



## City of Annapolis

Department of Planning & Zoning  
145 Gorman Street, Third Floor  
Annapolis, MD 21401-2517

[P&Z@annapolis.gov](mailto:P&Z@annapolis.gov) • 410-260-2200 • Fax 410-263-9158 • [www.annapolis.gov](http://www.annapolis.gov)  
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### Mitigation Plan for Certificate of Adequate Public Facilities

Project Description	The Lofts at Eastport Landing
Property Address	915 Chesapeake Avenue
Property Tax ID No(s)	Tax Map 52D, Parcel 538
Project # and/or Permit #	APF Certificate for The Lofts at Eastport Landing, SDP2018-006
Applicant	Eastport Plaza, LLC, Solstice Partners, LLC, and SPRE Eastport, LLC
Agent	Alan J. Hyatt
Mailing Address	Agent: Hyatt & Weber, P.A.
City, State, Zip	Agent: 200 Westgate Circle, Suite 500
Phone(s)	Agent: 410-266-0626
Email(s)	Agent: <a href="mailto:ahyatt@hwlaw.com">ahyatt@hwlaw.com</a>

This Mitigation Plan ("Plan") is agreed upon this 28th day of May 2020, \_\_\_\_\_, by and between the City of Annapolis ("City") Department of Planning and Zoning, and Eastport Plaza, LLC, Solstice Partners, LLC, and SPRE Eastport, LLC ("Applicant") in connection with the above-referenced Project.

Whereas, for purposes of this Plan, the City Department of Planning and Zoning is the "Administering Department" pursuant to Section 22.08.010 of the Annapolis City Code, as may be amended ("Code"); and

Whereas, the Applicant has applied to the Administering Department to obtain certain approvals in connection with the Project pursuant to Title 22 of the Code regarding Adequate Public Facilities ("APF") requirements; and

Whereas, in order to satisfy the APF requirements and to thereby obtain a "Certificate of Adequate Public Facilities" for the Project, the Applicant and the City Planning and Zoning Director ("Director"), in consultation with the other City departments responsible for the applicable facilities mitigated herein, and also in consultation with the City Office of Law (collectively "City Departments"), have developed, agreed upon, and hereby entered into this Plan; and

Whereas, this Plan requires the Applicant in connection with the Project to (1) provide infrastructure funds, (2) to improve facilities directly, or (3) to donate necessary facilities, or any combination thereof ("Mitigation"), in compliance with Chapter 22.28 of the Code, which Mitigation is roughly proportionate to the projected impact of the Project upon the respective facility or facilities, as determined by the Director in consultation with the City Departments; and

Whereas, the Plan and the Mitigation, as specified herein, represent improvements to onsite or offsite public facilities by the Applicant that increase capacity or safety of each public facility that is below the minimum standard so that the capacity or safety of that facility after the Mitigation will be equal to or greater than if the Project had not been developed.

Now, therefore, in consideration of these premises and the mutual covenants and promises contained in this Plan, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.12 of the Code – “Fire, Rescue, Emergency Medical and Fire Inspection Services” – as follows:

Fire, Rescue, Emergency Medical and Fire Inspection Services are adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.

As set forth in Attachment \_\_\_\_\_, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Fire, Rescue, Emergency Medical and Fire Inspection Services such that the facilities are determined adequate for the Project.

2. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.14 of the Code – “Police Protection” – as follows:

Police Protection is adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.

As set forth in Attachment A, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Police Protection such that the facilities are determined adequate for the Project.

3. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.16 of the Code – “Public Maintenance Services” – as follows:

Public Maintenance Services are adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.

As set forth in Attachment \_\_\_\_\_, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Public Maintenance Services such that the facilities are determined adequate for the Project.

4. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.18 of the Code – “Water and Sewer Facilities” – as follows:



Water and Sewer Facilities are adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.



As set forth in Attachment \_\_\_\_\_, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Water and Sewer Facilities such that the facilities are determined adequate for the Project.

5. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.20 of the Code – “Recreational Facilities” – as follows:



Recreational Facilities are adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.



As set forth in Attachment B, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Recreational Facilities such that the facilities are determined adequate for the Project.

6. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.21 of the Code – “Traffic Impact Analyses” – as follows:



Traffic Impact Analyses are adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.



As set forth in Attachment C, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Traffic Impact Analyses such that the facilities are determined adequate for the Project.

7. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.22 of the Code – “Non-Auto Transportation Facilities” – as follows:

Non-Auto Transportation Facilities are adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.

As set forth in Attachment D, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Non-Auto Transportation Facilities such that the facilities are determined adequate for the Project.

8. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.24 of the Code – “Stormwater Management” – as follows:

Stormwater Management is adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.

As set forth in Attachment E, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for Stormwater Management such that the facilities are determined adequate for the Project.

9. The Project complies with the codified criteria for and the departmental standards promulgated in connection with Chapter 22.25 of the Code – “School Facilities” – as follows:

School Facilities are adequate; the Project satisfies the applicable codified criteria and promulgated standards as summarized in the written findings and conclusion forwarded to the Director.

As set forth in Attachment \_\_\_\_\_, the forms and levels of Mitigation that will be provided by the Applicant as described satisfy the applicable codified criteria and promulgated standards for School Facilities such that the facilities are determined adequate for the Project.

10. The Applicant’s failure to fulfill one or more of the obligations described in this Plan may result in written notice from the Administering Department to the Applicant requiring compliance. If, following such notice, the obligations are unfulfilled within the amount of time specified by that notice, during which time compliance might reasonably have been achieved by the Applicant, the Administering Department may take enforcement action in accordance with the Code and any other applicable laws. Failure of the Administering Department to require strict performance of any provision of this Plan shall not be construed as a waiver by the Administering Department of its right to enforce a subsequent default of the same provision, nor shall it be construed as a modification of this Plan.

11. The Applicant's failure to fulfill one or more of the obligations described in this Plan shall not be construed as an invalidation or revocation of the Certificate of Adequate Public Facilities for the Project or of any other permits or approvals pertaining to the Project unless an invalidation or revocation of one or more such entitlements is determined by the Administering Department and such decision is explicitly communicated in writing to the Applicant. The Applicant hereby understands and agrees that this Plan shall not waive any rights, powers or remedies that the City may have pursuant to the Code, at law or in equity.
12. The Applicant shall notify the Administering Department in writing, and in advance, if the Applicant intends to transfer title to all or a portion of the Project property prior to the completion of all obligations described in this Plan.
13. Except in connection with a fee simple transfer of the Project, and subject to the notice above, no assignment by the Applicant of any obligations of this Plan shall be effective without the City's prior written approval and the prior written acknowledgement of the assignee agreeing to comply with the obligations of this Plan.
14. The parties shall take all actions and do all things reasonably necessary or appropriate to carry out and to expedite the terms and provisions of this Plan, to aid and assist each other in carrying out the terms and provisions of this Plan, and to generally enable the parties' compliance with the terms and provisions of this Plan.
15. Nothing contained in this Plan shall be construed in a manner to create any relationship between the parties other than expressly specified herein, and the parties shall not be considered partners or co-venturers for any purpose on account of this Plan.
16. In the event any one or more of the provisions of this Plan shall for any reason be held by a court or other lawful authority to be invalid, illegal or unenforceable, in whole or in part or in any other respect, the remaining provisions hereof shall not be affected thereby, and the Plan shall remain operative and in full force and effect and shall in no way be affected, prejudiced or disturbed thereby.
17. This Plan and its interpretation shall be governed by Maryland law. The venue for all actions pursuant to this Plan shall be the Courts of Anne Arundel County, Maryland. The parties waive trial by jury in all actions brought pursuant to this Plan.
18. The captions and headings contained in this Plan are included herein for convenience of reference only and shall not be considered a part hereof and are not in any way intended to limit or enlarge the terms hereof.
19. This Plan is the final and entire agreement of the parties concerning all matters having to do with the APF requirements for the Project. The parties acknowledge that there are no other understandings or representations, oral or written, regarding the subject or matters having to

do with the ADF requirements for the Project. None of the terms or provisions of this Plan may be changed, waived, or modified exempt by written instrument executed by both parties hereto.

20. This Plan may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

21. Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or such other address and/or such other individual as a party may identify in writing to the other party:

To the City: Department of Planning and Zoning  
145 Gorman Street, 3rd Floor  
Annapolis, Maryland 21401  
Attn: Director


With a Copy to: City Attorney  
160 Duke of Gloucester Street  
Annapolis, Maryland 21401

To the Applicant: Solstice Partners LLC, SPRE  
Eastport LLC, Eastport Plaza LLC  
711 William St  
Baltimore MD 21230

APPLICANT: Solstice Partners LLC,  
SPRE Eastport LLC,  
Eastport Plaza LLC

By:  \_\_\_\_\_  
Signature  
Alex Kopicki  
Print Name  
Authorized Member  
Title

DIRECTOR, DEPT OF PLANNING AND ZONING:

By:  \_\_\_\_\_  
Signature



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### Attachment A

The Applicant will provide the following forms and levels of mitigation to satisfy the applicable codified criteria and promulgated standards in connection with Chapter 22.14 for Police Protection such that the facilities are determined adequate for the Project:

1. Provide a minimum of ten (10) high-definition 4k cameras throughout the project. Access to the cameras will be provided upon request by the Annapolis Police Department by the Applicant to said Department.
2. Commit up to \$50,000 annually for off-duty City of Annapolis police officers to be employed onsite, with an understanding that if off-duty police officers are not available the Applicant may utilize private security, and with further understanding that this element will remain in place only until City Code, 22.14.040 B, 1.'s requirement of 3.2 budgeted officers per every 1,000 City residents is satisfied.

Police Chief, Annapolis Police Department



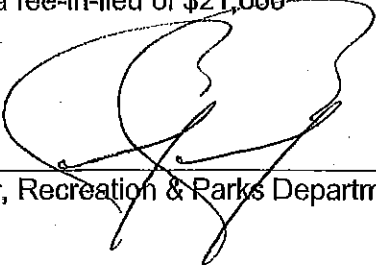
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### Attachment B

The Applicant will provide the following forms and levels of mitigation to satisfy the applicable codified criteria and promulgated standards in connection with Chapter 22.20 for Recreational Facilities such that the facilities are determined adequate for the Project:

1. Provide 41,807 sq. ft. of public recreational space, OR
2. Pay a fee-in-lieu of \$21,000



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Director, Recreation & Parks Department





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### Attachment C

The Applicant will provide the following forms and levels of mitigation to satisfy the applicable codified criteria and promulgated standards in connection with Chapter 22.21 for Traffic such that the facilities are determined adequate for the Project:

1. At the Intersection of Bay Ridge Avenue & Tyler Avenue, the signal timing shall be optimized, which is expected to result in that intersection operating at LOS C during both peak hours and such that queueing along the eastbound approach will be significantly reduced. A donation of \$10,000 toward signal refreshment is required to meet this condition

Altering the northbound approach at the intersection of Chesapeake Avenue & Americana Drive is not feasible at this time due to current bus routing and the turn radius needed.

Director, Department of Transportation



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#### Attachment D

The Applicant will provide the following forms and levels of mitigation to satisfy the applicable codified criteria and promulgated standards in connection with Chapter 22.22 for Non-Auto Transportation Facilities such that the facilities are determined adequate for the Project:

1. Provision of bike lane sharrow markings in front of the site along Chesapeake Avenue.
2. Provision of up to two (2) bike racks and up to one (1) bike service stations within the development.
3. Installation of a 4 foot-wide ADA compliant sidewalk along the west side of Norman Drive along the length of the property.
4. 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, with the Applicant responsible for restriping.
5. Evaluate the sidewalks adjacent to the project for adequate width for accessibility. Where necessary to ensure compliance with ADA accessibility requirements, widen the sidewalks on the Applicant's property. Where sidewalks are found to be inadequate due to obstructions (i.e., utility poles) Applicant shall use an SHA approved widening detail.
6. Coordination with the Department of Public Works to conduct a stop sign warrant analysis at the intersection of Chesapeake Avenue and Bay Ridge Avenue. If warranted, a stop sign and appropriate pedestrian signage (not electronic) shall be provided.
7. To attempt to ensure usage of transit facilities, Applicant shall provide a voucher good for a 30 day bus pass for each residential unit at time of the initial rent-up only. This is a one-time event for each unit to promote ridership of transit facilities.
8. Signal timing optimization at Bay Ridge Avenue and Tyler Avenue as set forth in Attachment C.

Director, Department of Planning and Zoning



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### Attachment E

The Applicant will provide the following forms and levels of mitigation to satisfy the applicable codified criteria and promulgated standards in connection with Chapter 22.24 for Stormwater Management such that the facilities are determined adequate for the Project:

1. Provide \$17,000 to DPW for the proportionate amount of engineering design work for stream restoration at Back Creek (6/27<sup>th</sup> of total cost).
2. Provide technical assistance to the City to apply for grant funding of the construction work needed for the stream restoration project. The City estimates the total cost of this project to exceed one million dollars.

*Marcia Pava 5-26-20*

Acting Director, Department of Public Works