

MEETING SUMMARY
Carroll County Planning and Zoning Commission

June 21, 2016

Location: Carroll County Office Building

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

Present with the Commission were the following persons: Philip R. Hager, Mary Lane, Pamela Hare, Clare Williams, Darby Metcalf, Department of Planning; Lynda Eisenberg, Scott Graf, Nokomis Ford, Bureau of Comprehensive Planning. Clay Black, Laura Matyas, John Breeding, and Martin Percy were in attendance representing Development Review and Gail Kessler, County Attorney's Office.

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 noted that Mr. Canale would not be present at this meeting. Secretary Hager stated there was one change to the agenda and recommended approval of the amended agenda.

REVIEW AND APPROVAL OF AGENDA

The agenda was approved with the change on motion of Mr. Yeo, seconded by Mr. Soisson, and carried.

PUBLIC COMMENTS

Wendy Buerger, resident of Eldersburg, stated she had several of questions to submit to the Planning Commission in the hopes that they would be answered during the Freedom Community Comprehensive Plan Discussion. Ms. Buerger gave copies of the questions to the Planning Commission.

Ian Shaw, Mayor of Sykesville, stated that he wanted to comment on the proposed Employment Campus. Mayor Shaw stated that they were working on a huge development project in Warfield and that the absorption rates do not support the growth. Mayor Shaw asked the Planning Commission to reconsider the proposed Employment Campus in order to allow Warfield to develop over the years.

Robert Miller, Sykesville resident, stated that he is in agreement with the Mayor of Sykesville and had spoken of that at the June 1 Planning Commission meeting. Mr. Miller stated that he had concerns regarding the Gibson and Schneider properties and their proposed High Density designation.

Mr. Miller referenced the Freedom Community Bicycle and Pedestrian Master Plan that had been certified [Adopted] in February 2014 plan. He stated that in the Plan Foundations section it says “to protect the county from urbanist development and patterns” and “preservation of low-density, traditional towns.” Mr. Miller implored the Planning Commission to keep this in mind as the area was already becoming congested.

April Prevost, a Streaker Road resident, stated that she was here to talk to the Planning Commission about the proposed zoning change for the area. She noted that she was also in agreement with Mayor Shaw and Mr. Miller. Ms. Prevost indicated that there were many people in the area that did not agree with or support the employment campus.

Chairman Helminiak clarified that Ms. Prevost was one of the residents whose property would be affected by the land use change.

Ms. Prevost stated that there were multiple reasons she did not support the Employment Campus and would continue to fight it.

Mr. Hoff stated that she could briefly state her reasons if she wanted.

Ms. Prevost replied that the infrastructure is not there and that most people living in that area enjoyed the current mix of residential and agricultural and would prefer it stay that way.

Ms. Prevost stated that she felt that the Planning Commission should have done a better job at reaching out to the community to get their thoughts on the subject. Ms. Prevost indicated that she hoped that the lack of support would convince the Planning Commission to take the proposal off the table and thanked the Planning Commission.

John Culleton, resident of the area, stated that he had lived and worked in the area since 1971 and has never held a suitable full time job in Carroll County. Mr. Culleton stated there was not enough industry in the County. Mr. Culleton indicated that he was in favor of bringing more Industrial to the County as opposed to Commercial. Mr. Culleton stated that with Industrial, as opposed to Commercial, there was far less noise, traffic, light, and shop lifters. Mr. Culleton expressed that he was in favor of the Employment Campus but did not believe public transportation in Carroll County to be effective.

Ron Schueler, resident on Old Washington Road, asked the Commission what constituted an employment campus, what the reasoning behind the zoning change was, and has the impact on the community been studied?

The Mayor of Sykesville returned to the microphone to state that he felt it was important to send a consistent message that aligned with the transportation priorities.

REVIEW AND APPROVAL OF MINUTES

The minutes of the April 6, 2016 and May 17, 2016 meeting were approved on motion of Mr. Yeo, seconded by Mr. Soisson, and carried.

Secretary Hager asked that all cell phones be silenced and informed the Planning Commission that Mr. Zaleski was going to be unable to attend the meeting.

COMMISSION MEMBER REPORTS

- A. Commission Chair, Matt Helminiak, had nothing to report
- B. Ex-Officio Member, Commissioner Weaver stated that June 30 would be the start of the Combined Educational Committee and a Long-range Planning Commission has started. Commissioner Weaver stated the County was taking applications of those interested in becoming a member. Commissioner Weaver noted that the form of government (Carroll County) is going to be reviewed in the near future.

ADMINISTRATIVE REPORT (PHILIP R. HAGER)

Secretary Hager stated that, in the interest of having sufficient time, he would discuss administrative items at the July 29 work session. Secretary Hager informed the Commission that Clay Black would report on the extensions.

Clay Black, Bureau of Development Review, informed the Commission that there had been three extensions granted since the last Business Meeting. He stated that two of the three were for the 5th extension of subdivisions, Deer Trail Estates and Fern Hill and one was for a Site Plan for the Crossroads Automotive shop. Mr. Black noted that there would likely be three or four at the meeting in July.

Secretary Hager reported to the Planning Commission that there had been one BZA case, Case # 5949, for Four Thistles – trading as Birchview Vineyard – for a Conditional Use and a Variance in the Agricultural District in Manchester and that the case has been postponed.

FREEDOM COMPREHENSIVE PLAN UPDATE

Future Land Use Map Discussion

Lynda Eisenberg, Bureau Chief, stated that there would be discussion and hopefully a second Concurrence of the Land Use Map. Ms. Eisenberg stated she would present different scenarios and suggestions for action that the Planning Commission could consider.

Ms. Eisenberg stated that she believed everyone to be in agreement with what had been done on the June 1 map in that it was updated from the 2001 Designated Land Use to the current Future Land Use, recognizing and updating residential and industrial properties that are acting in a commercial manner whether through BZA cases or having been rezoned, updating land use changes according to owner requests for change, and designating some parcels within the Freedom area for higher density residential and commercial based on location and infrastructure.

Ms. Eisenberg reviewed a breakdown of percentages of what Land Use designations had been proposed since the June 1 meeting indicating that the majority of the remaining land being some matter of resource land.

Ms. Eisenberg presented Scenarios 1, 2, and 3 stating that the differences between them were very small. Ms. Eisenberg stated that these were just suggestions and that it would be appropriate to discuss each property individually.

Chairman Helminiak stated, for purposes of clarity, that this is just a draft proposal that will be posted to the website once approved by the Planning Commission.

Secretary Hager stated it was important to get clear direction from the Planning Commission at this juncture due to the work that must be done prior to the July 13 outreach meeting. He informed the Planning Commission that from the map that is developed today a BLI analysis, an infrastructure analysis, and other analyses would be done in order to give staff and the Planning Commission the cost associated with these decisions. He stated that it is a long process and that

we are a long way from having an Accepted plan, after Acceptance, the Plan moves to the Approved phase, after Approval, the process moves to consideration for Adoption. So it is important to have direction from the Planning Commission today.

Alec Yeo, Planning Commission member stated that he has been a Planning Commission member the longest and through this process the staff and Planning Commission has worked aggressively to meet goals in the original Master Plan. He indicated that he felt as though, in the past six months, the Planning Commission has taken a turn and as they focus on the Freedom Plan there is a sense of going from guiding and directing growth to encouraging or attracting growth.

Mr. Yeo felt the process of including the municipalities had been glossed over and should not have been. They are part of the county in what people experience and in a financial aspect.

Mr. Yeo indicated that he thought the Planning Commission made a mistake in not considering the Warfield Complex and the Springfield property and that nothing has been done with them because the state hasn't told us what we can do. Mr. Yeo pointed out that instead of waiting for the state to tell us what to do with it, it would make more sense to go to the state and tell them what we would like to do.

Mr. Yeo stated that he would fight aggressively against some of the proposed Land Use Designations that he had previously thought were good ideas. Mr. Yeo stated that the Planning Commission should take a step back and consider if this is something they really want, where they want it, and why.

Mr. Yeo pointed out that on page 137 of the Master Plan the different levels of growth are discussed and, consequently, lower density is more favored.

Ms. Eisenberg addressed Mr. Yeo's comment regarding the Master Plan and stated that the Master Plan did not include water and sewer areas. She noted that the high density residential was not included in the buildable land inventory because it cannot be put in areas of no water or sewer.

Ms. Eisenberg stated that we did not gloss over the town and state of Maryland complex, that there have been joint meetings with the towns, the Planning Commission, and they are being kept informed of all that is occurring.

Ms. Eisenberg told Mr. Yeo that staff has given consideration to using the Springfield Hospital Center and had meetings with the General Manager Springfield Hospital Center and discovered that a large part of that is utilized for various operations and what is not being utilized is not under County control. Ms. Eisenberg stated that the Springfield Hospital Center has been surplussing some of the land and that the County could see if they want to surplus any more of that.

Mr. Yeo stated that even so these properties should be included in our Commercial and Industrial percentage; each residential property added reduces the amount of Commercial/Industrial.

Chairman Helminiak stated there has never really been a way to capture the inventory within the municipalities, in the Master Plan, nor was it ever the County's process to do so.

Mr. Hoff stated that it may be more beneficial to look at the properties individually and look specifically at the pros and cons related to them.

The meeting returned to the Agenda: Ms. Eisenberg began with the Obrecht property and worked East.

Commissioner Weaver stated that the Warfield Complex was very near settlement. Commissioner Weaver added that he had met with Secretary Brinkley yesterday and he feels that there is a very bright future coming for Carroll County but that it is going to be a little slow coming due to debt. Commissioner Weaver indicated that he was in agreement with Mr. Yeo in that we should start looking at the properties in a slower fashion.

The Obrecht Road Employment Campus was discussed with Mr. Yeo stating that if one is in favor of it he would like to know why.

Mr. Soisson stated the original intent was to find as much Industrial and Commercial land in the area as possible but that we may be moving too far ahead. Mr. Soisson added that he was in favor of eliminating the Employment Campus project with the understanding, for future Planning Commissions, that there still a need to develop more Industrial based land.

Mr. Hoff stated that this collection of properties could have a really good use in twenty to thirty years from now but that the decision should be made in the future. He stated that he was in favor of removing the Employment Campus from the plan and moving the land designation to Agricultural.

Mr. Wothers expressed that he was concerned that if the Employment campus were taken off now it would appear that the Planning Commission feels it deserves no further consideration. He also stated that he was concerned with preserving the opportunity for future generations.

Mr. Hoff stated that the possibility of the land remaining undeveloped was very likely as any forthcoming development would likely be more than 20 years off for many reasons.

On motion of Mr. Hoff, seconded by Mr. Yeo, and carried, the Planning Commission voted to change the initially assigned Land Use Designation to Agricultural as it was on the 2001 Master Plan.

Brooks Leahy introduced himself as counsel for the property owner, Mr. Schneider, and reviewed the property specifics to the staff and Planning Commission. Mr. Leahy stated that the Schneider family was asking the Planning Commission to consider designating the owner was requesting the medium density portion of the property to the higher density designation and to upgrade the R40 area to medium density.

Mr. Hoff stated that, considering the property's proximity to water and sewer, low density should be off the table. Mr. Hoff stated he likes the mixed density aspect.

On motion of Mr. Wothers, seconded by Ms. Cheatwood, and carried, the Planning Commission voted to support the Land Owner's request for High Density Residential on the northern part of the property and Medium Density Residential on the southern part of the property.

Chairman Helminiak stated the schools' designations would be up for consideration next.

Mr. Yeo stated that when this process started one of the concerns was the possibility of a school no longer being a school. Mr. Yeo asked if there was a zoning that could be assigned to a school that, in the case of it closing, would require it to go through a certain process in order to be rezoned.

Mr. Hoff asked Secretary Hager how other counties managed this.

Secretary Hager Land Use of a property upon which a public school is situated would have a Land Use Designation for a school for as long as the school is being utilized as such, then the County would have to devise a process for post-school use re-designation if the process suggested by Mr. Yeo was followed.

Secretary Hager reminded the Planning Commission that this had been discussed during the Finksburg Corridor Plan and that the decision made, unanimously, by this board was to follow the same process that same process in the Master Plan and throughout the rest of the County. This process assigns a land use designation to a site with an eye toward the projected future land use and with appropriate consideration of the surrounding neighborhood. It was noted that this practice is the practice most commonly utilized by most local jurisdictions. Additionally, this process avoids “spot zoning” which will occur if the County designates school sites as “Conservation” independent and without regard to adjoining uses.

Mr. Hoff stated that he favored this scenario.

Ms. Cheatwood expressed her concerns regarding the community’s inability to utilize the intramural facilities should a school be closed.

Mr. Hoff stated that the Planning Commission should still make the designations based upon the surrounding land use and not refrain from doing so just because it means there will be no ball fields.

It was the consensus of the Planning Commission to leave the Century and Linton Springs schools as ‘Industrial’, as previously designated.

It was the consensus of the Planning Commission to leave Eldersburg Elementary school Residential.

It was the consensus of the Planning Commission to leave Liberty High School Commercial.

Ms. Eisenberg stated that the original land owner request for the Gibson property was Medium Density but they have since requested to have a High Density designation.

Clark Shaffer, counsel for Bill Gibson, the land owner, stated the reason the owner has requested a High Density Land Use designation was due to it being the second to the last link to Monroe Avenue. Mr. Shaffer stated that generally, when a Master Plan shows a major street going through a property, the land owner would be asked to build it when developing their property. Mr. Shaffer indicated that the property owner has recently discussed development and has learned that to make the development worthwhile, considering he will need to build the road, he is asking for a higher density designation.

Ms. Eisenberg indicated on the map where Monroe Avenue might connect to Route 32.

Mr. Gibson stated to the Planning Commission that in order for Monroe Avenue to be constructed the density would need to be higher.

Ms. Eisenberg stated that the property does have water but not sewer, the sewer would need to be extended and in the current Plan there is not the capacity for that.

On motion of Mr. Wothers, seconded by Ms. Cheatwood, and carried, the Planning Commission voted to support the Land Owners request for High Density Residential.

Ms. Eisenberg indicated to the Planning Commission that the next discussion was to be in regards to the Medium Residential portion of the Beaty property.

Chairman Helminiak reviewed the land owner’s designation requests and asked if there was anyone from that property that would like to speak.

Susan Beaty Rash came to the microphone and stated that she was there with her brother, Todd Beaty, representing the Beaty property. Ms. Beaty stated that they had wanted a Commercial Land Use designation but in response to the community’s concerns they would consider a High Density Residential with a PUD overlay.

Mr. Soisson indicated that he was not in favor of changing the designation to all residential and that he thought some commercial or industrial was needed.

Chairman Helminiak proposed that the Commission discuss specific portions of the property individually. The bottom portion of the property was proposed as Medium Density Residential and the land owner was requesting High Density.

It was the consensus of the Planning Commission to leave the southern part of the Beaty property Medium Density Residential.

Mr. Soisson stated that he would like to see the northern part of the property remain Industrial as he feels that more Industrial space is needed.

Mr. Yeo stated that he too would like to see the property remain Industrial as that designation would have the least impact on the area.

Marty Hackett, CLSI, stated that he had met with the family and they decided the best use would be residential and/or commercial and that if the property is zoned Commercial then residential could be put there, not so with Industrial.

Mr. Yeo asked how the property is accessed.

Mr. Hackett said there was access off of Bennett Road and believed that the Department of Public Works had done a layout.

Mr. Hackett stated they did not know where the subdivision would be accessed from as that would require approval from the Department of Public Works but he did know that there was an alignment of a road that tied in from the corner of Londontown and Georgetown over to Bennett Road and as it is a road that is on the Master Plan it will still need to be constructed. Mr. Hackett noted that normally the Master Planned streets are built by the developer.

Chairman Helminiak reiterated that currently the designation on the current draft Land Use Map is Commercial.

Mr. Yeo stated that the County has not presented the Planning Commission with many opportunities to know more about a split-use and asked for more information.

Secretary Hager stated that there were two options in a case such as this and explained the options to the Planning Commission.

RECESS – Following Secretary Hager’s explanation, the Commission recessed for 10 minutes.

Secretary Hager stated that, in discussions with the land owner, the Planning Commission has asked them to make some changes to the south side of the property and the land owners are agreeable to these. Secretary Hager noted that the suggested changes are supported by staff analysis. He stated that the interior portion of the property, the owner would still like to have commercial, however, he would be agreeable to an approximately 200 foot residential strip along Bennett Road for Medium Density Residential.

On motion of Mr. Hoff, seconded by Ms. Cheatwood, and carried, the Planning Commission voted to add a Residential Medium buffer, roughly 200 foot in depth, across the north section of the property.

Secretary Hager stated that Mr. Cimino, a Freedom Area land owner, would like to address the Planning Commission.

Tony Cimino, Liberty Road resident, stated that he was in favor of his property being designated Commercial and would like to see the map get approved.

On motion of Mr. Soisson, seconded by Mr. Wothers, and carried, the Planning Commission Concurred on the Draft Future Land Use Map.

Environmental Resource

Chairman Helminiak stated that everyone had been mailed a copy of Element 9 Environmental Resources revisions.

Mary Lane indicated that these were the revisions that were suggested at the checkpoint two weeks ago and asked the Planning Commission if they had any further comments or suggestions. She noted that if they did not then the Element could be voted on for Concurrence at the work session scheduled for June 29.

Format for July 13 Community Outreach

Ms. Eisenberg reviewed the proposed layout for the next community outreach.

- Liberty High School
- 2 break out rooms reserved
- Brief presentation by Planning staff
- Pre-submitted question and answer session
- Public comment session

Ms. Eisenberg asked the Planning Commission if they had any suggestions

Commissioner Weaver stated he would like the public comments to be interactive.

It was noted that having pre-submitted questions gives the opportunity to answer the maximum amount of questions.

A Map gallery is most effective for people to get their individual question answered and it also gives you the opportunity to answer more than one question.

Mr. Wothers suggested an agenda to help keep the meeting flowing.

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

FINAL SITE PLAN REVIEW

A. S-11-010 – Adams Paradise, Senior Housing

SUBJECT: S-11-010, Adams Paradise, Senior Housing

LOCATION: South side of Oklahoma Road, west of Westchester Hills Court, ED #5

OWNER: Minnie Aleta Adams & Arla A. Ely, Trustee et al., 5845 Oklahoma Road, Sykesville, MD 21784

DEVELOPER: Marc Silverman, 1431 Longhill Drive, Rockville, MD 20854

ENGINEER: CLSI, 439 East Main Street, Westminster, MD 21157-5539

ZONING: R-20,000 Conservation

BZA CASE: 5815, February 24, 2015

ACREAGE: 15.6380 acres (R-20,000 – 13.1422 acres, Conservation – 2.4958 acres)

WATERSHED: Liberty Reservoir

NO. OF UNITS: 75 Assisted Living / Alzheimer's, 85 Independent Living

MASTER PLAN: 2001 Freedom Community Comprehensive Plan – Medium Density Residential, Private Conservation

PRIORITY

FUNDING AREA: Freedom

DESIGNATED

GROWTH AREA: Freedom

PUBLIC FACILITIES IMPACTED

ROADS: Oklahoma Road

FIRE & EMS: Sykesville

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

WATER: Freedom

SEWER: Freedom

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.

Site Plan History:

On February 24, 2012 the "Ely Property", a two-building, 235-unit, age restricted residential site plan was submitted to Carroll County Bureau of Development Review and subsequently

distributed to technical review agencies (see plan attached).

The concept site plan was subject to citizen involvement at the March 27, 2012 meeting of the Technical Review Committee. Forty-one citizens signed in at the meeting, seventeen spoke with concerns of density, consistency with the community, proximity to residences, noise, lighting, access, siting, traffic, tree clearing, stormwater management, trash handling, stream impacts, and emergency services impacts. Prior to the concept plan being presented to the Planning and Zoning Commission, sixty-two letters and emails in opposition to the project were received by staff. They were attached to the staff report.

The proposed use, assisted living facilities/retirement homes, is a conditional use in the R-20,000 zoning district. On April 17, 2012, a concept site development plan, "Ely Property" was presented to the Carroll County Planning and Zoning Commission for determinations in accordance with the Code of Public Local Laws and Ordinances of Carroll County:

 **§ 158.073 R-20,000 RESIDENCE DISTRICT.**

(D) Conditional uses requiring BZA authorization. Conditional uses requiring BZA authorization shall be as follows:

(1) Nursing homes, retirement homes, continuing care retirement communities and assisted-living facilities, hospitals (Class A), medical and dental clinics, subject to prior concept site development plan and traffic study review and determination of density, exterior design, and site layout by the Planning Commission;

As a result of that meeting, the developer took into consideration the comments and concerns of both the Planning and Zoning Commission and citizens and revised the concept site plan. On June 1, 2012, "Adams Paradise", was submitted and distributed to reviewing agencies.

This revised concept plan proposed the construction of a single 190-unit building; 90 units for assisted living/Alzheimer's and 100 units for age-restricted, independent living. Based on the number of units and the requirements of the Code, a total of 180 parking spaces were required. The plan showed 120 parking spaces with an alternative parking plan on sheet 4 indicating the area where an additional 60 parking spaces could be located. Light pole heights were lowered from 20 and 18 feet to 16 feet.

Building location on the property was modified from being on the 40-foot eastern side setback line (i.e. 40 feet from the property line) to a location 129 feet from that property line and from 110 feet from the northernmost property line to 165 feet from that property line. Both of those property lines are shared with the Westchester Hills subdivision.

The revisions eliminated the fourth story of the building, showing a 3-story building with a front entrance perpendicular to Oklahoma Road. The plan added a gazebo, pathways and park benches. As requested by the Planning and Zoning Commission, the Design and Architectural Review Committee reviewed the revised plan concept plan building elevations and had no objections to the appearance.

As Development Review staff previously requested, the revised plan proposed a bypass lane, as well as acceleration and deceleration lanes on Oklahoma Road. A Traffic Impact Analysis was submitted with the initial concept plan.

The revised concept site development plan for the subject property was reviewed by the Planning and Zoning Commission on July 17, 2012 for determinations of density, exterior design, and site layout in accordance with the Code of Public Local Laws and Ordinances of Carroll County (meeting minutes and plan attached). Staff notified citizens through e-mail and mail service of

the project and date of this meeting. Approximately 70 letters / emails were received and distributed to the Commission.

The Commission denied the plan in regards to density, exterior design, and site layout. Stated in the minutes, "It was the consensus of the Commission that a building of this magnitude is not compatible with the residential character of the neighborhood."

On September 27 and 28, November 27, December 3, 4, and 10, 2012, the Carroll County Board of Zoning Appeals heard Cases 5668 and 5669. In the first case, the Board determined that the Commission was in error by their denial. The Board derived a density of 178 units and approved the concept site layout with consideration to be given at the final review to parking, loading, and dumpster and delivery area locations. In the second case, the Board granted the request for a conditional use for retirement homes, assisted living facilities, and a variance from required parking of 180 spaces to 120 spaces.

On November 14, 2013 the Circuit Court for Carroll County, Maryland heard a petition by the Planning and Zoning Commission for review of the Board of Zoning Appeals decision. On March 5, 2014, the Court affirmed the Board's decision in both cases.

On June 17, 2015 the Court of Special Appeals of Maryland heard an appeal by the Planning and Zoning Commission of the decision. The Court affirmed the Carroll County Board of Zoning Appeals finding of Adams Paradise being consistent with the Master Plan and granting of a conditional use for a retirement home, assisted living facility, in the R-20,000 zoning district. The Court vacated solely as to the BZA's grant of the parking variance, finding that the BZA applied the wrong standard in granting the request, and remanded for further consideration of that issue under the proper standard.

On January 11, 2016, a final site development plan for Adams Paradise Senior Housing was submitted to the Carroll County Bureau of Development Review and subsequently distributed to technical review agencies. The final plan depicted the building size, location, materials and colors, and configuration, alternative parking plan, and access as shown on the concept plan and presented to the Planning and Zoning Commission on July 17, 2012.

The regularly scheduled meeting of the Planning and Zoning Commission on February 16, 2016 was canceled in accordance with administrative policy regarding weather. On March 15, 2016, a special report was presented to the Planning and Zoning Commission to provide a briefing on the review status of the site development plan. No action was requested. (meeting minutes attached.) One hundred and two courtesy notification postcards were mailed to adjoiners and previously engaged citizens. Approximately twelve people contacted the Bureau of Development Review in advance of the meeting inquiring as to the status of the project, vocalizing continued opposition, and requesting plans. Seven citizens signed in at the meeting and none spoke.

Existing Conditions:

The property for the Adams Paradise development is 15.6380 acres split-zoned in the R-20,000 (13.1422 acres) and Conservation (2.4958 acres) zoning districts with frontage and existing access on Oklahoma Road, a County roadway. The site is largely wooded, though the area of the site closest to Oklahoma Road has been cleared and is lawn. A forest, stream, and associated floodplain are located in the southernmost area of the site. There are several structures on the property which are to be razed. An existing public utility structure and its access drive will remain. The property is in the Existing/Final Planning service area for water and sewer.

The property is adjoined on the east by the Westchester Hills community, which is zoned

R-20,000 and comprised of single-family homes. The properties across Oklahoma Road are also zoned R-20,000 and improved with single-family homes. The adjoining property to the west is zoned R-20,000 and Conservation and is improved with a single-family home. The property to the southeast is zoned Conservation and is unimproved. The property to the south is zoned R-20,000 and Conservation and is currently unimproved; the Rustic Rising 35-lot cluster subdivision is proposed for this site and on December 16, 2014 received final plan approval from the Planning and Zoning Commission.

Site Plan Review:

The developer proposes to construct one 160-unit senior living building to serve the community; 75 units for assisted living / Alzheimer's and 85 units for age-restricted, independent living. Assisted living facilities are a conditional use in the R-20,000 zoning district and the developer was granted the conditional use by the Board of Zoning Appeals on January 7, 2013. The final plan depicts the building size, location, materials and colors, and configuration, alternative parking plan, and access as shown on the concept plan and presented to the Planning and Zoning Commission on July 17, 2012.

The Zoning Ordinance specifies that for nursing homes and retirement homes with multi-family units the minimum lot area is 45,000 square feet. The property is 681,191 square feet. Minimum property line setbacks are 50 feet for the front and rear yards and 40 feet for the side yards. A 3-story building with 178,000 square feet of space, the peak height is dimensioned at 40 feet from grade on the building elevations on sheet 36.

Section 158.30(E) states that in Residential zoning districts, the height of a building may be extended to 3 stories, but not over 40 feet, if each side yard is increased in width ½ foot for each additional one foot of height above the normal maximum limit. The height requirement standard in the R-20,000 district is 35 feet, which necessitates an increased 2.5 foot side setback from 40 to 42.5 feet. The final site plan shows the modified setback lines.

§ 158.073 R-20,000 RESIDENCE DISTRICT.

(F) **Height regulations.** No principal structure shall exceed two and one-half stories or 35 feet in height, and no accessory structure shall exceed two stories or 20 feet in height, except as provided in § [158.130](#)(E).

§ 158.130 EXCEPTIONS AND MODIFICATIONS.

(E) Height.

(2) In any "A", "R", or "B-NR" District, the height of a building may be extended to three stories, but not over 40 feet, if each side yard is increased in width one-half foot for each additional one foot of height above the normal maximum limit.

The proposed building is located 129 feet from the closest point on the easternmost property line, 165 feet from the closest point on the northeast property line, and 95 feet from the closest point to the western property line. Westchester Hills subdivision is located on the east and northeast property lines.

The site will have ingress and egress at an existing access point on Oklahoma Road. The private driveway will be removed and a 24-foot wide commercial drive constructed to meet County standards. A Traffic Impact Analysis was submitted with the initial concept plan in 2012. Acceleration, deceleration, and bypass lanes were required and are provided on Oklahoma Road. At the County's request, the developer's engineer designed and submitted concept plans that

could be utilized for future improvements to the intersection of Mineral Hill Road and Oklahoma Road.

While the developer had previously pursued a parking variance, the current parking requirement of 157 spaces for 160 units plus 20 employees is now being met. 160 total spaces are provided. No variance is necessary. The main parking lot with 119 spaces is situated between the building and the east and northeast property line and set back 40 and 50 feet respectively. Approximately 20 feet below the grade at the property line, the parking lot necessitates a retaining wall. Landscape screening is provided at the wall and property line. The secondary parking lot containing 41 spaces sits near Oklahoma Road. A second retaining wall fronts the lot and access drive with landscape screening provided.

The building measures 206.29 feet parallel to Oklahoma Road and 442.41 feet along the perpendicular length. The front entrance faces east towards the main parking lot. No covered vehicular drop off is proposed and the main entrance will serve as the single loading and delivery point for the facility.

As previously recommended by staff, the dumpster has been relocated further from adjoining properties. A single dumpster is provided at the southwest corner of the main parking lot, as shown on sheet 2. Screening is proposed in compliance with the Landscaping Ordinance.

Sidewalk is provided around the perimeter of the building with access to both parking lots and connection to a walking loop around a gazebo. Benches proposed along the sidewalk provide resting places along the 1,992 linear feet of pathway. The Bureau of Permits and Inspections has stated that the plan will need to comply with the applicable Americans with Disabilities Act Accessibility Guidelines.

Both decorative and utilitarian light poles comprise the site lighting. Pole heights are uniform at 16 feet, lowered from 18 and 20 feet on the initial concept plan. The sign detail on sheet 19 shows an el-shaped sign, 5'-6" in height and 9'-7" per side, with beige brick column supports. The unilluminated sign contains red and blue lettering on a white background.

The building elevations are included on sheet 36 of the plan set. Residential exterior features are incorporated; gabled roofs, brick veneer and siding, front porch, chimneys. Materials include brown brick veneer, taupe vinyl siding, brown vinyl shingles, cream vinyl siding, white fiber cement trim and panels, white railings and columns, and grey asphalt shingles.

Stormwater Management will be addressed with an infiltration facility, drywells for rooftop disconnection, and curb openings with grass channels. A 0.10-acre Non-Forested Water Resources Protection Easement and a 3.05-acre Forested Water Resource Protection Easement will be granted to the County. Since there is no development proposed in the floodplain, the Floodplain Code is not applicable.

A Forest Conservation variance was applied for seeking to allow the removal / disturbance of 10 specimen trees. Two of those are in good condition, six in fair condition, and two in poor condition. None of the trees are within a forest stand. The variance was granted by the Director with conditions that the engineer met. The result was retention of one of those specimen trees rather than removal and no disturbance to a second tree. Forest Conservation will be met with 7.28 acres of off-site banking and 5.0307 acres of on-site retention to be put into easement. A landscaping screen is provided at Oklahoma Road, the retaining walls, the parking lots, dumpster, and residential adjoining property lines 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 area shown as Parcel A along Oklahoma Road be conveyed to the County Commissioners of Carroll County for right-of-way simultaneously with the Public Works Agreement.
3. That the area shown as Parcel B along Oklahoma Road be conveyed to the County Commissioners of Carroll County for right-of-way simultaneously with the Public Works Agreement.
4. That a Forested Water Resource Protection Easement be granted to the Carroll County Commissioners simultaneously with the Public Works Agreement.
5. That a Non-Forested Water Resource Protection Easement be granted to the Carroll County Commissioners simultaneously with the Public Works Agreement.
6. That a Forest Conservation Easement be granted to the Carroll County Commissioners simultaneously with the Public Works Agreement.
7. That a Stormwater Management Easement and Maintenance Agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneously with the Public Works Agreement.
8. That a Landscape Maintenance Agreement be recorded simultaneously with the Public Works Agreement.
9. 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.” The ATC forms were distributed to the appropriate agencies.

The site plan is for approval of 75 Assisted Living/Alzheimer’s units and 85 Independent Living units. Chapter 156 states: “Provided retirement homes are located within a public water and a public sewer service area, retirement homes do not require adequacy approval as to schools but shall meet all other requirements of this chapter.” In accordance with Chapter 156, a dwelling unit is defined as “A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.” The independent dwelling units contain complete living facilities. The code also defines multi-unit residential developments units that do not contain complete dwelling units as equivalent

dwelling units. The calculation to convert to dwelling units is as follows: (1) For the first eight occupants, one dwelling unit; and (2) For every three occupants after the first eight occupants, one additional dwelling unit. In accordance with the Code, the 75 assisted living units would convert to 24 dwelling units. The total number of dwelling units is 109.

In accordance with § 156.04 BUILDING PERMITS

(E) Building permit limits:

(2) For multi-unit residential site plans, the county shall not issue a building permit or permits for more than 50 residential dwelling units or equivalent dwelling units, as applicable for the project, per fiscal year.

Threshold Review:

Police Services:

The estimated Carroll County population as of April 30, 2016 was 172,552. As of that date, among the police forces in the County (Carroll County Sheriff's Department, Municipal police Departments, and Maryland State Police), there were 244 authorized positions. The ratio of sworn law enforcement positions to Carroll County population as of the end of April was 1.41. 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. The service is rated adequate.

Fire and Emergency Medical Services:

The proposed development is located in the Sykesville 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:

Oklahoma Road is rated adequate.

Water and Sewer Services:

The proposed development is located in the Freedom water and sewer service area. The water and sewer service is rated adequate in accordance with the threshold requirements.

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, fire and emergency services, water and sewer services, and roads are considered adequate; and,
2. that a 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. Yeo asked Ms. Matyas for more information on the Water and Sewer Services and Chairman Helminiak asked if there had been a discussion about private ambulance service.

In response to Mr. Yeo, Ms. Matyas stated that Development Review did not receive a response from Fire and Emergency Services within the 30 days as per the code requirements.

Chairman Helminiak discussed with Ms. Matyas and Mr. Silverman, property developer, the challenges to fire and emergency services that the potential increase of emergency calls may cause. Ms. Matyas stated that there had been no response from Fire and Emergency Services.

John Maguire, Attorney for the developer, introduced himself, the developer, Marc Silverman, and the Engineer, Marty Hackett. Mr. Maguire confirmed with the engineer, Mr. Hackett, that EMS had reviewed the plan. Mr. Maguire indicated that he felt that the lack of response from Fire and Emergency Services may have been in regards to the Concurrency Management threshold issue. Mr. Maguire stated that they had worked through some technical issues since they had last been before the Planning Commission and were seeking ordinary treatment for a Site Plan.

Chairman Helminiak asked if anyone had any questions or if any members of the public would like to comment.

David Bowersox, attorney for James Arnold, a neighboring property owner, stated he was there to encourage the Planning Commission to consider if the plan that was before them was appropriately so. Mr. Bowersox explained the case 5668 was the developers appeal of the denial of Concept Plan approval. Mr. Bowersox stated that this was unique type of Conditional Use in the Carroll County zoning ordinance; that it was something of a hybrid that requires the prior approval of a Planning commission by a Concept Plan Review with regard to a number of citing type factors. This case was initially brought to the attention of the Planning Commission for that purpose before it proceeded to the BZA; it is unique. The Planning Commission denied the developer's request for approval of the concept plan and the developer then appealed to the BZA. This became case 5668 – a de novo appeal – where the BZA would review the case as if they were standing in the shoes of the Planning Commission.

Mr. Bowersox stated that the developer also filed another application to seek the Boards approval for the Conditional Use (because a Conditional Use has to be approved by the BZA) and that became case 5669. Mr. Bowersox informed the Planning Commission that the applicant also asked that the Conditional Use they sought approval for, be modified from the applicable requirements to only require 120 parking spaces.

Mr. Bowersox stated the approval for Conditional Use and the Variance did not include the extra parking area closest to Oklahoma Road. These cases were appealed to the Circuit Court and ultimately to the Court of Special Appeals and were approved. The variance that reduced the number of parking spaces was invalidated by the Court of Special Appeals with instruction for the matter to be sent back to the Board for further proceedings.

Mr. Bowersox stated that this is different now because it incorporates the additional parking area and that the BZA should be given the opportunity to determine if they would approve the Conditional Use as it is now.

Gail Kessler, Planning Commission Counsel, stated that she sees this case differently from Mr. Bowersox and has discussed it with him. Ms. Kessler summarized the steps this site plan had gone through. She reiterated that the Concept Plan was approved and the Conditional Use was

approved and had not been overturned by any court. Ms. Kessler explained that if there had been an issue concerning the original parking from the Concept Plan there is a 30 period to appeal and that deadline has expired.

Ms. Kessler stated that she and Mr. Bowersox do not agree on this, and that Mr. Bowersox is essentially asking the Planning Commission to send this back to the BZA – which the Planning Commission has no authority to do. She stated that the Planning Commission could reject it, which would force the developer to appeal it.

Mr. Hoff stated that he understood that the two cases had been heard together as a matter of convenience but that it was still two separate issues. Mr. Hoff speculated that Mr. Bowersox may believe these cases to be tied together in some way.

Ms. Kessler agreed and reiterated the point that a Concept Plan cannot be approved without a parking lot. She further explained her argument.

Ms. Kessler stated that she didn't believe it mattered if they liked it or not but must look at the flow of litigation to determine what the Planning Commission can or cannot do.

Through a discussion with Mr. Hoff and Ms. Kessler, it was once again confirmed that the approval for Conditional Use stands and the approval of the Concept Plan still stands, only the Variance has been remanded, but that is being abandoned by the applicant.

Mr. Wothers asked if they had dismissed their request for a Variance. Mr. Maguire replied that they had requested a stay for a hearing depending on the outcome of this meeting.

Ms. Kessler clarified that by not dismissing the request for the Variance, Mr. Silverman still has a viable option should the plan not move forward as it is.

Mr. Maguire repeated that if the final plan is approved the Variance will be formally dismissed.

Mr. Bowersox addressed the notion of the “second bite of the apple.” He stated that until March, the project that was approved included a Variance, and that when the appeals were made the project (not Concept Plan) had 120 parking spaces.

Mr. Hoff stated that he felt the Planning Commission needed to go with the County Attorney's advice.

Chairman Helminiak asked if there were any further comments.

Mr. Matyas drew the Planning Commissions attention to the screen to show them two slides of the Concept Plan as was seen by the Planning and Zoning Commission in July of 2012 and was also included in the plan set that had gone to the BZA.

Mr. Wothers stated that the lawyers had done a great job working out some pretty complicated issues and felt that the Planning Commission could move forward.

Decision:

Pursuant to Chapter 155, the Planning Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, (Commissioner Weaver abstained), approved the final site plan with the nine conditions outlined in the staff report.

Pursuant to Chapter 156, the Planning Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, (Commissioner Weaver abstained), approved the final site plan subject to the two nine conditions listed in the staff report.

ANNUAL REPORT

Scott Graf stated that he was here to get final approval on the Annual Report for 2015.

Chairman Helminiak asked if there were any changes to the Annual Report.

Mr. Graf answered that all eight municipalities had reviewed the report and that there were a number of small changes throughout the document, among them such things as some roads had been added, some typing errors were corrected, some wording, and the Acknowledgments page.

Mr. Yeo asked how the numbers for the population changes were attained; where did the 2015 number come from?

Mr. Graf answered that they internal estimates or American Community Survey which is census-based but, as they are only up to 2014, he assumed it the number would have come from internal estimates.

Secretary Hager stated that if there were no further comments it would appropriated for the Planning Commission to motion to accept this document and authorize the chair to sign a letter certifying the letter on your behalf and directing staff to forward the document to the Maryland Department of Planning.

On motion of Mr. Wothers, seconded by Ms. Cheatwood, and carried, the Planning Commission voted to accept the Annual Report for 2015, authorized the Chair to sign a letter certifying the document on behalf of the Planning Commission, and forward the letter to the Maryland Department of Planning.

SOLID WASTE MANAGEMENT PLAN

Dusty Hilbert, Bureau Chief, stated that the County is requesting certification that the Draft Solid Waste Management (SWM) Plan is consistent with the Master Plan. Mr. Hilbert explained that the SWM Plan is mandated by law Maryland Department of the Environment (MDE) to ensure the County has sufficient waste disposal capacity and recycling and resource recovery programs to minimize the amount of waste being generated. Mr. Hilbert stated that the current plan, Adopted in 2007, is a relatively open-ended plan, available for amendments throughout the ten year period, and is filled with many recycling programs mandated by the MDE.

Mr. Hilbert indicated that they have taken the current plan and updated all of the populations, statistics, and projections for the amount of waste currently being generated and what is anticipated in the next ten years (2017-2026.)

Chairman Helminiak asked Mr. Hilbert what he wanted, at this point, from the Planning Commission.

Secretary Hager stated that Mr. Hilbert would return for the work session on June 29th to entertain any questions the Planning Commission may have. At that time staff, having reviewed the draft and finding it consistent with the Master Plan, will present you with a letter.

MEDICAL CANNABIS

Secretary Hager stated that this was not the first time that the topic of Medical Cannabis had come before the Planning Commission and that at the last briefing the Commission had planned for staff to come back with a final set of recommendations. Secretary Hager stated that staff has prepared the draft that has been given to the Planning Commission and this is what we would be taking to the Board of County Commissioners if that is what you direct.

Secretary Hager stated that the new legislation would propose four new definitions to be added to the zoning ordinance and that one existing definition would be modified and that is our existing definition for AG or agricultural purposes.

Secretary Hager briefed the Planning Commission on the new legislation reviewing the new definitions, provisions, code, and various uses.

Secretary Hager conveyed several common concerns amongst the public regarding the impact on Agricultural areas, and stated that, based upon those concerns, it was the recommendation of the committee to not forward this to the Planning Commission with the recommendation that it be included in the Agricultural Zone as a Permitted Use or a use permitted by BZA approval.

Mr. Hoff asked if anyone had reached out to the Carroll County Farm Bureau instead of only relying on what other jurisdictions are doing.

Secretary Hager stated it had not been sent yet as that was the decision of the Planning Commission.

It was the consensus of the Planning Commission that the document be sent to the Carroll County Farm Bureau for their response.

Secretary Hager stated that he would forward the document as requested. He stated that he would not expect the Farm Bureau to respond prior to the next Planning and Zoning Commission meeting but would update the Commission at the July 19 meeting.

Secretary Hager stated that he would like to schedule a briefing with the Board of County Commissioners and if they are in agreement, the document would come back to the Planning Commission for finalization.

On motion of Mr. Soisson, seconded by Mr. Wothers, and carried, the Planning Commission voted to forward the Medical Cannabis document to the Board of County Commissioners.

PUBLIC COMMENTS

There were no public comments.

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

Secretary

Approved