



FREDERICK COUNTY PLANNING COMMISSION

January 8, 2014

TITLE: Beshers Property

FILE NUMBER: S-1146, AP#13635, (APFO 13636, FRO 13637 & 13638, SWM 13531)

REQUEST: **Preliminary Subdivision Plan Approval**
The Applicant is requesting Preliminary Subdivision Plan approval for 21 residential single-family lots on a 36.7-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located at the terminus of Dresden Place
TAX MAP/PARCEL: Map 68 & 78, Parcel 39 & 480
COMP. PLAN: Low Density Residential, Natural Resource
ZONING: R-3 Residential, Resource Conservation
PLANNING REGION: New Market
WATER/SEWER: W-5, S-5

APPLICANT/REPRESENTATIVES:

APPLICANT: Beshers Land Company Number Two, LLC
OWNER: Beshers Land Company Number Two, LLC
SURVEYOR/ENGINEER: Lingg Property Consulting/Daft, McCune, Walker, Inc.
ARCHITECT: N/A
ATTORNEY:

STAFF: Tim Goodfellow, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Preliminary Plan
EXHIBIT 2- APFO Letter of Understanding

STAFF REPORT

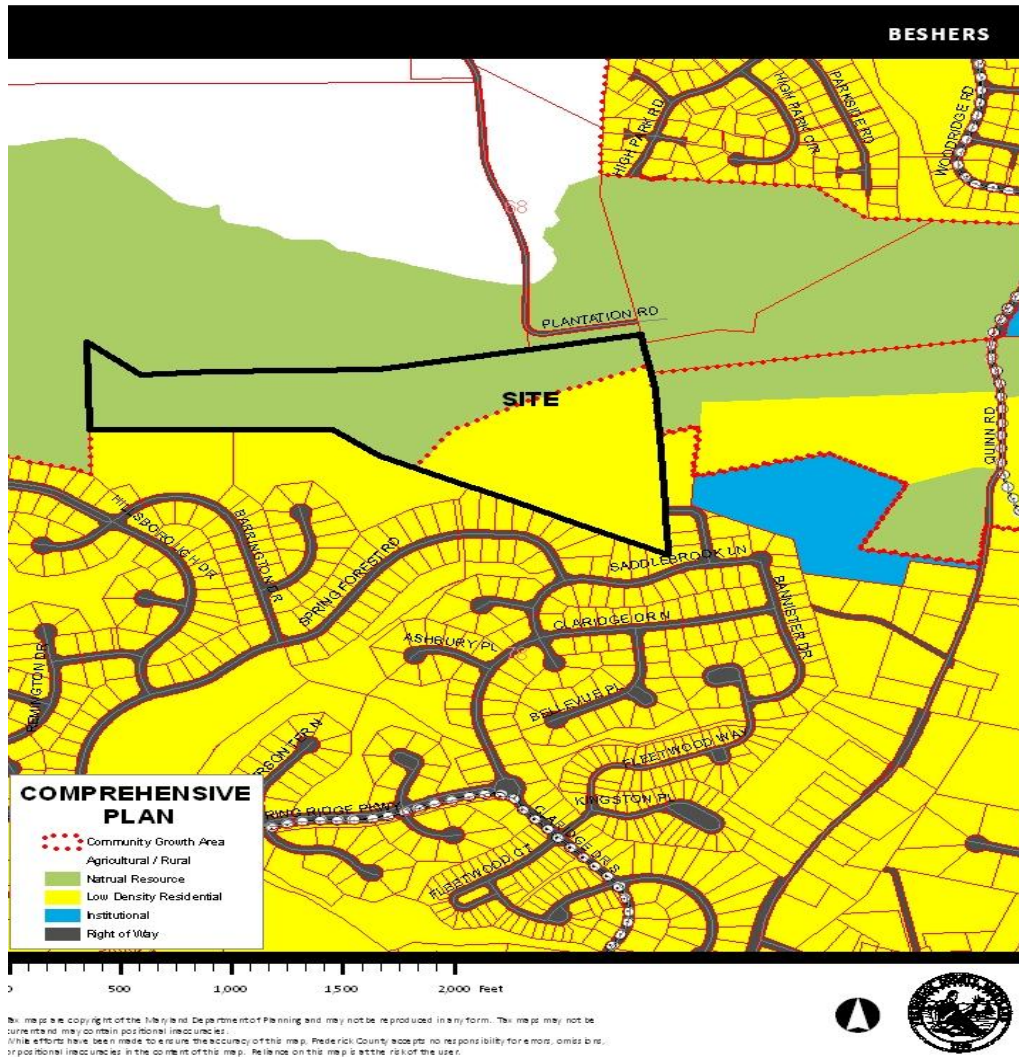
ISSUE

The Applicant is requesting Preliminary Subdivision Plan approval to create 21 single-family residential lots on a 36.7-acre site. The development area comprises 14.1 acres, with the remaining 22.5 acres planned as an open space parcel for possible conveyance to the Spring Ridge Homeowners' Association. to be dedicated to the Spring Ridge Homeowners' Association.

BACKGROUND

The 14.1 acre portion of the subject property was rezoned in 2006 from Agricultural to R-3 Residential through Ordinance 06-25-42, adopted May 23, 2006 as part of the 2006 New Market Region Plan update. The remaining 22-acre portion of the property has been zoned Resource Conservation since at least 1993. In 2008, the R-3 zoning was removed from the 14.1 acres as part of the 2008 New Market Region Plan update and replaced with Agricultural zoning. The 2012 revisions to the 2010 County Comprehensive Plan reapplied R-3 Residential zoning to the 14.1 acre portion of the subject property.

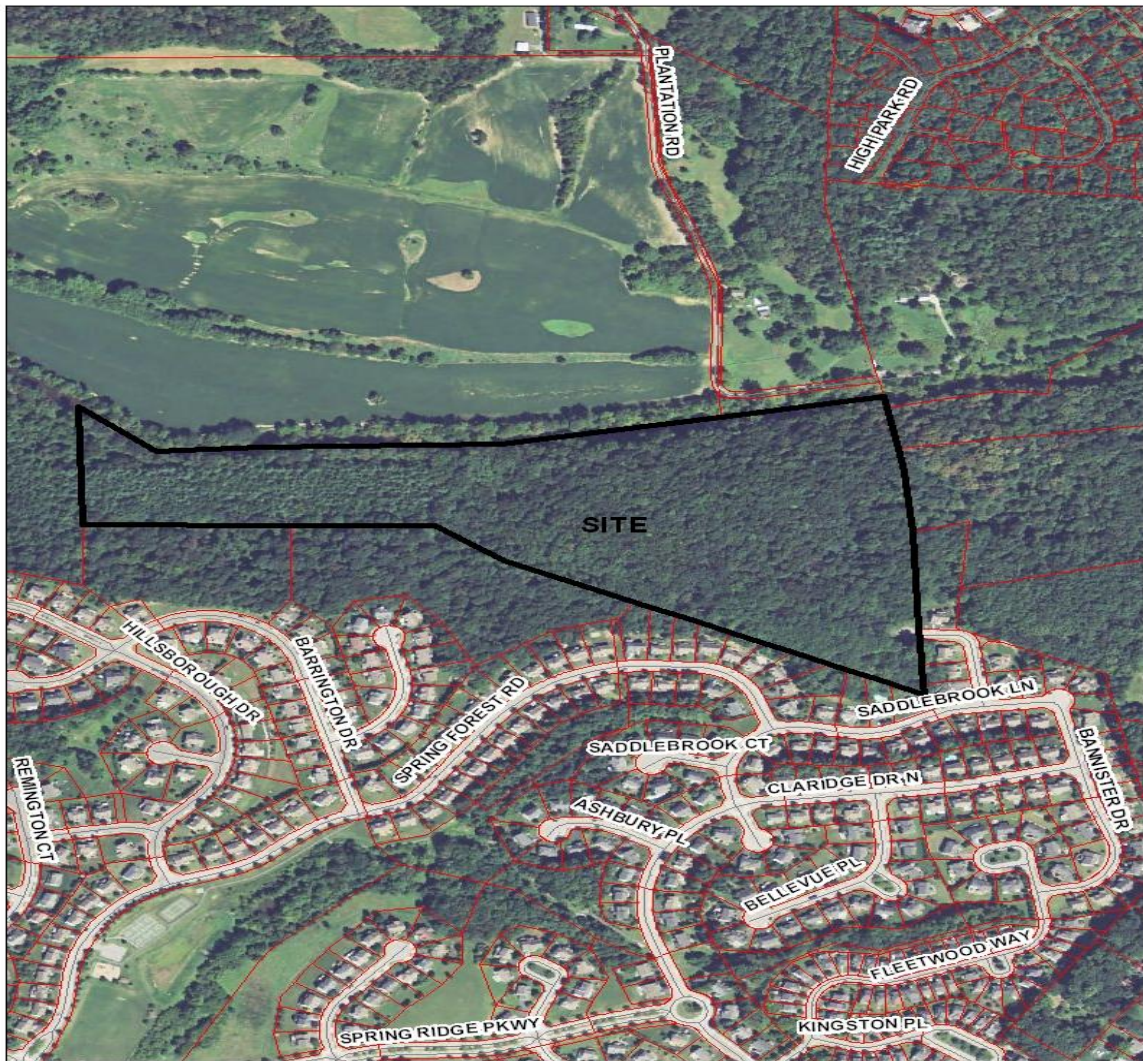
COMPREHENSIVE PLAN



Existing Site Characteristics

The subject parcel is completely forested, bordering Linganore Creek, with steep and moderate slopes adjacent to the creek. A 5.2-acre, mature white pine plantation exists on the western portion of the property. The gradient softens south of Linganore Creek and then levels in a wide expanse, which is the site of the proposed 14-acre development area that is zoned R-3 . The site is directly north of the existing Spring Ridge PUD, a 1,558-lot residential subdivision. Dresden Place, a street within the Spring Ridge PUD, extends directly to the edge of the development area on the subject property. Along the southern boundary of the property, bordering lots 446-453 and lots 456-459 in Spring Ridge, is an existing 0.66-acre "Tree Buffer Area", measuring 30 feet by approximately 970 feet that was recorded and deeded to the Spring Ridge Conservancy in 2006.

DEVELOPMENT SITE AND SURROUNDINGS



ANALYSIS

A. ZONING ORDINANCE REQUIREMENTS

1. **District Regulations, Design Requirements For Specific Districts § 1-19-6.100: Residential Three District (R-3):**

Single-family residential requirements: 12,000 square foot minimum lot size, 80 foot minimum lot width, 30 foot front setback, 10 foot side setback, 30 foot rear setback, and 30 foot maximum structure height.

All of the proposed lots meet the minimum 12,000 square foot (0.28 acres) lot size requirement. Lots range in size from 17,228 square feet (0.39 acres) to 27,454 square feet (0.63 acres). The required front, side, and rear yard setbacks are shown on the plan and conform to the Zoning Ordinance. Staff notes that the side yard setbacks on both lot 7 and lot 8 are 13 feet, which exceeds the standard minimum in order to fully protect the critical root zone of a 30-inch diameter White Oak (*Quercus alba*)—the official tree of Maryland— which will be retained in the Project.

Zoning Ordinance Requirements Findings/Conclusions: The proposed subdivision will meet all applicable Zoning Ordinance requirements.

B. SUBDIVISION REGULATION REQUIREMENTS

1. **Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

Utilizing the 14.1-acre portion of the 36.7-acre parcel, the Project area's gross density is 1.5 units/acre and is consistent with the Low Density Residential designation and density guidelines contained in the Comprehensive Plan. The Project meets the R-3 residential zoning district regulations and design requirements contained in the Zoning Ordinance and the density range as provided in the Comprehensive Plan.

2. **Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The entire 36.7-acre site is fully wooded, with Forest Conservation easements targeted on the vast majority of the existing forest on site--22.7 acres or 62% of the parcel. The physical placement and design of the subdivision affords a high level of protection to the slopes and forestlands near Linganore Creek by concentrating the proposed lots immediately adjacent to the existing lots in the Spring Ridge PUD, and utilizing existing transportation and utility infrastructure.

3. **Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.*

Trego soils (ToB) are present on the far western portion of the property and Hatboro soils (CgA) along Langanore Creek. Both are classified as 'wet' soils, but are within Open Space areas, a minimum of 250 feet from the development area.

- 4. Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b):** For major subdivisions; Lots must directly access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.

The proposed lots are to be served by an extension of existing Dresden Place, a public road within Spring Ridge that has a pavement width of 28 feet. The extension of Dresden Place into the Project will be constructed as a 20-ft open section pavement width, in conformance with the above-referenced standard in the Subdivision Regulations. The open section roadway would be more compatible with the larger than typical lot sizes that are proposed. The transition from 28 feet to 20 feet, just after a sharp angled turn on existing Dresden Place contributes to a more pedestrian-scaled design, lowering vehicular speeds, and lessening stormwater runoff (through reduced impervious surface, compared to a 28-ft travel lane).

- 5. Other Street Requirements. Development on Cul-de-Sacs or Dead End Streets §1-16-236 (K):**

(K) Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:

(1) For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:

(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.

§ 1-16-236(K)(1)(a). For proposed development on new or existing cul-de-sac or dead ends street(s), the following requirements apply: a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible. .

§ 1-16-236(K)(1)(c). the length of cul-de-sac or dead end street(s) may vary based on the density in the development section or land bay, property shape and size, topography, environmental constraints, lot size, unit types, and proposed land use. The density and length of cul-de-sac or dead end street(s) shall be reviewed by the Planning Commission and approved on a case by case basis.

§ 1-16-234: In designing highways, streets, roads, or common driveways, the subdivider shall be guided by the following principles.

(A) Design to consider the context of the proposed land use, including the existing and proposed land development patterns on adjacent parcels.

(B) Design for opportunities to create interconnections between adjoining parcels.

(C) Provide for adequate vehicular and pedestrian access to all parcels.

(D) Design local residential street systems to minimize through traffic movement and to discourage excessive speed.

(E) Provide reasonable direct access from local street systems to the primary transportation system.

(F) Local transportation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.

- (G) Provide for safety, efficiency, and convenience of all users of the transportation system.*
- (H) Pedestrian-vehicular conflict points shall be minimized.*
- (I) Design to preserve, enhance, or incorporate natural, community, and historic resources.*
- (J) Be suitably located and designed/improved to accommodate prospective traffic, emergency service vehicles, and road maintenance equipment.*
- (K) Sidewalk, street design, right-of-way and paving shall be in accordance with these regulations and the County Design Manual.*

Dresden Place is currently a 410+/- foot long, dead-end public street serving six (6) existing residences in the Spring Ridge PUD that ends directly at the boundary line of the subject property. This application proposes to extend Dresden Place an additional 800+/- feet, to a new cul-de-sac, and add 14 additional lots. Another cul-de-sac is proposed off the extended Dresden Place with an additional 7 lots. A total of 27 lots (21 proposed lots + 6 existing dwellings) will utilize Dresden Place. .

The proposed extension of Dresden Place with its cul-de-sac design is a logical and efficient use of an existing 'stub' street within an established residential subdivision. It connects two adjoining parcels and development areas. The location of the Project is the northern limit of the Spring Ridge/Bartonsville Community Growth Area and its development area is geographically confined by Linganore Creek, steep slopes and pending Forest Conservation easements. As such, no further extension of Dresden Place or development of a through or other connecting street is feasible for this site. However, a sidewalk is being extended from the end of the cul-de-sac to Spring Forest Road to facilitate a circular connection for non-motorized travel.

Staff recommends that the Planning Commission consider the individual property characteristics, the goals and principles of § 1-16-234 and § 1-16-236(K)(1)(a)(c), to determine if the proposed creation of a new 1,200+/- foot cul-de-sac serving a total of 27 lots should be approved.

The Plan includes a sidewalk along the entire southern side of Dresden Place as well as a 4-ft. trail from the cul-de-sac bulb on Dresden Place, southward through the planned and existing water and sewer easement, to Spring Forest Road.

Lot Size and Shape. §1-16-219 (A): *The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.*

The proposed lots all conform to the size, width, depth, shape, and yard standards contained in the Subdivision Regulations. As previously noted, the side yard setbacks on lot 7 (western side) and lot 8 (eastern side) are both 13 feet, which exceeds the standard minimum in order to fully protect the critical root zone of a 30-inch diameter White Oak that will be retained in the Project.

7. Water and Sewer Facilities. Public Facilities §1-16-12 (C): *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property will be served from the County's New Design Road Water System and the Ballenger-McKinney Waste Water Treatment Plant. The property has a water and sewer classification of W-5/Dev., S-5/Dev. and must obtain approval of a Water and Sewerage Plan amendment from Frederick County and the Maryland Department of the Environment for water and sewer reclassification in order to connect to the public water and sewer systems.

Subdivision Regulation Requirements Findings/Conclusions: If the Planning Commission finds that the creation of a cul-de-sac, 1,200+/- feet in length, serving 27 lots, achieves the standards contained in § 1-16-234 and § 1-16-236(K)(1)(a)(c) as described in this report, the Project will meet all Subdivision Regulation requirements once all agency comments and conditions have been satisfied.

C. OTHER APPLICABLE REGULATIONS

1. ***Stormwater Management – Chapter 1-15.2:*** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A SWM Concept Plan was approved on May 22, 2013.
2. ***APFO – Chapter 1-20:*** The following areas are addressed in the APFO Letter of Understanding to be signed by the Applicant and the Planning Commission as a condition of approval of this Preliminary Subdivision Plan. See attached exhibit #2.
 - **Schools.** The Project is projected to generate 6 elementary school students, 3 middle school students, and 4 high school students. The school adequacy test fails at the elementary school level and the Applicant has chosen the option to mitigate school inadequacy by paying the School Construction Fees under §1-20-62 of the County APFO. The School Construction Fees shall be paid at plat recordation based on the specific fee required by §1-20-62(E) at the time of plat recordation.
 - **Water/Sewer.** The property has a current Water and Sewerage Plan classification of W-5/Dev., S-5/Dev. A Water and Sewerage Plan amendment must be approved by Frederick County and the Maryland Department of the Environment for the proper water and sewer classification to connect the subject property to the public water and sewer systems.
 - **Roads.** The Project is exempt from APFO roads testing because it generates less than the requisite 50 peak hour trips. The attached LOU contains a detailed listing of contributions to existing escrow accounts required for this Project.
3. ***Forest Resource Ordinance – Chapter 1-21:*** A Preliminary Forest Conservation plan has been submitted and approved. The development site contains 14.03 acres of existing forest. The Applicant proposes to meet the FRO requirements by retaining 0.50 acres of forest on site, utilizing 0.17 acres of miscellaneous credits, and by preserving 22.54 acres of existing forest on the Resource Conservation zoned portion of the remainder.

The site contains 2 specimen trees (trees 30” or greater in diameter), both of which will be protected and retained in accordance Section 1-21-40 of the FRO.

A Final FRO plan must be submitted and approved, and FRO mitigation must be provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditionally approved
Development Review Planning:	Conditionally approved
State Highway Administration (SHA):	N/A
Div. of Utilities and Solid Waste Mngt. (DUSWM):	Approved
Health Dept.	N/A
Office of Life Safety	Approved
DPDR Traffic Engineering	Approved
Historic Preservation	Approved

RECOMMENDATION

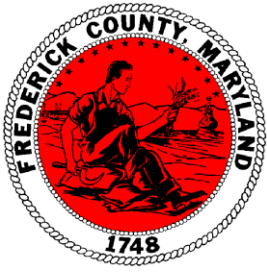
If the Planning Commission makes the required findings that the proposed 1,200 foot long cul-de-sac serving 27 lots meets requirements of § 1-16-234 and § 1-16-236(K)(1)(a)(c), then Staff has no objection to the conditional approval of the Preliminary Plan.

Based upon the findings and conclusions as presented in the staff report, the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements if the FcPc approves the proposed 1,200 foot long cul-de-sac serving 27 lots. Should the FcPc grant approval of this application (S-1146, AP13635), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. A final FRO plan must be submitted and FRO mitigation must be provided prior to lot recordation, grading permit application, or building permit application, whichever is applied for first.
3. The Preliminary Plan approval is valid for five (5) years from the date of FcPc approval or the length of APFO approval, whichever is less. APFO approval is valid for three (3) years. Therefore, the Preliminary Plan approval expires on January 8, 2017.
4. Install protective fencing and signage (similar to FRO requirements) along the northern boundary of the existing 30-ft. "Tree Buffer Easement" recorded at L.6401, F.315 that adjoins lots 1, 2, 3, 4 and the proposed 1.7-acre stormwater management area, in conjunction with final plat recordation of lots 1, 2, 3, 4.
5. Construct/Install the 4-ft. wide mulch path from the cul-de-sac bulb on Dresden Place to Spring Forest Drive in conjunction with construction of the sidewalk along Dresden Place.

PLANNING COMMISSION ACTION
MOTION TO APPROVE

I move that the Planning Commission **APPROVE Preliminary Subdivision Plan S-1146 (AP 13635)** and **APFO 13636 with conditions** as listed in the staff report, for the proposed **BESHERS** preliminary plan, including the approval of a 1,200 ft. long cul-de-sac serving 27 lots in accordance with § 1-16-234 and § 1-16-236(K)(1)(a)(c), including APFO approval, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



**FREDERICK COUNTY GOVERNMENT
DIVISION OF COMMUNITY DEVELOPMENT**

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County Manager

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Beshers South

Preliminary Plat #S-1146 AP #13636

In General: The following Letter of Understanding ("**Letter**") between the Frederick County Planning Commission ("**Commission**") and Beshers Land Company Number Two, LLC ("**Developer**"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Beshers South Preliminary Plan of Subdivision (the "**Project**"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("**APFO**").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 36.67 +/- acre parcel of land, which is zoned R-3 Residential and RC Resource Conversation and located contiguous to the Spring Ridge PUD off Saddlebrook Lane, with access via an extension of Dresden Place. This APFO approval will be effective for development of 21 single family detached dwelling units in the Project, which was conditionally approved by the Commission on January 8, 2014.

Schools: The Project is projected to generate 6 elementary school students, 3 middle school students and 4 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the elementary school level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid at plat recordation** based on

the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.

Water and Sewer: The Property has a water and sewer classification of W-5 (Dev.), S-5 (Dev.). While the public sewer and water facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded or that building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

Road Improvements: The Project will generate 16 am and 21 pm weekday peak hour trips which is under the APFO testing threshold per Section 1-20-30. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H) as follows:

1. Old National Pike/Boyers Mills Signal - the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3322 for the existing signal. The estimated cost of the intersection improvement is \$ 160,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.60%. Therefore the Developer hereby agrees to pay \$960 to the escrow account for this Road Improvement
2. MD 144/Linganore Road Intersection - the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3936 for the existing intersection reconstruction. The estimated cost of the intersection improvement is \$ 400,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.14%. Therefore the Developer hereby agrees to pay \$4,560 to the escrow account for this Road Improvement
3. Meadow Road/I-70 Westbound On-ramp - the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3937 for the existing interchange reconstruction. The estimated cost of the intersection improvement is \$ 3,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.26%. Therefore the Developer hereby agrees to pay \$7,800 to the escrow account for this Road Improvement
4. Meadow Road/I-70 Eastbound Off-ramp - the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3938 for the existing interchange reconstruction. The estimated cost of the intersection improvement is \$ 8,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.25%. Therefore the Developer hereby agrees to pay \$20,000 to the escrow account for this Road Improvement
5. MD 80/Ijamsville Intersection - the Developer shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3383 for the existing intersection reconstruction. The estimated cost of the intersection improvement is \$ 50,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.50%. Therefore the Developer hereby agrees to pay \$2,500 to the escrow account for this Road Improvement

Therefore, prior to plat recordation, the Developer hereby agrees to pay \$35,820 to the escrow accounts for these Road Improvements. Should this payment not be made within one

year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on January 8, 2017.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

DEVELOPER: Beshers Land Company Number Two, LLC

By: _____ Date: _____

Eric Beshers

FREDERICK COUNTY PLANNING COMMISSION:

By: _____ Date: _____

Robert Lawrence, Chair or William G. Hall, Secretary

ATTEST:

By: _____ Date: _____

Gary Hessong, Acting Director, Community Development Division

Planner's Initials / Date _____

County Attorney's Office Initials / Date _____
(Approved as to legal form)

