

**FINAL SUBDIVISION REPORT**  
to the  
**Carroll County Planning and Zoning Commission**  
**October 15, 2024**

Prepared by  
**David Becraft, Bureau of Development Review**

**SUBJECT:** FX-23-0003 – Bradleys Overlook

**LOCATION:** West side of Cherry Tree Lane, north of Bartholow Road; C.D. 05

**OWNER:** Cherrytree, LLC., 112 S. Main Street, Mount Airy, MD 21771  
(Members: CBI Homes, LLC)

**DEVELOPER:** Same as owner

**SURVEYOR:** CLSI, 439 East Main Street, Westminster, MD 21157

**ZONING:** Conservation

**ACREAGE:** 35.3338 acres

**WATERSHED:** Liberty Reservoir

**NO. OF LOTS:** 4 Lots

**FIRE DISTRICT:** Gamber and Community Fire Company

**MASTER PLAN:** Resource Conservation – Freedom Community Comprehensive Plan 2018

**PRIORITY**

**FUNDING AREA:** Outside

**DESIGNATED**

**GROWTH AREA:** Freedom

**PUBLIC FACILITIES IMPACTED**

**SCHOOLS:** Eldersburg Elementary  
Oklahoma Road Middle  
Liberty High

**ROADS:** Cherry Tree Lane

**FIRE & EMS:** Gamber

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

❖ **Action Required:**

Two actions are required:

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

## ❖ Existing Conditions

The subject property is undeveloped, zoned Conservation, and lies on the west side of Cherry Tree Lane, a county road. The property is mostly wooded, with the open areas previously being used as an equestrian center. There are streams and floodplains located on site. From the northern property line, the property slopes downhill to the south-east to a central low point which follows the stream. From this low point, the land slopes uphill to the east with approximately 130 vertical feet of elevation change. Adjacent properties are zoned Conservation and Agriculture. Many are developed with single-family homes along with farmland. The property lies outside of the water and sewer service area; thus, all properties are served by private well and septic systems.

## ❖ Plan Review:

On March 25, 2019, a concept subdivision plan for the subject property was submitted to the Bureau of Development Review and distributed to technical review agencies. As this project was submitted prior to the Conservation zoning district and Conservation clustering Code changes in 2022, the Code in place at the time of this project submittal still applies.

The owner/developer is proposing to create four clustered residential lots of subdivision. The four new lots will range in size from 1.75 acres to 2.00 acres, leaving the resulting land at 27.40 acres. The proposed clustered lots meet the conditions for clustering within the Conservation zoning district outlined within Chapter 155.095 of the Code of Public Local Laws and Ordinances of Carroll County. All lots are to be located on the northern portion of the property and will utilize private well and septic systems.

The land derived from clustering, reducing lot sizes below the 3-acre required minimum lot size in the Conservation zoning district, calculates to 4.37 acres. An open space conservation easement of 4.46 acres will be provided on the resulting land.

Access to the lots is proposed from a new use-in-common drive from Cherry Tree Lane. The use-in-common drive, Kenard Drive, is to be utilized by the proposed four subdivision lots, as well as two off-conveyance lots. A Declaration of Maintenance Obligations and an access easement for the shared drive will be recorded simultaneously with the public works agreement. A sight distance waiver was granted for Kenard Drive by the Department of Public Works. The resulting land will have direct access to Cherry Tree Lane via a private driveway.

## 📖 § 155.025 IN-FEE ACCESS STRIPS; USE-IN-COMMON DRIVEWAY STANDARDS AND CRITERIA.

(C) **Maximum number of users.** The maximum number of users for a UIC driveway, including subdivision lots, remaining portions, remainders, and off conveyances, if applicable, is seven in the “A” and “C” Districts and five in the Residential Districts.

(D) **Names.** All UIC driveways serving three or more lots shall be named. Names shall be approved by the Bureau. Street signs shall be installed in accordance with the Department of Public Works, or its successor agency, requirements.

(G) **Maintenance.** The developer shall make adequate provisions for UIC driveways and the methods of maintenance, including a Declaration of Maintenance Obligations, shall be recorded with the plat. A note to this effect shall appear on the subdivision plat.

The proposed subdivision plan was subject to citizen involvement during the April 22, 2019 Technical Review Committee meeting. Four citizens expressed their concerns of stormwater

runoff and soil erosion during the meeting. Three adjoining property owners, one of whom spoke at the meeting, also emailed/mailed their concerns in advance of the meeting.

On October 20, 2020, the Planning and Zoning Commission was presented a concept subdivision plan. No citizens signed in or spoke at the meeting. Sometime thereafter, the developer and engineer for the project changed. With the change, a revised site layout was provided to the County.

On May 16, 2023, the Planning and Zoning Commission was presented a special report requesting authorization to process the plan as a cluster subdivision. One citizen expressed concern for runoff from the property. The engineer of the project stated the proposed project will not adversely affect the erosion conditions. After the meeting, the same citizen provided pictures of the erosion on their property. Another citizen sent an email outlining concern of the development's proximity to the Liberty Reservoir as well as wildlife on the property.

On October 17, 2023, the Planning and Zoning Commission was presented the preliminary subdivision plan (minutes attached). During the meeting, conversations were had regarding the open space and other required easements. Two citizens spoke at the meeting and expressed concern for run-off from the property. The engineer of the project stated the proposed project will not adversely affect the erosion conditions.

Stormwater Management has issued final approval for the proposed subdivision, which utilizes drywells and bio-swales to meet requirements. Grading and Sediment Control has approved the plan. Forest Conservation, Water Resources, and Floodplain have approved the plan and will each require easements on-site. Landscape has granted approval of the plan. The Bureau of Utilities and the Carroll County Health Department have approved the plan with the proposed private well and septic systems. All remaining review agencies have approved the final plan as presented.

In their review, the Bureau of Comprehensive Planning determined that the proposed plan is consistent with the 2018 Freedom Community Comprehensive Plan land use designation of Resource Conservation as well as the 2019 Water and Sewer Master Plan.

❖ **Recommendations:**

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

1. That the Owner/Developer enters into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
2. That a Declaration of Maintenance Obligations for the use-in-common driveway, Kenard Drive, be recorded simultaneously with the public works agreement.
3. That the parcels shown on the plan as "Parcel A" and "Parcel B" shall be deeded to the Carroll County Commissioners simultaneously with the public works agreement.
4. That a Stormwater Management Easement and Maintenance Agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneously with the public works agreement.
5. That a Landscape Maintenance Agreement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works

agreement.

6. That a Forested Water Resource Protection Easement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works agreement.
7. That a Forest Conservation Easement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works agreement.
8. That a Floodplain Easement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works agreement.
9. That an Open Space Conservation Easement be recorded simultaneously with the public works agreement.
10. That a Drainage and Utility Easement be recorded simultaneously with the public works agreement
11. That any changes to the Preliminary Plan as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.
12. That the Preliminary Plan approval shall become void 24 months after the date of written approval unless such plan has received final approval by the Planning Commission and has been recorded as a plat in the Land Records of Carroll County or an extension has been approved by the Director of Planning and Land Management for recordation of the subdivision plat.

### **CONCURRENCY MANAGEMENT REPORT**

❖ **Background:**

When the Department determined that the preliminary plan could be presented to the Planning and Zoning Commission, Available Threshold Capacity forms were distributed for completion. The project was tested for police, schools, roads, fire, and EMS. Police, schools, roads, and EMS facilities and services were found to be adequate. Fire was found to be approaching inadequate. Accordingly, the Planning Commission granted conditional approval of the preliminary plan under Chapter 156 at the October 17, 2023 meeting.

❖ **Agency Responses:**

**Fire and Emergency Medical Services:**

The proposed subdivision is located in the Gamber fire district. The most recent data from the Office of Public Safety reports that for the two-year period of September 2022 - August 2024, late and no response statistical data indicates that of the first due total fire calls in the Gamber district, 0% were categorized as no responses, and 9.46% as late and no responses. Gamber is rated adequate for late and no response criteria for fire.

With regard to fire call average response time, for the same two-year period, Gamber had an average response time of 8 minutes and 16 seconds – approaching inadequate. Services are rated approaching inadequate if when utilizing an average over the previous 24 months,

response time is between 8 minutes and 10 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.

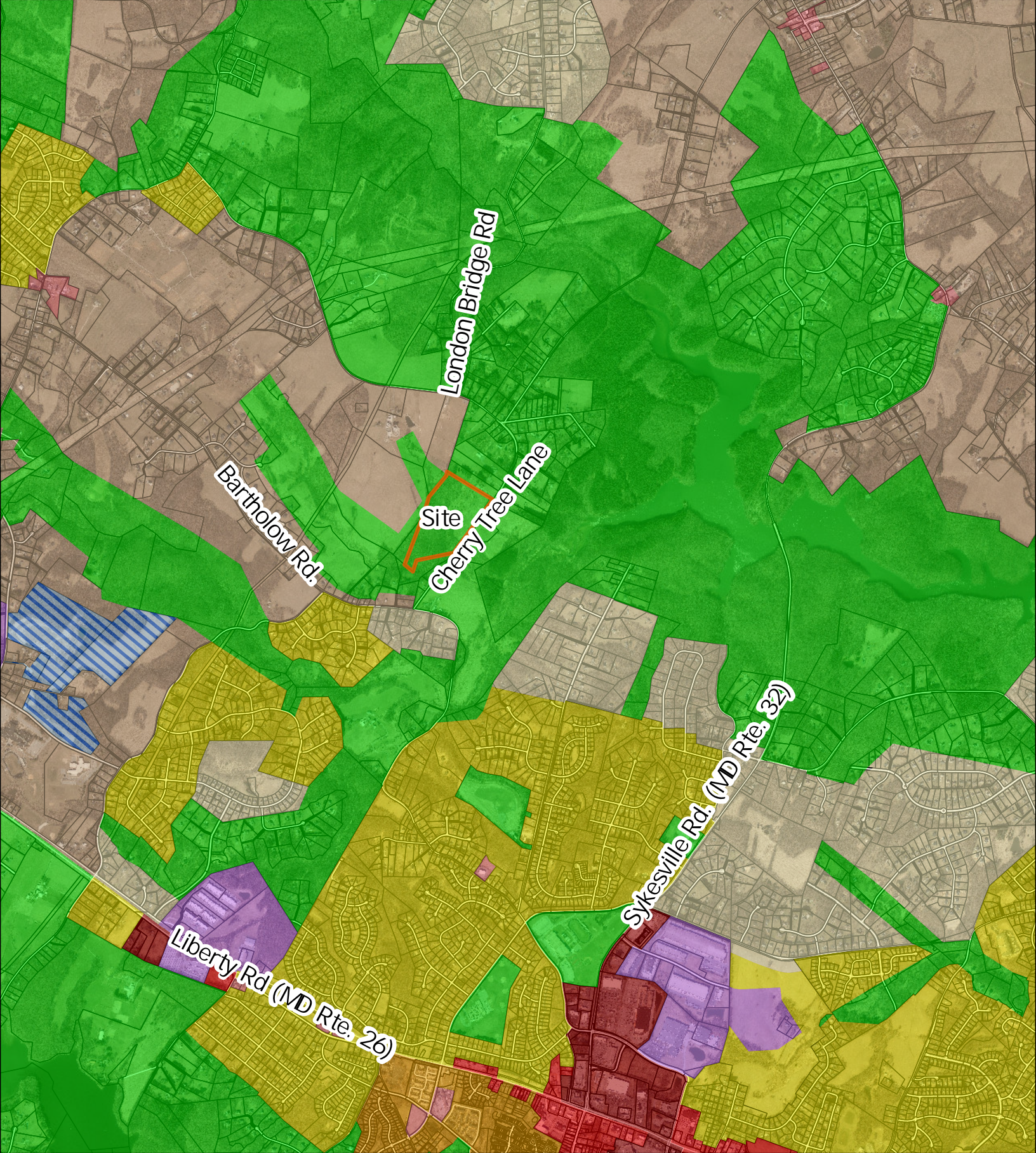
❖ **Chapter 156 Recommendation:**

With regard to a final plan, Chapter 156.06E(4)(d) states “For projects that received a conditional approval and tentative recordation schedule at the preliminary plan stage, the Planning Commission shall review the facility or service which was inadequate or approaching inadequate at the preliminary plan stage and may modify the recordation schedule and building permit reservations or place the project in a queue, at the discretion of the Planning Commission.”

Chapter 156.06-E(4)(e) states “For projects that received a recordation schedule and building permit reservations at the preliminary plan stage, the Planning Commission’s Secretary shall inform the developer whether any existing or proposed building permit cap would be applicable to the project.” There is no existing or proposed building permit cap that would be applicable to this project.

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

1. Fire is considered approaching inadequate;
2. the building permit reservation is for 4 lots in FY25, provided the plat is recorded prior to any permits being issued.
3. The recordation schedule requires the plat to be recorded within 24 months of preliminary approval. The preliminary plan was approved on October 17, 2023, with a written approval date of October 26, 2023.
4. the building permit reservation is allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.



Zoning_County	R-40,000	C-2
Zoning	R-20,000	C-3
	R-10,000	I-1
Agriculture	C-1	Employment Campus
Conservation		

# Bradleys Overlook

## FX-23-0003

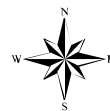


Property line shown hereon are from tax maps and therefore are approximate and are shown for illustrative reference only. Photograph date: Spring 2020



— HYD\_StreamsLidar

# Bradleys Overlook FX-23-0003



Property line shown hereon  
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for illustrative reference only.  
Photograph date: Spring 2020

### Further Discussion Chapter 156

Ms. Marple stated in this instance it would be conditional approval recognizing that the fire responses are approaching inadequate, and there would be no restrictions to the permits that are pulled.

Mr. Kane asked as part of the motion, is there a recordation schedule and building permit reservation?

Ms. Marple stated that that it would be un-restricted.

Mr. Robertson asked if it is a staged event or a one time, build all of them at once? So, if Fire response time is approaching inadequate now, once the build out occurred, would the Fire time be adequate? What is the timeframe on this?

Mr. Heird said it is still depending on financing and still in planning stages, anticipate it being one building at a time due to financials with interest rates.

Ms. Kirkner asked if they are limited to building permit number.

Ms. Marple stated; It would still be 50 dwelling units in a year. This entire project consists of 25 dwelling unit, so it would never exceed the limit of 50 in one year.

Ms. Kirkner asked if there was any more comments and there were none, she then asked for any public comment and there were none.

#### **Decision:**

The Commission on motion of Mr. Kane, seconded by Mr. Lester and carried, to conditionally approve the final residential site plan given that Fire response time is approaching inadequacy per Chapter 156.

### PRELIMINARY SUDIVISION REPORT

**SUBJECT:** P-18-0063 – Bradleys Overlook  
**LOCATION:** West side of Cherry Tree Lane, north of Bartholow Road; C.D. 05  
**OWNER:** Cherrytree, LLC., 112 S. Main Street, Mount Airy, MD 21771  
(Members: CBI Homes, LLC)  
**DEVELOPER:** CBI Homes, LLC (T/A Catonsville Homes), 112 S. Main Street,  
Mount Airy, MD 21771 (Members: Robert A. Scranton)  
**SURVEYOR:** CLSI, 439 East Main Street, Westminster, MD 21157  
**ZONING:** Conservation  
**ACREAGE:** 29.63 acres  
**WATERSHED:** Liberty Reservoir  
**NO. OF UNITS:** 4 Lots



**FIRE DISTRICT:** Gamber Community Fire Department  
**MASTER PLAN:** Resource Conservation – Freedom Community Comprehensive Plan 2018  
**PRIORITY FUNDING AREA:** Outside  
**DESIGNATED GROWTH AREA:** Freedom  
**PUBLIC FACILITIES IMPACTED**  
**SCHOOLS:** Eldersburg Elementary  
Oklahoma Road Middle  
Liberty High  
**ROADS:** Cherry Tree Lane  
**FIRE & EMS:** Gamber  
**POLICE:** Carroll County Sheriff's Office / Maryland State Police

❖ **Action Required:**

Two actions are required:

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

❖ **Existing Conditions**

The subject property is undeveloped, zoned Conservation, and lies on the west side of Cherry Tree Lane, a county road. The property is mostly wooded, with the open areas previously being used as an equestrian center. There are streams and floodplains located on site. From the northern property line, the property slopes downhill to the south-east to a central low point which follows the stream. From this low point, the land slopes uphill to the east with approximately 130 vertical feet of elevation change. Adjacent properties are zoned Conservation and Agriculture. Many are developed with single-family homes along with farmland. The property lies outside of the water and sewer service area; thus, all properties are served by private well and septic systems.

❖ **Plan Review:**

On March 25, 2019, a concept subdivision plan for the subject property was submitted to the Bureau of Development Review and distributed to technical review agencies. As this project was submitted prior to the Conservation zoning district and Conservation clustering Code changes in 2022, the Code in place at the time of this project submittal still applies.

The proposed subdivision plan was subject to citizen involvement during the April 22, 2019 Technical Review Committee meeting. Four citizens expressed their concerns of

stormwater runoff and soil erosion during the meeting. Three adjoining property owners, one of whom spoke at the meeting, also emailed/mailed their concerns in advance of the meeting.

On October 20, 2020, the Planning and Zoning Commission was presented a concept subdivision plan (minutes attached). No citizens signed in or spoke at the meeting. Sometime thereafter, the developer and engineer for the project changed. With the change, a revised site layout was provided to the County.

On May 16, 2023, the Planning and Zoning Commission was presented a special report requesting authorization to process the plan as a cluster subdivision (minutes attached). One citizen expressed concern for run-off from the property. The engineer of the project stated the proposed project will not adversely affect the erosion conditions. After the meeting, the same citizen provided pictures of the erosion on their property (pictures attached). Another citizen sent an email outlining concern of the development's proximity to the Liberty Reservoir as well as wildlife on the property (email attached).

The owner/developer is proposing to create four clustered residential lots of subdivision. The four new lots will range in size from 1.75 acres to 2.01 acres, leaving the resulting land at 27.27 acres. The proposed clustered lots meet the conditions for clustering within the Conservation zoning district outlined within Chapter 155.095 of the Code of Public Local Laws and Ordinances of Carroll County. All lots are to be located on the northern portion of the property and will utilize private well and septic systems.

The land derived from clustering, reducing lot sizes below the 3-acre required minimum lot size in the Conservation zoning district, calculates to 4.37 acres. An Open Space Calculation table on sheet one shows 4.46 acres of open space being provided as an open space easement on the resulting land.

Access to the lots is proposed from a new use-in-common drive from Cherry Tree Lane. The use-in-common drive, Kenard Drive, is to be utilized by the proposed four subdivision lots, as well as two off-conveyance lots. A Declaration of Maintenance Obligations and an access easement for the shared drive will be recorded simultaneously with the public works agreement. A sight distance waiver was granted for Kenard Drive by the Department of Public Works. The resulting land will have direct access to Cherry Tree Lane via a private driveway.

#### **§ 155.025 IN-FEE ACCESS STRIPS; USE-IN-COMMON DRIVEWAY STANDARDS AND CRITERIA.**

- (C) **Maximum number of users.** The maximum number of users for a UIC driveway, including subdivision lots, remaining portions, remainders, and off conveyances, if applicable, is seven in the "A" and "C" Districts and five in the Residential Districts.
- (D) **Names.** All UIC driveways serving three or more lots shall be named. Names shall be approved by the Bureau. Street signs shall be installed in accordance with the Department of Public Works, or its successor agency, requirements.
- (G) **Maintenance.** The developer shall make adequate provisions for UIC driveways and the methods of maintenance, including a Declaration of Maintenance Obligations, shall be recorded with the plat. A note to this effect shall appear on the subdivision plat.

Stormwater Management has issued preliminary approval for the proposed subdivision, which utilizes drywells and bio-swales to meet requirements. Grading and Sediment Control have approved the plan. Forest Conservation, Water Resources, and Floodplain have

approved the plan and will each require easements on-site. Landscape has granted approval of the plan. With all lots utilizing private well and septic systems, additional information will need to be provided to the Carroll County Health Department. All remaining review agencies have approved the preliminary plan as presented.

In their review, the Bureau of Comprehensive Planning determined that the proposed plan is consistent with the 2018 Freedom Community Comprehensive Plan land use designation of Resource Conservation as well as the 2019 Water and Sewer Master Plan.

❖ **Recommendations:**

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

1. That the Owner/Developer enters into a Public Works Agreement with Carroll County that guarantees completion of any required improvements.
2. That a Declaration of Maintenance Obligations for the use-in-common driveway, Kenard Drive, be recorded simultaneously with the public works agreement.
3. That the parcel shown on the plan as "Parcel A", with a total acreage of 0.32 acres, shall be deeded to the Carroll County Commissioners simultaneously with the public works agreement.
4. That a Stormwater Management Easement and Maintenance Agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneously with the public works agreement.
5. That a Landscape Maintenance Agreement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works agreement.
6. That a Forested Water Resource Protection Easement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works agreement.
7. That a Forest Conservation Easement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works agreement.
8. That a Floodplain Easement shall be granted to the County Commissioners of Carroll County by a deed to be recorded simultaneously with the public works agreement.
9. That an Open Space Conservation Easement be recorded simultaneously with the public works agreement.
10. That a Drainage and Utility Easement be recorded simultaneously with the public works agreement
11. That any changes to the Preliminary Plan as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.
12. That the Preliminary Plan approval shall become void 24 months after the date of written approval unless such plan has received final approval by the Planning

Commission and has been recorded as a plat in the Land Records of Carroll County or an extension has been approved by the Director of Planning and Land Management for recordation of the subdivision plat.

### **CONCURRENCY MANAGEMENT REPORT**

#### **❖ Background:**

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

#### **❖ Agency Responses:**

##### **Police Services:**

The 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 estimated Carroll County population as of August 2023 was 176,438. There are currently 222 sworn law officers with 14 sworn personnel currently in training; an additional 35 positions are funded. Based on a total of 271 funded positions, the ratio of law enforcement positions to Carroll County population as of the end of August 2023 was 1.53. 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.

##### **Schools:**

The proposed subdivision is located in the Eldersburg Elementary, Oklahoma Road Middle, and Liberty High attendance areas. In accordance with the criteria established in Chapter 156, all schools are rated adequate for Fiscal Years 2024-2029.

The April 2023 enrollment projections, prepared by Carroll County Public Schools, indicate that Eldersburg Elementary had an actual enrollment of 82.6% of state-rated capacity. The projections indicate that enrollment increases to 95.1% of state-rated capacity by the end of the 6-year CIP cycle. In this attendance area, there is 1 additional residential development, comprised of 1 lot, currently in the review process. There is approximately 1 development totaling 2 residential units in the Eldersburg Elementary attendance area that has been recorded since the adoption of Concurrency Management (3/5/98) which has not been issued a building permit. An elementary school serving a proposed project is adequate, for the purposes of Chapter 156, when current or projected enrollment equals or is less than 109% of the state-rated capacity.

The April 2023 enrollment projections indicate that Oklahoma Road Middle had an actual enrollment of 93.3% of functional capacity. The projections indicate that enrollment increases to 108.2% of functional capacity by the end of the 6-year CIP cycle. In this attendance area, there are 9 additional residential developments, comprised of 295 lots, currently in the review process. There are approximately 15 developments totaling 17 residential units in the Oklahoma Road Middle attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been

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

The April 2023 enrollment projections indicate that Liberty High had an actual enrollment of 87.1% of state-rated capacity. The projections indicate that enrollment increases to 101.1% of state-rated capacity by the end of the 6-year CIP cycle. In this attendance area, there are 9 additional residential developments, comprised of 295 lots, currently in the review process. There are approximately 15 developments totaling 17 residential units in the Liberty High attendance area that has been recorded since the adoption of Concurrency Management (3/5/98) which has not been issued a building permit. A high school serving a proposed project is adequate, for the purposes of Chapter 156, when current or projected enrollment equals or is less than 109% of the state-rated capacity.

**Fire and Emergency Medical Services:**

The proposed subdivision is located in the Gamber fire and emergency medical services district. The most recent data from the Office of Public Safety reports that for the two-year period of September 2021 - August 2023, late and no response statistical data indicates that of the first due total fire calls in the Gamber district, 1.33% were categorized as no responses, and 8.00% as late and no responses. Of the first due emergency medical service calls, 1.56% were categorized as no responses and 1.62% as late and no responses. Gamber is rated adequate for late and no response criteria for fire and emergency medical services.

With regard to fire call average response time, for the same two-year period, Gamber had an average response time of 8 minutes and 32 seconds – approaching inadequate. With regard to emergency medical call average response time, Gamber had an average response time of 6 minutes and 42 seconds – adequate. Services are rated adequate if when utilizing an average over the previous 24 months, response time is 8 minutes or less from time of dispatch to on-scene arrival with adequate apparatus and personnel. Services are rated approaching inadequate if when utilizing an average over the previous 24 months, response time is between 8 minutes and 10 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:**

Cherry Tree Lane is rated adequate.

❖ **Chapter 156 Recommendation:**

With regard to a preliminary plan, Chapter 156.06D(4)(b) 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 § 156.06(B), or a public facility or service is approaching inadequate during the current CIP, the Planning Commission may conditionally approve the plan to proceed to the final plan stage and issue a tentative recordation schedule and tentative building permit reservations, subject to modification at the final plan stage. “

Currently, police, schools, roads, and emergency medical services are considered adequate; fire is considered approaching inadequate. Per the above referenced code, the Planning Commission may conditionally approve the plan to proceed to the final stage and issue a tentative recordation schedule and tentative building permit reservations, subject to modification at the final plan stage.

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

1. Police, schools, roads, and emergency medical services are considered adequate; fire is considered approaching inadequate;
2. the building permit reservation is for 4 lots in FY24, subject to modification at the final plat stage;
3. the recordation schedule requires the plat to be recorded within 24 months of preliminary approval;
4. the building permit reservation is allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

**Discussion:**

Attending is Ms. Linda Alexander and Mr. Martin Hackett for the client.

Mr. Hoff questioned if the previous design was 4 lots plus the remainder and then another two houses spanning the full property, and now everything is clustered?

Mr. Becraft replied: With the change in developer, it was decided that it was not beneficial to have all the lots sparse like that and that was due to monetary as well as an environmental reason. They want to remove themselves from those environmental features and utilize the area that is currently open and not forested, they are going to encroach in the forested area briefly, but the majority will be an unencumbered area.

Mr. Hoff asked if the rest of it will be all open space?

Mr. Becraft replied that there is going a portion of open space easement, but the rest will be privately owned. Even though the easement area will be owned privately, the easement area will allow the other residents to utilize the area as they see fit.

Mr. Hoff response was to ask if this will exhaust any more lot rights. And that shows all houses?

Mr. Becraft responded that this will exhaust all lot rights.

Ms. Alexander responded that everything else will be in the easement, all the remaining woods will not be impacted as was originally shown with that huge driveway, everything is in one location, clustered, all the woods come into an easement to the county.

Mr. Lester needed clarification that the open space that is being created is going to be owned by someone else and these residents will have the easement to use, correct?

Mr. Becraft responded that someone else will retain ownership of that land owned easement. As per code there are three options. The first option is to provide it to the county, the county has the right of first refusal. The county decided that they did not want the area. So, they were left with

two other options. One was having it be separated off as a parcel or to have an easement on one of the lots, so it will be utilized under an easement.

Mr. Robertson wanted to dig deeper on that: There are listed 12 different stipulations and easements. Who maintains all the easements?

Mr. Becraft response is: Any easements granted to the county will be regularly inspected to determine that how it is now is how it is in the future. The open space easements and other easements are privately owned will be maintained privately. Which is believed to be handled by an HOA.

Mr. Robertson then asked if the remaining portion is sold off to another landowner, then that landowner would be responsible for maintaining any easements on that land.

Mr. Becraft said that yes, that landowner would be responsible for ensuring there are no disturbances to the county easements and that the other easements be in compliance on their property.

Mr. Robertson said that he has an issue with that. If that land is sold to another property owner would the new owner be required to meet with the county to go over the responsibilities of those easements and then move forward. He said that if the landowner isn't made to understand the requirements and stipulations of those easements then there can be a problem.

Mr. Almon went on to explain that the county easements run with the land. When there is a transfer of property those easements have recorded with the county. So that once an easement or anything is recorded in the land records of Carroll County it is assumed legally that everyone knows about it. Now in specifics to a land transfer normally the easements that are running with the land would be in the deed and the new owner would be privy to and should know about. There is no county requirement that it should be an issue because they should know but practically, they may or may not know.

Mr. Robertson feels there should not be any more burden on the county because it takes man hours and a lot of work to right a wrong and with this many stipulations, in the assumption that the requirements to the easements will be carried out by the new landowner. He is concerned about all 12 of the stipulations. But he understands why they are put in there.

Mr. Robertson asked Mr. Hackett if the easements are bonded.

Mr. Hackett stated that they are not bonded. The easements are recorded in the deed for each property it involves. The open land and wooded land have easements that meet the zoning code and will benefit the residents of the area. Clustering in this case is a more environmentally friendly plan.

The Commission discussed at length questions and concerns related to clustering in general. Mr. Heyn state that staff will prepare a briefing for the Commission regarding clustering at a later date for further discussion.

Ms. Kirkner asked if there were any other questions and there were not.

Ms. Juanita Hayes has major concerns on flooding, there have been flash flood warning for that area and the water will raise four to eight feet. There are erosion problems. There are springs further down that creek that are qualified as wetlands and in terms of clustering and a park access type of thing, there is no way to get to that remainder lot without crossing the stream and there isn't a good place for parking. There are concerns about people wandering in who have no association with these houses, concerns about children that live there going down there in one of

these flash floods and getting swept under the bridge and on to the reservoir. A lot of safety, erosion, and water issues associated with that lot and what is the remainder cannot be approached without dealing with that stream.

Mr. Ed Derrenberger owns 21 acres attached to the subject property, and 510 feet of it he has been maintain for the last 23 years by him. There is an erosion issue and water issue as soon as it rains, it is dangerous to try and cross the stream. The 510 feet has a severe erosion issue. He proposed putting those 510 feet in land preservation, his farm is in land preservation, and he will take care of the property. He would like to see if he can buy that hillside.

Ms. Kirkner's responded that is something you would need to talk to the owner about, but it sounds like it could be done.

Ms. Kirkner asked if there were any other comments and there were none. She then asked for any public comment and there was none.

**Decision:**

The Commission on the motion of Mr. Lester, seconded by Mr. Robertson and carried, approved the plan as submitted subject to chapter 155 and the stipulations listed in preliminary report.

The Commission on the motion of Mr. Lester, seconded by Mr. Robertson and carried, conditionally approved the preliminary plan as submitted subject to chapter 156 and the staff recommendations which are included in the report.

**REVIEW OF FINAL DRAFT 2023 TRANSPORTATION MASTER PLAN-DISCUSSION**

Mary Lane and Clare Stewart presenting.

Ms. Lane stated that about a month ago we handed out a hard copy of the Master Plan along with the Executive Summary to give the members a chance to review. Most of what is in there was seen before with the except of the recommendations. It is all put together with some additional input from the staff and from the municipalities to make some minor changes but nothing that isn't minor. Ms. Lane went over quickly the history of the Transportation Master Plan and the Introduction and Process to Date. Today's meeting is to review Background Chapters 1-4, Chapters 5 through 8 with edits and Chapter 9-Recommendations. Going forward we are looking for approval by the Planning Commission of this plan. There are four town plans currently in process and we will update as new municipal plans are adopted and incorporation into the new County Master Plan. This will not go to the County Commissioners until they have all in context of the new County Master Plan. Ms. Lane reviewed chapters one through four in the Transportation Master Plan. Ms. Stewart reviewed chapters five through eight. Ms. Lane then goes on to Chapter 9, the recommendations. Ms. Stewart discussed the recommendations for each