

Montgomery Planning
LINTHICUM WEST
SITE PLAN NO. 820210010



Description

Request to construct two hundred and fifty-three (253) residential units, including thirty-two (32) MPDU's (12.6%) with associated amenities and parking.

No. 820210010

Completed: 2-18-2022

MCPB

Item No. 3
3-3-2022

2425 Reddie Drive
Floor 14
Wheaton, MD 20902

Montgomeryplanning.org

Linthicum West, Site Plan No. 820210010

RS
JS
SP
PB

Ryan Sigworth AICP, Planner II, Upcounty Planning, Ryan.Sigworth@Montgomeryplanning.org 301-495-2112

Jeff Server, Planner Coordinator, Upcounty Planning, jeffery.Server@Montgomeryplanning.org, 301-495-4513

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

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

LOCATION

14222 West Old Baltimore Road

MASTER PLAN/ZONE

1994 Clarksburg Master Plan & Hyattstown
Special Study Area

RE-1 with TDR-2 Overlay Zone

PROPERTY SIZE

165.25 acres

APPLICANT

Linthicum West Properties, LLC and U.S.
Home Corporation (d/b/a Lennar)

ACCEPTANCE DATE

November 3, 2020

REVIEW BASIS

Chapters 59, 22A and 19



Summary:

- Staff recommends **approval with conditions**
- The Application constructs 253 total dwelling units (221 single-family detached and 32 one-family attached) with associated public streets, open spaces, and recreational amenities.
- Constructs a 10-foot-wide shared use path along Clarksburg Road/MD 121 to facilitate better access to Black Hills Regional Park.
- Dedicates no less than 86 acres of land to M-NCPPC Parks Department for an extension of the Black Hills Regional Park.
- Provides several amenities including a centralized green space, playground area, and trailhead connection to Black Hills Regional Park.
- Acquires 56 TDRs to allow for higher densities than allowed by the base zoning on the Subject Property and preserve farmland within TDR sending areas elsewhere in the County.
- Reviewed under standards and procedures of the Zoning Ordinance in effect before October 30, 2014.
- Staff has received no community correspondence on this application.

TABLE OF CONTENTS

SECTION 1..... 3

SECTION 2..... 11

 Site Location and Vicinity..... 11

SECTION 3..... 14

 Previous Approvals 14

 Current Application..... 14

SECTION 4..... 15

SECTION 5..... 38

SECTION 6..... 38

SECTION 1

Recommendation and conditions

SITE PLAN NO. 820210010:

Staff recommends approval of Site Plan 820210010. The development must comply with the conditions of approval for Preliminary Plan No. 120050030 and Preliminary Plan No. 12005003A, as listed in the Planning Board Opinion dated December 20, 2005 and MCPB Resolution No. 21-111 dated November 15, 2021, respectively. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.¹

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum of 253 total units including 32 MPDUs on the Subject Property.

2. Height

The development is limited to a maximum height of 50 feet, as measured from the building height measuring points, as illustrated on the Certified Site Plan.

3. Transfer of Development Rights (TDRs)

- a. Prior to the recording of any record plat, the Applicant must acquire 56 TDRs for the development.
- b. The record plat(s) must reflect serialization and book/page reference for all TDRs used by the development.

4. Moderately Priced Dwelling Units (MPDUs)

- a. The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated January 25, 2022 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
- b. The development must provide 12.6 percent MPDUs or MCDHCA approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
- c. Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

Green Space, Facilities and Amenities

¹ For the purposes 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.

5. Common Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 103 acres of open space (92% of net lot area) on-site.
- b. Before the final inspection for residential units, all public space areas on the Subject Property must be completed on the following schedule as shown on the Certified Site Plan:
 - i. Prior to final inspection of the 125th residential unit, the central green located on Parcel E and Parcel L including but not limited to the pavilion, bike racks, garden areas, and terracing must be completed.
 - ii. Prior to final inspection of the 150th residential unit, the playground area shown on Parcel D including all playground equipment, benches, and landscaping must be completed.
 - iii. Prior to final inspection of the 200th residential unit, the Trail Head at the end of 'Street G4' must be completed.
 - iv. Prior to final inspection of Units #48-52, Block A, the Green Space located between Units #49 and #50, Block A must be completed.
 - v. Prior to final inspection of the 200th residential unit, the natural surface trail and any associated features must be completed.

6. M-NCPPC Department of Parks

- a. The Applicant must convey to the Maryland-National Capital Park & Planning Commission ("Commission") a minimum of 86 acres of future M-NCPPC parkland ("Park Dedication Parcel(s)") as identified on the "Parkland Conveyance Exhibit" in accordance with Condition #11 of Preliminary Plan #12005003A.
 - i. Prior to issuance of the 50th building permit, the Record Plat that includes the Park Dedication Parcel(s) must be recorded and an executed deed for the Park Dedication Parcel(s) to be conveyed to the Commission, in a form approved by the Commission's Office of General Counsel, must be provided to the Commission.
 - ii. The Commission will hold the deed in escrow until all construction on the Park Dedication Parcel(s) is complete and all conditions of the Park Construction Permit(s) have been completed and accepted by the Commission, at which time the deed will be recorded in the land records to transfer title of the Park Dedication Parcel(s) to the Commission.
 - iii. Prior to Commission recordation of the deed and release of the Park Construction Permit (i.e. after completion of activity pursuant to the permit), the Park Dedication Parcel(s) must be free of trash and unnatural debris with the boundaries adequately marked and signed to delineate between park and private properties. Location and design of boundary markers and signs to be approved by M-NCPPC, Montgomery County Department of Parks staff.

- b. Any construction activity on the Park Dedication Parcel requires an approved Park Construction Permit, including but not limited to:
 - i. All facilities to be constructed by the Applicant must be acceptable to M-NCPPC Montgomery County Department of Parks staff and must meet or exceed the Department's design standards and specifications.
 - ii. Grading within the approved Limits of Disturbance (LOD) shall be coordinated between M-NCPPC Montgomery County Department of Parks staff and the Applicant to accommodate future park uses, eliminate maintenance expectations by future HOA (Homeowners Association), and avoid environmentally sensitive features and buffers.
 - iii. Graded slopes on the Park Dedication Parcel(s) shall not exceed 3:1.
 - iv. Landscape design and vegetative plantings shall meet M-NCPPC, Montgomery County Department of Parks standards, specifications, and native species requirements. Newly graded areas will not be accepted until sufficient permanent vegetative stabilization is achieved. Areas of afforestation/reforestation plantings will not be accepted until the required maintenance period is complete and deer fencing removed.
 - v. Ensure stable conveyance of proposed discharges from stormwater outfalls located on and directed towards the Park Dedication Parcel(s).
 - (1) No stormwater management facilities shall be located on the Park Dedication Parcel(s).
 - (2) Public storm drain structures may be allowed on the Park Dedication Parcel(s) within County easements, as approved in this Site Plan and the Park Construction Permit.
 - (3) Avoid overflow discharges onto steep slopes.
 - (4) Ensure that any overflow occurs as sheet flow to the floodplain and/or receiving streams.
 - (5) Manage discharges from stormwater outfalls using step-pool storm drainage conveyance systems or comparable designs, as appropriate.
 - (6) Minimize environmental buffer impacts associated with ESD (Environmental Site Design) overflow outfalls.
 - (7) Minimize the need to convey stormwater across steep slopes, ensuring such conveyance is done in a nonerosive manner.
 - vi. Park Dedication Parcel(s) trail alignments and design standards must be met, including meeting ADA requirements within the Park Dedication Parcel(s).
- c. Multiple Park Construction Permits may be issued throughout the Application and for the Park Dedication Parcel(s) and may be flexible for consistency with the Applicant's land development phasing and permitting requirements from other agencies.
- d. Changes may be made to the approved Limits of Disturbance (LOD), the location of facilities on the Park Dedication Parcel(s), and to specific details during the Park Construction Permit review at the direction of the Park Development Division without requiring an amendment to the Site Plan.

7. Recreation Facilities

The Applicant must provide the minimum required recreation facilities as shown on the Certified Site Plan.

8. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities within HOA parcels including, but not limited to landscaping, benches, retaining walls, stairways, bike racks, playground equipment, trash cans, lighting, fences, mailboxes, walkways and other hardscapes.

Site Plan

9. Site Design

- a. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, as determined by M-NCPPC Staff.
- b. The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units shown on the submitted architectural drawings, as determined by M-NCPPC Staff.

10. Lighting

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

Environment

11. Forest Conservation

- a. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan ("FFCP"). Tree-save measures not specified on the

Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.

- c. Prior to the start of any demolition, clearing, grading, or construction for this development Application, whichever comes first, the Applicant must record a Category I Conservation Easement over the area of 2.54 acres of forest retention located along West Old Baltimore Road, east of the main entry drive at Street 'A' and north of Lots 1-6, Block A. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
- d. Prior to the installation of the natural surface trail through Parcel 'I', the Applicant must schedule a pre-construction meeting with M-NCPPC Forest Conservation Inspection Staff to field locate the alignment of the trail.
- e. Prior to the start of any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on Sheet 4 of 12 of the approved FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- f. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 2.04 acres of new forest planting, variance mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FFCP.
- g. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FFCP. The MMA includes invasive species management control measures. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands. The use of herbicides should be avoided where possible.
- h. The Applicant must install the Reforestation plantings for Planting Area A, as shown on the approved FFCP, in the first planting season following stabilization of the surrounding disturbed area.
- i. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 61.75 caliper inches as shown on the approved FFCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
- j. The Applicant must install the variance tree mitigation plantings as shown on the FFCP within the first planting season following the release (i.e., completion of activity pursuant to the permit) of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- k. The Applicant must address all outstanding Staff comments on the FFCP prior to submittal of the Certified FFCP.

- l. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FFCP.

Transportation & Circulation

12. Pedestrian & Bicycle Circulation

- a. Prior to the specified development triggers below, the Applicant must construct the following master planned pedestrian and bicycle facilities. The exact location, design and construction of which must comply with the requirements set forth by the Maryland State Highway Administration (“SHA”):
 - i. Prior to issuance of the 175th building permit, the Applicant must construct a 10-foot-wide shared use path, as shown on the Certified Site Plan, along the property frontage with MD 121 from the traffic circle with Old Baltimore Road to the southwestern property boundary, subject to an approved SHA access permit.
 - ii. Prior to the issuance of the 175th building permit, The Applicant must construct, in the approximate location shown on the Certified Site Plan, a 10-foot-wide path within the Park Dedication Parcel that connects the shared use path along MD 121 with Street A, subject to an approved Park Construction Permit.

13. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated November 17, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

14. Private Roads

The Applicant must provide Private Alleys #1, #2, #3, #4, and #5, including any sidewalks, bikeways, storm drainage facilities, street trees, streetlights, private utility systems and other necessary improvements as required by this Site Plan within the delineated private road area (collectively, the “Private Road”), subject to the following conditions:

- a. The Private Alleys must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq. The Covenant includes, but is not limited to the following requirements/conditions:
 - i. The Applicant, at its expense, shall design, construct and maintain the Private Alleys.
 - ii. The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Alleys and all improvements located within the Private Alley, in good condition and repair for safe use and operation of the Private Alley. The Applicant must maintain a commercially reasonable budget (operating

and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The reserves must be adequate to cover the costs of needed repairs.

- iii. The Applicant must post and retain signage to notify the public that the Private Alleys are not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Alleys.
- b. Before issuance of the first building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed.

15. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with 59-D-3.5(d) of the Montgomery County Zoning Ordinance in effect prior to October 29, 2014, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and streetlights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

16. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated November 9, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Site Plan approval.

17. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in its letter dated January 25,

2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Site Plan approval.

18. The Planning Board has reviewed and accepts the recommendations of the MCDPS – Water Resources Section in its stormwater management concept letter dated December 17, 2021 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Site Plan approval.

19. Development Program

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

20. Certified Site Plan

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

- a. Include the stormwater management concept approval letter, approved Fire Department Access Plan, development program, Planning Board Opinion dated December 20, 2005 for Preliminary Plan No. 120050030, Planning Board Resolution dated November 15, 2021 for Preliminary Plan No. 12005003A, and Site Plan resolution on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
- c. Add a note stating that “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.
- f. Modify the data table to provide the exact density provided by the Application.
- g. Provide two additional play equipment structures for the playground in Block D, as approved by Staff.
- h. Provide landscape design, including canopy trees, shrubs and herbaceous plantings, integrated with nature-based play equipment, such as boulders, on Parcel L, between units 49 and 50, as approved by Staff.

SECTION 2

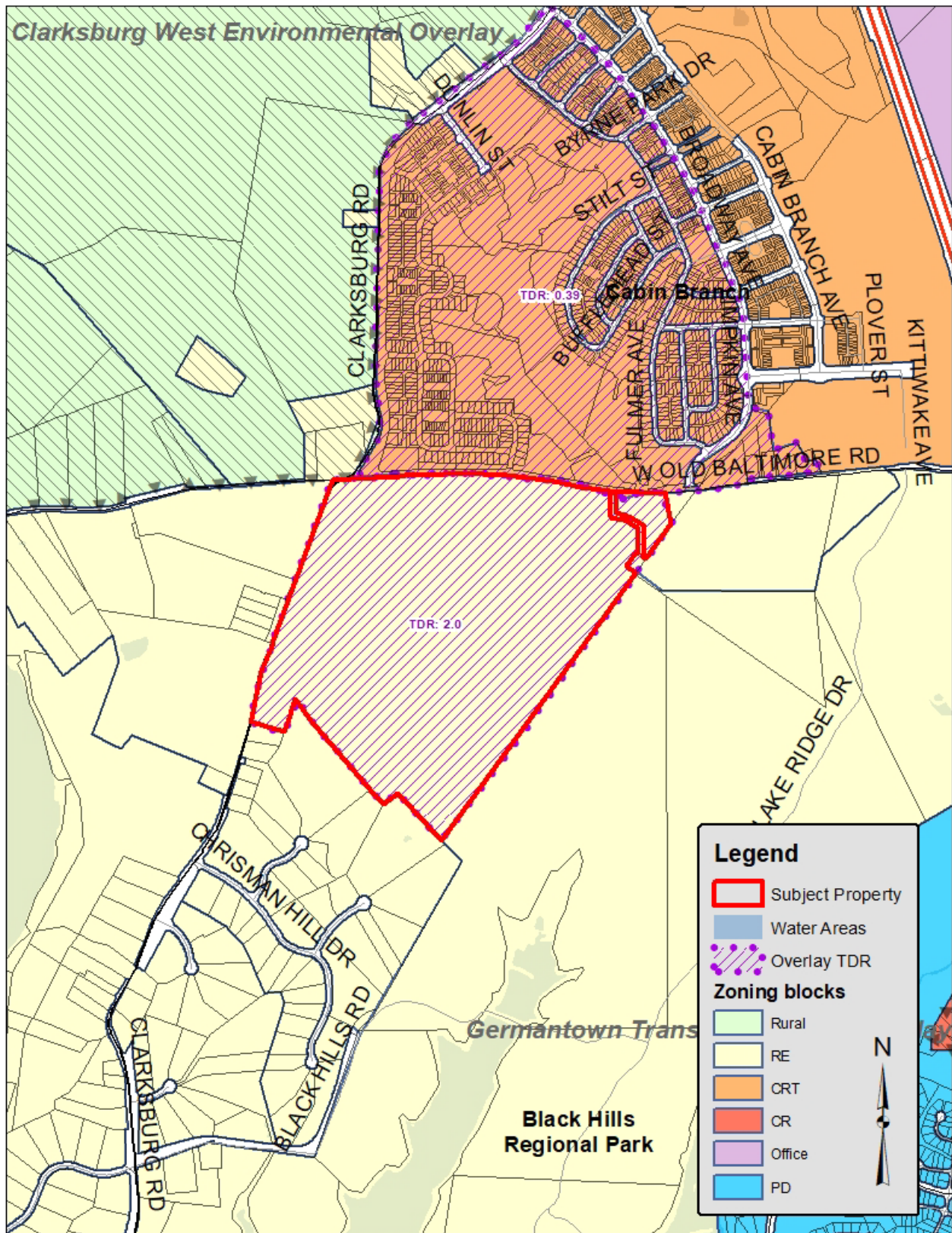
SITE LOCATION & DESCRIPTION

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.

The Subject Property contains 32.89 acres of high priority existing forest separated into ten (10) distinct forest stands. The Property contains three (3) perennial streams and one (1) intermittent stream. The main stem of the perennial Cabin Branch stream flows southeast across the extreme northeast corner of the Property. A perennial tributary to the Cabin Branch stream flows southeast from the center of the Property, south of the existing farmstead and continues offsite. An intermittent stream begins at a wetland to the west of the perennial stream and flows into the perennial stream. Along the southern property line, the third perennial tributary to the main Cabin Branch stream originates within the forest stand along the southern property line and flows to the east generally parallel to the southern property line, flowing offsite and joining the main stem of the Cabin Branch stream. The Subject Property also contains 1.12 acres of wetlands.



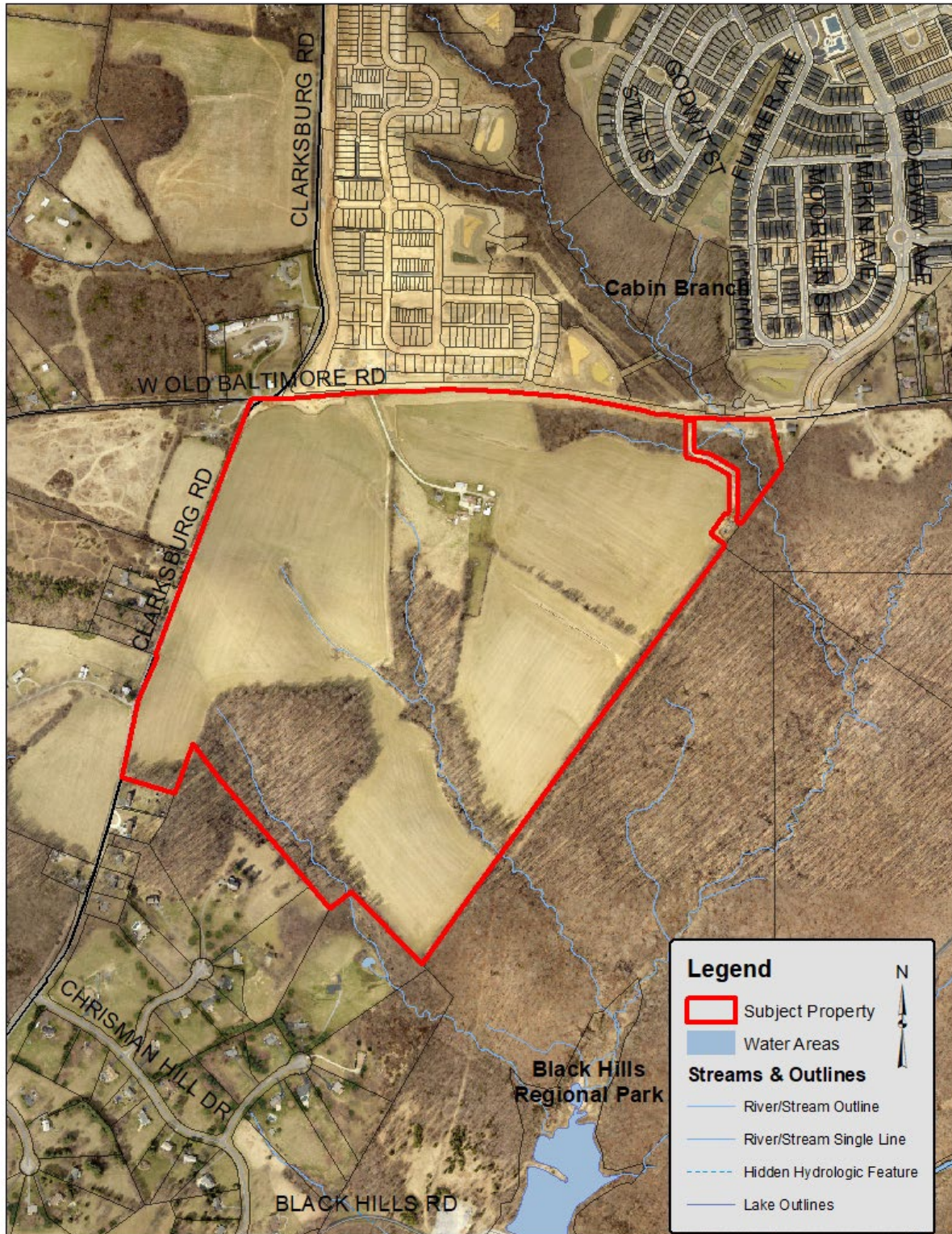


Figure 2 – Aerial View

SECTION 3

APPLICATIONS AND PROPOSAL

PREVIOUS APPROVALS

Preliminary Plan 120050030

On December 20, 2005, the Planning Board approved Preliminary Plan 120050030 for 253 lots for 253 one-family detached residential dwelling units, including 28 MPDUs and the purchase of 60 Transferable Development Rights (TDRs) on 165.25 acres in the RE-1/TDR-2 zone (Attachment 5). This preliminary plan also included the dedication of 91.72 acres of land to the Maryland-National Capital Park and Planning Commission, Parks Department.

The Preliminary Forest Conservation Plan (“PFCP”) was approved by the Planning Board during its review of this preliminary plan. The PFCP showed the Net Tract Area of 159.63 acres which consisted of the overall property size of 165.25 acres minus a right-of-way deduction for West Old Baltimore Road of 5.62 acres. The PFCP also proposed to retain 30.70 acres of existing forest on the Subject Property.

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.

Preliminary Plan 12005003A

On September 30, 2021, the Planning Board approved Preliminary Plan Amendment 12005003A to convert all 28 approved single-family detached MPDUs into single-family attached MPDU dwellings and convert 4 additional market rate units into MPDUs to increase the total amount of MPDUs to 32, modify the condition of approval to reduce the amount of park dedication to no less than 86 acres (“Park Dedication Parcel”), and extended the validity period for the Preliminary Plan and Adequate Public Facilities (Attachment 6).

CURRENT APPLICATION

Site Plan 820210010

The Applicant proposes to construct 221 Single Unit Living structures and 32 one-family attached (duplex) MPDUs for a total of 253 dwelling units with associated open spaces, recreation facilities, and master plan recommended improvements (“Application”). As part of the Application, new public streets will be constructed to serve all dwelling units. The Application is constituent with Preliminary Plan 12005003A in dedicating a Park Dedication Parcel contained on the Subject Property to M-NCPPC Parks Department for expanding Black Hill Regional Park.



Figure 3 – Site Plan Rendering

SECTION 4

ANALYSIS AND FINDINGS, 50.4.2.D

1. *THE SITE PLAN CONFORMS TO ALL NON-ILLUSTRATIVE ELEMENTS OF A DEVELOPMENT PLAN OR DIAGRAMMATIC PLAN, AND ALL BINDING ELEMENTS OF A SCHEMATIC DEVELOPMENT PLAN, CERTIFIED BY THE HEARING EXAMINER UNDER SECTION 59-D-1.64, OR IS CONSISTENT WITH AN APPROVED PROJECT PLAN FOR THE OPTIONAL METHOD OF DEVELOPMENT, IF REQUIRED, UNLESS THE PLANNING BOARD EXPRESSLY MODIFIES ANY ELEMENT OF THE PROJECT PLAN.*

The Subject Property is not subject to a development plan, diagrammatic plan, project plan, or any binding elements of a schematic development plan certified by the Hearing Examiner under Section 59-D-1.64 of the Zoning Ordinance in effect prior to October 29, 2014.

2. THE SITE PLAN MEETS ALL OF THE REQUIREMENTS OF THE ZONE IN WHICH IT IS LOCATED AND WHERE APPLICABLE CONFORMS TO AN URBAN RENEWAL PLAN APPROVED UNDER CHAPTER 56;

Since Preliminary Plan No. 120050030 was approved by the Planning Board on March 31, 2005 under the previous Zoning Ordinance, this Application qualifies for the grandfathering provisions contained within Section 59.7.6.1.B.1 of the Zoning Ordinance currently in effect:

“B. Application Approved or Filed for Approval before October 30, 2014

1. *Application in Progress before October 30, 2014*

*Any development plan, schematic development plan, diagrammatic plan, concept plan, project plan, sketch plan, **preliminary plan**, record plat, site plan, special exception, variance, or building permit filed or approved before October 30, 2014 must be reviewed under the standards and procedures of the property’s zoning on October 29, 2014, unless an applicant elects to be reviewed under the property’s current zoning. Any complete Local Map Amendment application submitted to the Hearing Examiner by May 1, 2014 must be reviewed under the standards and procedures of the property’s zoning on October 29, 2014. If the District Council approves such an application after October 30, 2014 for a zone that is not retained in Chapter 59, then the zoning will automatically convert to the equivalent zone as translated under DMA G-956 when the Local Map Amendment is approved. **The approval of any of these applications or amendments to these applications under Section 7.7.1.B.1 will allow the applicant to proceed through any other required application or step in the process within the time allowed by law or plan approval, under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. The gross tract area of an application allowed under Section 7.7.1.B.1 may not be increased.***

These grandfathering provisions allows this Application to be reviewed under the development standards in effect on October 29, 2014 because the original Preliminary Plan 120050030 was approved in December of 2005 and is still valid.

a. **Use Standards**

RE-1 Zone

Under Section 59-C-1.31 of the Zoning Ordinance in effect prior to October 29, 2014, One-Family Detached Dwellings are a permitted land use in the RE-1 zone. Under Section 59-C-1.61 One-Family Semidetached Dwellings (duplexes) are a permitted under the optimal method of development as moderately priced dwelling units (MDPUs) “in order to facilitate the construction of those units” as long as such a development is served by public sewer (Section 59-C-1.62, Footnote #8).

This Application does propose all One-Family Semidetached dwellings to be provided as MPDUs. Furthermore, the Application in its entirety will be served by public sewer service. Therefore, these use standards are satisfied.

Transferable Development Rights (“TDR-2’) Overlay Zone

The TDR-2 overlay zone allows for additional density up to 2 dwelling units per acre using the R-200 MPDU standards in Section 59-C-1.395. TDRs must be purchased for all market rate units proposed above the base density. MPDUs are excluded from the calculations. Thus, for the Application, the TDR calculations are as follows:

Gross Tract Area	165.25 acres	
Zoning	RE-1/TDR-2	
Base Density (RE-1 optional method)	165 units	= 165.25 acres x 1 du/acre
Max. Density with TDR’s (TDR-2 Overlay)	330 units	= 165.25 acres x 2
Maximum TDRs allowed	165 TDRs	= 330 - 165
Minimum number of TDRs required	109 TDRs	= 2/3 x 165
Total Number of Units proposed	253 units	
Minimum MPDUs required (12.5%)	32 MPDUs	= 253 units x 0.125
Number of Market Rate units proposed	221 units	= 253 – 32
Number of Market Rate Units above Base Density	56 units	= 221 – 165
Number of TDR’s proposed	56 TDRs	

The Planning Board approved of Preliminary Plan No. 120050030 in March of 2005. At that time, the Board utilized the provision in Section 59-C-1.393 allowing for a density that was lower than the maximum allowed by the Overlay Zone, which allowed for the purchase of fewer than the 2/3rds of TDRs typically required. This reduction was allowed for: the protection of environmentally sensitive resources, such as steams, stream buffer, steep slopes; dedication of future Parkland; and compatibility with the surrounding rural setting. The lower density proposed is more appropriate for this Property given the existing environmental resources and extensive area of Parkland dedication, which combined effectively decrease the usable area for the development. The Applicant is proposing 56 market rate units above the base density, which is equivalent to 56 TDRs. As conditioned, the Applicant is required to acquire 56 TDRs to account for the proposed density, which will allow for the preservation of farmland within TDR sending areas elsewhere in the County. Therefore, the Application meets the requirements of the Overlay Zone.

b. Development Standards

As permitted, the Applicant has requested that the Applicant be reviewed under the development standards of the Zoning Ordinance in effect prior to October 29, 2014. The Application is consistent with approved Preliminary Plan No. 1200050030 and Preliminary Plan No. 12005003A as well as satisfies the applicable development standards as shown in the following data table:

Table 1 – Development Data Table

Development Data			
Zoning	RE-1/TDR-2 (reviewed under the Zoning Ordinance in effect prior to 10/29/2014)		
Site Area	165.25 acres		
Uses	Permitted (as allowed by Zoning Ordinance in effect on October 20, 2014)	Approved with Preliminary Plan Amendment	Proposed with Site Plan
Residential			
Single-Family Detached	330 (less with MPDU's)	221	221
Two-Family Attached (Duplex MPDU)	Up to 76	32	32
MPDU's	30% (76 MPDUs) ²	32	32 (12.6%)
Total Dwelling Units	330	253	253
Total Density	2.00 DUs/acre	1.55 DUs/acre	1.55 DUs/acre
Max. Building Height	50 feet	N/A	40 feet
Lot Area (min)			
Single-Family Detached	6,000 sf	6,000 sf	6,000 sf
Duplex	3,500 sf	3,500 sf	3,500 sf
Min. Lot Width at Front Building Line			
Single Family Detached	Determined at Site Plan	Determined at Site Plan	50 ft.
Duplex	Determined at Site Plan	Determined at Site Plan	27.5 ft.
Min. Lot Width at Front Lot Line			
Single Family Detached	25 ft.	25 ft.	50 ft.
Duplex	25 ft.	25 ft.	27.5 ft.
Frontage on Street or Open Space	Required	Required	Provided
Lot Coverage (max)	N/A	N/A	N/A

² Section 59.4.4.6.D allows the maximum of 30% of duplex or townhouse building types in an optional method MPDU Development.

Parking Requirements (min)			
	Metric	Required	Provided
	Rate		
Residential			
One-family detached	2.00 spaces/dwelling unit	442	884
Two-family attached	2.00 spaces/dwelling unit	64	64
Residential Subtotal		506	948
On-Street visitor			300 ³
Open Space			
Open Space	20% (22.27 acres)	Required: 20% (22.27 acres)	92% (103.3 acres)
Green Area (per lot)			
Single-family detached (SFD)	N/A	N/A	N/A
Two-family attached (SFA)	N/A	N/A	N/A

3. *THE LOCATIONS OF BUILDING AND STRUCTURE, OPEN SPACES, LANDSCAPING, RECREATION FACILITIES, AND PEDESTRIAN AND VEHICULAR CIRCULATION SYSTEMS ARE ADEQUATE, SAFE, AND EFFICIENT;*

LOCATION OF BUILDINGS AND STRUCTURES

As conditioned, the location of buildings and structures is adequate, safe, and efficient. The single-family detached and MPDU duplex dwelling units are positioned to provide activation along the streets. The proposed dwelling units are positioned such that the front façades are aligned and extend parallel to the streets that they front, thus providing opportunities to frame the street, create an articulated edge to the street, and make the units easily accessible with access to the sidewalks. The rear-loaded single-family detached and MPDU duplex dwelling units (Figure 3) are primarily located near the front of the development, closer to West Old Baltimore Road, and are circulated by Street 'A' within the Subject Property. The front-loaded dwelling units vs rear-loaded dwelling units are provided at a ratio of approximately 1:1 (127 front-load units vs 126 rear-load units). Most of the front-loaded units are located toward the rear of the development on the outer perimeter of Street 'D' within the Subject Property.

The Application conforms to the 1994 *Clarksburg Master Plan & Hyattstown Special Study* ("Master Plan") by clustering housing away from MD 121 "so that it does not obstruct the vista from MD 121" (Page 69). The Application places this residential housing cluster in the exact spot recommended in the Cabin Branch Neighborhood Land Use Plan (Page 65, Figure 4) in the Master Plan. In addition, the Application meets the recommended "minimum of 85 percent detached units" (Page 69) by providing 87 percent detached units.

³ On-street parallel parking on public roads is subject to MCDOT and DPS-ROW review and approval at ROW permit.

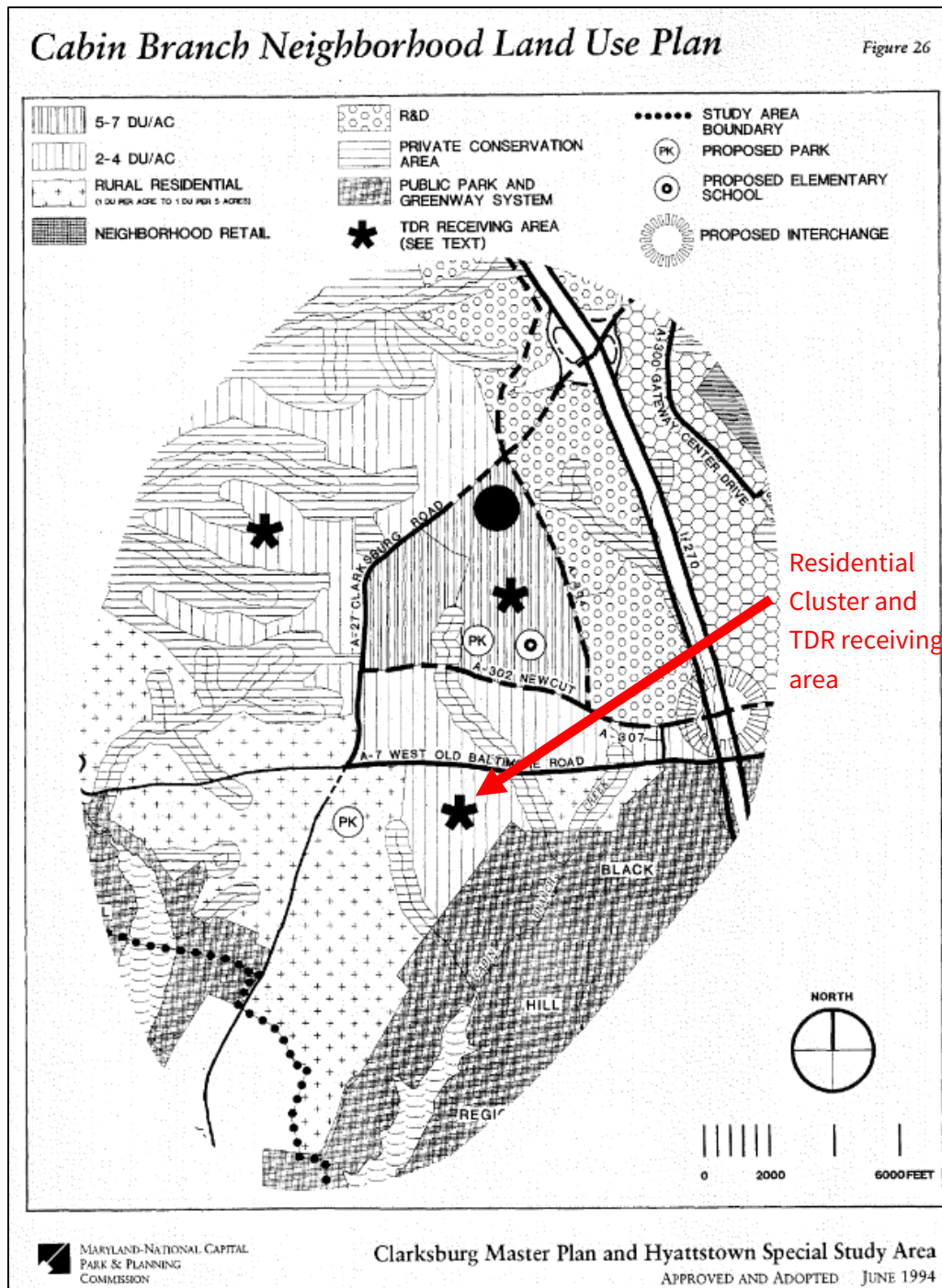


Figure 4 – Cabin Branch Neighborhood Land Use Plan

All of the proposed dwelling units are well articulated on the facades and the roof to provide visual interest along the interior streets, while still providing a driveway parking pad site to park at least one car outside of the public sidewalks and incorporate a green panel with street trees. The material palette for the proposed dwelling units varies based on the different models for the front-loaded, rear-loaded, or MPDU duplex units. In general, the base of the dwelling units is masonry, featuring either brick or stone, with horizontal or vertical lap siding or a mixture of lap siding and

wood shingles, and a mix of predominantly gabled roofs, with some units incorporating minor hips at gable ends. Front entries, from the lead walkway, are located at a front porch incorporating columns and shed roofs, while the MPDU duplex units include paired and matched front entries with a single shed roof to match the single-family detached dwelling units. Additionally, the MPDU duplex dwelling units provide a similar massing to the single-family detached dwelling units to provide visual and aesthetic compatibility for the architecture of the residences.

Development of this Site Plan does require the use of retaining walls to create usable grade at some locations. The retaining walls are primarily located at the front of selected lots along Street 'A', Street 'F', and Street 'K' and range from approximately one to two feet in height. Due to the visibility and prominent location at the front of the selected lots, the retaining walls incorporate masonry enhancements to soften the impact, while visually connecting the retaining walls to the architecture and site design.



Figure 5 – Front Character Elevations for Rear-loaded Single-Family Detached Dwelling Units



Figure 6 – Front Character Elevations for Front-loaded Single-Family Detached Dwelling Units



Figure 7 – Front Character Elevation for MPDU Duplex Dwelling Units

LOCATION OF OPEN SPACES, LANDSCAPING, AND RECREATION FACILITIES

Open Spaces and Green Area

The location of the open spaces is adequate, safe, and efficient. The Application conforms to the Master Plan by preserving large, contiguous areas of open space, which do not preclude continued agricultural activities (Page 69), while also dedicating significant Park Dedication Parcel(s) to transition from agricultural activities to a County-owned park with related programming and activities (Page 69).

In the RE-1 zone, the Green Area requirement for individual lots is not applicable. The Application is required to provide 20% of usable area, approximately 22.27 acres, for Open Space. This Site Plan exceeds the required amount of Open Space within the Property tract by providing 92%, approximately 103.3 acres. The largest area of Open Space is the Park Dedication Parcel of dedicated parkland of no less than 86 acres, including trails, that encompasses the Subject Property to south, east, and west. Within the residential development, the primary open spaces include the central green, a playground, an enhanced trailhead area, additional open lawn and play areas, and a fitness loop. There is also available open space from the setbacks between the different buildings, streets, and areas along the pedestrian walkways and sidewalks, all of which provide locations for landscaping and greenery.

Recreation Facilities

The location and quantity of provided recreation facilities is adequate, safe, and efficient. Construction of 253 new dwelling units requires the Site Plan to meet the 2017 Approved and Adopted Recreation Guidelines. Consistent with the Guidelines, the Site Plan supplied recreation amenities to meet the recreation demand. Table 2, below, illustrates the amount of recreation demand the Site Plan generates.

Proposed Residential Project - Units by Type and their Demand Points								
Code	Housing Type	Quantity	Tots	Children	Teens	Young Adults	Adults	Seniors
Mid-Rise	Multiple-Family, 4 stories or less	0	0	0	0	0	0	0
TH	Townhouses and Single-Family attached	32	4.48	7.04	5.12	16.96	23.36	3.52
SFD	Single-Family Detached	221	33.15	77.35	77.35	59.67	161.33	30.94
Hi-Rise	Multiple-Family, 5 stories or more	0	0	0	0	0	0	0
Total Demand Points =		253	37.63	84.39	82.47	76.63	184.69	34.46

To satisfy the recreation demand, the Applicant has proposed numerous outdoor recreation amenities, as shown in the supply table (Table 3). The primary recreational amenity is the central green, which will serve as the entrance and focal point for the proposed development. The central green area will include a pavilion, a terraced garden area, a fire pit area, and picnic and seating areas. There will be additional recreational amenities provided such as a playground, enhanced trailhead area, additional open lawn and play areas, and a fitness loop. As conditioned, the Applicant will provide landscape design, including canopy trees, shrubs and herbaceous plantings, integrated with nature-based play equipment on Parcel L, between units 49 and 50, to supplement amenities provided for the younger age groups. The Applicant will be dedicating a Park Dedication Parcel as conditioned in Preliminary Plan 120050030 and Preliminary Plan 120005002A as parkland, which can be used for passive and active recreation purposes and will be connected to the Subject Property and Black Hill Regional Park at multiple locations. All residents will have access to all amenities regardless of whether they live in a single-family detached or duplex dwelling unit.

Table 3

Proposed Onsite Recreation Facilities and their Supply Points								
Recreation Facility	Quantity	% Bonus Points	Tots	Children	Teens	Young Adults	Adults	Seniors
Linthicum West Special Park	1	10.00%	7.70	9.90	20.90	15.40	15.40	15.40
Linthicum West Pavilion	1	0%	1	5	15	12	12	10
Linthicum West Camp Fire Feature	1	0%	0	5	10	7	7	5
Linthicum West Informal Lawn	1	0%	3	5	17	14	14	12
Linthicum West Trailhead Decking	1	10.00%	7.70	9.90	20.90	15.40	15.40	15.40
Pedestrian Connection - Trail System	1	10.00%	4.14	18.57	13.61	12.64	30.47	3.79
Fitness Trail	1	0%	0	8	12	14	14	7
Open Grass Area Lawn - Small (5,000 sf)	2	0%	6	8	18	18	18	6
Open Grass Area Lawn - Large (10,000 sf)	1	0%	6	9	15	20	15	6
Natural Area	1	10.00%	2.07	4.64	9.07	8.43	20.32	1.90
Playground (Age 5-12) [Play Area]	1	0%	0	9	3	2	4	2
Picnic/Seating	4	0%	4	4	6	12	12	12
Outdoor Fitness Station	1	0%	0	0	3	3	2	2
Terraced Garden Area	2	0%	4	4	4	4	4	4
Stairs, Steps and Railings	1	0%	0	3	4	5	5	4
Total Onsite Supply Points=			45.61	103.01	171.48	162.87	188.59	106.49

Although the proposed recreation amenities fully meet the recreational demand for the development proposed, Table 4, below, demonstrates that the proposed Site Plan is eligible to claim the maximum 35% of Total Demand Points from an offsite trail system and woodland area located next to the Subject Property.

Table 4

Existing Offsite Park Facilities and their Supply Points							
Park Facility	Quantity	Tots	Children	Teens	Young Adults	Adults	Seniors
Trail System	1	3.76	16.88	12.37	11.49	27.70	3.45
Woodland	1	1.88	4.22	8.25	7.66	18.47	1.72
Total Offsite Supply Points:		5.64	21.10	20.62	19.16	46.17	5.17
35% of Total Offsite Supply Points:		1.98	7.38	7.22	6.71	16.16	1.81
Max Allowed Pts (35% of Total Demand Pts):		13.17	29.54	28.86	26.82	64.64	12.06
Actual Assigned Offsite Supply Pts:		1.98	7.38	7.22	6.71	16.16	1.81

Table 5, below, demonstrates that the proposed recreation supply both onsite and offsite is adequate to meet the recreation demand, therefore the recreation facilities provided are adequate for this Site Plan.

Table 5

Results: Demand, Supply & Adequacy					
Age Group	Total Demand Points	Offsite Supply Points	Onsite Supply Points	Total Supply Points	Adequacy
Tots	37.63	1.98	45.61	47.59	Adequate
Children	84.39	7.38	103.01	110.39	Adequate
Teens	82.47	7.22	171.48	178.70	Adequate
Young Adults	76.63	6.71	162.87	169.58	Adequate
Adults	184.69	16.16	188.59	204.75	Adequate
Seniors	34.46	1.81	106.49	108.30	Adequate

Landscaping and Lighting

The location and quantity of the proposed landscaping is adequate, safe, and efficient on the Subject Property. The Site Plan is proposing landscaping to serve multiple purposes, including screening and canopy cover in-and-around streets, on-street public parking facilities, landscaping around amenity areas, and landscaping adjacent to all proposed buildings. All proposed buildings have extensive foundation plantings, including shrubs and ornamental grasses, helping to soften the edges of the buildings. The Site Plan includes a central green, picnic and seating areas, a terraced garden area, an enhanced trailhead area, a playground area, and additional smaller grass areas that incorporate a wide palette of plant materials that are appropriate with groundcover, shrubs, ornamental grasses, and ornamental trees to provide inviting and comfortable open spaces, while also providing respite from the public areas of the streets. The Site Plan will also include street trees along each street in order to promote a cohesive community and environment, while also providing landscaping that provides variations to stimulate visual interest, framed views, and focal points within the Subject Property.

The lighting provided with this Application is safe, adequate and efficient for ensuring good nighttime visibility within the public and open space areas without negatively impacting surrounding residential dwellings. The proposed lighting for the Site Plan is a combination of free-standing poles located within the public right-of-way and wall-mounted luminaires. In general, the light poles are provided for all of the streets, while the luminaires are provided for accenting and evenly lighting the alleys and porches.

PEDESTRIAN, BIKE AND VEHICULAR CIRCULATION

Transportation will be adequate for the proposed use. The APF for the 253-dwelling application was approved under Preliminary Plan 120050030 and extended under Preliminary Plan Amendment 12005003A; this application is exempt from additional LATR review. The Application will generate 268 AM and 368 AM peak period person trips as previously approved.

Vehicle Circulation

All roads for the development will be public and meet MCDOT Road Code Standards. As approved under the Preliminary Plan, the Subject Property will be accessed via two access points on West Old

Baltimore Road, the first approximately 400 ft. east of the traffic circle for West Old Baltimore Road and Clarksburg Road and the second approximately 400 ft. east from the first entrance, opposite from existing Gull Street to the north. No road access will be provided along the frontage to Clarksburg Road in order to preserve the vistas from MD 121 as recommended by the Master Plan.

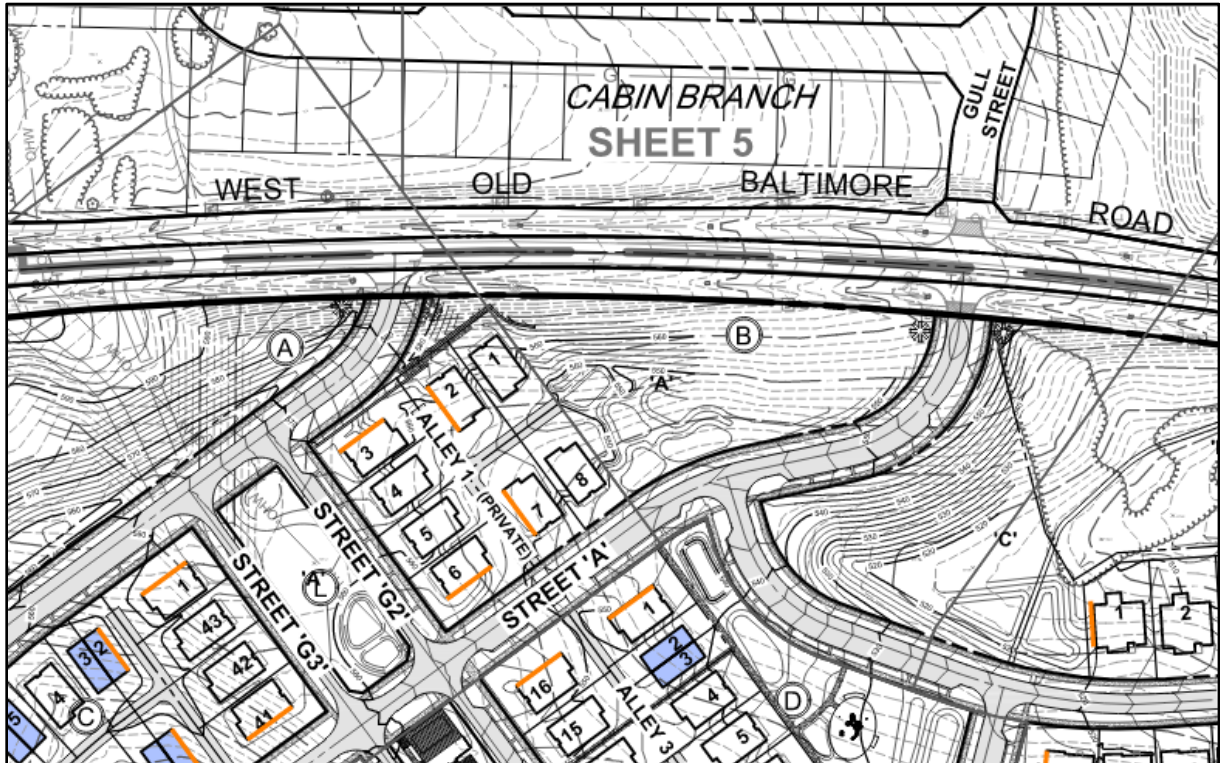


Figure 8 – Location of Two Main Site Access Points

Pedestrian Circulation

All streets will have sidewalks on both sides throughout the Subject Property. Additional internal pedestrian connectivity is improved with a linear walkway running perpendicular to the road network in the southeastern section of the Subject Property, terminating in a trailhead to the north that accesses West Old Baltimore Road (Figure 9). This path will allow a finer grain porosity to the Property to improve cross-connectivity as well as access to the eastern side of West Old Baltimore Road and the Cabin Branch community to the north.

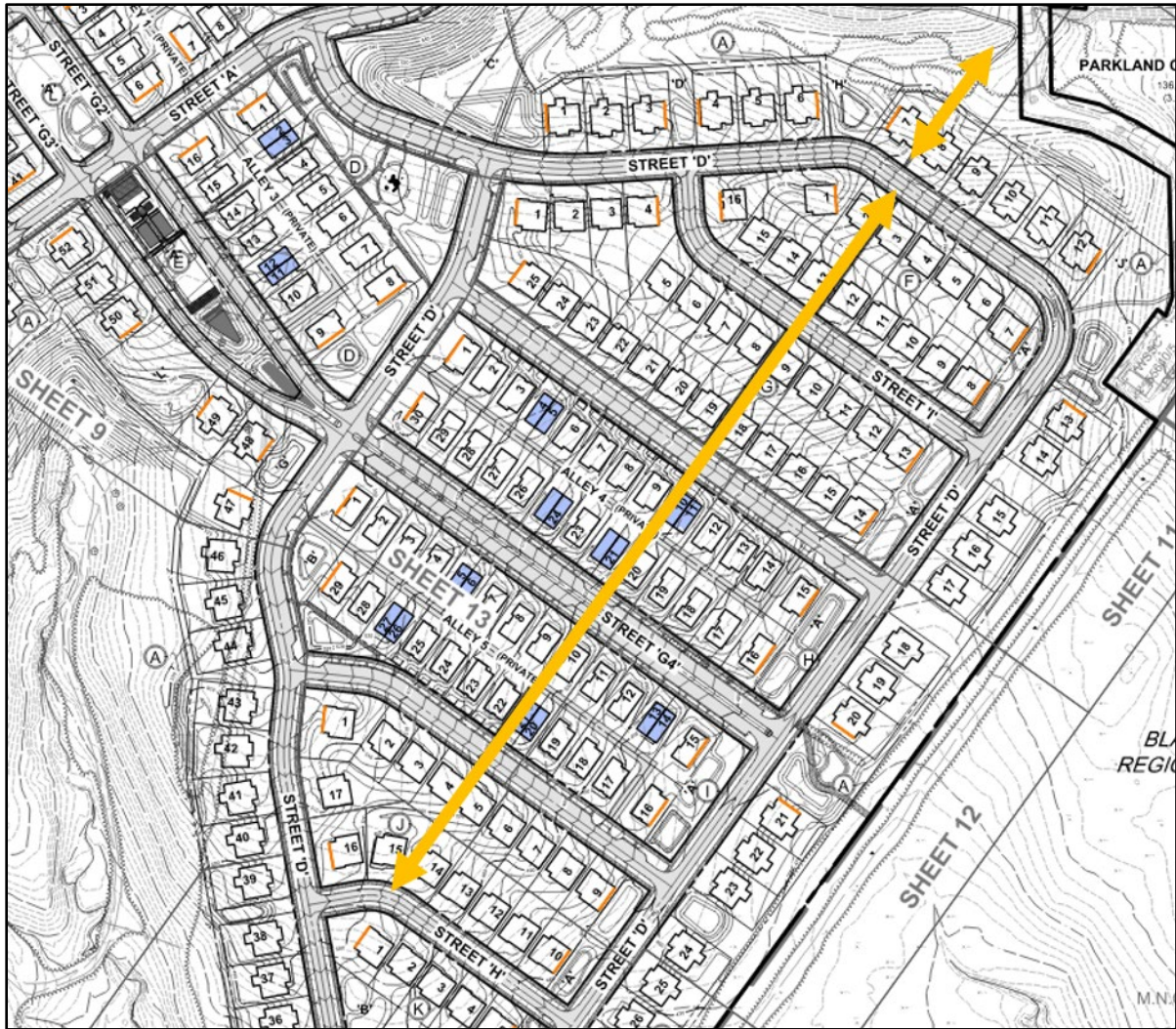


Figure 9 – Location of Perpendicular Walkway

External pedestrian access to West Old Baltimore Rd. will occur at three locations: Sidewalk access at the previously mentioned two site entrances as well as a trail connection exiting between Units #7 and #8, Block 'A' in connecting to West Old Baltimore near the entrance for the WSSC pumping station (Figure 10 & 11).

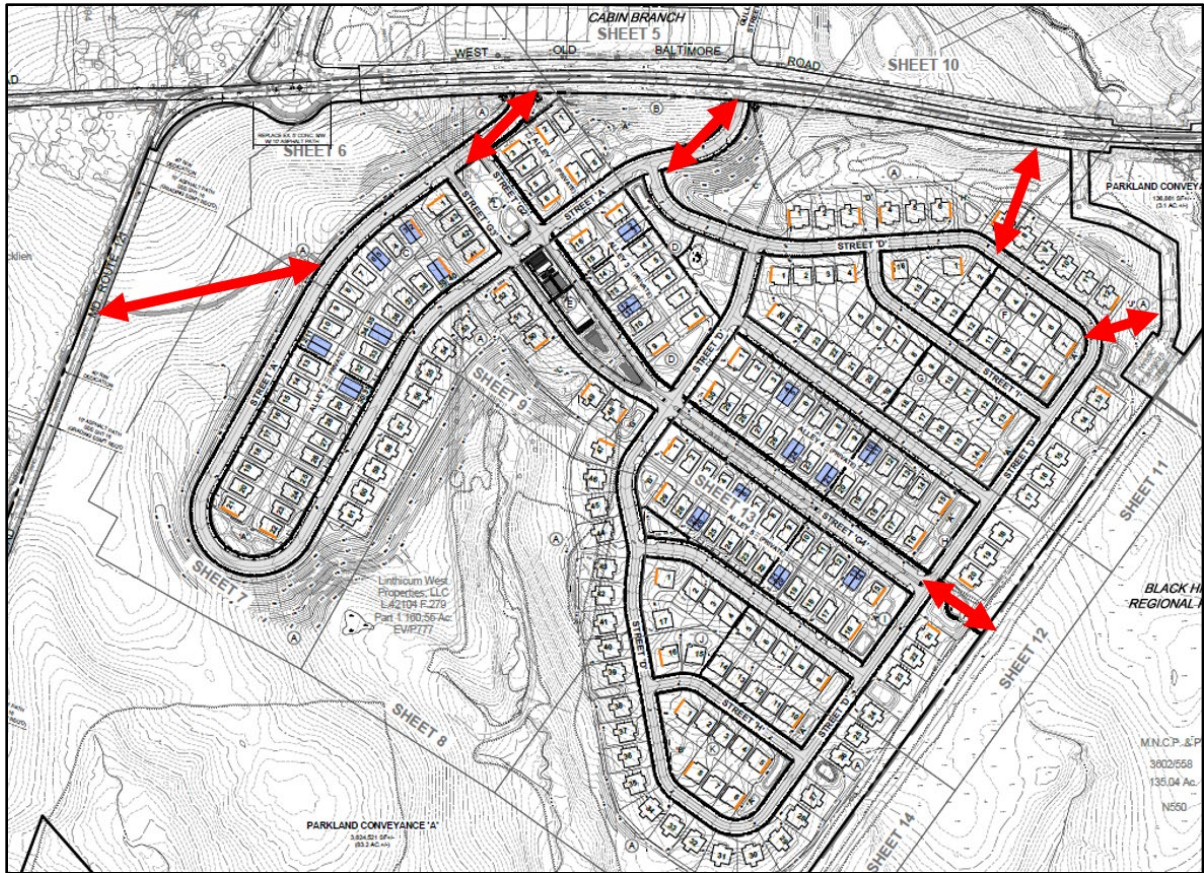


Figure 10 – External Pedestrian Connection Points

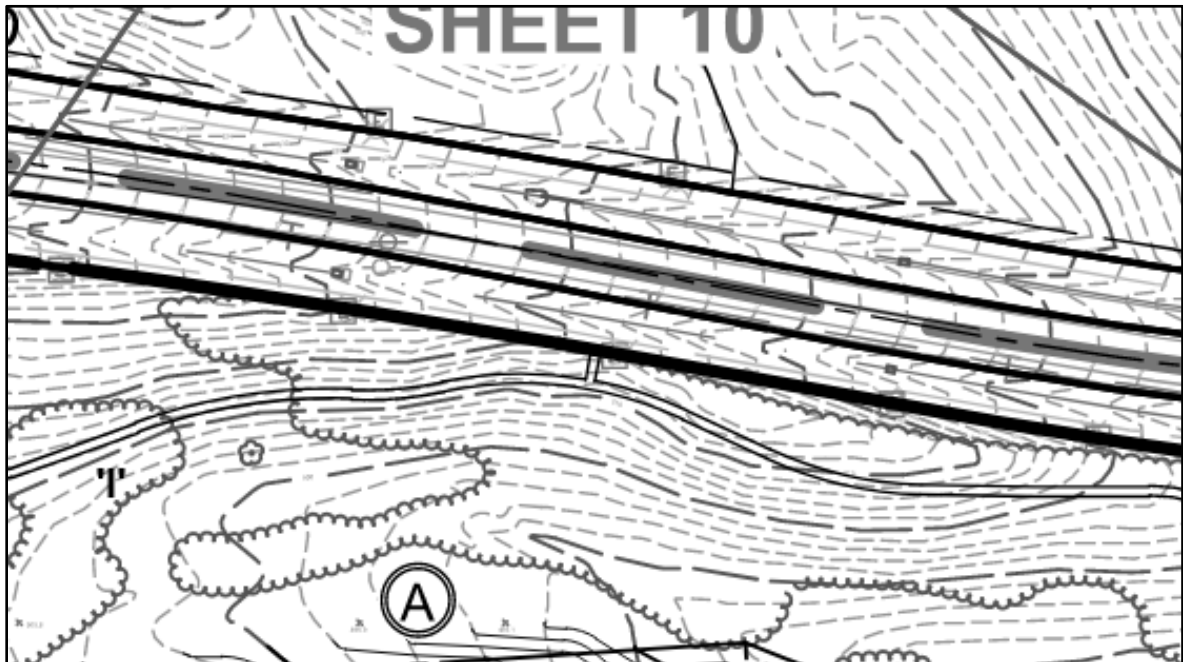


Figure 11 – Trail Access to West Old Baltimore Rd.

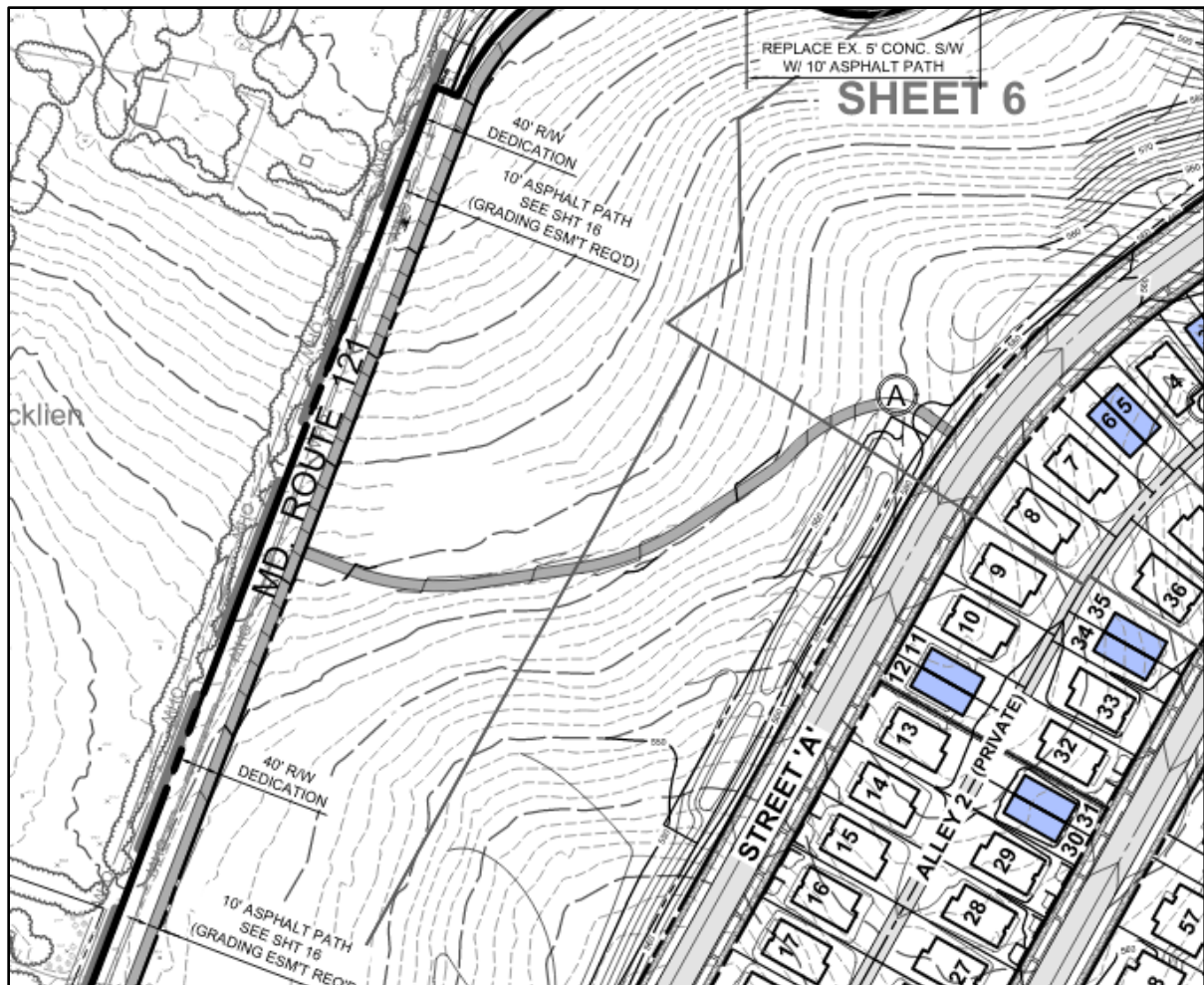


Figure 12 – Shared Use Path to Clarksburg Rd.

As conditioned, a shared use path will be constructed in coordination with Montgomery Parks connecting Street A to the shared use path to be constructed along Clarksburg Rd. The final alignment will be determined as part of the park construction permit process as this area of the Subject Property will be dedicated to Parks. Additionally, a trailhead will be constructed at the southeast edge of the Subject Property to accommodate access to Black Hill Regional Park.

Long term, additional trails throughout the park dedication area are likely to be constructed by Montgomery Parks following a facility study. Gaps have been provided along sections of public streets facing the park area to accommodate viewshed and later access.



Figure 13 – Trailhead to Access Black Hill Regional Park

Bike Circulation

Street G, the boulevard-style road serving as the north-south spine to the Subject Property will accommodate a 10-ft. wide shared use path along the north side of the street. This will accommodate off-street bike circulation through the center of the Property along the busiest road. Bike access to all remaining homes will be provided on what will be low-stress, low-volume residential streets. A small section of Street A serving as the northern site entrance will extend the shared use path to West Old Baltimore Rd. and the shared use path recently constructed on that road. The Street G Path will terminate at the recreation area at the southeast edge of the Property that offers a trailhead to Black Hill Regional Park. Following the recommendation of the 2018 Bicycle Master Plan, the Application will construct a 10-ft. wide shared use path along the eastern frontage of Clarksburg Rd. This will extend through the southern edge of the West Old Baltimore Road/Clarksburg Rd. traffic circle, providing connective to shared use paths on those roads. This path will serve as an important part of the transportation network for Clarksburg. The path will

provide logical links and connections between Clarksburg residential communities, retail, and employment, as well as to points south. The path will provide additional transportation capacity and will be used primarily for transportation. It will improve the transportation network, will improve bicycle commuting, will be for general public use, and will not primarily serve just the residents of the Subject Property or a small number of developments.

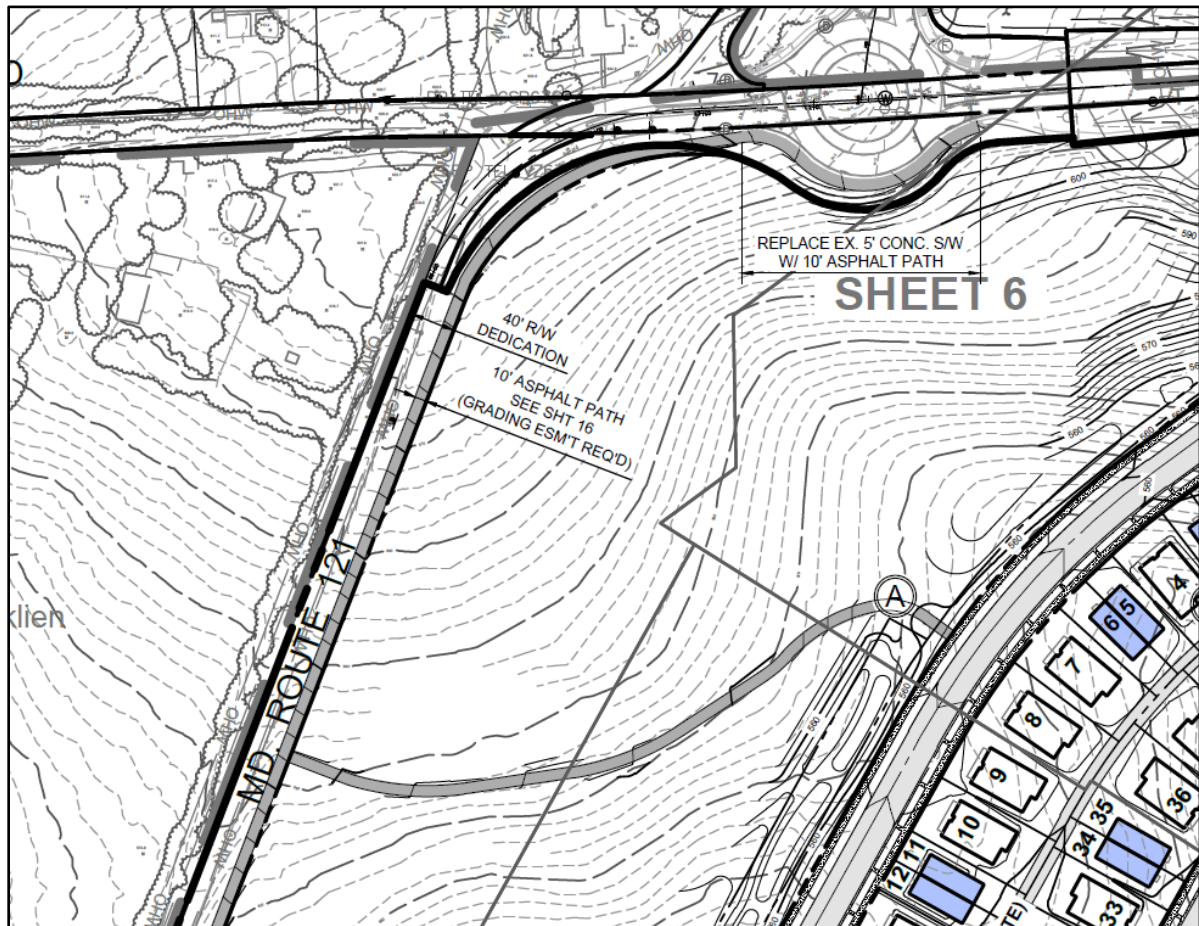


Figure 14 – Shared Use Path to be constructed on E. Side of Clarksburg Rd.

As previously mentioned, a shared use path will also be constructed off-road to connect through the future Parks dedication area, connection from Clarksburg Rd. to Street A. This improvement will require additional coordination with Montgomery Parks through the park construction permit process.

4. *EACH STRUCTURE AND USE IS COMPATIBLE WITH OTHER USES AND OTHER SITE PLANS, AND WITH EXISTING AND PROPOSED ADJACENT DEVELOPMENT; AND*

The proposed use and structures for the Subject Property are compatible with other uses, site plans, existing, and proposed development on adjacent properties. The Application is also compatible with the character of the surrounding residential neighborhoods, while the proposed uses and structures are consistent with the Master Plan and prior approvals. The Subject Property is located within the southeastern quadrant of the intersection of West Old Baltimore Road and

Clarksburg Road. To the north is the greater Cabin Branch development within the CRT zone. To the east is Black Hill Regional Park and the RE-2 zone. To the south and west are single-family detached homes located within the RE-1 zone. The Subject Property will include a balanced mix of front and rear-loaded single-family detached and duplex MPDU dwelling units with a range of different lot sizes.

5. *THE SITE PLAN MEETS ALL APPLICABLE REQUIREMENTS OF CHAPTER 22A REGARDING FOREST CONSERVATION, CHAPTER 19 REGARDING WATER RESOURCE PROTECTION, AND ANY OTHER APPLICABLE LAWS.*

PRIOR APPROVALS

Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”), Plan No. 420032830, for this Property was approved on June 26, 2003. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The NRI/FSD calls out the Property to be a total of 165.25 acres of which 32.89 acres are high priority existing forest separated into ten (10) distinct forest stands.

The Property contains three (3) perennial streams and one (1) intermittent stream. The main stem of the perennial Cabin Branch stream flows southeast across the extreme northeast corner of the Property. A perennial tributary to the Cabin Branch stream flows southeast from the center of the Property, south of the existing farmstead and continues offsite. An intermittent stream begins at a wetland to the west of the perennial stream and flows into the perennial stream. Along the southern property line, the third perennial tributary to the main Cabin Branch stream originates within the forest stand along the southern property line and flows to the east generally parallel to the southern property line, flowing offsite and joining the main stem of the Cabin Branch stream. All streams are defined by the State of Maryland as being Use Class I-P streams.

The Subject Property contains 1.12 acres of wetlands. All wetlands shown on the NRI/FSD have the required wetland buffers as specified in the Montgomery County Planning Department’s Environmental Guidelines.

Since it has been over 18 years since the approval of the NRI/FSD, all environmental features on the Linthicum West property were re-identified and re-surveyed by the Applicant as part of the current Application.

FINAL FOREST CONSERVATION PLAN

The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines.

A Final Forest Conservation Plan No. 820210010 (“FFCP”) (Attachment 3) was submitted as part of this Application on October 1, 2020. The Subject Property is zoned RE-1 which is assigned a Land

Use Category of HDR as defined in Section 22A-3 of Chapter 22A of the Montgomery County Forest Conservation Law (“FCL”) and specified in the Trees Technical Manual and has a Net Tract Area for FFCP purposes of 169.37 acres as outlined below. This gives the Property an Afforestation Threshold of 15% and a Conservation Threshold of 20% of the Net Tract Area, or 25.41 acres and 33.87 acres respectively, as shown in the FFCP Worksheet. The Applicant is proposing to develop this Property using an optional method of development. Under 22A-12(f)(B), if an applicant uses an optional method of development they must retain a minimum amount of forest on-site as outlined below in the next section Minimum Onsite Retention.

The FFCP shows a Net Tract Area of 157.76 acres. This includes a Total Tract Area of 165.25 acres minus 7.49 acres for areas on the FFCP that had been included in other FFCPs for the Cabin Branch Development under plan number 82005015G; and for right-of-way dedication and Public Utility Easement along Clarksburg Road (“MD 121”). The FFCP shows a total of 29.89 acres of forest on the Subject Property. The FFCP proposes to remove 0.38 acres and retain 29.51 acres of forest. When the numbers of the total tract area, land use category, total amount of forest, total forest removed, and total forest retained are entered into the Forest Conservation Worksheet it results in a total afforestation/reforestation requirement of 0.76 acres. To meet this requirement, the Applicant is proposing to plant 2.04 acres within an open section of stream valley buffer. This 2.04 acres of forest planting satisfies the overall 0.76 acres afforestation/reforestation requirement and the forest conservation requirements under Section 22A-12(f) of the FCL discussed below. All planted forest, environmental features and 26.97 acres of retained forest will be dedicated to M-NCPPC Parks Department. The area of 2.54 acres of retained forest located along West Old Baltimore Road, east of the main entry at Street ‘A’ and north of Lots 1-6, Block A will be placed into a Category I Conservation Easement.

Minimum Onsite Retention

Section 22A-12(f) of the FCL, in general, states there are special provisions for minimum retention, reforestation and afforestation on any site developed under a cluster or other optional method of development in a one-family residential zone must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement. Forest retention should be maximized where possible. This Property is being developed under an optional method and is located within a one-family residential zone, RE-1. As such, 22A-12(f) would be applicable to this Application.

22A-12(f)(2)(B) states, in part, that *“In a planned development or a site development using a cluster or other optional method of development in a one-family residential zone, on-site forest retention must equal the applicable conservation threshold in subsection (a).”* And in 22A-12(f)(2)(C), *“On a site covered by this subsection, if existing forest is less than the minimum required retention, all existing forest must be retained and on-site afforestation up to the minimum standard must be provided. If existing forest is less than the applicable afforestation threshold in subsection (a), the afforestation threshold is the minimum on-site forest requirement.”*

Additionally, Section 22A-12(f)(3) states, *“If the Planning Board or Planning Director, as appropriate, finds that forest retention required in this subsection is not possible, the applicant must provide the maximum possible on-site retention in combination with on-site reforestation and afforestation, not including landscaping.”*

Under the applicable 22A-12(f)(2)(B) the Applicant's minimum on-site forest requirement would be the Conservation Threshold of 31.55 acres as specified in the FFCP worksheet. Under this section of the FCL the Applicant is required to retain all the existing on-site forest of 29.89 acres and then plant an additional 1.66 acres to bring the total reforestation up to the Conservation Threshold of 31.55 acres. However, the Applicant is required to install an entry drive onto West Old Baltimore Road requiring the removal of 0.38 acres of forest to install that entry. Since retention of all the existing forest is not possible, the Applicant must reforest up to the Conservation Threshold of 31.55 acres from the net retained forest of 29.51 acres resulting in a reforestation requirement of 2.04 acres. The Applicant is proposing to meet this requirement by retaining 29.51 acres of forest and planting 2.04 acre of forest within an unforested portion of stream valley buffer. Satisfying this requirement addresses the FFCP requirements under 22A-12(f) and the requirements under the FFCP Worksheet.

FOREST CONSERVATION VARIANCE

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

Variance Request

The Applicant submitted a variance request in a letter dated October 1, 2020 (Attachment 11). The Applicant proposes to remove nine (9) and impact twenty-three (23) trees that are 30 inches or greater DBH, that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Tables 2 and 3).

TABLE 6: Variance Trees to be Removed

Tree #	Species	DBH Inches	Notes
601	Red Oak (<i>Quercus rubra</i>)	33"	Located within approved main entry drive.
602	Chestnut Oak (<i>Quercus montana</i>)	36"	Located within approved main entry drive.
622	Tulip Poplar (<i>Liriodendron tulipifera</i>)	33"	Poor condition. Located in proximity to proposed development.
623	Tulip Poplar (<i>Liriodendron tulipifera</i>)	30"	Fair condition. Located adjacent to proposed development.
624	Tulip Poplar (<i>Liriodendron tulipifera</i>)	45"	Fair condition. Located adjacent to proposed development.
642	Tulip Poplar (<i>Liriodendron tulipifera</i>)	32"	Fair condition. Located adjacent to proposed development.
652	Tulip Poplar (<i>Liriodendron tulipifera</i>)	41"	Fair condition. Located adjacent to proposed development.

Tree #	Species	DBH Inches	Notes
655	Black Cherry (<i>Prunus serotina</i>)	30"	Fair condition. Located adjacent to proposed development.
657	Tulip Poplar (<i>Liriodendron tulipifera</i>)	36"	Fair condition. Located adjacent to proposed development.

TABLE 7: Variance Trees to be Impacted

Tree #	Species	DBH Inches	CRZ Impacts	Notes
628	Tulip Poplar (<i>Liriodendron tulipifera</i>)	34"	11%	
630	Red Oak (<i>Quercus rubra</i>)	31"	20%	
631	Tulip Poplar (<i>Liriodendron tulipifera</i>)	41"	28%	
632	Black Oak (<i>Quercus velutina</i>)	34"	28%	
634	Tulip Poplar (<i>Liriodendron tulipifera</i>)	36"	16%	
635	Tulip Poplar (<i>Liriodendron tulipifera</i>)	35"	20%	
636	Tulip Poplar (<i>Liriodendron tulipifera</i>)	33"	4%	
641	Tulip Poplar (<i>Liriodendron tulipifera</i>)	47"	15%	
643	Tulip Poplar (<i>Liriodendron tulipifera</i>)	39"	11%	
644	Tulip Poplar (<i>Liriodendron tulipifera</i>)	45"	12%	
646	Tulip Poplar (<i>Liriodendron tulipifera</i>)	35"	9%	
651	Tulip Poplar (<i>Liriodendron tulipifera</i>)	30"	7%	
656	Tulip Poplar (<i>Liriodendron tulipifera</i>)	41"	22%	
658	Tulip Poplar (<i>Liriodendron tulipifera</i>)	36"	29%	
663	Tulip Poplar (<i>Liriodendron tulipifera</i>)	40"	7%	
664	Tulip Poplar (<i>Liriodendron tulipifera</i>)	33"	25%	
672	Tulip Poplar (<i>Liriodendron tulipifera</i>)	33"	26%	
674	Black Oak (<i>Quercus velutina</i>)	34"	12%	
675	Tulip Poplar	30"	9%	

Tree #	Species	DBH Inches	CRZ Impacts	Notes
	<i>(Liriodendron tulipifera)</i>			
676	Tulip Poplar <i>(Liriodendron tulipifera)</i>	30"	21%	
677	Tulip Poplar <i>(Liriodendron tulipifera)</i>	36"	19%	
679	Black Oak (<i>Quercus velutina</i>)	34"	10%	
680	Red Oak (<i>Quercus rubra</i>)	35"	18%	

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by the necessary layout of the proposed development on the Property and the conditions of the subject trees. The 9 trees requested to be removed are all located within the developable area of the Property and the inability to remove these trees would potentially render the Property undevelopable for this Application (Figure 15). Two of these Protected Trees to be removed are located within the approved Main Entry drive off of West Old Baltimore Road. The remaining 7 protected trees shown to be removed are located near the eastern property line and are highly impacted by construction of the homes and installation of utilities. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

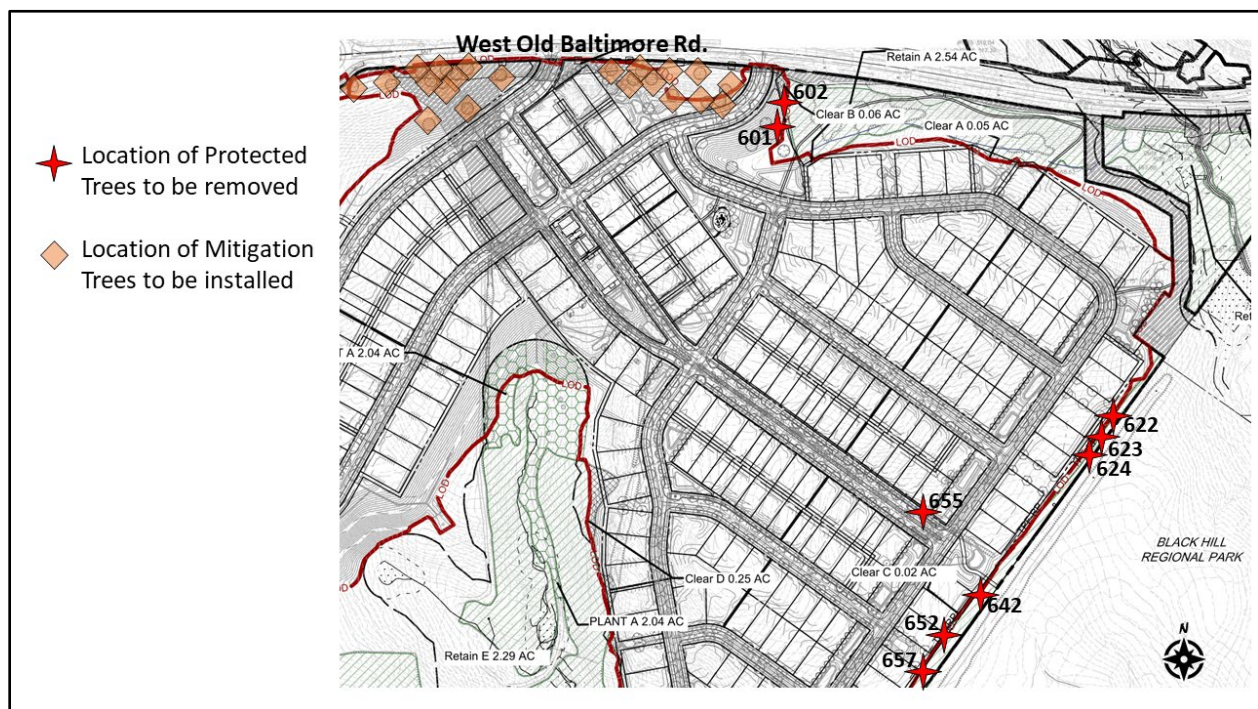


Figure 15 - Location of Protected Tree to be removed and mitigation plantings

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings

Staff has made the following determination based on the required findings that granting of the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as the removal of the nine trees is due to the location of the trees and necessary site design requirement. The Applicant proposes removal of the nine trees with mitigation. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project.

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

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

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not located within a stream buffer, wetland or special protection area. The Application proposes mitigation for the removal of these three trees by planting larger caliper trees on-site. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed are not located within a stream buffer, wetland or special protection area. The Application proposes mitigation for the removal of these nine trees by planting larger caliper trees on-site. The trees planted as mitigation will replace water quality benefits of the removed Protected Trees such as absorption capacity, nutrient and pollutant uptake, and shade. The Protected Trees being retained but impacted, will continue to provide water quality benefits through their canopy and root systems. In addition, a stormwater management plan addressing water quality through Environmental Site

Design will be provided for the development as approved by the Montgomery County Department of Permitting Services. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision

There are 9 trees proposed for removal in this variance request resulting in a total of 316.0 inches of DBH being removed. However, of these 9 trees, Trees #601 and #602 are within a portion of a forest stand along West Old Baltimore Road shown to be removed and will not require mitigation plantings since the removal of the forest stand is compensated for through the Forest Conservation Worksheet. The remaining 7 trees being removed total of 247 inches along the eastern property line are not located within an onsite forest and will require mitigation plantings. The Applicant has proposed to provide mitigation for the specimen tree loss by replacing the total number of DBH removed with $\frac{1}{4}$ of the amount of inches replanted. This results in a total mitigation of 61.75 inches of replanted trees. In this case, the Applicant proposes to plant 21 3" caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Additionally, no mitigation is required for trees that are impacted, but retained.

Variance Recommendation - Staff recommends approval of the variance request.

WATER RESOURCE PROTECTION, CHAPTER 19

The Preliminary Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on December 17, 2021 (Attachment 8). The Application will meet stormwater management goals through the use of micro bioretention and landscape infiltration.

SECTION 5

COMMUNITY CORRESPONDENCE

This Application was submitted and noticed in accordance with all Planning Board adopted procedures. Ten signs, six evenly spaced along West Old Baltimore Road and four signs evenly spaced along Clarksburg Road/MD 121, referencing the proposed Application were posted along the Subject Property's dual frontages. Due to the COVID-19 pandemic, a pre-submission meeting was held virtually on July 14, 2020 using Microsoft Teams as an online community gathering place.

As of the date of this report, Staff has received no community correspondence letters.

SECTION 6

CONCLUSION

The Site Plan complies with the general requirements and findings of the Zoning Ordinance. The FFCP meets all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental

Guidelines. Therefore, Staff recommends approval of Site Plan No. 820210010 including the Final Forest Conservation Plan and Tree Variance with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment 1 – Statement of Justification

Attachment 2 – Site Plan Composite

Attachment 3 – Final Forest Conservation Plan

Attachment 4 – Recreation Guidelines Exhibit

Attachment 5 – MCPB Opinion date December 20, 2005 for Prelim Plan No. 1200050030

Attachment 6 – MCPB Resolution No. 21-111 for Prelim Plan No. November 15, 2021

Attachment 7 – DPS Fire Dept. Access and Water Supply Approval Letter and Plan, November 9, 2021

Attachment 8 – MCDPS Stormwater Concept Approval Letter, December 17, 2021

Attachment 9 – DPS Right-of-Way Approval Letter, November 17, 2021

Attachment 10 – DHCA Approval Letter, January 25, 2022

Attachment 11 – Tree Variance Request, October 1, 2020