

SPECIAL REPORT
to the
Carroll County Planning and Zoning Commission
August 20, 2024

Prepared by
Laura Matyas, Bureau of Development Review

SUBJECT: FX-20-0001, Mineral Hill Property

LOCATION: 5734 Mineral Hill Road - South side of Oklahoma Road at Mineral Hill Road, C.D. 5

OWNER: Mineral Hill Property, LLC, 11175 Stratfield Court, Marriottsville, MD 21104
(LLC members: Robert Scranton, Frank E. Potepan III)

DEVELOPER: Same as owner

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

ZONING: R-20,000

ACREAGE: 9.2747 acres

WATERSHED: Liberty Reservoir

NO. OF LOTS: 14 (1 existing residence)

MASTER PLAN: Residential Medium– 2018 Freedom Community Comprehensive Plan

PRIORITY

FUNDING AREA: Freedom

DESIGNATED

GROWTH AREA: Freedom

SEWER/WATER

DISTRICT: Freedom

PUBLIC FACILITIES IMPACTED

SCHOOLS: Freedom Elementary
Oklahoma Road Middle
Liberty High

ROADS: Oklahoma Road

FIRE & EMS: Sykesville

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

❖ **Action Requested:**

One action is required:

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

❖ **Plan History:**

The developer proposes to create fourteen new, clustered lots of subdivision on the property. Lot 1 hosts the existing dwelling. Lots range in size from 11,386 to 25,142 square feet.

On March 21, 2023, the Planning and Zoning Commission reviewed the final plan of the subdivision for the Mineral Hill Property (minutes attached). The final plan was approved in accordance with Chapter 155, *Development and Subdivision of Land*. Regarding *Adequate Public Facilities and Concurrency Management*, Chapter 156 of the Code, Freedom Elementary School was recognized as inadequate during the CIP period. In accordance with the code, the Planning Commission denied the final plan pursuant to Chapter 156.

§ 156.06 APPROVAL PROCESS.

(E) **Final process.**

(4) **Planning Commission adequacy determination.**

(a) **Denial.** If a public facility or service is inadequate or projected to be inadequate during the current CIP at the final plan stage and no relief facility is planned in the six-year CIP to address the inadequacy or no mitigation is accepted by the county pursuant to § 156.06(B), the plan shall be denied by the Planning Commission.

❖ **Plan Review:**

On May 23, 2024, the Board of County Commissioners adopted the Community Investment Plan (CIP) for fiscal years 2025 - 2030. Included in the CIP is funding, requested by the Board of Education (BOE), for expansion of Freedom Elementary School to address the capacity inadequacy at that school. The Carroll County Public Schools (CCPS) Enrollment Projections for 2024-25 to 2033-34 reflects the impact of the building addition on capacity. The numbers demonstrate that the Freedom Elementary School relief project will alleviate the inadequacy beginning in school year 2027-28.

With this relief facility planned, the code allows the Planning and Zoning Commission to grant a conditional approval pursuant to Chapter 156.

§ 156.06 APPROVAL PROCESS.

(E) **Final process.**

(4) **Planning Commission adequacy determination.**

(b) **Conditional approval.** If a public facility or service is inadequate and a relief facility is planned in the six-year CIP to address the inadequacy...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.

While the code permits the Planning and Zoning Commission to approve the plan pursuant to Chapter 156, the plat recordation may not occur until either: construction of the relief facility is underway and completion is anticipated within six months, or the Board of County Commissioners determines that exceptional circumstances exist. It would be incumbent upon the developer to petition an exceptional circumstance to the Board of County Commissioners.

§ 156.05 ADEQUACY APPROVAL.

(B) **Designation as inadequate.** No residential plat may be recorded...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 Board of County Commissioners has determined that exceptional circumstances exist.

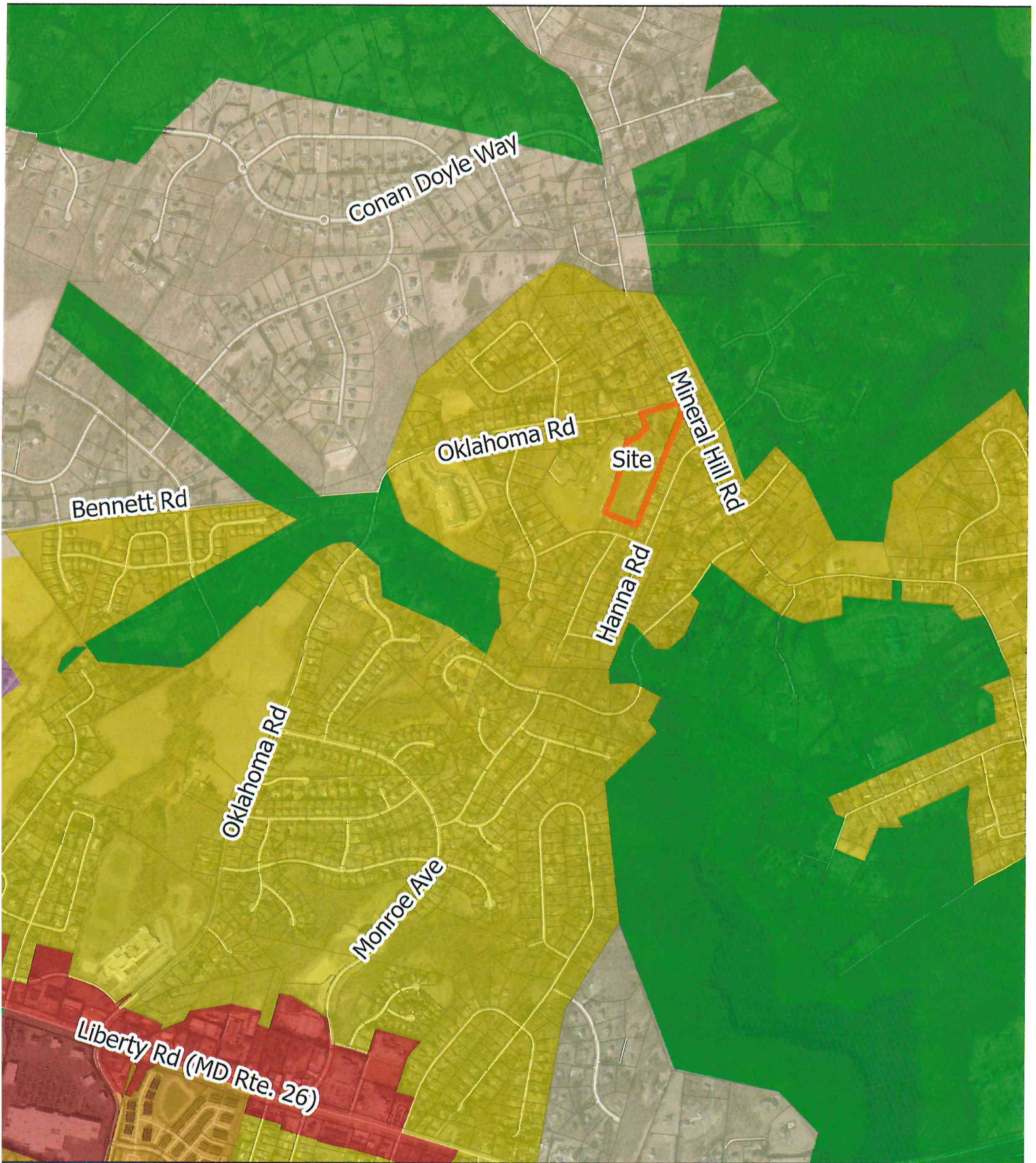
Whereas the code states, “No residential plat may be recorded...until a relief facility planned to address the inadequacy in the current CIP has construction underway and completion is anticipated within six months,” the Staff Recommendation includes a phasing plan for recordation based on the Board of Education’s projected construction timeline. The Director of the Department may approve amendments to the phasing plan. Examples of circumstances which may warrant an amendment to the phasing plan include a change in the adequacy data or the Board of County Commissioners determining that exceptional circumstances exist.

CONCURRENCY MANAGEMENT REPORT

❖ Staff Recommendation:

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

1. The recordation schedule phasing plan will enable the plat to be recorded when the relief facility construction is anticipated to be within six months of completion;
2. Building permit reservations are for 13 lots in FY 27;
3. The building permit reservations are allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.



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|---------------|----------|---------------------------|
| Zoning_County | R-40,000 | C-2 |
| Zoning | R-20,000 | C-3 |
| | R-10,000 | I-1 |
| Conservation | R-7,500 | ParcelOutline_MineralHill |

Mineral Hill Property

FX-20-0001



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



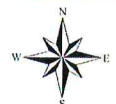
Oklahoma Rd

Mineral Hill Rd

Site

Hanna Rd

**Mineral Hill Property
FX-20-0001**



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

Decision:

The Commission, on motion of Mr. Lester, seconded by Vice Chair Kirkner and carried, voted to approve the preliminary plan in accordance with Chapter 155 and subject to the five conditions listed in the staff report.

The Commission, on motion of Vice Chair Kirkner, seconded by Mr. Kane and carried, voted to conditionally approve the preliminary plan in accordance with Chapter 156 and subject to the four conditions listed in the staff report.

RECESS

FINAL SUBDIVISION PLAN

SUBJECT: FX-20-0001, Mineral Hill Property

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PRIORITY
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DESIGNATED
GROWTH AREA: Freedom

SEWER/WATER
DISTRICT: Freedom

PUBLIC FACILITIES IMPACTED

SCHOOLS: Freedom Elementary
Oklahoma Road Middle
Liberty High

ROADS: Oklahoma Road

FIRE & EMS: Sykesville

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

❖ **Action Requested:**

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. Denial of the Final Plan of Subdivision pursuant to Chapter 156, *Adequate Public Facilities and Concurrency Management*, of the Code of Public Local Laws and Ordinances of Carroll County.

❖ **Existing Conditions:**

The subject property hosts one residence located at the corner of Mineral Hill and Oklahoma Roads and a barn outbuilding. Two existing driveway entrances, one at Mineral Hill Road and a second at Oklahoma Road, serve the property.

From Oklahoma Road, the property slopes downward towards the southern property line with approximately 100 vertical feet of elevation change. A springhead and stream form near the western property line towards the southern portion of the site. There are no FEMA Floodplains on site. Of the property's 9.27 acres, 4.57 acres are forested.

The property's sewer plan designation was previously split between Priority (0-6 years) and No Planned Service. On May 3, 2017, the Maryland Department of the Environment approved the Fall 2016 Amendment to the 2014 Water & Sewer Master Plan which included a reclassification of the property's 6.01 acres of No Planned Service into the Priority area. The subject property lies in the Existing / Final Planning Water Service area.

At the northwest corner of the property, two adjoining parcels host residences with access to Oklahoma Road. Bordered by Rolling View, a 1960s subdivision, to the east and south and a 10.63-acre Lot 1 of Ashby Estates to the west, the subject property shares an R-20,000 zoning designation with all adjoining properties. Rolling View is developed with single-family residences on lots that average 16,000 square feet.

❖ **Plan Review:**

The developer proposes to create fourteen new, clustered lots of subdivision on the property. Clustering is permitted in the R-20,000 zoning district in accordance with Chapter 155.095 of the Code of Public Local Laws and Ordinances of Carroll County.

Following a Technical Review Committee meeting on October 23, 2017, the Planning and Zoning Commission reviewed the project as a Special Report on December 19, 2017 for a determination regarding pursuit of a cluster plan of subdivision and deviation from the open space requirements. The Commission accepted the cluster plan and the open space deviation.

On November 13, 2018, the Planning and Zoning Commission reviewed the concept plan of the cluster subdivision, Mineral Hill. At the concept stage, regarding Concurrency Management, Chapter 156 of the Code, Freedom Elementary School was rated approaching inadequate.

On August 20, 2019, the Planning and Zoning Commission reviewed the preliminary plan of the subdivision for the Mineral Hill Property (minutes attached). The preliminary plan was approved in accordance with Chapter 155, *Development and Subdivision of Land*. Regarding *Adequate Public Facilities and Concurrency Management*, Chapter 156 of the Code, Freedom Elementary School was recognized as inadequate during the CIP period. In

accordance with the Code, the Planning Commission denied the preliminary plan pursuant to Chapter 156.

Lots range in size from 11,386 square feet to 25,142 square feet. Lot widths measure 80 feet at minimum. Setbacks are depicted as 25-foot front, 8-foot side, and 35-foot rear yards. Lot 1 hosts the existing dwelling and private driveway with two, one at Mineral Hill Road and a second at Oklahoma Road. The driveway connection to Oklahoma Road will be removed and access will remain to Mineral Hill Road. A note on the plat indicates that access from Lot 1 and Lot 2 to Oklahoma Road is prohibited.

Access is proposed to the subdivision from Oklahoma Road onto Cobalt Court, a cul-de-sac and proposed County road. The intersection spacing distance to Mineral Hill Road does not meet the requirements of the Design Manual for Roads and Storm Drains. To address the deficiency, the developer submitted a waiver request to the Department of Public Works for a reduction from the required 500 feet to 340 feet. On November 2, 2017, the waiver was approved by the Deputy Director of Public Works.

In accordance with Engineering Review's comment letter, road improvements will be required along the property frontage on Oklahoma Road and Mineral Hill Road. Trip generations have been provided on sheet 1 and the totals indicate that a Traffic Impact Study is not required.

Sidewalk is proposed at Cobalt Court to the maximum extent possible. At the west side of Cobalt Court and Oklahoma Road, slopes, guardrail, and required landscaping inhibit the continuance of sidewalk from the driveway of Lot 14 to Oklahoma Road. Sidewalk is also proposed along the extents of the subject property at Oklahoma Road and Mineral Hill Road.

A private use-in-common drive, Copper Drive, extends approximately 330 feet from the end of Cobalt Court to serve Lots 9, 10, 11, and 12. Code permits five users on a use-in-common drive in residential districts. A Declaration of Maintenance Obligations for Copper Drive will be recorded.

All lots will be served by public water and sewer systems. A water line will tie in to the existing line at Oklahoma Road. The proposed sewer line will connect to an existing line in Hanna Road. This necessitates crossing an adjoining property in the Rolling View subdivision. An easement agreement with the Copley adjoining property owner has been recorded. At the Special Report presentation to the Commission, the proposed sewer line was proposed to connect at Oklahoma Road, requiring uphill pumping from the lots. The revised sewer line instead utilizes gravity flow.

As required by cluster provisions, an area of open space totaling the difference between the 20,000 square foot minimum lot size and the proposed lot sizes is necessitated. This totals of 53,098 square feet. The developer proposes Parcel C with 96,925 square feet of open space at the southern portion of the property.

In accordance with the Code, "a minimum of 10% of the required open space or one and one-half acres, whichever is greater, shall be suitable for active recreational use." For this proposal, 10% of the required open space equals 0.1219 acres, so a minimum of 1.5 acres is required. This active open space acreage requirement is greater than the required open space acreage. The Commission may approve deviations from the percentage requirements for properties containing less than 10 acres.

A total of zero acres on the open space parcel are proposed as active open space. With consideration of the stormwater facility being underground, which will allow active

recreational uses to occur on Parcel B, the Commission approved the deviation from the Code requirement on December 19, 2017 at the Special Report presentation. The County has first right of refusal of Open Space Parcel C. Both Resource Management and Facilities have recommended that the County decline the parcel. Parcel C will be conveyed to the Homeowners Association.

The subject property is in a Priority Funding Area and Designated Growth Area. The proposed land use is consistent with the 2018 Freedom Community Comprehensive Plan, as stated by the Department of Planning in their review.

The plan is exempt from Floodplain codes. A Water Resource Protection Easement at the variable stream buffer will be established and granted to the County. The easement will be located on both Open Space Parcel C and Stormwater Management Parcel B. Forest Conservation will be addressed both with on-site retention and planting and off-site banking. A Forest Conservation easement will be granted to the County. The side yard of Lot 2 is screened at Oklahoma Road in accordance with Landscape Manual requirements. Landscape screening at Cobalt Court between the development and 5717 Oklahoma Road is provided in accordance with the Manual. Stormwater management is addressed with an underground facility on Parcel B, storm drain pipe system, grass swales, and drywells.

❖ **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 Cobalt Court be conveyed to the Carroll County Commissioners upon acceptance by the County.
3. That a Declaration of Maintenance Obligations for the use-in-common driveway, Copper Drive, serving Lots 9, 10, 11, and 12 be recorded simultaneously with recordation of the subdivision plat.
4. That a Water Resource Protection Easement be granted to the County Commissioners of Carroll County simultaneously with recordation of the subdivision plat.
5. That a Forest Conservation Easement be granted to the County Commissioners of Carroll County simultaneously with recordation of the subdivision plat.
6. That a Landscape Maintenance Agreement for the landscaping shown on the approved preliminary plan be recorded simultaneously with recordation of the plat.
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 recordation of the subdivision plat.
8. That the area shown as Parcel A along Oklahoma Road and Mineral Hill Road be conveyed to the County Commissioners of Carroll County for right-of-way simultaneously with recordation of the subdivision plat.
9. That the area shown as Parcel B be conveyed to the County Commissioners of Carroll County upon acceptance of the facilities by the County.

10. That the area shown as Parcel C be conveyed to the Homeowners Association by deed to be recorded simultaneous with recordation of the subdivision plat.
11. That any area labeled as a sewer easement, water easement, drainage and utility easement, or storm drain easement be granted to the County Commissioners of Carroll County by deed to be recorded simultaneously with recordation of the subdivision plat.
12. That the area labeled maintenance easement at Cobalt Court be granted to the County Commissioners of Carroll County by deed to be recorded simultaneously with recordation of the subdivision plat.
13. That the area shown as mailbox easement be conveyed to the Homeowners Association by deed to be recorded simultaneous with recordation of the subdivision plat.
14. That any changes to the Preliminary Plan as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.

CONCURRENCY MANAGEMENT REPORT

❖ Background:

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

❖ Agency Responses:

Police Services:

The 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 February 28, 2023 was 176,215. There are currently 241 sworn law officers with 4 positions currently in training; an additional 30 positions are funded. Based on a total of 275 funded positions, the ratio of law enforcement positions to Carroll County population as of the end of February 2023 was 1.56. Based on a total of 245 positions, the ratio of sworn law enforcement positions to Carroll County population as of the end of February 2023 was 1.46. 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 Freedom Elementary, Oklahoma Road Middle, and Liberty High attendance areas. In accordance with the criteria established in Chapter 156, Oklahoma Road Middle and Liberty High are rated adequate for Fiscal Years 2023-2028. Freedom Elementary is rated inadequate starting in Fiscal Year 2024.

The June 2022 enrollment projections, prepared by Carroll County Public Schools, indicate that Freedom Elementary had an actual enrollment in FY 2022 of 114.1% of state-rated capacity. The projections indicate that enrollment capacity percentages will be 116.8% in FY 2023, 121.3% in FY 2024, 121.7% in FY 2025, 125.1% in FY 2026, 126.9% in FY 2027, and 125.9% in FY 2028 at the end of the 6-year CIP cycle. There are approximately 5 subdivision lots in the Freedom Elementary attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have not been issued a building permit. In this attendance area there are 8 additional residential developments, comprised of 142 lots, currently in the review process. An elementary school serving a proposed project is approaching inadequate, for the purposes of this subchapter, when current or projected enrollment is 110% to 119% of the state-rated capacity. An elementary school serving a proposed project is inadequate, for the purposes of this subchapter, when current or projected enrollment is equal to or greater than 120% of the state-rated capacity.

Although there are no improvements scheduled in the current approved Capital Improvement Program which will provide capacity, Bill Caine, Facilities Planner for the Board of Education indicated on the Certification form “Redistricting committee evaluated options to relieve Freedom, and architect is currently conducting feasibility study to look at addition to Freedom ES (Elementary School).” (see attached)

The June 2022 enrollment projections indicate that Oklahoma Road Middle had an actual enrollment in FY 2022 of 87.5% of functional capacity. The projections indicate that enrollment will increase to 104.8% in FY 2028, at the end of the 6-year CIP cycle. In this attendance area there are 11 additional residential developments, comprised of 291 lots, currently in the review process. There are approximately 8 lots in the Oklahoma Road Middle school 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 June 2022 enrollment projections indicate that Liberty High had an actual enrollment in FY 2022 of 88.0% of state-rated capacity. The projections indicate that enrollment will increase to 93.8% of state-rated capacity in FY 2028, at the end of the 6-year CIP cycle. In this attendance area there are 11 additional residential developments, comprised of 291 lots, currently in the review process. There are approximately 8 residential subdivision lots in the Liberty attendance area that have been recorded since the adoption of Concurrency Management (3/5/98) that have 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 Sykesville fire and emergency medical services district. The two-year period of February 2021-January 2023 late and no response statistical data indicates that of the first due total fire calls in the Sykesville district, 3.54% were categorized as no responses, and 14.15% as late and no responses. Of the first due emergency medical service calls, 1.20% were categorized as no responses and 1.32% as late and no responses. Services are rated adequate if when utilizing an average over the previous 24 months, late and no response is less than 15% and no

response is less than 4%. 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 34 seconds – adequate. With regard to fire call average response time, for the same period, Sykesville had an average response time of 7 minutes and 20 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:

Oklahoma Road is rated adequate.

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 plan, Chapter 156.06E(4)(a) states “If a public facility or service is inadequate or projected to be inadequate during the current CIP at the final plan stage and no relief facility is planned in the six-year CIP to address the inadequacy or no mitigation is accepted by the county pursuant to § 156.06(B), the plan shall be denied by the Planning Commission. At the developer’s request, the plan may be placed in a queue and retested on an annual basis.”

In accordance with the Code, the Planning Commission shall deny the final plan pursuant to Chapter 156.

Discussion:

Laura Matyas presented the staff report.

Martin Rickell, CLSI, and Frank Potepan, Mineral Hill Properties, were present.

Decision:

The Commission, on motion of Mr. Hoff, seconded by Mr. Kane and carried, voted to approve the final plan in accordance with Chapter 155 and subject to the fourteen conditions listed in the staff report.

The Commission, on motion of Vice Chair Kirkner, seconded by Mr. Kane and carried, voted to deny the final plan in accordance with Chapter 156 and place the plan in the queue to be retested on an annual basis.