

OFFICIAL MINUTES
Carroll County Planning and Zoning Commission

July 15, 2014

Location: Carroll County Office Building

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

Present with the Commission were the following persons: Philip R. Hager and Kelly Martin, Department of Land Use, Planning, and Development; Lynda Eisenberg and Scott Graf, Bureau of Comprehensive Planning; Clay Black, Laura Matyas, and John Breeding, Bureau of Development Review; Jay Voight, Zoning Administrator; Gail Kessler, County Attorney's Office; Scott Campbell, Office of Public Safety; Brooks Leahy; Debra Vickers; Robert Malrone; Gary Kerns; Jeffrey Mahler; Rick Gavigan; Alice Altstatt; Randy Bachtel; Ram Javia; Thomas Mueller; Lee May; John Hahn; Dave Bowersox; Valek Zarski; Ken Schmidt; Pete Podolak; Mark Frizzera; Michael Reeves; Art Phillips; Robert Dougherty; Leisa Leppo; Lisa Lamb; Christopher Mudd; Clark Shaffer; Marty Hackett; and Melvin Baile, Jr.

CALL TO ORDER/WELCOME

Chairman Yeo called the meeting to order at approximately 9:10 a.m.

ESTABLISHMENT OF QUORUM

Kelly Martin took the attendance of the Commission, noting that seven 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. Hoff, seconded by Mr. Wothers, and unanimously carried, approved the agenda as distributed.

REVIEW AND APPROVAL OF MINUTES

A. June 17, 2014

The minutes of June 17, 2014 were approved as written on motion of Mr. Wothers, seconded by Mr. Helminiak, and carried.

COMMISSION MEMBER REPORTS

A. Commission Chairman

A. COMMISSION CHAIRMAN

Chairman Yeo indicated he had approved a plan to correct and bring into compliance the Royal Farms in Eldersburg.

DEPARTMENT OF LAND USE, PLANNING & DEVELOPMENT STAFF REPORTS

A. Director

A. DIRECTOR

Philip R. Hager, Director, reported that one development extension had been granted since the last meeting: a third one-year extension for the minor subdivision plan of Grateful Acres, one lot, a remaining portion, and a non-buildable parcel located on the north side of St. Paul Road, 1,800 feet west of MD 30 in the Agricultural district.

Mr. Hager reported that staff provided comments to the Board of Zoning Appeals (BZA) on one BZA case: BZA Case No. 5755, Jerry Stambaugh, request for the expansion of a conditional use and a variance from size requirements and setback requirements. Specifically, it is for the expansion of an existing contractor's equipment storage yard on a 9.152 acre property located along Bark Hill Road just east of Hoff Road, Union Bridge in the County's Agricultural district.

Mr. Hager noted that Chris Heyn, Engineering Reviewer, has taken a position in the Bureau of Resource Management. Staff is having trouble filling the vacancy. Effective tomorrow, the County has acquired the services of Hanover Land Design Services for 16 hours a week, initially. The consultant will be in our offices working.

COMPREHENSIVE REZONING REVIEW OF 1011 BALTIMORE BOULEVARD (FREIJI PROPERTY) AS PART OF THE 2007 WESTMINSTER ENVIRONS COMMUNITY COMPREHENSIVE PLAN

Daniel E. Hoff, Commission member, recused himself from the discussion because Brooks Leahy is his attorney, and Dr. Freiji is his personal physician.

Scott Graf, Bureau of Comprehensive Planning, noted that when the 2007 Westminster Environs Community Comprehensive Plan was adopted, there was no accompanying comprehensive rezoning. Consequently, the actual zoning of numerous parcels contained within the planning area do not match the Plan's designated land use. On April 2, 2014, staff received

correspondence requesting the County to undertake a comprehensive rezoning for the Freiji property located at 1011 Baltimore Boulevard. Mr. Graf reported that during their meeting on May 7, the Commission instructed staff to move forward with a review and staff report in response to the request. Adjoining property owners were notified and letters of support have been received. Mr. Graf reviewed the location of the property, surrounding land uses, public facilities, current zoning, and the relationship of the current zoning to the comprehensive plan.

Staff Recommendation:

Planning staff finds that a rezoning of the Freiji property, Stoler property, larger K&G property, and a portion of the smaller K&G property would serve to implement the recommendations contained in the 2007 Westminster Environs Community Comprehensive Plan, particularly with respect to the Plan's expression of development patterns, land uses, and densities and intensities.

In consideration of the Plan and the character of the surrounding area, planning staff recommends the following:

- that the Freiji property (Tax Map 46, Block 16, Parcel 306), roughly 2.26 acres in size, be rezoned from Restricted Industrial (IR) to General Business (BG);
- that the Stoler property (Tax Map 46, Block 16, Parcel 693), roughly 6.24 acres in size, be rezoned from Restricted Industrial to General Business;
- and that one K&G property (Tax Map 46, Block 16, Parcel 307), roughly 4.98 acres in size, and a 0.16 acre portion of another (Tax Map 46, Block 22, Parcel 1183) be rezoned from Restricted Industrial to General Business.

Planning staff recommends that the Planning Commission approve the comprehensive rezoning request as presented by staff and forward a favorable recommendation to the Board of County Commissioners.

Decision:

The Commission, on motion of Mr. Soisson, seconded by Mr. Canale, and unanimously carried, approved the comprehensive rezoning request changing the three properties and a portion of the fourth property from IR to BG as designated in the staff report.

FINAL SITE PLAN REVIEW

A. S-11-008, Dunkin' Donuts – Finksburg

A. S-11-008, DUNKIN' DONUTS – FINKSBURG

LOCATION: South side of MD Rt. 140, opposite Dede Road, 4th Election District

OWNER: RJG Properties, LLC, c/o Rick Garigan, 1901 Fawn Way, Finksburg, MD 21048 (LLC Members: Rick Garigan)

DEVELOPER: Hamera Investors, LLC, c/o Ram Javia, 3416 Pine Circle South Westminster, MD 21157 (LLC Members: Attached)

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

ZONING: BG – Business General

ACREAGE: 1.52 Acres

FIRE DISTRICT: Reese

WATERSHED: Liberty Reservoir

MASTER PLAN: General Business

PRIORITY

FUNDING AREA: Finksburg

DESIGNATED

GROWTH AREA: Finksburg

Laura Matyas presented the background.

Action Required:

Approval of the site plan pursuant to Chapter 155, *Development and Subdivision of Land*, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The property was consolidated in 2013 from two parcels. The subject property is improved with several commercial buildings and a house built in the mid-19th century. All structures are currently vacant. The house is listed on the Maryland Historical Trust - Inventory of Historic Properties as CARR-1008. When the house was surveyed for the Inventory in 1984, it was inhabited and in good condition. After sitting vacant for many years, the house has not been maintained. The house is in a dilapidated and uninhabitable state and is to be razed.

The property is bounded by MD Rt. 140 to the north and Old Westminster Pike to the south. MD Rt. 140, contiguous to the subject property, is two lanes in each direction and a center turn lane. Old Westminster Pike is one lane in each direction.

Properties to the east and west are zoned Business General. The property to the east is unimproved. The property to the west is improved with a house and auto repair shop. The property to the southwest is improved with a single-family home. Properties on the opposite side of Old Westminster Pike are zoned R-10,000 and are improved with single-family homes. The property on the opposite side of MD Rt. 140 is zoned Industrial Restricted and is improved with a commercial shopping center. The subject property and all adjoining properties are served by private wells and private septic systems.

Site Plan Review:

The developer proposes to tear down the house and the commercial building closest to MD Rt. 140 and build a 1,750 square-foot Dunkin' Donuts. The 1,700 square-foot commercial building

located near the center of the property will remain as storage for the Dunkin' Donuts store, but the existing freezer on the site will be torn down. The building will face MD Rt. 140. A drive-thru lane wraps around the building and meets the requirements for queuing for this use. The developer requested and the Zoning Administrator granted a parking variance from the required 27 parking spaces to 20 spaces as shown on the site plan. That decision is attached. A condition of approval for the variance is that the storage building must remain as storage and it cannot be used as a retail use.

Access to the proposed development is via a right-in/right-out access point on eastbound MD Rt. 140. The developer also proposes to construct a 12-foot wide one-way access road to Old Westminster Pike for egress from the site. Per Chapter 155.078, this paving width meets the minimum required width for one-way traffic. The plan shows a stormwater management wide shoulder for a portion of the drive and is directly next to the septic system on the other side. An access road connecting the site to Old Westminster Pike was required by the State Highway Administration (SHA). A road-widening parcel will be dedicated to the County and is shown as Parcel A along Old Westminster Pike. The acreage of this parcel is 0.0237 acres.

The structure is shown as a 21'3" high exterior insulated finishing system (EIFS) building. The majority of the building will be tan. The entrance and drive-thru window will be a mix of earth tones with a dark brown at the base of the building and gradient of increasingly lighter shades of brown and tan will be used from bottom to top. The building will have a parapet wall to hide mechanical equipment from view. Brown awnings will be installed on the front and east side of the building.

The developer proposes to construct a 12-foot high masonry, internally-illuminated, monument style sign on a six-foot, eight-inch base. The sign will match the building with regard to color scheme with the base being a dark brown and a gradient to tan as the height increases. Building-mounted signs will face north and east.

The plan was presented to the Design and Architectural Review Committee on October 23, 2013. Their comments were presented to the Commission at the November 19, 2013 meeting. In response to the summary provided by the Commission Chairman at that meeting, the developer has varied the species along the western property line and has added a guardrail and two lights along the exit drive aisle. The developer has also added a note to the plan that all existing signage will be removed from the existing building to remain. An access door and overhead door will be installed on the front of the building and will be of a neutral color. A note indicating as much is shown on Sheet 1 of the plan. The Commission directed staff to address the building improvements and several staff members of DARC agreed these notes were sufficient. No other changes to the building are proposed.

An underground facility will be used to address Stormwater Management. Forest Conservation will be addressed off-site. Landscaping is shown around the parking area and along the western property boundary.

The proposed site plan was presented during the May 23, 2011 Technical Review Committee meeting. Citizen comments from that meeting were summarized in the concept staff report presented to the Planning and Zoning Commission on November 19, 2013. The minutes are attached. As noted above, the issues raised by the DARC have been addressed. The developer

has indicated that ingress to the site from Old Westminster Pike is cost prohibitive and did not pursue this design change.

Recommendation:

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

1. That the Developer enter into a Public Works Agreement with Carroll County that guarantees completion of the improvements.
2. That a Landscape Maintenance Agreement be recorded simultaneously with the Public Works Agreement.
3. That a Stormwater Management Easement and Maintenance Agreement be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the Public Works Agreement.
4. That the area shown as Parcel A be conveyed to the County Commissioners of Carroll County by a deed to be recorded simultaneously with execution of the Public Works Agreement.

Discussion:

Richard Soisson, Commission Vice Chair, questioned why it was necessary for the monument sign to have a six foot base and 12 foot sign, totaling 18 feet in height. He noted that the McDonald's across the street will have a sign with a height of 16 feet.

Ram Javia, representing Hamera Investors, indicated the sign height could be lowered by two feet.

Daniel E. Hoff, Commission member, questioned what was being done to the existing building to make it blend in with the new building.

Mr. Javia explained that the existing building will be given the same colors as the new building, roof work will be done, etc.

Randy Bachtel, BPR, indicated that the developer has addressed all of the issues mentioned by the Commission in the previous discussion.

Chairman Yeo questioned how the developer will keep people from entering the site from the exit only onto Old Westminster Pike. He suggested the use of good signage.

Mr. Javia indicated that signage would be utilized.

Public Comments:

Alice Altstatt, Deer Park Road, endorsed the requested lowering of the sign and noted she was curious how they could keep people from entering the site from Old Westminster Pike. Ms. Altstatt noted that the Finksburg Planning and Citizens' Council (FPACC) is very concerned

about improving the appearance of MD 140. She noted that the site could be an attractive addition with landscaping, colors on the building, and lowering the sign.

Decision:

The Commission, on motion of Mr. Soisson, seconded by Mr. Helminiak, and unanimously carried, approved the final site plan subject to the four conditions listed in the staff report and the addition of a fifth condition that the monument sign be reduced to a height of 16 feet.

CONCEPT SITE PLAN REVIEW

- A. S-14-017, Verizon Wireless – Baugher Amended Site Plan
- B. S-14-008, Mudgett Business Center, 2nd Amended Site Plan

A. S-14-017, VERIZON WIRELESS - BAUGHER, AMENDED SITE PLAN

LOCATION: On the west side of Hughes Shop Road, north of Baugher Road, 7th Election District

OWNER: Baugher Enterprises, Inc., 1236 Baugher Road, Westminster, MD 21158

LESSEE: Crown Castle USA, Inc., 3530 Toringdon Way, Suite 300, Charlotte, NC, 28277

DEVELOPER: Verizon Wireless, 9000 Junction Drive, Annapolis Junction, MD 20701

ENGINEER: Entrex Communication Services, Inc., 6600 Rockledge Drive, Suite 550, Bethesda, MD 20817

ZONING: A – Agriculture

ACREAGE: Acres (Approximately 800 square feet on the plan)

FIRE DISTRICT: Pleasant Valley

WATERSHED: Double Pipe Creek

MASTER PLAN: Agriculture

PRIORITY
FUNDING AREA: Outside

DESIGNATED
GROWTH AREA: Outside

Clayton R. Black 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 site plan. No action is required.

Existing Conditions:

While the majority of the subject property is planted in orchard, the property is also improved with a cell tower and tower compound. A gravel road leads from Hughes Shop Road, past the tower, and down to Baugher Road across an adjacent property. In 2000, the Board of Zoning Appeals approved a conditional use request for a 192-foot-high tower near the forested area on the property. That decision was appealed by a neighbor to the Carroll County Circuit Court, which reaffirmed the BZA decision. Attached is a copy of the decision (Case #4420). A site plan for a 192-foot-high cell tower was approved by the Planning and Zoning Commission in 2002 and the tower was built in 2002. The original plan showed a compound that was 50' by 50' in size. The compound was expanded by a 14' by 50' area by another cell carrier.

All adjoining properties are zoned Agriculture. The subject property is surrounded by several farms that are improved with single-family homes, barns, and outbuildings. The subject property and all adjoining properties are served by private wells and private septic systems.

Site Plan Review:

The developer proposes to construct a 11'6" by 26' shelter for equipment inside of an enclosed 15' x 30' compound expansion. Additional antennas will be mounted onto the tower at a RAD center height of 158'. The site is unmanned and will be infrequently visited for routine maintenance. Access to the compound is shown over a commonly owned parcel as the subject property and over a recorded easement out to Hughes Shop Road. Verizon will record a new access easement as they are a new user on the tower. The applicant has indicated that they will request a driveway width variance to use the existing 12' driveway rather than the required 18' driveway. There are several sections of the access road that have washed out and are in need of additional gravel. The gravel must be added to address the requirements of commercial access drives in Chapter 155. The proposed use is consistent with the designation of Agriculture in the 2000 Carroll County Master Plan.

A chain-link fence will be constructed to enclose the expanded compound area and will match the existing fence. Existing landscaping around the compound will be relocated to accommodate the expansion. The total cumulative disturbance is less than 5,000 square feet so the project is exempt from stormwater management.

The proposed site plan was subject to Citizen's Involvement during the June 23, 2014 Technical Review Committee meeting. One citizen spoke at the meeting regarding access to the cell tower site. He indicated that an agreement with the subject property owner is for the transport of farm products only and access to the cell tower must be from Hughes Shop Road. The original site plan showed access to the tower via Hughes Shop Road. The developer has agreed to continue using the driveway out to Hughes Shop Road for access to the tower.

The property is not subject to the provisions of Concurrency Management, Chapter 156 of the Code of Public Local Laws and Ordinances of Carroll County; however, the project will be tested for Adequate Public Facilities before the site plan is presented to the Planning Commission for approval.

As this is an amended site plan, the Commission may delegate approval authority to the Chairman upon receipt of all agency approvals.

Discussion:

Christopher Mudd, on behalf of Verizon Wireless, explained that the compound currently exists with three providers. He noted that there may be a separate access for Verizon Wireless to the south. The developer is still working with the Baugher family to see whether the access can be obtained. Mr. Mudd noted this would be the only change that may appear on the final plan, and it would be labeled “alternate access” if those rights are obtained.

The Commission, on motion of Mr. Hoff, seconded by Mr. Helminiak, and unanimously carried, granted the Chairman authority to approve the final plan upon receipt of all agency approvals.

B. S-14-008, MUDGETT BUSINESS CENTER, 2ND AMENDED SITE PLAN

LOCATION: North side of MD Rt. 140, west of Dede Road, 4th Election District

OWNER: Mudgett Family, LLC, 2960 Dede Road, Finksburg, MD 21048
(LLC Members: Thomas R. Mudgett, James R. Mudgett, Regina M. Mudgett, Mary K. Mudgett)

DEVELOPER: McDonald’s USA, LLC Baltimore – Washington Region, 6903 Rockledge Drive, Suite 1100, Bethesda, MD 20817
(LLC Member: McDonald’s Corporation)

ENGINEER: Baltimore Land Design Group, 230 Schilling Circle, Suite 364, Hunt Valley, MD 21031

ZONING: BG – Business General

ACREAGE: 5.72 Acres (Lease area of 1.55 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:

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 site plan. No action is required.

Existing Conditions:

The subject property is improved with an existing 21,200 square-foot shopping center. The property to the north is zoned Industrial Restricted and is improved with an auto repair business. All other adjoining properties are zoned Business General. The property to the west is unimproved and has a stream running through it. A U.S. Post Office branch is on the opposite side of Dede Road. North and east of the Post Office is the Dede World property discussed at the June 17, 2014 meeting. Directly on the opposite side of MD Rt. 140, there is an unimproved property and a property with a billboard. On the south side of MD Rt. 140, opposite Dede Road, there is a medical office next to a gas and convenience store.

A site plan for this property was approved by the Planning and Zoning Commission in 2007. The approved site plan also showed a 10,663 square-foot Rite Aid Pharmacy with a drive-thru at the corner of MD Rt. 140 and Dede Road. A private road accesses Dede Road to serve the shopping center and auto repair business. An amended site plan was also processed for this property to revise the landscaping plan and add a utility building for the septic system. This amended plan was approved in 2009.

Site Plan Review:

The developer proposes to construct a one-story, 4,567 square-foot fast food restaurant and drive-thru. The lease area for McDonald's will be 1.55 acres. As shown on the recent site plan for the Westminster McDonald's, two drive-thru lanes are shown condensing into one lane as cars approach the pick-up window. Sidewalks are shown around the entrances to the building and crosswalks are shown connecting this proposed use with the existing shopping center to the west and auto repair business to the north. A dumpster enclosure is shown in the northwest corner of the lease area away from Dede Road and MD Rt. 140. The proposed use is consistent with the land use designation of Commercial in the 2014 Finksburg Corridor Plan.

For the overall Planned Business Center, 139 parking spaces are required and 162 spaces are shown. Based on the size of the proposed building, a standalone McDonald's Restaurant would need 64 parking spaces to address the parking requirements. A total of 48 new parking spaces are proposed. As the Westminster McDonald's site was recently redesigned via the site plan process, 56 parking spaces were proposed on that site, however, that figure includes 22 spaces located on an adjoining property.

One-way and two-way traffic circulation are shown on the proposed plan. This office has commented that vehicular circulation is convoluted. The Bureau of Development Review has commented that the access point closest to Dede Road is superfluous and is requesting guidance from the Commission on vehicular access. This office understands the desire to have additional

parking above and beyond the minimum for the Planned Business Center, but this office does not want another point of vehicular conflict on the private road.

The elevations are shown on Sheet 9 and depict a masonry building with metal accents. The elevations almost completely match the recently approved Westminster location's design. An additional room has been added as a utility room on the east side of the structure. Proposed signage is shown on Sheet 10. A 16' by 10' masonry, monument style sign is shown at the southern end of the parking lot closest to Dede Road. Several building-mounted signs will be installed as part of this site plan as well. An off-site directional sign will be installed on the property to the north, which is held in common ownership as the subject property.

Stormwater Management for the entire site was addressed under the original plan; however, minor modifications will be necessary for approval of this site plan. This project is exempt from the requirements of the Forest Conservation code as those requirements were addressed under the original site plan. Landscaping is shown around the perimeter of the parking lot as well as around the proposed building. There are no areas of floodplain or surface waters on the property.

The concept plan was presented to the Design and Architectural Review Committee on May 5, 2014. The Committee made the following recommendations:

1. Vehicular circulation is terribly convoluted. Consider consolidating access points to the pad site.
2. The plan includes an excessive amount of parking spaces. Reducing parking spaces may enable one internal driving lane to be eliminated.
3. The location of the handicap parking spaces is potentially perilous for both users and vehicles proceeding to the drive-thru.
4. The necessity of the striped crossing from the handicap parking to the "5' traveling public easement" is questionable. Can the easement be extinguished or a note added to the plan regarding the treatment of the easement?
5. The short runs of sidewalk perpendicular to the east side of the building may be steeper slopes than permissible by accessibility standards. Consider raising the curb elevation and accounting for a clear and level maneuvering area immediately outside the door.
6. Revisit the locations of freestanding and directional signage, particularly in conjunction with any vehicular circulation redesign.
7. Submit a lighting plan.

Several of these comments have already been addressed from the concept plan that was reviewed by the DARC. The crosswalk between the building and the "traveling public easement" has been removed. A 25' pylon sign was originally proposed at the southeast corner of the property. It was replaced with a monument style sign. A lighting plan is shown on Sheet 11 and shows the locations of existing and proposed lights. The plan also shows the proposed fixtures.

The proposed site plan was subject to Citizen's Involvement during the May 22, 2014 Technical Review Committee meeting. No citizens spoke during the meeting. One letter was submitted to this office, which is attached for your review.

Upon the recommendation of the Bureau of Development Review, the developer presented the plan to the Finksburg Planning and Citizens Council on June 26, 2014. A letter of support is expected from the Council shortly, however, it was not available at the time of the writing of this report. An email summarizing the position of the Council from a Board Member is attached.

Discussion:

Clark Shaffer, attorney for the applicant, discussed what staff called a "convoluted access situation". He noted that the key factor is that all of the traffic circulation is internal. None of the access points are on a public road. Any stacking would be interior to the site. Mr. Shaffer explained that McDonald's desire is to have a convenient traffic pattern because if it does not, people will not come. The thinking is the more options you give a driver on a site, the better off you are to disperse traffic.

Daniel E. Hoff, Commission member, suggested that the building could be shifted to provide parking on both sides and two full access points.

Ken Schmidt, traffic engineer, explained that the impact of the number of access points is more important with high speed roads. Multiple access points provide more mobility on lower functioning roads. Mr. Schmidt explained that the plan is drawn to keep people (besides the users) out of the drive-thru areas as much as possible.

Chairman Yeo requested that the traffic engineer show the Commission how a vehicle would traverse the site.

Mr. Schmidt reviewed the use of each ingress/egress point and showed how vehicles would move through the site.

Mr. Hoff suggested that Access C be reduced in size or striped accordingly to make it obvious that it is ingress only.

Cynthia Cheatwood, Commission member, suggested that the handicapped parking space be moved closer to the building instead of having a planting area between the space and the building.

Valek Zarski, engineer, indicated that the relocation of the parking spaces should not be an issue as the area is flat and there is plenty of room.

Matthew Helminiak, Commission member, questioned which exit staff recommended for closing.

Mr. Black explained that staff originally recommended closing Access B, but McDonald's indicated they wanted an "emergency out" for drive-thru patrons. Staff is looking for feedback from the Commission.

Vice Chair Soisson indicated he did not have a problem with maintaining all the access points to the property, as long as the handicap spaces were relocated and Access C was narrowed.

Public Comments:

Gary Kerns, Finksburg, thanked McDonald's representatives for meeting with the community about the project and for changing the sign from a 25 foot pylon to a 16 foot masonry, monument style sign.

Alice Altstatt, Finksburg, also thanked McDonald's representatives for meeting with the Finksburg Planning and Citizens' Council.

Vice Chair Soisson commended the applicant for working with the community to develop the plan, and he encouraged other developers to do the same.

CONCEPT SUBDIVISION PLAN REVIEW

- A. P-14-003, The Offutt Place
- B. P-14-009, Bonnie Brae Plaza

A. P-14-003, THE OFFUTT PLACE

LOCATION: East side of Freedom Avenue, South of Johnsville Road, E.D. 5

OWNER: Mark Frizzera, 1935 Babbs Court, Marriottsville, MD 21104

DEVELOPER: Same as owner

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

ZONING: R-10,000

ACREAGE: 5.35 acres

WATERSHED: South Branch Patapsco

NO. OF LOTS: 10 lots

FIRE DISTRICT: Sykesville-Freedom

MASTER PLAN: High Density Residential

PRIORITY

FUNDING AREA: Freedom

DESIGNATED

GROWTH AREA: Freedom

SEWER/WATER

DISTRICT: Freedom

Laura Matyas presented the background.

Action Requested:

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.**

The plan is before the Planning and Zoning Commission per Ordinance No. 2013-10 for consideration of a request for modification to the maximum number of users for a use-in-common driveway in a residential zoning district from five to six. **Action is required.**

Existing Conditions:

The subject property is developed with a single-family residence and multiple outbuildings, zoned R-10,000, and located within the Freedom water and sewer service area. There is an existing pond, spring house, springhead, streams, and 100-year FEMA floodplain on-site. The Maryland Department of the Environment determined that there are no regulated nontidal wetlands and / or regulated wetland buffers adjacent to the pond (see attached letter). It is undergoing draining by the developer. Additional site features not depicted on the plans include a debris dump, a fuel pump, and two specimen trees. Current access is via a private drive from Freedom Avenue with a right-of-way over the adjoining Fetterman property.

The subject property and adjoining properties are zoned R-10,000, excepting the Piney Ridge Elementary School property to the south which is split-zoned Conservation and R-10,000. The adjoining property to the north owned by the Offutts is undeveloped. The adjoining property to the south and all properties across Freedom Avenue are developed with single-family residences. Also adjoining to the north, at the corner of Johnsville Road and Piney Ridge Parkway, is a stormwater management parcel for Piney Ridge Village (see plat attached). The property across Johnsville Road to the north is split-zoned R-10,000 and Neighborhood Business Retail.

Sidewalk currently exists on the west side of Freedom Avenue across from the subject property and no sidewalk exists on Johnsville Road between Freedom Avenue and Piney Ridge Parkway.

Plan Review:

The developer proposes to demolish the existing structures and create ten new residential lots that will be served by public water and sewer systems. One off-conveyance right remains and the developer has indicated a proposed location on the plans. At the writing of this report, no off-conveyance application has been submitted to Development Review.

Proposed access will be from two separate use-in-common (UIC) drives from Freedom Avenue. Drive 'A', the 190-foot UIC drive nearest the Johnsville Road intersection, will serve four lots of subdivision plus the off-conveyance lot. Engineering Review has commented that the intersection spacing does not meet the minimum 275 foot requirement for a minor collector. It is proposed at approximately 175 feet from the intersection. In accordance with the Design

Manual, "...Any deviation from these limits must be approved by the Director of Public Works or the Chief of the Bureau of Engineering." On June 12, 2014, the project engineer submitted a variance request letter to Mr. Thomas Rio, Director of Public Works, on behalf of Johnsville Freedom LLC. The request is under review.

On March 25, 2014, the project engineer submitted a letter on behalf of the developer seeking relief from the number of users permitted on a UIC drive. The maximum number of users on a UIC driveway is five in a residential zone. Drive 'B', at approximately 540 feet in length with a pull over and a cul-de-sac, is proposed to serve six lots of subdivision as well as provide access to the stormwater management facility.

Ordinance No. 2013-10, passed on November 14, 2013, amended the Code of Public Local Laws and Ordinances of Carroll County Chapter 155.025 adding section "L". Determination of a modification to the number of users allowed on a use-in-common driveway lies with the Planning and Zoning Commission.

§ 155.025 IN-FEE ACCESS STRIPS; USE-IN-COMMON DRIVEWAY STANDARDS AND CRITERIA.

(C) **Maximum number of users.** The maximum number of users for a UIC driveway, including subdivision lots, remaining portions, remainders, and off conveyances, if applicable, is seven in the "A" and "C" Districts and five in the Residential Districts.

(L) **Modifications.** Where the Planning Commission finds that because of unusual circumstances of shape and topography or other physical features or conditions of the proposed subdivision, or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with the UIC design requirements of this § [155.025](#) and the Development Review Manual, there may be granted a modification when requested by the subdivider or developer. However, no such modification shall be granted which will have the effect of nullifying the intent and purpose of the Master Plan, the zoning regulations, this chapter or any other pertinent rules, regulations or laws of the county. Prior to considering such requests, the Planning Commission shall refer the matter for technical agency review, which will include the Office of Public Safety, which may request that the Fire Chief of the first due fire department provide input. In granting modifications, the Planning Commission will consider the comments from the technical review agencies and may require such conditions as will, in its judgment, secure substantially the objectives of the standards of the requirements so waived or [Chapter 155](#), Development and Subdivision of Land modified. The applicant shall submit a written request for a modification to the county. The request shall include the specific conditions necessitating a modification and include supporting documentation. Any modification for a particular subdivision or development shall be noted on the final plat and appear in the records of the Division.

(2004 Code, § 103-11) (Ord. 04-14, passed 4-20-2004; Ord. 09-01, passed 4-7-2009; Ord. 2013-10, passed 11-14-2013)

The waiver request package was distributed to the Bureau Chief of Resource Management, Office of Public Safety, Bureau Chief of Comprehensive Planning, Bureau Chief of Roads, Engineering Review, and Utilities Review for comment. All agencies have responded in support of the relief request (see attached letters).

Lots range in size from 11,104 square feet to 33,133 square feet. While code requires 10,000 square foot minimum lots sizes and 5.35 acres would potentially yield more lots, environmental challenges, site configuration, and an on-site stormwater management facility diminish the actual lot yield. Environmental constraints considered, the proposed plan is consistent with the 2000 County Master Plan Land Use Map designation of High Density Residential.

Approved in 2014 by the Planning and Zoning Commission, the Freedom Bicycle & Pedestrian Master Plan identifies proposed connections and ranks them. Project #6 is "Sidewalk Connection on Freedom Avenue from SW of Johnsville Road to MD 32." Project #8 is "Sidewalk Linkage on Johnsville Road with MD 26." The Offutt Place concept plan indicates sidewalk on Freedom Avenue and sidewalk has been requested on Johnsville Road by Development Review and Engineering Review. The addition of sidewalk along both roads supports the connection objectives of the Freedom Plan.

The applicant will need to address the Water Resource and Floodplain codes as part of the preliminary plan submittal. To satisfy the requirements of stormwater management, drywells are proposed on all lots, wide shoulders are designed at both UICs, and a stormwater management facility is proposed on Parcel 'B'. Forest Conservation and landscaping must be addressed. In accordance with the Landscape Manual, Lots 1 and 2 must be screened.

The plan was subject to citizen involvement during a regularly held meeting of the Technical Review Committee on April 28, 2014. No citizens spoke regarding this project at the meeting. The Bureau of Development Review has received two correspondences concerning this project. The first was a phone call from Rachel Fetterman, adjoiner, requesting a concept plan. The second was an email from Julie Lucas, 6214 Freedom Avenue, also requesting a concept plan.

The project is subject to the provisions of Concurrency Management, Chapter 156 of the Code, and will be tested prior to presentation of the plan to the Commission for approval of the Preliminary Plan. At the Concept stage, all facilities and services are adequate, excluding roads which are approaching inadequate.

Discussion:

Staff distributed a letter from Tom Rio, Administrator, Department of Public Works, granting the requested variance to the intersection spacing criteria defined in the Design Manual.

Daniel E. Hoff, Commission member, questioned whether there was any discussion regarding landscaping that will be done.

Ms. Matyas explained that the two rear yards must be screened from the right-of-way.

Chairman Yeo questioned whether other options were considered regarding the use-in-common driveway.

Marty Hackett, CLSI, indicated that because of the configuration of the property, you would still need a use-in-common driveway for the property. He noted that a sixth user is not uncommon. Mr. Hackett stated that the driveway would be made 16 feet wide instead of 12 feet wide which would eliminate the need for a pullover.

Mark Frizzera, developer, indicated different configurations were discussed with individual driveways, and County agencies did not want that.

Chairman Yeo questioned why five users on a use-in-common driveway was set as the limit. He noted that he is always concerned about the life safety equipment being able to access the driveway. Chairman Yeo asked staff if the Commission should hold their ground at five users.

Scott Campbell, Office of Public Safety, indicated that the number of users is not a function of Public Safety, but the length of the use-in-common driveway is because of the amount of fire hose carried on a truck. Individual Fire Chiefs make recommendations regarding how the number of users affect their operations.

Chairman Yeo questioned whether the width of the use-in-common driveway is a determining factor.

Mr. Campbell explained that the angle of incline, width of the driveway, turning radius, etc. are all determining factors based on a company's equipment. He noted that all four cases on today's agenda were reviewed by the local fire chiefs with their comments being provided.

Mr. Frizzera indicated he was in support of an 18 foot width for the driveway.

There were no public comments.

Decision:

The Commission, on motion of Mr. Helminiak, seconded by Mr. Soisson, and unanimously carried, granted the developer permission to put six lots on the use-in-common driveway provided the use-in-common driveway was at least 16 feet wide.

B. P-14-009, BONNIE BRAE PLAZA

LOCATION: South side of MD Rt. 26, west of Bonnie Brae Road, 5th Election District

OWNER: Clear Ridge Developers, Inc., c/o Mark Frizzera, 1935 Babbs Court, Marriottsville, MD 21104

DEVELOPER: Same as Owner

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

ZONING: BG – Business General

ACREAGE: 2.00 acres

WATERSHED: Patapsco - South Branch

NO. OF LOTS: 2 lots

FIRE DISTRICT: Sykesville/Freedom

MASTER PLAN: Medium Density Residential – Proposed Boulevard District – 2001 Freedom Community Comprehensive Plan

PRIORITY

FUNDING AREA: Freedom

DESIGNATED

GROWTH AREA: Freedom

Clayton R. Black 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 subject property is vacant and has sporadic tree coverage. The property was rezoned from R-20,000 to B-NR on February 6, 2014 (decision attached). Properties to the south are zoned R-20,000 and are improved with single-family homes. Properties to the west are also zoned R-20,000 and are improved with office buildings. These lots are part of the Frank's Place Subdivision. There is an existing use-in-common driveway that crosses the lots to the west and is accessed MD Rt. 26 via Lot 2. The property to the east is zoned R-20,000 and is improved with a church and a multi-purpose field. The property on the opposite side of MD Rt. 26 is zoned Business General and is improved with a single-family home and several outbuildings. All surrounding properties are served by Freedom public water and public sewer.

Plan Review:

The developer proposes to create two lots from the 2-acre parcel. Lot 1, at the corner of Bonnie Brae Road and MD Rt. 26, is shown as 1.164 acres and Lot 2, immediately to the west, is shown as 0.836 acres. The developer wishes to process two site plans for the individual lots in the near future. These site plans have been designated as priority review projects requiring an expedited review by County staff. While not tied to this plan, the developer wishes to build an auto parts store and retail center on the two proposed lots. Improvements that will be proposed as part of the future site plans are ghosted on the plan to show how the lot design will likely occur. The site plans will be developed in a manner that allows access to the existing use-in-common driveway to the west and access onto Bonnie Brae Road away from the intersection with MD Rt. 26. A general note on Sheet 1 indicates that the developer will work with the lot owners in the Frank's Place subdivision to provide cross-easements for access over this property and the use-in-common driveway. This easement agreement will be a condition of approval for the subdivision.

The planned major street Ridenour Way is shown crossing this property across the entire frontage along MD Rt. 26. While a two-lot subdivision would typically be processed as a minor

subdivision, any plan involving a planned major street must be presented to the Planning and Zoning Commission as a major subdivision. In discussions with the Bureau of Comprehensive Planning, it has been determined that the inter-parcel connectivity achieved through cross-easements between this property and the lots to the west addresses the intent of Ridenour Way. The memorandum addressing Ridenour Way is attached.

The land use designation in the 2001 Freedom Community Comprehensive Plan is Medium Density Residential. This property is included as part of the proposed Boulevard District. The Freedom Plan dictates that properties designated as Medium Density Residential be reserved for single-family development at a density no greater than two units per acre. This proposed subdivision and subsequent commercial uses adhere to the intent of the proposed Boulevard District as it would “allow for a mixture of commercial, retail, professional office, and residential uses” as outlined by the Freedom Plan. As such, the land use designation should be found to be consistent with the comprehensive plan.

A traffic impact study (TIS) is required for this development based on the proposed square-footage of the future commercial sites. In order to expedite the review process for the subdivision and two sites plans for this property, the County has generated a TIS scope based on the proposed uses as well as background development and annual increases in traffic. Approval of the TIS will be tied to the subdivision but will be implemented as part of the future site plans. A condition of final subdivision approval will be that any improvements required by the TIS be implemented as part of the two site plans for this property.

Code requirements for landscaping, forest conservation, and stormwater management will be addressed as part of each site plan. There are no areas of floodplain or water resources on the property.

The proposed site plan was subject to Citizen’s Involvement during the June 23, 2014 Technical Review Committee meeting. Two citizens spoke during the meeting in opposition to this plan. Their comments were that the future use was redundant as there are other auto parts stores in the area. They also expressed concerns with regard to additional traffic in a heavily-traveled area. Two letters were also submitted to the Bureau and are attached. The letters express opposition to the development of this property and raise concerns about crime, noise, traffic, and recently approved development in the area.

The subdivision will create two non-residential lots and is therefore NOT subject to Concurrency Management. The site plan for each lot will be tested for Adequate Public Facilities before each plan is presented to the Planning Commission for final site plan approval.

Discussion:

Mark Frizzera, developer, indicated he has been a resident of southern Carroll County for most of his life, and he is interested in creating a nice area. One of the lots does not have a user at this time; the other lot is for Advance Auto Parts.

Pete Podolak, Leon A. Podolak and Associates, indicated that the location of the proposed use has been ghosted on the plan for reference, but there have been changes made since the site plan was submitted. He noted that a landscaping plan was submitted with the site plan which provides screening to the residential area from this property.

There were no public comments and no comments from the Commission which needed to be addressed by the developer.

SPECIAL REPORT

- A. P-12-004, Hummingbird Hill
- B. M-08-011, Fields of Woodbine
- C. F-14-013, Krom's Keep

A. P-12-004, HUMMINGBIRD HILL

LOCATION: North and south side of Bankard Road, southwest of Grand Valley Road, E.D. 3

OWNER: Red Properties, LLC, 2456 Tyrone Road, Westminster, MD 21158
(LLC Member: Robert Dougherty)

DEVELOPER: Same as Owner

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

ZONING: Agriculture

ACREAGE: 39.54 acres

WATERSHED: Conewago Creek

NO. OF LOTS: 8 lots and remaining portion

FIRE DISTRICT: Manchester

MASTER PLAN: Agriculture

PRIORITY

FUNDING AREA: N/A

DESIGNATED

GROWTH AREA: N/A

Clayton R. Black presented the background.

Action Required:

In accordance with 155.025 L of the Code of Public Local Laws and Ordinances of Carroll County, the developer has requested relief from the requirements of the number of users on a use-in-common driveway from seven to eight (§ 155.025 – C) and from the limit in length of a use-in-common driveway from 1250 feet to 1267 feet (*Bureau of Development Review Manual, Article XII: Special Design Criteria; Item 6*).

Plan Review:

The developer proposes to create eight new residential lots and a remaining portion. Access to all lots is shown via Ernest Drive, a proposed use-in-common driveway. When the concept subdivision plan was presented to the Planning Commission in September of 2012, there was some discussion regarding the driveway and the number of users (Minutes attached). At that time, the Commission directed the applicant to limit the driveway to 1250 feet, but the Commission was amenable to adding an eighth user to the driveway. The applicant indicated to staff that they would pursue adding the eighth user to the driveway via a Board of Zoning Appeals request after the concept Planning Commission meeting. As the code requirements have shifted the authority for variances for users and length from the Board of Zoning Appeals to the Planning and Zoning Commission, the request was made on May 5, 2014 to begin the variance process.

The Code is as follows:

§ 155.025 IN-FEE ACCESS STRIPS; USE-IN-COMMON DRIVEWAY STANDARDS AND CRITERIA. (L) **Modifications.** Where the Planning Commission finds that because of unusual circumstances of shape and topography or other physical features or conditions of the proposed subdivision, or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with the UIC design requirements of this § [155.025](#) and the Development Review Manual, there may be granted a modification when requested by the subdivider or developer. However, no such modification shall be granted which will have the effect of nullifying the intent and purpose of the Master Plan, the zoning regulations, this chapter or any other pertinent rules, regulations or laws of the county. Prior to considering such requests, the Planning Commission shall refer the matter for technical agency review, which will include the Office of Public Safety, which may request that the Fire Chief of the first due fire department provide input. In granting modifications, the Planning Commission will consider the comments from the technical review agencies and may require such conditions as will, in its judgment, secure substantially the objectives of the standards of the requirements so waived or [Chapter 155](#), Development and Subdivision of Land modified. The applicant shall submit a written request for a modification to the county. The request shall include the specific conditions necessitating a modification and include supporting documentation. Any modification for a particular subdivision or development shall be noted on the final plat and appear in the records of the Division.

Plans were distributed to the Bureau Chief of Resource Management and the Public Safety Administrator for comment. Gale Engles, Chief, Bureau of Resource Management responded that while she had no issue with adding the eighth user or extending the driveway length, the preliminary plan would need to meet the requirements of the individual technical reviewers prior to plan approval. Scott Campbell, Public Safety Administrator, responded that the Office of Public Safety contacted the Manchester Fire Company regarding the variance request. The Manchester Fire Chief responded that they had no objection to the additional user or additional length, but that the circular turnaround design should accommodate long-wheelbase apparatuses. The developer has been made aware of these comments and the plan will meet the wheelbase requirements.

If the modification is not granted, the applicant may choose to provide a single-use driveway onto Grand Valley Road for Lot 8.

Discussion:

Robert Dougherty, developer, suggested that the environmental impact of adding a second use-in-common driveway parallel to the first does not make sense. Mr. Dougherty noted that entering via Grand Valley Road is not an option because of the steep grades. He stated that pullover places have been added instead of widening the drive because it is a wooded area.

Matthew Helminiak, Commission member, suggested a pullover be located closer to Grand Valley Road.

Chairman Yeo agreed, suggesting three total pullovers with one before the first lot and Grand Valley Road and then evenly spaced.

Daniel E. Hoff, Commission member, questioned why the pullovers are tied to the driveways. He stated he did not think that the driveways should come off of the pullover. Homeowners will take ownership of the pullover areas and use them for parking.

Chairman Yeo suggested that “no parking” signs be posted to keep people from parking in the pullovers and turnaround area.

Decision:

The Commission, on motion of Mr. Helminiak, seconded by Mr. Wothers, and unanimously carried, granted permission to the developer to allow the use-in-common driveway to be a maximum length of 1,270 feet instead of the required 1,250 feet.

(Commissioner Rothschild entered the meeting.)

The Commission, on motion of Mr. Helminiak, seconded by Ms. Cheatwood, and carried (Commissioner Rothschild abstained), granted the developer’s request to allow eight users on the use-in-common driveway instead of seven with the condition that an extra pullover (3 pullovers total) be added on the use-in-common driveway and that the pullovers not be connected to the driveways for the individual lots.

B. M-08-011, FIELDS OF WOODBINE

LOCATION: East side of Woodbine Road, 1000 feet south of Gillis Road, E.D. 14

OWNER: Phyllis Hahn, 6133 Woodbine Road, Woodbine, MD 21797

DEVELOPER: John Hahn, 6133 Woodbine Road, Woodbine MD 21797

ZONING: Agriculture

NO. OF LOTS: None proposed, existing lot and remaining portion

FIRE DISTRICT: Winfield

MASTER PLAN: Agriculture

PRIORITY

FUNDING AREA: N/A

DESIGNATED

GROWTH AREA: N/A

Clayton R. Black presented the background.

Action Required:

In accordance with 155.025 L of the Code of Public Local Laws and Ordinances of Carroll County, the developer has requested relief from the requirements of the 12 foot width for use-in-common driveways (*Bureau of Development Review Manual*).

Plan Review:

The preliminary plan of Fields of Woodbine was approved by the Planning Commission Chairman on March 26, 2010. The plan proposed a single residential lot with a 31 acre remaining portion. The remaining portion is entitled to one additional residential lot.

Access to the subdivision lot is over an existing 10 foot driveway that would be improved to meet the use-in-common requirements. Construction requirements included widening the driveway to 12 feet wide, blacktopped paving, a pullover and a turnaround. The construction plans were submitted by the developer's engineer and approved by County staff as the plans met all the technical requirements. The subdivision was subsequently recorded on April 10, 2012 in Plat Book 52 Page 239 (copy attached).

The owner/developer has submitted a request (copy attached) to accept the driveway in its current state and only require the construction of the pullover and turnaround.

The waiver request was distributed to the Bureau Chief of Resource Management and the Public Safety Administrator for comment. Gale Engles, Chief, Bureau of Resource Management, responded that while she had no issue with reducing the width, the pullover and turnaround construction must comply with any code requirements. Scott Campbell, Public Safety Administrator, responded that the Office of Public Safety contacted the Winfield Fire Company regarding the variance request. The Winfield Fire Chief responded that they have no objections to this specific driveway width variance request contingent upon the entrance being widened and several tree branches being removed (copy attached).

The approved construction plans show that the driveway apron will be constructed to County standards.

The Code is as follows:

§ 155.025 IN-FEE ACCESS STRIPS; USE-IN-COMMON DRIVEWAY STANDARDS AND CRITERIA. (L) **Modifications.** Where the Planning Commission finds that because of unusual circumstances of shape and topography or other physical features or conditions of the proposed subdivision, or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with the UIC design requirements of this § [155.025](#) and the Development Review Manual, there may be granted a modification when requested by the subdivider or developer. However, no such modification shall be granted which will have the effect of nullifying the intent and purpose of the Master Plan, the zoning regulations, this chapter or any other pertinent rules, regulations or laws of the county. Prior to considering such requests, the Planning Commission shall refer the matter for technical agency review, which will include the Office of Public Safety, which may request that the Fire Chief of the first due fire department provide input. In granting modifications, the Planning Commission will consider the comments from the technical review agencies and may require such conditions as will, in its judgment, secure substantially the objectives of the standards of the requirements so waived or [Chapter 155](#), Development and Subdivision of Land modified. The applicant shall submit a written request for a modification to the county. The request shall include the specific conditions necessitating a modification and include supporting documentation. Any modification for a particular subdivision or development shall be noted on the final plat and appear in the records of the Division.

Discussion:

Mr. Black reported that the trees that were of concern for this project were removed yesterday by BGE because of the power lines.

John Hahn, developer, explained that the widening of the existing 10 foot paved driveway to 12 feet would not be able to be accomplished by a machine.

Randy Bachtel, BPR, explained that the applicant is not requesting a waiver with regard to the turnaround or pullover, just the driveway width.

Decision:

The Commission, on motion of Mr. Soisson, seconded by Mr. Helminiak, and carried (Commissioner Rothschild abstained), granted the developer's requested relief from the 12 foot width requirement for the use-in-common driveway, allowing it to remain 10 feet wide subject to the developer addressing the Fire Chief's concerns regarding the widening of the entrance, and the installation of the pullover and the turnaround.

C. F-14-013, KROM'S KEEP

LOCATION: North side of Bachman Road, on the southeast side of Fridinger Mill Road, E.D. 6

OWNER: George L. Makoutz, 100 East Main Street, Suite 1, Westminster, MD 21157

DEVELOPER: Same as Owner

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

ZONING: R - 40,000

ACREAGE: 4.174 acres

WATERSHED: Big Pipe Creek

NO. OF LOTS: 3 lots – Existing

FIRE DISTRICT: Manchester

MASTER PLAN: Residential

PRIORITY
FUNDING AREA: N/A

DESIGNATED
GROWTH AREA: N/A

John Breeding presented the background.

Action Required:

In accordance with §155.025 L of the Code of Public Local Laws and Ordinances of Carroll County, the developer has requested relief from the requirements and to allow for the connection at the end of the turnaround for Lot 3's driveway. (*§ 155.025 – J Turnaround areas shall be used for vehicles turning around only and shall not be used for parking or driveway entrances.*)

Plan Review:

The Preliminary and Final subdivision plans were presented and approved by the Planning Commission on May 20, 2008, (minutes attached). Krom's Keep is recorded in Plat Book 51 Page 270 (attached).

The request for modification was received by the Bureau of Development Review on May 15, 2014, (attached). The request was sent to Resource Management, Office of Public Safety and Carroll County Health Department.

Gale Engles, Chief, Bureau of Resource Management responded that she had no issue with the connection of Lot 3's driveway off the end of the turnaround. Gale Engles stated that there is a grading issue around the house which will need to be addressed at the building permit process.

Scott Campbell, Public Safety Administrator, responded that the Office of Public Safety contacted the Manchester Fire Company regarding the variance request. The Manchester Fire Chief responded that they had no concerns with the proposal.

James Parmeter with the Bureau of Environmental Health, Carroll County Health Department, had concerns with the location of the new driveway in relationship to the sewage disposal area (SDA) of Lot 3. COMAR requires a 25'-0" buffer that surrounds the SDA. The Bureau of Environmental Health and BPR met at the site and came to a solution to satisfy the Bureau of Environmental Health concerns. The Health Department has no issues with the location of the driveway for Lot 3 coming off the end of the turnaround.

The Code is as follows:

§ 155.025 IN-FEE ACCESS STRIPS; USE-IN-COMMON DRIVEWAY STANDARDS AND CRITERIA. (L) **Modifications.** Where the Planning Commission finds that because of unusual circumstances of shape and topography or other physical features or conditions of the proposed subdivision, or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with the UIC design requirements of this § [155.025](#) and the Development Review Manual, there may be granted a modification when requested by the subdivider or developer. However, no such modification shall be granted which will have the effect of nullifying the intent and purpose of the Master Plan, the zoning regulations, this chapter or any other pertinent rules, regulations or laws of the county. Prior to considering such requests, the Planning Commission shall refer the matter for technical agency review, which will include the Office of Public Safety, which may request that the Fire Chief of the first due fire department provide input. In granting modifications, the Planning Commission will consider the comments from the technical review agencies and may require such conditions as will, in its judgment, secure substantially the objectives of the standards of the requirements so waived or [Chapter 155](#), Development and Subdivision of Land modified. The applicant shall submit a written request for a modification to the county. The request shall include the specific conditions necessitating a modification and include supporting documentation. Any modifications for a particular subdivision or development shall be noted on the final plat and appear in the records of the Division.

If the Planning Commission approves the request, an Amended Plat (which has been submitted for review), will need to be recorded.

Discussion:

Randy Bachtel, BPR, explained that generic boxes are drawn on plans to show the location of the proposed houses. The driveway for Lot 3 was to have come directly off of Krom's Keep before the turnaround, but the owners of this particular lot have a specific house they want built with a side-entry garage. That is almost impossible to accomplish with the steep grades. Mr. Bachtel noted that the developer will post "no parking" signs at the turnaround. He explained that the use-in-common driveway is in place and built to County Code.

Decision:

The Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, and carried (Commissioner Rothschild abstained), granted the developer's request to allow for the connection at the end of the turnaround for the driveway for Lot 3 with signage to indicate no parking.

CONCEPT SUBDIVISION PLAN REVIEW

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

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

Philip R. Hager, Secretary, noted that this discussion was a continuation of an item that was brought to the Commission last month and also in 2012. He recommended that Clayton R. Black, Bureau of Development Review, provide a briefing of the staff report presented last month and at the conclusion that the Commission follow the outline presented earlier today from the Secretary of the Commission.

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:

Mr. Black distributed a letter to the Commission that was received last night with regards to this project.

Secretary Hager noted that last month the Commission had requested an opinion from legal counsel, but he argued that it was the Commission's responsibility to make the determination as to whether the concept of multi-parcel transfers is valid. He read 155.091(B) from the Code suggesting it was silent on the matter of multi-parcel transfers.

Clark Shaffer, attorney for the applicant, argued that the Code is not silent and read from pertinent sections.

The Commission had a lengthy discussion regarding what constitutes parcels that are "adjoining" and whether all the yield had to be able to be transferred to each lot that was "hopped".

Mr. Shaffer again read from the Code arguing that the Code clearly wanted to allow people that had ownership of adjoining tracts to be allowed to cluster development.

Secretary Hager referred to his letter to the Commission, citing 155.091, stating that the Commission needs to make the interpretation of the Code as to whether it allows for the utilization of parcels as a conduit to allow multiple transfers of yield to take place. There is no question that the transfer of yield can occur if there is a single parcel transected by a road or utility, making a second parcel.

Mr. Shaffer argued that the Code clearly does not prohibit "hopping". It says you can place the density on multiple tracts. He questioned what purpose the prohibition would serve.

Jeffrey Wothers, Commission member, stated that (B)(2) reads that each tract must support the density in order to "hop".

Gail Kessler, County Attorney, stated that Parcel C cannot adjoin Parcel A unless it is touching it. She suggested that the Commission review closely the language construction in the Code. Ms. Kessler indicated that each transfer would have to meet the Code requirements of that transfer because the properties are linear and not adjoining.

Mr. Shaffer disagreed.

Public Comments:

Melvin Baile, New Windsor, noted that he has 15 years' experience on the Planning Commission. He suggested that the proposed transfer was not the intent of the Code. Mr. Baile disagreed with Mr. Shaffer's interpretation of "adjoining". He explained that under the Rural Development Standards, lots are to be realized on the area that minimizes impact on agricultural land. Mr. Baile stated there is more than enough land on the existing tract which is wooded and where the density is located for these lots, rather than moving them to actively farmed land. What is being suggested is a transfer of development rights (TDR) which is not allowed for in Carroll County except in the mineral resource areas. Mr. Baile argued that the parcels do not have the same ownership, it is family ownership. He stated that the receivership area is a

nonbuildable remainder. The Code gives a list of the things that can be done on a nonbuildable remainder, and a TDR is not one of them. If a landowner wishes to transfer yield to a nonbuildable remainder, all of the landowners from the original agricultural tract have to sign off on it because it is increasing the density. Mr. Baile noted that he had consulted with several former staff members to verify his understanding.

Chairman Yeo questioned why the applicant feels they are meeting the requirements of minimizing the impact on agricultural land.

Mr. Shaffer mentioned the soils on the parcels. He suggested that the parcel in the south is the logical place to cluster the development because it preserves the land to the north and prevents scattershot development on the northern section. It provides for the preservation of large contiguous open space parcels. Mr. Shaffer distributed a petition from the neighborhood supporting the proposed transfer.

The Commission took a brief recess.

At the Commission's request, Mr. Staley labelled the parcels on a drawing for discussion purposes.

Ms. Kessler indicated that the Commission needs to decide for the purposes of Section 155.091 whether the properties A and I are adjoining.

Mr. Wothers suggested that the Commission first make a determination as to whether the proposed development meets the transfer requirements of 155.091.

The Commission continued its discussion of what constitutes "adjoining" and discussed whether the total density had to be "accepted" on each property along the way.

Decision:

The Commission, on motion of Mr. Wothers, seconded by Ms. Cheatwood, and carried (Commissioner Rothschild abstained), determined that the proposed development meets the transfer requirements of Section 155.091.

Mr. Wothers made a motion that the Commission agree that the agricultural land devoted to residential use is minimized and the amount of land retained for agricultural use is maximized with this transfer. The motion was seconded by Mr. Canale, but did not pass (Mr. Canale, Mr. Wothers, and Ms. Cheatwood voted "Aye"; Mr. Helminiak, Mr. Soisson, and Chairman Yeo voted "No"; Commissioner Rothschild abstained).

Daniel E. Hoff, Commission member, suggested that the Commission has the discretion to locate lots in wooded areas and pastureland rather than cropland.

Matthew Helminiak, Commission member, stated that the place being requested for the lots is currently being farmed. He questioned why the Commission would move the yield to that location.

Mr. Wothers indicated he voted for the motion because it is a more clustered approach which may serve to preserve a larger portion of agricultural land, farmland, and woodland.

Cynthia Cheatwood, Commission member, noted that she voted for the motion because the proposed location is closer to cluster development and it provides a larger area of open space.

After discussion, Mr. Wothers asked for the reconsideration of his original motion. Ms. Cheatwood seconded the motion with the same result. The motion failed.

Commissioner Rothschild stated that he intended to ask the Board of County Commissioners for text amendments to this Code because he did not agree with the findings.

Mr. Shaffer stated that if a text amendment is passed, projects such as this should be grandfathered in.

PUBLIC COMMENTS

There were no public comments.

The next meeting of the Commission is scheduled for Wednesday, July 30 at 6:00 p.m.

There being no further business, the Commission adjourned at approximately 3:35 p.m.

Secretary

Approved