

**JUSTIFICATION STATEMENT  
FOR SITE PLAN NO. 820210110**

**Site Plan Justification for Ashford Woods**

**July 2021**

**I. INTRODUCTION**

Applicant, Ashford Woods, LLC (“Applicant”), by its attorneys, Miles & Stockbridge P.C., submits this Site Plan Justification Statement to demonstrate conformance of the proposed development with all applicable review requirements and criteria. The subject property contains a gross tract area, as defined in Chapter 59 of the Montgomery County Code (“Zoning Ordinance”), of approximately 141.42 gross acres and is generally located along the west side of MD 355, south of Comus Road, and bisected by I-270 (“Property”).

The portion of the Property to the east of I-270 consists of approximately 101.49 acres and is more particularly described as Lot 1, Little Bennett Meadows on Plat No. 22882 recorded among the Land Records of Montgomery County Maryland (the “Land Records”) on June 4, 2004 (“Eastern Parcel”). The Eastern Parcel has existing scattered improvements associated with the on-site catering facility that will be removed. It is within the R-90 and Clarksburg East Environmental Overlay (“CEE Overlay”) zones.

The portion of the Property to the west of I-270 consists of 39.93 acres and is more particularly described as Parcel P787 on tax map EW12 (the “Western Parcel”). It is unimproved and in the Rural and Clarksburg West Environmental Overlay (“CWE Overlay”) zones (hereinafter the CWE and CEE Zone are collectively referred to as “Overlay Zones”).

By way of background, the Property was originally comprised of multiple parcels of land, all of which were under common ownership as early as 1956. The largest of these parcels,

containing approximately 110 acres, together with four smaller parcels, was conveyed to Peyton Nevitt, *et al.* (“Nevitt”) by a deed recorded October 5, 1936 in Liber 642, folio 418 among the Land Records. A portion of the 110±-acre property was later required to be conveyed to the State Roads Commissions (“SRC”) for the relocation of U.S. 240 Washington National Pike (now I-270). Accordingly, by a deed recorded March 21, 1952 in Liber 1643, folio 222 among the Land Records, Nevitt conveyed a portion of the 110±-acre parcel to SRC. This involuntary partition bifurcated the Property resulting in approximately 71 acres of the 110± acre parcel being located on the east side of U.S. 240 (now I-270), with access to Frederick Road, and 39± acres being located on the west side of U.S. 240 (now I-270), with no access to a public road. By a deed recorded February 27, 1956, in Liber 2174, folio 534, among the Land Records, the SRC conveyed two small parcels of land it had previously acquired from an adjoining owner to Nevitt in order to provide access from the Western Parcel to Comus Road.

The Property is subject to the recommendations of the Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Area Study, approved by the Montgomery County Council (“County Council”) in April 2014 and adopted by the Maryland-National Capital Park and Planning Commission (“M-NCPPC”) in July 2014 (“Limited Amendment”). All but 1.5 acres of the Property in the northwestern corner of the Eastern Parcel are located within the Ten Mile Creek Special Protection Area (“SPA”). The area not within the SPA falls within the Little Bennett Creek Watershed.

Pursuant to the applicable provisions of the Zoning Ordinance, Applicant submits this site plan application (“Application” or “Site Plan”) for redevelopment of the Property with 364 dwelling units, including 322 townhouses and 42 two-over-two condominium units (the “Project”). Twenty-five percent (25%) of the total number of units, or 91 units, will be moderately

priced dwelling units (“MPDUs”). The Site Plan will implement the previously approved Preliminary Plan No. 120200110 for the development of the Property. Pursuant to the Overlay Zones, at least 80% of the total area under the Application must be open space, which is considered Rural Open Space. An additional approximately 6.09 acres (265,219 square feet) are proposed by the Application to be recreation and amenity spaces. Pursuant to the Overlay Zones and the conditions of approval of the Preliminary Plan, the total impervious area on the Property is limited to 725,678 square feet. In keeping with the Limited Amendment’s primary purpose of protecting the environment while allowing appropriate development, the Project proposes development exclusively on the Eastern Parcel. The entire Western Parcel (approximately 39.93 acres) is proposed to be donated to M-NCPPC for desired parkland. Further, all of the Western Parcel, except for 7,500 square feet of impervious surface for park improvements, is Rural Open Space. Applicant respectfully requests that the Montgomery County Planning Board (“Planning Board”) grant approval of the Application described in more detail below.

## **II. PRIOR APPROVALS**

The Eastern Parcel is subject to the following prior approvals: 1) Special Exception No. S-2367 for a private outdoor catering facility, approved by the Montgomery County Board of Appeals on April 9, 1999; 2) Preliminary Plan No. 120000890 for a commercial catering facility with both on- and off-site operations, approved by the Planning Board by Opinion mailed on June 26, 2001; 3) Record Plat No. 220012490, approved by the Planning Board on May 17, 2001; and 4) Preliminary Plan No. 120200110 (the “Preliminary Plan”), approved by the Planning Board by Resolution No. 20-140 dated February 23, 2021 (the “Preliminary Plan Resolution”).

The Preliminary Plan permits the development of the Eastern Parcel with up to 364 new dwelling units, including 322 single-family attached and 42 multi-family dwelling units, including

a minimum of 25% MPDUs and parcels for roads and open space. Additionally, prior to the 50th above-grade building, the Applicant will convey in fee simple the entire Western Parcel to M-NCPPC, including the construction of a gravel trailhead and parking area for 10-12 vehicles on no more than 7,500 square feet of impervious surface (See Condition 5 of the Preliminary Plan Resolution).

The Preliminary Plan approves the phased redevelopment of the Property. The determination of Adequate Public Facilities (APF) and Preliminary Plan approval are valid for 10 years. Preliminary Plan Resolution, pp. 40–41.

### **III. EXISTING CONDITIONS AND SURROUNDING AREA**

As explained above, the Property was a single property and was bisected by the required conveyance to the State for I-270. The Eastern Parcel has existing scattered improvements associated with the current catering facility use. Otherwise, as stated in the Limited Amendment, the Eastern Parcel is “largely open, with sparsely wooded areas in the stream valleys” and mostly “turf or meadow.” Limited Amendment at 34. Streams are located on the Property. On the Eastern Parcel, stream valley buffers were established through the prior preliminary plan and platting process. One of the Eastern Parcel stream valley buffers is located in the southernmost area of the Eastern Parcel and runs across the width of the parcel. A second is located in the northernmost portion of the Eastern Parcel and also contains wetlands and a pond. Both tributaries are within a Category I Conservation Easement recorded among the Land Records at Liber 13178, folio 412, and shown on Plat No. 22882. Also, on the Eastern Parcel is a 60-foot Right-of-Way granted to the Potomac Edison Company, recorded among the Land Records at Liber 36499, folio 113 (“Potomac Edison Easement”). The access road associated with the Potomac Edison Easement is approximately 12 feet wide (“Potomac Edison Access”). The Eastern Parcel is also subject to a

right-of-way granted to the Potomac Edison Company, recorded among the Land Records at Liber 2814, folio 689.

The Western Parcel is unimproved and mostly forested. Streams exist on the Western Parcel, but are not subject to the conservation easements. The Western Parcel is also subject to a right-of-way granted to the Potomac Edison Company, recorded among the Land Records at Liber 2814, folio 689, running from the eastern boundary of the parcel in a northwesterly direction to the western boundary of the parcel. This easement is largely unforested and covered with turf.

The neighborhood surrounding the Eastern Parcel is of a varied, but largely residential character. Abutting the Eastern Parcel are: 1) a single-family detached home zoned R-200 to the north; 2) a Potomac Edison facility and vacant land zoned R-90 to the west; and 3) single-family detached homes zoned CRN-0.25, C-0.25, R-0.25, H-35, as well as vacant land and single-family detached homes zoned R-90 to the south. Across Frederick Road from the Property are: 1) Little Bennett Regional Park zoned AR; 2) single-family attached and detached homes zoned R-200; 3) a single-family home zoned CRT 0.5, C-0.25, R-0.5, H-45; and 3) unimproved land zoned CRT-0.75, C-0.25, R-0.5, H-65 T. All of the above properties are within the CEE Overlay.

The neighborhood surrounding the Western Parcel is largely of a rural character. Abutting the Western Parcel are: 1) unimproved properties to the south and west zoned Rural; 2) a landscaping contractor to the west zoned Rural; and 3) a single-family home to the north zoned Rural. All abutting properties are also subject to the CWE Overlay zone. The land north of Comus Road is unimproved and zoned AR. The Property is mainly located within the Little Seneca Creek-10 Mile Creek Watershed, with 1.49 acres in the Little Bennett Creek Watershed. All but 1.5 acres of the Property in the northwestern corner of the Eastern Parcel are located within the SPA. The area not within the SPA falls within the Little Bennett Creek Watershed. The area not within the

SPA falls within the Little Bennett Creek Watershed. Floodplain areas are present onsite as shown on the approved NRI/FSD.

#### **IV. NARRATIVE DESCRIPTION OF SITE PLAN**

Consistent with the Preliminary Plan approval, Applicant proposes to redevelop the Property with all development located on the Eastern Parcel under the MPDU optional method of development, the R-90 Zone, CWE Overlay, and CEE Overlay, in accordance with Sections 59.4.4.8.C, 59.4.9.5, and 59.4.9.6 of the Zoning Ordinance. As required by the Preliminary Plan, the Applicant will convey, in fee simple, the approximately 39.93-acre Western Parcel to M-NCPPC. In accordance with the Overlay Zones, 80% of the land covered by the Application will be Rural Open Space, and impervious area will comply with the requirements of the Overlay Zones. The Project will be developed in a compact pattern on approximately 26.96 acres on the Eastern Parcel.

##### **1. Uses and Structures**

The Project consists of a mix of 16', 20', 22', and 24' townhomes and two-over-two condominium units to be located on the Eastern Parcel. This program provides a wide variety of housing options with a range of square footages and options by housing type which will allow the Applicant to offer homes at different price points to appeal to diverse homebuyers. In accordance with the Preliminary Plan, 25% of the Project's dwelling units will be offered as MPDUs. The MPDUs will be dispersed throughout the Project in twenty-one (21) two-over-two units, as well as all seventy (70) of the 16'-wide townhomes.

The development is proposed in the Traditional Neighborhood Design ("TND") style with the majority of units fronting on main streets and served by alleys. Units will also front on the proposed open space parcels and mews making those spaces feel activated, safe, and inviting. A

limited number of front-loaded units are incorporated on the edges of the development to reduce impervious areas on the site. The units will be arranged such that there are spaces between the sticks of townhouses and two-over-two units allowing for views into the rural open space that will flank the proposed residential community to the north and south. Highly visible end units for the two-over-two and townhouse sticks will include windows and/or balconies, as well as variations in materials on their sides to avoid the appearance of blank walls. For all units, massing will be broken down both horizontally and vertically through variations in materials, as shown on the architectural elevations. For the wider 22' and 24'-wide townhomes, small cantilevered bump-outs will be provided to break down massing and create visual interest. Together the above-described measures will create a cohesive and human-scaled residential community.

A retaining wall will be provided to the rear of units 37 through 39 and curving around the eastern side of unit 39 as shown on the Site Plan. The retaining wall will be approximately 162 linear feet in length and will range from approximately one foot to approximately 10.2 feet in height. The highest portion of the wall will occur at its midpoint. The wall will be composed of retaining wall block as shown on Sheet 14 of the Landscape and Lighting Plan.

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## 2. Access and Circulation

As shown on the Site Plan, the proposed road network will allow for safe and efficient vehicular, pedestrian, and bicycle circulation. Vehicular access to the Property will be via two new streets off MD 355: 1) Proposed Street A will align with Snowden Farm Parkway across MD 355 into the site; and 2) Proposed Street B will align with Florence Street across MD 355 into the Property. Pursuant to Condition 27 of the Preliminary Plan, subject to the approval of the Montgomery County Department of Transportation and the State Highway Administration, prior to the release of the 270th building permit, the Applicant will install a traffic signal at the

intersection of Snowden Farm Parkway and MD 355. The access road for the existing catering facility and its associated acceleration/deceleration lane will be removed.

The proposed internal road network of streets and alleys allows for safe and efficient vehicular circulation. The access streets, Street A and Street B, will form a loop road around a semi-regular grid pattern of streets and alleyways. As previously stated, the units will mostly be rear-loaded via alleyways, except for some front-loaded units incorporated at the edges of the development to reduce impervious area. All internal streets and alleys are private. Modifications to the standard road sections, including narrower lanes and sidewalks on one side, have been approved in the Preliminary Plan in order to reduce impervious area and meet rural open space requirements. These private roads and modifications to the road standards were approved by the Planning Board by the Preliminary Plan approval.

Pedestrian access to the Project will be provided via new streets identified as Street A and Street B on the Site Plan, as well as the proposed natural surface trail located in the Rural Open Space. Safe and efficient internal pedestrian circulation will be provided via a system of sidewalks and open space linkages. Sidewalks will be provided as shown on the Site Plan and in accordance with the Preliminary Plan approval. Condition 4.b of the Preliminary Plan required three additional sidewalk segments along the on-street parking areas on Streets A and E to allow for pedestrian and specifically ADA access from the street. (See pages 36-37 of the Preliminary Plan Resolution for further details.) These segments have been provided.

Pursuant to the Limited Amendment, to limit impervious surface, sidewalks will be on only one side of streets in selected areas as shown on the Site Plan. *Id.* at 21. The targeted areas are anticipated to carry less pedestrian traffic. For example, sidewalks will be limited to the innermost side of the loop road, Street A, to accommodate pedestrians exiting adjacent visitor parking. The



other side of Street A includes front-loaded units with driveways and is, therefore, not preferred for sidewalks. This layout reduces the conflicts between vehicles and pedestrians on this side of the street. In addition to the sidewalk network, recreation and amenity areas and mews are arranged such that pedestrians will be able to traverse the Project by walking through green areas without having to use sidewalks. Even with the limited sidewalks, pedestrian connectivity is provided along all roads and mews and will connect to MD 355.

With respect to bicycle access, per condition 31 of the Preliminary Plan Resolution, the Applicant will pay a fee-in-lieu of construction for the construction by others of the planned separated bikeway along MD 355 and a bikeable shoulder within the MD 355 right-of-way. The proposed natural surface trail through the Rural Open Space will provide a connection to these future improvements.

### 3. Open Spaces

The Site Plan includes approximately 105.67 acres of Rural Open Space (approximately 105.48 acres are required), representing at least 80% of the total area under the Application. Approximately 6.09 acres of additional land is proposed as open space for recreation and amenity space. Accordingly, the Site Plan satisfies the requirements of the Zoning Ordinance for open space.

The proposed recreation and amenity space will include open space parcels, mews, and the Central Community Green. Pedestrians will be able to traverse the entire Project on sidewalks located within the open space, avoiding the need to utilize sidewalks abutting streets. The Central Community Green will serve as the main open space for the Project. It will be open to the rural open space to the north. To the South, the Applicant proposes to provide gaps of approximately 52 feet and 20 feet between the townhouse sticks in order to provide views into the rural open

space. Additionally, there will be a trailhead connection to the rural open space to the southwest. A community center, playground, and open play fields are proposed for the Central Community Green. The community center will include a meeting room. Interconnecting mews and open space parcels will be interspersed throughout the developed area of the Project. Units will be arranged around the mews and open space so that these areas provide relief and feel safe and inviting. The mews will provide smaller open spaces for gathering while the open space parcels will provide more activate recreation areas. A tot lot will be included within the open space parcel located at the intersection of Street A and Street C. As shown on the Site Plan, the mews will be arranged such that they provide a view corridor from the townhouses to the Central Community Green. The Central Community Green, mews, and open space parcels, in combination with the expansive Rural Open Space proposed, will provide the future residents of the development excellent opportunities for outdoor enjoyment and recreation.

The Western Parcel will be largely Rural Open Space and its entirety is proposed by Applicant to be donated to the M-NCPPC for parkland. On the Eastern Parcel, the Rural Open Space will abut the Project to the north, south, and west. This Rural Open Space will include all environmentally sensitive features on the Eastern Parcel, including the stream valley buffer corridors. Within the Rural Open Space and connecting to the Central Community Green is a proposed natural surface trail. Modifications to these trails are proposed as shown on the Site Plan. The trails will link with sidewalks within the Project, future planned bicycle improvements to be built by others within the MD 355 right-of-way, proposed Rural Open Spaces and recreation and amenity spaces as depicted on the Site Plan. These trails and linkages will provide important recreational amenities to both the future residents of the Project and the surrounding community.

#### 4. Environmental Features and Stormwater Management

##### a. *Impervious Surface*

The Applicant has taken steps to minimize impervious area on the Property. Overall, the Preliminary Plan approves 725,678 square feet of impervious surface, which is approximately 38,987 square feet less than the total impervious allowed on the Property pursuant to the Overlay Zones. Most impervious surfaces will be on the Eastern Parcel. Impervious area proposed on the Western Parcel is limited to 7,500 square feet of area associated with the future public park. All impervious constraints are met.

##### b. *Stormwater Management*

As a part of the Site Plan, a Final Water Quality Plan was submitted and approval from the Department of Permitting Services was received on June 2, 2021. The Site Plan includes significant environmental site design (“ESD”) facilities implemented to the maximum extent practicable pursuant to State and County law. ESD utilizes small scale stormwater management practices, nonstructural techniques, and better site planning to optimize conservation of natural features, mimic natural hydrologic runoff characteristics, and minimize the impact of development on water resources. The Project proposes to incorporate approved ESD techniques such as micro-bioretenment areas and planter boxes into the developed area to achieve these goals. These ESDs will incorporate natural systems, vegetation, and soils to create a more natural drainage system, promote runoff reduction and water quality treatment, and allow for recharge at the source. Where possible, plantings will also be provided in ESD facilities. Plants selected for these areas will be low maintenance to tolerate wet and dry conditions. The plants will be properly spaced to provide room to grow while ensuring a full appearance. All ESD facilities will filter and retain stormwater on-site and are acceptable management practices at both the State and County levels.

In addition to ESD measures, the Applicant proposes to enhance the protection of environmentally sensitive features by including them within the Rural Open Space, as is required by the Overlay Zones.

*c. Forest Conservation*

A Final Forest Conservation Plan (“FFCP”) has been submitted simultaneously with this Application. The FFCP is consistent with the approved Preliminary Forest Conservation Plan (“PFCP”) and the conditions of approval thereof as stated in Condition 2 of the Preliminary Plan Resolution. The adjustments made in accordance with said condition include: 1) accommodation of the Transit Easement and associated PUEs; 2) designation of a location for the potential creation of a forest bank; and 3) inclusion of planting plans for the reforestation area, tree variance mitigation, and meadow planting.

Additionally, on the Eastern Parcel, the Applicant will augment, widen, and afforest stream valley buffers as required. Accordingly, existing Category I Conservation Easements will be amended or released and new or modified easements will be established in order to reflect the proposed changes. On the Western Parcel, conservation easements neither exist, nor are any proposed, as Applicant will convey the entire approximately 39.93-acre Western Parcel to M-NCPPC for parkland. This donation provides for the preservation of the forest and streams on the Western Parcel.

5. Noise Mitigation

With the approval of the Preliminary Plan, the Planning Board approved, with conditions, a noise waiver for the Project (Preliminary Plan Resolution, p. 33). The noise waiver permits the Applicant to mitigate noise to 70 dBA Ldn for outdoor spaces, rather than 65 dBA Ldn. To

mitigate noise in outdoor spaces to 70 dBA Ldn or less the Site Plan proposes seven- to nine-foot-tall noise walls along those areas of the Project that are impacted by noise associated with I-270.

For interior spaces impacted by transportation related noise, per the Preliminary Plan Resolution, noise must not exceed the 45 dBA Ldn threshold recommended in the *Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development* (June 1983). (Preliminary Plan Resolution p.33). Mitigation to 45 dBA Ldn for interior spaces impacted by transportation related noise will be evidenced as necessary.

#### 6. Signs

The Applicant proposes two entry signs along the Property's MD 355 frontage to identify the proposed residential community. As depicted conceptually on Sheet 14 of the Landscape and Lighting Plan, the entry signs will be freestanding signs constructed of masonry and wood. The signage text on each sign will state the community name – "Ashford Woods."

### V. **COMPLIANCE WITH SECTION 7.3.4.E.2 OF THE ZONING ORDINANCE**

Section 7.3.4.E.2 of the Zoning Ordinance provides the findings the Planning Board must make before approving a site plan application. The following is an analysis of how the Application satisfies these findings:

#### *a. satisfies any previous approval that applies to the site;*

The materials submitted with the Application demonstrate satisfaction of the applicable requirements of the previously approved Preliminary Plan. The Project also complies with those Preliminary Plan conditions of approval as they pertain to the Site Plan submission:

- Condition 1: *This approval is limited to 326 lots for 364 new dwelling units, including 322 single-family attached and 42 multi-family dwelling units, including a minimum of 25 percent moderately priced dwelling units (MPDUs).*

The Site Plan proposes 364 new dwelling units, including 322 single-family attached and 42 multi-family dwelling units, including 25% MPDUs on 325 residential lots.

- Condition 2a: *The Applicant must comply with the following conditions of approval for the Preliminary Forest Conservation Plan No. 120200110, approved as part of this Preliminary Plan:*
  - a. *Prior to certification of the Preliminary Plan, the Applicant must revise the Preliminary Forest Conservation Plan to address comments in ePlans, including, but not limited to the following:*
    - i. *Remove all references to the proposed barriers to address noise mitigation.*
    - ii. *Label all existing easements that will be abandoned as part of this Application.*

The PFCP has been submitted for certification and reflects the above-required modifications. It also addresses all further comments provided in ePlans.

- Condition 2b: *Prior to Certification of the Site Plan, the Applicant must obtain Maryland-National Capital Park and Planning Commission ("M-NCPPC") approval of a Final Forest Conservation Plan ("FCP") consistent with the approved Preliminary Forest Conservation Plan.*

A Final Forest Conservation Plan for the Property has been submitted simultaneously with this Application.

- Condition 2c: *The Final FCP must include the proposed Transit Easement and associated Public Utility Easements (PUE) and update all related forest conservation clearing, retention and planting calculations, including the forest conservation worksheet, as necessary.*

The Final FCP (previously defined herein "FFCP") has been updated to include the proposed Transit Easement and associated PUE. All related forest conservation clearing, retention and planting calculations, including the forest conservation worksheet, have been updated accordingly.

- Condition 2d: *The Final FCP must include an updated limit of disturbance and Tree Variance Request to include applicable affected trees associated with the Final Stream and Wetland Restoration Plan and improvements on the Western Parcel for the dedicated park. The updated Tree Variance Request must also include any applicable trees impacted by the off-site limits of disturbance.*

The Final FCP includes an updated limits of disturbance and Tree Variance Request. The updated Tree Variance Request includes trees impacted by off-site limits of disturbance. Neither the Stream and Wetland Restoration Plan nor the park improvements will result in impact to the critical root zone of a specimen tree.

- Condition 2e: *The Final FCP must include planting plans for the reforestation areas, tree variance mitigation, and the meadow planting areas within the environmental buffers that are not able to be reforested due to existing easements to remain.*

The Final FCP includes planting plans for the reforestation areas, tree variance mitigation, and the meadow planting areas within the environmental buffers.

- Condition 2f: *The Final FCP must include the final disposition of the existing pond. If the Maryland Department of Environment ("MDE") or MCDPS determines that the pond must be removed, the conversion of the pond to a wetland must be shown on the Final Forest Conservation Plan and Final Stream and Wetland Restoration Plan, including a planting plan.*

The existing pond is proposed to be converted to a wetland. The proposed wetland will be included in a natural area that will satisfy the design criteria found in the 2017 Recreation Guidelines. The intent of this type of recreational facility is to provide opportunities for exploration and nature study without the provision of formal paths. See Sheet 16 of the Landscape and Lighting Plan for the Recreation Amenity Plan delineating the location of the Natural Area.

- Condition 2g: *The Final FCP must designate the specific areas on the Property proposed for the potential creation of a forest bank.*

Areas proposed for forest banking are shown on the Final FCP.

- Condition 3: *Impervious surfaces are limited to no more than 11.8 percent (or 725,678 feet) of the area under application for development within the Clarksburg East and West Environmental Overlay Zones.*

Impervious surfaces are limited to 725,678 square feet.

- Condition 4: *Prior to Certification of the Preliminary Plan, the Applicant must submit a revised Impervious Surface Exhibit that addresses the following items. a. Include 7,500 square feet of impervious surface for the park improvements on the Western Parcel*

*identified as Parcel 787. b. Include impervious surface for three additional sidewalk segments along on-street parking areas on Street A and Street E. c. Exclude the deduction of the existing accel/decel lanes that are proposed to be removed from the impervious surface calculations.*

While the Applicant has yet to obtain certification of the Preliminary Plan, the revised Impervious Surface Exhibit has been included with the Site Plan and includes: 1) 7,500 square feet of impervious surface for the park improvements on the Western Parcel; 2) impervious surface for three additional sidewalk segments along on-street parking areas on Street A and Street E; and 3) deduction of the existing accel/decel lanes that are proposed to be removed.

- *Condition 5c: Applicant to construct a gravel trailhead parking lot able to accommodate 10-12 vehicles and a driveway entrance with at least 20-feet in width with the apron approaching 30-feet in width, subject to review and approval through the Montgomery County Park Construction Permit process.*

The approximately 39.93 acres of the Western Parcel will be conveyed to M-NCPPC for parkland. As shown on the Site Plan, a gravel trailhead parking lot with space for 10-12 vehicles is proposed to be constructed by the Applicant within the 7,500 square feet of impervious surface allowance. The trailhead parking lot will have a driveway apron that is a minimum of 20 feet wide and approaches 30 feet in width.

- *Condition 6: The Applicant must submit and obtain Planning Board approval of a Final Stream and Wetland Restoration Plan at the time of Site Plan consistent with the Preliminary Stream and Wetland Restoration Plan submitted by the Applicant, and the final plan must be reviewed by MCDEP, M-NCPPC Department of Parks and M-NCPPC Department of Planning. The Final Stream and Wetland Restoration Plan must: a. Include a field survey and conceptual engineering designs, including proposed restoration approach, details and plan and profile. b. Take into account changed hydrology at the site as a result of any new development and accommodate flexibility at the time of construction to adapt to any adjustments that may have occurred within the areas of the channel identified for restoration.*



A Stream and Wetland Restoration Plan consistent with the Preliminary Stream and Wetland Restoration Plan, has been submitted simultaneously with this Site Plan for review by the appropriate governmental bodies.

- Condition 10: *The Planning Board has reviewed and accepts the recommendation except for conditions no. 1 and condition no. 10 of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated January 7, 2021 and hereby incorporates them as conditions of the Preliminary Pan approval. The Applicant must comply with each of the recommendations except for condition no. 1 and condition no. 10, as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.*

The Site Plan complies with those conditions listed in the above-referenced MCDOT letter that are applicable at the time of site plan, as follows:

- Condition 4 of the MCDOT letter states: *“The applicant proposes to reduce the transit easement along their frontage. MCDOT supports the reduction in width. Final width should be evaluated further at the site plan stage. The easement should be shown on the record plat. The PUE in relation to the transit easement will be determined at the site plan stage.”*

As shown on the Site Plan, the proposed transit easement’s width is variable but 50 feet at a minimum across the Property’s MD 355 frontage. The proposed relocated 10-foot PUE is located adjacent to the proposed transit easement.

- Condition 9 of the MDCOT Letter states: *“The preliminary plan shows front-loaded garage townhomes on the streets. The associated street trees and driveway details, such as driveway length (from the right-of-way line to the garage structure), width and spacing will be reviewed and finalized at the site plan stage to ensure they meet the MCDPS minimum requirements.”*

The proposed private street trees and driveway details are shown on the Landscape and Lighting Plan and Site Plan. The driveway design and spacing will minimize both vehicular conflicts and conflicts between vehicles and pedestrians.

- Condition 14 of the MCDOT Letter states: *“Provide a 10-foot wide Public Utility Easement (PUE) along all street frontages. An alternative to this PUE, if necessary, will be determined at site plan stage.”*

At the time of Preliminary Plan, a color-coded utility plan was reviewed and approved showing alternatives to the 10-foot PUEs on some street frontages. These conditions are reflected on the Site Plan. Where units front on private streets, 10-foot PUEs are provided to the extent possible. However, due to the unique regulatory and environmental constraints on this site, a compact form of development is required and the standard 10-foot PUEs have been reduced to 5 feet in some locations.

- Condition 14: *The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services - Water Resources Section in its Preliminary Water Quality Plan approval letter dated October 20, 2020, and hereby incorporates them as conditions of the Preliminary 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 Preliminary Plan approval.*

The Site Plan complies with those conditions listed in the above-referenced MCDPS letter that are applicable at the time of site plan:

- Condition 1 of the MCDPS letter requires: *“Prior to Planning Board approval of the Site Plan, this Preliminary Water Quality Plan must be formally revised, and an approved Final Water Quality Plan Approval letter must be issued by DPS. If the Site Plan will be approved in stages, the Final Water Quality Plan revision submittal must specifically refer to the appropriate phase.”*

The Site Plan covers the entire property. The Final Water Quality Plan was approved by DPS on June 2, 2021.

- Condition 17: *The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section in its letter dated October 14, 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.*

All conditions required for fire access as described in the above-referenced letter are reflected in the Site Plan.

- Condition 18: *The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in an email dated October 21, 2020.*

The Site Plan reflects the recommendation regarding MPDUs as set forth in the above-referenced e-mail.

- Condition 20: *If an approved site plan or site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration shown on this Certified Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the Site Plan or Site Plan Amendment.*

The Site Plan does not substantially modify the lot or right-of-way configuration shown on the Preliminary Plan.

- Condition 21: *The final number of MPDUs is to be determined at the time of site plan.*

The Site Plan proposes 25% (91 units) of the total number of units proposed as MPDUs.

- Condition 22: *The final setbacks, minimum lot areas, lot dimensions, building coverage, and height of the principal building and accessory structures will be determined at the time of site plan.*

The final setbacks, minimum lot area, lot dimensions, building coverage, and building heights are shown on the Site Plan data table and comply with the R-90/CEE Overlay Zone and Preliminary Plan approval.

- Condition 23: *Final approval of the size and location of buildings and open space amenities will be determined at the time of site plan.*

The size and location of buildings and open space amenities are shown on the Site Plan consistent with the Preliminary Plan and zoning and subdivision requirements.

- Condition 24: *Prior to Site Plan approval, the Applicant must address the following modifications to better integrate the open space areas with the residential development and create additional vistas into the rural open space.*

- Provide a gap of approximately 40-feet between Units 223 and 224, and Units 220 and 221, along the western side of the development.*

- b. Provide a gap of approximately 40-feet between Units 235 and 236, and Units 183 and 184, that roughly aligns with the centerline axis of Alley 6.*
- c. Provide a gap of approximately 15-feet between Units 34 and 35, 98 and 99, 133 and 134, and 229 and 230.*
- d. Provide a gap of approximately 15-feet between the two-over-two buildings with Units 333-334 and the two-over-two building with Units 335-336 (north of the open space located southwest of the development).*

As shown on the Site Plan, the layout of the Project has been revised to address compliance with the spacing request and to better integrate the open space area with the residential development and create additional vistas into the rural open space. As previously stated, units will be arranged such that there are spaces between the sticks of townhouses and two-over-two units allowing for views into the rural open space that will flank the proposed residential community to the north and south. Shifting in the location of some units has modified the unit numbers indicated above; however, the desired gap locations and widths have been provided.

- b. satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;***

This section is inapplicable to the Application as there are no binding elements for any development plan or schematic development plan in effect on October 29, 2014 for the Property.

- c. satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;***

This section is inapplicable to the Application as there are no green area requirements in effect on October 29, 2014 for the Property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.

- d. satisfies applicable use standards, development standards, and general requirements under this Chapter;***

The materials submitted with the Application detail how the Project satisfies applicable Zoning Ordinance standards and requirements.

(i) Applicable Use Standards

The Project proposes townhouse and two-over-two (multi-unit) dwelling types on the Eastern Parcel, which is in the R-90 zone and the CEE Overlay Zone. There are no use standards for townhouse living or multi-unit living uses in Article 59-3 of the Zoning Ordinance in the R-90 zone as modified by the CEE Overlay Zone. *See* Zoning Ordinance, Section 4.9.5.C. No development is proposed on the Western Parcel.

(ii) Compliance with Development Standards

Eastern Parcel: As noted, the Eastern Parcel is within the R-90 zone and the CEE Overlay Zone. As shown on the data table on the Site Plan, development proposed in this area is in compliance with all requirements of the R-90 zone and the CEE Overlay. Under the R-90 Zone and the CEE Overlay, a density of 3.66 units per acre is allowed under the MPDU Optional Method of development. Zoning Ordinance, Section 59.4.9.5.D.5. The Applicant is proceeding under the MPDU Optional Method and proposes approximately 3.59 units per acre. Pursuant to the CEE Overlay, “[M]inimum lot area, lot dimensions, building coverage, and building setbacks of the R-90 zone do not apply. Such requirements are determined during the site plan approval process under Section 7.3.4.” Zoning Ordinance, Section 59.4.9.5.D.5.e. The proposed lot area, lot dimensions, building coverage, and building setbacks are shown on the Site Plan. The R-90 zone, as modified by the CEE Overlay, allows for a maximum height of 50 feet for townhouse building types and a maximum height of 65 feet for multi-family building types. The proposed 2-over-2 units will have a maximum height of 65 feet and the townhomes will have a maximum height of 50 feet.

The CEE Overlay also requires that all environmentally sensitive areas be included in the Rural Open Space. Zoning Ordinance, Sections 59.4.9.5.D.3, 59.4.9.5.D.4. The Application

meets all Rural Open Space requirements as detailed earlier, including development occurring on only approximately 26.96 acres of the total area under the Application (approximately 131.85 net acres), retaining 80% of the Property as Rural Open Space. All environmentally sensitive areas are located in this Rural Open Space.<sup>1</sup>

Western Parcel: The Western Parcel is zoned Rural and is subject to the CWE Overlay. In compliance with this zoning, no structures are proposed on the Western Parcel. The Western Parcel is proposed to be Rural Open Space and dedicated to M-NCPPC for parkland. Approximately 7,500 square feet of the Western Parcel is included in the impervious surface calculation as it will be improved with a gravel parking area and trailhead to accommodate visitors to the future park.

Impervious Area: The Project will meet the impervious surface limits of the Overlay Zones. As detailed above, the Property, which consists of the Eastern Parcel and the Western Parcel, is under common ownership and bisected by I-270. The CEE Overlay Zone applies east of I-270 and limits impervious surfaces to 15%. Zoning Ordinance, Section 59.4.9.5.D.1. The CWE Overlay Zone applies west of I-270 and limits impervious surfaces to 6%. Zoning Ordinance, Section 59.4.9.6.D.1. Under both Overlay Zones, imperviousness is to be calculated on the “total area under the application for development.” Zoning Ordinance, Sections 59.4.9.5.D.1, 59.4.9.6.D.1. The Site Plan proposes 11.8% (up to 725,678 square feet) impervious surface spread across the “total area under the application for development” – the Eastern Parcel and the Western Parcel. While impervious area will slightly exceed 15% on the Eastern Parcel, only approximately 0.43 percent impervious area is proposed on the Western Parcel, resulting in

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<sup>1</sup> Some areas within the stream valley buffer are located within the dedication area for I-270, which cannot be counted as Rural Open Space.

an overall imperviousness of 11.8% (up to 725,678 square feet). However, if the Eastern Parcel and the Western Parcel were developed individually and to their full potential under the CEE and CWE Overlay Zones, that would result in a total impervious area of 12.45%. As such, the Project is proposed within the limits of both Overlay Zones that apply to the Property.

(iii) General Requirements

The Application satisfies the applicable general development requirements of Article 59-6 as follows:

(a) Division 6.1 – Site Access

Division 6.1 is not applicable to the Application as the Project does not propose an apartment, multi-use, or general building type. Zoning Ordinance, Section 6.1.2.

(b) Division 6.2 – Parking, Queuing, and Loading

As shown on the Site Plan development standards table, all townhouse and two-over-two units will provide two on-lot parking spaces. Zoning Ordinance, Section 6.2.4.B. The required number of long-term bicycle parking spaces associated with the two-over-two units will be accommodated in the garages, while the single required short-term bicycle parking space will be provided adjacent to the community center.<sup>2</sup> Zoning Ordinance, Section 6.2.4.C. Each required vehicle parking space will be within one-quarter mile of the entrance to the establishment served by such facilities and have access to a street or alley open to use by the public. Zoning Ordinance, Section 6.2.4.B–C. As shown on the Site Plan, the parking spaces satisfy the applicable minimum dimensional requirements of Zoning Ordinance, Section 6.2.5.E.

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<sup>2</sup> One short-term bicycle parking space is required. 12 total short-term bicycle parking spaces will be provided.

Seven off-street parking spaces are required for the proposed 2,500-square-foot community center. Zoning Ordinance, Section 59.6.2.4.B. At the time of Preliminary Plan approval, the Planning Board approved a parking waiver from the requirement to provide five off-street parking spaces for the community center, which was then proposed to be 2,100 square feet in size. Preliminary Plan Resolution, pp. 20–21. Since the proposed community center has increased in size and now requires seven off-street parking spaces, the Applicant requests approval an updated parking waiver pursuant to Section 6.2.10 of the Zoning Ordinance to allow the required seven off-street parking spaces to be provided on-street rather than on-street, similar to the previously approved waiver. Adequate parking for the community center will be provided on-street along adjacent Street D rather than within a separate parking area. Fourteen on-street spaces are proposed along Street D. The Applicant is unable to provide off-street parking for the community center due to the impervious limits of the Overlay Zones. Providing on-street parking rather than off-street parking greatly reduces the impervious area required. Furthermore, all of the units within the Project will be located within approximately a 10-minute walk from the community center, minimizing the need for driving and parking. There will also be six (6) bike racks (12 spaces) within the Central Community Green. Three bike racks will be located near the playground and the intersection of Streets A and B. Another three bike racks will be provided near the main entry of the community center and Street D. When necessary, the adjacent on-street parking along Street D will provide safe, adequate and direct access to the community center.

(c) Division 6.3 – Open Space and Recreation

Rural Open Space is required for the Project. The Project proposes approximately 105.67 acres of Rural Open Space. Additionally, 6.09 acres of land within the buildable envelope will be open space for recreation and amenities. The majority of Western Parcel and the majority of the



area of the Eastern Parcel outside the development envelope will be Rural Open Space. The Site Plan drawings confirm that none of the prohibited features identified in Sections 6.3.3.A and B of the Zoning Ordinance will be added to the open space areas. The Rural Open Space will include conservation areas, parkland, and natural surface trails. As required, the Rural Open Space will: 1) be a minimum of 75 feet in width; 2) be at least 60% contiguous or only separated by a residential street; and 3) adjoin neighboring open space. Zoning Ordinance, Section 59.6.3.4. In particular, the Rural Open Space will adjoin the Central Community Green on the Eastern Parcel.

The Project will provide adequate recreational facilities in accordance with the March 2017 Montgomery County Planning Board Recreation Guidelines (“Recreation Guidelines”) adopted pursuant to Section 6.3.9 of the Zoning Ordinance. As demonstrated on Sheet 16 of the Landscape and Lighting Plan, recreational facilities will be adequate for all age groups. The recreation demand generated by the Project will be met through both on- and off-site facilities. As confirmed by the Recreation Guidelines Web Tool, the Project’s off-site recreational facilities points are derived from a trail system, woodland, and grills/fire pits. The remainder of the recreational demand will be met by on-site facilities as follows: 1) the natural surface trail system on the Eastern Parcel; 2) the community center; 3) two large open grass area lawns and one small open grass area lawn within the Central Community Green; 4) one small open grass area lawn and a tot lot located at the intersection of Street A and Street C; 5) a multi-age playground within the Central Community Green; 6) a natural area located in the vicinity of the existing pond<sup>3</sup> on the Eastern Parcel with public access; and 7) benches for seating interspersed throughout the Central Community Green and other open spaces. The location of each of the above-listed facilities is shown on Sheet 16 of the Landscape and Lighting Plan. The above listed on-site recreational facilities in combination

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<sup>3</sup> The Applicant proposes to convert the existing pond into a wetland.

with the off-site facilities will be adequate to meet demand generated by the Project as calculated pursuant to the Recreation Guidelines.

(d) Division 6.4 – General Landscaping and Outdoor Lighting

As shown on the landscape plans submitted with the Application, all plant material and trees comply with the applicable requirements of Section 59.6.4.3.B of the Zoning Ordinance, including Size at Time of Planting standards for trees.

Furthermore, the lighting plans included with the Site Plan application also demonstrate compliance with the applicable design requirements for proposed lighting types. Zoning Ordinance, Section 59.6.4.4.

(e) Division 6.5 – Screening Requirements

No screening is required for the Project pursuant to Division 6.5.

(f) Division 6.6 – Outdoor Display and Storage

Division 6.6 of the Zoning Ordinance is inapplicable to the Application as the Project does not propose displaying or storing merchandise, material, or equipment outside a completely enclosed building. Zoning Ordinance, Section 6.6.2.

*e. satisfies the requirements of:*

*i. Chapter 19, Erosion, Sediment Control, and Stormwater Management;  
and*

Because the Property is located in the SPA, a Water Quality Plan is required under Chapter 19 of the County Code. Pursuant to County Code Section 19-65(b)(2), the Applicant has obtained approval for a Final Water Quality Plan for this Application. The Final Water Quality Plan is in accordance with all requirements of Chapter 19 of the County Code as well as the additional recommendations listed at pages 21 through 22 of the Limited Amendment.

**ii. Chapter 22A, Forest Conservation**

As shown on the Forest Conservation Plans included with the Application, the Project meets all applicable requirements of Chapter 22A of the Montgomery County Code.

**f. *provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;***

The Project provides safe, well-integrated parking, circulation patterns, building massing, open spaces, and other site amenities. Resident parking will be integrated into the unit garages and driveways, with visitor parking being dispersed throughout the site on streets. Most residential units will have rear-loaded driveways and garages accessed by alleys to provide efficient vehicular access while facilitating safe walking and cycling. The Site Plan will implement the semi-regular grid pattern of streets that was approved with the Preliminary Plan. Proposed Streets A and B will form a loop around the semi-regular grid pattern and will provide access to MD 355. Additionally, Streets A and B will align with Snowden Farm Parkway and Florence Street, respectively, across MD 355.

The Project further provides safe circulation patterns through the implementation of traffic calming measures to reduce vehicular speeds appropriate to the residential context of the Project. First, all streets will be 22 feet-wide or narrower with most streets being 21 feet in width. Additionally, street trees are proposed along all streets and striped on-street parking will be provided as indicated on the Site Plan. Finally, the Applicant proposes speed humps in those locations identified on the Site Plan where the Applicant has deemed additional traffic calming to be appropriate. In combination, these traffic calming measures will reduce driving speeds within the Project to allow for safer internal circulation for all modes.

The Project's residential structures provide appropriate building massing. All new units front on roads and open spaces to activate those spaces. All townhouse and two-over-two sticks

will include eight abutting units or less in order to reduce building massing and achieve an appropriate scale of development. Further, as detailed above, units will include variations in materials and massing to create visual interest and break down any perceived bulk and height. Townhouse rows are oriented both north/south and east/west to increase variation and enhance visual interest at the street level. Separation between sticks of townhouses and two-over-twos will be provided on the northern and southern edges of the Project to allow for views into the Rural Open Space.

The Project also offers attractive new open spaces and amenities. As reflected in the materials submitted with the Application, the Project not only includes substantial Rural Open Space on both the Eastern Parcel and the Western Parcel, but also recreation and amenity open space interspersed throughout the proposed residential community. As described in detail above, the Central Community Green will include a 2,500-square-foot community center, as well as playgrounds and open play fields. Some townhomes will front on streets and other townhomes will front on open spaces. The open spaces and mews provide safe pedestrian connections and a green respite for future residents of the community.

- g. substantially conform with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;***

The Property is referred to in the Limited Amendment as the “Egan/Mattlyn Property.” The Limited Amendment retains the overall vision of the 1994 Clarksburg Master Plan (“1994 Plan”) to allow Clarksburg to evolve from a rural crossroads to a vibrant corridor town surrounded by open space (page 7). However, the Limited Amendment refined the 1994 plan to recognize that additional environmental protection was needed in the Plan area, emphasizing such protections west of I-270 while providing more flexibility to achieve community building goals east of I-270

(page 12). The Project supports these visions. Further, the Project will substantially conform to the general recommendations of the Master Plan as well as those specific to the Property.<sup>4</sup>

### Property-Specific Vision and Recommendations

#### ***Eastern Parcel***

- *Include this property in proposed Clarksburg East Environmental Overlay Zone with a 15 percent imperviousness limit and an 80 percent open space requirement (page 36).*

The Eastern Parcel of the Property is within the CEE Overlay. The development plan for the entire Property allows 764,665 square feet of impervious area. The Preliminary Plan approval limits the development to 725,678 square feet of imperviousness. The Project proposes up to 718,178 square feet of impervious area on the Eastern Parcel and 7,500 square feet of impervious area will be located on the Western Parcel. Locating the development on the Eastern Parcel is more than compensated for by the absence of significant impervious area on the Western Parcel. The plan retains 80% of the Property in open space.

- *Rezone properties to R-90, with a maximum density of three units per acre (approximately 297-unit limit), or up to 3.66 units per acre with a moderately priced dwelling unit (MPDU) bonus and flexibility regarding unit types and building heights via the overlay zone (page 36).*

The Property is zoned R-90 with a maximum density of 3.66 units per acre with an MPDU bonus. The proposed density of the Project is 3.59 units per acre with an MPDU bonus. Specifically, the Site Plan proposes 25% of the total units as MPDUs. As noted, proposed units will include a mix of 16', 20', 22', and 24' townhouses with a maximum height of 50 feet and two-over-two units with a maximum height of 65 feet.

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<sup>4</sup> The Preliminary Plan Resolution discusses conformance with the Limited Amendment at pages 21-29.

- *Use the overlay zone to permit varied unit types, including single family attached, single family detached, and multi-family. This Plan recommends that maximum development yields may only be realized with units that achieve higher densities within the smaller developable area established by the imperviousness limit and open space requirement (page 36).*

The compact layout of the Project includes a mix of 16', 20', 22', and 24' townhouses, as well as two-over-two condominiums within the smaller developable area established by the imperviousness limit and open space requirement. Specifically, the Project will be developed on approximately 20% of the land area included in this Application (approximately 26.96 acres) and impervious surface will be limited to 725,678 square feet (11.8% of the total area under the application for development).

### ***Western Parcel***

- *Retain the existing zoning in these areas. (page 45)*

The Western Parcel remains within the Rural zone.

- *Include the Rural-zoned properties in the Clarksburg West Environmental Overlay Zone to limit imperviousness associated with special exceptions and institutional uses. (page 45)*

The Western Parcel is within the CWE Overlay Zone. No special exception or institutional use is proposed.

- *Explore incentive programs to encourage voluntary forest planting, particularly in unforested stream buffers. (page 45)*

The Western Parcel is heavily forested and will be conveyed to M-NCPPC for parkland.

### **Land Use**

- *West of I-270 - Limiting the development footprint while reducing development densities recommended by the 1994 Plan (page 31).*

The Project proposes no development on the Western Parcel.

- *Locate sewer main alignments and pumping station sites to minimize, as feasible, disturbance of environmental buffers and forested areas (page 47).*

The pump station is proposed to be located outside of environmental buffers and forested areas to minimize the limits of disturbance to the extent possible. The force main is proposed to follow the alignment of existing MD 355 to minimize impacts to buffers and forested areas.

Environment:

- *This Plan is designed to achieve an overall imperviousness goal of slightly more than six percent for the entire Ten Mile Creek Watershed (as shown on Map 4) and limit the development footprint to preserve sensitive natural resources. (If measured for the portion of the watershed that drains to the DEP monitoring station at West Old Baltimore Road, the potential watershed imperviousness would be approximately 6.7 percent.)*

Condition 3 of the Preliminary Plan Resolution limits impervious surfaces to no more than 725,678 square feet (11.8%) of the area under the application for development within the CEE and CWE Overlay Zones. Both the Western Parcel and Eastern Parcel are under this Application. Impervious surfaces are limited to no more than 725,678 square feet (11.8%) across the entire area under this Application.

***East of I-270***

- *Limit imperviousness levels to 15 percent for new development on properties that are recommended for the proposed Clarksburg East Environmental Overlay Zone. (page 18)*

See response above.

- *Forest Conservation Plans for properties in the Ten Mile Creek Watershed should protect the forest on the Miles/Coppola properties, which is bounded by the two northernmost environmental buffer areas on the north and south, I-270 on the west and the existing agricultural fields on the east. (page 18)*

This recommendation applies to the Miles/Coppola properties and is inapplicable to the current Application.

- *Work with the Maryland Highway Administration to provide stormwater retrofits for any expansion or modification of I-270. (page 18)*

The Project does not propose an expansion of I-270.

### ***West of I-270***

- *Reduce the development footprint and impervious cover, emphasizing reduced impacts to upland forested areas and steep slopes. In particular, protect existing stream conditions in the high quality headwater subwatersheds LSTM 110 (King Spring) and LSTM 111. (page 18–19)*

The Project is not located within the LSTM 110 or LSTM 111 subwatersheds. Rather, the Western Parcel is located within the LSTM 201 subwatershed and will be conveyed to M-NCPPC for parkland. Impervious surface proposed on the Western Parcel will be limited to 7,500 square feet for a driveway and gravel parking lot that was requested by the M-NCPPC Parks Department.

- *Limit imperviousness to six percent of new development on properties that are recommended for the RNC Zone (page 19).*

The Property is located within the Rural zone and not the RNC zone. So, this recommendation is inapplicable.

### ***Area-Wide***

- *Environmental buffers must be consistent with all regulations and guidelines. In addition, in all areas in Ten Mile Creek other than the Historic District, on both sides of perennial and intermittent streams, and adjacent to streams and seeps, buffers must be a minimum of 200 feet, and must be expanded to include:*
  - *All erodible soils (listed in the Planning Board's Environmental Guidelines for Development, as amended);*
  - *Wetlands that extend beyond the buffer must have a minimum 50-foot wetland buffer;*
  - *All ephemeral streams, not including roadside drainage ditches, plus a 50-foot buffer;*
  - *All slopes 15 percent or greater that begin within the buffers described above (page 19).*

The Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420191590, which was approved on December 13, 2019, identifies the above-listed required features and conforms to the above-quoted recommendations. Further, to the extent that the existing stream valley buffers do not meet the current, more prescriptive regulations and guidelines, the Applicant will increase buffers to bring them into compliance. Additionally, the Applicant will afforest the



stream valley buffers on the Eastern Parcel to the extent possible, thereby providing additional protection for the streams and wetlands in those areas.

- *Amend the Clarksburg Special Protection Area to include an additional area east of I-270. (page 19)*

Following the adoption of the Limited Amendment, the Clarksburg Special Protection Area was updated and the SPA was established. All but 1.5 acres of the Property in the northwestern corner of the Eastern Parcel are located within the SPA. The area not within the SPA falls within the Little Bennett Creek Watershed.

- *Establish environmental overlay zones to apply the Plan's limits on imperviousness for new development and reduce development footprints to protect sensitive resources (page 19).*

As noted, the Western Parcel is located within the CWE Overlay and the Eastern Parcel is located within the CEE Overlay. The Project complies with the impervious limits of the Overlay Zones as set forth above. No development is proposed on the Western Parcel to protect sensitive resources. On the Eastern Parcel, development is directed away from sensitive resources, which will be preserved within Rural Open Space.

- *Minimize disturbance of natural resources throughout the Ten Mile Creek Watershed, especially forests and headwater areas. Forest Conservation Plans for properties in the Ten Mile Creek Watershed should protect: All forest required by the Forest Conservation Law and Regulations (includes environmental buffers as previously described and minimum retention requirements), as well as areas defined in this Master Plan; All interior forest (as defined by the Maryland Department of Natural Resources); On the Miles-Coppola properties, the forest bounded by the two northernmost environmental buffer areas on the north and south, I-270 on the west, and the existing agricultural fields on the east; On the Pulte/King properties, all forest adjacent to environmental buffers; All forest on County-owned properties. All off-site forest planting for new development should be located in the Ten Mile Creek Watershed as a first priority. (page 19–20)*

Development will be concentrated on only approximately 26.96 acres of the Property. The area proposed for development is currently largely open field and is improved with structures associated with the existing catering facility use. The natural resources, including existing streams

and forested woodlands, are largely outside the development envelope and proposed to be Rural Open Space. The Final FCP submitted with this Site Plan demonstrates that the Project will comply with the forest conservation law, as applicable. Approximately 70 acres of on-site forest will be protected as a result of the Project through dedication to M-NCPPC or conservation easements.

- *Explore ways to create incentives for additional voluntary forest planting (using forest banks or other strategies) on rural or RDT-zoned properties in the Ten Mile Creek Watershed to help reach a watershed goal of 65 percent forest cover. (page 20)*

The Project will contribute towards achieving the 65% forest cover goal within the Ten Mile Creek Watershed. Specifically, the Western Parcel, which is heavily forested, will be conveyed to M-NCPPC for parkland. Forested areas on the Eastern Parcel will be preserved within conservation easements and Rural Open Space. Additionally, the Applicant proposes a forest banking area on the Eastern Parcel.

- *Water Quality Plans for development in the Ten Mile Creek Watershed must comply with the most current water quality regulations that include ESD outfall and overflow management strategies, such as:*
  - *Avoiding overflow discharges onto steep slopes.*
  - *Ensuring that any overflow occurs as sheet flow to the floodplain and/or receiving streams.*
  - *Managing discharges from stormwater outfalls using step-pool storm drainage conveyance systems or comparable designs, as appropriate.*
  - *Minimizing environmental buffer impacts associated with ESD overflow outfalls.*
  - *Minimizing the need to convey stormwater across steep slopes and forested areas, and ensuring such conveyance is done in a non-erosive manner. (page 21)*

Water quality management strategies being used for the site include ESD measures and managing discharges to meet the most current water quality regulations. The above-referenced strategies have been employed to the maximum extent practicable.

- *In addition to current SPA requirements, Water Quality Plans for development in the Ten Mile Creek Watershed must demonstrate the application of the following principles and strategies:*
  - *Minimize disturbance of natural resources throughout the Ten Mile Creek Watershed, especially forest cover and headwater areas. (page 21)*

Disturbance of natural resources will be minimized. Forest disturbance, in particular, will be limited to less than 6.66 acres of the Property. Reforestation of buffer areas to the fullest extent practicable is proposed.

- *Minimize direct impacts associated with new infrastructure, such as the MD 355 bypass and the sanitary sewer extension on natural resources. (page 21)*

The MD 355 bypass is not proposed as a part of the Project. The impact of proposed sanitary sewer extension on natural resources will be limited.

- *Minimize grading the thin and rocky soils in Ten Mile Creek which helps sustain groundwater flows to the many springs and seeps. (page 21)*

Grading within the stream valley buffers has been reduced to the extent practicable.

- *Indicate the importance of limiting grading and soil compaction as much as possible through creative site design and development staging. (page 21)*

To establish road grades and building pads, design strategies were employed to optimize the level of disturbance for the overall Project. Efforts were made to match existing site characteristics and to achieve a compact development in consideration of the existing sensitive environmental features.

- *New development must employ planning and zoning options and design techniques that minimize impervious cover, including:*
  - *Cluster development with smaller building footprints on smaller lots with shorter driveways; (page 21)*

The Project layout has been designed to minimize impervious cover to the extent reasonably possible. In particular, only approximately 26.96 acres of the Eastern Parcel will be developed.

- *Place houses near the front of a building envelope to reduce driveway length, and provide shared driveways, where feasible; (page 21)*

Homes have been placed near the front of the building envelope to minimize driveways to the full extent possible.

- *Design narrower streets with limited sidewalks; (page 21)*

Streets and sidewalks have been narrowed to the full extent possible while still allowing for safe and efficient circulation. Curve radii have been reduced to the full extent possible.

- *Use vegetated swales to guide runoff toward ESD facilities or pervious areas instead of curbs and gutters on secondary streets unless they conflict with other requirements; (page 21 –22)*

Grass swales are utilized wherever possible within open spaces to direct water to micro-bioretenention facilities.

- *Limit impervious cover for cul-de-sacs by reducing curve radii and having a green space in the turn-around area; (page 22)*

Not applicable.

- *Preserve land with a high infiltration capacity to be used for storm water infiltration or natural recharge area (page 22).*

The water quality design incorporates recharge through the proposed micro-bioretenention facilities.

- *Maintain natural drainage patterns, especially around zero order streams by:*
  - *Preserving and designing around ephemeral streams within the limits of disturbance, as much as possible;*
  - *Maintaining existing natural topography and vegetation within 50 feet of ephemeral streams;*
  - *De-compacting and amending soils within the limits of disturbance (LODs) with organic matter to a greater depth than currently required (page 22).*

The Project has been designed to avoid impacts to ephemeral streams within the LOD and to maintain existing natural topography and vegetation within 50 feet of ephemeral streams to the extent reasonably possible.

- *Environmental Site Design (ESD)*
  - *As a first step, apply appropriate ESD site planning techniques within proposed development areas to maximize environmental benefits;*
  - *Site planning and design must be guided by and integrated with the selection and appropriate location of ESD practices to achieve the greatest watershed benefits based on an evaluation of specific site and sub-watershed considerations;*

- *To the extent feasible, ESD practices should minimize the concentration of flows through sheet flow and dispersion and must ensure any such conveyance is done in a non-erosive manner (page 22).*

The most current ESD and water quality measures and practices will be employed.

- *Require restoration of streams and wetlands adversely affected by existing uses after all development is completed in the drainage area so as to allow the hydrology to adjust to the new landscape (page 22).*

The Applicant proposes to provide stream restoration to include clean-up and the removal of bridges; revegetation will occur in areas where items are removed. See the Stream Restoration Exhibit included with this Application for more information.

#### Rural Open Space Requirements and Design Guidelines (West of I-270):

The Master Plan provides several Rural Open Space guidelines that apply to areas west of I-270. Thus, these apply to the Western Parcel, which will be conveyed to M-NCPPC as parkland.

- *Include all land meeting the Environmental Buffer requirements, as well as forest protection, listed on page 19; (page 42)*

The Western Parcel will be conveyed to M-NCPPC, thereby protecting forest and meeting the Environmental Buffer requirements listed at page 19.

- *Dedicate most of the rural open space as parkland (see recommendations for Legacy Open Space). (page 42)*

The Western Parcel will be conveyed to M-NCPPC.

- *Concentrate cluster development in unforested upland areas; wooded stream valleys should be left intact, undeveloped, and in their natural states as rural open space; (page 43)*

No development is proposed on the Western Parcel. As such, all wooded stream valleys will remain intact, undeveloped and in their natural state.

- *Reduce environmental impacts and imperviousness during development by applying ESD techniques; (page 43)*

Impervious surface on the Western Parcel will be limited to the approximately 7,500 square feet that will be improved to accommodate a driveway and gravel parking area associated with the future park.

- *Require a conservation management plan for areas outside the limits of disturbance that are not dedicated to M-NCPPC for parkland or placed in a rural open space easement, if such areas are located in a development plan. The conservation management plan should be coordinated with the Planning Department, the Department of Parks, and the Department of Environmental Protection to address management of natural resources, preservation of pervious land cover, and compatibility with adjacent land uses (both Parks and development area). This conservation management plan must be approved as part of the preliminary plan for the site. (page 43)*

As previously noted, the Western Parcel will be conveyed to M-NCPPC as parkland. As such, no conservation management plan is required.

- *Direct new sewers away from Ten Mile Creek, utilizing proposed and existing roads; pump stations may be required to make connections to sewer lines in Cabin Branch; (page 43)*

Development is proposed only on the Eastern Parcel. The Applicant will construct a new pump station in order to direct sewers away from Ten Mile Creek.

- *Incorporate open space into the clustered community to provide residents with recreational opportunities (page 43)*

In addition to providing 80% Rural Open Space, the Project also includes 6.09 acres of recreation and amenity open space within the development envelope.

### Parks

- *Designate the high quality, critical forest and open habitats that protect the quality of the Ten Mile Creek headwaters as a Legacy Open Space Natural Resource site (Class II). Approximately 1,230 acres are proposed for designation (see Map 11) (page 48).*

The approximately 39.93-acre Western Parcel, which includes forest and meadow habitat, will be conveyed to M-NCPPC. Additional areas located on the Eastern Parcel will be protected through Category I Conservation Easements.

- *Protect the designated Natural Resource on an individual property basis using a variety of tools, which may include easements, dedication through the development review process, and fee simple acquisition. (page 48)*

The Project protects natural resources on the Western Parcel by proposing to dedicate the entire Western Parcel to M-NCPPC as parkland. Natural resources on the Eastern Parcel will be protected via conservation easements.

- *Land unavailable through dedication during the development review process may be acquired by the Department of Parks. (page 48)*

The Applicant will convey the Western Parcel to M-NCPPC as addressed above.

- *Provide a countywide natural surface trail, designed to M-NCPPC Montgomery Parks standards, in the Ten Mile Creek area linking Little Bennett Regional Park and Black Hill Regional Park per the Countywide Park Trails Plan (2008) and the 1994 Clarksburg Master Plan (page 49).*

The Western Parcel will be conveyed to M-NCPPC. Thus, M-NCPPC will have the opportunity to contribute to the above-referenced countywide natural surface trail.

- *Provide five trailheads, designed to M-NCPPC Montgomery Parks standards, to access the Ten Mile Creek natural surface trail and nearby natural areas for park users and operations staff (page 49).*

This recommendation does not apply to the Property.

### Transportation

The Project fronts on Comus Road, MD 355, and I-270. The master-planned widths of these roads are as follows: 1) I-270 is proposed to be 6 lanes and have a 250-foot right-of-way; 2) MD 355 is proposed to be two lanes divided with a transitway and a 130-foot right-of-way; and 3) Comus Road is proposed to be two lanes with an 80-foot right-of-way. Limited Amendment, p. 29. The Preliminary Plan Resolution requires dedication of right-of-way for all these roads as shown on the approved Preliminary Plan. The required dedications are carried through on this Site Plan.

Regarding MD 355 in particular, the Project will accommodate the 130-foot right-of-way, which will include a minimum combined 90 feet of width of both right-of way dedication (40 feet as measured from the centerline of MD 355) and transit easement (minimum 50 feet). As approved at the time of Preliminary Plan, the existing transit easement along the Eastern Parcel's MD 355 frontage will be abandoned and replaced by a reduced transit easement of variable width (typ. 50 feet) to accommodate busway for future bus rapid transit (BRT) service. See Preliminary Plan Resolution, pp. 34–35. The existing easement, which is of variable width and exceeds 100 feet in some locations, was created when rail service was contemplated for the Corridor Cities Transitway and is not necessary for the now contemplated BRT service.

Further, as required by Condition 31 of the Preliminary Plan Resolution, “the Applicant will enter into a participation agreement with MCDOT to fully fund, via a fee-in-lieu of construction, all 2018 Bicycle Master Plan required improvements along the property frontage of Frederick Road (MD 355), which includes a 10-foot-wide shared use path and 6-foot-wide bikeable shoulder.” (See Condition 31 of the Preliminary Plan Resolution for further details.) The Applicant is currently working with the State Highway Administration to finalize improvements along the Property's MD 355 frontage.

***h. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;***

The Project will be served by adequate public services and facilities. The Project's proposed 322 townhouses and 42 stacked two-over-two multi-family units are within the density permitted pursuant to the Preliminary Plan. See Preliminary Plan Resolution, Condition 1. The



Planning Board's determination of Adequate Public Facilities associated with the Preliminary Plan is valid for ten years and expires in 2031. See Preliminary Plan Resolution, pgs. 40–41.

***i. on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and***

The Eastern Parcel is zoned R-90, so this is inapplicable. The Western Parcel is located within the Rural zone. No development is proposed on the Western Parcel, which is proposed to be dedicated to M-NCPPC as parkland. This is wholly compatible with the character of the surrounding residential neighborhood, which includes agricultural and large-lot residential uses.

***j. on a property in all other zones, is compatible with existing and approved or pending adjacent development.***

The Project is compatible with existing and approved adjacent development. The character of the surrounding neighborhood is mixed but largely residential and includes single-family detached and attached homes. The Project is also of a residential character consisting of townhomes and two-over-two condominiums. To the extent that the Project is not compatible with the existing and approved or pending adjacent development, the Project will be separated and screened from adjacent development by Rural Open Space and existing roads. Specifically, the area of the Eastern Parcel proposed for development is separated from adjacent properties by Rural Open Space to the north and south, MD 355 to the east, and I-270 to the west.

## VI. CONCLUSION

Applicant respectfully requests the Planning Board grant approval of the Application. As explained above and shown in the materials submitted with the Application, the Project satisfies the findings the Planning Board must make to approve a site plan under Section 7.3.4.E.2 of the Zoning Ordinance.

Respectfully submitted,

**MILES & STOCKBRIDGE P.C.**

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*Attorneys for Applicant*



July 27, 2021

Mr. Chris Van Alstyne  
Transportation Planner Coordinator  
Montgomery Planning  
2425 Reedie Drive  
Wheaton, MD 20902

Re: Ashford Woods (Egan Property) Site Plan #820210110  
Request for Waiver of Off Street Parking for Community Building per 59.6.2.4.B

Dear Mr. Van Alstyne,

On behalf of our client, Ashford Woods, LLC ("Applicant"), Soltesz is requesting a waiver of the off-street vehicle parking requirement for the Community Building. The Community Building is centrally located within the development, accessible by either a brief bike ride or walk from adjacent homes. Off-street parking required for the Community Building is 2.5 spaces per 1,000 sf of GFA. The Community Building is approximately 2,500 GFA, generating (7) required parking spaces. Please see the Site Plan for on-street parking spaces provided on Street D to include a total of (14) parallel parking spaces. These spaces shall be available for both community residents and visitors. The adjacent on-street parking spaces provide a safe, direct route to the clubhouse, while also decreasing potential impervious cover by eliminating the addition of a surface parking lot. Additionally, the Community Building will also provide short term bicycle parking spaces.

If you should have any questions or require additional information, please do not hesitate to contact me.

Sincerely,  
Soltesz, Inc.

Kyle Walker, PE  
Project Manager

cc: Tom Natelli  
Michael Natelli  
Krista Davisson  
Barbara Sears