TITLE: Treasure Mountain Preliminary Plan

FILE NUMBER: S-787 (AP13903, SWM 13904, APFO 13905, FRO 13906)

REQUEST: Preliminary Subdivision Plan
The Applicant is requesting Preliminary Subdivision Plan approval for a total of 24 single family residential lots on a 54.9 acre property.

PROJECT INFORMATION:

ADDRESS or LOCATION: East side of Bill Moxley Road south of the Harvest Ridge subdivision
TAX MAP/PARCEL: Tax Map 89, Parcel 49
COMP. PLAN: Rural Residential
ZONING: R1- Residential
PLANNING REGION: New Market
WATER/SEWER: NPS/NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Richardson Ventures, LLC
OWNER: Richardson Ventures, LLC
ENGINEER: Vanmar Associates

STAFF: John Dimitriou, R.A., Principal Planner

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
EXHIBIT 1 – Preliminary Plan Rendering
EXHIBIT 2 – APFO LOU
STAFF REPORT

ISSUE

Development Request

The Applicant is requesting Preliminary Subdivision Plan approval for 24 single family detached residential lots on an overall 54.9 acre property to be served by individual well and septic. The Project is subject to the requirements of the Frederick County Code, specifically Chapter 1-16 Subdivision Rules and Regulations for Preliminary Subdivision Plan review.

BACKGROUND

Development History

The property has been the subject of three previous subdivision applications, all under the prior Agricultural zoning:

- In 1979 a Preliminary Subdivision application was filed for 16 residential lots on 16 acres (Section One). Four of the lots failed to pass the percolation test and two lots were combined into one lot because of the slope of the lots. The percolation tests were fast which resulted in Health Department concern of well contamination. Due to these concerns the Health Department failed to approve the final plat. The Court of Special Appeals of Maryland upheld the Health Department disapproval of the subdivision and denied any further appeal.
- In 1981 a Combined Preliminary/Final Plat was approved for 3 residential lots as Section One Lots 3, 5 & 7 (9.514 acre total area of subdivision) and a 66 acre remainder.
- In 1989 a Combined Preliminary/Final Plat was approved for one residential lot as Section Two Lot 1 (2.97 acre total area of subdivision) and a 54.9 acre remainder. A note on this Plat states that no further subdivision of the remainder land is permitted unless the property is rezoned or regulations are amended.
- Non-binding Sketch Plan approval was granted by the Planning Commission on January 8th, 2014 for a 30 lot single family well/septic subdivision layout on a 54.9 acre parcel for the purpose of percolation testing.

Percolation testing conducted subsequent to Sketch Plan approval in January of 2014 resulted in fewer viable lots than originally proposed. Therefore, the proposed Preliminary Plan has been modified from the 30 lots proposed in the Sketch Plan, to the 24 lots currently proposed. Proposed lot layout, roadway location, and connectivity have generally remained consistent from Sketch Plan to Preliminary Plan. The proposed Preliminary Plan contains an expanded Forest Conservation Easement.

This property was rezoned from Agricultural to R-1 as part of the 1993 New Market Region Plan update. The property was rezoned back to Agricultural as part of the 2008 New Market Region Plan update. This zoning was maintained after the 2010 Comprehensive Rezoning. The property was subsequently rezoned from Agricultural (A) to Residential (R1) on September 13, 2012 as part of a County Comprehensive Plan/Zoning Review, per Ordinance 12-22-617.

Treasure Mountain Preliminary Plan
October 8, 2014
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Existing Site Characteristics

The Harvest Ridge subdivision is located to the north of the Site, and Samhill Estates subdivision is to the east. Both are served by public water and sewer. To the south of the Site is the Skyline Manor subdivision served by individual well and septic systems. To the west of the Site is agricultural land. The Site slopes to a central valley where an unnamed tributary flows to Bush Creek. An existing man-made pond is at the foot of the valley in the northern central portion of the Site. Existing forest covers the eastern portion of the Site. The entire Site lies within the 1/3 restricted soils boundary, which requires percolation testing during the restricted soils season (February 1 - April 15).
Graphic 2 – Zoning
ANALYSIS

Summary of Development Standards Findings and Conclusions

As indicated below, the Project meets the requirements of Chapter 1-16 Subdivision Regulations of the Frederick County Code. The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance form the basic theme of the design pattern of the proposed subdivision. The subdivision design takes advantage of the uniqueness of the Site reflected by the surrounding natural, built, and planned landscape. Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized. Individual well and septic systems will serve the proposed lots. Access to the site is adequate and sight distance is sufficient at the proposed access points.

The subdivision design is organized along two proposed roads that generally conform to contour orientations throughout the Site. Proposed residential lots are stacked along both sides of the proposed roads. The primary site entrance is from Bill Moxley Road. A connection to an existing stub street at Robmar Drive on the adjacent property to the east is also shown on the plan. Additionally, the alignment for a potential future connection through an adjoining property to the north is shown that is intended to provide a connection to a future elementary school located in the Harvest Ridge subdivision.

The Frederick County Comprehensive Plan reflects a planned community park symbol on the subject property. The County Comprehensive Plan also reflects a planned elementary school symbol on the nearby parcel at the corner of Lomar Drive and Autumn Crest Drive. Proposed community facility symbols are generalized in location and may or may not be developed on the particular property where the symbol is placed. The proposed subdivision is zoned R1 and is therefore exempt from the neighborhood park requirement (see section 1-16-111 of the Frederick County Code). The need for a future community park in the area of the comprehensive plan symbol would be addressed by the County Parks and Recreation Division through the Capital Improvements Program (CIP) process.

The Adequate Public Facilities Ordinance Letter of Understanding (APFO LOU), outlining required public facility improvements related to the proposed subdivision, is attached.

Detailed Analysis of Findings and Conclusions

ANALYSIS OF SUBDIVISION REVIEW

Preliminary Subdivision Plan approval is granted based upon the requirements found in Chapter 1-16 of the Frederick County Code.

- **Land Requirements §1-16-217(A) & (B)**

  The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

  The subdivision design shall take advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivision and land uses, both proposed and existing.

  The Site is currently zoned R1 Low Density Residential with a County Comprehensive Plan land use designation of Rural Residential and is located outside of a Community Growth Area. The Rural Residential land use designation is intended to recognize areas of existing well/septic residential development, generally zoned R-1, and to distinguish these areas from residential
development within Community Growth Areas. The designation also applies to the County’s rural subdivisions to insure that they are not expanded into surrounding farmlands. The Project is not within a Community Growth Area, and is adjacent to surrounding rural subdivisions and farmland. The Zoning Ordinance describes that the R-1 zoning district is established to provide for low density residential development at a density of 1 dwelling per acre.

The subdivision design takes advantage of the uniqueness of the Site reflected by topography, wooded areas, water bodies, and adjoining subdivision. The Preliminary Plan includes proposed and future planned connections to adjacent subdivisions. In addition, the stream valley, waterbody buffer and existing forest is being protected by a Forest Conservation Easement. The Site does not contain FEMA floodplain, flooding soils, or wet soils. County GIS maps indicate DNR wetlands located in the center of the Site. The area of wetlands is completely contained within the Water Body Buffer and Forest Conservation Easement.

The Treasure Mountain subdivision plan meets the intended land use patterns and characteristics identified in the Zoning Ordinance and County Comprehensive Plan.

- **Block Shape §1-16-218**
  The maximum block dimension shall be 1,800 feet.

  The proposed layout does not employ a block or gridiron format therefore block dimension requirements are not applicable to the proposed subdivision.

- **Lot Size and Shape §1-16-219**
  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.

  Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints.

  The size, width, depth, shape, orientation and yards of the proposed lots are not less than specified in the R-1 zone for this Site and are appropriate for the type of development, the use contemplated and future utilities. The relation of the depth of any single-family lot to its width at the building restriction line is not greater than 5 to 1.

  Two panhandle lots are proposed (lots 1 & 2) in the northern portion of the subdivision. The proposed panhandles would take advantage of an existing common driveway that serves two existing adjacent single family lots. No more than 5 proposed lots may utilize a common driveway and therefore the proposed addition of these two lots is allowed. The proposed panhandles do not exceed 1,800 feet in length. Where common driveways are proposed, a minimum 12 foot travelway width shall be provided. The proposed common drive meets these requirements.

  Setbacks and height restrictions for lots within the R-1 district are established in 1-19-6.100 of the Zoning Ordinance. They are as follows and are complied with in the proposed layout.
• **Street, Common Driveway and Sidewalk Construction §1-16-109**

The project shall provide for the complete construction of street improvements, including drainage facilities as provided in §1-16-234 through §1-16-241 of the Subdivision Regulations and in accordance with the Frederick County Design Manual.

Sidewalks are proposed on both sides of the proposed streets at a width of 5’, and extend to the northern property line where a potential future street connection will provide access to a future elementary school site in the Harvest Ridge subdivision to the north.

The Preliminary Plan includes 4 lots (2 proposed and 2 existing) that are planned to be served from an existing common entrance or driveway. The minimum 12 foot (actual 16’) travelway width is provided.

• **Right of Way and Paved Surface Widths §1-16-235**

Whenever a proposed subdivision includes or abuts streets designated on the Highway Plan section of the Comprehensive Plan, the Planning Commission shall require, by dedication to public use, adequate right-of-way for the coordination of roads within the subdivision with other existing, planned or platted roads.

Proposed streets to be constructed as part of this subdivision conform to the minimum right-of-way and paved surface widths as stated in the Frederick County Design Manual. The proposed subdivision abuts Bill Moxley Road, which is designated as an existing collector in the Comprehensive Plan. Dedication to public use to the full extent of the right-of-way as required in the Highway Plan is proposed.

A connection to an existing stub street at Robmar Drive on the adjacent property to the east is shown on the plan. Additionally, the alignment for a potential future connection through an adjoining property to the north is shown that is intended to provide a connection to a future elementary school located in the Harvest Ridge subdivision. These roadway extensions coordinate and connect to roads within other existing subdivisions as provided for in the Highway Plan.

• **Other Street Requirements §1-16-236**

In the Ag and R1 zoning district, cul-de-sac or dead end streets(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels. The Planning Commission may approve development of a greater number of lots and/or on a longer cul-de-sac or dead end street if the Planning Commission considers the individual property characteristics and the goals and principles of §1-16-234.

Contingent upon the connection to Robmar Drive, the proposed project does not contain cul-de-sacs or a dead end street system. Rights-of-way for proposed streets are extended to the boundary lines of the proposed subdivision so that a connection can be made to adjacent properties.
Without the connection to Robmar Drive, the proposed project would include a dead end street system well beyond the allowable 1,800 feet in total length and would therefore require specific Planning Commission approval.

Until the possible future connection of Autumn Crest Drive to the north is provided, the terminus of Autumn Crest Drive adjacent to parcel 76 is a dead end with no provision for vehicular turn around. The Applicant shall work with Staff to provide an acceptable emergency vehicle turnaround at that point.

- **Public Facilities - Road Adequacy §1-16-12:**

  The proposed subdivision has direct access to Bill Moxley Road and has adequate sight distance at the proposed entrance. The County Comprehensive Plan classifies Bill Moxley Road as an existing Collector. An additional access is proposed via a connection to Robmar Drive at the eastern boundary of the Site.

  The Site will be served by Green Valley/New Market Fire Company located on the corner of Green Valley Road and Fingerboard Road. Emergency response service to the Site will utilize Fingerboard Road to Bill Moxley Road, which is a paved collector classification on the County Comprehensive Plan.

- **Parks §1-16-111**

  The provisions of this section do not apply to residential development in the R-1 zoning district or to subdivisions containing 59 or less residential lots. This project is in the R-1 district and contains only 24 lots.

- **Floodplain Developments §1-16-220**

  There is no mapped FEMA 100-year floodplain on the Site.

### Other Applicable Regulations

- **Moderately Priced Dwelling Units – Chapter 1-6A:**
  This subdivision proposes fewer than 25 units and will be served by individual well and septic systems. Therefore, no MPDU’s are required.

- **Stormwater Management – Chapter 1-15.2:**
  A stormwater management concept plan was conditionally approved on October 31, 2013. Stormwater Development and Improvement Plans must be approved prior to final Preliminary Plan approval.

- **APFO – Chapter 1-20:**
  The APFO approval is valid for 3 years from the date of Planning Commission approval; therefore, the APFO approval would expire on October 8, 2017.
Schools
The Project is served by Green Valley Elementary School, Windsor Knolls Middle School, and Linganore High School. The Project is projected to generate 8 elementary school students, 8 middle school students and 7 high school students. Based on these numbers and considering enrollment projections from pipeline development, the project meets the school adequacy standards at all levels.

Water/Sewer
The Property has a water and sewer classification of No Planned Service and will be served by individual well and septic systems.

Roads
The Project will generate 23 am and 31 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 delineated in the attached APFO LOU.

- Forest Resource – Chapter 1-21:
The Applicant has submitted a Preliminary Forest Conservation Plan for review. The Site contains 26.64 acres of forest. Forest mitigation requirements are being met by preserving 9.02 acres of forest, planting 6.04 acres of new forest on site, and by providing 6.61 acres of forest banking credits. The Site also contains 5 specimen trees (trees that are 30” or greater in diameter). Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FcPc finds that that the requirements for granting a modification have been met. Four of the five specimen trees will be saved and protected during development. Tree # 5 is a 42” Tulip Poplar that has a severely split bole and is considered a hazardous tree. Hazardous trees may be removed without a modification approval. The Preliminary Forest Conservation Plan must receive approval prior to preliminary subdivision plan approval. A Final Forest Conservation Plan must receive approval and mitigation must be provided prior lot recordation, grading permit application, or building permit application, whichever is applied for first.

- Historic Preservation – Chapter §1-23:
No historically significant structures or other resources are present on this Site.
Summary of Agency Comments

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RECOMMENDATION

Staff has no objection to conditional approval of the Preliminary Subdivision Plan, if the Planning Commission approves the Preliminary Plan, it will be valid for the lesser of five (5) years from the date of Planning Commission approval or the period of adequate public facilities ordinance approval of the preliminary plan. Therefore, the Preliminary Plan and APFO approval will expire on October 8, 2017.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO. Once the following conditions are met and modifications approved:

1. The Applicant shall comply with all Staff and agency comments through the completion of the Plan.

2. Planning Commission approval of the modification to permit two panhandle lots (1 & 2) in accordance with Section 1-16-219(C).

3. The purchasers of the panhandle lots are to be notified of the responsibilities of maintaining the panhandle area and common driveway.

4. A note shall be added to the final plat indicating that the houses to be located on panhandle lots will be constructed facing the common driveway so as to eliminate the fronts of houses facing into the backs of other houses.

5. All common driveways shall provide a minimum of 12’ travelway width and must be constructed prior to lot recordation.

6. Complete the requirements of the Treasure Mountain Preliminary Plan APFO LOU.

7. The connection to Robmar Drive shall be guaranteed or constructed and open to traffic prior to recordation of lots 8, 9, and 14-20. The connection to Robmar Drive shall be at a minimum constructed and open to traffic prior to the first occupancy certificate being issued for lots 8, 9, and 14-20.

8. The Applicant shall work with Staff to provide an acceptable emergency vehicle turnaround at the terminus of Autumn Crest Drive adjacent to parcel 76.
PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission APPROVE the Treasure Mountain Preliminary Subdivision Plan S787 (AP#13903 & APFO 13905) with modifications, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Treasure Mountain

Preliminary Plan #S787 AP #13905

**In General:** The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Richardson Ventures, LLC (the "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 Treasure Mountain Preliminary Plan (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 54.9 +/- acre parcel of land, located and with access on the east side of Bill Moxley Road, south of Autumn Crest Drive. This APFO approval will be for the development of 24 single family detached residential lots, which is shown on the preliminary plan for the above-referenced Project, which was conditionally approved by the Commission on October 8, 2014.

**Schools:** The Project is projected to generate 8 elementary school students, 8 middle school students and 7 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test passes at the elementary, middle and high school levels.

**Water and Sewer:** The Property has a water and sewer classification of No Planned Service (NPS) in the County's Master Water and Sewer Plan, which means that the lots will be developed using private wells and septic tanks.

**Road Improvements:** The Project will generate 18 am and 24 pm weekday peak hour trips which is under the APFO testing threshold per Section 1-20-30. However, the Developer is
as follows:

1. No. 3299: Old National Pike/Morning Gate Lane Signalization; the estimated cost of this Improvement is $184,369. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.64%. Therefore, the Developer hereby agrees to pay $1,180 to the escrow account for this Road Improvement.

2. No. 4108: Old National Pike/MD 75 Intersection Improvements; the estimated cost of this improvement is $300,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.43%. Therefore, the Developer hereby agrees to pay $1,290 to the escrow account for this Road Improvement.

3. No. 3309: Old National Pike/Bartholows Road Signalization; the estimated cost of this Improvement is $214,020. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.10%. Therefore, the Developer hereby agrees to pay $2,354 to the escrow account for this Road Improvement.

4. No. 3965: MD 75 Relocated, south of MD 80; the estimated cost of this improvement is $2,581,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.49%. Therefore, the Developer hereby agrees to pay $38,457 to the escrow account for this Road Improvement.

5. No. 3891: MD 75 Relocated: South of CSX to Baldwin Road - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account for the realignment of MD 75. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 2 trips times $17,171 per trip or $34,342

Therefore, prior to plat recordation, the Developer hereby agrees to pay $77,623 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 October 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.

[Signatures next page]
DEVELOPER: Richardson Ventures, LLC

[Signature]

Date: 9/26/14

FREDERICK COUNTY PLANNING COMMISSION:

By: _______________________________ Date:
    Dwaine E. Robbins, Chair or Anthony Bruscia, 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)