




BY ELECTRONIC DELIVERY

To: Montgomery County Planning Department, Planning Staff, Area 3

From: Stuart R. Barr, Lerch Early & Brewer, Chtd. 

Re: “Linthicum West” Property - Site Plan Application Number 820210010
(Related Application: Preliminary Plan Amendment Application Number 12005003A)
14222 West Old Baltimore Road, Boyds, MD 20841 Parcel P777, Tax Map EV12 (Tax ID
#02-00023978)
Supplemental Statement in Support of Site Plan Application

Date: September 20, 2021

I. Introduction

On behalf of our client, U.S. Home Corporation (d/b/a Lennar) (“U.S. Home”), the contract purchaser and developer of the subject property, we are submitting updated Site Plan materials and this Supplement Statement in Support of Site Plan Application Number 820210010 (the “Application”), for the property located at 14222 West Old Baltimore Road, Boyds, Maryland 20841 (the “Property”). The purpose of this Supplemental Statement is to provide additional information in support of the updated Site Plan materials and respond to various comments and items raised throughout the development review process.

By way of background, the Planning Board approved Preliminary Plan Number 120050030 for the Property on March 31, 2005 (the “Preliminary Plan”), which includes a total residential density of 253 dwelling units on the Property. U.S. Home plans to develop the Property with 253 residential units, including 32 MPDUs (12.5%) (the “Project”), consistent with the Property’s prior approvals. Last year, U.S. Home and Linthicum West Properties, LLC, the owner of the Property (together, the “Applicant”), submitted the Site Plan Application along with an application for Preliminary Plan Amendment and for Extensions of Preliminary Plan Validity Period and Adequate Public Facilities (APF) Determination Validity Period (Application Number 12005003A) to continue the entitlement process. The Preliminary Plan Amendment, which proposes the conversion of the 32 proposed MPDUs from detached units to duplex units and requests extensions of the Preliminary Plan Validity Period and Adequate Public Facilities (APF) Determination Validity Periods, is scheduled for the Planning Board on September 30, 2021.

We want to thank the Planning Staff for its review and comments and all of the time spent in virtual meetings with us over the past year to discuss the proposed Site Plan and various items in connection with the Project. Based on the comments, U.S. Home and its team have worked hard to address various items including:

- reconfiguring the intersection of streets G1, G2, and G3 to address DPS/DOT comments;
- distributing the MPDUs in a more asymmetrical fashion;
- creating a midblock pedestrian connection between Blocks C, F, G, H, I, and J;
- adding a bicycle path along Street G;
- reconfiguring the five western-most lots;
- adding additional recreational equipment;
- relocating units next to the central green to create a viewshed; and
- revising other application materials to address various other comments.

The purpose of this Supplemental Statement is to provide additional information and respond to certain comments raised throughout the review process, including the Project's compliance with the 2014 Zoning Ordinance, and the Project's conformance with the *2017 adopted Montgomery County Planning Board Recreation Guidelines*, the *2018 Bicycle Master Plan*, and other planning documents. The narrative description of the Project is set forth fully in the Statement of Justification dated October 1, 2020 [01-SOJ-820210010]. This Supplemental Statement is intended to supplement (not replace) the original Statement of Justification and is not intended to address every item raised during the review process, just some items that may be helpful for finalizing the review and preparing the Staff Report and Recommendation. As you will see below and in the updated plans, we believe that we have addressed every major item remaining and we respectfully request a favorable recommendation of approval for the Site Plan.

II. Project's Conformance with the 2014 Zoning Ordinance Provisions and RE-1/TDR2 Zone Development Standards

Planning Staff requested clarification as to whether the Application is proceeding under the current Zoning Ordinance provisions or the 2014 (prior) Zoning Ordinance provisions. The Property is located within the Residential Estate-1/Transferable Development Rights (RE-1/TDR2) Zone and is subject to the 1994 approved and adopted Clarksburg Master Plan.

Given the nature of the Project and based on Section 7.7.1.B.1 of the current Zoning Ordinance, because the original Preliminary Plan for the Project was approved prior to October 30, 2014, the Site Plan Application may proceed under the 2014 Zoning Ordinance. The Applicant intends to proceed under the 2014 Zoning Ordinance, and the Project complies with the standards of the RE-1/TDR2 zone under the 2014 Zoning Ordinance. Pursuant to Section 59-C-1.395 of the 2014 Zoning Ordinance, because the Project provides MPDUs, the R-200 MPDU Optional Method

standards apply. The Project meets these standards from Section 59-C-1.6 of the 2014 Zoning Ordinance as demonstrated on the proposed plans and as set forth in the table below:

Standard	Required/Allowed (2014 Ordinance)	Proposed
Maximum Density	2.44 units per acre with MPDUs	Less than 2 units per acre. The proposed 253 units are consistent with the Preliminary Plan approval
Setback (Public Street)	25 feet (minimum); 15 feet for MPDUs	25 feet
Setback (Rear Yard)	20 feet (minimum)	20 feet (from property line, includes the alley)
Minimum Lot Size	Detached dwelling units: 6,000 square feet Duplex dwelling units (one-family semidetached): 3,500 square feet MPDUs allowed to be minimum 3,000 square feet	Detached: 6,000 square feet MPDUs (duplex) – 3,500 square feet
Minimum Lot Width at Front Lot Line	25 feet	Detached – 50 feet Duplex – 27.5 feet
Maximum Height	The height must not exceed 3 stories or 40 feet	No more than 3 stories or 40 feet
Minimum Green Area (per dwelling unit)	2,000 square feet per townhouse or one-family attached dwelling unit	Not Applicable (no townhouses or one-family attached dwelling units are proposed)
Parking	2 spaces per dwelling unit (506 spaces)	Minimum 2 spaces per unit (including street parking) - see Site Plan data table for detail

III. Compliance with 2017 Adopted Montgomery County Planning Board Recreation Guidelines

Planning Staff requested additional information on the Project’s compliance with the County’s Recreation Guidelines and a greater emphasis on active recreation. The Applicant is submitting an updated Recreation Plan along with the Recreation Demand, Supply & Adequacy Report. As reflected in these materials, the Project will provide adequate recreational facilities and an appropriate mix of active and passive recreation for various age groups, in accordance with the Recreational Guidelines.

The main recreational amenity for the Project will be the central green, which will also serve as the focal point and entrance to the Project. Amenities within the central green include a pavilion, a terraced garden feature, a camp fire feature, and picnic and seating areas. Additional recreational amenities throughout the community will include a tot lot, an enhanced trailhead area, various open lawns and play areas, and a fitness loop. In addition to the recreational amenities within the Project, the Applicant is dedicating approximately 88 acres of land, which can be used for a variety of active and passive recreation. Connections between the Project and the proposed 88 acre parkland dedication and Black Hill Regional Park will be provided in multiple locations, as shown on the submitted plans.

Approximately 92 acres was originally proposed to be dedicated to Parks. Planning Staff has requested that ± 4 acres along West Old Baltimore Road should be created as community open space property, to be owned by the community association, as opposed to Parks property (i.e., Parks has declined to accept the offer of this portion of property). Additionally, Planning Staff requested a viewshed from the central green, creating the need to relocate two units to the western peninsula, and creating more community open space property and slightly less area to dedicate to Parks. Thus, the total dedication to Parks will be approximately ± 88 acres.

IV. Bicycle Paths/2018 Bicycle Master Plan/Transportation Impact Taxes and Potential Impact Tax Credit

We have discussed bicycle facilities at length throughout the Site Plan review process. The 1994 Clarksburg Master Plan and the 2018 County Bicycle Master Plan recommend the following bicycle facilities near the Property: 1) Along West Old Baltimore Road frontage, bikeable shoulders and a sidepath (north side); 2) Along Street B-10 (a future street within the Project area), a side path leading through the Project to Black Hill Regional Park; and 3) along Clarksburg Road (MD 121), a side path (east side) and bikeable shoulders.

The Project substantially conforms with these recommendations. West Old Baltimore Road has undergone major upgrades over the past few years, which are now completed. It is currently improved with a 10 foot path on the north side of West Old Baltimore Road, which conforms with the recommended bicycle improvements.

Within the development, Planning Staff requested a bicycle path along proposed Street G, which U.S. Home has provided. The updated Site Plan reflects a 10 foot bicycle path along proposed Street G, which will provide a bicycle connection between Black Hill Regional Park and West Old Baltimore Road, which connects with Clarksburg Road (MD 121). As discussed, this path will require a five foot easement across the lots along Street G.

Planning Staff also has requested that U.S. Home construct a bicycle path along MD 121. After extensive discussion, and based upon the expectation that U.S. Home will receive a transportation impact tax credit for that improvement, the updated Site Plan reflects a bicycle path

along MD 121. The timing of this improvement and the language of the condition are very important, and we request assistance from the Planning Staff and Planning Board in order to pursue the transportation impact tax credit.

Based on preliminary estimates, the estimated cost of providing a bicycle path within the proposed right-of-way on MD 121, is approximately \$1M.¹ Thus, it is a significant cost, and it is important to the overall economic viability of the Project whether it receives a transportation impact tax credit. Based on current tax rates, U.S. Home will pay to the County approximately \$5.4M in total transportation impact taxes for the entire Project (221 market rate single-family detached units x \$24,490 per unit in the yellow policy area). Many expensive transportation improvements that meet all current County standards have been constructed recently in the immediate area surrounding the Property. Thus, the County should not need to expend this anticipated transportation impact tax revenue on any further transportation improvements to serve the Project.

Pursuant to Montgomery County Code Sections 52-47 and 52-50, hiker-biker lanes and bicycle lanes are among the transportation improvements specifically identified as being eligible for impact tax credit. A bicycle path along MD 121 would provide additional transportation capacity, would improve the transportation network, would improve bicycle commuting, and would not primarily serve the residents of the Project or a small number of developments. We believe that Planning Staff has argued for the construction of the bicycle path along MD 121 now because it serves these purposes and is an important component of the overall bicycle transportation network in the area.

U.S. Home is proposing to dedicate 40 feet of right-of-way along the Property's western boundary for MD 121, and the bicycle path is proposed to be located within that right-of-way to be dedicated. County DOT will not certify a tax credit for a transportation improvement in a State road right-of-way. Thus, U.S. Home needs the flexibility to dedicate the MD 121 right-of-way after construction of the bicycle path if that sequence of events enables U.S. Home to obtain impact tax credits. We also need a reasonable timeframe for the construction of the path based on the community buildout. For these reasons, the condition associated with this item should be as flexible as possible to account for the necessary coordination and the timing and sequencing of dedications and construction. Accordingly, we request the following condition:

Prior to issuance of the 200th building permit, the Applicant must have completed the bicycle path located along MD 121. A bicycle path located along MD 121 is an important part of the transportation network within Clarksburg. The path will provide logical links and connections between Clarksburg residential communities,

¹ There are potential challenges with construction of a bicycle path near MD 121. Given the current configuration of MD 121 and the surrounding terrain and topography, placement of a DOT compliant bicycle path within the proposed 40 foot SHA dedication could require extensive earthwork and grading, potential retaining walls, potential additional stormwater management or drainage measures, and utility pole and guardrail relocations, all at a significant cost. Ultimately, it may be more cost effective to construct the path further to the east and further away from MD 121. But at this point, the Site Plan reflects a path along the MD 121 roadway.

retail, and employment. The path will provide additional transportation capacity, will improve the transportation network, will improve bicycle commuting, will be used primarily for transportation, will be for general public use, and will not primarily serve just the residents of the Project or a small number of developments. The Applicant may pursue certification of a transportation impact tax credit for the bicycle path, but must construct the path regardless of the certification of an impact tax credit. The Applicant may elect to dedicate the right-of-way for MD 121, and may elect to dedicate the parkland to MNCPPC, before or after construction of the bicycle path along MD 121, at the Applicant's discretion.

Thank you very much for considering this proposed condition and for any additional assistance you can provide on this important item. U.S. Home believes it is entitled to a tax credit under the statute and regulations, and general fairness under the circumstances. A bicycle path is one of the transportation improvements specifically identified as being eligible for credit, if not within the State right-of-way, so we assert that U.S. Home should be entitled to a credit against its transportation impact tax payment. If the Planning Staff and Planning Board agree with us that a transportation impact tax credit should be provided under the circumstances, then we would appreciate that support.

V. Project's Compliance with Site Plan Requirements under the 2014 Zoning Ordinance

Set forth in italics below are the applicable standards for approval of Site Plan applications under the 2014 Zoning Ordinance (Section 59-D-3), followed by an explanation of the Project's compliance with each standard:

Sec. 59-D-3.4. Action by Planning Board.

(c) In reaching its decision the Planning Board must require that:

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

As described in Sections IV and V of the Original Statement, and as explained further in this Supplemental Statement, the Site Plan substantially conforms with the Master Plan and the conditions of the Preliminary Plan approval.

(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;

As described in this Supplemental Statement and as reflected on the Site Plan materials,

the Site Plan complies with the development standards set forth for the Residential Estate-1/Transferable Development Rights (RE-1/TDR2) Zone, as well as the general requirements contained in the 2014 Zoning Ordinance.

(3) the locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;

As shown on the plans included with this Application, the locations of the buildings, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient. The proposed land plan and housing typology support a natural to general urban transect development pattern that will create a pedestrian friendly and character-rich neighborhood. The housing typology includes a blend of front and rear-loaded duplexes and single-family detached homes with a variety of lot sizes. The duplexes will be distributed throughout the Project, with a complementary massing proportional to the single-family detached units and will add a housing option that is relatively unique for Clarksburg.

The Project proposes an excellent balance of front and rear-load housing typologies that will allow for a range of price points and a diversity of housing opportunities. The Clarksburg Master Plan encourages a diversity of housing types and the avoidance of any concentration of any single type of housing with each neighborhood. This Project succeeds in achieving that goal.

The front-loaded units also allow for ample, private backyards. These are desirable amenities for future residents, particularly in the Upcounty where homeowner preferences are different from other parts of the County. Demand for private outdoor space has only increased with many homeowners spending more time at their homes and requiring more private, outdoor space for recreation. This Project is very consistent with other examples of similar front-loaded housing in Clarksburg and elsewhere in the County.

The proposed architecture across the community is very aesthetic, and the streetscapes within all of the blocks will enable a very pleasant and safe pedestrian experience and an excellent public realm. Driveways are spaced with a minimum 40 feet separation to allow ample space for street trees, street lighting, and visual relief. All proposed blocks are very pedestrian-oriented.

As shown on the plans, generous open spaces and recreation facilities will be interspersed throughout the Project so that all future residents have access to these amenities. As noted, the main recreational amenity – the central green – will be in a central location and accessible to all residents. As described, the proposed recreational facilities will serve the needs of future residents of all ages.

As shown on the landscape plans, attractive landscaping elements will be provided throughout the community. Key landscape elements will include street trees along each street, as well as attractively landscaped open spaces with seating and other amenities. The landscaping has been designed to create a cohesive community while also providing variations to create visual interest and focal points within the Project.

Pedestrian and vehicular circulation systems are adequate, safe, and efficient. Vehicular, bicycle, and pedestrian access to the Property will be provided via two access roads with sidewalks off West Old Baltimore Road, allowing for efficient ingress and egress to the community. The site access and internal vehicular circulation system shown on the Site Plan are safe, adequate, and efficient. Within the Property, well-integrated parking and safe and efficient circulation will be provided via a grid-like system of roads and alleys. Per the approved Preliminary Plan, the proposed alleys are private easements on lot.

Minimum 5 foot-wide sidewalks will be provided within the Project to allow for safe, efficient, and comfortable pedestrian circulation. A 10 foot wide shared path for bicycles will be provided along Street G. The Project also will connect with the trail system within Black Hill Regional Park, allowing for alternative pedestrian access points. Streets within the site will be arranged in a regular grid-like pattern to allow for safe and efficient vehicular circulation. In some locations, pedestrians also will have the option to traverse the community using open space, including the central green, thus further minimizing the potential for any pedestrian-vehicular conflict.

(4) each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development; and

The proposed development will be compatible with surrounding land uses and proposed adjacent development within the immediate area. The Site Plan is compatible with the character of the residential neighborhood. The proposed uses and structures are consistent with the Master Plan and prior approvals for the Property and are compatible with other uses, Site Plans, existing development, and proposed development on adjacent properties and within the surrounding community. The Property is located in the southeastern quadrant of the intersection of West Old Baltimore Road and Clarksburg Road. To the east of the Property is Black Hill Regional Park in the RE-2 zone. To the south of the Property are single-family homes in the RE-1 zone. To the west and across Clarksburg Road from the Property are single-family homes in the RE-1 zone. To the north and across West Old Baltimore Road from the Property is the Cabin Branch development with future townhome lots in the CRT-0.5 C-0.25 R-0.25 H-65 T zone.

The proposed residential community will be well-designed, pedestrian friendly, and environmentally sensitive. The Project will benefit the County by providing an additional housing resource with safe, well integrated parking, efficient circulation patterns, and substantial open space and amenities. The proposed development has adequate public facilities approval, and public facilities will, in fact, be adequate to support the proposed development.

(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.

As explained in the Original Statement, the Site Plan meets all relevant requirements of Chapters 19 and 22A of the Montgomery County Code.

VI. Conclusion and Request for Recommendation of Approval

As demonstrated by the contents of the original Application and the updated Site Plan materials, the Project satisfies the requirements of the Site Plan Regulations and complies with all of the 2014 Zoning Ordinance requirements. The Project is compatible with existing and proposed surrounding uses and is in substantial conformance with the Master Plan and the prior approvals. The proposed development achieves a maximum of compatibility, safety, efficiency and attractiveness.

We appreciate all of the Planning Staff's time and attention on the applications. As noted, U.S. Home has addressed Planning Staff comments on a variety of items raised including distributing the MPDUs in a more asymmetrical fashion, creating a midblock pedestrian connection between Blocks C, F, G, H, I, and J, adding a bicycle path along Street G, reconfiguring the five western-most lots, reconfiguring the streets G1, G2, and G3 intersection, adding additional recreational equipment, relocating units next to the central green to create a viewshed, and revising other application materials to address other comments.

As agreed, U.S. Home will construct the bicycle path along MD 121, regardless of whether the County issues a transportation impact tax credit. We thank the Planning Staff and Planning Board for any assistance that can be provided in obtaining a transportation impact tax credit for that costly improvement.

Once you have had an opportunity to review this information and the updated Site Plan application materials, we look forward to working with you to obtain approvals for the Project. Please do not hesitate to contact us if you have any questions or need any further information. Thank you very much for your assistance.

Respectfully submitted,

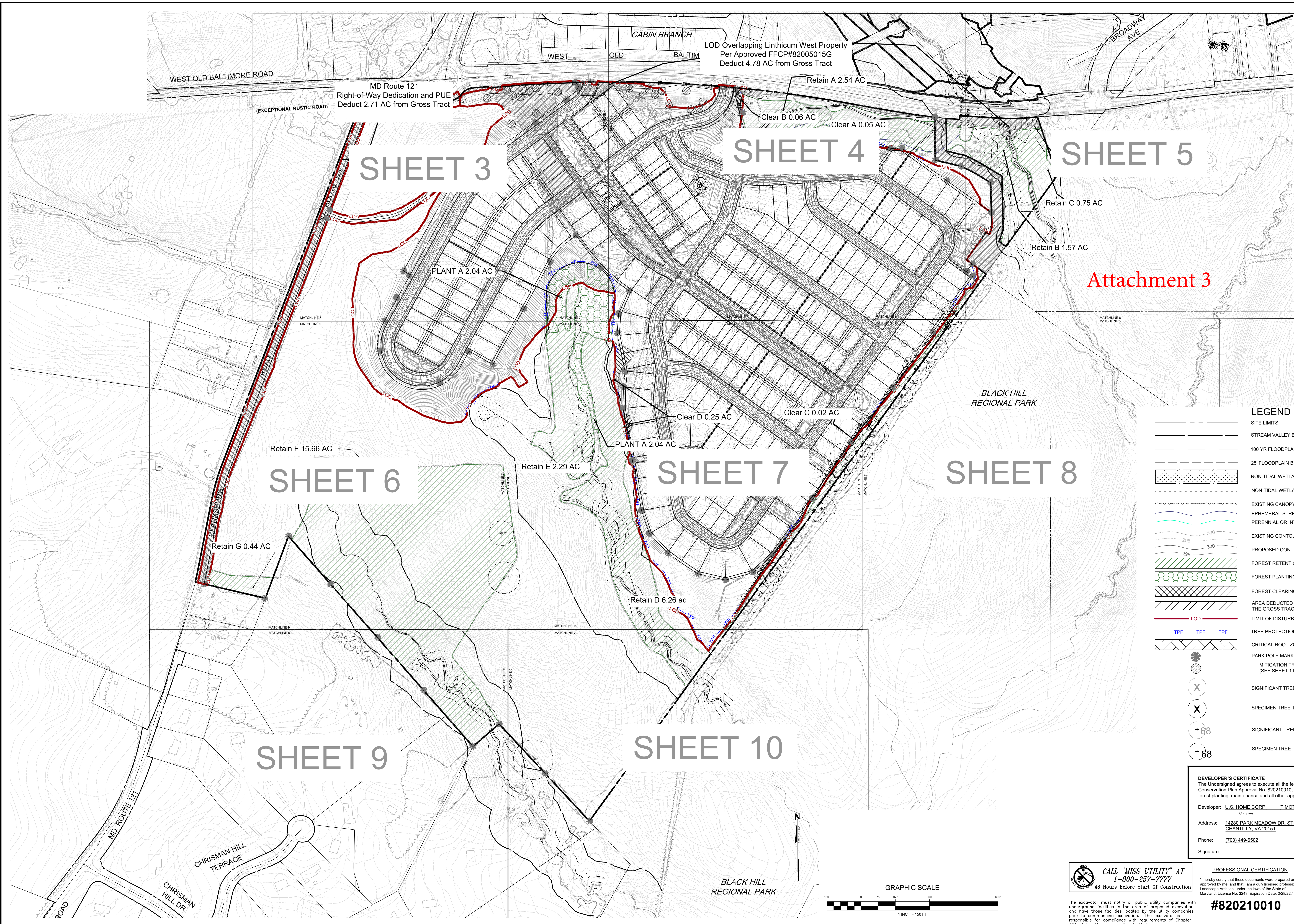
Lerch, Early & Brewer, Chtd.



By: _____

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

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



Attachment 3

LEGEND

- SITE LIMITS
- STREAM VALLEY BUFFER (SVB)
- 100 YR FLOODPLAIN
- 25' FLOODPLAIN BRL
- NON-TIDAL WETLANDS
- NON-TIDAL WETLANDS BUFFER
- EXISTING CANOPY EDGE
- EPHEMERAL STREAM
- PERENNIAL OR INTERMITTENT STREAM
- EXISTING CONTOURS
- PROPOSED CONTOURS
- FOREST RETENTION
- FOREST PLANTING
- FOREST CLEARING
- AREA DEDUCTED FROM THE GROSS TRACT AREA
- LIMIT OF DISTURBANCE
- LOD
- TPF
- CRITICAL ROOT ZONE IMPACTS
- PARK POLE MARKERS
- MITIGATION TREE (SEE SHEET 11)
- SIGNIFICANT TREE TO BE REMOVED
- SPECIMEN TREE TO BE REMOVED
- SIGNIFICANT TREE
- SPECIMEN TREE

DEVELOPER'S CERTIFICATE
 The Undersigned agrees to execute all the features of the Final Forest Conservation Plan Approval No. 820210010, including financial bonding, forest planting, maintenance and all other applicable agreements.

Developer: U.S. HOME CORP. TIMOTHY M. BATES
Company Contact Person

Address: 14280 PARK MEADOW DR. STE. 108
CHANTILLY, VA 20151

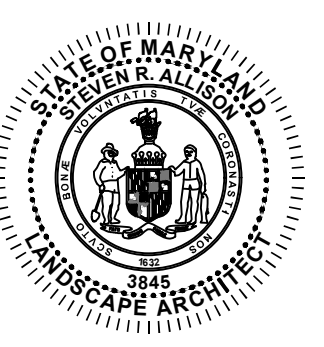
Phone: (703) 449-8502

Signature: _____

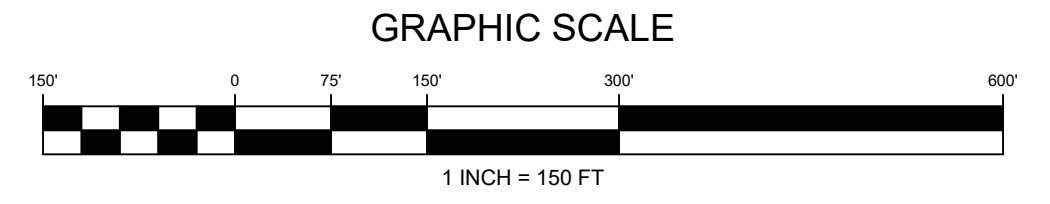
CALL "MISS UTILITY" AT
 1-800-257-7777
 48 Hours Before Start Of Construction

PROFESSIONAL CERTIFICATION
 I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional Landscape Architect under the laws of the State of Maryland, License No. 3043, Expiration Date: 02/2022.

#820210010



The excavator must notify all public utility companies with underground facilities in the area of proposed excavation and have those facilities located by the utility companies prior to commencing excavation. The excavator is responsible for compliance with requirements of Chapter 35A of the Montgomery County Code.



REVISION	DATE	REVISION	DATE	REVISION	DATE

CONTRACT PURCHASER/DEVELOPER:
U.S. HOME CORP.
 14280 PARK MEADOW DR. STE. 108
 CHANTILLY, VA 20151
 ATTN: LUIS GONZALEZ
 PH: (703) 300-2769

LINTHICUM WEST PROPERTY
 L. 20135 F. 0219
 ELECTION DISTRICT NO. 2
 CLARKSBURG, MONTGOMERY COUNTY, MARYLAND

RODGERS CONSULTING
 19847 Century Boulevard, Suite 200, Germantown, Maryland 20874
 Ph: 301.948.4700 Fx: 301.948.6256 www.rodgers.com

BASE DATA	BY	DATE
DESIGNED		
DRAWN		
REVIEWED		

RODGERS CONTACT:
 RELEASE FOR _____
 BY _____ DATE _____

FINAL FOREST CONSERVATION PLAN

SCALE: 1" = 150'
 JOB No. 1162E1
 DATE: September 2021
 SHEET No. 2 of 12

Demand, Supply & Adequacy Report

Project Location Master Plan:



Proposed Residential Project - Units by Type and their Demand Points

Table with columns: Code, Housing Type, Quantity, Totals, Children, Teens, Young Adults, Adults, Seniors. Rows include Mid-Rise, TH, SPD, and In-Rise.

Existing Offsite Park Facilities and their Supply Points

Table with columns: Park Facility, Quantity, Totals, Children, Teens, Young Adults, Adults, Seniors. Rows include Trail System and Wooded.

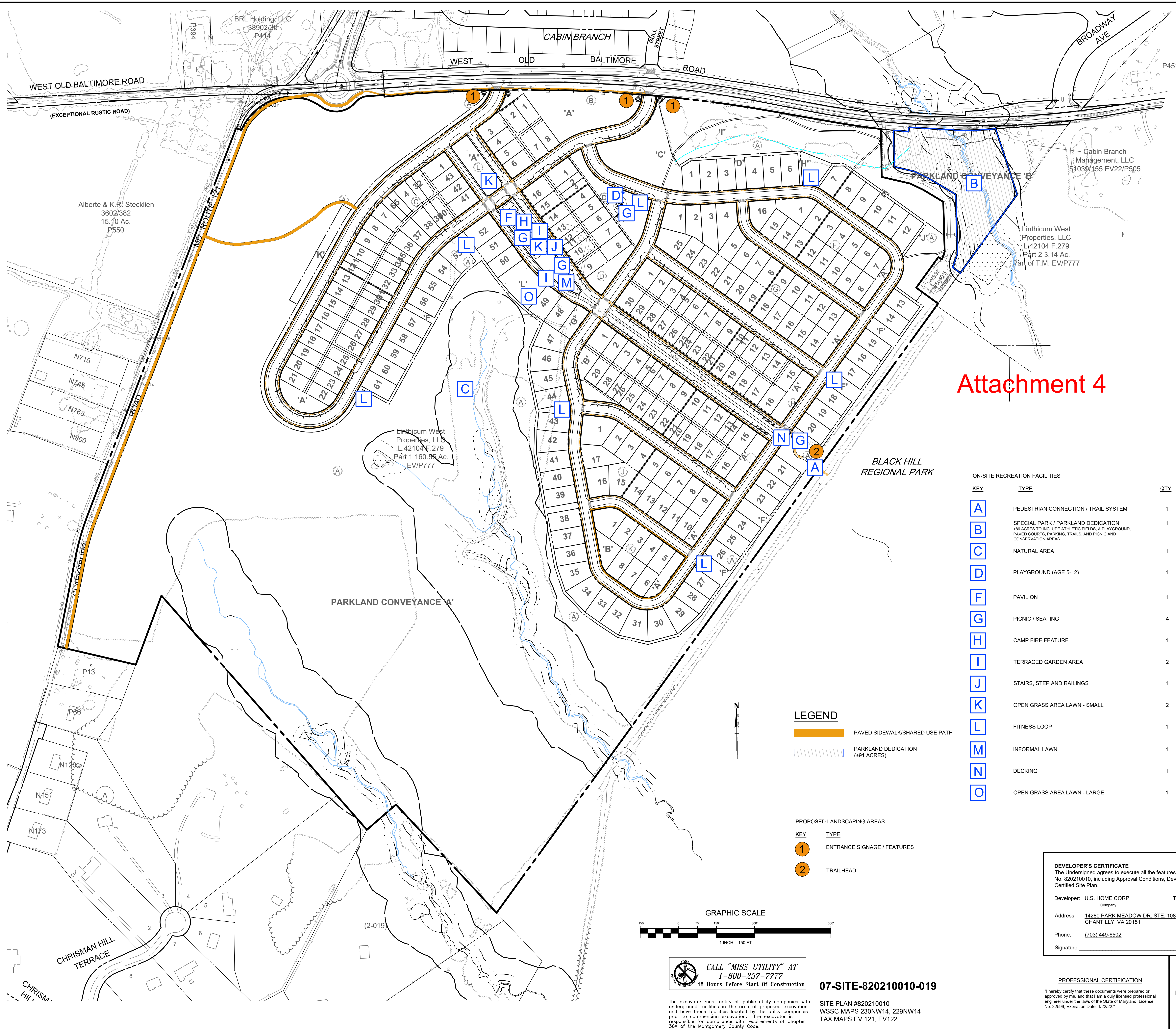
Proposed Onsite Recreation Facilities and their Supply Points

Table with columns: Recreation Facility, Quantity, % Bonus Points, Totals, Children, Teens, Young Adults, Adults, Seniors. Rows include various park and recreation features.

Results: Demand, Supply & Adequacy

Table with columns: Age Group, Total Demand Points, Offsite Supply Points, Onsite Supply Points, Total Supply Points, Adequacy. Rows include Total, Children, Teens, Young Adults, Adults, Seniors.

ScenarioId: 15800



Attachment 4

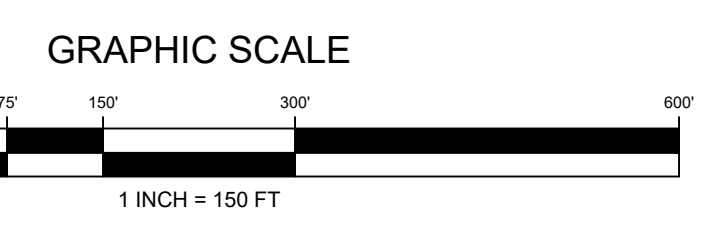
ON-SITE RECREATION FACILITIES KEY table with columns: KEY, TYPE, QTY. Lists items like Pedestrian Connection, Special Park, Natural Area, Playground, Pavilion, etc.

LEGEND

- PAVED SIDEWALK/SHARED USE PATH
PARKLAND DEDICATION (#91 ACRES)

PROPOSED LANDSCAPING AREAS

- ENTRANCE SIGNAGE / FEATURES
TRAILHEAD



CALL "MISS UTILITY" AT 1-800-257-7777 48 Hours Before Start Of Construction

The excavator must notify all public utility companies with underground facilities in the area of proposed excavation and have those facilities located by the utility companies prior to commencing excavation.

07-SITE-820210010-019

SITE PLAN #820210010 WSSC MAPS 230NW14, 229NW14 TAX MAPS EV 121, EV122

DEVELOPER'S CERTIFICATE The Undersigned agrees to execute all the features of the Site Plan Approval No. 820210010, including Approval Conditions, Development Program, and Certified Site Plan.

PROFESSIONAL CERTIFICATION I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 32599, Expiration Date: 1/22/22.



Vertical text on the left edge: N:\MD\Montgomery\Linthicum West\Recreation\Plan\Attachment 4 - Recreation Plan.dwg, 11/18/2021, 8:00pm

REVISION table with columns: REVISION, DATE, REVISION, DATE, REVISION, DATE.

CONTRACT PURCHASER/DEVELOPER: U.S. HOME CORP. 14280 PARK MEADOW DR. STE. 108 CHANTILLY, VA 20151 ATTN: LUIS GONZALEZ PH: (703) 300-2769

LINTICUM WEST PROPERTY L. 20135 F. 0219 ELECTION DISTRICT NO. 2 CLARKSBURG, MONTGOMERY COUNTY, MARYLAND

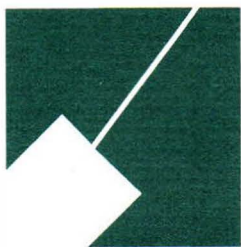
RODGERS CONSULTING 19847 Century Boulevard, Suite 200, Germantown, Maryland 20874 Ph: 301.948.4700 Fx: 301.948.6256 www.rodgers.com

Table with columns: BASE DATA, DESIGNED, DRAWN, REVIEWED, RODGERS CONTACT, RELEASE FOR, BY, DATE.

RECREATION PLAN

SCALE: 1" = 100' JOB No: 1162E1 DATE: SEPT. 2021 SHEET No: 3 of 19

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

Attachment 5

Board Approval Date: March 31, 2005

Date Mailed: DEC 20 2005

Action: Approved staff recommendation.

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

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

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05003

NAME OF PLAN: Linthicum West Property

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

I. INTRODUCTION

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

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

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

II. SITE AND PROJECT DESCRIPTION

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

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

III. RELATIONSHIP TO THE CLARKSBURG MASTER PLAN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IV. TRANSPORTATION

A. Site Access and Circulation

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

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

B. Local Area Transportation Review

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

Table I

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

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

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

V. ENVIRONMENTAL

A. Forest Conservation

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

B. Environmental Guidelines

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

VI. STAFF RECOMMENDATIONS

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

VI. PLANNING BOARD HEARING

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

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

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

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

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

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

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

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

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

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

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

No other speakers testified at the public hearing.

VII. FINDINGS

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

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

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

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

VII. CONDITIONS OF APPROVAL

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

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

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

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

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

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

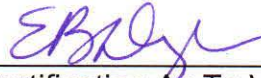
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[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

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

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

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



Certification As To Vote of Adoption
Technical Writer



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).

* * * * *

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

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12005003A - Linthicum West



**Department of Permitting Services
Fire Department Access and Water Supply Comments**

DATE: 09-Nov-21
TO: Randall Rentfro - rrentfro@rodgers.com
Rodgers Consulting, Inc.
FROM: Marie LaBaw
RE: Linthicum West
820210010

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **09-Nov-21**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Marie LaBaw PhD, PE

Fire Department Access and Water Supply
Department of Permitting Services, Montgomery County
2425 Reddie Drive, 7th Floor
Wheaton, MD 20902

Project Name: Linthicum West

Site Plan: #820210010

FIRE CODE ENFORCEMENT

Fire Department Access Review

Nov 5, 2021

Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation

BY: SAC FM: 43 DATE: 11/9/2021

Statement of Performance Based Design

Rodgers File #: 1162E1

Dear Marie:

This document serves to outline the non-prescriptive design elements of the Fire Access Plan associated with the Linthicum West site development project.

Roadways and Operation Bays

Street G features two – 12' wide, one-way travel lanes bisected by a recreation space and grass median. To support fire department vehicular access along these routes, operation bays have been spaced as necessary with minimum dimensions of 20' x 50'. The intent is for these operation bays to occupy bump outs and implement mountable curb (MC-104.01) as a method of control. The two exceptions to this are the operation bays at the west end of Street G, for which pavement markings shall be used to delineate the operation area. Please note that all operation bays shall be constructed to tertiary road loading standards, they will each feature a dedicated or collocated fire hydrant, and all parking restrictions will be identified in the traffic order.

Due to the reduced travel lane width and medians along Street G, the minimum effective turning radii were calculated using the following equation for bends in a fire access route:

$$\text{Min. Radius} = 30' + 20' - \frac{(\text{Street 1} + \text{Street 2})}{2}$$

where the variables *Street 1* and *Street 2* are the travel lane widths of the intersecting roadways. To satisfy this requirement with the intersecting road geometry, all effective radii along Street G are designed to be 33.25'. If any additional information is needed, please reach out to myself or the Rodgers team.

PROFESSIONAL CERTIFICATION

"I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 42356, Expiration Date: 12/19/22."



Sincerely,

Rodgers Consulting, Inc.

Randall Rentfro, PE

Senior Team Engineer/Senior Associate

CC: Luis Gonzalez
Rodgers Consulting, Inc.

November 5, 2021

Marie LaBaw PhD, PE

Fire Department Access and Water Supply
Department of Permitting Services, Montgomery County
2425 Reedie Drive, 7th Floor
Wheaton, MD 20902

Project Name: Linthicum West

Site Plan: #820210010

Rodgers File #: 1162E1

Traffic Order

Introduction:

The intent of this document is to outline the areas designated “No Parking Any Time” per Montgomery County Executive Regulation 29-08 for the Linthicum West Development. In addition to the regulation, proximity to proposed fire hydrants and fire access operating bays were accounted for when delineating these parking restricted areas. Measurements are taken from the face of curb or edge of travel lane of the intersecting roadway.

All roads to be constructed will be described and for reference purposes, the terminology of North, East, South, and West will be used. Many streets are intersected twice and will be referred to in terms of these intersections for location purposes. No fire lane order is required for this project as fire access is provided by public streets only.

Street ‘A’:

Street ‘A’ is a primary road that begins and ends with connections to existing West Old Baltimore Road. Starting at the west side of the site, Street ‘A’ continues in a loop to the southwest for 3,759 linear feet (LF) with one travel lane in each direction. The roadway has a 21.5’ paving width with interment 8’ parking bump outs. Areas designated as “No Parking Any Time” are as follows:

1. The exterior of the Street ‘A’ loop beginning at the west connection to West Old Baltimore Road and terminating 51 LF past the south Intersection of Street ‘G2’.
2. The south side of Street ‘A’ beginning 35 LF Alley 3 and terminating 35 LF past Alley 3.
3. The south side of Street ‘A’ beginning 54 LF before Street ‘D’ and terminating 52 LF past Street ‘D’.
4. The south side of Street ‘A’ beginning 200 LF past Street ‘D’ to the end of the road.
5. The south side of Street ‘A’ beginning at the west connection to West Old Baltimore Road and terminating 57 LF past the north intersection of Street ‘G3’.
6. The north side of Street ‘A’ beginning 171 LF before the south intersection of Street ‘G3’ to the end of the road.

Street ‘D’:

Street ‘D’ is a primary road that begins with a connection to Street ‘A’ and continues in a southeast loop for 4,959 LF until intersecting with itself. The road has a 21.5’ paving width with one

travel lane in each direction and intermittent 8' parking bump-outs. Areas designated as "No Parking Any Time" are as follows:

1. The exterior of the Street 'D' loop for the entirety of the road.
2. The south side of Street 'D' beginning at Street 'A' and terminating 51 LF past the intersection.
3. The interior of the Street 'D' loop beginning 42 LF before Street 'D' intersects with itself and terminating 36 LF past Street 'K'.
4. The east side of Street 'D' beginning 37 LF before Alley 5 and terminating 37 LF past Alley 4.
5. The east side of Street 'D' beginning 46 LF before Street 'F' and terminating 37 LF past Street 'F'.
6. The east side of Street 'D' beginning 46 LF before Street 'D' intersects with itself and continuing to the end of the road.

Street G:

Street G is a primary road that begins at the westernmost segment of Street 'A' and ends at the easternmost segment of Street 'D'. The roadway features two – 12' wide, one-way travel lanes bisected by a recreation space and grass median. There are intermittent 8' parking bump outs on the lot-side of the street, as well as operating bays in compliance with MCFRS code. It is divided into the following sub-streets:

Street G2: Street 'G2' is the north segment of Street 'G' between the north intersection of Street 'A' and the north intersection with street 'D'. This segment of road is 893 LF, and traffic travels northbound. Areas designated as "No Parking Any Time" are as follows:

1. The south side of Street 'G2' for the entirety of the road.
2. The north side of Street 'G2' beginning at the north intersection of Street 'A' and terminating 68 LF past the intersection.
3. The north side of Street 'G2' beginning 53 LF before south intersection of Street 'A' and terminating 53 LF past the south intersection of Street 'A'.
4. The north side of Street 'G2' beginning 119 LF before south intersection of Street 'A' and terminating 190 LF past the south intersection of Street 'A'.
5. The north side of Street 'G2' beginning 32 LF before Alley 3 and terminating 26 LF past the south intersection of Street 'A'.
6. The north side of Street 'G2' beginning 70 LF before the south intersection of Street 'A' and terminating at the south intersection of Street 'A'.

Street G3: Street 'G3' is the south segment of Street 'G' between the north intersection of Street 'A' and the north intersection with street 'D'. This segment of road is 917 LF, and traffic travels southbound. Areas designated as "No Parking Any Time" are as follows:

1. The north and south sides of Street 'G2' for the entirety of the road.

Street G4: Street 'G4' is the easternmost segment of Street 'G' and is bounded by Street 'D' on both ends. and the north intersection with street 'D'. This segment of road is 917 LF, and traffic travels southbound. Areas designated as "No Parking Any Time" are as follows:

1. The north and south sides of Street 'G4' beginning at the north intersection of Street 'D' and terminating 47 LF past the intersection.
2. The north and south sides of Street 'G4' beginning 201 LF past the north intersection of Street 'D' and terminating 272 LF past the north intersection of Street 'D'.
3. The north and south sides of Street 'G4' beginning 448 LF past the north intersection of Street 'D' and terminating 519 LF past the north intersection of Street 'D'.
4. The north and south sides of Street 'G4' beginning 87 LF before the south intersection of Street 'D' to the end of the road.

Street 'I':

Street 'I' is a primary road that is bounded by Street 'D' on both ends. Starting at the west end, Street 'I' continues for 717 LF. The roadway has a 20' paving width with one travel lane in each direction. Areas designated as "No Parking Any Time" are as follows:

1. The north side of Street 'I' for the entirety of the road.
2. The south side of Street 'I' for the entirety of the road.

Street 'F':

Street 'F' is a primary road that is bounded by Street 'D' on both ends. Starting at the west end, Street 'F' continues for 871 LF. The roadway has a 21.5' paving width with one travel lane in each direction and intermittent 8' parking bump outs on the south side. Areas designated as "No Parking Any Time" are as follows:

3. The north side of Street 'F' for the entirety of the road.
4. The south side of Street 'F' beginning at the west intersection of Street 'D' and terminating 50 LF past the intersection.
5. The south side of Street 'F' beginning 182 LF before the east intersection of Street 'D' and terminating 94 LF before the east intersection of Street 'D'.
6. The south side of Street 'F' beginning 50 LF before the east intersection of Street 'D' and continuing to the end of the road.

Street 'K':

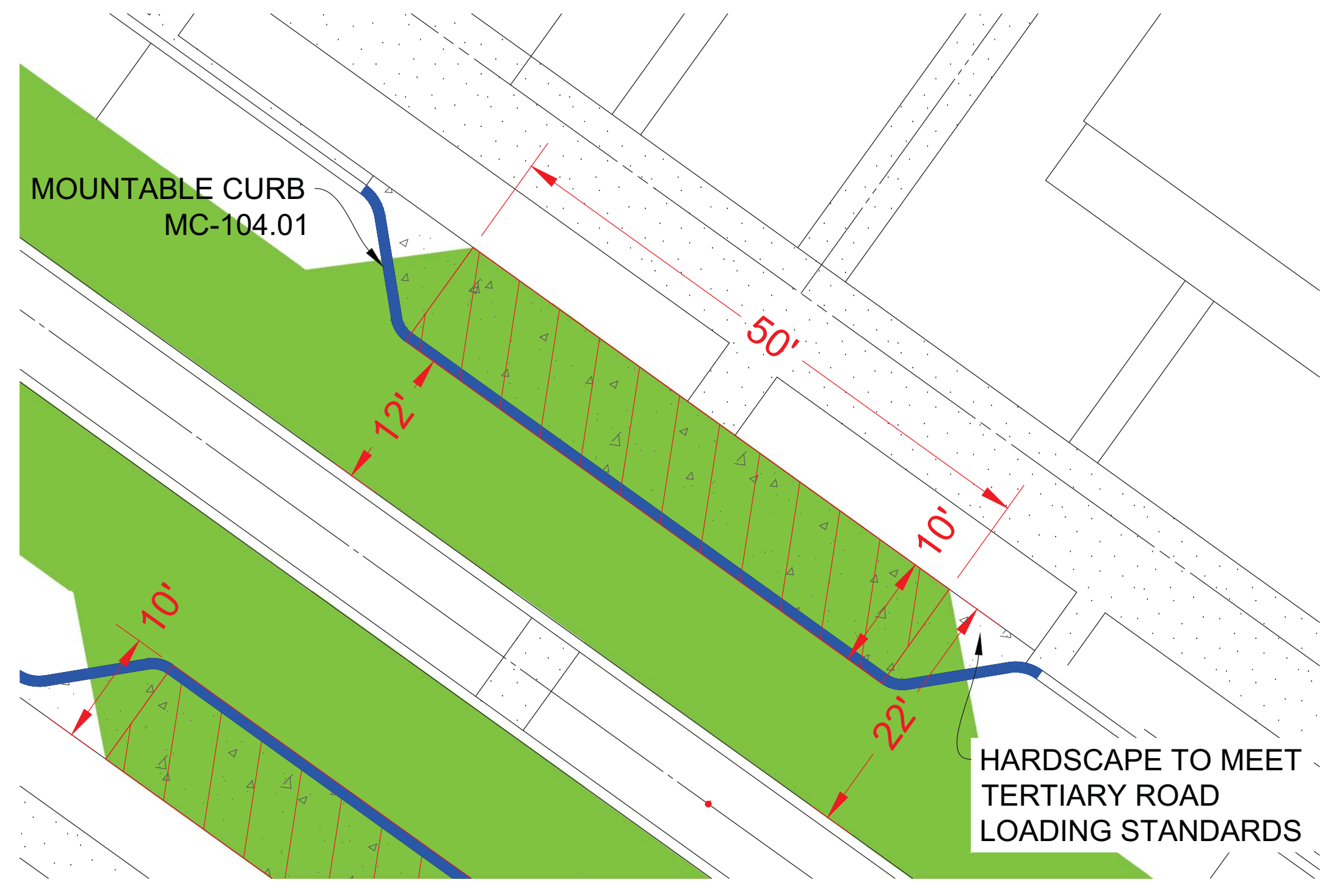
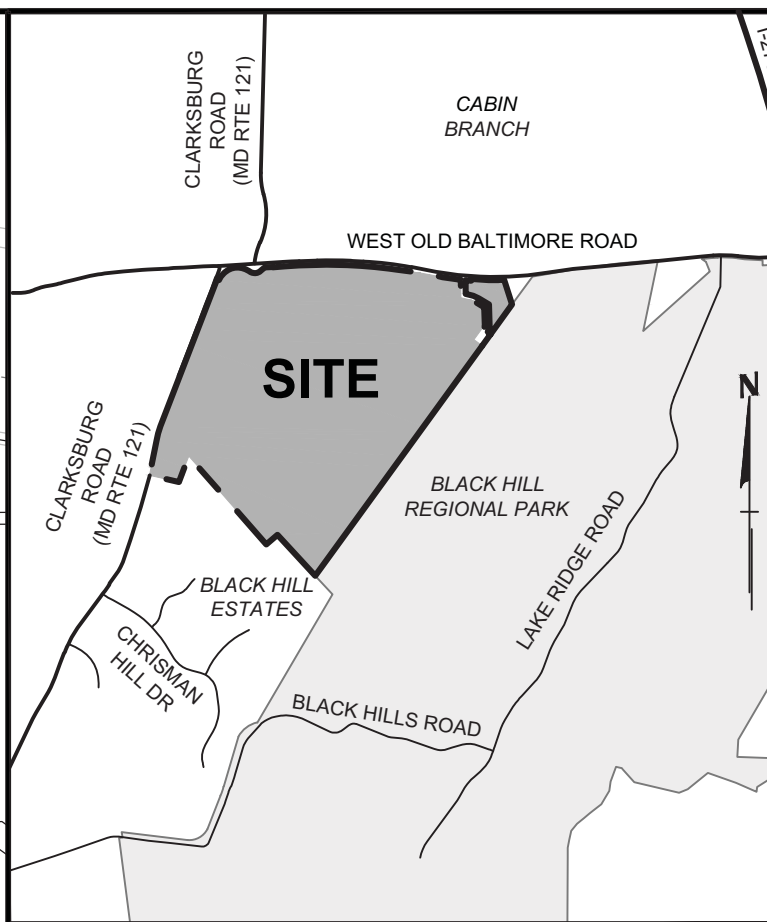
Street 'K' is a primary road that is bounded by Street 'D' on both ends. Starting at the west end, Street 'K' continues for 734 LF. The roadway has a 21.5' paving width with one travel lane in each direction and intermittent 8' parking bump outs on the north side. Areas designated as "No Parking Any Time" are as follows:

7. The south side of Street 'K' for the entirety of the road.
8. The north side of Street 'K' beginning at the west intersection of Street 'D' and terminating 50 LF past the intersection.
9. The north side of Street 'K' beginning 176 LF before the east intersection of Street 'D' and terminating 110 LF before the east intersection of Street 'D'.
10. The south side of Street 'K' beginning 66 LF before the east intersection of Street 'D' and continuing to the end of the road.

Street 'H':

Street 'H' is a primary road that is bounded by Street 'D' on both ends. Starting at the west end, Street 'H' continues for 499 LF. The roadway has a 20' paving width with one travel lane in each direction. Areas designated as "No Parking Any Time" are as follows:

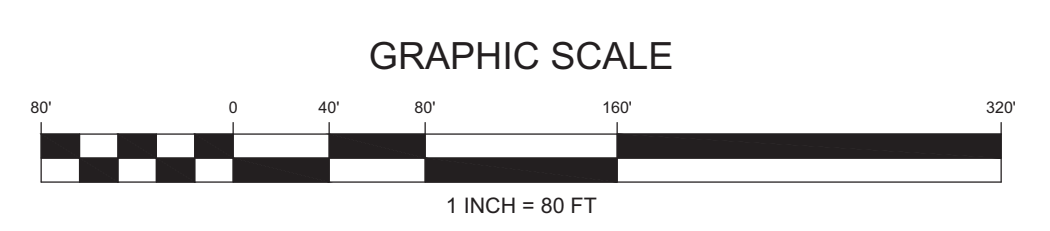
1. The north side of Street 'H' for the entirety of the road.
2. The south side of Street 'H' for the entirety of the road.



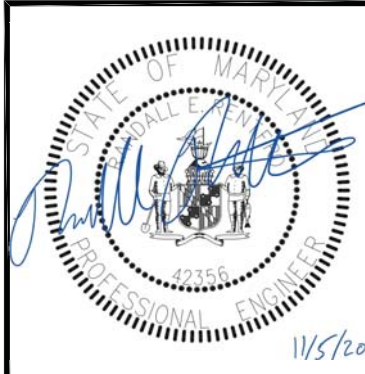
- GENERAL NOTES:**
- ALL UNITS TO BE MAXIMUM THREE (3) STORIES (27' TO HIGHEST SILL, INCLUDING FALSE DORMERS). THUS, ALL UNITS COMPLY WITH FULL HEIGHT RESTRICTION.
 - NO DWELLING UNIT OR PORTION OF A DWELLING UNIT SHALL BE SUPERIMPOSED ON TOP OF ANOTHER.
 - ALL 12' WIDE ONE-WAY ROADS INDICATED AS FIRE ACCESS ROUTES TO UTILIZE OPERATING BAYS THAT MEET TERTIARY ROAD LOADING STANDARDS WITH MINIMUM DIMENSIONS OF 20' WIDE BY 50' LONG.
 - NO PERMANENT OBSTRUCTIONS SHALL BE LOCATED WITHIN OPERATING BAYS.
 - ALL MOUNTABLE CURB TO BE MC-104.01.
 - ALL EFFECTIVE RADII ALONG STREET 'G' TO BE A MINIMUM OF 33.25'.
 - WATER SUPPLY WILL BE THROUGH WSSC PUBLIC WATER MAINS.
 - ALL PARALLEL PARKING SPACES ARE 8' WIDE.
 - THERE ARE 253 TOTAL UNITS IN THE DEVELOPMENT.

- LEGEND**
- FIRE LANE
 - OPERATING BAY
 - MOUNTABLE CURB
 - FIRE HYDRANT
 - MAIN DOOR LOCATION
 - SITE LIMITS
 - PUBLIC STREET RIGHT OF WAY
 - LOT LINES
 - PROPOSED SIDEWALKS, PATHS, TRAILS
 - STORMWATER FACILITY

FIRE CODE ENFORCEMENT
 Fire Department Access Review
 Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation.
 BY: SAC PN: 43 DATE: 11/9/2021



PROFESSIONAL CERTIFICATION
 I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 42356, Expiration Date: 12/19/22.



REVISION	DATE	REVISION	DATE	REVISION	DATE

CONTRACT PURCHASER/DEVELOPER:
U.S. HOME CORP.
 14280 PARK MEADOW DR. STE. 108
 CHANTILLY, VA 20151
 ATTN: LUIS GONZALEZ
 PH: (703) 300-2769

LINTHICUM WEST PROPERTY
 L. 20135 F. 0219
 ELECTION DISTRICT NO. 2
 CLARKSBURG, MONTGOMERY COUNTY, MARYLAND

RODGERS CONSULTING
 19847 Century Boulevard, Suite 200, Germantown, Maryland 20874
 Ph: 301.948.4700 Fx: 301.948.6256 www.rodgers.com

BASE DATA	BY	DATE
DESIGNED		
DRAWN		
REVIEWED		
RODGERS CONTACT:		
RELEASE FOR		
BY:		DATE

FIRE ACCESS PLAN

SCALE: 1" = 80'
 JOB No. 1162E
 DATE: NOV. 2021
 SHEET No. 1 OF 1



Attachment 8

DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Mitra Pedoeem
Director

December 17, 2021

Mr. Neil Blanc, P.E.
Rodgers Consulting, Inc.
19847 Century Blvd., Suite 200
Germantown, Maryland 20874

Re: **COMBINED STORMWATER MANAGEMENT
CONCEPT/SITE DEVELOPMENT
STORMWATER MANAGEMENT PLAN** for
Linthicum West
Preliminary Plan #: 120050030A
SM File #: 286431
Tract Size/Zone: 165.2 acres/RE-1/TDR-2
Total Concept Area: 165.2 acres
Lots/Block: N/A
Parcel(s): P777
Watershed: Little Seneca Creek

Dear Mr. Blanc:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above-mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via micro bioretention and landscape infiltration where feasible.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. All micro bioretention facilities must meet DPS standards with drainage areas not to exceed 20,000 square feet.
3. The proposed outfalls must meet DPS standards for locations and velocities and may be required to extend further down slope than shown.
4. The on lot micro bioretention facilities may be required to provided barriers if the wall height above the filter or the adjacent grade is greater than 2 feet.
5. The ongoing infiltration testing results must be submitted with the first submittal of the detailed sediment control/stormwater management plans. The stormwater management design will be required to be adjusted to take advantage of acceptable infiltration rates with landscape infiltration to provide groundwater recharge. These locations should be in areas that are not intended for extensive cuts or fills.



2425 Reedie Drive, 7th Floor, Wheaton, Maryland 20902 | 240-777-0311
www.montgomerycountymd.gov/permittingervices

Mr. Neil Blanc, P.E.
December 17, 2021
Page 2 of 2

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Leo Galanko at 240-777-6242.

Sincerely,

Mark Etheridge

Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: lmg

cc: N. Braunstein
SM File # 286431

ESD: Required/Provided 115,006 cf / 115,908 cf
PE: Target/Achieved: 1.02"/1.03"
STRUCTURAL: 0 cf
WAIVED: 0 ac.

820210010 Linthicum West

Contact: Sam Farhadi at 240 777-6333

We have reviewed site plan file:

We have reviewed site and landscape plans files that were uploaded on/ dated “11/16/2021”.

The followings need to be addressed prior to the certification of site plan:

1. Ensure provided road sections conform to the plan views and PIEs have been clearly depicted on the plan and sections.
2. Provide public sidewalk:
 - a. to ADA standards (minimum five feet wide) and label it accordingly.
 - b. Connection to Black Hills Park trails.
 - c. Provide and label PIE as needed (such as street A in the vicinity of West Old Baltimore Road).
 - d. Ensure alignments of handicap ramps such as (Streets G3 at A or crosswalks).
3. Provide ROW truncation (or PIE) at the intersection of public streets.
4. Per MCDOT approval letter for 120050030 dated 2/25/05:
 - a. Condition 7: Provide/ confirm available and adequate sight distance for the access points at West Old Baltimore Road.
 - b. Condition 22D: Downstream storm drain analysis.
 - c. Condition 8: Provide signed and sealed sight distance analysis for the access points street D at Street A.
5. Provide SD easement where needed. Also need public structures at either end of storm drain crossings at ROW.
6. Provide 10' PUE along all public streets.
7. Availability of on-street parking will be determined at the time of ROW permit.
8. Provide Street trees:
 - a. Provide minor trees in the median along street G4.
 - b. Provide approved species street trees in the ROW along streets G2/G3 adjacent to parcel A and central green.

And the followings need to be conditions of the certified site plan:

1. Private streets to be built to the corresponding public road classification standards per County Code 50.4.3.E.4.c.



Attachment 10

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

Aseem K. Nigam
Director

January 25, 2022

Mr. Ryan Sigworth
Montgomery County Planning Department
2425 Reddie Drive
Wheaton, Maryland 20902

Re: Linthicum West
Site Plan No. 820210010

Dear Mr. Sigworth:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced plans and recommends Approval.

Sincerely,

Julia Chen

Julia Chen, Planning Specialist
Affordable Housing Programs Section

cc:

Division of Housing

Affordable Housing

Common Ownership Communities

Landlord-Tenant Affairs

Multifamily Housing

1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852 • 240-777-0311 • 240-777-3691 FAX • www.montgomerycountymd.gov/dhca

montgomerycountymd.gov/311



240-773-3556 TTY

October 1, 2020

Montgomery County Planning Department
2425 Reddie Drive
Wheaton, MD 20902

Re: Linthicum West
Tree Variance Request and Justification
RCI Project No.: 1162E1
MNCPPC# 820210010

Dear Sir or Madam:

Please accept this letter and the accompanying Final Forest Conservation Plan as a formal written request for a variance from section 22A-12(b)(3) of the Montgomery County Code. The referenced section addresses the requirement to not disturb *“any tree with a diameter, measured at 4.5 feet above the ground, of (i) 30 inches or more; or (ii) 75% or more of the diameter measured at 4.5 feet above ground of the current State champion tree of that species”*.

A. Project Background

On behalf of Linthicum West Properties, LLC along with U.S. Homes (Lennar), the contract purchaser and developer, we submit this specimen tree variance request in conjunction with a Site Plan application for the proposed development of the property located in Clarksburg, Maryland: 14222 West Old Baltimore Road, Boyds, Maryland (the “Property”). The Property is approximately 165.25 acres (gross tract area), and located in the southeastern quadrant of the intersection of Clarksburg Road (MD 121) and West Old Baltimore Road (WOBR) in Clarksburg, Montgomery County, Maryland. The Property is shown on Tax Map EV, Parcel 777 and zoned Residential Estate-1/Transferable Development Rights (RE-1/TDR2). Currently existing onsite is a farmhouse and associated outbuildings. The subject Property is located within the Cabin Branch Neighborhood of the Clarksburg Master Plan Area. The Cabin Branch Neighborhood lies to the west of 1-270 and is the only portion of the western side that is proposed for significant residential development. The neighborhood is close to Black Hill Regional Park and offers an opportunity to establish a strong neighborhood-park relationship and is less than a 10-minute drive from the Boyds commuter rail station.

There are nearly 31 acres of existing forest on the Property, to include stream buffers, floodplains, and wetlands. These areas are to be dedicated to the parks department as shown on the associated Final Forest Conservation Plan. The proposed development has been designed to preserve the stream valley buffers, floodplains and wetlands as well as the majority of the existing forest contained on the site. The Property lies within the Little Seneca Creek watershed, and the Maryland Department of the Environment has classified the watershed as Use Class I-P. There are approximately 2 acres of 100-year floodplain on the Property, and does not lie within the Clarksburg Special Protection Area. Currently, the Property is actively farmed, with corn and soybean crops.

B. Prior Approvals

Preliminary Plan #120050030 for the Property (the “Preliminary Plan”) and associated Preliminary Forest Conservation Plan was approved by The Montgomery County Planning Board, on March 31, 2005.

The Planning Board approved an 8-year APF validity period (less than the 12-year timeframe, but more than the 5-year Staff recommended timeframe) to promote continued farming on the Property. That approval timeframe, coupled with the Montgomery County Council automatic extensions totaling ten years (Montgomery County Ordinance Number 18-04, effective March 31, 2015, and Subdivision Regulation Amendment Number 20-01, effective July 28, 2020), results in Preliminary Plan/APF approval periods that are valid until December 20, 2023.

On August 10, 2020, Linthicum West Properties, LLC applied for a Preliminary Plan Amendment, (#12005003A) in order to amend approved Preliminary Plan #120050030. The amendment proposes to revise Planning Board Conditions to allow for the conversion of Moderately Priced Dwelling Units (MPDUs) from detached to attached (duplex) units and to extend the approval periods by seven years to allow U.S. Home sufficient time to obtain all of the necessary permits for the project. No additional development is proposed.

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

C. Master Plan and Code Conformance

The Property is located within the Cabin Branch Neighborhood of the 1994 Clarksburg Master Plan (“the 1994 Plan”) Area. The key Master Plan objective for the area south of West Old Baltimore Road and the subject ±165.25 acre Linthicum West Property is to maintain the present rural character so that a strong transition is provided between the Cabin Branch and Ten Mile Creek Neighborhoods and the rural community of Boyds.

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

As previously mentioned, the current Site Plan formation and organization of units are virtually match to the Preliminary Plan approval, therefore is in conformance to the recommendations of the Clarksburg Master Plan and complies with Chapter 50 of the Montgomery County Code, Subdivision Regulations, and is also pursuant to Chapter 59 of the Montgomery County Zoning Ordinance.

D. Specimen Tree Inventory

The location of each specimen tree was surveyed and is documented on the approved NRI/FSD and the approved Preliminary Forest Conservation Plan.

E. Tree by Tree Analysis- Removals

Tree #'s 601 & 602. Tree 601 is a 33" Red Oak (*Quercus rubra*) and tree 602 is a 36" Chestnut Oak (*Quercus montana*). These trees are located within a forest stand close to the West Old Baltimore Road across from an existing intersection into Cabin Branch. Consistent with the approved Preliminary Plan, the main entrance into the Linthicum West site that is shown on the Site Plan is on West Old Baltimore Road immediately across from an existing entrance into the Cabin Branch Development. Failing to allow this roadway connection, in order to save the specimen trees, will preclude ideal roadway networks necessary to make the proposed community functional and safe. This would leave undesirable options for providing access to the site such as staggered intersections that are too close together creating maneuverability and safety concerns.

Tree #622. Tree 622 is a 33" Tulip poplar (*Liriodendron tulipifera*) in poor health. Given the trees proximity to the development the tree poses a potential safety risk for the adjacent development. As a result, the tree is proposed to be removed. The area remaining for development contains this one specimen located in an upland area. The removal of this specimen tree will allow the development to proceed in accordance with the approved Preliminary Plan and will be mitigated for at a 4:1 caliper replacement ratio.

Tree #655. Tree 622 is a 30" Black Cherry (*Prunus serotina*). This tree is located outside of a forest stand. The proposed development has been designed to preserve the stream valley buffers, floodplains and wetlands as well as the majority of the existing forest contained on the site.

Tree #'s 623, 624, 642, 652 & 657. These trees are located within a forest stand along the eastern boundary of the site. The critical root zone shown for these trees are based on a rule of thumb of multiplying the diameter at breast height (dbh) by a factor of 1.5 to determine the radius of the critical root zone. The portion of the trees critical root zone outside of the tree line shown on the plan has been farmed by the property owner for decades. As a result, it is likely that either the critical root zone is not present beyond the tree line or it has already been impacted by farming operations. It is not possible to know unless the ground is excavated. To be conservative the rule of thumb was used. These trees should be reevaluated in the field at time of construction to determine whether or not each tree poses a threat to life or property.

Tree 623 is a 30" Tulip poplar (*Liriodendron tulipifera*). Impacts to 33% of the critical root zone is proposed and the tree is shown as removed due to the proximity of the tree to the proposed development.

Tree 624 is a 45" Tulip poplar (*Liriodendron tulipifera*). Impacts to 36% of the critical root zone is proposed and the tree is shown as removed due to the proximity of the tree to the proposed development.

Tree 642 is a 32" Tulip poplar (*Liriodendron tulipifera*). Impacts to 35% of the critical root zone is proposed and the tree is shown as removed due to the proximity of the tree to the proposed development.

Tree 652 is a 41" Tulip poplar (*Liriodendron tulipifera*). Impacts to 42% of the critical root zone is proposed and the tree is shown as removed due to the proximity of the tree to the proposed development.

Tree 657 is a 36" Tulip poplar (*Liriodendron tulipifera*). Impacts to 43% of the critical root zone is proposed and the tree is shown as removed due to the proximity of the tree to the proposed development.

F. Tree by Tree Analysis- Disturbed/Retained

Tree #'s 628, 630, 631, 632, 634, 635, 636, 641, 643, 644, 646, 651, 656, 658, 663, 664, 672, 674, 675, 676, 677, 679 & 680. These trees are located within a forest stand along the eastern boundary of the site. The critical root zone shown for these trees are based on a rule of thumb of multiplying the diameter at breast height (dbh) by a factor of 1.5 to determine the radius of the critical root zone. The portion of the trees critical root zone outside of the tree line shown on the plan has been farmed by the property owner for decades. As a result, it is likely that either the critical root zone is not present beyond the tree line or it has already been impacted by farming operations. It is not possible to know unless the ground is excavated. To be conservative the rule of thumb was used. These trees should be reevaluated in the field at time of construction to determine whether or not each tree poses a threat to life or property.

Tree 628 is a 34" Tulip poplar (*Liriodendron tulipifera*). Impacts to 11% of the critical root zone is proposed to tie out grades.

Tree 630 is a 31" Red Oak (*Quercus rubra*). Impacts to 20% of the critical root zone is proposed to tie out grades.

Tree 631 is a 41" Tulip poplar (*Liriodendron tulipifera*). Impacts to 28% of the critical root zone is proposed to tie out grades.

Tree 632 is a 34" Black Oak (*Quercus velutina*). Impacts to 28% of the critical root zone is proposed to tie out grades.

Tree 634 is a 36" Tulip poplar (*Liriodendron tulipifera*). Impacts to 16% of the critical root zone is proposed to tie out grades.

Tree 635 is a 35" Tulip poplar (*Liriodendron tulipifera*). Impacts to 20% of the critical root zone is proposed to tie out grades.

Tree 636 is a 33" Tulip poplar (*Liriodendron tulipifera*). Impacts to 4% of the critical root zone is proposed to tie out grades.

Tree 641 is a 47" Tulip poplar (*Liriodendron tulipifera*). Impacts to 15% of the critical root zone is proposed to tie out grades and stormwater management.

Tree 643 is a 39" Tulip poplar (*Liriodendron tulipifera*). Impacts to 11% of the critical root zone is proposed to tie out grades and stormwater management.

Tree 644 is a 45" Tulip poplar (*Liriodendron tulipifera*). Impacts to 12% of the critical root zone is proposed to tie out grades and stormwater management.

Tree 646 is a 35" Tulip poplar (*Liriodendron tulipifera*). Impacts to 8% of the critical root zone is proposed to tie out grades.

Tree 651 is a 30" Tulip poplar (*Liriodendron tulipifera*). Impacts to 7% of the critical root zone is proposed to tie out grades.

Tree 656 is a 41" Tulip poplar (*Liriodendron tulipifera*). Impacts to 22% of the critical root zone is proposed to tie out grades.

Tree 658 is a 36" Tulip poplar (*Liriodendron tulipifera*). Impacts to 29% of the critical root zone is proposed to tie out grades.

Tree 663 is a 40" Tulip poplar (*Liriodendron tulipifera*). Impacts to 7% of the critical root zone is proposed to tie out grades.

Tree 664 is a 33" Tulip poplar (*Liriodendron tulipifera*). Impacts to 25% of the critical root zone is proposed to tie out grades.

Tree 672 is a 33" Tulip poplar (*Liriodendron tulipifera*). Impacts to 26% of the critical root zone is proposed to tie out grades.

Tree 674 is a 34" Black Oak (*Quercus velutina*). Impacts to 12% of the critical root zone is proposed to tie out grades.

Tree 675 is a 30" Tulip poplar (*Liriodendron tulipifera*). Impacts to 9% of the critical root zone is proposed to tie out grades.

Tree 676 is a 30" Tulip poplar (*Liriodendron tulipifera*). Impacts to 21% of the critical root zone is proposed to tie out grades.

Tree 677 is a 36" Tulip poplar (*Liriodendron tulipifera*). Impacts to 19% of the critical root zone is proposed to tie out grades.

Tree 679 is a 34" Black Oak (*Quercus velutina*). Impacts to 10% of the critical root zone is proposed to tie out grades.

Tree 680 is a 35" Red Oak (*Quercus rubra*). Impacts to 18% of the critical root zone is proposed to tie out grades.

G. Requirements for the Granting a Variance Request

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship:

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

The proposed development has been designed to preserve the stream valley buffers, floodplains and wetlands as well as the majority of the existing forest contained on the site. Approximately 90 acres of the Property that includes these sensitive environmental features is proposed to be dedicated to the Parks Department.

The impacts to specimen trees discussed above are necessary to implement the approved Preliminary Plan, provide safe access into the site or are located outside of other environmentally sensitive stream valley buffers, wetlands, floodplains and existing forest stands where housing and roads and associated grading are shown on the approved Preliminary Plan and therefore cannot be saved. Denying the applicants request to remove these specimen trees will deny the applicant the ability to develop their property in accordance with the approved Preliminary Plan resulting in an unwarranted hardship.

(2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas:

The proposed development has been designed to preserve the stream valley buffers, floodplains and wetlands as well as the majority of the existing forest contained on the site. Approximately 90 acres of the Property that includes these sensitive environmental features is proposed to be dedicated to the Parks Department.

The impacts to specimen trees discussed above are necessary to implement the approved Preliminary Plan, provide safe access into the site or are located outside of other environmentally sensitive stream valley buffers, wetlands, floodplains and existing forest stands where housing and roads and associated grading are shown on the approved Preliminary Plan and therefore cannot be saved. Not allowing the Applicant to develop their property in accordance with the approved Preliminary Plan that has been found by staff to be in conformance with the County's Master Plan would deprive the Applicant of a right enjoyed by others in similar areas.

(3) Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance.

The development of the property will implement water quality conditions on-site and downstream through the provision of a comprehensively designed and integrated stormwater management system

that relies on Environmental Site Design (ESD) practices. Additionally, the proposed development is subject to Chapter 19 of the Montgomery County Code, which has been determined by the Maryland Department of the Environment to be in conformance with the State's water quality standards.

(4) Provide any other information appropriate to support the request.

The removal of specimen trees located within forest stands will be mitigated for in accordance with Section 22-A. All specimen tree removals outside of forest stands will be mitigated for by providing mitigation plantings at a 1:4 caliper ratio.

In addition to meeting the criteria of subsection (a), the granting of this 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. Failing to grant a variance would deprive the landowners' ability to implement the approved Preliminary Plan that has been found by staff to be in conformance with the County's Master Plan, which would be an undue hardship.

(2) Will not be based on conditions or circumstances which result from the actions by the applicant.

This specimen tree variance request is based on the approved Preliminary Plan that has been found by staff to be in conformance with the County's Master Plan, the size, type and distribution of trees, safety considerations, and grading constraints. It is not based on circumstances which result from the actions by the applicant.

(3) Will not be based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

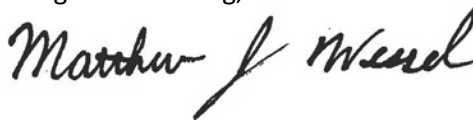
This specimen tree variance request is based on the approved Preliminary Plan that has been found by staff to be in conformance with the County's Master Plan, the size, type and distribution of trees, safety considerations, and grading constraints. In order to develop the property, unavoidable impacts to specimen trees are required. These circumstances are specific to the property and not a condition relating to land or building use on a neighboring property.

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

Environmental Site Design (ESD) planned for development of this property will create and maintain water quality standards. The proposed development is subject to Chapter 19 of the Montgomery County Code, which has been determined by the Maryland Department of the Environment to be in conformance with the State's water quality standards.

Please do not hesitate to contact me with any questions or comments concerning this application. I can be reached at (240) 912-2150 or mwessel@rodgers.com.

Sincerely,
Rodgers Consulting, Inc.



Matthew J. Wessel, PLA, ISA Certified Arborist
Environmental Director