

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

**August 18, 2015**

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  
C. Richard Weaver, Commissioner

Present with the Commission were the following persons: Philip R. Hager and Kelly Martin, Department of Planning; Tom Devilbiss, Department of Land and Resource Management; Clay Black, Laura Matyas, Price Wagoner, and John Breeding, Bureau of Development Review; Jay Voight, Zoning Administrator; Patrick Varga, Bureau of Resource Management; Scott Campbell, Department of Public Safety; Deb Effingham, Department of Management and Budget; Gail Kessler, County Attorney's Office; James Marks, Carroll County Public Schools; Jenny Wawrzynski; Daryl Eurich; John Lemmerman; and Lynn Lentino.

**CALL TO ORDER/WELCOME**

Chairman Yeo called the meeting to order at approximately 9:05 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**

Philip R. Hager, Secretary, thanked the Commission members for their service to Carroll County. He noted that staff had no changes to the agenda as distributed.

**REVIEW AND APPROVAL OF AGENDA**

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

**PUBLIC COMMENTS**

There were no public comments.

## **REVIEW AND APPROVAL OF MINUTES**

- A. July 21, 2015
- B. July 29, 2015

The minutes of July 21 and July 29, 2015 were approved as written on motion of Mr. Wothers, seconded by Mr. Helminiak, and carried.

(Commissioner Rothschild entered the meeting.)

## **REPORT OF AGENCY REPRESENTATIVES**

- A. Public Safety
- B. Board of Education
- C. Management and Budget

### **A. PUBLIC SAFETY**

Chairman Yeo noted that Bryan Van Fossen, Department of Public Safety, had indicated he had nothing to report.

### **B. BOARD OF EDUCATION**

Jim Marks, Supervisor of Construction, Carroll County Public Schools (CCPS), reported that CCPS coordinated with the State Highway Administration in the installation of a guardrail in Mount Airy between the Elementary and Middle schools. This allowed CCPS to design a new sidewalk with a fence to replace the one removed during the installation of the geothermal fields. Mr. Marks reviewed aging school program projects, including: replacement of a water line at North Carroll High, replacement of copper water line to well system at Runnymede Elementary, replacement of doors with a hinge system issue at Oklahoma Road Middle, replacement of lower bleachers at Westminster High, and chalk board replacements at Northwest Middle. Mr. Marks indicated there will be four roof replacements next summer at Westminster High, South Carroll High, Westminster Elementary, and Manchester Elementary.

### **C. MANAGEMENT AND BUDGET**

Deb Effingham, Bureau of Budget, reported that the last income tax distribution for FY15 will come in at the end of the month. It could be \$4 million above the budgeted amount. She noted that Capital Budget direction was forwarded to agencies last month, and the requests will be brought to the Planning Commission in the Preliminary Recommended CIP in January.

## **COMMISSION MEMBER REPORTS**

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

**A. COMMISSION CHAIRMAN**

Chairman Yeo indicated he had approved the minor subdivision plan of Abell Ridge containing two residential lots.

**B. EX-OFFICIO MEMBER**

Commissioner Rothschild reported that he was a speaker at the Sustainable Growth Commission meeting held in Sykesville in late July. He also attended the Maryland Association of Counties (MACo) Summer Conference in Ocean City last week. Commissioner Rothschild suggested that the State is headed in the right direction based on the sessions and conversations he participated in at the MACo Conference. Good progress is being made in terms of economic development, but additional progress needs to be made regarding environmental issues. Commissioner Rothschild mentioned a presentation by Kelly Schultz regarding preparing our children to enter apprenticeships and making non-college bound students more ready to enter the workforce. He attended a very interesting session regarding body cameras for law enforcement and gained a realization of the complexities of the issue. Commissioner Rothschild reported that the Clean Chesapeake group had a joint meeting with Secretary Grumbles and Secretary Belton.

**ADMINISTRATIVE REPORT**

- A. Administrative Matters
- B. Extensions
- C. BZA Cases
- D. Freedom Plan Status Update
- E. Other

**A. ADMINISTRATIVE MATTERS**

Secretary Hager noted that the Commission will be meeting three times next month on September 2 at 6:00 p.m., September 15 at 9:00 a.m., and September 30 at 6:00 p.m. Staff is pursuing the Freedom Plan as well as Master Plan implementation. Secretary Hager reported that the Board of County Commissioners supported staff's recommended course of action with regard to zoning map amendments. The application period runs until October 8, and the existing zoning code will be utilized by applicants.

**B. EXTENSIONS**

Clay Black, Bureau of Development Review, reported that no extensions were granted in the last month.

**C. BZA CASES**

Secretary Hager reported that staff provided comments to the Board of Zoning Appeals (BZA) on four cases as follows: BZA Case No. 5862, CJ Miller, LLC, request for a conditional use and variance for a contractor's equipment storage yard on 5.24 acres at 3514 Basler Road in Hampstead within the County's General Business District; BZA Case No. 5867, Shane Fitzgerald, request for a conditional use and variance for an indoor archery range on 1.32 acres at 3950 Sykesville Road in Finksburg in the County's Neighborhood Retail Business and

Agricultural Districts; BZA Case No. 5868, Joseph G. Jones, request for an appeal of the Zoning Administrator's decision for an accessory use and modification of an existing home occupation on 1 acre of property at 1924 Gillis Falls Road in Woodbine within the County's Conservation District; and BZA Case No. 5870, Aaron Krug, request for a conditional use for a storage building on a farm on 15.26 acres at 1106 Hughes Shop Road in Westminster within the County's Agricultural District.

#### **D. FREEDOM PLAN STATUS UPDATE**

Secretary Hager noted that the first three chapters of the Freedom Plan will be distributed to the Commission at the September 2 meeting, with review and discussion at the September 15 or September 30 meeting.

#### **E. OTHER**

Secretary Hager reported that he and Lynda Eisenberg, Bureau of Comprehensive Planning, made a presentation on planning in Carroll County at the July Sustainable Growth Commission meeting held in Sykesville. The Smart Growth Commission members seemed very surprised to hear how planning is done here. Secretary Hager noted that he attended the annual MACo Summer Conference last week. He stated that in his 15 years of attending, he has never seen as many high level cabinet members or members of the General Assembly in attendance. They welcomed comments and discussions.

#### **DRAFT FY15 CONCURRENCY REPORT**

Clay Black, Bureau of Development Review, distributed copies of the draft FY15 Concurrency Report. He provided a brief overview of the report, requesting that Commission members forward any comments or questions to him or Kelly Martin prior to the September 2 meeting. Mr. Black indicated he would request approval of the report at the September 15 meeting. He noted that the tables for Fire & EMS only show nine months of data.

Scott Campbell, Department of Public Safety, explained that Randy Wasche, Emergency Operations Center Coordinator, handled the very labor intensive and manual process of developing the data, and he recently retired. His position has been filled by Jack Brown, but staff is in the process of hiring Mr. Brown's replacement. Once that individual is on board, one of their responsibilities will be to analyze this data and bring things back up to date.

#### **CONCEPT SUBDIVISION PLAN REVIEW**

A. P-15-0023, Rose Acres Resubdivision of Lot 1

#### **A. P-15-0023, ROSE ACRES RESUBDIVISION OF LOT 1**

LOCATION: South side of Algernon Drive, east of Salem Bottom Road, E.D. 9

OWNER: Lisa M. & Zachary T. Hinton, 1122 Algernon Drive, Westminster, MD  
21157

DEVELOPER: Same as owner

SURVEYOR: RTF Associates, Inc., 142 East Main Street, Westminster, MD 21157

ZONING: Conservation

ACREAGE: 21.9335 acres

WATERSHED: Liberty Reservoir

NO. OF LOTS: 4 lots (3 new, 1 existing)

FIRE DISTRICT: Winfield

MASTER PLAN: Resource Conservation

PRIORITY  
FUNDING AREA: Outside

DESIGNATED  
GROWTH AREA: Outside

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.**

Existing Conditions:

Rose Acres subdivision was recorded in Plat Book 42, Page 45 in 1997 creating Lot 1, a 21.9335-acre property, and Lot 2, a 3.00-acre property (see attached). Lot 1, the subject property, is developed with a single-family residence and a barn, zoned Conservation, and served by a private well and septic system. A majority of the 21.9335 acres is currently leased for crop farming. Steep slopes and a forested area occupy the southwestern portion of the property along with a stream and its associated Non-Forested Water Resource Protection Easement. Current access is via Algernon Drive, a use-in-common driveway off of Salem Bottom Road, which serves both properties in the Rose Acres subdivision. These two properties alone utilize Algernon Drive.

Most of the surrounding properties are zoned Conservation, with two adjoiners at the southwest property line zoned Agricultural. One adjoiner to the west at Salem Bottom Road remains undeveloped while the remainder of the surrounding properties are built with single-family residences and the adjoiner to the south hosts a horse farm.

Plan Review:

The developer proposes four lots of subdivision from Lot 1 of Rose Acres. The existing structures will remain on Lot 1A and the property will be reduced from 21.9335 acres to 9.95 acres. Lots 3, 4, and 5 are proposed new residential lots with private well and septic systems.

The minimum lot size in the Conservation Zoning District is three acres. Lot 3 creates a 3.18-acre property, Lot 4 totals 3.0 acres, and Lot 5 will boast 5.8 acres by following an existing tree line at the rear of the property.

Proposed access will be from the existing use-in-common (UIC) driveway, Algernon Drive, which is built to County standards. Since Algernon Drive is more than 500 feet in length, a pullover and turnaround exist in accordance with the Design Manual and are part of the circular portion of the drive. Development Review and Engineering Review have requested that these features be annotated on the drawing. The total number of users permissible on a UIC in the Conservation Zoning District is seven and this subdivision will bring the total to five users on Algernon Drive.

**§ 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.

While two additional users are permitted by code and Lot 1A is large enough to be further subdivided, the Design Manual restricts the number of in-fee strips. It reads, “No more than five (5) in-fee strips may be designed together.” Further subdivision of Lot 1A would necessitate a variance in order to comply with the Manual.

According to the United States Postal Service, new residential subdivisions must be served by centralized mailboxes. The developer shall coordinate with the local Post Master and the location and design shall be included on the Preliminary Plan.

The proposed plan is consistent with the 2014 County Master Plan Land Use Map designation of Resource Conservation.

The existing Non-Forested Water Resource Protection Easement is not being affected and there are no further requirements from Water Resources Review. Floodplain Review has requested additional information with the Preliminary Plan submittal. Forest Conservation requirements will be met through on-site retention and planting. The plan is exempt from Landscaping requirements. Existing sight distances at Salem Bottom have been requested by Engineering Review and Roads Review. Stormwater Management will be achieved with drywells.

The plan was subject to citizen involvement during a regularly held meeting of the Technical Review Committee on July 27, 2015. No citizens spoke at the meeting regarding this project. The Bureau of Development Review has received one phone call concerning this project. An adjacent property owner requested a copy of the 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.

Discussion:

Eugene Canale, Commission member, noted a discrepancy in the acreage listed on the plan for Lots 4 and 5 versus what is listed in the report.

Ms. Matyas noted that the acreage on the plan is the correct acreage. Lot 4 is 5.8 acres, and Lot 5 is 3.0 acres.

John Lemmerman, RTF Associates, noted that he would be talking to the Bureau of Development Review about combining the preliminary and final plan review into one presentation before the Planning Commission.

**FINAL PLAT MODIFICATION REVIEW**

A. AP-15-0035, Peppermint Park Amended Plat of Lot 56, Section Seven

**A. AP-15-0035, PEPPERMINT PARK AMENDED PLAT OF LOT 56  
SECTION SEVEN**

LOCATION: North side of Abdiel Drive, East of Mint Terrace, E.D. 4

OWNER: Lynn E. Lentino & Donna L. Lentino, 1732 Peppermint Lane,  
Westminster, MD 21157

DEVELOPER: Same

ENGINEER: Leon A. Podolak & Associates, LLC, 147 E. Main Street, P.O. Box 266,  
Westminster, MD 21157

ZONING: R-20,000

ACREAGE: 0.763 acres

WATERSHED: Liberty Reservoir

NO. OF LOTS: n/a

FIRE DISTRICT: Reese

MASTER PLAN: Residential – Low Density

PRIORITY  
FUNDING AREA: Outside

DESIGNATED  
GROWTH AREA: Outside

Laura Matyas presented the background.

Action Required:

The plan is before the Commission for final approval of a plat modification in accordance with Code section 155.020-F of the Code of Public Local Laws and Ordinances of Carroll County. The Director has determined not to waive the requirement of seeking approval from the Planning and Zoning Commission, recognizing that the public meeting fosters community awareness that a vacant parcel will be built.

§ 155.020 SUBDIVISION CONTROL.

(F) **Plat modification or reassembly.**

(1) The Director, at his or her discretion, may waive:

(a) The requirement of seeking approval from the Planning Commission for a modification, plat reassembly, or other adjustment, correction, or change to a subdivision plat recorded among the Land Records of Carroll County

History:

The subject property was created as Lot 56 on the Final Plat of Section Seven Peppermint Park subdivision in 1987 in Plat Book 29, Page 17 (see attached). The property was in the R-20,000 Zoning District when the plat was approved in 1987. The front yard setback in the R-20,000 Zoning District was 40 feet in 1987 and the plat identified a Buildable Area for Residence as required by the Health Department. With a configuration inclusive of a front yard in-fee strip, Lots 56 and 57 were approved on the Peppermint Park Preliminary Plan in 1979 by the Planning and Zoning Commission with 60-foot front yard setbacks that aligns with the adjoining Peppermint Park lots' 40-foot front yard setbacks (see attached).

Existing Conditions:

Lot 56 of the Peppermint Park subdivision has been vacant since its recordation. It lies in the R-20,000 Zoning District with access off Abdiel Drive, a use-in-common driveway shared by Lots 56, 57, and Parcel A, a recreation area owned by the Peppermint Park Homeowners Association. The subject property is fully open land with a gentle slope downward towards Parcel A and hosts no streams or wetlands. An existing well, drilled in 1986, does not yield enough water to meet today's standards.

While the adjoining Parcel A lies in the Agricultural Zoning District, all other adjoining properties are zoned R-20,000. The subject property falls outside of water and sewer service areas, growth areas, and priority funding areas.

Plan Review:

The Owner/Developer proposes an adjustment to the front building setback line, reducing it from 60 feet to 40 feet and an extinguishment of the 10-foot wide drainage and utility easements at the side and rear property lines. With the property greatly encumbered by well-radii and septic area, the modification to the front building line provides a larger buildable area. A new well is currently being pursued.



While review agencies have approved the plat modification in accordance with their respective Codes, the Director determined that the amended plat should come before the Planning and Zoning Commission as outlined in the Code to serve as public notification that a vacant parcel will be built. Following standard procedure, the County mailed courtesy postcards to adjoining property owners and the property was posted with a public notification sign.

Recommendations:

Pursuant to Chapter 155, staff recommends approval of the plat modification, in accordance with the BZA decision, subject to the following conditions:

1. That any changes to the Plat as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.

Discussion:

Secretary Hager noted that Ms. Matyas had come to him asking whether he would be comfortable signing off on the final plat modification. Mr. Hager explained that he felt it was important that the public be made aware of the proposed change since the final approval was granted so long ago. He noted that failure to grant the waiver was not based on an objection to the plat or the site.

Ms. Matyas noted that there is an error in the staff report. The recommendation states: "in accordance with the BZA decision". She explained that there is no BZA decision related to this project.

Staff distributed several emails from concerned residents in opposition to the reduction in the setback.

Lynn Lentino, owner, explained that he needed a floorplan which would allow two bedrooms on the main floor for himself and his handicapped daughter which challenges the buildable area of the house. He noted that he has complied with all of the current regulations. Mr. Lentino explained that he purchased the lot in January, but found that the volume of the well was not adequate, so a second well is being drilled followed by the completion of perc tests.

Ms. Matyas explained that the building area is granted by the Health Department, but the building setback line is part of the Zoning Code per the zoning district.

Eugene Canale, Commission member, asked how the Commission could reduce the 10' drainage and utility easement.

Ms. Matyas explained that at one time, that condition was placed on every lot for future possible use. That is no longer done if there is not a current or foreseen need.

The Commission raised concerns that the engineer was not present to respond to questions.

A suggestion was made to utilize area by easement or through purchase that is currently owned by the Homeowners Association to extend the area of the lot.

Daniel E. Hoff, Commission member, expressed concern that the Commission was being asked to make a decision without complete information, including final perc's.

Several Commission members suggested that the house be slightly angled to make it feel more a part of the community.

Gail Kessler, Deputy County Attorney, suggested that basing the decision to not grant the change in setback on aesthetics when that is the setback required by the Code could be deemed arbitrary and capricious.

Public Comments:

Daryl Eurich, 1116 Mint Terrace, noted that he had submitted written comments and he was excited to have someone that will be a caretaker to the generally overgrown vacant lot. He indicated that as a past president of the Homeowners Association, he found it highly unlikely that any easement or purchase would be allowed as the bylaws would have to be rewritten. Mr. Eurich expressed concern about the change in setback affecting the look and feel of the neighborhood. He noted that he was encouraged by the rigor of the Commission's discussions. Mr. Eurich explained that the purchase of his property was made based on the knowledge that this lot would have a setback of 60 feet. He acknowledged that the situation is more complicated than he originally understood because of the septic requirements.

Jenny Wawrzynski, 1151 Abdiel Drive, noted that she had submitted written comments. She complimented the Commission on the thoroughness of their review. Ms. Wawrzynski indicated that most of her concern was related to the negative visual impact to her property on which she has lived for 13 years. She noted that she had purchased the property based on the final plat showing that the undeveloped parcel would have a 60 foot setback and the location of the building layout.

Secretary Hager noted that the Commission could deny the application which could then be appealed to the Board of Zoning Appeals. He suggested that approval of the plan with something other than the 40 foot setback, without some alternate standard, would appear to be arbitrary and capricious.

Ms. Kessler cautioned the Commission against requiring more than the 40 foot setback required by Code because the Commission has no information on record as to why the Planning Commission originally changed the setback to 60 feet.

Tom Devilbiss, Land and Resource Management, cautioned the Commission about requiring the home to be rotated on the lot because the buildable area is something that is determined by the Health Department and there is not enough space to accommodate that request. He noted that all of the houses on the north side of Mint Terrace have the 40 foot setback. Mr. Devilbiss suggested that the 40 foot setback may have originally been adjusted to 60 feet to incorporate the in-fee strip.

Mr. Lentino noted that he currently lives in the Peppermint Park subdivision and has no intention of ruining the neighborhood. He stated that he was looking for a solution within his current neighborhood.

Richard Soisson, Commission member, questioned whether Mr. Lentino would be willing to voluntarily increase the setback if it was determined there was additional space once the perc testing is completed.

Mr. Lentino indicated he would be agreeable, but noted that he did not think there would be additional room.

**Decision:**

In accordance with Chapter 155, the Commission, on motion of Mr. Helminiak, seconded by Ms. Cheatwood, and carried (Commissioner Rothschild abstained), approved the requested plat modification.

The next Commission meeting is scheduled for Wednesday, September 2 at 6:00 p.m. There being no further business, the Commission adjourned at approximately 12:00 p.m.

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Secretary

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Approved