

Tax Map/Block/Parcel  
No. 41-19-187,534,lot 2

Building Permit/Zoning  
Certificate No. 96-0408

Case 4088

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPELLANT:** Mr. Tom Matthews  
P. O. Box 2203  
Westminster, Maryland 21158

**ATTORNEY:** David K. Bowersox, Esquire  
24 North Court Street  
Westminster, Maryland 21157

**APPEAL:** An appeal of the Carroll County Planning Commission's January 16, 1996, decision denying approval of the revised preliminary subdivision plan of Spruce Meadows

**LOCATION:** Southeast of Houcksville Road opposite and south of Hoffman Mill Road intersection in Election District 8

**BASIS:** Article 17, Sections 17.2(a) and 17.4; Ordinance 1E

**HEARING HELD:** March 26, 1996; Continued: April 4, 1996

FINDINGS AND CONCLUSION

The Notice of Appeal, testimony and evidence comprising the record of this case are hereby included by reference in this decision. At the conclusion of the public hearing, in compliance with the state Open Meetings Act, the Board deliberated orally in public and voted to affirm the appeal and approve the revised preliminary subdivision plan.

The pertinent findings determining the Board's decision include the facts that the preliminary subdivision plan for Almar Meadows, now known as Spruce Meadows, consisting of 57 lots, was originally reviewed and approved by the Carroll County Planning Commission (Commission) December 14, 1976. Subsequently the appellant, Mr. Matthews, purchased the property and submitted the revised preliminary plan for 48 lots (Appellant's Exhibit 1).

Lot 2 of the Charles Bankert subdivision, which fronts on Houcksville Road, is included in the revised preliminary subdivision plan to provide access to Houcksville Road. Hoffman Mill Road, a planned major street in the Hampstead and Environs Master Plan, is included on the revised preliminary subdivision plan where it traverses the site. Construction of that segment of Hoffman Mill Road within the subdivision would be subject to execution of a Public Works Agreement with the county. Connection to Houcksville Road, opposite Hoffman Mill Road intersection, is not possible at this time since the intervening lot, necessary for the connection, is owned by another who opposes construction of the connection.

After discussing revised preliminary subdivision plan, (the revised plan), which provides only one road connection with Houcksville Road (Almar Court), the number of lots (dwellings) served by the single connection, and vehicular traffic that would be generated by development of the homes within the subdivision, a majority of the Commission voted to deny approval of the revised plan. Additional reasons cited by Commission members as why they voted to deny the revised plan include the inadequacies of public schools, the inadequacy of the bridge serving Houcksville Road crossing the CSX (railroad), and how the Commission judges preliminary subdivision plans versus final plats (Planning Commission's Exhibit 1). The Commission's approval of the previous plan remained effective.

As acknowledged by the Chairman during the discussion, the Commission does not have a policy regarding the number of proposed lots that may be served by a single road connection providing vehicular access to and from a subdivision. The Commission does not have a comprehensive adequate facilities policy governing either preliminary subdivision plans or final plats.

In considering the record of this case, it became apparent that the Commission's lack of a comprehensive adequate facilities policy governing both preliminary subdivision plans and final subdivision plats has resulted in decisions by the Commission that are inconsistent. The evidence presented indicated that other revised preliminary subdivision plans with very similar characteristics such as single access point and inadequate schools, were approved. Albeit, there were possible reasons enunciated for the different results reached by the Commission. However, the actual criteria used remains elusive. The Board is left to reach its own conclusion absent established criteria or guidelines. The Commission must be reasonable, fair, and comply with the law in performing its duties. Establishment of a comprehensive adequate facilities policy will not only assist the Commission in avoiding decisions that appear arbitrary, capricious, or illegal but will give the developer guidance in developing his land and assist this Board in its review of the decision.

Approval of the revised preliminary subdivision plan has no immediate effect upon any public facility. It does not add one additional house. It only permits the developer to continue through the process. Mr. Matthews is aware that the costs, as well as the risks, of preparing and submitting final subdivision plats to the Commission for review and approval are his, and that the Commission may lawfully deny approval of a final subdivision plat if there are inadequate facilities at that time. The Board does not, in any way, imply that all preliminary subdivision plans ought to be approved. Rather, a less strict standard regarding adequate facilities ought to apply to such plans.

Accordingly, the appeal of the Carroll County Planning Commission's January 16, 1996 decision denying approval of the revised preliminary subdivision plan of Spruce Meadows is hereby affirmed, and the revised preliminary subdivision plan is approved.

5/3/96

Date

Karl V. Reichlin

Karl V. Reichlin, Chairman