

**CARROLL COUNTY, GEORGIA
CORRIDOR DEVELOPMENT PLAN ORDINANCE
Adopted 10-04-05**

TABLE OF CONTENTS

SECTION 1. TITLE	1
SECTION 2. PURPOSE AND INTENT	1
SECTION 3. FINDINGS	2
SECTION 4. DEFINITIONS	2
SECTION 5. APPLICABILITY	9
SECTION 6. REVIEW AND APPROVAL OF AFFECTED DEVELOPMENT	10
SECTION 7. CONDITIONAL USE PERMIT REQUIREMENTS AND STANDARDS	16
SECTION 8. VESTED RIGHTS DETERMINATION	16
SECTION 9. DEVELOPMENT AGREEMENTS	18
SECTION 10. EFFECT ON EXISTING ORDINANCES; CONFLICT	20
SECTION 11. SEVERABILITY	20
SECTION 12. EFFECTIVE DATE	20
APPENDIX A: STANDARDS	
APPENDIX B: TREE AND SHRUB LIST	

CORRIDOR DEVELOPMENT PLAN ORDINANCE

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the .Corridor Development Plan Ordinance of Carroll County, Georgia. (hereinafter, "CDP"). [Amended Ord. 08/03/04].

SECTION 2. PURPOSE AND INTENT

The purpose and intent of this CDP is: [Amended Ord. 08/03/04].

- A. to protect the health, safety and general welfare of the County and its residents;
- B. to implement the Comprehensive Plan update. [Amended Ord. 10/04/05].
- C. [Deleted Ord. 10/04/05]
- D. to enhance the value and viability of lands surrounding Transportation Corridors by preventing the development of land uses which conflict with the roadside and surrounding areas;
- E. to promote economic growth that enhances employment opportunities, to maintain property values, and to protect the fiscal integrity of the County;
- F. to protect surface and ground water and other environmental resources, including green spaces, significant habitat and land with exceptional scenic beauty;
- G. to ensure that adequate public facilities and services are available to serve development as the demands for those facilities and service are created;
- H. to protect existing and proposed rights of way of all Transportation Corridors to ensure that these highways continue to serve their primary function and to accommodate increasing volumes of traffic;
- I. to provide for highway safety and to reduce the hazard from unnecessary points of ingress and egress and cluttered roadside development;
- J. to establish interim standards to allow for land development that is consistent with the future growth of the County;
- K. to establish appropriate governance procedures to plan and oversee development to promote the interests and welfare of the community; and

- L. to maintain predictability and fairness for affected landowners.

SECTION 3. FINDINGS

- A. The Chairman and Board of Commissioners (the “Board”), hereby finds that development in the transportation Corridors may generate excessive transportation congestion, introduce unacceptable traffic safety hazards, produce fragmented development patterns that may lead to blight, irreparably harm the aesthetic qualities of the Transportation Corridors and preclude significant long-term economic development opportunities by development with inadequate levels of service and infrastructure and a concomitant harm to the community from inappropriate development within these Transportation Corridors, and incompatibility between uses and inadequate public facilities and services; [Amended Ord. 10/04/05].
- B. The Board hereby finds that the public health, safety and welfare will be enhanced by the regulations of uses and site development in Transportation Corridors; and [Amended Ord. 10/04/05].
- C. The Board hereby finds it to be a matter of compelling public interest and necessity to readopt, re-establish, and continue the corridor protection plan ordinance and its development regulations and standards as established herein. [Amended Ord. 10/04/05].
- D. Administrative Review. The Board finds that applications for development permits within the transportation corridor that satisfy all standards set forth in Appendix A may be administratively approved by the Zoning Official. Furthermore, the Board finds that applications for a development permit within the transportation corridor satisfying the purpose and intent of this CDP may be administratively approved by the Director subject to minor exceptions from the standards as set forth in Appendix A. [Amended Ord. 11/18/03, 08/03/04, 10/04/05].

SECTION 4. DEFINITIONS

- A. To the extent that the words and terms used herein are defined in the Zoning Regulations and Subdivision Ordinance of Carroll County they shall be accorded the same meaning

and definition.

B. To the extent there is a conflict between the definitions of words contained herein and words defined in the Zoning Regulations and Subdivision Ordinance of Carroll County, the definitions set forth herein shall prevail.

C. The following words and terms used herein shall have the meaning set forth below:

Adequate Level of Service. Minimum infrastructure and service standards required to provide for the demands of the public as set forth in this ordinance and appendix.

Adjacent. Abutting or located within 150 feet of the property from which adjacency is determined, exclusive of land within the public rights-of-way or easements.

Agricultural Production Activities. The use of land and/or structures for farming, dairying, pasturage, apiaries, horticulture, floriculture, viticulture and animal and poultry husbandry, the necessary accessory uses for packing, processing, treating or storing of produce; provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. Agricultural production activities shall not including packing, processing, treating or storing of animal products as a primary use. [Amended Ord. 10/04/05].

Applicant. The property owner, or duly designate agent of the property owner who files an application for a development permit pursuant to this ordinance. [Amended Ord. 08/03/04].

Board. The Chairman and Board of Commissioners of Carroll County. [Amended Ord. 10/04/05].

Certain Timber Harvesting Operations. Harvesting standing timber in any unincorporated area of the County for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state.

Change in Use. An alteration in activity conducted on or occupying land, structures or land and structures in combination.

Concurrent and Adequate Public Facilities. Existing public facilities and services that can accommodate growth while maintaining an adequate level of service throughout the County.

County. Where not used to describe the territorial boundaries of the unincorporated limits of Carroll County, Georgia, the term "County" is a collective term for the employees, public officials, or boards acting

in their official capacity and on behalf of the Carroll County, Georgia to perform duties set forth in this Ordinance. [Added Ord. 10/04/05].

County Corridor Overlay District. Land within the primary and secondary corridors as shown on County Corridor Overlay District Map.

County Corridor Overlay District Map. A map delineating land within primary and secondary transportation corridors as more particularly identified in Section 5.B.

Dark-Sky Friendly. Installation of lighting fixtures that preserves dark skies while at the same time maximizes the quality and efficiency of outdoor lighting. [Added Ord. 08/03/04].

Department. The Carroll County Department of Community Development.

Development. A subdivision of land, the establishment of a use, the construction or placement of buildings, other structures or roads, any construction, excavation, mining, dredging, grading, filling, clearing or vegetation removal, or the deposit of waste or refuse. The following activities are not considered development: landscape maintenance, including mowing, gardening, tree care and maintenance, or removal of trees or other vegetation damaged by natural forces; farming and ranching; and utility, drainage and street repair and maintenance that does not require land disturbance or result in additional impervious cover.

Development Agreement. An agreement between the County and an Applicant containing specific conditions designed to implement the policies and criteria contained in this CDP, which document contains an integrated development scheme for a particular phase or phases of development, and contains maps, diagrams and other appropriate materials by which the Applicant agrees to the conditions contained within the agreement consistent with the provisions of this CDP. [Amended Ord. 08/03/04].

Development Area. The metes and bounds of the portion of the site proposed for development.

Development Permit. Any document that approves or conditionally approves an application for land use or development approval pursuant to the Zoning Ordinance, Subdivision Ordinance or similar regulations of the County, including but not limited to:

1. Any building permit.
2. [Deleted Ord. 10/04/05].

3. Any preliminary of final subdivision plat.
4. Any site plan or planned unit development.
5. [Deleted Ord. 10/04/05].
6. [Deleted Ord. 10/04/05].
7. [Deleted Ord. 10/04/05].
8. Any other permit, permission, master plan, plan or approval issued by the County, or any agency or department thereof, that authorizes development within the Primary or Secondary Corridors, excepting those activities or permissions specifically exempted or waived under Appendix A. [Amended Ord. 10/04/05].
9. Notice of certain timber harvesting operations within a Transportation Corridor.

Director. The Director of the Carroll County Department of Community Development.

Footcandle. Illuminance produced on a surface one foot from a uniform point source of one candela.

[Added Ord. 08/03/04].

Larger Common Plan of Development or Sale. means a contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this definition, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot. [Added Ord. 10/04/05].

Lumen. Unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One footcandle is one lumen per square foot. One lux is one lumen per square meter. [Added Ord. 08/03/04].

Master Plan. The Carroll County Comprehensive Plan, as amended.

New Applications. All applications for Development Permits submitted to the County after the effective date of this Ordinance.

Ordinance. The CDP together with Appendix A, which is referred to throughout as Appendix. [Amended Ord. 08/03/04].

Planning Commission. The Carroll County Planning Commission. [Amended Ord. 10/04/05].

Platted Lot. A parcel of land, which has a specific boundary described within a final subdivision plat that has been duly approved and recorded with County.

Primary Corridors. [Amended Ord. 10/04/05].

All land in the unincorporated area of the County located within five hundred (500') feet of the center line of the rights-of-way of the following highways and routes; said primary corridor shall be extended beyond the five hundred (500') feet boundary to encompass additional lands under the following circumstances:

1. Where a development area contains a portion of land that lies inside the five hundred (500') feet and a portion of land lying outside of the five hundred (500') feet corridor, the following rules shall apply:

- (a) the development area lying outside of the five hundred (500') feet shall comply with this Ordinance;
- (b) single family dwellings and uses identified in the Agricultural Zoning District of the Zoning Ordinance that lie within the development area identified by subsection (a), (i.e., outside of the five hundred (500') feet), shall not be required to comply with this Ordinance; and
- (c) the boundary interpretation rule provided in subsection (a) above shall supersede and govern the location of primary corridor boundaries over any other rules interpreting district boundaries.

2. Notwithstanding the manner in which the primary corridor may be extended as provided in paragraph 1 above, the primary corridors are identified and more specifically depicted on the County Corridor Overlay District Map, as follows:

- (a) State Highway 61 from its origin in Land Lot 140, 5th Land District, Carroll County to the southern incorporated limits of the City of Villa Rica in Land Lots 131 and 126 of the 6th Land District;
- (b) State Highway 166 from the intersection of Maple Street in Land Lot 93 of the 10th

Land District, Carroll County and encompassing State Highway 166 Bypass around the City of Carrollton to the intersection with State Highway 61 in Land Lot 140 in the 5th District, Carroll County; and

- (c) U. S. Highway 27 in the unincorporated limits of Carroll County, excepting that portion from Land Lots 86 and 107 of the 11th District, Carroll County, on the boundary with Heard County, Georgia, and running north to the intersection with State Route 5 in Land Lot 89 of the 11th District, Carroll County.

Retail Business. A retail business shall be defined as a commercial or mercantile activity within a principle building, which has a minimum of 1000 heated square feet, that is engaged and primarily used for the purpose of transacting a sale of any tangible personal property in any quantity or quantities for any use or purpose on the part of the purchaser other than for resale. The principal building shall not include any dwelling that is used, in any part, as a residential structure.

Secondary Corridors. [Amended Ord. 10/04/05].

All land in the unincorporated area of the County located within three hundred (300') feet of the center line of the rights-of-way of the following highways and routes; said secondary corridor shall be extended beyond the three hundred (300') feet boundary to encompass additional lands under the following circumstances:

1. Where a development area contains a portion of land that lies inside the three hundred (300') feet and a portion of land lying outside of the three hundred (300') feet corridor, the following rules shall apply:
 - (a) the development area lying outside of the three hundred (300') feet shall comply with this Ordinance;
 - (b) single family dwellings and uses identified in the Agricultural Zoning District of the Zoning Ordinance that lie within the development area identified by subsection (a), (i.e., outside of the three hundred (300') feet), shall not be required to comply with this Ordinance; and
 - (c) the boundary interpretation rule provided in subsection (a) above shall

supersede and govern the location of secondary corridor boundaries over any other rules interpreting district boundaries.

2. Notwithstanding the manner in which the secondary corridor may be extended as provided in paragraph 1 above, the secondary corridors are identified and more specifically depicted on the County Corridor Overlay District Map, as follows:
 - (a) State Highway 5 in the unincorporated limits of Carroll County;
 - (b) State Highway 16 in the unincorporated limits of Carroll County;
 - (c) State Highway 100 in the unincorporated limits of Carroll County;
 - (d) State Highway 101 in the unincorporated limits of Carroll County;
 - (e) State Highway 113 in the unincorporated limits of Carroll County;
 - (f) State Highway 166 from Land Lot 140 of the 5th Land District of Carroll County to the unincorporated boundary with Douglas County, Georgia;
 - (g) State Highway 166 from the boundary line with the State of Alabama to the western boundaries of the incorporated limits of the City of Bowdon, Georgia in Land Lot 142 of the 9th Land District;
 - (h) State Highway 166 from the eastern boundaries of the incorporated limits of the City of Bowdon, Georgia in Land Lots 136 and 137 of the 9th Land District to the western incorporated limits of the City of Carrollton, Georgia, being the intersection of Maple Street in Land Lot 93 of the 10th Land District, Carroll County;
 - (i) U.S. Highway 78 in the unincorporated limits of Carroll County;
 - (j) U.S. Highway 27 from the boundary with Heard County, Georgia in Land Lots 86 and 107 of the 11th District, Carroll County, running north to the intersection with State Route 5 in Land Lot 89 of the 11th District, Carroll County;
 - (k) Federal Interstate Highway 20 in the unincorporated limits of Carroll County;
 - (l) Northside Drive in the unincorporated limits of Carroll County, which begins from the intersection of State Highway 166 and Bankhead Drive in the incorporated

- limits of the City of Carrollton in Land Lot 202 of the 5th Land District to the intersection with U.S. Highway 27 in Land Lot 195 of the 7th Land District; and
- (m) State Highway 61 from the northern incorporated limits of the City of Villa Rica to the unincorporated boundary with Paulding County, Georgia.

Site. The metes and bound of the lot or parcel proposed for development.

Transportation Corridors. Primary Corridors and Secondary Corridors.

Zoning Official. The zoning administrator or his designee responsible for reviewing all applications for Development Permit approval in the Primary or Secondary Corridors during the term of this CDP.

[Amended Ord. 08/03/04].

Zoning Ordinance. The Zoning Regulations of Carroll County.

SECTION 5. APPLICABILITY

- A. [Deleted Ord. 10/04/05].
- B. Affected Area. This Ordinance shall apply to all land within Primary and Secondary Corridors, as shown on the County Corridor Overlay District Map or maps excerpted therefrom, on file with the County Department of Community Development. The map(s) shall be identified by having the title: "County Corridor Overlay District Map(s)", the signature of the Chairman of the Board of Commissioners with the attestation of the Clerk of the Board of Commissioners, together with the seal of the County and the date of the ordinance that the Board adopted the map.[Amended Ord. 10/04/05].
- C. Type of Uses and Development Permits Affected. This Ordinance shall apply as and to the extent set forth herein, to any and all New Applications.
- D. Type of Uses and Development Permits Not Affected. This Ordinance shall not apply to the following: [Amended Ord. 11/18/03]
1. Uses and developments for which a development permit is not required pursuant to the Zoning Ordinance or Subdivision Ordinance;
 2. Home occupations, rehabilitation of any existing residential or nonresidential building or structure, accessory uses, or reconstruction of a damaged or destroyed building or structure, provided that such change does not enlarge the

building or structure, increase the amount of impermeable surface, decrease the vegetation currently existing on the lot, increase storm water runoff or increase the density or intensity of use of the building or structure. Notwithstanding the foregoing, a change that increases the intensity of development on the site as measured by any increase in outdoor display area or an increased demand for parking on the site by the greater of 20 percent or 5 spaces, the use shall be permitted as long as such use shall provide the required landscaping and screening in accordance with Article 4 of the Appendix of this ordinance.

3. Public or private utilities, provided the site shall comply with Article 4 of the Appendix of this ordinance;
4. Building permit for a single family residence that is not a part of a larger common plan of development or sale. [Amended Ord. 10/04/05].
5. Agricultural production activities exclusive of processing as a primary use;
6. Applications for final plats for developments for which appropriate zoning has been adopted and preliminary plat, which have been submitted prior to the effective date hereof or approval has been obtained prior to the effective date hereof, provided that such preliminary plat approval has not expired; and [Amended Ord. 08/03/04].
7. [Deleted Ord. 08/03/04].
8. Subdivision of land into four or fewer lots having a minimum lot area of at least four acres, provided that such lots comply with the requirements of section 3.2.43.b of the County Subdivision Regulations.

SECTION 6. REVIEW AND APPROVAL OF AFFECTED DEVELOPMENT

A. Development Permits. Notwithstanding any provision of the County's Zoning or Subdivision Ordinances to the contrary, no development permit shall be issued and no New Application shall be approved in the Primary or Secondary Corridors during the term of this Ordinance unless, following all other applicable administrative procedures for the issuance of the development permit, the

Applicant has obtained approval pursuant to the provisions of this Ordinance. [Amended Ord. 11/18/03]

B. Scope of Review. Review of all applications for a development permit within the Transportation Corridors during the term of this Ordinance shall be undertaken pursuant to the additional review processes and standards set forth herein, together with all existing review processes and standards in existence prior to the adoption of this CDP, including the necessity to properly plan for the further growth and development of the County, and the need to protect the public health, safety and general welfare. [Amended Ord. 08/03/04].

C. Staff Review.

1. No application for Development Permit approval or development permit within the transportation corridors shall be processed until the Zoning Official has determined whether the application for such development permit is an application for Development Permit approval (or is exempt from this Ordinance pursuant to Section 5.D. herein), and that said application is complete with respect to all of the information required by this Ordinance. If the application is not complete, the Zoning Official shall so notify the applicant within five (5) working days. [Amended Ord. 10/04/05].
2. If the Zoning Official determines that the application is for a Development Permit approval, the Zoning Official shall review such application for Development Permit approval in accordance with the provisions of this CDP. If the Zoning Official determines that the application is complete, the application shall be processed as follows: [Amended Ord. 08/03/04]
 - (a). Zoning Official Approval. If the Zoning Official determines that the application satisfies the standards set forth in Appendix A and does not require a minor exception, variance, or conditional use permit, the Zoning Official is authorized to approve the application for a development permit. Upon approval of the application, the Department shall issue a Certificate of Zoning Compliance that sets forth the conditions of approval within 15

working days of certification of completeness.

(b). Minor Exceptions. If the Zoning Official determines that the applications does not strictly satisfy the standards set forth in Appendix A, but may be considered as a minor exception, he shall forward the application to the Director. The Director shall review the application and determine whether the application may be authorized as a minor exception. A minor exception is defined as an application that satisfies the purposes and intent of the CDP and no more than an insubstantial deviation from the standards set forth in Appendix A. A minor exception is not considered a variance. If the application qualifies as a minor exception, the Director shall authorize the approval of the development permit and require the issuance of a certificate of zoning compliance that sets forth the conditions of approval within 30 working days of certification of completeness. [Amended Ord. 08/03/04]

(c) If the Zoning Official determines that the application does not satisfy the criteria for zoning official approval or minor exception as set forth in subparagraphs (a) and (b) above, the application shall be reviewed in accordance with the provisions of the CDP and Section 13.0 of the Zoning Ordinance, and the Zoning Official shall forward his or her staff report to the Planning Commission within 30 working days of certification of completeness. [Amended Ord. 08/03/04]

3. Appeals to any action by the Zoning Official or Director, as set forth in subparagraphs (a) and (b) above, shall be reviewed as a conditional use permit pursuant to Section 13.0 of the Zoning Ordinance.

D. Standards. Attached hereto in appendix A are the standards for development within the Primary and Secondary Corridors during the term of this CDP. [Amended Ord. 08/03/04]

E. Additional Studies. In carrying out its responsibilities pursuant to this Section, the Board or

the Zoning Official may require an applicant for a development permit or application for Development Permit approval to submit such additional information, data, studies, plans, analyses, or maps as may be necessary to make the factual determinations set forth herein. If so required, the applicant shall bear the full cost of meeting this requirement.

F. Enforcement. The CDP may be enforced by the County by any appropriate means authorized by State law and County ordinances including, but not limited to, declaratory and/or injunctive relief, fines, withholding of development permits and revocation of Development Permit approvals and/or development permits. [Amended Ord. 08/03/04]

G. Reconsideration/Revocation of Approvals and/or Permits. An application for a Development Permit approval and/or for a development permit within the transportation corridors may be reconsidered and revoked by the Board (or the Director if the approval was granted under Section 6 C 2(a) or (b)), notwithstanding any other provision of the CDP, if it is determined based upon substantial evidence that the application, decision, or permit was based on materially inaccurate or incomplete information and that correct and complete information was known or was reasonably obtainable by the Applicant. [Amended Ord. 11/18/03, 08/03/04]

H. Monitoring.

1. The Zoning Official shall be responsible for monitoring and maintaining records of the following for each calendar quarter, during the term of this Ordinance:
 - a. Applications for Exemptions;
 - b. Applications for Development Permits; and
 - c. Applications for Vested Rights Determinations; and
 - d. Development Agreements.
2. Monitoring shall include:
 - a. The name and location of the project;
 - b. The date of application filing;
 - c. The type of application submitted;
 - d. The disposition of the application;

- e. The reason for the disposition; and
- f. The cumulative impact of all applications for development permits.

I. Amendments. Changes to this CDP must be made in the same manner as its adoption.

Nothing herein precludes the Board or limits its discretion to make such changes at any time, if deemed necessary or desirable. [Amended Ord. 08/03/04]

J. Fees for Processing Application. [Amended Ord. 11/18/03]

1. Due to the regulatory nature of the CDP and the benefit provided through the conditional use permit process, the Board finds that it is necessary to establish a reasonable processing fee to defray the cost of the administrative services and functions requiring time commitments from County employees involved in reviewing the application. The fee shall allow the County to recover up to, but not more than, the costs associated with administering the CDP. Based upon the foregoing, the Board hereby establishes the following fee schedule: [Amended Ord. 08/03/04, 10/04/05].

(a) [Deleted Ord. 08/03/04].

(b) Application approved under Section 6 C 2 (a) and (b) - \$325.00
[Amended Ord. 08/03/04]

(c) Application approved under Section 6 C 2(c) - \$550.00

2. All processing fees paid shall be nonrefundable but may be credited against the total fee the applicant is required to submit where the application is denied under 6 J 1 (b) and resubmitted under 6 J 1(c)).

K. Time Limits. The time limits set forth in this Ordinance are mandatory and of the essence; provided, however, that the Zoning Office, Planning Commission or Board may extend such time periods for a reasonable period of time upon consent of the applicant. Such extension shall indicate the reason for the extension, the additional period of time needed for review, and the purpose for which the application review will be conducted.

L. Variances. After considering the staff recommendation and the recommendations of the

Planning Commission, the application for the conditional use permit and evidence provided at the hearing for the conditional use permit, the Board may grant variances from the strict application of the standards of this ordinance and other applicable local regulations subject to the following required findings:

1. Use Variances. The Board may authorize uses that are not allowed by this ordinance upon finding that:
 - a. The use will not interfere with legally authorized uses of adjacent properties;
 - b. All outside storage or operations areas shall be completely screened from the Transportation Corridor by berms that shall be landscaped and are not more than six (6) feet in height, or existing terrain;
 - c. The use is not located within 300 feet of the right-of-way of a Transportation Corridor;
 - d. The use will not be a detriment to surface or groundwater quality; and
 - e. The site will be designed and the use will be operated in a way that advances the purposes of this ordinance.
2. Development Standards Variances. The Board may authorize variances from the strict application of zoning and subdivision standards established in this ordinance, the Zoning Ordinance and the Subdivision Regulations, subject to the following conditions:
 - a. The proposed variance will not diminish the development's compliance with the purposes of this ordinance;
 - b. The proposed variance will not cause the development to interfere with the legally authorized uses of adjacent properties; and
 - c. The proposed variance represents the least deviation from the standards required to enable viable development of the site.

M. Appeals. No appeal to the Community Development Appeals Board from any decision of the Board, or any request for a variance, shall lie to the Community Development Appeals Board from the

provisions of this CDP, and the application shall be ripe for judicial review without further exhaustion of administrative remedies upon the determination of the Board. [Amended Ord. 08/03/04, 10/04/05].

SECTION 7. CONDITIONAL USE PERMIT REQUIREMENT AND STANDARDS [Amended Ord.

11/18/03]. No development permit within the Primary or Secondary Corridors shall be issued unless such development is found that:

A. The proposed development furthers the purposes set forth in Section 2 of this CDP; [Amended Ord. 08/03/04]

B. The Applicant has documented the availability of adequate public facilities to accommodate water, wastewater, storm water and traffic needs of the proposed development project, taking into account other approved developments. The availability of adequate facilities may be evidenced by a Development Agreement entered into between the County and the Applicant in accordance with Section 9 hereof;

C. The proposed development conforms to the standards set forth in Appendix A attached hereto;

D. The proposed development meets all requirements set forth under Section 6 C 2(a), 6 C 2(b), or for a conditional use permit set forth in Section 13.0(7) of the Zoning Ordinance;

E. The proposed development is consistent with the County's economic goals as articulated in the Comprehensive Plan and other adopted documents; and

F. The proposed development is designed to minimize the loss of highway capacity and safety.

SECTION 8. VESTED RIGHTS DETERMINATION

A. Application Eligibility. Any applicant for a development permit claiming entitlement to application approval on the basis of a development permit granted prior to August 6, 2002 may submit an application for a Vested Rights Determination directly to the Board on the following grounds: [Amended Ord. 08/03/04]

1. Claiming entitlement to a land use approval or development permit on the basis of common law vesting, equitable estoppel or contractual rights provided the

Applicant proves by a preponderance of evidence that the owner or contract purchaser, acting in good faith reliance upon some act or omission of the County, has made a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the right to develop or to continue the development of the property;

2. Claiming entitlement to development permit approved on the basis of a pre-existing permit;
3. Claiming entitlement to development permit approved on the basis of an actual phasing plan, for a non-vested first or subsequent phase pursuant to which the Applicant has proceeded in good faith, provided or made provision for required public improvements, has in good faith reasonably relied upon the phasing plan to his, her or its detriment and no approvals or permits have lapsed or been revoked; or
4. Claiming entitlement to development approval on the basis of other vested rights principles under State or federal law.

B. An application for a Vested Rights Determination shall include the following: [Amended Ord. 08/03/04]

1. A technically complete, sworn application on a form prepared by the Department;
2. The name and address of the applicant, who shall be the owner, contract purchaser or a person authorized to apply on behalf of the owner; if the property is owned by more than one person, any owner or any authorized agent of the owner may apply;
3. A legal description and survey of the subject property of the application;
4. The name and address of each owner and contract purchaser of the property;
5. A site or development plan for the property;
6. A preliminary plat for the property, if subdivision is required by law;
7. Identification by specific reference to any ordinance, resolution or other action of

the County, or failure to act by the County, upon which the Applicant relied and which the applicant believes to support the owner's vested rights claim notwithstanding an apparent conflict with the CDP; [Amended Ord. 08/03/04]

8. A statement of facts which the applicant tends to prove in support of the application; and
9. Such other relevant information that the Zoning Official may request.

C. In addition to the required processing as set forth above, an Application for a Vested Rights Determination shall include, but shall not be limited to, the following: a timing and phasing plan for the proposed development; a plan for the provision of public facilities and services to the proposed development, by phase; the conditions under which the proposed development will be authorized to proceed; and the conditions under which approvals or permits will lapse or may be revoked.

SECTION 9. DEVELOPMENT AGREEMENTS

A. In the event that, in the opinion of the Department, any one or more of the existing water, wastewater, storm water and/or road facilities, or other public facilities are not adequate to service the proposed development at the County's level of service standards, the Applicant and the Board may enter into a Development Agreement, pursuant to which the Applicant shall agree to provide the necessary public facility or facilities, at the Applicant's sole cost and expense, to service the proposed development, in accordance with the provisions of this section. The Development Agreement shall provide that all such public facilities shall be constructed or bonded prior to the issuance of a building permit for all or any portion of the proposed development. [Amended Ord. 10/04/05].

B. The Board may enter into a development agreement with an Applicant pursuant to this CDP only if the Board finds that the proposed development which is the subject of the CDP meets all requirements of this CDP, the County zoning regulations, the County subdivision regulations, and all other applicable regulations.. [Amended Ord. 08/03/04, 10/04/05].

C. Contents of a Development Agreement.

1. A development agreement shall be in form satisfactory to the County Attorney and shall, at a minimum, include the following:

- a. A legal description of the land subject to the agreement and the names of the legal and equitable owners;
- b. The duration of the agreement;
- c. A general description of the development, the development uses permitted on the land including proposed densities, and building intensities and height, and a description of the impacts and benefits of the development;
- d. A description of the public facilities that will service the development, including those that are to be dedicated, constructed or financed by the developer;
- e. The date construction of such new facilities will be completed and operation of such facilities will begin;
- f. A schedule to assure public facilities are available concurrent with impacts of the development;
- g. A description of any reservations or dedications of land for public purpose;
- h. A description of all local development permits approved or needed to be approved for the development of the land;
- i. A provision that all public facilities to be provided by the Applicant will be constructed or bonded prior to the issuance of a building permit for all or any portion of the proposed development; and
- j. Such other provisions as are determined by the Board to be necessary for the public health, safety, or welfare. [Amended Ord. 10/04/05].

- 2. Phasing. A development agreement may provide that the entire development or any phase thereof be commenced or concluded within a specific period of time.

D. The Development Agreement is subject to the approval of the Board as part of the approval process of the conditional use permit required under this CDP. Where applicable, no conditional

use permit shall be approved by the Board until the development agreement shall be executed by the owner of the property which is the subject of the development agreement. For the purposes of this Section 9, owner shall be deemed to include the lessee under a lease of land with a term of not less than 50 years. Within ten (10) days following the complete execution of a development agreement, the County shall cause such development agreement to be recorded in the office of the Clerk of the Superior Court of Carroll County. [Amended Ord. 08/03/04, 10/04/05].

SECTION 10. EFFECT ON EXISTING ORDINANCES; CONFLICT

A. Effect. This CDP is not intended to amend or repeal any existing County ordinance or regulation other than the Interim Development Ordinance that was adopted on August 6, 2002, amended on November 18, 2003, and amended on August 3, 2004. To the maximum extent possible, the requirements of this CDP shall be deemed to be supplemental to, and not in substitution of, existing County ordinances and regulations. Wherever possible, both shall be given effect. [Amended Ord. 08/03/04, 10/04/05].

B. Conflict. To the extent of any conflict between other County ordinances or regulations and this CDP, the more restrictive is deemed to be controlling. [Amended Ord. 08/03/04]

C. Relationship to Existing Zoning. The provisions of the County Corridor Overlay Districts established in this ordinance apply in addition to the provisions of the underlying zoning. Where apparent conflicts exist, the more stringent provision shall prevail. The overlay zoning districts established additional standards and review requirements for subject development, but:

1. do not authorize any land use prohibited in the underlying zoning district;
2. do not relax any standards applicable to the underlying zoning district; and
3. do not preclude a change in the underlying zoning through the County's zoning map amendment process.

SECTION 11. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this CDP is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this CDP. [Amended Ord. 08/03/04]

SECTION 12. EFFECTIVE DATE This CDP shall be in full force and effect on October 4, 2005.