


MCPB
Item No.
Date: 09-30-2021

Linthicum West, Preliminary Plan Amendment No. 12005003A

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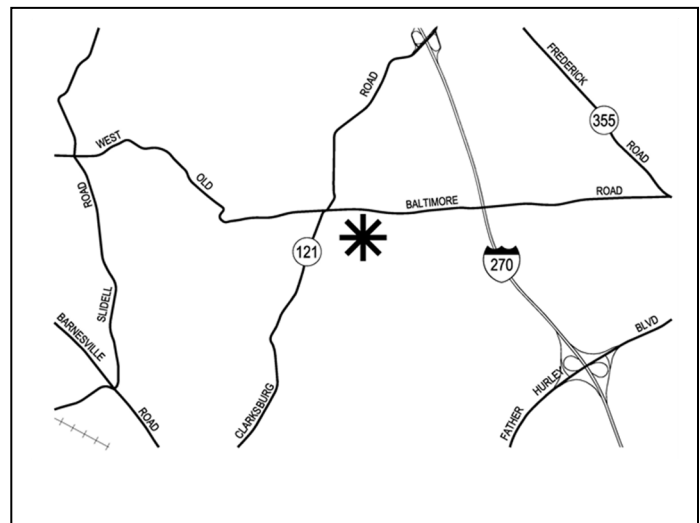
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Completed: 09/20/21

Description

Request to convert all 28 approved single-family detached MPDU dwellings into single-family attached MPDU dwellings and, and to convert 4 additional market rate units into MPDUs for a total of 32 MPDUs, to reduce the park dedication area, Ch. 50 waiver request for limited findings for the extension of the validity period for Adequate Public Facilities (APF) and extension of the validity period for the Plan as well as validity period for APF.

- **Location:** 14222 West Old Baltimore Road
- **Master Plan:** 1994 Clarksburg Master Plan & Hyattstown Special Study Area
- **Zone:** zoned RE-1 and TDR-2 Overlay
- **Property Size:** 165.25 acres tract area
- **Applicant:** Linthicum West Properties, LLC and U.S. Home Corporation (d/b/a Lennar)
- **Acceptance Date:** September 23, 2020
- **Review Basis:** Chapter 50, Chapter 22A



Summary

- Staff recommends **approval with** conditions.
- Request to convert the previous approval of all 28 single-family detached MPDU dwellings into single-family attached MPDUs.
- Convert 4 additional market rate units into MPDUs for a total of 32 MPDUs (12.5%) of the 253 total units.
- Extend the validity period for the Plan as well as for the findings for Adequate Public Facilities by 5 years.
- School facilities are adequate to support this project based on the FY2021 Annual School Test.
- The approved site layout is maintained, with minor adjustments to be requested and reviewed as part of a subsequent Site Plan application.
- Reduce the park dedication conveyance by 4 acres, from 90-95 acres to approximately 86 acres.
- To date no community correspondence has been received.

SECTION 1 – RECOMMENDATION AND CONDITIONS

Preliminary Plan Amendment No. 12005003A: Staff recommends approval with conditions of the Preliminary Plan Amendment to convert the prior approval of all 28 single-family detached MPDU dwellings into single-family attached MPDU dwellings, to convert 4 additional market rate units into MPDUs for a total of 32 MPDUs, to reduce the park dedication area, and to extend the validity period for the Preliminary Plan as well as for the findings for Adequate Public Facilities. The development must comply with the conditions of approval for Preliminary Plan No. 120050030 as listed in the MCPB Opinion dated December 20, 2005, except as modified by the following conditions.

Proposed Changes

1. Approval under this ~~p~~Preliminary ~~p~~Plan is limited to 253 ~~one-family-detached~~ residential dwelling units, including ~~28 Moderately Priced Dwelling Units (MPDUs), 221 single family detached units and 32 single-family attached (duplex) Moderately Priced Dwelling Units (MPDUs)~~ and the purchase of 60 Transfer Development Rights (TDRs).
11. Applicant to dedicate to M-NCPPC the proposed Parcel B, consisting of ~~90-95~~ no less than 86 acres to be used for the Special Park pursuant to the Clarksburg Master Plan. The final amount of dedication to be determined at record plat. Land to be transferred at time of final record plat, unless an alternative agreement is reached between the applicant and M-NCPPC, and be free of trash and unnatural debris. Park boundaries to be staked and adequately signed to delineate between parkland and private properties.
- ~~20. The Adequate Public Facility ("APF") review for the preliminary plan will remain valid for ninety-six (96) months from the date of mailing of the Planning Board Opinion.~~

Revised Conditions

1. Approval under this Preliminary Plan Amendment is limited to 253 residential dwelling units, including 221 single family detached units and 32 single-family attached (duplex) Moderately Priced Dwelling Units (MPDUs) and the purchase of 60 Transfer Development Rights (TDRs).
11. Applicant to dedicate to M-NCPPC the proposed Parcel B, consisting of no less than 86 acres to be used for the Special Park pursuant to the Clarksburg Master Plan. The final amount of dedication to be determined at record plat. Land to be transferred at time of final record plat, unless an alternative agreement is reached between the applicant and M-NCPPC, and be free of trash and unnatural debris. Park boundaries to be staked and adequately signed to delineate between parkland and private properties.
20. The Adequate Public Facilities ("APF") review for the Preliminary Plan will remain valid for 87 months from the initiation date of this application. This date accounts for all County Council approved legislative extensions granted up until the date of this approval.

New Condition

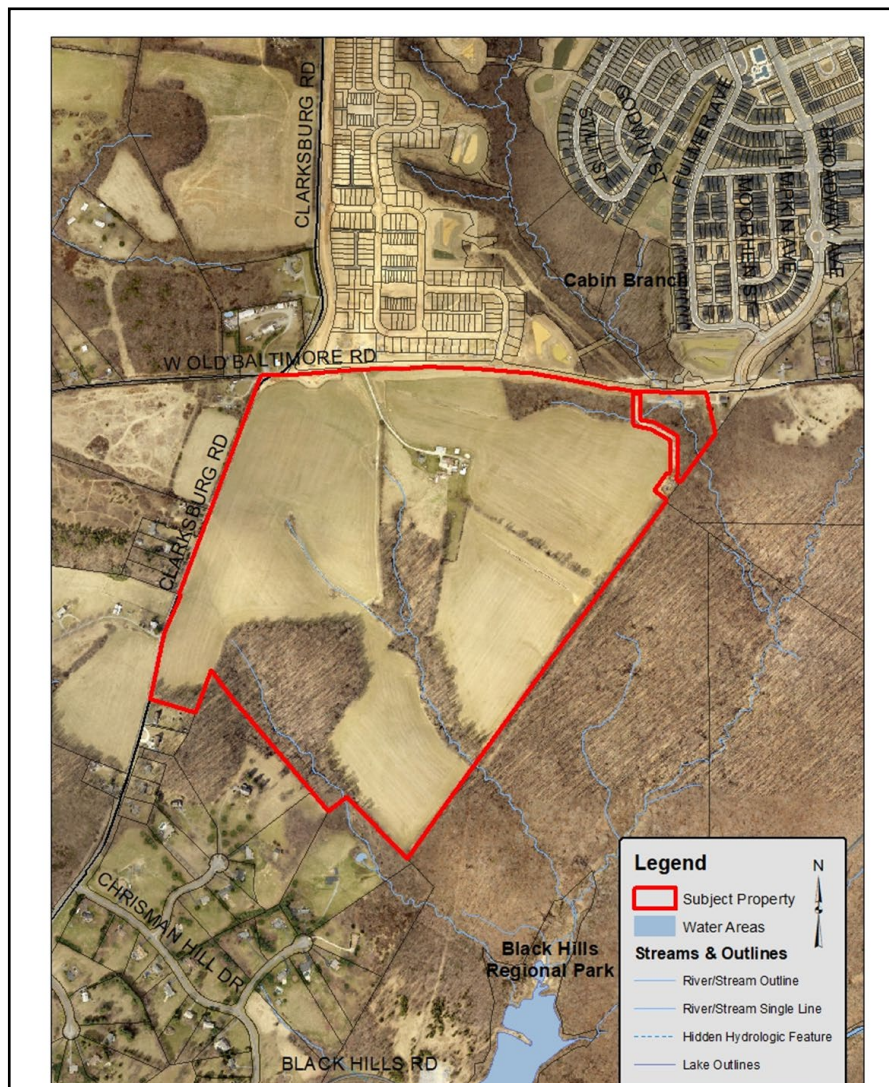
22. The Preliminary Plan will remain valid for 87 months from the initiation date of this application. This date accounts for all County Council approved legislative extensions granted up until the date of this approval.

SECTION 2 – SITE DESCRIPTION

Site Location and Vicinity

The Property is located at 14222 West Old Baltimore Road (“Subject Property” or “Property”) at the southeast quadrant of the intersection of Clarksburg Road/MD 121 and West Old Baltimore Road. The Property is identified as Tax Map EV, Parcel 777. The Subject Property is located within the 1994 Clarksburg Master Plan & Hyattstown Special Study Area.

The Subject Property is located in the RE-1 zone with a TDR 2.0 overlay and is currently used for agriculture. The Property is bounded by Black Hill Regional Park immediately to the east, large lot RE-1 homes to the south and west, a mix of agricultural land and large-lot rural homes to the northwest, and the large mixed-use Cabin Branch community to the north.



History

Preliminary Plan No. 120050030

The Original Preliminary Plan was approved by Planning Board Opinion dated December 20, 2005, for 253 residential units, including 28 MPDUs, and approved the purchase of 60 Transfer Development Rights (TDRs) (Attachment C). The Planning Board approved a 96-month (8-year) validity period for both the Preliminary Plan and the APF finding, with an original expiration date of January 20, 2014 (based on the initiation date being one month after the mailing date). Through five separate County-wide legislative actions, this date has been extended by 10 years to January 20, 2024.

Table 1: Plan and APF Validity Period

Plan Name / Legislation	Action Type	Initiation / Effective Date	Incremental Validity Period	Expiration of Amended Validity
120050030	Preliminary Plan	1/20/2006	8 years	1/20/2014
SRA No. 09-01	Legislation	4/1/2009	2 years	1/20/2016
SRA No. 11-01	Legislation	4/1/2011	2 years	1/20/2018
SRA No. 13-01	Legislation	4/1/2013	2 years	1/20/2020
SRA No. 15-01	Legislation	3/31/2015	2 years	1/20/2022
SRA No. 20-01	Legislation	7/28/2020	2 years	1/20/2024

SECTION 3 – PROPOSAL

Proposal

Preliminary Plan No. 12005003A was submitted on September 23, 2020 to convert the prior approval of all 28 single-family detached MPDU dwellings into single-family attached MPDU dwellings, to convert 4 additional market rate units into MPDUs for a total of 32 MPDUs, to reduce park dedication by 4 acres, and to extend the validity period for the Plan as well as for the findings for Adequate Public Facilities by 5 years (“Application” or “Preliminary Plan Amendment”). Importantly, this extension accounts for and retains the remaining 28 months of validity for the Plan and APF; the 5-year request is in addition to these months, amounting to a total proposed validity period of 87 months. This duration accounts for all prior legislative extensions but does not account for any extensions granted by legislation in the future beyond the date of approval of this Amendment. The overall site layout is maintained, with minor adjustments to be requested and reviewed as part of a subsequent Site Plan.

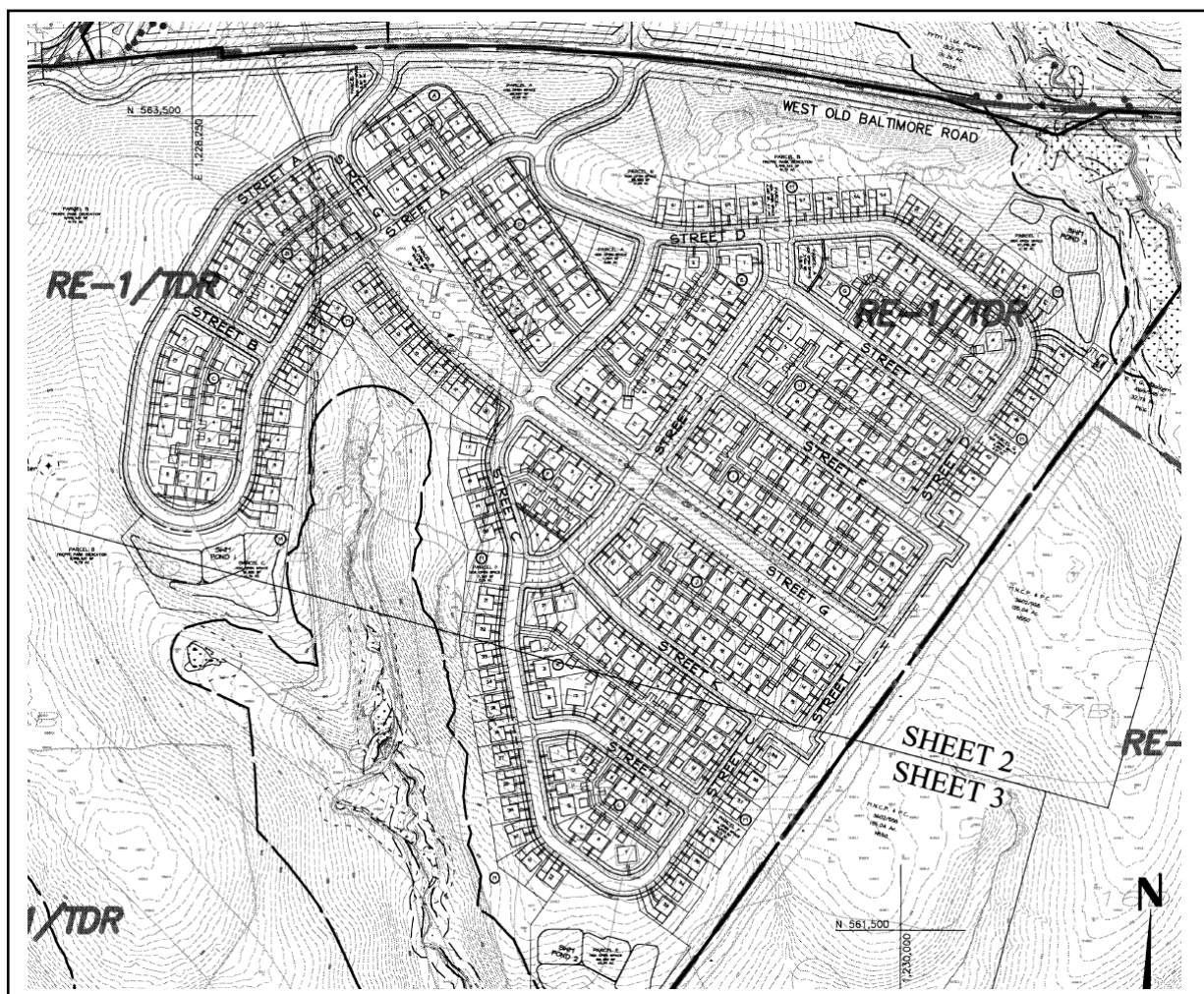


Figure 2 – Approved Preliminary Plan No. 120050030

SECTION 4 – ANALYSIS AND FINDINGS, 50.4.2.D

The proposed Amendment does not alter the original intent and all findings of Preliminary Plan No. 120050030 remain in full force and effect, except as modified by the findings below.

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59*

The layout of the Preliminary Plan Amendment has not been altered as a result of the conversion of residential units from single family detached homes to attached duplexes. Minor revisions to the layout are expected to accommodate the change of dwelling type from detached to attached (32 units), as well as Staff suggested revisions, in particular in the peninsula of the property bounded by Street A (Figure 3). These revisions are currently under review as part of the subsequent Site Plan application numbered 820210010 and do not meaningfully alter the approved layout. A small reduction of park dedication conveyance by 4 acres, from between 90-95 acres to 86 acres as conditioned, is requested by M-NCPPC Parks as a portion of the prior approved dedication area is deemed unnecessary.

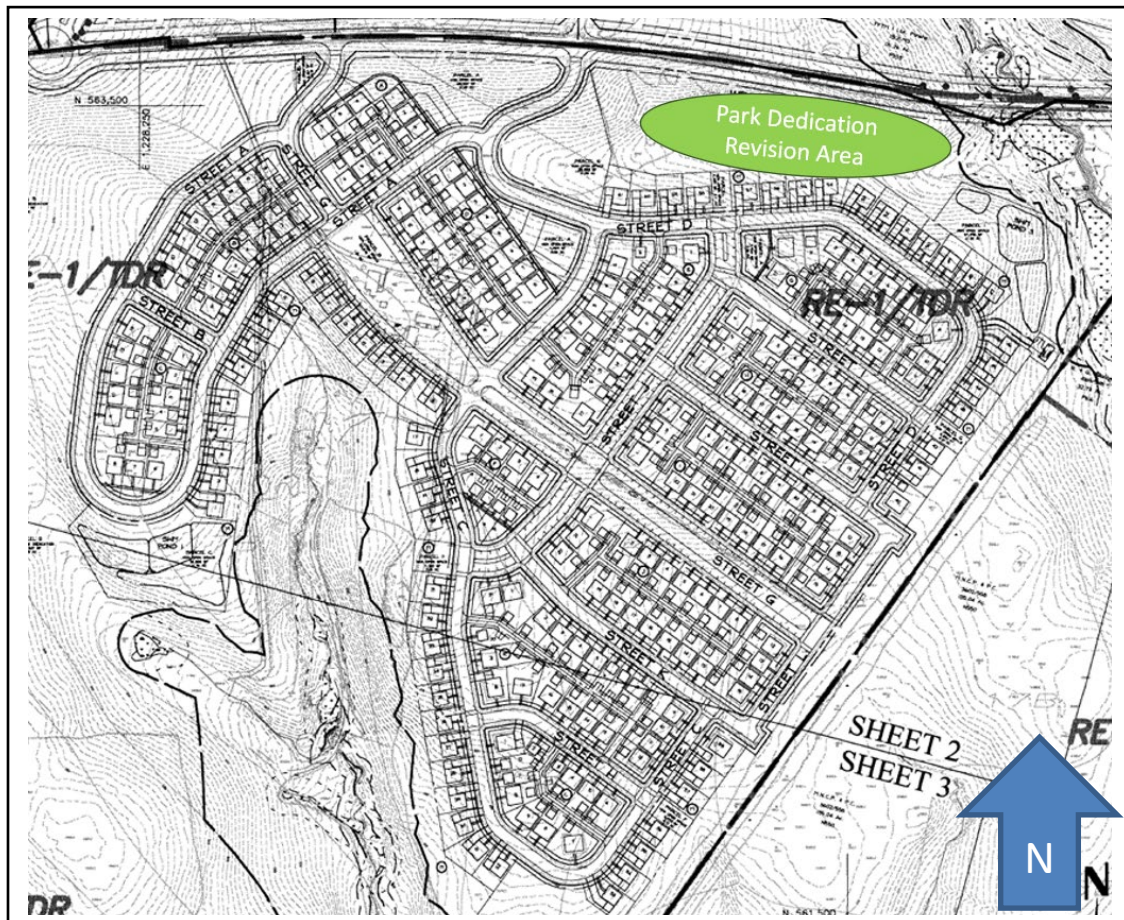


Figure 3 – Proposed Area of Park Dedication Adjustment

The rough area in green is requested to be removed from Park dedication as its location between housing and West Old Baltimore Road makes it unsuitable for park use. Instead, this area will be retained in forest conservation easement. Additionally, a small portion of the previously planned dedication area immediately along Clarksburg road may be needed to accommodate a Master Planned shared-use path. These adjustments are currently under review in the subsequent Site Plan application and do not meaningfully alter the Plan as they will remain either in the public domain or as preserved conversation area. All prior subdivision findings of this section remain valid. Staff recommends approval of the conversion of 32 single-family detached units into single family attached duplex units and the conversion of 4 additional market-rate units to MPDUs as conditioned.

2. Chapter 22A, Forest Conservation.

The Preliminary Plan Amendment meets the requirements of Chapter 22A. The Subject Property has previously satisfied Chapter 22A, the Forest Conservation Law, as part of the review and approval of the Preliminary Forest Conservation Plan (FCP). Minor revisions made to the Preliminary Plan through the conditions of this Amendment will be addressed by amending the FCP with subsequent Site Plan (820210010) under review. The Preliminary Forest Conservation plan maintains the conceptual location of proposed structures and improvements; the Plan remains in substantial conformance to Preliminary FCP.

The Subject Property contains environmental features as delineated in the approved Forest Conservation Plan. The Subject Property is located within the Little Seneca Creek watershed, classified by the State of Maryland as Use I-P waters; it is not located within a Special Protection Area or the Patuxent River Primary Management Area. The Application follows the Environmental Guidelines and all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

3. Adequate Public Facilities ("APF") – Schools Test

The APF previously approved for the Subject Property preceded the current school capacity adequacy test requirement. However, the Application is subject to a new determination of school adequacy per County Code Section 50.4.3.J.7.a.i.e. for all remaining unbuilt units generating more than 10 students at any school serving the development. This Application includes 221 unbuilt single-family detached units and 32 unbuilt single-family attached units. This test has been conducted as part of the review of this Application.

The project is served by Clarksburg ES, Neelsville MS and Seneca Valley HS. Based on the FY21 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 1. Applicable FY2021 School Adequacy.

School	Projected School Totals, 2024				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Clarksburg ES ¹	311	282	90.7%	+29	No UPP	114	131	144
Neelsville MS	1,190	983	82.6%	+207	No UPP	333	445	624
Seneca Valley HS	2,581	2,546	98.6%	+35	No UPP	215	552	939

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. If an application is estimated to generate more students than the identified ceilings, then payments at multiple tiers will be required.

Calculation of Student Enrollment Impacts

To calculate the number of students generated by the development, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single-family detached, single-family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net of 253 units, the project is estimated to generate the following number of students based on the subject Property's location within a Turnover Impact Area:

Table 2. Estimated Student Enrollment Impacts.

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	221	0.198	43.758	0.112	24.752	0.156	34.476
SF Attached	32	0.230	7.360	0.120	3.840	0.157	5.024
MF Low-rise	0	0.124	0.000	0.063	0.000	0.073	0.000
MF High-rise	0	0.023	0.000	0.013	0.000	0.019	0.000
TOTALS	253		51		28		39

This Application is estimated to generate 51 elementary school students, 28 middle school students and 39 high school students. The number of students generated does not exceed the adequacy ceilings identified for each school in Table 1, therefore split payments across multiple UPP tiers are not required.

Analysis Conclusion

Based on the school capacity analysis performed, using the FY2021 Annual School Test, there are adequate school facilities to support this project and the project does not require Utilization Premium Payments. This adequacy finding amends the current APF finding and is carried forward with the APF extension request.

¹ Projected enrollment reflects the estimated impact of CIP project P651901, which will reassign students among Clarksburg ES, Capt. James E. Daly ES, Fox Chapel ES, Wilson Wims ES and Clarksburg ES #9 in 2023.

4. Waiver of 50.4.3.J.7.c

The Applicant, as expressed in the Statement of Justification (Attachment B), is requesting a waiver from the Board from the findings delineated under 50.4.3.J.7.c.:

The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:

- i. 2.5 years for a subdivision with an original validity period of 7 years or less; or*
- ii. 6 years for a subdivision with an original validity period longer than 7 years.*

The Board may modify any portion of Chapter 50 through a waiver request if the following findings specified under Ch.50.9.3 can be satisfied:

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

The Applicant has provided a waiver justification (Attachment B). Due to the significant and long-lasting economic difficulties imposed by the 2007 recession, as well as the complexities inherent with conditions to contribute to the construction of major highway improvements as part of the approval of the Plan, the Applicant has stated that they have been unable to proceed with the project at the originally planned speed and schedule. The Applicant has stated in particular that conditions of the approval for major highway infrastructure, such as the improvement of the Clarksburg Rd. and 1-270 interchange, were beyond the means of the Application to singlehandedly complete. Instead, these improvements have been completed in partnership with other developers as well as through state and local action; this Application has been beholden to the timeline of construction set by others. Prior to the completion of these improvements, the Applicant has been unable to apply for building permits for any required dwellings to meet the 50% threshold for development. The required completion of these major projects, especially in the wake of the 2007 recession, was a difficult and unusual circumstance.

The application of 50.4.3.J.7.c is not needed to ensure the public health, safety, and general welfare. This section only sets forth a criterion to allow an APF extension request, but does not set any additional standards that can impact public health, safety, and general welfare. Additionally, as detailed below in the justification for the extension for APF, all local roadways continue to operate well within LATR congestion thresholds – there will be no undue or unexpected impact on the public transportation system. Additionally, as previously noted, there is adequate local school capacity, while a new WSSC water pumping constructed adjacent to the Subject Property station has significantly improved local water infrastructure.

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

The intent of section 50.4.3.J.7.c is still being met; this section intends to serve as a check to ensure approved development is proceeding and that approved APF findings allocating valuable public infrastructure capacity is not being reserved indefinitely without a plan or intention for its use. The

Subject Property is currently under review in a Site Plan, numbered 820210010. The ongoing Site Plan application demonstrates the ongoing commitment by the Applicant to proceed with the implementation of the Application in the near future.

This application meets the sub-finding 50.4.3.J.7.c.ii as the original application was approved for 8 years for a residential subdivision; the extension request is for 5 years beyond the existing expiration date (January 20, 2024), which is less than the 6-year maximum.

3. *The waiver is:*

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

Waiving the requirement under 50.4.3.J.7.c is the minimum necessary to ensure the Application remains in compliance with Chapter 50. Without waiving this section, the Applicant would be unable to meet the built development thresholds as delineated by 50.4.3.J.7.c for residential developments and would therefore be unable to proceed with the extension request under this section. The Applicant also cannot simply rely on the existing two-year extension as provided by the County Council legislation as that duration of time (until January 20, 2024) is not sufficient to receive Site Plan approval as well as subsequent permitting requirements, complete on-site infrastructure, and to receive all building permits prior to the expiration of APF validity.

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

Granting this waiver will still allow the Preliminary Plan to remain consistent with the General Plan. This waiver does will not be adverse to the public interest, while it meets all intents of 50.4.3.J.7 for APF extensions. Additionally, approval of the waiver enhances the County's vision for Clarksburg in creating a vibrant community with increased housing opportunities while respecting and enhancing the area's important natural resources.

All required findings to meet the standards to grant a waiver request under Ch.50.9.3 are satisfied. Staff recommends approval of the waiver request.

5. APF Validity Extension

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

a. *Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.*

i. *The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period expires.*

The Application was filed on September 23, 2020. This is prior to the expiration date for the Preliminary Plan and APF validity of January 20, 2024.

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

This application presents the following schedule (Table 4), with the initial year (year 1) based on the former expiration date prior to this Amendment of January 20, 2024:

Table 4: Proposed Staged Validity Period

Stage	Phase Development	Scale (Cumulative)	Proposed Duration*
Stage A (within existing validity period)	Site Plan Approval and related preparation	N/A	Prior to Year 1
Stage I	25 Residential Units	25 Units	Years 1-3 (Beginning January 20, 2024 or as amended, through Year 3)
Stage II	All Remaining Units	253 Units	Years 3 to Expiration

- iii. *For each extension of an adequate public facilities determination:*

- (a) *the applicant must not propose any additional development above the amount approved in the original determination;*

The Applicant does not propose any development beyond that approved in the original determination which is 253 dwelling units.

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

No additional public improvements are being required.

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

A traffic study is not requested at this time. The Subject Property fronts Clarksburg Rd. (MD 121) and West Old Baltimore Rd, both arterial roads. This area has most recently been studied for the Clarksburg Premium Outlets in 2014 (Attachment D). The study found that major intersections along Clarksburg Rd. would continue to operate well below the 1,425 CLV congestion threshold for the major intersections detailed in Table 5. Two intersections along West Old Baltimore Rd. have been significantly improved. The intersection of Clarksburg Rd. (MD 121) and West Old Baltimore Rd. has been improved with a traffic circle. Similarly, and as conditioned in the APF of the Preliminary Plan, the Frederick Rd. (MD 355) and West Old Baltimore Rd. has recently been reconstructed to meet the specifications of the APF approval.

This Application continues to satisfy the conditions of the APF approval, and road congestion levels operate in line with the original expectations of the existing APF determination.

An extension of the APF determination will not be adverse to the public interest.

Table 5: Future Congestion Projections

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

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

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

This finding is not applicable.

- b. The Board may approve an amendment to the new development schedule approved under paragraph 7.a.ii if the applicant shows that financing has been secured for either:*
- i. completion of at least one new building in the next stage of the amended development schedule; or*
 - ii. completion of infrastructure required to serve the next stage of the amended development schedule.*

The original preliminary plan was not staged; this Amendment sets a new development staging schedule. All infrastructure conditioned to serve the Subject Property has been constructed. These requirements were:

- a) At MD 121/I-270 northbound on/off ramp:
- i. add a northbound left-turn movement to provide dual left turn lanes;
 - ii. add a separate westbound left-turn lane;
 - iii. signalize the intersection; and

- iv. widen Clarksburg Road (MD 121) bridge over I-270 to accommodate one additional through-lane and a median island.
- b) At MD 355/West Old Baltimore Road intersection:
 - i. widen eastbound approach of West Old Baltimore Road to provide a separate right-turn lane;
 - ii. widen northbound approach to MD 355 to provide a separate left-turn lane (a three-lane section will be provided on MD 355 between West Old Baltimore Road and Brink Road); and
 - iii. widen southbound approach of MD 355 to provide a separate right-turn lane.
 - iv. Upgrade West Old Baltimore Road to two-lane arterial roadway standards acceptable to the Department of Public Works and Transportation
- c. *Exclusively residential subdivisions. The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:*
 - i. *2.5 years for a subdivision with an original validity period of 7 years or less; or*
 - ii. *6 years for a subdivision with an original validity period longer than 7 years.*

This section is waived under the previously discussed Ch. 50 waiver request. As noted, this application meets 50.4.3.J.7.c.ii; the original application was approved for 8 years for a residential subdivision. The extension request is for 5 years beyond the existing expiration date (January 20, 2024), which is less than the 6-year maximum.

6. Preliminary Plan Validity – Section 50.4.2.H

The Preliminary Plan Amendment requests a 5-year validity extension, which in addition to the 28 remaining months of validity, will be extended to 87 months following the initiation date of the Plan approval. To approve a Preliminary Plan validity extension, the Board must make the following analysis and findings as part of its approval.

1. *Extension Requests*

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

The Applicant submitted a timely plan validity extension request to the Planning Board. The request was received on September 23, 2020 which is prior to the validity expiration of the development on January 20, 2024.

- b. *The Director may approve a request to amend the validity period phasing schedule of an approved preliminary plan if the length of the total validity period of the preliminary plan is*

not extended. The applicant must submit the request in writing before the previously established validity period of the phase expires.

Not applicable.

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

The Applicant has provided a justification statement for the requested extension to the plan validity (Attachment A). The current validity period for the Preliminary Plan No. 120050030 expires on January 20, 2024. The request for a 5-year validity extension will allow the Applicant to continue the development of what is a large-scale residential project. Due to the significant and long-lasting economic difficulties imposed by the 2007 recession, as well as the complexities inherent with conditions to contribute to the construction of major highway improvements, the Applicant has stated that they have been unable to proceed with the project at the originally planned speed and schedule. The Applicant has stated in particular that conditions of the approval for major highway infrastructure, such as the improvement of the Clarksburg Rd. and 1-270 interchange, were beyond the means of the Application to singlehandedly complete. Instead, these improvements have been completed in partnership with other developers as well as through state and local action. The completion of these projects, especially in the wake of the 2007 recession, were significant, unusual and unanticipated events beyond the control of the Applicant. The additional seven years is the minimum anticipated for this scale of development, which accounts for the need to plan and finance new construction, obtain any additional Planning Board approvals including a forthcoming Site Plan, and receive permits for and construct new structures. This extension will provide the Applicant a development window comparable to that expected for similar projects of this scale at a currently unbuilt stage.

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

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

3. Grounds for extension.

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

The Applicant's validity extension justification (Attachment A) states that significant, unusual and unanticipated events, beyond their control and not caused by the Applicant,

have impaired their ability to validate the plan, and that an undue hardship would result if the validity period is not extended. The Applicant provided justification detailing reasons for the extension as part of the submitted Application, chief among them being the significant and complex highway improvements required of the Application that the Applicant was unable to complete unilaterally. These improvements were contingent on the actions of other developers and government agencies, made more complicated in light of the long-lasting effects of the 2007 recession. To date, the Applicant has expended extensive resources in pursuing development; should the plan not be extended, the Applicant risks losing these major investments.

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

The Applicant provided justification (Attachment A) outlining the validity extension request and the necessary justifications. As mentioned, the Applicant justified the request primarily based delays caused by the significant and complex highway improvements required of the Application that the Applicant was unable to complete unilaterally, along with the long-lasting adversity of the 2007 recession. These are found to qualify as a “significant, unusual and unanticipated event(s), beyond their control and not caused by the Applicant.”

4. Planning Board considerations for extension.

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

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

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

Staff does not recommend that additional information on the feasibility of the project be required. However, staff is requesting additional several minor modifications to the site design as mentioned previously, which will be reviewed under the subsequent Site Plan. Given the completion of required infrastructure along with the current high demand for housing in the region, the project now seems ready to proceed.

5. Planning Board action.

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

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

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

The Applicant has requested a 5-year extension to the Preliminary Plan and states this is the minimum necessary to complete the validation. Staff agrees with the Applicant's request as a reasonable amount of time given the scale and complexity of this development, and is standard for a similarly sized residential application at a currently unbuilt stage.

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

As part of this Application, the APFO validity period will be extended by an additional seven (7) years to match the Preliminary Plan validity Period.

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

This is the first request for a Preliminary Plan validity extension made for the original approval of Preliminary Plan No. 120050030.

SECTION 6 – CITIZEN CORRESPONDENCE

The Applicant has met all proper signage, noticing and pre-submission meeting requirements for the submitted Application. No community correspondence has been received. A pre-submission meeting for the Preliminary Plan was held virtually on April 16, 2020 to discuss requirements of the extension request and feasibility of switching housing units from detached to attached duplexes.

SECTION 7– CONCLUSION

The proposed lots meet all of the requirements established in the Subdivision Regulations and the Zoning Ordinance, and conform to the recommendations of the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area Master Plan*. Access to the lots is adequate and all public facilities and utilities have been deemed adequate to serve this Application. Therefore, Staff recommends approval of the Application, with the conditions as specified.

Attachments

- A. Statement of Justification
- B. Ch. 50 Waiver Request
- C. Preliminary Plan 120050030 Opinion
- D. TIS for Creekside at Cabin Branch

Attachment A

**Statement in Support of Preliminary Plan Amendment/Extensions of Preliminary Plan Validity
Period and Adequate Public Facilities Determination Validity Period
Linthicum West Property – 14222 West Old Baltimore Road, Boyds
(Application Number 12005003A)
August 10, 2020**

Linthicum West Properties, LLC, the applicant and owner of the property located at 14222 West Old Baltimore Road, Boyds, Maryland (the “Property”), submits this Statement in Support of its application for Preliminary Plan Amendment and for Extensions of Preliminary Plan Validity Period and Adequate Public Facilities (APF) Determination Validity Period. Linthicum West Properties, LLC (the “Applicant”) is under contract to sell the Property to U.S. Home Corp. (d/b/a Lennar) (“U.S. Home”). Together, the Applicant and U.S. Home plan to move forward with the remaining approval process and develop the Property with 253 residential units, consistent with the Property’s prior approvals. To that end, the Applicant has filed this application, Application Number 12005003A (the “Application”), to enable one modest change to the prior preliminary plan approval -- the conversion of Moderately Priced Dwelling Units (MPDUs) from detached to attached (duplex) units -- and to extend the approval periods by seven years to allow U.S. Home sufficient time to obtain all of the necessary permits for the project. As explained further below, the extension requests are justified as the Applicant always intended to farm the Property for as long as possible prior to development, the infrastructure necessary to support the project has encountered delays but now is available, and the Applicant has participated extensively in the infrastructure improvements surrounding the Property, which have taken significant time and expense.

1. Background Information and Prior Approvals

The Property is approximately 165 acres located at the southeast quadrant of the intersection of Clarksburg Road (MD 121) and West Old Baltimore Road in Clarksburg, Maryland. It is zoned RE-1/TDR 2 (Residential Estate-1/Transferable Development Rights) within the Clarksburg Master Plan Area. The Property is currently used for farming with an existing farmhouse and associated outbuildings. The Applicant’s family has farmed the Property since 1900.

The Montgomery County Planning Board approved Preliminary Plan Number 120050030 on March 31, 2005 for 253 single-family detached residential dwelling units on the Property (the “Preliminary Plan”). The Preliminary Plan resolution was mailed on December 20, 2005. As reflected in the Preliminary Plan resolution, development of the Property would not be immediate or easy. It would require massive infrastructure and an extensive amount of coordination in advance, particularly with the neighboring Cabin Branch development. Among

other conditions, the Preliminary Plan required the Applicant to participate in significant roadway improvements surrounding the Property. Given the considerable effort that was expected, the Planning Board discussed the appropriate timeframes for validity periods during the Preliminary Plan approval. At the Planning Board hearing in 2005, the Applicant expressed its preference to continue farming the Property for as long as possible prior to development and its preference for a 12-year APF validity period, which would have coincided with the Cabin Branch development 12-year APF validity period. The Planning Board resolution specifically noted those preferences while also noting that “the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property” (resolution, page 8).

Ultimately, the Planning Board approved an 8-year validity period (less than the 12-year timeframe, but more than the 5-year Staff recommended timeframe) to promote continued farming on the Property, recognizing that “allowing the Applicant to farm the [Linthicum West] Property as long as possible represented a core county interest” (resolution, page 8). That approval timeframe, coupled with the Montgomery County Council automatic extensions totaling ten years (Montgomery County Ordinance Number 18-04, effective March 31, 2015, and Subdivision Regulation Amendment Number 20-01, effective July 28, 2020), results in Preliminary Plan/APF approval periods that are valid until December 20, 2023.

2. Description of the Proposed Residential Project

After continuing to farm the Property since 2005 and actively participating in the infrastructure improvements surrounding the Property over the past several years, the Applicant, together with U.S. Home, now propose to move forward with development of the Property with 253 residential units, including 32 MPDUs (12.5%) (the “Project”). The current plan layout and configuration of the units are virtually identical to the Preliminary Plan approval. The proposed residential community will be well-designed, pedestrian friendly, and environmentally sensitive. The Project will benefit the County by providing an additional housing resource with safe, well integrated parking, efficient circulation patterns, and substantial open space and amenities. Approximately 90 acres of the Property is proposed to be dedicated to the Parks Department.

Two access points to the Project are proposed from West Old Baltimore Road, which was just improved. The Applicant contributed to West Old Baltimore Road and other infrastructure improvements, including providing land for a WSSC sewer pump station, to enable development in the surrounding area to move forward. The previous approvals for the Property and proposed Project going forward are consistent with the Clarksburg Master Plan provisions and the general sequencing of timing of development anticipated under that plan.

The Property is one part of the overall Cabin Branch Neighborhood, per the 1994 Clarksburg Master Plan. The Cabin Branch Neighborhood is envisioned to have a large number of single-family detached homes, with the Property playing a key role in contributing to that housing resource. In order to support the housing within the Cabin Branch Neighborhood, the Master Plan envisioned a massive amount of new infrastructure in the surrounding area. The Applicant has worked with the Cabin Branch Development to the north to meet the goals of the Master Plan. This coordination includes transportation infrastructure; water and sewer infrastructure; housing mix/resources, an elementary school site, environmental resources; planned open spaces and Park dedications to meet the Master Planned vision for the Cabin Branch Neighborhood.

Page 69 of the Master Plan establishes the specific land use objectives for the Property (a/k/a “the Reid Farm”). These objectives were met as noted in the 2005 Preliminary Plan Staff report and resolution. In particular, the Property is a housing resource established as a TDR receiving area (approximately 60 TDRs). It is also contiguous to Black Hill Regional Park and will be dedicating between 90 to 95 acres of ‘special park’ to cluster density away from, and preserve views along, MD Rte. 121. The 2005 Preliminary Plan approval was for 100% single-family detached units. The Master Plan establishes a minimum of 85% detached housing for the Property. With the proposed change of 32 MPDU units to attached, the mix of housing will be 87.4% detached and 12.6% attached (duplex). This mix also works with the overall mix established for the Cabin Branch Neighborhood. The minimum 45% detached unit requirement for the Neighborhood is changed from 47% per combined approvals to 45.5% with the change of 32 MPDUs from detached to attached.

3. Request for Conversion of MPDUs from Detached to Attached (Duplex) Units

The proposed Site Plan for the Property, which U.S. Home will file with M-NCPPC this coming Fall, 2020, is substantially similar to the approved Preliminary Plan. The only meaningful change to the Preliminary Plan that is proposed now is to convert the MPDUs from detached units to attached (duplex) units. Duplex MPDUs will be more aesthetic and compatible with the other units in the proposed community. Duplex, attached units are a unique affordable housing choice that provides a larger unit than originally approved, while mixing the locations into the community with relatively the same size and massing as the neighboring single-family detached homes. Additionally, since the time of the original Preliminary Plan approval, the methodology for calculating the required number of MPDUs has changed, resulting in a greater number of MPDUs required for the Project. These two changes require a revised Preliminary Plan Condition Number 1, which Applicant requests, as follows:

Condition of Approval Number 1) *Approval under this preliminary plan is limited to 253 ~~one-family detached~~ residential dwelling units, including 221 single-family detached units and 28 32 single-family attached (duplex) Moderately Priced Dwelling Units (MPDUs) and the purchase of 60 Transfer Development Rights (TDRs).*

The Applicant and U.S. Home believe that this modest preliminary plan amendment will enable a superior Project.

4. Request for Extensions of Preliminary Plan Validity Period and APF Determination Validity Period

In connection with a preliminary plan amendment, the Subdivision Regulations allow the Planning Board to extend the validity period for the approval (Section 50.4.2.G.4.). The Applicant requests additional time for the Project to receive site plan approval, record plats, and permits. As explained further below, this area of Clarksburg has evolved significantly but perhaps more slowly than originally anticipated. The Applicant has contributed towards infrastructure improvements necessary to enable development in the area, and this Project specifically, to move forward. These improvements have taken extensive time and coordination with other parties, particularly the neighboring Cabin Branch development, which requested and received its own approval extensions in 2019. Based on its timeline and expected home sales, U.S. Home projects that an additional seven years should be sufficient for the Project. Thus, the Applicant requests revisions to Preliminary Plan Condition Numbers 19 and 20, as follows:

19. This preliminary plan will remain valid ~~for ninety-six (96) months from the date of mailing of the Planning Board opinion~~ until December 20, 2030. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.

20. The Adequate Public Facility (APF) review for the preliminary plan will remain valid ~~for ninety-six (96) months from the date of mailing of the Planning Board Opinion~~ until December 20, 2030.

These extension requests comply with the applicable provisions for approval given the delays to the development and infrastructure in the Clarksburg area and the Applicant's contributions.

5. Criteria for Approval of Extension Requests

A. Preliminary Plan Validity Period (Section 50.4.2.H.)

Set forth in italics below are the applicable standards for extension of preliminary plan validity periods, followed by a brief explanation of the compliance with each standard.

H. Extension of plan validity period.

1. Extension request.

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

This Application is submitted prior to the validity period expiration.

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

Not applicable.

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

The Applicant and U.S. Home anticipate that a seven year extension until December 20, 2030 will allow adequate time for all record plats for the Project to be finalized.

3. Grounds for extension.

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

i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or

ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.

The delays in validating the plan are not caused by the Applicant. In fact, the Applicant explained in 2005 that it wanted to continue to farm the Property for as long as possible, and the Planning Board approval specifically supported that preference. Additionally, the Planning Board acknowledged that "the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property."

The Clarksburg area surrounding the Property has changed significantly over the past several years. These changes have been extensive, expensive, time consuming, and delayed due to the 2007 recession and other factors. The improvements that have been made and completed recently are necessary in order to support the Project and other development.

Now that the major pieces of infrastructure are in place to enable the Project to move forward, the Applicant and U.S. Home are ready to pursue the remaining entitlement process. Expiration of the approval would result in exceptional or undue hardship since the Applicant and U.S. Home have relied on the prior approvals.

B. APF Determination Validity Period (Section 50.4.3.J.7.)

Set forth in italics below are the applicable standards for extension of APF validity periods, followed by a brief explanation of the compliance with each standard.

7. Extensions.

a. Application. Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.

i. The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.

This Application is submitted prior to the expiration of the APF validity period.

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

The Applicant and U.S. Home anticipate that a seven year extension until December 20, 2030 will allow adequate time for all building permits for the Project to be obtained.

iii. For each extension of an adequate public facilities determination:

(a) the applicant must not propose any additional development above the amount approved in the original determination;

No additional development is proposed. A total of 253 residential dwelling units were approved and are proposed.

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

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

This Application includes a traffic statement from Wells and Associates, which reflects that the projected trip generation will be less than the original approval. Thus, the extension would not be adverse to the public interest.

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

Not applicable.

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

- i. completion of at least one new building in the next stage of the amended development schedule; or*
- ii. completion of infrastructure required to serve the next stage of the amended development schedule.*

Not applicable.

c. Exclusively residential subdivisions. The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:

- i. 2.5 years for a subdivision with an original validity period of 7 years or less; or*
- ii. 6 years for a subdivision with an original validity period longer than 7 years.*

Not applicable.

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

- i. the preliminary plan for the development required a significant commitment of funds by the applicant, amounting to at least \$3 million, as adjusted annually by the consumer price index, to comply with specified infrastructure conditions;*
- ii. the applicant has met or exceeded the required infrastructure conditions during the original validity period; and*
- iii. the applicant's satisfaction of the required infrastructure conditions provides a significant and necessary public benefit to the County by implementing infrastructure goals of an applicable master plan.*

This standard is satisfied. Under the Preliminary Plan approval, the Applicant was required to participate in significant roadway improvements, including:

a) At MD 121/I-270 northbound on/off ramp:

- (i) add a northbound left-turn movement to provide dual left turn lanes;
- (ii) add a separate westbound left-turn lane;
- (iii) signalize the intersection; and
- (iv) widen Clarksburg Road (MD 121) bridge over I-270 to accommodate one additional through-lane and a median island.

b) At MD 355/West Old Baltimore Road intersection:

- (i) widen eastbound approach of West Old Baltimore Road to provide a separate right-turn lane;
- (ii) widen northbound approach to MD 355 to provide a separate left-turn lane (a three-lane section will be provided on MD 355 between West Old Baltimore Road and Brink Road); and
- (iii) widen southbound approach of MD 355 to provide a separate right-turn lane.
- (iv) Upgrade West Old Baltimore Road to two-lane arterial roadway standards acceptable to the Department of Public Works and Transportation (DPWT) and Transportation Planning staff between Newcut Road and MD 121.

The Applicant is pleased to report that most of these important improvements are completed, while the others that are remaining are under construction. The Applicant actively participated in these improvements. Beyond the transportation improvements, the Applicant enabled a sewer pump station to be constructed on the northeast corner of the Property, which was deeded to WSSC.

These infrastructure improvements are substantial and costly, running in the many millions of dollars. They have been (or will be) completed within the original validity period, and they provide a significant and necessary public benefit to the County by implementing infrastructure goals within the Clarksburg Master Plan.

6. Community Engagement

In preparation for the upcoming Site Plan application, the Applicant and U.S. Home conducted a community outreach meeting on July 14, 2020 to discuss the Project, the prior approvals, and the anticipated Site Plan.

7. Conclusion

The Applicant requests an amendment to the Preliminary Plan to convert the proposed 32 MPDUs to attached (duplex) units. This improvement will enable a better Project, and there is no virtually no impact to schools or transportation from this request. School capacity is available, and the traffic statement submitted by Wells & Associates indicates that the traffic impact from the conversion of MPDUs from detached to attached (duplex) is less than the original approval.

Additionally, the Applicant requests extensions of the approval periods. As the Applicant indicated it would do in 2005 -- and as the Planning Board acknowledged would be in the County's interests -- the Applicant has continued to farm the Property since 2005. Now the Project is ready to move forward given the timing of the infrastructure improvements necessary to support the Project. The Applicant actively participated in these improvements. The Applicant and U.S. Home plan to move forward diligently with the remaining approval process, and this request is the first step. For the reasons provided in this statement, the Application complies fully with the necessary findings and requirements.

The Applicant is very proud of the proposed community on the Property. It will be a very well designed, pedestrian-friendly, and environmentally sensitive residential community, with generous open spaces. The Project will advance the County's housing goals, will provide important affordable housing, and will provide substantial parkland. The project is compatible with existing and proposed surrounding uses and consistent with the Master Plan.

We thank the Planning Staff and Planning Board for considering this Application. If you have any questions or need any additional information, please do not hesitate to contact us. Thank you very much for your favorable consideration.

Respectfully submitted:

Linthicum West Properties, LLC

**SUPPLEMENTAL Statement in Support of Preliminary Plan Amendment/Extensions of
Preliminary Plan Validity Period and Adequate Public Facilities Determination Validity Period
Linthicum West Property – 14222 West Old Baltimore Road, Boyds
(Application Number 12005003A)**

November 13, 2020

Linthicum West Properties, LLC, the Applicant and owner of the property located at 14222 West Old Baltimore Road, Boyds, Maryland (the “Property”), submits this Supplemental Statement in Support of its application for Preliminary Plan Amendment and for Extensions of Preliminary Plan Validity Period and Adequate Public Facilities (APF) Determination Validity Period (Application Number 12005003A - the “Application”). As explained in the original Statement in support of the Application, the Applicant is under contract to sell the Property to U.S. Home Corp. (d/b/a Lennar) (“U.S. Home”), and together, the Applicant and U.S. Home plan to move forward with the remaining approval process and develop the Property with 253 residential units, including 32 MPDUs (12.5%) (the “Project”), consistent with the Property’s prior approvals. U.S. Home recently submitted Site Plan Application Number 820210010 to continue the entitlement process.

The Applicant requests an extension of the approval periods by seven years to allow U.S. Home sufficient time to obtain all of the necessary approvals, record plats, and permits. As explained in the original Statement, the extension requests are justified as the Applicant always intended to farm the Property for as long as possible prior to development, the infrastructure necessary to support the Project has encountered delays but now is available, and the Applicant has participated extensively in the infrastructure improvements surrounding the Property, which have taken significant time and expense. Planning Staff requested additional information in connection with the findings for extensions of the validity period of a preliminary plan (Subdivision Regulations Section 50.4.2.H.3.a.). This Supplemental Statement is intended to address that section specifically and supplement (not replace) the original Statement.

Set forth in italics below are the applicable standards for extension of preliminary plan validity periods, followed by an explanation of the compliance with each standard. Subdivision Regulations Section 50.4.2.H.3.a. provides:

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

i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or

ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.

This standard is disjunctive, meaning that either finding can be made in order for the Board to grant the extension request. Nonetheless, both findings can be made.

i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant;

This finding is met because the Property received subdivision approval in 2005 with significant conditions of approval, the ability to meet those conditions of approval was delayed, and the delays in meeting the conditions of approval and validating the plan are not caused by the Applicant.

The Property is part of the overall Cabin Branch Neighborhood, which experienced significant delays generally in the timing of development. The 1994 Clarksburg Master Plan envisioned the Cabin Branch Neighborhood to have a large number of single-family detached homes, with the Property playing a key role in contributing to that housing resource. In order to support the housing within the Cabin Branch Neighborhood, the Master Plan envisioned a massive amount of new infrastructure in the surrounding area. The Applicant has worked with the Cabin Branch Development to the north of the Property to meet the goals of the Master Plan. This coordination includes transportation infrastructure; water and sewer infrastructure; housing mix/resources; an elementary school site; environmental resources; planned open spaces and park dedications to meet the Master Planned vision for the Cabin Branch Neighborhood.

The Planning Board approved Preliminary Plan Number 120050030 on March 31, 2005 for 253 single-family detached residential dwelling units on the Property. As reflected in the Preliminary Plan resolution, and as anticipated by the Master Plan, development of the Property would require massive infrastructure and an extensive amount of coordination in advance, particularly with the neighboring Cabin Branch development. This massive effort would take a considerable amount of time.

Under the Preliminary Plan approval, and among other conditions, the Applicant was required to participate in significant roadway improvements surrounding the Property, including:

- a) At MD 121/I-270 northbound on/off ramp:
 - (i) add a northbound left-turn movement to provide dual left turn lanes;
 - (ii) add a separate westbound left-turn lane;
 - (iii) signalize the intersection; and
 - (iv) widen Clarksburg Road (MD 121) bridge over I-270 to accommodate one additional through-lane and a median island.

- b) At MD 355/West Old Baltimore Road intersection:
 - (i) widen eastbound approach of West Old Baltimore Road to provide a separate right-turn lane;
 - (ii) widen northbound approach to MD 355 to provide a separate left-turn lane (a three-lane section will be provided on MD 355 between West Old Baltimore Road and Brink Road); and
 - (iii) widen southbound approach of MD 355 to provide a separate right-turn lane.
 - (iv) Upgrade West Old Baltimore Road to two-lane arterial roadway standards acceptable to the Department of Public Works and Transportation (DPWT) and Transportation Planning staff between Newcut Road and MD 121.

Realistically, it was not possible, or expected, for the Applicant to move forward unilaterally with its Project and complete all of these roadway improvements on its own. There was a clear understanding that the necessary improvements for the Applicant's Project required extensive coordination with, and cooperation from, Cabin Branch development (and vice versa). This fact is evident from the condition itself, which states that the Applicant would participate in the roadway improvements. Thus, "other parties" were inherently involved from the beginning, and the very nature of multiple parties forced to rely on each other necessarily could create delays. The Applicant could not realistically move forward with its Project any faster than the speed at which the Cabin Branch development moved forward. Additionally, the Planning Board resolution specifically noted that "the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property" (resolution, page 8). Thus, delays to the Cabin Branch development would necessarily delay the Applicant's Project, and delays to the Cabin Branch development have been well documented. The Cabin Branch development requested and received its own approval extensions in 2019, and it would be illogical and unfair not to provide similar extensions for the Applicant's Project.

The improvements serving the Cabin Branch neighborhood have taken extensive time and coordination with multiple parties. The Applicant is pleased to report that most of these important improvements are now completed, while the others that are remaining are under

construction. The Applicant actively participated in these improvements. Beyond the transportation improvements, the Applicant enabled a sewer pump station to be constructed on the northeast corner of the Property, which was deeded to WSSC in 2019. Once the pump station was placed into service, the Montgomery County Council and Department of Environmental Protection amended the County's Comprehensive Water Supply and Sewerage Systems Plan in December, 2019, reflecting the water and sewer category changes, thus enabling development to move forward. These infrastructure improvements are substantial and costly. They have been (or will be) completed within the original validity period, and they provide a significant and necessary public benefit to the County and community by implementing infrastructure goals within the Clarksburg Master Plan.

Two access points to the Project are proposed from West Old Baltimore Road, which was just constructed and opened to traffic in September, 2020. The Applicant contributed to West Old Baltimore Road and other infrastructure improvements, to enable development in the surrounding area to move forward. The previous approvals for the Property and proposed Project going forward are consistent with the Clarksburg Master Plan provisions and the general sequencing of timing of development anticipated under that plan.

The delays in meeting conditions of the plan approval and validating the plan are not caused by the Applicant. In fact, while everyone acknowledged that "the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property," the Applicant explained to the Planning Board in 2005 that it wanted to continue to farm the Property for as long as possible while the infrastructure moved forward. The Planning Board approval specifically supported that preference to continue farming on the Property, recognizing that "allowing the Applicant to farm the [Linthicum West] Property as long as possible represented a core county interest" (resolution, page 8). As the Applicant indicated it would do in 2005 -- and as the Planning Board acknowledged would be in the County's interests -- the Applicant has continued to farm the Property since 2005. The Property is currently used for farming with an existing farmhouse and associated outbuildings.

The Clarksburg area surrounding the Property has changed significantly over the past several years. These changes have been extensive, expensive, time consuming, and delayed due to various factors. The improvements that have been made and completed recently are necessary in order to support the Project and other development.

The findings under Subdivision Regulation 50.4.2.H.3.a.i. are met because the Property received subdivision approval in 2005 with significant conditions of approval, meeting those conditions of approval was delayed, and the delays in meeting the conditions of approval and validating the plan are not caused by the Applicant and inherently involve "other parties."

ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.

This standard also is satisfied. The Great Recession from 2007 to 2009 was significant, unusual, unanticipated, beyond the Applicant's control, not caused by the Applicant, and substantially affected market conditions and the timing of development in Cabin Branch (and everywhere else).

Now that the major pieces of infrastructure are in place to enable the Project to move forward -- to which the Applicant has contributed significantly -- the Applicant and U.S. Home are ready to pursue the remaining entitlement process. Denial of the extension request and expiration of the approvals would result in exceptional or undue hardship since the Applicant and U.S. Home have relied on the prior approvals and have submitted a Site Plan application based on the prior approvals. Additionally, exceptional or undue hardship would result if the Applicant loses its approvals and has to re-apply, with no certainty of receiving new approvals, or with potential significant changes to the existing approvals. In any event, even if the Project was re-approved, there is a significant cost to that process, which would also create hardship. There is absolutely no justification for requiring the Applicant to re-apply under these circumstances.

Conclusion

In connection with a preliminary plan amendment, the Subdivision Regulations allow the Planning Board to extend the validity period for the approval (Section 50.4.2.G.4.). The Applicant requests additional time for the Project to receive site plan approval, record plats, and permits. This area of Clarksburg has evolved significantly but perhaps more slowly than originally anticipated. The Applicant has contributed towards infrastructure improvements necessary to enable development in the area, and this Project specifically, to move forward. These improvements have taken extensive time and coordination with other parties, particularly the neighboring Cabin Branch development, which requested and received its own approval extensions in 2019.

The Planning Board gave the Applicant's Project a shorter approval period than the Cabin Branch project by four years, which, in retrospect, does not make sense given the interdependency between the projects. At the Planning Board hearing in 2005, the Applicant expressed its preference for a 12-year validity period, which would have coincided with the Cabin Branch development 12-year validity period. Ultimately, the Planning Board approved an 8-year validity period.

Based on its timeline and expected home sales, U.S. Home projects that an additional seven years should be sufficient for the Project. These extension requests comply with the applicable provisions for approval given the delays to the development and infrastructure in the Clarksburg area and the Applicant's contributions. Now the Project is ready to move forward given the timing of the infrastructure improvements necessary to support the Project. The Applicant actively participated in these improvements. The Applicant and U.S. Home plan to move forward diligently with the remaining approval process, and this request is the first step. For the reasons provided in this Supplemental Statement, together with the original Statement, the Application complies fully with the necessary findings and requirements.

After continuing to farm the Property since 2005 and actively participating in the infrastructure improvements surrounding the Property over the past several years, the Applicant, together with U.S. Home, now propose to move forward with development of the Property. The Applicant is very proud of the proposed community on the Property. The current plan layout and configuration of the units are virtually identical to the Preliminary Plan approval. The proposed residential community will be a very well designed, pedestrian-friendly, and environmentally sensitive residential community, with generous open spaces. The Project will benefit the County by providing an additional housing resource with safe, well integrated parking, efficient circulation patterns, and substantial open space and amenities. Approximately 90 acres of the Property is proposed to be dedicated to the Parks Department. The Project will advance the County's housing goals, will provide important affordable housing, and will provide substantial parkland. The Project is compatible with existing and proposed surrounding uses and consistent with the Master Plan. The extension request meets the necessary findings under the Subdivision Regulations, and it would not be in the County's interests to deny the extension and enable the approvals to expire.

We thank the Planning Staff and Planning Board for considering this supplemental information. If you have any questions or need any additional information, please do not hesitate to contact us. Thank you very much for your favorable consideration.

Respectfully submitted:

Linthicum West Properties, LLC

From: [Gary Unterberg](#)
To: [Van Alstyne, Chris](#); [Barr, Stuart R.](#)
Cc: [Pereira, Sandra](#); [Luis F. Gonzalez](#)
Subject: RE: Linthicum West Preliminary Plan - Waiver Request for APF Extension
Date: Friday, September 17, 2021 10:32:06 AM
Attachments: [image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
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[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Chris we also have the ok from the Linthicum family. Let us know if you need anything else.

Gary

Gary F. Unterberg, RLA, LEED AP BD+C
Senior Vice President

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From: Van Alstyne, Chris <chris.vanalstyne@montgomeryplanning.org>
Sent: Friday, September 17, 2021 10:22 AM
To: Barr, Stuart R. <srbarr@lercheearly.com>
Cc: Pereira, Sandra <sandra.pereira@montgomeryplanning.org>; Gary Unterberg <GUnterberg@RODGERS.com>; Luis F. Gonzalez <Luis.F.Gonzalez@lennar.com>
Subject: RE: Linthicum West Preliminary Plan - Waiver Request for APF Extension

Great – thanks Stuart. We'll proceed as detailed below.

Chris

From: Barr, Stuart R. <srbarr@lercheearly.com>
Sent: Thursday, September 16, 2021 6:01 PM
To: Van Alstyne, Chris <chris.vanalstyne@montgomeryplanning.org>

Cc: Pereira, Sandra <sandra.pereira@montgomeryplanning.org>; Gary Unterberg <Gunterberg@rodgers.com>; Luis F. Gonzalez <Luis.F.Gonzalez@lennar.com>; Barr, Stuart R. <srbarr@lercheearly.com>

Subject: RE: Linthicum West Preliminary Plan - Waiver Request for APF Extension

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Chris, thank you for the email. Please see responses in red below. These responses are on behalf of U.S. Home (Lennar), the contract purchaser. If we receive any additional comments from the property owners, we'll let you know by noon tomorrow. If you don't hear anything further from us by then, then there are no additional comments. Thanks - Stuart

Stuart R. Barr, Attorney

Lerch, Early & Brewer, Chtd. rise to every challenge
7600 Wisconsin Ave | Suite 700 | Bethesda, MD 20814
T 301-961-6095 | F 301-347-1771 | Cell 571-213-2354
srbarr@lercheearly.com | [Bio](#)

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From: Van Alstyne, Chris <chris.vanalstyne@montgomeryplanning.org>

Sent: Thursday, September 16, 2021 2:20 PM

To: Gary Unterberg <Gunterberg@rodgers.com>; Barr, Stuart R. <srbarr@lercheearly.com>

Cc: Pereira, Sandra <sandra.pereira@montgomeryplanning.org>

Subject: RE: Linthicum West Preliminary Plan - Waiver Request for APF Extension

Gary and Stuart,

We discussed the updated waiver request internally and are prepared to proceed with the following. Please let me know if you have any comments prior to **noon tomorrow (Friday 9/17)** as we need to post the report by the end of the day:

1. For the APF extension, we will proceed with the findings under **Ch.50.4.3.J.7.c**. We don't believe we can proceed under Ch.50.4.3.J.7.e unless we have clearly documented evidence of a \$3,000,000 expenditure on public infrastructure.

Thank you for supporting the extension requests. As long as the extension requests are approved, we are less concerned with under what provisions they are approved. For what it's worth, I would contend that the requests/waivers can proceed under either sections (c) or (e) under the circumstances, but again, it's academic as long as they are approved.

2. Small point – we’re interpreting the basis date for the validity periods to be the “initiation date”, which is defined as the mailing date + one month from the original approval date - January 20, 2006 (one extra month)

Works for us.

3. Length of extension – we believe the original 7 year request is sufficient; however, since we’re close to the Board hearing for the Site Plan application, we are basing that timeline starting with a rough estimate it will have an approval around January 2022 – eg, **the technical extension will be for 5 years** from the current expiration (January 20 2024, as emended by Council legislation), which will effectively be 7 years from the rough date of approval for the Site Plan (**extended to January 20, 2029**). This will still provide an extra year beyond our typical 6 year standard for a ‘fresh’ APF for a residential application, but in line with our earlier guidance. Given that the difficulties of the infrastructural improvements have been completed, and that we are in a significantly improved economic situation even from the original request last year, we believe this is adequate and the “minimum necessary”. This will also avoid what we think is an additional unnecessary waiver of the findings for Ch.50.4.3.J.7.c that limit extensions to 6 years for residential applications.

We will agree to reduce our requested extensions from 7 additional years to 5 additional years to coincide with Staff’s position. Thus, we ask for the following revisions to Preliminary Plan Condition Numbers 19 and 20:

19. This preliminary plan will remain valid ~~for ninety-six (96) months from the date of mailing of the Planning Board opinion until January 20, 2029.~~ Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.

20. The Adequate Public Facility (APF) review for the preliminary plan will remain valid ~~for ninety-six (96) months from the date of mailing of the Planning Board Opinion until January 20, 2029.~~

4. We also need a phasing schedule per Ch.50.4.3.J.7.a.ii; let me know if you have any comment on this. We believe placing a requirement for the 25 units by Jan. 2027 is feasible. We believe this is a very accommodative schedule in comparison to similar peer applications:

Stage	Phase Development	Scale (Cumulative)	Proposed Duration
Stage A (within existing validity period)	Site Plan Approval and related preparation	N/A	Prior to Year 1
Stage I	25 Residential Units	25 Units	Years 1-3 (Beginning January 20, 2024 or as amended, through Year 3)
Stage II	All remaining units	253 Units	Years 3 to Expiration

We will agree to this schedule. Thank you.

Please let me know if you have any comments.

Thank you,

Chris



Chris Van Alstyne
Transportation Planner Coordinator

Up-County Division

chris.vanalstyne@montgomeryplanning.org

301.495.4629



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THE NEW PARK AND PLANNING HEADQUARTERS IS NOW LOCATED AT
2425 REEDIE DRIVE, WHEATON, MD 20902

From: Van Alstyne, Chris

Sent: Tuesday, September 14, 2021 1:25 PM

To: Gary Unterberg <GUnterberg@RODGERS.com>

Subject: RE: Linthicum West Preliminary Plan - Waiver Request for APF Extension

Great – thanks, Gary. Reviewing it now.

Chris

From: Gary Unterberg <GUnterberg@RODGERS.com>

Sent: Tuesday, September 14, 2021 11:54 AM

To: Van Alstyne, Chris <chris.vanalstyne@montgomeryplanning.org>

Cc: Pereira, Sandra <sandra.pereira@montgomeryplanning.org>; srbarr@lercheearly.com; Luis F. Gonzalez <Luis.F.Gonzalez@lennar.com>; Paula Linthicum <senecaayrfarms@aol.com>; Roger A. Hayden II (rah2@hayden-legal.com) <rah2@hayden-legal.com>; Randall Rentfro <RRentfro@RODGERS.com>; Courtney Cason <CCason@RODGERS.com>

Subject: RE: Linthicum West Preliminary Plan - Waiver Request for APF Extension

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Hi Chris attached is the Waiver info requested. Includes the following

- 1 Justification Letter and previously submitted information
- 2 Adjacent owners list, update to the initial preliminary plan submission.
- 3 Per the attached email a separate application and fee is not required.

Give me a call if you have any questions.

Thanks

Gary

Gary F. Unterberg, RLA, LEED AP BD+C

Senior Vice President



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d 240.912.2117 o 301.948.4700 c 301.873.4858

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From: Van Alstyne, Chris <chris.vanalstyne@montgomeryplanning.org>

Sent: Thursday, September 9, 2021 5:30 PM

To: Gary Unterberg <GUnterberg@RODGERS.com>

Cc: Pereira, Sandra <sandra.pereira@montgomeryplanning.org>

Subject: Linthicum West Preliminary Plan - Waiver Request for APF Extension

Hi Gary,

We were directed by our internal review team that the APF extension request would itself need a Ch. 50 waiver request (with findings under

50.9.3.A), specifically for Ch.50.4.3.J.7.c for exclusively residential development:

c. Exclusively residential subdivisions. The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits *for at least 50 percent of the entire subdivision* before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:

- i. 2.5 years for a subdivision with an original validity period of 7 years or less; or
- ii. 6 years for a subdivision with an original validity period longer than 7 years.

Since the application has not received 50 building permits yet, that finding needs to be explicitly waived. We'll also need some clarification as to why those permits can't be requested within the remaining 2 years of APF validity.

We had also discussed proceeding under Ch.50.4.3.J.7.e, but that would require accounting for at least \$3 million in public investment on infrastructure:

“i. the preliminary plan for the development required a significant commitment of funds by the applicant, amounting to at least \$3 million, as adjusted annually by the consumer price index, to comply with specified infrastructure conditions” (unless there is some explicit accounting of such investment made by the applicant available).

Would you be able to get us the waiver request by end of the day Monday (9/13)?

Chris



Chris Van Alstyne
Transportation Planner Coordinator

Up-County Division

chris.vanalstyne@montgomeryplanning.org

301.495.4629



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THE NEW PARK AND PLANNING HEADQUARTERS IS NOW LOCATED AT
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Attachment B

September 14, 2021

BY ELECTRONIC DELIVERY

(via Chris Van Alstyne – chris.vanalstyne@montgomeryplanning.org)

The Honorable Casey Anderson, Chair
and Members of the Montgomery County Planning Board
Maryland-National Capital Park & Planning Commission
2425 Reedie Drive
Wheaton, Maryland 20902

Re: Statement in Support of Request for Subdivision Regulations Waiver in connection with Extension of Adequate Public Facilities Determination for “Linthicum West” Property – 14222 West Old Baltimore Road, Boyds, MD 20841
Parcel P777, Tax Map EV12 (Tax ID #02-00023978)
Preliminary Plan Amendment Application Number 12005003A
Site Plan Application Number 820210010

Dear Chairman Anderson and Members of the Board:

Our firm represents U.S. Home Corporation (d/b/a Lennar) (“U.S. Home”), the contract purchaser and developer of the Linthicum West Property identified above (the “Property”). On behalf of U.S. Home and Linthicum West Properties, LLC, the owner of the Property, we provide this Statement in support of a Request for Subdivision Regulations Waiver in connection with the pending request to extend the validity period of the Adequate Public Facilities (“APF”) determination for the development. Last year, U.S. Home and Linthicum West Properties, LLC, (together, the “Applicant”), submitted a Site Plan Application (Application Number 820210010) and an application for Preliminary Plan Amendment and for Extensions of Preliminary Plan Validity Period and APF Determination Validity Period (Application Number 12005003A). The Preliminary Plan Amendment and Request for Extensions is scheduled for the Planning Board on September 30, 2021. This Request for Subdivision Regulations Waiver provides further information and basis for approval of the extension requests.

I. Project Background

By way of background, the Planning Board approved Preliminary Plan Number 120050030 for the Property on March 31, 2005 (the “Preliminary Plan”), which includes a total residential

density of 253 dwelling units on the Property. U.S. Home plans to develop the Property with 253 residential units, including 32 MPDUs (12.5%) (the “Project”), consistent with the Property’s prior approvals. In order to move forward, U.S. Home needs an extension of the approvals. In support of the extension requests filed last year, we submitted a Statement dated August 10, 2020 and a Supplemental Statement dated November 13, 2020 (*please see Attachments A and B*). In the attached Statement and Supplemental Statement, we explain how the requests meets all of the criteria for approval of extensions.

In summary, and as explained further in the attached statements, the extension requests are justified as the Applicant always intended to farm the Property for as long as possible prior to development, which the Planning Board supported. Additionally, the infrastructure necessary to support the Project has encountered reasonable delays but now is available, and the Applicant has participated extensively in the infrastructure improvements surrounding the Property, which have been extensive, expensive, time consuming, and delayed due to the 2007 recession and other factors. Development of this particular Property was never intended to move forward quickly, and development in this general area of Clarksburg has been slower than expected. The extension requests are justified. To the extent that a waiver is needed from the Subdivision Regulations to completely satisfy the criteria, then we are submitting this Request for Subdivision Regulations Waiver and respectfully request such waiver(s).

II. Request for Subdivision Regulations Waiver(s)

Under the circumstances, the Planning Board appears to have two alternatives for granting the APF extension request. Section 50.4.3.J.7.c provides potential extensions for exclusively residential development:

c. Exclusively residential subdivisions. The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:

- i. 2.5 years for a subdivision with an original validity period of 7 years or less; or*
- ii. 6 years for a subdivision with an original validity period longer than 7 years.*

The Project is an exclusively residential subdivision. Preliminary Plan Amendment and Site Plan applications are pending, which means that no building permits have been issued yet. The entire Project, and specifically building permits, have been delayed for all of the reasons explained in the attached statements. While U.S. Home has not yet pulled any building permits, it

has invested significant time and expense working through the remaining entitlement process and is proceeding as quickly as possible and in good faith.

If the Planning Board agrees that an APF extension is warranted under this particular section, then we request a waiver of the provision that requires DPS issuance of 50 percent of the building permits. This waiver meets the findings for approval, as explained in the findings section below.

Additionally, based on its timeline and expected home sales, U.S. Home projects that an additional 7 year extension is necessary for the Project. The current approval expiration is December 20, 2023, and 7 additional years would extend the expiration to December 20, 2030. This timeframe allows approximately 1 year to finalize Site Plan and all site permits, 1 year for grading, utilities, road construction, etc., and 7 years for buildout of the community. Section 50.4.3.J.7.c allows for a 6 year extension, one year shorter than what is needed based on current projections. We would strongly prefer to avoid requesting another extension in the future. Thus, we request a waiver to allow for 1 additional year under Section 50.4.3.J.7.c, thereby enabling a 7 year extension.

Alternatively, the Planning Board may grant an APF extension under Section 50.4.3.J.7.e:

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

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

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

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

We explain in the attached statements how these criteria are met. The Applicant was required to participate, along with the Cabin Branch development, in significant infrastructure improvements in the surrounding area. These infrastructure improvements are substantial, costing in the tens of millions of dollars. They have been (or will be) completed within the original validity period, and they provide a significant and necessary public benefit to the County by implementing infrastructure goals within the Clarksburg Master Plan.

The Applicant actively participated in these improvements to enable development in the surrounding area to move forward. The Applicant contributed to West Old Baltimore Road and

other infrastructure improvements. Beyond the transportation improvements, the Applicant enabled a sewer pump station to be constructed on the northeast corner of the Property, which was deeded to WSSC.

When the Cabin Branch development applied for and received an extension of its approvals in 2019 (Preliminary Plan No. 12003110B), it provided documentation demonstrating that its commitment towards infrastructure was approximately \$94M. The Applicant cannot provide similar documentation of an exact monetary commitment. Instead, the Applicant's significant contributions have included land, easements, dedications, development agreements, and general cooperation with Cabin Branch, the County, the State, and WSSC in order to provide necessary infrastructure to support development in the surrounding area. The total amount of infrastructure improvements in the area has been massive, and the Applicant has absolutely contributed its fair share. For these reasons, the Applicant requests a waiver of a technical demonstration of a \$3M commitment of funds towards infrastructure.

III. Findings for Subdivision Regulations Waiver (Subdivision Regulations Section 50.9.3)

Section 50.9.1 of the Subdivision Regulations allows the Planning Board to grant a waiver from any requirement of the Subdivisions Regulations after making certain required findings set forth in Section 50.9.3. The requested waiver(s) satisfies the criteria of Section 50.9.3 as follows:

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

The development of this Property has encountered practical difficulties and unusual circumstances from the beginning. The original 2005 subdivision approval did not anticipate immediate development. On the contrary, it supported a continuation of farming on the Property for as long as possible, identifying that as a "core county interest." Further, the original subdivision approval acknowledged that coordination with the adjoining Cabin Branch development would be critical and that development of Cabin Branch infrastructure and improvements would affect the timing of development of the Property.

Development throughout the Cabin Branch Neighborhood suffered delays due to a variety of factors. Most of the infrastructure surrounding the Property has taken a significant amount of time to construct. Now that the infrastructure has been provided, at great expense, extensions of the approvals are necessary in order to move forward. The strict imposition of the 50 percent building permit requirement under Section 50.4.3.J.7.c, or the \$3M monetary contribution documentation under Section 50.4.3.J.7.e are not necessary to ensure the public health, safety and general welfare. They are not necessary in order to justify the extensions. The public health,

safety and general welfare are better served by enabling this development to move forward. Further, all of the infrastructure necessary to support the development is now in place, and every indication is that public facilities are, in fact, adequate to support the development. Thus, further APF review is not needed to ensure the public health, safety and general welfare.

2. the intent of the requirement is still met; and

The intent of the relevant requirements is to ensure that development proceeds in a timely and expected manner and that approval extensions are appropriate under the circumstances. This development has proceeded as envisioned, with necessary cooperation and infrastructure occurring as soon as reasonably possible. When there are legitimate explanations for delays, such as here, viable projects that intend to move forward should be granted reasonable extensions. In this case, the County has long planned for future residential development on this Property. Infrastructure and public facilities are now in place and are adequate. The requested waiver and approval extensions will ensure that the Applicant is able to complete its efforts to obtain building permits and construct the Project in the near future.

3. the waiver is: (a) the minimum necessary to provide relief from the requirements; and (b) consistent with the purposes and objectives of the General Plan.

The requested waiver is the minimum necessary to provide relief. The requested waiver(s) applies only to technical provisions under subsections (c) and (e) of Section 50.4.3.J.7. The remainder of the requirements for the approval of an extension are satisfied. Therefore, the requested waiver is the minimum necessary to provide relief.

Furthermore, the requested waiver(s) will facilitate the construction of new residential housing in Clarksburg and will allow for the construction of up to 253 dwelling units on the Property, of which 12.5 percent will be MPDUs. The creation of new market rate and affordable dwelling units will further important County housing priorities, as well as the purposes and objectives of the Clarksburg Master Plan and the General Plan.

IV. Conclusion

This Property development and the Cabin Branch development were always expected to be interconnected. Not including County Council extensions, the Cabin Branch development has received a 15 year development approval (a 12 year original approval plus a 3 year extension in 2019). The Applicant's requested 7 year extension would coincide with that 15 year timeframe (an 8 year original approval plus a 7 year extension).

U.S. Home fully intends to complete the entitlement process, proceed with permitting, and commence construction as soon as possible. The proposed residential community will be well-designed, pedestrian friendly, and environmentally sensitive. The Project will benefit the County by providing an additional housing resource with safe, well integrated parking, efficient circulation patterns, and substantial open space and amenities. Approximately 88 acres of the Property is proposed to be dedicated to the Parks Department.

Under the circumstances, the extension requests were foreseeable at the time of original subdivision approval, and are justified now. Perhaps most importantly, all of the infrastructure necessary to support the development is now in place, and every indication is that public facilities are, in fact, adequate to support the development. Therefore, there is no need to conduct further APF review, and we respectfully request approval of the extension requests, and if necessary, approval of the Subdivision Regulation waiver(s). Please contact us if you have any questions or require any additional information. Thank you very much.

Respectfully submitted,

Lerch, Early & Brewer, Chtd.



By:

Stuart R. Barr
Attorneys for U.S. Home Corporation (d/b/a Lennar)
7600 Wisconsin Avenue, Suite 700
Bethesda, Maryland 20814
Phone: (301) 961-6095

Attachments:

- A. Statement in Support of Preliminary Plan Amendment/Extensions of Preliminary Plan Validity Period and Adequate Public Facilities Determination Validity Period dated August 10, 2020
- B. Supplemental Statement in Support of Preliminary Plan Amendment/Extensions of Preliminary Plan Validity Period and Adequate Public Facilities Determination Validity Period dated November 13, 2020

cc: Luis Gonzalez, Lennar
Gary Unterberg, Rodgers Consulting
Roger Hayden, Esq.

ATTACHMENT A

Statement in Support of Preliminary Plan Amendment/Extensions of Preliminary Plan Validity Period and Adequate Public Facilities Determination Validity Period Linthicum West Property – 14222 West Old Baltimore Road, Boyds (Application Number 12005003A)

August 10, 2020

Linthicum West Properties, LLC, the applicant and owner of the property located at 14222 West Old Baltimore Road, Boyds, Maryland (the “Property”), submits this Statement in Support of its application for Preliminary Plan Amendment and for Extensions of Preliminary Plan Validity Period and Adequate Public Facilities (APF) Determination Validity Period. Linthicum West Properties, LLC (the “Applicant”) is under contract to sell the Property to U.S. Home Corp. (d/b/a Lennar) (“U.S. Home”). Together, the Applicant and U.S. Home plan to move forward with the remaining approval process and develop the Property with 253 residential units, consistent with the Property’s prior approvals. To that end, the Applicant has filed this application, Application Number 12005003A (the “Application”), to enable one modest change to the prior preliminary plan approval -- the conversion of Moderately Priced Dwelling Units (MPDUs) from detached to attached (duplex) units -- and to extend the approval periods by seven years to allow U.S. Home sufficient time to obtain all of the necessary permits for the project. As explained further below, the extension requests are justified as the Applicant always intended to farm the Property for as long as possible prior to development, the infrastructure necessary to support the project has encountered delays but now is available, and the Applicant has participated extensively in the infrastructure improvements surrounding the Property, which have taken significant time and expense.

1. Background Information and Prior Approvals

The Property is approximately 165 acres located at the southeast quadrant of the intersection of Clarksburg Road (MD 121) and West Old Baltimore Road in Clarksburg, Maryland. It is zoned RE-1/TDR 2 (Residential Estate-1/Transferable Development Rights) within the Clarksburg Master Plan Area. The Property is currently used for farming with an existing farmhouse and associated outbuildings. The Applicant’s family has farmed the Property since 1900.

The Montgomery County Planning Board approved Preliminary Plan Number 120050030 on March 31, 2005 for 253 single-family detached residential dwelling units on the Property (the “Preliminary Plan”). The Preliminary Plan resolution was mailed on December 20, 2005. As reflected in the Preliminary Plan resolution, development of the Property would not be immediate or easy. It would require massive infrastructure and an extensive amount of coordination in advance, particularly with the neighboring Cabin Branch development. Among

other conditions, the Preliminary Plan required the Applicant to participate in significant roadway improvements surrounding the Property. Given the considerable effort that was expected, the Planning Board discussed the appropriate timeframes for validity periods during the Preliminary Plan approval. At the Planning Board hearing in 2005, the Applicant expressed its preference to continue farming the Property for as long as possible prior to development and its preference for a 12-year APF validity period, which would have coincided with the Cabin Branch development 12-year APF validity period. The Planning Board resolution specifically noted those preferences while also noting that “the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property” (resolution, page 8).

Ultimately, the Planning Board approved an 8-year validity period (less than the 12-year timeframe, but more than the 5-year Staff recommended timeframe) to promote continued farming on the Property, recognizing that “allowing the Applicant to farm the [Linthicum West] Property as long as possible represented a core county interest” (resolution, page 8). That approval timeframe, coupled with the Montgomery County Council automatic extensions totaling ten years (Montgomery County Ordinance Number 18-04, effective March 31, 2015, and Subdivision Regulation Amendment Number 20-01, effective July 28, 2020), results in Preliminary Plan/APF approval periods that are valid until December 20, 2023.

2. Description of the Proposed Residential Project

After continuing to farm the Property since 2005 and actively participating in the infrastructure improvements surrounding the Property over the past several years, the Applicant, together with U.S. Home, now propose to move forward with development of the Property with 253 residential units, including 32 MPDUs (12.5%) (the “Project”). The current plan layout and configuration of the units are virtually identical to the Preliminary Plan approval. The proposed residential community will be well-designed, pedestrian friendly, and environmentally sensitive. The Project will benefit the County by providing an additional housing resource with safe, well integrated parking, efficient circulation patterns, and substantial open space and amenities. Approximately 90 acres of the Property is proposed to be dedicated to the Parks Department.

Two access points to the Project are proposed from West Old Baltimore Road, which was just improved. The Applicant contributed to West Old Baltimore Road and other infrastructure improvements, including providing land for a WSSC sewer pump station, to enable development in the surrounding area to move forward. The previous approvals for the Property and proposed Project going forward are consistent with the Clarksburg Master Plan provisions and the general sequencing of timing of development anticipated under that plan.

The Property is one part of the overall Cabin Branch Neighborhood, per the 1994 Clarksburg Master Plan. The Cabin Branch Neighborhood is envisioned to have a large number of single-family detached homes, with the Property playing a key role in contributing to that housing resource. In order to support the housing within the Cabin Branch Neighborhood, the Master Plan envisioned a massive amount of new infrastructure in the surrounding area. The Applicant has worked with the Cabin Branch Development to the north to meet the goals of the Master Plan. This coordination includes transportation infrastructure; water and sewer infrastructure; housing mix/resources, an elementary school site, environmental resources; planned open spaces and Park dedications to meet the Master Planned vision for the Cabin Branch Neighborhood.

Page 69 of the Master Plan establishes the specific land use objectives for the Property (a/k/a “the Reid Farm”). These objectives were met as noted in the 2005 Preliminary Plan Staff report and resolution. In particular, the Property is a housing resource established as a TDR receiving area (approximately 60 TDRs). It is also contiguous to Black Hill Regional Park and will be dedicating between 90 to 95 acres of ‘special park’ to cluster density away from, and preserve views along, MD Rte. 121. The 2005 Preliminary Plan approval was for 100% single-family detached units. The Master Plan establishes a minimum of 85% detached housing for the Property. With the proposed change of 32 MPDU units to attached, the mix of housing will be 87.4% detached and 12.6% attached (duplex). This mix also works with the overall mix established for the Cabin Branch Neighborhood. The minimum 45% detached unit requirement for the Neighborhood is changed from 47% per combined approvals to 45.5% with the change of 32 MPDUs from detached to attached.

3. Request for Conversion of MPDUs from Detached to Attached (Duplex) Units

The proposed Site Plan for the Property, which U.S. Home will file with M-NCPPC this coming Fall, 2020, is substantially similar to the approved Preliminary Plan. The only meaningful change to the Preliminary Plan that is proposed now is to convert the MPDUs from detached units to attached (duplex) units. Duplex MPDUs will be more aesthetic and compatible with the other units in the proposed community. Duplex, attached units are a unique affordable housing choice that provides a larger unit than originally approved, while mixing the locations into the community with relatively the same size and massing as the neighboring single-family detached homes. Additionally, since the time of the original Preliminary Plan approval, the methodology for calculating the required number of MPDUs has changed, resulting in a greater number of MPDUs required for the Project. These two changes require a revised Preliminary Plan Condition Number 1, which Applicant requests, as follows:

Condition of Approval Number 1) *Approval under this preliminary plan is limited to 253 ~~one-family detached~~ residential dwelling units, including 221 single-family detached units and 28 32 single-family attached (duplex) Moderately Priced Dwelling Units (MPDUs) and the purchase of 60 Transfer Development Rights (TDRs).*

The Applicant and U.S. Home believe that this modest preliminary plan amendment will enable a superior Project.

4. Request for Extensions of Preliminary Plan Validity Period and APF Determination Validity Period

In connection with a preliminary plan amendment, the Subdivision Regulations allow the Planning Board to extend the validity period for the approval (Section 50.4.2.G.4.). The Applicant requests additional time for the Project to receive site plan approval, record plats, and permits. As explained further below, this area of Clarksburg has evolved significantly but perhaps more slowly than originally anticipated. The Applicant has contributed towards infrastructure improvements necessary to enable development in the area, and this Project specifically, to move forward. These improvements have taken extensive time and coordination with other parties, particularly the neighboring Cabin Branch development, which requested and received its own approval extensions in 2019. Based on its timeline and expected home sales, U.S. Home projects that an additional seven years should be sufficient for the Project. Thus, the Applicant requests revisions to Preliminary Plan Condition Numbers 19 and 20, as follows:

19. This preliminary plan will remain valid ~~for ninety-six (96) months from the date of mailing of the Planning Board opinion~~ until December 20, 2030. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.

20. The Adequate Public Facility (APF) review for the preliminary plan will remain valid ~~for ninety-six (96) months from the date of mailing of the Planning Board Opinion~~ until December 20, 2030.

These extension requests comply with the applicable provisions for approval given the delays to the development and infrastructure in the Clarksburg area and the Applicant's contributions.

5. Criteria for Approval of Extension Requests

A. Preliminary Plan Validity Period (Section 50.4.2.H.)

Set forth in italics below are the applicable standards for extension of preliminary plan validity periods, followed by a brief explanation of the compliance with each standard.

H. Extension of plan validity period.

1. Extension request.

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

This Application is submitted prior to the validity period expiration.

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

Not applicable.

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

The Applicant and U.S. Home anticipate that a seven year extension until December 20, 2030 will allow adequate time for all record plats for the Project to be finalized.

3. Grounds for extension.

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

i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or

ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.

The delays in validating the plan are not caused by the Applicant. In fact, the Applicant explained in 2005 that it wanted to continue to farm the Property for as long as possible, and the Planning Board approval specifically supported that preference. Additionally, the Planning Board acknowledged that "the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property."

The Clarksburg area surrounding the Property has changed significantly over the past several years. These changes have been extensive, expensive, time consuming, and delayed due to the 2007 recession and other factors. The improvements that have been made and completed recently are necessary in order to support the Project and other development.

Now that the major pieces of infrastructure are in place to enable the Project to move forward, the Applicant and U.S. Home are ready to pursue the remaining entitlement process. Expiration of the approval would result in exceptional or undue hardship since the Applicant and U.S. Home have relied on the prior approvals.

B. APF Determination Validity Period (Section 50.4.3.J.7.)

Set forth in italics below are the applicable standards for extension of APF validity periods, followed by a brief explanation of the compliance with each standard.

7. Extensions.

a. Application. Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.

i. The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.

This Application is submitted prior to the expiration of the APF validity period.

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

The Applicant and U.S. Home anticipate that a seven year extension until December 20, 2030 will allow adequate time for all building permits for the Project to be obtained.

iii. For each extension of an adequate public facilities determination:

(a) the applicant must not propose any additional development above the amount approved in the original determination;

No additional development is proposed. A total of 253 residential dwelling units were approved and are proposed.

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

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

This Application includes a traffic statement from Wells and Associates, which reflects that the projected trip generation will be less than the original approval. Thus, the extension would not be adverse to the public interest.

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

Not applicable.

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

- i. completion of at least one new building in the next stage of the amended development schedule; or*
- ii. completion of infrastructure required to serve the next stage of the amended development schedule.*

Not applicable.

c. Exclusively residential subdivisions. The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:

- i. 2.5 years for a subdivision with an original validity period of 7 years or less; or*
- ii. 6 years for a subdivision with an original validity period longer than 7 years.*

Not applicable.

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

- i. the preliminary plan for the development required a significant commitment of funds by the applicant, amounting to at least \$3 million, as adjusted annually by the consumer price index, to comply with specified infrastructure conditions;*
- ii. the applicant has met or exceeded the required infrastructure conditions during the original validity period; and*
- iii. the applicant's satisfaction of the required infrastructure conditions provides a significant and necessary public benefit to the County by implementing infrastructure goals of an applicable master plan.*

This standard is satisfied. Under the Preliminary Plan approval, the Applicant was required to participate in significant roadway improvements, including:

a) At MD 121/I-270 northbound on/off ramp:

- (i) add a northbound left-turn movement to provide dual left turn lanes;
- (ii) add a separate westbound left-turn lane;
- (iii) signalize the intersection; and
- (iv) widen Clarksburg Road (MD 121) bridge over I-270 to accommodate one additional through-lane and a median island.

b) At MD 355/West Old Baltimore Road intersection:

- (i) widen eastbound approach of West Old Baltimore Road to provide a separate right-turn lane;
- (ii) widen northbound approach to MD 355 to provide a separate left-turn lane (a three-lane section will be provided on MD 355 between West Old Baltimore Road and Brink Road); and
- (iii) widen southbound approach of MD 355 to provide a separate right-turn lane.
- (iv) Upgrade West Old Baltimore Road to two-lane arterial roadway standards acceptable to the Department of Public Works and Transportation (DPWT) and Transportation Planning staff between Newcut Road and MD 121.

The Applicant is pleased to report that most of these important improvements are completed, while the others that are remaining are under construction. The Applicant actively participated in these improvements. Beyond the transportation improvements, the Applicant enabled a sewer pump station to be constructed on the northeast corner of the Property, which was deeded to WSSC.

These infrastructure improvements are substantial and costly, running in the many millions of dollars. They have been (or will be) completed within the original validity period, and they provide a significant and necessary public benefit to the County by implementing infrastructure goals within the Clarksburg Master Plan.

6. Community Engagement

In preparation for the upcoming Site Plan application, the Applicant and U.S. Home conducted a community outreach meeting on July 14, 2020 to discuss the Project, the prior approvals, and the anticipated Site Plan.

7. Conclusion

The Applicant requests an amendment to the Preliminary Plan to convert the proposed 32 MPDUs to attached (duplex) units. This improvement will enable a better Project, and there is no virtually no impact to schools or transportation from this request. School capacity is available, and the traffic statement submitted by Wells & Associates indicates that the traffic impact from the conversion of MPDUs from detached to attached (duplex) is less than the original approval.

Additionally, the Applicant requests extensions of the approval periods. As the Applicant indicated it would do in 2005 -- and as the Planning Board acknowledged would be in the County's interests -- the Applicant has continued to farm the Property since 2005. Now the Project is ready to move forward given the timing of the infrastructure improvements necessary to support the Project. The Applicant actively participated in these improvements. The Applicant and U.S. Home plan to move forward diligently with the remaining approval process, and this request is the first step. For the reasons provided in this statement, the Application complies fully with the necessary findings and requirements.

The Applicant is very proud of the proposed community on the Property. It will be a very well designed, pedestrian-friendly, and environmentally sensitive residential community, with generous open spaces. The Project will advance the County's housing goals, will provide important affordable housing, and will provide substantial parkland. The project is compatible with existing and proposed surrounding uses and consistent with the Master Plan.

We thank the Planning Staff and Planning Board for considering this Application. If you have any questions or need any additional information, please do not hesitate to contact us. Thank you very much for your favorable consideration.

Respectfully submitted:

Linthicum West Properties, LLC

ATTACHMENT B

SUPPLEMENTAL Statement in Support of Preliminary Plan Amendment/Extensions of Preliminary Plan Validity Period and Adequate Public Facilities Determination Validity Period Linthicum West Property – 14222 West Old Baltimore Road, Boyds (Application Number 12005003A)

November 13, 2020

Linthicum West Properties, LLC, the Applicant and owner of the property located at 14222 West Old Baltimore Road, Boyds, Maryland (the “Property”), submits this Supplemental Statement in Support of its application for Preliminary Plan Amendment and for Extensions of Preliminary Plan Validity Period and Adequate Public Facilities (APF) Determination Validity Period (Application Number 12005003A - the “Application”). As explained in the original Statement in support of the Application, the Applicant is under contract to sell the Property to U.S. Home Corp. (d/b/a Lennar) (“U.S. Home”), and together, the Applicant and U.S. Home plan to move forward with the remaining approval process and develop the Property with 253 residential units, including 32 MPDUs (12.5%) (the “Project”), consistent with the Property’s prior approvals. U.S. Home recently submitted Site Plan Application Number 820210010 to continue the entitlement process.

The Applicant requests an extension of the approval periods by seven years to allow U.S. Home sufficient time to obtain all of the necessary approvals, record plats, and permits. As explained in the original Statement, the extension requests are justified as the Applicant always intended to farm the Property for as long as possible prior to development, the infrastructure necessary to support the Project has encountered delays but now is available, and the Applicant has participated extensively in the infrastructure improvements surrounding the Property, which have taken significant time and expense. Planning Staff requested additional information in connection with the findings for extensions of the validity period of a preliminary plan (Subdivision Regulations Section 50.4.2.H.3.a.). This Supplemental Statement is intended to address that section specifically and supplement (not replace) the original Statement.

Set forth in italics below are the applicable standards for extension of preliminary plan validity periods, followed by an explanation of the compliance with each standard. Subdivision Regulations Section 50.4.2.H.3.a. provides:

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

i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or

ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.

This standard is disjunctive, meaning that either finding can be made in order for the Board to grant the extension request. Nonetheless, both findings can be made.

i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant;

This finding is met because the Property received subdivision approval in 2005 with significant conditions of approval, the ability to meet those conditions of approval was delayed, and the delays in meeting the conditions of approval and validating the plan are not caused by the Applicant.

The Property is part of the overall Cabin Branch Neighborhood, which experienced significant delays generally in the timing of development. The 1994 Clarksburg Master Plan envisioned the Cabin Branch Neighborhood to have a large number of single-family detached homes, with the Property playing a key role in contributing to that housing resource. In order to support the housing within the Cabin Branch Neighborhood, the Master Plan envisioned a massive amount of new infrastructure in the surrounding area. The Applicant has worked with the Cabin Branch Development to the north of the Property to meet the goals of the Master Plan. This coordination includes transportation infrastructure; water and sewer infrastructure; housing mix/resources; an elementary school site; environmental resources; planned open spaces and park dedications to meet the Master Planned vision for the Cabin Branch Neighborhood.

The Planning Board approved Preliminary Plan Number 120050030 on March 31, 2005 for 253 single-family detached residential dwelling units on the Property. As reflected in the Preliminary Plan resolution, and as anticipated by the Master Plan, development of the Property would require massive infrastructure and an extensive amount of coordination in advance, particularly with the neighboring Cabin Branch development. This massive effort would take a considerable amount of time.

Under the Preliminary Plan approval, and among other conditions, the Applicant was required to participate in significant roadway improvements surrounding the Property, including:

- a) At MD 121/I-270 northbound on/off ramp:
 - (i) add a northbound left-turn movement to provide dual left turn lanes;
 - (ii) add a separate westbound left-turn lane;
 - (iii) signalize the intersection; and
 - (iv) widen Clarksburg Road (MD 121) bridge over I-270 to accommodate one additional through-lane and a median island.

- b) At MD 355/West Old Baltimore Road intersection:
 - (i) widen eastbound approach of West Old Baltimore Road to provide a separate right-turn lane;
 - (ii) widen northbound approach to MD 355 to provide a separate left-turn lane (a three-lane section will be provided on MD 355 between West Old Baltimore Road and Brink Road); and
 - (iii) widen southbound approach of MD 355 to provide a separate right-turn lane.
 - (iv) Upgrade West Old Baltimore Road to two-lane arterial roadway standards acceptable to the Department of Public Works and Transportation (DPWT) and Transportation Planning staff between Newcut Road and MD 121.

Realistically, it was not possible, or expected, for the Applicant to move forward unilaterally with its Project and complete all of these roadway improvements on its own. There was a clear understanding that the necessary improvements for the Applicant's Project required extensive coordination with, and cooperation from, Cabin Branch development (and vice versa). This fact is evident from the condition itself, which states that the Applicant would participate in the roadway improvements. Thus, "other parties" were inherently involved from the beginning, and the very nature of multiple parties forced to rely on each other necessarily could create delays. The Applicant could not realistically move forward with its Project any faster than the speed at which the Cabin Branch development moved forward. Additionally, the Planning Board resolution specifically noted that "the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property" (resolution, page 8). Thus, delays to the Cabin Branch development would necessarily delay the Applicant's Project, and delays to the Cabin Branch development have been well documented. The Cabin Branch development requested and received its own approval extensions in 2019, and it would be illogical and unfair not to provide similar extensions for the Applicant's Project.

The improvements serving the Cabin Branch neighborhood have taken extensive time and coordination with multiple parties. The Applicant is pleased to report that most of these important improvements are now completed, while the others that are remaining are under

construction. The Applicant actively participated in these improvements. Beyond the transportation improvements, the Applicant enabled a sewer pump station to be constructed on the northeast corner of the Property, which was deeded to WSSC in 2019. Once the pump station was placed into service, the Montgomery County Council and Department of Environmental Protection amended the County's Comprehensive Water Supply and Sewerage Systems Plan in December, 2019, reflecting the water and sewer category changes, thus enabling development to move forward. These infrastructure improvements are substantial and costly. They have been (or will be) completed within the original validity period, and they provide a significant and necessary public benefit to the County and community by implementing infrastructure goals within the Clarksburg Master Plan.

Two access points to the Project are proposed from West Old Baltimore Road, which was just constructed and opened to traffic in September, 2020. The Applicant contributed to West Old Baltimore Road and other infrastructure improvements, to enable development in the surrounding area to move forward. The previous approvals for the Property and proposed Project going forward are consistent with the Clarksburg Master Plan provisions and the general sequencing of timing of development anticipated under that plan.

The delays in meeting conditions of the plan approval and validating the plan are not caused by the Applicant. In fact, while everyone acknowledged that "the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the [Linthicum West] Property," the Applicant explained to the Planning Board in 2005 that it wanted to continue to farm the Property for as long as possible while the infrastructure moved forward. The Planning Board approval specifically supported that preference to continue farming on the Property, recognizing that "allowing the Applicant to farm the [Linthicum West] Property as long as possible represented a core county interest" (resolution, page 8). As the Applicant indicated it would do in 2005 -- and as the Planning Board acknowledged would be in the County's interests -- the Applicant has continued to farm the Property since 2005. The Property is currently used for farming with an existing farmhouse and associated outbuildings.

The Clarksburg area surrounding the Property has changed significantly over the past several years. These changes have been extensive, expensive, time consuming, and delayed due to various factors. The improvements that have been made and completed recently are necessary in order to support the Project and other development.

The findings under Subdivision Regulation 50.4.2.H.3.a.i. are met because the Property received subdivision approval in 2005 with significant conditions of approval, meeting those conditions of approval was delayed, and the delays in meeting the conditions of approval and validating the plan are not caused by the Applicant and inherently involve "other parties."

ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.

This standard also is satisfied. The Great Recession from 2007 to 2009 was significant, unusual, unanticipated, beyond the Applicant's control, not caused by the Applicant, and substantially affected market conditions and the timing of development in Cabin Branch (and everywhere else).

Now that the major pieces of infrastructure are in place to enable the Project to move forward -- to which the Applicant has contributed significantly -- the Applicant and U.S. Home are ready to pursue the remaining entitlement process. Denial of the extension request and expiration of the approvals would result in exceptional or undue hardship since the Applicant and U.S. Home have relied on the prior approvals and have submitted a Site Plan application based on the prior approvals. Additionally, exceptional or undue hardship would result if the Applicant loses its approvals and has to re-apply, with no certainty of receiving new approvals, or with potential significant changes to the existing approvals. In any event, even if the Project was re-approved, there is a significant cost to that process, which would also create hardship. There is absolutely no justification for requiring the Applicant to re-apply under these circumstances.

Conclusion

In connection with a preliminary plan amendment, the Subdivision Regulations allow the Planning Board to extend the validity period for the approval (Section 50.4.2.G.4.). The Applicant requests additional time for the Project to receive site plan approval, record plats, and permits. This area of Clarksburg has evolved significantly but perhaps more slowly than originally anticipated. The Applicant has contributed towards infrastructure improvements necessary to enable development in the area, and this Project specifically, to move forward. These improvements have taken extensive time and coordination with other parties, particularly the neighboring Cabin Branch development, which requested and received its own approval extensions in 2019.

The Planning Board gave the Applicant's Project a shorter approval period than the Cabin Branch project by four years, which, in retrospect, does not make sense given the interdependency between the projects. At the Planning Board hearing in 2005, the Applicant expressed its preference for a 12-year validity period, which would have coincided with the Cabin Branch development 12-year validity period. Ultimately, the Planning Board approved an 8-year validity period.

Based on its timeline and expected home sales, U.S. Home projects that an additional seven years should be sufficient for the Project. These extension requests comply with the applicable provisions for approval given the delays to the development and infrastructure in the Clarksburg area and the Applicant's contributions. Now the Project is ready to move forward given the timing of the infrastructure improvements necessary to support the Project. The Applicant actively participated in these improvements. The Applicant and U.S. Home plan to move forward diligently with the remaining approval process, and this request is the first step. For the reasons provided in this Supplemental Statement, together with the original Statement, the Application complies fully with the necessary findings and requirements.

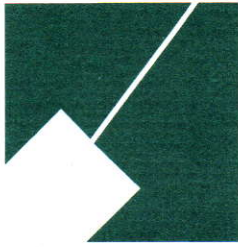
After continuing to farm the Property since 2005 and actively participating in the infrastructure improvements surrounding the Property over the past several years, the Applicant, together with U.S. Home, now propose to move forward with development of the Property. The Applicant is very proud of the proposed community on the Property. The current plan layout and configuration of the units are virtually identical to the Preliminary Plan approval. The proposed residential community will be a very well designed, pedestrian-friendly, and environmentally sensitive residential community, with generous open spaces. The Project will benefit the County by providing an additional housing resource with safe, well integrated parking, efficient circulation patterns, and substantial open space and amenities. Approximately 90 acres of the Property is proposed to be dedicated to the Parks Department. The Project will advance the County's housing goals, will provide important affordable housing, and will provide substantial parkland. The Project is compatible with existing and proposed surrounding uses and consistent with the Master Plan. The extension request meets the necessary findings under the Subdivision Regulations, and it would not be in the County's interests to deny the extension and enable the approvals to expire.

We thank the Planning Staff and Planning Board for considering this supplemental information. If you have any questions or need any additional information, please do not hesitate to contact us. Thank you very much for your favorable consideration.

Respectfully submitted:

Linthicum West Properties, LLC

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Attachment C

Board Approval Date: March 31, 2005

Date Mailed: DEC 20 2005

Action: Approved staff recommendation.

Motion of Commissioner Wellington, seconded by Commissioner Bryant, with a vote of 4-0.

Chairman Berlage and Commissioners Bryant, Wellington, and Robinson voting in favor. Commissioner Perdue absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05003

NAME OF PLAN: Linthicum West Property

The date of this written opinion is DEC 20 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

I. INTRODUCTION

On 7/6/04, The Linthicum Family submitted an application for the approval of a preliminary plan of subdivision of property in the RE-1/TDR2 zone. The application proposed to create 253 lots on 165.25 acres of land located in the southeast quadrant of the intersection of Clarksburg Road (MD 121) and West Old Baltimore Road, in the Clarksburg master plan area. The application was designated Preliminary Plan 1-05003. On 3/31/05, Preliminary Plan 1-05003 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County

Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

II. SITE AND PROJECT DESCRIPTION

The 165-acre Linthicum West property is located in the southwest quadrant of the intersection of Clarksburg Road (MD 121) and West Old Baltimore Road in Clarksburg. The property is zoned RE-1/TDR2. There is an existing farmhouse and associated outbuildings on the property. The property is actively farmed and most recently included corn and soybean crops and cattle pasturing. The property drains to Little Seneca Creek, which is classified as a Use I-P stream. The site includes 30 acres of stream buffer and 31 acres of forest. Only 14 acres of the stream buffers are forested. The property is not located in the Clarksburg Special Protection Area.

The proposed preliminary plan includes a total residential density of 253 units on the subject property. The current lot layout anticipates that two of these units would be located on larger lots with access directly to MD 121. These lots would be served by septic systems if necessary approvals are granted by the Department of Permitting Services (Health Dept.). Final determination on the feasibility of these lots and the overall lot layout will be made as part of site plan review. The plan includes purchase of 60 Transfer Development Rights (TDRs) to achieve part of the proposed density.

III. RELATIONSHIP TO THE CLARKSBURG MASTER PLAN

The subject property is located within the Cabin Branch Neighborhood of the Clarksburg Master Plan Area. The Cabin Branch Neighborhood lies to the west of I-270 and is the only portion of the western side that is proposed for significant residential development. The neighborhood has the following characteristics:

- It is close to Black Hill Regional Park and offers an opportunity to establish a strong neighborhood-park relationship.

- It is less than a 10-minute drive from the Boyds commuter rail station.

The key Master Plan objective for the area south of West Old Baltimore Road and the subject 165-acre Linthicum West property is to maintain the present rural character so that a strong transition is provided between the Cabin Branch and Ten Mile Creek Neighborhoods and the rural community of Boyds.

To further the Master Plan objective regarding open space preservation along MD 121, the Master Plan recommends that density be clustered away from MD 121. As with the rest of the Cabin Branch Neighborhood north of West Old Baltimore Road, the use of TDR's is recommended to achieve higher density. The Master Plan states that the following guidelines will be applied at the time of subdivision review:

- 1) The number of dwelling units should not exceed 225.
- 2) The mix of housing types should include a minimum of 85 percent detached dwelling units.
- 3) The view from MD 121 should remain open and unobstructed. Housing should be clustered away from MD 121 and located in the area shown on the Land Use Plan so that it does not obstruct the vista from MD 121.
- 4) The open space pattern surrounding the residential cluster should be contiguous and not subdivided into residential lots. This would not preclude use as a farm with related farming activities.
- 5) A portion of the open space should be dedicated as a special park once both subdivision has occurred and farming has ceased on the open space. The special park (25 to 100 acres) should include athletic fields, a playground, paved courts, parking, trails, and picnic and conservation areas.

Staff found the preliminary plan complies with the objectives and guidelines of the Clarksburg Master Plan.

The preliminary plan incorporates the Master Plan recommendations for a residential neighborhood clustered away from MD 121 with open space provided between residential lots and the roadway. The plan protects environmentally sensitive areas and provides 91.72 acres of parkland dedication for future construction of public recreation facilities. The plan provides an interconnected street system and emphasizes access to open space.

The Master Plan recommends 1,950 units for the entire Cabin Branch community and Linthicum West, plus 12.5 percent Moderately Priced Dwelling Units (MPDUs), for a maximum of 2,194 units. A total of 225 units plus 28 MPDUs are recommended for the

Linthicum West community. The Master Plan specifies that a minimum of 85 percent of the total units for the Linthicum West property be one-family detached dwelling units. The proposed preliminary plan includes only one-family detached dwelling units. Site plan review pursuant to §59-D-3 is required for this project.

The Clarksburg Master Plan calls for a Special Park (referred to in the Plan as Clarksburg Road Special Park) at this location that is adequate in size and layout to accommodate considerable active and passive recreational facilities for the area's needs. Since the adjacent Black Hill Regional Park does not provide athletic fields and paved courts, the parkland being dedicated as part of this subdivision is being relied upon for providing these amenities to the area residents.

The preliminary plan proposes dedication of approximately 91.72 acres along the western, southern, and northeast portions of the subject property for the Special Park pursuant to the Clarksburg Master Plan. Although reasonably large in size, the proposed parkland has topographical and environmental limitations that make it relatively unusable for athletic fields or hard surface courts without significant grading and possibly some fill being required in the areas outside of the stream and wetland buffers. In addition, a finger of development directly adjacent to the planned Special Park's active recreation area is proposed. Although the Applicant plans to continue farming operations on the property in the near future, it will be important when the property proceeds to Site Plan for the developer to sufficiently establish the active recreation portions of the park prior to construction of the adjacent homes. This should include a secondary park entrance and parking area off of the loop road, and sufficient active recreational facilities to firmly establish the nature of this park. This would prevent issues involving the residents' expectations about the park and will provide substantial recreational benefits to the residents living in this proposed development.

In addition, the Black Hill Regional Park Master Plan provides for hard and natural surface trail connections between the west and east portions of Black Hill Regional Park to facilitate hiker/biker and equestrian travel between the trails and facilities throughout the park areas. The subject property lies between the east and west portions of the Park and therefore must accommodate the trails to create usable links between parkland. Staff determined these trails should also be established at the time of Site Plan to provide access to surrounding parkland for the new residents and prevent problems with locating the trails once residents have purchased the new homes.

These same topographical and environmental limitations provide very limited options for a primary park entrance off MD 121. The best option for an entrance from staff's standpoint may be through proposed Outlot A. This would also put the park entrance across from the proposed entrance road to the Eaton Property being developed across Route 121, and is a logical location for a road crossing of the master planned trails to access the western portion of Black Hill Regional Park through the

proposed Eaton subdivision. The addition of Outlot A to the park dedication would provide this park access off Route 121. Staff believes the relocation of Outlot A to provide park access could likely be done without economic loss to the Applicant.

Park Planning and Resource Analysis staff believe the property identified as Outlot A, consisting of approximately 2.9 acres, may be needed to be used as part of the master planned Special Park. If it is determined by M-NCPPC staff that the primary entrance to the park is best located through Outlot A, and if it is determined by staff that other potential locations for the park entrance off of Route 121 would not be practical without adversely impacting the recreational development potential of the park or environmental features on the site, additional dedication may be requested at the time of Site Plan review.

IV. TRANSPORTATION

A. Site Access and Circulation

Two access points to the site are proposed from West Old Baltimore Road. The site access and internal vehicular circulation system shown on the preliminary plan are safe and adequate. The following is a general description of the master plan roadway network in the vicinity of the site.

1. Clarksburg Road (MD 121): Classified as an arterial roadway with six lanes from I-270 to A-304, four lanes from A-302 to A-304, two lanes from A-302 to West Old Baltimore road on master plan right-of-ways of 150, 120, and 80 feet, respectively. This roadway provides access from the I-270 interchange to the site and western boundary of the site.
2. West Old Baltimore Road: Classified as an arterial roadway with the total of two lanes and a master plan right-of-way of 80 feet. This roadway provides access from MD 355 to the northern boundary of the site.

B. Local Area Transportation Review

Four local intersections were identified as critical intersections to be affected by the development of the subject site and were examined to determine whether they meet the applicable congestion standard of 1,450 Critical Lane Volume (CLV) for the Clarksburg Policy Area. The CLV impacts of the proposed development on these intersections were analyzed and are summarized in Table I.

Table I

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour								
Intersections Analyzed	Existing		Background		Total - No Improv.		Total - With Improv.	
	AM	PM	AM	PM	AM	PM	AM	PM
MD 121/I-270 NB off-ramp	473	440	1744	1630	1764	1693	1449	1442
MD 121/I-270 SB off-ramp	321	217	1307	931	1327	994	1327	994
MD 121/West Old Baltimore Road	208	359	435	469	583	765	583	765
MD 355/West Old Baltimore Road	1525	1475	2493	1953	2509	2663	2080	1862

As shown in the above table, all existing intersections analyzed are currently operating at acceptable CLVs (CLV standard is 1,450) except the MD 355/West Old Baltimore Road intersection. Under the background development traffic condition (traffic generated from approved but unbuilt developments), the MD 121/I-270 northbound ramp and MD 355/West Old Baltimore Road intersections exceed the acceptable congestion standard. Under the total future development traffic conditions (background development traffic plus site generated traffic) without any roadway improvements, the traffic conditions at the MD 121/I-270 northbound ramp and MD 355/West Old Baltimore Road intersections will further deteriorate. Under the total future development traffic conditions with the roadway improvements provided by the applicant's participation, the MD 121/I-270 northbound ramp and MD 355/West Old Baltimore Road intersections will operate at either acceptable CLVs or at a better level of congestion than the background condition during both peak hours. The roadway improvements to be participated in by the applicant were conditioned upon approval of the Cabin Branch Phase 1 preliminary plan application.

Staff concluded that the subject preliminary plan satisfies the APF since all nearby intersections are anticipated to operate within the acceptable congestion standard or at a better level than the background traffic condition. Thus, the roadway improvements to be provided by the applicant's participation meet the Local Area Transportation Review requirements.

V. ENVIRONMENTAL

A. Forest Conservation

There are 30.91 acres of existing forest on the property. The developer is proposing an optional method of development and therefore must comply with Section 22A-12(f) of the Montgomery County code. This section of the code requires developments utilizing an optional method of development to retain or plant a certain percentage of forest onsite. For this particular plan, the appropriate threshold is the conservation threshold. The plan is proposing the removal of 0.13 acres of forest. The forest removal is associated with the construction of a sewer line. The applicant must plant forest onsite to meet the conservation threshold onsite. The preliminary forest conservation plan indicates that not all areas of the stream buffers will be planted. The applicant is encouraged to plant all stream buffers and bank the surplus forest planting, or the applicant could make these areas available for forest planting by others.

B. Environmental Guidelines

The site includes stream buffers, floodplains, and wetlands. These areas will be protected by Category I forest conservation easements. The plan does not identify any permanent encroachments into the environmental buffers.

VI. STAFF RECOMMENDATIONS

Staff's review of Preliminary Plan #1-05003, Linthicum West Property, indicated that the plan conforms to the recommendations of the Clarksburg Master Plan. The proposed preliminary plan is consistent with the master plan goal to maintain the area's rural character and provide a transition to the more densely zoned Cabin Branch Neighborhood. The proposed preliminary plan complies with Chapter 50 of the Montgomery County Code, Subdivision Regulations, in that public facilities will be adequate to support and service the area of the proposed subdivision. Staff further found that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. As such, Staff recommended approval of the preliminary plan with the conditions specified in the Staff Report.

VI. PLANNING BOARD HEARING

Development Review Staff ("Staff") recommended approval of the application in its memorandum dated March 24, 2005 ("Staff Report"). Staff presented its findings consistent with the Staff Report at the hearing.

The Applicant, Applicant's engineer, and Applicant's legal counsel attended the hearing. Applicant and Staff testified and the Board questioned Applicant and Staff regarding the following issues:

The Applicant requested modification of staff's recommendation that the project condition be subject to a five-year Adequate Public Facility (APF) validity period. The Applicant requested that the Board approve a condition allowing instead for an eight-year APF validity period. Applicant expressed its desire to continue farming the Subject Property as long as possible, testifying that the Subject Property had been farmed by the family since 1900. The Applicant expressed that in order to coordinate development issues with the neighboring Cabin Branch development, it was necessary to file the plan at this time, despite the fact that the Applicant would like to continue to farm the land. The Applicant testified that an eight-year APF validity period would prove more appropriate for the timing of infrastructure improvements to be constructed as part of the Cabin Branch development plan occurring to the north of the Subject Property. Applicant testified that Cabin Branch development had received a 12-year APF validity period and that the development of the Cabin Branch infrastructure and improvements would affect the timing of the development of the Subject Property.

The Board questioned Applicant as to whether an eight-year APF validity period would render the timing of the Subject Property plan roughly congruent with the Cabin Branch plan's twelve-year APF validity period. The Applicant expressed its preference for a twelve-year APF validity period, but that Applicant was responding to the Staff's recommendation of a five-year APF validity period by requesting only that the Board grant an eight-year APF validity period.

Staff testified that the eight-year APF validity period requested by Applicant did not specifically correlate to the phasing of the Cabin Branch plan. Staff expressed its position that typically, the Board can extend an APF validity period for up to 12 years as part of a phased plan, but that a development on 250 units would not typically be phased.

The Board concluded that allowing the Applicant to farm the Subject Property as long as possible represented a core county interest. It expressed the position that a five-year APF validity period created uncertainty as to whether an extension might be granted in the future, and thus, deter Applicant from continuing to farm the Subject Property and instead encourage Applicant to develop sooner. The Board expressed its support of an eight-year APF validity period in order to promote the continued farming of the Subject Property.

The Board asked Applicant whether the land of the Special Park was also the land currently being farmed. Applicant confirmed that it presently was farming the land proposed for the Special Park and other land beyond that designated for the Special Park. Staff indicated that the Special Park covered a portion of the land being farmed, 91.72 acres, and that the Applicant was farming approximately 130 acres.

Staff testified as to its position that the Special Park should be dedicated at the time of the final record plat, and a leaseback of the Park property to the Applicant might

be considered at that time. Staff also indicated that further study and site plan review was needed to determine how the Special Park would be constructed within the acreage provided for in the preliminary plan. Staff expressed its belief that more acreage, particularly a 2.9 acre outlot, might be required to grade facilities and provide for athletic field use.

The Board asked Staff whether the acreage figure proposed for the Special Park in the preliminary plan condition could later be modified. Legal staff testified that, typically, the use of the word "approximately" in conjunction with an acreage figure in a preliminary plan would permit later realignment of the boundaries and exact acreage figure, within reason. The Board debated whether to alter the language of the condition from "approximately 91.72 acres" to other language specifying a different number, a minimum acreage figure, or a range. The Board approved a motion to revise the condition to specify a range of between 90 and 95 acres, over the objection of Commissioner Bryant. Commissioner Bryant noted that he believed the language of the original condition was satisfactory, considering the lack of knowledge as to the future perspective regarding the amount of roadway or acreage to be dedicated in 8 years.

The Board questioned the relationship between the number of TDRs that must be purchased and the number of MPDUs proposed in the preliminary plan. The Applicant testified that there is not a relationship between the number of TDRs and the number of MPDUs proposed for this development, and that the Master Plan set forth the recommended total number of units and MPDUs for the entire Cabin Branch community and Linthicum West, considered together. The Board asked whether the 12% MPDU requirement had been met, and the Applicant indicated that a May 13, 2003 letter associated with the Cabin Branch plan was also applicable to this plan establishes that the number of MPDUs consisted of 12.5% of the base density, rather than 12.5% of the total density (which is greater after the purchase of TDRs). This letter applies to the entire Cabin Branch project, of which this Linthicum subdivision is a part. Staff indicated that it had not included the explanation of this letter setting forth the appropriate calculation of MPDU percentages in its Staff Report, but did not dispute Applicant's testimony.

No other speakers testified at the public hearing.

VII. FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies¹; the applicant's position; and other

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) Based on the uncontested evidence of record, Preliminary Plan No. 1-05003 substantially conforms to the Clarksburg master plan.
- b) Based on uncontested evidence of record, public facilities will be adequate to support and service the area of the proposed subdivision. The Board finds that an APF validity period of 8 years is appropriate, in consideration of the core county interest of promoting farming.
- c) Based on uncontested evidence of record, the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) Based on uncontested evidence of record, the application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) Based on uncontested evidence of record, the application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The Board finds that an eight-year validity period is appropriate, based on the Board's policy goals of encouraging the continuation of farming within the County, and recognizing that the certainty of a longer validity period will encourage continued farming for a longer duration.
- g) The Board further finds that any objection (concerning a substantive issue) that was not raised prior to the closing of the Record is waived.

VII. CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-05003 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05003, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 253 one-family detached residential dwelling units, including 28 Moderately Priced Dwelling Units (MPDUs) and the purchase of 60 Transfer Development Rights (TDRs).

- 2) No clearing, grading or recordation of plats prior to site plan signature set approval.
- 3) Final number of TDRs and MPDUs, number and location of dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at Site Plan.
- 4) All road rights-of-way shown on the approved preliminary plan shall be dedicated, by the applicant, to the full width shown in the Clarksburg Master Plan unless otherwise designated on the preliminary plan.
- 5) All road right-of ways shown on the approved preliminary plan shall be constructed, by the applicant, to the full width mandated by the Clarksburg Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 6) The applicant shall participate in the following roadway improvements:
 - a) At MD 121/I-270 northbound on/off ramp:
 - (i) add a northbound left-turn movement to provide dual left turn lanes;
 - (ii) add a separate westbound left-turn lane;
 - (iii) signalize the intersection; and
 - (iv) widen Clarksburg Road (MD 121) bridge over I-270 to accommodate one additional through-lane and a median island.
 - b) At MD 355/West Old Baltimore Road intersection:
 - (i) widen eastbound approach of West Old Baltimore Road to provide a separate right-turn lane;
 - (ii) widen northbound approach to MD 355 to provide a separate left-turn lane (a three-lane section will be provided on MD 355 between West Old Baltimore Road and Brink Road); and
 - (iii) widen southbound approach of MD 355 to provide a separate right-turn lane.
 - (iv) Upgrade West Old Baltimore Road to two-lane arterial roadway standards acceptable to the Department of Public Works and Transportation (DPWT) and Transportation Planning staff between Newcut Road and MD 121.
- 7) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.

- 8) No encroachment into stream buffers for stormwater management or sediment control facilities, except for necessary outfalls and temporary sediment control facilities in non-forested area, shall be permitted without prior Planning Board approval. If stormwater management facilities need to be enlarged as part of the site plan review, additional space shall be provided outside of stream buffers, and total dwelling units may be reduced.
- 9) Record plat to reflect a Category I conservation easement over all areas of forest conservation and stream valley buffers.
- 10) Record plat to reflect common ingress/egress and utility easements over all shared roadways and driveways.
- 11) Applicant to dedicate to M-NCPPC the proposed Parcel B, consisting of 90-95 acres to be used for the Special Park pursuant to the Clarksburg Master Plan. Land to be transferred at time of final record plat, unless an alternate agreement is reached between the applicant and M-NCPPC, and be free of trash and unnatural debris. Park boundaries to be staked and adequately signed to delineate between parkland and private properties.
- 12) Record plat to reflect the serialized TDR's that have been purchased for this site.
- 13) Compliance with the conditions of the MCDPS stormwater management concept approval dated March 24, 2004.
- 14) Compliance with conditions of approval of MCDPWT letter dated February 25, 2005 unless otherwise amended.
- 15) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
- 16) Access and improvements along Clarksburg Road (MD 121) as required by the State Highway Administration.
- 17) Record Plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 18) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.

- 19) This preliminary plan will remain valid for ninety-six (96) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.
- 20) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for ninety-six (96) months from the date of mailing of the Planning Board Opinion.
- 21) Other necessary easements.

This Preliminary Plan will remain valid for ninety-six 96 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

* * * * *

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

MR 12/9/05
Approved for legal sufficiency
M-NCPPC Office of General Counsel

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, December 15, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, ADOPTED the above Opinion, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Linthicum West Property, Preliminary Plan No. 1-05003. Commissioner Perdue abstained and Commissioner Bryant was absent.



Certification As To Vote of Adoption
Technical Writer

CREEKSIDE AT CABIN BRANCH

Local Area Transportation Review Montgomery County, Maryland

September 26, 2019
Revised January 23, 2020

Prepared by:

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Section 1 INTRODUCTION

OVERVIEW

This report presents the results of a Local Area Transportation Review (LATR) for the proposed Creekside at Cabin Branch residential development located southwest of the I-270/Maryland 121 (Clarksburg Road) interchange in the Clarksburg policy area of Montgomery County, Maryland, as shown on Figure 1-1. The project includes up to 325 residential dwelling units (117 single family units and 208 townhomes). The site is located west of and across Clarksburg Road from the Cabin Branch community. Access will be provided by a driveway connecting with Clarksburg Road across from the planned alignment of Dowitcher Way. An additional emergency vehicle access drive will be provided that will connect with Old Clarksburg Road. Figure 1-2 shows the Creekside at Cabin Branch Conceptual Land Use and Access Plan.

The scope of this traffic study was established in consultation with the Transportation Planning Staff of the Maryland-National Park and Planning Commission (MNCPPC), and a completed and signed scoping form is provided in Appendix A.

DESCRIPTION OF MULTI-MODAL ADEQUACY TESTS

Following is a description of the various multi-modal tests for determining transportation adequacy in Montgomery County, Maryland per the Fall 2017 LATR guidelines and the Subdivision Staging Policy:

Motor vehicle adequacy. This analysis is required if the subject development generates 50 or more peak hour person trips. Sites located within Yellow policy areas such as the Clarksburg policy area evaluate intersection capacity based on Critical Lane Volume (CLV) methodology. The proposed development would generate more than 50 peak hour person trips and is therefore subject to the motor vehicle adequacy test. The congestion standard for intersections in the Clarksburg policy area is a CLV of 1,425. County staff has requested that Sidra roundabout analysis be prepared for the proposed roundabout at the juncture of Clarksburg Road and West Old Baltimore Road. Sidra roundabout analysis provides a performance measure of average delay per vehicle. The HCM average vehicle delay congestion standard in the Clarksburg policy area is 51 seconds per vehicle.

Pedestrian system adequacy. This analysis is required if 50 or more peak hour pedestrian trips are generated by the proposed development. The proposed site will generate fewer than 50 pedestrian trips during the peak hours and therefore this analysis is not required.

Bicycle system adequacy. This analysis is required if 50 or more peak hour non-motorized trips are generated by the proposed development. The proposed site will generate fewer than 50 non-motorized trips during the peak hours and therefore this analysis is not required.

Transit system adequacy. This analysis is required if 50 or more peak hour transit trips are generated by the proposed development. The proposed site will generate fewer than 50 transit trips during the peak hours and therefore this analysis is not required.

Based on the criteria in the Subdivision Staging Policy and the LATR Guidelines and the number of peak hour trips by each mode shown in Tables 1-1 and 1-2, an evaluation of motor vehicle adequacy is required by this LATR.

Tasks undertaken in this study include the following:

1. Review of the Cabin Branch proposed development plans; previous traffic studies conducted in the area, and other background data.
2. Field reconnaissance of existing roadway and intersection geometrics, traffic controls, and speed limits.
3. Traffic counts at two off-site intersections.
4. Analysis of existing critical lane volumes or Sidra roundabout analyses at each of these intersections.
5. Forecasting of background future traffic volumes based on existing traffic counts and traffic generated by other pipeline developments.
6. Calculation of background critical lane volumes at each key intersection and Sidra roundabout analyses at the proposed Clarksburg Road/West Old Baltimore Road roundabout based on background traffic forecasts, existing traffic controls, existing intersection geometrics, and/or planned future roadway geometry.
7. Estimation of weekday AM and PM peak hour trips generated by the Creekside at Cabin Branch development, based on standard Institute of Transportation (ITE) trip generation rates, MNCPPC vehicle trip generation rate adjustment factors and mode splits for the Clarksburg Policy Area.
8. Identification of total future traffic forecasts based on background traffic forecasts and site traffic assignments.
9. Calculation of total future critical lane volumes and Sidra roundabout analyses and verification that planned road improvements support site traffic impacts.

Sources of data for this analysis include MNCPPC's Local Area Transportation Review Guidelines; the 1994 Clarksburg Master Plan and the 10 Mile Creek Area Limited Amendment Clarksburg Master Plan and Hyattstown Special Study Area; traffic counts conducted by Wells + Associates, Inc. and the Maryland State Highway Administration (SHA); the Institute of Transportation Engineers (ITE), and Pulte Homes.

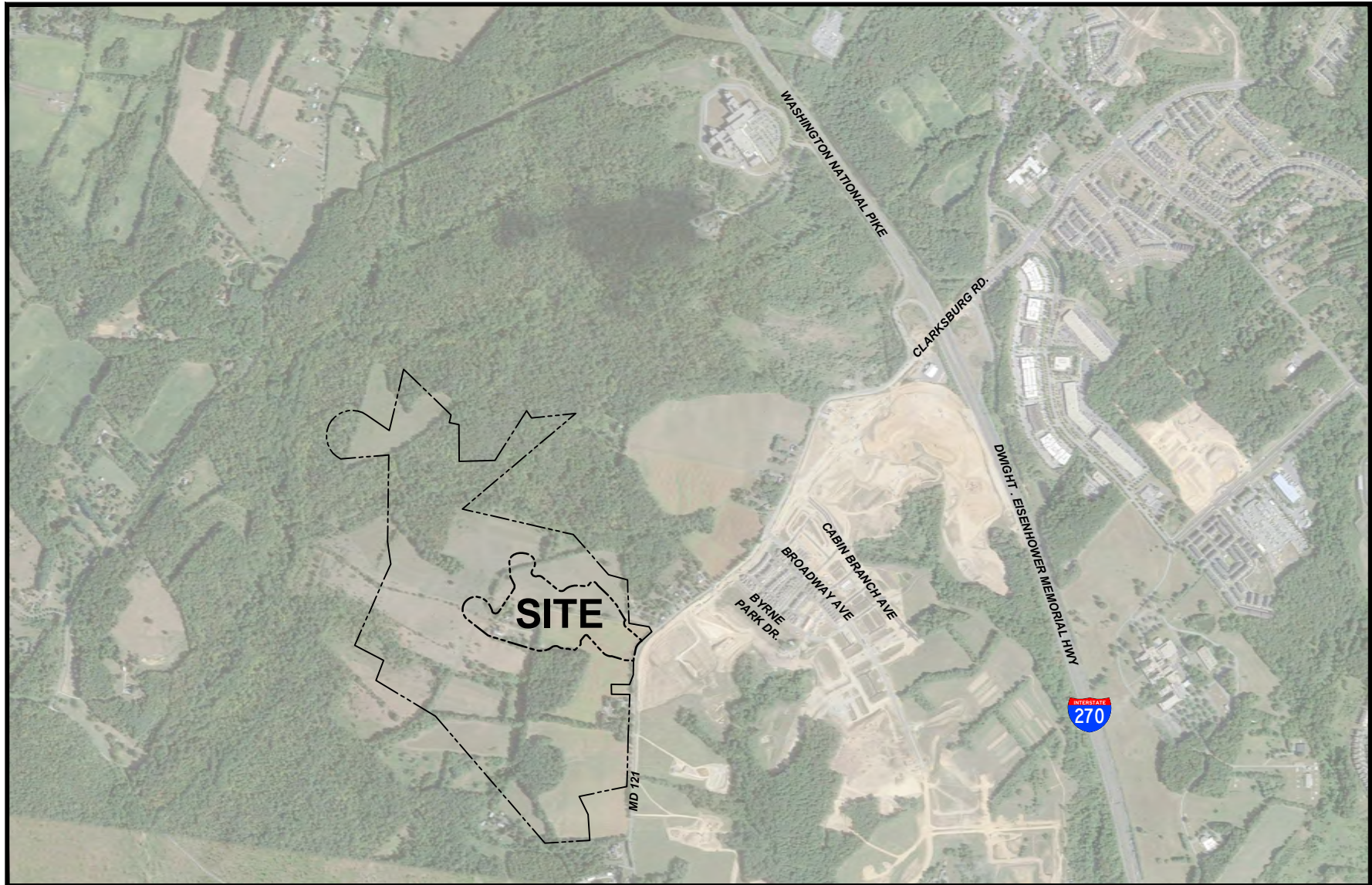


Figure 1-1
Site Location



NORTH

Creekside at Cabin Branch
Clarksburg, MD

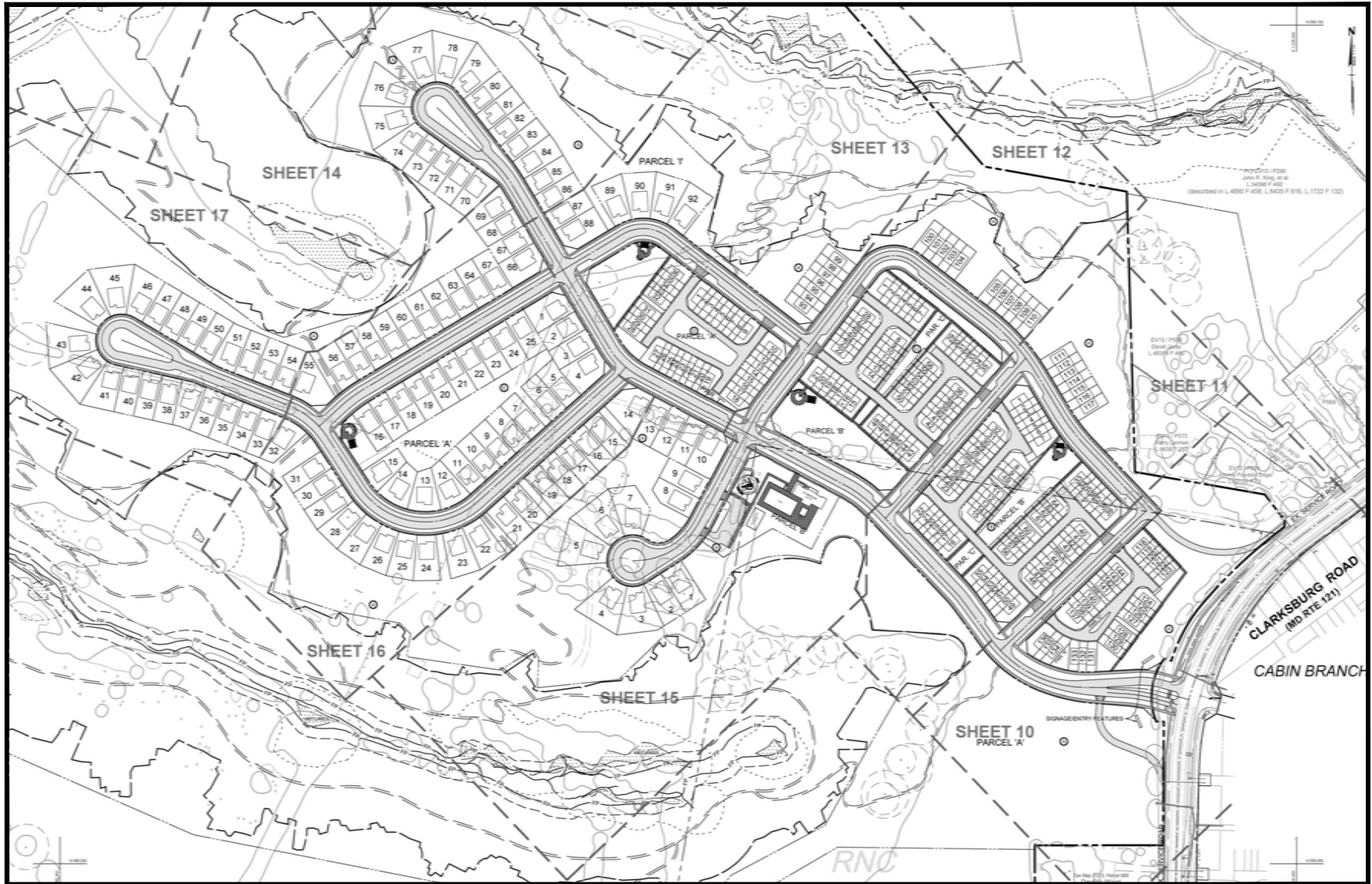


Figure 1-2
Illustrative Concept Plan

Preliminary Plan
By: Rodgers Consulting



Creekside at Cabin Branch
Clarksburg, MD



Table 1-1
Ten-Mile Creek
ITE Trip Generation, 10th Edition

Land Use	Ref	Size	Units	AM Peak Hour			PM Peak Hour			Daily Total
				In	Out	Total	In	Out	Total	
Town Homes	220	208	Percent D.U.	23% 22	77% 74	100% 96	63% 71	37% 42	100% 113	100% 1,532
Single-Family Detached Housing	210	<u>118</u>	Percent D.U.	25% <u>22</u>	75% <u>67</u>	100% <u>89</u>	63% <u>75</u>	37% <u>44</u>	100% <u>119</u>	100% <u>1,211</u>
TOTAL		326		44	141	185	146	86	232	2,743

Notes: (1) The 118 single family detached units include 117 single family detached units proposed in this Application plus one (1) existing unit that will access Clarksburg Road via the proposed site access drive.

Table 1-2
Ten-Mile Creek
Trip Generation - LATR Methodology

Land Use	Policy Area Adjustment	Auto Driver	AM Peak Hour					Auto Driver	PM Peak Hour				
			Auto Pass.	Transit	Non-Motorized	Peds.	Total Person		Auto Pass.	Transit	Non-Motorized	Peds.	Total Person
Town Homes	100%	96	40	4	9	13	149	113	47	4	10	14	175
Single-Family Detached Housing	100%	89	37	3	8	11	138	119	50	5	11	16	184
TOTAL PERSON TRIPS		185	77	7	17	24	287	232	97	9	21	30	359

Section 2 BACKGROUND DATA

OVERVIEW

This section presents the following background information for the LATR:

- Description of the planned development.
- Description of the public road network providing vehicular ingress/egress.
- Description of the site access concept
- Definition of the study area.
- Description of the study area public road network and transportation facilities.
- Existing vehicular, pedestrian and bicycle traffic counts.

PLANNED DEVELOPMENT

The Applicant, Pulte Homes, will develop 325 residential dwelling units (117 single family units and 208 townhomes) on a land parcel located west of Clarksburg Road and across Clarksburg Road from the proposed alignment of Dowitcher Way. Additionally, one (1) existing single family dwelling unit located just south of the will access Clarksburg Road via the proposed site driveway and is included in the site trip generation calculations.

PUBLIC ROAD NETWORK

Existing Network - Regional access to Cabin Branch is provided by I-270. Local access is provided by Clarksburg Road (MD 121) and West Old Baltimore Road. Existing intersection lane use and traffic control at key intersections in the site vicinity are shown on Figure 2-1.

Interstate Route 270 (I-270) is a multilane divided freeway extending from the Washington Beltway (I-495) to Frederick, Maryland and terminating at I-70. An interchange exists at Clarksburg Road (MD 121) and a High Occupancy Vehicle (HOV) lane from points south terminates at this interchange.

Clarksburg Road (MD 121) is a two- to four-lane roadway that extends from Clopper Road (MD 117) northwest of Germantown with intersections at West Old Baltimore Road and I-270. Clarksburg Road is a four-lane road as it crosses I-270 and extends to MD 355 as Stringtown Road, a four-lane, median divided roadway. In the vicinity of the site, Clarksburg Road has a speed limit of 40 mph and is classified by the SHA as an urban collector.

West Old Baltimore Road is a two-lane roadway extending from Frederick Road (MD 355) east of I-270 providing access to Black Hill Regional Park, farms and scattered houses. West of Clarksburg Road the road becomes a rustic rural roadway with trees and brush directly adjacent to the roadway. West Old Baltimore Road is currently closed to through traffic between Clarksburg Road and Lake Ridge Drive.

Planned and Programmed Improvements – The SHA and Montgomery County have identified the following key roadway recommendations:

I-270 - Improvements are planned as part of the I-495 & I-270 Public Private Partnership Program. I-270 is planned for eight travel lanes south of Clarksburg Road (MD 121) and six travel lanes north of Clarksburg Road (MD 121). A Draft Environmental Impact Study (DEIS) for I-270 is underway and construction is anticipated to begin in late 2020.

Clarksburg Road (MD 121) - Construction is currently underway to upgrade Clarksburg Road to a two-lane arterial roadway north of West Old Baltimore Road and transitioning to a four-lane roadway at Cabin Branch Avenue. A roundabout will be provided at the Clarksburg Road/West Old Baltimore Road juncture. These improvements are being implemented as part of the Cabin Branch Community development.

Proposed lane use and traffic control at key intersections in the site vicinity are shown on Figure 2-2.

SITE ACCESS CONCEPT

Access will be provided by a driveway connecting with Clarksburg Road across from the planned alignment of Dowitcher Way. An additional emergency vehicle access drive will be provided that will connect with Old Clarksburg Road north of the proposed site drive.

NON-AUTO TRANSPORTATION FACILITIES

The subject site is within the Clarksburg policy area, which is served by RideOn Route 73, as well as sidewalks multi-use paths and bicycle lanes.

RideOn

RideOn route 73 provide weekday peak period service between Cabin Branch, Gateway Center and the Shady Grove Metrorail station. Appendix B contains a route map and schedule for this RideOn route.

Bicycle Facilities

A 5' to 6' wide bike lane will be provided along each side of Clarksburg Road from West Old Baltimore Road to Goldeneye Avenue. Bicycle traffic mixes with automobile traffic through roundabouts along this roadway. An 8' wide multi-purpose path will be provided along the southeast side of Clarksburg Road through the Cabin Branch Community.

Sidewalks

A 5' wide sidewalk will be provided along the northwest side of Clarksburg Road between West Old Baltimore Road to Goldeneye Avenue. An 8' multi-purpose path will be provided along the southeast side of this roadway.

STUDY AREA DEFINITION

The study area for this LATR study was established through consultation with M-NCPPC Staff and is contained in the scoping letter provided in Appendix A.

The following intersections and future driveways were included in the study as discussed with M-NCPPC Staff through the scoping process:

Existing Intersections

1. Clarksburg Road/West Old Baltimore Road (to be reconstructed and analyzed as a roundabout)
2. Clarksburg Road/Broadway Avenue

Future Intersections

1. Clarksburg Road/Dowitcher Way (future)/Creekside at Cabin Branch Access Drive (future)

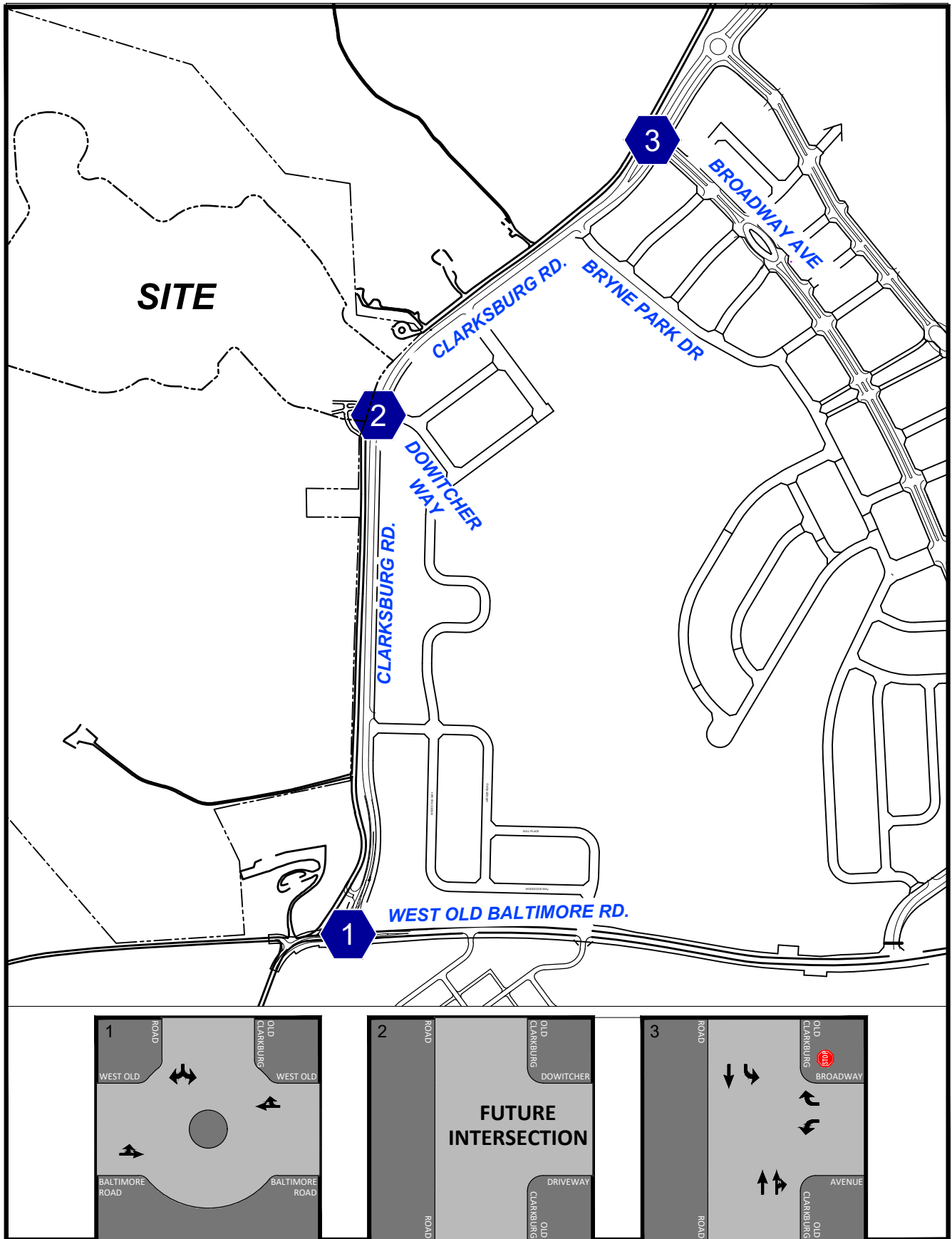
Figure 2-1 shows the existing lane use and traffic control at each of these locations and Figure 2-2 shows the future conditions.

EXISTING TRAFFIC COUNTS

Existing AM and PM peak hour vehicular, pedestrian, and bicycle traffic counts were conducted by Wells + Associates at each of the existing study intersections on a typical weekday from 6:30 AM to 9:30 AM and from 4:00 PM to 7:00 PM. It is noted that West Old Baltimore was closed to traffic east of Clarksburg Road. For this reason, traffic counts collected by the SHA on June 6, 2018 were adjusted by applying a 2.5% annual growth factor to current conditions and utilized for this analysis. Counts at the Clarksburg Road/Broadway Avenue were adjusted based on the 2018 SHA counts to reflect conditions when West Old Baltimore is reopened to through traffic.

The unadjusted count sheets are contained in Appendix C. Figure 2-3 shows the adjusted AM and PM peak hour traffic counts. Pedestrian and bicycle volumes at the study intersections are summarized on Figures 2-4 and 2-5 respectively.

As shown on Figure 2-3, Clarksburg Road just south of Broadway Avenue presently carries 787 vehicles during the AM peak hour and 695 vehicles during the PM peak hour.



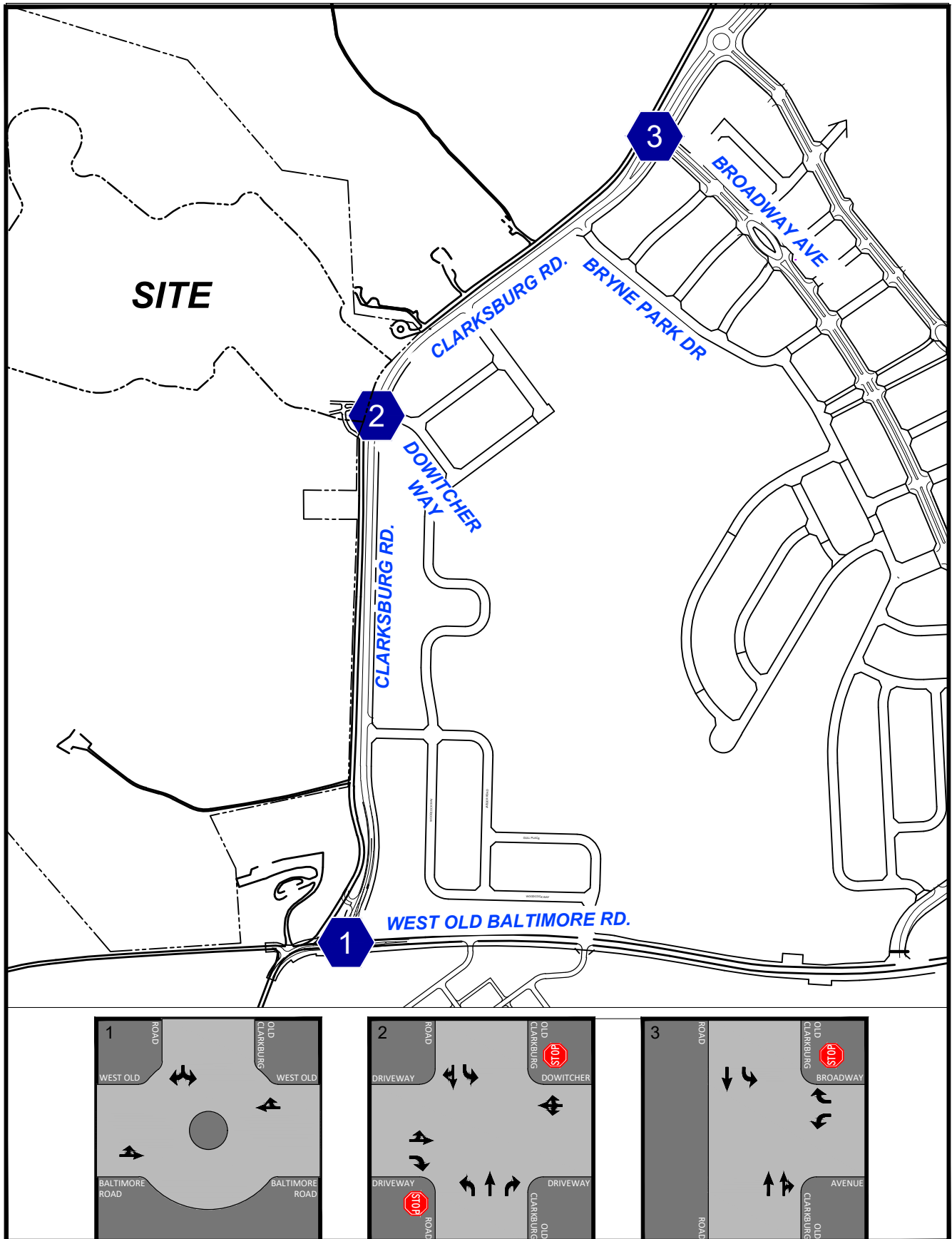


Figure 2-2
Future Lane Use and Traffic Control

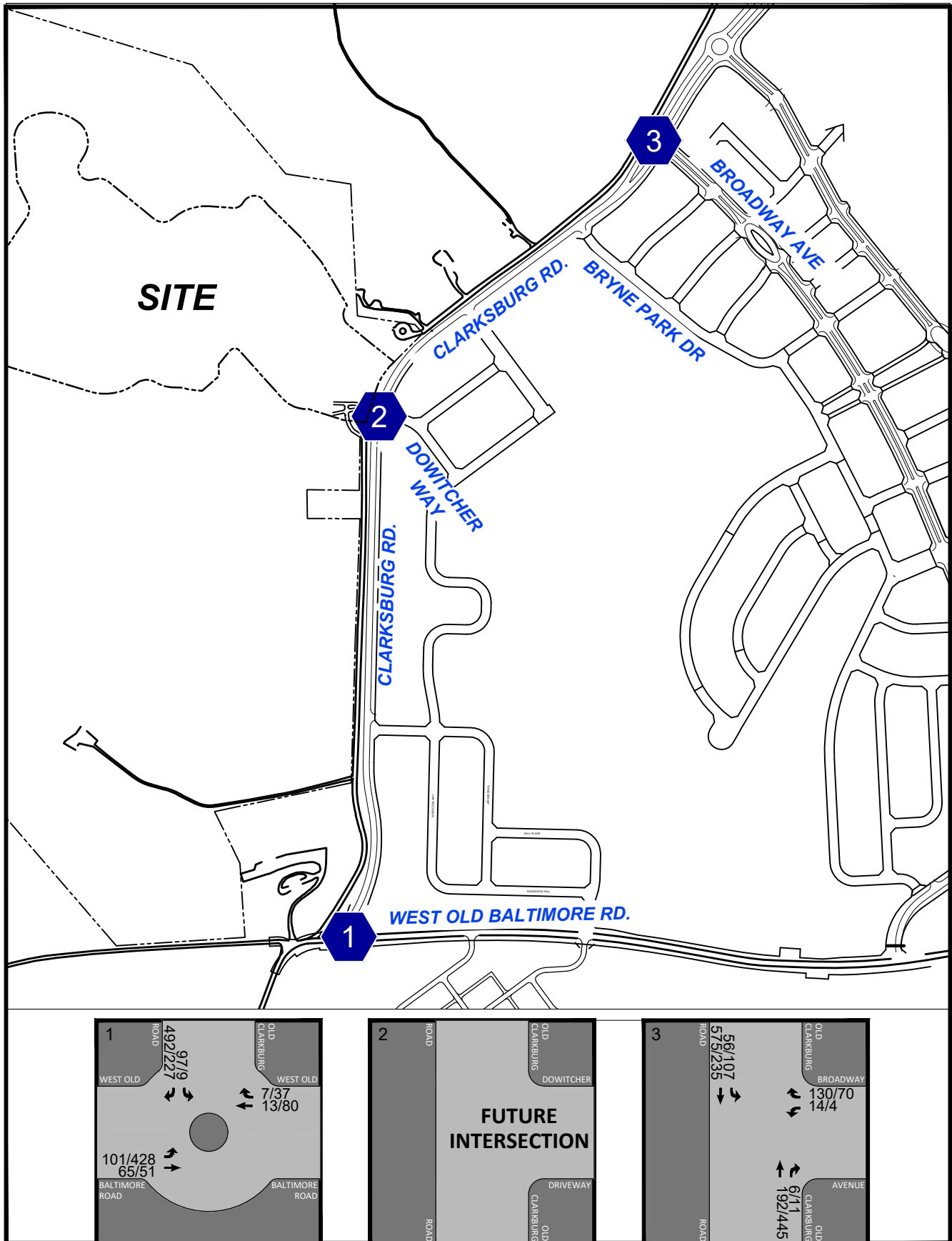


Figure 2-3
Existing Adjusted Peak Hour Traffic Volume

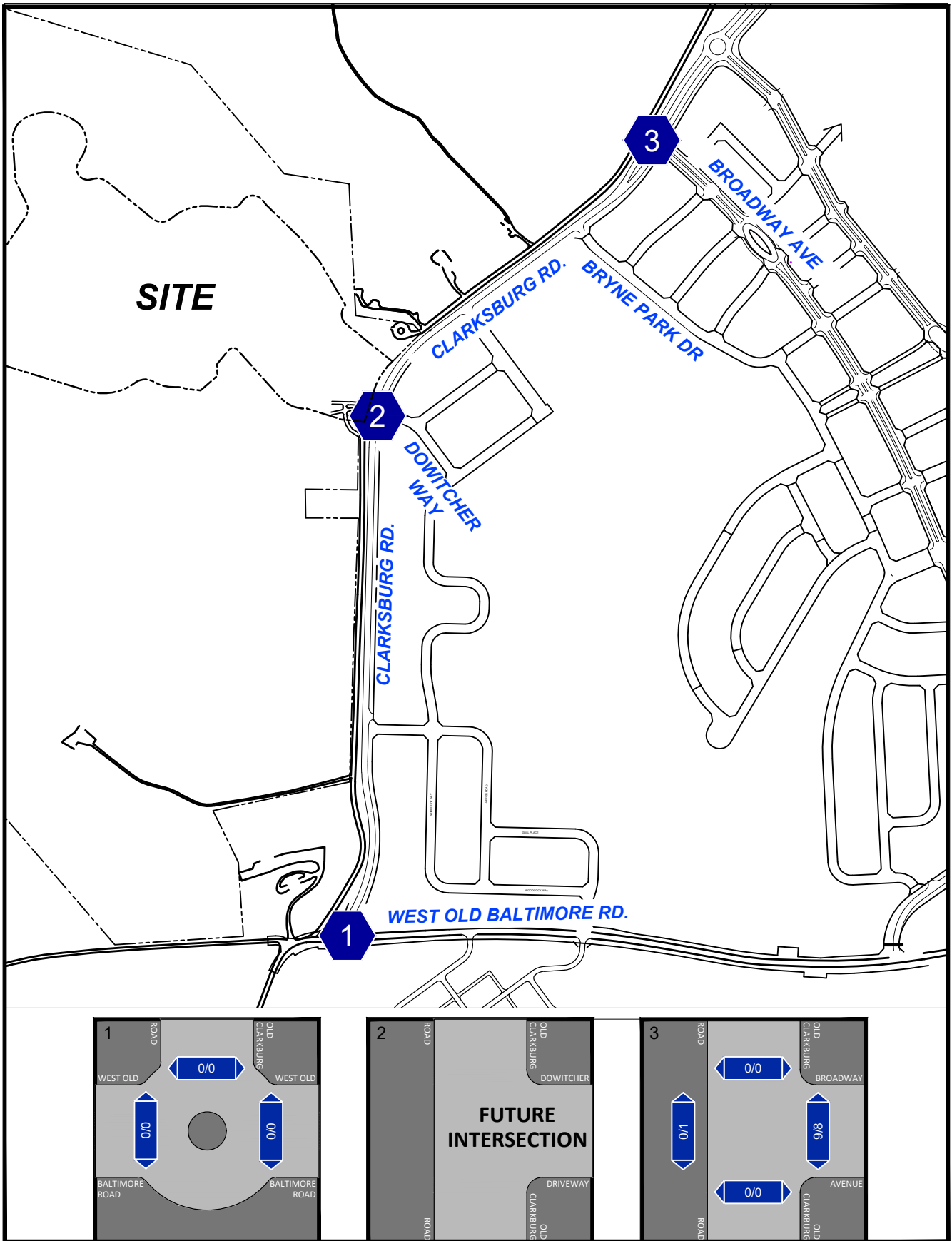


Figure 2-4
Existing Peak Hour Pedestrian Volume

AM PEAK HOUR
PM PEAK HOUR
000 / 000

NORTH
Creekside at
Cabin Branch
Clarksburg, MD

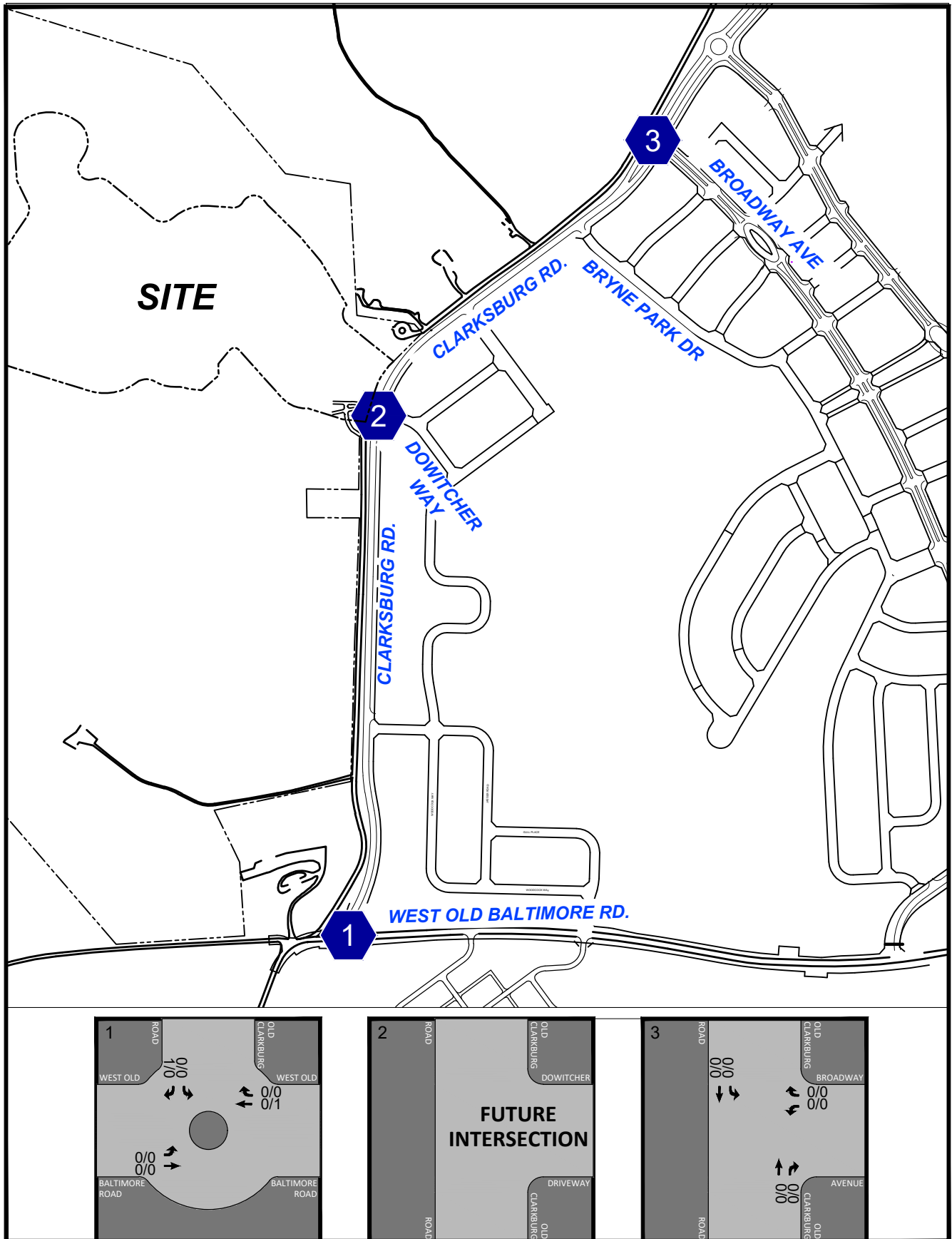


Figure 2-5
Existing Peak Hour Bicycle Volume

SECTION 3

LOCAL AREA TRANSPORTATION REVIEW (LATR)

OVERVIEW

This section presents a Local Area Transportation Review (LATR), which was conducted in accordance with the 2017 LATR Guidelines. It includes: a listing of applicable congestion standards; analyses of existing delays; a summary of site trip generation projections; analyses of future delays without and with the site development.

As indicated above, the site will generate fewer than 50 pedestrian, bicycle, or transit trips and is thus exempt from the transit, pedestrian and bicycle tests of the LATR.

CONGESTION STANDARD

As detailed in M-NCPPC's LATR Guidelines, the adequacy of each intersection or network analyzed in an LATR study is assessed based on the current congestion standard established for the Montgomery County Policy Area in which the intersection is located.

The subject site and all of the study intersections are located within the Clarksburg Policy Area of Montgomery County where the congestion threshold is established at a maximum critical lane volume (CLV) of 1,425 and an overall average delay of 51 seconds per vehicle.

EXISTING CONDITIONS

Operational Analysis

Existing peak hour intersection CLVs were analyzed for each of the study intersections per the parameters of the study as determined through the scoping process with M-NCPPC staff. The Clarksburg Road/West Old Baltimore Road intersection was analyzed as a roundabout because this intersection will be reconstructed as a roundabout in association with Cabin Branch community improvements.

Estimations of the CLVs were based on: the existing lane-use and traffic control shown on Figure 2-1; the existing vehicular peak hour traffic volumes shown on Figure 2-3 the CLV intersection analysis methodologies and Sidra roundabout analyses. The results are presented in Appendix D and summarized in Table 3-1.

As shown in Table 3-1, all the study intersections will operate within the congestion standard. The intersection with the highest CLV is the Clarksburg Road/Broadway Avenue intersection, with a CLV of 649 during the AM peak hour. The Clarksburg Road/West Old Baltimore Road

intersection will operate with an average delay per vehicle of 9.6 seconds during the AM peak hour and 7.8 seconds per vehicle during the PM peak hour when reconstructed as a roundabout.

BACKGROUND FUTURE CONDITIONS

Pipeline Developments

The following 3 pipeline developments (approved, planned, or under construction and within the site vicinity) were identified by the M-NCPPC during the scoping process for inclusion in this LATR study:

1. Cabin Branch – 120-031-100
2. Linthicum West – 120-050-030
3. Clarksburg Town Center – 119-950-420

The location of each pipeline development in relation to the project is provided on Figure 3-1.

Pipeline Trip Generation

The trip generation for each of the 3 pipeline developments was obtained from their respective traffic study, or traffic statement and was based on trip generation rates in effect at the time the pipeline projects were approved. The remaining land uses to be developed for each of the pipeline projects was provided by MNCPPC and this remaining development is forecasted to add 3,525 AM peak hour vehicle trips and 4,577 PM peak hour vehicle trips to the area road network at full build-out and occupancy. A portion of these trips would travel through the study intersections along Clarksburg Road. A summary of the trip generation of the remaining land uses to be developed for each of the pipeline project is provided on Table 3-2 below.

Pipeline Trip Assignments

The peak hour trip distributions for each of the pipeline developments were developed based on previously approved LATR studies. The trips anticipated to be generated by the individual development projects were then assigned to the roadway network based on these distributions. The combined approved development peak hour traffic volumes traveling through the study intersections are shown on Figure 3-2. The individual traffic assignments for each of the above listed approved development projects are shown in the traffic forecasting worksheets contained in Appendix E.

Background Traffic Forecasts

Background traffic forecasts represent future conditions without the development of Pulte's Creekside at Cabin Branch property. Background traffic forecasts were estimated by adding the combined pipeline traffic assignments (Figure 3-2) to the adjusted existing peak hour traffic

counts shown on Figure 2-2. The resulting background future traffic forecasts are summarized on Figure 3-3.

Operational Analysis

The background peak hour CLVs and delays without the proposed development were estimated at the study intersections based on: the background traffic forecasts without the proposed development; the future lane use and traffic controls CLV analysis and Sidra roundabout analysis methodologies for intersections and roundabouts, respectively. The future peak hour CLVs and delay without the proposed development are presented in Appendix F and summarized in Table 3-1.

As shown in Table 3-1, all the study intersections will operate within the congestion standard. The intersection with the highest CLV is the Clarksburg Road/Dowitcher Way intersection, with a CLV 702 during the AM peak hour. The Clarksburg Road/West Old Baltimore Road intersection will operate with an average delay per vehicle of 10.6 seconds during the AM peak hour and 12.0 seconds per vehicle during the PM peak hour when reconstructed as a roundabout.

TOTAL FUTURE CONDITIONS

The total future condition analyzed in this study considers the development of the subject site with 325 residential dwelling units, 117 single family detached units and 208 townhomes, plus traffic generated by an existing single family dwelling unit assigned to the proposed site driveway.

Trip Generation

Trip generation estimates for the proposed land uses of the development of Creekside at Cabin Branch were based on ITE trip generation rates and the 2017 LATR Guidelines.

Proposed Uses. As shown on Table 1-2, the proposed uses are expected to generate 287 AM peak hour and 359 PM peak hour person trips, 185 AM peak hour and 232 PM peak hour auto driver vehicle trips, 7 AM peak hour and PM peak hour transit trips, 17 AM peak hour and 21 PM peak hour non-motorized (bicycle) trips, and 24 AM peak hour and 30 PM peak hour pedestrian trips.

Site Trip Assignments

The peak hour trip distributions for the proposed development of Creekside at Cabin Branch were developed using the LATR trip distribution methodology for commercial and residential uses and through coordination with MNCPPC staff.

The following directions of approach for were utilized:

To/From	Percent
North - I-270	5 %
South - I-270	54 %
South - Clarksburg Road	10 %
East - Clarksburg Road	15 %
East - West Old Baltimore Road	15 %
West – West Old Baltimore Road	<u>1%</u>
TOTAL	100 %

The assignment of the proposed site-generated trips is shown on Figure 3-4.

Total Future Forecasts

The total future traffic forecasts, shown on Figure 3-5 represent future conditions with the subject development. The forecasts were developed by summing the background traffic forecasts shown on Figure 3-3 and the proposed site-generated trips shown on Figure 3-4.

Proposed Intersection Improvements

The Applicant intends to construct a driveway connection to Clarksburg Road across from Dowitcher Way. This driveway will be stop-sign controlled and will provide one inbound and two outbound lanes. A connection to this driveway will be constructed to provide access to an existing single family dwelling unit located just south of the proposed driveway. An additional emergency vehicle driveway will connect the site with Old Clarksburg Road to the north and provide emergency vehicle access via Goldeneye Avenue.

Operational Analysis

The total future peak hour CLVs and delays with the proposed development were estimated at the study intersections based on: the total future traffic forecasts with the proposed development; the future lane use and traffic controls CLV analysis and Sidra roundabout analysis methodologies for intersections and roundabouts, respectively. The future peak hour CLVs and delay with the proposed development are summarized in Table 3-1. Critical lane volume calculation worksheets and Synchro timing worksheets are also provided, for informational purposes, in Appendix G.

As shown in Table 3-1, all the study intersections will operate within the congestion standard with the development of the site. The intersection with the highest CLV is the Clarksburg Road/Dowitcher Way intersection, with a CLV 851 during the AM peak hour. The Clarksburg Road/West Old Baltimore Road intersection will operate with an average delay per vehicle of 11.6 seconds during the AM peak hour and 12.9 seconds per vehicle during the PM peak hour when reconstructed as a roundabout.

Creekside at Cabin Branch
Montgomery County, Maryland

Table 3-1
Ten Mile Creek
Critical Lane Volumes and Delays

Intersection	Intersection Control	Critical Movement	Congestion Standard	Existing Conditions		Background Conditions		Total Future Conditions	
				AM	PM	AM	PM	AM	PM
1. Clarksburg Road/West Old Baltimore Road	Roundabout	OVERALL	71 Seconds	9.6	7.8	10.6	12.0	11.6	12.9
2. Clarksburg Road/Dowitcher Way & Site A	STOP	OVERALL	CLV = 1,425	N/A	N/A	702	653	851	717
3. Clarksburg Road/Broadway Avenue	STOP	OVERALL	CLV = 1,425	649	353	693	561	725	669

Notes:

(1) Delays are presented as units of seconds.

Table 3-2
Background Development
Trip Generation Analysis

Trip Generation Analysis										
Land Use		Code	Size	Units	AM Peak Hour			PM Peak Hour		
					In	Out	Total	In	Out	Total
Cabin Branch (1)										
	Single Family - Detached	MNCPPC		433 D.U.	73	220	293	241	135	376
	Residential - Town Homes	MNCPPC		635 D.U.	56	276	332	228	112	340
	Residential Subtotal			1,068 D.U.	129	496	625	469	247	716
	Internal to Retail (15%)				(11)	(11)	(22)	(42)	(45)	(87)
	Internal to Employment (15%)				(19)	(74)	(93)	(70)	(37)	(108)
	Elderly Housing	MNCPPC		500 D.U.	14	26	40	30	25	55
	Residential Trips				114	436	550	387	189	576
	Retail	MNCPPC		47,000 S.F.	75	70	145	302	279	581
	Internal to Residential (15%)				(11)	(11)	(22)	(45)	(42)	(87)
	Internal to Employment (15%)				(11)	(11)	(22)	(45)	(37)	(83)
	Retail Trips				53	49	101	211	200	411
	General Office	MNCPPC		632,620 S.F.	928	139	1,067	158	773	931
	R&D Space	ITE (760)		320,000 S.F.	296	61	357	52	294	346
	Bio R&D Space	ITE (760)		906,500 S.F.	734	150	884	123	699	822
	Hotel	ITE (310)		76,880 S.F.	40	27	67	39	37	76
	Employment Subtotal			1,936,000 S.F.	1,998	377	2,375	372	1,803	2,175
	Internal to Residential (15%)				(74)	(19)	(93)	(37)	(70)	(108)
	Internal to Retail (15%)				(11)	(11)	(22)	(37)	(45)	(83)
	Employment Trips				1,913	347	2,260	297	1,687	1,985
	Cabin Branch Total				2,079	832	2,911	895	2,076	2,972
Linthicum West										
	Single Family Dwellings			252	45	136	181	146	82	228
	Linthicum West Total				45	136	181	146	82	228
Clarksburg Town Center (4)										
	Single Family - Detached	MNCPPC		144	26	78	104	84	47	131
	Residential - Town Homes	MNCPPC		36	3	13	16	11	6	17
	Residential Subtotal			180	29	91	120	95	53	148
	Internal to Retail (15%)				(4)	(14)	(18)	(14)	(8)	(22)
	Internal to Employment (15%)				(3)	(13)	(16)	(14)	(6)	(20)
	Clarksburg Town Center Residential Trips				22	64	86	67	39	106
	Retail Shopping Center	MNCPPC		129544	158	145	303	629	581	1,210
	Internal to Residential (15%)				(14)	(4)	(18)	(8)	(14)	(22)
	Internal to Employment (15%)				(3)	(13)	(16)	(16)	(6)	(22)
	Retail Trips				141	128	269	605	561	1,166
	Medical Office			45280	88	22	110	40	107	147
	Internal to Residential (15%)				(13)	(3)	(16)	(6)	(14)	(20)
	Internal to Retail (15%)				(13)	(3)	(16)	(6)	(16)	(22)
	Medical Office Trips				62	16	78	28	77	105
	Clarksburg Town Center Total				225	208	433	700	677	1,377
	Total Background Development Trips				2,349	1,176	3,525	1,741	2,835	4,577

Notes:

(1) Based on MNCPPC LATR Guidelines, April 2013.

(2) Based on MNCPPC LATR Guidelines, July 2004.

(3) Based on MNCPPC LATR Guidelines, July 2004, and ITE Trip Generation 6th Edition, 2003

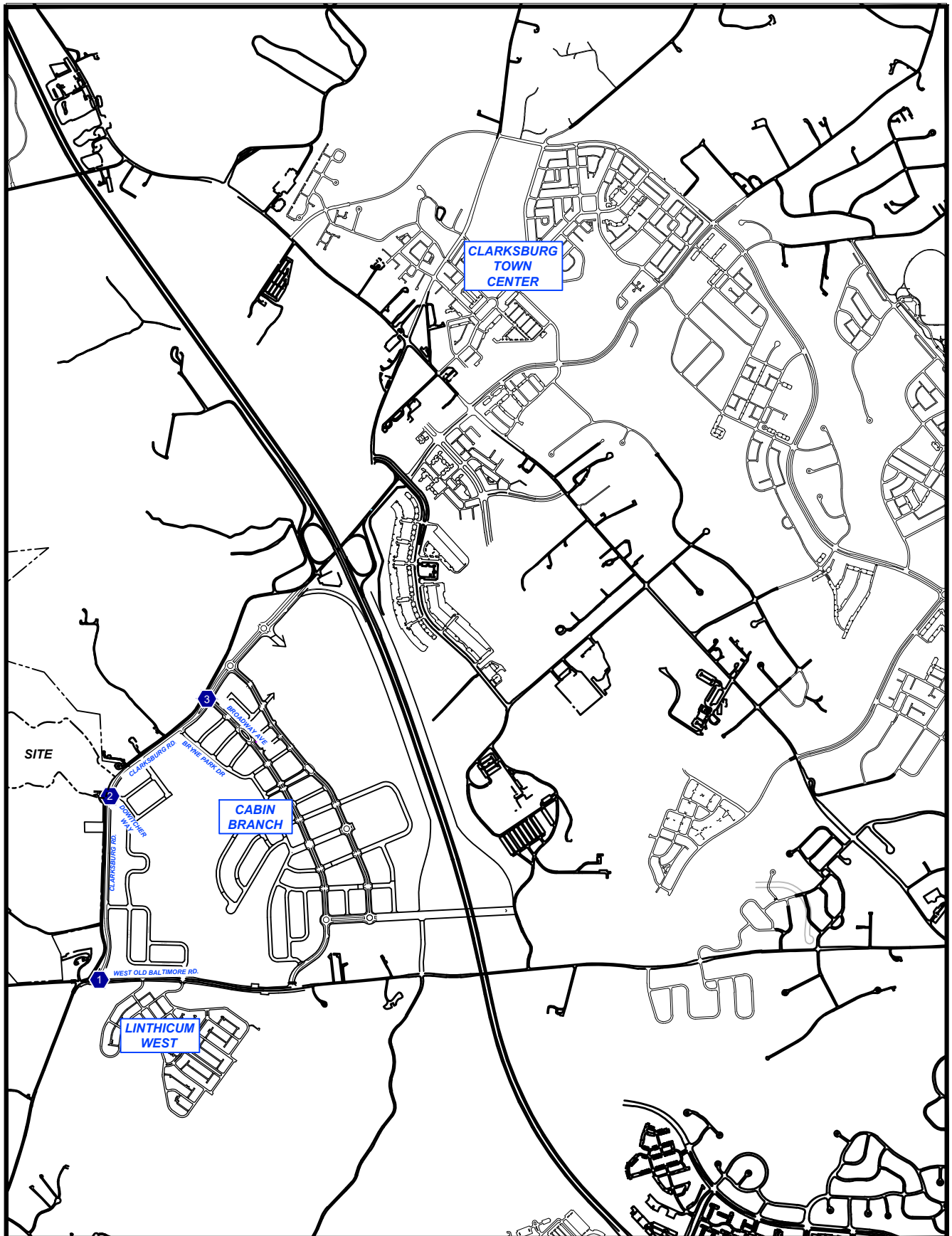


Figure 3-1
Location of Pipeline Developments



Creekside at
Cabin Branch
Clarksburg, MD

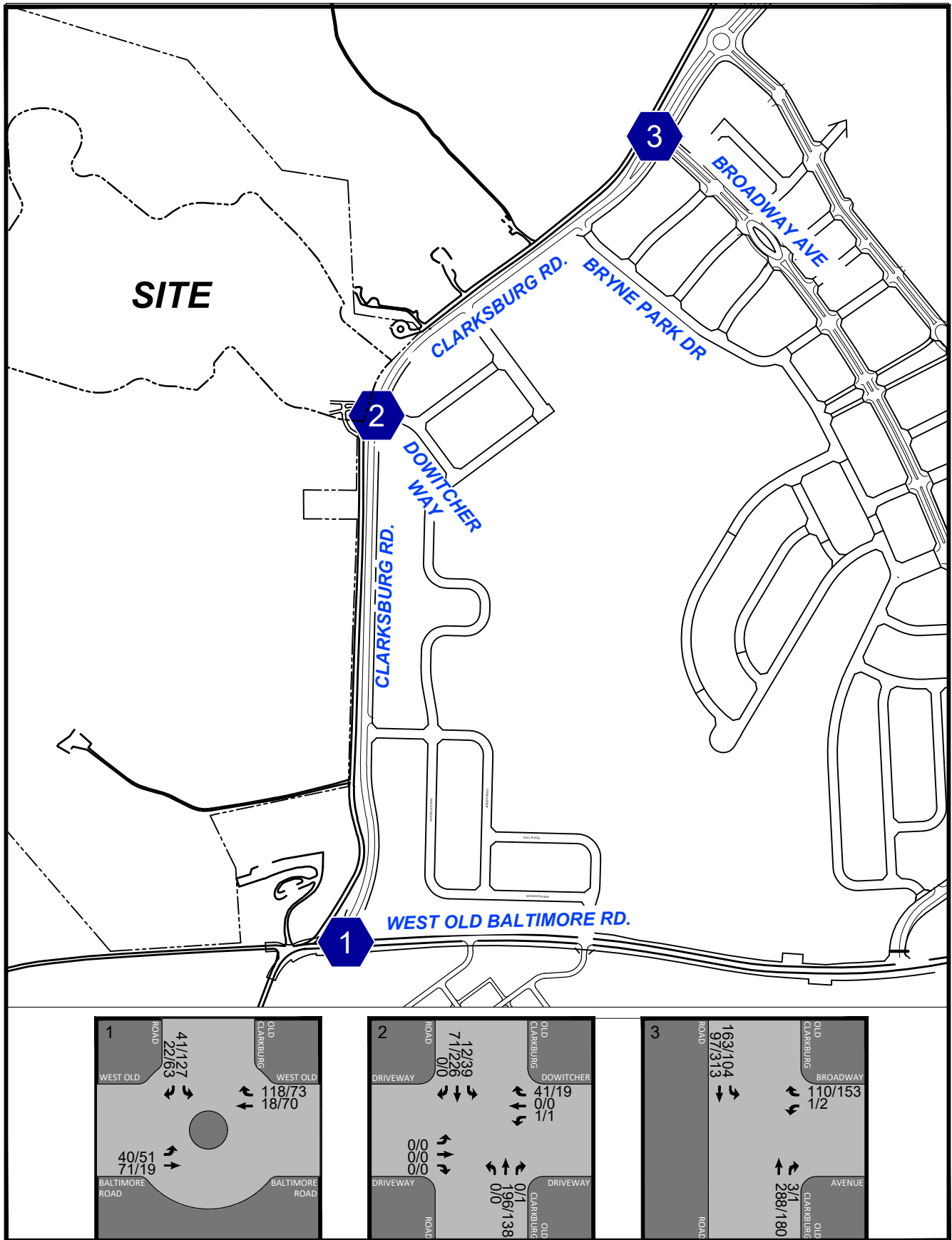


Figure 3-2
Pipeline Development Traffic Assignments

AM PEAK HOUR
PM PEAK HOUR
000 / 000



**Creekside at
Cabin Branch
Clarksburg, MD**

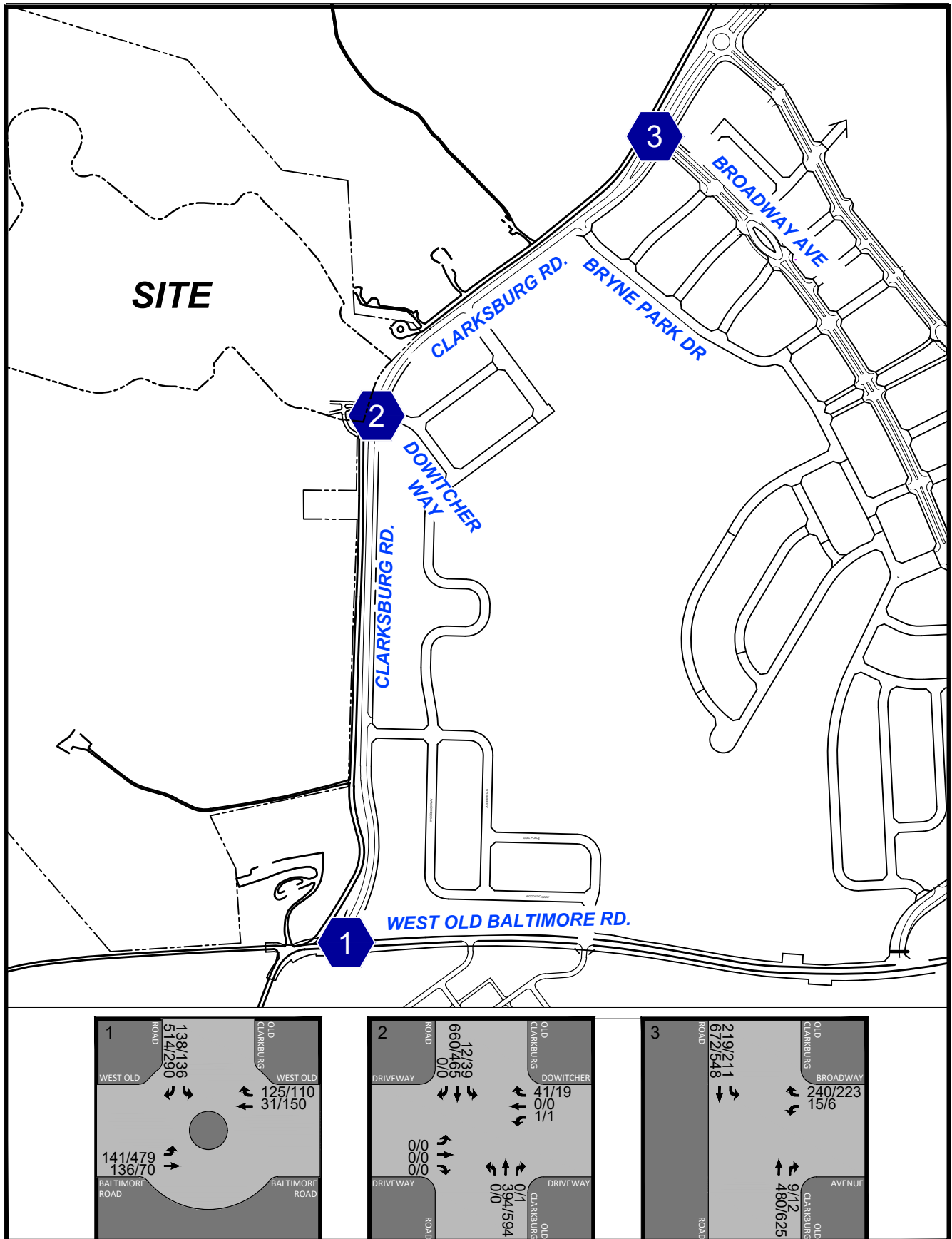


Figure 3-3
Background Peak Hour Traffic Forecasts

AM PEAK HOUR
PM PEAK HOUR
000 / 000



**Creekside at
Cabin Branch
Clarksburg, MD**

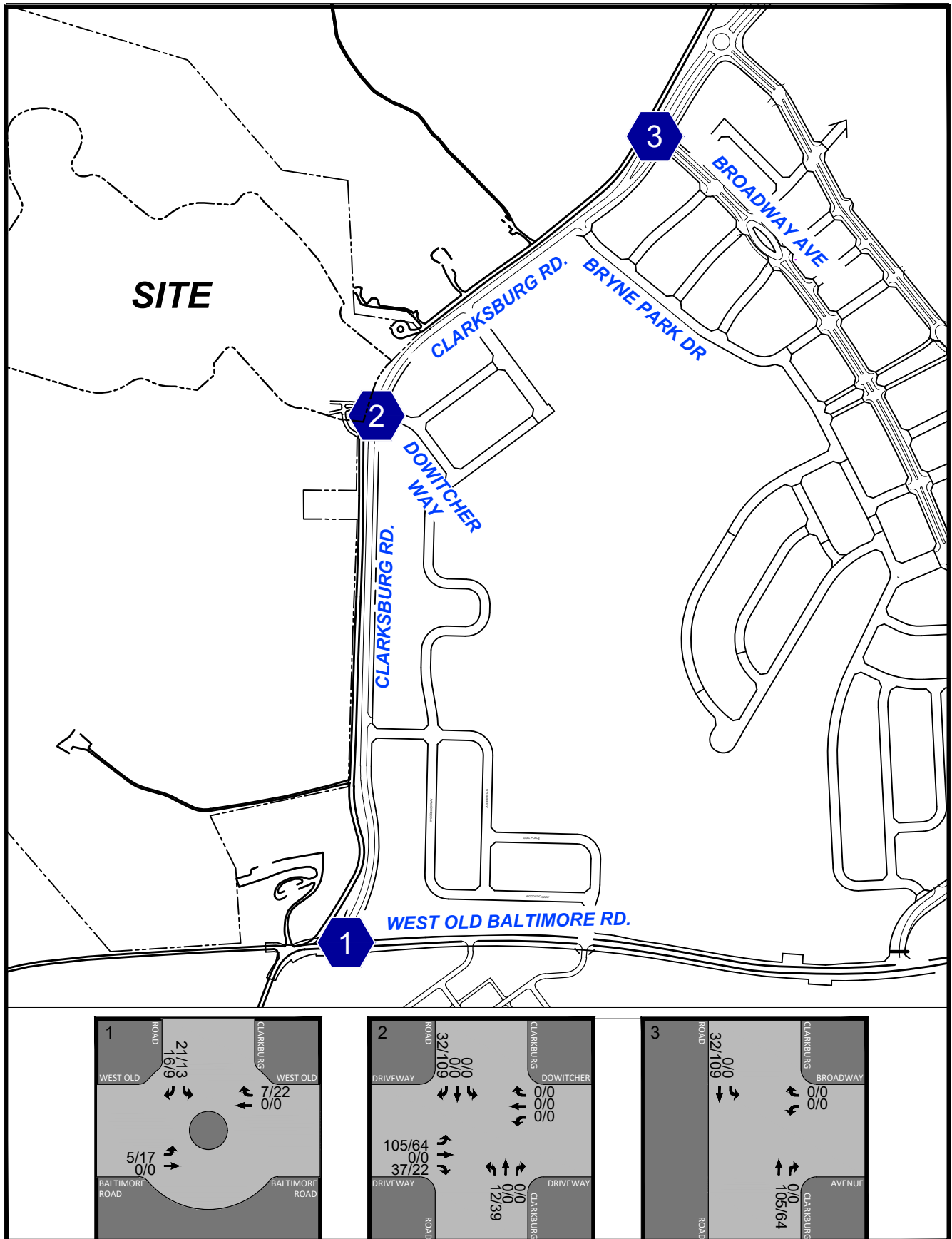


Figure 3-4
Site Traffic Assignment

AM PEAK HOUR
PM PEAK HOUR
000 / 000

 NORTH

Creekside at Cabin Branch
Clarksburg, MD

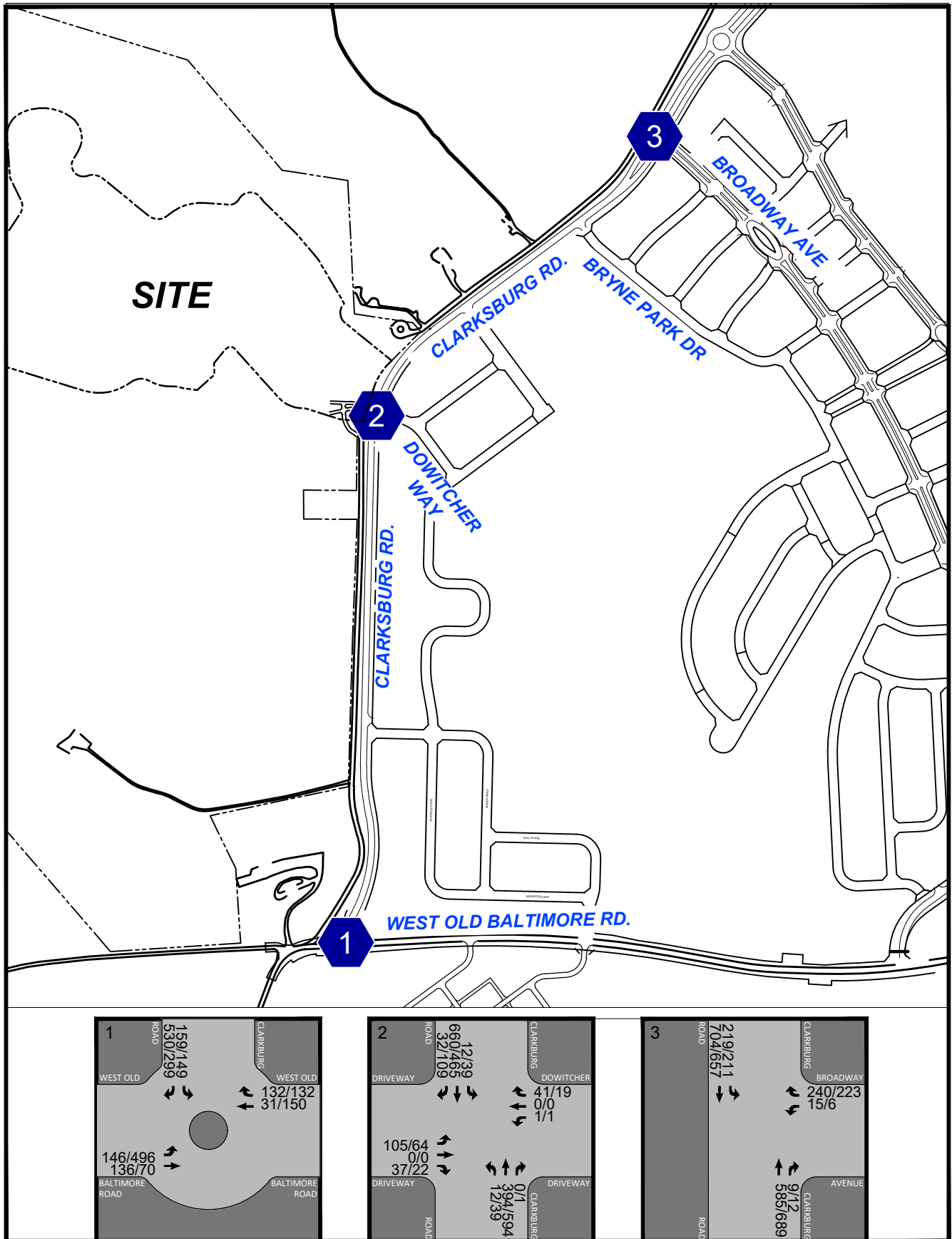


Figure 3-5
Total Future Traffic Forecasts

AM PEAK HOUR
PM PEAK HOUR
000 / 000



Creekside at Cabin Branch
Clarksburg, MD

SECTION 4

PEDESTRIAN, BICYCLE, and TRANSIT STATEMENT

OVERVIEW

This pedestrian, bicycle, and transit statement discusses the pedestrian and bicycle access and circulation in the vicinity of the site and the transit and other non-automotive options in the study area. As noted previously, pedestrian, bicycle and transit adequacy tests are not required as part of this LATR. This section presents a description of the existing pedestrian, bicycle and transit facilities that will serve the site.

Pedestrian Facilities

A 5' wide sidewalk will be provided along the northwest side of Clarksburg Road between West Old Baltimore Road to Goldeneye Avenue. An 8' multi-purpose path will be provided along the southeast side of this roadway.

Minimum 5' wide sidewalks will be provided along site access roadways to connect with the proposed sidewalk along Clarksburg Road. In addition, minimum 5' wide sidewalks will be provided along on-site roadways as required.

Transit Facilities

RideOn route 73 provides weekday peak period service between Cabin Branch, Gateway Center and the Shady Grove Metrorail station. Appendix B contains a route map and schedule for this RideOn route.

Bicycle Facilities

A 5' to 6' wide bike lane will be provided along each side of Clarksburg Road from West Old Baltimore Road to Goldeneye Avenue. Bicycle traffic mixes with automobile traffic through roundabouts along this roadway. An 8' wide multi-purpose path will be provided along the southeast side of Clarksburg Road through the Cabin Branch Community.

Bicycle traffic will share the roadway with on-site vehicular traffic. On-site bicycle parking will be provided per County zoning requirements.

Street Light Inventory

Street lights are provided at intersections and roundabouts along Clarksburg Road along the local roads subdivision streets within the Cabin Branch community. Street lighting will also be provided throughout the proposed development in accordance with the current Montgomery County lighting standards.

SECTION 5

PRELIMINARY SIGNAL WARRANT ANALYSIS

A preliminary traffic signal warrant analysis was prepared for the Clarksburg Road/Dowitcher Way & Site Access Drive intersection. The following Manual on Uniform Traffic Control Devices (MUTCD) warrants for signalization were examined for this analysis:

- Warrant 1 – Eight Hour Vehicular Volume
 - o Condition A - Minimum Vehicular Volume
 - o Condition B - Interruption of Continuous Traffic
 - o Combination of Conditions A and B
- Warrant 2 – Four Hour Vehicular Volume
- Warrant 3 – Peak Hour

It is noted that Warrant 3 is typically not applicable to residential developments as the MUTCD indicates “Warrant 3 shall only be applied in unusual cases, such as facilities that attract or discharge large numbers of vehicles over a short period of time”, however, analyses based on Warrant 3 have been undertaken to determine if the forecast volumes would meet the traffic volume criteria of this Warrant. These analyses are presented as supplemental information.

The MUTCD has different volume warrants for intersections when the major street speed is 40 mph or less (100% volumes) and over 40 mph (70% volumes). While the posted speed on Clarksburg Road is only 40 mph, an analysis of preliminary signal warrants were conducted for both the 40 mph and less and over 40 mph scenarios.

Traffic Forecasts

The MUTCD indicates that the investigation of the need for a traffic control signal shall include an analysis of factors related to the existing operation and safety at the study location and the potential to improve these conditions. As such, existing traffic along Clarksburg Road was used as the basis for traffic forecasts developed to determine if a traffic signal would be warranted at the subject location.

Existing Clarksburg Road Traffic Volumes – Hourly northbound and southbound traffic volumes along Clarksburg Road were obtained from a State Highway Administration traffic count conducted on June 6, 2018 at the Clarksburg Road/West Old Baltimore Road intersection. These volumes were increased by 2.5% to account for traffic growth.

Site Traffic Assignments - Hourly forecasts of site traffic between the hours of 6:00 AM and 10:00 PM were developed based on daily trip rates contained in the ITE Trip Generation Manual (10th Edition). The percent of the daily traffic volumes entering and exiting the site were obtained from hourly distribution of entering and exiting vehicle trips for ITE land use code 210 - single family

detached housing, and ITE land use code 220 - multi-family housing – low rise (source: ITE Trip Generation Manual – 10th Edition). Hourly inbound and outbound traffic volumes generated by the site were then apportioned to the road network based on the directional distribution presented above. The resulting site traffic forecasts by turning movement are shown in Table 5-1. It is noted that traffic forecasts for Dowitcher Way are less than traffic forecasts for the proposed site driveway, and as such this preliminary traffic signal warrant analysis is based on traffic forecasts using the site driveway (the higher-volume minor street approach).

Hourly Traffic Forecasts – Hourly total traffic forecasts were developed by summing existing hourly traffic volumes along Clarksburg Road with growth and the site traffic assignments of the proposed Creekside at Cabin Branch development. These calculations are shown in Appendix H and the major street and minor street hourly volumes are reflected in Tables 5-2 to 5-4.

Proposed Roadway Geometrics

Clarksburg Road provides a single through lane in each direction at the subject intersection. The site access drive at Clarksburg Road will be constructed to provide two outbound lanes, one left/through lane and one right turn lane. As such, the intersection was evaluated as a major street with one (1) lane and a minor street with two (2) lanes.

Major Street Less Than or Equal to 40 MPH

Warrant 1 – Eight-Hour Vehicular Volume Analysis - A minimum of 500 vehicles on the major street and 200 vehicles per hour on the higher volume minor street for 8 hours on a typical day is required to warrant signalization for Condition A – Minimum Vehicular Volume. As shown in Table 5-2A minor street volumes do not meet Condition A criteria during any hours of a typical day, thus Condition A is not met.

A minimum of 750 vehicles on the major street and 100 vehicles per hour on the higher volume minor street approach for 8 hours on a typical day is required to warrant signalization for Condition B – Interruption of Continuous Traffic. As shown in Table 5-2A minor street volumes do not meet Condition B criteria during any hours of a typical day, thus Condition B is not met.

A traffic signal can also be warranted based on a combination of Conditions A and B. Specifically, Warrant 1 can be met if traffic volumes meet 80% of the criteria of Condition A and 80% of the criteria of Condition B for 8 hours on a typical day. A minimum of 160 vehicles per hour for 8 hours on a typical day on the higher-volume minor-street approach is required to warrant signalization for 80% of Condition A. As shown in Table 5-2A minor street volumes do not meet 80% of Condition A criteria during any hours of a typical day, thus the combination of warrants is not met.

Warrant 2 - Four Hour Vehicular Volume Analysis - Plotted points representing the vehicles per hour on the major street (total of both approaches) and the corresponding vehicles per hour on the higher-volume minor-street approach (one direction only) must all fall above the applicable

curve in Figure 4C-1 of the MUTCD for 4 hours on a typical day to warrant signalization for Warrant 2 – Four Hour Vehicular Volume. As shown in Table 5-3A minor street volumes do not meet Warrant 2 during any hours on a typical day, thus Warrant 2 criteria is not met.

Warrant 3 – Peak Hour Analysis - Plotted points representing the vehicles per hour on the major street (total of both approaches) and the corresponding vehicles per hour on the higher-volume minor-street approach (one direction only) must fall above the applicable curve in Figure 4C-3 of the MUTCD during the peak hour of a typical day to warrant signalization for Warrant 3 – Peak Hour. As shown in Table 5-4A minor street volumes do not meet Warrant 3 during the peak hour on a typical day, thus Warrant 3 criteria is not. Additionally, as indicated above, Warrant 3 is typically not applicable to residential developments as the MUTCD indicates “Warrant 3 shall only be applied in unusual cases, such as facilities that attract or discharge large numbers of vehicles over a short period of time.”

Major Street Greater Than 40 MPH

Warrant 1 – Eight-Hour Vehicular Volume Analysis - A minimum of 350 vehicles on the major street and 140 vehicles per hour on the higher volume minor street for 8 hours on a typical day is required to warrant signalization for Condition A – Minimum Vehicular Volume. As shown in Table 5-2B major street and minor street volumes meet Condition A criteria during only one hour on a typical day, thus Condition A is not met.

A minimum of 525 vehicles on the major street and 70 vehicles per hour on the higher volume minor street approach for 8 hours on a typical day is required to warrant signalization for Condition B – Interruption of Continuous Traffic. As shown in Table 5-2B forecast traffic volumes meet Condition B criteria during only 5 hours of a typical day, thus Condition B is not met.

A traffic signal can also be warranted based on a combination of Conditions A and B. Specifically, Warrant 1 can be met if traffic volumes meet 80% of the criteria of Condition A and 80% of the criteria of Condition B for 8 hours on a typical day. A minimum of 112 vehicles per hour for 8 hours on a typical day on the higher-volume minor-street approach is required to warrant signalization for 80% of Condition A. As shown in Table 5-2B minor street volumes meet 80% of Condition A criteria during only one hour of a typical day, thus the combination of warrants is not met.

Warrant 2 - Four Hour Vehicular Volume Analysis - Plotted points representing the vehicles per hour on the major street (total of both approaches) and the corresponding vehicles per hour on the higher-volume minor-street approach (one direction only) must all fall above the applicable curve in Figure 4C-2 of the MUTCD for 4 hours on a typical day to warrant signalization for Warrant 2 – Four Hour Vehicular Volume. As shown in Table 5-3B minor street volumes meet Warrant 2 criteria during only 3 hours on a typical day, thus Warrant 2 is not met if the speed along Clarksburg Road was greater than 40 mph.

Warrant 3 – Peak Hour Analysis - Plotted points representing the vehicles per hour on the major street (total of both approaches) and the corresponding vehicles per hour on the higher-volume minor-street approach (one direction only) must all fall above the applicable curve in Figure 4C-4 of the MUTCD during the peak hour on a typical day to warrant signalization for Warrant 3 – Peak Hour. As shown in Table 5-4B traffic volumes would not meet Warrant 3 criteria during either of the peak hours if the speed along Clarksburg Road was greater than 40 mph, thus this warrant is not met. Additionally, as indicated above, Warrant 3 is not applicable to residential developments as the MUTCD indicates “Warrant 3 shall only be applied in unusual cases, such as facilities that attract or discharge large numbers of vehicles over a short period of time.”

Summary of Signal Warrant Analysis

As indicated above, a traffic signal at the subject intersection is not warranted based on the full development of the subject site and existing traffic volumes (with 2.5% growth) along Clarksburg Road under either the 100% (40 mph and below) warrants or the 70% (greater than 40 mph). The posted speed is currently 40 mph, and, because this section of roadway is currently under construction, the 85th percentile speed is not known at this time.

Background development projects consisting of over 2,150,000 square feet of unbuilt commercial development and 2,000 unbuilt residential dwelling units have been approved in the area and one or more signal warrants may be met under future conditions with additional growth in Clarksburg Road traffic due to future area development. The MUTCD indicates that the investigation of the need for a traffic control signal shall include an analysis of factors related to the existing operation and safety and also indicates that the satisfaction of a traffic signal warrant or warrants shall not in itself require the installation of a traffic control signal and that consideration should be given to providing alternatives to traffic signals even if one or more of the warrants has been satisfied. These alternatives may include installing signs along the major street to warn road users approaching the intersection, and installing measures designed to reduce speeds on the approaches.

Because the above analyses indicate that a signal is not warranted for speeds of either 40 mph and less or over 40 mph with the full development of the subject site and existing traffic volumes (with 2.5% growth) along Clarksburg Road, and based on guidance of the MUTCD discussed above, signalization of the subject location is not recommended at this time.

Table 5-1
Site Trip Generation
By Hour - 6:00 AM - 10:00 PM¹

<u>Hour</u>			<u>Trips</u>			<u>Southbound</u> <u>Clarksburg Road</u>	<u>Northbound</u> <u>Clarksburg Road</u>	<u>Eastbound</u> <u>Site Drive</u>	
Begin		End	In	Out	Total	Right	Left	Right	Left
6:00 AM	-	7:00 AM	18	80	98	13	5	20	60
7:00 AM	-	8:00 AM	39	161	200	29	10	42	119
8:00 AM	-	9:00 AM	53	122	175	39	14	32	90
9:00 AM	-	10:00 AM	49	88	137	36	13	23	65
10:00 AM	-	11:00 AM	55	69	124	41	15	18	51
11:00 AM	-	12:00 PM	71	73	144	52	19	19	54
12:00 PM	-	1:00 PM	76	75	151	56	20	20	55
1:00 PM	-	2:00 PM	73	74	147	54	19	19	55
2:00 PM	-	3:00 PM	87	84	171	64	23	22	62
3:00 PM	-	4:00 PM	115	76	191	85	30	19	57
4:00 PM	-	5:00 PM	141	84	225	104	37	22	62
5:00 PM	-	6:00 PM	149	96	245	110	39	25	71
6:00 PM	-	7:00 PM	125	84	209	92	33	21	63
7:00 PM	-	8:00 PM	92	59	151	68	24	16	43
8:00 PM	-	9:00 PM	82	46	128	61	21	12	34
9:00 PM	-	10:00 PM	63	26	89	47	16	7	19
AM Peak Hour			44	141	185	33	12	37	104
PM Peak Hour			146	86	232	108	39	22	64

Notes: (1) Appendix H contains a breakdown of hourly trip generation by unit type (single family and multi-family (town house))

Table 5-2A
Warrant #1 - Eight Hour Vehicular Volume - Major Street = 40mph
Preliminary Traffic Signal Warrant Study

Feasibility - Home Signal Warrant Study			Warrant #1 - Eight Hour Warrant ¹				Combination of Condition A and B ²				Meets Condition A	Meets Condition B	Meets Combination of Condition A and B
Traffic Volumes			Condition A		Condition B		Condition A (80%)		Condition B (80%)				
Intersection - Clarksburg Road/Dowitcher Way and Site Driveway	Major Street	Minor Street	Major Street	Minor Street	Major Street	Minor Street	Major Street	Minor Street	Major Street	Minor Street			
Total Future Traffic Forecasts													
6:00 - 7:00	284	71	500	200	750	100	400	160	600	80	No	No	No
7:00 - 8:00	649	140									No	No	No
8:00 - 9:00	675	107									No	No	No
9:00 - 10:00	410	77									No	No	No
10:00 - 11:00	245	61									No	No	No
11:00 - 12:00	275	64									No	No	No
12:00 - 13:00	287	67									No	No	No
13:00 - 14:00	325	66									No	No	No
14:00 - 15:00	353	74									No	No	No
15:00 - 16:00	592	68									No	No	No
16:00 - 17:00	780	76									No	No	No
17:00 - 18:00	763	86									No	No	No
18:00 - 19:00	564	74									No	No	No
19:00 - 20:00	386	52									No	No	No
20:00 - 21:00	305	40									No	No	No
21:00 - 22:00	165	23									No	No	No

Notes:

(1) Volumes must meet either Condition A or Condition B

(2) Volumes must meet both 80% of Condition A and 80% of Condition B

Table 5-3A

Warrant #2 - Four Hour Vehicular Volume - Major Street = 40mph

Preliminary Traffic Signal Warrant Study

<u>Traffic Volumes</u>				Meets Four Hour Vehicular Volume
Intersection - Clarksburg Road/Dowitcher Way and Site Driveway	Major Street	Minor Street	Minor Street Volume Required Given Major Street Volume ^{1,2}	
Total Future Traffic Forecasts				
6:00 - 7:00	284	71	390	No
7:00 - 8:00	649	140	268	No
8:00 - 9:00	675	107	256	No
9:00 - 10:00	410	77	385	No
10:00 - 11:00	245	61	390	No
11:00 - 12:00	275	64	390	No
12:00 - 13:00	287	67	390	No
13:00 - 14:00	325	66	390	No
14:00 - 15:00	353	74	390	No
15:00 - 16:00	592	68	294	No
16:00 - 17:00	780	76	209	No
17:00 - 18:00	763	86	217	No
18:00 - 19:00	564	74	308	No
19:00 - 20:00	386	52	390	No
20:00 - 21:00	305	40	390	No
21:00 - 22:00	165	23	390	No

Notes:

(1) From MUTCD Figure 4C-1.

(2) 115 vph applies as the lower threshold volume for a minor-street approach with two lanes

Table 5-4A

Warrant #3 - Peak Hour Volume - Major Street = 40mph

Preliminary Traffic Signal Warrant Study

<u>Traffic Volumes</u>				Meets Peak Hour Vehicular Volume
Intersection - Clarksburg Road/Dowitcher Way	Major Street	Minor Street	Minor Street Volume Required Given Major Street Volume ^{1,2}	
Total Future Traffic Forecasts				
AM Peak Hour	691	141	419	No
PM Peak Hour	831	86	354	No

Notes:

(1) From MUTCD Figure 4C-3.

(2) 150 vph applies as the lower threshold volume for a minor-street approach with two lanes

Table 5-2B
Warrant #1 - Eight Hour Vehicular Volume - Major Street>40mph
Preliminary Traffic Signal Warrant Study

Traffic Volumes			Warrant #1 - Eight Hour Warrant ¹				Combination of Condition A and B ²				Meets Condition A	Meets Condition B	Meets Combination of Condition A and B
			Condition A		Condition B		Condition A (80%)		Condition B (80%)				
Intersection - Clarksburg Road/Dowitcher Way and Site Driveway	Major Street	Minor Street	Major Street	Minor Street	Major Street	Minor Street	Major Street	Minor Street	Major Street	Minor Street			
Total Future Traffic Forecasts													
6:00 - 7:00	284	71	350	140	525	70	280	112	420	56	No	No	No
7:00 - 8:00	649	140									Yes	Yes	Yes
8:00 - 9:00	675	107									No	Yes	No
9:00 - 10:00	410	77									No	No	No
10:00 - 11:00	245	61									No	No	No
11:00 - 12:00	275	64									No	No	No
12:00 - 13:00	287	67									No	No	No
13:00 - 14:00	325	66									No	No	No
14:00 - 15:00	353	74									No	No	No
15:00 - 16:00	592	68									No	No	No
16:00 - 17:00	780	76									No	Yes	No
17:00 - 18:00	763	86									No	Yes	No
18:00 - 19:00	564	74									No	Yes	No
19:00 - 20:00	386	52									No	No	No
20:00 - 21:00	305	40									No	No	No
21:00 - 22:00	165	23									No	No	No

Notes:

- (1) Volumes must meet either Condition A or Condition B
- (2) Volumes must meet both 80% of Condition A and 80% of Condition B
- (3) Combination of Warrants not applicable because Condition B is met.

Table 5-3B

Warrant #2 - Four Hour Vehicular Volume - Major Street > 40mph
Preliminary Traffic Signal Warrant Study

<u>Traffic Volumes</u>				Meets Four Hour Vehicular Volume
Intersection - Clarksburg Road/Dowitcher Way and Site Driveway	Major Street	Minor Street	Minor Street Volume Required Given Major Street Volume ^{1,2}	
Total Future Traffic Forecasts				
6:00 - 7:00	284	71	265	No
7:00 - 8:00	649	140	115	Yes
8:00 - 9:00	675	107	107	Yes
9:00 - 10:00	410	77	210	No
10:00 - 11:00	245	61	265	No
11:00 - 12:00	275	64	265	No
12:00 - 13:00	287	67	265	No
13:00 - 14:00	325	66	252	No
14:00 - 15:00	353	74	238	No
15:00 - 16:00	592	68	133	No
16:00 - 17:00	780	76	84	No
17:00 - 18:00	763	86	87	Yes
18:00 - 19:00	564	74	143	No
19:00 - 20:00	386	52	222	No
20:00 - 21:00	305	40	262	No
21:00 - 22:00	165	23	265	No

Notes:

(1) From MUTCD Figure 4C-2.

(2) 80 vph applies as the lower threshold volume for a minor-street approach with two lanes

Table 5-4B

Warrant #3 - Peak Hour Volume - Major Street > 40mph
Preliminary Traffic Signal Warrant Study

<u>Traffic Volumes</u>				Meets Peak Hour Vehicular Volume
Intersection - Clarksburg Road/Dowitcher Way	Major Street	Minor Street	Minor Street Volume Required Given Major Street Volume ^{1,2}	
Total Future Traffic Forecasts				
AM Peak Hour	691	141	196	No
PM Peak Hour	831	86	150	No

Notes:

(1) From MUTCD Figure 4C-4.

(2) 100 vph applies as the lower threshold volume for a minor-street approach with two lanes

SECTION 6 CONCLUSIONS

The conclusions of this study are as follows:

1. All study intersections currently operate within the acceptable congestion standard for the Clarksburg policy area (clv or 1,425 or 71 seconds per vehicle for the proposed roundabout at the Clarksburg Road/West Old Baltimore Road intersection), during the weekday AM and PM peak hours.
2. The three (3) pipeline developments are expected to generate 3,525 AM peak hour trips and 4,577 PM peak hour trips upon completion.
3. Under background conditions without the site development, all of the study area intersections and the proposed roundabout would continue to operate at acceptable CLVs and average vehicular delays, during both the AM and PM peak hours.
4. The proposed development is expected to generate 287 AM peak hour and 359 PM peak hour person trips, 185 AM peak hour and 232 PM peak hour auto driver vehicle trips, 7 AM peak hour and 9 PM peak hour transit trips, 17 AM peak hour and 21 PM peak hour non-motorized (bicycle) trips, and 24 AM peak hour and 30 PM peak hour pedestrian trips.
5. Vehicular access to the site is to be provided via a driveway connecting to Clarksburg Road at a point aligning with Dowitcher Way, and via a connection to Old Clarksburg Road that will act as an emergency vehicle access.
6. All of the study intersections and the proposed roundabout would continue to operate with acceptable CLVs and average delays during both the AM and PM peak hours with full buildout of the project and the proposed improvements.
7. Installation of a traffic signal at the Clarksburg Road/Dowitcher Way/Proposed Site Drive intersection is not recommended at this time.
8. The site is served by a connected network of pedestrian and bicycle facilities. Transit service is available as RideOn Route 73 has stops along Clarksburg Road and provides bus service to the Shady Grove Metrorail Station.
9. The proposed site development passes the adequate public facilities LATR tests for the required motor vehicle adequacy.
10. The pedestrian, bicycle and transit adequacy tests are not required as part of this LATR since the site will generate fewer than 50 transit, bicycle, or pedestrian trips during the peak hours.

MEMORANDUM



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TO: Chris Van Alstyne
Transportation Planner
Montgomery County Planning

CC: Stephen Collins
Pulte Home Company, LLC.

FROM: John J. Andrus
Christopher Turnbull
Wells + Associates, Inc.

RE: Creekside at Cabin Branch – Ten Mile Creek - Response to Comments

DATE: January 23, 2020

The following is a point-by-point response to comments on the Creekside at Cabin Branch LATR Dated September 26, 2019, Revised October 17, 2019 received in an e-mail dated December 24, 2019 by Mr. Chris Van Alstyne

Comment 1. On p. 26, “Proposed Roadway Geometrics”, it sounds as though right turn volumes from the site access have been removed from the analysis – please confirm if this is true. Staff does not support the removal of this volume given the speed of Clarksburg Road (40 mph). The analysis should include the full generated volume through the site access for the 3 studied warrants.

Response: The warrant analyses have been revised to include the right turn volumes along with a 2-lane minor street.

Comment 2. The warrant analysis has been conducted prior to the removal of the second site access point onto Old Clarksburg Road; this access point has been altered to be for emergency access only. The analyzed trips (previously estimated at 10%) should be re-routed through the main site access:.

Response: The total (100%) site traffic was assigned to the site driveway – The note on Table 5-1 indicating a 10% reduction was incorrect. The volumes shown in Table 5-1 represented the full 100% of site traffic.

Comment 3. Given the speed of Clarksburg Road (40 mph), Staff requests the adjustment factor for Warrant 1 to be 70% instead of 80%, following warrant guidelines.

WELLS + ASSOCIATES

MEMORANDUM

Response: The speed limit on Clarksburg Road is 40 mph. As such, analyses have been conducted for both 40 mph and over 40 mph and results of both scenarios are reported.

Comment 4. For Warrant 2, the curves from Figure 4C-2 are appropriate given the 40 mph speed of Clarksburg Road, with a volume of 60 for the minor street instead of 80.

Response: As indicated above, analyses have been conducted for both 40 mph and over 40 mph. Additionally, the site driveway was analyzed as a 2-lane roadway, and as such, the minor street minimum volumes are 115 vph for a 40 mph speed and 80 vph for over 40 mph.

Comment 5. Please provide an explanation for the “N/A” listed for traffic volume for the major street column and how this is being addressed for the warrant analysis

Response: The warrant analyses have been revised to reflect hourly major street traffic volumes on Clarksburg Road based on a SHA traffic count collected on June 6, 2018 with 2.5% growth. Also, minor street (site driveway) volumes have been revised to reflect most recent diurnal rates for single family attached units and multi-family townhome units based on 10th Edition ITE Trip Generation rates.

Comment 6. Update overall trip generation rates based on the most recent mix of uses for the Application.

Response: The trip generation has been updated to reflect the most recent mix of uses.

Please feel free to contact John J. Andrus at (301) 971-3419 or Chris Turnbull at (703) 676-3643 if there are any questions or comments regarding the responses presented above.