

MEETING SUMMARY
Carroll County Planning and Zoning Commission

April 19, 2016

Location: Carroll County Office Building

Members Present: Matthew S. Helminiak, Chair
Richard J. Soisson, Vice Chair
Cynthia L. Cheatwood
Eugene Canale
Jeffrey A. Wothers
Daniel Hoff
Richard Weaver
Philip Hager
Alec Yeo

Present with the Commission were the following persons: Philip R. Hager and Mary Lane, Department of Planning; Nokomis Ford, Bureau of Comprehensive Planning. Clay Black, Laura Matyas, Price Wagoner, John Breeding, and Martin Percy were in attendance representing Development Review, as was Tom Devilbiss, Director, Land and Resource Management.

CALL TO ORDER/WELCOME

Chair Helminiak called the meeting to order at 9:00AM

ESTABLISHMENT OF QUORUM

Pamela Hare took attendance of the Commission noting that seven members were present and a quorum was in attendance.

PLEDGE OF ALLEGIANCE

OPENING REMARKS

Secretary Hager greeted everyone and welcomed them to the third floor. Secretary Hager explained that the Board of County Commissioners was currently using the Planning Commission's usual meeting room to hold budget hearings. Secretary Hager stated that the meeting would need to end by 12:30 due to other pre-scheduled activities. Secretary Hager reviewed the draft agenda and recommended its approval.

REVIEW AND APPROVAL OF AGENDA

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

PUBLIC COMMENTS

There were no public comments.

REVIEW AND APPROVAL OF MINUTES

The minutes of the March 2, 2016 meeting were approved on motion of Mr. Soisson, seconded by Mr. Wothers, and carried.

COMMISSION MEMBER REPORTS

- A. Commission Chair, Matt Helminiak, had nothing to report
- B. Ex-Officio Member, Commissioner Weaver stated that we are in the middle of budget deliberations and noted it has been a long, but good, process so far.
- C. Other Commission Members – Chair Helminiak stated that no one realizes that being a County Commissioner is a part time job that really isn't a part time job; it is a full time job that pays very little and no one realizes what the Commissioners must put up with.

ADMINISTRATIVE REPORT (PHILIP R. HAGER)

Secretary Hager stated that in the interest of keeping the meeting compressed there were no Extensions to report and he was going to cover the BZA cases at the evening work session on May 4. With nothing further to add, Secretary Hager proposed moving on to the next item on the agenda.

FREEDOM COMPREHENSIVE PLAN UPDATE

- A. Checkpoint: Cultural, Historical and Tourism Amenities Element

Chair Helminiak stated that this was distributed to everyone at the last meeting and hopefully everyone has had a chance to read it as he did and stated that it was awesome and very well written.

Mary Lane stated that Nokomis Ford had written the checkpoint.

Mary Lane indicated that this was only a checkpoint and if the Commission had no questions or input it could be discussed in greater detail at the May 4 work session.

The commission agreed that the draft it looked good and moved to the next item.

PRELIMINARY SUBDIVISION PLAN REVIEW

- A. P-15-0023 – ROSE ACRES RESUBDIVISION OF LOT 1
- SUBJECT: 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)
MASTER PLAN: Resource Conservation
PRIORITY
FUNDING AREA: Outside
DESIGNATED
GROWTH AREA: Outside
PUBLIC FACILITIES IMPACTED
SCHOOLS: Winfield Elementary
Mount Airy Middle
South Carroll High
ROADS: Salem Bottom Road
FIRE & EMS: Winfield
POLICE: Maryland State Police/Carroll County Sheriff's Office

Action Required:

Two actions are required:

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

Existing Conditions:

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 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. 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 joiners 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 History:

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.

A concept plan of subdivision for this property was presented to the Planning and Zoning Commission on August 18, 2015 (see minutes, attached).

Plan Review:

The developer proposes three new lots of subdivision from Lot 1 of Rose Acres. The existing structures will remain on Lot 1A and the lot 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 3.212-acre property, Lot 5 totals 3.0 acres, and Lot 4 will boast 5.824 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. 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.

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. Forest Conservation requirements will be met through on-site retention and planting. A Forest Conservation Easement of 4.380 acres will be granted to the County. The plan is exempt from Floodplain and Landscaping requirements. Stormwater Management will be achieved with drywells.

Recommendations:

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

1. That the Owner/Developer enters into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
2. That a Declaration of Maintenance Obligations for the use-in-common driveway, Algernon Drive, serving Lots 1A, 2, 3, 4, and 5 be recorded simultaneously with recordation of the subdivision plat. The Declaration of Maintenance Obligations shall supersede the DMO for Lots 1 & 2 recorded in Liber 1889 Folio 458.
3. That a forest conservation easement be granted to the Carroll County Commissioners simultaneously with recordation of the subdivision plat.
4. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneously with

recording of the subdivision plat.

5. That a private drainage easement over the natural drainage course over Lots 1A, 3, & 4 be recorded simultaneously with recording of the subdivision plat.
6. That the existing drainage and utility easements conveyed unto the County Commissioners of Carroll County in Liber 1889 Folio 466 are to be extinguished by a deed to be recorded simultaneously with the recording of the subdivision plat.
7. That any changes to the Preliminary Plan as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.

CONCURRENCY MANAGEMENT REPORT

Background:

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

Agency Responses:

Police Services:

The estimated Carroll County population as of February 29, 2016 was 172,371. As of that date, among the police forces in the County with staffing levels established by an annual budget including the Carroll County Sheriff's Office and the municipal police departments, there were 201 funded officer positions and 43 Maryland State Police officers. Based on a total of 244 positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of February 2016 was 1.42. Including the development projects in the pipeline, the ratio remains over 1.3. Services are adequate if the projected ratio of sworn law enforcement officers to population is 1.3:1,000. The ratio shall be calculated by counting all sworn officers with law enforcement responsibility in an incorporated municipality or within the county and by counting the total population within the incorporated municipalities and within the unincorporated county.

Schools:

The proposed subdivision is located in the Winfield Elementary, Mt. Airy Middle, and South Carroll High attendance areas. In accordance with the criteria established in Chapter 156, all schools are rated adequate for Fiscal Years 2016-2021.

The December 2015 enrollment projections, prepared by Carroll County Public Schools, indicate that Winfield Elementary had an actual enrollment of 68% of state-rated capacity. The projections indicate that enrollment will decline to 62% of state-rated capacity by the end of the 6-year CIP cycle. In this attendance area, there are approximately 94 buildable lots in the attendance area that have either been recorded since the adoption of the Concurrency Ordinance (3/5/98) or are currently in the review process. An elementary school serving a proposed project is adequate, for the purposes of Chapter 156, when current or projected enrollment equals or is less than 109% of the state-rated capacity.

The December 2015 enrollment projections indicate that Mt. Airy Middle had an actual enrollment of 105% of functional capacity. The projections indicate that enrollment decreases to 83% of functional capacity by the end of the 6-year CIP cycle. In this attendance area, there are approximately 141 buildable lots in the attendance area that have either been recorded since the adoption of Concurrency Management (3/5/98) or are currently in the review process. A middle

school serving a proposed project is adequate, for the purposes of Chapter 156, when current or projected enrollment equals or is less than 109% of the functional capacity.

The December 2015 enrollment projections indicate that South Carroll High had an actual enrollment of 78% of state-rated capacity. The projections indicate that enrollment will decrease to 76% of state-rated capacity by the end of the 6-year CIP cycle. In this attendance area, there are approximately 183 buildable lots in the attendance area that have either been recorded since the adoption of Concurrency Management (3/5/98) or are currently in the review process. A high school serving a proposed project is adequate, for the purposes of Chapter 156, when current or projected enrollment equals or is less than 109% of the state-rated capacity.

Fire and Emergency Medical Services:

The proposed subdivision is located in the Winfield fire and emergency medical services district. The Available Threshold Capacity form and preliminary plan were delivered to the appropriate agency for review and comment. Comments were not received within the allotted timeframe, therefore, per Chapter 156-6 D(2)(c) pertaining to a preliminary plan, "if no response is received from any applicable agency within 30 days of the date the Department distributes the ATC form, the ATC shall be presumed adequate for the particular facility or service for which no response was received".

Roads:

Salem Bottom Road is rated adequate.

Chapter 156 Recommendation:

With regard to a preliminary plan, Chapter 156-6D(4)(c) states "If all public facilities and services are adequate during the current CIP, the Planning Commission may approve the plan to proceed to the final plan stage and issue a recordation schedule and building permit reservations, subject to a building permit cap adopted by the County Commissioners in effect at the time of application for building permits."

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

1. Police, schools, roads, and fire and emergency medical services are considered adequate;
2. the building permit reservation is for 3 lots in FY17, subject to modification at the final plat stage;
3. the recordation schedule requires the plat to be recorded within 24 months of preliminary approval;
4. the building permit reservation is allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

Decision:

In accordance with Chapter 155, the Commission, on motion of Mr. Wothers, seconded by Mr. Canale, and carried (Commissioner Weaver abstained) approved the preliminary subdivision plan with the seven conditions outlined in the staff report.

In accordance with Chapter 156, the Commission, on motion of Mr. Wothers, seconded by Mr. Canale, and carried (Commissioner Weaver abstained) approved the preliminary subdivision plan

with the four conditions outlined in the staff report and that the Chairman of the Planning Commission be authorized to approve the final subdivision plan.

Clay Black addressed the Commission and advised them that they would be reviewing both the Preliminary and the Final Subdivision Plan for the Long Reach Farm Resubdivision of Lot 19. The reason for the two separate action items is the Commission, at the concept plan review, authorized these items to come before the Commission at the same time, however, the report will mention both at the same time because it is the same plan that is being reviewed.

Mr. Black reminded the Commission that this plan has been in front of them numerous times, most recently in November of 2015 for the concept plan and prior to that when the property was re-zoned.

Mr. Black reviewed the staff report and the map and indicated that staff is recommending approval of the preliminary and final plat subject to the conditions mentioned. He stated that any citizen comments received dealt specifically with intended use of the property and that there would be time in the future for the opportunity to address what the use will be.

B. P-15-0001 – LONG REACH FARM, RESUBDIVISION OF LOT 19

FINAL SUBDIVISION PLAN REVIEW

C. P-15-0001 – LONG REACH FARM, RESUBDIVISION OF LOT 19

SUBJECT: P-15-0001, F-16-0015 Long Reach Farm, Resubdivision of Lot 19
LOCATION: South side of Liberty Road, 1000 feet east of Klees Mill Road, 14th ED
OWNER: Long Reach Farms, Inc., 129 Liberty Road, Sykesville, MD 21784
DEVELOPER: Long Reach Farms, Inc., 129 Liberty Road, Sykesville, MD 21784
ENGINEER: CLSI, 439 East Main Street, Westminster, MD 21157
ZONING: Business Neighborhood Retail (B-NR)/Conservation
ACREAGE: 25.6 acres
WATERSHED: South Branch Patapsco
MASTER PLAN: Freedom Plan
DESIGNATED LAND USE: Conservation
PRIORITY FUNDING AREA: Outside
DESIGNATED GROWTH AREA: Freedom
FIRE DISTRICT: Winfield

Action Required:

Two actions are required:

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

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

Existing Conditions:

The property is located between the south side of MD Route 26 (Liberty Road) and North side of Rhonda Road. This 25 acre lot was created as part of the Long Reach Farm subdivision and is identified as lot 19, recorded in Plat Book 52 Pages 192-196 (attached). Lot 19 contains a 100 year Floodplain easement, Forest Conservation Easement and a Forested Water Resource Protection Easement. A residence with several outbuildings, served by private well and septic system is located on the property. Two existing driveway entrances to Liberty Road provide access.

The property is comprised of two zoning districts; Conservation and B-NR. The properties to the south are zoned Conservation and contain newly constructed single-family residential dwelling units on private well and septic systems. The adjacent property to the east is also zoned Conservation and contains a residence with numerous farm buildings. The adjacent property to the west is zoned Business General and is comprised of several businesses. Properties to the north (opposite side of Liberty Road) are zoned Agricultural and B-NR. The Agricultural zoned properties are a mix of existing residences and Century High School. The B-NR property has an approved site plan (44 Liberty Road).

The property owner submitted a rezoning request which was introduced to the Planning and Zoning Commission on August 7, 2013 and a full staff report was given on September 17, 2013. Following review, the Planning and Zoning Commission voted to approve the requested rezoning petition and unanimously approved a motion to forward the request to the Board of County Commissioners with a favorable recommendation. In accordance with Section 4-203 of the Land Use Article of the Annotated Code of Maryland, a Public Hearing was scheduled before the Board. The Board held a public hearing on November 21, 2013. On December 5, 2013 the Board unanimously approved the rezoning request with a written decision to follow. Future lot 20 is the area that was rezoned from Conservation to Business Neighborhood Retail.

A concept plan for the resubdivision of lot 19, Long Reach Farm, was submitted on January 26, 2015 to the Bureau of Development Review. That plan was presented to the Planning and Zoning Commission on November 17, 2015 (minutes attached).

Subdivision Plan Review:

The developer plans to divide the existing 25 acre lot into two lots. Lot 19A will retain the existing structures and be comprised of 19 acres. The previously recorded easements will be located on proposed 19A. Lot 20 will be comprised of 6.6 acres fully situated in the area that was rezoned.

Although a subdivision plan was submitted and is currently in the review process, no site plan has been submitted. In accordance with § 155.059 SITE PLAN REQUIREMENTS of the Code, a site plan will be required for any non-residential development. The site plan will require Planning and Zoning Commission approval. A note stating that requirement will occur on the final plat and be included as a condition of final approval.

To receive Health Department approval, the lot must demonstrate it is buildable. The plan identifies a structure that meets all zoning setbacks. In accordance with § 158.077 "B-NR" NEIGHBORHOOD RETAIL BUSINESS DISTRICT of the Carroll County Code of Public Local Laws, a single family dwelling is a principal permitted use. Construction of a single-family dwelling does not require site plan approval.

In regards to lot 20, comments from the State Highway Administration state that they reserve the right, through site plan review, to request additional access through adjoining properties. Additionally, any future development proposal for lot 20 may be subject to a traffic study and roadway improvements.

Forest Conservation was previously addressed through the subdivision of the entire property. Landscaping will be addressed with site plan submittal. Storm Water Management approval was granted with an easement to be deeded as part of plan approval. The plan does not impact the recorded Water Resource Protection easement or the Floodplain easement.

Action Requested:

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

1. That any changes to the Preliminary Plan and Plat as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.
2. That a stormwater management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneous with recordation of the plat.
3. That a note be shown on the final plat requiring a site development plan for any commercial use on lot 19.

Discussion:

Chair Helminiak asked if there was going to be an extra residential lot that was going to access off of Rhonda Road through lot 19A.

Mr. Black answered that if lot 19A were developed into residential lots that access could occur through Rhonda Road and that the access point for 19A was not for any commercial use.

Mr. Hoff asked about an area on the map and asked if it were going to be large enough to get vehicles into. Mr. Black confirmed that it was large enough for vehicles to get into and that the area was mostly covered by floodplain and forest conservation easements that could not be developed.

Public Comments:

William McCormick, public citizen, introduced himself as resident of a house on lot 18. Mr. McCormick wanted to make the Commission aware of a swale that ran between lot 19A and the proposed lot 20 runs directly down the right side of his property and right by his well and that any development or construction of that area was going to directly impact him.

Mr. Black recognized that Mr. McCormick had brought this to the attention of the Stormwater Management staff earlier on. Mr. Black indicated that this was something that would certainly need to be looked at later on when the site plan came in.

Decision:

In accordance with Chapter 155, the Commission, on motion of Mr. Hoff, seconded by Mr. Soisson, and carried (Commissioner Weaver abstained) approved the preliminary subdivision plan with the three conditions outlined in the staff report.

In accordance with Chapter 156, the Commission, on motion of Mr. Hoff, seconded by Mr. Soisson, and carried (Commissioner Weaver abstained) approved the final subdivision plan with the three conditions outlined in the staff report.

RECESS – Pursuant to the approved Agenda, the Commission recessed for approximately 10 minutes.

FINAL SITE PLAN REVIEW

A. S-14-00311 – GOLDEN CREST 2, WESTMINSTER, ASSISTED LIVING

SUBJECT: S-14-0031, Golden Crest 2 Westminster, Assisted Living
LOCATION: East side of Nelson Road, north of Maryland Route 32, 4th ED
OWNER: C.T.M. Properties, LLC, c/o Robert & Kim Meekins, 3703 Wine Road, Westminster, MD 21158 (LLC Members: Robert & Kim Meekins)
DEVELOPER: Same as owner
ENGINEER: RTF Associates, Inc., 142 East Main Street, Westminster, MD 21157
ZONING: Agricultural
BZA CASE: 5815, February 24, 2015
ACREAGE: 4.616 acres
WATERSHED: Liberty Reservoir
MASTER PLAN: Agricultural
PRIORITY
FUNDING AREA: Outside
DESIGNATED
GROWTH AREA: Outside
PUBLIC FACILITIES IMPACTED
SCHOOLS: Robert Moton Elementary
Westminster West Middle
Westminster High
ROADS: Nelson Road
FIRE & EMS: Westminster
POLICE: Maryland State Police/Carroll County Sheriff's Office

Action Required:

Two actions are required:

1. 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.

2. Approval of the site plan pursuant to Chapter 156, *Adequate Public Facilities and Concurrency Management*, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

The property for the Golden Crest 2 Westminster development is 4.616 acres in the Agricultural Zoning District with frontage on Nelson Road (MD Route 904). The property is currently vacant, open land. The adjoining property to the north hosts Golden Crest 1 Westminster, an assisted living facility approved by the Planning and Zoning Commission on February 19, 2013, and shares the Agricultural Zoning designation. Owners of the subject property also own a southern adjoining in-fee strip with a private driveway to Nelson Road from their eastern adjoining residential lot. The property to the south is zoned Agricultural and is being farmed. Maryland Route 97 lies due west. There are no streams or floodplains on site.

Site Plan History:

The concept site plan was subject to citizen involvement at the January 26, 2015 meeting of the Technical Review Committee. One citizen spoke in reference to this project with concerns of water being diverted to her south adjoining farm. The Project Engineer and Stormwater Management have designed a system to address the existing and projected runoff and the subject property owner has entered into an agreement with the adjoining property owner. A diversion swale along the southern property line will re-direct runoff to the existing culvert.

A concept site development plan for the subject property was reviewed by the Planning and Zoning Commission on May 19, 2015 (see meeting minutes attached). The Planning and Zoning Commission endorsed the project with regard to density, site layout, and exterior design.

Site Plan Review:

The developer proposes to construct a sixteen-bed, 7,935 square-foot assisted living building on the adjoining lot to Golden Crest 1 Westminster, growing their assisted living community. Assisted living facilities are a conditional use in the Agricultural Zoning District and the developer was granted the conditional use by the Board of Zoning Appeals (BZA) on February 24, 2015.

Chapter 158 of the Carroll County Code of Public Local Laws and Ordinances, the Zoning Ordinance, requires a minimum lot size of three acres for this use in the Agricultural Zoning District. The site is 4.616 acres.

The site will be accessed from an existing private drive proposed to be shared with the Golden Crest 1 facility. No improvements are proposed in the SHA right-of-way and as such SHA has no objection to approval of the plan. No traffic study was required.

The total numbers of parking spaces required for this development is 6 and 14 parking spaces are shown on the site plan. An accessible walkway with ramp connects the parking area to the front porch. A walkway and patio are proposed as a secondary route between the parking area and the front entry.

One dumpster, located toward the rear of the building, has both vehicular access and a paved walk access from the building. Screening is proposed in compliance with the Landscaping Ordinance.

Water and sewer will be provided via a private well and septic system. The building will be equipped with an automatic sprinkler system to comply with Fire Protection.

The building elevations are included on sheets 6 and 7 of the final site plan. The building has the appearance of a Cape Cod style home, maintaining the aesthetic established with Golden Crest 1. Proposed colors include tan / brown / green stone, tan siding, a copper metal roof and a gray / brown asphalt shingle roof, black shutters, and white trim, posts, and railings. In keeping with the residential intent, no commercial lighting is proposed for the site; only building-mounted lighting. A 2.5-foot by 2-foot unlit directional sign affixed to 6-foot high posts is the only signage proposed.

On January 12, 2015, the Design and Architectural Review Committee (DARC), an advisory group, met to review the project. The review was favorable and acknowledged elevation design to be compatible with, and as residential in nature as, the Golden Crest 1 building.

Stormwater Management will be addressed through grass shoulders, grass swales, downspout disconnects, and drywells. Forest banking 0.932 acres will meet the requirements of the Forest Conservation Ordinance. A landscaping screen is provided at the dumpster to address Landscaping requirements.

Recommendations:

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

1. That the Developer enters into a Public Works Agreement with Carroll County that guarantees completion of the improvements.
2. That the existing 30-foot right-of-way for ingress, egress, and public utilities recorded in Liber 6898 Folio 361 be extinguished by deed.
3. That a 60-foot easement for ingress, egress, and public utilities as shown on the plan be recorded by deed simultaneously with the Public Works Agreement.
4. That a Stormwater Management Easement and Maintenance Agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneously with the Public Works Agreement.
5. That a Landscape Maintenance Agreement be recorded simultaneously with the Public Works Agreement.
6. That any changes to this plan will require an amended site development plan to be approved by the Carroll County Planning and Zoning Commission.

CONCURRENCY MANAGEMENT REPORT

Background:

Residential site plans are applicable to the requirements of Chapter 156 (Adequate Public Facilities and Concurrency Management). The review of the project for compliance with Available Threshold Capacity occurs when the final site plan is presented to the Commission. Chapter 156 defines residential development as "All proposed buildings or structures which will contain one or more dwelling units or equivalent dwelling units. This term includes an accessory

dwelling, nursing home, continuing care retirement community, and assisted living facility. This term does not include a hospital, hotel, motel, or similar building used for transient overnight stays.”

Threshold Review:

Police Services:

The estimated Carroll County population as of February 29, 2016 was 172,371. As of that date, among the police forces in the County with staffing levels established by an annual budget including the Carroll County Sheriff’s Office and the municipal police departments, there were 201 funded officer positions and 43 Maryland State Police officers. Based on a total of 244 positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of February 2016 was 1.42. Including the development projects in the pipeline, the ratio remains over 1.3. Services are adequate if the projected ratio of sworn law enforcement officers to population is 1.3:1,000. The ratio shall be calculated by counting all sworn officers with law enforcement responsibility in an incorporated municipality or within the county and by counting the total population within the incorporated municipalities and within the unincorporated county.

Schools:

The proposed development has no impact to schools.

Fire and Emergency Medical Services:

The proposed development is located in the Westminster fire and emergency medical services district. The Available Threshold Capacity form and preliminary plan were delivered to the appropriate agency for review and comment. Comments were not received within the allotted timeframe, therefore, per Chapter 156.06 D(2)(c) pertaining to a preliminary plan, “if no response is received from any applicable agency within 30 days of the date the Department distributes the ATC form, the ATC shall be presumed adequate for the particular facility or service for which no response was received”.

Roads:

Nelson Road is rated adequate.

Staff Recommendation:

With regard to a final residential site plan, Chapter 156.06-E(4)(c) states “If adequacy was not determined by the Commission at the preliminary plan stage and the Commission determines that all public facilities and services are adequate, the Commission may approve the plan and issue a recordation schedule and building permit reservations.” Staff recommends that the Planning Commission approve the final plan as follows:

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

Discussion:

Mr. Wothers asked if this building were going to be similar or identical in size to the one already there.

Mr. Meekins, the owner, answered that it was identical in size only some colors had been changed

Decision:

In accordance with Chapter 155, the Commission, on motion of Mr. Wothers, seconded by Mr. Canale, and carried (Commissioner Weaver abstained) approved the final subdivision plan with the four conditions outlined in the staff report.

In accordance with Chapter 156, the Commission, on motion of Mr. Hoff, seconded by Mr. Soisson, and carried (Commissioner Weaver abstained) approved the final subdivision plan with the two conditions outlined in the staff report.

B. S-15-0026 – ANTLITZ ESTATES AMENDED

Chairman Helminiak indicated that this case had been brought to him a month or two ago to make a decision but he wanted to make sure the Commission got a chance to see it since there had been expressions of interest from the neighborhood.

SUBJECT: S-15-0026, Antlitz Estates Amended
LOCATION: West side of Strawbridge Terrace, north of Compton Lane, E.D. 5.
OWNER: Antlitz LLC, 2021 Liberty Road, Suite F, Eldersburg, MD 21784
(LLC members: John Serra, Sr., Rosario Rizzo, Dale H. Fogle, Dave R. Fogle, Jr.)
DEVELOPER: Same as Owner
ENGINEER: CLSI, 439 East Main Street, Westminster, MD 21157
NO. OF UNITS: 21 (age-restricted)

Action Required:

The site 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 and approval.

While an amended site plan may be approved by the Chair of the Planning and Zoning Commission, citizen involvement with the Antlitz Estates site development plan prompted engaging the full Commission for approval of the requested amendment.

Background:

Antlitz Estates, an age-restricted community (55 and older) comprised of 21 condominium units, was approved by the Carroll County Planning and Zoning Commission on February 18, 2014. The units were shown as approximately 1,600 square feet in size. Each unit will be constructed with a one-car garage and a double parking pad with individual access to Sareno Drive, a private road. The 25-foot wide Sareno Drive accesses Strawbridge Terrace, a County road.

Landscaping was approved along Sareno Drive and around the perimeter of the property as well as at the island in Sareno Drive. A row of mixed coniferous trees at the property boundary shared with residents along Compton Lane was included in the approved final plan to address privacy concerns raised by adjoiners and considered by the Planning and Zoning Commission.

A hydrant on the property will address fire protection.

The subject property is currently under construction with Sareno Drive built to County standards.

Site Plan Review:

The developer proposes to add a dumpster pad and enclosure at the cul-de-sac of Sareno Drive, adjoining the Open Space parcel of Stone Manor II. Landscaping will be provided at the dumpster to address Landscaping requirements. Landscaping has approved the plan and noted that the plant list needs to be revised to reflect the loss of one *Acer rubrum*. All agencies have reviewed and approved the amended site development plan.

One citizen contacted Development Review via email to express concerns associated with functionality and safety (see attached).

Recommendations:

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

1. That the developer enters into a Public Works Agreement with Carroll County that guarantees the completion of the improvements.
2. That a Landscape Maintenance Agreement be recorded simultaneous with the Public Works Agreement.

Discussion:

Chair Helminiak asked the applicant to introduce himself.

Mr. Hoff asked if this dumpster would be for all of the residents and what the reasoning behind it was.

Mr. Rizzo stated that one of the reasons was aesthetics as an enclosed dumpster is more attractive than garbage cans all over the place. But the biggest consideration is cost. A six yard dumpster is \$2400 a year, whereas individual pick up is \$6550 per year. This is a considerable amount for a new development. When the residents have been there for a while they may decide they have the funds in their community association for individual trash pick or other services.

Mr. Hoff asked if the community association paid for this service.

Mr. Rizzo answered yes; the community association pays for grass cutting, garbage pick-up, and snow removal services. The community association, being new, is trying to keep their costs down as much as possible.

It was noted that there was concern from the public regarding wildlife getting into the trash. He stated that if it is in an enclosed dumpster that is fenced in, there is less chance of that happening than there is of wildlife disturbing individual trash receptacles.

Mr. Hoff wondered about the residents at the far end of the community and how they would get their trash to the dumpster considering that this is an over 55 community.

Mr. Rizzo stated that the residents would put the garbage in the trunk of their car and take it to the dumpster and that doing it this way is preferable as it is so much cheaper.

Mr. Wothers asked if there would be room for any sort of recycling bin.

Mr. Rizzo answered that in the last three developments he has done, the community has chosen to not recycle. If they change their mind going forward they may certainly add that feature.

Mr. Wothers asked if there would be room for such a bin.

Mr. Rizzo replied that if there were dumpsters split in two, one side for trash and one for recycling, it would certainly be possible.

Mr. Soisson asked if there were two pads.

Mr. Rizzo replied that there were not two pads, only one, that would be big enough to hold two; perhaps a four and six yard dumpster.

Mr. Hoff pointed out that once the community association was up and running, if they decided they to change their mind and have individual trash pick up the dumpsters could be removed and all that would be left was a small fenced in area that could be used to store maintenance equipment or the like.

Mr. Rizzo agreed that Mr. Hoff was correct.

Mr. Wothers stated that he just wanted to make sure, going forward, that the applicant wouldn't have to come back with another plan.

Mr. Hoff stated that he felt there was some validity to the concerns of the citizen that emailed but at the end of the day this was a business decision.

Chair Helminiak asked how much of the dumpster the people in Stone Manor would be able to see.

Ms. Matyas said the plan included a fence and landscaping around the perimeter of the dumpster.

Mr. Hoff asked if there was a gate in the front. Mr. Rizzo answered there was not as that would mean the driver would have to get out opening the gate to dump the trash.

Mr. Canale stated that he lives in a community that has a dumpster such as the one the applicant is describing and it works very well. The nice thing about it is there is no need to save the trash for a whole week.

There were no public comments.

Decision:

In accordance with Chapter 155, the Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, and carried (Commissioner Weaver abstained) approved the final site plan.

CONCEPT SITE PLAN REVIEW

A. S-15-0019 – MAGSTONE LLC
SUBJECT: S-15-0019, Mag Stone LLC

LOCATION: South side of Bark Hill Road, West of Francis Scott Key High School; 2nd Election District

OWNER: Jerry E. & Elizabeth T. Stambaugh, 2145 Jasontown Road Westminster MD, 21158

DEVELOPER: Mag Stone, LLC, Jerry Stambaugh, Resident Agent, 2145 Jasontown Road Westminster MD, 21158

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

ZONING: Agricultural

ACREAGE: 5.163 acres

WATERSHED: Double Pipe Creek

MASTER PLAN: Bark Hill -Village-Residential

PRIORITY FUNDING AREA: Outside

DESIGNATED GROWTH AREA: None

FIRE DISTRICT: Union Bridge

Action Required:

This plan is before the Planning and Zoning Commission for concept review of a site plan. No action is required.

Existing Conditions:

The property is located on the South side of Bark Hill Road, and West of Francis Scott Key High School and contains an existing contractor's storage yard, Board of Zoning Appeals case # 2666, dated February 10, 1987. There is an existing 30 foot Right-of -Way for Ingress, Egress and Utilities adjacent to the existing storage shop. In addition to the storage building, the property also contains: five above ground fuel tanks, an above ground propane tank, movable dumpster, two storage containers, and existing gravel parking. The adjoining properties as well as the properties across Bark Hill Road are zoned Agricultural. All properties in this area are served by private well and septic systems. There is no existing well or septic on the property.

Background:

The owner was granted a modification and enlargement (BZA case # 5755, June 16, 2014, attached) of the previously approved Conditional Use, including variances as to size of the storage yard and various setback reductions.

Site Plan Review:

A concept plan for the expansion of the existing contractor's storage area and building was submitted to the Bureau of Development Review on October 26, 2015. County agencies presented plan review comments to the surveyor at the November 23, 2015 Technical Review Committee meeting.

The current storage building is comprised of 4,025 square feet. The equipment and material storage building proposed will be 7,200 square feet, located behind the existing structure, perpendicular to the western property line. The structure will be a pole barn, open in the front, with gray metal siding and a white standing seam metal roof. Access to the site is via an existing 30 foot Right of Way, over the Crawmer property, from Bark Hill Road. No new lighting or

signage is proposed for the site. Engineering Review has approved the access with no additional improvements required.

There will not be any office space, employees or bathroom facilities in the proposed storage building, therefore the Health Department approves the site plan.

The cumulative area of disturbance is 32,803 square feet therefore the project is exempt from the forest conservation ordinance. The site will need to be landscaped in accordance to the Landscape Manual. The plan shows existing mature screening along the rear property line that adjoins the Crawmer property.

An intermittent stream parallels the site to the west. Development of this site will need to address the requirements of the floodplain management and water resource ordinance. A variable width stream buffer shall be provided on the site plan along with identifying potential watershed protection measures that apply to the development. A spot elevation at the top of the stream bank at a point closest to the proposed construction shall be provided on the site plan. In order for this development to be exempt from the requirements of Chapter 153, Floodplain Management, construction must be excluded from the area within 10 vertical feet of the top of the stream bank. The grading should be excluded from the 10-foot area or the floodplain must be delineated.

Storm water management has given Concept approval.

All adjoining property owners have been contacted as of the date of this report. There have been no telephone inquiries pertaining to the scope of the project. No written comments have been received.

Action Requested:

No action is required.

Discussion:

John Lemmerman and Jerry Stambaugh introduced themselves to the Commission.

Mr. Lemmerman stated that the new building was going to be located behind the existing building so it would not be visible from the access road. He pointed out that the developer had already planted a row of trees for screening along the western border which is the only area that can be seen by other property owners. He indicated that he and the owner were there to answer any other questions the Commission might have.

Mr. Hoff commented that he was familiar with the site and felt that, in addition to the landscaping to be done along the Western border, it may be advisable to have additional screening along the south (back of the building) as well because of the residential properties in that direction with which visibility could be an issue.

Mr. Hoff asked if the new proposed building would look similar to the existing building.

Mr. Stambaugh answered that the existing building had undergone a “facelift” in order to make it nicer for the neighbors and that the new building would be of the same look.

Mr. Hoff indicated that he was not suggesting the landscape to the south was a must but rather something the owner might want to consider.

Mr. Lemmerman responded that the new building was being built into the grade and that, in conjunction with the construction of block wall, would leave very little of the building visible from the south side.

Mr. Hoff confirmed with Mr. Lemmerman that the BZA approval did not extend beyond the back of the building.

Chairman Helminiak asked for any additional comments from the Commission.

There were no public comments.

Decision:

There was no action to be taken at this time.

B. S-16-0004 – ELDERSBURG CROSSING (AMENDED SITE PLAN)

SUBJECT: S-16-0004, Eldersburg Crossing, Amended Site Plan (Formerly Walmart Property)

LOCATION: East side of MD Route 32, North side of MD Route 26, 5th ED

OWNER: Quantum Eldersburg, LLC, c/o Frederick K. Wine, 4912 Del Ray Avenue, Bethesda, MD 20814

LLC members: Frederick K. Wine, Wine Family Eldersburg LLC, Quiet Cove LLC, The Exempt Trust under the Stuart G. Brown Irrevocable Trust III

DEVELOPER: Same as owner

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

ZONING: General Business (B-G)

ACREAGE: 16.11 acres

WATERSHED: Liberty Reservoir

MASTER PLAN: Restricted Industrial (2001 Freedom Community Comprehensive Plan)

PRIORITY FUNDING AREA: Freedom

DESIGNATED GROWTH AREA: Freedom

FIRE DISTRICT: Sykesville

WATER/SEWER DISTRICT: Freedom

Action Required:

This plan is before the Planning and Zoning Commission for concept review of an amended site development plan. No action is required; however, the Commission can authorize the Chair to approve amended final site plans on behalf of the full Commission.

Existing Conditions:

The property is located at the northeast quadrant of MD Route 26 (Liberty Road) and MD Route 32 (Sykesville Road). The property contains a single 109,657 square foot vacant building that previously housed the Eldersburg Walmart (Planning Commission approved the attached site plan in 1995). The Walmart store relocated to the Eldersburg Commons (formerly Carrolltowne Mall) in October 2015.

The property is currently served by existing public water and sewer connections. There are no streams or floodplain on site. The contiguous property, to the west, is zoned IR. The contiguous property directly to the north is zoned BG and directly to the east is zoned Industrial Restricted. Properties on the south side of MD Route 26 are zoned BG; the property on the west side of MD Route 32 is zoned IR. All properties in this area are served by public water and public sewer system.

The property was previously developed with the zoning designation of I-R. On September 15, 2015, the Commission voted unanimously to forward a rezoning petition (I-R to B-G) to the Board of County Commissioners with a favorable recommendation based upon a finding of “mistake” in the current zoning. On November 5, 2015 the Board of County Commissioners adopted a motion to change the zoning from Restricted Industrial (I-R) to General Business (B-G) based upon a finding of “mistake” and a motion to change the zoning due to a change in the character of the neighborhood.

Site Plan Review:

A concept plan for converting the single-use vacant building to a Planned Business Center was submitted on February 19, 2016. Chapter 158 (Zoning Regulations) defines a Planned Business Center (PBC) as “Three or more retail stores or service establishments designed as a unit and primarily served by common accessories such as signs, parking lots, arcades, and walkways.” Planned Business Centers are a principal permitted use in the B-G zoning district.

Chapter 155, Development and Subdivision of Land, defines the specifics for Planned Business Centers.

§ 155.094 (PBC) PLANNED BUSINESS CENTERS

(A) Approval of certain types of centers by Planning Commission. In any “B-NR” or “B-G” Districts, the Planning Commission may approve a neighborhood-type shopping center or a community-type shopping center subject to the provisions hereinafter set forth under this subchapter.

(B) Presentation of development plan; conditions.

(1) The development of any such planned business center project (“PBC”) (prior to any construction) shall present to the Planning Commission for its review, a development plan of such proposed center. The development plan shall show such items as the size of the project, the location and approximate shapes of buildings, road ingress and egress patterns, parking areas, storm drainage and water and sewerage facilities, and such other information as is necessary for the Planning Commission to give the necessary consideration.

(2) It shall be the duty of the Planning Commission to ascertain whether the location, size, and other characteristics of the site, and the proposed plan, comply with the following conditions:

(a) The proposed PBC will not cause points of traffic congestion on existing or planned future roads in the areas of such proposed location;

(b) The plans provide for a PBC consisting of one or more groups of establishments in buildings of integrated and harmonious design, together with adequate and properly arranged

traffic and parking facilities and landscaping, so as to result in an attractive and efficient shopping center; and

(c) That any PWA determined necessary by the Planning Commission shall be provided to the County Commissioners ensuring the construction of the project in accordance with any approved plan or amendments thereto.

(C) Permitted uses. The uses permitted in a PBC shall be those retail business, commercial, and service uses and accessory uses permitted in the Business District in which the PBC is located. No heavy commercial or industrial uses shall be permitted or any use other than such as is necessary or desirable to supply goods and services to the surrounding area.

(E) General regulations. The following regulations shall apply to a PBC:

(1) Building height. No building height shall exceed the permitted height of the Business District in which the PBC is located, except as may be modified by § 158.130

(2) Yards.

(a) No building shall be erected within 50 feet of a public street right-of-way line, and no parking lot or other facility or accessory use, except permitted signs and planting, shall be located within ten feet of any public street right-of-way line.

(b) No building shall be located within 25 feet of any other boundary line, and any such line which adjoins a Residential District, if deemed necessary by the Planning Commission, shall be screened by a solid wall or compact evergreen hedge at least six feet in height, or by such other screening device as may be deemed appropriate and adequate.

(3) Tract coverage. Buildings shall not be permitted to cover more than 25% of the total project area.

(4) Customer parking space. Off street parking shall be provided as required in this chapter.

(5) Loading space. Off street parking space and facilities shall be provided as required in this chapter. Such facilities shall be in the rear of any building unless the Planning Commission, for good reason, approves a location at the sides of any such building, and shall not be included as part of any customer parking space required herein.

(6) Signs. In addition to signs permitted and as regulated in the “B-NR” or “B-G” Districts in which the shopping center project is located, the following signs may be permitted:

(a) For each interior business, signs may be permitted not to exceed an area four square feet for each linear foot of store frontage and located in accordance with a signage plan approved by the Planning Commission; and

(b) One additional sign not exceeding 200 square feet in area containing the names of the shopping center or the establishments located therein may be placed in any location within the boundaries of the project, but it shall not exceed 30 feet in height. Any shopping center fronting on more than one street may be permitted such a sign within the required yard area along each street.

The developer proposes to renovate the interior of the existing building and construct new façade improvements that will include the signage of the proposed tenants. A new free standing pylon sign, displaying the multi-tenants, will be located at each drive entrance to the PBC that will replace the “Walmart” pylon signs. Staff has commented that the plan needs to include a sign tabulation chart. Based on the code requirement of 5.5 parking spaces for every 1000 square feet of floor area, 604 parking spaces are required; 644 spaces currently exist on site. The final plans will include general notes incorporating the requirements of § 155.094. The Design and Architectural Committee (DARC) did review the plan and commented about the requirements for a sign tabulation chart.

Access to the site is thru existing entrances onto MD Route 26 and Bevard Road. No changes to entrances are being proposed. The Maryland State Highway Administration and the Department

of Public Works both approved the plan. Neither agency required a traffic study; however, the County reserves the right to require a study for any future development proposal which changes the square footage of the current site plan or adds a pad site. A general note will be included on the final plan to indicate the traffic study possibility with any future development.

The Office of Public Safety has granted final approval. Based on the minimal amount of disturbance, the site is exempt from the grading, floodplain, landscaping, and Storm Water Management code requirements. The requirements of the Forest Conservation Ordinance were addressed with the approval of the 1995 Walmart site plan.

The Bureau of Comprehensive Planning has determined this plan is consistent with all applicable plan polices and recommendations contained in the Carroll County Master Plan, the Carroll County Master Plan for Water and Sewer, and other functional plans, as applicable and requires no further modifications at this time for approval from Comprehensive Planning.

The concept site plan was subject to citizen involvement at the March 28, 2016 Technical Review Committee meeting. No citizens were in attendance at that meeting. No written comments have been received.

Pursuant to the Administrative Rules, the Planning Commission may authorize the Chair to act on its behalf for approval of the final amended site plan.

Discussion:

Marty Hackett, CLSI, introduced himself and Fred Wine, representing Quantum LLC., and stated that they were prepared to answer any questions. They hoped to receive final approval today to avoid having to come back again next month. All work on these plans are complete.

Chair Helminiak asked if all went according to plan, when would Mr. Hackett start seeing construction and stores showing up?

Mr. Hackett stated that as soon as they can get the drawings signed off on; they are currently in the process of filing building permits. Once the building permit is obtained they will start the façade changes.

Mr. Soisson asked if there were going to be separate entrances for each of the stores

Mr. Wine answered that they would come from the long dimension which is 380 feet across and each will have its own entrances; it is not a mall situation.

Mr. Soisson asked if Mr. Wine had lined up stores for the property.

Mr. Wine replied that he has 5 or 6 prospective tenants, 20,000 square foot boxes and a few smaller ones.

Mr. Soisson asked Mr. Wine if it was his plan to have a specific number of major tenants to which Mr. Wine answered he hoped to have 4, 5, 6, 7, or 8 or something like that.

Mr. Hoff pointed out there were two alternative left-side elevations shown and that the left side is somewhat visible from (Route) 32 and thinks alternative 1 looks more attractive but is assuming it is dependent on what type of tenants will be there.

Mr. Wine said that was correct.

Mr. Hoff indicated he thought if that was a large tenant they may want to face (Route) 26 and not have anything there.

Mr. Wine replied that was correct.

Mr. Hoff suggested that if they did end up using the left elevation that doing whatever they could to make the left side as attractive as possible because of its visibility from (Route) 32.

Mr. Wine said it was possible that the tenant may want a sign on that side of the building and that they could also bring the same colors around the side to make it look more uniform.

Mr. Wothers asked if, procedurally, the Commission could approve both plans today or would it be more expedient to make the motion for the Chair to approve the final.

Secretary Hager answered that, legally, they could do either but if the staff has no objection they could incorporate both into the full motion for approval of the final plan.

Clay Black stated that if the Commission did approve the final there would need to be a condition that any changes to this plan would require an amended site plan to be approved by the Carroll County Planning and Zoning Commission. He indicated to the Commission, that this was a standard condition that is used on all plans but would be needed in their approval – if they chose to do that. Mr. Black reiterated that the choice was up to the Commission but, if they chose not to approve it, Development Review would be getting a staff report together as quickly as possible as soon as this agenda item was over and approaching the Commission Chair for approval.

Chair Helminiak asked if there would be anything else added to it or if that would be the only condition.

Mr. Black replied that it would be the only condition and there wasn't any need for a Public Works agreement at this time.

Secretary Hager indicated to the Commission that in the interest of efficiency, for the staff as well as the applicant, there would be no reason for the Commission to not consider incorporating that into their motion.

Chair Helminiak asked for questions or comments.

There were no public comments.

Decision:

On motion of Mr. Wothers, seconded by Ms. Cheatwood, and carried (Commissioner Weaver abstained) approved the final site plan subject to the condition that any changes to this plan would require an amended site plan to be approved by the Planning and Zoning Commission.

Secretary Hager indicated to Chair Helminiak, from the comments he made prior to the start of the meeting and during the last recess, that the Commission may want to close the meeting for legal opinion and for any necessary clarification prior to proceeding to the final agenda item.

Secretary Hager informed Chair Helminiak that if it was still his desire he would have to close the meeting procedurally and proceed to a closed meeting with a stated reason as to why. The issue, to consult with legal counsel to obtain legal advice on a legal matter is one of the statutorily listed authorities by which a meeting can be closed. The legal issue being discussed is a legal issue pertaining to a development project. To do this a formal motion stating the Commission wished to close the meeting to consult with legal counsel in order to obtain legal advice, would need to be made, seconded and affirmed by vote. The motion would also need to state at what time the Commission planned to reconvene.

Chair Helminiak asked if the meeting could be held in the adjoining room in order to keep everyone from having to move out of the meeting room.

Gail Kessler, County Attorney, indicated that would be correct.

Mr. Hoff made a motion, seconded by Mr. Soisson, and unanimously carried, to close the meeting for the purpose of consulting with counsel to obtain legal advice. Mr. Wothers, Mr. Canale, Mr. Weaver, and Ms. Cheatwood voted "Aye" on the motion to close; Chair Helminiak did not vote.

Mr. Hoff moved to close the meeting to obtain legal advice regarding a development project and that we reconvene at 1045

Secretary Hager suggested the Commission convene at 1035 in closed and that this meeting would reconvene at 1050, thereby allowing for a five minute recess.

Mr. Canale asked if a time limit needed to be put on the closed session to which Secretary Hager replied that there should be.

Mr. Hoff stated that he would amend his motion to reflect the advice of Secretary Hager.

A public citizen asked if they would be allowed to know the topic to be discussed in the closed portion of the meeting.

Secretary Hager reiterated it would be to "consult with legal counsel to obtain legal advice on a legal matter."

Chair Helminiak told the audience that the Commission would be being brought up to speed on what was coming next and that the Commission would brief the public on anything that was pertinent to the case.

Meeting Adjourned

Meeting reconvened at 10.52

Chair Helminiak indicated the Commission had met privately with legal counsel to determine if there was any reason legal reason for not proceeding with the next item on the agenda.

C. S-15-0005 – CROSSROADS VEHICLE REPAIR SHOP (1ST AMENDED)

Chair Helminiak stated all members present during the closed meeting and turned the meeting over to County Attorney, Gail Kessler, to brief the public on what she had told the Commission members.

Ms. Kessler stated that the Commission will have to treat this project as any other project coming before the commission with the zoning of "BG" the basis being the Circuit Court has upheld the Board of County Commissioners' decision to rezone the property to Business General although this matter is pending before the Court of Special Appeals. Furthermore, there has not been a stay entered in this case that would prevent the developer from moving forward. This Commission has to treat this property as it would any other project coming before it in that zoning district.

SUBJECT: S-15-0005, Crossroads Vehicle Repair Shop, 1st Amended Site Plan
LOCATION: West side of Gamber Road (Maryland Route 91), East side of Old Gamber Road (MD Route 879), 4th ED
OWNER: Brian & Virginia DiMaggio LLC, 1940 Bethel Road, Finksburg, MD 21048
LLC members: Brian & Virginia DiMaggio
DEVELOPER: Same as owner
ENGINEER: Steven K. Broyles & Associates, 2022 Brown Road, Finksburg, MD 21048
ZONING: General Business (B-G)
ACREAGE: 4.219 acres
WATERSHED: Liberty Reservoir
MASTER PLAN: See attachment
FIRE DISTRICT: Gamber

Action Required:

This plan is before the Planning and Zoning Commission for concept review of an amended site development plan. No action is required; however, the Commission can authorize the Chair to approve amended final site plans on behalf of the full Commission.

Existing Conditions:

The property is located at the northeast quadrant of MD Route 91 (Gamber Road) and MD Route 879 (Old Gamber Road). Other than the existing billboards, the property is vacant. This and all adjoining properties utilize private well and septic systems. Property directly to the north/east consists of a farmhouse and several outbuildings and is zoned R-40,000. Property directly across Gamber Road are zoned Conservation and contain residential dwelling units. Properties to the north/west (across Old Gamber Road) are zoned R-40,000 and Conservation and contain residential dwelling units.

Background:

On November 17, 2009 the Carroll County Planning and Zoning Commission approved Crossroads Vehicle Repair Shop site plan (plan attached). That plan proposed a one-story,

10,000-square-foot automobile service center. Although the Commission approved that plan, the developer has not submitted to the County the required legal documents to complete the process.

On December 19, 2013 the Board of County Commissioners adopted a motion to grant a rezoning petition for reclassifying the zoning of the property from Business Neighborhood (B-NR) to General Business (B-G) based upon a finding of “mistake” with Resolution dated January 30, 2014. The Board of County Commissioners by Resolution 937-16 (February 26, 2015) exempted the property from the comprehensive rezoning process associated with the 2014 Carroll County Master Plan.

Site Plan Review:

In March 2015, the developer submitted a concept plan for construction of an 18,000 square foot building to replace the approved 10,000 square foot building. The project was presented at the April 27, 2015 Technical Review Committee. Revised concept plans were submitted on March 4, 2016 in response to the comments presented at the April 2015 Technical Review Committee.

The developer proposes to construct an 18,000 (100 x 180) square foot building that will house a vehicle repair shop. Chapter 158, Zoning Regulations defines Vehicle Repair Shop as “Land or buildings where motor vehicles, trailers, or other types of equipment are repaired, stored, or equipped for operation including automotive repairs, body repairs, vehicle painting or spray booths, but not including wrecking, sale, or storage of junked vehicles.” Vehicle repair shops are a principal permitted use in the B-G zoning district with no maximum building size limitation.

In accordance with the parking requirements, 42 spaces are required and 43 are provided. A photometric plan (lighting) is shown on page 15. The elevations of the building are on sheet 17 with the floor plan on sheet 18. A non-illuminated 4 x 3 sign is being proposed at the driveway entrance. The sign will be six feet high.

Based on the number of peak hour trips, a traffic impact study was required. The Maryland State Highway Administration and Carroll County reviewed the traffic study. Both agencies concurred with the conclusions of the traffic study that the existing road network will support the development proposal and no traffic mitigation is necessary. A commercial entrance in accordance with State Highway requirements will provide access to the site. The developer proposes to install a no right turn sign for vehicles leaving the repair shop. Improvements to Old Gamber Road or Gamber Road are based on State Highway requirements.

Since no development is occurring within the floodplain, the property is exempt from the requirements of Chapter 153 (Floodplain Management). Stormwater Management granted concept approval of the site plan. The plan will need to address the requirements of Chapter 154 (Water Resource Management).

The developer has purchased into a Forest Bank to address the Forest Conservation requirements (Chapter 150). Landscaping will be provided to meet the requirements of Chapter 157 (Landscape Enhancement of Development); see sheet 14. Class A screening is shown along east and north side of the building.

The comment review letter from the Bureau of Comprehensive Planning in regards to consistency with the Carroll County Master Plan is attached.

A residential dwelling, with a private separate entrance onto MD Route 879 is proposed at the northern portion of the property. In the B-G zoning district, single family dwellings are permitted.

The concept site plan was subject to citizen involvement at the April 27, 2015 Technical Review Committee meeting; citizens were in attendance. Written comments have been received (attached). Staff has had numerous conversations from citizens opposing the project.

Per the administrative rules, the Planning Commission may authorize the Chair to act on its behalf for approval of the final amended site plan.

Discussion:

Clark Shaffer, attorney for the applicant introduced himself and the owner, Brian DiMaggio.

Chair Helminiak stated, for clarification, that this case has been ruled on by the Circuit Court who upheld the BG zoning decision. There is an appeal but no decision has been made nor has there been a stay so therefore, this project proceeds as any other case. Chair Helminiak then asked what would happen if the decision came down from the Court of Appeals and was not in favor of the applicant.

Mr. Shaffer commented that this is probably one of the few plans in the history of Carroll County, not that there hasn't been others and not that the staff does not look at all cases, but this case has been scrutinized which is fair and the community is entitled to ask their government to perform all review tasks etc. We come here today meeting for final approval of all the published requirements. We have a permitted use in "BG." Mr. Shaffer stated he did not want that to get lost in the shuffle.

Mr. Soisson stated that he had some questions for historical clarification. This project was originally approved in 2009 under the provisions of one zoning district which has now changed so he was assuming when the 10,000 square foot building was approved, even then nothing was submitted, was the 10,000 square feet the maximum size?

Mr. Black answered that it was the maximum size and currently was the maximum size under the BNR district .

Mr. Soisson asked if when the zoning was changed to BG, that increased the size of the building to 18,000 square feet maximum.

Mr. Black indicated that when the property was rezoned to BG, then whatever uses are permitted in the BG district are permitted in the BG district on that piece of property.

Mr. Soisson stated that in essence it allowed him to have a bigger building.

Mr. Shafer stated that the applicant could have a 500,000 square foot building if he has the land to do so.

Mr. Yeo indicated to Mr. Soisson that when the zoning changed that was when the building size changed as it allowed the applicant to have something bigger.

Mr. Soisson asked why the owner felt it was necessary to increase the building size to 18,000 when he originally planned for a 10,000 square foot building.

Mr. Shaffer, stated that before the owner answered he would like to summarize the history. He told Mr. Soisson when Mr. DiMaggio came to the County asking what their rules were for

opening an auto repair shop they told him he would need to apply for conditional use in the BL zone because you're zoned BL. This property has been zoned for business for a long time. He said ok. He followed all the steps and with Mr. Shaffer appeared in front the Board of Zoning Appeals for a hearing. A group of people showed up with an attorney and we had one day worth of testimony and hearing. Shortly after that one day the County Commissioners proposed a text amendment to change the entire BL zone to a new BNR zone. This was around 2006.

Mr. DiMaggio at that time asked Mr. Shaffer what that meant for him. Mr. Shaffer told him "you don't have a vested use, you don't have an approval you are in the middle of your hearing – if they change that law you're subject to the new law. Just like the concept we discussed with the new zoning. Long story short the law was changed and the new BNR zone was adopted. What used to be called BL zone is now BNR and here are the rules for BNR: 10,000 square feet, what could be done in the zone was changed and those changes impacted Mr. DiMaggio. Due to that Mr. DiMaggio tried various things to satisfy the zoning requirements. He tried to get a variance, he went to court, came before the Planning and Zoning Commission and in 2009 got a site plan approved. Then he requested a re-zoning to BG which was granted and we are now in an appeal on that. As to why he wants to change the size of the building to 18,000 square feet, it will allow him to operate his business in a way that he believes is productive, it will allow him to make a profit will allow him to serve the customers he's built up over the years in his current location and will allow for a safe and efficient operation and on top of that he is entitled to it as a property right.

Mr. Hoff asked if the applicant could shed some light on the proposed future dwelling, as that struck him sort of strange as to why he would want a dwelling there.

Mr. Shaffer stated that he did not know what the owner's current plans were but when he had initially come to Mr. Shaffer, the owner had plans to move his family there. Mr. Shafer stated he did not know if that were still the plans of the owner but for the time being it does give him that option. It also provides him with a potential source of income.

Mr. Hoff asked if the property had been perked for that sort dwelling. The owner answered yes, to which Mr. Hoff stated that in theory, the owner could have a rental property there.

Mr. Hoff asked if the billboards could be moved.

Mr. Shafer answered that he believed they could not be moved under the current Carroll County billboard regulations.

Mr. Black said that staff could get back to Mr. Hoff with a definitive answer to the question regarding billboards.

Mr. Shaffer stated that years ago the County adopted regulations for billboards that put ridiculously low size limits on billboards. 4x8 limit. In doing that they stated that existing billboards can remain and be replaced but not moved or enlarged.

Mr. Hoff suggested, for when this comes back for final approval, it would be beneficial for the owner to do as much as he could possibly do to screen the sight with landscaping.

Mr. Wothers asked about the site traffic circulation plan and if the owner would have tractor trailers coming in.

Mr. DiMaggio answered there would not be tractor trailers coming in and that the reason for the turn template on the plan was because the SHA asked him to show how, if a tractor trailer or large delivery truck were to turn into the property, they would not be stuck. Mr. DiMaggio also stated that he does not get deliveries from tractor trailers.

Mr. Hoff asked if he would have large busses and RV's.

Mr. DiMaggio answered that he would and has turning templates for those as well.

Commissioner Weaver asked if there would never be tractor trailers on that site.

Mr. DiMaggio stated that he did not have any plans for them.

Mr. Yeo asked about the tractor portion.

Mr. DiMaggio stated that the front part perhaps but a large combination of that type, no. He can work on that sort of vehicle. The larger percentage of the vehicles he works on are cars and trucks with a lot of medium sized vehicles. Mr. DiMaggio indicated this is why he is fighting to keep his business the way it is. He does not have the means or the customer base to afford splitting his business into two separate locations.

Mr. Wothers asked if there was anything stopping him from working on tractor trailers.

Mr. DiMaggio answered that the Commission could see what the facility was designed for and it is not designed to work on tractor trailers.

Mr. Wothers asked if Mr. DiMaggio sold the business and the new owner decided to work on tractor trailers would this building accommodate their size.

Mr. DiMaggio answered that he did not know the exact size of a tractor trailer but if someone wanted to work on them at this location they would have to alter the parking lot further as there is no room to park them now.

Mr. Wothers asked if the bays were big enough for a tractor trailer.

Mr. DiMaggio answered he would have to evaluate and see. That is not his plan and does not have the parking to accommodate that.

Mr. Wothers asked how it was set up for parking for the busses and RV's that Mr. DiMaggio is working on.

Mr. DiMaggio answered that there were spaces for 7 vehicles.

Mr. DiMaggio explained that the turning template is on the plan solely as a requirement for the SHA. He indicated that in speaking with them he brought up the possibility of comments and questions regarding this and the SHA told him he would have to address those concerns were they to occur. Mr. DiMaggio stated that is what he is doing now.

Mr. Canale asked what size the garage doors were.

Mr. DiMaggio answered they were 14 feet which is six inches above the required clearance for any delivery vehicle. He indicated he chose that size due to the maximum size of a tow truck towing a vehicle can be 13 feet six inches. This was the smallest size he could choose and still keep it safe.

Mr. Yeo pointed out that the landscape plan has wheel stop indicators on the western side. He said if those wheel stops are placed there one would run into the landscape because of the overhang from the edge of the tire to the front of the vehicle. The concern is not only that the landscape is there now but that it stays there.

Mr. Hoff agreed that Mr. Yeo had a valid point.

Public Comments

Member of the public, Tom Bartosiewicz, had some points he wanted to make regarding this plan. He stated that he sees a lot of things in this project that are going to be detrimental to their community, detrimental to the safety of Finksburg, and while he has many more comments he is going to focus mainly on the 13th of April, Mr. Brooks Leahy and himself a member of a large and growing County organization calling themselves “Keep Finksburg Safe” – formed as a result of the Crossroads Project – met with County representatives to get their response to a letter prepared by a profession engineer, hired by several Finksburg communities and other residents to review the second revision of the Site Plan for Crossroads Vehicle Repair. The letter, which will be provided to members of the Commission after comments have been completed, was provided to the County representatives prior to that meeting and focused mainly on the stormwater management portion of the plan.

Mr. Leahy asked the County representatives for their response to the findings the PE letter and proceeded to go through them point by point.

1. The storm water management infiltration (SWIM) system is proposed to be constructed in fill. From the PE’s investigation of the site plan provided at the April 2015 TRC and for this concept review there has been nothing written about locating the SWM in fill. The PE discovered that the developer has known this fact since a geo-technical report was issued in September 2008 and prepared by Herbst, Benson, and Associates located in Westminster. Mr. Bartosiewicz noted that no SWM could be located on the plan and also to build a SWM in fill is clearly a violation of Maryland law.

Mr. Bartosiewicz asked why this design, along with the potential risks, not been disclosed to the public?

PE Finding number 2: The soil hydro conductivity testing, also known as a double ring test, identified in the aforementioned geotechnical report that is required to be performed in close proximity of the proposed storm water infiltration facility failed to meet Maryland state requirements as detailed by regulation and was also performed in fill and per the testing PE, failed. The test did not conform to its ASTM designation and it was noted in the geotechnical report as such.

Mr. Bartosiewicz asked why was this failed test was not disclosed to the public and is it not in the documentation?

PE Finding number 3: The Maryland Stormwater design manual describes the land use of a large vehicle repair facility as a stormwater hot spot. The requirements of the State of Maryland are many for this designation, but one requirement that stands out is the pre-treatment of infiltrated stormwater with something more than sedimentation – which is all that the site plan mentions. The state recognizes that soluble contaminants are generated by this type of land use and their direct discharge into ground water is dangerous. This could endanger the wells of numerous neighborhoods surrounding this parcel and therefore strict adherence to this state regulation is expected. Not to mention the potential risk to the Liberty reservoir watershed.

Mr. Bartosiewicz indicated that no response to storm water hotspots was given by the County representatives in regards to the findings.

Mr. Bartosiewicz ask why has this information not been disclosed to the public along with the long term risks and consequences to our people.

Mr. Bartosiewicz asked if the Commission had a copy of the report. They did not have one yet.

Mr. Bartosiewicz indicated that he did not intend to present findings 4 through 10 in detail, but stated for the record that they focus on the construction challenges of building a stormwater facility on this parcel to be compliant with all the County, state and Federal regulations with full risk documentation fully disclosed for public review. Mr. Bartosiewicz indicated that none of the construction details were included in the site plan. In addition, he said, the County representatives stated that those details were not required at this time because this was a concept review stage of the project. However, taking into the lack of disclosure of this existence of fill, the failed soil conductivity testing and apparent lack of attention to state hot spot requirements it is reasonable to expect that these construction details and risk assessments will also not be made available to the public.

Mr. Bartosiewicz asked why not?

Mr. Bartosiewicz stated that, as tax payers and residents living in the proximity of this facility they wanted planning and zoning to know that they expected their County and State Engineers to ensure that this facility, if approved, will be built to the strict letter of Maryland regulations and expect site professional engineers and all other professional engineers involved with this project to be compliant with County, state, and Federal regulations and publicly disclose all the risks associated with the proposed land use, giving strong consideration to this site being totally surround by residential properties with residential wells, not to mention the Liberty Reservoir watershed.

Mr. Bartosiewicz stated that the citizens of Finksburg should not have had to hire their own land use attorney and engineer in order to learn of the risks to them.

Mr. Bartosiewicz concluded his commentary.

Mr. Hoff indicated to Chair Helminiak that there were a lot of people present today and he would like to hear from them but in order to do so could we limit their comments to two to three minutes.

Chair Helminiak pointed out that Mr. Bartosiewicz was speaking on behalf of a large group of citizens.

A member of the audience spoke out that a limit on their time would not be fair as Mr. Bartosiewicz had had a chance to talk.

Chair Helminiak stated that he understood but felt Mr. Bartosiewicz was speaking on behalf of many and thought perhaps the others were of the same opinion.

Mr. Hoff said he would like to hear from everyone but asked that they keep it to two to three minutes.

Chair Helminiak asked Mr. Black if he had had a chance to review Mr. Bartosiewicz's questions or if he was aware of them.

Mr. Black responded: the concept plan has been submitted and the process is that in order for this plan to be submitted to the Commission for final approval it will have all the technical approvals from all the review agencies. In concept there is no expectation from staff that all the technical agencies have approved the plan. In its review, the Commission may ask any questions they may have regarding landscaping, technical or nontechnical issues. As stated earlier the process is typically as soon as we go to TRC, two weeks later we have the plan back in front of the Commission for their comments. It may or may not be a plan that is what is seen at the final. Historically there are a lot of changes that may occur through various other agencies. So, generally, that is how the process works. In regards to the gentleman's comments on the specific responses, I am not prepared to respond to any of those comments. Mr. Black stated he could say that by the time the plan came back to the Commission it will have been approved by the County.

Mr. Soisson pointed out that he saw Martin in the back and asked Mr. Black if that would help in any way and that typically they were not involved at this point, however, because there are a number of questions regarding landscaping species or a sediment control structure or that type of thing that this is typically not the forum this takes place.

Mr. Black answered that would be up to Mr. Soisson from whom he'd like to hear in that regard. Mr. Black stated that was not suggest the Planning Commission couldn't do so if they chose, just that typically, this was not the forum for such questioning.

In response to disorder and multiple speakers shouting from their seats, Secretary Hager reminded the Commission that appropriate order and decorum must be maintained in these meetings. He stated that the process for public comment was that a person desiring to speak must be recognized by the Chair, the speaker must then come to the microphone, introduce themselves, and prior to addressing the Commission. He indicated there is decorum we adhere to in these meetings and that it is vitally important that we do so and would encourage us to continue that. Mr. Hager also noted that the show of support or opposition following a person's comments is a violation of our process and asked that the process be respected. Secretary Hager also indicated that he would like to echo two of the comments that Mr. Black had made earlier. He pointed out that this is not the format of testimony and cross-examination, there are processes for that to occur and numerous opportunities for people who are not comfortable with how something is determined or an analysis that has been performed, to challenge that and Concept Review, which is today, is not the appropriate format to do so. That being said, Secretary Hager stated that the Planning Commission had, within their purview, the ability to ask questions at this time of any member who is available or to request staff that may not be present but may be available at this time to answer questions.

Mr. Bartosiewicz stated that he would like to add one thing to something one of the public had said in regards to their engineering comments were provided to Mr. Black's (Development Review) staff and part of what you heard me briefing on was their response and discussion to those questions. Mr. Bartosiewicz indicated that they weren't done with that discussion yet. Mr. Bartosiewicz made clear that his point in all of this was that for the Storm Water Management System, there are Maryland Department of State Regulations that talk about the risks associated with some of these structures and there have been unexplained answers as to why this information has not been previously disclosed, such as the Double Ring testing that failed in fill. Why has there not been another test done when the state requires, at minimum, two tests done. There was only one test done and it failed and there has been no evidence that there has been another test performed. Why hasn't there been another test performed? Mr. Bartosiewicz asked.

Mr. Bartosiewicz reiterated that there is information out there that has not been disclosed to the members of the community and they would like to get to the bottom of it and get the answers and disclosures.

Mr. Hoff asked if anyone has submitted this letter being spoken of.

Mr. Leahy answered that he was getting ready to do so.

Chair Helminiak assured the speaker that if the Commission got a copy of the letter they would read every single word.

Mr. Bartosiewicz stated that he would also give the Commission a copy of his notes and comments.

Brooks Leahy, attorney, stated that he did have the letter and proceeded to the front to give a copy to Secretary Hager.

Mr. Leahy stated that when the Commission had a chance to look at the letter they would probably agree that there was a difference of opinion between the PE's. Mr. Leahy explained that the issue has to do with this type of system. The PE for the "Keep Finksburg Safe" says it must be put in vergent soil and cannot be put in fill under MDE regulations. The PE for "Keep Finksburg Safe" also takes the position that the entire facility has to be in vergent soil. Mr. Leahy stated they had discussions with County staff who thought the design was appropriate because it empties into vergent soil, which is sufficient.

Mr. Shaffer asked Mr. Leahy if the letter had been written by the gentleman who had just spoken. Mr. Leahy replied that it had not but had been written by his son who is a registered PE in Maryland.

Mr. Leahy indicated that this was an issue that needed to be handled but it was not something that could be handled at a Concept review.

Mr. Leahy informed the Commission that he had a few comments to make. He noted that the residential lot has its own entrance and asked if the Traffic Impact Study had taken into consideration that the property had two entrances and if not he felt it should. The other comment Mr. Leahy made was that he realized the property didn't have to be subdivided out as it was a permitted use in a BG but would strongly suggest that it could be subdivided out in the future; it should meet setbacks and well and septic on it even if it is not going to be subdivided.

Mr. Leahy pointed out that, while the entrance on this plan is superior to the one on the earlier plan, he would like the Commission to consider there being a right in and left out to allow for a tractor trailer coming in and a regular vehicle going out at the same time.

Joan Bradley, 3408 Old Gamber Road, Finksburg spoke. Ms. Bradley stated she has lived here for over 20 years. Ms. Bradley described the property types as had been stated earlier. She pointed out that since the developer had purchased this property in 2006 her neighbors, Highland View, Clover Meadow, The Preserve, Cold Saturday, Lauren Hill, the residents of Old Gamber Road, and the residents of Deerpark Road – well over 200 residents – have been compelled to oppose this project. Ms. Bradley stated that over the years the property went from BL to BNR and now to BG - which was contested by the Planning and Zoning Commission as well as the Community. Ms. Bradley stated that the BG zoning was now under appeal in the Maryland Court of Special Appeals and feels that it is unacceptable that the County Commissioners have continually forced the residents of Finksburg to repeatedly oppose this project. Ms. Bradley stated that the 2014 Master Plan had named this area Low-Intensity Residential, incredibly, bowing to one person's demand, the County Commissioners excluded this parcel from the Master Plan. Ms. Bradley asked how that was possible or legal.

Ms. Bradley stated that it was unconscionable that the TRC did not address the fact that the proposed stormwater management is in fill, in direct violation of MDE.

Ms. Bradley stated that the residents of Finksburg knew that this project would decrease their property values and negatively affect the quality of their lives. Ms. Bradley stated the previous Board of County Commissioners dismissed the Finksburg Community's wishes and kowtowed to a determined developer.

Ms. Bradley proposed a "Sunset Provision" that automatically allows for repeal of the BG zoning. Ms. Bradley indicated that she felt like this had gone on long enough and asked the Commission to rescind the County's BG zoning. Ms. Bradley also stated that she has met with other auto repair centers and feels that 18,000 square feet is unprecedented and wonders what a one person shop would really do with 18,000 square feet of space.

Tom Warren, 2313 Southfield Court in the Highland View Estates Community, which is adjacent to the proposed project. Mr. Warren stated he was a member of the Highland View Estates Board of Directors and was here representing the 4 to 6 households that are in immediate proximity to the parcel in question. Mr. Warren indicated that over the course of this process the residents of Finksburg have continually asked for transparency in this project, making reasonable, documented requests to County functionaries for due process of notification when the developer submitted documentation of the project, communicated with County staff, or when guidance, direction of opinions were made by staff to the developer. Mr. Warren stated they had even had their counsel submit a request for such to the County professional staff to no avail. Mr. Warren stated that this gives the project the appearance of something being done in an underhanded way; that due process is being subverted in a cloak of secrecy.

Mr. Warren stated that throughout this process the developer has made his requests for due process and the County has obliged. As concerned citizens who are directly impacted by County staff and the Planning and Zoning Commission, Mr. Warren would ask for no less consideration.

Mr. Warren asked that the Planning and Zoning Commission ensures that the County staff follow all applicable County, state, and Federal code and professional engineering standards to the letter

and that any instance where the County elects to ignore or waive these standards is fully and clearly documented for public record.

Mark Jensen, 2611 Lauren Hill Court, Finksburg, a member of the Lauren Hill Homeowners Association introduced himself.

Mr. Jensen stated he want to go back to something Mr. Shaffer had spoken of earlier. Mr. Jensen stated he wanted to make a few points that he felt had been left out. Mr. Jensen reminded the Commission that Mr. DiMaggio had been granted the variance for 10,000 square feet to work on cars, vans, pickup trucks, and other types of passenger vehicles. Mr. Jensen stated there was a restriction on busses, trucks, tractor trailers, and other vehicles of that nature.

Mr. Jensen listed the different variances the applicant had applied for and had rejected throughout the years and stated the applicant had also filed for a mistake in the 1981 Master Plan. Mr. Jensen indicated the then Planning and Zoning Commission said that if there was any mistake the parcel should have been labeled residential.

Mr. Jensen addressed Mr. Wother's question about the applicant working on tractor trailers and stated that over the past ten years there has been a lot of testimony and that the testimony has evolved though the years. Mr. Jensen stated the applicant started out working on a few large trucks and the number has increased over the years and includes busses and delivery vans as well. Mr. Jensen encouraged the Planning and Zoning Commission to dig a little deeper before taking today's testimony as gospel.

Mr. Jensen stated that "they" had also been in contact with the Water Resources Program Management and Reservoir Technical Group and he is still working on getting a copy of the agreement between Reservoir Resources Manager and the County. Mr. Jensen referenced a conversation regarding when Jim Slater had been told that the zoning had been changed he stated in a letter to Mr. Hager that he understood from Alice Hallstatt that the Board had rezoned the DiMaggio property and asked for a copy to be forwarded to him as he was sure it would come up in the next RTG meeting. Mr. Jensen stated Ms. Hallstatt was curious about the Board possibly has violated procedure; the decision is inconsistent with the conditions of the Reservoir Agreement as well.

Mr. Jensen stated that there would be another meeting presenting the Reservoir Agreement and how the rezoning is not consistent with the agreement made with the Water Resource Program Manager and the Water Resources Group and the Liberty Reservoir Technical Group.

Mr. Harvey Finkelstein, 3240 Annville Drive, Finksburg, introduced himself stating that he was a CPA with a Master's Degree in Taxation. Mr. Feinkelstein stated that he dealt with the IRS and regulations all the time. Mr. Finkelstein stated he felt, from what he was hearing today, that this project did not seem to be going through the proper channels. Mr. Finkelstein indicated he was stunned by the lack of environmental reports. Mr. Finkelstein stated that more studies needed to be done and if they had been done and were not approved why they had not gone to the next step.

Mr. Finkelstein asked the Commission what BL meant and stated that from what he understood it was a very restricted zoning. Mr. Finkelstein expressed his wonder at how the parcel went from a very restricted zoning to BG on which the developer could build a 50,000 square foot business if he so desired. Mr. Finkelstein questioned how the residents could be guaranteed that this would

be the last plan the developer submitted if the BG zone is approved in Annapolis if there aren't restrictions put in place.

Mr. Finkelstein voiced his concerns with the safety of Old Gamber Road should this facility be built and asked that the Planning and Zoning Commission did all they could to ensure that everything be done exactly according to regulation.

Chair Helminiak told the audience that if they had anything they wanted to say and didn't feel comfortable speaking they could submit written comments later on.

Chair Helminiak asked for any additional comments.

Mr. Hoff addressed Mr. Black in regards to the residential lot. Mr. Hoff asked if there was any requirement that the applicant show the lot can be subdivided.

Mr. Black said there was no requirement. He stated that in the BG district residential is a principal use and if the applicant wanted to subdivide in the future it would be good planning to make sure there are no zoning setback issues but there is nothing that requires them to demonstrate that. Mr. Black stated that staff would make sure it met those zoning requirements.

Mr. Hoff asked if any staff had any comments regarding the Reservoir agreement.

Mr. Black stated that he could not speak on that agreement.

Tom Devilbiss, Director of Land and Resource Management, responded to the discussions taking place in regards to the review of the plan. Mr. Devilbiss stated that we have very professional people here who are well-respected in the community and in the state in general and that we do very professional reviews here and if there are any issues that need to be resolved we will work with individuals to resolve them. Mr. Devilbiss stated that this is a Concept Plan Review and at that stage in the process the state requires the County to do a very preliminary review of things to see if some things are feasible. That process will continue and the details, some of which have been discussed here, will be looked at and evaluated and if modifications or changes need to be made they will.

Mr. Devilbiss stated that there is also a Water Resource Code in Carroll County which is over and above most jurisdictions in the State of Maryland and that Code addresses situations such as this. Mr. Devilbiss indicated that with commercial and industrial development there are standards in place that are above most others in this state; the County also requires things that prevent contaminants from entering the environment that other jurisdictions do not. Mr. Devilbiss stated that this is through the review process, through a separate Code that the Board of County Commissioners chose to implement here in Carroll County so it is not something that the State of Maryland or the Federal government required them to do. Mr. Devilbiss told the audience that Carroll County does take these issues, the Water resource protection and environmental issues very seriously.

Mr. Devilbiss indicated that the final item he would like address is the Reservoir Watershed Agreement. Mr. Devilbiss told the audience that he is a representative on the Reservoir Watershed Committee that in that agreement, which a voluntary agreement, there are issues related to zoning. Mr. Devilbiss stated that the signatories of that agreement agree to the best of their ability to limit the amount of rezonings that take place within the reservoir watersheds that convert lands that are agricultural or conservation into commercial or industrial. Mr. Devilbiss

stated that this was a commercial property that was rezoned and changed through the commercial process. Mr. Devilbiss stated that if anyone wanted to indicate that there was a violation there, it was up to everyone's interpretation. Mr. Devilbiss told the audience that the reservoir watershed agreement is online through the Baltimore-Metropolitan Council Government and anyone can read it and make their own interpretation.

Mr. Hoff asked for confirmation that the agreement was voluntary and that it said "to limit" which is different than "don't" to which Mr. Devilbiss answered that he was correct. Mr. Devilbiss informed the audience that this plan was presented to the Reservoir Watershed Committee by Mr. Black who described what was going to be taking place and reviewed, with them, the site plan for the 18,000 square foot facility.

Mr. Hoff asked if the committee had had a chance to make any comments on the plan.

Mr. Devilbiss told Mr. Hoff that there were no requirements for the committee to review.

Nicky Bartosiewicz, Clover Meadows, asked if that when the plan was presented to the Reservoir Watershed Committee as it is right now, did it not include the omissions, the errors, that it is being done in fill, and the design?

Mr. Devilbiss responded that he was not indicating that there were any omissions in design, or errors as that has not been determined yet. What was presented to them was the Concept Plan, what was happening here and the fact that it was beginning to go through our process and that our resource code and storm water codes and everything would be applied to it.

Mr. Bartosiewicz asked Mr. Devilbiss where he could find the regulations.

Mr. Devilbiss indicated that they could be found in the Code of Public Law and ordinances of Carroll County in Chapter 154.

Secretary Hager thanked Mr. Devilbiss for his comments. Secretary Hager noted that it is difficult to see the professionals within one's Department being maligned unfairly and being subjected to accusations of lack of transparency.

Chair Helminiak thanked Secretary Hager and asked if there were any questions.

Barbara Finkelstein of 3240 Annule Drive, Finksburg, urged the Commission to rethink this entire thing. Mrs. Finkelstein stated that she lives in a beautiful, bucolic area and that is why she moved there. She stated that there were no businesses in the area with the exception of two and since she has moved there in 2000 the amount of traffic has tripled. Mrs. Finkelstein asked the Commission to imagine themselves in her position and perhaps they would have sympathy for the residents of Finksburg.

Mr. Hoff commented that we are functioning as the Planning Commission with a role to play. Mr. Hoff stated that, while he understood the neighborhood's frustration, this property is zoned BG and asked the public to understand that the Planning Commission has to act within the limit of what their authority is. Mr. Hoff pointed out that he wanted to remind everyone of that because the Planning Commission could not, unilaterally decide to do things that are beyond the function of their role. Mr. Hoff assured the audience that he understood their point of view as he had been in the same position before.

PUBLIC COMMENTS

There were no public comments.

There being no further business, the Commission, on motion of Chair Helminiak,, seconded by Mr. Soisson, and carried, adjourned at approximately 12:30 PM.

The Commission adjourned at approximately 12:30 PM.

Secretary

Approved