

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

January 31, 2025

MCPB No. 25-002
Preliminary Plan No. 120240040
Clarksburg Chase
Date of Hearing: January 9, 2025

RESOLUTION

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

WHEREAS, on August 31, 2023, John King & Anita Kowalski/US Home, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 101 lots on 136.17 acres of land in the RNC zone and Clarksburg West Environmental (“CWE”) Overlay zone, located at the northwest quadrant of intersection of Gosnell Farm Drive at Old Clarksburg Road (“Subject Property”), in the Clarksburg Policy Area and 2014 Ten Mile Creek Area Limited Amendment to the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120240040, Clarksburg Chase (“Preliminary Plan” or “Application”); and

WHEREAS, the Application was submitted for concurrent review and approval with Forest Conservation Plan No. F20240180 and Site Plan No. 820240050; 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 December 30, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 9, 2025, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick and Linden voting in favor.

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Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120240040 to create 101 lots on the Subject Property, subject to the following conditions:¹

General Approval

1. This Preliminary Plan is limited to 101 lots for residential development, including a minimum of twelve and one-half percent (12.5 %) moderately priced dwelling units (MPDUs), and eighteen (18) parcels for roads and open space on 136.17 acres.
2. Impervious surfaces are limited to no more than six percent (6%) of the land area subject to this Application located within the Clarksburg West Environmental (CWE) Overlay Zone as shown on the approved Impervious Area Exhibit, including the allocation of 355,907 square feet of impervious area for hardscaping, and public and private roadways and alleys, including off-site improvements.
3. Before recordation of a plat for the Subject Property, the Applicant must grant to M-NCPPC a rural open space easement over no less than 80.6% of the net tract area of the Subject Property as shown on the Preliminary Plan. The Applicant must record the easement, in a form approved by the M-NCPPC Office of General Counsel, among the Montgomery County Land Records. Reference to the recorded easement must be noted on the record plat(s).

M-NCPPC Montgomery County Department of Parks (“Montgomery Parks”)

4. Parkland Conveyance: Before issuance of the building permit for the 20th unit, the Applicant must convey to the Maryland-National Capital Park and Planning Commission (“Commission”) the approximately 100.57 acres as shown on the Open Space Exhibit as the Park Conveyance Area.
 - a. Before approval and recordation of the Record Plat(s) including the Park Conveyance Area parcel(s) the Applicant must provide to the Commission an executed deed(s) in a form and substance approved by the Commission’s Office of General Counsel.
 - b. The Commission will hold the deeds in escrow until all conditions of this approval related to the Park Conveyance and all conditions of any related Park Construction Permits have been completed including the required Maintenance and Management period for any re/afforestation plantings and post-construction monitoring of stream restoration area on the Park Conveyance Area. Once all relevant conditions have been completed the Commission will formally accept the Park Conveyance Area and record the deed(s).

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.

- c. Before the Commission records the deed(s) the Park Conveyance Area must be free of trash and unnatural debris; any encroachments on the Park Conveyance Area must be cured, and the parkland boundaries must be marked as directed and approved by Montgomery Parks staff.

Adequate Public Facilities

5. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

6. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

Outside Agencies

7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated December 19, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
8. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
9. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“MDOT SHA”) in its letter dated October 29, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MDOT SHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
10. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
11. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Water

Resources Section in its stormwater management concept letter dated April 5, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

12. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated June 9, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
13. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated June 12, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

14. If an approved site plan or amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

Transportation

Frontage Improvements on Existing Roads

15. The Applicant must provide and/or confirm the following dedication and show it on the record plat(s) for the following existing road:
 - a. All land necessary to accommodate fifteen (15) feet from the existing pavement centerline along the Subject Property frontage for Old Clarksburg Road.

New Roads

16. The Applicant must dedicate the rights-of-way and ensure construction of all necessary road improvements for the following public streets, as shown on the Preliminary Plan, to the design standards imposed by all applicable road codes.
 - a. Public Road A, monumental entrance, consistent with MC 224.01 and the requirements under the 2023 Complete Streets Design Guide for Neighborhood Streets.

- i. Between Clarksburg Road and Public Road B, a ten-foot-wide (10 ft) shared use path with an eight-foot-wide (8 ft) vegetated street buffer and a one-foot-wide (1 ft) maintenance buffer on the north side, and a 12-foot-wide vegetated street buffer on the south side.
- b. Public Road A, consistent with MC 211.03 Secondary Residential Streets and the requirements under the 2023 Complete Streets Design Guide for Neighborhood Streets.
 - i. Between both intersections with Public Road B, a five-foot-wide (5 ft) sidewalk with a six-foot-wide (6 ft) street buffer on the north side, and a five-foot-wide (5 ft) sidewalk with a 14-foot-wide buffer (six-foot-wide buffer and eight-foot-wide parking lane where on-street parking is present) on the south side.
- c. Public Road B, consistent with MC 211.03 Secondary Residential Streets and the requirements under the 2023 Complete Streets Design Guide for Neighborhood Streets.
 - i. Along the entire length: a five-foot-wide (5 ft) sidewalk with a six-foot-wide (6 ft) vegetated street buffer on the outside lane of both the cul-de-sac and the townhouses, and a five-foot-wide (5 ft) sidewalk with a 14-foot-wide buffer (six-foot-wide (6 ft) buffer and eight-foot-wide (8 ft) parking lane where on-street parking is present) on the inside travel lane.
- d. Public Road B, elongated cul-de-sac, consistent with modification to MC 222.01 and the requirements under the 2023 Complete Streets Design Guide for Neighborhood Streets.
 - i. Along the entire length, opposite side of the green space in the center of the elongated cul-de-sac: a five-foot-wide (5 ft) sidewalk with a six-foot-wide (6 ft) vegetated street buffer, and a five-foot-wide (5 ft) sidewalk with a 14-foot-wide buffer (six-foot-wide (6 ft) buffer and eight (8 ft) parking lane where on-street parking is present) on the inside travel lanes.

Off-Site Improvements/LATR

17. Before the recordation of the plat, the following off-site improvements must be permitted and bonded (to ensure construction) pursuant to MCDOT and MDOT SHA requirements (final determination of the Applicant's participation to be made by MDOT SHA):

- a. Old Clarksburg Road and Gosnell Farm Drive Intersection: Adding side street stop control on Old Clarksburg Road and associated pedestrian improvements including:
 - i. Add stop control operations on the side street (Gosnell Farm Drive and Public Road A).
 - ii. Install stop bars on both sides of Old Clarksburg Road.
 - iii. Install a crosswalk on the north leg of the intersection on Clarksburg Road.
 - b. Broadway Avenue and MD-121 Intersection:
 - i. Installation of a Rectangular Rapid Flashing Beacon (RRFB) at the existing crosswalk on MD-121.
 - ii. Install a new crosswalk along the east leg of the intersection on Broadway Avenue.
 - c. Byrne Park Drive and MD-121 Intersection:
 - i. Installation of a Rectangular Rapid Flashing Beacon (RRFBs) at the existing crosswalk on MD-121.
 - ii. Installation of a new crosswalk, curb ramp, and guard rail modifications crossing Old Clarksburg Road, which will connect to the existing crosswalk on MD-121 at Byrne Park Drive to the new trail within Clarksburg Chase.
18. If, at the time the Applicant submits for permits to construct one of the required LATR Off-Site Improvements, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has changed and no longer requires or suggests the improvement, or, iii) the LATR Off-Site Improvement is not approved/permitted by MCDOT and/or MDOT SHA, the Applicant shall satisfy the required LATR Off-Site Improvements requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT's estimated cost of designing, administering and constructing the required facilities.
19. Before issuance of first above-grade building permit or right-of-way permit (whichever comes first), the Applicant must make a payment of \$38,888 to the Montgomery County Department of Transportation towards the construction of the

- two (2) bus shelters (five-foot-wide (5ft) by twelve-foot-wide (12 ft), following the requirements of the MCDOT) with two shelter pads (7-foot-wide by 22-foot-wide, following the requirements of the MCDOT), off-site improvement in the Clarksburg Policy Area. The payment will be indexed to the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first). Proof of payment is required.
20. Prior to certified Preliminary Plan, the Applicant must submit additional cost estimates for a H.A.W.K. Signal, full traffic signal and other appropriate traffic control devices at Byrne Park Road and Clarksburg Road for staff's consideration and approval subject to MDOT SHA approval.

Private Roads

21. The Applicant must provide Private Alleys 1, 2, 3 and 4, including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Road"), subject to the following conditions:
- a. The record plat must clearly delineate the Private Alleys and include a metes and bounds description of the boundary of the respective Private Alleys. The Private Alleys will be subject to all conditions below referencing Private Roads.
 - b. The Private Road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions in the Montgomery County Code § 50-4.3.E et seq regarding private roads. The Covenant includes, but is not limited to the following requirements/conditions:
 - i. The Applicant, at its expense, shall design, construct, and maintain the Private Road.
 - ii. The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Road and all improvements located within the Private Road, in good condition and repair for safe use and operation of the Private Road. The Applicant must maintain a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the

reserves to the Planning Board or its Staff every two (2) years (or every five (5) years in the event there are no below-ground parking structures in the Private Road). The reserves must be adequate to cover the costs of needed repairs.

- iii. The Applicant must post and retain signage to notify the public that the Private Road is not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Road.
 - iv. Approved sub-grade for private roads to be six-inch (6 in.) Graded Aggregate Base (GAB).
- c. Before issuance of the first building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Preliminary Plan or a subsequent Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

Record Plats

22. No above-grade building permit shall be issued on the site before recordation of plat(s). The record plat must show necessary easements.
23. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
24. The record plat(s) must show the Park Conveyance Area parcel(s).

Notes and Labels

25. The record plat must reflect all areas under common ownership.
26. The record plat must include the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed."

27. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 (“Covenant”).

Developments with MPDUs

28. The final number of MPDUs as required by Condition No. 1 above will be determined at the time of site plan approval.

Certified Preliminary Plan

29. The certified Preliminary Plan must contain the following notes:
 - a. Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
30. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a. Show resolutions and approval letters on the certified set.
 - b. Show private roadway details and cross sections on the certified set.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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:

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 size, width, shape, and orientation of the lots are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, and for the building type (single-family detached and townhouse structures) and use contemplated for the Subject Property. The general layout adheres to what was approved for the Subject Property in Pre-Preliminary Plan No. 720230020.

The Application will be developed under the optional method in accordance with Section 59.4.4.6.D of the Zoning Ordinance. The Preliminary Plan has been reviewed by other applicable county agencies, all of whom have recommended approval.

a) The block design is appropriate for the development or use contemplated

The Application is creating 101 lots, clustered on the Site in compliance with the intent of the RNC zone. The layout was reviewed and approved for the Subject Property in Pre-Preliminary Plan No. 720230020.

Subdivision Waiver for Cul-de-sac

The Applicant requested a waiver of the general requirement that a non-through road be no more than 500 feet in length and serve no more than 75 dwelling units (Section 50-4.3.E.2.e). The waiver was requested under Division 50.9 of the Subdivision Regulations.

Section 50-4.3.E.2.e stipulates that the Board must not approve any road that does not connect to another road at its beginning and end, unless a determination is made that:

- i. a through road is infeasible due to a property's unusual shape, size, topography, environmentally sensitive areas, or the characteristic of abutting property
- ii. the road provides access to no more than 75 dwelling units,
- iii. the road, excluding alleys, is properly terminated in a cul-de-sac or other turnaround; and
- iv. the road is less than 500 feet in length, measured along its centerline to the nearest through street, unless the Board determines that a longer length is necessary because of the unusual shape, size, topography, or environmentally sensitive areas of the subdivision.

The Board finds that a through road on this Site is infeasible due to the Property's peninsular shape, along the crown of a ridge between two stream valleys, and due to the depth of the developable area. The Subject Property is also within the CWE Overlay Zone, which requires additional environmental protections and limits impervious cover, both of which preclude a second access point with Old Clarksburg Road. The Project proposes instead to construct a cul-de-sac as approved by MCDOT. The Board also finds that it is necessary in this situation for the road to be longer than 500 feet in order to accommodate topography and environmentally sensitive areas.

The Board also finds that a waiver is appropriate to allow the roadway to access more than 75 dwelling units (26 units beyond the limit). The developable area for the Property was analyzed at the time of the Master Plan, and the Master Plan recommends to increase residential units, increase housing types, while addressing the environmental resources.

To grant a waiver in accordance with Section 50-9.3, the Board must determine that the following findings are met:

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;
2. the intent of the requirement is still met; and
3. the waiver is:
 - a. the minimum necessary to provide relief from the requirements; and
 - b. consistent with the purposes and objectives of the General Plan.

The Board finds that the a practical difficulty exists in this Application, due to the topography, the environmentally sensitive nature of the Site, and the impervious restrictions of the CWE Overlay Zone, created by the Ten Mile Creek Area Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area. The intent of the provision of Section 50-4.3.E.2.e is met because the road provides appropriate access for the planned number of units. The design of the cul-de-sac was reviewed and approved by MCDOT, and design elements of the roadway will otherwise be met (presence of buffered sidewalks on both sides, total width, pavement depth, drainage facilities, etc.). The roadway length and design of the elongated cul-de-sac allows the Applicant to maximize the limited developable land, while ensuring protection of the natural resources. Furthermore, the length and design of the roadway was reviewed and approved by the Board during review of Pre-Preliminary Plan No. 720230020. Therefore, the waiver is the minimum necessary to provide relief from the requirements.

Thrive Montgomery 2050, the County's General Plan (General Plan) makes several recommendations to increase the range of housing types and sizes to meet diverse needs. On page 87, the General Plan recommends that the County, "apply flexible approaches to accommodate infill and redevelopment that improve access to amenities, active transportation, parks, and open spaces, and a broader range of housing types at the neighborhood scale." This project is providing both a variety of housing types and dedicating a substantial amount of acreage for a public park, which would not be feasible with a longer roadway. On page 98, the General Plan calls to, "accommodate new development with a context sensitive approach to architecture and landscape design that acknowledges neighboring structures, local climate, and topography." The Subject Application proposes two public streets with a comfortable pedestrian network, connecting to several park trails. The alignment of the roadway responds to the topography and SPA. On page 132, the General Plan recommends that the County, "facilitate the development of a variety of housing types in every part of the county but especially in areas near transit, employment, and educational opportunities." Therefore, the residential development and associated transportation infrastructure are consistent with both the objectives of the General Plan, as well as the applicable Master Plans.

b) The lot design is appropriate for the development or use contemplated

The lot size, width, shape, and orientation are appropriate for the location of the subdivision and for the residential uses. All lots will either front on Public Roads A, B, or Clarksburg Road or a common open space (Townhouse lots 22-42). The dimensions of the lots will be able to accommodate the buildings and other infrastructure necessary to serve the lots. The lot design for new residential development is also consistent with the size, shape, and width of the lots in the recently approved Creekside at Cabin Branch development, south of the Property.

c) The Preliminary Plan provides for required public sites and adequate open areas

i. Master Planned Sites

The Property falls within the area covered by the 2014 Ten Mile Creek Area Limited Amendment (Master Plan) to the 1994 Clarksburg Master Plan and Hyattstown Special Study Area. The Property is identified as part of the “Pulte and King Properties” discussed on pages 41-44 of the Master Plan. Numerous environmental recommendations detailed on pages 14-23 and Parks recommendations on pages 48-51 of the Master Plan also apply. Further analysis of the master-planned recommendation for the Subject Property is provided in Finding 2 of this section of the staff report.

ii. Local Recreation

Fifteen parcels and over 100 acres in the subject Application will be dedicated to open space. A total of 8.92 acres will be dedicated to specifically developed HOA open space and recreation. Parcels K and L will be HOA amenity open spaces featuring open lawns and landscaping framed with ADA accessible sidewalks. Parcel D, located at the end of the cul-de-sac, will include a playground, tot lot, benches, and seating areas with picnic tables. There are a total of three trailheads on the Subject Property, which will connect to natural surface trails within the area conveyed to Parks. Parcel H will be a formal trailhead, located directly across the open lawn area on Parcel K. One trailhead will be accessible from Public Road A and another from Old Clarksburg Road.

iii. Transportation and Utilities

The Master Plan includes general recommendations for improving multimodal transportation networks within the plan area. The Project proposes three trailheads and two improved pedestrian and bicycle connections to Clarksburg Road. These access points and connector trails are proposed to connect the subdivision to the area to be conveyed to Montgomery Parks as part of the Ten Mile Creek Park system.

d) The Lot(s) and Use comply with the basic requirements of Chapter 59

The lots were reviewed for compliance with the dimensional requirements for the RNC and CWE Overlay Zone as specified in the Zoning Ordinance. The lots will meet all the

dimensional requirements for area, frontage, width, and setbacks in the RNC and Overlay Zones.

One requirement of the RNC Zone is to provide a diversity of lot sizes. The Subject Application provides three different housing types, including market-rate single-family houses around the perimeter and market rate and MPDU townhouses within the neighborhood center. Lot sizes range from 1,200 square feet to over 27,000 square feet. Placing the larger lots near the entrance to the subdivision upholds the rural residential character of the greater vicinity. Further compliance with the requirements of the Zoning Ordinance is demonstrated as follows:

Table 1: Clarksburg Chase Site Plan Data Table for RNC Zone and CWE Overlay Zone, Optional Method, Section 59.4.3.5.

Development Standard	Zoning Code Req.		Approved	
GROSS TRACT AREA:				
Gross Tract Area	N/A		136.17	AC.
Usable Tract Area	10	AC. MIN.	136.17	AC.
Area of Dedications	N/A		0.65	AC. (public roads)
			100.57	AC. (park conveyance)
Net Lot Area =			34.95	AC.
MAXIMUM DENSITY: 1 units/acre (Optional Method MPDU 59.4.3.5.D.4)**	136	Units MAX.	101	UNITS
UNIT TYPE:				
Detached Units			49	48%
Townhouse Units			52	51%
Total=	101			
MPDUS:				
12.5% + 1	13	UNITS MIN.	13	UNITS
OPENSOURCE:				
Common Open Space	5	% MIN.	5	% MIN.
	6.8	AC.	6.8	AC.
Rural Open Space (59.4.9.6.D.7)	80	% MIN.	80	% MIN.
	108.94	AC.	109.86	AC.
Impervious Area Max (59.4.9.6.D.1, CWE)	6	% MAX.	6	% MAX.
	8.17	AC.	8.17	AC.
SITE COVERAGE:				

Development Standard	Zoning Code Req.	Approved
30% Townhouse Coverage Maximum = Townhouse Lot Area/Site Area – Detached Lot Area	30 % MAX.	5.1 %
(5,931,782 SF -432,807 SF)*0.30 = 1,649,693 SF MAX. Townhouse Lot SF	1,649,693 SF. MAX.	1,649,693 SF. MAX.
<u>LOTS:</u> (Section 4.4.8.C. & Section 4.9.5.D)*		
<u>Lot Area:</u>		
Detached	Determined at Site Plan	5,000 SF. MIN.
Townhouse (Market Rate)	Determined at Site Plan	1,300 SF. MIN.
Townhouse (MPDU)	Determined at Site Plan	1,100 SF. MIN.
<u>Lot width at front building line:</u>		
Detached	Determined at Site Plan	25 FT. MIN.
Townhouse (Market Rate)	Determined at Site Plan	20 FT. MIN.
Townhouse (MPDU)	Determined at Site Plan	16 FT. MIN.
<u>Lot width at front lot line:</u>		
Detached	Determined at Site Plan FT. MIN.	25 FT. MIN.
Townhouse (Market Rate)	Determined at Site Plan FT. MIN.	20 FT. MIN.
Townhouse (MPDU)	Determined at Site Plan FT. MIN.	16 FT. MIN.
<u>Frontage on street / open space:</u>		
Detached	Required	Provided
Townhouse	Required	Provided
<u>Lot Coverage:</u>		
Detached	Determined at Site Plan	50 % MAX.
Townhouse (Market Rate & MPDU)	Determined at Site Plan	80 % MAX.
<u>BUILDING SETBACKS:</u>		
<u>Front setback from public street:</u>		

Development Standard	Zoning Code Req.	Approved	
Detached (public streets)	Determined at Site Plan	15	FT. MIN.
Detached (Old Clarksburg Road)	Determined at Site Plan	50	FT. MIN.
Detached (street Single Family – Front/Side)	Determined at Site Plan	25	FT. MIN.
Townhouse	Determined at Site Plan	15	FT. MIN.
<u>Front setback from open space</u>			
Townhouse	Determined at Site Plan	15	FT. MIN.
<u>Side street setback,</u>			
Detached (Old Clarksburg Road)	Determined at Site Plan	17	FT. MIN.
Detached (public street)	Determined at Site Plan	8	FT. MIN.
Townhouse (adjacent to townhouse)	Determined at Site Plan	5	FT. MIN.
Townhouse (adjacent to open space)	Determined at Site Plan	5	FT. MIN.
<u>Rear setback</u>			
Detached (public streets)	Determined at Site Plan	20	FT. MIN.
Detached (Old Clarksburg Road)	Determined at Site Plan	35	FT. MIN.
Townhouse (alley)	Determined at Site Plan	4	FT. MIN.
Detached			
Townhouse			
<u>Accessory Structure (Front):</u>			
Detached	Determined at Site Plan	50	FT. MIN.
Townhouse	N/A	N/A	
<u>Accessory Structure (Side/Rear):</u>			
Detached	Determined at Site Plan	5	
Townhouse	N/A	N/A	
<u>BUILDING HEIGHT:</u>			
Detached, Main	35 FT. MAX.	35	FT. MAX.
Detached, Accessory	25 FT. MAX.	25	FT. MAX.
Townhouse	35 FT. MAX.	35	FT. MAX.

Development Standard	Zoning Code Req.	Approved
<u>PARKING</u> (Section 59-6.2.)		
<u>Market Rate Units (88)</u>		
2.00 Req. space/unit	176 spaces MIN.	176 spaces
<u>MPDU Units (13)</u>		
1.00 Req. space/unit	13 spaces MIN.	26 spaces
On-street Trailhead Parking	N/A	6 spaces
On-street Visitor Parking	N/A	28 spaces
<u>Total Parking Provided On-Site</u>	189 spaces MIN.	236 spaces
<u>Bicycle Parking</u>	0 spaces	0 spaces

*Restriction on properties located in the Clarksburg West Environmental Overlay Zone under Section 4.9.6.D.1. Pursuant to this section in the Zoning Ordinance, the minimum lot area, lot dimensions, building coverage, and building setbacks of the underlying zone do not apply and are determined during the site plan approval process under Section 7.3.4.

**The Master Plan recommends 1 unit per acre for development on the Property (Master Plan, p. 42)

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Property falls within the area covered by the 2014 *Ten Mile Creek Area Limited Amendment* (Master Plan) to the 1994 *Clarksburg Master Plan and Hyattstown Special Study Area*. The Property is identified as part of the “Pulte and King Properties” discussed on pages 41-44 of the Master Plan. Numerous environmental recommendations detailed on pages 14-23 and Parks recommendations on pages 48-51 of the Master Plan also apply.

a) Land Use

The items below are the property-specific Master Plan land use recommendations from pages 41-44:

- Allow optional method development in the RNC Zone with public sewer at a permitted density of one unit per acre. Moderately priced dwelling units beyond the minimum 12.5 percent would be in addition to the recommended density, in accordance with Chapter 25A of the Montgomery County code, if the development does not exceed the impervious surface cap.

The Applicant proposes 101 units on 136.17 acres of land and will be utilizing public sewer. The most MPDUS the Applicant could provide and stay under the impervious cap is 12.5 percent. Therefore, the Applicant will provide 12.5 percent MPDUs to comply with the environmental requirements of the master plan.

- Provide flexibility in the mix of housing types; allow either a blend of single-family lots and attached units, or exclusively attached units as a means of achieving maximum development yields.

The Applicant proposes 49 single-family detached units and 52 townhouse units. The plan drawings indicate a suitable mix of housing types.

- Dedicate most of the rural open space as parkland.

The Applicant is dedicating at least 80 percent of the site to open space, with most being conveyed to the Commission for use as parkland.

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

The Applicant proposes all dwelling units in unforested upland areas.

- Incorporate open space into the clustered community to provide residents with recreational opportunities.

The Application is providing 8.93 acres of open space for recreational amenities. The Applicant is proposing a playground for younger children and bikeways, a trail system, a large open lawn area, benches, and natural areas to provide recreational opportunities for teens and adults.

- Provide access from public roads within a development to the Ten Mile Creek Conservation Park to facilitate the creation of trailheads for natural surface trails and allow park maintenance access.

Six parking spaces are along the entrance road to serve a trailhead to access the parkland to be dedicated to the Ten Mile Creek Conservation Park. Two additional trailheads are provided; one via the HOA open space along Public Road B and one from Old Clarksburg Road to the new parkland.

Specific Parks recommendations are discussed on pages 48-51 of the Master Plan. On page 48, the Master Plan recommends:

- To create the core of the Ten Mile Creek Conservation Park, dedicate the Rural Open Space outside of the development envelope on the Pulte and King properties to the Department of Parks as a condition of the development review process. Land unavailable through dedication during the development review process may be acquired by the Department of Parks.

Most of the rural open space outside the development envelope—100.51 acres—are being conveyed to the Commission as part of the Conservation Park.

b) Environment

The Master Plan places a high priority on the protection and enhancement of environmental resources, including forest and water quality, with an added emphasis on protecting and expanding environmental buffers. The Master Plan includes several recommendations that help to achieve the goal of environmental resource protection, including clustering development in upland areas, limiting impervious surfaces, and expanding environmental buffers to include ephemeral streams, wetlands, springs, seeps, erodible soils, and slopes greater than 15 percent.

The northern half of the Property is within Little Seneca Ten Mile (LSTM) subwatershed 110. LSTM 110 is one of two watersheds called out in the “West of I-270” environmental recommendations on pages 18-29 of the Master Plan. Protection of existing stream conditions in this high quality Ten Mile Creek headwater subwatershed is especially important.

More critically, development of the Pulte/King properties, which includes the Subject Property, requires a conservation management plan for areas outside the limits of disturbance that are not dedicated to Montgomery Parks for parkland or placed in a rural open space easement. The conservation management plan is intended to address management of the natural resources, preserve pervious land cover, and ensure compatibility with adjacent land uses. This conservation management plan must be approved as part of the preliminary or site plan for the Site.

Another environmental recommendation specific to the Site is that all forest adjacent to environmental buffers should be protected (page 19). This recommendation is met through the approval of the accompanying Forest Conservation Plan No. F20240180. The Master Plan also contains several additional requirements for Water Quality Plans in the Ten Mile Creek watershed. These are described on pages 21-22 of the Master Plan and are reviewed as part of the Water Quality Plan review discussed below.

The property-specific Master Plan environmental recommendations from pages 41-44 state, “Include these properties in the proposed Clarksburg West Environmental Overlay Zone, with a six percent imperviousness limit and an 80 percent open space requirement”. The Application proposes a six percent imperviousness limit and a minimum of 80 percent open space.

Final Stream and Wetland Restoration Plan

The Limited Amendment to the Master Plan requires properties to restore streams and wetlands adversely affected by the previous land uses as part of the SPA Water Quality Plan requirements. A Stream and Wetland Restoration Plan was submitted as part of this application. The Board finds that the Applicant's submission of the Stream and Wetland Restoration Plan meets the recommendation of the Master Plan, although final review and approval will take place as part of the Parks permitting process.

Final Conservation Management Plan

The Limited Amendment to the Master Plan requires this Property to include a Conservation Management Plan (CMP) as part of a development application. As with the Preliminary CMP, the Final CMP was reviewed and approved by Staff from Montgomery Parks, and from the Montgomery County Department of Environmental Protection (MCDEP) as part of the Property's Site Plan. The CMP includes all land outside of the limits of disturbance that is not conveyed as parkland or included in the rural open space easement. The submitted CMP includes approximately 110.02 acres of the Property to be preserved as pervious land cover through the creation of meadow habitat and grassed areas planted with individual native trees and shrubs. The Applicant will convey 101.51 acres of the CMP area for parkland and therefore, the Final CMP includes 8.51 acres of the Property. As conditioned, this land will be maintained by the Homeowner's Association under a Maintenance and Management Agreement.

c) Noise

The Plan includes a Noise Analysis to demonstrate conformance with the 1983 Staff Guidelines For the Consideration of Transportation Noise Impacts In Land Use Planning and Development ("Noise Guidelines"). The Noise Analysis is necessary to determine the projected interior and exterior noise levels for the residences. This Property meets the screening criteria on page 6 of the Noise Guidelines, which warrants a Noise Analysis. The screening criteria are met because the Property is within 300 feet of an arterial road (MD 121, Clarksburg Road) with Average Daily Traffic of 5,000 to 20,000. The Applicant submitted a Noise Analysis for the Subject Property that was prepared by Hush Acoustics, LLC dated July 25, 2023. The Analysis concluded that none of the units or common outdoor spaces will be exposed to ground level noise levels greater than 55 dBA Ldn; therefore, no further analysis or mitigation will be required for outdoor areas. While the Analysis concluded that two of the units will be exposed to top floor noise levels greater than 55 dBA Ldn, the standard building construction will mitigate interior noise levels 19-25 decibels and will be under the 45 dBA interior limit. Therefore, no further analysis or mitigation will be required for outdoor areas.

d) Transportation

The Master Plan acknowledges that transportation in the Subject Property area is an issue due to the high dependency on motor vehicles. To this end, the Master Plan recommends the diversification of modes of transportation. Some of the recommendations include the

construction of a transitway along the MD-355 bypass and several bikeways to create interconnected neighborhood loops and park-and-ride lots. The purpose is to enhance other modes of transport such as mass public transit, bikeways, sidewalks, and shared-use paths to reduce motor vehicle dependency in the Subject Property area.

The Subject Application includes a multi-modal circulation network to provide access to and throughout the Site. Described in more detail below, the Preliminary Plan includes two public roads, four private alleys, sidewalks, and a sidepath which will connect to the existing pedestrian facilities at the intersection of Old Clarksburg Road and Gosnell Farm Drive.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

a) Roads and other Transportation Facilities

i. Existing Facilities

The Site has frontage on Old Clarksburg Road, a State-owned and maintained public street. The road functions as an access road for residential properties along the north side of Clarksburg Road MD 121. Old Clarksburg Road is classified as an Industrial Street east of Gosnell Farm Road until Whelan Lane and is not master planned west of Gosnell Farm Road to where it ultimately terminates at Clarksburg Road and West Old Baltimore Road. The master-planned right-of-way for Old Clarksburg Road along the Site frontage is 60 feet. As conditioned, the Applicant shall provide all necessary land to accommodate 30 feet from the centerline pavement to their property line.

Old Clarksburg Road has no pedestrian or bicyclist facilities. A pair of flag-style bus stops (without shelters) are located east of the Subject Property near the intersection of Gosnell Farm Drive between Old Clarksburg Road and Clarksburg Road. These two bus stops are served by Ride On Route 75, which provides service to areas in Clarksburg and the Germantown Transit Center and MARC Station.

Clarksburg Road has an existing eight-foot-wide sidepath with an approximately 10-foot-wide street buffer with trees on the south side of the street and a buffered sidewalk on the north side of the street. The sidepath along the south side connects to existing bicycle and pedestrian facilities along the Cabin Branch development, and to existing and master-planned major roadways such as Gateway Center Drive and Observation Drive to the north.

ii. Proposed public transportation infrastructure

No frontage improvements will be provided for Old Clarksburg Road, as this roadway is meant to be a continuation of the rural nature and character of the area. Instead, the Application will provide both pedestrian and bicyclist connections from the interior of the Subject Property to the major bicycle and pedestrian pathways along the proposed main

entry road, Clarksburg Road (MD-121). The Applicant will also dedicate right-of-way as necessary to comply with the 2024 *Master Plan of Highways and Transitways*.

Two new public roads, Public Roads A and B, will be constructed to provide motor vehicle, pedestrian, and bicyclist access to the Site. The Subject Property will have a single access point from Old Clarksburg Road. Public Road A will provide vehicular and pedestrian access to the Site from Old Clarksburg Road. Public Road A will extend from Old Clarksburg Road to the Site, serving primarily units 1 to 13 north of the Site, and connecting to Public Road B south of the Subject Property. Public Road B will serve units 14 to 47 south of the Site. The Applicant will construct a teardrop-style cul-de-sac at the termination of Public Road B, around units 20 to 27, to comply with MCDOT and SHA requirements.

Public Road A will transition from a divided road where it intersects with Old Clarksburg Road, to a narrower roadway with intermittent on-street parking.

The remaining segments of Public Road A and all of Public Road B will have intermittent on-street parking on one side of the roadway. On Public Road A, the parking is consistently on the south/west side. Public Road B has on-street parking lanes that alternate but are only ever present on one side.

Both public roads will consistently include two travel lanes, each 10 and one-half feet wide with a six-foot-wide street buffer and five-foot-wide sidewalk on one side. If intermittent on-street parking is present there will be a five-foot-wide sidewalk, with a six-foot-wide street buffer and an eight-foot-wide parking lane or a 14-foot-wide street buffer where parking is not present. This way the sidewalks maintain a consistent alignment and consistent buffer between the sidewalks and the parking or travel lane.

There will be three trailheads throughout the subdivision. The Applicant will construct the trailheads and a portion of the natural surface trails that will ultimately form a network within the area to be conveyed to Montgomery Parks.

iii. Proposed private transportation infrastructure

The Applicant will be constructing four private alleys to serve exclusively motor vehicle access for the units located in the center of the Site. All private alleys will be 20 feet wide and will provide two-way access for motor vehicles. Private Alleys 2 and 3 will fully connect to Public Roads A and B. Private Alley 1 will connect to Public Road A, but not Public Road B, and Private Alley 4 is fully internal to the townhouses.

b) Local Area Transportation Review (LATR)

The Site is located in the Clarksburg Transportation Policy Area, which is classified as a Yellow Policy Area under the 2021-2024 Growth and Infrastructure Policy (GIP). The Application with 52 townhomes and 49 single-family detached units is estimated to generate 94 total person trips in the morning peak hour and 122 total person trips in the evening peak hour. As a result of the estimated transportation impact, the Applicant submitted a Transportation Impact Study (TIS) with the Preliminary Plan to satisfy the Local Area Transportation Review (LATR).

Travel Mode Adequacy Test

The 2020-2024 *Growth and Infrastructure Policy* requires evaluation all transportation modes, including: auto-driver, transit, walking and biking. Mode-specific adequacy tests are required for any project estimated to generate 50 or more net new peak hour person trips. The mode split of the total person trips for the Subject Property are summarized by travel mode in Table 3 of the Staff Report. The Project's estimated transportation impact necessitates that the Transportation Impact Study evaluate all four travel mode adequacy tests.

Vehicle Adequacy Test

With 94 net new trips estimated during the morning peak period, the Applicant was required to study one tier of intersections for motor vehicle adequacy. The Applicant evaluated a total of two intersections, including the Site entrance, in proximity to the Site including:

1. Old Clarksburg Road at Gosnell Farm Road (Site Entrance)
2. MD 121 Gosnell Farm Road (roundabout)

Intersections area evaluated for adequacy using the Critical Lane Volume (CLV) analysis methodology. The total future CLV and average vehicle delay were calculated based on the existing lane use and traffic control for the off-site intersections. The congestion standard for intersections within the Yellow/Clarksburg Transportation Policy Area is 1425 CLV. One of the study intersections is a roundabout and was analyzed using SIDRA and with a congestion standard of 55 seconds average vehicle delay.

In compliance with the 2023 LATR Guidelines, the Applicant studied three scenarios: existing, background, and total future. The existing scenario reflects analysis based on recent traffic counts collected at the intersections. The background condition added the traffic volumes estimated to be generated by four approved but unbuilt developments in the vicinity of the Site including, Creekside at Cabin Branch, Linthicum West, Gosnell at Cabin Branch, and Village a Cabin Branch. The total future scenario layers the traffic volumes estimated to be generated by the Subject Application on top of the background and existing scenarios. Based on this analysis it was determined that both study intersections are projected to operate below the congestion standard thresholds, and therefore no mitigation for vehicular adequacy is required.

Pedestrian, Bicycle, and Bus Transit Adequacy Tests

Transit system adequacy was evaluated by inventorying two bus stops located within 1,000 feet of the Property. Where shelters and associated amenities are not provided, the Applicant must install the standard amenities in coordination with MCDOT.

Pedestrian system adequacy was evaluated within 400 feet of the Property. Mitigation will be required to achieve a Pedestrian Level of Comfort (PLOC) greater than 2 (Somewhat Comfortable), and/or deficiencies identified for streetlamps within the scoped boundary. The Pedestrian system adequacy also requires mitigation for ADA deficiencies identified within 400 feet of the Property.

Bicycle system adequacy was evaluated by analyzing bikeways within 400 feet of the Property. Mitigation will be required to achieve a Level of Traffic Stress 2 (LTS-2) or lower, consistent with the Bicycle Master Plan.

Under Section 8 of 2023 Local Area Transportation Review Guidelines (LATR Proportionality Guide), the maximum cost of mitigation improvements the Applicant is required to construct or fund for a project consisting of 49 single-family detached units and 52 townhomes is not to exceed \$552,743 (see calculation below).

LATR Proportionality Guide = (Extent of Development) (LATR Proportionality Guide Rate) (LATR Proportionality Guide Adjustment Factor)

$$\$552,743 = ((49 \text{ single-family detached units}) (\$24,151) (25\%)) + ((52 \text{ townhouse units}) (\$19,761) (25\%))$$

After evaluating the adequacy of each of the required transportation modes, the Applicant identified a comprehensive list of deficiencies, by which a prioritized list of mitigation improvements was submitted to Staff for review. In compliance with the 2023 LATR Guidelines, the final list of four prioritized projects was finalized by the reviewing agencies and is now conditioned for approval of the Preliminary Plan.

As conditioned, all off-site mitigation projects must be permitted, bonded for construction, and all mitigation payments must be paid before the issuance of the first above grade building permit or right-of-way permit (whichever comes first). Montgomery County Planning, MCDOT, and MDOT SHA Staff reviewed the TIS and approved the mitigation project list. Also, as conditioned, the Applicant must submit additional cost estimates for a for a H.A.W.K. Signal, full traffic signal and other appropriate traffic control devices at Byrne Park Road and Clarksburg Road for staff's consideration and approval subject to MDOT SHA approval at the time of certified Preliminary Plan. At that time Planning staff, MCDOT and MDOT SHA will determine if a change to the offsite projects is desired, or if the list of projects submitted with the approved TIS is sufficient. In either scenario the Applicant has satisfied the requirements of the LATR, and the public transportation facilities are adequate for the Site.

The proposed Preliminary Plan No. 120240040 is subject to the FY25 Annual School Test, approved by the Planning Board on June 20, 2024, and effective July 1, 2024. This Project proposes a total of 49 single family detached units and 52 single family attached units.

The project will be served by Cabin Branch Elementary School (ES), Rocky Hill Middle School (MS) and Clarksburg High School (HS).

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.

Under the FY25 Annual School Test, Cabin Branch ES, Rocky Hill MS, and Clarksburg HS do not require any UPP as identified in Table 6 of the Staff Report. If the Project is estimated to generate more students than the identified adequacy ceilings, then additional UPPs or partial payments at multiple tiers are required.

On average, this project is estimated to generate 20 elementary school students, 11 middle school students and 16 high school students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in Table 2 of the Staff Report. Therefore, no additional UPPs are required and neither are partial payments across multiple UPP tiers.

Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as electrical, telecommunications, police stations, firehouses, and health services are operating according to the 2020-2024 *Growth and Infrastructure Policy* in effect and will be adequate to serve the Property.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines. Forest Conservation Plan No. F20240180 was reviewed concurrently with this Application and approved by a separate resolution, which is incorporated herein.

- 5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

DPS approved a Stormwater Management Concept on April 5, 2024. The plan proposes to meet required stormwater management goals via micro-bioretenion with enhanced filters, due to good infiltration rates and micro-bioretenion planter boxes. The Board finds that the approved Stormwater Management Concept plan satisfies this finding.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

January 31, 2025


(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, and Hedrick, voting in favor of the motion, Commissioner Linden was necessarily absent, at its regular meeting held on Thursday, January 23, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board