



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

Staff Report: Final Water Quality Plan & Site Plan 820060240 Gosnell – Cabin Branch Community

ITEM #: _____

MCPB HEARING DATE: April 26, 2010

REPORT DATE: April 16, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
 Robert Kronenberg, Supervisor *RK*
 Development Review Division

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APPLICATION DESCRIPTION: The Applicant proposes to construct 87,500 square feet of employment (hotel and two banks), and 8,600 square feet of highway/auto-related retail uses, and is requesting a waiver to reduce the number of parking spaces on the east side by 12%. The site is 7.24 acres in the MXPB zone; located along Clarksburg Road (MD 121), approximately 0.30 miles west of the intersection with I-270, within the Cabin Branch Community.

FILING DATE: November 18, 2005

APPLICANTS: SMTM Cabin Branch, LLC. / SMTM Cabin Branch West, LLC.

MASTER PLAN: Clarksburg Master Plan & Hyattstown Special Study Area (June 1994)

RECOMMENDATION: Approval with conditions

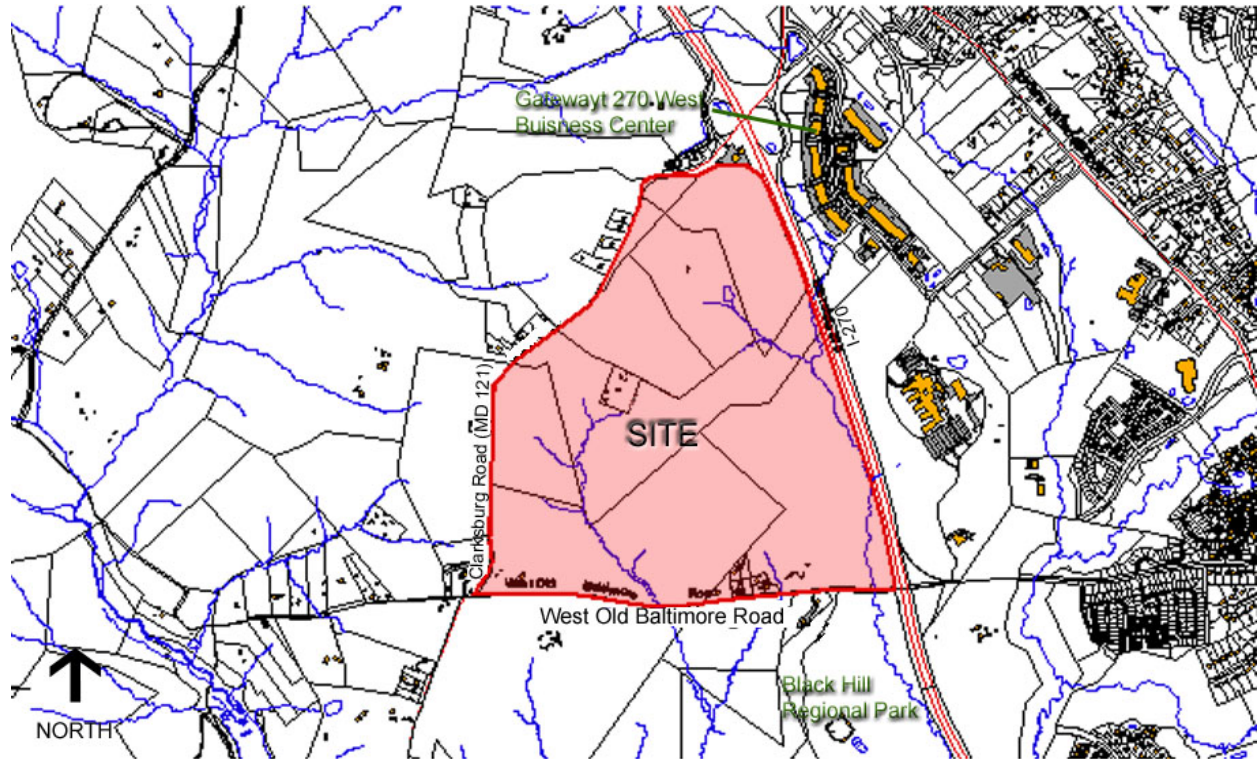
EXECUTIVE SUMMARY: The Cabin Branch Community is 535.30 total acres; divided into several different site plans. The Infrastructure Plan (820050150) established the overall major roadway patterns, construction phasing, major stormwater management facilities, and underground utilities. The Gosnell site plan is the second of seven detailed site plans to be presented to the Board and the first plan to contain retail and employment. Although the site is isolated from the core community by MD 121, it is still part of Cabin Branch and will share many of the characteristics of the community identity. The plan proposes convenience retail and commercial as well as a hotel on the edge of the development, which will remain ancillary to the larger retail center proposed on the south side of MD 121.

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INTRODUCTION & BACKGROUND INFORMATION

Area Vicinity

The Cabin Branch Community is located in the northwest quadrant of the intersection of I-270 and West Old Baltimore Road. The entire tract of land (535.50 acres) is bounded by I-270 to the east, West Old Baltimore Road to the south, and Clarksburg Road (MD 121) to the north and west. Along West Old Baltimore Road include a number of existing one-family detached homes, primarily on the north side, as well as the entrance to Black Hill Regional Park via Lake Ridge Drive, near the intersection with I-270.



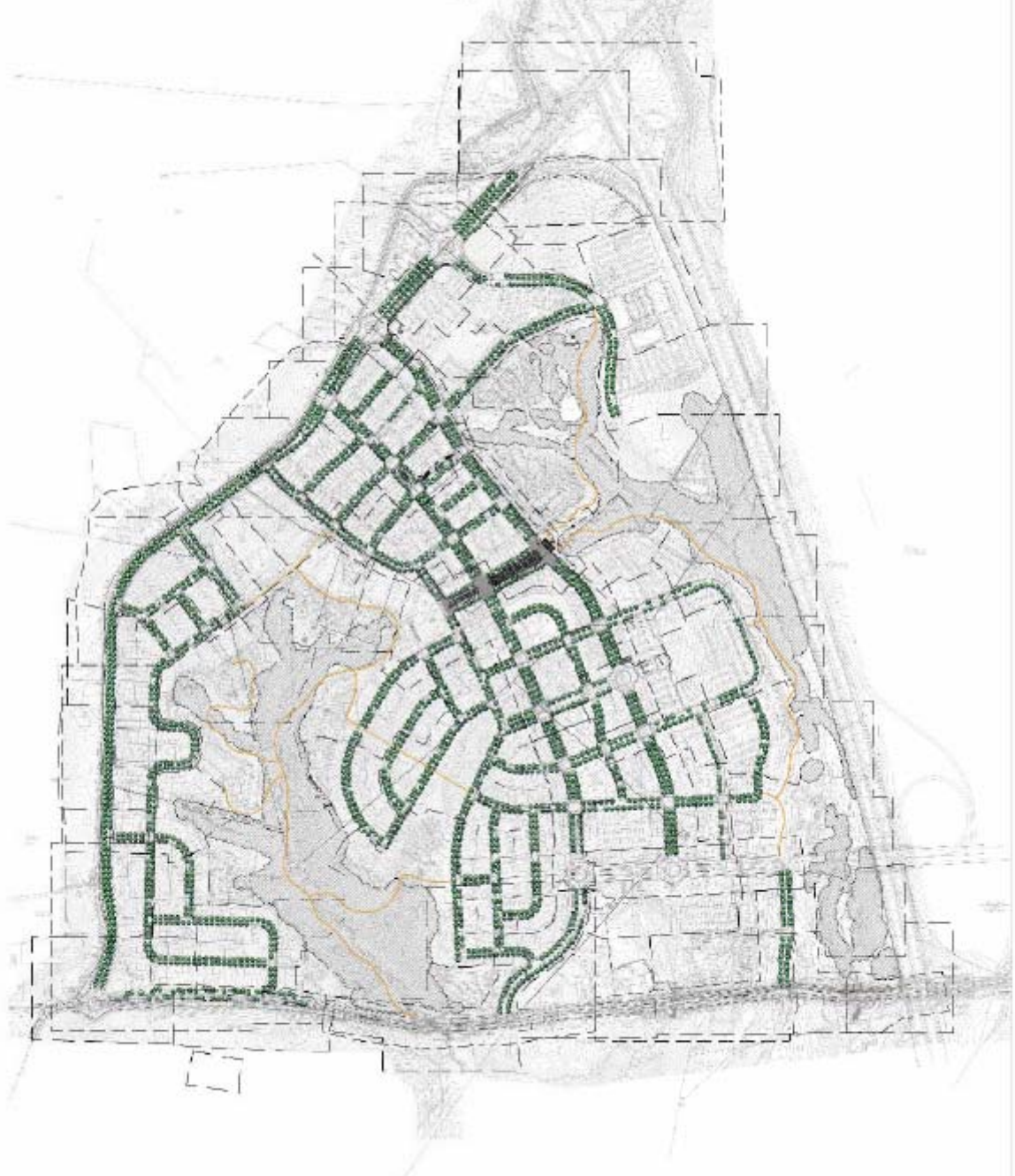
Vicinity Map

There are also numerous one-family detached homes fronting Clarksburg Road surrounded by working farms, such as the Linthicum Property. To the east of I-270 are the Gateway 270 West Business Center, Comsat, Little Bennett Regional Park and the Clarksburg Town Center. Clarksburg Road and West Old Baltimore Road connect with Frederick Road (MD 355), which runs generally parallel to I-270 to the east. Ten Mile Creek, a class IV stream to the west of the site, flows south into Little Seneca Lake, which is surrounded by Black Hills Regional Park. Ten Mile Stream Valley Park is also located west of the site on the north side of West Old Baltimore Road.

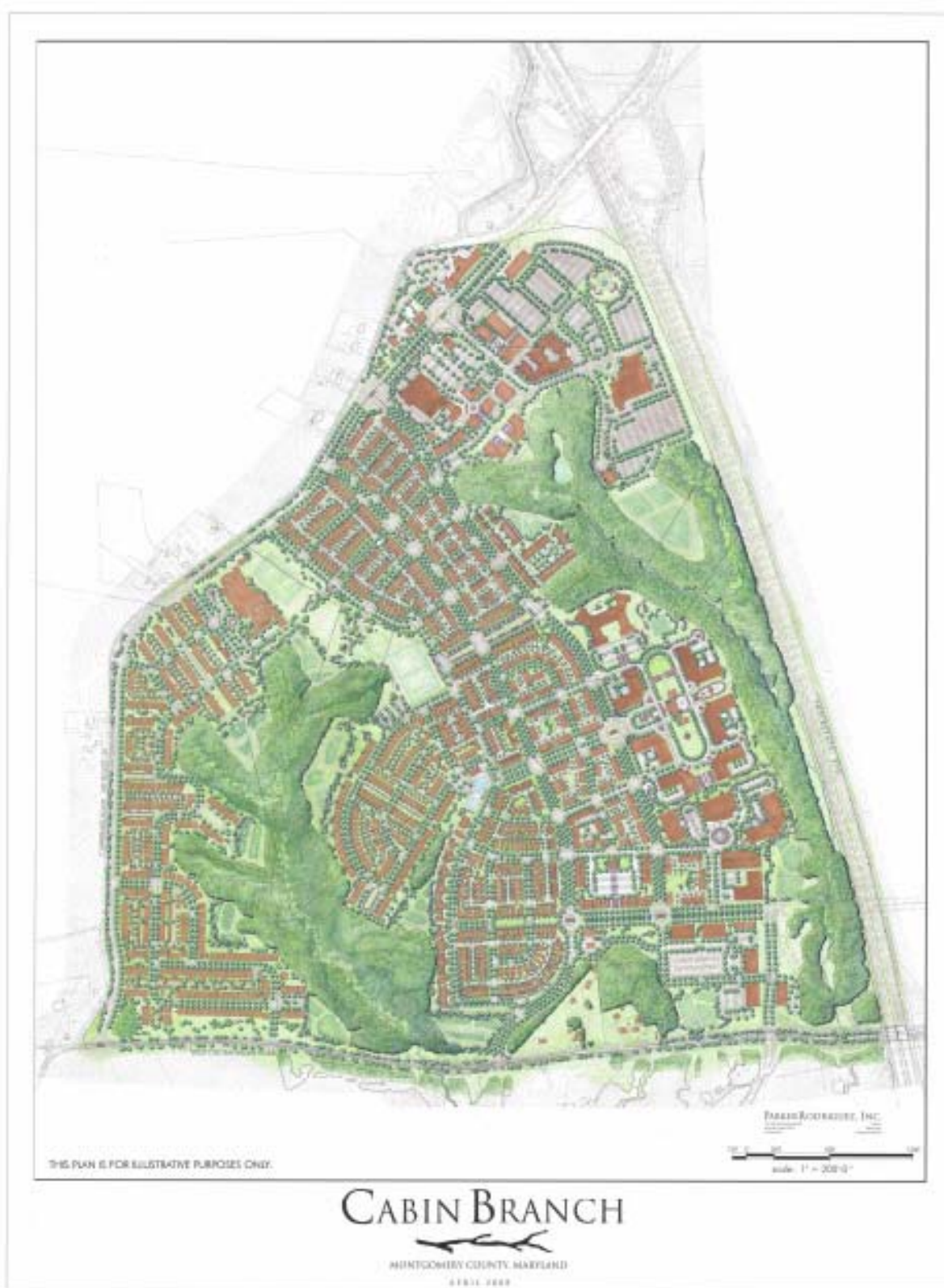
Community Description

The surrounding area is dominated by agricultural fields to the north, west, and south, classified under the RE-1/TDR zone. Existing residential units have been developed along Clarksburg Road and West Old Baltimore Road in the RE-1/TDR zone. Immediately north of the site are the Clarksburg Road/ I-270

Interchange, a rubble excavation area left over from I-270 construction, the Montgomery County Detention Facility, and undeveloped land classified under the I-3 zone. The Master Plan specifically identifies this site as a “mixed-use neighborhood center” because of its close proximity to mass transit, local regional parks, existing and future employment, and the extensive frontage onto I-270. The proposed mix of uses and density will include a maximum of 1,886 residential dwelling units, 2,420,000 square feet of commercial/ employment space, and 500 senior dwelling units.



Cabin Branch Site Plan



Cabin Branch Illustrative Plan

The Cabin Branch Design Guidelines for Site Plan Review have been revised and adopted (latest version August 20 2008) to regulate and establish consistent pedestrian-friendly and walkable road networks that define the public spaces with lush streetscapes.

Previous Approvals

Zoning/ Development Plan (G-806)

The MXPD zoning request and Development Plan application set forth the total non-residential square footage, the maximum number of dwelling units, the location of streets and open spaces and the overall concept of a mixed-use community. The land use plan portion of the Development Plan application reflects a wide range of potential uses, densities and building heights within each of four development areas, indicating specific uses, building locations and configurations. The Development Plan included nine binding elements related to TDRs, MPDUs, trip reduction measures, total number of units and non-residential square footage. The zoning case left final design considerations, including the building locations and configurations, to be determined during site plan review.



Development Plan

Preliminary Plans (120031100, 12003110A & 12003110B)

The preliminary plans established the maximum densities permitted and the adequate public facilities for the entire Cabin Branch community. The required densities for the residential and non-residential development were modified with the approval of the first amendment (phase I). Construction phasing for the Development Program was established, based upon key transportation improvements. Phase I permitted the construction of 85% of the maximum density, Phase II added the remaining 15% as approved by the Development Plan.

Infrastructure and Roads Only Site Plan (820050150)

An Infrastructure Plan was established to guide future development, identify primary site features (such as stormwater management facilities) that would be integral to the plan, and set the framework for construction and phasing of the roads. An amendment was filed on August 17, 2007 in accordance with the original approval that specifically relates to the improvements along West Old Baltimore Road. This amendment was approved by the Planning Board on April 3, 2008 concurrently with the amended Preliminary Plan and Mandatory Referral for the Water Tower. The modifications are directly related to the design standards for West Old Baltimore Road, especially as they relate to the surrounding properties directly affected by the improvements and to the remaining Cabin Branch Neighborhood.

Mandatory Referral for the Water Tower (MR 08001-WSSC-1)

A Mandatory Referral for a Clarksburg elevated water storage tank to serve the Cabin Branch Neighborhood and surrounding area was reviewed concurrently with the limited site plan amendment and preliminary plan amendment and was approved on April 3, 2008.

Summary Table of Development Applications and Detailed Site Plans

Date of Approval	Application	Approval Description
September 9, 2003	Development Plan (G-806)	<ol style="list-style-type: none">1) RE-1/TDR to RMX-1/TDR; and I-3 to MXPDP (recommended by the 1994 Master Plan).2) RMX-1/TDR (west side) = 251.50 acres; MXPDP = 283.50 acres.3) 4,000 feet of frontage onto I-270, 2,100 feet frontage onto Clarksburg Road and 1,600 feet frontage onto West Old Baltimore.4) Each property owner retains the right to proceed independently.

September 17, 2003	Phase I Preliminary Plans (120031100 and 12003110A)	<ol style="list-style-type: none"> 1) Limitation of 1600 residential dwelling units¹ and 500 senior units. 2) Limitation of 1,538,000 sq. ft. of retail and employment². 3) Transportation improvements established to meet the Policy & Local Area Transportation Reviews for the total build out. 4) Developmental Phasing Plan for the construction of the major roadways. 5) Establishment of Recreational Facilities and Amenities.
June 14, 2007	Infrastructure Plan (820050150) ³	<ol style="list-style-type: none"> 1) The site should accommodate 1,886 residential dwelling units; including 236 max. MPDU's (12.5%) and 500 senior units. 2) 635 max. TDR's. 3) 28.21 acres of Green Space. 4) Public Water & Sewer System = W-3. 5) Master Plan Unit Mix = 45-55% One-Family Detached, 35-45% One-Family Attached, and 10-20% Multi-Family. 6) 2,436,000 square feet of retail and employment.
April 3, 2008	Phase II Preliminary Plan (12003110B) ⁴	<ol style="list-style-type: none"> 1) Limitation of 286 additional residential units for a total of 1,886 residential units.

1 Approximately 85% of the total specified in the Infrastructure Plan approval.

2 Approximately 61% of the total specified in the Infrastructure Plan approval.

3 The proposed development must comply with the binding elements of the development plan G-806.

4 The proposed development must comply with the conditions of approval for the Infrastructure Plan (dated September 19, 2007) and Preliminary Plan 12003110B as listed in the Planning Board Resolution dated October 6, 2008 unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions.

		<ul style="list-style-type: none"> 2) Limitation of 882,000 sq. ft. of additional commercial space for a total of 2,420,000 square feet of commercial use. 3) Transportation improvements established to meet the Policy & Local Area Transportation Reviews for the total build out. 4) Developmental Phasing Plan for the construction of the major roadways. 5) Establishment of Recreational Facilities and Amenities.
June 19, 2008	Cabin Branch – Winchester 1 (820060290)	<ul style="list-style-type: none"> 1) Total Units approved in RMX-1/TDR = 190 (112 One-Family, 54 One-Family Attached, & 24 Multi-Family). 2) Total Units approved in MXPDP = 238 (38 One-Family Detached, 54 One-Family Attached, & 72 Multi-Family).⁵ 3) Max. Residential density for RMX-1/TDR = 3.22 d.u./ac. Max. Residential = 44 d.u./ac. Max. Commercial density for MXPDP = 0.75 FAR. 4) Building Height = 42 feet for One-Family Detached, 50 feet One-Family Attached, & 65 feet Multi-Family. 5) Total MPDU's = 64 units⁶. 6) 128 Required TDR's.⁷ 7) 62.55 Total Acres of Green Space Provided

⁵ Master Plan Percentage Mix will be calculated for the entire Cabin Branch Community not for individual sites.

⁶ 14 units in RMX-1/TDR zone and 50 units in MXPDP zone.

⁷ The remaining 507 TDR's shall be met upon approval of the forthcoming and pending site plans.

		(including school, park, HOA common areas, etc.). 8) 1,130 Total Parking Spaces.
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PENDING & FORTHCOMING SITE PLAN APPLICATIONS

(Not including Gosnell)

Site Plan No.	Project Name	Submission & Project Description
820060350	Adventist Phase 1	<u>Filed:</u> March 30, 2006 1 Lot on 34.77 acres of land zoned MXP. A Medical/ Dental Office Building (234,000 sq. ft.) and Hospital (235,400 sq. ft.). ⁸
820060180	Concordia Phase 1	<u>Filed:</u> October 20, 2005 26.48 acres of land zoned MXP. 116 One-Family attached units including 6 MPDU's, 2 two-over-two Multi-Family units, and 7,208 sq. ft. of office space. ⁸
820060300	Concordia Phase 2 - Retail	<u>Filed:</u> February 9, 2006 11.43 acres of land zoned MXP. 87,878 sq. ft. of Commercial Retail and 4,387 sq. ft. of Employment. ⁸
820070140	Toll 1 (This Application is being presented concurrently with the Gosnell property.)	<u>Filed:</u> February 13, 2007 102.49 acres of land zoned RMX-1/TDR and MXP. 156 Single-Family detached; 60 Single-Family attached in the RMX-1/TDR zone. 27 MPDU's and 74 TDR's purchased.
820100030	Toll 2	<u>Filed:</u> December 23, 2010 108.56 acres of land zoned RMX-1/TDR and MXP. 174 One-Family detached units and 22 One-Family attached units are proposed in the RMX-1/TDR zone. 43 One-Family attached units and 78 four-story Multi-Family units are proposed in the MXP zone.

⁸ This proposal is referenced in the Winchester Phase I Staff Report approved June 9, 2008 (page 7). The numbers are subject to change based on the re-submittal of the revised plans.

SWM & FINAL WATER QUALITY CONTROL PLAN

The June 1994 Clarksburg Master Plan recommended staging strategies for development within the Clarksburg area. The staging was needed to provide for the orderly development of public facilities, promote the development of a strong community identity, and allow for the implementation and evaluation of the County's water quality review process to mitigate the impacts of development on the environmentally sensitive Ten Mile Creek Watershed. Water Quality Control Plans are required as part of the Special Protection Area (SPA) in accordance with the SPA Law.

The SPA regulations strive to minimize the overall imperviousness of the site. The estimated impervious threshold proposed for the entire property is limited to 45 percent, which may be greater for some individual site plans.

On September 19, 2007, the Planning Board approved the Infrastructure Site Plan (820050150), Final Forest Conservation Plan and the Water Quality Control Plan for the Cabin Branch 540-acre development. As individual site plans are re-submitted, reviewed by staff, and adopted by the Planning Board; the approved Final Forest Conservation Plan and the Water Quality Control Plan will have to be amended. Finalized site details regarding the limits of disturbance and the overall lot configurations must be transferred to the Final Forest Conservation Plan. The Infrastructure Site Plan emphasized the hierarchy of the public roads, school and park locations, and stormwater management facilities without finalizing any of the details for final grades, unit types and locations, secondary roadways, and public amenities.

The natural resources for the subject properties are characterized in the Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) plans #420020070, #420020080, #420020100 and #420033400. Staff approved the three NRI/FSDs (which cover the entire Cabin Branch development) in 2003.

The Gosnell site is located at the northern portion of the Cabin Branch development on the high point of the entire site. The project boundaries lie within the Clarksburg SPA; more specifically categorized within the Stage 3 area of the Ten-Mile Creek Watershed. A ridge bisects the site with part of the site draining into the Upper Ten-Mile Creek (to the north) and the remaining portion draining into the Cabin Branch tributary of the Little Seneca Creek (to the south). The Upper Ten-Mile Creek and the Cabin Branch tributary are classified as Use-IP streams. The Gosnell Property will drain to a single stormwater management pond, (Pond #11). This pond will provide channel protection volume for the one-year storm with a maximum detention time of 12 hours per state standards. The pond discharge will outfall into the adjacent stream.

The stormwater management facilities specific to this site have been designed to meet the requirements of the 2000 Maryland Department of Environment (MDE) regulations. However, in support of the new MDE regulations; proprietary underground quality filters and one bio-retention facility are proposed to manage the upland water quality treatments. These facilities are designed to capture the runoff and remove pollutants.

In accordance with the SPA law, Montgomery County Department of Permitting Services (DPS) has conditionally approved the elements of the Final Water Quality Control Plan on January 29, 2010. The

Planning Board is responsible for determining if the SPA requirements related to forest conservation, environmental buffers, and site imperviousness have been satisfied.

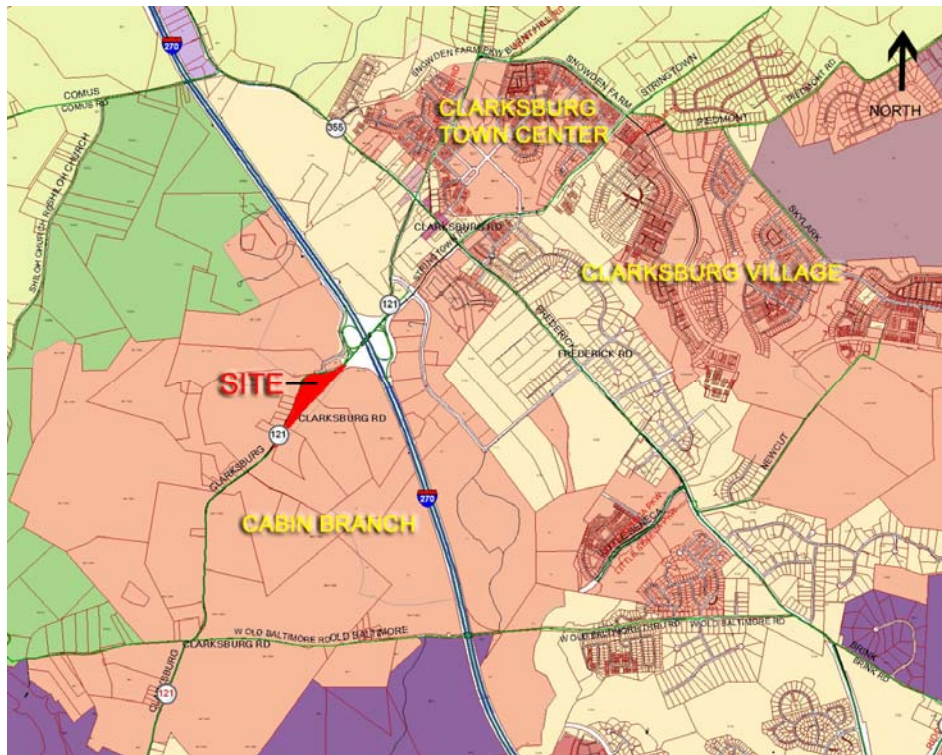
Forest Conservation

This site contains no forest cover; however there is an afforestation requirement of 1.09 acres. This will be met through a combination of onsite forest retention, onsite planting of unforested stream buffers, and landscape credit. Although the forest conservation plan requirements were already included in the Infrastructure Plan (820050150) approval.

The approval of the Gosnell site and landscape plans will amend the final forest conservation plan, which is tied to the approved Infrastructure Plan (820050150). The detailed site plan provides greater detail for parcel and lot configurations, stormwater management locations, grades, and the limits of disturbance on the subject property. This amendment will supplement the existing information in the Infrastructure Forest Conservation Plan and provide sufficient detail to allow the applicant to meet the requirements necessary for the construction of this portion of the Cabin Branch development.

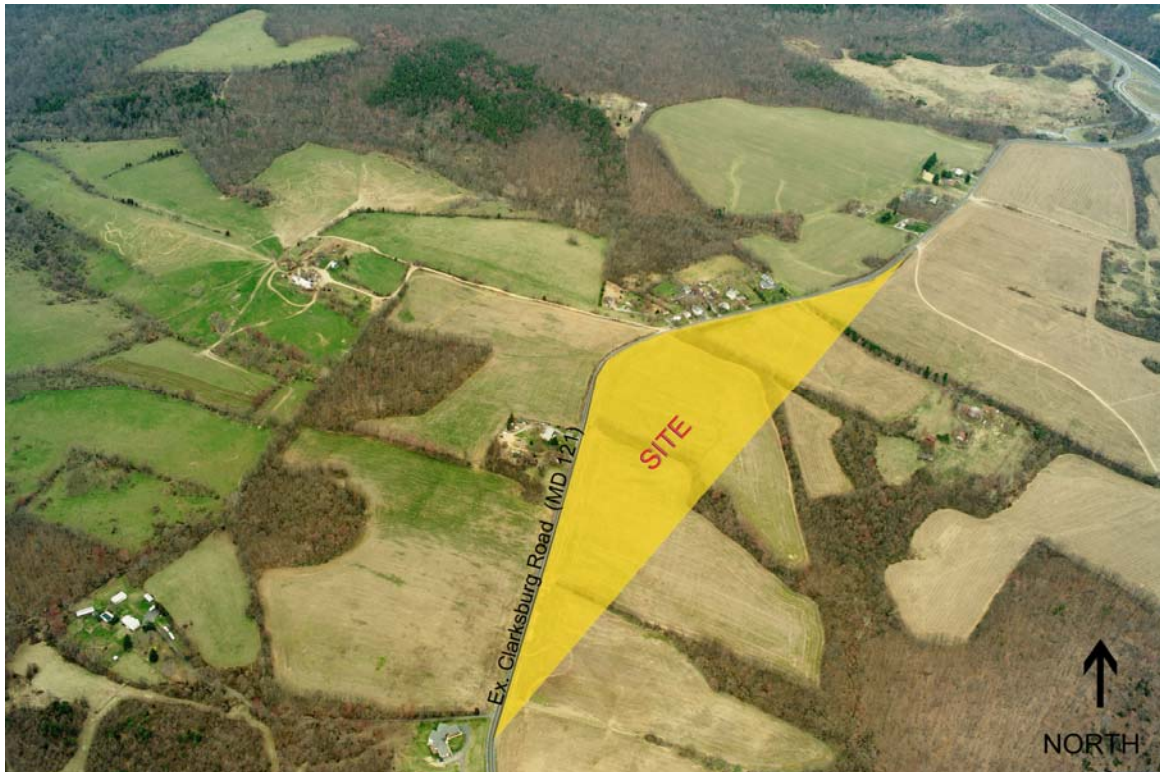
Site Description & Proposal

The subject site is 7.24 acres located approximately 0.30 miles southwest of I-270, 1.5 miles from Little Bennett Regional Park and Clarksburg Town Center; and directly north of West Baltimore Road and Black Hills Regional Park. A portion of the Cabin Branch Community was rezoned from I-3 to MXPD in 2003. The surrounding parcels immediately adjacent to the site are primarily zoned I-3, R-200 and RE-1/TDR. Clarksburg Road (MD 121) separates the site from the existing residential lots to the north.



Land Use Map

Much of the existing site is active farmland separated in blocks by forested buffers and hedgerows to accommodate runoff and best management practices for cultivation. The farming activity is prevalent along Clarksburg Road and visible from I-270.



Aerial Image (Existing Conditions)

Site Layout

The Gosnell property is wedged between an existing residential community and a future densely developed Cabin Branch Community. In anticipation of a large mixed-use neighborhood, Clarksburg Road (MD 121) will be transformed into a 4-lane divided highway along the southeast property boundary. The proposed reconfiguration will remove the sharp bend in the roadway, and will redirect incoming traffic away from the existing residential dwelling units. The existing 2-lane minor roadway (the existing Clarksburg Road) will serve as an alternative route for the local residential traffic and/or a secondary access point for entering/ exiting the subject site. The site is further bifurcated into an eastern and western tract with the extension and connection of Gosnell Farm Drive.

Retaining walls are proposed along both the existing and future roadway in order to clearly define their distinct characters. To the northwest; the retaining wall has a maximum height of 16-feet and is heavily buffered along the street edge and to accommodate the significant grading necessary for the entire site. To the southeast, the retaining wall has a maximum height of 3.5 feet; and acts in combination with the proposed landscaping to buffer the surface parking from the street frontage. The structural enclosure in combination with the landscape materials; will respectfully contain the spillage of any light and noise pollution generated on-site.

The proposed buildings are setback approximately 15-20 feet from the southeast retaining wall. Lush plantings are proposed between the buildings and the retaining wall to further emphasize the street edge, directly correspond to the future Cabin Branch development (on the southeast side of the roadway), and to frame major views.

Parking Layout and Circulation

The proposed streetscape along the new Clarksburg Road is intended to provide a street character for the northern entrance to the Cabin Branch community. The proposed retail uses are auto dependent; however pedestrian crosswalks are located at all major intersections. Vehicular and pedestrian circulations systems are efficiently overlapped and strategically used as a traffic calming tools in order to promote an active streetscape and convenient commercial center. Vehicular patrons will primarily enter the site at the intersection of the new Clarksburg Road and Gosnell Farm Drive. Gosnell Farm Drive is a 4-lane roadway bisected by a planted median. Vehicles will proceed in the northwest direction of the site before coming to the main entrance signs; which will be the initial point of decision (right or left turns). This point is approximately 230 feet from the main entrance.

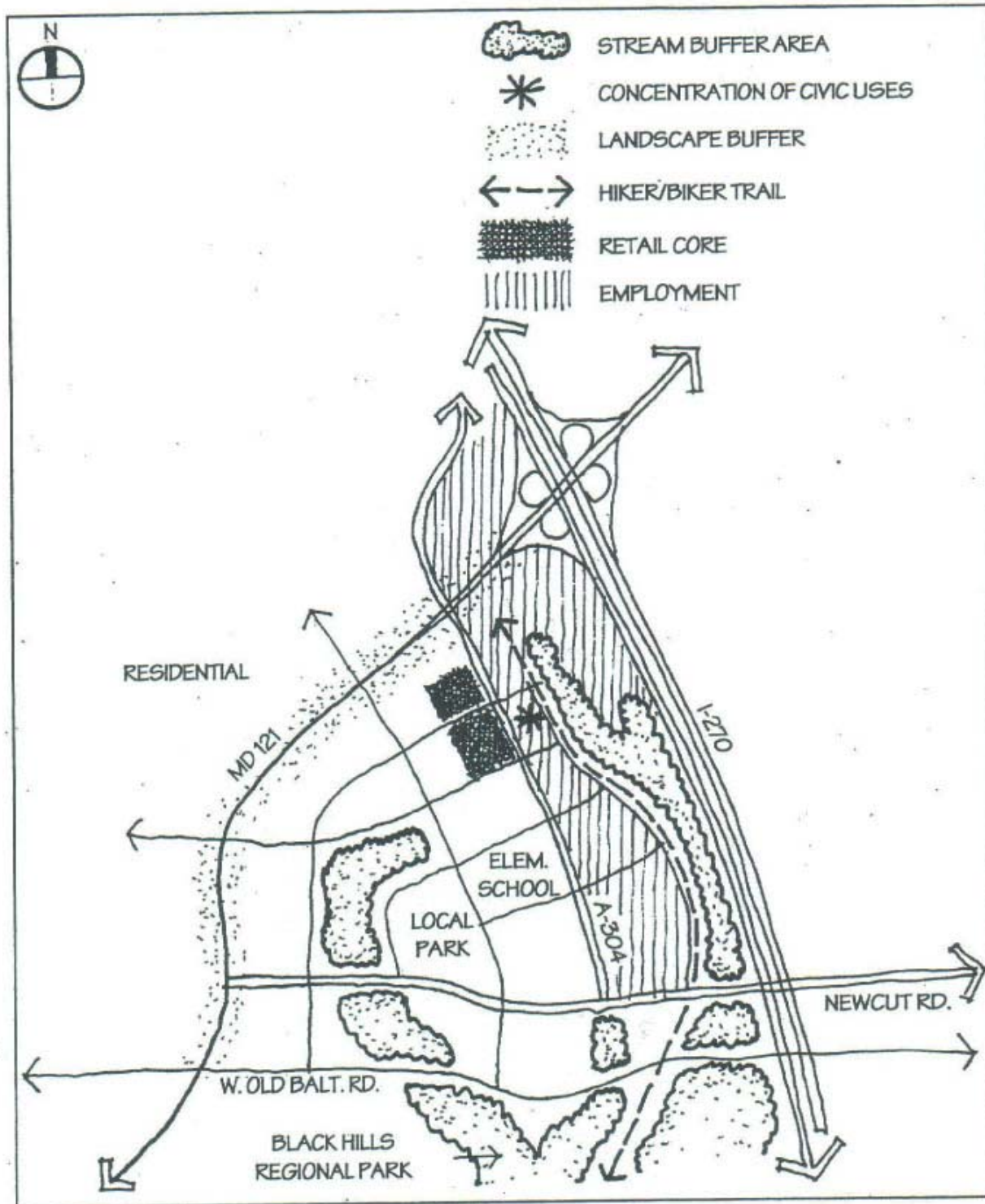
A pedestrian system is conveniently provided throughout the site with formal entry points specifically highlighted by kiosks, stairwells, and an open plaza area.

A parking waiver has been requested for 21 spaces for the east side of the property; specifically associated with the hotel use. Although the deficient parking spaces are not located in direct proximity to their respective uses; the overall 264 total required parking spaces are provided onsite. The reduction of 21 spaces equates to approximately 12 percent loss for the east side of the development. Staff supports this waiver, because it future promotes a more sustainable walkable transit oriented community (per the recommendation of the Master Plan).

Master Plan Compliance

This development conforms to the major provisions of the Master Plan that designate Cabin Branch as a mixed-use, transit oriented residential community. The retail component for the Gosnell site is 8,600 square feet; the remaining 87,500 square feet is classified as employment related uses. The specific roadway orientation and the type of proposed retail uses of this development does not warrant a delay in the construction of the commercial/ retail use lots, as recommended for “retail centers” by the Clarksburg Master Plan. The applicable sections of the Master Plan pertinent to the Cabin Branch Neighborhood analysis area and the Land Use Plan (pgs. 64-70); address the following recommendations:

- a) Provides a mix of uses including employment: 8,600 square feet of retail and 87,500 square feet of employment uses are within the allowable 120,000 square feet of retail and 2,300,000 square feet of employment uses projected in the Master Plan.
- b) Encourages employment supportive of I-270 high-technology corridor: Roadway oriented employment components, including a hotel, are located near the retail core area and the I-270 interchange.
- c) Creates a transit oriented land use pattern: The hotel use, proximity and location are relatively close to the future transit system and the Town Center. Future bus routes may be conveniently located nearby.
- d) Maximizes access to the proposed open space systems: The interconnected sidewalks of the overall Cabin Branch Community will allow walkable pedestrian access to the open spaces and greenway networks. The proposed circulation system will establish pedestrian crosswalks at all the major intersections; thereby physically connecting the commercial/ retail component to the future residential neighborhoods.
- e) Provides an interconnected roadway system: Interconnected roadways include the realignment of Clarksburg Road (MD 121) and the retention of an existing roadway. This alignment is necessary to accommodate the future development of the Cabin Branch Community; while also retaining the existing character of the minor roadway for primary access to the existing residential lots to the north.
- f) Creates a strong neighborhood focal point by concentrating public and retail uses in the same general area: The outdoor seating area for the restaurant and open space plaza (directly adjacent to the roadway) will activate the streetscape along the roadway and create a major focal point near the main entrance of the site.
- g) Emphasizes the special protection of the west fork of Cabin Branch tributary of the Little Seneca Creek: The Water Quality Control Plans have been submitted and conditionally approved. The performance goals outlined in the corresponding approval letter (dated January 29, 2010) will be monitored in accordance with the BMP monitoring protocols established by the Department of Permitting Services (DPS) and the Department of Environmental Protection (DEP).



Cabin Branch Neighborhood Concept Diagram

The implementation of the retail component within the Town Center, Newcut and Cabin Branch Mixed-Use neighborhoods is referenced in the Master Plan (pgs. 46,190, and 196). While the Master Plan clearly designates the Town Center as first priority for new retail development; it also specifically identifies retail centers that are integrated within the designated neighborhood land use areas of the Plan. The Gosnell property is not located within the neighborhood center and retail core areas; as defined in the Cabin

Branch Neighborhood Land Use section of the Master Plan (pgs. 64-70). The retail uses are separated from the Cabin Branch central internal core by the roadway location and the proposed retail uses are not typical of a retail center described in the Master Plan. The auto-oriented retail uses are of different type and are not significantly competitive with the primary retail components (grocery store, specialty shopping, etc.) typically provided for mixed-use neighborhood centers.

Development Standards

The subject site is zoned Mixed Use Planned Development (MXPDP). The purpose of the MXPDP Zone is to establish procedures and standards for the implementation of master or sector plan land use recommendations for comprehensively planned, multi-use centers located outside central business districts and transit station development areas. It is also intended that this zone provide a more flexible approach to the comprehensive design and development of multi-use centers than the procedures and regulations applicable under the various conventional zoning categories and other planned development zones. In so doing, it is intended that this zoning category be utilized to implement existing public plans and pertinent county policies in a manner more compatible with said county plans and policies than may be possible under other zoning categories. Compliance with the specific purposes of this zone are outlined in the Findings section of this report.

The proposed development meets the purpose and requirements of the zone as detailed in the Findings section of this report. The following data table indicates the proposed development’s compliance with the previous approvals and the Zoning Ordinance.

Project Data Table for the MXPDP Zone

Development Standards	Permitted/Required	Proposed for Approval
Gross Site Area (Ac.):		
MXPDP (59-C-7.5)	N/A	7.24 ac.
Area of Dedication (Ac.):		
Public Streets		
Ex. Clarksburg Road	N/A	0.44 ac.
Goldeneye Avenue	N/A	0.46 ac.
Net Site Area (Ac.):	N/A	6.34 ac.
Density (Sec. 59 C-7.5):		
Non-Residential (59 C-7.54):		
Max. Commercial	0.75 FAR ⁹	0.30 FAR
Max. Allowable Uses Permitted ¹⁰		
Total Employment:	2,300,000 sq. ft.	87,500 sq. ft.
Total Commercial/ Retail:	120,000 sq. ft.	8,600 sq. ft.
Total Development:	2,420,000 sq. ft.¹¹	96,100 sq. ft.

⁹In accordance to the MXPDP zone density requirements (59C-7.54).

¹⁰ In accordance to the Phase I Preliminary Plan 12003110A Approval

¹¹ In accordance to the Development Plan (G-806, Development Program, section 5) and the Phase II Preliminary Plan (12003110B)

Green Area (Sec. 59 C-7.56):		
Total MXPDP Zone	283.50 ac.	
Commercial Portion	40%	
Total Site Area		7.24 ac.
On-site Green Area	2.90 ac.	2.49 ac. ¹²
Min. Building Setbacks (Sec. 59 C-7.55):		
Bldgs. other than one-family detached d.u. setback from prop. developed w/ one-family detached homes.	100 feet	100 feet
From adjoining properties	10 feet	10 feet
Commercial or Industrial Bldgs. from adjoining prop. Recommended for residential zoning & land use on master and sector plans.	100 feet	100 feet
Commercial/ Industrial	10 feet	10 feet
Max. Building Height (Sec. 59 C-7.55(c)):		
Area A ¹³		
Hotel	12 stories	4 stories (67 feet)
Bank	12 stories	1 story (31 feet)
Area B		
Car Wash	6 stories	1 story (35 feet)
Quick Serve	6 stories	1 story (33 feet)
Quick Mart	6 stories	1 story (32 feet)
Bank	6 stories	1 story (30 feet)
Percentage of Parking Facility Internal Landscaping (Sec. 59 E-2.73):		
	0.17 ac. (5%)	0.36 ac. (10.6%)
Parking Spaces (Sec. 59 E):		
East Side		
Hotel & Restaurant	169 ¹⁴	149
Bank (Office)	11 ¹⁵	10
East Side Total	180	159¹⁶
West Side		
Bank (Office)	13 ¹⁷	26
Quick Mart (Retail)	17 ¹⁸	19

¹² The remaining 0.41 acres will be fulfilled on another Cabin Branch site within the MXPDP zone.

¹³ Areas A and B were designated in accordance with the approved Development Plan.

¹⁴ 132 rooms multiplied by 0.7 spaces per room. Plus 2,000 sf. for ballroom and meeting room multiplied by 10 spaces per 1,000 sf. Plus 2,215 sf. for the restaurant (at 50% patron area) multiplied by 25 space per 1,000 sf.

¹⁵ 3,435 sf. multiplied by 3 space per 1,000 sf.

¹⁶ The Applicant has requested a parking waiver for 21 missing spaces missing from the east side of the site.

¹⁷ 4,290 sf. multiplied by 3 spaces per 1,000 sf.

¹⁸ 3,255 sf. multiplied by 5 spaces per 1,000 sf.

Car Wash (Retail)	9 ¹⁹	15
Quick Serve (Restaurant)	45 ²⁰	45
West Side Total	84	105¹⁰
Total Number of Parking Spaces	264	264

Community Outreach

The Applicant filed the application prior to the requirements for posting and noticing; however, after the plans were resubmitted, the Applicant posted signs on-site, and sent a notice and copy of the proposed plan to adjacent and confronting property owners, homeowner and civic associations, and parties of record on April 30, 2009. The project file contains a copy of notice of application, and photos of the posted signs. Staff has not received correspondence on this matter.

The Applicant and their attorney attended and presented their project at the Planning Committee meeting of the Clarksburg Civic Association (CCA) at the Ombudsmen’s Office on September 15, 2008. The Applicant has also participated in several community meetings with the CCA on the subject of the larger Cabin Branch development.

The Applicant has indicated that they have contacted the adjacent property owners directly to offer alternative one-on-one meeting times and/or further clarification on specific details that may affect their property.

FINDINGS FOR GOSNELL

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

The Development Plan (G-806) for the Cabin Branch Neighborhood (adopted September 9, 2003) established nine (9) binding elements for the entire community. This site specifically conforms to the following four (4) binding elements: trip reduction measures, street networks, street character and on-street parking. The remaining five (5) elements are not applicable to this site.

The Cabin Branch Local Area Transportation Review (dated December 19, 2005) proposes two (2) major phases of development for the complete build out of the public roadway networks. Planned road improvements shall identify potential problems and offer possible solutions in anticipation of future growth. Vehicular access is designed as an interconnected roadway system within a transit-oriented land use pattern. Four (4) roundabouts are proposed to serve as entry features, setting the character of the area and providing a means of facilitating traffic movements in an efficient manner. The existing

19 1,800 sf. multiplied by 5 space per 1,000 sf.

20 1,772 sf. multiplied by 25 spaces per 1,000 sf. (at 50% patron area).

Clarksburg Road (MD 121) will retain its rural character; while the new Clarksburg Road will transition to a four-lane major road. Two (2) out of the four (4) traffic circles are located along the new Clarksburg Road south of the Gosnell site. The business district streets are proposed as two-lanes with curbside parking. The proposed roadways will promote a pedestrian-friendly environment and are consistent with the requirements of the binding elements.

The internal roadways are aligned with a network of sidewalks and street crossings that channelize pedestrians efficiently to and from residential, commercial, open space, and recreational areas. The business district roadways, with curbside parking, provide an additional level of comfort and safety to the pedestrian by providing a buffer between moving vehicles and sidewalks.

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.*

The proposed uses are allowed in the MXPDP Zone and the site plan specifically fulfills the purposes of the zone by providing the following: Design Guidelines that meet the overall goals of the Master Plan; a comprehensive staging development program in accordance with the previous approvals; enhanced compatibility with the surrounding communities; and the provision of open spaces and site amenities that achieve the physical and aesthetic integration to benefit the community. In addition pedestrian circulation is encouraged and additional landscape plantings proposed are directly adjacent to the surface parking areas.

The Cabin Branch Design Guidelines set the overall tone for the entire development establishing feasible design principles for the proposed streetscapes, circulation systems, and compatible uses. The Infrastructure and Preliminary Plans approved the construction phasing for the major roadway improvements, stormwater management facilities, and underground utilities; prior to the submission of this site plan.

As the project data table on pages 18-20 indicates, the site plan meets all of the development standards of the zone. With respect to building heights, setbacks, and density the proposed development is under all the maximum standards allowed. With respect to green space, the proposed site has provided 2.49 acres. The remaining 0.41 acres will be fulfilled on another Cabin Branch site still within the MXPDP zone.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The buildings and structures of the proposed development are proposed along the new Clarksburg Road; which is appropriate for the character envisioned by the Master Plan. These locations provide easy access to the buildings from adjoining sidewalks and parking spaces. Staff finds the locations of the buildings and structures to be adequate

and efficient, while meeting the aesthetic concerns of the area, and do not pose any safety concerns on the site.

There are no recreation facilities required for this site plan, but benches and bicycle facilities are provided. Active green spaces and recreational facilities are primarily located closer to the residential components. However, the proposed circulation systems adequately and efficiently tie back into adjacent sites. Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area.

Pedestrian patrons are welcomed with a open space plaza, kiosks, stairwells, and handicap accessible ramps and crosswalks located at every major intersection. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. The overall purpose of this development is to be a convenient resource to the surrounding residential properties.

The proposed landscaping helps to buffer the surface parking and driveway areas from the roadways and soften major views inward. Proposed stormwater management plantings will be reviewed by the Department of Permitting and Services (DPS). Traditional foundation plantings are provided at the base of the proposed buildings, and showy ornamental plantings have been added for aesthetic appeal. Interior lighting will create enough visibility to provide safety, however not enough to cause glare on the adjacent roads or properties. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Master Plan, while providing a safe and comfortable environment. The site design is in full compliance with the Master Plan and Cabin Branch Design Guidelines.

- 4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The subject property was designed to be one of commercial/retail properties within the Cabin Branch Community. Other Site Plans with a commercial/ retail component currently under review include: Adventist HealthCare (820060350) and Concordia Phase 2 – Retail (820060300). The proposed development is compatible with the adjacent and confronting uses.

- 5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

Channel protection measures will be provided via an extended detention dry pond (Pond#11). This structure will provide channel protection volume for the one-year storm with a maximum detention time of 12 hours per state standards. Quality control will be provided via a treatment train that consists of recharge structures, structural water quality inlets (both filtering and flow through), a bio-retention structure, an infiltration trench, the use of porous pavement and ultimately surface sand filters in series. Since open section roads are not feasible, additional water quality volume controls will be provided

through large surface sand filters. This will be done by sizing these structures to treat the entire drainage area regardless of the upland area that is already providing full treatment. Recharge will be provided both upland throughout the development and below the outlet pipe of the proposed surface sand filters where groundwater or bedrock is not encountered.

This special protection area requires the recharge volume to provide a total of 150% of the average annual predevelopment groundwater recharge volume. This exceeds the 2007 MDE regulations which require 100% of the average annual predevelopment groundwater recharge volume. The upland portion will provide 50% of the recharge volume before it drains to the SWM ponds. At the ponds the site will be treated for 100% of the required recharge volume. Infiltration trenches have been proposed throughout the site with small drainage areas to provide the upland recharge requirement. The small drainage areas spread the recharge throughout the site which is consistent with the intent of the 2007 MDE regulations. The site also features pervious concrete parking areas to reduce the amount runoff and allow ground water recharge. Pervious concrete is one of the alternative surfaces preferred by the new MDE regulations. Additional upland recharge will be provided with future areas of development within the pond watershed.

RECOMMENDATION AND CONDITIONS

STAFF RECOMMENDATION FOR FINAL WATER QUALITY PLAN: Approval of the Final Water Quality Plan for Site Plan 820060240 as described in the letter dated January 29, 2010 [Attachment C] unless amended and approved by the Montgomery County Department of Permitting Services. The following conditions must be addressed in the initial submission of the detailed sediment control/stormwater management plan. All of the conditions not addressed from previous approvals are still applicable. This list may not be all inclusive and is subject to change based on available information at the time of the subsequent plan reviews:

1. Provide clear access to all stormwater management structures from a public right-of-way (structure G101, G106 and G108). If access to structure G108 is to be from Clarksburg Road, a driveway apron and full depth paving over the sidewalk will be required.
2. The Preliminary Water Quality Plan required that 150% of the MDE required recharge volume be provided due to the lack of open section roadways in this sensitive watershed and the deep cut and fill that is proposed. During the detailed review a geotechnical study must be provided to determine the feasibility of the proposed infiltration and recharge structures.
3. The proposed infiltration trench (structure G101 must be open to the surface.
4. If possible locate structure G107 in the green are between the Clarksburg Road right-of-way and the onsite drive isle for ease of maintenance.
5. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the lasted Montgomery County Standards and Specifications for Topsoiling.
6. Due to the size of this development a full-time, third-party, onsite, sediment control inspector is required to assure that the goals of the Water Quality Plan are being met.

STAFF RECOMMENDATION FOR SITE PLAN 820060290: Approval of 8,600 square feet of retail/ commercial use (car wash, quick serve (convenience store), gas station, and banks), 87,500 square feet of employment uses, and a parking waiver for the western portion of the site on 7.24 gross acres of land. All site development elements shown on the site and landscape plans stamped “Received” by the M-NCPPC on March 22, 2010 are required except as modified by the following conditions:

Environment

Staff recommends approval of the site plan #820060240, including amendments to the forest conservation plan and the Special Protection Area water quality plan approved per Cabin Branch Infrastructure Site Plan #820050150, subject to the following conditions:

1. Compliance with the Planning Board conditions of approval for forest conservation plan #820050150 dated June 14, 2007, with amendment to reflect approval of the final forest conservation plan for Site Plan #820060240.
2. Amendment to Special Protection Area water quality plan approval for Infrastructure Site Plan #820050150 in incorporate revisions contained in DPS’ approval letter for Site Plan #820060240 dated January 29, 2010.
3. All other prior approvals and conditions from #820060240 related to environmental and water quality related issues remain in full force and effect

Site Plan

- 4 Site Design
 - a. Update and coordinate the Project Data Table(s) with pervious approvals and/or pending applications for the entire Cabin Branch Neighborhood development.
 - b. Label the maximum height of the retaining wall (directly adjacent to the Car Wash and Quick Serve parking facility) on the site plan.
 - c. Provide section/ elevations through the site demonstrating the relationship between the proposed buildings and the streetscape along the new Clarksburg Road (MD 121) and the existing Clarksburg Road (to the northwest).
 - d. Provide a Green Space Diagram that clearly highlights the ratio of impervious to pervious surfaces; and outlining the areas counted within the Green Area calculations. The remaining 0.41 acres of green area shall to be fulfilled on another Cabin Branch site, still within the MXPD zone.
 - e. Provide wheel stops in parking spaces that are directly adjacent to pedestrian sidewalks; to ensure limited overlap of parked cars.
 - f. Provide handicap ramps at the end of all sidewalks that intersect with roadways.
 - a. Locate benches in potential seating areas; and provide site details for any benches and trash receptacles proposed onsite.
 - b. The exterior architectural character, proportion, materials, and articulation will be re-evaluated upon re-submittal by M-NCPPC Development Review and Urban Design staff.

5 Landscaping

- a. The proposed plant materials shall be installed to meet the standards of the American Standards for Nursery Stock (AAN) with regard to the correct size and type as specified within the plant list and planting plan.
- b. An alternate plant list may be provided on the Landscape and Lighting plan; to accommodate plant substitutions.
- c. The proposed plantings shall be properly installed and maintained so as not to conflict with the public right of way, and/or cause damage to any existing public utilities.

6 Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential/commercial development.
- b. All onsite down- light fixtures must be semi cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e. The height of the light poles shall not exceed 17 feet including the mounting base.

7 Design Guidelines

- a. The proposed development shall comply with the Design Guidelines dated August 20, 2008 or as amended and approved by the Planning Board.
- b. A letter from the Town Architect shall accompany each site plan application stating that the proposed development complies with all of the aspects of the Cabin Branch Design Guidelines.
- c. An approval form from the Town Architect shall accompany each building permit application stating that the proposed building is in conformance with the approved certified site plan and with all of the aspects of the Cabin Branch Design Guidelines.
- d. Each building permit shall be reviewed by the Planning Director or “designee” for conformance to the approved Design Guidelines. Unless the Director or designee rejects the permit for non-compliance with the Design Guidelines within ten (10) days of transmittal, it shall be deemed approved. If the building permit application is regarded as not in conformance with the guidelines, then the Director and Town Architect shall meet to discuss the discrepancy. If the two parties cannot agree on a suitable approach to provide conformance to the guidelines, then the Planning Board will decide the resolution.
- e. The Design Guidelines for the retail components and streetscape will be reevaluated with respect to architectural features, site design, layout and circulation.
- f. The administration of the Design Guidelines shall be the responsibility of the Town Architect and the Cabin Branch Management, with the exception of variations or exceptions to the guidelines, which shall be approved by the M-NCPPC Planning Director or designee. If the town architect and Planning Director do not agree, then the matter will need to go the Planning Board possibly as a minor amendment to the site plan.

8 Landscape Surety

The Applicant shall provide a surety (performance bond) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety shall include plant material, on-site lighting, recreational facilities, and site furniture within the relevant block of development. Surety to be posted prior to issuance of first building permit within each relevant block of development and shall be tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which will establish the initial bond amount.
- c. Completion of plantings by block, to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the respective parties and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

9 Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lighting and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- a. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle racks must be installed prior to release of any building occupancy permit.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c. The development program must provide phasing for installation of on-site landscaping and lighting.
- d. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- e. Pedestrian pathways and seating areas associated with each facility must be completed as construction of each facility is completed.
- f. Provide each section of the development with necessary roads.
- g. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

10 Certified Site Plan

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

- a. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c. Modify data table to reflect development standards enumerated in the staff report.
- d. Ensure consistency of all details and layout between site plan and landscape plan.
- e. Provide a building envelope (with setbacks labeled on the site plan) that will account for any minor and/or major shifts in the final construction of the proposed buildings.
- f. Provide a diagram delineating the location of the on-site Green Area.

APPENDICES

- A. Infrastructure Site Plan Resolution
- B. Preliminary Plan (Phase II) Resolution
- C. Agency Approval Letters
- D. Correspondence

APPENDIX A



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

JUN 09 2008

MCPB No. 08-68
Site Plan No. 82005015A
Project Name: Cabin Branch Infrastructure Plan
Hearing Date: April 3, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on August 17, 2007, FFTM 1, Limited Partnership, Winchester Homes, Inc., King Farm Partnership, Concordia Group and Adventist Healthcare, Inc. ("Applicant"), filed a site plan amendment application designated 82005015A, Cabin Branch Infrastructure Plan (the "Amendment") for approval of the following modifications:

1. Amendment of the Infrastructure and Roads Only Site Plan for the design and cross section of West Old Baltimore Road; and

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated March 21, 2008, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on April 3, 2008, Staff presented the Amendment to the Planning Board at a public hearing on the Amendment (the "Hearing") where the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

DMC 5/23/08

Approved for the Secretary
M-NCPPC Office of General Counsel

WHEREAS, during the hearing, Staff informed the Board that impacts to existing structures, wells and septic areas had been minimized during the design review; however, one home, a one-family detached structure on the south side of West Old Baltimore Road, would be unavoidably impacted, due to the location of the existing house to the road. DPWT Staff informed the Board that the impacts could result in condemnation of the house and property by the County for the improvements to West Old Baltimore Road but that the improvements are not a result of the proposed development, rather, standard improvements for construction of an arterial roadway. Counsel for the family, whose home would be impacted, voiced concerns over timing and activity of the construction, relocation and compensation. Commissioner Bryant noted that the Applicant needed to work with DPWT and the property owner to coordinate on the issues. John Cook with the Clarksburg Advisory Committee and an adjacent property voiced a concern regarding the provision of a water line in the event the construction impacts negatively impacted the water wells on the properties along the north side of West Old Baltimore Road. In rebuttal, the Applicant stated that a 12" water line is planned within the right-of-way for West Old Baltimore Road, not a 24" line as previously shown; however, a water line is planned within the road.

WHEREAS, on April 3, 2008, the Planning Board approved the Amendment subject to conditions on the motion of Commissioner Bryant, seconded by Commissioner Robinson, with a vote of 3-0, Commissioners Bryant, Hanson and Robinson voting in favor, and Commissioner Cryor absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby APPROVES the Amendment, subject to the following conditions:

1. Infrastructure Plan

The applicant shall comply with the following conditions of approval of the Infrastructure Plan in the resolution dated September 19, 2007, unless specifically amended by this amendment.

2. Transportation

The Applicant shall comply with the following conditions of approval from the Department of Public Works and Transportation (DPWT) in the memorandum dated March 10, 2008 and from the M-NCPPC-Transportation Department in the memorandum dated March 13, 2008, or as amended.

3. Parks Department

The Applicant shall comply with the following conditions of approval from the Park Planning and Stewardship Division in the memorandum dated March 14, 2008:

- a. Applicant to use all reasonable efforts to minimize the impact to trees located on parkland during road and park entrance improvements.
- b. Park entrance road to remain open at all times during construction of road and park entrance improvements.

- c. Park entrance to be constructed to adequately and safely accommodate park users as well as large trucks and maintenance vehicles.
 - d. Any trees to be planted on parkland to be approved by parks staff to assure use of viable native species.
 - e. Applicant to secure a park permit prior to beginning any work on park property. Any improvements on parkland to be designed and constructed to meet park standards and specifications, and shall be acceptable to park staff.
4. Development Program
Applicant shall construct the proposed development in accordance with a Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. A development program for each detailed site plan shall include a phasing schedule to incorporate the following site plan elements: street tree planting, community-wide pedestrian pathways and recreation facilities, other pedestrian pathways and seating areas, clearing and grading, necessary roads and phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
5. Clearing and Grading
No clearing or grading is permitted for West Old Baltimore Road prior to approval of the certified site plan.
6. Certified Site Plan
Prior to certified site plan approval of the Infrastructure and Roads Only Plans the following revisions shall be included and/or information provided, subject to staff review and approval:
- a. Development Program and Site Plan Resolution.
 - b. Undisturbed stream buffers unless specifically approved with the construction of the infrastructure.
 - c. Limits of disturbance.

BE IT FURTHER RESOLVED, that the Planning Board adopts the Staff's recommendation and analysis set forth in the Staff Report and FINDS that the Amendment is consistent with the provisions of § 59-D-3.7 of the Zoning Ordinance and that the Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved site plan; and

BE IT FURTHER RESOLVED that all site development elements as shown on Cabin Branch Infrastructure Plan drawings stamped by the M-NCPPC on March 7, 2008 shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

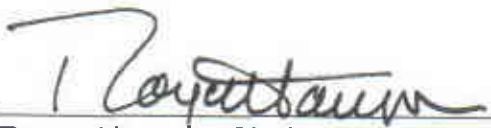
BE IT FURTHER RESOLVED, that this Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

JUN 09 2008 BE IT FURTHER RESOLVED, that the date of this written resolution is _____ (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 written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 Robinson, seconded by Commissioner Bryant, with Commissioners Bryant, Hanson, and Robinson voting in favor of the motion, and Commissioner Cryor abstaining, at its regular meeting held on Thursday, May 1, 2008, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

APPENDIX B



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OCT 6 2008

MCPB No. 08-117
Preliminary Plan No. 12003110B
Cabin Branch Amendment B
Date of Hearing: April 3, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on July 2, 2004, Cabin Branch, LLC, ("Applicant"), filed an application to amend a previously approved preliminary plan of subdivision that was approved for 1,600 residential dwelling units, 1,538,000 square feet of commercial space and 500 dwelling units for senior housing to allow an additional 286 residential dwelling units and an additional 882,000 square feet of commercial space for a total of 1,886 residential dwelling units, 2,420,000 square feet of commercial space and 500 dwelling units for senior housing on 540 acres of land located on property generally bordered by MD Route 121 to the west and north, Interstate 270 to the east and West Old Baltimore Road to the south ("Property" or "Subject Property"), in the Clarksburg Planning Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 12003110B, Cabin Branch Amendment B ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum ("Staff Report"), to the Planning Board, dated March 21, 2008, setting forth its analysis, and recommendation for approval of the Application, subject to certain conditions; and

DBL 9/19/08
Approved for legal sufficiency
M-NCPPC Office of General Counsel

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on April 3, 2008, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, the Planning Board held a public hearing ("Hearing") on the Application; and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the Hearing, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 3-0, Commissioners Bryant, Hanson, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan Amendment No. 12003110B, to allow 286 additional residential dwelling units and 886,000 square feet of additional commercial space on the Property, subject to the following conditions which supersede, in their entirety, any and all previously approved conditions of approval:

- 1) Applicant is bound by all binding elements for Local Map Amendment G-806.
- 2) Total development under this Application is limited to the following uses and density:
 - 1,886 residential dwelling units
 - 2,420,000 square feet of commercial space
 - 500 dwelling units of senior housing
- 3) The Applicant shall satisfy the following transportation improvements:

To satisfy Policy Area Transportation Review for the approved development under the original approval, the Applicant must:

- a. Construct, in accordance with the staging sequence referenced below, Newcut Road as a four-lane divided arterial roadway between West Old Baltimore Road and the eastern business district roadway parallel to I-270.
- b. Upgrade, in accordance with the staging sequence referenced below, West Old Baltimore Road to a two-lane arterial roadway standard between Broadway Avenue and Clarksburg Road (MD 121), as outlined in the Department of Public Works and Transportation's (now, Department of Transportation or "DOT") March 10, 2008, letter to M-NCPPC.

- c. Construct, in accordance with the staging sequence referenced below, two parallel, two-lane business district roadways between Newcut Road and MD 121 in lieu of a four-lane divided arterial roadway.
- d. Upgrade, in accordance with the staging sequence referenced below, MD 121 to an arterial roadway standard between West Old Baltimore Road and I-270 and upgrade the interchange ramps of MD 121 and I-270 that provides for six-lanes of traffic (both ways) on the MD 121 bridge over I-270.

To satisfy Local Area Transportation Review (LATR) for the total build out of development, the Applicant must also provide the following improvements:

- e. Construct, in accordance with the staging sequence referenced below, the following improvement at the MD 121/I-270 northbound on/off ramp:
 - Add a northbound left-turn lane to provide for dual left turn lanes.
 - Add a separate westbound left-turn lane.
 - Signalize the intersection.
 - Widen the Clarksburg Road bridge (MD 121) over I-270 to accommodate one additional through lane in each direction and a media island subject to SHA's requirements.
 - Add a westbound through lane on MD 121. This third westbound through lane would be dropped at the I-270 southbound loop ramp.
 - Add eastbound right-turn lane for I-270 northbound ramp.
 - Provide two lanes on the I-270 northbound ramp.
 - Provide non-automobile transportation amenities which include 2 LED traffic signals, 2 bus shelters, 1 super bus shelter, (defined as a larger than standard bus shelter with heating and lighting), and 3 bike lockers subject to approval by DPWT. If any of the non-auto amenities described here are not acceptable to DPWT, the Applicant must provide other improvements (at the discretion of M-NCPPC-Transportation Planning staff) equal to mitigating the same level of traffic to pass LATR.

- f. Construct, in accordance with the staging sequence referenced below, the following improvements at the MD 121/I-270 southbound on/off ramp:
- Add a westbound through lane.
 - Signalize the intersection.
 - Add an eastbound lane to southbound on-ramp I-270.
- g. Construct, in accordance with the staging sequence referenced below, the following improvements along the MD 121 frontage:
- Six-lane roadway section from the I-270 southbound on/off ramp intersection to the first site entrance (Street "A"/Whelan Lane). The entrance would include a two-lane roundabout with right-turn bypass lanes to add and drop the third lane for Clarksburg Road.
 - Four-lane roadway between Street "A"/Whelan Lane and First Avenue.
 - Two-lane section from First Avenue to West Old Baltimore Road and roundabout at West Old Baltimore Road at this intersection.

The preceding roadway improvements (3a through 3g) must be constructed in accordance with the sequence described in the Cabin Branch Roadway Improvement Phasing Table and associated Diagram dated March 20, 2008 (see Attachment to this Resolution). Construction of all roadway improvements tied to each phase must be complete and open to traffic prior to the issuance of any building permit for the next phase of development.

- h. Construct the following improvements at the MD 121/Gateway Center Drive intersection:
- Reconfigure the existing intersection to provide two lanes for through movement to, and from, the east.

This improvement must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

i. Construct the following improvements at the Stringtown Road Extended/
Gateway Center Drive intersection:

- Widen eastbound Stringtown Road Extended to provide dual left-turn lanes.
- Convert a southbound Gateway Center Drive through/right lane in to a through lane and construct a free right turn lane with a channelized median.

These improvements must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

j. Construct or participate on a pro rata share in the following improvements at the MD 121/Frederick Road (MD 355) intersection:

- Re-stripe northbound MD 355 to convert from a through-right and a right-turn lane to a through-left and a right-turn lane.
- Modify the traffic signal to meet the requirements of SHA traffic operation with new lane configuration.

These improvements must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

k. Construct or participate on a pro rata share in the following improvements at the MD 355/West Old Baltimore Road intersection:

- Widen eastbound approach of West Old Baltimore Road to provide for a separate right-turn lane
- Widen the northbound approach of MD 355 to provide for a separate left-turn lane and a three-lane section on MD 355 between West Old Baltimore Road and Brink Road.
- Widen southbound approach of MD 355 to provide separate right-turn lane at West Old Baltimore Road.

These improvements must be complete and open to traffic prior to the issuance of building permits for the 1400th residential unit (not including the 500 senior housing units) and for more than 1,500,000 square feet of commercial space.

- I. Construct or participate on a pro rata share in the following improvement to MD 355 at Brink Road.
 - Widen MD 355 south of Brink Road to a four-lane divided section to join the existing four-lane section at Willstone Manor Lane.

This improvement shall be complete and open to traffic before the issuance of 1400th residential building permit and for more than 570,000 square feet of commercial space.

- m. Prior to the issuance of 1,256 residential building permits (not including the 500 units of senior housing), widen the MD 121 northbound off-ramp to 2 lanes. Should the construction of a grade separated interchange at Newcut Road/I-270 be funded in the Maryland Consolidated Transportation Program by the time that the Applicant has obtained bids for the widening of the northbound off-ramp, the Applicant shall then transfer to SHA a sum equal to the actual bid cost of construction for the northbound off-ramp improvement for use in construction of the Newcut Road/I-270 interchange and such contribution shall be considered as having met the Applicant's obligation for such improvement.
 - n. If any of the road improvements identified in the above paragraphs either are now, or become obligations of other projects, applicants of other projects may participate in the joint funding of such improvements. The basis of participation on a pro rata share is the sum of total peak hour trips generated by the subject development over the sum of total peak hour trips generated by all developments required by the Planning Board to participate in the construction of the particular improvement.
- 4) Prior to certification of the initial site plan, the Applicant, M-NCPPC Transportation Planning staff, and DPWT staff shall consider mutually acceptable trip reduction measures. The parking ratios for non-residential uses in the Cabin Branch Community will also be determined at the time of Site Plan review considering the trip reduction goals.
 - 5) All road rights-of-way shown on the approved preliminary plan must be dedicated, by the Applicant, to the full width shown in the Adopted June 1994, Clarksburg Master Plan unless otherwise designated on the preliminary plan.

- 6) All road right-of ways shown on the approved preliminary plan must 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 unless modified by DOT or the Montgomery County Department of Permitting Services ("DPS").
- 7) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan including: reforestation of the stream buffers starting in the first growing season after DPS issuance of the initial sediment control permit; and a 5-year maintenance period for all planted areas. Final forest conservation plan(s) to be approved at the time of site plan(s). The Applicant must satisfy all conditions prior to recording of plat(s) or DPS issuance of sediment and erosion control permits.
- 8) Record plat to reflect a Category I easement over all areas of forest conservation and stream valley buffers.
- 9) Record plat to reflect common ingress/egress and utility easements over all shared roadways and driveways.
- 10) Record plat to reflect to the Board of Education, dedication of an elementary school site as shown on the approved preliminary plan or as modified by Infrastructure Plan or Site Plans. Applicant to grade the site to elevations that are acceptable to MCPS and construct any retaining walls as are necessary to support the program requirements of an elementary school facility. The bounds of the school parcel shall exclude any retaining walls.
- 11) Applicant to convey to M-NCPPC, in fee simple, the agreed area of contiguous land that is located between the proposed elementary school site and proposed Fulmer Avenue (Street H), Bryne Park Drive and Stilt Street (Street J) and continuing south along the Little Seneca Tributary to West Old Baltimore Road. The northern portion of the conveyed land must include at least 10 acres of contiguous land that is suitable for active recreation uses divided only by the historic home (including circular driveway) which is to be dedicated to the HOA or other party acceptable to M-NCPPC staff. Parkland must be conveyed prior to recordation of plat for that particular land area and conveyed free of trash and unnatural debris. Park boundaries must be staked and signed to distinguish from private properties.
- 12) At the time of individual site plan review, the Applicant must work with M-NCPPC staff to finalize and clearly delineate the exact park dedication boundaries that are acceptable to Parks Department staff. Park boundaries

shall be easy to identify, manage, sign and shall be clearly distinguishable from HOA property and private property.

- 13) No retaining walls or stormwater management ponds or facilities to be located on dedicated parkland.
- 14) Within the conveyed local park acreage, Applicant to provide, at Applicant's expense, the following active recreational facilities and amenities:
 - At least one (1) adult sized soccer field,
 - one (1) multi-age playground acceptable to M-NCPPC staff,
 - an open grass play area as prescribed below
 - a picnic area with two (2) shelters,
 - eight (8) foot minimum width hard surface trails within the park to serve the various facilities, except ten (10) feet wide where needed for maintenance access,
 - one drinking fountain,
 - park signage,
 - information kiosks,
 - a portable restroom pad and enclosure as determined by staff,
 - appropriate fencing for safety purposes along any retaining wall or steep slopes (as acceptable to M-NCPPC staff),
 - park landscaping,
 - Local park parking for at least 120 cars, including at least 60 spaces on the conveyed parkland. Parallel parking spaces along the park side of the adjacent roads should be appropriately striped and marked to delineate the individual parking spaces available for park users.

Park conveyance and facility layout to be substantially as set forth on the approved Infrastructure Plan, with final details of park design, engineering, grading and layout to be determined in coordination with, and acceptable to, M-NCPPC park staff prior to individual certified site plan approval. Facilities to be constructed to park standards and specifications after procurement by Applicant of appropriate park permit. Copies of applicable standards and specifications will be provided to Applicant by time of certified site plan approval.

- 15) The open grass play area adjacent to the historic house to include some relatively flat area(s) that is suitable for informal ball-type play. The final grading plan must incorporate this flat play area and be acceptable to M-NCPPC Parks Department staff.

- 16) Applicant to construct hard surface and natural surface trails on conveyed parkland and throughout the community to connect open spaces, elementary school and parkland together in an accessible, pedestrian friendly manner. Applicant to work with M-NCPPC staff prior to certified site plan approval to establish exact locations of needed trails in order to provide recreational opportunities to the communities and businesses within the subdivision. The trails within parkland must be constructed to park standards and specifications.
- 17) Compliance with the DPS conditions of approval of the Preliminary Water Quality Plan and stormwater management concept letter dated, May 13, 2004.
- 18) Compliance with conditions of approval of DOT letter dated, May 14, 2004 and March 9, 2008 unless otherwise amended by DOT.
- 19) Access and improvement along Clarksburg Road (MD 121) and I-270 as required by the State Highway Administration ("SHA").
- 20) Clearing and grading on-site must be in accordance with the Infrastructure Site Plan; no recordation of plats prior to approval of certified site plan.
- 21) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 22) No encroachment into stream buffers for stormwater management or sediment control facilities, except for necessary outfalls and temporary sediment control facilities in unforested buffers, without prior approval by the Planning Board.
- 23) Applicant to work with M-NCPPC staff before individual site plan approvals to reduce onsite cut and fill from that shown on the preliminary plan, and minimize the height of retaining walls wherever possible.
- 24) Maintenance of common open space facilities, including retaining walls and historic structure to be addressed prior to approval of any and all subsequent site plan approvals.
- 25) A landscape and lighting plan must be submitted as part all future site plan applications for review and approval by M-NCPPC staff.
- 26) Staging sequence of development shall be revised as follows:

The Preliminary Plan will remain valid for one hundred and twenty one (121) months from the date of mailing of the Planning Board Resolution for this Planning Board action. Record plats must be recorded based on the following staging sequence:

- Stage I (expires 31 months from the date of mailing of the Planning Board Resolution): 420 dwelling units, 125 senior housing units and 380,000 square feet commercial.
- Stage II (expires 61 months from the date of mailing of the Planning Board Resolution): 404 dwelling units, 250 senior housing units and 380,000 square feet commercial.
- Stage III (expires 91 months from the date of mailing of the Planning Board Resolution): 388 dwelling units, 125 senior housing units and 380,000 square feet commercial.
- Stage IV (expires 121 months from the date of mailing of the Planning Board Resolution): All remaining development.

Prior to the expiration period, the final record plat for all remaining lots within each phase must be recorded, or a request for an extension must be filed.

- 27) The Adequate Public Facility review for the Preliminary Plan will remain valid for one hundred and twenty one (121) months from the date of mailing of the Planning Board Resolution.
- 28) TDRs must be recorded in accordance with Section 59-C-10.3.132 and 59C-10.3.133 of the Montgomery County Zoning Ordinance.
- 29) Other necessary easements must be shown on the record plats.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The subject 540-acre property is located within the Cabin Branch Neighborhood of the 1994 Clarksburg Master Plan Area. The Master Plan states that the opportunity to provide a transit-oriented residential neighborhood is one of the most important public policy objectives. In summary, the Master Plan objectives are as follows:

- Provide a mix of uses including employment.
- Encourage an employment pattern that is supportive of I-270 as a high-technology corridor.
- Create a transit-oriented land use pattern.
- Maximize access to the proposed open space system.
- Provide a suitable transition to the rural/open space character south of West Old Baltimore Road towards Boyds.
- Provide an interconnected roadway system.
- Create a strong neighborhood focal point by concentrating public and retail uses in the same general area.
- Place special emphasis on protection of the west fork of Cabin Branch because of its high water quality and tree cover.

The Cabin Branch Neighborhood is the only portion of the western side of I-270 that is proposed for significant residential development. Most of the development in the Cabin Branch Neighborhood is recommended to occur on the Subject Property. The Master Plan states the recommended mix of uses for this neighborhood as follows:

Residential	1,950 dwelling units plus MPDU units
Employment	2.4 million square feet
Public Uses	Places of worship, childcare, community building, elementary school, and park

This Application envisions a comprehensively planned, mixed-use, transit-oriented and pedestrian-friendly community consistent with the goals of the Clarksburg Master Plan. The Board notes that further refinement of the site design along MD 121 and West Old Baltimore Road should occur at time of individual site plan review to insure compatibility of the proposed project with the surrounding Ten Mile Creek and Boyds communities.

The Planning Board finds that the proposed conceptual development as shown on the Preliminary Plan drawing is in conformance with the goals and objectives of the Clarksburg Master Plan.

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

The proposed lots generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application has been reviewed pursuant to the Local Area Transportation Review ("LATR") guidelines establish in the Annual Growth Policy. A complete, updated, traffic study for this amended plan was reviewed by M-NCPPC, Transportation Planning staff, DOT, and SHA. The developer(s) of the project are required to construct and/or participate in numerous local and regional projects to meet the requirements of the LATR review. The transportation projects discussed in the Staff Report and required by the conditions of approval combine to meet the LATR requirements and are staged in a controlled sequence. The transportation projects also specify certain sidewalks, bikepaths, and shared use paths that will meet the pedestrian circulation requirements for the project. The Planning Board finds that the transportation projects will satisfy the LATR requirements; both vehicular and pedestrian access and circulation requirements are met through the conditions of approval.

Other public facilities and services are available and will be adequate to serve the proposed units. Public sewer and water service are available to the Property as testified to by MCDEP staff at the Hearing. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. The Applicant is required to dedicate a school site to the Montgomery County Public Schools to address the future school needs of the Application. Other public facilities and services such as police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. All other local utilities such as, electrical and telecommunications services are also available to serve the Property.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. The lots were reviewed for compliance with the dimensional requirements for the RMX-1/TDR and MXP zones as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Plan.

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

The Planning Board had previously approved a preliminary forest conservation plan that considered the total development of the entire site. A final forest conservation plan was approved with the Infrastructure Plan. The forest conservation plan proposes removal of 58.97 acres of forest and retention of 71.58 acres. The developers will be required to plant 58.32 acres of forest to meet the requirements of the Montgomery County Forest Conservation Law under Chapter 22A of the Montgomery County Code. Since this is an optional method of development, the developers will be required to meet all forest conservation requirements on the Subject Property as shown on the final forest conservation plan.

Under the M-NCPPC's implementation of the Special Protection Area ("SPA") regulations, the Environmental Guidelines require accelerated reforestation of stream buffers within SPAs. Approximately 243 acres of the 540-acre site are within the Clarksburg SPA. Those portions of the site that drain to Cabin Branch, a Use I-P waterway, are not in the SPA except for two pods that were included because of the potential for groundwater contamination. The Cabin Branch tributary and the tributary immediately abutting and parallel to I-270, both drain to Little Seneca Lake. Since the property includes land both in and out of the SPA and the tributaries drain to a common water body, the Planning Board required that the planting requirements be treated as if the entire site were located within the Clarksburg SPA. Therefore, the Planning Board requires that the Applicant plant the stream buffers after DPS approval of the first sediment control/grading permit and that the Applicant provide a five-year maintenance period for all planting areas credited toward the forest conservation plan.

The Planning Board finds that the Application complies with the requirement of Chapter 22A.

5. *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 DPS that the Stormwater Management Concept Plan and SPA Water Quality Plan meet DPS's standards.*

A water quality plan is required for this development as part of the SPA regulations. Under the SPA law, DPS and the Planning Board have different responsibilities in the review of the water quality plan. DPS has reviewed and conditionally approved the elements of the final water quality plan under its purview. The Planning Board is responsible for determining if the site

imperviousness, environmental guidelines for SPAs, and forest conservation requirements have been satisfied. The Board finds that as conditioned the preliminary water quality plan meets the applicable requirements and should be approved.

6. *Other issues.*

The Planning Board heard testimony from three interested speakers at the Hearing. The first was Jim Clifford, Esq., representing the interests of the Miller family who reside on the south side of West Old Baltimore Road, and immediately adjacent to the Subject Property. Mr. Clifford spoke to the potential need for the Miller family home and property to be acquired for the future improvements to West Old Baltimore Road. He testified that the Miller family understood that their property was not needed for improvements to West Old Baltimore Road and had recently made \$80,000 in improvements to the home. More recently, the Millers learned that, due to wetland permitting issues for the nearby stream, the road will need to be expanded onto the Miller property and the house will need to be demolished. While not adamantly opposed to the development, Mr. Clifford asked on behalf of the Miller family that the Planning Board provide some assurance as to when the house and property would need to be acquired so that the Miller family could do some estate planning for the aged matriarch of the family.

The Planning Board also heard testimony from Greg Leck of DOT, who suggested that the improvements to West Old Baltimore Road were developer dependent. The developers and the Miller family would have to negotiate a purchase price for the required property. If such a settlement could not be achieved, only then would the developer be able to approach the County for a request to condemn the needed property. In response to this concern the Applicant's counsel indicated that the Applicant would be in contact with Mr. Clifford to start the negotiation process. The condemnation of the Millers home is beyond the scope of this proceeding.

The Planning Board also heard testimony from a Jim Cook, a resident on West Old Baltimore Road, who had a number of concerns with the Preliminary Plan. The first concern was with the phasing of the road improvements. Mr. Cook generally supported the phasing schedule that was tied to issuance of building permits, but expressed his belief that the improvements to West Old Baltimore Road and MD 355 were required too late in the development process. Mr. Cook was concerned that the intersection was already failing according to the LATR guidelines and that the improvement to this intersection should be accelerated in the phasing schedule since the development will add even more traffic prior to improvements to the intersection.

The Applicant's counsel argued that the Applicant's obligations under the current Plan include more stringent conditions of approval for this intersection, above those recommended in the original approval for the Application (12003110A). He pointed out that these include additional improvements to the intersection and a requirement that they be completed by issuance of the 1400th building permit which was not specified in the original condition language. In response to query by the Board, Staff concurred with the Applicant's representative that the staging for traffic improvements for this intersection and all other roadways included in the Application will satisfy the LATR requirements in a timely manner. Based on this discussion and the details of the LATR review, the Board finds that the proposed staging for traffic improvements is appropriate.

Mr. Cook was also concerned about the park trail connections from the development to the Black Hill Regional Park. He suggested that the specifics of the connections should be fully developed within the context of the Preliminary Plan, not at site plan as the conditions of approval stipulate. The Board elected to retain the language of the conditions as proposed.

Mr. Cook generally supported the condition of approval that requires developer funds to be diverted to the I-270/Newcut Road interchange should this project be included in the Capital Improvements Program in a timely manner, but worried that the funds might be diverted to the MD 121 interchange instead. Staff responded that the proposed language will ensure the funds are applied correctly and the Board elected to retain the proposed condition of approval.

Mr. Cook also expressed concern that the future Homeowners Association for Cabin Branch may be unfairly saddled with cumbersome maintenance costs for the retaining walls planned within the Cabin Branch community. Staff stated that they shared these concerns and will continue to work to reduce the heights of retaining walls as part of the individual site plan reviews. The Planning Board agreed that site plan is the appropriate time to further address this concern.

Mr. Cook finally expressed concern about the inclusion of "two-over-two" units as single family, attached units in the unit count mix for the overall development. His concern was that by defining these units as single family attached, it would allow additional multi-family units to be built. This concern was echoed by Kathy Hulley, President of the Clarksburg Civic Association. Staff, however, testified that the Zoning Ordinance allows two-over-two units to be classified as single family attached if there is appropriate usable open "yard" space for each unit, which must be the case in this instance. The Board was satisfied that application of the Zoning Ordinance standards as part of the site

plan review will prevent the unit mix of multi-family and single family attached from being skewed.

Ms. Hulley also agreed with Mr. Cook's concern about future HOA retaining wall maintenance costs and additionally expressed her own concerns about the look of the shopping center and the commercial center planned as part of the Application. It may be appropriate to address these issues as part of site plan review, but not in the context of a preliminary plan review. Ms. Hulley also took issue with the potential design of the water tower planned for the Cabin Branch community, a mandatory referral issue.

Finally, Ms. Hulley questioned the viability of the Limited Liability Corporation, Cabin Branch, LLC, the lead developer responsible for the infrastructure required for the Property, and who, if anyone, would be responsible should it fail as an entity. Her fear was that the HOA would ultimately become responsible for completion of the infrastructure.

In response to Planning Board query about this concern and the Board's ability to address it as part of a plan review, Legal staff advised that the Board's responsibility was to ensure that infrastructure be in place prior to, or commensurate with, development which the phasing schedule conditions require. The Applicant's counsel opined that while this concern may not be within the purview of the Planning Board, the Board's conditions of approval run with the land, not with individual developers. In the event of an unlikely failure of the LLC, or any of the individual developers, anyone who wished to develop on the Cabin Branch property would be subject to the same conditions of approval. The Applicant's counsel further argued that the LLC contains prominent members of the development community and are well capitalized. Based on this discussion, the Board is satisfied that while there is no guarantee of the LLC's survival, the conditions of approval of this Application will remain effective.

BE IT FURTHER RESOLVED, that the date of this Resolution is OCT - 6 2008 (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 Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, and Cryor, present and voting in favor of the motion, and Commissioners Alfandre and Presley abstaining, at its regular meeting held on Thursday September 25, 2008, in Silver Spring, Maryland.

A handwritten signature in cursive script, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board

**Cabin Branch On-Site Road Improvement Phasing Schedule
3/20/08**

Approved Phasing 12003110A	Proposed Phasing 12003110B	Improvement(s)	Approved Development 12003110A	Proposed Development 12003110B
1.1		2nd Avenue (A-304 West) - from MD 121 to Street Q. 2-lane business district road	210 units 190,000 s.f.	
1.2		MD 121 – from Street Z to the I-270 interchange, 2-lane to 4-lane to 6-lane	210 units 125 Senior units 190,000 s.f.	
1.3		MD 121/I270 interchange and bridge improvements	210 units 125 Senior units 190,000 s.f.	
1.4	2.1	2 nd Ave (A-304 West) - Street Q to W. Old Balt. Rd., 2-lane business district road Newcut Rd. (A-302) – from 2 nd Ave to 1 st Ave, 4-lane divided road	194 units 125 Senior units 190,000 s.f.	57 units 101,250 s.f.
1.5	2.2	1 st Ave (A-304 East) – from MD 121 to Street I, 2-lane business district road	194 units 190,000 s.f.	57 units 101,250 s.f.
1.6	2.3	1 st Ave (A-304 East) – from Street I to Newcut Rd. (A-302), 2-lane business district road	194 units 125 Senior units 190,000 s.f.	57 units 101,250 s.f.
1.7	2.4	MD 121 – from W. Old Balt. Rd. to Street Z, 2-lane arterial	194 units 190,000 s.f.	57 units 101,250 s.f.
1.8	2.5	W. Old Balt. Rd. (A-7) – MD 121 to Newcut Rd., upgrade to 2-lane arterial	194 units 208,000 s.f.	57 units 101,250 s.f.
	2.6	Non-automobile transportation amenities		58 units 101,250 s.f.

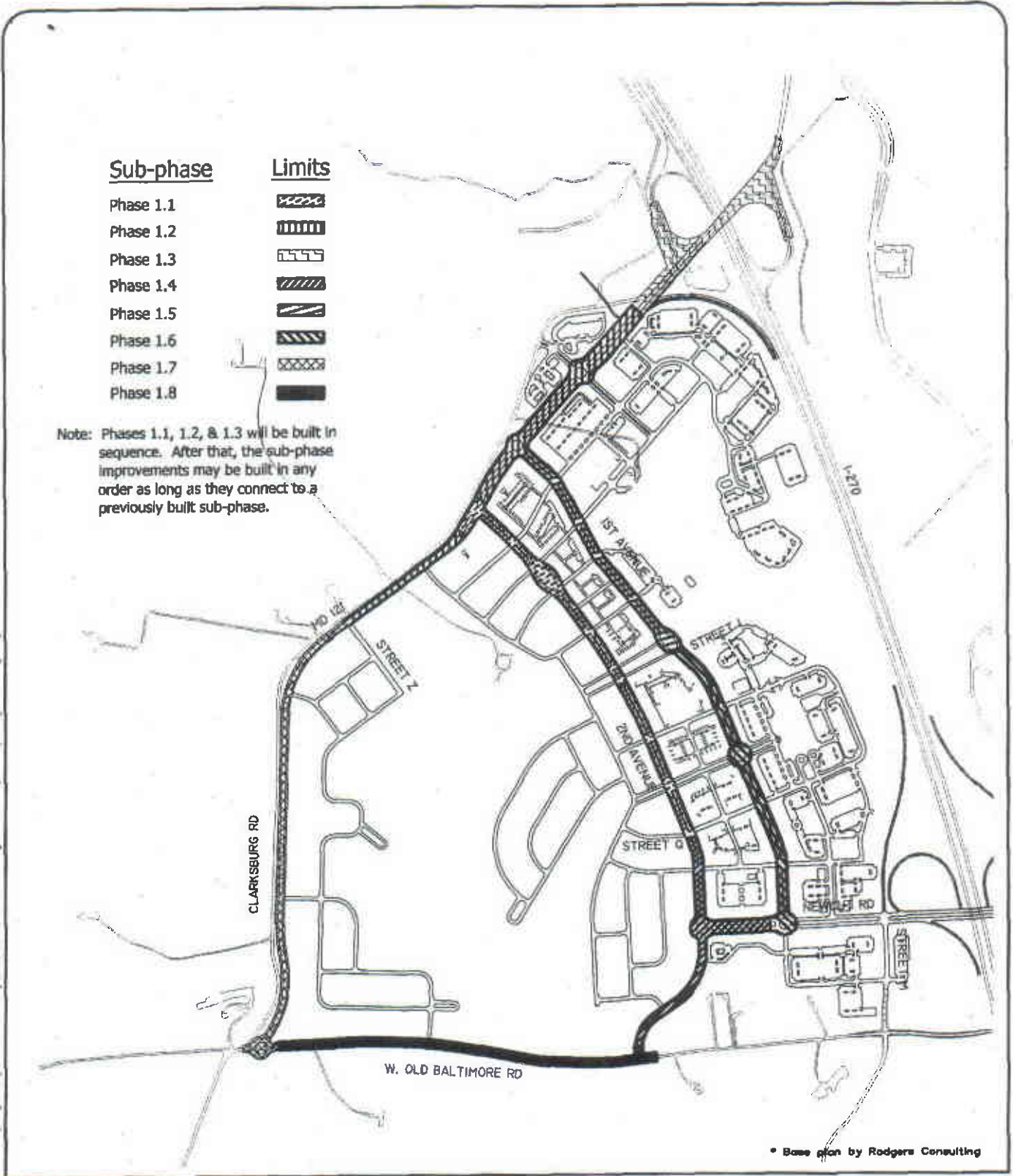
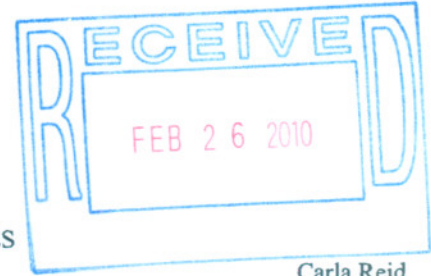


Figure 1
Phase 1 Policy Area Improvement Sub-phasing





DEPARTMENT OF PERMITTING SERVICES



Isiah Leggett
County Executive

Carla Reid
Director

January 29, 2010

Mr. Fernando Benitez
Loiederman Soltesz Associates, Inc.
2 Research Place, Suite 100
Rockville, Maryland 20850

Re: **Final Water Quality Plan for Cabin
Branch Gosnell-1
SM File #: 236470
Tract Size: 5.57 acres
Zone: MXP
Tax Plate: EV 562 & FV 122
Watershed: Little Seneca Creek**

SPECIAL PROTECTION AREA

Dear Mr. Benitez:

Based on a review by the Department of Permitting Services, the Final Water Quality Plan (FWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream buffer encroachments.

Site Description: The site is located on the west side of the proposed relocation of Clarksburg Road (MD Route 121) just south of the interchange with I-270 and is approximately 5.57 acres. This area is within the Little Seneca Creek Watershed that is a designated Special Protection Area. This proposal is for a mixed use commercial development.

Stormwater Management: Channel protection measures for this site will be provided via an extended detention dry pond (Pond #11). This structure will provide channel protection volume for the one-year storm with a maximum detention time of 12 hours per state standards. Quality control will be provided via a treatment train that consists of recharge structures, structural water quality inlets (both filtering and flow through), a bioretention structure, an infiltration trench, the use of porous pavement and ultimately surface sand filters in series. Since open section roads will not be feasible for the majority of the site, additional water quality volume will be provided in the proposed end of outfall large surface sand filters. This will be done by sizing these structures to treat the entire drainage area regardless of the upland area that is already providing full treatment. Areas that are intended for vehicular use are to be pretreated prior to entering any recharge or water quality filtering structures. Recharge is to be provided both upland throughout the development and below the outlet pipe of the proposed surface sand filters where groundwater or bedrock is not encountered.

Sediment Control: Redundant sediment control structures are to be used throughout the site. The use of sediment traps with forebays will be acceptable. The total storage volume is to be a minimum of 125% of the normally required volume.

All sediment trapping structures are to be equipped with dewatering devices. Also, due to the sensitive nature of the watershed coupled with the large amount of proposed development, the use of flocculants, compost material or other measures to increase the effectiveness of sediment removal may be required in the detailed sediment control plan. The following features are to be incorporated into the detailed sediment control plan:

1. The earth dikes that feed the sediment traps are to be constructed using trapezoidal channels to reduce flow rates.
2. The site grading shall be phased whenever possible to limit disturbance and immediate stabilization is to be emphasized. The details of the phasing sequence are to be addressed prior to submitting the detailed sediment control/stormwater management plan.
3. Silt fence alone will not be allowed as a perimeter control. The use of super silt fence will be acceptable for small areas of disturbance.

Performance Goals: The performance goals that were established at the pre-application meeting are still applicable. They are as follows:

1. Protect the streams and aquatic habitat.
2. Maintain the natural on-site stream channels.
3. Minimize storm flow run off increases.
4. Identify and protect stream banks prone to erosion and slumping.
5. Minimize increases to ambient water temperatures.
6. Minimize sediment loading.
7. Maintain stream base flows.
8. Protect springs, seeps, and wetlands.
9. Minimize nutrient loading.
10. Control insecticides, pesticides and toxic substances.

Monitoring: The monitoring must be in accordance with the BMP monitoring protocols which have been established by the Department of Permitting Services (DPS) and Department of Environmental Protection (DEP). The requirements from DEPs predevelopment Monitoring Memorandum dated June 3, 2003 still apply. Additionally, the construction and post construction monitoring requirements are described in the "Attachment to the Final Water Quality Plan" memorandum by DEP dated January/2010 and included with this Final Water Quality Plan approval letter.

Prior to the start of any monitoring activity, a meeting is to be held on site with DEP, DPS, and those responsible for conducting the monitoring to establish the monitoring parameters.

Conditions of Approval: The following conditions must be addressed in the initial submission of the detailed sediment control/stormwater management plan. All of the conditions not addressed from previous approvals are still applicable. This list may not be all inclusive and may change based on available information at the time of the subsequent plan reviews:

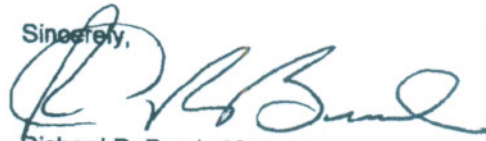
1. Provide clear access to all stormwater management structures from a public right-of-way (structures G101, G106 and G108). If access to structure G108 is to be from Clarksburg Road a driveway apron and full depth paving over the sidewalk will be required.
2. The Preliminary Water Quality Plan required that 150% of the MDE required recharge volume be provided due to the lack of open section roadways in this sensitive watershed and the deep cuts and fills that are proposed. During the detailed review a geotechnical study must be provided to determine the feasibility of the proposed infiltration and recharge structures.
3. The proposed infiltration trench (structure G101) must be open to the surface.
4. If possible locate structure G107 in the green area between the Clarksburg Road right-of-way and the on site drive isle for ease of maintenance.
5. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
6. Due to the size of this development a full-time, third-party, on-site, sediment control inspector is required to assure that the goals of the Water Quality Plan are not being met.

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 Water Quality Plan requirements.

Fernando Benitez
January 28, 2010
Page 4

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

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dpm:CN236470

cc: R. Kronenberg (MNCPPC-DR)
D. Johnsen (MNCPPC-ED)
R. Gauza (MCDEP)
L. Galanko
SM File # 236470


Qn: on-site 5.57 ac
Ql: on-site 5.57 ac.
Recharge provided



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

MEMORANDUM

TO: Molline Smith, Development Review Division

VIA: Stephen Federline, Master Planner, Environmental Planning 

FROM: Doug Johnsen, Environmental Planning

DATE: March 29, 2010

SUBJECT: Site Plan #820060240 Cabin Branch, Gosnell 1 (GOS-1)
Including Amendment to Forest Conservation Plan and
Water Quality Plan Originally Approved per Cabin Branch Infrastructure
Site Plan #820050150

RECOMMENDATION

Staff recommends approval of the site plan #820060240, including amendments to forest conservation plan and the Special Protection Area water quality plan approved per Cabin Branch Infrastructure Site Plan #820050150, subject to the following conditions:

1. Compliance with the Planning Board conditions of approval for forest conservation plan #820050150 dated June 14, 2007, with amendment to reflect approval of the final forest conservation plan for Site Plan #820060240.
2. Amendment to Special Protection Area water quality plan approval for Infrastructure Site Plan #820050150 in incorporate revisions contained in DPS' approval letter for Site Plan # #820060240 dated January 29, 2010.
3. All other prior approvals and conditions from #820060240 related to environmental and water quality related issues remain in full force and effect.

DISCUSSION

This memorandum contains Environmental Planning staff's review and recommendations on the site plan including amendments to forest conservation plan #820050150 and the amendment to the approved water quality plan. The sections provide background information for the subject site plan, a discussion of forest conservation, and compliance with environmental guidelines,

imperviousness, and other Planning Board responsibilities associated with water quality plan approval.

BACKGROUND

On September 19, 2007, the Planning Board approved the Infrastructure site plan for the Cabin Branch development in Clarksburg. This site plan #820050150, included approval of the final forest conservation plan and the water quality plan for the 540-acre development. As individual site plans are submitted, reviewed by staff, and eventually approved by the Planning Board, the approved final forest conservation plan and the water quality plan will have to be amended. This is necessary because the Infrastructure site plan only showed the main infrastructure requirements such as the main roads, park locations, and major stormwater management facilities without the details of final grades, unit type and locations, secondary roadways, and public amenities. As the limits of disturbance and lot configurations are finalized, more detailed information must be transferred to the forest conservation plan to satisfy the requirements of a final forest conservation plan.

Cabin Branch GOS-1 is a 7.24 acre property zoned MXPB-Employment and is located within the overall 540-acre Cabin Branch Development project. The GOS-1 project site is located on the northern portion of the Cabin Branch development. It is bounded on the north by the existing alignment of Clarksburg Road (MD 121) which will be realigned to the southern boundary of GOS-1 and on the south by both the Adventist-1 and Concordia-Retail developments.

The project boundaries of GOS-1 lie inside the Clarksburg Special Protection Area (SPA). The entire Clarksburg Study Area falls within the area designated as a sole source aquifer. The "sole source" designation is used to describe an aquifer that is the only source of drinking water for people living above the aquifer. The current land use is active agricultural.

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of the water quality plan. DPS conditionally approved the elements of the final water quality plan under their purview on January 29, 2010. The Planning Board is responsible for determining if SPA requirements related to forest conservation, environmental buffers, and site imperviousness have been satisfied.

Environmental Inventory

The natural resources for the subject properties are characterized in the Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) plans #420020070, #420020080, #420020100 and #420033400. Staff approved the NRI/FSDs in 2003. These NRI/FSDs cover the entire Cabin Branch development of which GOS-1 is a part.

The site is located at the northern portion of the Cabin Branch development on the high point of the entire development. Currently, a ridge bisects the GOS-1 site with part of the site draining to the Upper Ten-Mile Creek to the north and the remaining portion draining to the Cabin Branch tributary of the Little Seneca Creek to the south. Both the Upper Ten-Mile Creek and the Cabin Branch tributary are classified as Use-IP streams. The Upper Ten-Mile Creek is listed in

excellent condition and the Cabin Branch tributary is listed in good condition on the Department of Environmental Protection's County Stream Protection Strategy (CSPS) website. After final grading the entire site will drain to the south to the Cabin Branch tributary through a series of storm drains and associated piping.

Forest Conservation

Site Plan #820060240 will amend final forest conservation plan #820050150. Approval of site plan #820060240 will amend forest conservation plan #820050150 by providing greater detail on lot configurations, stormwater management locations, grades, and the limits of disturbance.

The GOS-1 site contains no forest cover. However, the forest conservation worksheet for the project indicates that the applicant has an afforestation requirement of 1.09 acres. The forest conservation plan indicates that the applicant will meet the afforestation requirement onsite through a combination of onsite forest retention, onsite planting of unforested stream buffers, and landscape credit. The forest conservation plan requirements for GOS-1 are already included in forest conservation plan #820050150.

Approval of site plan #20070140 will amend forest conservation plan #20050150 by providing greater detail on lot configurations, stormwater management locations, grades, and the limits of disturbance on the subject property. This amendment will supplement the existing information in forest conservation plan #820050150 and provide sufficient detail to allow the applicant to meet the requirements necessary for construction of this portion of the Cabin Branch development.

ENVIRONMENTAL GUIDELINES

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The NRI/FSDs for the various properties included in this final plan identified the environmental buffers. Environmental buffers include wetlands and wetland buffers, floodplains, streams and stream buffers. As part of the *Environmental Guidelines*, the stream buffer must be reforested. Where trees do not currently exist in the stream buffers, the applicant will plant new forests. The applicant will place forest conservation easements on the environmental buffers and all forest retention areas.

The June 1994 Clarksburg Master Plan recommended staging strategies for development within the Clarksburg area. The staging is to provide for the orderly development of public facilities, promote the development of a strong community identity, and allow for the implementation and evaluation of the County's water quality review process to mitigate the impacts of development on the environmentally sensitive Ten Mile Creek watershed. GOS-1 lies within the Stage 3 area and is adjacent to Stage 4 which is on the north side of the existing Clarksburg Road within the Ten-Mile Creek watershed. The Stage 3 triggers and implementing mechanisms have been met and development is proceeding within the Newcut Road and Cabin Branch Neighborhoods.

SITE IMPERVIOUSNESS

There are no impervious limitations within this section of the Clarksburg SPA; however, the Special Protection Area regulations require the applicant to minimize imperviousness. The estimated impervious amount proposed for the entire 540 acre site is less than 45 percent but is greater for some individual site plans. There is not data available in the county to compare the imperviousness for a project of this size that includes a similar mixture of units and square foot of commercial/office space.

WATER QUALITY PLAN

DPS conditionally approved the revised water quality plan on January 29, 2010. As part of the final water quality plan, several site performance goals were established for the project:

1. Protect the streams and aquatic habitat.
2. Maintain the natural onsite stream channels.
3. Minimize storm flow run off increases.
4. Identify and protect stream banks prone to erosion and slumping.
5. Minimize increases in ambient water temperatures.
6. Minimize sediment loading.
7. Maintain stream base flows.
8. Protect springs, seeps, and wetlands.
9. Minimize nutrient loadings.
10. Control insecticides, pesticides, and toxic substances.

One of the performance goals is to protect springs, seeps, and wetlands. It is M-NCPPC's responsibility to protect these environmental elements through the delineation of stream and wetland buffers. The buffers were identified on the appropriate approved NRI/FSD and will be protected with conservation easements except for areas of necessary encroachment for SWM outfalls.



MEMORANDUM

TO: Molline Smith, Senior Planner
Development Review Division

VIA: ^{CM} Callum Murray, Team Leader
Potomac Subregion and Rural Area

FROM: ^{RC} Ronald Cashion, RA, AICP, Planner Coordinator, Urban Designer
North Central Transit Corridor Team
Community Planning Division

SUBJECT: **Gosnell 1 Cabin Branch
Site Plan 820060240
Clarksburg Planning Area**

RECOMMENDATION: Staff recommends approval of the Applicant's proposed Site Plan Amendment for 8,600 square feet (sq. ft.) of retail space and 87,500 sq. ft. of employment related uses including a hotel and associated restaurant, and two (2) banks.

The Gosnell 1 Site Plan Application includes a total of 96,100 sq. ft. of development on 7.24 acres. The Plan is generally consistent with prior approvals for the entire 535-acre Cabin Branch development.

The most significant land use consideration of this project is the development timing provision for retail uses included in. Community planning staff believes that the limited size and the nature of the retail uses in the Gosnell 1 plan does not jeopardize development of the Master Plan proposed 90,000 sq. ft. of Town Center retail.

LAND USE/MASTER PLAN GUIDANCE

The Gosnell 1 plan is generally consistent with prior approvals of the 535-acre Cabin Branch Preliminary Plan and Infrastructure Plan, and complies with the 1994 Clarksburg Master Plan provisions for the Cabin Branch area.

Overview of Applicable Master Plan Provisions

The Gosnell 1 development, as one of many components of the Cabin Branch planned neighborhood, is compatible with the major provisions of the Master Plan that designate Cabin Branch as a mixed-use, transit-oriented residential neighborhood. Applicable Master Plan provisions (pages 64-70) are included within the Cabin Branch Neighborhood analysis area and Land Use Plan. These provisions are summarized together with a description of how the Gosnell 1 plan relates to each:

- Provide a mix of uses including employment. 8,600 sq. ft. of retail and 87,500 sq. ft. of employment uses are within the allowable 120,000 sq. ft. of retail and 2,300,000 sq. ft. of employment uses projected in the Master Plan;
- Encourage employment supportive of I-270 as a high-technology corridor. Employment components, including a hotel, are located near the retail core area and the I-270 interchange;
- Create a transit-oriented land use pattern. The hotel use, its roadway proximity and location relatively close to the future transitway and the Town Center are favorable for future bus routes;
- Maximize access to the proposed open space system. The interconnected sidewalks of the Cabin Branch project will allow pedestrian access to the open spaces and greenway network;
- Provide an interconnected roadway system. The realignment of MD 121 and retention of the existing alignment of MD 121 at the site's north border will accommodate development of Cabin Branch and support future development of the I-3 zoned land north of Gosnell;
- Create a strong neighborhood focal point by concentrating public and retail uses in the same general area.
 1. The Gosnell 1 roadway retail and employment uses are adjacent but separated from the neighborhood retail core area by MD 121.
 2. For westbound access on MD 121 the hotel use is well located as an entry element for Cabin Branch and for the adjacent future retail core uses; and

Implementation of Retail Development in the Town Center, Newcut and Cabin Branch Mixed Use Neighborhoods

Specific provisions related to the timing of retail development in the Town Center, Newcut and Cabin Branch neighborhoods of Clarksburg are included in the Master Plan (pages 46, 190, and 196).

The "Implementation Strategies" section of the Master Plan addresses the importance of retail to the vitality of the Clarksburg community and in reinforcing the Town Center as a central focus for the entire Clarksburg area. This specific section of the Master Plan addresses "Development of a Strong Sense of Community Identity" and the importance to "Encourage the early development of the Town Center to create a strong sense of community identity and to provide a model for later development in other areas" (page 189). The priority of retail uses in the Town Center and the timing of retail for the Town Center, Newcut and Cabin Branch neighborhood centers are also addressed:

- "This Plan recommends that early retail development priority be given to the Town Center. Retail development in the Newcut Road and Cabin Branch neighborhoods should follow the development of approximately 90,000 square feet of retail uses in the Town Center" (page 190).

While the Master Plan clearly designates the Town Center as the first priority for retail, it also focuses on the retail centers within the designated neighborhood land use areas of the Plan.

Throughout the history of development of the Cabin Branch plans, the Applicants and staff have deliberated on the timing of the various phases of the project. In a 2005 review for the Gosnell project, staff recommended approval subject to a condition that the Gosnell retail “be deferred, until 90,000 square feet of retail uses is under construction in Clarksburg’s Town Center”

However, staff believes that the limited retail uses as currently proposed need not be delayed pending construction of 90,000 sq. ft. of Town Center retail for the following reasons:

- The Gosnell 1 uses are not located within the neighborhood center and retail core area as approved and defined south of Clarksburg Road MD Route 121 in the Cabin Branch Neighborhood land use section of the Master Plan (pages 64-70);
- The Gosnell 1 retail uses are on the northern edge of and separated from the Cabin Branch central core, retail area;
- The Master Plan provision for retail in Newcut and Cabin Branch to follow the Town Center relates to retail in the designated neighborhood core areas;
- The Gosnell 1 retail components, due to their highway location and specialized auto-oriented uses, are not typical core neighborhood uses as described in the Master Plan;
- The Gosnell 1 car wash, quick serve, fuel and quick mart uses, totaling 8,600 sq. ft., are convenience and highway fuel and food service uses;
- Development of the three modestly sized retail uses will not be significantly competitive with neighborhood uses approved for the Town Center or as planned for the Newcut and Cabin Branch retail centers;

CONCLUSION

The 8,600 sq. ft. of retail uses and 87,500 sq. ft. of employment and hotel uses proposed for the Gosnell 1 Site Plan follow prior approvals for the Preliminary Plan and Infrastructure Plan for Cabin Branch. The limited amount of retail uses will complement rather than compete with the retail core centers planned in the Town Center and in the Newcut Road and Cabin Branch mixed-use neighborhoods. Community planning staff recommends approval of the Site Plan.

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APPENDIX D

LINOWES
AND **BLOCHER LLP**
ATTORNEYS AT LAW

February 9, 2009

Stephen P. Elmendorf
301.961.5110
selmendorf@linowes-law.com

Honorable Royce Hanson, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Revised parking waiver request for SMTM Cabin Branch East LLC;
Site Plan Application No. 820060240

Dear Chairman Hanson:

This law firm represents SMTM Cabin Branch East LLC and SMTM Cabin Branch West LLC, the applicants on the above-referenced site plan application. On behalf of the applicants, and pursuant to the provisions of Section 59-E-4.5 of the Montgomery County Zoning Ordinance, we are requesting a revised waiver from the requirements of the following:

1. Section 59-E-2.81(a) – “Parking Waiver No. 1”; and
2. Section 59-E-2.7- “Parking Waiver No. 2”

A parking waiver request, dated November 14, 2005, for these same provisions was previously filed with the Planning Board with the above-referenced site plan application.

Parking Waiver #1

Section 59-E-2.81(a) requires that the parking facility shown on the above-reference site plan application be set back 50 feet from the property line because this is the front yard setback for the adjoining residential property, which is zoned RE-1/TDR. Although our client’s property is separated from this adjacent residential property by a public right-of-way, that public right-of-way is not 120 feet or more in width.

We are seeking a waiver of this 50 foot-setback. The encroachment varies in depth from 0 to 24 feet, as shown on the attached exhibit, “Parking Waiver Exhibit”.

Honorable Royce Hanson, Chairman
February 9, 2009
Page 2

Because of the dramatic difference in elevation between the proposed parking facility and the adjacent residentially zoned property, this 50-foot setback is not necessary to accomplish any of the objectives of this site plan's parking facility plan, as outlined in 59-E-4.2 of the Zoning Ordinance. Specifically, along the entire length of the requested waiver area, a retaining wall will be built as part of this proposed site plan. That retaining wall will be approximately 4 feet high as measured from the side of the retaining wall facing the residential property. More importantly, the proposed parking facility that lies within the requested waiver area will be between 4 and 12 feet below the top of the retaining wall. This elevation difference, combined with the retaining wall, will effectively screen all of the parking facility located within the requested waiver area from the adjacent residential properties.

Parking Waiver No. 2

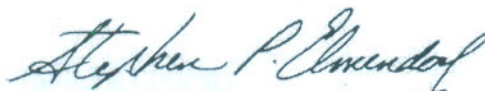
Section 59-E-2.71 requires parking facilities located adjacent to a street right-of-way to provide a landscape strip at least 10 feet in width. As shown on the "Parking Waiver Exhibit", we are requesting that we be permitted to encroach upon the required landscape buffer by 4 to 8 feet. The proposed site plan calls for the construction of a retaining wall that will be approximately 4 feet in height along a portion of the existing right-of-way. The parking facility on the other side of this retaining wall will be between 2 and 8 feet below the top of that wall. Again, a 10-foot-wide landscaping strip is not necessary to achieve the objectives of this parking facility plan outlined in Section 59-E-4.2.

A copy of this revised waiver request has been mailed to all adjoining property owners and affected citizens association.

Thank you for your anticipated consideration of the parking waiver addressed above.

Sincerely,

LINOWES AND BLOCHER LLP


Stephen P. Elmendorf

DEVELOPMENT PROGRAM

Site Plan No. 820060240

Site Plan Name: Gosnell – 1 Cabin Branch

THE BUILDINGS AND FACILITIES WITHIN SITE PLAN NO. 820060240
WILL BE DEVELOPED AS TWO PHASES AS SET FORTH IN THIS
DEVELOPMENT PROGRAM.

Phase	Proposed Use	Sq. Ft.	Begin Construction (estimated)	Complete Construction
1 (West)	Bank	4,290	After substantial completion of proposed Route 121 & Gosnell Farm Drive	
1 (West)	Gas Station/ Carwash	5,055	After substantial completion of proposed Route 121 & Gosnell Farm Drive	
1 (West)	Restaurant (Quick Serve)	3,545	After substantial completion of proposed Route 121 & Gosnell Farm Drive	
2 (East)	Hotel & Restaurant/	26,942	After substantial completion of Phase 1	
2 (East)	Bank	3,435	After substantial completion of Phase 1	

Notes:

***Dates included are subject to change based on construction timing, financing, and market constraints.**

****The two phases of Site Plan No. 820060240 are to be developed as separate and distinct entities as set forth in this Development Program.**

*****Phasing for Site Plan No. 820060240 will commence only after the substantial completion of proposed Route 121 and Gosnell Farm Drive.**

A. Applicant will complete the following site plan elements within Site Plan No. 820060240 prior to initial occupancy as necessary to provide safe and efficient access and adequate parking.

1. Grading
2. Parking areas

3. Sidewalks (on-site)
4. Lighting (parking lot)
5. Street tree planting, streetlights and the sidewalks along Gosnell Farm Drive progress as street construction is completed, but will be completed no later than 6 months after completion of the proposed building.
6. On-site landscaping (including walls/fences) and lighting will be completed no later than 6 months after the completion of the each building, per phase.

B. The Applicant will complete the following site plan elements within 6 months of the issuance of any Use and Occupancy permit.

1. All on-site landscaping, per building, per phase, as illustrated in Certified Site Plan.
2. Completion of site elements such as entrance kiosk (phase 1) and walls.

C. The Applicant shall schedule and perform all necessary meetings with the Montgomery County Department of Permitting Services as standard practice requires prior to, during and upon completion of construction.

D. The Applicant may seek an amendment to any regulatory approval for the purpose of modifying the improvements to be constructed, including, but not limited to, the right not to construct such improvements, which amendment shall be reviewed by the Planning Board in accordance with applicable law. Such amendments shall be effective only if approved by the Planning Board.