

CECIL COUNTY PLANNING COMMISSION

Meeting Minutes

February 17, 2009

Present: Bill Mortimer, Chairman; Joe Janusz; Ken Wiggins; Wyatt Wallace; Guy Edwards; H. Clay McDowell; Tim Whittie; Mark Woodhull; Clara Campbell; Lloyd Harmon; Tony Di Giacomo; Eric Sennstrom; Jennifer Bakeoven; Bill Counts, Court Reporter.

Absent: B. Patrick Doordan, Rebecca Demmler.

Call to Order: Chairman Mortimer called the meeting to order at 12:02 p.m.

Approval of the Minutes: Mr. Janusz made a motion for approval. The motion was seconded by Mr. Wiggins. All approve. Motion carried.

Chairman Mortimer announced that Baldwin Mill, #1 on the agenda, has been withdrawn.

1. Baldwin Mill, Lots 1-256, Elk Mills Road, Concept Plat Extension, McCrone, Inc., Third Election District.

WITHDRAWN

2. Lands of Montgomery – Cecil Limited Partnership, Lots 1-148, Marley Road, Concept Plat Extension, Northern Bay Land Planning, Fifth Election District.

Barry Montgomery, owner, appeared and presented an overview of the project.

Mr. Di Giacomo, P&Z, read the comments of the department:

This proposal is in compliance with §3.8 & §3.9.1 regarding public notification.

With regard to the posting of plats on the County's website, notice is hereby given the jpg file submissions can be only 11 inches, maximum, in any direction. Adherence to that requirement will enable the County to better serve the public.

Zoning: DR

Density: The DR zone permits a maximum base density of 1 du/ 1 ac., or 4/1 with community facilities.

The Concept Plat, proposing 148 lots on 148.89 acres, for a proposed density of 1/1.01, was approved by the Planning Commission on 3/18/02, conditioned on:

- 1) A Traffic Impact Study, including a signal warrant analysis for the Marley Road/ US 40 intersection, being complete prior to TAC review of the Preliminary Plat;
- 2) Road names being approved by the County's 911 Emergency Center prior to Planning Commission review of the Preliminary Plat;
- 3) Intermittent and perennial stream labeling and buffers being made consistent with the USGS Quad maps, and all intermittent streams being shown;
- 4) The JD being completed prior to Planning Commission review of the Preliminary Plat; and
- 5) Verification being received from MDE that the SuperFund site on the east side of Marley Road will not have adverse impacts on the proposed wells.

§4.0.9 of the Subdivision Regulations provided that Concept Plats shall be valid for two years from date of approval.

Therefore, one-year extensions of Concept Plat approval were granted on 1/22/04, 1/18/05, 1/17/06, 1/16/07, and 12/17/07, extending the Concept Plat's validity until 3/18/09.¹

Should the Planning Commission grant another extension, it will be valid until 3/18/10. At that time, if necessary, the applicant may again request a subsequent one-year extension of Concept Plat approval.

§4.0.10 of the Subdivision Regulations stipulates, "The Planning Commission may, at their regular monthly meeting, grant an extension of the density approval of a Concept Plat for one (1) year upon application of the developer. If granted, said extension shall run for one (1) year from the anniversary of the original date of approval. In connection with such request, the Commission shall consider the following:

- a) Change in the zoning classification of the property.
- b) Change in the Zoning Ordinance.
- c) Change in the Subdivision Regulations.
- d) Change in the Comprehensive Plan.
- e) Change in the Critical Area designation of the property.
- f) Change in the Critical Area Program.
- g) Change in the Forest Conservation Regulations."

Staff reports that there have been no such pertinent changes.²

Mr. Woodhull, DPW, read the comments of the department:

The completion of the new Route 40 sewerage pump station removes the capacity issue previously delaying this development. The Department of Public Works has no objection to the Planning Commission granting a one-year extension to the concept plat approval for this project. With that said, all of the Department's comments made at the January 16, 2007 Planning Commission meeting remain applicable to this extension request. We will not re-read those comments at this time, but they will appear in the minutes for record.

1. A SWM plan; Road and Storm Drain plan; Sanitary Sewer Plan; and a Mass and Final Grading plan must be approved by the CCDPW prior to submittal for Final Plat Approval.
2. The downstream conveyance of storm water must be analyzed in accordance with Section 251-9 A. (5) of the county's SWM Ordinance.
3. If storm water discharge is directed off of the site on to adjacent properties it is the responsibility of the Developer to obtain appropriate easements from the owners of the affected properties per Section 251-13 of the Cecil County Stormwater Management Ordinance.
4. The 20' wide access, between Lots 99 & 100 serving the SWM facility adjacent to Lots 100-109 may need to be wider if it is also used for conveyance of storm water.
5. Re-submit the sight distance measurements for the proposed entrance locations prior to preliminary plat review by the TAC. Vegetative clearing will likely be necessary at both entrances. A knoll exists approximately 200' north of the southern entrance; this will likely have to be removed by the developer. Similarly, there is a knoll some half mile

¹ As of 8/21/07, extensions ran for one year from the anniversary date if the original approval rather than one year from the date of the granting of the extension.

² The zoning classification has **not changed**, the property is **not in** the Critical Area, and minor amendments to the Comprehensive Plan, the Zoning Ordinance, and the Subdivision Regulations have **no impact** upon the approved Concept Plat, and **no relevance** to its extension.

south of the southern entrance that will become increasingly of concern with the significant added traffic on Marley Road and the Applicant's Engineer must address it with a recommended solution.

6. All off-site road improvements, associated with the proposed development, required in Section 3.07 of the Road Code and identified in the offsite road condition survey and improvements plan must be approved in concept by the Department of Public Works prior to submitting this project to the Planning Commission for preliminary plat review. The improvements need to be shown or described on the preliminary plat submitted for Planning Commission review.
7. Section 3.07.15 of the Road Code requires that Marley Road be upgraded to a Minor Collector Road or equivalent standard for 100' either side of the proposed entrance locations. As Marley road has just been repaved the Department will identify 200' of road improvements on an adjacent road.
8. The design engineer must address the requirement for minimum acceleration, deceleration, and bypass lanes. Any right-of-way acquisition necessary shall be performed by the applicant and at the applicant's expense. The developer must make a legitimate good faith effort to obtain all ROW required to accomplish these improvements. This effort must conform to Section 3.07.15 of the Road Code Guidance Manual. The applicant may seek a variance to these requirements if after these efforts the applicant is unable to obtain the necessary ROW.
9. The addition of 148 homes to Marley Road (95% of which will likely access the Route 40 intersection) will add an estimated 1480 daily trip ends to Marley Road. As such, a Protocol 3 offsite road condition survey and improvements plan of Marley Road from the northern subdivision entrance to Route 40 must be submitted to the Department of Public Works prior to preliminary plat submittal to the Technical Advisory Committee. Applicant's engineer is encouraged to meet with the Department prior to preparing any road condition survey to establish an appropriate scope.
10. The proposed cul-de-sacs are in non-compliance with Standard Detail R-14 of the Road Code (bulb diameter).
11. Closed section road design is required per Section 2.07 of the Road Code. If open section street design is proposed, a substantiated Road Code variance request must be presented by the applicant.
12. Any applicable Road Code Variances must be requested prior to submittal for Preliminary Plat approval.
13. Per the Department's September 1, 2006 Memorandum the minimum pavement width is 30' for minor roads and 36' for minor collector roads when lot sizes are > 10,000sf <30,000sf.
14. Geo-technical analysis of all road crossings of wetlands/streams, to determine suitability of the sub-base to support a county road, is required. This analysis must be included in the road & storm drain design submittal.
15. If construction of this development is phased, the Department strongly recommends that the Planning Commission require the applicant to obtain the stream crossing permitting during the first phase to ensure that the connectivity will be achieved.
16. The minimum horizontal curvature radius for a Minor Road is 200'.
17. All lots with access to a cul-de-sac street must be denied access to the main street; these include Lots 11, 21, 25, 41, 33, 77, and 93.
18. Deny access to Lot 148 except for the northern 30' of frontage. Deny lot 72 on curved portion of frontage. Deny Lot 17 for Meadow Hall Road.
19. All driveways must be paved at least to the right of way. The driveway paving must be complete for all lots at the time when the surface course for the internal roads is installed. This requirement includes any vacant but platted lots. Any driveway exceeding 5% up-

gradient-slope from the roadway must be paved to the crest. If the development is phased these requirements will apply to each phase when 80% of the lots are built-out. All of these requirements must be reflected on the Lot Grading Plan.

20. Where determined necessary by the utility companies, the owner, the designer, or DPW, utilities poles must be relocated at the Owner's expense.
21. Limits of fee simple ownership must be determined by the applicant for the two proposed entrances and dedication language must be added.
22. A school bus turnaround must be provided during the first phase of development.
23. If sidewalks are required by the Planning Commission, the Final Plats should include a note indicating that sidewalks maintenance will be required of the adjacent property owner, as required by the Cecil County Road Code.
24. In TAC, the Department required that the loop road connecting the two proposed entrances continue as a Minor Collector Standard throughout. Upon further evaluation, it may be permissible to transition from a 60' ROW to a 50' ROW at the western limit of Lot 93 and the western limit of Lot 21, with a 50' transition in pavement width. The applicant must address this in a substantiated Road Code Waiver request.
25. All lots proposed to access the internal minor collector subdivision streets must have provisions for on lot driveway turn-arounds on the final lot grading plans. Minor Collector streets are not intended to serve as primary access to abutting lots.
26. A Sanitary Sewer submittal must be approved by the DPW for the sewer improvements prior to submittal for Final Plat Approval.
27. Sewer capacity is not available at this time. The applicant must demonstrate that sufficient build-out capacity exists for the existing gravity sewer line along Route 40 (including consideration of other proposed projects) and the Route 40 SPS must be upgraded before sewer allocation can be made for this and other similar projects along the corridor.
28. An Inspection and Maintenance Agreement will be required for the SWM facilities.
29. A PWA will be required for internal streets, stormdrains, sanitary sewers, and any private utility improvements.

Mr. Wiggins read the comments of the Health Department:

The Cecil County Health Department has no objection to the extension of concept plat approval.

Chairman Mortimer asked if anyone would like to speak in favor or in opposition of this project. No one spoke.

Mr. Di Giacomo read the recommendation of the staff:

The Granting of a one-year Extension of Concept Plat approval, to expire on 3/18/10.

A motion for the granting of a 1 year extension was made by Mr. Janusz. The motion was seconded by Mr. Wallace.

All approved. Motion carried.

3. Glennas Heights, Lots 1-25, Johnson Road, Preliminary Plat Extension, Stantec Consulting Services, Inc., Eighth Election District.

John Grant, Stantec Consulting Services, Inc., appeared and presented an overview of the project.

Mr. Di Giacomo, P&Z, read the comments of the department:
This proposal is in compliance with §3.8 & §3.9.1 regarding public notification.

With regard to the posting of plats on the County's website, notice is hereby given the jpg file submissions can be only 11 inches, maximum, in any direction. Adherence to that requirement will enable the County to better serve the public.

Zoning: NAR

Density: The Concept Plat,³ proposing 25 lots on 70.26 acres, was approved on 6/21/04, conditioned on:

- 1) The JD being completed prior to Preliminary Plat review by the Planning Commission;
- 2) The mini road name being approved prior to Preliminary Plat review by the Planning Commission;
- 3) A sensitive species survey being completed prior to Preliminary Plat review by the TAC;
- 4) The acreages of all parcels and deed parcels being included on the plat prior to Preliminary Plat review by the TAC;
- 5) All streams and buffers being clearly delineated on the Preliminary Plat; and
- 6) The Final Plat reflecting that this project is in Cecil County.

The Preliminary Plat was approved on 10/18/04, conditioned on:

- 1) Health Department requirements being met;
- 2) DPW requirements being met;
- 3) All sensitive species protective buffers being shown on the Final Plat;
- 4) The FCP and Landscape Plan being approved prior to Final plat review;
- 5) The Details on the Final Plat and the FCP and Landscape Plan matching up; and
- 6) Per §174.1(a), no SWM facility outfall areas being located in any stream buffers.

§4.1.17 provides that Preliminary Plats shall be valid for two years from date of approval. Therefore, 1-year extensions of the 10/18/04 Preliminary Plat approval were granted on 5/16/06, 2/20/07, and 2/20/08 the latter of which will expire on 2/20/09 unless the requested extension is granted. If granted, this extension will expire on 2/17/10.

§4.1.18 of the Subdivision Regulations stipulates, "The Planning Commission may, at their regular monthly meeting, grant an extension of the Preliminary approval for one (1) year upon application of the developer. If granted, said extension shall run for one (1) year from the date said extension is granted. In connection with such request, the Commission shall consider the following:

- a) Change of adjoining land use.
- b) Change in street or highway plan.
- c) Change in zoning or subdivision regulations."

There were no such relevant changes.

³ It invoked the minor subdivision potential of 1 of the deed parcels. Therefore, 4 of the proposed lots could be minor subdivision lots, and the density was calculated as follows:

Total site area is	70.26 ac.
4 potential minor sub lots	<u>-4.00</u> ac.
Remaining site area	66.26 ac.

1 unit/3 acres: 66.26 / 3	= 22 lots (density of 1/3.113, <u>1/3.155</u> for 21 lots)
Add minor subs	= 4 lots
TOTAL ALLOWED LOTS	= 26
TOTAL PROPOSED LOTS	= 25

Mr. Woodhull, DPW, read the comments of the department:

The Department has no objection to extending the preliminary plat. All outstanding comments made at the July 16, 2007 Planning Commission meeting still apply. Those comments will be made part of the minutes but not be read at its time.

1. A SWM plan, Road & Storm Drain plan, and a Mass & Final Grading plan must be approved by the CCDPW prior to submittal for Final Plat Approval. The Final Plat must include the standard note recognizing the applicability of the Lot Grading Plans, which will appear in the minutes but will not be read at this time. (“A lot grading plan has been approved by the CCDPW for the construction shown hereon. A site construction as built shall be submitted to the CCDPW prior to use and/or occupancy of any of the sites shown hereon. Any change to the Forest Retention, Forestation, and Reforestation will require a consistency review, of the SWM approval, with CCDPW.”)
2. The Lot Grading Plan must include the standard note addressing the limits of construction, which will appear in the minutes but will not be read at this time. (“No clearing or grading is permitted beyond the limits of disturbance show hereon. Any expanded clearing and/or grading in the absence of an approved revised lot grading plan may be considered non-compliance with Chapter 251 of the Cecil County Code and either or both the developer and/or Builder may be subject to the enforcement of the penalty provisions therein.”)
3. The stream you propose to discharge the pond to be a tributary of the Octoraro Creek, which has a Stream Segment Use Designation of IV-P (Recreational Trout Waters). The Engineer is cautioned that Chapter 3, Section 3.1.1 of the 2000 Maryland Stormwater Design Manual, Volume I states “The use of stormwater ponds on coldwater streams capable of supporting trout (Use III and IV) may be prohibited. Stormwater ponds located in Use III and IV watersheds should be designed to significantly reduce and/or eliminate thermal impacts. Refer to Chapter 4, Section 4.1 of the 2000 Maryland Stormwater Design Manual, Volume I.”
4. If stormwater discharge is directed off of the site on to adjacent property it is the responsibility of the Developer to obtain appropriate easements from the affected property owners per Section 251-13 of the Cecil County SWM Ordinance.
5. The downstream conveyance of storm water must be analyzed in accordance with Section 251-9 A. (5) of the county’s SWM Ordinance.
6. Sight distance measurements must be provided to the DPW to establish compliance with the Cecil County Road Code.
7. Sight distance measurements for the proposed entrance have been submitted and are acceptable.
8. Section 3.07.4 of the Cecil County Road Code requires that Cobble Drive intersect Johnson Road at 90°. An intersecting angle between 70° and 90° can be accepted if adequately justified by the designer. This justification has not yet been made, to our knowledge. Perhaps the designer can address that at this time?
9. Where determined necessary by the utility companies, the owner, the designer, or DPW, utilities poles must be relocated at the Owner’s expense.
10. Section 3.07.15 of the Road Code nominally directs that Johnson Road be upgraded to a Minor Collector Standard for a distance of 100’ either side of the point of intersection between Johnson Road and Cobble Drive.
11. However, the Department anticipates that the addition of some 230 trips per day will require substantial off-site roadwork beyond the limits set by Section 3.07. 15. Existing wetlands may complicate this off-site work.
12. The Developer must address improvements to Johnson Road extending 900’ west and 1,300’ east of the proposed entrance. The improvements will require repair of areas of failed sub-grade identified by the Department, installation and or replacement of cross culverts, re-establishment of adequate roadside drainage, and overlay of Johnson Road at a minimum 1¹/₂” at the edges effecting a 3% cross slope for the entire 2,200’.

13. The Department will require substantial Geo-tech investigation of the suitability of the sub-grade, along the proposed roadway, to support a County road. The area of this investigation runs from the area of the proposed SWM facility to the intersection with Johnson Road.
14. Regardless of phasing, the Department will not accept the internal roads until 80% of all the lots are complete, unless the Developer includes a separate, dedicated construction entrance beyond the first phase of construction.
15. The island within the Cobble Drive cul-de-sac bulb must be outside of the County ROW and so indicated as is done with the intermediate turnaround.
16. The requirements of Section 4.1.22 m & n must be addressed on the preliminary plat.
17. The private mini-road proposed must meet the requirements spelled out in Section 2.13 of the Road Code. These requirements include placing a statement, on the approved Final Plat that clearly outlines the responsibilities of the Mini-Road Maintenance Association in the maintenance of roads and storm drainage systems. The recommended wording will appear in the minutes, but will not be read at this time: (The proposed internal roads will not be dedicated for public ownership or maintenance. The Mini-Road Maintenance Association shall retain title to the road and all maintenance responsibilities.).
18. The Private Mini-Road must be terminated in a cul-de-sac in accordance with Road Code Standard R-15.
19. The Developer must provide evidence of BG&E's approval of the mini-road design and crossing prior to Final Plat approval.
20. The BGE gas line must be identified on the plat.
21. The cul-de-sac does not meet the radius requirements of Road Code Standard (R-14). The radius of the ROW line must be 75' verses the 65' graphically shown.
22. The length of Cobble Drive requires that an intermediate turnaround be provided. Is the island median section of road adjacent to Lot 23 proposed to meet this requirement? Road Code Standard R-16 details the approved geometry for this. However the Department is open to possible alternatives if substantiated by a Road Code Variance request.
23. Any applicable Road Code Variance must be requested prior to submittal for Preliminary Plat approval.
24. All driveways as well as the mini-road connection to the cul-de-sac must be paved at least to the right of way and this must be so indicated on the Lot Grading Plan.
25. It appears that the property line bisects two existing structures on Lot 24. What is proposed for these structures?
26. The 2003 aerial photo of this site indicates that there are existing drives interconnecting Lot 24 with the Lands of Halsey. Please clarify what is proposed for these.
27. An Inspection and Maintenance Agreement will be required for the SWM facilities.
28. A PWA will be required for internal streets and storm drains.

Mr. Wiggins read the comments of the Health Department:

The Cecil County Health Department has no objection to the extension of preliminary plat approval.

Please note: the Groundwater Appropriation Permit has expired. A new Groundwater Appropriation Permit must be issued prior to final plat approval.

Chairman Mortimer asked if anyone would like to speak in favor or in opposition of this project. No one spoke.

Mr. Di Giacomo read the recommendation of the staff:

GRANTING of 1-year extension of Preliminary Plat approval, to expire on 2/17/10.

A motion for the granting of a 1 year extension was made by Mr. Wallace. The motion was seconded by Mr. McDowell.

All members were in favor of the granting of the extension with the exception of Mr. Janusz.

Motion carried.

4. Saddlebrook, Lots 1-9, Nottingham Road, Preliminary Plat Extension, McCrone, Inc., Fifth Election District.

Don Sutton, Mc Crone, Inc., appeared and presented an overview of the project.

Mr. Di Giacomo, P&Z, read the comments of the department:

This proposal is in compliance with §3.8 & §3.9.1 regarding public notification.

With regard to the posting of plats on the County website, notice is hereby given the jpg file submissions can only be 11 inches, maximum, in any direction. Adherence to that requirement will enable the County to better serve the public.

Zoning: SR

Density: The Concept Plat, proposing 10 lots, common open space, and road right-of-way on 21.59 acres, for a proposed density of 1/2.16, was approved on 8/15/05, conditioned on:

- 1) The JD being completed prior to the Planning Commission's review of the Preliminary Plat;
- 2) The boundary line survey being completed prior to the TAC's review of the Preliminary Plat; and
- 3) DPW requirements being met prior to the TAC's review of the Preliminary Plat.

The Preliminary Plat was approved on 5/17/06, conditioned on:

- 1) Health department requirements being met;
- 2) DPW requirements being met;
- 3) The FCP and Landscape Plan being approved prior to the Planning Commission's review of the Final plat; and
- 4) Deed restrictions for the long-term protection of the Forest Retention/Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Final and Record Plats.

§4.1.17 of the Subdivision Regulations provides that Preliminary Plats shall be valid for two years from date of approval. Therefore, a one-year extension was granted on 3/17/08. Unless a one-year extension is granted, or a Final Plat is approved and recorded in the interim, the Preliminary Plat approval will expire on 3/17/09.

If another one-year extension is granted, then the Preliminary Plat approval, with conditions, will be extended until 2/17/10.

§4.1.18 of the Cecil County Subdivision Regulations stipulates, "The Planning Commission may, at their regular monthly meeting, grant an extension of the Preliminary approval for one (1) year upon application of the developer. If granted, said extension shall run for (1) year from the date said extension is granted. In connection with such request, the Commission shall consider the following:

- a) Change of adjoining land use.
- b) Change in street or highway plan.
- c) Change in zoning or subdivision regulations."

There have been no such pertinent changes.

Mr. Woodhull, DPW, read the comments of the department:

The Department has no objection to granting an extension as requested. The outstanding comments from the May 15, 2006 Planning Commission meeting still apply and will be made a part of the record but not be read at this time.

1. A SWM plan, Road & Storm Drain plan, and a Mass and Final Grading plan must be approved by the CCDPW prior to submittal for Final Plat Approval. The fees for design review of this project must be provided at the time of first design submittals.
2. No Road Code Variances have been sought therefore the Department expects the design of the entrance and internal street to meet County Road Code standards without variation. Why is there no right-of-way interconnection proposed to lands of Clark or to lands of Wink?
3. Show any existing Nottingham Road cross culverts along the site's Nottingham Road frontage on the preliminary plat and include relevant drainage easements.
4. Why are Lots One and Two not denied access to Nottingham Road, with access by way of London Lane? Deny access to Nottingham Road for lot 2 frontage, except the existing driveway location, and along the first 75' of the London Lane frontage.
5. The County will be replacing the CSX bridge to the east of this site and the increase in height will require vertical realignment of the approaches. This must be taken into consideration for the entrance design for this project.
6. The following standard notes and requirements apply to this plat and project: The details of these notes and requirements will be identified in the record but will not be read at this time:
 - 6.1 The Lot Grading Plan Construction Limits Note.
 - 6.2 Compliance with Sections 251-9.A(5), 251-13, and 251-15.D. of the Cecil County Stormwater Management Ordinance.
 - 6.3 Compliance with Section 3.07.15 of the Cecil County Road Code.
 - 6.4 Requirements for Utility relocations.
 - 6.5 Requirements for Public Works Agreements.
 - 6.6 Requirements for Stormwater Inspection and Maintenance Agreements
 - 6.7 Requirements for County Roads.
 - 6.8 Requirements for Driveways.
 - 6.9 Requirements for Stopping Sight Distance

Notes and requirements identified for record:

1. The Lot Grading Plan must include the standard construction limits note.
 - a. *Grading Plan: "No clearing or grading is permitted beyond the limits of disturbance show hereon. Any expanded clearing and/or grading in the absence of an approved revised lot grading plan may be considered non-compliance with Chapter 251 of the Cecil County Code and either or both the developer and/or Builder may be subject to the enforcement of the penalty provisions therein."*
2. The downstream conveyance of storm water must be analyzed in accordance with Section 251-9 A. (5) of the county's SWM Ordinance. If stormwater discharge is directed off of the site on to adjacent property it is the responsibility of the Developer to obtain appropriate easements from the affected property owners per Sections 251-13 and 251-15.D of the Cecil County SWM Ordinance.
3. Section 3.07.15 of the Road Code directs that Nottingham Road must be upgraded to a Minor Collector Road Standard for a distance of 100' either side of the proposed entrance. The design engineer must address the requirement for minimum acceleration, deceleration, and bypass lanes. Any right-of-way acquisition necessary shall be performed by the applicant and at the applicant's expense.
4. Where determined necessary by the utility companies, the owner, the designer, or DPW, utility poles must be relocated at the Developer's expense.
5. A Public Works Agreement is required for the county streets & storm drainage constructions and a Public Works Agreement is required for the Private Mini Road.
6. An Inspection & Maintenance Agreement is required for the private SWM facilities.
7. The street R.O.W. entrance tapers must be offset 25' from the R.O.W. point of intersection and be straight lines, per 7.2.12.E.3 of the Subdivision Regulations. The internal street grade leaving Weaver Meadows Road may not exceed 5% within the limits of the intersection right-of-way.
8. For County Roads, all driveways must be paved at least to the right of way. The driveway paving must be complete for all lots at the time when the surface course for the internal roads is installed. This requirement includes any vacant but platted lots. Any driveway exceeding 5% up-gradient-slope from the roadway must be paved to the crest. If the development is phased these requirements will apply to each phase when 80% of the lots are built-out. All of these requirements must be reflected on the Lot Grading Plan.

9. Applicant must provide stopping sight distance measurements for the Weaver Meadows Road access location to DPW prior to preliminary plat submittal. Mark the proposed entrance locations in the field by a survey stake or paint.

Mr. Wiggins read the comments of the Health Department:

The Cecil County Health Department has no objection to the extension of preliminary plat approval. Please note: A Groundwater Appropriation Permit Exemption must be filed with Maryland Department of the Environment prior to final plat approval.

Chairman Mortimer asked if anyone would like to speak in favor or in opposition of this project. No one spoke.

Mr. Di Giacomo read the recommendation of the staff:

The GRANTING of a one (1) year extension of Preliminary Plat approval, to expire on 2/17/10.

A motion for the granting of a 1 year extension was made by Mr. Edwards.

The motion was seconded by Mr. Wiggins.

All approve. Motion carried.

5. Elk Nest, Lots 1-26, MD Rte. 272, Final Plat, McCrone, Inc., Fifth Election District.

Mike Burcham, McCrone, Inc., and Mike Pugh, Corridor Land Services, appeared and presented an overview of the project.

Mr. Pugh requested that the Planning Commission table this project indefinitely due to the need for the applicant to seek several variances that are required.

Mr. Di Giacomo, P&Z, read the comments of the department:

This proposal is in compliance with §3.8 & §3.9.1 regarding public notification signs.

With regard to the posting of plats on the County's website, notice is hereby given the jpg file submissions can be only 11 inches, maximum, in any direction. Adherence to that requirement will enable the County to better serve the public.

Zoning: SR, MB & LDA

Density: The SR zone permits a maximum base density of 1 du/ 1 ac., or 2/1 with community facilities. The LDA zone permits a density of 3.99/1 or the density permitted in the underlying zone (2/1), whichever is more restrictive.

The Concept Plat was approved for 26 Lots at a density 1.4/1 on 6/21/04, conditioned on:

- 1) The Jurisdictional Determination being completed prior to the Planning Commission's review of the Preliminary Plat;
- 2) A boundary line survey being completed in the preparation of the Preliminary Plat for density calculation purposes; and
- 3) A study to determine the appropriate termination of the County owned portion of West Shady Beach Road, agreeable to the Planning Commission/Department of Public Works.

The Preliminary Plat, also proposing 26 lots, was approved on 1/18/05, conditioned on:

- 1) Health Department requirements being met;
- 2) DPW requirements being met;
- 3) The FCP being approved prior to Final Plat review;
- 4) Landscape Plan being approved prior to Final Plat review;

- 5) Environmental Assessment being approved prior to Final Plat review;
- 6) Details of the Final Plat and FCP matching up, including clarification of the Forest Retention lines and their identification on both the Final Plat and the FCP.

§4.1.17 provides that Preliminary Plats shall be valid for two years from date of approval. Therefore, pursuant to §4.1.18, a 1-year extension was granted on 12/18/06.

On 2/20/07, per a request for relief of §7.6, the Planning Commission exercised its powers under §3.5 to allow the 1/1 tree replacement outside the Critical Area, conditioned on:

- 1) The exact location being determined;
- 2) The location and planning being part of the FCP/Final Environmental Assessment that must be approved by staff prior to the Planning Commission's review of the Final Plat; and
- 3) A courtesy proposal being submitted to the Critical Area Commission staff for their review and comments.

Additional one-year extensions of the Preliminary Plat's validity were granted on 11/19/07 and 10/20/08 (It will expire on 10/20/09.).

The FSD was approved on 6/4/04.

The portion of the project located in the Critical Area LDA zone is exempt under §3.2B. The Preliminary Environmental Assessment was conditionally approved on 1/18/05, as was the PFCP. There are no habitats of rare, threatened, and endangered species on site.

The FFCP/Landscape Plan/FEA was conditionally⁴ approved on 1/15/09.

No more than 15% of the surface area can be converted to "Lot Coverage" in the LDA.

No more than 20% of the forest or developed woodland may be removed. In the critical area, no structure shall exceed 35' in height.

The site contain no slopes 15% or greater.

A 25' buffer is required around all non-tidal wetlands and intermittent streams present. Permits are required from the (US Army) Corps of Engineers and MDE for all non-tidal wetland and stream impacts prior to recordation. JD's are required in conjunction with permitting. If no permits are required, and if the proposed project meets the policy standards established on 3/20/95 and revised on 1/16/96, or if the FSD/Conceptual Environmental Assessment finds that there are to be no impacts to field-delineated wetlands or stream impacts, or if the FSD/Conceptual Environmental Assessment finds that there are no wetlands or streams and that finding is consistent with the details of County wetlands maps and USGS quad maps, then no JD is required. If required, then a JD is recommended to be done prior to Final Plat review by the Planning Commission, but required to be completed prior to recordation. The Jurisdictional Determination (JD) has been completed.

15% common open space is required; 18.96% is proposed. The sensitive area thresholds have been calculated and included on the plat.

Access to common open space between lots must be marked with concrete monuments.

Sidewalks were not recommended in order to limit the amount of impervious cover.

⁴ The conditions were: 1) The Planning Commission must approve the 50' Buffer in lieu of the 110' Buffer for the tributary stream running through the property; 2) The updated Natural Heritage Letter must be provided prior to Record Plat submittal; and 3) If the Buffer modification is not granted, the FEA, FFCP, and LP must be revised to show a 100' Buffer.

Rows of street trees with 10' planting easements are required, outside the right-of-way, along both sides of all internal roads. Where feasible, the natural vegetative equivalent may be used to satisfy the bufferyard and street tree requirements. In areas with community facilities, no street trees shall be planted within 20 feet of sewer laterals and cleanouts.

A Landscape Agreement must be executed prior to recordation.

Deed restrictions for the long-term protection of the Forest Retention/Afforestation Areas (FRAs) must be recorded and noted on the plat prior to recordation. The metes and bounds description of the FRA must be shown on the record plat.

A Homeowners' Association for maintenance of common open space must be established with \$50 per recorded lot placed in escrow for improvements prior to recordation.

A Mini-road Association for maintenance of the mini road must be established prior to recordation, with the owners of all lots accessing the proposed Elk View Court becoming members.

The Master Water and Sewer Plan shows this as an S-3 area.

The Record Plats shall contain a statement signed by the Health Department approving authority; to the effect that use of the community sewerage system is in conformance with the Master Water and Sewer Plan.

The Record Plats shall also contain a statement, signed by the owner, to the effect that sewer facilities will be available to all lots/homes offered for sale.

There are several issues that appear to require a Variance, including:

- The impact of the 50' stream buffer on a SWM area location, where a 110' Buffer is required;
- The impact of the 50' stream buffer on the pump station's location, where a 110' Buffer is required;
- The impact of the 50' stream buffer on proposed Lot 26, where a 110' Buffer is required; and
- Forestry issues.

Given the significant environmental benefits that would accrue due to the proposed sewer hook-ups with existing shoreline homes, staff would not oppose the granting of a Variance (or Variances). Nevertheless, it would need to be reasonably demonstrated that the proposed forestry plan and the proposed 50' Buffer would not create undue adverse impacts to the Bay.

The Critical Area Commission staff has been apprised of these issues.

Under these circumstances, it would be inappropriate either to approve or disapprove the Final Plat at this time. Therefore, staff will recommend TABLING until after the Variance issues have been resolved. Chairman Mortimer added that the recommendation should also read "or the Preliminary Plat deadline comes due." Mr. Di Giacomo said he would make that part of his recommendation.

Mr. Woodhull, DPW, read the comments of the department:

The DPW has no objection to the approval or the tabling of this Final Plat. All required plans are technically complete. However, the critical area issue impacting the proposed pump station and SWM facility locations as well as the administrative issues must be resolved to the satisfaction of the Department before the DPW will approve the plans for this development and sign the record plat.

As to the critical area issue, the pump station proposed to service the Elk Neck development will also provide the benefit of reducing pollutant loading in the North East River as well as the

Chesapeake Bay by allowing existing properties with their failing septic systems to connect to the County sewer system. This project expedites this process in that the Developer, at his own cost, will provide this capability sooner than planned for by the County.

Lastly the Applicant is reminded to submit a check print for review prior to submitting the plat for recordation.

Mr. Wiggins read the comments of the Health Department:

A Groundwater Appropriation Permit has been issued by Maryland Department of the Environment for this subdivision. A sewerage allocation has been granted by Department of Public Works for these lots. A permit to construct the pump station must be issued by Maryland Department of the Environment prior to record plat approval. Final Plat is satisfactory.

Chairman Mortimer asked if anyone would like to speak in favor or in opposition of this project. No one spoke.

Kate Charbonneau, Chesapeake Bay Critical Area Commission, answered questions from the Planning Commission members.

Mr. Di Giacomo read the recommendation of the staff:

TABLE, until after the Variance issues have been resolved and contingent upon Preliminary Plat extension, if necessary.

A motion for the tabling of this project as recommended by staff was made by Mr. Edwards. The motion was seconded by Mr. Janusz.

All approved. Motion carried.

General Discussion:

- An overview presented by SHA regarding statistics in relation to the MD Rte. 273 and Appleton Road intersection.

Robert Kiel, Asst. District Engineer, Gary Davis, Larry Gredlein, Don Ruth and Jim Dooley appeared on behalf of SHA. Mr. Kiel explained the use and analysis of accident data for the said intersection. Accident data is available upon a formal request sent to the office of SHA. Mr. Gredlein presented the commission with a summary of 3-year accident data. Mr. Gredlein explained that the majority of the accidents that occur at this intersection are failure to pay attention and failure to yield. Based on statewide accident rate, the intersections will meet certain criteria where it is SHA's responsibility to go in and correct a certain safety deficiency; MD 273 and Appleton Road has hit that level. At the present time, the developer of the proposed Aston Pointe development, as part of the development impacts, is required to convert the existing intersection control beacon to a full color signal. The problem is the said development may not happen. At some point, the state may have to convert the light. There are options that the state will look at. Discussion ensued.

Mr. Gredlein also gave an overview of "road clubs" as a possible highway/intersection improvement funding mechanism.

In three months, the Planning Commission will contact the SHA office for an update as to what they will be doing to improve the said intersection. The handout given to the Planning Commission can be viewed at the Office of Planning and Zoning.

- Discuss a date for the Planning Commission to have an additional meeting once per month or quarterly to discuss issues of interest (postponed from the January Planning Commission meeting). The Planning Commission members decided to conduct a work session on the third Wednesday of every month, at 7:00 pm, the first being in March. Members were asked to email, Bill Mortimer and Jennifer Bakeoven with the agenda items they would like to discuss by the beginning of March. This meeting will be published for public notification. Mr. Janusz and Mr. Wallace said they would like to discuss clustering / rural character.
- Ron Hartman, member of the CLUA (Cecil Land Use Alliance) will make a proposal for a new zoning classification, Rural Suburban. Mr. Hartman explained the areas that CLUA would like to be considered for the proposed Rural Suburban. The CLUA summary statement can be viewed at the Office of Planning and Zoning.

A motion to adjourn was made by Mr. Edwards.

The motion was seconded by Mr. Janusz.

The February Planning Commission meeting adjourned at 2:11 p.m.

Respectfully Submitted:

Jennifer Bakeoven