



FREDERICK COUNTY PLANNING COMMISSION

April 12, 2017

TITLE: Mill Creek Preliminary Subdivision Plan

FILE NUMBER: S-1123, AP#16465, (APFO 16466, FRO 16467, SWM 12908)

REQUEST: **Preliminary Subdivision Plan Approval**
The Applicant is requesting Preliminary Subdivision Plan approval for 143 residential single-family lots on a 65.8-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: West side of Jones Road, south of Libertytown
TAX MAP/PARCEL: Map 60, Parcel 51 & 64
COMP. PLAN: Low Density Residential, Natural Resource
ZONING: R-3 Residential, Resource Conservation
PLANNING REGION: Walkersville
WATER/SEWER: W-5 & W-4, S-5 & S-4

APPLICANT/REPRESENTATIVES:

APPLICANT: Libertytown Development Company, LLC
OWNER: Libertytown Development Company, LLC
SURVEYOR/ENGINEER: Piedmont Design Group, LLC
ARCHITECT: N/A
ATTORNEY:

STAFF: Tim Goodfellow, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Preliminary Plan
EXHIBIT 2- Modification Requests
EXHIBIT 3- APFO Letter of Understanding

STAFF REPORT

ISSUE

The Applicant is requesting Preliminary Subdivision Plan and Adequate Public Facilities approval for development of 143 single-family residential lots on a 65.8-acre site.

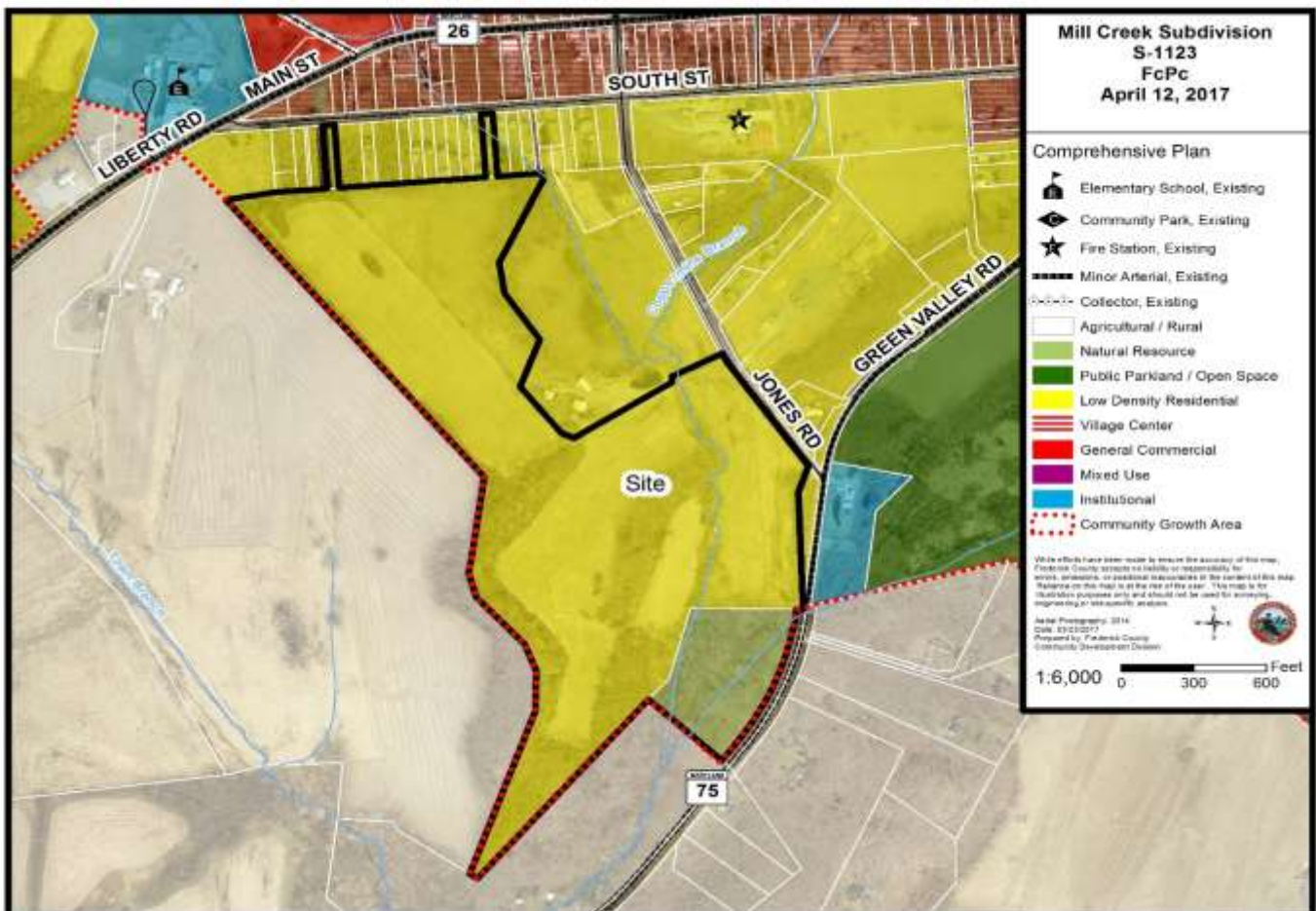
BACKGROUND

The Planning Commission granted non-binding Concept Plan approval to a subdivision lot design for this project on September 13, 2013 that included 147 single-family lots and a 30' x 50' clubhouse. The current Preliminary Plan requests approval for 143 lots and eliminates the clubhouse.

The property is zoned R-3 Residential and is comprised of three (3) parcels, as described on the Plan: A 59.5-acre parcel; a 6-acre lot; and a 0.34-acre portion of a right-of-way to South Street.

Part of the 6.0-acre portion of the development site, known as Lot 1, was rezoned from Agricultural (A) to R-3 Residential through Comprehensive Rezoning Ordinance 12-22-617 on September 13, 2012, as part of the update of the Countywide Comprehensive Plan.

COMPREHENSIVE PLAN

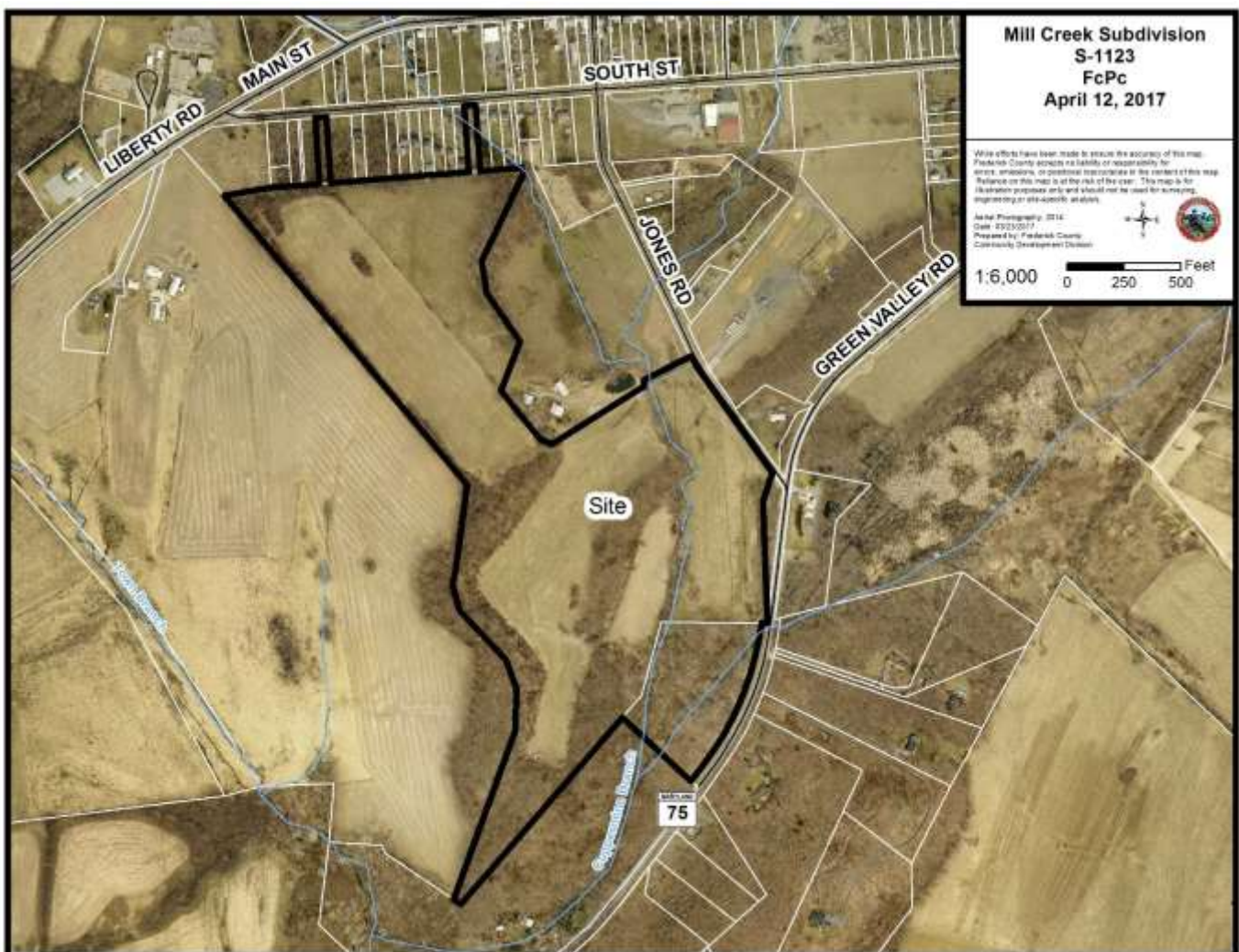


Existing Site Characteristics

The subject property is primarily an agricultural field, but does possess moderate and steep forested slopes, as well as 16 acres of floodplain (FEMA and flooding soils), wet soils, and wetlands associated with Coppermine Branch, a tributary to Linganore Creek.

The property is located in the southeast corner of the Libertytown Community Growth Area, bordered by Green Valley Road (MD 75) and Jones Road to the east, and abuts South Street and the community of Libertytown to the north. An agricultural farmstead abuts the property to the west.

DEVELOPMENT SITE AND SURROUNDINGS



ANALYSIS

A. 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 project's 65.8 acres results in a gross density of 2.1 units/acre, which is consistent with the Low Density Residential land use plan designation and density guidelines contained in the Comprehensive Plan. The project as proposed meets the R-3 residential zoning district regulations for projects utilizing the reduced MPDU fee in-lieu design requirements contained in the Zoning Ordinance.

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 proposed subdivision design is focused into a northern development area and a southern development area. The stream system and steep, forested slopes act as narrowing elements that dictate the general north/south roadway design, lot placement, and overall site orientation. An entrance from existing South Street provides access to the project from the north. Mill Creek Drive is the main subdivision access from Jones Road and curves north to provide lot frontage and additional roadway linkages and access to lots in the northern portion of the project. Sappington Terrace, one of four (4) cul-de-sacs in the project, and McSherry Way, are the roadways in the southern development area.

The project's design maintains the existing forest cover on the steep slopes within the development site. Floodplain and wetlands buffers are shown, and waterbody buffers were calculated and depicted on the Plan. The Applicant has proposed four (4) areas of waterbody buffer impact (entrance road enlargement, and outfalls for the storm drain, sewer, and stormwater management system components) and has submitted a justification and alternatives analysis as required per § 1-19-19-9.400(D).

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.*

Wet soils - BcB (Baile-Glenville silt loams) and HdA (Hatboro-Codorus silt loams) - are present within the entire stream valley that runs from north to south on the property. The 100-ft wet soil buffer is delineated on the Plan and contains lots 46—49 on Wagner Court. The Applicant has provided a mitigation plan for construction of houses with basements on these lots. The geo-technical soil report is required to be submitted at the building permit stage to ensure that proper construction methods are utilized in order to reduce negative impacts of the wet soils on the proposed houses.

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 subdivision will contain a series of internal, public roadways with pavement widths of 26 feet. The Plan indicates that on-street vehicular parking will be prohibited in the subdivision, with 'No Parking' signs installed. Staff notes that parking width requirements are nominally 7-8' wide, therefore, no parking is permitted on any 26' road section in order to maintain the minimum 20' two way clearance.

The primary access to the subdivision (Mill Creek Drive) connects to both Jones Road, an existing local roadway, and South Street. Future acceleration and deceleration lanes along Jones Road at the subdivision entrance are shown on the Plan. The current South Street pavement width of 16 feet will be expanded to 20-ft. from MD 26, Liberty Road to the subdivision's new entrance at Mill Creek Drive. The Plan includes widening of Jones road to 20' from the point of intersection with MD 75 to South Street.

The Mill Creek Drive entrance to the proposed subdivision from Jones Road includes an upgrade to a portion of an existing 18-ft. driveway that serves a dwelling on the adjacent parcel. Easements for the widening of a portion of this driveway on the adjacent property have been recorded. A second entrance to the subdivision is shown from South Street at the far northern portion of the project, which is the northern terminus of Mill Creek Drive. The right-of-way for the first 300 feet of northern Mill Creek Drive is 49.5 feet, which is below the typical 50-ft. right-of-way for local, public roadways. The Applicant has submitted a request to modify this standard. The County Development Review Transportation Engineer is not opposed to this modification.

Section 1-19-6.220 of the Zoning Ordinance requires 2 off-street parking spaces for each single-family dwelling. The Mill Creek Preliminary Subdivision Plan depicts 2 on-lot spaces in the driveway of each lot, but includes 2 on-lot garage spaces in the total count of provided spaces. Parking note no. 4 on the Preliminary Plan Cover Sheet requires revision to address the County policy of counting ½ of a garage space towards the parking requirement. The project still conforms to the parking standards even with reducing the number of garage spaces by 50%.

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). In the R3, R-8, R-12, R-16, VC, MX, LI, GI, GC, MXD, ORI, and PUD zones 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.*

The proposed roadway network in the project provides vehicular and pedestrian linkage to the adjacent community of Libertytown through the connection of Mill Creek Drive to Jones Road and South Street. Mill Creek Drive, the main roadway in the subdivision, facilitates convenient and safe through-movements in the subdivision, providing direct access to and from Jones Road and South Street.

Four (4) cul-de-sacs, requiring Planning Commission approval, are proposed in the project with the following lengths and planned number of lots:

- Coale Court (250+/- feet, 10 lots)
- Wagner Court (310+/- feet, 10 lots)
- Riordan Terrace (250+/- feet, 7 lots)
- Sappington Terrace Court (890+/- feet, 26 lots)

All of the proposed cul-de-sacs fall well beneath the recommended threshold of no more than 30 lots and no more than 1,800 feet in length. Two of these cul-de-sacs (Riordan Terrace and Sappington Terrace) are linked to Mill Creek Drive to provide needed connectivity and 'looping' circulation within the subdivision road network. Issues associated with overall property shape, environmental features, and access points are described in the Applicant's justification statement for the inclusion of cul-de-sacs in the project (Exhibit no. 2). A 50-ft wide Open Space Reservation is shown at the end of Coale Court for future, possible access to the adjacent property to the west, which is currently zoned Agricultural and outside of the Libertytown Community Growth Area.

Given the environmental features on site—steep slopes and stream system—that dictate a relatively narrow, north-south project orientation, the design has achieved connectivity in the subdivision road network and to the local street network to the extent possible.

Street, Common Driveway, and Sidewalk Construction. §1-16-109. The Plan includes sidewalks, 5-ft. in width, on both sides of all roads with the exception of 900+/- feet on the north side of Mill Creek Drive, from Jones Road to McSherry Way, and 380+/- feet on the west side of Mill Creek Drive from South Street to Coale Court. As allowed by Section 1-16-30 of the Subdivision Regulations, the Applicant is seeking a modification from the requirement for the construction of complete sidewalks as specified in §1-16-109(A)(3)(b) of the Subdivision Regulations. The Applicant's Modification Request (Exhibit no. 2) describes the site constraints that warrant the sidewalk construction waiver. Thermoplastic crosswalks are described in the road improvement notes on the Preliminary Plan cover sheet and shall be provided at all internal intersections to facilitate safe and efficient pedestrian movement and access in the subdivision.

Closed-section roadways are proposed throughout the project, except for the initial section of Mill Creek Drive from Jones Road to Wagner Court, which traverses the large open space, floodplain, and adjacent residential property on the eastern portion of the site. As allowed by Section 1-16-30 of the Subdivision Regulations, the Applicant is seeking a modification from the requirement for the construction of closed-section roadways as specified in §1-16-109(A)(2) of the Subdivision Regulations. The Applicant provides justification for the use of an open section roadway along a portion of Mill Creek Drive in the Modification Request (Exhibit no. 2), citing the floodplain, wetlands, and stream system as elements dictating roadway design in this particular location.

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 development is located on property zoned R-3 Residential. As provided in Section 1-19-6.100 of the Zoning Ordinance, the minimum design and dimensional requirements in the R-3 residential zoning district are:

Lot size: 12,000 square feet
Lot width: 80 feet
Front yard: 30 feet
Side yard: 10 feet
Rear yard: 30 feet
Height: 30 feet

Section 1-19-8.620.5 of the Zoning Ordinance permits a reduction in lot area, width, and yard measurements for all or a portion of a project utilizing the payment in lieu of building Moderately Priced Dwelling Units (MPDUs). The Applicant is proposing to utilize the modified lot design standards for Moderately Priced Dwelling Units (MPDUs) for the R-3 Zoning District, as permitted in §1-19-8.620.5 of the Zoning Ordinance, and shown below:

Lot size: 4,000 square feet
Lot width: 40 feet
Front yard: 10 feet
Side yard: 10 total (4 ft. minimum with minimum 10 feet between structures)
Rear yard: 25 feet
Height: 40 feet

Proposed lots in the Mill Creek Subdivision range in size from 5,363 square feet to 13,963 square feet. All of the proposed lot dimension elements conform to the requirements of the Zoning Ordinance.

- 6. 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 has a current water and sewer classification of W-4, W-5, and S-4, S-5, 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. The Applicant will provide additional raw water supply from 3 on-site wells and construct associated raw water lines to convey this water to a new developer-funded water treatment and finished storage facility. In addition, the Applicant will extend (off-site) raw and finished water lines to the County's Libertytown Apartments water system to allow abandonment of this system.

The Applicant will design and construct a wastewater pumping station, sized to serve the Libertytown Service Area and Sewershed, to replace the existing interim station located at the County's Libertytown wastewater treatment plant site. Additional off-site sewer infrastructure improvements will be made by the Applicant to address new flows from the upgraded Libertytown sewage pump station. Both water and sewer improvements for the project are described in the APFO LOU.

7. Other Subdivision Design Elements

No panhandle lots are proposed within the Mill Creek Subdivision and no street lighting is proposed. A private landscape strip is provided to buffer the existing house on the adjacent 14-acre parcel from lots 50, 51, 57, 58, 59 (Mill Creek Drive), and the stormwater facility (ESD #7) and to buffer the existing cemetery property on South Street from lots 4, 5, and 6 (Coale Court). This landscape buffer is not located on the proposed lots, and consists of 66 total trees of the evergreen variety, including white pine, red pine, blue spruce, and holly. No other landscaping is proposed within the project.

Subdivision Regulation Requirements Findings/Conclusions:

The project will meet all Subdivision Regulation requirements once all agency comments and conditions are complied with and the Planning Commission approves the street system and the dimensional requirements as required in Sections 1-16-236 and 1-16-219 of the Subdivision Regulations. Active and passive parkland and recreation areas are shown in twelve (12) overall open space parcels in the project and comply with Section 1-16-111 of the Subdivision Regulations.

B. 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 (AP#12908) was approved on September 2012.
- 2. APFO – Chapter 1-20:** The following areas are addressed in the APFO Letter of Understanding (LOU) signed by the Applicant and to be signed by the Planning Commission if this Preliminary Subdivision Plan is approved. See attached exhibit #3. There are some overlapping and common obligations with the Mayne Property LOU (S-1157, AP #10708). In the event that the developer of the Mayne property constructs the improvements required of the Applicant of Mill Creek, such construction shall be deemed to satisfy the obligations of the Mill Creek Applicant.

- **Schools.** The Project is projected to generate 24 elementary school students, 17

middle school students, and 27 high school students. Based on these numbers and considering school enrollment projections from pipeline development, the project meets APFO school standards at the elementary, middle, and high school levels.

- **Water/Sewer.** The property has a current Water and Sewerage Plan classification of W-5, W-4 and S-5, S-4. 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. Additional requirements relating to the provision of public water and sewer for this property are described elsewhere in the Staff report and completely in the LOU.
- **Roads.** The Project will generate 113 a.m. and 149 p.m. weekday trips during the peak hour of adjacent street traffic. To address APFO requirements and project mitigation, the Applicant is required to provide a fair share contribution to the existing escrow account per Section 1-20-12(H): Account No. 4301 for a traffic signal at the intersection of MD 26 / MD 550 in the amount of \$8,000, prior to recordation of any plat. Should this payment not be made within one year of execution of the LOU, the county reserves the right to adjust this amount based on an engineering cost index.

In addition, the following off-site improvements are required to be guaranteed prior to final plat approval and completed prior to the issuance of the 10th building permit in the project (not including model homes), per 1-20-31 (E) & (F):

- 1) Jones Road: Between MD 75 and South Street- Regrading the east side cut slope on the curve at the corner of the Fire Department property to meet AASHTO stopping sight distance (SSD) requirements as defined and required by the County.
- 2) MD 26 / South Street Intersection: Construct a retaining wall along the cemetery to improve inadequate sight distance as defined and required by the Maryland State Highway Administration (SHA).
- 3) Off-site sidewalk: Construct a sidewalk between the project site and existing sidewalk on the north side of MD 26 at Daysville Road, along with necessary signage and striping and, if required by Frederick County Public Schools (FCPS), fund a crossing guard position for the MD 26 crossing, as defined and required by SHA and FCPS.
- 4) MD 75 at Jones Road: Construct a north-bound left turn lane or by-pass lane as required by SHA.

3. Forest Resource Ordinance – Chapter 1-21: A Preliminary FRO plan is currently under review. The site contains 23.41 acres of forest. The Applicant proposes to meet the FRO requirements by protecting 14.33 acres of existing forest and planting 1.11 acres of new forest.

The site contains 25 specimen trees. All of these trees will be retained and protected except two; a dead 46” oak (Tree #4) and 38” Black Willow (Tree #2) that is in poor condition with a dead crown. The removal of these two trees has been approved by Staff and does not require a modification. The Preliminary FRO plan must be approved prior to Preliminary Plan subdivision final approval. A final FRO plan must be submitted and approved, and mitigation provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.

4. **Moderately Priced Dwelling Units (MPDUs) – Chapter 1-6A:** The project is subject to the MPUD requirements listed in the Zoning Ordinance. The Applicant is proposing to satisfy the MPDU requirement by payment of a fee-in-lieu of providing MPDUs and to utilize the modified lot design standards for the R-3 zoning district in Section 1-19-8.620.5 of the Zoning Ordinance. The fee-in-lieu payment is required to be paid at the building permit stage for each unit in the project.

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):	Approved
Div. of Utilities and Solid Waste Mngt. (DUSWM):	Conditionally Approved
Health Dept.	Conditionally Approved
Office of Life Safety	Approved
DPDR Traffic Engineering	Approved
Historic Preservation	N/A

RECOMMENDATION

If the Planning Commission makes the required findings that the proposed cul-de-sacs (Coale Court, Wagner Court, Riordon Terrace, Sappington Terrace) meet requirements of § 1-16-236(K), and grants a modification to the requirement for the construction of complete sidewalks [§1-16-109(A)(3)(b)] and for closed section roadways [§1-16-109(A)(2)], then Planning 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 cul-de-sacs and the requested modifications. Should the FcPc grant approval of this application (S-1123, AP16465), 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 six (6) years. Therefore, if the

Preliminary Plan is approved by the Planning Commission, the Preliminary Plan approval will expire on April 12, 2022.

4. Prior to final signature approval, revise Preliminary Plan note no. 4 on the Cover Sheet to reflect the correct number of on-lot parking spaces provided in the project, by counting ½ of a garage space towards the total number of on-lot parking spaces provided.
5. Prior to final signature approval, revise note 1b. to reference to Zoning Ordinance section (1-19-8.620.5) when describing the MPDU alternative lot standards.
6. Label on the Plan set, the liber/folio for the private landscape buffer easement.
7. The Applicant shall fully execute the obligations within the Mill Creek APFO Letter of Understanding.
8. The Open Space reservation at the terminus of Coale Court shall be owned and maintained by the HOA, but shall not be designated as an Open Space parcel. The reservation area shall be conveyed to the County at the County's request for extension of Coale Court if and when the adjacent property to the west of the Mill Creek subdivision is developed.
9. The Applicant shall supply 3 of the 5 identified architectural features and other design elements for the high-visibility lots as provided on the Mill Creek Preliminary Subdivision Plan.
10. Planning Commission approval of the requested modification to the requirement, pursuant to 1-16-109 of the Subdivision Regulations, for the construction of complete sidewalks.
11. Planning Commission approval of the requested modification to the requirement, pursuant to 1-16-109(A)(2), for closed section roadway construction.
12. Planning Commission approval of the requested modification to allow a 49.5-ft. right-of-way for a portion (approximately 300 feet) of Mill Creek Drive, a local, public street.

PLANNING COMMISSION ACTION MOTION TO APPROVE

I move that the Planning Commission **APPROVE Preliminary Subdivision Plan S-1123 (AP 16465)** and **APFO 16466 with modifications and conditions** as listed in the staff report, for the proposed **Mill Creek** preliminary plan, including the approval of the cul-de-sacs, and requested modifications, 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.

