

**OFFICIAL MINUTES**  
**Carroll County Planning and Zoning Commission**

**May 19, 2009**

Location: Carroll County Office Building

Members Present: Dennis Wertz, Vice Chair  
Melvin E. Baile, Jr.  
Wayne Schuster  
Charles M. Chadwick  
Alec Yeo  
Robert B. Slade, Alternate

Members Absent: David L. Brauning, Chairman  
Julia Walsh Gouge, Ex Officio

The meeting opened at 9:00 a.m. Present with the Commission were the following persons: Steve Horn, Kelly Martin, and Tom Devilbiss, Department of Planning; Terri Jones and Frank Johnson, Department of the County Attorney; Clay Black, Jeanne Joiner, Kim Brandt, Pat Varga, Ashley Wantz, and Kathryn Filemyr, Bureau of Development Review; Daphne Daly and Bobbi Moser, Bureau of Comprehensive Planning; John Lopez; R. D. Blackburn; Michiko Waminal; Jaime Waminal; Bill Phebus; Pete Podolak; Becca Sirinakis; Ron Thompson; Mack Beall; Bill Schneider; Dan Staley; Dorothy Stottlemeyer; Kurt Lauritzen; George Makoutz; Randy Bachtel; Charles Crocken; Lou Breitenother; Jay Gullo; Chris Brammer; John Maguire; Mark Ferraro; Jim Piet; and members of the press.

**APPROVAL OF MINUTES**

- a. April 21, 2009
- b. April 28, 2009
- c. May 4, 2009

**A. April 21, 2009**

The minutes of April 21, 2009 were approved, as written, on motion of Mr. Chadwick, seconded by Mr. Yeo and carried.

**B. April 28, 2009**

The minutes of April 28, 2009 were approved, as written, on motion of Mr. Yeo, seconded by Dr. Slade and carried.

**C. May 4, 2009**

The minutes of May 4, 2009 were approved, as written, on motion of Dr. Slade, seconded by Mr. Chadwick and carried.

**COMMISSION MEMBER REPORTS:**

Acting Chair – Mr. Wertz indicated he had nothing to report.

### **DEPARTMENT OF PLANNING STAFF REPORT:**

Director – Mr. Horn reported that the Department of Public Works recently opened the new Water Treatment Plant which eliminated the water inadequacy in the Freedom area. He noted that for some time the Commission has been putting a multitude of restrictions on properties and development projects in this area, exclusively regarding the water supply. Mr. Horn requested the Commission allow staff the opportunity to go back through these projects and administratively allow them to proceed because the inadequacy is no longer present.

Mr. Yeo questioned how long some of the projects have been on hold.

Ms. Jones indicated some of the projects have been on hold since 2003/2004.

Mr. Yeo questioned whether there would be a significant impact to other facilities that would normally be tested.

Ms. Jones explained that many of the projects are either off-conveyances or commercial site plans.

Mr. Baile entered the meeting.

Dr. Slade questioned whether staff knew how many projects were involved.

Mr. Horn indicated that staff was in the process of inventorying those projects at this time, but he did not feel that individual projects would need to come before the Commission.

The Commission, on motion of Mr. Yeo, seconded by Mr. Chadwick, and carried, granted the Planning staff the authority to review and approve the projects in the queue and projects having restrictions placed on them because of the inadequate water supply in the Freedom area.

### **LEGISLATIVE UPDATE: PLANNING AND ENVIRONMENT ISSUES**

Mr. Frank Johnson, Assistant County Attorney/County Legislative Representative in Annapolis, reviewed the five major issues from this year's session of the Maryland General Assembly, including: budget; planning and development; development building code; environmental mandates; and employee relations. He mentioned local legislation that passed with regard to bond authorization and allowing Carroll's Ag Preservation Program to purchase development rights.

Mr. Schuster entered the meeting.

Mr. Johnson highlighted several bills, including HB 294/SB 273 which creates 12 visions for Smart Growth, compared to the original 8. He provided the Commission with brief details of the Terrapin Run Case and discussed HB 297/SB 280 which reversed that decision. The bill also requires education and training on comprehensive plans, standards for special exceptions and variances, zoning ordinances, etc., of members of the Planning Commission and BZA within six months after appointment. Mr. Johnson discussed the Measures and Indicators Annual Report included in HB 295/SB 276.

Mr. Wertz questioned whether these annual reporting requirements would mean a lot more work for staff.

Mr. Horn noted that staff is waiting for the measures and indicators to be developed by the Maryland Department of Planning and the National Center for Smart Growth. He indicated that staff in the past has provided State Planning with an annual report. A report was not anticipated to be required this year in anticipation of the new requirements. Mr. Horn suggested the information should be readily available and easily incorporated into the annual report. He noted that the Annual Report and Concurrency Management Report would probably be combined.

#### **TANEYTOWN ANNEXATION NO. 44 – CRANEMASTER**

Ms. Bobbi Moser, Comprehensive Planner, reviewed the staff report for the above referenced annexation, indicating the request consists of a number of properties, totaling 39.65 acres in size. She reviewed the boundaries of the individual properties and noted that the current zoning is Restricted Industrial. Ms. Moser read the staff recommendation, highlighting staff's recommendation with regard to "R-10,000" zoning rather than the requested "R-20,000".

Mr. Jay Gullo, attorney for the City of Taneytown, reviewed the reasons for the proposed annexation: (1) it is a major industrial site that is not served by water at this time which limits its ability to expand; (2) the wells that serve the site are of questionable quality; (3) there is an existing pump station located on the northwest side that has been inadequate for some time; the City has entered into negotiations with the property owner who has offered to donate the land necessary for the new pumping station. Mr. Gullo noted that the City met and developed compromises with multiple landowners in order to get the annexation agreements signed. He noted that the "R-20,000" zoning is requested by the City to preclude further development. Mr. Gullo explained that a zoning waiver should not be necessary because the only change is to a .4 acre area which is less than one percent of the entire annexation. This does not constitute a significant change in terms of the law with regard to needs for waiver of zoning.

Ms. Moser noted that if the City does decide to zone the area northwest of MD 194 to Open Space or General Business, the Commission may wish to recommend that the Commissioners grant a waiver now so that it will already be in place.

The Commission, on motion of Mr. Yeo, seconded by Mr. Chadwick, and unanimously carried, adopted the staff recommendation included in the report with the additional recommendation that if the City does follow through to zone the area northwest of MD 194 to Open Space and General Business, or entirely Open Space, that the Board grant a waiver now, so the waiver would be in place.

#### **FINKSBURG CORRIDOR PLAN – REQUEST FOR APPROVAL TO BEGIN 60-DAY REVIEW**

Ms. Daphne Daly, Planning Manager, noted that the current plan for the Finksburg area is dated 1981. The proposed Finksburg Corridor Plan focuses on the following: redeveloping the MD 140 corridor; addressing functionality of the corridor; removing the CPA designation; defining the boundaries of the corridor; acknowledging the lack of water and sewer services; addressing the function of MD 140 and the need for improvements; proposing wastewater and stormwater

solutions; acknowledging the County gateway and the desire for better design; etc. Ms. Daly noted that the plan does not promote pedestrian traffic along MD 140. She explained that Design Guidelines were developed by a consultant based on guidelines proposed by the Finksburg Planning Area Council.

Mr. Wertz questioned whether sidewalks would be requested in the Finksburg area.

Ms. Daly explained that sidewalks would not be requested along MD 140.

Mr. Chadwick remarked that the State Highway Administration has indicated they do not want sidewalks along MD 140.

Mr. Horn noted that when the State prepares the alternatives analysis for the intersection of MD 140 and MD 91, the State will look at MD 140 from the Baltimore County line to MD 91. The County will be encouraging a plan with medians added, and the redevelopment proposed will be similar to the MD 26 corridor redevelopment plan. He noted that aesthetic improvements are also needed.

Dr. Slade indicated that staff had talked about building regional wells and a sewage disposal system. He questioned how that would be done.

Mr. Horn indicated that discussions on these issues with MDE are a challenge because of the proximity to the headwaters of the Liberty Reservoir.

Mr. John Lopez, Finksburg Planning Area Council, noted that the Council worked closely with the Planning Department on the draft Plan, but there are issues that still need to be addressed. He expressed concern with the concepts of wastewater and stormwater management plants and whose responsibility it would be to construct and maintain them. Mr. Lopez noted there are several sensitive areas where there are existing water and pollution concerns. He questioned where the wastewater and stormwater management would be located for the employment land near the Gerstell Academy. Mr. Lopez indicated there is a great potential for continued pollution at the Dede Road industrial area. He expressed concern about plans for redevelopment in the corridor. He noted that the tax credit proposal seems dormant. Mr. Lopez suggested the redevelopment of existing Walnut Park Industrial Park to an employment/mixed use park. He questioned how the use of existing conditional and non-conforming uses would be handled when businesses close. Mr. Lopez indicated his support for moving the plan forward to public hearing.

The Commission, on motion of Mr. Schuster, seconded by Mr. Baile, and unanimously carried, directed staff to release the Finksburg Corridor Plan for 60-day review.

**FINAL SITE PLAN REVIEW:**

a. S-06-008, Bethania Home Care

**A. S-06-008, BETHANIA HOME CARE**

LOCATION: West side of Bell Road, north of Chadwick Drive, 7<sup>th</sup> Election District

OWNER: Michiko Waminal, 80 Bell Road, Westminster, MD 21158

DEVELOPER: Melson Muneses, Bethania Home Care, Inc., 1305 Uniontown Road, Westminster, MD 21158

ENGINEER: Leon A. Podolak and Associates, LLC, 63 East Main Street, Westminster, MD 21157

ZONING: R-20,000, Agriculture

ACREAGE: 37.23 Acres

FIRE DISTRICT: Westminster

WATERSHED: Double Pipe Creek

MASTER PLAN: Residential and Agricultural

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 single-family residence, a barn and a shed, all of which are accessed from Bell Road and located in the area of the property zoned R-20,000. The westernmost area of the property is in the Agricultural zoning district and traversed by 100-year floodplain. There is no proposed development in the Agricultural area of the site. The developer is currently processing an amended plat to provide easements on the environmentally sensitive areas.

Site Plan Review:

The developer proposes to convert an existing single-family home in to a 16-bed assisted living facility. The development will also house the resident family. The developer is not proposing any changes to the exterior of the building and will remodel the interior of the house. A new 18 foot wide access drive from Bell Road to the existing house is proposed. The existing driveway will be backfilled with topsoil and seeded and mulched. The developer will widen Bell Road in the vicinity of the proposed entrance to a width of 15 feet for the southbound lane.

The development is required to have eight parking spaces. The plan meets the parking requirements for an assisted living facility as six standard spaces and two accessible spaces are proposed. The paved circle for parking and access will be 25 feet wide. A five-foot high board-on-board dumpster enclosure is shown to the west of the house. A gazebo is proposed for the center of the parking circle. No additional lights or signs are proposed for this development.

Stormwater Management is being addressed through the use of grass swales along the access road. Floodplain and Water Resources are being addressed through easements. To address Forest Conservation, 4.4 acres will be planted on the site. An easement will be placed over this area as well. The area of afforestation is shown behind the existing house in the agriculturally zoned area. Landscaping is shown along Bell Road, and along the residential properties to the east. A mix of shrubs and trees is shown around the parking and entrance to the building. A landscape screen will be planted around the dumpster enclosure. The existing hedgerow to the west of the house will remain.

To meet the requirements of fire protection, the structure will utilize a sprinkler system.

The plan was presented to the Carroll County Planning and Zoning Commission on October 17, 2006 as a concept plan. There was some discussion about ambulatory service and the area of agriculture behind the existing house. The developer has indicated that for emergencies, Westminster Fire & EMS is contacted through 911. For transportation of a non-emergency nature, the developer has indicated that a private transportation system is used or residents are transported by their families. The developer is working on a new contract with a private service. The area in the rear of the property that was not well maintained will now be under several environmental easements and will be planted to meet the requirements of Forest Conservation. No additional landscaping is shown in the rear of the house.

The proposed site plan was subject to Citizen's Involvement. Public meetings were held on June 26, 2006, December 21, 2007, and July 28, 2008 during the regularly scheduled meetings of the Technical Review Committee. Several citizens attended the 2007 meeting and questioned the density of the development and any future plans for development. No citizens attended the 2008 meeting and the Bureau of Development Review has not received any written correspondence.

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 floodplain easement be granted to the County Commissioners of Carroll County prior to or simultaneously with the recordation of the Public Works Agreement.
4. That a forest conservation easement be granted to the County Commissioners of Carroll County prior to or simultaneously with the recordation of the Public Works Agreement.
5. That a water resources easement be granted to the County Commissioners of Carroll County prior to or simultaneously with the recordation of the Public Works Agreement.

Mr. Varga noted a change to Condition 5. The word "forested" should be inserted before "water resources easement".

## CONCURRENCY MANAGEMENT REPORT

### Background:

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

### Agency Responses:

#### Police Services:

The estimated Carroll County population as of March 31, 2009 was 174,776. 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. The average staffing level at the Maryland State Police Barracks for the period April 2008 through March 2009 was 83 officers. Based on a total of 234 positions, the ratio of sworn law enforcement positions to the current Carroll County population as of the end of March was 1.33.

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 1.32 by the end of FY09 – 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 Westminster Elementary, Westminster West Middle, and Westminster High are adequate for FY09 through FY14.

The enrollment projections indicate that Westminster Elementary will range between 100 and 105% of capacity during the current 6-year CIP. In the Westminster Elementary attendance area 1 additional residential development, comprised of 181 lots, is currently in the review process. There are approximately 13 lots in the Westminster Elementary 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 Westminster West Middle will range from 87 to 98% of functional rated capacity during the current 6-year CIP. In the Westminster West attendance area 14 additional residential developments, comprised of approximately 294 lots, are currently in the review process. There are approximately 109 lots in the Westminster West 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 Westminster High will range from 92 to 84% of capacity during the current 6-year CIP. In the Westminster High attendance area 27 additional

residential developments, comprised of approximately 433 residential lots, are currently in the review process. There are approximately 172 residential units in the Westminster 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 Westminster emergency services district. The 2009 1st quarter late and no response statistical data indicates that of the first due total fire calls in the Westminster district, 0.0% were categorized as no responses, and 0.97% as late and no responses. Of the first due emergency medical service calls in the Westminster district, 0.10% were categorized as no responses and 0.19% as late and no responses. Westminster meets adequate late and no response criteria.

With regard to fire call response time, for the two-year period of 4/1/07 to 3/31/09 Westminster had an average response time of 5 minutes and 59 seconds – adequate.

With regard to emergency medical call response time, for the two-year period of 4/1/07 to 3/31/09 Westminster had an average response time of 6 minutes and 24 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 Bell Road, an urban local road, is rated adequate, i.e. Level of Service “C.”

Staff Recommendation:

With regard to a final plan, Chapter 71-6E(4) states “If adequacy was not determined by the Commission at the preliminary plan stage and the Commission determines that all public facilities and services are adequate, the Commission may approve the plan and issue a recordation schedule and building permit reservations.”

Therefore, staff recommends that the Planning Commission:

1. Find that police, schools, fire and EMS, and roads are considered adequate.
2. Approve the site plan with the condition that the building permit be issued before the site plan becomes void, i.e. within 18 months of the date of written Planning Commission approval.

Discussion:

Mr. Pete Podolak, Leon A. Podolak and Associates, indicated the developer had investigated several options for a facility on the property, but settled with the renovation of the existing 6,000 square foot house.

There was a brief discussion regarding ambulatory and other transportation services.

Ms. Dorothy Stottlemeyer, 195 Bell Road, questioned where the entrance would be located.

Mr. Podolak explained that the entrance would be located across from the entrance to the golf course to create an intersection.

**Decision:**

In accordance with Chapter 103, the Commission, on motion of Mr. Schuster, seconded by Mr. Chadwick, and unanimously carried, approved the Bethania Home Care site plan subject to the five conditions in the staff report, with the fifth condition as amended.

In accordance with Chapter 71, the Commission, on motion of Mr. Schuster, seconded by Dr. Slade, and unanimously carried, approved the site plan subject to the two conditions in the staff report.

**CONCEPT SITE PLAN REVIEW:**

- a. S-08-003, Bobcat at Gi-Na Farms
- b. S-07-020, Hampstead Baptist Church, 2<sup>nd</sup> Amended Site Plan

**A. S-08-003, BOBCAT AT GI-NA FARMS**

LOCATION: South side of Old Liberty Road, east of Rhonda Road, E.D. 14

OWNER: Winfield Properties, LLC, 8250 Beechcraft Ave., Gaithersburg, MD 20879 (LLC Members: William Phebus, Paul Barnard, Dayton Barnard, Garry Barnard)

DEVELOPER: Same as Owner

ENGINEER: VanMar Associates, Inc., 310 South Main Street, Mt. Airy, MD 21771

ZONING: Business General (BG) and Conservation (C)

ACREAGE: 3.04 Acres

FIRE DISTRICT: Winfield

WATERSHED: Patapsco River - South Branch

MASTER PLAN: Local Business and Private Conservation

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 of a concept site plan. No action is required.

Existing Conditions:

The subject property is made up of three parcels and a subdivision lot. Parcels 130, 190, and 191 were created prior to subdivision regulations, and Lot 20 was created as part of the Gi-Na Farms subdivision. The developer has submitted an amended plat consolidating all of the parcels and part of Lot 20, creating Lot 22 and Lot 20A. The proposed development is located on Lot 22. Recordation of the amended plat will be required prior to final signature approval of this site plan.

Site Plan Review:

The developer proposes to construct a 9,000 square foot building for Bobcat sales and service. Offices are proposed for part of the second floor. This use is consistent with the land use designation of Local Business in the Freedom Comprehensive Plan. The area designated as Private Conservation is not being developed. Paving is shown around all four sides of the building. Parking is shown in front of the structure, and a fenced-in area for storage and employee parking is shown on the remaining three sides of the building. The parking requirement is listed as equipment sales and service center. The Bureau of Development Review has advised the developer that the parking requirement should be based on the standard for Automobile, trailer, implement, and motorcycle sales room which would require 1 space for every 500 square feet of floor area, excluding service bays, and 2 parking spaces per service bay. Using that parking standard would require 19 parking spaces, instead of the 25 shown on the plan.

The State Highway Administration has suggested making the western entrance to the site an in-only access and the eastern entrance an out-only exit. SHA has asked to see truck turning movement exiting the parking area to ensure that it is feasible as designed. SHA has also commented that the southeast corner of the MD. Rt. 26 / Old Liberty Road intersection cannot accommodate a WB-40 truck and the radius of the intersection should be increased if a WB-40 is expected to serve the proposed development.

The building is shown as a two-story, white-metal building with a white roof and an orange sign. An additional sign is proposed at the western entrance to the site. The building will contain four service bays, a showroom, and 1<sup>st</sup> and 2<sup>nd</sup> story offices. The sign is shown as an orange background with white lettering. The base of the monument sign is gray split-faced block. The scale incorrectly shows the sign as being 30 feet high, but the sign is dimensioned as 12 feet high and 12 feet wide.

A dumpster is shown behind the building and will be screened with a board-on-board fence. A photometric plan and lighting detail are shown on Sheet 4. Lights are shown on 20-foot poles as well as cutoff fixtures on the building. A chain link fence is shown to separate the public parking area and employee and loading area. The fence runs along the perimeter of the paved area.

This plan was presented to the Design & Architecture Review Committee (DARC) in April of 2009. The DARC recommended that a sidewalk be provided along the front of the building to separate travel lanes from the building entrance. The DARC suggested that bollards, a sidewalk, or an enclosed grass area be added around the building and particularly at the corners of the building as these areas are vulnerable to strikes from vehicles. The DARC commented that the appearance of the building is very plain. The DARC recommended that the appearance could be improved by increasing the pitch of the roof and that the developer should consider adding a porch feature similar to commercial developments that have been presented in recent years. The DARC also suggested that the landscaping to the rear of the property be more diverse than the group of white pines shown on the plan.

Stormwater Management is addressed through the use of an underground infiltration system. There is no floodplain on the property. Water resources requirements will be addressed by meeting infiltration requirements. Forest Conservation was addressed during the subdivision of Gi-Na Farms. The plan does not yet meet the requirements of the Landscaping ordinance. A landscape screen is required along the Old Liberty Road and along Rhonda Road. A Class A landscape screen, which is an opaque vegetative screening, is required around the loading zone. An opaque fence, berm, or brick wall is required along the rear of the property because it adjoins a residential use.

The plan does not yet meet the requirements for Fire Protection. The developer will need to install an underground tank or extend the Freedom water line to the property. The water line must be within 1000 feet of the property and a hydrant must be installed at the terminus of the line.

The proposed site plan was subject to Citizen's Involvement. A public meeting was held on April 27, 2009 during a regularly scheduled meeting of the Technical Review Committee. No citizens spoke at the meeting and no written comments were forwarded to the Bureau of Development Review. One citizen contacted the Bureau of Development Review with concern about a PA system being used for the site. A PA system is not proposed for this development.

The property is **not** subject to the provisions of Concurrency Management, Chapter 71 of the Code of Public Local Laws and Ordinances of Carroll County. However, AFC's are required.

#### Discussion:

Mr. Chadwick, looking at the aerial photo provided by staff, questioned the driveway for the house directly to the south that goes through this property.

Mr. Ron Thompson, Van Mar Associates, indicated all of the structures within the site were removed.

Mr. Varga explained that the County's aerial photography is several years old.

Dr. Slade questioned whether there were any plans for the parcel of land behind this project.

Mr. Bill Phebus, owner, indicated the property may be put up for sale in several years.

Mr. Yeo asked whether the developer had any plans to change the aesthetics of the building.

Mr. Thompson indicated the developer will raise the pitch of the roof.

Mr. Phebus noted that the building has been redesigned, a sidewalk was added, stone pillars will be erected in front of the building, etc.

Mr. Wertz questioned whether there would be a grass strip where there is no sidewalk and why more than one access driveway was necessary.

Mr. Phebus explained that boxwood shrubs or a grass area would be located where there is no sidewalk. He noted that multiple access drives were necessary due to the traffic issues in the area.

Mr. Schuster questioned whether the westernmost access could be moved all the way west on the property.

Mr. Phebus indicated that would present a sight distance problem.

Mr. Wertz noted the proposed signage is somewhat larger than what the Commission prefers.

Mr. Horn provided a summary of the outstanding issues with regard to this project as follows:

- turning radius
- sign detail
- sidewalks/grass strip
- enhance building appearance
- screen residential development

Mr. Thompson indicated a fence and different types of trees will be installed along the rear of the property.

**B. S-07-020, HAMPSTEAD BAPTIST CHURCH, 2<sup>ND</sup> AMENDED SITE PLAN**

LOCATION: West side of MD 30 (Hanover Pike), 8<sup>th</sup> Election District

OWNER: Hampstead Baptist Church, c/o Chris Brammer, P. O. Box 94, 328  
Hanover Pike, Hampstead, MD 21074

DEVELOPER: Same as Owner

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

ZONING: IR – Restricted Industrial

ACREAGE: 4.5778 acres

WATERSHED: Liberty Reservoir

FIRE DISTRICT: Hampstead

MASTER PLAN: Restricted Industrial

Ms. Jeanne Joiner 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.

Existing Conditions:

The subject property is improved with a 10,976-square-foot church building, educational facility, and related parking lot. The site has direct access to Maryland Route 30. A second parcel owned by the church was the site of a former gas station and is currently vacant. The property is located in a No Planned Service Area for water and sewer. The existing facility is one story with a walk-out basement level to the side and rear.

In 1979, in BZA Case 1359, the Board of Zoning Appeals approved a conditional use request to establish a church in an IR Restricted Industrial District. In 2007, in BZA Case 5365, the Board of Zoning Appeals approved the expansion of an existing conditional use and variances from the required front yard setback of 100 feet to 50 feet; from the required side yard setback of 50 feet to 30 feet.

Plan Review:

The developer is proposing an expansion of the existing church facility. The expansion is an 8,713-square-foot addition to accommodate a 516 seat sanctuary to the front of the existing building. Additional parking and new water and sewer facilities are proposed.

The existing church's entrance onto Maryland Route 30 will be closed and relocated to the south. A second entrance onto MD 30 is proposed at the far south end of the property just north of the Hampstead Bypass southern tie-in. Parking standards require one space for every 4 persons, based on the maximum capacity of the sanctuary. A total of 129 parking spaces are required for the facility, 189 spaces are provided.

A building detail is included on Sheet 18 of the plan. The proposed addition is a one-story structure with a basement. For fire protection, an automatic sprinkler system is proposed. The location of the water tank to support fire suppression is not identified.

All existing wells and septic systems on both parcels will be abandoned. A new well is proposed. A new septic system will consist of an initial deep trench system with 2 replacement areas, a 2,000 gallon septic tank, a 2,000 gallon pump chamber, and a 3,000 gallon wet chamber. The existing 1,500 gallon septic tank will be salvaged and reused. All septic facilities are proposed to be located under the parking lot and access drive.

The developer has stated that no additional signage is proposed. A Photometric Plan is included on Sheet 17. The Design and Architectural Committee (DARC) commented that the photometric

plan indicates a very uneven lighting pattern with several hot spots and dark spots throughout the parking lot. DARC recommended that lower wattage bulbs be used in full cut-off fixtures on poles from 15 – 20 feet in height.

The requirements of Forest Conservation will be satisfied through on-site planting in the area of the wetlands and wetland buffer. The property will be screened in accordance with Landscape Requirements. The Bureau of Resource Management is requiring screening around the storm water management facilities. This project is located within the Liberty Reservoir Watershed Protection Area. The requirements of the Water Resource Protection Manual are being addressed with the use of recharge basins located at the rear of the site for water quality, and a stone reservoir for recharge.

The concept site plan was subject to citizen involvement at the February 25, 2008 Technical Review Committee meeting. No correspondence regarding this development has been received by the Bureau of Development Review.

Discussion:

Dr. Slade questioned whether the portion of the property that was formerly a gas station was looked at for contamination.

Mr. Tom Devilbiss, Deputy Director, Department of Planning, indicated that issue was addressed through the Environmental Site Delineation process and documentation was received by staff from the Maryland Department of the Environment.

Mr. Schuster questioned the need for the 189 parking spaces that are proposed rather than the 129 that are required.

Ms. Joiner noted that DARC discussed the parking situation and suggested 159 spaces are necessary rather than the 129 indicated in the staff report.

Mr. Wertz suggested the project be developed with a lower number of spaces with an area reserved for future parking.

Mr. Schuster asked that staff and developer work with DARC regarding the lighting to make sure it is acceptable.

Mr. Yeo questioned whether there were any plans to expand the current educational facilities.

Mr. Brammer indicated there were no plans to expand the educational facilities.

Mr. Horn provided a summary of the outstanding issues with regard to the project:

- photometric plan
- documentation of closure of former gas station area
- parking spaces

**PRELIMINARY AND FINAL SUBDIVISION PLAN REVIEW:**

- a. M-07-039, Williams Quarters
- b. M-08-005, Devries

**A. M-07-039, WILLIAMS QUARTERS**

LOCATION: West side of Gaither Road, 14<sup>th</sup> Election District

OWNER: W & M Schneider Enterprises, 7428 Gaither Road, Sykesville, MD 21784

DEVELOPER: Same as Owner

ENGINEER: DRS & Associates, 52 Winters Street, Westminster, MD 21157

ZONING: R-10,000 and R-40,000

ACREAGE: 3.19488 acres

WATERSHED: South Branch Patapsco River

NO. OF LOTS: 3 lots (2 new lots)

MASTER PLAN: High Density Residential and Low Density Residential

Ms. Jeanne Joiner presented the background.

Action Required:

Four actions 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.
3. Approval of the Final Plan of Subdivision pursuant to Chapter 103, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.
4. Approval of the Final 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 zoned R-10,000 (3.08 acres) and R-40,000 (0.11488 acres). The property is improved with a barn, a garage, and a recently constructed house foundation. An older house that was on the property has been torn down. The property is a 2.45593-acre parcel and a 0.29373-acre addition from an adjoining property owned by William E. Schneider, Trustee and Margaret H. Schneider, Trustee. The property is accessed from Gaither Road.

Plan Review:

The developer proposes to create three lots that will be served by public water and sewer. Lot 1 is 0.31095 acres, Lot 2 is 1.34610 acres, and Lot 3 is 1.40023 acres. The third lot has been added since the concept plan was presented to the Planning Commission.

Lot 1, which contains the house foundation, is accessed by a private driveway from Gaither Road. Lots 2 and 3 will have a shared driveway entrance within the right-of-way of Gaither Road, then private driveways. A right-of-way parcel for Gaither Road will be conveyed to the County with recordation of the subdivision.

As recommended by staff, the eastern boundary of Lot 1 has been straightened; a curved lot line was shown on the concept plan. A 10' construction easement is now shown along this property line. The easement is not necessary for the driveway to Lot 2, but could be necessary for a private road if the developer pursues developing age-restricted housing on the lot. A site plan for age-restricted housing has not been submitted to the County for review, but has been discussed with staff. The Planning Commission would have to review and approve the project density, exterior design, and layout before the Board of Zoning Appeals could consider granting the conditional use.

The plan is exempt from the requirements of forest conservation and landscaping.

Lot 1 is exempt from the requirements of stormwater management. Stormwater management on Lots 2 and 3 will be addressed with the installation of drywells.

The plan was subject to citizen involvement at the September 29, 2008 Technical Review Committee meeting. No citizens spoke on this project at the meeting and the Bureau of Development Review has not received any correspondence concerning this project.

The concept subdivision plan was presented to the Planning Commission at the meeting on November 18, 2008. The meeting minutes are attached to this report.

Chapter 103 Recommendations:

The staff recommends approval of the Preliminary Plan and Final Plan subject to the following conditions:

1. That the Owner/Developer enter into a Public Works Agreement with Carroll County to guarantee completion of any required improvements.

2. That a Stormwater Management Easement and Maintenance Agreement be granted to the Carroll County Commissioners of Carroll County by a deed to be recorded simultaneously with recordation of the plat.
3. That the area shown as Parcel A be conveyed to the Carroll County Commissioners by deed to be recorded simultaneously with recordation of the plat.
4. That a 10' construction easement on Lot 1 for the benefit of Lot 2 be created by deed to be recorded simultaneously with recordation of the plat.

#### CONCURRENCY MANAGEMENT REPORT

Mr. Kimberly Brandt presented the background.

Subdivision Plan: M-07-039, Williams Quarters

Number of Lots: 3 lots (2 new lots)

Schools: Linton Springs Elementary  
Sykesville Middle  
Century High

Roads: Gaither 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 distributed for review and comment. The forms were distributed to the appropriate agencies.

Agency Responses:

Police Services:

The estimated Carroll County population as of March 31, 2009 was 174,776. 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. The average staffing level at the Maryland State Police Barracks for the period April 2008 through March 2009 was 83 officers. Based on a total of 234 positions,

the ratio of sworn law enforcement positions to the current Carroll County population as of the end of March was 1.33.

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 1.32 by the end of FY09 – 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 Linton Springs Elementary and Century High are adequate for years FY09 through FY14. Sykesville Middle is approaching inadequate in years FY09 through FY11 and adequate for years FY12 through FY14.

The enrollment projections indicate that Linton Springs Elementary will range between 92 and 97% of capacity during the current 6-year CIP cycle. In the Linton Springs attendance area 11 additional residential developments, comprised of 111 lots, are currently in the review process. There are 21 lots in the Linton Springs 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 Sykesville Middle will range between 105 to 114% of functional rated capacity during the current CIP. In the Sykesville attendance area 14 additional residential developments, comprised of approximately 300 lots, are currently in the review process. There are approximately 155 lots in the Sykesville 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 the percentage of capacity of Century High will range from 90 to 102% during the 6-year CIP. In the Century attendance area 14 additional residential developments, comprised of approximately 300 residential lots, are currently in the review process. There are approximately 155 residential units in the Century attendance 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 4th 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 0.78% 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 0.0% 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 3/1/07 to 2/28/09 Sykesville had an average response time of 6 minutes and 43 seconds – adequate.

With regard to emergency medical call response time, for the two-year period of 3/1/07 to 2/28/09 Sykesville had an average response time of 6 minutes and 40 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 Gaither Road, an urban minor collector, is rated adequate, i.e. Level of Service “B.”

Water Service:

The Carroll County Department of Public Works responded on March 25, 2009 that based on threshold capacity requirements for water services, Freedom water is adequate to serve the proposed development.

Sewer Service:

The Carroll County Department of Public Works responded on March 25, 2009 that the threshold capacity requirements for sewer services are adequate.

Recommendation:

With regard to a preliminary plan, Chapter 71-6D(4) states “If ... 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 conditionally approve the preliminary plan with conditions as follows:

1. Police, fire and EMS, roads, water, and sewer are considered adequate, schools are considered approaching inadequate.
2. Tentative building permit reservations are for 2 lots in FY09.
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.

With regard to a final plan, Chapter 71-6E(4) states “If ... a public facility or service is approaching inadequate, the Commission may approve the plan subject to a phasing plan for recordation or may defer the project and place the plan in a queue to be re-tested on an annual basis.

For projects that received a conditional approval and tentative recordation schedule at the preliminary plan stage, the Commission shall review the facility or service which was inadequate or approaching inadequate at the preliminary plan stage and may modify the recordation schedule and building permit reservations or place the project in a queue, at the discretion of the Commission.”

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

1. Police, fire and EMS, roads, water and sewer are considered adequate; schools are considered approaching inadequate.
2. Building permit reservations are for 2 lots in FY09.
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.

**Decision:**

In accordance with Chapter 103, the Commission, on motion of Mr. Chadwick, seconded by Mr. Yeo, and unanimously carried, approved the preliminary and final subdivision plans subject to the four conditions stated in the staff report.

In accordance with Chapter 71, the Commission, on motion of Mr. Chadwick, seconded by Mr. Schuster, and unanimously carried, conditionally approved the preliminary plan with the four conditions stated in the staff report and conditionally approved the final plan with the four conditions stated in the staff report.

**B. M-08-005, DEVRIES SUBDIVISION**

LOCATION: South side of Old Liberty Road, 5<sup>th</sup> Election District

OWNER: Marisa and Luigi Gino, 745 W. Old Liberty Road, Sykesville, MD 21784

DEVELOPER: GYC Builders, 611 Nursery Road, Westminster, MD 21157

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

ZONING: R-20,000 Residence District

ACREAGE: 0.9356 acres

WATERSHED: South Branch Patapsco

MASTER PLAN: Medium Density Residential

NO. OF LOTS: 1 new lot (1 existing lot)

Ms. Jeanne Joiner presented the background.

Action Required:

Four actions 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.
3. Approval of the Final Plan of Subdivision pursuant to Chapter 103, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.
4. Approval of the Final 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.

Background:

On March 17, 2009, the preliminary plan and final plan of Devries Subdivision were presented to the Planning Commission for approval. The motion made at the meeting to approve the preliminary and final plans pursuant to Chapter 103 failed for lack of a majority. The Commission members voting "No" stated that they disagreed with the Zoning Administrator's interpretation of the minimum lot width required for the corner lot. The Commission did not act on Chapter 71. The meeting minutes are attached to this report.

On April 7, 2009, the County Commissioners adopted Ordinance No. 09-02, which became effective on April 13, 2009. With the adoption of this ordinance, the additional lot width requirement for corner lots in the R-20,000 Residence District was eliminated. This requirement had previously been in the Zoning Ordinance, Chapter 223 of the Code of Public Local Laws and Ordinances of Carroll County.

On April 21, 2009, the Planning Commission voted to rehear the Devries Subdivision plan.

Plan Review:

The subject property is improved with a residence. The lot was created as an off-conveyance. The developer proposes to subdivide the property to create one new lot that will be served by public water and sewer. The proposed use is consistent with the Master Plan designation of Medium Density Residential.

The proposed lot, Lot 2, is 0.4543 acres in size and will be accessed from a private driveway on Old Liberty Road. The lot including the existing residence, Lot 1A, is 0.4694 acres in size.

The plan is exempt from the requirements of forest conservation and landscaping. To satisfy the requirements of stormwater management, a drywell will be installed on Lot 2.

With this subdivision, a 20' utility easement over Lot 2 for the existing sewer connection of Lot 1A will be created. An 18' slope easement on Lot 1A to provide area for grading during construction of the house on Lot 2 will also be created.

Recommendation:

Pursuant to Chapter 103, staff recommends approval of the preliminary plan and final 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 shall be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by deed to be recorded simultaneously with the record plat.
3. That a 20' Drainage and Utility Easement across Lot 2 shall be granted to Lot 1A by a deed to be recorded simultaneously with the record plat.
4. That an 18' Slope Easement across Lot 1A shall be granted to Lot 2 by a deed to be recorded simultaneously with the record plat.

#### CONCURRENCY MANAGEMENT REPORT

Ms. Kimberly Brandt presented the background.

Subdivision Plan: M-08-005, Devries

Number of Lots: 1 new lot (1 existing lot)

Schools: Eldersburg Elementary  
Sykesville Middle  
Century High

Roads: Old Liberty 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 March 31, 2009 was 174,776. 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. The average staffing level at the Maryland State Police Barracks for the period April 2008 through March 2009 was 83 officers. Based on a total of 234 positions, the ratio of sworn law enforcement positions to the current Carroll County population as of the end of March was 1.33.

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 1.32 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 Eldersburg Elementary and Century High are adequate for all years FY09 through FY14, Sykesville Middle is approaching inadequate in years FY09 through FY11 and adequate for years FY12 through FY14.

The enrollment projections indicate that Eldersburg Elementary will range between 94 and 96% of capacity during the current 6-year CIP cycle. In the Eldersburg attendance area 2 additional residential developments, comprised of 32 lots, are currently in the review process. There are approximately 5 lots in the Eldersburg 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 Sykesville Middle will range between 105 to 114% of functional rated capacity during the current CIP. In the Sykesville attendance area 14 additional residential developments, comprised of approximately 300 lots, are currently in the review process. There are approximately 155 lots in the Sykesville 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 for Century High that the percentage of capacity will range from 90 to 102% of capacity during the 6-year CIP. In the Century attendance area 14 additional

residential developments, comprised of approximately 300 residential lots, are currently in the review process. There are approximately 155 residential units in the Century attendance 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 2009 1<sup>st</sup> 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 2.56% 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 0.0% 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 4/1/07 to 3/31/09 Sykesville had an average response time of 6 minutes and 45 seconds – adequate.

With regard to emergency medical call response time, for the two-year period of 4/1/07 to 3/31/09 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 Old Liberty Road, a local urban road, is rated adequate, i.e. Level of Service “B.”

Water Service:

The Carroll County Department of Public Works responded on April 30, 2009 that based on threshold capacity requirements for water services, Freedom water is adequate to serve the proposed development.

Sewer Service:

The Carroll County Department of Public Works responded on April 30, 2009 that the threshold capacity requirements for sewer services are adequate.

Recommendation:

With regard to a preliminary plan, Chapter 71-6D(4) states “If ... 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 conditionally approve the preliminary plan with conditions as follows:

1. Police, fire and EMS, roads, water, and sewer are considered adequate, schools are considered approaching inadequate.
2. Tentative building permit reservation is for 1 lot in FY09.
3. The tentative recordation schedule requires the plan to be recorded within 24 months of preliminary approval.
4. The building permit reservation is allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

With regard to a final plan, Chapter 71-6E(4) states “If ... a public facility or service is approaching inadequate, the Commission may approve the plan subject to a phasing plan for recordation or may defer the project and place the plan in a queue to be re-tested on an annual basis.

For projects that received a conditional approval and tentative recordation schedule at the preliminary plan stage, the Commission shall review the facility or service which was inadequate or approaching inadequate at the preliminary plan stage and may modify the recordation schedule and building permit reservations or place the project in a queue, at the discretion of the Commission.”

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

1. Police, fire and EMS, roads, water and sewer are considered adequate; schools are considered approaching inadequate.
2. Building permit reservation is for 1 lot in FY09.
3. The recordation schedule requires the plan to be recorded within 24 months of preliminary approval.
4. The building permit reservation is allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

Discussion:

Mr. John Maguire, attorney for the applicant, indicated that the change in the law which was argued when the Commission addressed reconsideration of the project, addresses most of the concerns of the Commission. He noted that Mr. Mark Koski, GYC Builders, was present if further questions remained with regard to the building envelope.

Mr. Schuster indicated he would like some assurance that the new house would be designed with a similar architecture to the surrounding development since the house would not be a part of the homeowners association.

Mr. Maguire explained that the existing house was a model home for the development and the area of this lot was once listed as a future area of expansion for the homeowners association. For whatever reason, the homeowners association opted not to include this lot.

Mr. Koski explained that the building envelope for the new lot is not very different from many of the lots in the existing neighborhood—approximately 50' footprint. He indicated he had brought samples of house plans and architecture for homes that would fit that footprint.

Mr. Schuster questioned whether the new dwelling can and will be of similar square footages to the existing homes in the neighborhood.

Mr. Koski responded affirmatively.

**Decision:**

In accordance with Chapter 103, the Commission, on motion of Mr. Yeo, seconded by Mr. Chadwick, and unanimously carried, approved the preliminary and final subdivision plans for Devries Subdivision subject to the four conditions outlined in the staff report.

In accordance with Chapter 71, the Commission, on motion of Mr. Yeo, seconded by Mr. Chadwick, and unanimously carried, conditionally approved the preliminary and final plans with regard to Devries Subdivision subject to the four conditions outlined in the staff report.

**PRELIMINARY SUBDIVISION PLAN REVIEW:**

a. M-06-006, Christopher Place

**A. M-06-006, CHRISTOPHER PLACE**

LOCATION: East side of Cranberry Road, 7<sup>th</sup> Election District

OWNER: Kurt C. Lauritzen and Judith A. Nave, 1301 Streaker Road, Sykesville, MD 21784

DEVELOPER: Same as Owner

ENGINEER: DRS & Associates, 52 Winters Street, Westminster, MD 21157

ZONING: R-10,000

ACREAGE: 0.7517 acres

WATERSHED: Liberty Reservoir

NO. OF LOTS: 3 lots

MASTER PLAN: Suburban Residential

Ms. Jeanne Joiner presented the background.

Action Required:

Two actions 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. Denial of the of the Preliminary Plan of Subdivision pursuant to Chapter 71, Adequate Public Facilities and Concurrency Management, and placement of the plan in the queue for Westminster water service to be retested annually.

Existing Conditions:

The subject property is zoned R-10,000 and is improved with a duplex (two-family) unit. Access is from Christopher Drive, a use-in-common driveway.

Plan Review:

The developer proposes to create three lots to be served by City of Westminster public water and sewer. Lot 1 is 0.34593 acres, Lot 2 is 0.18039 acres, and Lot 3 is 0.18885 acres. A duplex unit is proposed for Lot 1. Lots 2 and 3 contain existing duplex units that are being separated to individual lots. The proposed use is consistent with the land use designation of suburban residential.

All three lots will be accessed via Christopher Drive, an existing use-in-common driveway that meets the County's current standards for shared driveways. An existing easement agreement addresses the maintenance obligations. An ingress and egress easement to accommodate the driveways to Lots 1 and 2 will be recorded with this subdivision.

The plan is exempt from the requirements of forest conservation and landscaping.

Lots 2 and 3 are exempt from the requirements of stormwater management. Stormwater management on Lot 1 will be addressed with the installation of a dry well.

In Case 2513, dated June 17, 1985, the Board of Zoning Appeals granted a conditional use for two two-family dwellings on this property. A copy of the decision is attached to this report.

Recommendation:

Pursuant to Chapter 103, staff recommends approval of the preliminary plan subject to the following conditions:

1. 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 deed to be recorded simultaneously with the record plat.

2. That a 10' ingress and egress easement for Lots 1 and 2 across Lots 2 and 3 shall be granted by a deed of easement to be recorded simultaneously with the record plat.

#### CONCURRENCY MANAGEMENT REPORT

Ms. Kimberly Brandt presented the background.

Subdivision Plan: M-06-006, Christopher Place

Number of Lots: 3

Schools: Cranberry Station Elementary  
Westminster East Middle  
Winters Mill High

Roads: Cranberry Road

Fire and EMS: Westminster

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

Water: City of Westminster

Sewer: City of Westminster

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 distributed for review and comment. The forms were distributed to the appropriate agencies.

Agency Responses:

Police Services:

The estimated Carroll County population as of March 31, 2009 was 174,776. 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. The average staffing level at the Maryland State Police Barracks for the period April 2008 through March 2009 was 83 officers. Based on a total of 234 positions, the ratio of sworn law enforcement positions to the current Carroll County population as of the end of March was 1.33.

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 1.32 by the end of FY09 – 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 Cranberry Station Elementary, Westminster East Middle, and Winters Mill High are adequate for FY09 through FY14.

The enrollment projections indicate that Cranberry Station will range between 86 and 91% of capacity during the current 6-year CIP cycle. In the Cranberry Station attendance area 8 additional residential developments, comprised of approximately 277 lots, are currently in the review process. There are approximately 85 lots in the Cranberry Station 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 Westminster East Middle will rise from 91 to 106% of functional rated capacity during the current CIP. In the Westminster East attendance area 19 additional residential developments, comprised of approximately 607 lots, are currently in the review process. There are approximately 164 lots in the Westminster East 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 Winters Mill High that the percentage of capacity will range from 93 to 97% of capacity during the 6-year CIP. In the Winters Mill attendance area 19 additional residential developments, comprised of approximately 607 residential lots, are currently in the review process. There are approximately 164 residential units in the Winters Mill 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 Westminster emergency services district. The 2008 4th quarter late and no response statistical data indicates that of the first due total fire calls in the Westminster district, 0.51% were categorized as no responses, and 1.54% as late and no responses. Of the first due emergency medical service calls in the Westminster district, 0.10% were categorized as no responses and 0.30% as late and no responses. Westminster meets adequate late and no response criteria.

With regard to fire call response time, for the two-year period of 3/1/07 to 2/28/09 Westminster had an average response time of 6 minutes and 2 seconds – adequate.

With regard to emergency medical call response time, for the two-year period of 3/1/07 to 2/28/09 Westminster had an average response time of 6 minutes and 25 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 Cranberry Road, an urban minor collector, is rated adequate, i.e. Level of Service "C."

**Water Service:**

Based on threshold capacity requirements for water services, Westminster water is inadequate to serve the proposed development. The City of Westminster has indicated that they are unable to grant an allocation for this project due to the consent order with the Maryland Department of the Environment. The City is unsure of when this project will receive an allocation.

**Sewer Service:**

The City of Westminster responded on March 25, 2009 that the threshold capacity requirements for sewer services are adequate.

**Staff Recommendation:**

With regard to the preliminary plan, Chapter 71-6D(4) states "If a public facility or service is inadequate or projected to be inadequate during the current CIP at the preliminary plan stage and no relief facility is planned in the 6-year CIP to address the inadequacy or no mitigation is accepted by the County pursuant to § 71-5B, the plan shall be denied by the Commission. At the request of the developer, the plan may be placed in a queue and re-tested on an annual basis."

The staff recommends that the Planning Commission:

1. Find that police, schools, fire and EMS, roads, and sewer service are considered adequate, and water is considered inadequate.
2. Deny the preliminary plan and place the plan in the queue for Westminster water service to be retested annually.

**Discussion:**

Mr. Chadwick noted that the separation of the existing duplex into two lots solves one problem while the approval of a new duplex as one lot creates another.

**Decision:**

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

In accordance with Chapter 71, the Commission, on motion of Mr. Schuster, seconded by Mr. Chadwick, and unanimously carried, found police, schools, fire and EMS, roads, and sewer service are adequate, and water is considered inadequate. They denied the preliminary plan and placed it in the queue for the Westminster water service to be retested annually.

**CONCEPT SUBDIVISION PLAN REVIEW:**

- a. P-09-002, Piney Ridge Village, Phase 8
- b. P-08-005, Timber Summit, Section 2

**A. P-09-002, PINEY RIDGE VILLAGE, SECTION 8**

LOCATION: South side of Piney Ridge Parkway, west of Maryland Route 32, 5<sup>th</sup> Election District

OWNER: Piney Ridge Village Limited Partnership, c/o Martin K. P. Hill, 4175 Hanover Pike, Manchester, MD 21102

DEVELOPER: Woodhaven Building & Development, Inc., c/o Martin K. P. Hill, 4175 Hanover Pike, Manchester, MD 21102

ENGINEER: DRS & Associates, 52 Winters Street, Westminster, MD 21157

ZONING: R-10,000

ACREAGE: 13.6609 acres

FIRE DISTRICT: Sykesville

WATERSHED: Liberty Reservoir

NO. OF UNITS: 31 single-family

MASTER PLAN: High Density Residential

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:

In 1974, the Planning Commission approved the development of the Piney Ridge Village Planned Unit Development. Since then, Sections 1 through 7 have been developed. Section 8 will be the final section developed.

Much of the Section 8 property has already been cleared and graded. A stream runs through the easternmost area of the property; the woods in this area have been maintained.

The site is bordered on the east by homes and a business that is accessed from Maryland Route 32. The site is bordered on the west by an open space parcel. The property to the south is

privately owned and unimproved. A stream runs through the open space parcel, the southernmost area of the subject property, and the unimproved property.

Plan Review:

The developer proposes to create thirty-one lots for single-family detached homes. The homes will be served by public water and sewer. The development is consistent with the designation of High Density Residential in the Freedom Community Comprehensive Plan.

An open space tabulation for the Planned Unit Development (PUD), including Section 8, is provided on Sheet 1. Staff has recommended that Lots 319 and 310 be pulled back from Piney Ridge Parkway so the open space in this area will be one parcel, rather than three parcels. Staff has commented that a mix of evergreen and deciduous trees should be provided within the open space area to screen the rear yards and rears of homes from Piney Ridge Parkway. Staff also commented that sidewalk should be installed along Piney Ridge Parkway between the two Sassafras intersections. The developer has agreed to revise the plan to address these comments.

The rear yards of Lots 320-326 include a retaining wall, as do the rear yards of Lots 333-340. The wetlands buffers on the site run very close to the locations of the retaining walls. The wetlands buffers will be included in water resource protection easement areas to be granted to the County. Development is prohibited in the water resource protection easement area.

Engineering has commented that Piney Ridge Parkway, an urban minor collector, was constructed in conformance with current standards and regulations. Thus, general frontage improvements will not be required. Trip generation numbers must be shown on the next submittal.

Stormwater management has commented that the drywells on Lots 320-340 cannot be located in fill areas and that a geotechnical investigation is required to determine if infiltration is feasible in the ground underneath the fill. If infiltration is not feasible on the lots, the stormwater management facility (Parcel F) in the southern area of the site must be designed to include all lots where downspouts are not feasible. The stormwater staff has also commented that the stormwater management facility must be preliminarily sized and that a larger parcel may be required.

The plan was subject to citizen involvement at the April 27, 2009 Technical Review Committee meeting. The owner of the adjoining property to the south attended that meeting and inquired about ownership of the open space parcels. He stated that there is currently a problem with people riding ATVs in the open space, on the subject property, and on his property, which is causing erosion of the stream banks. There were no other comments presented at the meeting. The Bureau of Development Review has received no correspondence concerning this project.

This subdivision is subject to the Concurrency Management Ordinance and will be tested when all reviewing agency approvals of the preliminary plan have been received.

Discussion:

Mr. Yeo questioned who would own the open space.

Ms. Brandt indicated the homeowners association would own the open space.

Mr. Schuster questioned the original plan for this section.

Ms. Brandt noted that the original plan was for single-family development. She indicated the loop road was not on the original plan; it was proposed with a cul-de-sac.

Mr. Chadwick questioned whether there were any plans to abandon to adjoining neighbors that land (almost a panhandle) that was contemplated as an access point to MD 32.

Mr. Jim Piet, developer, indicated there were no plans at this time.

Mr. Dan Staley, DRS & Associates, noted that area will most likely be included in the water resource and forest conservation easement areas.

Mr. Schuster questioned whether it was out of the question to look at higher density development at this location because of the availability of water and sewer, natural buffers to the surrounding houses, etc.

Mr. Piet indicated the developer had looked at that option, but decided to continue with the original plan.

Ms. Brandt explained that PUD's only allow a certain number of multi-family units and that number has already been reached with this project.

Dr. Slade questioned whether there was any way to minimize the use of retaining walls in the backyards or at least reduce their heights.

Mr. Staley indicated that is a function of grading. He noted that most of the wall is two to four feet in height, with a maximum height of six feet. Mr. Staley indicated any area of the retaining wall that is 42 inches or higher requires fencing.

Dr. Slade noted his support for fencing the entire area of the retaining wall.

Mr. Schuster expressed concern for the driveways of Lots 320 and 340 at the entrance to the subdivision.

Mr. Staley indicated he was not sure anything could be done about the driveway entrances.

Mr. Horn provided a summary of the issues with regard to this project as follows:

- open space parcel consolidation
- landscaping along Piney Ridge Parkway
- sidewalk along Piney Ridge Parkway
- stormwater management sizing
- fence on retaining walls
- driveways at Piney Ridge Parkway entrance - Lots 320 and 340

**B. P-08-005, TIMBER SUMMIT, SECTION 2**

LOCATION: West of Walsh Drive, South of Snydersburg Road, 6<sup>th</sup> E.D.

OWNER: Rusling Blackburn, 1330 Boerner Road, Westminster, MD 21157

DEVELOPER: Same as Owner

ENGINEER: Charles R. Crocken & Associates, 902 Lee Avenue, Sykesville, MD 21784

ZONING: Agricultural

ACREAGE: 1.7366 acres – Lot 4, 54.092 acres – Remaining Portion

FIRE DISTRICT: Hampstead

WATERSHED: Liberty Reservoir

MASTER PLAN: Agriculture

Ms. Kimberly Brandt provided 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 wooded in the area of the proposed lot. Much of the balance of the property is farm field.

In 1978, the property was 65 acres in size. In accordance with the subdivision regulations for the Agriculture Zoning District, the developer could create 4 lots and a remaining portion. In 1997, the developer created Lots 1-3. The record plat of Timber Summit is attached to this report.

Plan Review:

The developer proposes to create one residential lot, which is identified on the preliminary plan as Lot 4. The proposed use is consistent with the land use designation of Agriculture in the Master Plan.

Access to the lot will be provided via an existing use-in-common driveway, Timer Summit Drive. Staff has commented that the driveway to Lot 1A, which extends from the required turn around, must be shown on the next submittal. As the use-in-common driveway branches twice, staff has commented that signage identifying which house numbers are located in each direction should be provided for emergency response and delivery vehicles.

Staff has also commented that the driveway must meet the County's current use-in-common driveway standards. If the driveway meets these standards, a sealed as-built must be submitted. Otherwise, construction drawings must be submitted. It was noted during the pre-submittal conference that a pullover may be required.

The proposed lot will be served by a private well and a septic system.

No landscaping is required for this subdivision. Staff has advised the developer that the next submittal must indicate how the requirements of forest conservation will be addressed.

The plan was subject to citizen involvement at the April 27, 2009 Technical Review Committee meeting. Two citizens attended the meeting for this project. Questions posed concerned further subdivision of the remaining portion and the maximum number of users permitted on the use-in-common driveway.

Under the subdivision regulations for the Agriculture Zoning District, no further subdivision of the remaining portion for residential purposes is permitted. The maximum number of users permitted for a use-in-common driveway in the Agriculture Zoning District is seven. With this subdivision, there are seven users: the remaining portion, Lots 1-4, and two neighboring properties with a right-of-way and easement in the use-in-common driveway.

A Declaration of Maintenance Obligations (DMO) for Timber Summit Drive was recorded in 1997. It includes the remaining portion and future Lot 4. An amended DMO was recorded in 2002 for the purpose of creating an easement across the remaining portion for Lot 1A. This was necessary for the driveway to Lot 1A, which was relocated from the area shown on the approved preliminary plan of Timber Summit. As this change affected the forest conservation easement on the lot, an amended plat was also recorded. A copy of each DMO and a copy of the amended plat are attached to this report.

The Bureau has received one letter concerning this project. The letter is from the owner of Lot 1A. It is attached for the Commission's consideration. When Timber Summit was approved in 1997, the County did not require use-in-common driveways to be paved. According to the letter, the owners of Lots 1-3 decided in 2005 to pave the driveway and requested that the developer pay a portion of the cost associated with paving. The developer elected to not contribute. The owner of Lot 1A sought relief in Carroll County District Court. A judgment in favor of the defendant, Mr. Blackburn, was made on August 13, 2007.

In his letter and in conversations with the County staff, the owner of Lot 1A has requested that the County require the developer to pay a portion of the 2005 paving costs. He has been advised that the County is not a party to the Declaration of Maintenance Obligations. The issue is a private matter.

This subdivision is subject to the Concurrency Management Ordinance and will be tested when all reviewing agency approvals of the preliminary plan have been received.

#### Discussion:

Mr. Russ Blackburn, developer, indicated he is proposing a private driveway off an existing use-in-common drive to create this lot.

Dr. Slade questioned whether this property, as an ag remainder, would be eligible for an additional lot under the proposed Pathways Plan.

Ms. Brandt indicated that is correct.

Mr. Blackburn explained there is a County requirement that allows only seven users on a use-in-common driveway, and this lot under review today would maximize that number.

Dr. Slade suggested that the owners that had concerns should be notified about the possibility of further development.

Ms. Jones explained that whether or not a property can be further subdivided is a regularly asked question. That question is something that is responded to based on current regulations. Everyone should review the Pathways Plan. She did not think it was a good idea to try to start sending additional notification to certain people. Ms. Jones suggested that anyone who posed that question in the past, should pose that question again to the Pathways Assistance Center.

Mr. Schuster indicated the question was answered based on the current law.

Mr. Mark Ferraro, neighboring property owner, spoke with regard to the maintenance of the use-in-common driveway. He noted that Mr. Blackburn is the fourth owner listed in the Declaration of Maintenance Obligation that was recorded. Mr. Ferraro explained that when the driveway was in need of repairs, Mr. Blackburn refused to provide monetary assistance. He noted that he took the issue to District Court and lost. Mr. Ferraro indicated Mr. Blackburn emphasized the fact that he did not “use” the driveway in the court case. He suggested the County change the wording to “owns”.

Mr. Chadwick noted that the issue of whether or not Mr. Blackburn pays for the maintenance was subject to a court case and decided. It is not the Commission’s role to re-litigate or challenge the Court’s decision.

Mr. Yeo noted that Mr. Blackburn has the right under County law to develop the property.

**SPECIAL REPORT:**

- a. M-07-031, Krom’s Keep
- b. S-00-001, Eldersburg Veterinary Clinic

**A. M-07-031, KROM’S KEEP**

LOCATION: North side of Bachman Road, East of Fridinger Mill Road, E.D. 6

OWNER: George Makoutz, 532 Baltimore Boulevard, Suite 311,  
Westminster, MD 21157

DEVELOPER: Same as Owner

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

ZONING: R-40,000

ACREAGE: 4.174 acres

WATERSHED: Double Pipe Creek

NO. OF LOTS: 3 lots

PUBLIC FACILITIES  
IMPACTED SCHOOLS: Ebb Valley Elementary  
North Carroll Middle  
North Carroll High/Manchester Valley High

ROADS: Bachman Road

FIRE AND EMS: Manchester

POLICE: Maryland State Police/Carroll County Sheriff's Dept.

Ms. Kimberly Brandt presented the background.

#### CONCURRENCY MANAGEMENT REPORT

##### Background:

With regard to Chapter 103, Krom's Keep received conditional preliminary approval at the March 18, 2008 meeting of the Planning Commission, with the approval letter dated April 8, 2008. Conditional final approval was received at the May 20, 2008 meeting of the Planning Commission. In accordance with Chapter 71-6.E.(4)(b), the subdivision was placed in the queue due to the inadequacy of North Carroll High School.

Chapter 71-5.B. states: No project may be approved by the Commission if a public facility or service is inadequate or projected to be inadequate during the current CIP, unless a relief facility is planned to address the inadequacy...No residential plat may be recorded or final residential site plan approved until a relief facility planned to address the inadequacy in the current CIP has construction underway and completion is anticipated within 6 months or the developer provides mitigation acceptable to the County.

Carroll County Public Schools representatives have stated that Manchester Valley High School, the relief facility for North Carroll High School, will open in August of 2009.

##### Agency Responses:

Fire and EMS and roads were adequate at the final plan stage. Police were approaching inadequate. Schools were inadequate. Police and schools were retested accordingly.

Police Services:

The estimated Carroll County population as of March 31, 2009 was 174,776. 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. The average staffing level at the Maryland State Police Barracks for the period April 2008 through March 2009 was 83 officers. Based on a total of 234 positions, the ratio of sworn law enforcement positions to the current Carroll County population as of the end of March was 1.33.

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 1.32 by the end of FY09 – 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 Ebb Valley Elementary and North Carroll Middle School are adequate for FY09 through FY14. North Carroll High School is inadequate for FY09, but Manchester Valley High School is adequate for FY10-FY14.

The enrollment projections indicate that the capacity of Ebb Valley Elementary will range between 80 and 85% during the current 6-year CIP cycle. In the Ebb Valley Elementary attendance area 10 additional residential developments, comprised of approximately 30 lots, are currently in the review process. There are approximately 91 lots in the Ebb Valley Elementary 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 the functional capacity of North Carroll Middle will range between 73 and 80% during the current CIP. In the North Carroll Middle attendance area 15 additional residential developments, comprised of approximately 39 lots, are currently in the review process. There are approximately 218 lots in the North Carroll 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 that the capacity of Manchester Valley High will rise from 44 to 54% during the 6-year CIP and the capacity of North Carroll High will be reduced from 75 to 51% during the 6-year CIP. In the North Carroll High attendance area 21 additional residential developments, comprised of approximately 94 residential lots, are currently in the review process. There are approximately 228 residential units in the North Carroll High attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit.

Staff Recommendation:

The staff recommends that the Planning Commission release the project from the queue and allow the subdivision to proceed to recordation with the following conditions:

1. The recordation deadline is set at April 8, 2010, which is the date that the preliminary plan approval will sunset.
2. Building permits are reserved for 3 lots in FY09.
3. Building permit reservations are allowed to roll over annually until the sunset provision takes effect and the preliminary plan becomes void.

**Decision:**

In accordance with Chapter 71, the Commission, on motion of Mr. Baile, seconded by Dr. Slade, and unanimously carried, released the project from the queue and allowed the subdivision to proceed to recordation with the three conditions listed in the staff report.

**B. S-00-001, ELDERSBURG VETERINARY CLINIC**

Dr. Slade recused himself from the discussion of this project.

LOCATION: South side of Liberty Road, 1200 feet east of Georgetown Blvd.;  
5<sup>th</sup> Election District

OWNER: Glimmis Enterprises, c/o Mack Beall 5401 Irving Ruby Road, Eldersburg,  
MD 21784

DEVELOPER: Same

ZONING: B-NR

FIRE DISTRICT: Freedom

Mr. Clay Black presented the background.

Action Required:

The property owner has requested that the Carroll County Planning and Zoning Commission eliminate a previous condition of approval.

Background:

The site development plan was approved by the Planning Commission on January 25, 2005 subject to four conditions. Attached is a copy of that report and copies of the signed site plan and the amended site plan.

Approval condition 2 stated "That the owner/developer shall be required to construct the drive aisle to Homeland Drive." This required construction of the service road along the entire frontage of the property and the off-site construction on the adjoining property (Homeland). Although the service road was constructed along the entire frontage of the Eldersburg Veterinary Clinic, the off-site connection to Homeland Drive has not occurred. A service road easement

across the Eldersburg Veterinary Clinic property was recorded in 2005 in the Carroll County Land Records. A service road easement, across their entire frontage, was previously recorded in 2002 on the adjoining property (Homeland Elderly Housing).

This service road is known as Ridenour Way and is depicted on the Freedom comprehensive plan. The FY 2010 Proposed Capital Budget does not include any appropriations for acquisition of property or for construction of the service road in the six-year community investment plan. If the service road were connected to Homeland Drive, no plans have been submitted to continue the eastern extension across the Homeland property.

Mr. Beall is requesting that the Commission remove the previously stated condition of approval.

Recommendation:

1. Staff recommends that the Commission maintain the previously approved condition.

Discussion:

Ms. Terri Jones, Deputy County Attorney, indicated Mr. Beall's bond for this project is to be released in June. The bond is only for \$14,000 because a portion of the money being held for the roadway improvements was erroneously released. The remaining \$14,000 is not enough to pay for the roadway.

Mr. Schuster indicated that development has not occurred in the area as it was anticipated when the condition was added to the Commission's approval.

Mr. Yeo questioned whether removing the condition of approval would preclude the road from going through if the Breitenother's property was developed.

Mr. Black explained that the requirement for off-site road construction is the condition that would be removed. Ridenour Way would not be removed from the plan.

Mr. Chadwick questioned whether the concept for Ridenour Way was that the County pay for the connections or the developer.

Mr. Horn explained that when it is available, the County has sometimes included funding for these types of connections in the CIP. Normally, the developer builds the segment on his property.

Mr. Mack Beall, owner, indicated that when the time came to construct the roadway over someone else's property, he was told there are all kinds of legal issues with regard to him taking land to build the roadway because it was going to require more land than the available right-of-way. Mr. Beall noted that his business could not afford the cost to make this kind of connection.

Mr. Lou Breitenother, neighboring property owner, indicated his preference was never to put the roadway through. He noted that the road is only 20 feet from the turning radius of Liberty Road which is a traffic design issue. Mr. Breitenother indicated the County is asking private property owners to build a road. This road will allow cars to traverse over private property with no legal enforcement rights. He noted that Carroll County has no easement language as to the

responsibility of maintenance. Mr. Breitenother stated that the idea of service roads through private parking lots is a flawed concept.

**Decision:**

The Commission, on motion of Mr. Yeo, seconded by Mr. Schuster, and unanimously carried, removed the previous restriction (Condition #2) stating that the connection would not be required to be constructed by the owner. This action in no way comments on the validity of the master plan.

**PUBLIC COMMENTS/PETITIONS:**

There were no public comments/petitions.

There being no further business, the Commission adjourned at 12:55 p.m.

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Secretary

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Approved