

OFFICIAL MINUTES
Carroll County Planning and Zoning Commission

June 17, 2014

Location: Carroll County Office Building

Members Present: Alec Yeo, Chairman
Richard J. Soisson, Vice Chair
Eugene A. Canale
Jeffrey A. Wothers
Richard S. Rothschild, Ex-Officio
Daniel E. Hoff, Alternate

Members Absent: Matthew S. Helminiak
Cynthia L. Cheatwood

Present with the Commission were the following persons: Philip R. Hager and Kelly Martin, Department of Land Use, Planning, and Development; Lynda Eisenberg, Bureau of Comprehensive Planning; Clay Black, Patrick Varga, Laura Matyas, and John Breeding, Bureau of Development Review; Jay Voight, Zoning Administrator; Neal C. Roop, Mayor, Town of New Windsor; Perry Jones, Mayor, Town of Union Bridge; Pauline Coker; Brooks Leahy; Bill and Janis Wolf; Dennis and Debbie Utz; Bud McPherson; Arla Ely; Russ Dickens; Elizabeth Cascio; Loretta Arnold; Jan S. Carter; Jim Mudgett; Margaret Glowacki; Denise Duvall; Kurt Deery; Kent Martin; Vince Campanella; Dennis Wanner; Marty Hackett; Randy Bachtel; Dan Staley; Ron Burdinski; Leisa Leppo; Lisa Lamb; Anne Jeans; Clark Shaffer; Melvin Baile; Charles Crocken; Shawn Cascio; Jeffrey Hoffman; Harris Hoffman; and Eric Beam.

CALL TO ORDER/WELCOME

Chairman Yeo called the meeting to order at approximately 9:20 a.m.

ESTABLISHMENT OF QUORUM

Kelly Martin took the attendance of the Commission, noting that six members were present, and there was a quorum.

PLEDGE OF ALLEGIANCE

OPENING REMARKS/ADMINISTRATIVE MATTERS

Philip R. Hager, Secretary, noted that there were no changes proposed to the agenda.

REVIEW AND APPROVAL OF AGENDA

The Commission, on motion of Mr. Soisson, seconded by Mr. Wothers, and unanimously carried, approved the agenda as distributed.

REVIEW AND APPROVAL OF MINUTES

- A. May 20, 2014
- B. June 4, 2014

The minutes of May 20, 2014 and June 4, 2014 were approved as written on motion of Mr. Wothers, seconded by Mr. Soisson, and carried.

COMMISSION MEMBER REPORTS

- A. Commission Chairman
- B. Ex-Officio Member

A. COMMISSION CHAIRMAN

Chairman Yeo indicated he had nothing to report.

B. EX-OFFICIO MEMBER

Richard Rothschild, Commissioner, reported that last year he had asked the Delegation to develop legislation to prevent the installation of tracking devices on cars, so the Government can charge you for the number of miles you drive. He asked Carroll citizens to pay attention to discussions regarding this issue.

DEPARTMENT OF LAND USE, PLANNING & DEVELOPMENT STAFF REPORTS

- A. Director

A. DIRECTOR

Philip R. Hager, Director, reported that the official budget was adopted. The Commissioners approved the establishment of a transportation planner position within the Bureau of Comprehensive Planning. He noted that there is one existing vacancy within the Bureau of Development Review—Engineering Reviewer. Because of the difficulties in filling this vacancy, a contractual source will be utilized.

Mr. Hager reported that two development extensions had been granted since the last meeting: a sixth one-year extension for the subdivision plan of Lake Forest Estates, Section 2, 27 lots located on the west side of Sykesville Road, south of Poole Road in the Conservation and Agricultural districts; and a fourth one-year extension for the minor subdivision plan of Stillwater, one lot and a remaining portion located west of Klees Mill Road and south of Bartholow Road at the end of Henry Avenue in the Gamber area.

2014-2023 CARROLL COUNTY PUBLIC SCHOOLS EDUCATIONAL FACILITIES MASTER PLAN

Chairman Yeo noted that he had initiated a dialog with the Superintendent of Carroll County Public Schools. He suggested that the forthcoming conversation will lead to a better understanding of how their projections work and how they integrate with ours. Chairman Yeo

made a motion that the Commission support the 2014-2023 Carroll County Public Schools Educational Facilities Master Plan, finding it consistent with the County Master Plan, and forwarding a letter of support to the Board of Education. The motion was seconded by Mr. Soisson, and carried (Commissioner Rothschild abstained).

2013 ANNUAL REPORT – CERTIFICATION

Lynda Eisenberg, Bureau of Comprehensive Planning, explained that staff had presented the Annual Report to the Commission at the May 20 meeting. She noted that staff had met with the Commission on June 4 and presented a draft transmittal letter for review. Today, staff is asking that the Commission Certify the Report and Adopt it as required by the Annotated Code.

The Commission, on motion of Chairman Yeo, seconded by Mr. Wothers, and carried (Commissioner Rothschild abstained), Certified and Adopted the 2013 Planning Annual Report.

CARROLL COUNTY MASTER PLAN

- A. New Windsor Area Additions – Review and Consider
- B. “Draft” Future Land Use Map – Endorsement
- C. Land Use Definitions – Approval

A. NEW WINDSOR AREA ADDITIONS – REVIEW AND CONSIDER

Lynda Eisenberg, Chief, Bureau of Comprehensive Planning, noted that staff is currently in discussions with the Town of New Windsor regarding the additions to the future land use map.

B. “DRAFT” FUTURE LAND USE MAP – ENDORSEMENT

Lynda Eisenberg, Chief, Bureau of Comprehensive Planning, reviewed the changes staff had made to the Land Use Map based on previous Commission discussions.

Chairman Yeo noted that with the three categories of commercial land use, he had envisioned having the opportunity to provide circles around residential areas to allow for lighter uses than BNR closer to residences. He questioned whether the way the categories were written allowed for this to happen.

Ms. Eisenberg suggested that these categories would be better utilized during updates of other comprehensive plans. She discussed the area south, southwest of Westminster, noting that the land use is Conservation because it is within the County’s Rural Legacy area and the headwaters to the Little Pipe Creek.

It was the consensus of the Commission to maintain the Conservation land use designation for this area.

C. LAND USE DEFINITIONS – APPROVAL

Lynda Eisenberg, Chief, Bureau of Comprehensive Planning, indicated that the wording discussed at the last meeting was incorporated into the definitions.

Philip R. Hager, Secretary, noted that staff was looking for endorsement from the Commission on the land use definitions and the land use map.

The Commission, after many hours of meeting and reviewing documents, on motion of Mr. Wothers, seconded by Mr. Soisson, and carried, (Commissioner Rothschild abstained; Mr. Hoff noted that his endorsement did not apply to the two properties he recused himself from earlier) endorsed the draft land use map and land use definitions as presented.

The Commission asked that the latest version of the land use map be emailed.

FINAL SITE PLAN REVIEW

- A. S-13-012, Verizon Wireless – Starview
- B. S-12-021, Conveyor for Lehigh New Windsor Quarry
S-13-030, Lehigh Conveyor – Union Bridge Plant

A. S-13-012, VERIZON WIRELESS - STARVIEW

LOCATION: On the north side of Deer Park Road, east of Don Avenue, 4th Election District

OWNER: Kibler Development, LLC, 3332 Baltimore Boulevard, Finksburg, MD 21048 (LLC Members: James H. Kibler, James D. Kibler, Mark H. Kibler, Warren D. Kibler)

DEVELOPER: Verizon Wireless, c/o Network Building & Consulting, c/o Harold Bernadzikowski, 7380 Coca Cola Drive, Suite 106, Hanover, MD 21076

ENGINEER: Morris & Ritchie Associates, Inc., 1220-C East Joppa Road, Suite 505, Towson, MD 21286

ZONING: A – Agriculture

ACREAGE: 66.58 Acres

FIRE DISTRICT: Reese

WATERSHED: Liberty Reservoir

MASTER PLAN: Agriculture

PRIORITY
FUNDING AREA: Outside

DESIGNATED
GROWTH AREA: Outside

Patrick Varga presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Section 155.059 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 unimproved. The property is approximately half forest and half field. A pond of about a half-acre in size is located on the eastern portion of the property. All adjoining properties to the south are zoned Agriculture and are improved with single-family homes. Properties to the north and northeast are zoned Agriculture and are unimproved. To the northwest are single-family homes on lots zoned R-40,000 and to the east is a single-family home on a property zoned Agriculture. The property to the west appears to be a greenhouse and is zoned Agriculture. All adjoining properties are served by private wells and private septic systems.

Site Plan Review:

In accordance with § 158.039 of the Carroll County Code of Public Local Laws and Ordinances, communications towers are permitted as a conditional use in the A District and in the C District subject to the following:

- (a) A minimum setback of a distance equaling the height of the tower. The setback shall be measured from the base of the tower to the boundary line of the property owned, leased, or controlled by easement by the applicant.
- (b) Subject to a minimum distance requirement of a distance equaling the height of the tower plus 200 feet from all R Districts, the H District, and the MHP District or the nearest part of any existing dwelling, school, religious establishment, or institution for human care, in any other district,
- (c) Subject to a minimum setback from all overhead transmission lines of a distance equaling 2 times the height of the tower and all masts.
- (d) Subject to site plan approval by the Planning and Zoning Commission pursuant to [§ 155.059](#).

The Board of Zoning Appeals approved (Case #5722) a 190-foot-high tower at the location as shown on the site development plan. Attached is a copy of the decision.

The developer proposes to construct a 190-foot-high cellular communications monopole tower inside a 50' x 50' compound. The site will be unmanned and will be infrequently visited for routine maintenance. The compound location is in the wooded portion of the site to reduce visibility to the compound itself. This area will be leased by Verizon Wireless. Antennas for Verizon Wireless will be mounted at the top of the tower and will extend up to a height of 194 feet above grade. The 190' tower height allows three other future carriers to be mounted on the tower. This will allow for the colocation of communication equipment as required by the County

Code. The proposed use is consistent with the designation of Agriculture in the 2000 Carroll County Master Plan.

In accordance with § 155.078. C. 2 of the Code of Public Local Laws and Ordinances, access drives which connect to roads shall be a minimum of 18 feet wide. Due to the limited number of vehicles that will access the site once the tower is constructed, the developer requested and received a variance from the Zoning Administrator of the 18-foot width requirement. The variance will allow a 12-foot wide driveway to be used. The decision is attached.

Access to the compound is shown over a portion of a recorded right-of-way through the property. The right-of-way deed states that the owner (Kibler Development, LLC) has the right to develop the property with the use of the right-of-way subject to the requirement that all costs are the burden of Kibler Development, LLC and not any other user on the driveway. Gravel will be installed over a 300-foot long portion of the access drive. This section of the drive extends from the tower compound 300 feet south to a point near the Jones' property corner. The remainder of the access drive used for the tower is either existing gravel or existing paving. As the access drive has been in use for a number of years, adding gravel to this portion of the right-of-way is not considered new disturbance nor will the driveway be required to meet stormwater management requirements.

The existing driveway entrance onto Deer Park Road does not meet County sight distance requirements; however, due to the limited number of vehicles that will access the site once the tower is constructed, the developer requested and received a variance from the Department of Public Works. A requirement of the waiver is that a tree to the west of the driveway will be removed to improve sight distance. The decision is attached.

The plan is exempt from the requirements of the Forest Conservation Ordinance, Landscaping Ordinance and Stormwater Management Ordinance. An eight-foot-high chain-link fence will be constructed to enclose the compound area. Barbed wire will be placed at a height of one foot above the top of the fence. Sheet 2 shows the details for the fence.

The proposed site plan was subject to Citizen's Involvement during the February 24, 2014 Technical Review Committee meeting. One citizen spoke at the meeting with regard to installing a fence at an adequate height to keep people and animals out and that the structure should be strong enough to withstand ice accumulation. No phone calls have been received regarding this site plan.

This plan was presented to the Planning and Zoning Commission as a concept site plan on March 18, 2014. The minutes from that meeting are attached.

Recommendation:

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

1. That the Developer enter into a Public Works Agreement with Carroll County that guarantees completion of the improvements.

Discussion:

Daniel Hoff, Commission member, questioned whether the sight distance of 235 feet was calculated before or after the tree is removed.

Mr. Varga explained that it is before the tree is removed. The sight distance is greatly improved with the removal of the tree; meeting to the east and very close to the west. The developer is unable to address brush on a neighboring property.

Chairman Yeo questioned what development could occur on the remaining property.

Mr. Varga stated that he was unsure whether all the residential yield was exhausted from the property, but any other agricultural uses allowed in the Zoning Code would be permitted.

There were no public comments.

Decision:

In accordance with Section 155.059 of the Code of Public Local Laws and Ordinances, the Commission, on motion of Mr. Soisson, seconded by Mr. Hoff, and carried (Commissioner Rothschild abstained), approved the final site plan with the one condition listed in the staff report.

**B. S-12-021, CONVEYOR FOR LEHIGH NEW WINDSOR QUARRY
S-13-030, LEHIGH CONVEYOR – UNION BRIDGE PLANT**

Daniel E. Hoff, Commission member, recused himself from this discussion.

Secretary Hager noted that Mr. Hoff left the dais and there was still a quorum of the Commission present.

LOCATION: 4.2 mile route between the New Windsor Quarry along MD Route 31 and the Lehigh Plant at Shepherd's Mill Road, 11 and 12th ED

OWNER: Kathleen R. and Matthew M. Hoff c/o Daniel Hoff, 166 E. Main Street, Westminster, MD 21157
Lehigh Cement, LLC, 675 Quaker Hill Road, Union Bridge, MD 21791

DEVELOPER: Lehigh Cement, LLC, 675 Quaker Hill Road, Union Bridge, MD 21791

ENGINEER: C.L.S.I., 439 East Main Street, Westminster, MD 21157

ZONING: Agricultural/Restricted Industrial/General Industrial

FIRE DISTRICT: New Windsor/Union Bridge

WATERSHED: Double Pipe Creek

MASTER PLAN: Carroll County: Agricultural
Union Bridge: Industrial Restricted/Industrial General

PRIORITY

FUNDING AREA: Outside/Union Bridge

DESIGNATED

GROWTH AREA: Outside/Union Bridge

Clayton R. Black presented the background.

Purpose:

The two site plans are before the Planning and Zoning Commission per Section 155.059 of the Code of Public Local Laws and Ordinances of Carroll County for consideration and approval of the final site plans.

Existing Conditions:

The existing New Windsor Lehigh quarry is located between the west side of Maryland Route 31 and the east side of Old New Windsor Road. The existing Lehigh plant is located on the west side of Quaker Hill Road near the intersection with Shepherd's Mill Road. The proposed conveyor will transport stone from the quarry to the plant. The conveyor crosses property zoned Agricultural, Industrial Restricted and Industrial General. Several streams and County roads are in the path of the conveyor.

Project History:

A site plan for the expansion of the existing Lehigh quarry (S-07-018) was submitted to the County on May 17, 2012. In accordance with §155.090 of the Code, a transportation description that addresses the effects of the proposed mineral resource recovery activity on present and projected levels of service... related to traffic flow and safety is to be an element of that site plan. Lehigh has stated that the proposed method to transport the material between the quarry and the Union Bridge plant is an underground and above ground conveyor system.

As required by the Carroll County Code of Public Local Laws and Ordinances, a community involvement meeting was held on August 8, 2012 at the New Windsor Community Center to discuss the quarry expansion and the method of transportation (meeting summary attached). The site plan for the expansion of the existing Lehigh quarry (S-07-018) was conditionally approved by the Carroll County Planning and Zoning Commission at the May 20, 2014 meeting with one of the conditions of approval being "That removal of raw material or product by any other mode of transportation other than the conveyor will require an amended site plan for review and approval by the Planning and Zoning Commission."

The conveyor concept site plan (S-12-021) was submitted on October 26, 2012. The concept site plan was presented to the Commission at the April 16, 2013 meeting (minutes attached). Subsequently, the project was separated into two plans: S-12-021, the conveyor from the New Windsor quarry to the west side of Quaker Hill Road and S-13-030, Lehigh Conveyor-Union Bridge Plant, which is the remaining portion into the Union Bridge plant.

Site Plan Review:

The length of the conveyor is approximately 4.2 miles from the New Windsor quarry to the Lehigh plant at Union Bridge. Exclusive of the overhead crossing of Quaker Hill Road all other road crossings are underground. When the conveyor is onground it is fully enclosed by a parabolic jumbo cover, sawdust color, of approximately 14.5 feet wide and 10.5 high. When underground, the conveyor will range from 4 feet to 60 feet below grade. There are several stream crossings along the route. All Army Corps of Engineers and Maryland Department of Environment permits have been issued for the entire project. These permits are for impacts to floodplains, wetlands and the streams. The conveyor route is included in the mining permit that is currently under review.

The Carroll County Zoning Administrator has approved both these plans. The proposed use is consistent with the 2000 Carroll County Master Plan.

S-12-021, Conveyor for Lehigh New Windsor Quarry

Several accessory structures are to be constructed as part of the conveyor construction. A belt splicing station, shown on sheet 42, will be constructed near where the conveyor enters the quarry. Seven transition buildings are also to be constructed. These 24 x 24 transition buildings, shown on sheets 42, 40 35, 31 and 29, are to be constructed at each transition of the conveyor as it goes from onground to underground. Additionally, as shown on sheet 25, a transition building will be constructed as the conveyor goes from overhead to onground. The only lighting for these vinyl siding buildings will be wall mounted for security purposes. Details for the buildings are attached and also shown on sheets TB1 and TB2. The zoning administrator has stated these accessory buildings are permitted and do meet the required zoning setbacks. Stormwater management for these buildings will be addressed through the use of drywells.

As depicted on sheet 42, the conveyor is on ground as it exits the quarry and at station 218+00 it immediately goes underground for approximately 650 feet (station 211+42). The conveyor will be approximately eight feet below Old New Windsor Road as it crosses under the road. An existing house and several buildings are to be razed. The well and septic systems will be abandoned in accordance with Maryland Department of the Environment regulations.

As depicted on sheets 40, 41, and 42, at station 211+42 the conveyor is than onground for approximately 2300 feet (station 188+03). A 10 foot service road, adjacent to the conveyor, will be constructed for Lehigh employees to perform maintenance of the conveyor. A 12 foot service road provides access from the parallel service road to Old New Windsor Road. The access road entrance point onto Old New Windsor Road meets design criteria. Stormwater Management for the service road is being addressed by utilizing wide shoulders and grass channels. Two stream crossings are in the path of the conveyor. Stream restorations will occur upstream and downstream for both crossings. Demolition of an existing barn may need to occur.

As depicted on sheets 35 thru 40, at station 188+03, the conveyor goes underground for approximately 6,400 feet (station 124+00). This section of the conveyor crosses under Greenwood Church Road (30 feet below the road), Hawks Hill Road (seven feet below road), and two sections of Winters Church Road (seven feet and nine feet below road). Since the conveyor is underground, no service road is being constructed. Reconstruction of the County

road segments impacted by the conveyor construction will comply with the requirements of Department of Public Works Roads and Storm Drain Manual. Two stream crossings are in the path of the conveyor. Complete reconstruction of these streams will occur.

As depicted on sheets 31 thru 35, at station 124+00 the conveyor is than onground for approximately 4650 feet (station 77+50). A 10 foot service road, adjacent to the conveyor, will be constructed for Lehigh employees to perform maintenance of the conveyor. A 12 foot service road provides access from the parallel service road to Winters Church Road and McKinstry's Mill Road. These access road entrance points meet design criteria. Stormwater Management for the service roads are being addressed by utilizing wide shoulders and grass channels.

As depicted on sheets 29 thru 31, at station 77+50, the conveyor goes underground for approximately 2,175 feet (station 55+75). This section of the conveyor crosses under McKinstry's Mill Road (5 feet below the road). Since the conveyor is underground, no service road is being constructed. Reconstruction of the County road segment impacted by the conveyor construction will comply with the requirements of Department of Public Works Roads and Storm Drain Manual. A stream crossing is in the path of the conveyor. Stream restoration will occur for the crossing.

As depicted on sheets 25 thru 29, at station 55+75 the conveyor is than onground for approximately 4250 feet (station 13+09). A 10 foot service road, adjacent to the conveyor, will be constructed for Lehigh employees to perform maintenance of the conveyor. A 12 foot service road provides access from the parallel service road to Shepherd's Mill Road. This access road entrance point meets design criteria. Stormwater Management for the service roads are being addressed by utilizing wide shoulders and grass channels.

As depicted on sheet 25, at station 13+09 the conveyor goes overhead with the overhead crossing of Quaker Hill Road. The limit of the conveyor under this plan ends at the west side of Quaker Hill Road (station 8+48). Sheet L-449 includes an elevation of the conveyor as it crosses Quaker Hill Road. There is no jumbo cover for any portion of the overhead conveyor exclusive of the conveyor being enclosed for 80 feet as it crosses over Quaker Hill Road. The height from Quaker Hill Road to the bottom of the overpass ranges from 20 to 24 feet. The Bureau of Engineering has stated that the minimum clearance height is 15 feet. The piers for the overhead crossing are located outside the County's right-of-way for Quaker Hill Road.

From the east side of Quaker Hill Road, the property is zoned Restricted Industrial for the first 2,800 feet. The property is zoned Agricultural for the remainder of the route.

Landscaping is being provided at several ground level locations along the route (sheets 43 and 44). A mix of 215 evergreen and deciduous trees is being planted at several locations. A landscaped berm is being provided from station 49+00 to 56+00 to minimize the adjoining property owner view of the conveyor. The property owner (William Franz) has concurred with this plan. A landscaped berm, on both sides of the conveyor, is being provided from station 77+00 to 84+00 to minimize the visual impact from the Linwood area. Landscaping is being provided from station 113+00 to 127+00 on both sides of the conveyor. The landscaping that starts at 113+00 is on the Hoff Property and is intended to minimize the visual impact of the conveyor. The property owner has agreed to this landscaping plan. Landscaping is shown from station 193+00 to 198+00 to minimize the visual impact of the conveyor from an adjoining property owner. Landscaping is shown from station 210+00 to 215+00 to minimize the visual

impact of the conveyor from an adjoining property owner. The County's landscape reviewer has approved the landscaping shown on the plan. The property is exempt from the requirements of the Forest Conservation Ordinance.

At station 113+00, the conveyor leaves the Lehigh property and enters onto the Kathleen Hoff property. Several Memorandum of Agreements have been recorded (Book 6133 Page 497, Book 6133 Page 500, and Book 6134 Page 004) in the Carroll County Land Records between the Hoff's and Lehigh to allow the conveyor through this property. An amended Deed of Conservation Easement (Liber 7616 Folio 058) was recorded on January 17, 2013 that allows the conveyor to be placed on a County held Agricultural Preservation easement. The location is known as the Weisberger Farm, underground portion from approximately Hawks Hill Road to Winters Mill Road.

A variance has been requested to allow the conveyor to be constructed in a County floodplain. Staff is currently reviewing the variance request. Maryland Department of The Environment has issued a permit to allow this construction. As of the writing of this report, the Bureau of Resource Management has not granted Stormwater Management approval. This conveyor plan conveyor is exempt from the requirements of the County Forest Conservation Ordinance. The Health Department has granted approval subject to the proper abandonment of all wells.

Greenwood Church Road, Hawks Hill Road, McKinsty's Mill Road, Winters Church Road, Quaker Hill Road and Old New Windsor Road, will be closed as construction of the conveyor commences. The developer's traffic engineer has submitted a detour traffic plan for review by the County. The general sequence of road closures breaks the project into five phases (sheet 1). Specific road closure sequencing has not been completed; however, prior to construction representatives from the Carroll County Sheriff's Office, Maryland State Highway Administration, Carroll County Public Schools (Transportation Department), Carroll County Volunteer Emergency Services Association, Carroll County Department of Public Works, and all other applicable agency will have reviewed the sequencing of the road closures.

S-13-030, Lehigh Conveyor-Union Bridge Plant

This segment of the conveyor is from the west side of Quaker Hill Road to Sam's Creek (Frederick County border). The property is zoned General Industrial.

From the west side of Quaker Hill Road, for approximately 450 feet, the conveyor transitions from overhead to onground level. Once onground, the conveyor includes the jumbo cover. The conveyor is onground for 945 feet and goes aerial as it crosses Sams Creek into Frederick County. A transfer station is being built in Frederick County, plans approved. After the conveyor enters the transfer station, the conveyor runs on ground parallel to Sams Creek and then goes aerial as it crosses Sams Creek Road, enters back into Carroll County, and connects with an existing aerial conveyor system.

Part of the conveyor is in a recorded water resource protection easement. Approval has been granted to allow the construction provided that following the disturbance of property, the affected area shall be restored in accordance with methods approved by the County.

A variance from a specific requirement of the Forest Conservation Code was granted to allow the removal of two specimen trees that were in the path of the conveyor system. A variance to allow

the construction of support pillars for the conveyor system within the 100-year floodplain was granted with a condition that all Federal and State permits related to the proposal are granted.

Since a portion of the conveyor disturbance is outside the limits of the mining permit. The requirements of Forestry are being addressed by additional on-site planting by adding to an existing Forest Conservation easement area.

Recommendation:

Staff recommends approval of the S-12-021 site plan subject to the following conditions:

1. That prior to mylar signature that final stormwater management, Bureau of Engineering, and grading approval be granted.
2. That the floodplain variance be granted to allow the conveyor to be constructed in a County floodplain.
3. That prior to issuance of the grading permit that the detour sequencing plan be approved by the Carroll County Department of Public Works.
4. That any changes to this plan will require an amended site plan for review and approval by the Planning and Zoning Commission.
5. That the developer enter into a Public Works Agreement with Carroll County to insure completion of the improvements, i.e. stormwater management, landscaping, County road improvements, and grading.
6. That all required Stormwater management easements be granted to the County Commissioners of Carroll County by deed to be recorded simultaneous with execution of the public works agreement.
7. That any required easements needed for installation of the tunnel under the County roads be granted to the County Commissioners of Carroll County by deed to be recorded simultaneous with execution of the public works agreement.

Staff recommends approval of the S-13-030 site plan subject to the following conditions:

1. That prior to mylar signature that final Engineering approval be granted.
2. That the developer enter into a Public Works Agreement with Carroll County to insure completion of the improvements.
3. That any changes to this plan will require an amended site plan for review and approval by the Planning and Zoning Commission.

Discussion:

Kent Martin, Lehigh Plant Manager, introduced representatives from Lehigh present at the meeting. He noted that the purpose of the conveyor is to transport stone from New Windsor to

Union Bridge. Mr. Martin explained that the project has been widely discussed with the County, towns, and community over many years. He acknowledged the many hours of hard work that had been put into the project by Mr. Hager and his staff, especially in the last several months.

Dennis Wanner, Lehigh Senior Project Manager, provided an overview of the project, discussing how the prefeasibility study determined the conveyor to be the preferred transportation option and the different iterations that led to a conveyor which will be partly underground and partly onground. Mr. Wanner reviewed the path of the 4.2-mile conveyor noting the operating capacity of 2,300 tons/hour on a belt 42 inches wide with a speed of 15 feet per second. He noted that necessary easement releases were approved by the Carroll County Agricultural Land Preservation Program and the Maryland Agricultural Land Preservation Foundation. Mr. Wanner reviewed the status of permits from the Maryland Department of the Environment and Army Corps of Engineers. He suggested that construction could begin the spring of 2015. Mr. Wanner explained that following the finalization of details with the construction contractor, road closure sequencing can be coordinated with the Department of Public Works.

Richard Soisson, Commission member, questioned whether the public had been made aware of the transfer buildings.

Mr. Martin explained that Lehigh representatives had met with NEWCAP regarding the transfer buildings.

Eugene Canale, Commission member, questioned what would happen to the stream where the conveyor is built underground.

Kurt Deery, Lehigh Environmental Engineer, indicated that the stream would be temporarily relocated and then rebuilt after construction in its original location to certain specific parameters.

Mayor Perry Jones, Town of Union Bridge, expressed the Town's appreciation for Lehigh's efforts to keep the Town informed. He noted that the conveyor option was preferred over truck or railroad transport due to the amount of traffic that would be generated and the effect on emergency services. Mayor Jones noted that Lehigh has been a long-time fixture in Union Bridge and very helpful to the community.

Mayor Neal Roop, Town of New Windsor, suggested that the conveyor would have zero impact on the Town once construction is completed. He noted that the conveyor option was the best of the three transportation options. Mayor Roop acknowledged Phil Hager and his staff for their outstanding job and Lehigh for their commitment to community outreach. He noted that the Town endorses the Plan as presented and urged the Commission to vote for its approval.

Neal Roop, representing the Carroll County Volunteer Emergency Services Association (CCVESA), noted that Lehigh had contacted the Union Bridge and New Windsor fire chiefs to see if they had issues with the plan. He indicated that CCVESA has no issues or concerns with the plan at this time.

Decision:

In accordance with Chapter 155, the Commission, on motion of Mr. Soisson, seconded by Mr. Wothers, and carried (Commissioner Rothschild abstained), approved S-12-021 subject to the six conditions stated in the staff report. (Condition No. 2 had been requested for deletion by staff.)

In accordance with Chapter 155, the Commission, on motion of Mr. Soisson, seconded by Mr. Wothers, and carried (Commissioner Rothschild abstained), approved S-13-030 subject to the three conditions stated in the staff report.

Secretary Hager acknowledged the efforts of Clay Black and the Development Review staff; Jay Voight, Zoning Administrator; and Gale Engles and her staff, particularly Martin Covington and Myron Frock.

Commissioner Rothschild thanked Lehigh for being a great corporate neighbor for the citizens of Union Bridge and New Windsor.

CONCEPT SUBDIVISION PLAN REVIEW

A. P-14-004, Chadwick Court, Resubdivision of Lot 1A

A. P-14-004, CHADWICK COURT, RESUBDIVISION OF LOT 1A

LOCATION: West side of Bell Road, 7th Election District

OWNER: Pauline M. Coker, 1210 Chadwick Drive, Westminster, MD 21158

DEVELOPER: Same as Owner

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

ZONING: R-20,000

ACREAGE: 4.88 acres

WATERSHED: Double Pipe Creek

NO. OF LOTS: 2 lots (1 new lot)

FIRE DISTRICT: Westminster

MASTER PLAN: Medium Density Residential

PRIORITY
FUNDING AREA: Outside

DESIGNATED
GROWTH AREA: Outside

Patrick Varga presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Chapter 155 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 plan is a resubdivision of Lot 1A of Chadwick Court previously recorded in Plat Book 30 Page 191. The subject property is zoned R-20,000 and is improved with a house and shed. The property is accessed from Chadwick Drive, a use-in-common driveway, and is served by a private well and a septic system.

The property owner of Lot 1A proposed the same property division in 2009 and received preliminary and final plan approval on December 15, 2009. The developer allowed the preliminary plan approval to expire.

Plan Review:

The developer proposes to create one new lot. Lot 1A, with the existing house, is 2.66 acres, and Lot 3, the new lot, is 2.22 acres.

Lot 1A and 3 will be accessed from Chadwick Drive. Lot 3 will achieve technical frontage on Bell Road. Chapter 155.025C. of the Code of Public Local Laws and Ordinances of Carroll County sets a limit of 5 users on a use-in-common driveway in the residential districts. On February 25, 2014, in Case 5742, the Board of Zoning Appeals granted a variance to allow 6 users on Chadwick Drive, a use-in-common driveway. The decision is attached.

The plan is exempt from the requirements of Landscaping and Forest Conservation. Lot 1 is exempt from the requirements of stormwater management. Stormwater management on Lot 3 is being addressed with a drywell.

The Health Department is requiring that the existing well on Lot 1A be properly abandoned.

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. Varga explained that because this is the same plan that was previously reviewed, a Technical Review Committee Meeting was not held, but letters were mailed to adjacent property owners informing them of the project. He noted that one comment was received from Becca Sirinakis and distributed to the Commission today.

Marty Hackett, CLSI, noted that Ms. Sirinakis also appeared before the Board of Zoning Appeals and made the same comments. He indicated there is a minimum square footage for these homes.

Viewing an aerial of the property, Chairman Yeo questioned what trees have been removed.

Mr. Hackett indicated that the trees behind the existing home will have to be removed.

Chairman Yeo questioned whether the trees being removed will be replaced with additional trees.

Mr. Hackett explained that the Homeowners Association does not require any mitigation as to tree removal.

Chairman asked that Mr. Hackett talk to his client about replacing the same number of trees that will be removed. Mr. Soisson concurred.

Mr. Varga, addressing stormwater concerns in the letter from Ms. Sirinakis, indicated that runoff from the property will be addressed on-site.

PRELIMINARY AND FINAL SUBDIVISION PLAN REVIEW

A. F-12-003, Resubdivision of Lot 11 Walnut Park Industrial Subdivision

A. F-12-003, RESUBDIVISION OF LOT 11 WALNUT PARK INDUSTRIAL SUBDIVISION

LOCATION: East side of Dede Road, north side of Maryland Route 140, 4th E.D.

OWNER: Dede World, LLC, P.O. Box 278, Monrovia, MD 21770 (LLC Member: Randy Cohen)

DEVELOPER: Same as Owner

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

ZONING: Business General

ACREAGE: 5.4973 acres

FIRE DISTRICT: Reese

WATERSHED: Liberty Reservoir

MASTER PLAN: Commercial

PRIORITY

FUNDING AREA: Finksburg

DESIGNATED

GROWTH AREA: Finksburg

Clayton R. Black presented the background.

Action Required:

Two actions are required:

1. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 155, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.
2. Approval of the Final Plan of Subdivision pursuant to Chapter 155, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The subject property is identified as Lot 11 in the Walnut Park Industrial Subdivision, Plat Book 28 Folio 145 (copy attached). The parcel is unimproved. The Finksburg Post Office is located on the adjoining property to the south. C.J. Miller adjoins the property to the north. The Watts Center is located on the property to the east. Across Dede Road, there is a planned business center that includes various retailers. A McDonald's restaurant site plan was recently submitted for the unimproved portion of the Planned Business Center. There is also an auto repair business and a racquet club across Dede Road from this site.

Subdivision Plan Review:

The developer is proposing to subdivide the existing 5.49 acre lot into two lots. A concept site plan for a Planned Business Center (Dede World, S-10-015) to be constructed on lot 12 was submitted to the County and presented to the Planning and Zoning Commission on June 21, 2011 (copy of minutes attached). Although final site plans have not been submitted to the County for review, the owner/developer has been actively working with the Carroll County Health Department to address well/septic concerns. Site plans for lot 11A have not been submitted; however, the initial concept plan identified the use as a bank/restaurant.

The developer initially intended to process the subdivision and site plans simultaneously; however, the owner now desires to record the subdivision before the site plan is completed. A note on the record plat (note #5) indicates that no building permit or zoning certificate shall be issued for either lot until the Planning Commission has approved a site plan; a standard note placed on all non-residential subdivision plats.

No access from Maryland Route 140 is proposed. A planned major street, as shown on the 2013 Finksburg Corridor Plan, crosses this property. The planned street is a service road that extends east through the properties in this area. The owner will be granting the County a 40 foot wide service road easement allowing for public use of the road. Access to both lots will be from Dede Road with lot 11A utilizing the service road as ingress and egress. An easement for ingress and egress will be recorded simultaneously with recordation of the plat.

A preliminary plan was submitted that shows a use could be placed on each individual lot. The Carroll County Health Department has approved this division. As no development is being proposed, the requirements of landscaping, Forest Conservation, exterior design, grading,

parking, lighting etc. will be addressed during the site development process. Based on the conceptual site plan design, a stormwater management facility will be placed on lot 12 to address the requirements of stormwater management for both lots.

Based on the conceptual design of the Dede World site plan, a private agreement will be executed that allows the sharing of parking spaces and stormwater management facilities between both lots.

This non-residential subdivision is exempt from the requirements of Chapter 156: Adequate Public Facilities and Concurrency Management. Testing for adequate facilities will occur during the site development plan process.

Recommendation:

Pursuant to Chapter 155, staff recommends approval of the preliminary and final plans subject to the following conditions:

1. That a deed of easement and agreement be granted to the County Commissioners of Carroll County over the 40 foot service road for future public ingress and egress.
2. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneous with recordation of the plat.
3. That the plat indicate that no building permit or zoning certificate be issued for either lot until such time as a site development plan is approved by the Carroll County Planning and Zoning Commission.
4. That an easement for lot 11A ingress and egress over lot 12 be recorded with the plat.

Discussion:

Daniel E. Hoff, Commission member, questioned the shape of Lot 1A.

Mr. Black explained that the shape of the lot is based on well and septic system locations.

Decision:

Pursuant to Chapter 155, the Commission, on motion of Mr. Wothers, seconded by Mr. Canale, and carried (Commissioner Rothschild abstained), approved the preliminary and final subdivision plans subject to the four conditions set forth in the staff report.

PRELIMINARY SUBDIVISION PLAN REVIEW

- A. P-12-011, Chelsea Oaks
- B. P-10-002, Vangline Acres 3

**A. P-12-011, CHELSEA OAKS (FORMERLY THE ROBERT ALLEN PROPERTY),
MAJOR SUBDIVISION**

LOCATION: North side of Bennett Road at Oklahoma Road

OWNER: Robert G. Allen, 2004 Bennett Road, P.O. Box 1578, Sykesville, MD 21784

DEVELOPER: Elm Street Development, c/o Jason S. Van Kirk, 5074 Dorsey Hall Road, Suite 205, Ellicott City, MD 21042

SURVEYOR: BPR, Inc., 150 Airport Dr., Suite 4, Westminster, MD 21157

ZONING: R-40,000 / Conservation

ACREAGE: 52.49 acres

WATERSHED: Liberty Reservoir

NO. OF LOTS: 33 (1 existing)

FIRE DISTRICT: Sykesville-Freedom

MASTER PLAN: Low Density Residential

PRIORITY
FUNDING AREA: Freedom

DESIGNATED
GROWTH AREA: Freedom

PUBLIC FACILITIES IMPACTED

SCHOOLS: Freedom District Elementary
Oklahoma Road Middle
Liberty High

ROADS: Bennett Road, Mineral Hill Road

FIRE & EMS: Sykesville-Freedom

POLICE: Carroll County Sheriff's Office / Maryland State Police

Laura Matyas presented the background.

Action Required:

Two actions are required:

1. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 155, 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 156, Adequate Public Facilities and Concurrency Management, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

One existing dwelling and various structures including garages, greenhouses, and diesel storage tanks exist on the subject property. A use-in-common drive off of Bennett Road provides access to the existing dwelling as well as neighboring #1994 Bennett Road. The entire buildable site lies within the R-40,000 zone and a sliver appendage in the southwest corner is zoned Conservation. From Bennett Road, the site slopes up towards the north and contains dense forest with multiple streams running through the eastern portion and a FEMA 100-year floodplain designation in the south.

The adjoining property to the south, parcel 144, straddles Bennett Road and was purchased by the developer on April 3, 2013 to accommodate a sanitary sewer line connection for the proposed development. This is a separate property, not a part of the subject property. It is split zoned; R-40,000 to the north of Bennett Road and Conservation to the south of Bennett Road. It is undeveloped and lies completely in the FEMA 100-year floodplain.

Bordered by Sherlock Holmes Estates to the north and Morgan Estates to the west, the subject property enables the realization of an objective of the 2001 Freedom Community Comprehensive Plan Map: to connect Mycroft Street with Bandy Avenue (see attachment). Both subdivisions have temporary cul-de-sacs currently in place as shown on the plats of record from 1993 and 1994 (see attachments).

Properties to the north and west are zoned R-40,000. The properties to the southwest and south are split-zoned Conservation and R-40,000. The properties to the southeast are zoned R-20,000 and northeast are zoned R-40,000. All surrounding properties are developed with single-family dwellings excluding the floodplain-encumbered lot straddling Bennett Road.

The subject property is in a designated growth area, a priority water area, and an existing sewer service area.

Plan Review:

The Chelsea Oaks preliminary plan proposes 33 total residential lots; 32 new and 1 existing with a dwelling to remain. Existing greenhouses, garages, fences, and landscape ponds on Lots 24 and 25 will be razed. The diesel storage tanks and wells associated with the greenhouses and garages on Lots 24 and 25 will be abandoned in accordance with regulations. All properties will be served by public water and sewer systems.

A Traffic Impact Study was conducted and meets the requirements of Engineering Review. Access will be from an extension of Bandy Avenue connecting it to Mycroft Street as outlined in the 2001 Freedom Community Comprehensive Plan. Two cul-de-sacs, Messina Court and Winton Court, tee off of Bandy Avenue into the proposed subdivision. Winton Court totals 1,250 feet in length. The Design Manual for Roads reads, "...the maximum length of a permanent cul-de-sac shall not exceed 1,500 feet."

The existing use-in-common drive from Bennett Road will remain to serve #1994 Bennett Road as a single use driveway. The portion of the use-in-common serving the existing dwelling on the subject property will be removed and legal accesses will be extinguished by deed. #1994 Bennett Road will not be affected by this extinguishment and its existing right-of-way will traverse Parcel A, Lots 17, 18, 19, and 21 in Chelsea Oaks. The existing dwelling to remain on Lot 23 will have access from the new subdivision road, Winton Court.

Because the property is in an R-40,000 zoning district and not near schools or contiguous to existing sidewalk, no sidewalks are required in accordance with the Development Review Manual.

Approved in 2014 by the Planning and Zoning Commission, the Freedom Bicycle & Pedestrian Master Plan identifies proposed connections and ranks them. Project #9: Sidewalk Connection on Bennett Road from MD Route 32 to Oklahoma Road prioritizes the installation of sidewalk along one side of Bennett Road. The 2014 Freedom Bicycle & Pedestrian Master Plan Map also indicates sidewalk along Oklahoma Road south of Bennett Road (see attached).

The nearest sidewalk on Oklahoma Road is indicated in the approved preliminary plan for Rustic Rising, an R-20,000 property on the east side of the road. The nearest sidewalk on Bennett Road is indicated on the approved preliminary plan for Wilson Farms, an R-20,000 property on the south side of the road.

The subject property is R-40,000, has 20.67 feet of frontage on Bennett Road, no vehicular access to the road, and no delineated pedestrian access. The south adjoining property, parcel 144, was purchased by the developer but is not the subject property. It is undeveloped and lies completely in the FEMA 100-year floodplain. The addition of sidewalk along Bennett Road and Oklahoma Road supports the connection objectives of the Freedom Plan.

The 2001 Freedom Community Comprehensive Plan Map depicts a proposed greenway along the stream which flows through the south adjoining property, parcel 144, owned by the developer. The same proposed greenway trail is diagramed in the 2014 Freedom Bicycle & Pedestrian Master Plan.

Typical lots range in size from 40,000 square feet to approximately 56,000 square feet. Lots 4, 5, 6, and 7 are larger in size, hosting environmental easements. Lot 5, with 10.78 acres, is the largest lot in the subdivision. Lots 4, 5, and 7 are large enough to be re-subdivided, but they are restricted by environmental easements. The proposed land use is consistent with the 2001 Freedom Community Comprehensive Plan land use designation of Low-Density Residential (LDR). The LDR designation refers to those areas with a density of no more than one unit per acre.

An environmental easement, including a Forested Water Resource Protection Easement, a 100-year Floodplain Easement, and a Forest Conservation Easement, covers the eastern portion of Chelsea Oaks. A water resource variance request was submitted and approval granted, permitting utility construction within a variable width stream buffer. The sanitary sewer location has been determined optimal by the engineer and review agencies.

A variance request for relief from the Forest Conservation Ordinance was submitted and granted with conditions by the Deputy Director of the Department of Land Use, Planning, and Development. Seven specimen trees in poor or fair condition will be removed and the critical root zone (CRZ) of six additional specimen trees will be disturbed. The condition of approval requires measures to protect the disturbed trees. Forest Conservation reforestation requirements will be addressed through 14.932 acres of off-site banking.

Stormwater management will be addressed with an on-site stormwater management facility, wide grass shoulders along the roads, and drywells on each lot.

The subdivision plan was subject to citizen involvement on December 17, 2012 during the Technical Review Committee meeting. Four citizens spoke voicing concern over traffic impact on the road systems of Sherlock Holmes and Morgan Estates. One adjoining property owner, the Carters, have been in contact requesting status updates.

A concept plan of subdivision for this property was presented to the Planning and Zoning Commission on January 22, 2013 (meeting minutes attached). Concern was raised by both citizens and the Planning Commission regarding potential speeding issues. The developer responded by assuring that there will be stop signs installed at both "T" intersections. No road improvements were necessitated as a result of the Traffic Study. The Department of Public Works has specific criteria for traffic calming measures and is aware of the situation.

With regards to a preliminary plan, Chapter 155.057D(2) states, "Final plans need not be brought before the Planning Commission for review of compliance with the approved preliminary plan and all other applicable regulations at its regular meeting, unless specifically requested by the Planning Commission. If final plan review is not requested by the Planning Commission, in accordance with this chapter, the Chairperson or the Secretary of the Planning Commission shall be empowered to approve and sign the final plan upon confirmation from the Bureau that the plan meets all requirements of this chapter and all conditions for approval of such plat have been met, or shall disapprove the final subdivision plan or may approve it with conditions with respect to the timing of recordation or building permits."

Recommendations:

Pursuant to Chapter 155, staff recommends approval of the preliminary plan subject to the following conditions:

1. That any changes to the preliminary plan as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.
2. That the Owner/Developer enters into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.

3. That a forested water resource protection easement be granted to the Carroll County Commissioners simultaneous with recordation of the subdivision plat.
4. That a forest conservation easement be granted to the Carroll County Commissioners simultaneous with recordation of the subdivision plat.
5. That a floodplain easement be granted to the Carroll County Commissioners simultaneous with recordation of the subdivision plat.
6. That a landscape maintenance agreement for the landscaping shown on the approved preliminary plan be recorded simultaneous with recordation of the plat.
7. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneous with recordation of the subdivision plat.
8. That the area shown as Parcel A be conveyed to the County Commissioners of Carroll County upon acceptance of the stormwater management facility by the County.
9. That the extension of Bandy Avenue be conveyed to the County upon acceptance by the County.
10. That Winton Court and Messina Court be conveyed to the Carroll County Commissioners upon acceptance by the County.
11. That the developer adheres to the conditions stipulated in the forest conservation variance approval.
12. That the existing wells and diesel tanks on Lots 24 & 25 be abandoned in accordance with COMAR regulations.
13. That the right-of-way to Bennett Road for the Robert G. Allen property be extinguished by deed and the portion of the existing driveway serving the Robert G. Allen property be removed to the limits shown on the plan.

CONCURRENCY MANAGEMENT REPORT

Laura Matyas presented the background.

Subdivision Plan: P-12-011, Chelsea Oaks (formerly the Robert Allen Property)

Number of Lots: 33 lots (1 existing)

Schools: Freedom District Elementary
Oklahoma Road Middle
Liberty High

Roads: Bennett Road, Mineral Hill Road

Fire and EMS: Sykesville/Freedom

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

Background:

Pursuant to Chapter 156 of the Code of Public Local Laws and Ordinances, once the Department has determined that the residential development plan may be presented to the Commission, the plan is reviewed for Available Threshold Capacity.

Agency Responses:

Police Services:

The estimated Carroll County population as of April 30, 2014 was 170,474. 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 195 funded officer positions. The number of Maryland State Police officers was 42. Based on a total of 237 authorized positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of April was 1.39. Services are adequate if the projected ratio of sworn law enforcement officers to population is 1.3:1,000. The ratio is calculated by counting all sworn officers with law enforcement responsibility in an incorporated municipality or within the county and by counting the total population within the incorporated municipalities and within the unincorporated county. Including the projected population growth that would result from residential developments in the pipelines of the county and the municipalities, the ratio is projected to remain above 1.3:1,000 for the next 6 years.

Schools:

The proposed subdivision is located in the Freedom District Elementary, Oklahoma Road Middle, and Liberty High attendance areas.

The December 2013 enrollment projections, prepared by Carroll County Public Schools, indicate that Freedom Elementary had an actual enrollment of 93.5% of state-rated capacity. The projections indicate that enrollment will decline to 78.9% of state-rated capacity by the end of the 6-year CIP cycle (FY 19). In this attendance area there are five additional residential developments, comprised of 80 lots, currently in the review process. There are approximately 43 subdivision lots in this attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit. An elementary school serving a proposed project is adequate when current or projected enrollment equals or is less than 109% of the state-rated capacity.

The December 2013 enrollment projections indicate that Oklahoma Road Middle had an actual enrollment of 97.6% of functional capacity. The projections indicate that enrollment will decline to 76.4% of functional capacity by the end of the 6-year CIP cycle. In this attendance area there are eight additional residential developments, comprised of 182 lots, currently in the review process. There are approximately 174 lots/units in the attendance area that have been recorded/approved since the adoption of Concurrency Management (3/5/98) that have not been

issued a building permit. A middle school serving a proposed project is adequate when current or projected enrollment equals or is less than 109% of the functional capacity.

The December 2013 enrollment projections indicate that Liberty High had an actual enrollment of 93.2% of state-rated capacity. The projections indicate that enrollment will be at 93.2% of state-rated capacity by the end of the 6-year CIP cycle. In this attendance area there are eight additional residential developments, comprised of 182 lots, currently in the review process. There are approximately 174 lots/units in the attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit. A high school serving a proposed project is adequate when current or projected enrollment equals or is less than 109% of the state-rated capacity.

Fire and Emergency Medical Services:

The subdivision is located in the Sykesville-Freedom Fire and Emergency Services District. The two-year period of May 2012-April 2014 late and no response statistical data indicates that of the first due total fire calls in the Sykesville-Freedom district, 0.00% were categorized as no responses, and 1.00% as late and no responses. Of the first due emergency medical service calls, 0.00% were categorized as no responses and 0.00% as late and no responses. Services are rated adequate if the total number of late and no responses is less than 15%, and the total number of no responses is less than 4% measured on a 24-month basis, updated monthly.

With regard to fire call average response time, for the same two-year period, Sykesville had an average response time of 7 minutes and 47 seconds. With regard to emergency medical call average response time, Sykesville had an average response time of 7 minutes and 10 seconds. Services are rated adequate when using an average over the previous 24 months, response time is 8 minutes or less from time of dispatch to on-scene arrival with adequate apparatus and personnel.

The primary route from the firehouse to the proposed development does not include travel over bridges that cannot adequately support fire and emergency response apparatus – adequate.

Roads:

Mineral Hill Road and Bennett Road are rated adequate.

Sewer and Water:

The Bureau of Utilities rated the services as adequate. For water services, the facility is adequate if the maximum day demand is less than 85% of the total system production capacity. For sewer services, the facility is adequate if the projected annual average daily flow is less than 85% of the wastewater treatment facility permitted capacity.

Chapter 156 Recommendation:

With regard to a preliminary plan, Chapter 156.06D(4)(c) states “If all public facilities and services are adequate during the current CIP, the Planning Commission may approve the plan to proceed to the final plan stage and issue a recordation schedule and building permit reservations,

subject to a building permit cap adopted by the County Commissioners in effect at the time of application for building permits.”

Pursuant to Chapter 156, staff recommends that the Planning Commission approve the preliminary plan with conditions as follows:

1. Police, schools, fire and emergency medical services, sewer and water, and roads are considered adequate;
2. building permit reservations are for 25 lots in FY15, and 7 lots in FY16 (no more than 25 building permits may be issued in any fiscal year);
3. the recordation schedule requires the plat to be recorded within 24 months of preliminary approval; and,
4. the building permit reservations are allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

Discussion:

Chairman Yeo indicated he had received a question from the community as to why the development cannot be connected to Bennett Road.

Ms. Matyas noted that the connection to Bennett Road is in a floodplain and is only 20 feet wide. She explained that the connection is included as part of the adopted Freedom Community Comprehensive Plan and the cul-de-sacs are listed as temporary on the approved plans for those subdivisions.

Chairman Yeo questioned how the roadway intersections would be “controlled”.

Randy Bachtel, BPR, indicated there would be three-way stops at the intersections.

Chairman Yeo noted that other methods of traffic calming were discussed at the concept plan phase. He questioned what the developer had discussed with staff.

Mr. Bachtel indicated there were no traffic calming measures shown on the plan.

Chairman Yeo mentioned the traffic calming humps that were placed on Monroe Avenue, suggesting they also be considered for this location.

Mr. Bachtel indicated the developer had no issues with adding humps to the roadways. They can be shown on the final construction drawings.

Public Comments:

Ron Burdinski, Bandy Avenue, expressed concern about traffic on Bandy Avenue. He requested a copy of the traffic study. Mr. Burdinski suggested that the roadway connection would create a thoroughfare.

Ms. Matyas indicated staff would provide a copy of the traffic study for review.

Elizabeth Cascio, Bandy Avenue, indicated that she would also like to review the traffic study and the timeframe as to when the study was completed. She questioned the timeframe for construction and requested that none of the construction traffic would access the property through their neighborhood. Ms. Cascio expressed concern about the impact of this development on the value of their homes.

Mr. Bachtel suggested that construction could begin next spring.

Russ Dickens, developer, indicated there are two points of access to the property and both will be utilized during construction as necessary.

Ms. Cascio requested a copy of the lot layout for the project.

Ms. Matyas indicated a copy would be provided by staff.

Jan Carter, Mineral Hill Road, referred the Commission to the comments he made at the January 22, 2013 meeting which are accurately reflected in the minutes attached to the staff report. Those comments involved access to Mr. Carter's property from whatever road system is adopted with this project. Mr. Carter noted that no access is shown on the preliminary plan, but was supported during the Commission's previous review. He indicated that subsequent to the January 2013 meeting, he has had several discussions with Jason Van Kirk, but opted not to join in with this development. Mr. Carter indicated he is not ready to move forward with the development at this time, but would like for the plan to show an opportunity for access and possible connection to their sewer.

Daniel E. Hoff, Commission member, noted that access is recorded as available through Oak View Drive.

Mr. Carter explained that access through Oak View Drive would pass through an environmentally sensitive area.

Chairman Yeo indicated he did not know that the Commission could require a developer to provide access or an easement to another property owner so that they can develop their property.

Mr. Dickens indicated there would be an inability to extend sewer because the invert systems do not match up.

Shawn Cascio, Bandy Avenue, expressed concern about construction access through Bandy Avenue. He suggested that the existing use-in-common driveway be utilized for construction traffic.

Ms. Matyas reiterated that the temporary cul-de-sacs were always planned to be connected.

Chairman Yeo explained that the use-in-common driveway is not a public road.

Secretary Hager suggested tabling the item until later in the agenda to allow the developer, staff, and Mr. Carter to work on a resolution.

B. P-10-002, VANGLINE ACRES 3

LOCATION: South side of Schalk Road No. 1, 6th Election District

OWNER: Dennis & Deborah Utz, 5227 Schalk Road No. 1 Lineboro, MD 21102

DEVELOPER: Same as Owner

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

ZONING: Conservation

ACREAGE: 12.13145 acres

WATERSHED: Prettyboy Reservoir

NO. OF LOTS: 4 lots

FIRE DISTRICT: Lineboro

MASTER PLAN: Conservation

PRIORITY
FUNDING AREA: N/A

John Breeding presented the background.

Action Required:

Two actions required:

1. Approval of the Preliminary Subdivision Plan pursuant to Chapter 155, Development and Subdivision of Land, of the Code of Public Local Laws and Ordinances of Carroll County.
2. Approval of the Preliminary Subdivision Plan pursuant to Chapter 156, Adequate Public Facilities and Concurrency Management, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The entire property is approximately 27.25 acres located across from the intersection of Carroll Warehime Road and Schalk Road #1. The property accesses Schalk Road #1 by means of an existing private driveway which serves one additional property. The property has one existing dwelling and various farm structures including a large barn, miscellaneous outbuildings, fencing, streams and a pond. The entire property is zoned Conservation and is surrounded on three sides by Conservation zoning towards the North, West and East. Towards the South side of the property line it is zoned Agricultural. The property is wooded on the West Northwest side; with open farm land on the remains. The property slopes from Schalk Road #1 towards the east side

of the property. A stream runs through the property from the Northeast toward the South. The previous sections of Vangline Acres were previously recorded with Carroll County Land Records on 1975 recorded in Plat Book 15, Page 8. Vangline Acres Section 2 was previously recorded with Carroll County Land Records on 1977, recorded in Plat Book 17, Page 81 & 82. (Copies attached)

Plan History:

A previous three lot Minor subdivision(M-09-012) was received and distributed on June 19, 2009. The plan was subject to citizen involvement at the August 24, 2009 Technical Review Committee meeting. Several citizens spoke regarding the speed of the traffic on Schalk Road #1, sight distance, potential impacts to existing wells, retention of the existing woods, style and size of planned homes.

The Minor subdivision was presented at the Planning & Zoning Commission on September 15, 2009 as a Concept plan. The Commission discussed the proposed Concept plan raising some questions and suggestions. One of the suggestions is to provide an area along the edge of the County road for the placement of trash cans.

D.R.S. & Associates submitted a letter dated March 9, 2011 requesting the withdrawal of the three lot Minor subdivision.

Plan Review:

On March 16, 2011 a Major subdivision of Vangline Acres 3 showing four lots was submitted. The Subdivision was presented at the April 25, 2011 Technical Review Committee meeting. There were no citizens at this meeting. Reviewing agency's presented their comments and concerns to the Surveyor and the owner/developer. The Bureau did not receive any correspondence or revised plans from the Surveyor until January 21, 2014.

The developer proposes a Major subdivision of four lots that will be served by private well and septic. This approximately 12.13 acres subdivision of the property is wooded and is located along Schalk Road #1. All lots are at least 3.00 acres; the minimum lot size in the Conservation Zoning district is 3.00 acres. The subdivision will be accessed by a use-in-common driveway called Vaughns Meadow Drive from Schalk Road #1. The 12'-0" wide bituminous paved use-in-common driveway will be 441'-0" in length on a compacted stone base. A declaration of maintenance obligations will be required for all users of the use-in-common driveway.

As discussed at the September 15, 2009 Planning Commission meeting there was a suggestion to provide additional space at the end of the Use-in-Common driveway for the placement of trash cans. This plan shows a large pull off area on the right side of the driveway as you enter onto Schalk Road #1. This will allow for the residence to place their trash cans at an area that would not block the end of the driveway. This will allow the users to wait for the bus as not to obstruct the driveway during pick up and drop off. The construction of this area shall be a durable and dustless surface.

Engineering Review commented that the driveway entrance did not minimum sight distance. A Department of Public Works sight distance variance was granted on April 30, 2014 for the access to the county maintained road of Schalk Road #1. Improvements to Schalk Road #1 will include

an acceleration lane and a deceleration lane, which will require a bond to be posted for the completion of those improvements.

The requirements of the Forest Conservation Ordinance, Chapter 150, are being addressed with onsite retention. Each lot contains a significant area covered by a proposed forest conservation easement. The requirement of the Stormwater Management, Chapter 151, is being addressed on lots 15 & 16 with grading and lots 17 & 18 with drywells. The use-in-common driveway will control stormwater through the practice of providing a wide shoulder disconnect. The property is exempt from Floodplain Management, Chapter 153, as there are no floodplains on the proposed subdivision lots.

Per §155.057(D)(2) of the Code of Public Local Laws and Ordinances of Carroll County, "Final plans need not be brought before the Planning Commission for review of compliance with the approved preliminary plan and all other applicable regulations at its regular meeting, unless specifically requested by the Planning Commission. If final plan review is not requested by the Planning Commission, in accordance with this chapter, the Chairperson or the Secretary of the Planning Commission shall be empowered to approve and sign the final plan upon confirmation from the Bureau that the plan meets all requirements of this chapter and all conditions for approval of such plat have been met, or shall disapprove the final subdivision plan or may approve it with conditions with respect to the timing of recordation or building permits."

Recommendations:

Staff recommends approval of the Preliminary Plan subject to the following conditions:

1. That any changes to the Preliminary Plan as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review & approval.
2. That the area shown as Parcel-A is to be deeded to the Commissioners of Carroll County and is intended to be recorded simultaneously with the recordation of the subdivision plat.
3. That the Owner/Developer enters into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
4. That a Declaration of Maintenance Obligations sets forth the responsibilities for repair and maintenance of the use-in-common driveway be recorded simultaneously with recordation of the subdivision plat.
5. That a Forest Conservation easement shall be granted to the Commissioners of Carroll County simultaneously with recordation of the subdivision plat.
6. That a Stormwater Management easement and maintenance agreement is conveyed to the County Commissioners of Carroll County by a deed to be recorded simultaneous with the recordation of the subdivision plat.

CONCURRENCY MANAGEMENT REPORT

John Breeding presented the background.

Subdivision Plan: P-10-002, Vangline Acres 3

Number of Lots: 4 lots

Schools: Manchester Elementary
North Carroll Middle
Manchester Valley High

Roads: Schalk Road #1

Fire and EMS: Lineboro

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

Background:

Pursuant to Chapter 156 of the Code of Public Local Laws and Ordinances, once the Department has determined that the major residential development plan may be presented to the Commission, the plan is reviewed for Available Threshold Capacity.

Threshold Review:

Police Services:

The estimated Carroll County population as of April 30, 2014 was 170,474. 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 195 funded officer positions. The number of Maryland State Police officers was 42. Based on a total of 237 authorized positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of April was 1.39. Services are adequate if the projected ratio of sworn law enforcement officers to population is 1.3:1,000. The ratio is calculated by counting all sworn officers with law enforcement responsibility in an incorporated municipality or within the county and by counting the total population within the incorporated municipalities and within the unincorporated county. Including the projected population growth that would result from residential developments in the pipelines of the county and the municipalities, the ratio is projected to remain above 1.3:1,000 for the next 6 years.

Schools:

The proposed subdivision is located in the Manchester Elementary, North Carroll Middle, and Manchester Valley High attendance areas. In accordance with the criteria established in Chapter 156, all schools are rated adequate for Fiscal Years 2014-2019.

The December 2013 enrollment projections, prepared by Carroll County Public Schools, indicate that Manchester Elementary had an actual enrollment of 79.0% of state-rated capacity. The projections indicate that enrollment will decline to 72.1% of state-rated capacity by the end of the 6-year CIP cycle (FY19). In this attendance area there are five additional residential developments, comprised of 21 lots, currently in the review process. There are approximately 26

subdivision lots in the attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit. An elementary school serving a proposed project is adequate when current or projected enrollment equals or is less than 109% of the state-rated capacity.

The December 2013 enrollment projections indicate that North Carroll Middle had an actual enrollment of 80.3% of functional capacity. The projections indicate that enrollment will decrease to 79.0% of functional capacity by the end of the 6-year CIP cycle. In this attendance area there are ten additional residential developments, comprised of 29 lots, currently in the review process. There are approximately 65 lots in the attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit. A middle school serving a proposed project is adequate when current or projected enrollment equals or is less than 109% of the functional capacity.

The December 2013 enrollment projections indicate that Manchester Valley High had an actual enrollment of 58.7% of state-rated capacity. The projections indicate that enrollment will increase to 59.8% of state-rated capacity by the end of the 6-year CIP cycle. In this attendance area there are seven additional residential developments, comprised of 31 lots, currently in the review process. There are approximately 57 residential subdivision lots in the attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit. A high school serving a proposed project is adequate when current or projected enrollment equals or is less than 109% of the state-rated capacity.

Fire and Emergency Medical Services:

The proposed subdivision is located in the Lineboro fire and emergency medical services district. The two-year period of May 2012-April 2014 late and no response statistical data indicates that of the first due total fire calls in the district, 0.00% were categorized as no responses, and 4.00% as late and no responses. Of the first due emergency medical service calls, 1.00% was categorized as no responses and 2.00% as late and no responses. Services are rated adequate if the total number of late and no responses are less than 15% and the total number of no responses is less than 4% measured on a 24-month basis, updated monthly. Lineboro is rated adequate for late and no response criteria for fire and emergency medical services.

With regard to fire call average response time, for the same two-year period, Lineboro had an average response time of 9 minutes and 16 seconds. With regard to emergency medical call average response time, Lineboro had an average response time of 8 minutes and 31 seconds. Services are rated approaching adequate if when utilizing an average over the previous 24 months, response time is between 8 and 10 minutes. Lineboro is rated approaching inadequate for response time for fire services and emergency medical services.

The primary route from the firehouse to the proposed development does not include travel over bridges that cannot adequately support fire and emergency response apparatus – adequate.

Roads:

Schalk Road #1 is rated adequate.

Chapter 156 Recommendation:

With regard to a preliminary plan, § 156.06(D)(4)(b) states “If a public facility or service is inadequate and a relief facility is planned in the six-year CIP to address the inadequacy or mitigation is accepted by the county pursuant to § 156.06(B), or a public facility or service is approaching inadequate during the current CIP, the Planning 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 156, staff recommends that the Planning Commission conditionally approve the preliminary plan with conditions as follows:

1. Police, schools, and roads are considered adequate.
2. Fire and emergency medical services are considered approaching inadequate.
3. Tentative building permit reservations are for 4 lots in FY15, subject to modification at the final plat stage.
4. The tentative recordation schedule requires the plat to be recorded within 24 months of preliminary approval.
5. 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:

Dan Staley, DRS & Associates, indicated that an attempt was made to install a short accel/decel lane at the end of the use-in-common driveway at Schalk Road for trash cans and school bus drop-off, etc.

Public Comments:

Jeff Hoffman, Schalk Road, expressed concern about the speed of traffic on Schalk Road, the health of his well and septic system, and questioned the sight distance from the entrance. He asked when construction on the project would begin.

Mr. Staley indicated construction should begin by the end of the year.

Decision:

Pursuant to Chapter 155, the Commission, on motion of Mr. Soisson, seconded by Mr. Wothers, and carried (Commissioner Rothschild abstained), approved the preliminary plan subject to the six conditions stated in the staff report.

Pursuant to Chapter 156, the Commission, on motion of Mr. Soisson, seconded by Mr. Wothers, and carried (Commissioner Rothschild abstained), approved the preliminary plan subject to the five conditions stated in the staff report.

It was the consensus of the Commission to authorize the Chairman to sign-off on the final plan.

P-12-011, CHELSEA OAKS (CONTINUED)

Following a brief recess, Mr. Bachtel indicated he had spoken to Mr. Carter. Access will not be provided from Messina to the Carter Property, but an easement will be provided between Lots 3 and 4 to provide access to sewer lines at some point in the future, as necessary.

Mr. Carter asked to be put on the record that at some point in the future access from Oak View Drive would not be denied.

Secretary Hager noted that was not something the Commission could address if there are environmental regulations that prohibit vehicular access.

Chairman Yeo encouraged Mr. Carter to meet with County staff individually to discuss the development of his property. He noted that access to Mr. Carter's property does not affect the development of this property.

Secretary Hager noted that Mr. Carter's property is not currently in the sewer service area.

Decision:

Pursuant to Chapter 155, the Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, and carried (Commissioner Rothschild abstained), approved the preliminary plan subject to the 13 conditions referenced in the staff report along with two additional conditions: (14) that speed humps be included on the extension of Bandy Avenue for traffic calming, and (15) that three-way stop signs be included at the intersections of Messina Court and Winton Court at Bandy Avenue.

Pursuant to Chapter 156, the Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, and carried (Commissioner Rothschild abstained), approved the preliminary plan subject to the four conditions set forth in the staff report.

CONCEPT SUBDIVISION PLAN REVIEW

A. P-12-006, Hudson Forest Estates 4

A. P-12-006, HUDSON FOREST ESTATES 4

LOCATION: South side of MD Route 850H (West Old Liberty Road); 1,000 feet east of Freter Road, E.D. 14

OWNER: James R. Mudgett, Jr. & Mary K. Mudgett; Thomas R. Mudgett & Regina M. Mudgett; and James Mudgett, 5007 Bushey Road, Sykesville, MD 21784

DEVELOPER: James R. Mudgett, Jr. & Mary K. Mudgett; Thomas R. Mudgett & Regina M. Mudgett, 5007 Bushey Road, Sykesville, MD 21784

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

ZONING: Agricultural

ACREAGE: 24.8 acres

WATERSHED: South Branch Patapsco

NO. OF LOTS: 18 lots

FIRE DISTRICT: Winfield

MASTER PLAN: Agriculture

PRIORITY
FUNDING AREA: N/A

DESIGNATED
GROWTH AREA: N/A

Clayton R. Black presented the background.

Action Requested:

The plan is before the Planning and Zoning Commission for review of the concept plan of subdivision for a determination that in accordance with § 155.091 that the lots are located and sized so the agricultural land devoted to residential use is minimized and the amount of land retained for agricultural use is maximized. The plan proposes a transfer of lot yield from an agricultural zoned parcel to another agricultural zoned parcel.

Existing Conditions:

The subject property is zoned Agricultural and contains an existing house. The property is a mix of cropland and woods and bisected by a 20 foot wide AT&T right-of-way. Adjacent to the eastern edge of the property, a private driveway serves several adjoining neighbors. An area on the southern portion of the property contains a springhead. All adjoining properties are served by private well and septic systems

Concept Plan Review:

The concept plan was previously presented to the Commission at the September 18, 2012 meeting (copy attached). The Commission did not act on the concept plan until a legal determination occurred on the transfer of the lot yield. The County Attorney has stated that the code permits the transfer from one parcel to another and the Code does not have a limitation to the number of roads that can be utilized in the transfer of the lot yield.

The developers propose to calculate the lot yield on all of their agricultural zoned property that is located on the north and south sides of Bushey Road, and transfer that entire density to this 24.8-acre agricultural zoned property, that is located on the south side of West Old Liberty Road. Lot

yield for agricultural zoned properties is calculated in accordance with Carroll County Code of Public Local Laws and Ordinances, §155-091, " In addition to the ability to create off conveyances as provided for in this chapter, lots may be created for residential purposes from any tract of land pursuant to the following standard: where the tract to be subdivided is six to 20 acres, one new lot plus the remaining portion may be created; and for tracts over 20 acres, an additional new lot may be created for each 20-acre increment or part thereof. The area of a tract shall be calculated to the nearest 0.0001 acres."

Several years ago, the developer submitted a subdivision plan for the development of parcel 25 and parcel 606, located on the north and south sides of Bushey Road. The developer had calculated the yield for both properties and transferred six of the 16 residential building lots onto parcel 606. Those plans were approved by the Planning Commission and subsequently recorded (Hudson Forest Estates 1 & 3) leaving a remaining portion on the north side of Bushey Road that is entitled to additional residential lots. The developer has now acquired additional contiguous property and desires to transfer that yield and all remaining yield (10 lots) onto the 24.8-acre parcel. A lot yield tabulation chart has been provided, and staff is verifying the yield calculation. Two residences are located on the 260 acres, and staff has informed the developer that the lot yield must account for these two residences, which may reduce the number of lots by one.

The property on the south side of West Old Liberty Road (parcel 370) is currently comprised of 24.8 acres. This property was originally a 26,962 square foot parcel that contained the existing house. In 2009, by deed Book 5863 page 0095, this property was enlarged to 24.8 acres by a deed of add-on from a portion of the farm property that surrounded the small parcel. §103-30 F states "reconfiguration for the purpose of increasing the overall density beyond the individual lots yielded from the tracts or lawfully reconfigured tracts which existed as of July 1, 1989, is prohibited." The original property size as of July 1, 1989 was not large enough to be divided in accordance with the yield calculation provided in §103-30. Staff informed the developer that in accordance with §103-30, this property is not eligible for lot yield and to reduce the lot yield tabulation by one residential unit.

In accordance with §155-091, the developer is proposing to transfer the calculated lot yield density to an "adjoining tract". Staff has various comments in regards to the transfer proposal that is being utilized in this development. The following is the section of the Code that states the requirements:

§ 155.091 SUBDIVISION IN THE AGRICULTURAL DISTRICT

(B) Utilization of adjoining tracts.

(1) When lots are created for residential purposes in the "A" District, the lots are to be located and sized so the agricultural land devoted to residential use is minimized, and the amount of land retained for agricultural use is maximized. The total density of adjoining tracts and legally created off conveyances may be used to comply with these standards, and the lots resulting from development of adjoining tracts may be located on one or more of the tracts. In computing density for purposes of this section, tracts which are subject to an Agricultural Preservation District agreement or easement may not be counted. Total number of residential lots shall be based upon yield from actual acres of various tracts.

(2) Where land on either side of a public road, or on either side of a strip dividing an original tract and owned in fee simple by a public utility, would otherwise be adjoining except for the existence of in fee public ownership of the road or public utility strip, such confronting tracts

may be considered adjoining under this division (B). The tracts shall be considered adjoining only for the purpose of transferring density but not for the purpose of increasing density beyond what is otherwise allowed.

- (3) Whenever density from a transferring tract is relocated onto one or more adjoining tracts, the transferring tract shall retain at least one residential building right or the transferring tract shall be combined with another tract or tracts unless modified by the Planning Commission.

This lot yield transfer involves an initial transfer of density across Bushey Road (through residential lots previously created by this developer), continue over MD Route 26 through a residential lot owned by the developer's parent, then proceed over West Old Liberty Road and locating the lots on the 24.8-acre parcel. As stated in §155-091, land owned on either side of a public road is considered adjoining for the purpose of transferring density.

Although the transfer of the yield does involve multiple owners, staff has stated to the developer that all owners must sign the record plat. Since the plan proposes to transfer the yield off several properties, all property on the north side of Bushey Road will need to be consolidated into a single description and identified as the remaining portion.

The transfer crosses property that has been previously subdivided into residential lots, specifically Hudson Forest Estates (lots 5 and 6). Staff has stated to the developer that these lots must remain owned by the developer until the transfer of the density is approved and the plats recorded. Since several properties are being utilized to facilitate the transfer, staff is suggesting that the Commission determine if appropriate notes should be placed on the record plat that would prohibit any future transfers utilizing these residential lots.

The density is being located on the 24.8-acre property located on the south side of West Old Liberty Road. §155-091 specifically states that residential lots in the Agricultural zoning district are to be located and sized so the agricultural land devoted to residential use is minimized, and the amount of land retained for agricultural use is maximized. In calculating lot yield, the property identified as parcel 183 would yield 6 lots; however, this parcel is entirely wooded. This plan proposes the transfer of the yield into an area that is a mix of cropland and woods. Staff has indicated that the developer must provide specific information of how this plan addresses the Code requirements of maximizing the amount of land being retained for agricultural use.

Access for the subdivision is by construction of a new County road, Mudgett Court, which will enter onto MD Route 850H. Plan review comments from the State Highway Administration (SHA) state the road will need to be relocated between lots 7 and 8. Based on the number of lots, a traffic impact study is not required, but acceleration and deceleration lanes will be required. The driveway for lot 8 will be restricted to Mudgett Court. Mudgett Court shows a landscaped island in the middle of the cul-de-sac. A homeowners association will need to be created to ensure maintenance of the landscaped island. Two private use-in-common driveways are proposed that will access Mudgett Court.

Water Resource Protection Easements are shown on lots 18 and 19. The plan will meet the requirements of all the Codes before Planning Commission approval is received. Stormwater management for the houses will be addressed through the use of rooftop disconnects by either grading or the installation of drywells. Stormwater management for both the County road and the use-in-common driveway will be addressed by utilizing the wide-shoulder technique. There

is no FEMA floodplain on this property. The requirements of the Forest Conservation Ordinance will be met by off-site banking.

The proposed lots will be served by private well and septic systems and will need to meet the requirements of the Carroll County Health Department. The property has not had percolation tests and depending on the results, the number of lots could be reduced. Lot sizes range from 1.0 to 1.6 acres.

Since the AT&T right-of-way bisects the proposed road and use-in-common driveway, approval for construction within these areas will need to be received prior to final approval.

The Concept Plan was subject to citizen involvement during a regularly held meeting of the Technical Review Committee on August 27, 2012. Several citizens were present and expressed opposition about the development. Key citizen comments and concerns were: this transfer locates the lots in one area while preserving the development in another; runoff may impact Piney Run Reservoir; percolation tests may be unsuccessful; concerns over impacts on the existing wells; steep slopes on the property; and stormwater from the proposed development could impact the adjacent driveway. A citizen spoke about the headlights that would shine into her residence from traffic on Mudgett Court. Staff indicated revised plans will need to address this issue. A citizen provided written comments, and they are attached.

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

Discussion:

The Commission discussed the definition of the word “adjoining”.

Clark Shaffer, attorney for the applicant, expressed frustration that the Commission was revisiting the Opinion from the County Attorney. He read portions of the Code. Mr. Shaffer noted that staff has reviewed the lot yield, and the County Attorney agrees that the project meets the requirements of the Code in this regard.

Commissioner Rothschild expressed concern with the precedence that would be set by allowing this transfer of lots across so many properties.

Jeffrey Wothers, Commission member, questioned whether it was Mr. Shaffer’s contention that if the project meets the requirements of the Code, the Commission has no choice but to approve it. He further questioned that if the Commission does have discretion, why should the project be approved.

Mr. Shaffer indicated the Commission does have discretion and referred to his letter previously submitted which laid out the requirements and how they are met. He stated that the Commission has some discretion with regard to the size and location of lots. Mr. Shaffer suggested that the proposed development will protect and preserve the entire large tract on the northern site. He further suggested that allowing the cluster preserves agriculture.

CLOSED SESSION TO CONSULT WITH COUNSEL TO OBTAIN LEGAL ADVICE

Pursuant to State Government Article, Section 10-508(a)(7), Mr. Soisson made a motion, seconded by Mr. Wothers, and unanimously carried, to close the meeting for the purpose of consulting with counsel to obtain legal advice. Mr. Soisson, Mr. Wothers, Mr. Canale, Mr. Hoff, and Commissioner Rothschild voted “Aye” on the motion to close; Mr. Yeo, sitting as Chair, did not vote. The Commission entered into closed session in Room 037 at approximately 3:40 p.m. Present with the Commission were the following persons: Gail Kessler, Esquire, Philip R. Hager, and Kelly Martin.

The Commission reopened the meeting at approximately 4:10 p.m.

Chairman Yeo noted that the Commission closed the meeting for the purpose of receiving legal advice from counsel. He noted that the Commission continues to have multiple questions that were not specifically addressed by the previous County Attorney Opinion. The Commission is not prepared with information sufficient to proceed at this time. The discussion will be tabled, and the Commission will request a more detailed Opinion from the County Attorney.

There were no public comments.

PUBLIC COMMENTS

There were no public comments.

Philip R. Hager, Secretary, noted that the regular evening meeting on July 2 was cancelled, but a work session has been scheduled for Thursday, July 10 at 6:00 p.m. in Room 105.

There being no further business, the Commission adjourned at approximately 4:15 p.m.

Secretary

Approved