

SPECIAL REPORT

to the

Carroll County Planning and Zoning Commission

June 20, 2023

Prepared by

Kierstin Marple, Bureau of Development Review

SUBJECT: P-22-0042 – Harvest Creek
LOCATION: 7020 Ridge Road, Marriottsville MD, 21104, C.D. 5
OWNER: Juanita Zabel & Jeanette Birger EtAl, 6933 Ridge Road, Marriottsville, MD 21104
DEVELOPER: Elm Street Development, 5074 Dorsey Hall Drive, Ellicott City, MD 21042
SURVEYOR: Development Design Consultants Inc, 192 E Main Street, Westminster, MD 21157
ZONING: Residential-40,000 (R-40) & Conservation
ACREAGE: 148.86 acres
WATERSHED: South Branch Patapsco
NO. OF LOTS: 137
FIRE DISTRICT: Sykesville-Freedom
MASTER PLAN: Residential Medium– 2018 Freedom Community Comprehensive Plan
PRIORITY
FUNDING AREA: Outside
DESIGNATED
GROWTH AREA: Freedom

❖ Action Required:

The plan is before the Planning and Zoning Commission per Chapter 155 of the Code of Public Local Laws and Ordinances of Carroll County for authorization regarding a cluster plan of subdivision.

❖ Existing Conditions:

The subject property is located in the southeastern portion of the County near the Baltimore and Howard County borders, on the south side of Ridge Road and west of Marriottsville Rd Number 2. It consists of two parcels that are under common ownership, amounting to a collective total of 148.86 acres. The majority of the property is zoned Residential-40,000 (R-40) and the remaining 17.26 acres, located at the property's southernmost point, is zoned Conservation.

To the east of the site is also zoned R-40, the region to the south shares the conservation zoning district, and the region to the north and west are zoned Residential-20,000 (R-20). The property to the immediate northwest contains a farm and a produce stand, and the properties to the north, east, south, southwest, and west of the property are developed as single family residential subdivisions.

The subject property is presently used as a crop farm. A vacant dwelling and associated outbuildings are located centrally within the property, with access to Ridge Road to the north via a single-user private driveway. The property has frontage to two public roads to the southwest and southeast, Prothero Road and Lazy Morning Way, which both terminate at the subject property's boundary.

The property is hilly and partially forested. Valleys amongst the hills contain multiple stream channels that form within the property and act as a tributary of Piney Run. The channels lead to a central stream which runs through the center of the site in a general southwestern direction before joining Piney Run. The central portion of the stream is bordered by FEMA floodplain areas. The topography slopes down to the stream beds, and in many areas the grade of the slope is 15% or greater. The areas around the stream are generally wooded or contain shrubs, with significant forest cover and steep slopes in the southwestern portion of the property. The northeastern, northwestern, and southeastern portions of the property are relatively the flattest.

The property is within the Freedom designated Growth Area and is outside of funding areas. The property is within priority water and sewer service areas and any residential development will be served by public water and sewer. Properties to the north and west are presently served by public water and sewer, and properties to the east and south utilize private wells and septic systems.

❖ **Plan Review:**

The developer proposes to subdivide the property into residential lots for single family dwellings. Both the R-40 and the Conservation zoning districts of the property are proposed to contain subdivision lots. The concept plan that has been submitted by the developer currently shows 137 subdivision lots in total, with 4 lots being within the Conservation zoned area and the remainder within the R-40 district.

Primary access is proposed to be provided by two entrances along Ridge Road, and the existing temporary terminuses of Prothero Road and Lazy Morning Way are proposed to be extended into the subdivision.

The subdivision is proposed to be designed as a cluster subdivision, which allows the lots to be smaller than the minimum lot size and allocates the difference as development-restricted open space parcels. Open space parcels can be designated as active recreational space or otherwise are in place to protect the natural resources within the community from development.

Clustering is permitted in both the Residential and the Conservation zoning districts, in accordance with Chapter 155 of the Code of Public Local Laws and Ordinances of Carroll County. The specific edition of the Code that is applicable to this project is determined by the date that the project was officially submitted, June 10, 2022, which results in the relevant code being the edition that was passed on December 16, 2021. While the regulations applicable to each zoning district are similar from within that Code, there are specific requirements applicable for each district:

📖 § 155.095 CLUSTER SUBDIVISIONS.

(A) **Conditions requisite to approval in R and H Districts.** In the H, R-40,000, R-20,000, and R-10,000 Districts, the Planning and Zoning Commission may authorize the division of tracts or parcels of land into lots for R District uses, and lots and yards may be smaller than otherwise required in the R Districts in Chapter 158, provided that the following conditions are met:

(1) The total number of lots and dwelling units may not exceed the number that would be permitted for the zoning district based on the gross area of the parcel or tract being subdivided;

(2) Individual lots shall be a minimum of 20,000 square feet in the R-40,000 District, 10,000 square feet in the R-20,000 District, and 7,500 square feet in the R-10,000 District;

(3) The land derived from reduction of lot size shall be provided and maintained as open space or recreational areas for joint use by the residents of the cluster subdivision or offered to the county as agreed to by the Planning and Zoning Commission, except where such additional reduction of lot size occurs as a result of utilizing TDRs pursuant to § 155.090(D) and division (A)(5) of this section.

(4) Cluster subdivisions must be served by public water and sewerage facilities;

(5) Common open space shall not be less than 15% of the gross acreage of any tract submitted for cluster subdivision:

(a) A maximum of 50% of the required open space may be steep slopes, streams, ponds, watercourses, and floodplains;

(b) A minimum of 10% of the required open space or one and one-half acres, whichever is greater, shall be suitable for active recreational use and may not exceed a grade of 3%; and

(c) For tracts or parcels less than ten acres, the Planning and Zoning Commission may approve deviations from these percentage requirements.

(6) A cluster subdivision receiving TDRs may increase density at two TDRs for every ten lots created in accordance with division (A) above; and

(7) In order to be eligible for clustering, all lot yield from the entire property shall be included on the preliminary subdivision plan.

(B) **Conditions requisite to approval in C District.** In the C District, the Planning Commission may approve a residential cluster subdivision, which includes the division of land into lots which may be smaller than otherwise required in this district, subject to the following conditions:

(1) Individual lots shall be a minimum of one acre in size, a minimum of 150 feet in width. The front yard shall be 40 feet, the side yard shall be 20 feet, and the rear yard shall be 50 feet;

(2) The total number of lots and dwelling units shall not exceed the number that would be permitted if the area would be developed in conformance with its topographic characteristics and normal minimum lot size requirements. The Planning

Commission may require percolation tests to determine the total number of lots that may be clustered;

(3) All individual lots shall be designed and located to minimize potential environmental degradation of the natural resources;

(4) The land derived from reduction of lot sizes shall be provided and maintained as open space or recreational areas;

(5) The open space shall be offered to the county and conveyed in fee simple if accepted by the county. If the county rejects the offer, the open space may be owned in common by the residents, conveyed to the Carroll County Land Trust or a similar organization, or recombined with one buildable lot in the subdivision and owned privately;

(6) Access arrangements to open space shall be carefully designed and located to enable perpetual maintenance and accessibility;

(7) Lots may not be further subdivided, and the record plat shall so indicate;

(8) In addition to easements required by any chapter of the County Code, all land lying within 300 feet as measured horizontally of the 100-year planned reservoir flood pool shall be designated as open space. All land lying within 100 feet of the thread (or centerline) of any tributary of a public water supply, whether now used or planned to be used for such a purpose as reflected by the Master Plan, shall be designated as open space or for use as agricultural land;

(9) Any private open space created shall be subject to a conservation easement, which shall be in a legal form satisfactory to the County Attorney and provide for such restrictions in accordance with any chapter of the County Code;

(10) In order to be eligible for clustering, all lot yield from the entire property shall be included on the preliminary subdivision plan. No piecemeal clustering plans may be approved by the Planning Commission; and

(11) No application for further subdivision of a property or any lots created through the minor subdivision process may be filed or approved prior to five years from the date of final plan approval of a minor subdivision of the property.

(Ord. 2019-07, passed 12-12-2019; Ord. 2022-04, passed 12-16-2021)

On June 10, 2022, a concept cluster subdivision plan was submitted to the Bureau of Development Review and distributed to the technical review agencies for review. The development site spans two zoning districts which have different regulations for cluster subdivisions, and the entire development is proposed to be developed as a cohesive cluster subdivision. The requirements applicable within each district are calculated within that district and can be met within the subdivision as a whole.

The plan depicts 137 lots that vary in size depending on the zoning district they are within. In the R-40 area of the property, where the lots would be required to be 40,000 square feet each unless clustered, the lots range in size between 20,110 square feet to 30,458 square feet. Per section 155.095(A)(2), the minimum lot size within a R-40 cluster subdivision is 20,000 square feet. Within the Conservation district area, where the typical minimum lot size is 3 acres, the 4 proposed lots range in size from 1 acre (43,591 square feet) to 1.3 acres (58,496 square feet), which fulfills the minimum size requirement of 1-acre applicable to clustered Conservation-zoned subdivision lots per 155.095(B)(1). The minimum lot width and setbacks from this same regulation are also met for the lots in the Conservation zone.

As required by the cluster provisions, area within the subdivision must be provided as “open space” parcels. The total area of open space must equal, at minimum, the cumulative difference between the acreage of the proposed lots versus the acreage that the same number of lots would contain if developed according to their districts minimum lot sizes. The following is a breakdown of these totals:

Total area of 133 regular R-40 lots: 122.13 acres

Total area of 4 regular Conservation lots: 12 acres

Total proposed area of 133 clustered R-40 lots: 70.9 acres

Total proposed area of 4 clustered Conservation lots: 4.5 acres

Total acreage of open space required by difference in size for R-40 lots: 51.23 acres

Total acreage of open space required by difference in size for Conservation lots: 7.5 acres

Total collective open space required: 58.8 acres

Total collective open space provided: 59.7 acres

The plan shows a total of 59.7 acres of open space, allocated throughout the development. This total exceeds the minimum of 51.23 acres of open space required for the subdivision. This acreage is arranged throughout the site in multiple areas and within 10 separate parcels.

Section 155.095(A)(4) specifies that the “open space shall not be less than 15% of the gross acreage” of the property. 15% of the site’s total 148.86 acres would be 22.33 acres, which is exceeded by the provided open space acreage of 59.7 acres.

There are many streams, slopes and trees on the property, and a significant portion of the open space is arranged to contain these natural resources. The R-40 district’s cluster regulations specify that certain natural features such as steep slopes and floodplain can only constitute a maximum total of 50% of the R-40 districts required open space. The current plan specifies that 24.8 acres of that open space would be classified within that designation. 24.8 acres is 48.4% of the 51.23 acres of open space as required by the R-40 district, which satisfies the requirement that it be less than 50%.

Section 155.095(A)(4)(b) requires that at least 10% of R-40 district’s minimum acreage requirement for open space be suitable for and designated as active/recreational open space. In order to qualify as active open space, an area would need to have a grade of 3% or less. Residents shall be able to access the active

open space from public right of ways such as public roads or access paths. Based on the acreage requirements, the minimum required active open space is 5.1 acres. The plan specifies that 6 acres of active open space are provided, spanning 5 separate parcels throughout the subdivision. Three of these areas are within the northeastern portion of the subdivision, and the remaining two areas are in the southeast portion of the property. All active open space parcels are adjacent to public right of ways, and a pedestrian path is proposed to provide additional access to the largest active open space parcel within the southern area of the subdivision. This path would connect the cul-de-sac at the end of Road D (a public road) to the open space parcel that otherwise would only be reachable from Lazy Morning Way.

The layout of the open space parcels creates buffers around the existing natural resources on the property. The proposed cluster plan allows for areas of existing forest to be left intact within the open space parcels, and the calculated protective buffers around the streams and floodplain areas are also encompassed in the open space. While there are multiple areas of steep slopes that will be graded to accommodate houses and roads, much of this sensitive steeper topography will be contained within the open space parcels. Many of these environmental features will be protected by specific conservation and protection easements such as Water Resource Management Easements and Forest Conservation Easements in addition to being located within the open space parcels.

The Code allows for the open space to either be owned and maintained in common by the residents of the community, or it can be conveyed in fee simple to the County. The County will have first right of refusal for the open space. These details will be confirmed as the development continues through the review process.

The plan is in review as a concept plan and will be brought before the Planning and Coning Commission for concept review in a future meeting. The request before the Commission today is for authorization to cluster the subdivision lots, which provides direction to the developer and engineer as they proceed through the concept phase.