

OFFICIAL MINUTES
Carroll County Planning and Zoning Commission

February 17, 2009

Location: Carroll County Office Building

Members Present: David L. Brauning, Chairman
Dennis Wertz, Vice Chair
Wayne Schuster
Charles M. Chadwick
Melvin E. Baile, Jr.
Alec Yeo
Julia Walsh Gouge, Ex Officio
Robert B. Slade, Alternate (Present for a portion of the meeting, but did not participate.)

The meeting opened at 9:00 a.m. Present with the Commission were the following persons: Steve Horn, Tom Devilbiss, and Kelly Martin, Department of Planning; Terri Jones, Department of the County Attorney; Clay Black, Jeanne Joiner, Kim Brandt, Pat Varga, Ashley Wantz, and Kathryn Filemyr, Bureau of Development Review; Bobbi Moser and Daphne Daly, Bureau of Comprehensive Planning; Ron Church and Chris Letnaunchyn, Bureau of Engineering; Bryan Van Fossen, Office of Public Safety; Josephine Hochheimer; Barbara Carr; Phillip Dorsey; Tim DeWire; Joe LaCagnina; Carl Wilson; Pete Podolak; Ray Finamore; Clark Shaffer; Randy Bachtel; Martin Rickell; J. Karen Krug; Martin K. P. Hill; Jim Piet; Larry Smith; Carol Goettner; Harold Goettner; Pat Renald; Mike Renald; Wayne Weller; Raymond Miles, Jr.; J. Robert Schultz; Russell Williams; Rae Oliveird; Steve Griffin; Clifton Hedges; Greg Hare; Dave Alexander; Michael Bucolo; Ron Thompson; Ed Steere; Steve Gorski; Rebecca Ballantine; Dany Staley; Mike Phau; Steve Preller; John Maguire; and members of the press.

APPROVAL OF MINUTES

a. January 20, 2009

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The minutes of January 20, 2009 were approved, as written, on motion of Mr. Chadwick, seconded by Mr. Wertz, and carried.

COMMISSION MEMBER REPORTS:

Chairman – Mr. Brauning indicated he had nothing to report.

DEPARTMENT OF PLANNING STAFF REPORT:

Director – Mr. Horn indicated he had nothing to report at this time.

HAMPSTEAD ANNEXATION NO. 36 – SINGH PROPERTY

Ms. Bobbi Moser, Comprehensive Planner, indicated the Singh Property consists of 1.42 acres of land, located on the east side of Hanover Pike (MD 30), approximately 400 feet south of the Brodbeck Road/Eagle Ridge Court/Hanover Pike intersection. The annexation area is zoned General Business “BG” by the County and the Town, so no waiver of zoning is required. The site is served by public sewer with an on-site well. Annexation of the property would make it eligible to connect to the Town’s water system without amending the Water and Sewer Master Plan. Ms. Moser indicated that staff supports the annexation with a recommendation that the County pursue annexation of the small “cutout” of unincorporated land on the east side of MD 30. This area contains the driveway access to the Carroll County Public Library which is owned by the County.

No action was required by the Commission.

Commissioner Gouge entered the meeting.

CONCEPT SITE PLAN REVIEW:

a. S-06-030, Parrott Materials Property, 3rd Amended Site Plan

A. S-06-030, PARROTT MATERIALS, THIRD AMENDED SITE PLAN

LOCATION: South side of Kabik Court, West of Maryland Route 97, 14th Election District

OWNER: Parrott Materials Company, c/o Raymond Finamore, 611 Hoods Mill Road, Woodbine, Maryland 21797

DEVELOPER: Same as Owner

ENGINEER: Leon A. Podolak and Associates, 147 East Main Street, Westminster, Maryland 21157

ZONING: General Industrial

ACREAGE: 34.92 acres

FIRE DISTRICT: Sykesville

WATERSHED: South Branch Patapsco

MASTER PLAN: Industrial

Ms. Kimberly Brandt presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Section 103.19 of the Code of Public Local Laws and Ordinances of Carroll County for consideration of a concept site plan. No action is required.

Existing Conditions:

The subject property is improved with a bituminous concrete plant that is accessed from Kabik Court. There is a stream that flows along the western property boundary and another stream that crosses the property south of the area that is currently developed. The Colonial Pipeline also crosses the property.

South Carroll Gateway Industrial Park is the adjoining development to the east. The Hoods Mill Landfill is located further west on Kabik Court.

Site Plan Review:

The developer proposes to construct a materials storage pavilion. Parrott Materials uses recycled materials in the creation of bituminous concrete. The moisture content of these materials can affect the bituminous concrete. The pavilion is intended to keep the materials from being directly exposed to rain or snow.

The existing use and the proposed addition of the materials storage pavilion are consistent with the designation of Industrial in the Master Plan.

The pavilion will be accessed via the extension of an internal drive. This drive will be extended across the Colonial Pipeline, beyond the new materials storage pavilion, and over a proposed precast concrete bridge. The developer has stated that the property on the opposite side of the bridge will likely be used for equipment storage in the future. Verification that the internal drive may cross the Colonial Pipeline must be provided.

Grading has commented that the following permits may be required for this development: Water Quality Certification, Non-Tidal Wetlands and Waterways, and Department of the Army Corps of Engineers permit.

The proposed landscaping is shown on Sheet 6. Landscaping will be provided along the perimeter of the existing plant area and along a portion of the internal drive on the east side of the pavilion.

For stormwater management, a roof drain will be connected to an infiltration trench installed on the south side of the pavilion.

The areas inside the stream buffers will be included in the water resource protection easement to be granted to the County. An easement will also be granted to the County for the floodplain on the property.

The developer has stated that no new signage or lighting is proposed. Staff has requested that the next submittal include a general note stating this.

Elevations for the pavilion are shown on Sheet 13 of the plan. The roof and the supporting beams and columns are metal and will be anchored to a concrete base.

The site plan was subject to citizen involvement at the August 27, 2007 Technical Review Committee meeting. No citizens spoke on this project and no correspondence has been received by the Bureau of Development Review.

Discussion:

Mr. Baile questioned whether Colonial Pipeline would be willing to grant the developer access across the pipeline.

Mr. Pete Podolak, Leon A. Podolak and Associates, indicated there is an existing tar and chip crossing, and he felt sure Colonial Pipeline would grant the access. He noted that he was in possession of a list of conditions for a crossing from Colonial Pipeline.

Mr. Schuster entered the meeting.

Mr. Podolak explained that the purpose of the pavilion is not to increase capacity of the plant, but to keep the materials dry prior to blending. He noted that prior to blending the materials, they are dried in an oil burning kiln. The pavilion should make the plant more energy efficient.

Mr. Yeo asked that the conditions for a crossing be provided along with the letter of consent from Colonial Pipeline.

Mr. Wertz asked about the proposed bridge.

Mr. Podolak explained that there is a significant amount of recycling involved with a bituminous concrete plant. Millings are accepted and huge stockpiles of materials develop. He noted that there have been occasions when property has been leased from adjoining owners for storage purposes. Mr. Podolak explained that the bridge will provide access to the adjacent land that was purchased. He noted that a bridge is necessary to cross a wetlands area.

Mr. Wertz suggested that information should be shown on the plan.

Ms. Brandt indicated staff also made that comment and it is part of the final plan.

Mr. Raymond Finamore, owner, indicated he was trying to get the bridge built now in order to provide access to the adjacent property for use 2-3 years from now for storage.

Mr. Wertz suggested it would make more sense to obtain approval for the storage area prior to building the bridge.

Mr. Podolak indicated the proposed storage area will be added to the plan. He noted that storage is allowed in this zone.

Ms. Brandt indicated that staff's biggest concerns were for the streams and buffer area; the disturbance area must stay outside of those areas.

Mr. Schuster asked that information on the materials to be stored, how water run-off will be addressed, etc., be included in the next presentation.

Mr. Podolak indicated that Mr. Finamore brought the letter of approval from Colonial Pipeline which allows the crossing.

FINAL SITE PLAN REVIEW:

a. S-07-014, Eldersburg Marketplace – Martins Fuel Island, 5th Amended Site Plan

A. S-07-014, ELDERSBURG MARKETPLACE 5TH AMENDED SITE PLAN, MARTIN'S FUEL ISLAND

LOCATION: East side of Sykesville Rd, north of Londontown Blvd, 5th ED

OWNER: Talles-Robbins Eldersburg Development Co, LLC c/o Black Oak Associates, Suite 150, 10055 Red Run Blvd., Owings Mills, MD 21117

DEVELOPER: Giant Food Stores, LLC, 1149 Harrisburg Pike, Carlisle, PA 17013

ENGINEER: J. Michael Brill & Associates, Inc., 5053 Ritter Road, Suite 200, Mechanicsburg, PA 17055

ZONING: IR

ACREAGE: 35.66 acres

FIRE DISTRICT: Sykesville

WATERSHED: Liberty Reservoir

MASTER PLAN: Industrial Restricted

Mr. Patrick Varga presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Section 103.19 of the Code of Public Local Laws and Ordinances of Carroll County for consideration and approval of a site plan.

Existing Conditions:

The subject property is improved with a Planned Business Center (PBC) which includes a bank, two restaurants, a clothing store, a home improvement store, and a grocery store.

The site is currently served by Freedom public water and sewer.

Site Plan Review:

The developer proposes to add ten fuel pumps to the current Eldersburg Marketplace parking lot. The site is currently accessed from a right-in on MD Rt. 32, and a full access intersection on to Londontown Boulevard. The existing entrances to the site will not be modified.

This development will require the removal of 56 parking spaces, leaving 1731 parking spaces available. A total of 1705 parking spaces are required for this PBC.

The gas canopy has a green metal, standing seam roof which will match the existing Martin's store. The canopy will have a white fascia which also matches the color scheme used for Martin's. The canopy will be supported with steel columns surrounded by a masonry façade. A small kiosk is proposed immediately to the south of the proposed fuel canopy. The kiosk is glass and aluminum and the fascia will match the gas canopy and Martin's building. The lighting for the development will be 20 flat lenses with full cutoff fixtures, as shown on Sheet 8. Other than canopy lighting, no additional lighting is proposed. The signage proposed for this development is comprised of an additional section being added to the existing sign at the entrance to the property on MD Rt. 32. The alternative that was the preference of the Commission at the concept stage is shown on the final plan.

A public address system will be installed but will be used for emergencies only.

Three existing parking islands will be removed to accommodate the fueling stations and kiosk. One parking island will be relocated to allow for tanker access to the fuel storage area. Landscaping will be added along the base of the retaining wall immediately to the east of the fuel islands to meet the current landscape manual requirements.

Forest conservation was addressed under the original site plan in 1999. There is no floodplain on the property. The Water Resources ordinance requires Maryland Department of the Environment permitting for the underground tank system. The site is designed with a trench drain and an oil-water separator before discharge in to the sewer system. In addition to these site design elements, drywells will be used to address Stormwater Management.

The Carroll County Department of Public Works and the Maryland State Highway Administration have reviewed the proposed development and have reviewed the traffic impact study provided by the Traffic Group. In lieu of traffic mitigation, the developer and the Department of Public Works have agreed to a one-time contribution by the developer of \$200,000 for regional transportation improvements. Any required mitigation would be necessitated by the complete build out of the Main Street Eldersburg and Rite-Aid developments in the area. The roads and intersections will operate at an acceptable level of service until complete build out of these nearby developments occurs.

The site plan was subject to Citizen's Involvement. A public meeting was held on October 29, 2007 during the regularly scheduled Technical Review Committee meeting. No citizens spoke at the meeting and no letters concerning this development have been forwarded to the Bureau.

When this plan was presented to the Planning Commission at the concept stage, there was some concern about tanker access to the site and additional traffic created by this development. The tanker movement was shown on the concept plan using a WB-50 tanker, not unlike the delivery

vehicles that currently serve the Martin's food store, or the Home Depot to the east. The developer is contributing funds for regional transportation for mitigating the additional traffic at the site entrances. The intersections will continue to operate at an acceptable level of service after completion of this development. The meeting minutes from November 20, 2007 are attached.

Recommendation:

Staff recommends approval of the site plan subject to the following conditions:

1. That the Developer enter into a Public Works Agreement with Carroll County that guarantees completion of the improvements.
2. That a Landscape Maintenance Agreement be recorded simultaneously with the Public Works Agreement.
3. That a Stormwater Management Easement and Maintenance Agreement be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the Public Works Agreement.
4. That prior to the issuance of the Use and Occupancy Permit, the approved Maryland Department of the Environment underground storage tank permit be forwarded to the Bureau of Resource Management.

Discussion:

Mr. Varga added a fifth condition to read as follows:

5. That the developer submit a one-time contribution of \$200,000 for regional transportation improvements simultaneously with signature of legal documents.

Mr. Chris Letnaunchyn, Bureau of Engineering, explained that the monies are earmarked for transportation projects. The County has identified several capital improvement projects in this area and there are numerous State and County projects in the area that are unfunded at this time.

Mr. Wertz questioned changes to the signage.

Mr. Varga explained that there is no new signage proposed for the project. There will be an addition to the sign on MD 32 for gas prices. This will be placed over the existing sign.

Mr. Schuster questioned whether the kiosk will be manned.

Mr. Timothy DeWire, J. Michael Brill & Associates, indicated that there would be one staff person manning the kiosk.

Mr. Schuster questioned whether that person would be trained in reporting spills, hazardous material issues, etc.

Mr. Joe LaCagnina, Giant Food Stores, indicated there is a special fuel department that oversees the training of staff that man the kiosks for Giant stores. Employees are certified with the training department after being taught what to do with a spill, appropriate authorities to contact if there is a spill, etc.

Mr. Schuster questioned whether a spill prevention plan is required.

Mr. LaCagnina indicated it is required.

Mr. Schuster questioned whether there are tanks for secondary containment.

Mr. DeWire explained the trenching system which will be used on site as coordinated with the Bureau of Resource Management and the Maryland Department of the Environment.

Mr. Brauning questioned the peak hours of operation for the store.

Mr. LaCagnina indicated peak hours for the store and gas station are Monday – Friday, 7:00 a.m. – 9:00 a.m., 12:00 noon – 1:00 p.m., 4:00 p.m. – 5:00 p.m. and Saturday – Sunday, 11:00 a.m. – 2:00 p.m. He noted that fuel deliveries would be scheduled during non-peak hours.

Mr. Brauning questioned how many gallons of gasoline are sold a day.

Mr. LaCagnina responded that approximately 4,000 – 5,000 gallons are sold per day.

Decision:

In accordance with Chapter 103, the Commission, on motion of Mr. Chadwick, seconded by Mr. Yeo, and unanimously carried, approved the final site plan subject to five conditions, four included in the staff report and the fifth condition relating to the \$200,000 contribution.

CONCEPT SUBDIVISION PLAN REVIEW:

- a. P-08-004, The Estates at Liberty Reservoir
- b. P-07-006, Twin Springs

A. P-08-004, THE ESTATES AT LIBERTY RESERVOIR

LOCATION: Located on the east side of Mineral Hill Road, opposite the terminus of Oklahoma Road; Election District 5

OWNER: Dorsey Builders, Inc., 13090 Old Frederick Road, Sykesville, MD 21784

DEVELOPER: Same as Owner

ENGINEER: BPR, Inc., 150 Airport Drive, Suite 4, Westminster, MD 21157

ZONING: R-20,000, Conservation

ACREAGE: 91.88 acres

FIRE DISTRICT: Sykesville
WATERSHED: Liberty Reservoir
MASTER PLAN: Medium Density Residential, Conservation
NO. OF LOTS: 41

Ms. Kimberly Brandt presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Chapter 103 of the Code of Public Local Laws and Ordinances of Carroll County for consideration of a concept major subdivision plan. No action is required.

Existing Conditions:

The subject property is field for the 430 feet closest to Mineral Hill Road. The balance of the property, which is most of the acreage, is wooded. There are several springheads in the eastern area of the site and there is a stream that flows into Liberty Reservoir, which adjoins the property. There are numerous areas of steep slopes.

Two off-conveyances have been created from this property. Each is 3.0 acres in size and located just beyond the area zoned R-20,000.

There is a family cemetery located on the property near Lakeview Lot 6, which is on the west side of the current terminus of Nickoles Drive.

Plan Review:

The developer has proposed a 41-lot subdivision. The property is located in the Freedom Community Planning area. The proposed use is consistent with the land use designations of Medium Density Residential and Conservation in the Master Plan.

A total of 19 lots are proposed along Mineral Hill Road. This area of the property is zoned R-20,000. The lots range in size from 0.747 acres to 0.465 acres. These lots are within the water and sewer service areas and will be connected to public water and sewer. The houses will face Mineral Hill Road. The lots are accessed via Mineral Hill Road; both individual and shared driveways are proposed.

For the area of the site zoned Conservation, 21 conventional lots are proposed. The lot sizes range from 3.0 acres to 7.37 acres. With the exception of Lot 32, these lots are not in the water and sewer service areas. Percolation tests have been performed for each lot; the results are shown on the concept plan. The lots are accessed via a new County road, Frost Creek Court, and an extension of Nickoles Drives. Use-in-common driveways provide access to Lots 18 and 19; Lots 25, 26, and 27; and Lots 29 and 30.

Frost Creek Court is located directly across from Oklahoma Road. The Bureaus of Engineering and Development Review have commented that Frost Creek Court exceeds the maximum permissible length of 1500 feet.

The Bureau of Engineering has commented that the Oklahoma Road/Mineral Hill Road intersection has an accident history. There are issues with limited sight distance and speeding. Given these conditions, a conventional 4-way intersection will not be permitted. The developer must construct a single lane roundabout, which will provide traffic calming. Lighting for the roundabout will be required, as will provision for pedestrians at all approaches.

As the need for safety improvements at the Oklahoma Road/Mineral Hill Road intersection have already been identified, the requirement for a traffic study has been waived in favor of construction of the roundabout.

The developer will also be responsible for improvements to Mineral Hill Road along the property frontage. Mineral Hill Road is an Urban Minor Collector and the improvements will consist of widening the pavement as necessary to achieve a 20-foot total width and grading as necessary to obtain a 6-foot-wide grass shoulder.

The Bureau of Engineering has also recommended that access to the lots along Mineral Hill Road be provided via a use-in-common driveway extending from Frost Creek Court in each direction across the backs of the lots. The driveway could be extended between two lots on each side to provide a loop to Mineral Hill Road.

The Bureau of Comprehensive Planning has recommended that sidewalk be provided along Mineral Hill Road for the full length of the property. To reduce the amount of impervious surface associated with the development, sidewalk within the subdivision is not recommended.

A 20' ingress/egress easement on Lot 26 is shown for access to the cemetery. A 10' easement for a walking trail to the reservoir property is shown between Lots 16 and 17.

Forest Conservation has commented that the current design of the subdivision will result in the clearing of several acres of priority forest. The Forest Conservation Ordinance requires that it be demonstrated to the satisfaction of the County why priority forest cannot be left in an undisturbed condition. The Forest Conservation Manual states that forest stands with priority ratings of 1 (high) or 2 (moderate) are to be completely avoided during the site planning process. The Manual further states that if conflict exists between protecting priority areas and other site objectives, then alternative designs are to be investigated.

To address the Forest Conservation comments, the developer must revise the plan to eliminate the clearing of priority forest or provide documentation of alternative designs that have been considered regarding protection of priority forest and an explanation of why each alternative is considered unacceptable.

Water Resources has commented that due to the site's proximity to Liberty Reservoir and the multiple springs directly feeding the reservoir, the lots should be clustered and the resulting land should remain as open space. The Bureaus of Development Review and Comprehensive Planning have also recommended that the lots in the area zoned Conservation be clustered away from the streams and the reservoir.

It has been suggested that the clustered lots be as close to one acre in size as possible; however, clustering lots on well and septic rarely yields one acre lots. The developer has been advised that so clustering can be achieved, the staff will support a Water and Sewer Master Plan amendment to add the area of the Conservation cluster to the water and sewer service areas. Under this scenario, there would be 20 fewer septic systems in the immediate vicinity of the reservoir. The amendment would ultimately have to be approved by the Planning Commission, the County Commissioners, and the Maryland Department of the Environment.

Staff has met with the developer to discuss the concept plan comments, particularly clustering the Conservation lots. He is considering that option.

The concept plan was subject to citizen involvement at the January 26, 2009 Technical Review Committee meeting. The prevailing sentiment expressed at the meeting was that people like their view of the undeveloped property and don't want to look at houses. Staff clarified at the meeting that the density and lots sizes shown on the concept plan are permitted by the subdivision and zoning ordinances. Moreover, the layout of the development is consistent with the development pattern in the area.

Concerns with the speed and volume of traffic on Mineral Hill Road were expressed. Several citizens described accidents that have occurred along Mineral Hill Road. Staff explained that the roundabout is intended to provide traffic calming. This was met with considerable skepticism from several citizens who insisted that motorists will continue to speed and there will be more accidents.

A resident of Sherlock Holmes Estates, which is approximately half a mile north of the Oklahoma Road/Mineral Hill Road intersection, expressed concern that the homes on the proposed lots will be small and depreciate the value of her home.

A citizen who resides on Mineral Hill Road expressed concern that the homes will be large and depreciate the value of the smaller homes in the area. A resident of Strawbridge Estates, which is located on the west side of Maryland Route 32 approximately two miles from the Oklahoma Road/Mineral Hill Road intersection, also expressed concern with diminished property values, access to the reservoir property, and school crowding. Other speakers echoed the latter concern.

Several citizens expressed dissatisfaction with the traffic and construction activity associated with the South Carroll Senior and Community Center and the installation of the water lines along Mineral Hill Road.

To date, no correspondence concerning this project has been received by the Bureau of Development Review.

Litigation between the County and the developer has been settled through a consent order.

Discussion:

Mr. Schuster questioned whether there was any consideration for moving forward with a cluster plan to incorporate the lots along Mineral Hill Road.

Ms. Brandt explained that the way the transfer section of the Code is written, you can transfer between Conservation and Ag districts, but not the "R" district.

Mr. Schuster suggested that Lots 10 and 41 are not well located at the intersection of Oklahoma and Mineral Hill Roads if there is to be a roundabout at this location. He indicated that he is not a fan of use-in-common driveways in residential subdivisions regardless of the district. Mr. Schuster noted that he would support a cluster plan. He indicated he would like to see how the applicant can demonstrate alternatives to clearing some of the prime forests.

Mr. Yeo questioned the length of Frost Creek Court.

Ms. Brandt indicated it was 1,918 feet.

Mr. Clark Shaffer, attorney for the developer, indicated the length is 1,850 feet.

Mr. Wertz questioned how Frost Creek Court is able to exceed the maximum length of 1,500 feet.

Ms. Brandt indicated that the Department of Public Works may grant a waiver.

Mr. Baile questioned when the City of Baltimore would have the opportunity to comment on the plan.

Ms. Brandt noted that the City was sent copies of the plan and staff comments, so their response should be received shortly.

Mr. Shaffer indicated that the developer has shown a willingness to cooperate with the County by showing the entire parcel on the plan. He noted that staff suggested, and the developer agreed, to include residential and conservation development in one plan. Mr. Shaffer explained that the plan was started five or six years ago. Initially, the project was two parcels/two tracts of land. He stated that the roundabout would cost approximately \$350,000 based on estimates from the Department of Public Works. Mr. Shaffer suggested that the cost of the roundabout does not work with the number of lots proposed. He further explained that the cost to add water and sewer for this number of lots is not affordable. Mr. Shaffer noted that he was not disputing that some of these ideas make sense from a planning standpoint, but there needs to be a compromise. He indicated that the project is operating under a Consent Order which allows the project to proceed through the review system at a certain pace. Mr. Shaffer explained that the project is not subject to the adequate facilities rules.

Mr. Wertz questioned why the developer chose shared driveways instead of individual driveways.

Mr. Randy Bachtel, BPR, explained that the lot configuration is based on the perc testing. He noted that some use-in-common driveways may be converted to individual driveways, but they are trying to limit the amount of stormwater run-off.

Mr. Schuster stated that if the plan moves forward, he is not in favor of waivers of public roadway requirements and use-in-common driveways that allow for additional development than the applicant should be getting.

Mr. Chadwick suggested that the use-in-common driveway be extended to run along the back of the properties in order to limit the number of driveways fronting on Mineral Hill Road.

Mr. Shaffer indicated that area was narrow, but it might be a possibility.

Mr. Schuster suggested the homes face the internal development with a cul-de-sac system.

Mr. Wertz disagreed, favoring the fronts of the homes facing Mineral Hill Road.

Ms. Brandt indicated that the neighbors across the street were concerned about having to look at the back of homes with different types of fences, etc.

Mr. Chadwick noted his preference for the houses to face Mineral Hill Road and a public cul-de-sac or a waiver of the extra long use-in-common driveway length, given this situation.

Mr. Yeo questioned whether there were any other possibilities for traffic calming besides the roundabout.

Mr. Shaffer noted that his client does not disagree with the roundabout, but it is not needed solely because of this development; there are existing conditions. He indicated his client had reviewed another access point, but the Bureau of Engineering requested the access point match existing Oklahoma Road.

Mr. Yeo suggested the County and developer could enter into a partnership to complete the necessary roundabout for the safety of the families living on that road. He noted that the proposed development adds to the need.

Mr. Wertz questioned whether the County had any funds available in a traffic calming program.

Mr. Chris Letnaunchyn, Bureau of Engineering, indicated the County does have a program but there are limited funds available.

Mr. Yeo suggested the lots be designed to allow the roundabout to be constructed several years from now when the funding becomes available.

Mr. Letnaunchyn noted that absent construction of the roundabout, the sight distance issues with the additional entrance at this location need to be addressed before the project moves forward.

Mr. Schuster suggested that in order to develop the property, the County needs to look beyond the zoning district boundaries. There are traffic safety issues, water quality issues, forestry issues, etc. He again noted he did not support homes with driveways on ½ acre lots facing Mineral Hill Road. Mr. Schuster stated he did not support waivers to street lengths and use-in-common driveways in order to get the density the developer desires.

Mr. Wertz questioned the status of a cluster plan.

Mr. Shaffer indicated the preliminary costs for water and sewer service would add an additional \$30,000 per lot versus private well and septic systems. He noted that cost would not work with this number of lots.

Mr. Baile suggested the decreased need for infrastructure in terms of driveways, etc., would lower the cost.

Mr. Shaffer indicated he did not believe the reduced need for infrastructure would make a substantial difference.

Mr. Bachtel noted the additional costs as follows: \$350,000 for a roundabout, \$150,000 for a pumping station, and \$17,000 per lot hook up fees.

Mr. Shaffer indicated that did not include the cost of installation of the pipes.

Mr. Bachtel suggested this is not the type of project where we can have normal development. The County needs to provide options in the Codes to allow this kind of project to be economically feasible.

Commissioner Gouge responded that not every piece of land is able to accommodate development. She suggested there is a lot of land in Carroll County that is not usable for building, especially building to the full extent allowed by zoning. The Board of County Commissioners and the Planning Commission need to consider the long range good of the entire County. The County has expended considerable effort over the years to ensure that the quality of water entering the reservoirs is good. The developer is asking the County to look at a plan that is right beside the reservoir with private septic systems on small parcels of land.

Mr. Shaffer indicated the County has a lot of regulations which have been revamped over the last several years which are environmentally based. Basically, this is a plan that meets all the regulations. He noted that some of the lots were lost on this plan because of those regulations. Mr. Shaffer indicated there may be some compromises in terms of design. He noted that they have already altered their plans to meet the County's regulations.

Mr. Bachtel stated this plan was approved by the Health Department and meets their regulations.

Mr. Wertz questioned whether any lots are lost if the developer does not receive the waiver for Frost Creek Court.

Mr. Bachtel indicated lots are lost, but he was unsure how many.

Mr. Wertz suggested that providing a roundabout in conjunction with receiving the waiver makes sense.

Mr. Yeo indicated he does not see it as a loss of lots—the developer designed the plan with the road being extended beyond its legal requirements. He suggested the developer never had those lots to begin with; it is a gain to receive the waiver and get the extra lots.

Mr. Wertz questioned why the Commission would support a waiver of the roadway if it will exacerbate the situation on Mineral Hill Road.

Mr. Brauning instructed the developer to work with staff to address the comments of the Commission, including the suggestions of Mr. Church with regard to traffic mitigation. He suggested a re-design, eliminating the driveway entrances on Mineral Hill Road.

Mr. Brauning noted that the project consists of R-20,000 and Conservation zoning, so some homes will be allowed to be built on 3-acre lots and some on half-acre lots. He suggested the developer design a semi-cluster and eliminate some of the traffic problems. He instructed the developer to work with staff and come back with a plan that has the staff's consensus.

Mr. Chadwick suggested the developer explore the option of making a contribution towards roadway improvements that are not specifically earmarked and design the project to allow for a future roundabout.

B. P-07-006 – TWIN SPRINGS

LOCATION: Northwest corner of Lineboro Road (MD 86) and Church Street North;
E.D. 6

OWNER: Martin P. Hill; 4175 Hanover Pike, Manchester, MD 21102

DEVELOPER: Woodhaven Build. & Dev. Inc; 4175 Hanover Pike, Manchester, MD
21102

ENGINEER: D.R.S. & Associates; 52 Winters Street, Westminster, MD 21157

ZONING: Agricultural

AREA: 108 acres of property

NO. OF LOTS: 14 lots with 4 remaining portions

FIRE DISTRICT: Lineboro

WATERSHED: Prettyboy Reservoir

MASTERPLAN: Agriculture

Mr. Clayton Black presented the background.

Action Requested:

The plan is before the Commission for review of the concept plan of subdivision. Staff is requesting direction from the Commission as to the desired access for the lots.

Existing Conditions:

The subject property is zoned Agricultural and currently contains a house, barn and other buildings. The property is currently in agricultural use as a buffalo farm.

Project History:

The Concept Plan of Subdivision was subject to citizen involvement during a regularly held meeting of the Technical Review Committee on September 24, 2007. Numerous citizens were present and voiced concerns about the development and potential changes to the rural character of the neighborhood (Lineboro), impacts to stormwater runoff/flooding, and impacts to existing private wells and septic systems.

Concept Plan Review:

The developer is proposing to create 14 residential building lots with 4 remaining portions. The overall area comprises two separate properties (in the same ownership) divided by Lineboro Road and Church Street North. Each deed is entitled to two off-conveyances. The Bureau of Development Review, in April 2008, approved those off-conveyances. Based on §103-30 of the Carroll County Code of Public Local Laws and Ordinances the property would be entitled to 18 buildable parcels/lots. The concept plan has a lot yield tabulation chart that indicates the calculation for the number of lots from each tract. §103-31 of The Carroll County Code of Public Local Laws and Ordinances (Code) , Utilization of adjoining tracts states:

“When lots are created for residential purposes in the Agricultural District, the lots are to be located and sized so the agricultural land devoted to residential use is minimized, and the amount of land retained for agricultural use is maximized. The total density of adjoining tracts and legally created off-conveyances may be used to comply with these standards, and the lots resulting from development of adjoining tracts may be located on one or more of the tracts.”

All lot yield from the adjoining tracts is being located in one central location. The plan shows the 14 lots clustered with 4 remaining portions. The average lot size is 1.7 acres. The remaining portions are buildable for one residence but are not entitled to further division for residential purposes.

The Bureau initially expressed concerns over the location of the lots as to whether the design complied with the rural design standards for the Agricultural District. The location of the lots in the middle of the largest acreage appears to divide that property into two separate farms. Several staff suggestions included moving the lots further west on Church Street North or placing some of the lots in the area of lot 16 and relocating the remainder of the lots along Lineboro Road. A woods line already divides the farm into pasture and cropland. The proposed lot locations are adjacent to the woods line, and if the lots were located further west, this would increase the amount of cropland lost to farming. Lot 16 is comprised of only 14 acres and soils that would not allow for all the lots to be placed in that area. This constraint would lead to the entire property having two separate areas of residential development and possible strip development which is not a desirable outcome. Additionally, any strip development along Lineboro Road would change the landscape of the Lineboro Village. After reviewing soil maps and holding several additional discussions with the developer and engineer, regarding the proximity of the rural village, staff believes this is an appropriate location for all 14 lots.

The initial concept plan showed access to the lots as 2 use-in-common (uic) driveways separated by approximately 70 feet. That plan did not meet the Development Manual design criteria

requiring use-in-common driveways be designed so access to the buildable area of any lot is within 1,250 feet of the center of a publicly maintained road. Development Review staff also expressed safety concerns about two driveways separated by less than 70 feet. There was discussion regarding a proposal for the driveways to be looped with one way in and one way out; however, that design would not comply with §103-11 of the Code which limits the number of users for a uic driveway to 7 in the Agricultural District.

A revised concept plan was submitted that addressed the Bureau's concerns by showing a public cul-de-sac roadway, Twin Springs Court, proposed to extend into the site with uic driveways accessing off the roadway to serve as access for the remaining lots. The Department of Public Works/ Bureau of Engineering has subsequently commented that from the standpoints of driving convenience, environmental impact, and County maintenance, the direct twin driveway connection to Church Street North is more desirable than the public road. If the Commission desired the use-in-common driveway in place of a public road, then staff would support the variances from the manual and Code.

The proposed lots will be served by private well and septic systems.

This project is subject to the provisions of Concurrency Management, Chapter 71 of the Code, and will be tested prior to presentation of the plan to the Commission for approval of the Preliminary Plan.

Discussion:

Mr. Chadwick questioned whether there was any regulation that would prevent you from connecting the two driveways together at the southern end, making a loop, and allowing the traffic to go as it chooses.

Mr. Yeo asked to hear from representatives of the Fire Protection Engineer and the Department of Public Works as to their recommendations with regard to the driveways.

Mr. Bryan Van Fossen, Office of Public Safety, indicated his preference with regard to access was a loop road, but the existing plan does meet County requirements.

Mr. Schuster questioned the signage that would be necessary to guarantee that emergency responders would get to the proper address.

Mr. Van Fossen indicated signage as required in the Code, i.e., a sign at the end of each driveway and house numbering.

Mr. Black noted that the Code states the maximum number of users on a use-in-common driveway is seven; this driveway would have 12 users.

Mr. Wertz questioned the width of the use-in-common driveways.

Mr. Black indicated the paved width is 12 feet.

Mr. Wertz questioned whether it was possible to get a waiver for a single 16-foot wide driveway to eliminate the use-in-common drives or utilize a public road.

Mr. Black explained that the engineer had investigated the use of a public roadway but the maximum grade allowed is 10 percent, while a use-in-common driveway allows a grade of 17 percent.

Mr. Schuster questioned why the access to the subdivision was located on the curve.

Mr. Black indicated the reason was sight distance.

Mr. Schuster questioned whether there was a Lineboro Village Plan that covers this area.

Mr. Horn indicated there is not an individual plan for the area, but it is recognized as one of the County's rural villages, and, as such, is within a Priority Funding Area.

Mr. Chadwick questioned whether there was any regulation that would prevent the connection of the two separate private driveways that meet County standards.

Ms. Jones questioned whether he was envisioning a shared turn around at the end. She indicated staff would have to research that question. Ms. Jones noted there would be issues with regard to the length of the driveway from the public road, where the buildable areas are, the number of users, etc. She indicated that use-in-common driveways are not designed to be two-way traffic, so there would probably be safety concerns if the turnaround was not labeled one-way.

Mr. Wertz noted that is why he suggested a single 16-foot wide use-in-common driveway.

Mr. Baile indicated it would not meet the requirement with regard to the maximum number of users.

Ms. Jones stated that the developer could apply for a variance on the number of users from the Zoning Administrator or the Board of Zoning Appeals.

Mr. Yeo noted there is a reason why seven users was the number chosen in the Code. He questioned the issues that would arise if this process is duplicated again and again with other projects. Mr. Yeo suggested we may be trying to accommodate something that may not be in the best interest of the County.

Mr. Martin Hill, developer, made a presentation to the Commission, reviewing photographs of the site, the soils maps, and discussing the use-in-common driveways designed with a green strip in between them that would be maintained by a homeowners association, etc.

Mr. Schuster questioned the length of the cul-de-sac.

Mr. Black indicated the cul-de-sac is 400 feet.

Mr. Ron Church, Bureau of Engineering, distributed a memo to the Planning Commission detailing points to consider with regard to the construction of two use-in-common driveways versus a public road with two use-in-common driveways.

Mr. Schuster questioned the length of the use-in-common driveway.

Mr. Church indicated the driveway would be between 1,300 and 1,400 feet.

Public Comments:

Mr. Dave Alexander, 4118 Main Street, Lineboro, indicated the position of the proposed lots appears to be fine. He noted his concern with the safety of the intersection at Main and Church Streets. Mr. Alexander expressed concern with the stormwater run-off from the site to the properties across the street. He indicated the flow of water has been changed since the property was purchased by the Hills. The buffalo on the site have destroyed the vegetation.

Mr. Harold Goettner, 4101 East Main Street, Lineboro, expressed his concern with the ongoing well and sewage problems in the community, as well as the traffic issues compounded by Pennsylvania commuters. He asked that the Commission look out for the existing residents. Mr. Goettner indicated a light had been proposed at the intersection by the State Highway Administration, but someone with higher authority had it removed. He stated the proposed development is not needed.

Mr. Chadwick noted that the applicant is looking for direction from the Commission. He suggested the location of the houses is as good as they can be on this parcel based on the soil conditions, the natural tree line, and the ridge. Mr. Chadwick agreed with Mr. Church's proposal to explore the issuance of waivers with the twin drives exiting onto North Church Street at the location indicated. He suggested a restricted turnaround at the end of the use-in-common driveways for fire protection with a sign stating, "authorized vehicles only".

Mr. Schuster agreed with Mr. Church's comments on access and the two use-in-common driveways. He noted his agreement with Mr. Chadwick's comments with regard to a restricted turnaround for fire and emergency services vehicles. Mr. Schuster indicated he was not happy with the need for consideration of waivers.

Mr. Black indicated that the proposed plan presented to the Commission meets the Code. The developer is asking for the waivers at the request of the Department of Public Works in exploring a different design. He noted that the only reason the public roadway is being suggested is to meet the use-in-common Code requirements. It is not something the County wants to maintain, etc.

Mr. Brauning indicated it may be in the best interest of the public and the County to grant a waiver to the Code requirements.

Ms. Carol Goettner, 4101 East Main Street, Lineboro, indicated the people living in the Lineboro community are not being considered with regard to this project. She noted her concern with the existing well and septic system failures in the community.

Mr. Schuster indicated he would like to see more information with regard to stormwater management issues when the project is brought back before the Commission.

Mr. Staley indicated the current run-off conditions in the community should improve once the stormwater management facilities are built for the proposed project.

Mr. Schuster stated he was withdrawing his original concern with regard to the waiver based on Mr. Church's recommendations.

PRELIMINARY SUBDIVISION PLAN REVIEW:

- a. P-05-016, Candle Light
- b. P-03-006, Hewitts Landing
- c. P-02-029, Abbott Acres
- d. P-01-022, Windy Hills Farms

Mr. Schuster left the meeting.

A. P-05-016 – CANDLE LIGHT

LOCATION: West side of Ridge Road, south of Marvin Avenue, Election District 5

OWNER: Levi Curtis, et al, 6731 Marvin Avenue, Sykesville, MD 21784

DEVELOPER: Trinity Homes, 3675 Park Ave., Suite 301, Ellicott City, MD 21043

ENGINEER: CLSI, 439 East Main Street, Westminster, MD 21157

ZONING: R-10,000

ACREAGE: 11.4 acres

NO. OF LOTS: 34

FIRE DISTRICT: Sykesville

WATERSHED: Liberty Reservoir

MASTER PLAN: High Density Residential

Mr. Patrick Varga presented the background.

Action Requested:

Two action items are requested:

1. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 103, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.
2. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 71, Adequate Public Facilities and Concurrency Management, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The subject property is comprised of three parcels. The property is improved with a single-family home. To the south is the Harvest Farms Subdivision. The Ridgely Park subdivision is located to the northeast. To the northwest is the Marvin Gardens retirement community. The property is currently served by a well and septic.

Preliminary Plan Review:

The developer proposes to build 34 single-family houses on lots ranging in size from 10,003 square feet to 17,809 square feet. The property is located in the Freedom Community Planning area. The proposed use is consistent with the land use designations of High Density Residential in the Master Plan.

Lots 1 and 2 will be accessed from Mount Denali Road, a new County road to be constructed between the existing Marvin Avenue and the extension of Monroe Avenue, west of Ridge Road. Lots 3 through 12 will access Marvin Avenue. Lots 11 and 12 will share a road apron and will have a 20 foot wide use-in-common easement for ingress and egress. Lots 13 through 34 will access Monroe Avenue. A temporary barricade will be constructed at the terminus of Monroe Avenue. The developer will dedicate road frontage on Ridge Road and Marvin Avenue, in addition to dedicating Mount Denali Road and Monroe Avenue. All county roads will have mountable curbs.

A sidewalk is proposed on both sides of Monroe and Mount Denali Road. A sidewalk is also proposed along the entire frontage of Ridge Road. The sidewalk on Ridge Road will be built north of the subject property to connect with existing sidewalk.

The development will be served by Freedom water and sewer service.

Street trees will be planted along Monroe Avenue, Marvin Avenue, and Mount Denali Road. Stormwater Management parcel "E" also has shrubs planted around the perimeter. Lots 1, 2, 3, and 22 have additional shrubs planted on them. To address the requirements of Forest Conservation, 2.72 acres will be banked off site. Rooftop runoff will be conveyed to a downspout drywell on each lot. The drywell locations are shown on Sheet 2. In addition to the individual drywells, SWM parcels are located directly south of Ridge Road. The SWM parcels will infiltrate the runoff, which addresses Water Resource Management for a surface watershed. There is no floodplain on the property.

When this plan was last presented to the Planning Commission, the plan showed a total of 49 lots. The plan also showed the extension of Monroe Avenue to MacBeth Way and the extension of Barley Road to Marvin Avenue. The developer indicated that the three property owners to the south of the Candle Light property were willing to sell their properties for this development to achieve the density and road connections that were presented. The plan being presented for preliminary approval does not include the properties to the south. The three additional property owners were not willing to agree to sale conditions and therefore the subdivision does not include the extension of Monroe Avenue.

The subdivision plan was subject to citizen involvement. Public meetings were held on January 30, 2006, August 28, 2006 and September 24, 2007. Several citizens expressed concern

regarding school overcrowding, roads, water, and the density of the project. The Bureau of Development Review has received one letter since the plan was last presented to the Planning Commission. That letter and the staff response are attached to this report. Since the attached letter was received, Freedom Water capacity has been expanded, and Carrolltowne Elementary is rated as adequate with respect the Chapter 71. The density has decreased from 49 lots to 34 lots. The Planning Commission minutes from the concept plan presentation and special report are attached.

Chapter 103 Recommendation:

Staff recommends approval of the plan subject to the following conditions:

1. That the Owner/Developer enter into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
2. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneous with recordation of the plat.
3. That the area shown as Parcel E be conveyed to the County Commissioners of Carroll County upon acceptance of the facility by the County.
4. That the area shown as Parcel F be conveyed to the County Commissioners of Carroll County upon acceptance of the facility by the County.
5. That a Landscape Maintenance Agreement be recorded simultaneously with the Public Works Agreement.
6. That Monroe Avenue be dedicated to the County Commissioners of Carroll County upon acceptance by the County.
7. That Mount Denali Road be dedicated to the County Commissioners of Carroll County upon acceptance by the County.
8. That the area shown as Parcel G along Ridge Road be conveyed to the County Commissioners of Carroll County for right-of-way simultaneous with recordation of the subdivision plat.
9. That the area shown as Parcel H along Marvin Avenue be conveyed to the County Commissioners of Carroll County for right-of-way simultaneous with recordation of the subdivision plat.
10. That a Declaration of Maintenance Obligations for the use-in-common driveway be recorded simultaneous with recordation of the subdivision plat.
11. That any area labeled as a drainage and utility easement be granted to the Carroll County Commissioners of by deed to be recorded simultaneous with recordation of the subdivision plat.

CONCURRENCY MANAGEMENT REPORT

Mr. Patrick Varga presented the background.

Subdivision Plan: P-05-016, Candle Light

Schools: Carrolltowne Elementary
Oklahoma Road Middle
Liberty High

Roads: Ridge Road

Fire and EMS: Sykesville

Police Services: Maryland State Police/Carroll County Sheriff's Department

Water: Freedom

Sewer: Freedom

Background:

Pursuant to Section 71-6D of the Code of Public Local Laws and Ordinances, once the Department of Planning has determined that the preliminary plan may be presented to the Commission, Available Threshold Capacity forms are then distributed for review and comment. The forms were distributed to the appropriate agencies.

Agency Responses:

Police Services:

The estimated Carroll County population as of December 31st 2008 was 174,650. As of that date, among the police forces in the County with staffing levels established by an annual budget, including the Carroll County Sheriff's Office and the municipal police departments, there were 151 funded officer positions. Since the staffing level at the Maryland State Police Barracks can change monthly, an average staffing level taken over the previous twelve months is used. The average staffing level at the Maryland State Police Barracks for the period November 2007 through October 2008 was 84 officers. Based on a total of 235 positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of December was 1.35.

Including the projected population growth that would result from residential developments in the pipelines of the county and the municipalities brings the estimated ratio to 1.31 by the end of FY 2009 – adequate.

The adopted Carroll County Government operating plan for FY 2009-2014 provides for planned funding for three new deputy positions every year.

Schools:

The Carroll County Public Schools responded that Carrolltowne Elementary is adequate for all years FY 09 through FY 14; Oklahoma Road Middle is adequate for all years FY 09 through FY 14; Liberty High is approaching inadequate for years FY 09 through FY 11 and then adequate for years FY 12 through FY 14.

The enrollment projections indicate that Carrolltowne Elementary will range between 101 to 108% of capacity during the current 6-year CIP cycle. In the Carrolltowne Elementary attendance area there are four other residential projects consisting of 110 lots currently in the review process. There are approximately 247 lots in the Carrolltowne Elementary area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit. Of these 247 permits, 246 of them are from the Carrolltowne Site Plan

The enrollment projections indicate that Oklahoma Road Middle will range between 86 and 99% of capacity during the current 6-year CIP cycle. In the Oklahoma Road attendance area 11 additional residential developments, comprised of approximately 276 dwelling units are currently in the review process. There are approximately 315 lots in the Oklahoma Road Middle area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

The enrollment projections indicate that Liberty High will range between 98 and 113% of capacity during the current 6-year CIP. In the Liberty High attendance area 11 additional residential developments, comprised of approximately 276 dwelling units, are currently in the review process. There are approximately 315 residential units in the Liberty High area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

Fire and Emergency Medical Services:

The proposed subdivision is located in the Sykesville emergency services district. The 2008 3rd quarter late and no response statistical data indicates that of the first due total fire calls in the Sykesville district, 0.0% were categorized as no responses, and 3.57% as late and no responses. Of the first due emergency medical service calls in the Sykesville district, 0.0% were categorized as no responses and 0.22% as late and no responses. Sykesville meets adequate late and no response criteria.

With regard to fire call response time, for the two-year period of 12/1/06 to 11/30/08 Sykesville had an average response time of 6 minutes and 30 seconds – adequate.

With regard to emergency medical call response time, for the two-year period of 12/1/06 to 11/30/08 Sykesville had an average response time of 6 minutes and 39 seconds – adequate.

The primary route from the firehouse to the proposed development does not include travel over any bridges.

Roads:

The Carroll County Department of Public Works responded that based on the traffic impact study submitted by The Traffic Group, the following intersections will operate at a Level of Service "D" upon completion of Candle Light:

Ridge Road at Kali Drive,
Kali Drive at Slacks Road,
Ridge Road at Marvin Avenue,
Ridge Road at Monroe Avenue, and
Ridge Road at Brangles Road.

Level of Service "D" is approaching inadequate by the Department of Public Works standards. The developers of Candle Light will be adding a lane to Ridge Road throughout the frontage of the site and will make geometric improvements to the intersection of Ridge Road and Marvin Avenue.

Water Service:

Based on threshold capacity requirements for water services, Freedom water is inadequate to serve the proposed development. The current CIP includes a planned expansion to the Freedom water service facility. Construction is underway and the additional capacity is expected to come on-line in February 2009.

Sewer Service:

The Carroll County Department of Public Works responded on January 13, 2009 that the threshold capacity requirements for sewer services are adequate.

Staff Recommendation:

With regard to a preliminary plan, Chapter 71-6D(4) states "If a public facility or service is inadequate and a relief facility is planned in the 6-year CIP to address the inadequacy or mitigation is accepted by the County pursuant to § 71-5B, or a public facility or service is approaching inadequate during the current CIP, the Commission may conditionally approve the plan to proceed to the final plan stage and issue a tentative recordation schedule and tentative building permit reservations, subject to modification at the final plan stage."

Pursuant to Chapter 71 staff recommends that the Planning Commission approve the preliminary plan with conditions as follows:

1. Police, fire and EMS, water, and sewer are considered adequate, schools and roads are considered approaching inadequate.
2. Tentative building permit reservations are for 17 lots in FY 10 and 17 lots in FY11.
3. The tentative recordation schedule requires the plan to be recorded within 24 months of preliminary approval.

4. The building permit reservations are allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

Discussion:

(Commissioner Gouge entered the meeting.)

Mr. Wertz questioned whether the Department of Public Works had a preference between mountable and vertical curbs.

Mr. Ron Church, Bureau of Engineering, indicated that either curb style is okay for internal streets, but a vertical curb is required along Ridge Road.

Mr. Wertz questioned whether vertical curbs last longer than mountable curbs. He noted that people tend to park on mountable curbs.

Mr. Church indicated that neither style of curb lasts longer than the other.

Mr. Wertz questioned whether Mr. Church had the authority to require vertical curbs over mountable curbs.

Mr. Church indicated he does have authority when a precedence has already been set.

Mr. Mike Phau, developer, stated that he was not opposed to one or the other type of curb.

Public Comment:

Mr. Raymond Mills, Jr., 6761 Marvin Avenue, indicated he was one of the owners at the end of the road that declined to accept an offer. He questioned whether the County would extend Monroe Avenue to Macbeth Way.

Mr. Horn explained that the County's interest would be to see the extension of Monroe Avenue. He noted that how that happens depends on whether another developer comes in to develop that property or money is designated in the CIP for that purpose.

Decision:

In accordance with Chapter 103, the Commission, on motion of Mr. Baile, seconded by Mr. Chadwick, and carried (Mr. Baile, Mr. Wertz, Mr. Chadwick, and Mr. Yeo voted "Aye"; Commissioner Gouge abstained because she missed part of the discussion; Mr. Schuster was not present for this project), approved the plan subject to the 11 conditions listed in the staff report.

In accordance with Chapter 71, the Commission, on motion of Mr. Baile, seconded by Mr. Chadwick, and carried (Mr. Wertz, Mr. Chadwick, Mr. Yeo, and Mr. Baile voted "Aye"; Commissioner Gouge abstained because she missed part of the discussion; Mr. Schuster was not present for this project), preliminarily approved the plan with the four conditions stated in the staff report.

Mr. Schuster re-entered the meeting.

B. P-03-006, HEWITTS LANDING

LOCATION: West side of Murray Road, South of Maryland Route 140, 4th Election District

OWNER: RBH Family Limited Partnership, c/o Steve Preller, 130 Holiday Court, Suite 108, Annapolis, Maryland 21401

DEVELOPER: Same as Owner

ENGINEER: LDE, Inc., 9250 Rumsey Road, Suite 106, Columbia, MD 21045

ZONING: Conservation (46.5 acres), R-40,000 (10.8 acres)

ACREAGE: 57.3 acres (two parcels)

NO. OF LOTS: 15

FIRE DISTRICT: Reese

WATERSHED: Liberty Reservoir

MASTER PLAN: Conservation

Ms. Kimberly Brandt presented the background.

Action Required:

Two action items are required:

1. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 103, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.
2. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 71, Adequate Public Facilities and Concurrency Management, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The subject property is comprised of two parcels. Parcel 926 is three acres in size and is improved with a single-family residence. Parcel 121 is 53.83 acres in size and is improved with two single-family residences and two outbuildings. There is also a farm pond near Murray Road. The property is zoned R-40,000 along Murray Road and Conservation further west. The property drains to Liberty Reservoir, which is located 1,400 feet beyond the southern property boundary.

Review History:

A concept plan review was conducted at the December 20, 2005 Planning Commission meeting. At that meeting the Commission expressed a preference for a cluster design, but wanted to see a revised conventional plan to confirm the lot yield.

The project was next presented to the Commission on October 17, 2006. At that meeting, questions were raised about uncontrolled fill on the site. The Commission tabled the project to allow time for the review of hydrogeologic studies. The project was presented to the Commission again on November 21, 2006. At that meeting, the Commission was advised by the Bureau of Resource Management that a geophysical survey of the fill areas must be conducted to determine if any buried drums or other questionable materials are present.

At the July 17, 2007 Commission meeting the final assessment of the fill area was presented. The Commission voted to allow the project to proceed to preliminary plan stage. The meeting minutes are attached to this report.

Plan Review:

The developer proposes a cluster subdivision of 15 lots, varying in size from 2.0 acres to 3.27 acres, and a 17-acre open space parcel. The proposed use is consistent with the land use designation of Conservation in the Master Plan.

As a result of the proximity of Liberty Reservoir, the lot sizes exceed what is typical for a cluster subdivision. The proposed lots have been clustered away from the wetlands, floodplain, and steep slopes on the property.

The single-family residence on Parcel 926 (proposed Lot 14) will be demolished. Likewise, one of the single-family residences on Parcel 121 (proposed Lot 6) will be demolished. The single-family residence and outbuildings located on proposed Lot 3 will remain.

For the barn on Lot 3, the distance requirements for a private stable were used in the subdivision design. A note will be required on the plat stating that Lot 3 includes a private stable and that in accordance with the definition of a private stable no more than 2 horses, ponies, or cattle or equivalent numbers of sheep, goats, or other ruminants, maintained on the property as pets or for domestic use, shall be permitted.

Lots 3 and 14 are split zoned. For both lots, there is at least 40,000 square feet of land on the R-40,000 side of the zoning line. The zoning line for Lot 3 passes through the existing single-family residence. The dwelling proposed for Lot 14 is depicted on the R-40,000 side of the zoning line.

Access to the development will be from Murray Road. The proposed lots are located along two new County roads, which will be named during the final plan review process. Road A terminates at the western property boundary in a stub rather than a cul-de-sac. The adjoining property is a 39-acre parcel that will likely be developed in the future. As recommended by the Planning Commission during the concept review, the stub will be posted as a temporary terminus. There are no use-in common driveways included in the subdivision.

A traffic study was not required for this development. The developer will dedicate right-of-way for Murray Road and widen the road along the property frontage as shown on Sheet 5 of the plan.

Each lot will be served by a private well and septic system. The Health Department has approved the preliminary plan. For stormwater management, a dry well will be installed on each lot, except for Lot 3 where the existing house will remain.

There are 10 acres of forest on the site, none of which will be cleared. To satisfy the requirements of forest conservation, the developer must provide 0.8 acres of afforestation. These trees will be planted on the open space parcel. For landscaping, street trees will be provided along the subdivision streets and along Murray Road. The existing overhead utility lines on the site will be placed underground.

As was previously reported, the County will offer the 17-acre open space parcel to the City of Baltimore, which owns the adjacent property along Liberty Reservoir. If the City refuses the offer, the open space parcel will be owned by the County.

Throughout the review of this subdivision, there has been consideration of the uncontrolled fill on the site. A report detailing the subsurface investigation of the site was submitted to the Bureau of Resource Management, the Bureau of Permits and Inspection, the Bureau of Development Review, and the Carroll County Health Department. Construction debris, such as concrete blocks with rebar, asphalt millings, and metal spikes, were uncovered on the site. No hazardous materials or indication thereof were uncovered.

The areas of uncontrolled fill are identified on the preliminary plan that has been approved by the review staff. Lots 4, 7, 9, 10, and 13 include areas of uncontrolled fill. On all of these lots, the septic systems will be located outside of the fill area.

The subdivision plan was subject to citizen involvement. Public meetings were held on June 27, 2005 and February 25, 2008. Several citizens expressed concerns with continued development in the Liberty Reservoir watershed at the 2005 meeting. The Bureau of Development Review has received one letter since the plan was last presented to the Planning Commission. That letter and the staff response are attached to this report.

Chapter 103 Recommendation:

Staff recommends approval of the plan subject to the following conditions:

1. That the Owner/Developer enter into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
2. That a water resource protection easement be granted to the County Commissioners of Carroll County simultaneous with recordation of the subdivision plat.
3. That a floodplain easement be granted to the County Commissioners of Carroll County simultaneous with recordation of the subdivision plat.

4. That a forest conservation easement be granted to the County Commissioners of Carroll County simultaneous with recordation of the subdivision plat.
5. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneous with recordation of the plat.
6. That the area shown as Parcel A along Murray Road be conveyed to the County Commissioners of Carroll County for right-of-way simultaneous with recordation of the subdivision plat.
7. That the area shown as Parcel B be conveyed to the County Commissioners of Carroll County for open space simultaneous with recordation of the subdivision plat. The County will offer the open space to the City of Baltimore.
8. That Road A and Road B be dedicated to the County Commissioners of Carroll County upon acceptance by the County.
9. That signage identifying the terminus of Road A as temporary be provided and posted at the developer's expense. The Department of Public Works shall approve the design and working of the sign.
10. That the record plat include a note identifying the lots where uncontrolled fill was found. The Bureau of Development Review and the County Attorney's Office shall approve the wording of the note.
11. That the record plat include a note stating that Lot 3 includes a private stable and that in accordance with the definition of a private stable no more than 2 horses, ponies, or cattle or equivalent numbers of sheep, goats, or other ruminants, maintained on the property as pets or for domestic use, shall be permitted.

CONCURRENCY MANAGEMENT REPORT

Mr. Patrick Varga presented the background.

Subdivision Plan: P-03-006, Hewitts Landing

Schools: Sandymount Elementary
Shiloh Middle
Westminster High

Roads: Murray Road

Fire and EMS: Reese

Police Services: Maryland State Police/Carroll County Sheriff's Department

Background:

Pursuant to Section 71-6D of the Code of Public Local Laws and Ordinances, once the Department of Planning has determined that the preliminary plan may be presented to the Commission, Available Threshold Capacity forms are then distributed for review and comment. The forms were distributed to the appropriate agencies.

Agency Responses:

Police Services:

The estimated Carroll County population as of December 31st 2008 was 174,650. As of that date, among the police forces in the County with staffing levels established by an annual budget, including the Carroll County Sheriff's Office and the municipal police departments, there were 151 funded officer positions. Since the staffing level at the Maryland State Police Barracks can change monthly, an average staffing level taken over the previous twelve months is used. The average staffing level at the Maryland State Police Barracks for the period November 2007 through October 2008 was 84 officers. Based on a total of 235 positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of September was 1.35.

Including the projected population growth that would result from residential developments in the pipelines of the county and the municipalities brings the estimated ratio to 1.31 by the end of FY 2009 – adequate.

The adopted Carroll County Government operating plan for FY 2009-2014 provides for planned funding for three new deputy positions every year.

Schools:

The Carroll County Public Schools responded that Sandymount Elementary, Shiloh Middle, and Westminster High are all adequate for all years FY09 through FY14.

The enrollment projections indicate that Sandymount Elementary will range between 84 and 85% of capacity during the current 6-year CIP cycle. In the Sandymount attendance area, 10 additional residential developments, comprised of approximately 121 lots, are currently in the review process. There are approximately 82 lots in the Sandymount attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

The enrollment projections indicate that Shiloh Middle will range between 77 and 88% of functional rated capacity during the current CIP. In the Shiloh attendance area 14 additional residential developments, comprised of approximately 162 lots are currently in the review process. There are approximately 76 lots in the Shiloh Middle school area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

The enrollment projections indicate for Westminster High that the percentage of capacity will range from 84 to 96% of capacity during the 6-year CIP. In the Westminster attendance area 33 additional residential developments, comprised of approximately 442 residential lots, are

currently in the review process. There are approximately 169 residential units in the Westminster area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

Fire and Emergency Medical Services:

The proposed subdivision is located in the Reese emergency services district. The 2008 3rd quarter late and no response statistical data indicates that of the first due total fire calls in the Reese district, 0.00% were categorized as no responses, and 13.51% as late and no responses. Of the first due emergency medical service calls in the Reese district, 0.00% were categorized as no responses and 0.00% as late and no responses. Reese meets adequate late and no response criteria.

With regard to fire call response time, for the two-year period of 12/1/06 to 11/30/08 Reese had an average response time of 7 minutes and 41 seconds – adequate.

With regard to emergency medical call response time, for the two-year period of 12/1/06 to 11/30/08 Reese had an average response time of 7 minutes and 31 seconds – adequate.

The primary route from the firehouse to the proposed development does not include travel over any bridges.

Roads:

The Carroll County Department of Public Works responded that Murray, a local, rural road, is rated adequate, i.e. Level of Service “B.”

Staff Recommendation:

With regard to a preliminary plan, Chapter 71-6D(4) states “If all public facilities and services are adequate during the current CIP, the Commission may approve the plan to proceed to the final plan stage and issue a recordation schedule and building permit reservations, subject to a building permit cap adopted by the Board of County Commissioners in effect at the time of application for building permits.” There are no adopted building permits caps in geographic areas impacted by this development.

Pursuant to Chapter 71 staff recommends that the Planning Commission approve the preliminary plan with conditions as follows:

1. Police, schools, fire and EMS, and roads are considered adequate.
2. Building permit reservations are for 14 lots in FY 09.
3. The recordation schedule requires the plan to be recorded within 24 months of preliminary approval.
4. The building permit reservations are allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

Discussion:

Mr. Chadwick pointed out a typographical error in Condition 9. The word “working” should be “wording”.

Mr. Wertz questioned how effective Condition 10 will be with regard to notifying property owners of the lots where uncontrolled fill was found.

Ms. Brandt explained that the plat note is the typical method the County uses to notify future property owners proximate to a mining area, shooting range, etc.

Ms. Jones indicated a plat note is the best alternative because the County cannot enforce whether or not the language is included in the deed notes and whether it is carried forward.

Mr. Brauning asked that the principals of RBH Family Limited Partnership be identified.

Mr. Steve Preller, on behalf of the owner, indicated the partnership was established by Mr. Hewitt and he was 100% owner of the entity. Upon his death, his spouse, Tina Hewitt, son Robert Hewitt, and minor child Ryan Hewitt inherited the partnership.

Decision:

In accordance with Chapter 103, the Commission, on motion of Mr. Schuster, seconded by Mr. Yeo, and carried (Mr. Chadwick, Mr. Yeo, Mr. Baile, Mr. Schuster, and Mr. Wertz voted “Aye”; Commissioner Gouge voted “No”), approved the plan subject to the 11 conditions in the staff report.

In accordance with Chapter 71, the Commission, on motion of Mr. Schuster, seconded by Mr. Yeo and carried (Mr. Yeo, Mr. Baile, Mr. Schuster, Mr. Wertz, and Mr. Chadwick voted “Aye”; Commissioner Gouge voted “No”), approved the preliminary plan subject to the four staff conditions.

C. P-02-029, ABBOTT ACRES

LOCATION: East of Arabian Court, southeast of Appaloosa Way, 4th Election District

OWNER: Mary Catherine Abbott et al, c/o Ronald Abbott, Sr., 2508 Appaloosa Way, Finksburg, Maryland 21048

DEVELOPER: Same as owner

ENGINEER: Frederick Ward Associates, Inc., P.O. Box 727, Bel Air, Maryland 21014

ZONING: Conservation (64.5037 acres), R-20,000 (0.21115 acres)

ACREAGE: 64.71485 acres

FIRE DISTRICT: Reese

WATERSHED: Liberty Reservoir

MASTER PLAN: Conservation

Ms. Kimberly Brandt presented the background.

Action Required:

Two action items are required:

1. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 103, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.
2. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 71, Adequate Public Facilities and Concurrency Management, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The subject property is improved with a single-family residence owned by Mr. and Mrs. Ronald Abbott (Parcel 665) and a farm house and trailer (Parcel 198). The property of Mr. and Mrs. Ronald Abbott is accessed via Parcel A, which is owned by the Abbotts and depicted on the plat of Carroll County Trails Section 9 as a future road. Parcel 198 is accessed via Parcel C, which is identified on Plat B of Carroll County Trails Section 11 as a reservation for a future road.

An unnamed tributary flowing in an easterly direction traverses the property and flows into Roaring Run, which bisects the eastern area of the property and flows south. Ultimately, the property drains to Liberty Reservoir. With the exception of the southwest corner of the property, areas of steep slopes are located throughout the site with a particular concentration in the area of Roaring Run.

Review History:

A concept subdivision plan for this property was submitted in October of 2002. The plan depicted ten conventional lots ranging in size from 3.0 to 8.7 acres. Four lots were accessed via a cul-de-sac built in the area of Parcel C; five lots were accessed via use-in-common driveways extending from the cul-de-sac. The tenth lot, the property of Mr. and Mrs. Ronald Abbott, continued to be accessed via Parcel A.

The Bureau of Development Review, in correspondence dated October 25, 2002, advised the developer to consider clustering the proposed development and noted that as presented the plan could not be recommended to the Planning Commission for approval. Likewise, the Bureau of Comprehensive Planning recommended clustering in correspondence dated October 15, 2002, noting that clustering would place far less strain on the many environmental resources located on the property.

On June 20, 2003, the developer was advised that the Carroll County Commissioners adopted Ordinance 03-11, which imposed a twelve-month deferral on all residential development subject

to Chapter 167 of the Code of Public Laws and Ordinances of Carroll County. Thus, all processing of the plan ceased.

In November of 2005, a revised conventional concept plan was submitted to the County for distribution and review. Multiple reviewers recommended that the lots be clustered. The developer, however, stated that clustering the lots would be contrary to the wishes of Mary Catherine Abbott as outlined in her will dated June 21, 1996.

The plan was presented to the Planning Commission on February 21, 2006 for a concept review. The Commission directed the developer to proceed with the conventional plan. The minutes from the meeting are attached to this report.

Preliminary Plan Review:

The developer has proposed a conventional subdivision comprised of ten lots ranging in size from 3.00 acres to 11.84 acres. The proposed use is consistent with the land use designation of Conservation in the Master Plan.

Lots 1-6 are accessed via a new County road, Casses Court. Lots 7-10 are accessed from a use-in-common driveway identified as Kensters Drive. The in-fee strips are located within Parcel A, which is shown on the plat of Carroll County Trails Section 9 as a future road. Accordingly, the plat must be amended. This amendment can be shown on the plat of Abbott Acres.

The lots are served by private wells and septic systems. To satisfy the requirements of stormwater management, drywells will be installed on the lots and the wide shoulder technique will be employed along Casses Court and Kensters Drive.

The requirements of forest conservation will be addressed with on-site forest retention. As the subdivision is a conventional design, several lots will be encumbered with an easement for forest conservation, as well as floodplain and water resource protection easements.

The subdivision plan was subject to citizen involvement. Public meetings were held on December 27, 2005 and February 26, 2007. Only an attorney representing members of the Abbott family spoke at the first meeting. There were no comments from citizens at the second meeting. The Bureau of Development Review has received no correspondence regarding the proposed subdivision.

Chapter 103 Recommendation:

Staff recommends approval of the plan subject to the following conditions:

1. That the Owner/Developer enter into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
2. That water resource protection easements be granted to the County Commissioners of Carroll County simultaneous with recordation of the subdivision plat.
3. That floodplain easements be granted to the County Commissioners of Carroll County simultaneous with recordation of the subdivision plat.

4. That forest conservation easements be granted to the County Commissioners of Carroll County simultaneous with recordation of the subdivision plat.
5. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneous with recordation of the plat.
6. That Casses Court be dedicated to the County Commissioners of Carroll County upon acceptance by the County.
7. That a Declaration of Maintenance Obligations for Kensters Drive be recorded simultaneous with recordation of the subdivision plat.

CONCURRENCY MANAGEMENT REPORT

Mr. Patrick Varga presented the background.

Subdivision Plan: P-02-029, Abbott Acres

Schools: Sandymount Elementary
Shiloh Middle
Westminster High

Roads: Arabian Drive/Appaloosa Way

Fire and EMS: Reese

Police Services: Maryland State Police/Carroll County Sheriff's Department

Background:

Pursuant to Section 71-6D of the Code of Public Local Laws and Ordinances, once the Department of Planning has determined that the preliminary plan may be presented to the Commission, Available Threshold Capacity forms are then distributed for review and comment. The forms were distributed to the appropriate agencies.

Agency Responses:

Police Services:

The estimated Carroll County population as of December 31st 2008 was 174,650. As of that date, among the police forces in the County with staffing levels established by an annual budget, including the Carroll County Sheriff's Office and the municipal police departments, there were 151 funded officer positions. Since the staffing level at the Maryland State Police Barracks can change monthly, an average staffing level taken over the previous twelve months is used. The average staffing level at the Maryland State Police Barracks for the period November 2007

through October 2008 was 84 officers. Based on a total of 235 positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of September was 1.35.

Including the projected population growth that would result from residential developments in the pipelines of the county and the municipalities brings the estimated ratio to 1.31 by the end of FY 2009 – adequate.

The adopted Carroll County Government operating plan for FY 2009-2014 provides for planned funding for three new deputy positions every year.

Schools:

The Carroll County Public Schools responded that Sandymount Elementary, Shiloh Middle, and Westminster High are all adequate for all years FY09 through FY14.

The enrollment projections indicate that Sandymount Elementary will range between 84 and 85% of capacity during the current 6-year CIP cycle. In the Sandymount attendance area, 10 additional residential developments, comprised of approximately 121 lots, are currently in the review process. There are approximately 82 lots in the Sandymount attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

The enrollment projections indicate that Shiloh Middle will range between 77 and 88% of functional rated capacity during the current CIP. In the Shiloh attendance area 14 additional residential developments, comprised of approximately 162 lots are currently in the review process. There are approximately 76 lots in the Shiloh Middle school area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

The enrollment projections indicate for Westminster High that the percentage of capacity will range from 84 to 96% of capacity during the 6-year CIP. In the Westminster attendance area 33 additional residential developments, comprised of approximately 442 residential lots, are currently in the review process. There are approximately 169 residential units in the Westminster area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

Fire and Emergency Medical Services:

The proposed subdivision is located in the Reese emergency services district. The 2008 3rd quarter late and no response statistical data indicates that of the first due total fire calls in the Reese district, 0.00% were categorized as no responses, and 13.51% as late and no responses. Of the first due emergency medical service calls in the Reese district, 0.00% were categorized as no responses and 0.00% as late and no responses. Reese meets adequate late and no response criteria.

With regard to fire call response time, for the two-year period of 12/1/06 to 11/30/08 Reese had an average response time of 7 minutes and 41 seconds – adequate.

With regard to emergency medical call response time, for the two-year period of 12/1/06 to 11/30/08 Reese had an average response time of 7 minutes and 31 seconds – adequate.

The primary route from the firehouse to the proposed development does not include travel over any bridges.

Roads:

The Carroll County Department of Public Works responded that Arabian Drive and Appaloosa Way, local, subdivision roads, are rated adequate, i.e. Level of Service “C.”

Staff Recommendation:

With regard to a preliminary plan, Chapter 71-6D(4) states “If all public facilities and services are adequate during the current CIP, the Commission may approve the plan to proceed to the final plan stage and issue a recordation schedule and building permit reservations, subject to a building permit cap adopted by the Board of County Commissioners in effect at the time of application for building permits.” There are no adopted building permits caps in geographic areas impacted by this development.

Pursuant to Chapter 71 staff recommends that the Planning Commission approve the preliminary plan with conditions as follows:

1. Police, schools, fire and EMS, and roads are considered adequate.
2. Building permit reservations are for 8 lots in FY 09.
3. The recordation schedule requires the plan to be recorded within 24 months of preliminary approval.
4. The building permit reservations are allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

Discussion:

Mr. Schuster questioned the number of building permit reservations listed in Condition 2.

Mr. Varga indicated that the 8 lots should be changed to 7 lots. There are 10 lots total with three existing houses, so there is a need for 7 reservations.

Mr. Yeo questioned why a conventional plan was developed.

Ms. Brandt explained that the project was submitted before the deferral. Staff had requested that the project be clustered. When it was presented to the Commission, the wishes of the previous owner, as stipulated in her will, were more of a conventional style development. The Commission, although not bound by the will, chose to allow the conventional plan.

Decision:

In accordance with Chapter 103, the Commission, on motion of Mr. Wertz, seconded by Mr. Schuster, and unanimously carried, approved the preliminary plan subject to the 7 conditions recommended by staff.

In accordance with Chapter 71, the Commission, on motion of Mr. Wertz, seconded by Mr. Schuster, and unanimously carried, approved the preliminary plan subject to the four conditions in the staff report, noting that Condition 2 has been revised to reflect building permit reservations are for 7 lots instead of 8.

D. P-01-022, WINDY HILLS FARMS

LOCATION: West and east sides of Sullivan Road, north of Sunshine Way, 7th Election District

OWNER: Windy Hills Farms Partnership, 435 Sullivan Road, Westminster, MD 21157

DEVELOPER: John W. Pfaff, Inc., 15119 Oak Orchard Road, New Windsor, MD 21776

ENGINEER: VanMar Associates, Inc., 310 South Main Street, P.O. Box 328, Mount Airy, MD 21771

ZONING: Conservation (78 acres), R-40,000 (231 acres), R-20,000 (8 acres), R-10,000 (9 acres)

ACREAGE: 324 acres

FIRE DISTRICT: Westminster

MASTER PLAN: Conservation, Low Density Residential, Medium Density Residential, Suburban Residential

NUMBER OF UNITS: 146 single-family

Ms. Kimberly Brandt presented the background.

Action Required:

One action item is required:

1. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 103, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The subject property is comprised of multiple parcels totaling 324 acres. Parcel 14, which is 124 acres in size, has frontage on Sullivan Road and Lemmon Road. The parcel is improved with outbuildings and a farmhouse called Windy Hills that was built in 1860. The house is listed on the Maryland inventory of historic sites.

The West Branch of the Patapsco River traverses the subject property on both sides of Sullivan Road. There are also a number of tributaries on the site. Accordingly, there are considerable floodplains and wetlands on the property.

Project History:

The subdivision plan was first submitted to the County for interagency review in February of 2002. The developer was notified in June of 2003 that the subdivision would be subject to the residential development deferral. The developer subsequently brought suit against the County. Litigation between the developer and the County was settled through a consent order.

The Planning Commission conducted a concept review of the subdivision at the September 19, 2006 meeting. The meeting minutes are attached to this report.

Preliminary Plan Review:

The developer has proposed a 146-lot subdivision. The proposed use is consistent with the land use designations of Conservation, Low Density Residential, Medium Density Residential, and Suburban Residential in the Master Plan.

The subdivision will be recorded in five phases as follows: Phase 1 - 24 lots; Phase 2 - 30 lots; Phase 3 - 31 lots; Phase 4 - 26 lots; Phase 5 - 35 lots. The lot numbers have changed since the previous Planning Commission review. The lot numbers now correspond to the phasing plan.

The total area of the lots is 222.82 acres. Clustering the lots in the Conservation Zoning District yielded 73.96 acres of open space, all of which will be dedicated to the City of Westminster. As was noted in the previous staff report, there are subdivision lots within 5,000 feet of the City's water intake system.

There are 33 lots shown on the preliminary plan with public water and sewer service. The City of Westminster granted a Good Cause Waiver on January 10, 2008 to allow extension of these services. A letter regarding this issue from Thomas Beyard, City of Westminster Director of Planning, Zoning and Development, is attached to this report.

There have been minor changes to the plan since it was last presented to the Commission. The lot layout is essentially the same, though several of the lots that were awkwardly shaped have been adjusted and front-to-rear situations have been reworked. The number of use-in-common driveways included in the subdivision has been significantly reduced. The developer has limited direct access to Sullivan Road to Lots 1, 4 and 34. The aforementioned historic house is located on Lot 34 and the driveway onto Sullivan Road from that lot is existing. The pond on the property is also included on Lot 34. The pond property was previously included on multiple lots.

A traffic impact study was submitted to the County for the proposed development. The developer will be responsible for widening and realigning Sullivan Road along their frontage. Lemmon Road will be relocated near the intersection with Sullivan Road so it is directly across from Lucabaugh Mill Road. The developer will dedicate right-of-way and supporting slope easements to the county for the extension of Bennett Cerf Road and the Meadow Branch Road. The developer will install the roundabout planned for the Sullivan Road/Bennett Cerf Road intersection.

Sidewalks will be constructed by the developer in the areas zoned R-10,000 and R-20,000. An 8-foot-wide paved trail will be provided by the developer along the north side of Sullivan Road between Great Day Court and Bennett Cerf Road.

The developer will also contribute \$1,500 per building lot for off-site traffic improvements along Maryland Routes 27, 97 or 140. There is no sunset on the use of these funds by the County.

Landscaping will be provided along all streets in the development. During the Planning Commission review, concern was expressed with reverse frontage lots along Sullivan Road. The developer has proposed a mix of deciduous and evergreen vegetation along Sullivan Road to screen the rears of the homes and the rear yards. The landscaping is shown on Sheet 35. A 25' landscaping easement will be recorded requiring the owner of each lot to maintain the landscaping installed by the developer. Also, as recommended by the Commission, the minimum building line for these lots has been set at 50 feet along Sullivan Road to allow for the landscaping and an adequate rear yard.

For stormwater management, drywells will be installed on the lots and the wide shoulder technique will be employed along the open section roads. A 1.08-acre stormwater management parcel adjoining Lots 120 and 130 will be dedicated to the County Commissioners. An underground facility will be installed on this parcel.

To satisfy the requirements of forest conservation, 11.4067 acres of reforestation and 19.3507 acres of afforestation will be provided on site and 34.0576 acres of existing forest will be placed in retention. The total 64.8150 acres will be placed under easement.

For final floodplain approval, it will be necessary for the developer to obtain a Conditional Letter of Map Revision (CLOMAR) from FEMA. The ultimate condition floodplain on the property has been delineated. All of the building lots are outside the ultimate condition floodplain.

The subdivision plan was subject to citizen involvement at the February 25, 2002; October 28, 2002; and March 29, 2004 Subdivision Advisory Committee meetings. There have been large turnouts at each meeting.

A petition was submitted to the County by residents of Essich opposing the connection of Larkspur Road to Sullivan Road. Mr. Essich also submitted a letter expressing this same objection. The petition and letter were provided to the Planning Commission with the previous staff report.

The cul-de-sac on Larkspur is clearly identified as temporary on the preliminary plan and plat of Essich. There is an easement on the properties encumbered by the temporary cul-de-sac to allow for its removal. The record plat is attached to this report.

Per the consent order, this subdivision is not subject to the provisions of Chapter 71.

Chapter 103 Recommendation:

Staff recommends approval of the plan subject to the following conditions:

1. That the Owner/Developer enter into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
2. That water resource protection easements be granted to the County Commissioners of Carroll County simultaneous with the recordation of the plat for the phase in which they are located.
3. That floodplain easements be granted to the County Commissioners of Carroll County simultaneous with the recordation of the plat for the phase in which they are located.
4. That forest conservation easements be granted to the County Commissioners of Carroll County simultaneous with recordation of the plat for the phase in which they are located; however, bonding for afforestation and reforestation and easement conveyance will be included in the Phase 1 bond.
5. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneous with simultaneous with the recordation of the plat for the phase in which they are located.
6. That Parcel A be dedicated to the County Commissioners of Carroll County upon acceptance of the stormwater management facility.
7. That slope and drainage easements be granted to the County Commissioners of Carroll County simultaneous with the recordation of the plat for the phase in which they are located.
8. That the areas identified as open space be dedicated to the City of Westminster by deed to be recorded simultaneous with the recordation of the plat for the phase in which they are located.
9. That the landscape easements be created by deed and recorded simultaneous with the recordation of the plat for the phase in which they are located.
10. That all bonding for Sullivan Road improvements be provided to the County with the Public Works Agreement for Phase 1.
11. That funding for off-site traffic mitigation improvements shall be provided by Windy Hills to Carroll County for improvements along Maryland Routes 27, 97 and 140 in the vicinity of Windy Hills.

12. That right-of-way and supporting slope easements are dedicated to the County for Bennett Cerf Road and Meadow Branch Road simultaneous with the recordation of the plat for the phase in which they are located.
13. That a Conditional Letter of Map Revision (CLOMAR) be obtained from FEMA prior to final approval of the subdivision.
14. That there shall be no sunset on the approved preliminary plan unless the first phase fails to record by 36 months after preliminary plan approval, or as extended pursuant to the consent order.

Discussion:

Ms. Brandt made a change to Condition 11, adding the words “that the previously agreed upon” to the beginning of the condition.

Mr. Schuster questioned the availability of water from the City of Westminster for the 33 lots.

Ms. Brandt indicated she had a letter from Tom Beyard, City of Westminster, stating that a Good Cause Waiver was granted. Mr. Beyard is comfortable with the preliminary plan being approved.

Mr. Wertz questioned the screening that would be provided for several of the lots, specifically Lots 122, 123, and 129. He noted that the setback was 40 feet for the lots on the south side of future Meadow Branch Road. He questioned why the setback was not increased to 50 feet to make it the same restriction as Sullivan Road.

Mr. VanSant, VanMar Associates, Inc., indicated that changing the setbacks to 50 feet is not a problem.

Mr. Wertz questioned why Wild Goose Court was not extended to connect to the roundabout.

Mr. VanSant indicated that the topography is too steep in that area.

Mr. Schuster noted that in 2006 he asked that staff research avigation easements which would alert potential homeowners of the presence of the airport.

Mr. John Maguire, attorney for the applicant, indicated he had a letter dated October 10, 2006 from Mr. Joseph Varrone, then Carroll County Airport manager, stating that no part of the Windy Hills property falls under the runway protection zone. Mr. Maguire read the contents of the letter.

Mr. Schuster stated that the letter does not address his concerns. His issue is that homeowners be made aware of the flight patterns and air traffic that will be occurring over their homes. Mr. Schuster advised the County to research this issue for consideration of future final approvals.

Public Comments:

Mr. Russell Williams, 545 Sullivan Road, questioned whether there would be a traffic signal installed at Lemon Road.

Ms. Brandt indicated there would not be a traffic signal at that location.

Mr. Williams expressed concern for the high volume of commuter traffic that uses that roadway and the potential for problems with just stop signs. He suggested a roundabout be incorporated into the design at this intersection.

Ms. Rebecca Ballantine, 460 Orange Tree Lane, questioned the timeframe when Phase 5 of the project would be developed.

Mr. VanSant indicated the first phase is anticipated in 36 months, so Phase 5 is approximately 7-8 years away.

Ms. Rae Oliveird, 274 Sullivan Road, expressed concerns with regard to stormwater run-off during construction and post construction.

Mr. Brauning indicated special requirements for stormwater management would have to be followed during construction.

Ms. Oliveird asked for contact numbers for the appropriate personnel if there are issues.

Mr. Larry Smith, 509 Nile Court, read from the September 19, 2006 Planning Commission minutes. He questioned whether the developer was responsible for constructing the portion of Bennett Cerf Road that goes through the development.

Ms. Brandt explained that the developer is not constructing that portion of Bennett Cerf Drive. The developer is dedicating the property to the County so that the County can build the roadway in the future.

Mr. VanSant noted that the stormwater management system will be improved to intercept water off of Sullivan Road and pipe it to an outfall. He suggested that some of Ms. Oliveird's current runoff problems should be addressed by the new system.

Decision:

In accordance with Chapter 103, the Commission, on motion of Mr. Wertz, seconded by Mr. Chadwick, and unanimously carried, approved the preliminary plan subject to the 14 conditions recommended by staff and further provided that the minimum building line along future Meadow Branch Road be set at 50 feet with the addition of a 25-foot landscaping easement.

PUBLIC COMMENTS/PETITIONS:

There were no public comments/petitions.

There being no further business, the Commission adjourned the regular meeting at 12:45 p.m. and began a public work session.

WORK SESSION – CORRECTIVE AND CLARIFYING CHANGES TO CHAPTERS 103 AND 223

Ms. Jones distributed a replacement page for page 22305 under Chapter 223. She highlighted various amendments including: changes to allow the Zoning Administrator to hold public hearings regarding non-conforming uses and certain accessory uses, expanding the definition of cottage industries to allow two nonresident employees, and clarification of the distinction between commercial and private kennels.

Mr. Wertz questioned whether properties are posted for Zoning Administrator hearings.

Ms. Jones indicated properties are posted and adjacent property owners receive notification.

Mr. Chadwick questioned whether there were any provisions for revocation if problems arise once permission for an accessory use of a kennel is granted.

Ms. Jones indicated Animal Control could step in or the Noise Ordinance should cover any complaints. She noted that the Zoning Administrator could limit the use to the current property owner.

Mr. Chadwick questioned whether the Commission's regulations require disclosure of partnerships.

Ms. Jones explained that the Administrative Rules require disclosure of partnerships. This information should be provided in the staff reports.

Mr. Schuster mentioned Dr. Slade's e-mail question with regard to the change from "church" to "religious establishment".

Ms. Jones noted that there are federal statutes that must be adhered to. She indicated that if there was a church and a school, parking would be calculated separately. Ms. Jones explained that a place of worship would have to meet certain criteria.

Mr. Wertz suggested that the proposed definition of "corner lot" on page 22309 include the words "at their intersection" at the end. He noted an inconsistency with the definition of nonconforming use on page 22310. Mr. Wertz suggested the definition of "planned business center" on page 22310 be enhanced and made more consistent with the definition of "business park" to include aesthetics. He noted that allowing 100 percent expansion of a nonconforming use (page 22316) seems too liberal; many jurisdictions only allow 35 – 50 percent expansion.

Ms. Jones indicated that specific provision allows the Zoning Administrator to make the determination of expansion up to 100 percent. If a use is more than doubling in size, application must be made through the Board of Zoning Appeals.

Mr. Wertz referred to 223-35 Accessory Uses, noting that most jurisdictions require sheds to be placed in the rear yard, but this provision allows them to be placed in the front yard as long as

setback requirements are met. He expressed concern about the lack of criteria to allow antique shops, barber shops, etc., in the residential zones. Mr. Wertz questioned why a one-chair operation would be allowable in the R-40,000 district but not in the R-20,000.

Ms. Jones indicated that the only changes staff is proposing to the Code at this time are to change them from conditional uses to accessory uses. The purpose of these amendments is to clean up the Code.

Mr. Wertz noted that professional offices are allowed as accessory uses in the R-20,000 district but not in some of the other districts. He indicated that many of the accessory uses do not restrict the number of employees.

Ms. Jones explained that the Zoning Administrator makes that determination on a case by case basis.

Mr. Wertz questioned the restriction on the number of boarders allowed.

Ms. Jones indicated there is not much enforcement in that regard, but up to eight unrelated adults can live in a residence according to the Building Code. She noted that assisted living facilities are regulated; children's daycare facilities are regulated by the State; and adult daycare facilities are even more heavily regulated, requiring that a doctor be on staff. Ms. Jones explained that children's daycare facilities are allowed in every residential zone and proposed to be added to the conservation zone. Adult daycare is limited to the agricultural district.

Mr. Schuster questioned whether the notation regarding the "Federal Airport Regulation (FAR) Part 77 Surfaces Approach Area (Proposed)", dated 11/99 was the most recent version. He suggested the wording "as may be amended" be added after the date.

Ms. Jones indicated she had contacted the Airport Manager and was given that reference.

Mr. Yeo questioned whether the revised definition of "building height" would include aesthetic additions, like a cupola, in the calculations.

Ms. Jones explained that the definition was changed to make it consistent with the development chapter. She noted that the Building Code regulates height differently. Ms. Jones referred to 223-180 which states what objects the building height limitations shall not apply, including cupolas.

Mr. Wertz questioned whether the Commission still had the authority to determine lower densities with retirement homes.

Ms. Jones indicated that authority still exists.

Ms. Brandt explained that the original regulations for age restricted housing were meant for multi-family units, not townhomes. In creating the standard for single-family and townhouse retirement communities, the staff looked at the recent projects before the Commission which were 1 per 8,000 square feet and 1 per 9,000 square feet. She noted that 1 per 7,500 square feet was selected because it didn't cause any of the projects currently under review to lose density.

Mr. Yeo questioned whether there would be a way to include in the regulations a minimum and maximum for the number of parking spaces allowed.

Ms. Brandt indicated that had been recommended by the Builders for the Bay. They had actually recommended that the minimum be the maximum. She explained that some jurisdictions allow you to go over the minimum number of spaces by a certain percentage—10 or 15 percent—and that becomes the maximum.

Mr. Baile suggested that 10 percent was too great a number.

Ms. Jones reiterated that the proposed amendments before the Commission are corrective and clarifying changes. Staff is not intending to overhaul the Code at this time.

The Commission briefly discussed limitations with regard to impervious surfaces.

Mr. Wertz questioned who the Zoning Administrator is since the proposed amendments increase that person's responsibilities.

Ms. Jones indicated the Zoning Administrator is Gayle Fritz, and she works under the Bureau of Permits and Inspections.

It was the consensus of the Commission, on motion of Mr. Schuster, seconded by Mr. Chadwick and unanimously carried, that staff publish only a summary of the proposed amendments and not the entire text.

Ms. Jones noted that the Commissioners' public hearing would be held in March.

Mr. Horn asked the Commission if there were any agencies they wished to bring in for questioning with regard to the CIP. There being none, Mr. Horn indicated he would draft a letter in support of Management and Budget's preliminary recommendations for signature on February 23.

There being no further business, the work session adjourned at 2:25 p.m.

Secretary

Approved