



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401
Annapolis 410-263-7961 • FAX 410-263-1129 • MD Relay (711)

May 26, 2020

**CERTIFICATION OF ADEQUACY OF PUBLIC FACILITIES
PURSUANT TO TITLE 22 OF THE CHARTER AND CODE OF THE
CITY OF ANNAPOLIS**

Annapolis City Code Section 22.06.020:

Before a Certificate of Adequate Public Facilities may be issued as required by Section 22.06.010, the Department of Planning and Zoning shall receive the written findings and conclusion from each director or department responsible for the applicable facilities as to the adequacy or inadequacy of the facilities as specified in this title. No Certificate of Adequate Public Facilities shall be issued until such time as the written findings and conclusion from each director or department responsible for the applicable facilities are delivered and which certify the adequacy of the applicable facilities.

Project: **The Lofts at Eastport Landing**
 Site Design Plan Review with Adequate Public Facilities Certification
 SDP2018-006
Address: **915 Chesapeake Avenue**

The proposed project has been reviewed for compliance with the review criteria established in Title 22, Adequate Public Facilities. Compliance with the code sections has been determined in an earlier certification dated November 26, 2018 for the following facilities:

- Chapter 22.12 Fire, Rescue, Emergency Medical and Fire Inspection Services
- Chapter 22.16 Public Maintenance Facilities
- Chapter 22.18 Water and Sewer Facilities
- Chapter 22.25 School Facilities

The adequacy of the above facilities was confirmed by the Board of Appeals in their Decision and Order dated January 20, 2020 and updated March 17, 2020 for case APL2018-002. However, the Board found previous certification of five public facilities in need of re-evaluation. These facilities include:

- Chapter 22.14 Police Protection
- Chapter 22.21 Traffic Impact Analyses
- Chapter 22.20 Recreation Facilities
- Chapter 22.22 Non-Auto Transportation Facilities
- Chapter 22.24 Stormwater Management Facilities

The re-evaluation of these facilities has been undertaken, and based upon the written findings from the applicable departments, certification of Adequacy of Public Facilities for this project

cannot be granted until the applicant and the Director of Planning and Zoning, in accordance with Chapter 22.28--*Mitigation* of the City Code reach an agreement on the required mitigation plan.

After review of memos from each concerned City Department, the City proposes the following actions and activities as components of the required mitigation plan (see attached memos for more information):

Inadequacies in Police Protection

According to the Annapolis Police Department in their April 29, 2020 memo, the Chief of Police does not consider the facilities adequate because there are currently not enough certified officers to meet the requirements 22.14.040(B)(1). The Chief has proposed mitigation for this inadequacy in the mitigation plan.

Inadequacies in Road Facilities / Traffic Impact Analyses

According to the Department of Transportation in their March 19, 2020 memo, mitigation will be required, and that will be outlined in the mitigation plan.

Inadequacies in Recreation Facilities

According to the Department of Recreation and Parks in their March 18, 2020 memo, the following mitigation will be required:

- The developer will need to provide 41,807 sq. ft. of public recreational space, pay a fee-in-lieu of \$21,000, or create another mitigation plan that is agreed upon with the City of Annapolis.

Inadequacies in Non-Auto Transportation Facilities

According to the Department of Planning and Zoning in their March 24, 2020 memo, the following mitigation will be required:

- Provision of bike lane sharrow markings in front of the site along Chesapeake Avenue
- Provision of bike racks and bike service stations within the development.
- Installation of a sidewalk along the west side of Norman Street.
- Coordination with the Department of Public Works to update the crosswalk markings at the intersections of Americana and Chesapeake, Bay Ridge Avenue and Madison Street and Bay Ridge Avenue and Monroe Street.
- The developer must also evaluate the sidewalks adjacent to the project for adequate width for accessibility. Where necessary, widen the sidewalks
- A stop sign warrant analysis at the intersection of Chesapeake Avenue and Bay Ridge Avenue. If warranted, a stop sign and appropriate pedestrian signage or signaling as described above.
- To ensure usage of these transit facilities, the developer must purchase bus passes for one year for all residential tenants of the building.
- Signal timing optimization at Bay Ridge Avenue and Tyler Avenue (as required above).

Inadequacies in Stormwater Management Facilities

According to the Department of Public Works in their March 20, 2020 memo, mitigation will be required. This will be detailed in the mitigation plan.

The City agencies have carefully re-evaluated the proposed project for compliance with the standards in Title 22 and have explicitly listed those standards as well as additional applied standards used by each department in the review process. All standards and applied standards have been published on-line on the City's website (<https://www.annapolis.gov/966/Adequate-Public-Facilities>).

The Board of Appeal made specific findings for why it found the review of each of the facilities in

question to be deficient. We have addressed these points below.

From the Board:

Police, Chapter 22.14

The standards contained in Chapter 22.14 include a budgeted police officer ratio of 3.2 police officers per 1000 of population. The ordinance does not specify how that ratio is to be calculated but we believe that it was intended that the supplemental standards that should have been published should have addressed such matters.

The Police Department's determination of adequacy started with the population of Annapolis from the 2010 census without adjustment for changes since 2010. We find that the use of the unadjusted 2010 census number is unreasonable in light of the requirement of Chapter 22.10.020 that the Police Chief annually assess and otherwise measure the facility for which he is responsible. The Police Department then added to the 2010 census population, as required by another section of Chapter 22, an assumed increase based on the 98 dwelling units for this project and 321 dwelling units for other projects in the pipeline, assuming, with no justification, one resident per dwelling unit. Even using these unsupportable assumptions (no annual population increase and one resident per unit) the ratio was a failing 3.19. The Police Department excused the failure with yet another unsupported assumption: that some of the 321 expected dwelling units would not be built.

Response:

The Police Department has updated their methodology as described in the attached memo. They will no longer use the 2010 census numbers.

From the Board:

Recreational Facilities, Chapter 22.20

The standards of Chapter 22.20 require a calculation of required public recreational space based on the number and type of units in the project. We accept the evidence that the Department of Parks and Recreation properly calculated the amount of recreational space required for this project. However, Chapter 22.20 does not indicate what qualifies as public recreational space nor does it specify the payment rate for any fee-in-lieu payment. Neither has the Department of Recreation and Parks published the required supplemental standards describing how it actually addresses these issues.

In our view, the standards used by the Department to calculate public recreational space are arbitrary and inconsistent with the purposes of the APFO in several respects. The Department counts as public recreational space public parks within a one-half mile radius of the project measuring distance by straight line. The Department fails to demonstrate how the distance is to be calculated. Assuming that one-half mile is a reasonable distance, straight line measurement is not. In some cases, it results in distances considerably more than one-half mile from the project for citizens traveling by car, public transit or non-automotive means. Moreover, convincing evidence demonstrated that some of the public parks included in the Department's tally were outside of the one-half mile, straight-line radius.

Finally, the Department counted toward the required public recreational space the restaurant and common patio space within the project. In our view, it is inconsistent with the purposes of the APFO to count as public recreational space privately controlled areas where public access may be restricted.

Response:

The Department has re-measured the radius and did discover an error in the initial mapping of the distance from the site to neighboring parks. That has been updated and the fee-in-lieu that is located in the Fee Schedule has also been published online with the other updates of what can and cannot be

considered recreational space. Recreations and Parks has removed the restaurant patio from the calculations.

From the Board:

Traffic Impact Analysis, Chapter 22.21

Subchapter 21 contains no goals and no standards. It merely describes the requirements for a traffic impact analysis. Neither the Department of Transportation nor the Department of Planning and Zoning has published the required supplemental standards.

A Traffic Impact Analysis was performed and found that the intersection of Bay Ridge Avenue and Tyler Avenue will operate at level E unless signals are optimized, in which case it will operate at level D. It also indicates that the intersection of Chesapeake Avenue and Americana Drive has and will continue to have problems. Significant questions were raised about the currency of the analysis and the design and methods used including the failure to consider the use of Americana by the Post Office. The Certificate of Adequacy issued by the Department of Planning and Zoning requires the optimization of signals at Bay Ridge and Tyler Avenues and the posting of fire lanes.

Response:

The standards used to evaluate the traffic impact analysis have been online, however, they have been included explicitly in the review at this time and are now also included with the published online standards for evaluating public roads.

From the Board:

Non-Auto Transportation, Chapter 22.22

The goals of Subchapter 22 are to increase accessibility and to ensure reasonable and accessible alternatives to automobile travel for bicycles, pedestrians and public transit. The Director has not published any of the required supplemental standards for accomplishing those goals. The evidence shows that the Director's certification of adequacy ignores multiple opportunities to advance those goals and, perhaps more importantly, fails to address the purpose of the APFO to assure that the proposed development protects the public health and safety and promotes the general welfare of the community. Those overlooked opportunities include the widening of sidewalks and reconfiguring of the road to allow insertion of a safe bike lane, and the development of a multi-modal transport center.

Response:

The standards of adequacy have been published and the project has been re-evaluated in concert with these standards and applied standards.

From the Board:

Stormwater Management, Chapter 22.24

The goal of Subchapter 24 is to assure that the stormwater infrastructure at the project and downstream of the project can handle a ten-year storm. The only standard set out in Subchapter 24 is compliance with Chapter 17 of the City Code. The Director of Public Works has not published the required supplemental standards. The Director's certification of adequacy contains no findings and only the barest conclusion.

Response:

The standards of adequacy have been published and the certification findings have been revised accordingly.

Based on the finding from each department that are attached and the re-evaluation of the five facilities where the review was determined to be deficient, we find that a mitigation plan is required before this project can be certified as having adequate public facilities.

If you have any questions, please contact me at 410.260.2200, extension 7792, or by email at snash@annapolis.gov

Sincerely,



Sally Nash, Ph.D., AICP
Director
Department of Planning and Zoning
City of Annapolis
145 Gorman St., Third Floor
Annapolis, MD 21401

ANNAPOLIS POLICE DEPARTMENT



199 Taylor Av.
Annapolis, MD 21401

To: Sally Nash, Director of Planning and Zoning

From: Edward Jackson, Chief of Police

Re: Eastport Landing

Date: April 8, 2020

This determination is made pursuant to Chapter 22.14 and my considerations are set forth below:

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For the reasons set forth below, I determine that there are not adequate public facilities as follows:

Determination of Adequate Police Protection

1. Levels of police services are currently inadequate;
2. Officer Ratio: The ratio of police officers authorized in the current City budget to City residents shall not be less than 3.2 officers per every one thousand City residents. $[39,174/1,000 = 39.174; 123/39.174 = 3.139]$. The average household size in the most recent Annapolis Comprehensive Plan is 2.38 residents. 2.38 times the proposed 98 units at Eastport Landing equals 234 estimated total residents for the development. This increases the estimated population figure to 39,408 $[39,408/1,000 = 39.408; 123/39.408 = 3.121]$; A ratio of 3.2 or over is required for approval under this section and the law provides for no exemptions.

City of Annapolis Determination of Adequate Public Facilities

Adequate Police Protection under City Code Chapter 22.14

Re:

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3. Average response times: The 2019 average response time for priority one emergencies was 1:51. This was a 3.7% increase over the 2018 average response time. Police response times are adequate.
4. No activity is anticipated from Eastport Landing that would result in a particular drain on police resources and services above and beyond ordinary police services.

22.02.010 - Purpose.

A. The purposes of testing for and certification of Adequate Public Facilities are to:

1. Assure that development and redevelopment occurs in concert with the Capital Improvement Program and will enable the City to provide adequate public facilities in a timely manner and achieve the growth objectives of the Comprehensive Plan as defined in Title 21.
2. Assure that proposed development protects the public health and safety, promotes the general welfare of the community, and conserves the environment.
3. Assure that proposed development fits harmoniously into the fabric of the community.
4. Encourage new development to occur in areas of the City where public facilities are being provided.

B. Adequacy standards should be achievable within a six-year timeframe and the annual Capital Improvement Program should be based on a community facilities plan that insures that existing deficiencies are corrected within that timeframe.

22.14 Review Criteria & Certification for Adequate Police Protection

22.14.010 - Responsibility.

The Police Chief shall be responsible for review and assessment of a proposed project's with regard to the adequacy of police protection.

22.14.020 - Goal.

The goal of adequate police facilities is to ensure that law and order is maintained, the laws of the City of Annapolis are enforced, and to create and sustain an environment of personal safety and security of property among citizens, businesspersons, and visitors.

22.14.030 - Exemptions.

There are no exemptions allowed for any projects.

22.14.040 - Standards.

A. For purposes of Chapter 22.14 only, "Police Officer" means an individual who is: (1) certified by the Maryland Police and Training Standards Commission; and (2) employed by the Annapolis Police Department.

B. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:

1. Officer Ratio. The ratio of police officers authorized in the current City budget to City residents shall not be less than 3.2 officers per every one thousand City residents.
2. Average Response Time. The average response time within the City shall not be greater than two minutes and thirty seconds for a priority one emergency response

City of Annapolis Determination of Adequate Public Facilities

Adequate Police Protection under City Code Chapter 22.14

Re:

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and for the initial annual period. Any subsequent average response time shall not increase more than ten percent from the annual period immediately prior.

Applied Standards

1. **RESPONSIBILITY:** THE POLICE CHIEF SHALL BE RESPONSIBLE FOR REVIEW AND ASSESSMENT OF A PROPOSED PROJECT WITH REGARD TO ADEQUACY OF POLICE PROTECTION FACILITIES.
2. **GOAL:** ENSURE THAT LAW AND ORDER IS MAINTAINED, THE LAWS OF THE CITY OF ANNAPOLIS ARE ENFORCED, AND TO CREATE AND SUSTAIN AN ENVIRONMENT OF PERSONAL SAFETY AND SECURITY OF PROPERTY AMONG CITIZENS, BUSINESS PERSONS, AND VISITORS OF THE CITY OF ANNAPOLIS.

3. **REVIEW GUIDELINES/PROCESS** (REPLACING "METHODOLOGY"):

- a. **OFFICER RATIO:** THE POLICE DEPARTMENT LOOKS AT THE CITYWIDE POPULATION TO DETERMINE IF CURRENT OFFICER STAFFING IS ADEQUATE TO PROVIDE ADEQUATE POLICE PROTECTION TO THE PROPOSED PROJECT. THE CURRENT RESIDENT POPULATION IN THE CITY OF ANNAPOLIS IS 39,174**, WHICH REQUIRES 126 POLICE OFFICERS. THERE ARE CURRENTLY 123 POLICE OFFICERS AUTHORIZED AND BUDGETED FOR IN THE 2019/2020 BUDGET.

- i. ****POPULATION:** IN DETERMINING THE CURRENT RESIDENT POPULATION OF THE CITY OF ANNAPOLIS, THE POLICE CHIEF SHALL UTILIZE THE MOST UP-TO-DATE US CENSUS BUREAU DATA. IN ANY EVENT, THE SOURCE OF THE PUBLISHED DATA SHALL BE CITED TO ON THE POLICE SERVICES APF WEBSITE FOR THE DURATION THAT SUCH PUBLISHED DATA IS UTILIZED IN DETERMINING THE ADEQUACY OF THE OFFICER RATIO;

- ii. RESIDENT POPULATION OF THE CITY OF ANNAPOLIS SOURCE: US CENSUS, 2018 POPULATION ESTIMATES, <https://www.census.gov/quickfacts/annapoliscitymaryland;>

- iii. OFFICER RATIO ADEQUACY FORMULA:

OF POLICE OFFICERS IN CURRENT CITY BUDGET

≥ 3.2

OF CITY OF ANNAPOLIS RESIDENTS/1000

- b. **RESPONSE TIMES:** RESPONSE TIMES TO PRIORITY ONE EMERGENCIES FOR THE PREVIOUS 12-MONTH PERIOD ARE REVIEWED TO ARRIVE AT AN AVERAGE RESPONSE TIME.

1. 2018: 1 MINUTE 47 SECONDS (DOWN FROM 2 MINUTES 5 SECONDS IN 2017)

City of Annapolis Determination of Adequate Public Facilities

Adequate Police Protection under City Code Chapter 22.14

Re:

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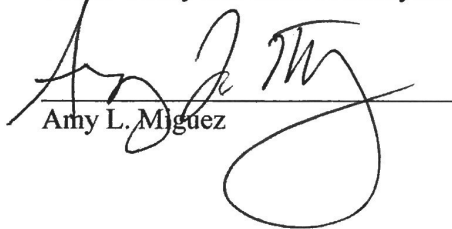
2. 2019: 1 MINUTE 51 SECONDS (UP FROM 1 MINUTE 47 SECONDS IN 2018)

- ii. THE NUMBER OF NEW, TEMPORARY OR FULL-TIME, RESIDENTS THAT WILL RESULT FROM THE PROPOSED PROJECT ARE THEN ADDED TO THE CURRENT RESIDENT POPULATION OF THE CITY OF ANNAPOLIS, AND CONSIDERATION IS GIVEN TO ANY ACTIVITY THAT WOULD BE A PARTICULAR DRAIN ON POLICE RESOURCES AND SERVICES ABOVE AND BEYOND ORDINARY POLICE SERVICES.

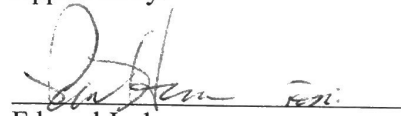
4. FINDINGS & CONCLUSION:

- a. BASED ON THE CODE STANDARDS AND THE GUIDELINES ABOVE, THE DEPARTMENT SHALL EVALUATE THE PROPOSED PROJECT FOR THE ADEQUACY OF POLICE RESOURCES AND SERVICES.
- b. ONCE THE DEPARTMENT UNDERTAKES THE EVALUATIONS DESCRIBED ABOVE, FINDINGS AND CONCLUSIONS SHALL BE PREPARED AND TRANSMITTED TO THE DIRECTOR OF PLANNING AND ZONING IN ACCORDANCE WITH 22.10.020 B. 2.]

Public Safety Research & Analysis:


Amy L. Miguez

Approved by:


Edward Jackson
Chief of Police





City of Annapolis

DEPARTMENT OF TRANSPORTATION

308 Chinquapin Round Road, Annapolis, Maryland 21401


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J. RICK GORDON, DIRECTOR

City of Annapolis Determination of Adequate Public Facilities

Traffic Impact Analysis under City Code Chapter 22.21

To: Dr. Sally Nash, Director of Planning and Zoning

From: Rick Gordon, Director of Department of Transportation 

Re: Review of Traffic Impact Study for Eastport Commons Development (alias the Lofts at Eastport Landing Development)

Date: March 19, 2020

THE REVIEW

This Determination is made pursuant to Chapter 22.21. For the reasons set forth below, I determine that there are adequate public facilities as follows:

A traffic impact study was conducted in accordance with City Code 22.21.010 and is attached. The Director of Transportation found that the Lenhart Traffic Consulting, Inc., prepared a TIA (November 9, 2016; revised March 31, 2017) for the proposed project satisfied the "Policies and Guidelines for Traffic Impact Analyses for Proposed Development in the City of Annapolis", and the findings and recommendations were reviewed by the Director of Transportation. The adequacy of total traffic conditions were considered in light of the proposed project, and the following findings and conclusions were made by the Director of Transportation:

1. Under Existing & Background Conditions, all signalized intersections and movements at unsignalized intersections operate at overall LOS D or better. The Director of Transportation has determined that these conditions satisfy the purposes of testing for and certifying of adequate public facilities.
2. Queueing at the study intersections does not exceed available storage or impact adjacent intersections, and the Director of Transportation finds these conditions satisfy the purposes of testing for and certifying of adequate public facilities.
3. Under Total Conditions, all signalized intersections operate at overall LOS D or better with the exception of Bay Ridge Avenue & Tyler Avenue which operates at LOS E during the PM peak hour. In addition, all movements at unsignalized intersections operate at LOS D or better with the exception of the northbound left/right movement at Chesapeake Avenue & Americana Drive which operates at LOS E and the east- and westbound movements at the intersection of Bay Ridge Avenue & Monroe Street which operate at LOS E or F.

4. The Director of Transportation has determined that the stated total traffic conditions above do not satisfy the promulgated standards and recommends the following mitigating conditions, which, when constructed, will bring these conditions to a level of service that is adequate and satisfies these standards and the purposes of testing for and certifying of adequate public facilities:
 - a. At the intersection of Bay Ridge Avenue & Tyler Avenue, the signal timing shall be optimized, which result in that intersection operating at LOS C during both peak hours and queueing along the eastbound approach will be significantly reduced;
 - b. The northbound approach at the intersection of Chesapeake Avenue & Americana Drive should be restriped to accommodate both a 10 foot left- and right-turn lane to allow vehicles making a northbound right-turn to provide separate left and right turn lanes and improve vehicular traffic flow.
 - c. The Director of Transportation finds that, based on the accepted TIA, no impacts to bicycle, pedestrian, or vehicular safety are anticipated as a result of the proposed development, and the overall impacts due to the proposed development are anticipated to be negligible.

RESPONSE TO THE BOARD OF APPEALS

In their *Decision and Order* for 915 Chesapeake Avenue, the Lofts at Eastport Landing (APL2018-002), the Board of Appeals stated that Chapter 22.21 "contains no goals and no standards. It merely describes the requirements for a traffic impact analysis. Neither the Department of Transportation nor the Department of Planning and Zoning has published the required supplemental standards."

The Department of Transportation would like to draw attention to the location of the published "Policies and Guidelines" (<https://www.annapolis.gov/939/Comprehensive-Planning>), which have been online for approximately 10 years and are referred to in all approved traffic impact studies.

The *Policies and Guidelines*, adopted by reference in Chapter 21.21 clearly state the standard for level of service for traffic. It states:

Improvements are required if the roadway, the intersection and/or a particular movement will operate below LOS D or worse with the proposed development. Under this condition, the roadway and/or intersection improvements shall bring the level-of-service to at least LOS D.

Improvements will be required if the roadway and/or intersection will operate at LOS E or F for the horizon year(s) without the proposed development, and will be even worse with the proposed development. In this case, the proposed mitigation shall aim to maintain the same level of delay and ensure safety.

These standards are clear, and well in line with other jurisdictions in Maryland and nationwide. Mitigation measures are also clearly outlined in the *Policies and Guidelines*, and may include "any

include "any roadway and/or intersection capacity improvements except grade separation of the roadways and ramps within the intersection or improvements to through lanes of intermediate arterials and higher classified roads."

There was also concern from the Board about Americana Drive. This intersection was evaluated and considered with the amount of volume of the intersection. Furthermore, any impact from the Post Office was also considered and was included in the model for the traffic study. Several roadway improvements were proposed by the Traffic Impact Study and have been included above as required mitigation.

The Department of Transportation did not apply an erroneous legal standard concluding that there is adequacy. The standards are published for evaluating roads and the conclusions of the certification reflect that the applicant has met these standards with the required mitigation.

TITLE 22 – ADEQUATE PUBLIC FACILITIES

22.02.010 - Purpose.

- A. The purposes of testing for and certification of Adequate Public Facilities are to:
 - 1. Assure that development and redevelopment occurs in concert with the Capital Improvement Program and will enable the City to provide adequate public facilities in a timely manner and achieve the growth objectives of the Comprehensive Plan as defined in Title 21.
 - 2. Assure that proposed development protects the public health and safety, promotes the general welfare of the community, and conserves the environment.
 - 3. Assure that proposed development fits harmoniously into the fabric of the community.
 - 4. Encourage new development to occur in areas of the City where public facilities are being provided.
- B. Adequacy standards should be achievable within a six-year timeframe and the annual Capital Improvement Program should be based on a community facilities plan that insures that existing deficiencies are corrected within that timeframe.

22.21 - Traffic Impact Analyses

Review Criteria and Certification for Adequate Roadways

Responsibility: The Director of Transportation shall be responsible for review and assessment of a proposed project with regard to the adequacy of roadways.

Goal: The goal of adequate roadways is to ensure that the proposed projects contribute to and are served by adequate roadways.

Exceptions. There are no exceptions to the criteria of Section 21.21.010 (A).

22.21.10 - Traffic impact analyses.

- A. Applicability. Notwithstanding any other provisions of this title, a traffic impact analysis shall be required for:
1. A project must have a traffic impact study if:
 - a. The proposed development and/or additions to existing structure is expected to generate two hundred fifty daily trips or more based upon trip generation rates published in the latest edition of the Trip Generation Manual, published by the Institute of Transportation Engineers (ITE); or
 - b. There are current traffic problems or issues in the project area, e.g. high traffic accident frequency; or
 - c. The proposed entrances and exits from the site are too close to an intersection.
 2. Procedures for the preparation of traffic impact analyses
- B. The traffic impact analysis will be prepared based upon a uniform scope of work and methodology for traffic impact analyses entitled Traffic Impact Analysis for Proposed Development, City of Annapolis, Maryland, maintained by the Department of Planning and Zoning.
(<https://www.annapolis.gov/DocumentCenter/View/11531/Policies-and-Guidelines-2016>)
- C. The traffic impact analysis will be performed under the oversight of the Department of Planning and Zoning as follows:
1. Upon a determination that a development will require a Traffic Impact Analysis, the applicant will be notified of such.
 2. The Department of Planning and Zoning will prepare a scope of services for the traffic impact analysis and solicit a cost estimate(s) from a competent consulting firm(s) for the preparation of the analysis.
 3. The applicant will remit to the Department of Planning and Zoning sufficient funds for the completion of the analysis plus an administrative fee not to exceed ten percent of the projected cost of the analysis. If the completion of the analysis exceeds the funds applicant remitted to the Department of Planning and Zoning, the Department may withhold approval until full payment is remitted.
 4. The Department of Planning and Zoning will contract directly with the consulting firm and oversee the preparation of the traffic impact analysis.
 5. All traffic analysis results will be incorporated into any Adequate Public Facilities Ordinance considerations.
- D. The Department of Planning and Zoning shall be a party to all communications between the project developer and the consultant performing the Traffic Impact Analysis. Should communication occur, to which the Department of Planning and Zoning is not a party, the consultant may not be utilized again by the City of Annapolis, or the Department may, at its sole discretion, stop the Analysis and reinstate a Traffic Impact Analysis with an alternative consultant at applicant expense.

Standards:

Improvements are required if the roadway, the intersection and/or a particular movement will operate below LOS D or worse with the proposed development. Under this condition, the roadway and/or intersection improvements shall bring the level-of-service to at least LOS D.

Improvements will be required if the roadway and/or intersection will operate at LOS E or F for the horizon year(s) without the proposed development, and will be even worse with the proposed development. In this case, the proposed mitigation shall aim to maintain the same level of delay and

ensure safety.

Mitigation measures are outlined in the Policies and Guidelines, and may include "any roadway and/or intersection capacity improvements except grade separation of the roadways and ramps within the intersection or improvements to through lanes of intermediate arterials and higher classified roads."

For further detail, refer to the Traffic Impact Analysis for Proposed Development, City of Annapolis, Maryland, maintained by the Department of Planning and Zoning.

(<https://www.annapolis.gov/DocumentCenter/View/11531/Policies-and-Guidelines-2016>)

Applied Standards: The adequacy of total traffic conditions are considered in light of the proposed project.

1. Level of Service (LOS) Signalized Intersection: Improvements are required if the roadway, the intersection and/or a particular movement will operate below LOS D or worse with the proposed development. Under this condition, the roadway and/or intersection improvements shall bring the level-of-service to at least LOS D. Improvements will be required if the roadway and/or intersection will operate at LOS E or F for the horizon year(s) without the proposed development, and will be even worse with the proposed development. In this case, the proposed mitigation shall aim to maintain the same level of delay and ensure safety.
2. LOS – Unsignalized Intersection: LOS E, provided, however, if the existing LOS at a given signalized intersection is below LOS E, then, so long as the proposed project does not result in a change of LOS below the current LOS, the facilities at the given unsignalized intersection shall be deemed adequate. If there is a change in LOS, the v/c ratio must be below .85.
3. Queueing at the study intersections does not exceed available storage or impact adjacent intersections,

22.28 Mitigation

22.28.010 - Opportunity to mitigate.

- A. An applicant whose proposed project is subject to denial or delay under this title shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the applicant's application under this title for a Certificate for Adequate Public Facilities.
- B. The forms and levels of mitigation required of an applicant shall be roughly proportionate to the projected impact of the proposed project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the other departments responsible for the applicable facilities as outlined in Section 22.28.010.
- C. For a school facility, mitigation consists of the construction or funding of improvements by a developer that increase capacity of the school facility which, at the time of application, is below the minimum standard in the impact area so that the capacity of the facility in the scheduled completion year is equal to, or greater than, it would have been had the development not been constructed. A mitigation plan with physical improvements may be secured by bond, letter of credit or other security acceptable to the City and shall be provided under an agreement with the Board of Education to construct school facilities, including contract schools. The developer

shall submit a cost estimate to establish the value of construction offered in mitigation in conformance with City specifications. Capital improvements to any portion of the developer's property or project, pursuant to a school capacity mitigation agreement, shall be made available and shall provide school capacity to allow approval of preliminary subdivision plan applications that are filed within six years of the date of the school capacity mitigation agreement.

22.28.20 - Process.

- A. Mitigation consists of the construction or funding of improvements to onsite or offsite public facilities by an applicant that increase capacity or safety on each public facility that is below the minimum standard so that the capacity or safety of the facility after mitigation will be equal to or greater than if the proposed project had not been developed.
- B. To determine the appropriate forms and levels of mitigation, an applicant shall consult with the department responsible for review and assessment of each facility that would be deemed inadequate. Once the applicant and the department agree upon the forms and levels of mitigation that will offset the impact of the project upon the facility, the applicant shall enter into a mitigation plan on terms and conditions acceptable to the Department of Planning and Zoning in consultation with the Office of Law. The mitigation plan shall require the applicant to provide the mitigation agreed upon and in return the Department of Planning and Zoning shall determine that the facility or facilities will be adequate for the project.
- C. If a department finds that a facility is or would be inadequate as a result of more than one proposed project, the department may apportion the responsibility and cost of mitigation among all contributing projects, which apportionment shall be reflected in the applicable mitigation plans.
- D. Each mitigation plan shall be approved by the Director of Planning and Zoning as well as the department responsible for the facility for which the mitigation plan approval is sought. If a facility would be inadequate for a project, and if the project and the applicant are unable to agree upon acceptable forms and levels of mitigation for the facility such that no mitigation plan is entered into by the applicant, the department shall determine that the facility is inadequate to support the project and shall forward a written copy of such findings and explanation to the Director of Planning and Zoning.



Annapolis Recreation and Parks
Parks Maintenance Division
200 Truxtun Park Road
Annapolis, MD 21403
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City of Annapolis Determination of Adequate Public Facilities Adequate Recreational Facilities under City Code Chapter 22.20

To: Director of Planning and Zoning, Dr. Sally Nash
From: Director Archie Trader
Re: The Lofts at Eastport Landing-915 Chesapeake Ave
Date: March 18, 2020

This Determination is made pursuant to Chapter 22.20 and my considerations are set forth below:

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- Applied Standards
- 22.28 Mitigation

For the reasons set forth below, I determine that there are adequate public facilities as follows:

Determination of Adequate Recreational Facilities

This project is proposing 98 multifamily dwelling units which equates to a public recreational space requirement of 49,000 square feet. The City of Annapolis has determined that the proposed restaurant and common patio space can no longer be used towards the required recreational space, based on comments from the Board of Appeals and their mandate in the Decision and Order for APL2018-002 to re-review all applied standards used to determine Adequate Public Facilities. In addition, after further review, Turner Playground, located at the intersection of Third and Chester Avenue, does not fall within the ½ mile radius of the property. We were informed by our Public Works Department that we do not own Post Office Park, therefore, it cannot be included in the total amount of required recreational space. The parks that fall within the ½ mile radius are Davis Park (3879 sq. ft.), Leon Wolfe Park (328 sq. ft.), Burnside Park (1577 sq. ft.), Sixth and Back Creek Park (521 sq. ft.), and 5th and Spa (888 sq. ft.) for a total of 7,193 sq. ft. of park land. The 7,193 sq. ft. of park land within a ½ mile of the site can be used towards the required 49,000 sq. ft.

This project will need to create an additional 41,807 sq. ft. (49,000 sq. ft. - 7,193sq. ft.) of public recreational space. If they are unable to provide the additional recreational space then a fee in lieu can be collected. The calculation for the fee-in-lieu is:



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| | |
|----------------------------------|--|
| Total Public Space Required: | 49,000 sq ft |
| Total Public Space provided: | 7,193 sq ft |
| Remaining Requirement: | 41,807 sq ft @ 500 sq ft/unit = 84 units |
| Fee-in-lieu for remaining amount | @ \$250/unit = \$21,000 |

The developer will need to provide 41,807 sq. ft. of public recreational space, pay a fee-in-lieu of \$21,000, or create another mitigation plan that is agreed upon with the City of Annapolis.

In this case, the Department did not accept the inclusion of Ellen Moyer Park on Back Creek. While this park is within the allowable radius under the Code requirements, the Department does not prefer to count recreational facilities that are located at a distance from a proposed project across a body of water which could be accessed by water-only means within the radius. The Department also did not count school playgrounds, as the Department does not count properties not always open to the public.

The proposed project is located on top of an already-developed shopping center parking lot and in a developed section of Eastport. The proposed project is harmonious within the area and consistent with the Comprehensive Plan because it involves residential and commercial uses, which is in keeping with the Plan's commercial designation, the City's zoning, and the surrounding residential areas. The recreational facilities involve some onsite spaces, some offsite spaces, and fees in lieu to be paid to the City. The onsite and offsite recreational facilities promote public health, safety, and the general welfare

Accordingly, with the provision of this recreation space and the payment in lieu as described, the Applicant's proposal satisfies the Code requirements for adequate recreational facilities.

22.02.010 - Purpose.

- A. The purposes of testing for and certification of Adequate Public Facilities are to:
1. Assure that development and redevelopment occurs in concert with the Capital Improvement Program and will enable the City to provide adequate public facilities in a timely manner and achieve the growth objectives of the Comprehensive Plan as defined in Title 21.
 2. Assure that proposed development protects the public health and safety, promotes the general welfare of the community, and conserves the environment.
 3. Assure that proposed development fits harmoniously into the fabric of the community.
 4. Encourage new development to occur in areas of the City where public facilities are being provided.
- B. Adequacy standards should be achievable within a six-year timeframe and the annual Capital Improvement Program should be based on a community facilities plan that insures that existing deficiencies are corrected within that timeframe.



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22.20 Review Criteria and Certification for Adequate Recreational Facilities

22.20.010 - Responsibility.

The Director of Recreation and Parks shall be responsible for review and assessment of a proposed project with regard to the adequacy of recreational facilities.

22.20.020 - Goal.

The goal of adequate recreational facilities is to ensure that proposed projects contribute to and are served by adequate recreational facilities.

22.20.030 - Exemptions.

This Chapter applies to proposed projects that include residential and mixed residential and commercial uses and buildings. All other proposed projects are exempt from the requirements of this Chapter.

22.20.40 - Standards.

A. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:

1. One thousand square-feet of public recreational space per each single-family detached dwelling unit, seven hundred fifty square-feet of public recreational space per each single-family attached dwelling unit, and five hundred square-feet of public recreational space per each multifamily dwelling unit, two-family dwelling unit, or dwelling unit above the ground floor of nonresidential uses, within such proposed project or within a public recreational facility within one-half miles of the proposed project; or
2. The fees in lieu of the provision of such public recreation space; or
3. A combination of the above.

Applied Standards

Based on the code standards above, the Department shall evaluate the proposed project for the provision of onsite recreation space, if any, the existence of acceptable offsite recreation space, if any, and any fees-in-lieu due in accordance with the code and the applicable fee schedule. To measure the radius around the property, the Department buffered an area of ½ mile from the property lines of the parcel.

To determine adequacy of offsite recreation space, the Department's criteria include:

- the recreational facility is open 24 hours per day, 7 days per week.
- sidewalks are not included as recreational space.
- the facilities have adequate public access and linkages via streets or sidewalks within the acceptable radius, and there are no known hazards or safety concerns with the spaces.

A developer may receive credit for park and recreational facilities provided in addition to the common open space requirements of 21.24.060 of Planned Developments if recreational purposes have been adequately defined as determined by the Recreation Director. These privately held recreational facilities



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should be continuously and permanently open to all residents of lots or dwelling units of the proposed project. There must be a public record binding the owners and their successors to maintain the facilities at or above minimum standards and provide that if the facilities are not maintained at minimum standards the city may assume responsibility for maintenance and charge the costs thereof to all the lots or units within the proposed project.

All fees in lieu collected pursuant to this regulation shall be used to address impacts within the city through the purchase of land, development of land, and/or improvement of facilities in accordance with the capital improvement program and the Parks and Recreation Chapter of the Annapolis comprehensive plan.

22.28 Mitigation

2.28.010 - Opportunity to mitigate.

- A. An applicant whose proposed project is subject to denial or delay under this title shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the applicant's application under this title for a Certificate for Adequate Public Facilities.
- B. The forms and levels of mitigation required of an applicant shall be roughly proportionate to the projected impact of the proposed project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the other departments responsible for the applicable facilities as outlined in Section 22.28.010.
- C. For a school facility, mitigation consists of the construction or funding of improvements by a developer that increase capacity of the school facility which, at the time of application, is below the minimum standard in the impact area so that the capacity of the facility in the scheduled completion year is equal to, or greater than, it would have been had the development not been constructed. A mitigation plan with physical improvements may be secured by bond,

22.28.20 - Process.

- A. Mitigation consists of the construction or funding of improvements to onsite or offsite public facilities by an applicant that increase capacity or safety on each public facility that is below the minimum standard so that the capacity or safety of the facility after mitigation will be equal to or greater than if the proposed project had not been developed.
- B. To determine the appropriate forms and levels of mitigation, an applicant shall consult with the department responsible for review and assessment of each facility that would be deemed inadequate. Once the applicant and the department agree upon the forms and levels of mitigation that will offset the impact of the project upon the facility, the applicant shall enter into a mitigation plan on terms and conditions acceptable to the Department of Planning and Zoning in consultation with the Office of Law. The mitigation plan shall require the applicant to provide the mitigation agreed upon and in return the Department of Planning and Zoning shall determine that the facility or facilities will be adequate for the project.



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- C. If a department finds that a facility is or would be inadequate as a result of more than one proposed project, the department may apportion the responsibility and cost of mitigation among all contributing projects, which apportionment shall be reflected in the applicable mitigation plans.
- D. Each mitigation plan shall be approved by the Director of Planning and Zoning as well as the department responsible for the facility for which the mitigation plan approval is sought. If a facility would be inadequate for a project, and if the project and the applicant are unable to agree upon acceptable forms and levels of mitigation for the facility such that no mitigation plan is entered into by the applicant, the department shall determine that the facility is inadequate to support the project and shall forward a written copy of such findings and explanation to the Director of Planning and Zoning.

A handwritten signature in blue ink, appearing to be "R. B." or similar, written in a stylized, cursive manner.



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

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**City of Annapolis Determination of Adequate Public Facilities
Adequate Non-Auto Transportation Facilities under City Code Chapter 22.22**

As Determined by: Director of Planning and Zoning, Sally Nash
Re: 915 Chesapeake Avenue, Lofts at Eastport Landing
Date: March 24, 2020

This Determination is made pursuant to Chapter 22.22 and the considerations are set forth below.

Summary

The Director of the Department of Planning and Zoning worked in coordination with the Departments of Transportation and Public Works to make specific findings on each criteria which comprise the category of Non-Auto Transportation Facilities. We have developed explicit additional Applied Standards to be able to evaluate these facilities.

We find the facilities are not adequate and have proposed a mitigation plan to address non-auto transportation facilities.

22.02.010 - Purpose

- A. The purposes of testing for and certification of Adequate Public Facilities are to:
- Assure that development and redevelopment occurs in concert with the Capital Improvement Program and will enable the City to provide adequate public facilities in a timely manner and achieve the growth objectives of the Comprehensive Plan as defined in Title 21.
 - Assure that proposed development protects the public health and safety, promotes the general welfare of the community, and conserves the environment.
 - Assure that proposed development fits harmoniously into the fabric of the community.
 - Encourage new development to occur in areas of the City where public facilities are being provided.
- B. Adequacy standards should be achievable within a six-year timeframe and the annual Capital Improvement Program should be based on a community facilities plan that insures that existing deficiencies are corrected within that timeframe.

22.22 - Review Criteria & Certification for Adequate Non-Auto Transportation Facilities

22.22.010 - Responsibility.

The Planning and Zoning Director shall be responsible for review and assessment of a proposed project with regard to the adequacy of non-auto transportation facilities, which review and assessment shall consider recommendations of the Director of Transportation.

22.22.020 - Goal

The goal of adequate bicycle, pedestrian, and transit facilities is to increase accessibility and to ensure reasonable and assessable alternatives to automobile travel.

22.22.030 - Exemptions

There are no exemptions under this Chapter for any proposed projects.

Analysis

The adequacy of the non-auto facilities will be considered in their totality, not individually as bicycle, pedestrian, transit, and signalized intersections.

Bicycle Facilities

22.22.040 - Standards.

Proposed projects shall be served by adequate bicycle facilities where necessary throughout the site.

Applied Standards

Determination of adequacy shall consider the following information from the publication Bicycle Road Safety Audit Guidelines and Prompt Lists (May 2012: FHWA-SA-12-018).

Facilities for cyclists should be part of a network that connects uses. The context of the road for a bicycle facility is a key element that should be considered in the design. The type and level of accommodation must be appropriate for the characteristics of the surrounding conditions. A “one-size-fits-all” approach may result in an underutilized facility or a facility that does not improve cycling safety, and, in some instances, may degrade cyclist safety. There are several factors that should be considered in all contexts to provide safe accommodations for cyclists.

Directness—The cycling network should be direct between key destinations, considering both distance and time. On a corridor level, it is important to understand the “desire lines” of cyclists accessing key destinations. While directness typically refers to the shortest path to access destinations, it is influenced by travel time factors (e.g., the speed of a route) that may be influenced by the number of stops, grade, and other factors. Frequent stops and steep, uphill sections along a corridor can be a significant burden to cyclists operating under their own power.

Continuity and Connectivity—The cycling network should be continuous (i.e., without gaps or abrupt changes) and provide convenient linkages to destinations. Often, it is the transition between different land uses and environments where the nature of cycling accommodations changes. For example, a separated facility along public property may become a bicycle lane or an undesignated area where cyclists ride with traffic. Continuity may also relate to any aspect of a facility, such as available riding space or quality.

Comfort—Cyclist comfort level and perceived risk should be considered, as they may influence route choice and riding behaviors. When presented with facilities on high-speed, high-volume roadways, some cyclists may be more comfortable when dedicated space is provided to create separation from motorized traffic. A lack of adequate riding space or a concern for personal safety will often influence route selection and other riding behaviors, including cyclist use of sidewalks.

Determination

In the case of this development, the provision of bike lane sharrow markings in front of the site along Chesapeake Avenue will serve to enhance safe bicycle access to the proposed project. This provides a direct route for bicyclists and contributes to the continuity and connectivity of the network. It is additionally noted that the proposed development includes bike racks and bike service stations within the development.

Pedestrian Facilities

22.22.040 - Standards.

Proposed projects shall be served by sidewalks where necessary throughout the site, which sidewalks shall be constructed to City standards.

Applied Standards

Determination of adequacy shall consider the following:

- Pedestrian ways shall be continuous, direct, and convenient with grade separation where necessary.
- Pedestrian ways shall be secure, well lighted, and have good visibility
- Existing sidewalks must be upgraded to current City standards
- Curb ramps must be installed or upgraded to current City standards

Determination

The Applicant shall install a sidewalk along the west side of Norman Street.

The applicant must also coordinate with the Department of Public Works to update the crosswalk markings at the intersections of Americana and Chesapeake, Bay Ridge Avenue and Madison Street and Bay Ridge Avenue and Monroe Street.

The developer must evaluate the sidewalks adjacent to the project for adequate width for accessibility. Many of the sidewalks in Eastport are compromised by the presence of utility poles and other obstructions that narrow the passable sidewalk width. We are requiring that the developer increase the width of the sidewalks around these obstructions to ensure ADA accessibility.

Additionally, to ensure pedestrian safety around the proposed development, the developer should evaluate the intersection of Chesapeake Avenue and Bay Ridge Avenue. The 2016 *Eastport Transportation Study* advises that “installing a crosswalk at this location is difficult due to the

lack of visibility for northeast-bound traffic rounding the bend as Bay Ridge Avenue becomes Chesapeake Avenue. Pedestrians would not be in a motorist's line of sight until they were too close to stop. A stop sign would be appropriate, but would need to be accompanied by a crosswalk, stop control, and STOP AHEAD signage as seen in Figure 14. A stop sign warrant is recommended for this intersection."

Therefore, we are requiring a stop sign warrant analysis at this intersection, and if warranted, a stop sign and appropriate pedestrian signage or signaling as described above.

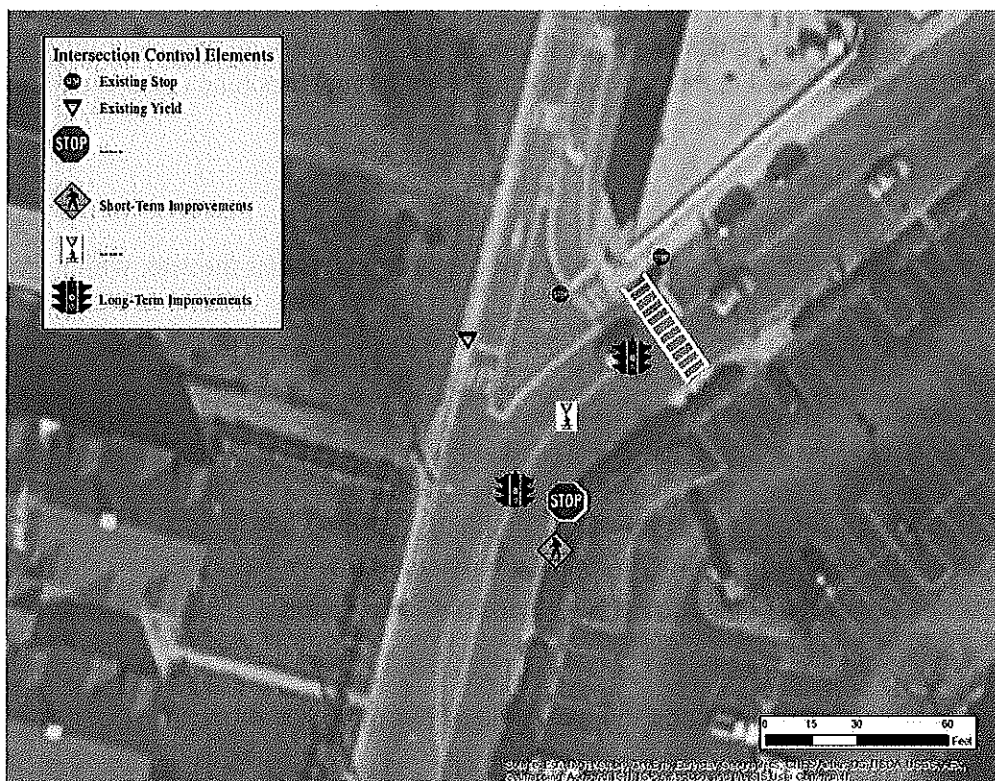


Figure 14: Proposed short-term pedestrian safety improvements by PNC Bank

Questions were raised in the course of the hearing before the Board of Appeals for APL2018-002 regarding the goals of Chapter 22.22. The Board posited that there could be overlooked opportunities including the widening of sidewalks and reconfiguring of the road to allow insertion of a safe bike lane, and the development of a multi-modal transport center. We have reviewed the original mitigation requirements in this light, and have added additional requirements to further improve the adequacy of the non-auto transportation facilities in the proximity of the proposed project.

There were also questions regarding the ownership of a fourteen foot strip of property along Bay Ridge Avenue referred to as the "widening strip." We have determined that the applicants have

properly depicted this ownership in their drawings and we are satisfied that the applicant may use it as contemplated in their proposal. .

Transit Facilities

22.22.040 - Standards.

Where a proposed project abuts an existing or planned bus line, the proposed project shall be served by a bus shelter at all existing and planned bus stops on roadways throughout the proposed project.

Applied Standards

Determination of adequacy shall consider the following:

If a proposed project abuts an existing bus line that is underutilized, the developer shall be responsible for incentivizing use of the facility by providing an annual pass to the bus service for residents or occupants of the proposed development.

Determination

The project is served by three bus stops located in close proximity of the site. The Department of Transportation has determined that these existing bus stops operate below capacity and are adequate to serve the needs of the service area, even after the completion of the proposed project. The Director of Transportation also reviewed the proposed plan with consideration of the present location of the bus stop and has concurred in conjunction with the Director of Planning and Zoning that the bus stops are presently located in the optimal sites to best serve the proposed community.

To ensure usage of these transit facilities, part of the mitigation plan for this facility is to require the developer purchase bus passes for one year for all residential tenants of the building.

Signalized Intersections

22.22.040 - Standards.

Signalized intersections adjacent to proposed projects shall have the appurtenances necessary for adequate bicycle, pedestrian, and transit facilities, including but not limited to crosswalks, signals, and non-auto curb cuts.

Applied Standards

For crosswalks, determination of adequacy shall consider the following (from Safety Effects of Marked vs. Unmarked Crosswalks at Uncontrolled Locations: Executive Summary and Recommended Guidelines, FHWA-RD-01-075):

- *In most cases, marked crosswalks are best used in combination with other treatments (e.g., curb extensions, raised crossing islands, traffic signals, roadway narrowing, enhanced overhead lighting, traffic-calming measures, etc.). Think of marked crosswalks as one of a progression of design treatments. If one treatment does not adequately accomplish the task, then move on to the next one.*
- *Marked pedestrian crosswalks may be used to delineate preferred pedestrian paths*

across roadways under the following conditions:

- *At locations with stop signs or traffic signals. Vehicular traffic might block pedestrian traffic when stopping for a stop sign or red light; marking crosswalks may help to reduce this occurrence.*
- *At non-signalized street crossing locations in designated school zones. Use of adult crossing guards, school signs and markings, and/or traffic signals with pedestrian signals (when warranted) should be used in conjunction with the marked crosswalk, as needed.*
- *At non-signalized locations where engineering judgment dictates that the number of motor vehicle lanes, pedestrian exposure, average daily traffic (ADT), posted speed limit, and geometry of the location would make the use of specially designated crosswalks*

Other Treatments

In addition to installing marked crosswalks (or, in some cases, instead of installing marked crosswalks), there are other treatments that should be considered to provide safer and easier crossings for pedestrians at problem locations. Examples of these pedestrian improvements include:

- Providing raised medians (or raised crossing islands) on multi-lane roads.
- Installing traffic signals and pedestrian signals where warranted, and where serious pedestrian crossing problems exist.
- Reducing the exposure distance for pedestrians by:
 - Providing curb extensions.
 - Providing pedestrian islands.
 - Reducing four-lane undivided road sections to two through lanes with a left-turn bay (or a two-way left-turn lane), sidewalks, and bicycle lanes.

Determination

The Department of Planning and Zoning required the developers to secure an approval from the City and/or State agencies for signal timing optimization at Bay Ridge Avenue and Tyler Avenue.

Overall Determination of Adequacy

Based on the above analysis, we find that the non-auto transportation facilities that will be impacted by the Lofts at Eastport Landing are not adequate. We require the following actions to ensure adequacy:

- Provision of bike lane sharrow markings in front of the site along Chesapeake Avenue
- Provision of bike racks and bike service stations within the development.
- Installation of a sidewalk along the west side of Norman Street.
- Coordination with the Department of Public Works to update the crosswalk markings at the intersections of Americana and Chesapeake, Bay Ridge Avenue and Madison Street and Bay Ridge Avenue and Monroe Street.

- The developer must also evaluate the sidewalks adjacent to the project for adequate width for accessibility. Where necessary, widen the sidewalks
- A stop sign warrant analysis at the intersection of Chesapeake Avenue and Bay Ridge Avenue. If warranted, a stop sign and appropriate pedestrian signage or signaling as described above.
- To ensure usage of these transit facilities, the developer must purchase bus passes for one year for all residential tenants of the building.
- Signal timing optimization at Bay Ridge Avenue and Tyler Avenue.

22.28 Mitigation

2.28.010 - Opportunity to mitigate.

- A. An applicant whose proposed project is subject to denial or delay under this title shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the applicant's application under this title for a Certificate for Adequate Public Facilities.
- B. The forms and levels of mitigation required of an applicant shall be roughly proportionate to the projected impact of the proposed project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the other departments responsible for the applicable facilities as outlined in Section 22.28.010.
- C. For a school facility, mitigation consists of the construction or funding of improvements by a developer that increase capacity of the school facility which, at the time of application, is below the minimum standard in the impact area so that the capacity of the facility in the scheduled completion year is equal to, or greater than, it would have been had the development not been constructed. A mitigation plan with physical improvements may be secured by bond, letter of credit or other security acceptable to the City and shall be provided under an agreement with the Board of Education to construct school facilities, including contract schools. The developer shall submit a cost estimate to establish the value of construction offered in mitigation in conformance with City specifications. Capital improvements to any portion of the developer's property or project, pursuant to a school capacity mitigation agreement, shall be made available and shall provide school capacity to allow approval of preliminary subdivision plan applications that are filed within six years of the date of the school capacity mitigation agreement.

22.28.020 - Process.

- A. Mitigation consists of the construction or funding of improvements to onsite or offsite public facilities by an applicant that increase capacity or safety on each public facility that is below the minimum standard so that the capacity or safety of the facility after mitigation will be equal to or greater than if the proposed project had not been developed.
- B. To determine the appropriate forms and levels of mitigation, an applicant shall consult with the department responsible for review and assessment of each facility that would be deemed inadequate. Once the applicant and the department agree upon the forms and levels of mitigation that will offset the impact of the project upon the facility, the

applicant shall enter into a mitigation plan on terms and conditions acceptable to the Department of Planning and Zoning in consultation with the Office of Law. The mitigation plan shall require the applicant to provide the mitigation agreed upon and in return the Department of Planning and Zoning shall determine that the facility or facilities will be adequate for the project.

- C. If a department finds that a facility is or would be inadequate as a result of more than one proposed project, the department may apportion the responsibility and cost of mitigation among all contributing projects, which apportionment shall be reflected in the applicable mitigation plans.
- D. Each mitigation plan shall be approved by the Director of Planning and Zoning as well as the department responsible for the facility for which the mitigation plan approval is sought. If a facility would be inadequate for a project, and if the project and the applicant are unable to agree upon acceptable forms and levels of mitigation for the facility such that no mitigation plan is entered into by the applicant, the department shall determine that the facility is inadequate to support the project and shall forward a written copy of such findings and explanation to the Director of Planning and Zoning.



City of Annapolis Department of Public Works

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City of Annapolis Determination of Adequate Public Facilities Adequate Stormwater Management Facilities under City Code Chapters 22.24

To: Director of Planning and Zoning, Dr. Sally Nash
From: Acting Director, Marcia Patrick *MP*
Re: The Lofts at Eastport Landing
Date: March 20, 2020

Executive Summary

The applicant for the reference project has supplied the City of Annapolis with a submittal package for Adequate Public Facilities. The stormdrain system as installed is capable of handling a ten-year storm. In regards to determining the volume required for the project, this project is classified as Redevelopment. The ultimate outfall of the stormdrain system has been inspected and has been found in need of remediation to stabilize. Although this project does not show outfall repairs being completed as part of this project the developer is required to provide preliminary engineering design and to assist in the planning approval of a stormwater project associated with the restoration and improvements to the headwaters of Back Creek. For this determination, the pursuant has met Chapter 22.24 and Adequate Public Facilities have been recognized based on the following considerations are described in more detail below.

Purpose

As stated in the City of Annapolis Code 22.02.010, the purpose of testing for and certification of Adequate Public Facilities are to:

1. Assure that development and redevelopment occurs in concert with the Capital Improvement Program and will enable the City to provide adequate public facilities in a timely manner and achieve the growth objectives of the Comprehensive Plan as defined in Title 21.
2. Assure that proposed development protects the public health and safety, promotes the general welfare of the community, and conserves the environment.
3. Assure that proposed development fits harmoniously into the fabric of the community.
4. Encourage new development to occur in areas of the City where public facilities are being provided.

Additionally, adequacy standards should be achievable within a six-year timeframe and the annual Capital Improvement Program should be based on a community facilities plan that insures that existing deficiencies are corrected within that timeframe.

Review Criteria and Certification for Adequate Stormwater Management Facilities

The City of Annapolis Code 22.24 stated the Director of Public Works shall be responsible for review and assessment of a proposed project with regard to the adequacy of stormwater management facilities. The goal of adequate stormwater management facilities is to ensure that all public and private stormwater infrastructure as installed within a receiving drainage



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area is capable of handling a ten-year storm as calculated prior to installation. Consideration will be given to any existing or proposed infrastructure within the study impact area downstream of the point of discharge. There will be no exemptions from meeting the goals of the criteria.

In accordance with 22.24.040, the standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to a requirement that the proposed project complies with the provisions of Chapter 17.08 and Chapter 17.10 of the Annapolis City Code.

Applied Standards

The standards for Adequate Stormwater Management Facilities have been set forth by the following documents the MDE 2000 Maryland Stormwater Management Design Manual Volumes I & II, the SHA Highway Drainage Manual, and the Anne Arundel County Design Manual.

The MDE 2000 Maryland Stormwater Management Design Manual Volumes 1 & 2 establishes the criteria for the volume of runoff that is required to be treated for the project based on whether the site is considered New Development or Redevelopment. For Adequate Public Facilities, the documents provided by the applicant have shown on the requirements outlined in the Concept Phase and Plan as outlined in Chapter 5. MDE has also published the documents Environmental Site Design (ESD) Process and Computations, July 2010 and Environmental Site Design (ESD) Redevelopment Examples, October 2010. These two documents show how to determine the volume requiring treatment and how to implement ESD practices to meet the required volume.

The SHA Highway Drainage Manual and the Anne Arundel County Design Manual in Chapter 5 discuss how to design and evaluate stormdrain systems. The applicant is required to provide the documentation clearly showing how the stormdrain system receiving runoff from this project will be capable of handling a ten-year storm.

The applicant will be required to evaluate the site outfall and the ultimate outfall of the stormdrain system. The site outfall is where runoff from the site leaves the drainage area. The ultimate outfall of the stormdrain system is where runoff from the site leaves the stormdrain system and discharges into an open channel. The inspection of the ultimate outfall will assess the structural condition of the outfall by inspecting the outfall pipe and outfall structure for cracking, spalling, stability issues, and pipe separations. The Adequate Public Facilities Report will document any damage outfalls and note any deficiencies associated with the outfall. If there are other conditions such as excessive debris or pipe corrosion that can affect the structural integrity of an outfall, it should be noted in the Adequate Public Facilities Report. Other observations that should be noted in the Adequate Public Facilities Report include deposits and stains present in an outfall (which may indicate the past discharge of a contaminant) and the vegetative condition at the outfall (may indicate the possibility of excessive nutrients, or chemicals and compounds in a discharge that harm or inhibit growth). At each outfall, the banks of the channel leading away from the outfall shall be inspected for



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signs of erosion. Any significant erosion within 25 feet of an outfall will be included in the Adequate Public Facilities Report. Pictures of the outfall should be included in the Adequate Public Facilities Report to document the conditions at the time of the inspection.

Please note that if the outfall is in critical condition and threatening public safety it should be reported to the City of Annapolis DPW immediately.

Mitigation

If the project does not meet the requirements for Adequate Public Facilities, the applicant can pursue opportunities for mitigation as outlined in the City of Annapolis Code 22.28. The applicant can do one of the following to mitigate for Stormwater Management Facilities:

- A. An applicant whose proposed project is subject to denial or delay under this title shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the applicant's application under this title for a Certificate for Adequate Public Facilities.
- B. The forms and levels of mitigation required of an applicant shall be roughly proportionate to the projected impact of the proposed project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the other departments responsible for the applicable facilities as outlined in Section 22.28.010.

The mitigation plan for the project will follow this process:

- A. Mitigation consists of the construction or funding of improvements to onsite or offsite public facilities by an applicant that increase capacity or safety on each public facility that is below the minimum standard so that the capacity or safety of the facility after mitigation will be equal to or greater than if the proposed project had not been developed.
- B. To determine the appropriate forms and levels of mitigation, an applicant shall consult with the department responsible for review and assessment of each facility that would be deemed inadequate. Once the applicant and the department agree upon the forms and levels of mitigation that will offset the impact of the project upon the facility, the applicant shall enter into a mitigation plan on terms and conditions acceptable to the Department of Planning and Zoning in consultation with the Office of Law. The mitigation plan shall require the applicant to provide the mitigation agreed upon and in return the Department of Planning and Zoning shall determine that the facility or facilities will be adequate for the project.
- C. If a department finds that a facility is or would be inadequate as a result of more than one proposed project, the department may apportion the responsibility and cost of mitigation among all contributing projects, which apportionment shall be reflected in the applicable mitigation plans.
- D. Each mitigation plan shall be approved by the Director of Planning and Zoning as well as the department responsible for the facility for which the mitigation plan approval is



City of Annapolis

Department of Public Works

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sought. If a facility would be inadequate for a project, and if the project and the applicant are unable to agree upon acceptable forms and levels of mitigation for the facility such that no mitigation plan is entered into by the applicant, the department shall determine that the facility is inadequate to support the project and shall forward a written copy of such findings and explanation to the Director of Planning and Zoning.

Determination of Adequate Stormwater Management Facilities

The project has been classified as Redevelopment based on the criteria established in the MDE Maryland Stormwater Management Design Manual Volumes 1 & 2. The volume of water required to be treated for this project is 4,378 Cubic Feet based on the state standards and conceptually this project will treat 6,564 Cubic Feet.

The design and documentation provided by the applicant demonstrates that all public and private stormwater infrastructure as installed within a receiving drainage area is capable of handling a ten-year storm and satisfies the City of Annapolis stormwater management requirements found in Chapter 17.10 of the City of Annapolis Code, the SHA Highway Drainage Manual and the Anne Arundel County Design Manual.

The ultimate outfall of the site is experiencing erosion in the downstream channel. This project does not show outfall repairs being completed as part of this project the developer is required to provide preliminary engineering design and to assist in the planning approval of a stormwater project associated with the restoration and improvements to the headwaters of Back Creek.

Based on the information provided by the engineer, the Department of Public Works can say that this project has met the standards for Adequate Public Facilities.