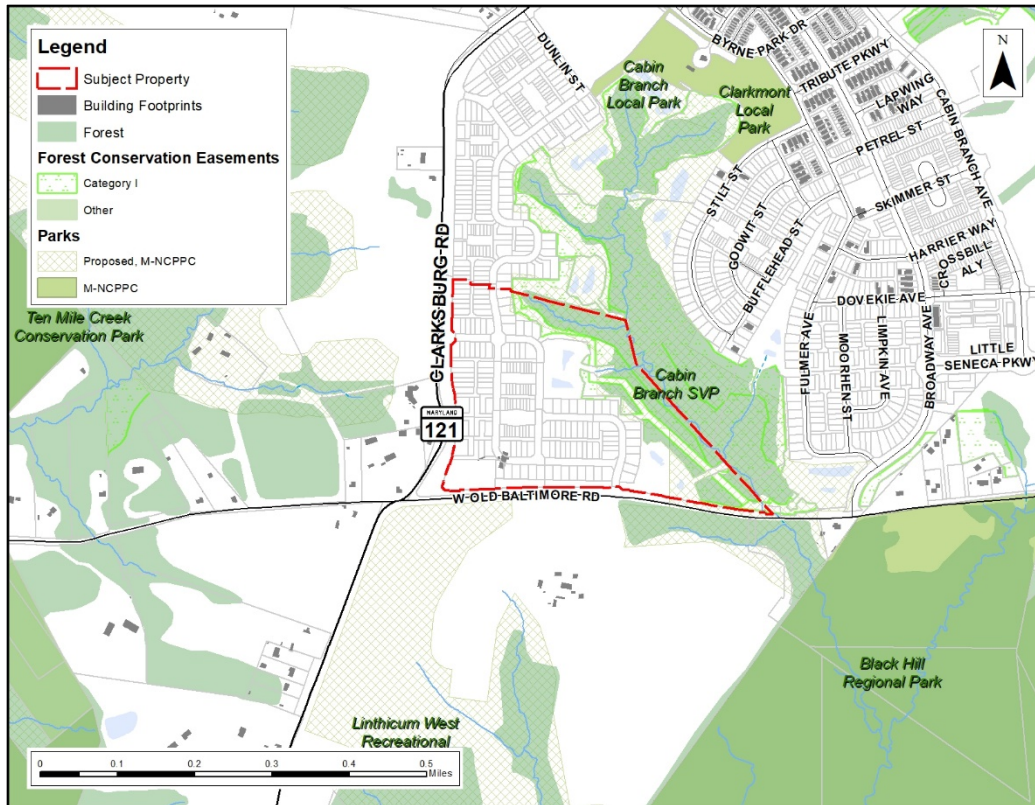


Figure 1 – Vicinity Map

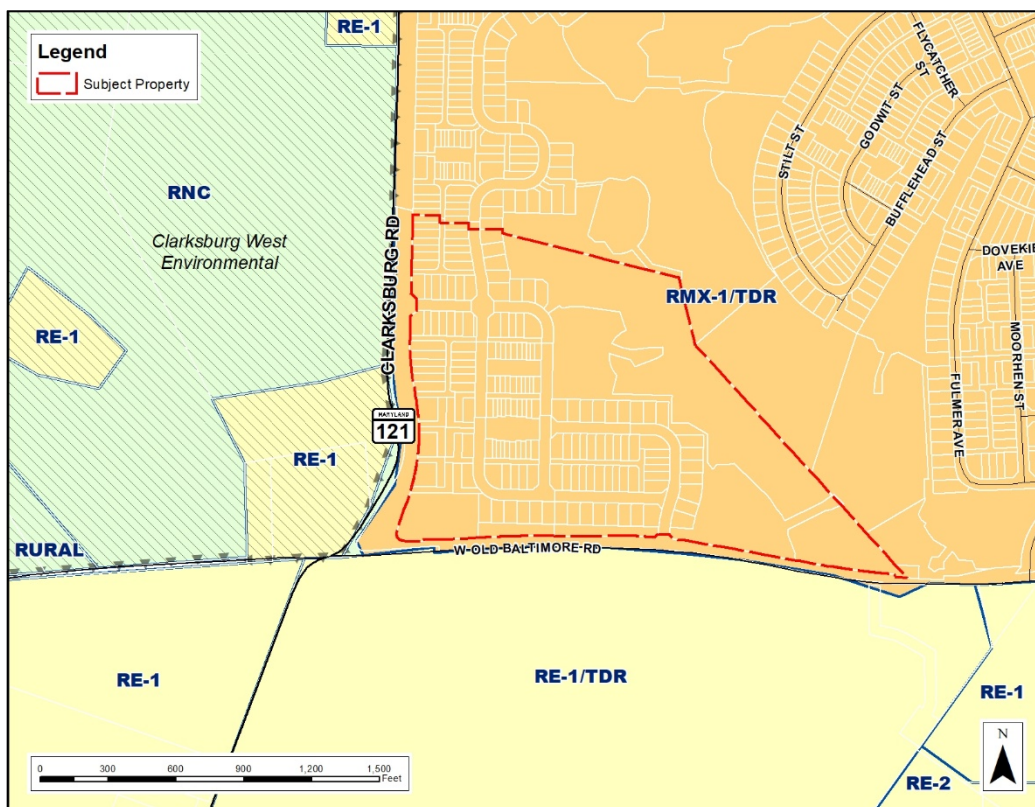


Figure 2 – Zoning Map in effect on October 29, 2014

Site Analysis

Currently, the Subject Property is under development with a total of 168 residential dwelling units on 108.56 acres. The dwelling units are comprised of 128 one-family detached and 40 one-family attached dwelling units, 10 of which are MPDUs.

The Toll Brothers 2 Site Plan (Site Plan No. 820100030) represented the fifth phase of residential development within the Cabin Branch neighborhood. The Toll Brothers 2 Property occupies the southwest corner of the Cabin Branch development and sits well within the Little Seneca Creek watershed. The Property is bounded to the west by Clarksburg Road (MD 121) and to the south by West Old Baltimore Road. The northern edge is adjoined with the Winchester Homes Phase III development, while the eastern edge is bounded by a contiguous area of stream valley within the Cabin Branch neighborhood. The Site's high point is located at the road intersection and represents one of the three highest elevations within the Cabin Branch neighborhood.

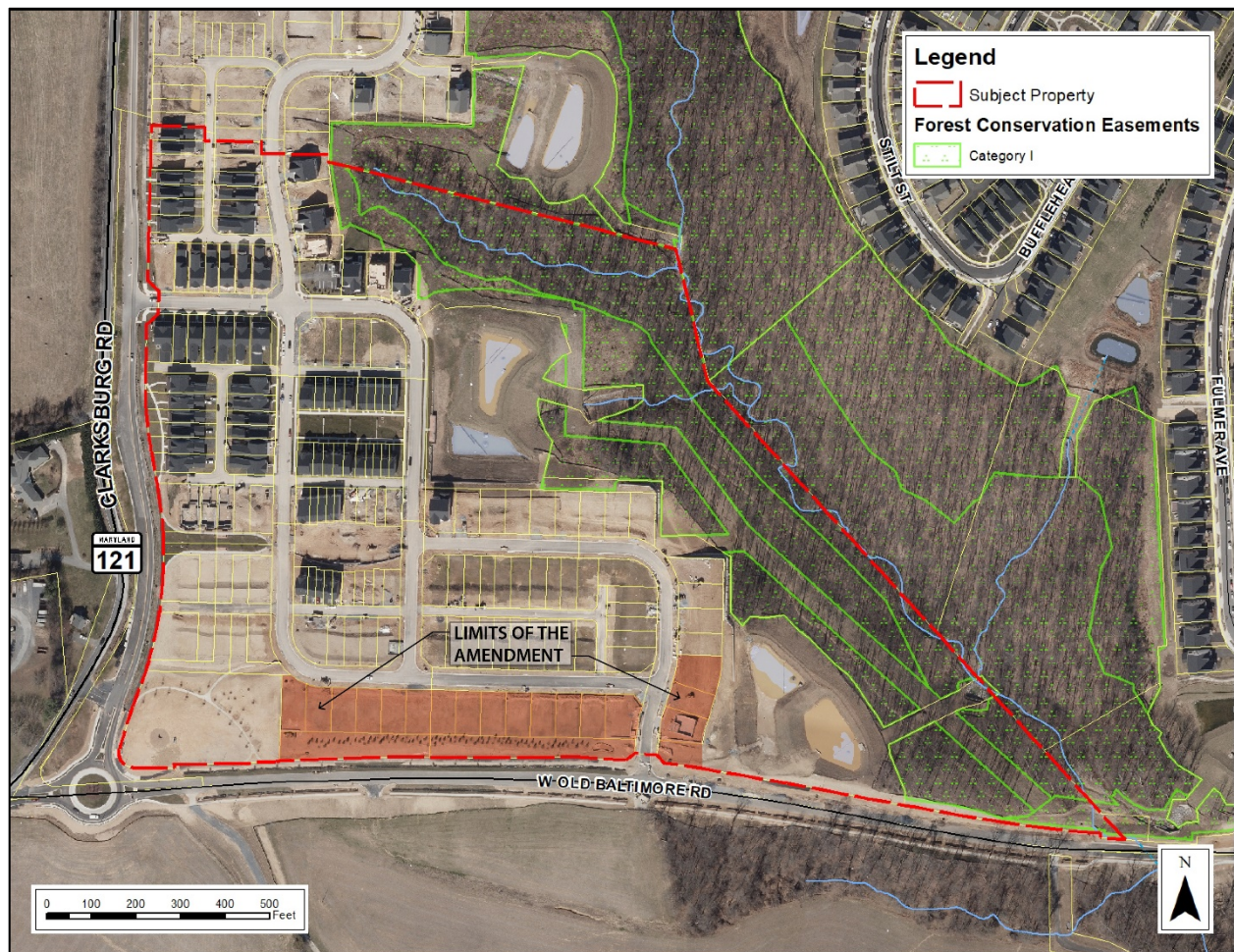


Figure 3 – Property Boundary Map

SECTION 3 – APPLICATIONS AND PROPOSAL

Previous Approvals

The Cabin Branch neighborhood has a long history of previous development approvals. An abbreviated history is available in Attachment D, which provides more detail on the applicable Zoning Case (No. G-806), the Preliminary Plan (No. 120031100 and 12003110A), the DPA No. 13-02, and the Infrastructure Site Plan (No. 820050150).

820100030

In 2013, the Planning Board approved Site Plan No. 820100030 (MCPB No. 13-56). The Site Plan included 168 residential dwelling units, comprised of 128 one-family detached and 40 one-family attached units, with 10 of the units designated as MPDUs. The dwelling units were located at the southwest quadrant of the intersection of Clarksburg Road and Interstate 270 on RMX-1/TDR-3 zoned-land. The 10 units designated as MPDUs allowed the Applicant to take advantage of Bill 36-17, which exempted the development from impact taxes. The Site Plan also proposed the purchase of a total of 63 TDRs, which represented the project's pro-rata share of the total number of TDRs required to develop the Cabin Branch Neighborhood, based on the formula establish by the binding elements of the DPA. Elements of the Infrastructure Site Plan were amended and incorporated into the Infrastructure Site Plan.

Proposal

On December 2, 2020, the Applicant filed Site Plan No. 82010003A ("Application") proposing to remove the fence located at the rear of Lots 35 - 48 and Lots 58 - 60 and replace it with trees and landscaping along West Old Baltimore Road, while retaining the existing masonry site walls at Lots 35, 48, and 60.

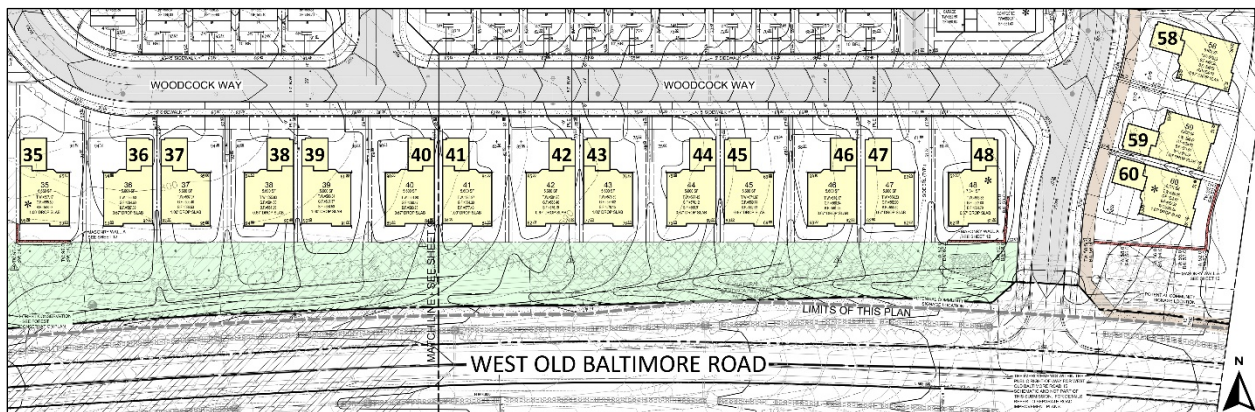


Figure 4 – Site Plan 82010003A

SECTION 4 – ANALYSIS AND FINDINGS - Site Plan No. 82010003A

The Site Plan Amendment is being reviewed under the Zoning Ordinance in effect on and prior to October 29, 2014 because it is subject to grandfathering under Section 59.7.7.1.B.1. Unless explicitly discussed below, all previous Planning Board findings from the previous Site Plan approvals remain in full force and effect.

Findings – Chapter 59 D 3.4(C)

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 amendment conforms to all non-illustrative elements of a development plan and all binding elements of a schematic development plan.

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

Location of Buildings and Structures

Removing the approved structures, such as the screen fencing located at the rear of Lots 35 - 48 and Lots 58 - 60 along West Old Baltimore Road, continues to be safe, adequate, and efficient. The remaining three fieldstone walls are decorative, do not retain any site grading, and are within the location of the previously approved screen fencing, which satisfied the original intent of connecting the original architectural character of the front facades of the homes with the rear of the properties along West Old Baltimore Road. Lastly, the fences for screening are unnecessary due to the grade changes and distances between the backyards and landscaping.

Location of Open Spaces, Landscaping and Recreation Facilities

Landscaping and Lighting

Landscaping, consisting of a mix of evergreen and shade trees with understory shrubs, are being added at this location which previously had approved fencing. The landscaping helps to delineate the backyards and provide separation between the backyards and West Old Baltimore Road, while also maintaining a softer, more scenic character for the streetscape along West Old Baltimore Road. The addition of landscaping and trees along the slopes also greatly improves views from the backyards and the public realm along the street.

SECTION 5 – COMMUNITY CORRESPONDENCE

The Applicant has met all proper signage and noticing requirements for the Site Plan Amendment. As of the date of this Staff Report, Staff has not received any correspondence from the community regarding this Application.

SECTION 6 – CONCLUSION

The Amendments meets all development standards and findings established in the Zoning Ordinance for the RMX-1 zone. The locations of structures and landscaping are adequate, safe, and efficient. Therefore, Staff recommends approval of this Limited Major Site Plan Amendment subject to the conditions contained at the beginning of this Staff Report.

Attachments

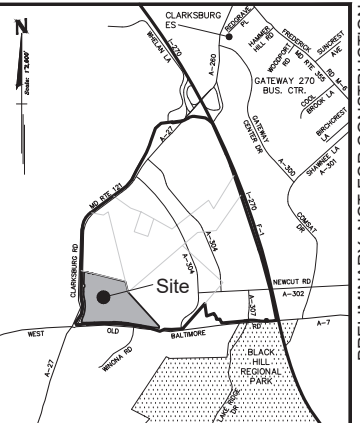
Attachment A – Site Plan Composite

Attachment B – Statement of Justification

Attachment C – MCPB Resolution No. 13-156 for Site Plan No. 820100030

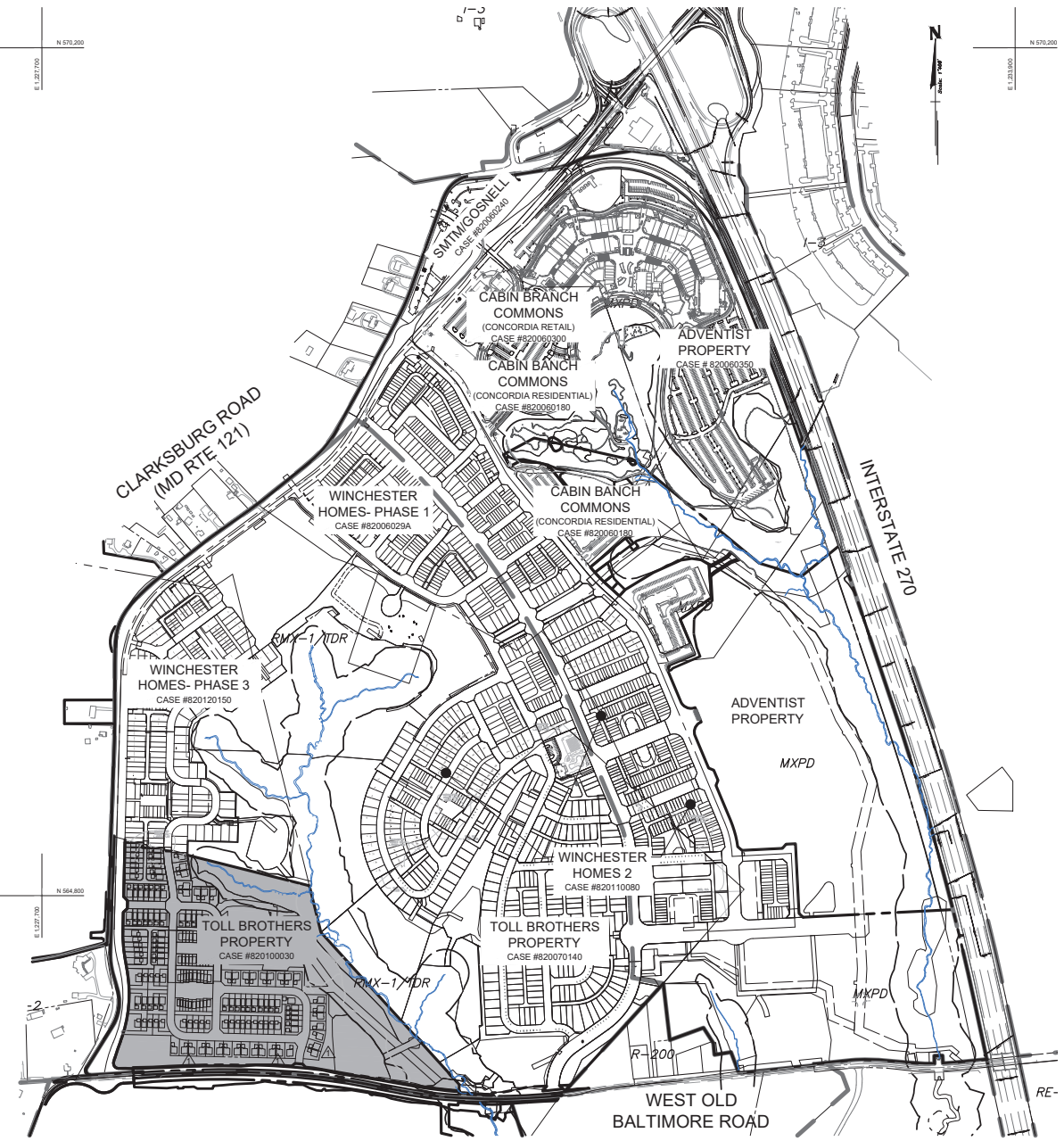
Attachment D – Previous Approval History

TOLL BROTHERS - PHASE 2
SITE PLAN 82010003A
CABIN BRANCH
CLARKSBURG, MARYLAND



Vicinity Map
1" = 2,000'

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Sheet Title	Sheet Number	△ SITE PLAN AMENDMENT #82010003A
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Approval Sheet	2B	
Approval Sheet	2C	
△ Approval Sheet	2D	△ AMENDED BY 82010003A 07-BSITE-82010003A-002D
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Site Plan	9	△ AMENDED BY 82010003A 07-BSITE-82010003A-009
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LOCATION MAP
SCALE: 1" = 400'

Phase 1

M-NCP&PC DEVELOPMENT PROGRAM INSPECTION SCHEDULE		
M-NCP&PC APPROVAL SIGNATURE	DATE	TASK PERFORMED
		PRE-CONSTRUCTION MEETING
		TREE PROTECTION MEASURES IN PLACE BEFORE CLEARING AND GRADING
		PRIVATE ROAD CONSTRUCTION/CURB AND GUTTER
		INSTALLATION OF LIGHTING
		INSTALLATION OF ORNAMENTAL LANDSCAPING
		INSTALLATION OF RECREATION EQUIPMENT
		INSTALLATION OF SITE AMENITIES (BENCHES, PAVING, TRAILS, ETC.)
		POST CONSTRUCTION PROTECTION PRIOR TO PLANTING (REFORESTATION)
		AFTER REFORESTATION - BEGINNING OF TWO YEAR MAINTENANCE PERIOD
		AFTER TWO YEAR MAINTENANCE PERIOD MUST MEET SURVIVABILITY

Phase 2

M-NCP&PC DEVELOPMENT PROGRAM INSPECTION SCHEDULE		
M-NCP&PC APPROVAL SIGNATURE	DATE	TASK PERFORMED
		PRE-CONSTRUCTION MEETING
		TREE PROTECTION MEASURES IN PLACE BEFORE CLEARING AND GRADING
		PRIVATE ROAD CONSTRUCTION/CURB AND GUTTER
		INSTALLATION OF LIGHTING
		INSTALLATION OF ORNAMENTAL LANDSCAPING
		INSTALLATION OF RECREATION EQUIPMENT
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		AFTER REFORESTATION - BEGINNING OF TWO YEAR MAINTENANCE PERIOD
		AFTER TWO YEAR MAINTENANCE PERIOD MUST MEET SURVIVABILITY

△ MINOR AMENDMENT SITE PLAN 82010003A
△ REQUEST TO MODIFY CONDITION 21.B. BY REMOVING THE FENCE AND REPLACE IT WITH TREES AND LANDSCAPING WITHIN THE GREEN SPACE ALONG WEST OLD BALTIMORE ROAD.

PROPOSED BUILDING RESTRICTION LINE CHART

SINGLE FAMILY (detached)	
Setbacks:	
Front	10'
Rear	0'
Side (Streetside)	10'
Side (Interior Alley)	3'
Side (Alley)	3'
R/W Truncation	0'
TOWNHOUSE (attached)	
Setbacks:	
Front	10'
Rear	0'
Side (Streetside)	10'
Side (Interior Alley)	3'
Side (Alley)	3'
R/W Truncation	0'

△ DEVELOPER'S CERTIFICATE
The Undersigned agrees to execute all the features of the Site Plan Approval No. 82010003A, including Approval Conditions, Development Program, and Certified Site Plan.
Developer: NVR, INC. BRIAN AFNAN
Company Contact Person
Address: 656 QUINCE ORCHARD ROAD, SUITE 500
GAITHERSBURG, MD 20878
Phone: 240-912-1030
Signature: [Signature]

PROFESSIONAL CERTIFICATION

"I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 32599, Expiration Date: 12/22/22."



△ NOTE: 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. TO SCHEDULE A SITE PLAN INSPECTION WITH DPS, ZONING & SITE PLAN ENFORCEMENT DIVISION, PLEASE CONTACT GREG NICHOLS, MANAGER AT 240-777-8278.

GRADING PROVIDED BY ESE CONSULTANTS, INC.

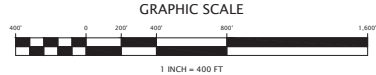
ALL ROADWAY IMPROVEMENTS SHOWN WITHIN THE PUBLIC RIGHT OF WAY FOR CLARKSBURG ROAD (MD ROUTE 121) & WEST OLD BALTIMORE ROAD WILL BE BUILT BY CABIN BRANCH MANAGEMENT, LLC. UNDER A SEPARATE PHASE OF THIS PROJECT.

NO SURFACE FEATURES SHALL BE LOCATED WITHIN ANY SIDEWALK.

THIS SITE PLAN REFINES AND SUPERSEDES CERTAIN AREAS COVERED BY THE INFRASTRUCTURE ROADS ONLY SITE PLAN No. 820050150 APPROVED JUNE 14, 2007. THE LIMITED SITE PLAN AMENDMENT No. 820050150A APPROVED APRIL 3, 2008 AND THE LIMITED SITE PLAN AMENDMENT No. 820050150B APPROVED DECEMBER 1, 2011.

NOTE: ALL STREETS, ROUTES, AVENUES AND DRIVES ARE PUBLIC. ALL RESIDENTIAL ALLEYS ARE PRIVATE. GRADING AS SHOWN COORDINATES WITH PROPOSED GRADE OF ADJACENT PHASE. SEE SECTIMENT CONTROL PLAN FOR INTERIM PHASED GRADING.

NOTE: UTILITIES SHOWN ARE FOR INFORMATIONAL PURPOSES AND ARE SUBJECT TO CHANGE AT FINAL ENGINEERING.



The excavator must notify all public utility companies with underground facilities in the area of proposed excavation and have those facilities located by the utility companies prior to commencing excavation. The excavator is responsible for compliance with requirements of Chapter 36A of the Montgomery County Code.

REVISION	DATE	REVISION	DATE	REVISION	DATE

Owner/Developer:
NVR, INC. △

656 QUINCE ORCHARD RD, SUITE 500
GAITHERSBURG, MD 20878
PHONE: (240) 912-1030
CONTACT: MR. BRIAN AFNAN

TOLL BROTHERS PHASE 2
CABIN BRANCH
ELECTION DISTRICT NO. 2
MONTGOMERY COUNTY, MARYLAND

19847 Century Boulevard
Suite 200
Gaithersburg, Maryland 20878
Ph: 301.948-4700 (Voice)
Ph: 301.248-6666 (Toll-free)
Toll-free: 1-800-257-7777
www.rodgers.com

BASE DATA	BY	DATE
DESIGNED		
DRAWN		
REVIEWED		

RODGERS CONTACT:
RELEASE FOR ☐
BY _____ DATE _____

COVER SHEET
△ 07-BSITE-82010003A-001

SCALE 1" = 400'
JOB No. 696N4
DATE NOV 2020
SHEET No. 01 of 30

November 9, 2020

Jeff Server
Planner Coordinator, Upcounty Planning
Montgomery County Planning Department
Maryland-National Capital Park & Planning Commission
2425 Reedie Drive
Wheaton, MD 20902

Re: **Toll Brothers – Phase 2, Cabin Branch**
Minor Amendment Site Plan #: 82010003A
Rodgers Consulting, Inc. Project #: 0817Q3

Mr. Server,

We are filing modified plans and documents for Toll – Phase II Cabin Branch Site Plan on behalf of the applicant, NVR, Inc. The plans and documents are provided per the staff submittal checklist, for a Limited Major Amendment, dated October 9, 2020. NVR, Inc. (the “Applicant”) is seeking approval of a Consent Agenda Item Site Plan Amendment application for Toll – Phase II Cabin Branch. Toll – Phase II Cabin Branch is a ±108 acre site, Old Baltimore Road, west of I-270 (the “Property”).

The Limited Major Amendment Site Plan consists of Toll – Phase II Cabin Branch, and proposes the following:

The Applicant proposes to amend the Site Plan (Condition No. 21b):

High Visibility Lots Treatment

Provide enhanced architectural treatments such as stone/brick walls, seat walls, architectural fences, and landscaping to all lots proposed for treatment by the Town Architect with particular treatment for those lots listed below. All lot treatments are subject to review and approval of Staff prior to certified Site Plan.

b. Block AD, Lots 35-48, Lots 58-60: Provide uniform fencing for the rear yards for each of these lots visible from West Old Baltimore Road; use stone materials, such as a stone base and columns, consistent with Cabin Branch monument signage;

The request includes removing the fence at the rear of lots 35-48 and lots 58-60 at Block AD and replacing it with trees and landscaping within the green space along West Old Baltimore Road. The removal of fencing is intended to reflect the as built situation, providing a more natural buffer screen along Old Baltimore Road. Due to the grade change, the distance between backyards and landscaping, the fencing is not needed. The addition of trees along the slope improves views in these areas. Masonry walls are provided at lots 35, 48 and 60 per the certified site plan.

Based upon the design elements described above and the contents of this Limited Major Amendment Site Plan checklist, Toll – Phase II Cabin Branch, the Consent Agenda Item Site Plan Amendment complies with

all requirements of the Zoning Ordinance, the approved Development Plan and Preliminary Plan, and is in substantial compliance with County General Plan. The Applicant respectfully requests that the Consent Agenda Item Site Plan Amendment application be approved by the Planning Board.

If you have any questions on the information provided, please call or email me at your earliest convenience.

Sincerely,
Rodgers Consulting, Inc.



Courtney H. Cason
Project Coordinator
ccason@rodgers.com
(o) 240-912-2146

Cc: Brian Afnan, NVR, Inc.
Randall Rentfro, Rodgers Consulting, Inc.
Gary Unterberg, Rodgers Consulting, Inc.
John D. Petrella, Holly Ridge Development, LLC
Sam Petrella, Holly Ridge Development, LLC



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

MAY 2 2013

MCPB No. 13-56
Site Plan No. 820100030
Toll 2, Cabin Branch
Date of Hearing: April 18, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, the Cabin Branch development ("Cabin Branch") is a 535-acre triangular tract of land, bordered by I-270 to the east, MD 121 to the west and West Old Baltimore Road to the south; and

WHEREAS, on September 9, 2003, by Resolution No. 15-326, the Montgomery County District Council approved Local Map Amendment G-806 ("LMA") to reclassify the eastern half (approximately 283.5 acres) of the Cabin Branch tract to the MXPB zone leaving the remaining western half (approximately 257 acres) in the RMX/TDR zone; and

WHEREAS, the Development Plan approved with the LMA ("Development Plan") included binding elements, a Land Use Plan and other graphical exhibits that applied to the entire Cabin Branch; and

WHEREAS, on June 22, 2004, the Planning Board approved with conditions Preliminary Plan No. 12003110A¹ (including a preliminary Forest Conservation Plan and a preliminary Water Quality Plan) for a maximum of 1,600 residential dwelling units, 500 elderly housing units, and 1,538,000 square feet of commercial space, on the 535-acre Cabin Branch tract, to be developed in phases through individual site plans; and

WHEREAS, on September 19, 2007, by MCPB Resolution No. 07-131, the Planning Board approved with conditions Site Plan No. 820050150 for an Infrastructure and Roads Only Site Plan, including the final Water Quality Plan and final Forest

¹ An application for preliminary plan of subdivision, designated Preliminary Plan No. 120031100 was submitted for Cabin Branch, but later modified and replaced with Preliminary Plan No. 12003110A, prior to Planning Board action.

Approved as to
Legal Sufficiency:

[Signature] 4/23/13
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

Conservation Plan ("Infrastructure Site Plan") to accommodate the previously approved 1,600 residential dwelling units, 500 senior units (including 236 moderately priced dwelling units ("MPDUs"), using 635 transferable development rights ("TDRs"), and 1,538,000 square feet of retail and employment, on the Cabin Branch tract; and

WHEREAS, on June 9, 2008, by MCPB Resolution No. 08-68, the Planning Board approved with conditions Site Plan No. 82005015A amending the Forest Conservation Plan as approved with the Infrastructure Site Plan for the design and cross section of West Old Baltimore Road; and

WHEREAS, on October 6, 2008, by MCPB Resolution No. 08-117, the Planning Board approved with conditions Preliminary Plan No. 12003110B (including amendments to the Forest Conservation Plan and Water Quality Plan) to allow an additional 286 residential dwelling units and an additional 882,000 square feet of commercial space for a total of 1,886 residential dwelling units, 500 dwelling units for senior housing, and 2,420,000 square feet of commercial space on the Cabin Branch tract; and

WHEREAS, on March 17, 2012, by MCPB Resolution No. 11-124, the Planning Board approved with conditions Site Plan No. 82005015B to revise the forest conservation phasing as approved with the Infrastructure Site Plan so that it would be better coordinated with the construction phasing; and

WHEREAS, on November 27, 2012, the Planning Director administratively approved Site Plan No. 82005015C to make a minor modification to the Forest Conservation Plan as approved with the Infrastructure Site Plan to reflect the relocation of a water line on the Cabin Branch tract; and

WHEREAS, on December 23, 2009, Toll Brothers, Inc., Winchester Homes, Inc., and Cabin Branch Management, LLC ("Applicant"), filed an application for approval of a site plan for 168 residential dwelling units (128 one-family detached and 40 one-family attached units), of which 10 are moderately priced dwelling units ("MPDUs"), using 63 transferable development rights ("TDRs") on a 46.35 acre portion of Cabin Branch, zoned RMX-1/TDR-3, located in the southwest quadrant of the intersection of Clarksburg Road and Interstate 270 ("Subject Property"), in the Clarksburg Policy Area, Clarksburg Master plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820100030, Toll Phase 2 ("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 April 8, 2013, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 18, 2013, 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, on April 18, 2003, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Anderson, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor, and with Commissioner Presley absent from the hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820100030 for 168 residential dwelling units (128 one-family detached and 40 one-family attached units), of which 10 are MPDUs, using 63 TDRs on the Subject Property, subject to the following conditions:²

Conformance with Previous Approvals

1. Development Plan Conformance
 - a. Applicant must comply with the applicable binding elements, general notes, and the development program as shown on the Certified Land Use Plan of the Development Plan, dated September 9, 2003; and
 - b. Applicant must comply with the conditions and binding elements adopted in *Opinion 15-326*, amending the Zoning Ordinance Map approved by the District Council, September 9, 2003.
2. Preliminary Plan Conformance

Applicant must comply with the conditions of approval for Preliminary Plan No. 12003110B as set forth in *MCPB Resolution No. 08-117*, and as amended.
3. Infrastructure Site Plan

Applicant must comply with conditions of approval of:

 - a. Site Plan No. 820050150, as set forth in the MCPB Resolution No. 07-131, and as amended;
 - b. Site Plan Amendment No. 820050150A, set forth in Resolution 08-68, and as amended;
 - c. Site Plan No. 820050150B, set forth in Resolution No. 11-124, and as amended;

² 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.

- d. Site Plan No. 82005015C, approved on November 27, 2012; and
 - e. Any further amendments to the Infrastructure Site Plan, including such amendments as may be implemented through other site plans for Cabin Branch.
4. Cabin Branch Design Guidelines for Site Plan Review
- a. Applicant must comply with the Cabin Branch Design Guidelines for Site Plan Review ("Design Guidelines") as referenced in the letter from KTGy, Inc.³, dated February 27, 2013.
 - b. Applicant must submit with building permit applications for each Development Program Phase, an approval from the Town Architect stating that the buildings within that phase are in conformance with the certified Site Plan and with design specifications of the Guidelines.
 - c. Applicant must submit to the Director of Planning (or designee) architectural plan construction documents from which Applicant will submit individual building permit applications for each Development Program Phase, for Design Guidelines conformance review.
 - d. Submissions will be deemed approved after 10 days, unless Applicant is notified that the submission does not comply.
5. Density - Housing and Major Amenities
- Development is limited to 168 residential units, comprised of 128 one-family detached units, and 40 one-family attached units of which 10 units are MPDUs, using 63 TDRs.
6. Montgomery County Department of Permitting Services
- a. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") in its letter dated March 5, 2013 ("Agency Letter"), and does hereby incorporate them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the Agency Letter, which may be amended by MCDPS provided that the amendments do not conflict with other conditions of the Site Plan approval.
 - b. The Planning Board has accepted the recommendations of MCDPS-Zoning in its letter dated February 15, 2013 ("Agency Letter"), and does hereby incorporate them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the Agency Letter, which may be amended by MCDPS provided that the amendments do not conflict with other conditions of the Site Plan approval.

³ As of the date of this Site Plan approval, KTGy, Inc. was selected as the Town Architect pursuant to condition 3.b of the Infrastructure Site Plan.

7. Montgomery County Fire and Rescue Service

The Planning Board has accepted the recommendations of the Montgomery County Fire and Rescue Services ("DFRS") in its letter dated March 21, 2013 ("Agency Letter"), and does hereby incorporate them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the Agency Letter, which may be amended by DFRS provided that the amendments do not conflict with other conditions of the Site Plan approval.

8. Maintenance Responsibility

The Applicant, its successors, assignees, and/or the successor HOA shall be responsible for maintaining community-wide amenity features such as HOA playgrounds, HOA open spaces, retaining walls, parking facilities, streetscape elements and natural features.

Sustainable Design

9. Energy Efficiency

Applicant must comply with Montgomery County requirements for energy efficiency for residential dwelling units.

Transferable Development Rights

10. Acquisition and Recordation

- a. The serial number for each TDR acquired must be shown on its respective record plat.
- b. The Applicant must purchase 63 TDRs for the development.

Moderately Priced Dwelling Units

11. Location and Phasing of MPDUs

- a. The development must include 10 MPDUs (6.0 % of total number of units in Phase 2), on-site in accordance with the letter from the Department of Housing and Community Affairs ("DHCA") to the Applicant, dated February 5, 2013. The minimum number of MPDUs for this Site Plan is 21 MPDUs (12.5%). The additional 11 units required are provided by the Toll 1, Cabin Branch development (Site Plan No. 820070140).
- b. Applicant must execute the MPDU Agreement-to-Build with DHCA prior to issuance of the first building permit.

Parks

12. Dedication of Land to M-NCPPC for use as Parkland

- a. Prior to record plat, Applicant must dedicate by deed to M-NCPPC the area of contiguous land that is located between the residential lots and the unnamed western fork of Cabin Branch substantially as shown on the Site Plan ("Local Park"). Precise boundaries of the Local Park must be approved by MNCPPC Department of Parks staff prior to certified Site Plan without the necessity of amending the Site Plan or preliminary plan. All land must be conveyed free of trash and unnatural debris; park boundaries staked and signed to distinguish from private properties.
- b. Applicant must construct natural surface trails on dedicated parkland and throughout the community, substantially as shown on the Site Plan, to connect residential areas, open spaces and parkland together in an accessible, pedestrian friendly manner in order to provide recreational opportunities to the communities within the subdivision and Cabin Branch community. Precise locations as they are field located must be approved by MNCPPC Department of Parks staff prior to certified Site Plan without the necessity of amending the Site Plan or preliminary plan. Trails within parkland to be constructed to Department of Parks standards and specifications after procurement by Applicant of park permit. Appropriate signage and any bridges, as determined by Department of Parks staff to be necessary, to be provided by Applicant and constructed to Department of Parks standards and specification.
- c. No retaining walls or stormwater management ponds or facilities may be located on area to be dedicated.

13. Common Open Space Covenant

Common Open Space Covenant recorded at Liber 28045 Folio 578 must be referenced on the record plat and in the recorded HOA documents.

Development Program

14. Development Program Requirements

The Applicant must construct the development in accordance with a development program to be approved by Staff prior to the approval of the certified Site Plan.

Development Program Phasing

- a. Housing
 - i Phase 1 must include Lots 36-45 in Block AF;
 - ii Sequencing for Phase 2 may be flexible, with sections interchanged, subject to Staff review and approval.

b. Streetscape

- i Street lamps and sidewalks for public streets, private streets and alleys must be installed within six months after street construction is completed.
- ii Street tree planting must be completed no later than the first planting season after completion of the residential units or park and school facilities adjacent or adjoining the subject streets.

c. Local Recreational Facilities

- i Prior to issuance of the 65th building permit, the recreational facilities in Phase 1 shall be complete. These include the Terrace (Parcel B, Block AF) and Gull Green (Parcel D, Block AF), integral sitting and picnic areas, bicycle racks, and the bicycle system paths within this phase ("Phase 1 Recreational Facilities"). Each Phase 1 Recreational Facility shall be completed as the homes on that block are completed, and in no event later than issuance of 70 percent of building permits for the units in Phase 1. Landscaping and lighting associated with the Phase 1 Recreational Facilities must be installed no later than six months after the completion of those facilities (or within the next planting season). The Phase 1 Recreational Facilities each must progress with the construction of their respective adjacent residential units and be completed no later than six months (or within the next planting season) after completion of the landscaping and lighting associated with the adjacent units (or within the next planting season).
- ii Prior to issuance of the 118th building permit, the recreation facilities in Phase 2 shall be complete. These include Mountain View Park (Parcel C, Block AD), the Overlook (Block Z) and the trailhead located between Lots 53-54 ("Phase 2 Recreational Facilities"). Each Phase 2 Recreational Facility shall be completed as the homes on that block are completed, and in no event later than issuance of 70 percent of building permits for the units in Phase 2. Landscaping and lighting associated with the Phase 2 Recreational Facilities must be installed no later than six months (or within the next planting season) after the completion of those facilities. The Phase 2 Recreational Facilities must each progress with the construction of their respective adjacent residential units and be completed no later than six months after completion of the landscaping and lighting associated with the adjacent units (or within the next planting season).

- d. Community-Wide Recreational Facilities (applicable to Cabin Branch as a whole of which this Site Plan is a part):
 - i In accordance with the Preliminary and Infrastructure Site Plans, prior to the issuance of the 440th residential building permit for the entire Cabin Branch development, the school site and Local Park must be rough graded.
 - ii In accordance with the Preliminary and Infrastructure Site Plans, prior to the issuance of the 650th residential building permit for the entire Cabin Branch development, the Local Park, including all facilities, amenities and parking facilities must be constructed.
 - iii In accordance with the Preliminary and Infrastructure Site Plans, prior to issuance of the 650th residential building permit for the entire Cabin Branch development, a building permit must be obtained for the Community Center and pool.
 - e. General Covenant
 - i The Development Program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.
 - ii On-site amenities associated with each block, including but not limited to, sidewalks, pathways, furnishings such as benches, trash receptacles, and bicycle facilities must be installed prior to the completion of the units on the block, and completed prior to the release of the building permits for the last 30 percent of units on the block.
 - iii On-site landscaping and lighting associated with the construction of private roads and common areas shall be installed no later than six months (or within the next planting season) after the completion of those roads and common areas.
 - f. Clearing and Grading

Clearing and grading must not occur prior to approval of the Final Forest Conservation Plan and the certified Site Plan and must correspond to the construction phasing to minimize soil erosion, except as may be otherwise specified in the Infrastructure Site Plan.
15. Surety
Prior to issuance of the first building permit within each relevant phase of development, the Applicant must provide 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. The Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture, entrance piers, retaining walls, and private roads within the relevant phase of the development.
- c. Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d. Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.
- e. The surety must include Terrace Overlook, Gull Green, and Mountain View Park, but need not include areas within public ROW, SWM pond easements, or improvements on residential lots.

Environment

16. Forest Conservation

- a. Record plat shall reflect a Category I conservation easement over all areas of stream buffers and forest conservation.
- b. All off-site reforestation must occur within the Clarksburg Special Protection Area unless otherwise specifically approved by the Planning Board.
- c. The implementation of the project's forest conservation mitigation requirements which includes forest retention, onsite and offsite afforestation, reforestation and landscape credit, may be phased, but the phasing must be proportionate to the greater of i) the area proposed for disturbance relative to the total project size, or ii) the amount of density for each stage relative to the total project density. The phasing triggers, forest conservation mitigation type, amount of mitigation, and disturbance areas are to be defined on the Final Forest Conservation Plan and revised with subsequent site plans or through the Infrastructure Site Plan. Conservation easements may be recorded using a metes and bounds description and sketch if preceding recordation of plats, provided the recording information for the conservation easement is referenced and the easement line is shown on the record plats.

17. Stormwater Management/Final Water Quality Plan

- a. The development is subject to a Final Water Quality approval conditions dated December 9, 2009 and reconfirmed on March 14, 2013, unless

amended and approved by MCDPS– Water Resources Section provided that the amendments do not conflict with other conditions of the Site Plan or the final Forest Conservation Plan approved with the Infrastructure Site Plan.

- b. Reforestation of the stream buffer is to begin in the first planting season after issuance of the first grading permit by MCDPS and pursuant to the phasing set forth in the Final Forest Conservation Plan.

18. Noise

Limit the acceptable noise levels to a maximum 65 LdN for residential rear yards, per Montgomery County Guidelines.

Certified Site Plan: General Requirements

19. The Applicant must make the following revisions and/or provide the following information to Staff for review and approval prior to approval of the certified Site Plan:

- a. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b. Modify the data table to reflect development standards approved and binding in the Planning Board Resolution.
- c. Include detailed Phasing Plan showing phasing lines consistent with the Development Program.
- d. Show definitive lot sizes, with building envelope setbacks labeled.
- e. Remove the following notes from the Cover Sheet and any/all drawing sheets:
 - i. *Lot sizes are subject to minor modifications at the time of record plat review but will remain generally consistent with the site plan and shall comply with the stated min/max development standards.*
 - ii. *In addition to the garage serving the primary residence, the following use may be added to the garage in the following zone: Guest House-RMX-1/TDR Zone.*
- f. The Applicant must make the following revisions to the environmental elements:
 - i Show Limits of Disturbance;
 - ii Show undisturbed stream buffers, except where approved outfalls are located;
 - iii Indicate methods and locations of tree protections;
 - iv Show Forest Conservation easement areas;

- v Add a note to the Site Plan stating that Staff must inspect all forest conservation and tree-save areas and protection devices prior to clearing and grading;
- vi Describe environmental setting protection for the historic resource or site; and
- vii Verify the maximum building coverage for each lot and document the remaining available on-lot green space.

Certified Site Plan: Specific Site Design

Staff may approve minor modifications to the requirements of condition nos. 20, 21, 22, 23, 24, and 25 at the time of certified Site Plan review.

20. Residential Blocks and Streets, Housing & Site

Show the following revisions on the certified Site Plan:

a. Block AD:

- i Lots 14-19: Stagger the building line in greater increments (almost porch-depth). Shift Unit 14 forward toward Clarksburg Road, and step each successive unit back in increments (15, 16, 17, 18, 19); and
- ii Lot 29, Lot 30: Shift building line (side of unit) forward toward Clarksburg Road, so that Unit 29 building line is almost a porch-depth distance back from the front facade of Unit 19; match street front building lines for Unit 29 and Unit 30.

b. Block AF:

- i Reduce the height of the retaining wall(s) adjoining Gull Green (Parcel D) and The Terrace (Parcel B) to less than 30 inches;
- ii Show the entire block envelope on one sheet, with dimensions of the block, setbacks, open space; dimensions of the open space with respect to building facet-to-building face, sidewalk-to-sidewalk;
- iii Lot 26, Lot 35 Lot, Lot 36, Lot 45 : Show a forward building shift toward the Green to better enclose the far ends of the open space, approximately 8 feet +/-; step back the intervening units proportionately; match Unit 26 and 35 building lines; match Unit 36, 45 building lines;
- iv Show stair and landing within the south wall facing Gull Green; provide a depth of 8 feet for the central landing terrace to be located front of Units 40-42; and
- v Shift northward the central seating area (two benches) located in front of Unit 30 by placement the seating area on the north side of the sidewalk; provide an HOA easement on the front of Lot 30 to accommodate the shift.

c. Block Z:

- i Lots 37-40: Orient unit street facades parallel to the units shown across Woodcock Way 987-92); stagger the building lines by pairs, stepping back (eastward) 37-38, 39-40;
- ii Lot 41: orient to face Jaeger Road, consistent with the grid; set Unit 41-42 as a pair; or, alternatively, employ a different unit type to allow this shift in orientation;
- iii Lot 53: Maintain a 10-foot setback from the east lot line as shown; no building addition, shed or element will be permitted within the visible side yard to allow adequate views of the stream valley and trailhead; and
- iv Lot 54: Maintain a 10-foot setback from the north lot line as shown; no building addition, shed or element will be permitted within the visible side yard to allow adequate views of the stream valley and trailhead.

21. High Visibility Lots Treatment

Provide enhanced architectural treatments such as stone/brick walls, seat walls, architectural fences, and landscaping to all lots proposed for treatment by the Town Architect with particular treatment for those lots listed below. All lot treatments are subject to review and approval of Staff prior to certified Site Plan.

- a. Block AD: Lot 29, Lot 30: Provide special facade treatment using a three-dimensional element such as a wrapping porch, bay or oriel window;
- b. Block AD, Lots 35-48, Lots 58-60: Provide uniform fencing for the rear yards for each of these lots visible from West Old Baltimore Road; use stone materials, such as a stone base and columns, consistent with Cabin Branch monument signage;
- c. Block AD, Lot 20: Provide a low (seat) stone wall backed by coniferous trees to screen King Eider Alley from view of Clarksburg Road; align the screen walls facing Clarksburg Road;
- d. Block AD, Lot 29-30: Provide a low (seat) stone wall backed by coniferous trees to screen Gannet Alley from view of Clarksburg Road; align the screen walls facing Clarksburg Road;
- e. Block Z, Lots 45-53, Lot 60: Show uniform fencing for the rear yards for each of these lots visible from West Old Baltimore Road; use stone materials, such as a stone base and columns, consistent with Cabin Branch monument signage;
- f. Block Z, Lots 53-54: Show uniform fencing for the side yards visible from the trailhead; use stone materials for base and columns, consistent with Cabin Branch monument signage;

- g. Block Z, Lot 41: Show architectural treatment or a public amenity for Lot 41 street corner;
- h. Block AC: Show a finished masonry wall to screen the Alley AC3 from view of Clarksburg Road; tie wall into the monument signage adjoining Lot 99; and
- i. Block AD: Show a finished masonry wall to screen the Alley AD1 from view of Clarksburg Road; tie wall into the monument signage adjoining Lot 1.

22. General Landscape Design

- a. Show street tree planting at a minimum 40 feet on center and a maximum spacing of 50 feet on center, except where physical site limitations do not allow for the spacing. Any deviation from standards must be approved by MCDOT;
- b. Show planting plan for typical multi-family units specific to that unit type;
- c. Show a comprehensive landscape, lighting, and monument signage plan to address the road frontage of Clarksburg road and West Old Baltimore Road;
- d. Show an opening in the street tree spacing on Jaegar Road to the stream valley park; and
- e. Show two clusters of colorful ornamental trees within the trailhead area.

23. Block Specific Landscape Design

- a. Block AD:
 - i Show special landscape treatment for the corner of Lot 41.
- b. Block AF
 - i Show special paving for the Terrace (Parcel D) stair landing located in front of Units 40-42;
 - ii Show banding of special paving at the perimeter(s) of the seating areas within Gull Green (Parcel D), the Terrace (Parcel B) and the Overlook;
 - iii Show a finished stone masonry for the retaining wall(s) and stairs and landing associated with Gull Green and the Terrace (Parcel B); and
 - iv Show a finished stone masonry for the retaining wall(s) and stairs associated with the Terrace (Parcel B) and the Overlook.

24. Lighting and Power

- a. Provide a comprehensive lighting plan for the entire Site Plan area showing the location and type of each fixture and referencing the lighting schedule by plan symbols.

- b. Provide a lighting plan for each height) for each of the public open spaces and for the two trailheads; use decorative lighting fixtures at a maximum 14-foot mounted height. (See landscape comments for specific locations.) Identify lighting fixture location and type by symbols on the landscape plans keyed to the lighting schedule.
 - i Show decorative lighting fixtures with photometric lighting levels for each of the public open space areas: Gull Green, The Terrace (Parcel B), and Mountain View Park;
 - ii Show power supply for Mountain View Park, Gull Green and the Terrace to serve community events;
 - iii Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties; and
 - iv Illumination levels shall not exceed 0.5 foot-candles at any property line abutting county roads or adjacent residential properties.
- c. Provide a comprehensive lighting schedule showing: each fixture type, specifications and details, mounted height, wattage, cut-off shield housing; all light fixtures shall be cut-off fixtures.
- d. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- e. Show Illumination levels that do not exceed 0.5 foot-candles at any property line abutting MD Route 121 and those abutting Old West Baltimore Road, and offsite residential properties.
- f. Identify lighting proposed for the public right-of-way; reference light fixtures by type on the landscape plans.

Recreation Facilities, Pedestrian and Bicycle Amenities

25. In compliance with M-NCPPC Recreation Guidelines, Applicant must demonstrate conformance for each of the following recreation facilities with respect to size, grading, setbacks, location and targeted age group:
- a. Provide the following facilities:
 - i Mountain View Park;
 - ii Gull Green;
 - iii The Terrace;
 - iv The Outlook;
 - v Sitting-Picnic Areas (11);
 - vi Pedestrian System;
 - vii Bicycle System and Parking;
 - viii Natural Areas; and
 - ix Nature Trails;

b. Mountain View Park

- i Entry features: Show a formal entrance to the Park from Woodcock Way: provide stone-faced, curved seat walls to identify the park entry and to provide visual separation of the park from Lot 34 and Lot 35; show walls extend into the grade; (revise the currently shown sidewalk pattern) and continue the curve as special paving for the pathways; provide special paving between the entry walls.
- ii Show five single pieces of play structures to satisfy tot lot requirements: select from Kompan Galaxy Solitaires Series such as Spica, Spica Junior, Moments, Vega, Orbits, Argo, Stellanova, Starsurfer to allow 5 activities such as jumping, spinning, gathering, balancing, and rocking. Install the equipment within a mulch cover, marking the area edges with ground planting; provide two benches and a decorative lighting fixture in the north part of the park near Lots 30-32.
- iii Show final grading and sidewalk/bike path dimensions and separation from the roadways on the site plan, upon approval of the Infrastructure Site Plan amendment; show a fence at park perimeter adjoining the roadways if necessary for safety.

c. Bicycle Facilities:

- i. Show an 8-foot wide bicycle path (asphalt) off-street, within the public right-of-way as shown on the Toll 1 and Toll 2 Green Space/Overall Plan Exhibit, in the following locations:
 - a) East side of Clarksburg Road (MD121) along the entire Toll property frontage; and
 - b) North side of West Old Baltimore Road between Clarksburg Road (MD11) and Broadway.
- ii Show a Public Improvements Easement (PIE) for all paths not located in the public ROW.
- iii Provide bicycle racks within each of the areas of public open space: Gull Green, The Terrace, the Overlook, Mountain View Park, and at each trailhead. Bicycle parking must be provided at a bicycle-auto ratio of 1:20 based on the number of on-street parking spaces and the surface lot spaces that serve the Local Park.
- iv Show a bike path signage plan subject to DOT review and approval.

BE IT FURTHER RESOLVED, that all site development elements as shown on Toll Phase 2 drawings stamped by the M-NCPPC on February 28, 2013, shall be required, except as modified by the above conditions of approval; and

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

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

Cabin Branch, in its entirety is comprised of approximately 535 acres, including the Subject Property. The LMA reclassified the eastern half, approximately 283.5 acres of the Cabin Branch tract, from the RE-1/TDR, RMX-1/TDR-3 and I-3 Zones to the MXPB Zone. The LMA did not include the Subject Property, which maintained the existing RMX-1/TDR-3 zone. However, because Cabin Branch was comprehensively planned as a single community, the Development Plan, including the Land Use Plan and other graphical exhibits, showed the entire Cabin Branch tract including the Subject Property. Therefore, the Site Plan conforms to all non-illustrative elements and binding elements of the Development Plan approved by the District Council to the extent that it applies to the Subject Property, and therefore, this Site Plan. The discussion below indicates how this Site Plan conforms to binding elements 1 and 4. Binding elements 2, 3, 5, 6, 7, 8, and 9 are not applicable to this Site Plan.

Binding element 1 of the Development Plan (set forth below for reference) refers to the total number of TDRs and MPDUs required for the entire 535-acre Cabin Branch. This Site Plan will provide a portion of the required TDRs and MPDUs. Although the number of TDRs and MPDUs are not evenly distributed among the different development phases and site plans within Cabin Branch, the ultimate build out of Cabin Branch will meet the total requirement.

1. Transferable Development Rights and Moderately Priced Dwelling Units

The property that is the subject of this application (283.5 acres) is part of a larger, mixed-use community planned for 535 acres shown on the Development Plan, of which the Applicants are also owners. The portion of the property not being rezoned MXPB, is zoned RMX-1/TDR and will require the purchase of Transferable Development Rights (TDR's) for the development planned by Applicants. Based on calculations developed with M-MCPPC staff, the total Master Plan residential density for the 535-acre community is 1,676 market rate units plus 210 Moderately Priced Dwelling Units. Assuming this density and the mix of unit types called for in the Master Plan for the entire Cabin Branch Neighborhood (including a maximum of 20% multifamily) the 535-acre project will require 635 TDR's. The Preliminary Plan of Subdivision application(s) for the MXPB area and the remaining RMX-1/TDR area shall require the purchase of TDR's in conformance with this calculation.

The 635 TDRs initially required for Cabin Branch assumed a maximum density, mix and number of MPDUs for the RMX-1/TDR-3 portion of the property and the total number of units. Because the TDRs are proportional to the number of MPDUs provided, they have been recalculated to account for an increase in MPDUs with Preliminary Plan 12003110B. Thus, when Cabin Branch was approved for 1,886 residential units and 500 senior units, including an increase to 236 MPDUs, the required TDRs was proportionately adjusted to 609.

The Toll portion of Cabin Branch is divided into two site plans representing two different phases. Collectively, the two site plans will provide 12.5% MPDUs of the total number of units (76 out of 605 total units) (see table below). This Site Plan, which is the last phase of the Toll development, includes 6% MPDUs on-site (10 out of 168 units) because Site Plan No. 820070140, Toll I, Cabin Branch was approved with a higher percentage of MPDUs (15% or 66 of the total required MPDUs for the Toll portion of Cabin Branch). This distribution will hasten the availability and occupancy of affordable units. DHCA supported the location, distribution and phasing of MPDUs as approved for the two Toll phases of development.

The number of TDRs provided is 63, which conforms to the calculations approved with the Development Plan and Preliminary Plan 12003110B. The total number of TDRs for Cabin Branch (609) was allocated among the different property owners based on the number of units provided on each property. This

Site Plan includes 168 units, which is 9.8% of the total number of units for the Toll Winchester (including Concordia, Gosnell and Adventist) properties (1,699 total units). When this percentage is applied to the total TDR requirement for this group of properties (609 TDRs), it results in 63 TDRs ($9.8\% \times 609 = 63$) required for the Site Plan. The table below tracts the cumulative number of TDRs approved for the entire Cabin Branch tract against the cap established by the Development Plan and Preliminary Plan 12003110B.

Binding element 4 of the Development Plan (set forth below for reference) refers to the street network.

4. Street Network

A network of public streets shall be provided, supplemented by private streets, in a grid pattern that promotes interconnectivity. Public streets will consist of Master Plan streets and additional business and residential streets to form blocks that, with the exception of Area D defined on the Development Plan, are substantially similar to the street system shown in the Road Hierarchy Plan of the Development Plan and that are subject to MNCPPC and DPWT approvals.

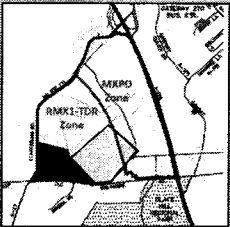
The Applicant has provided a network of public streets in a grid pattern that defines scaled blocks typical of neo-traditional style of development. The street network is patterned to negotiate significant grades, accommodate underground infrastructure, and create a cohesive relationship with public and private uses in the Cabin Branch neighborhood. The public streets are consistent with the Master Plan and hierarchy defined in the Development Plan.

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

The Site Plan meets all the requirements of the RMX-1/TDR-3 zone under the standard method of development. According to Sec. 59-C-10.2.1, standard method projects in the RMX-1/TDR-3 zones "must occur in accordance with the development methods, standards and special regulations of the R-200/TDR zone, as contained in 59-C-1.331, 59-C-1.332 and 59-C-1.39." The Site Plan uses the development standards under the latter section (59-C-1.39, Special regulations for optional method development using TDRs), which enable densities consistent with the Master Plan recommendations for this site. Although the Master Plan recommends a range of 5 to 7 dwelling units per acre (p.65), the Site Plan is approved for an average of 3.63 dwelling units per acre, which is appropriate when considered in the context of the higher density achieved in the Winchester Phase 3 section of Cabin Branch adjacent to the Subject Property.

The Site Plan meets the minimum setbacks, building restriction lines, and maximum building heights as permitted by the zone.

The Development Plan and Preliminary Plan No. 12003110B established limits on certain development standards for Cabin Branch. These include density, MPDUs, TDRs, retail, employment, and green area. The Site Plan meets these development standards as part of a cumulative total for Cabin Branch. Residential uses are allowed in the RMX-1/TDR-3 Zone and the Site Plan meets the purpose of the zone by contributing residential uses to the overall mixed-use Cabin Branch community. Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the RMX-1/TDR-3 Zone under the standard method of development.

RMX-1/TDR-3 ZONE Development Standards Toll Phase 2 Site Plan 820100030					
GOVERNING STANDARD			REQUIRED		APPROVED AND BINDING ON THE APPLICANT
RMX-1 /TDR-3 ZONE	DEVELOPMENT DATA STANDARD METHOD		RMX1/ TDR-3	MASTER PLAN	PRELIMINARY PLAN (1) TOLL - PHASE 2
§59-C-1.39	LOT AND TRACT AREA				
	GROSS TRACT AREA			251.8 ACRES±	46.35 ACRES
	NET AREA FOR RESIDENTIAL USE -ac.				16.46 ACRES
	NET AREA FOR RESIDENTIAL USE -(SF)				(716,997 SF)
	DEDICATION - PUBLIC ROADS- ac.				4.97 ACRES
	DEDICATION - PRIVATE ROADS- ac.				1.21 ACRES
	DEDICATION - PUBLIC USE - ac. (HOA & PARKS)				23.71 ACRES
§59-C-1.332 & §59-C-1.396	RESIDENTIAL DENSITY (1)				
	No. DWELLING DUS FOR SITE > 30 ac.			3 OR GREATER DWELLING DUS	3.22 DU/ACRE± (1)
	DWELLING DUS THIS APPLICATION				168 DU
	DUS THIS APPLICATION AS % OF TOTAL			NA	8.9% (168 UNITS/1886 UNITS)
	ONE-FAMILY DETACHED			NA	128 DU
	ONE-FAMILY DETACHED DU/ac.			NA	2.76 DU/AC (128 UNITS/46.35 ACRES)
	ONE-FAMILY DETACHED % OF ALL DUS THIS APPLICATION			NA	76.2% ± (128 UNITS/168 units)
	ONE-FAMILY ATTACHED (TH)			NA	40 du
	ONE-FAMILY ATTACHED DU/ac.			NA	0.86 DU/AC (40 UNITS/46.35 ACRES)
	ONE-FAMILY ATTACHED % OF ALL DUS THIS APPLICATION			NA	23.8% ± (40 UNITS/168 units)

TOLL PHASE 2 820100030 RMX-1/TDR-3 ZONE			REQUIRED	APPROVED AND BINDING ON THE APPLICANT
§59-C-1.394(b) SETBACKS				
	1-FAMILY DETACHED & ATTACHED (TH)			
	FRONT	min.	10'	10'
	REAR	min.	0'	0'
	SIDE (STREET SIDE)	min.	10'	10'
	SIDE (INTERIOR LOT)	min.	3'	3'
	SIDE (ALLEY)	min.	3'	3'
	R/W TRUNCATION	min.	0'	0'
	ONE-FAMILY ATTACHED (TH)			
	FRONT	min.	10'	10'
	REAR	min.	0'	0'
	SIDE (STREET SIDE)	min.	10'	10'
	SIDE (INTERIOR LOT)	min.	3'	3'
	SIDE (ALLEY)	min.	3'	3'
	R/W TRUNCATION	min.	0'	0'
§59-C-1.395 BUILDING HEIGHT (1) (3)				
	MAIN BUILDING - FT	MAX.	N/A	50 FT MAX. (3)
	MAIN BUILDING - STORIES	MAX.	4 STORIES MAX. †	4 STORIES MAX. (3)

OFF-STREET PARKING PER §59-E					APPROVED AND BINDING ON THE APPLICANT
§59-E-2.2	SIZE	MIN.	8.5' x 18'		8.5' x 18'
§59-E-3.7	PARKING - 1-FAMILY DETACH	MIN.	2 /DU= 256		408 SPACES ± (4)
	PARKING - 1-FAMILY ATTACH	MIN.	2 /DU= 80		120 SPACES ± (4)
	GENERAL PARKING				
	PARKING - OFF STREET				528 SPACES ± (4)
	PARKING - ON STREET		SEE FIRE & RESCUE PLAN (5)		105 SPACES± (5)
	CC PARKING - BIKES				8 SPACES ±▲

The Site Plan meets the compatibility requirements of Sec 59-C-7.15(b), which states that "No building can be constructed to a height greater than its distance from such adjoining land [one-family detached zone]". The Subject Property adjoins RE-1/TDR-2 zoned land on the west side across from Clarksburg Road (MD 121). Because the zoning line follows the old alignment of MD 121, the

building setback shown from the RE-1/TDR-2 land is at least 100 feet, which validates the maximum building height approved at 50 feet.

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 Site Plan consists of 168 dwelling units (including 10 MPDUs) with 128 one-family detached units and 40 one-family attached units.

The development form established with the Road Hierarchy Plan, approved as part of Preliminary Plan 12003110B, and engineered through the Infrastructure Site Plan, clearly defines the block pattern and forms the basis of the neighborhood scale and texture. This Site Plan creates building lines that follow the street which, absorbing the curve of Clarksburg Road, imparts a looser, reflexive style with occasional staggered setbacks. Meanwhile, the interior blocks adhere to a tight geometry, with attached houses and narrow lots, in contrast to the more loosely oriented, larger lots that set the edges along West Old Baltimore and Clarksburg Roads. In this way, the edges relate to the larger context and soften the transition to more the more rural setting surroundings. The clear definition of blocks, the navigable street pattern, lines of sight, and the relationship between the buildings creates an efficient housing pattern with building locations that are safe and adequate.

The Site Plan site design fills in the last residential piece of Cabin Branch. The modest scale and breadth of housing on the "West Side" reads in contrast to the more intensive footprint on the "East Side." The narrow band of buildable area lying between the stream valley and Clarksburg is well suited for the neighborhood perimeter that faces Linthicum and Black Hills Regional Park.

The Site Plan utilizes a number of housing types that enhance the neighborhood quality, varied character, unit size, the handling of topography and fine-tuning the architecture to achieve unique public spaces, such as Gull Green. The Site Plan offers attached housing, and detached housing as rear loaded (both integral garage and separate structures), and a 36' front loaded, street facade-oriented unit. These product types create in the long term, high-quality housing for future neighborhoods.

b. Open Spaces

The Site Plan preserves the stream valley area and associated environmental features such as open space and amenity areas, and provides readily accessible smaller open spaces and active recreation areas within the residential clusters. All open spaces are well connected through the approved trail and sidewalk systems. Additionally, open spaces were strategically placed as a visual terminus for streets and visual connections to the adjacent stream valley area.

Gull Green, tailored in a symmetric oval and treating the grade, reaches up to Clarksburg Road by the Mews, while provides a focused connection on Jaeger Road directly to the Trailhead downhill to the east. Gull Green, by its central location, connectivity, and distinctive character, along with its varying counterpart The Terrace, forms the heart of this Site Plan, offering finished open spaces that are generous in size, efficient in access and essential to the housing by which they are defined. The enclosed nature of the spaces, the line-of-sight views, small-scale streets, and the compact blocks offer intimate, safe, easily seen streets and play areas that are efficient, generous in space, and efficient in their placement.

The RMX-1/TDR-3 zone does not have an open space requirement; instead it has a minimum green area requirement of 35 percent of the tract area. The Site Plan meets the green area requirement by providing a total of approximately 51% (or 23.71 acres) of green space. All green areas, both active and passive, will be accessible to all residents of the development. The diversity of open spaces is adequately dispersed throughout the development to provide safe and convenient access to all residents.

c. Landscaping and Lighting

The schematic design of landscaping and lighting for the Site Plan is adequate, safe and efficient. The overall Streetscape Plan indicates the landscaping proposed for each of the public rights-of-way. Landscaping for the public streets, private streets and alleys is adequate, safe and efficient. Landscaping and lighting consists of a varying treatment within the public rights-of-way, as outlined in the Cabin Branch Design Guidelines. The Site Plan provides typical foundation and tree plantings for individual lots.

Planting for the community open spaces is generally proposed as shade trees that accent the perimeter of the spaces. A condition addresses the further design of Mountain View Park to determine the optimal placement

of play equipment, provide separation of public and private space between the park and the adjoining residential lots, and to allow full park design with the public art sculpture.

Power supply, decorative lighting and furnishings will be provided to support public events, such as concerts, and community events. High quality landscape and lighting design is critical to the daily lives of the future residents of Cabin Branch, especially so for the dense blocks of attached and multi-family housing.

d. Recreation Facilities

The significant open green space provides attractive and safe play areas that are well-proportioned and well-programmed to the density levels of the blocks in which they are contained. The largest of all the open spaces within the Cabin Branch neighborhood, will feature a large, gently graded open play area and a full playground of Kompan equipment that will serve large numbers of children in a range of ages. Likewise, Gull Green provides a generous open play area for the attached housing. This area will provide safe, contained open space, easily and efficiently accessible, and in full view from all of the surrounding houses. The Terrace provides a similar open space; enclosed on three sides by closely spaced detached housing and attached units, the space is convenient, safe and efficient, and meets the size requirements for recreational open space, as does Gull Green. The lawn panels that step down the grade do so at a gentle drop of 12-18 inches, safe for all age groups to negotiate, while offering an unusual sequence of spaces for creative play. The Site Plan features trail connections to the Stream Valley Park, abundant natural areas, nature trails, and bicycle and pedestrian systems. The Local Park will be within a short walk to most units.

Recreational facilities provided on-site include one tot lot, two open play areas (minimum 5,000 square feet), sitting areas, bike system, pedestrian system, nature trails, and natural areas. Facilities outside the boundaries of this Site Plan, but within the overall Cabin Branch tract and intended to serve the entire community include:

- A community center with a swimming pool and wading pool;
- A local park with a soccer field (regulation), tot lot, play lot, 4 sitting areas, 2 picnic areas, and an open play area; and
- A school site with a multi-age playground, junior softball field, and junior baseball field.

This development meets the recreation requirements for the various age groups through a combination of on-site and off-site facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. These facilities adequately and efficiently meet the recreation requirements of this development, while providing safe and accessible opportunities for recreation for the various age groups.

e. Vehicular and Pedestrian Circulation

Access to the Subject Property is provided at two locations, one off Clarksburg Road (MD 121) and the other off of Old Baltimore Road. These connect to the main public street (Woodcock Way) running in a general north-south direction on the western side of the Cabin Branch tract and connecting to another residential development to the south. These will be publically dedicated roads connected to an internal network of private alleys. The vehicular circulation efficiently directs traffic into and through the site with minimal impacts to sensitive environmental features and pedestrian circulation.

The pedestrian circulation system adequately and efficiently integrates this site into the surrounding area. The Site Plan efficiently accommodates pedestrian circulation to the school site and recreation areas within the larger Cabin Branch tract via sidewalks and paths. In addition, a 4-foot wide natural surface trail is provided across the stream valley and other environmentally sensitive areas towards the commercial and employment areas on the east side of Cabin Branch.

The Cabin Branch bike path is planned to follow Clarksburg Road on its east side (along the Cabin Branch frontage) and continue onto the north frontage of West Old Baltimore Road. Within the site, 5-foot wide sidewalks on both sides of all public streets facilitate pedestrian circulation and access to the various units, open spaces and amenities.

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

The residential uses with a density of approximately 3.62 dwelling units per acre and a majority of one-family detached units creates a compatible transition between the highest densities and most intense uses within Cabin Branch located along the I-270 corridor, and the lower densities across MD 121. This distribution of density is consistent with the Master Plan recommendations and preliminary plan approval. A compatible transition to the rural/open space character of MD 121 is achieved with a landscaped, transitional setback, with

units fronting and generally exceeding 40 feet from the completed eastern lane of MD 121.

Compatibility within Cabin Branch is reinforced through the use of the Design Guidelines, which ensure the cohesive development of the Cabin Branch community through the design and placement of new buildings, streets and public spaces. High visibility lots, identified and coordinated with the Town Architect, will have special architectural treatment and materials. The front façades of the MPDUs will be designed and finished with architectural elements comparable to those found on other attached units within the site.

As discussed above, The Site Plan meets the compatibility requirements of Section 59-C-7.15(b) by providing a building setback from MD 121 that is greater than the building height approved at a maximum of 50 feet.

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.*

Forest Conservation Plan

Applicable to entire Cabin Branch Development, including Toll II, Cabin Branch
As with each individual site plan, consistent with conditions 1 and 14(c) of the Infrastructure Site Plan (82005015B), the final Forest Conservation Plan ("FCP") for the overall Cabin Branch development (and the Infrastructure Site Plan) is being amended through this Site Plan. The entire 535-acre Cabin Branch development has an FCP which was approved with the Infrastructure Site Plan. The FCP 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 FCP was to ensure that as this multi-year project developed in phases, portions would not be left uncovered by an individual FCP and the entire Cabin Branch development would remain in compliance with the Montgomery County Forest Conservation Law.

The Environmental Guidelines, which guide implementation of the SPA regulations, require accelerated reforestation of the SPA stream buffers, and afforestation of any unforested portions of the stream buffer above and beyond standard forest conservation requirements. Cabin Branch includes land both in and outside of the SPA, however, with tributaries that drain to a common water body, of the Planning Board appropriately treats the planting requirements for Cabin Branch as if the entire development is located within the Clarksburg SPA. Therefore, conditions 1 and 14 of the Infrastructure Site Plan (82005015B)

require the Applicant to plant the stream buffers in accordance with the FCP including the Planting Phasing Plan. The Applicant must provide a five-year maintenance period for all planting areas credited toward meeting the forest conservation plan worksheet requirements.

Amendments to the FCP have been approved with site plans approved for Gosnell (820060240), Winchester Phase I (820060290 and 82006029A), Winchester Phase II (820110080), Winchester Phase III (820120150), Toll I, Cabin Branch, and amendments to the Infrastructure Site Plan (82005015A, B and C).

Applicable solely to Toll II, Cabin Branch

The FCP amendment required for this Site Plan requires revisions to sheets 1, 3, 4, 37, 38, 50-53, and 62 of the approved FCP. The Subject Property has 15.4 acres of existing forest, and the Applicant is clearing 8.7 acres. This update or revision to the FCP is consistent with the originally approved FCP.

Final Water Quality Plan and Environmental Guidelines for the Protection of Streams, Buffers, Wetlands, Floodplains, and Seeps

As part of the requirements of the SPA Law, a SPA Water Quality Plan should be reviewed in conjunction with a Preliminary Plan of subdivision or Site Plan. MCDPS and the Planning Board have different responsibilities in the review of a water quality plan.

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 Site Plan, as conditioned for the SPA Water Quality Plan and Forest Conservation Plan meets all requirements of Chapter 22A (regarding forest conservation) and Chapter 19 (regarding water resource protection).

With regard to a final water quality plan, the Planning Board has Primary responsibility for:

- (i) Conformity with all policies in the Planning Board's Environmental Guidelines which apply to SPAs;
- (ii) Conformity with any policy or requirement for SPAs, including limits on impervious area, in a land use plan, watershed plan, or the Comprehensive Water Supply and Sewer System Plan; and

(iii) Any other element of the plan in which the Planning Board has primary approval responsibility.

Applicable to entire Cabin Branch Development, including Toll II, Cabin Branch

The NRI/FSD for the various properties, which make up the Cabin Branch Development, are included in the FCP and were used to identify the environmental buffers, including wetlands, wetland buffers, floodplains, streams and stream buffers and can be expanded to include steep slopes. As part of the Environmental Guidelines, the unforested stream buffer within the SPA must be reforested. The Applicant will place forest conservation easements on the environmental buffers, and all forest planting and retention areas.

One of the performance goals for the final Water Quality Plan for Cabin Branch is to protect springs, seeps, and wetlands. The Planning Board is responsible to protect environmental elements through the delineation of stream and wetland buffers. Conservation easements are recommended over all streams and wetlands identified on the approved NRI/FSD.

This Site Plan is in compliance with the Environmental Guidelines and has no forested environmental buffer impacts beyond what is required for the pond outfalls and safe conveyance of discharge. All areas of environmental buffers that are not required for the pond outfalls and safe conveyance of discharge or other utility easements will be placed into Category I conservation easements and forested.

Applicable solely to Toll II, Cabin Branch

This site contains 15.4 acres of forest, 0.11 acres of wetlands, 0.96 acres of floodplain, 11.8 acres of stream valley buffer, and one perennial stream. The Site Plan requires certain stormwater management related encroachments into the stream buffers to meet stringent Maryland Department of the Environment design criteria for the safe conveyance of discharge which were adopted with Site Plan No. 820120150, Winchester Phase 3. Additionally, the Applicant has shown some temporary grading impacts to areas of unforested environmental buffers. As part of the FCP and water quality plan, all of the environmental buffers not restricted by other easements, such as WSSC easements will be reforested.

This Site Plan is in compliance with the Environmental Guidelines and has no forested environmental buffer impacts beyond what is required for the pond outfalls and safe conveyance of discharge. All areas of environmental buffers that are not required for the pond outfalls and safe conveyance of discharge or

other utility easements will be placed into Category I conservation easements and forested.

Site Imperviousness

There are no impervious limitations within this portion of the Clarksburg SPA; however, the SPA regulations encourage the Applicant to reduce imperviousness. As part of the preliminary Water Quality Plan for Cabin Branch a goal of less than 45% imperviousness was established.

This Site Plan indicates an impervious level of approximately 31% with approximately 14.25 acres of impervious surface and is therefore consistent with the approved preliminary/final water quality plan estimates. The Cabin Branch Development is on course to remain below an aggregate level of 45% imperviousness.

MCDPS conditionally approved the elements of the final water quality plan under their purview on December 9, 2009 and reconfirmed on March 14, 2013.

The Planning Board finds that the SPA Final Water Quality Plan conforms to the Environmental Guidelines, adequately protects the sensitive features on the Subject Property, and maintains impervious levels consistent with the original approvals.

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

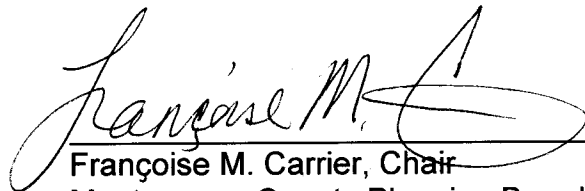
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 2 2013 (which is the date that this resolution is mailed to all parties of record); and

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 Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Anderson present and voting in favor, and Commissioners Dreyfuss and Presley absent, at its regular meeting held on Tuesday, April 23, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

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Zoning Case History

LMA G-806

The Cabin Branch neighborhood, which the current Site Plan Application is a part of, was the subject of a Local Map Amendment (LMA) No. G-806. The LMA was approved in 2003 by Resolution No. 15-326, for a total mixed-use development of 535 acres. The LMA retained approximately 250 acres of existing RMX-1/TDR zoned land and rezoned 283.5 acres of RE-1/TDR-2, RMX-1/TDR, and I-3 zoned land to the MXPD zone. The rezoning to MXPD was to allow for a mix of office, retail, residential, and public uses, consistent with the Master Plan vision for the Cabin Branch neighborhood. The accompanying Development Plan broke the MXPD portion of the Neighborhood into four development areas (A, B, C and D), setting allowed uses and maximum densities within each area. Development area E was the remaining RMX-1/TDR area which would be all lower density residential.

Total development uses for the MXPD zone were ultimately approved for 2,420,000 square feet of non-residential/employment use including approximately 120,000 square feet of retail and 2,300,000 square feet of office, 1,139 dwelling units, 500 age-restricted dwelling units, and 75,000 square feet of public use. The Development Plan associated with LMA G-806 anticipated the retail to be located in two areas, one north of Clarksburg Road, and a second neighborhood center located near the center of the Neighborhood. The office employment uses would be all along the eastern part of the MXPD zoned area closest to I-270. The multi-family residential areas were proposed primarily along the east side of Cabin Branch Avenue near the middle of the Neighborhood, with other possible locations in the northern and southern ends of the Neighborhood.

DPA 13-02

A Development Plan Amendment (DPA) No. 13-02 for the Premium Outlets was approved by Resolution No. 17-1002 on February 4, 2014, to increase allowed retail uses to a total of 484,000 square feet to accommodate a major retail center (Figure 6). The previous employment use contemplated for development Area A was medical/hospital which was deemed improbable to occur with the Certificate of Need granted to, and recent construction of, Holy Cross Hospital in Germantown. The DPA considered the approximately 450,000 square feet of retail needed for the major retail center as a source of employment and reduced the amount of remaining office uses within the Neighborhood to 1,935,000 square feet. The amount and location of retail services for the remaining development was consistent with the original approval and anticipated ancillary and service retail an amenity to the Cabin Branch neighborhood. No other substantial changes were made to the Development Plan as a result of DPA 13-02.

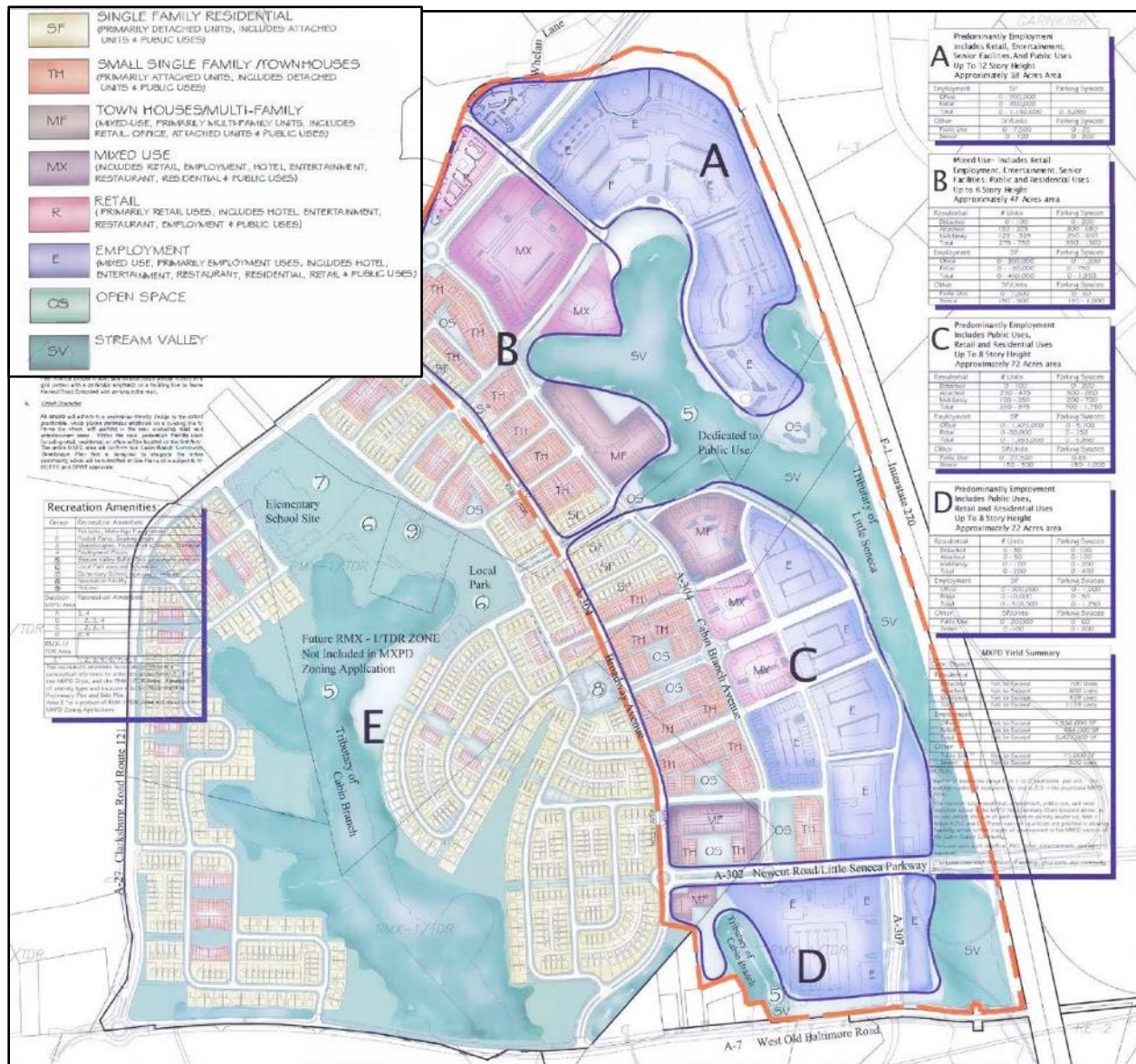


Figure 6 – DPA 13-02

Preliminary Plans

120031100 & 12003110A

The Preliminary Plan for Cabin Branch, No. 120031100 ("Preliminary Plan"), was first submitted in June 2003. However, before it was acted on an amendment No. 12003110A was submitted in September 2003. The A amendment was adopted by resolution dated June 22, 2004 and approved a development with up to 1,600 dwelling units, 500 age-restricted housing units, 1,538,000 square feet of commercial uses, including the necessary APF reviews. The Preliminary Plan and its A amendment also approved the general road layout, consistent with LMA G-806. The Preliminary Plan did not lay out the final network of roads or lots, and the subsequent Site Plan approvals, including an Infrastructure Site Plan, have instead been used to work out these details more typical of a Preliminary Plan. The APF validity from the Preliminary Plan was extended by Amendment D to February of 2030 and is utilized for the proposed residential units.

12003110B & 12003110C

The Preliminary Plan B amendment was approved by resolution dated 10/06/2008, increasing the total residential and commercial density allowed in the Cabin Branch neighborhood to 1,886 residential units, and 2.4 million square feet of commercial.

The C amendment to the Preliminary Plan (Premium Outlets) was approved by resolution dated 12/23/2014, and it modified the transportation APF approvals to specifically increase retail uses from 120,000 square feet to 484,000 square feet, and to reduce office uses from 2.3 million square feet down to 1.96 million square feet. The APF validity period remained unchanged as a result of this amendment.

12003110D

The Preliminary Plan D amendment was approved on July 17, 2019. The amendment extended the Plan validity by 3 years for each of the 4 phases of the plan and extended the APFO validity by 10.5 years to February 17, 2030.

Table 1 - Approved Staged Development Validity Period

Stage	Approved Development	Original Plan Validity Expiration	Current Expiration
Stage I	420 dwelling units 125 age-restricted housing units 380,000 square feet commercial	05/6/2011	08/17/2022
Stage II	404 dwelling units 250 age-restricted housing units 380,000 square feet commercial	11/06/2013	02/17/2025
Stage III	388 dwelling units 125 age-restricted housing units 380,000 square feet commercial	05/6/2016	08/17/2027
Stage IV	All Remaining Development	11/06/2018	02/17/2030

Site Plans

Infrastructure Site Plan 820050150 and Amendments

The Cabin Branch community has an infrastructure Site Plan, first designated as No. 820050150 ("Infrastructure Site Plan"), which has been amended at least seven times since. The Infrastructure Site Plan covers the entire Cabin Branch Neighborhood and includes the details on the roads, utilities and the forest conservation. It has allowed the various different developments within the greater Cabin Branch neighborhood to coordinate and pre-construct the necessary shared infrastructure improvements. As Site Plans are submitted and approved, they automatically update the Infrastructure Site Plan to include any changes to roads, stormwater and forest conservation necessary to accommodate the developments. The listed amendments A – G of the Infrastructure Site Plan are all amendments to the Infrastructure Site Plan independent of any particular Site Plan approval.

All Other Cabin Branch Site Plans

There have been nine previously approved Site Plans in Cabin Branch, including three separate phases of Winchester Homes, two phases of Toll Brothers, The Premium Outlets, Cabin Branch Multi-family, the Village at Cabin Branch, and the Gosnell property. Each have implemented another portion of Cabin Branch under the overall development approvals of the LMA and the Preliminary Plan. The Village at

Cabin Branch was the most recent approval within the Cabin Branch development, with the property being located directly north of the Subject Property.

820200150

In 2020, the Planning Board approved Site Plan No. 820200150 (MCPB No. 20-076), which included a final water quality plan for the construction of 375 age-restricted residential dwelling units and up to 16,000 square feet of non-residential space. The dwelling units were comprised of 240 townhouse units and 135 multi-family units within five buildings. The 375 age-restricted dwelling units and up to 16,000 square feet of non-residential space are located at the northeast quadrant of the intersection of Cabin Branch Avenue and Little Seneca Parkway on 61.54 acres of CRT-0.5, C-0.25, R-0.25, H-130T zoned-land, but reviewed under the former MXPB zone. The Site Plan included an alternative payment to DHCA in lieu of providing the minimum 12.5% MPDUs within the age-restricted units. The Site Plan also did not provide any TDRs because the age-restricted dwelling units are located within an area that was rezoned MXPB from the previous I-3 designation and was not considered to be part of the TDR obligation that exists within other areas of the Cabin Branch development. Elements of the Infrastructure Site Plan were amended and incorporated into the Infrastructure Site Plan.