



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

MCPB No. 21-111
Preliminary Plan No. 12005003A
Linthicum West
Date of Hearing: 09-30-2021

NOV 15 2021

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, in an opinion dated December 20, 2005, the Planning Board approved Preliminary Plan No. 1-050030, creating 253 lots on 165.25 acres of land in the RE-1/TDR 2.0 zone, located in the southeast quadrant of the intersection of Clarksburg Road (MD 121) and West Old Baltimore Road ("Subject Property"), in the Clarksburg Policy Area and 1994 Clarksburg Master Plan ("Master Plan") area; and

WHEREAS, on August 10, 2020, Linthicum West Properties, LLC and U.S. Home Corporation (d/b/a Lennar) ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to convert all 28 approved single-family detached Moderately Priced Dwelling Units ("MPDUs") into single-family attached MPDU dwellings, convert 4 additional market rate units into MPDUs for a total of 32 MPDUs, reduce the park dedication area, and extend the validity period for the original Preliminary Plan as well as validity period for APF on the Subject Property, and Ch. 50 waiver for limited findings for the extension of the validity period for Adequate Public Facilities ("APF"); and

WHEREAS, Applicant's application to amend the original Preliminary Plan, including the waiver for limited findings for the extension of the validity period for APF, was designated Preliminary Plan No. 12005003A, Linthicum West ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated September 20, 2021, setting forth its analysis and

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Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 30, 2021, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 30, 2021, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Verma, with a vote of 4-0; Chair Anderson, Commissioners Cichy, Patterson, and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12005003A to convert all 28 approved single-family detached MPDU dwellings into single-family attached MPDU dwellings, convert 4 additional market rate units into MPDUs for a total of 32 MPDUs as part of the total 253 dwelling units, reduce the park dedication area, extend the validity period for the Preliminary Plan as well as the validity period for APF, and waiver for limited findings for the extension of the validity period for APF on the Subject Property, by revising or adding the following conditions:¹

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) MPDUs and the purchase of up to 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 7 years and 4 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.

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

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.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect except as stated above.

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

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, except as stated above, and all findings not specifically addressed below remain in effect.

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 portion of the Property bounded by Street A. 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 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.

2. Chapter 22A, Forest Conservation.

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

The Subject Property contains environmental features as delineated in the approved PFC. The Subject Property is located within the Little Seneca Creek watershed, classified by the State of Maryland as Use I-P watershed; 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.iii(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 ²	311	282	90.7%	+29	No UPP	114	131	144
Neelsville MS	1,190	983	82.6%	+207	No UPP	333	445	624

² 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.

Seneca Valley HS	2,581	2,546	98.6%	+35	No UPP	215	552	939
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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.

4. Waiver of 50.4.3.J.7.c

The Applicant, as expressed in the Statement of Justification, requests a waiver 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.*

In particular, the Applicant is requesting a waiver of the requirement that at least 50 percent of the subdivision be issued building permits before the extension request is filed.

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;*

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 original Preliminary 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 as required by Section 50.4.3.J.7.c of the Subdivision Regulations. 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, all local roadways continue to operate well within LATR congestion thresholds – there will be no undue or unexpected impact on the public transportation system, there is adequate local school capacity, and a

new WSSC water pumping station constructed adjacent to the Subject Property 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 is for an exclusively residential subdivision and 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 the 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 will not be adverse to the public interest, and it meets the intent 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, and the Waiver is granted.

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 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 original 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.

(e) If the remaining unbuilt units would generate more than 10 students at any school serving the development, the Board must make a new adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of Board review.

A new school adequacy test was performed for this Application as detailed above in Section 3 of the findings. As determined in the analysis, 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.

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.*

A portion of this section, dealing with the requirement to have permits for at least 50% of the subdivision, is waived under the concurrently approved Ch. 50 Waiver request for Linthicum West. As noted as part of the Waiver discussion above, this Application meets the remaining portions of 50.4.3.J.7.c, and in particular section (ii) because 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. Extension of 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 Preliminary 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. 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 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 outlining the validity extension request and the necessary justifications. As mentioned, the Applicant justified the request primarily based on 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.

The Board does not 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.*

The Board does not require that additional information on the feasibility of the project be required. However, additional minor modifications to the site design are requested 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 a public hearing before the Board was held on September 30, 2021 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. The Board 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.


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 18 2021 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy, Patterson, and Verma voting in favor of the motion, and Commissioner Rubin abstaining at its regular meeting held on Thursday, November 4, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board