

FINAL SITE PLAN REPORT
to the
Carroll County Planning and Zoning Commission
January 18, 2022

Prepared by
Laura Matyas, Bureau of Development Review

SUBJECT: S-16-0014, Nells Acres Section Two (an age-restricted, 55-and-over, retirement community)

LOCATION: South side of Liberty Road (MD Route 26), at Fallon Road, E.D.5

OWNER: Nells Acres Land LLC, 10 Venture Way, Suite A, Sykesville, MD 21784 (LLC Members: Donald H. Patton & David S. Patton)

DEVELOPER: same as owner

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

ZONING: R-40,000

BZA CASE: 4129, August 28, 1996 / 5053, April 28 & July 26, 2005, January 6, 2016

ACREAGE: 25.97 acres

WATERSHED: Liberty Reservoir

NO. OF UNITS: 129

FIRE DISTRICT: Sykesville

MASTER PLAN: Residential – Low, 2018 Freedom Community Comprehensive Plan

PRIORITY FUNDING AREA: Freedom

DESIGNATED GROWTH AREA: Freedom

PUBLIC FACILITIES IMPACTED

ROADS: Fallon Road

FIRE & EMS: Sykesville

POLICE: Maryland State Police/Carroll County Sheriff’s Office

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.

❖ **History:**

Nells Acres is a retirement community, accommodating a population age 55 and over, on the south side of Liberty Road (MD Rt. 26) immediately west of the Liberty Reservoir. It is comprised of five properties all in the R-40,000 Zoning District (see plats, attached). Conditional uses were sought and granted by the Board of Zoning Appeals for Tract A, Lot 1A, Lot 2A, and the Future Section Two parcel. Parcel A is an Open Space parcel. Tract A accommodates Nells Acres Section One on the west side of Fallon Road, approved by the BZA in Case 4150 for the conditional use for a retirement community of up to 120 units. The site plan was approved in 1997 with 108 condominium units in 9 buildings, now built.

Lot 1A, at Liberty Road on the west side of Fallon Road, is developed with a medical office building in accordance with BZA Case 4130 and an approved site plan in 1997.

The Future Section Two parcel on the east side of Fallon Road, approved in BZA Case 5053 for the conditional use for a retirement community with 312 condominium units, had a 2005 site plan approved on July 20, 2010 with 296 units in 26 buildings. The approved plan was not built.

Lot 2A adjoins the Future Section Two parcel and is situated at Liberty Road on the east side of Fallon Road. The BZA approved a conditional use for a day care center in Case 4129. An approved site development plan from 1997 was not built.

On January 6, 2016, the developer appeared before the BZA requesting a determination as to “whether or not a revision of the layout for the retirement community approved in BZA Case 5053 constitutes a substantial change requiring a new hearing before the Board of Zoning Appeals.” The plan presented to the BZA included “about 130 units” on the Future Section Two parcel. The BZA determined it was not a substantial change.

On August 1, 2016, a revised site plan for the Future Section Two parcel and Lot 2A was submitted, proposing 133 townhouse units; 124 on the Future Section Two parcel and 9 on Lot 2A. Development Review commented that Lot 2A requires BZA approval for the conditional use for a retirement community.

On December 20, 2016, in accordance with the Code, the Planning and Zoning Commission reviewed Lot 2A in regards to density, exterior design, and site layout prior to a BZA determination for the conditional use. The Commission concluded that the plan may proceed as presented and the determinations for Lot 2A were understood to be derived in conjunction with the development of the Future Section Two parcel. Additionally, the plat would be amended to consolidate the two subject parcels.

The December 28, 2016 agenda for the BZA included, “Case 5990, a request for modification of the conditional use granted in BZA Case 5053, to allow 9 additional villa style townhomes on an adjacent lot.” The modification of the conditional use was granted.

❖ **Existing Conditions:**

The two lots that comprise the subject property for Nells Acres Section Two lie in the R-40,000 Zoning District with frontage on MD State Route 26, Fallon Road and Ridenour Way East; both County roads.

Lot 2A is currently vacant, open land. The Future Section Two parcel is built with a single-family dwelling as well as several outbuildings and a private drive from Liberty Road. The well and septic system associated with the residence were abandoned / sealed in 2009 under the supervision of the Health Department. There are no streams or floodplains on either lot.

Surrounding properties to the north and west lie in the R-40,000 Zoning District except Lot 1A, with the medical office building, which lies in the C-1 Zoning District. To the east and south are Liberty Reservoir lands of Baltimore City in the Conservation Zoning District.

On the 1977 Comprehensive Mini Plan for the Freedom Area and Environs, Marriottsville Road was depicted to be extended to connect to Liberty Road; the alignment being that of Fallon Road's location. This extension is no longer planned, as determined by the Planning and Zoning Commission prior to July 2010, and Fallon Road was named independently of Marriottsville Road.

The properties across Fallon Road to the west host a medical office building and Nells Acres Section One; 108 condominium units in 9 buildings. With Nells Acres Section One, Ridenour Way East, a Planned Major Street on the 2001 Freedom Community Comprehensive Plan, was built by the developer to the westernmost property line and eastward from Fallon Road for approximately 362 feet. Access to the medical office building and Nells Acres Section One is from Ridenour Way East via Fallon Road, a dead-end road commencing at MD Rt. 26. The intersection is improved with acceleration and deceleration lanes. It is not signalized.

Properties across Liberty Road, MD Route 26, are built with single-family residences.

Lot 2A is in the Freedom Existing water and sewer service areas. The Future Section Two parcel is in the Existing water service area and Priority sewer service area. Both properties are within the Freedom Designated Growth Area and Priority Funding Area.

❖ **Plan Review:**

The concept site plan was subject to citizen involvement at the August 22, 2016 meeting of the Technical Review Committee. One citizen, the then-President of the Nells Acres Homeowners Association, attended and was in communication with the County through phone calls, emails, and meetings. She asserted that the entire Nells Acres retirement community warrants consideration of traffic mitigation, citing existing resident wait times of 15 minutes for a left turn movement from Fallon Road onto Liberty Road, MD Rt. 26. Two additional citizens contacted Development Review requesting plan information.

The concept plan for the subject property was reviewed by the Planning and Zoning Commission on March 21, 2017 (see minutes attached). Discussion revolved around vehicular access and circulation. Staff recommended accommodating a left turn from Crumpler Drive onto Rudy Drive. The final plan shows that the median has been modified to enable that left turn. The Commission discussed ways to alleviate traffic onto MD Route 26 from Fallon Road. Fallon Road is the sole means of access for the retirement community.

A Traffic Impact Analysis (TIA) was required for the Nells Acres Section Two site development. The study indicates that the intersection of Fallon Road and MD Rt. 26 is a

failing level of service (LOS) and the development will exacerbate that situation. In accordance with the Department of Public Works Manual, the developer shall mitigate only the traffic to be generated by the proposed project.

In accordance with Carroll County Code of Local Public Laws and Ordinances, Chapter 156, Concurrency Management, a site plan for residential development is subject to concurrency.

§ 156.03 APPLICABILITY.

- (A) **Included.** This chapter applies to:
 - (2) Site plans for residential development; and

- (C) **Modified adequacy testing for certain projects.**
 - (1) 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.

The Code defines the threshold requirements for adequate, approaching inadequate, and inadequate for the Commission's purposes of approval in accordance with Chapter 156.

§ 156.05 ADEQUACY APPROVAL.

- (D) **Threshold requirements.**
 - (3) **Inadequacy.**
 - (b) **Roads.** Projected Level of Service for road segments and intersections within the traffic impact study area for the proposed project is E or F, according to the Department of Public Works or by the state, as applicable.

The intersection of Fallon Road and MD Rt. 26 is a failing level of service (LOS) and the development will exacerbate that. It is the only proposed means of access to the entirety of the Nells Acres retirement community. Existing road conditions at this failing intersection include acceleration and deceleration lanes as well as a left turn lane on MD Rt. 26. Fallon Road has existing left and right turn lanes. The intersection is not signalized. The State Highway Administration has reviewed the existing intersection and will not consider adding a traffic signal at that location.

The Planning and Zoning Commission has the authority to approve the plan if the inadequacy can be addressed by the developer providing mitigation acceptable to the County.

§ 156.05 ADEQUACY APPROVAL.

- (B) **Designation as inadequate.** No project may be approved by the Commission if a public facility or service is inadequate or projected to be inadequate during the current CIP, unless a relief facility is planned to address the inadequacy or the developer provides mitigation acceptable to the county or the Board of County Commissioners has determined that exceptional circumstances exist to allow the approval despite the inadequacy or approaching inadequacy. No residential plat may be recorded or final residential site plan approved until a relief facility planned to address the inadequacy in the current CIP has construction underway and completion is anticipated within six months or the developer provides mitigation acceptable to the county or the Board of County Commissioners has determined that exceptional circumstances exist.

In an intensive review by the County - the Department of Public Works, the Department of Planning, and the County Attorney's Office - the Department of Land and Resource Management coordinated a unified mitigation proposal to which the developer has agreed.

Ridenour Way extended is in the 2018 Freedom Community Comprehensive Plan as a planned major street. The State Highway Administration (SHA) supports the utilization of SHA right-of-way to realize a roadway connection between Fallon Road to Old Liberty Road. With the recognition that an extension to Old Liberty Road will provide alternate access opportunities to the Nells Acres community, thereby alleviating traffic from Fallon Road onto MD Route 26, and that it is essential to coordinate with this development plan, the Board of County Commissioners included the road extension in the Adopted FY 22 - 27 Community Investment Plan (CIP).

With funding included in the CIP, the County proposed developer mitigation which includes commissioning construction drawings of the road extension - to be reviewed and approved by the County and SHA - and a developer contribution of \$220,200 towards the construction of the Ridenour Way extension to Old Liberty Road.

Code allows 50 building permits per fiscal year for multi-unit residential site development plans. In surety of the mitigation, the Nells Acres Section Two development will be limited to the initial 50 permits until the approved roadway construction drawings are received by the County.

§ 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;

The developer proposes to construct 129 two-story townhouse units in the Nells Acres age-restricted retirement home development. The townhouses create two, three, four, five, and six-unit buildings on loop road Helton Drive with one intermediate road, Lancing Drive. Nine of the townhouses front Rudy Drive, accessed directly from entrance road Crumpler Drive. Each townhouse has a private driveway leading to an approximately 1,950 square-foot dwelling including an attached two-car garage. Sidewalks are proposed on both sides of the roads.

Also proposed is the construction of a 2,500 square foot clubhouse with outdoor seating and independent parking. The clubhouse will be accessed directly from Crumpler Drive. Parking requirements for age-restricted adult townhouses are 2 spaces for each dwelling unit and overflow / guest parking may be required at the discretion of the Director. Each unit has a 2-car garage and a private driveway. Emergency Services commented that they necessitate a 20-foot-wide clear roadway for access. With a proposed road width of 25 feet, on-street parking should not be permitted. Parking requirements for a club equal 3 spaces for every 1,000 square foot of floor area. With 2,500 square feet, 8 spaces are required. 16 parking spaces are provided.

The land use designation for the properties in the 2018 Freedom Community Comprehensive Plan is Residential- Low. Comprehensive Planning's review comments recognize that "age restricted housing developments are allowed denser development than conventional ones in the R-40,000 zoning district." "The...development plan is consistent with this (Low Density Residential) designation."

Crumpler Drive, from Fallon Road, is the proposed access to Nells Acres Section Two. Currently, this is a built County-owned section of Ridenour Way East. With the 2010 site plan, Public Works clarified that this section of roadway need not be public. The amended plat being processed in conjunction with the site development plan will depict Crumpler Drive as a

portion of the subject property rather than right-of-way for a public road and a deed will be recorded simultaneously. Similarly, Parcel B, which was intended for the future extension of Marriottsville Road, will be extinguished with the amended plat and a deed of extinguishment.

All roads within Nells Acres Section Two will be private roads, not County-owned or maintained. The proposed design of Crumpler Drive is a divided roadway with a median with adjacent lighting and signage. A photometric plan is provided on sheet 47 with pole heights indicated as 15 feet. Sheet 13 depicts a 9'-0" wide and 6'-0" high monument sign located at Crumpler Drive and shown in plan on sheet 3. Median breaks in Crumpler Drive correspond with Rudy Drive and the clubhouse access drive.

Nells Acres Section Two will be served by public water and sewer systems with the on-site infrastructure being private. An existing fire hydrant on Crumpler Drive will serve fire protection purposes.

Building elevations are included in the plan set on sheet 52. Proposed colors include tan, brown, and gray with white trim and garage doors. Although materials are not annotated, the rendering appears to depict siding, stone veneer, and asphalt shingled roofs. Decorative garage doors, trim details, rooflines, shutters, light fixtures, and custom windows adorn the facades.

Landscaping is provided at the clubhouse parking lot and at both Liberty Road and Fallon Road to screen rear and sides of townhouses. The retaining wall at the clubhouse is landscaped in accordance with requirements. Off-site banking of 3.6 acres will meet the requirements of Forest Conservation.

Stormwater management (SWM) will be addressed by a combination of constructing two new SWM facilities, and incorporating Environmental Site Design (ESD) practices: porous paving at the clubhouse parking lot, grass swales, micro-bio facilities, a level spreader at the southeast property line, and drywells.

❖ **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 amended plat be recorded prior to, or simultaneously with, the Public Works Agreement.
3. That Utility Easements be granted to the County Commissioners of Carroll County and 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 Stormwater Management Conservation Area Easement be granted to the County Commissioners of Carroll County and recorded simultaneously with the Public Works Agreement.
6. That a Landscape Maintenance Agreement be granted to the County Commissioners of Carroll County and recorded simultaneously with the Public Works Agreement.
7. 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 subject 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 129 age-restricted 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 dwelling units contain complete living facilities.

❖ Agency Responses:

Police Services:

The estimated Carroll County population as of November 30, 2021 was 174,759. There are currently 246 sworn law officers with 11 positions currently in training; an additional 15 positions are funded. Based on a total of 272 funded positions, the ratio of law enforcement positions to Carroll County population as of the end of November 2021 was 1.56. Based on a total of 246 positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of November 2021 was 1.41. Including the development projects in the pipeline along with the funded positions, the ratio will be 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

Fire and Emergency Medical Services:

The proposed site plan is located in the Sykesville fire and emergency medical services district. The two-year period of July 2019-June 2021 late and no response statistical data indicates that of the first due total fire calls in the Sykesville district, 1.34% were categorized as no responses, and 5.36% as late and no responses. Of the first due emergency medical service calls, 0.39% were categorized as no responses and 0.43% as late and no responses. Sykesville is rated adequate for late and no response criteria for fire services and emergency medical services.

With regard to emergency medical call average response time, Sykesville had an average response time of 6 minutes and 28 seconds – adequate. With regard to fire call average response time, for the same period, Sykesville had an average response time of 6 minutes and 31 seconds – adequate. Services are rated adequate if when utilizing an average over the previous 24 months, response time is less than 8 minutes from time of dispatch to on-scene arrival with adequate apparatus and personnel.

The primary route from the firehouse to the proposed development does not include travel over bridges that cannot adequately support fire and emergency response apparatus – adequate.

Roads:

Fallon Road is rated inadequate.

Sewer and Water:

The Bureau of Utilities rated the services as adequate. For water services, the facility is adequate if the maximum day demand is less than 85% of the total system production capacity. For sewer services, the facility is adequate if the projected annual average daily flow is less than 85% of the wastewater treatment facility permitted capacity.

❖ Chapter 156 Recommendation:

With regard to a final residential site plan, Chapter 156.06-E(4)(b) **Conditional approval** states, “ If a public facility or service is inadequate and a relief facility is planned in the six-year CIP to address the inadequacy or mitigation is accepted by the county pursuant to (§ 156.05(B))...the Planning Commission may approve the plan subject to a phasing plan for recordation or may defer the project and place the plan in a queue to be retested on an annual basis. The Director of the Department may approve amendments to phasing plans.” Staff recommends that the Planning Commission conditionally approve the final plan as follows:

1. police, fire and emergency services, and water and sewer services are considered adequate; and,
2. roads are considered inadequate and mitigation acceptable to the county is a \$220,200 contribution to roadway construction of Ridenour Way extended, commissioning of design and construction drawings for the extension of Ridenour Way to Old Liberty Road for approval by the County and State Highway Administration; and

3. that the developer contribution of \$220,200 to the construction of Ridenour Way be conveyed to the County prior to, or simultaneously, with the Public Works Agreement; and
4. that the building permits are limited to the initial 50 permits until such time that the approved construction drawings for the road extension, the County-approved mitigation measure, be received by the County; and
5. that the first building permit be issued before the site plan becomes void, i.e., within 18 months of the date of written Planning Commission approval.