



MCPB  
Item No.  
Date:

**Cabin Branch Neighborhood Clarksburg Infrastructure Site Plan, Limited Site Plan Amendment, 820050501B**

*JAP*

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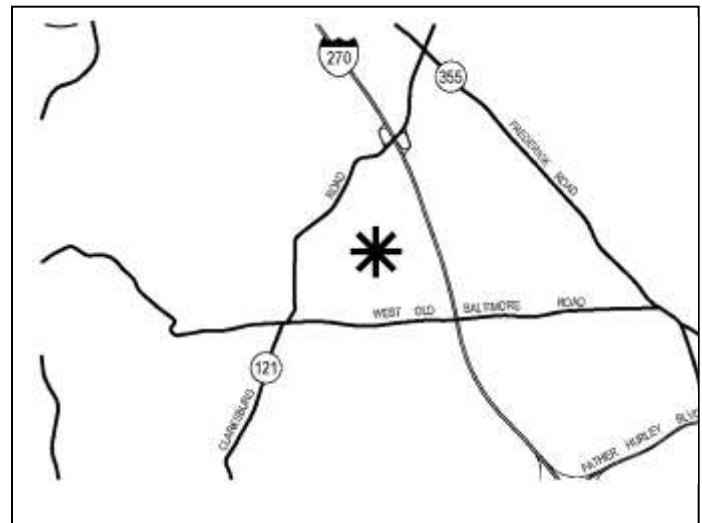


Completed: 11/18/11

**Description**

**A. Limited Site Plan Amendment No. 820050501B: Clarksburg Infrastructure Site Plan for the Cabin Branch Neighborhood (includes a Water Quality Plan and a Forest Conservation Plan) Between Clarksburg Road, Old Baltimore Road and I-270, 1886 dwelling units, MXPDP and RMX-1/TDR Zones, Clarksburg Master Plan**

*Staff Recommendation: Approval with Conditions*



**Summary**

The Limited Site Plan Amendment includes the following:

- Revised Final Water Quality Plan Conditions for 820050150 to allow for phased planting
- Revised Final Forest Conservation Plan Conditions for 820050150 to allow for phased planting and construction not subject to an individual Site Plan
- Amended Final Forest Conservation Plan (820050150) for Site Plan 82066029A - Winchester Phase I and 820110080 - Winchester Phase II
- Limited Stream Valley Buffer encroachments associated with stormwater management ponds 4 and 6, and the farm pond restoration project

## STAFF RECOMMENDATION

Staff recommends approval of the Limited Site Plan Amendment for the Cabin Branch Neighborhood with the revision and additions as underlined in the following:

As mentioned in the Introduction section of this report, certain condition changes are required to resolve difficulties in implementing a large multi-phased plan with the Special Protection Area (SPA) accelerated afforestation requirements, and to allow for activities related to the Infrastructure Plan to be built independent of other individual Site Plans. The recommended revisions and additions to the approved conditions are underlined below:

### WATER QUALITY PLAN CONDITION (82005015)

1. Reforestation of the stream buffer is to begin in the first planting season after the issuance of the first grading permit by the Montgomery County Department of Permitting Services (MCDPS) and pursuant to the phasing set forth in the Final Forest Conservation Plan.(8-2005015)

### INFRASTRUCTURE SITE PLAN CONDITIONS (82005015)

#### 14. Forest Conservation

The applicant must comply with the following conditions of approval from the M-NCPPC Staff in the memoranda dated May 22, 2007, except as amended herein, and with the conditions of approval as specified in the Final Water Quality approval:

- a. The proposed development shall comply with the conditions of the Final Forest Conservation Plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services issuance of sediment and erosion control permits. With the exception of clearing and grading activities allowed in Condition 20, no clearing or grading is permitted with the infrastructure plan.
- b. Record plat of subdivision shall reflect a Category I conservation easement over all areas of stream buffers and forest conservation.
- c. The implementation of the project's forest conservation mitigation requirements which includes forest retention, on-site and off-site afforestation ,reforestation and landscape credit, may be phased. The phasing of the total forest conservation mitigation must be proportionate to either the area proposed for disturbance relative to the total project size or the amount of density for each stage relative to the total project density, whichever is greater. The phasing triggers, forest conservation mitigation type, amount of mitigation, and disturbance areas are to be defined on the Final Forest Conservation Plan and revised as needed with subsequent Site Plans. Conservation easements may be recorded using a metes and bounds description and sketch if preceding recordation of plats, provided the recording information for the conservation easement is referenced and the easement line is shown on subsequent record plats.

## 20. Clearing and Grading

The following may proceed upon approval of the Infrastructure Site Plan, Sediment and Erosion Control Plans and Final Forest Conservation Plan: a) clearing and mass grading for the roads being approved by this Infrastructure Plan and the local park and school site; b) installation of temporary sediment and erosion control devices; c) the installation of the trunkline sewer (DA 3326); d) the installation of the water main along Maryland Route 121; and e) the construction associated with the existing farm pond and stream restoration project. No construction of roads, buildings or retaining walls may proceed until subsequent certified Site Plan approvals for each individual Site Plan. Notwithstanding the above, clearing and grading activities, with the exception of the water and sewer projects, may not be permitted beyond the limits of disturbance submitted as part of the current Site Plans for Nos. 820060180, 820060240, 820060290, 820060300, 820060350 and 820070140.

### **Introduction**

This Site Plan amendment for the Cabin Branch Infrastructure Site Plan will resolve difficulties in implementing a large multi-phased plan. The Infrastructure Site Plan and Water Quality Plan (82005015) included standard conditions to ensure implementation of the Special Protection regulations and the Environmental Guidelines that require accelerated reforestation of stream buffers within Special Protection Areas. With the staged nature of the individual Site Plans and the overlapping of planting areas with future grading areas, the conditions which required planting be completed within one year of the first sediment and erosion control permit was not feasible. With this amendment, staff recommends that condition No. 1 of the approved Water Quality Plan and condition No. 14 of the approved Final Forest Conservation Plan be amended to include a Planting and Phasing Plan. The changes to Conditions 14(a) and 20 of the Final Forest Conservation Plan allow for activities associated with the overall infrastructure plan to be built without Individual Site Plan approval. The specific instances where construction must begin early are mentioned in condition No. 20, and they are all associated with developing the infrastructure, and they are not directly tied to private development on an individual Site Plan area.

Additionally, staff recommends amending the Final Forest Conservation Plan, originally approved as part of the Infrastructure Plan (820050150) to include updated final design of Site Plan 82066029A - Winchester Phase I and 820110080 - Winchester Phase II.

## Previous Approvals

Opinions: District Council for the Maryland-Washington Regional District, Montgomery County

A.	Zoning Ordinance Amendment G-806	No. 15-236	9-Sep-03
B.	Subdivision Regulation Amendment 09-01	Ord. No. 16-35	1-Apr-09
C.	Subdivision Regulation Amendment 11-01	Ord. No. 17-04	1-Apr-11

Resolutions: Maryland - National Capital Park and Planning Commission

D.	Preliminary Plan - 12003110B	No. 08-117	6-Oct-08
E.	Water Quality Plan and Infrastructure Site Plan– 82005015	No. 07-131	19-Sep-07
F.	Infrastructure Site Plan Amendment- 82005015A	No. 08-68	8-Jun-08
G.	Water Quality Plan and Site Plan: - Winchester I: 82006029	No. 08-96	20-Oct-08
H.	Water Quality Plan and Site Plan - Gosnell Property 820060240	No.10-118	29-Sep-10

## Project Description

The 540-acre property is located west of I-270 in Clarksburg. The area, also known as the Clarksburg Triangle, and it is within the Clarksburg SPA. West Old Baltimore Road is the southern most boundary of the property, I-270 the eastern most boundary, and MD-121 the western and northern boundaries. The property is zoned RMX and MXP. The site includes drainage areas to Little Seneca Creek (Use IV-P SPA stream), Cabin Branch (Use I-P non-SPA stream), and Ten Mile Creek (Use I-P SPA stream). The current land uses include active agricultural, abandoned agricultural, and forest. The natural resources for the subject properties are characterized in Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) plans 4-02007, 4-02008, 4-02009, 4-02010, and 4-03340. Staff approved the NRI/FSDs in 2003. The Planning Board approved a Preliminary Plan of Subdivision and Preliminary Water Quality Plan in 2004. Approximately 243-acres of the 540-acre site are within the SPA including two parcels of land that drain to the Cabin Branch Tributary. The entire Clarksburg Study Area falls within the area designated as a sole source aquifer. The sole source aquifer underlays part of Montgomery, Frederick, Howard, and Carroll Counties. The “sole source” designation is used to describe an aquifer that is the only source of drinking water for a people living above the aquifer. The two parcels were designated as part of the SPA because they were identified as the most sensitive areas for groundwater contamination. The subject site contains 130 acres of forest, 11 acres of wetlands, 33 acres of floodplains and 104 acres of stream buffers. There are steep slopes (> 25%) on the property and highly erodible soils. All of the steep slopes that hydraulically connected to Waters of the United States or contain erodible soils are included in the environmental/stream buffers.

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, MCDPS and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS conditionally approved the elements of the final water quality plan (82005015) under their purview on February 22, 2007. The Planning Board’s responsibility is to determine if the forest conservation requirements, Environmental Guidelines for special protection areas, and site imperviousness requirements have been satisfied.

## Forest Conservation

The applicant, Cabin Branch LLC, has an approved Final Forest Conservation Plan with the Infrastructure Site Plan (820050150). This plan is the guide for all future Site Plans, special exceptions, and mandatory referrals. The development shown on the Final Forest Conservation Plan is conceptual in nature, and it is being refined with individual Site Plans. Therefore, the applicant must amend the Final Forest

Conservation Plan to properly depict the Final Forest Conservation Plan approved by the Planning Board with future approvals including showing the final grades, infrastructure, lot layouts, and building locations.

The entire 540-acre Cabin Branch project has an overall Final Forest Conservation Plan (FCP) which was approved with the Cabin Branch infrastructure Site Plan (820050150). The intention of having one overall Final Forest Conservation Plan (FCP) was to ensure that as this multi-year project being developed in pieces would not be left uncovered by a FCP and the whole project would be in compliance with Chapter 22A the Montgomery County Forest Conservation Law. The original Final FCP was designed to allow for the mass grading and installation of roads, utilities, stream restoration projects, and mass grading of public amenities such as school and park sites.

The overall FCP includes six worksheets separated by zone or land use, MXPB-Employment, RMX-1/TDR, MXPB-Residential, Water Tower Storage Facility, Linthicum West, and offsite Area A. The intention was that as each individual Site Plan with final grading and design came in for review, the overall FCP and the worksheets associated with that Site Plan would be updated to reflect final designs and grading.

The overall FCP indicates that the applicant will meet the forest conservation worksheet requirements through a combination of on-site forest retention, on-site planting of unforested stream buffers, landscape credit, and offsite planting within the Clarksburg SPA.

Under the M-NCPPC implementation of the SPA regulations, the Environmental Guidelines require accelerated reforestation of stream buffers within SPAs. Since the property includes land both in and out of the SPA and the tributaries drain to a common water body, Staff recommends that the planting requirements be treated as if the entire site is located within the Clarksburg SPA. Therefore, the Final Forest Conservation Plan requires the applicant to plant the stream buffers in accordance with the Final Forest Conservation Plan planting phasing plan, sheet 63A of the Final Forest Conservation Plan (Attachment A) and for the applicant to provide a five-year maintenance period for all planting areas credited toward the Final Forest Conservation Plan.

At this time, amendments to the Final Forest Conservation Plan have been submitted for Gosnell (820060240), Winchester Phase I (820060290 and 82006029A), and Winchester Phase II (820110080)

#### Planting Requirements

The applicant is proposing to remove in total, 66.4 acres of forest, retention of 63.47 acres of forest, and to plant 76.48 acres of forest some of which will be met via on-site landscaping credit. The applicant will plant all unforested buffers on-site, not including required stormwater management easements. Part of the property is developed using an optional method of development. Section 22A-12(f) of the forest conservation law requires properties developed under an optional method of development to meet certain forest retention requirements on-site. The forest conservation plan indicates that the applicant will meet the conservation threshold on onsite and that they will meet all planting requirements through a combination of onsite forest retention, onsite planting of unforested stream buffers, and landscape credit.

The Environmental Guidelines recommend accelerated reforestation of stream buffers within SPAs. Since the property includes land both in and out of the SPA and the tributaries drain to a common water body the planting requirements have been treated as if the entire site is located within the Clarksburg SPA. Therefore, staff originally requested conditions on the Final Forest Conservation Plan requiring the applicant to 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 Final Forest Conservation Plan. With the staged nature of the individual Site Plans and the overlapping of

planting areas with future grading areas, the conditions on planting being completed within one year of the first sediment and erosion control permit were not feasible, and staff is now requesting that the condition be changed to tie planting to a phasing plan instead of the first sediment control permit.

### **Planting Phasing Plan**

The Planting Phasing Plan was designed to establish easements and forest planting for the entire Cabin Branch project, while taking into consideration that it will be a multi-year phased development with multiple Site Plans for individual sections. The Planting Phasing Plan looked at the overall project and each individual Site Plan in terms of both size (proportion) of the overall project and the percentage of total units for each phase.

The mitigation is tied to the issuance of the grading permit(s) by the Montgomery County Department of Permitting Services per the existing approval; not the specific Site Plans. The Phasing Plan matches the limits of the approved rough grading plan from MCDPS. This is in accordance with the approved infrastructure plan and proposed amendments. The phasing of the total forest conservation mitigation is to be proportionate to either the area proposed for disturbance relative to the total project size or the amount of density for each stage relative to the total project density, whichever is greater. The phasing triggers, forest conservation mitigation type, amount and areas; and relevant bond amounts are defined on sheet 63A of the Final Final Forest Conservation Plan, and they will be revised as needed with subsequent Site Plans or final erosion and sediment control plans. The provisions of the Phase I mitigation area shown (Attachment A) allows up to 172 acres of grading or the recordation of 420 residential units, 125 senior housing units, and 380,000 sq. ft. of commercial. The illustrative limits of the Phase I shown on the Phasing Plan (Sheet 63A) is consistent with the approved limits of the Phase 1 final Erosion and Sediment Control Plan, which overlaps the Winchester Phase 1 Site Plan, Part of the Winchester Phase 2 Site Plan, the SMTM (Gosnell) Site Plan, and portions of the other pending Site Plans. The specific Site Plan areas overlap, but do not match the MCDPS plan. As construction proceeds and as different individual Site Plans are approved, the areas will change. The area of Phase 1 can be modified as the project proceeds within the acreage limits. The actual shape of the area disturbed can be adjusted within the parameters of existing approvals under the umbrella of the overall infrastructure plan. When Phase 2 is triggered, either by 172 acres of land disturbance or lot recordation is exceeded, the phasing line may change to update the plan per construction and approval activity. The following notes are on the planting phasing plan:

1. The greater of the Project Area Proportion and the Project Density Proportion shall be utilized to determine the amount of Forest Mitigation to be provided for each phase.
2. Forest Mitigation includes Forest Retention, On-site and Off-site afforestation and reforestation and Landscape Credit.
3. At this time, only Phase 1 defines the exact areas and forms of Forest Mitigation.
4. Prior to starting each phase (either disturbance or plat recordation), the applicant shall identify the specific locations and types of forest mitigation, record easement and provide financial security, unless otherwise indicated.

5. The improvements shown hereon are illustrative and subject to change.
6. The Phase 1 construction area is subject to change.
7. Stage 1 planting to occur the first growing season after the start of construction.
8. Stage 2 planting to occur the first growing season after the permanent stabilization of the planting area.
9. Stage 3 planting and easement recordation to occur the first growing season after the utility line construction and recordation of the WSSC easement. The Stage 3 easement recordation is not required prior to the commencement of construction or recordation of plats for Phase 1.

### **Environmental Guidelines**

The NRI/FSDs for the various properties included in this final plan identified the environmental buffers. Environmental buffers include wetlands and wetland buffers, floodplains, and 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, excluding necessary stormwater management easements and facilities, and all forest retention areas.

### **Stream Buffer Encroachments**

The only encroachments into the environmental buffers associated with this plan are necessary stormwater management conveyances, some utilities, natural surface trails, widening of West Old Baltimore Road, and construction of A-302 (Little Seneca Parkway)/I-270 Interchange.

Staff has concerns with encroachment of ever enlarging stormwater management facilities and temporary sediment control traps into stream buffers even after the approved water quality/stormwater management concept plans indicate no encroachment. The final design of stormwater management facilities does not occur until after Preliminary/Site Plans are approved and often after plats are approved locating roadways and individual lots. The applicant must then submit grading/stormwater management plans to MCDPS for review and approval. If more space is required for stormwater management because of ponds incorrectly sized during the water quality/stormwater concept stage, Staff receives requests to allow encroachment into the buffers. Many times the encroachment can be avoided by reconfiguring the stormwater management facilities but sometimes there is no alternative but to allow the encroachment or the facility is constructed with undesirable features such as steep slopes from the rear of residential units into stormwater management facilities.

The SWM Pond 4 and 6 outfalls were revised based on comments received from DPS during the final engineering approval process, requiring the extension of the outfalls further downstream, closer to the existing elevation of the tributary in order to avoid erosion. Final engineering for SWM Ponds 4 and 6 was approved by DPS on February 24, 2010.



Figure 1: Approved Outfall Page 33



Figure 2: Revised Outfall Page 33

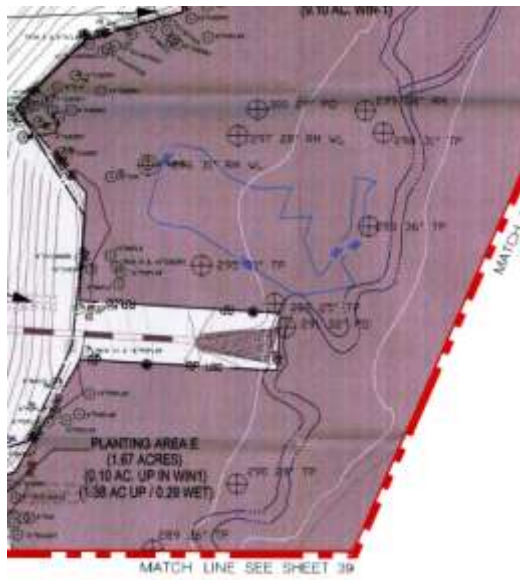


Figure 3: Approved Outfall Page 34

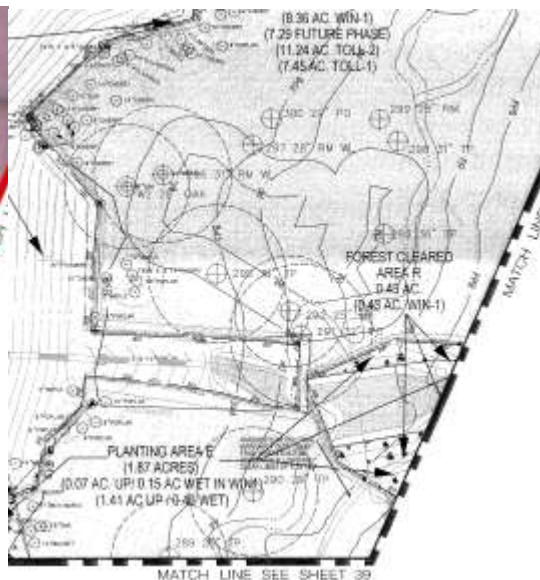


Figure 4: Revised Outfall Page 34



The Farm Pond was added to the FFCP at the request of MCDPS, in order to repair the farm pond breach and restore the stream in this location with a series of environmentally-sensitive tidal step pools. MCDPS made it a condition for the approval of proposed SWM Pond 11 that the Farm Pond be included with the Cabin Branch FFCP, and the restoration be completed prior to Pond 11 construction.

The Farm Pond was also included as part of the Cabin Branch wetland permit approval by MDE and the USACOE. The wetland permit was approved on June 13, 2011. As part of the permit requirements enforced by the USACOE, the Farm Pond stream restoration activity must comply with the following constraints which are time sensitive:

- Stream restoration must commence within 180-days of the approval letter issued by the USACOE dated June 1, 2011.
- Stream restoration must be completed within 120-days after construction has commenced.

MCDPS confirmed on June 15, 2011 that SWM Ponds 4, 6 and 11 were included on the approved Final Water Quality Plan for Infrastructure approved by DPS on February 22, 2007. MCDPS stated that an amendment to the approved Final Water Quality Plan was not necessary since the minor adjustments were handled during the final engineering review process mentioned above.

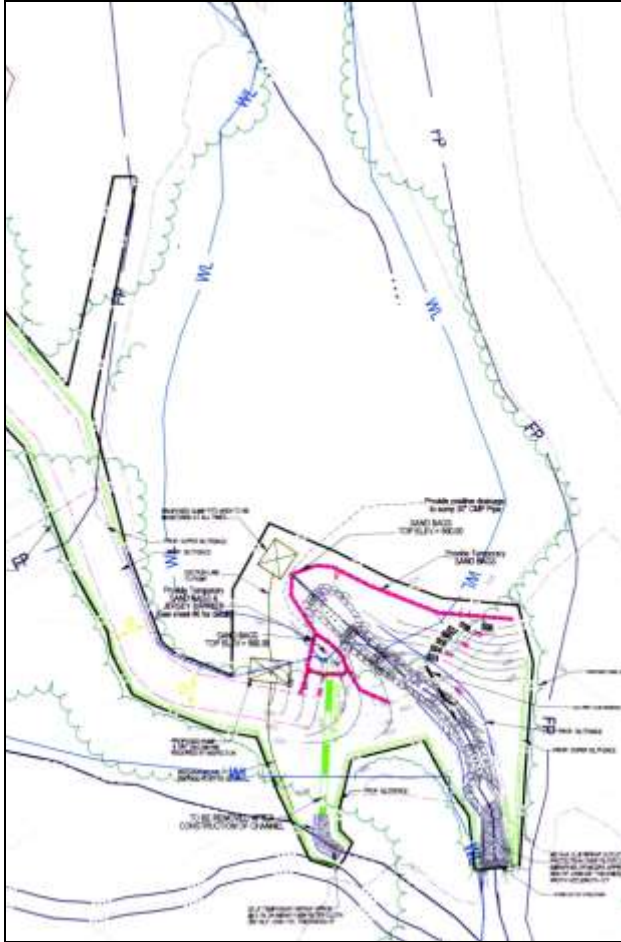
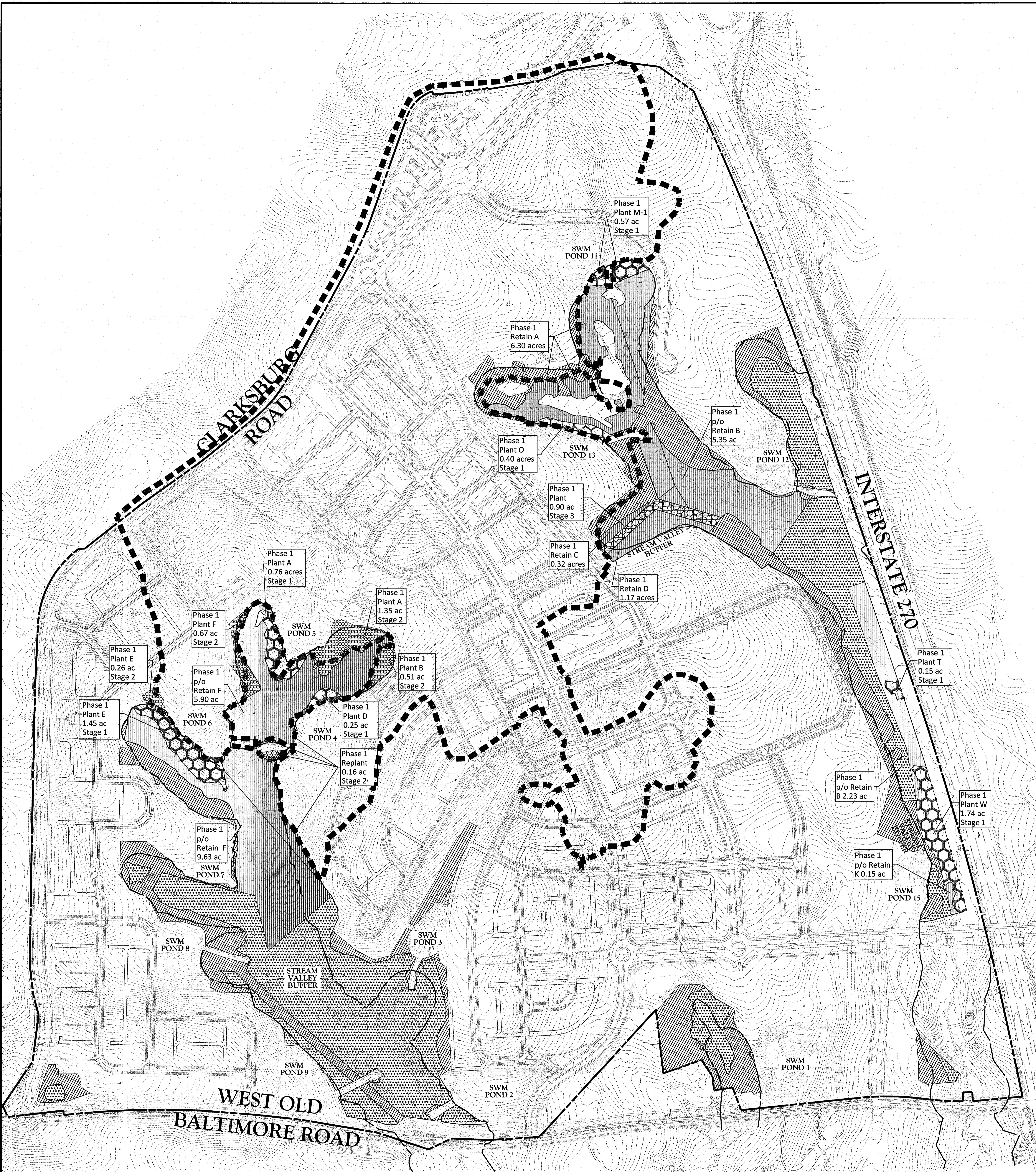


Figure 5: Farm Pond and Stream Restoration Project



**Phase 1**

- Planting Stage 1
- Planting Stage 2
- Planting Stage 3
- Retention
- Phase 1 Disturbance (Approximate)

**Future Phases**

- Planting
- Retention

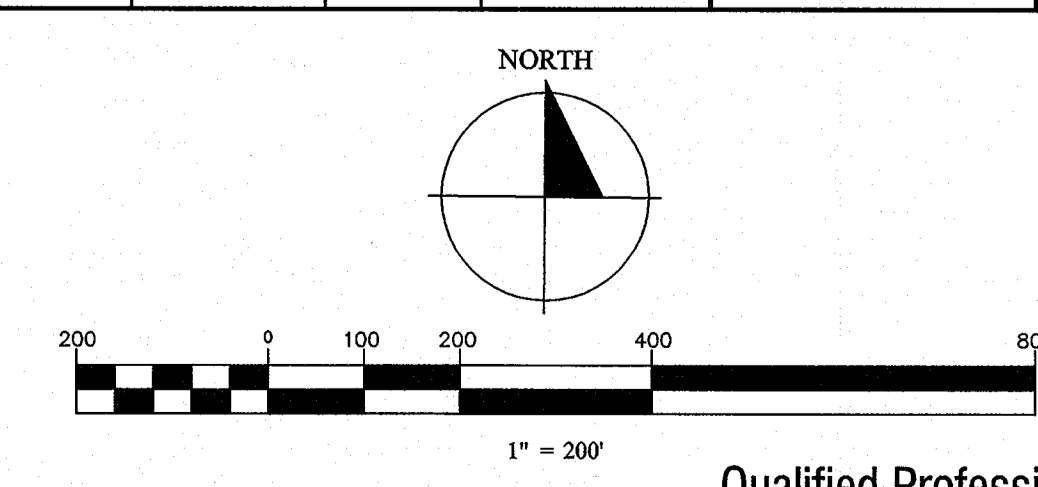
Phase	Project Area Proportion		Project Density Proportion				Forest Conservation Mitigation Provided							Financial Security			
	Area <sup>1</sup>	% of Total	Residential <sup>2</sup>	% of Total	Senior Housing <sup>2</sup>	% of Total	Commercial <sup>2</sup>	% of Total	Average %	Retention <sup>2</sup>	Re/Afforestation <sup>2</sup>	Total Easement <sup>2</sup>	Offsite Bank <sup>2</sup>		Landscapes Credit <sup>2</sup>	Total Mitigation <sup>2</sup>	Proportion
1	172.24	31.7%	420	22.3%	125	25.0%	380000	15.7%	21.0%	31.05	9.17	40.22	0.0	4.19	44.41	31.7%	0.00
2	157.50	29.0%	404	21.4%	250	50.0%	380000	15.7%	29.0%	TBD	TBD	TBD	TBD	TBD	40.61	29.0%	0.00
3	110.50	20.4%	388	20.6%	125	25.0%	380000	15.7%	20.4%	TBD	TBD	TBD	TBD	TBD	28.49	20.4%	0.00
4	102.46	18.9%	674	35.7%	0	0.0%	1280000	52.9%	29.5%	TBD	TBD	TBD	TBD	TBD	26.43	18.9%	0.01
<b>Total</b>	<b>542.70</b>	<b>100.0%</b>	<b>1886</b>	<b>100.0%</b>	<b>500</b>	<b>100.0%</b>	<b>2420000</b>	<b>100.0%</b>	<b>100.0%</b>	<b>63.47</b>	<b>38.01</b>	<b>101.48</b>	<b>25.26</b>	<b>13.2</b>	<b>139.94</b>		

<sup>1</sup> Not to Exceed by Phase  
<sup>2</sup> The total area of project forest conservation on this phasing plan is tied to the project forest conservation requirements, which is subject to future revisions.

**Execution of this plan**

- The greater of the Project Area Proportion and the Project Density Proportion shall be utilized to determine the amount of Forest Mitigation to be provided for each phase.
- Forest Mitigation includes Forest Retention, Onsite and Offsite afforestation and reforestation and Landscape Credit.
- At this time, only Phase 1 defines the exact areas and forms of Forest Mitigation.
- Prior to starting each phase (either disturbance or plat recordation), the applicant shall identify the specific locations and types of forest mitigation, record easement and provide financial security, unless otherwise indicated.
- The improvements shown hereon are illustrative and subject to change.
- The Phase 1 construction area shown hereon is subject to change.
- Stage 1 planting to occur the first growing season after the start of construction.
- Stage 2 planting to occur the first growing season after the permanent stabilization of the planting area.
- Stage 3 planting and easement recordation to occur the first growing season after the utility line construction and recordation of the WSSC easement. The Stage 3 easement recordation is not required prior to the commencement of construction or recordation of plats for Phase 1.

**Note:**  
 Final limits and configuration of mitigation areas are shown on 30 scale plan sheets of this FCCP plan set. This sheet is for phasing purposes only.



Qualified Professional Certificate  
 (Specific to this page, for phasing purposes only)

9/2/11  
 Date

*M. D. Rodgers*  
 Dusty Rodgers  
 Qualified Professional  
 COMAR 08.19.06.01

Forest Conservation  
 Phasing Exhibit  
 September 2, 2011

Final Forest Conservation Plan  
 Sheet 63A of 63

**CABIN BRANCH**  
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