

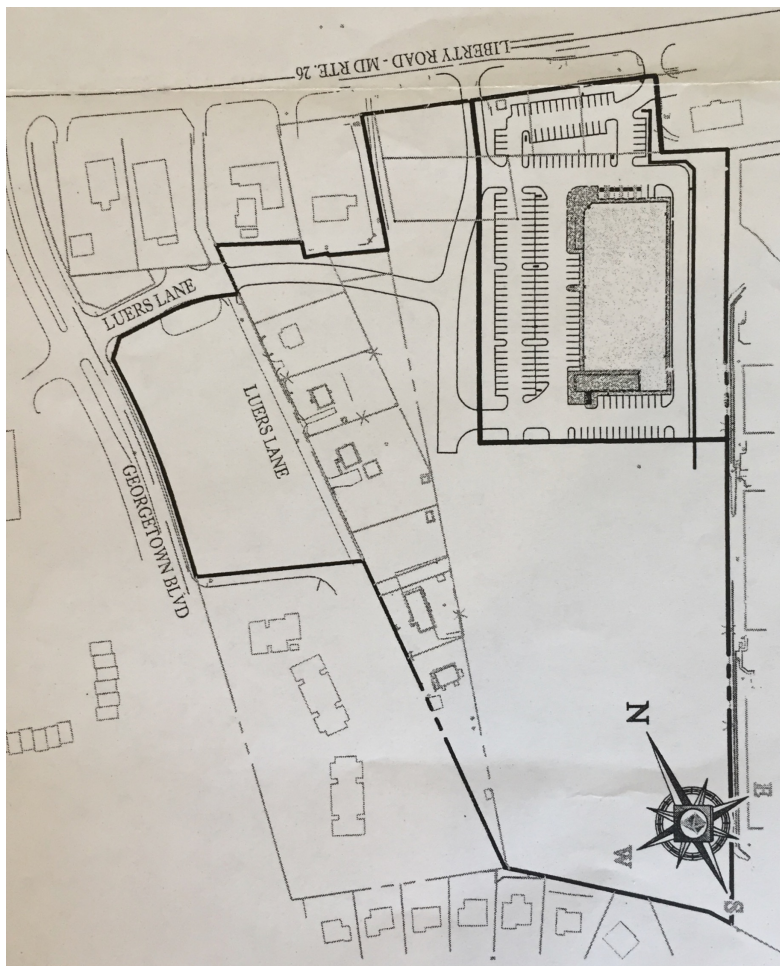
# Reasons For Rejecting The LIDL Site Plan

March 29, 2017

## Background -

On Wednesday, April 5, the Carroll County Planning and Zoning Commission is meeting to hear, among the various matters on its agenda, a request to amend the text of zoning classification B-NR (Business-Neighborhood Retail) to accommodate larger stores. The request for this "text amendment" is being made by the owner of the Eldersburg property defined in the image below, but the change will apply to all B-NR properties in the county.

Without the benefit of comprehensive, countywide analysis of the economics of all B-NR properties, the County is considering making this change for the benefit of just one property and its owner. That seems unwise, given that the nature of commerce in the vicinity of different B-NR properties may vary significantly, but it's not a decision which is the subject of these notes.



The property we're talking about is 22.6 acres between Homestead Drive to the right, Georgetown Blvd. on the left and Liberty Road across the top – in Eldersburg, just east of the intersection of Sykesville and Liberty Roads.

And that rectangular shaped building in the upper right, with all the parking spaces? That's the proposed site of a LIDL ("leedle") grocery store. This new LIDL will be the seventh full-size grocery store in the neighborhood – in a town of only 30,000 people with no recent population growth.

The problem for the property owner is that LIDL needs a space that greatly exceeds the current limitations of B-NR zoning. That's what prompted the owner to ask that the

restriction on store size imposed by B-NR zoning be increased to accommodate the store that would anchor the shopping center the owner is planning to build. Without the LIDL – or some other prominent draw – there won't be any shopping center.

The drawing shown above is from the site plan, not for the entire shopping center, but only for the LIDL. In fact, ***the site plan was prepared and submitted by LIDL, not by the property owner.*** Bottom line, as people like to say, the Planning and Zoning Commission is being asked to change all B-NR property in the County to accommodate a grocery store company, not the property owner, that wants to put a store in Eldersburg. That store, at least for now, will be LIDL's only location in Carroll County.

Other, smaller stores will be part of the total project, but they're not shown in the drawing because, again, the site plan was prepared by LIDL and not the property owner. The owner/developer has many options for what it can build on its property, a LIDL being just one of them. It's a convenient choice, but not necessarily the best option for the Eldersburg community.

LIDL, by the way, has 10,000+ stores in Europe and is a subsidiary of the fifth largest retail conglomerate in the world. The company is just now coming to the United States. Its closest competitor is ALDI which is opening soon in the building that was recently vacated by Walmart, across the street, on the other side of Liberty Road,

That said, it's important to emphasize that these notes have no argument, no problem with the property owner, with LIDL per se or with the owner's request for the text amendment. **The only question these notes are meant to address is whether or not the County should approve a site plan for any grocery store on this property.** These notes may talk about a new LIDL grocery store, but they apply to any new grocery store that would locate in this particular neighborhood.

## **Reasons -**

The points these notes make are common sense, but nonetheless strong and compelling arguments that an independent, professionally conducted economic impact study should support.

### **1. The market is already over-crowded.**

There are currently five grocery stores operating near the intersection of Sykesville and Liberty Roads. They are Martin's, Safeway, Shoppers, the full-size grocery store inside the new Walmart Supercenter and Weis. A sixth grocery store, ALDI, is coming soon to the building recently vacated by Walmart.

The point is that the neighborhood market for retail grocery sales is already saturated. A seventh full-size grocery store that adds no unique products, services or pricing to the market can only succeed at the expense of the other six grocery stores, that is by

stealing their customers and sales. It may sound harsh to say that, but it's a matter of fact.

It's a simple, but also powerful observation, but everyone in Eldersburg who wants to buy groceries is already buying them somewhere. Without significant population growth, additional grocery stores can only succeed at the expense of their competitors. There are only so many customers to go around. Allowing a seventh grocery store does nothing positive for the community and will likely have net negative consequences for local employment and business in general.

## **2. Jobs will be lost.**

Even if the argument is made that a new, seventh grocery store will employ ***the same number of people*** as those who will lose their jobs at other shopping centers nearby when their grocery stores cut back or close, there's still no assurance that ***specific individuals*** will not become unemployed. In fact, they almost certainly will.

One way or another, jobs will be lost. Individuals will be unemployed and may have difficulty finding work because this seventh full-size grocery store hasn't generated any growth in the local, Eldersburg economy.

In fact, there's no way, certainly not in the absence of careful economic impact analysis, for the Planning and Zoning Commission to be sure that the net effect – jobs gained minus jobs lost – will not be a negative number and detrimental to the community. People will be unemployed and they and their families and the businesses they would ordinarily patronize will suffer. To what end? Should the County approve a site plan for a seventh grocery store in a given neighborhood, regardless of the negative impact on established commerce in the community?

Not always, but in this case, allowing unrestricted development of a B-NR property is an example of development without growth. Does the Planning and Zoning Commission really want to approve a site plan that will result in anyone's unemployment? Without offering the affected community some very significant net benefit that a seventh grocery store cannot provide? When the property owner has any number of equally profitable alternatives?

## **3. The site plan is not in keeping with the current zoning – even after the pending text amendment.**

Yes, that's a remarkable statement. How can you deny a property owner the right to build something that's in keeping with the zoning for his or her property? You can't. It's just that, for any particular land use to be "in keeping with the current zoning," a site plan must meet all provisions of the zoning code, including and most especially the "Purpose" statement, the text of which, for the B-NR classification, is shown below.

 **§ 158.077 “B-NR” NEIGHBORHOOD RETAIL BUSINESS DISTRICT.**

(A) **Purpose.** The purpose of the “B-NR” District is to provide for logical locations where the retail services needed by a neighborhood population can be made available. The areas are in communities and at locations of expected population concentrations which might be termed a neighborhood or small community.

Notice, first of all, that the word "neighborhood" appears in the title of the B-NR classification. That's what the N stands for. The zoning classification is, in other words, all about land use in small geographic markets, small enough to be characterized as neighborhoods.

Note also the language that reads, "retail services *needed* by a neighborhood population." (The bolding and italics are not in the original text.) To its credit, in very clear language, the B-NR zoning code requires that the permitted use be "needed" by the neighborhood. Clearly, the point is that there has to be a shortage of whatever the proposed use represents. On the face of it, ***the purpose statement for B-NR zoning precludes development involving redundant services.***

Were the property in question to be home to a new grocery store in a neighborhood lacking sufficient access to local food stores, then that would be fine, but then that's not the case in this particular market for a new grocery store on this particular property. Approving a site plan is inherently something the County does on a case by case basis. This situation is no different. And, in this case, in a market so over-crowded, a seventh grocery store is not "needed by a neighborhood population" and therefore should be disapproved by virtue of the objectives of its B-NR zoning.

From the point of view of the zoning for this particular site, development for a seventh neighborhood grocery store is inappropriate and not in keeping with the B-NR zoning. There's nothing wrong with B-NR zoning and there are many, many other land uses which the owner should be allowed. A seventh neighborhood grocery store just isn't one of them ***in this particular case.***

**4. The site plan is not in keeping with the objectives of comprehensive planning.**

The image below is an excerpt from the Goals & Objectives section of the Draft 2016 Freedom Community Comprehensive Plan.

Objective 2 refers to the "growth of existing businesses and employment retention. as well as attracting new commercial... enterprises." There's nothing of a material nature that is new about a seventh grocery store, LIDL or otherwise. It doesn't offer products, services or pricing not currently available in the community, nor does it help retain or create jobs.

## **Element 6: Economic Development**

### **Goals & Objectives**

**Goal:** Facilitate economic development opportunities that support the local skilled workforce and entrepreneurs, and expand the County's employment tax base.

**Objective 1:** Support the goals of the Carroll County Department of Economic Development.

**Objective 2:** Focus on the growth of existing businesses and employment retention, as well as attracting new commercial and industrial enterprises.

**Objective 3:** Focus on development and redevelopment of existing vacant and underutilized commercial and industrial properties.

**Objective 4:** Create a positive business and regulatory environment to compete with surrounding jurisdictions.

**Objective 5:** Promote economic development opportunities that leverage Freedom's natural, cultural, and heritage assets.

**Objective 6:** Promote development that creates areas with a "sense of place" and "destinations" that encourage interaction among residents and users.

**Objective 7:** Encourage economic development that provides a broader range of skill levels and earning potential for residents who desire to work and live in Freedom and Carroll County.

Objective 5 favors projects which "promote economic development opportunities." In fact, a seventh grocery store may actually have a net negative impact on the local Eldersburg economy. And there's nothing about a seventh grocery store in an already over-crowded market that creates "development opportunities," certainly not for the community at large. For LIDL and for the property owner, sure, but not for Eldersburg.

Objective 7 supports projects "that encourage economic development that provides a broader range of skill levels and earning potential for residents." How does a seventh grocery store to anchor a property of such significant potential satisfy this objective? Or any of the other six objectives, for that matter?

At the top of the list, note that the "Goal" is to "facilitate economic development opportunities that support the local workforce... and expand the local employment tax base." Okay. How does a seventh grocery store – in an already over-crowded market, the opening of which will likely result in the loss of jobs at shopping centers in the same neighborhood – contribute to accomplishing this goal?

The LIDL site plan represents relatively large, impactful development, but without growth. If anything, its impact is likely to have negative implications for employment and business in general in other shopping centers nearby. And that can't be and isn't the objective of The Carroll County Master Plan or Freedom Community Comprehensive Plan.

#### **5. Disapproval doesn't unreasonably deny the property owner its rights.**

Understandably, the County should be reluctant to over-reach, to tell a property owner/developer precisely what it can put on a given property. But then controlling land use for the benefit of the greater community is precisely the purpose of zoning.

The reality is that local government, albeit with limited resources, does its best through zoning and other rules to encourage development. And that's a good thing – provided that development is accompanied by growth, by significant net beneficial direct and indirect effects on neighborhood families and established commerce.

This LIDL site plan isn't about a new pizzeria opening down the street from one that's been in the neighborhood for years. Far from it. This is about a highly prominent, potentially very influential 22.6 acre property that's in the middle of an already well-developed local economy. Unfortunately, despite all this potential, tentative plans are for yet another strip center to be anchored by one more full-size grocery store.

Just because the County may lack the resources to conduct a proper analysis of the local economic impact of significant real estate projects doesn't mean that a common sense consideration of these effects should not be allowed to influence the approval or disapproval of a given site plan.

Context matters. Every major project site plan needs to be considered ***in the context of*** the particular neighborhood in which it will be located. (That's right out of the purpose statement for B-NR zoning.) No major project site plan should be approved without the County asking what impact a specific store or other use may have on the local economy. The question is not about discouraging competition, even though competition often costs some people their jobs. Competition, generally, is a good thing that should be encouraged. There are, however, special cases that occur from time to time and this is one of them.

No one is suggesting that the County should have stood in the way of a second grocery store opening in Eldersburg. Or even a third or fourth. Or fifth or sixth? No. The problem here is purposely predatory behavior by a retailer.

Common sense tells us – what we would like to hire experts to confirm – that Eldersburg can only support so many grocery stores and that number is fewer than seven. The Walmart grocery store has just opened. The new ALDI isn't open yet. And here comes LIDL, maybe. LIDL isn't asking itself whether or not Eldersburg can support yet another grocery store. If it had asked that question, it wouldn't be interested and would look elsewhere for a new location.

Unfortunately, the only question that concerns LIDL is, "Are we strong enough, financially, to steal enough business from all the other grocery stores to enable us to operate profitably?" ***And that's a strategy that begs the Commission to step in and protect families and established businesses in the affected neighborhood.***

The County's Zoning and Planning Departments should disapprove the LIDL site plan because the specific land use it proposes is, for this particular property and specific neighborhood, inconsistent with the purpose of B-NR zoning and the objectives of the Comprehensive Plan for the Freedom Community.