FREDERICK COUNTY PLANNING COMMISSION
June 13, 2012

TITLE: **Buhrman Subdivision, Section 1, Lots 2-C & 2-D.**

FILE NUMBER: **S-340, AP 7226 (FRO AP**

REQUEST: **Major Subdivision Approval**
The Applicant is requesting major subdivision approval to resubdivide existing Lot 2-C into one (1) new lot and a remainder lot on a 10.068-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION:	Located on the southeast side of Pleasant Walk Road, 800 feet southwest of Easterday Road.
TAX MAP/PARCEL:	Map 29, Parcel 67
COMP. PLAN:	Natural Resource
ZONING:	Resource Conservation
PLANNING REGION:	Middletown
WATER/SEWER:	No Planned Service

APPLICANT/REPRESENTATIVES: [as applicable]
APPLICANT: Donald and Charlotte Wisner
OWNER: Donald and Charlotte Wisner
SURVEYOR: J.F. Brown III & Associates
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Mike Wilkins

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Subdivision Plat

STAFF REPORT

ISSUE

The Applicant is requesting major subdivision approval to resubdivide existing Lot 2-C into one (1) new lot and a remainder lot on a 10.068-acre site.

BACKGROUND

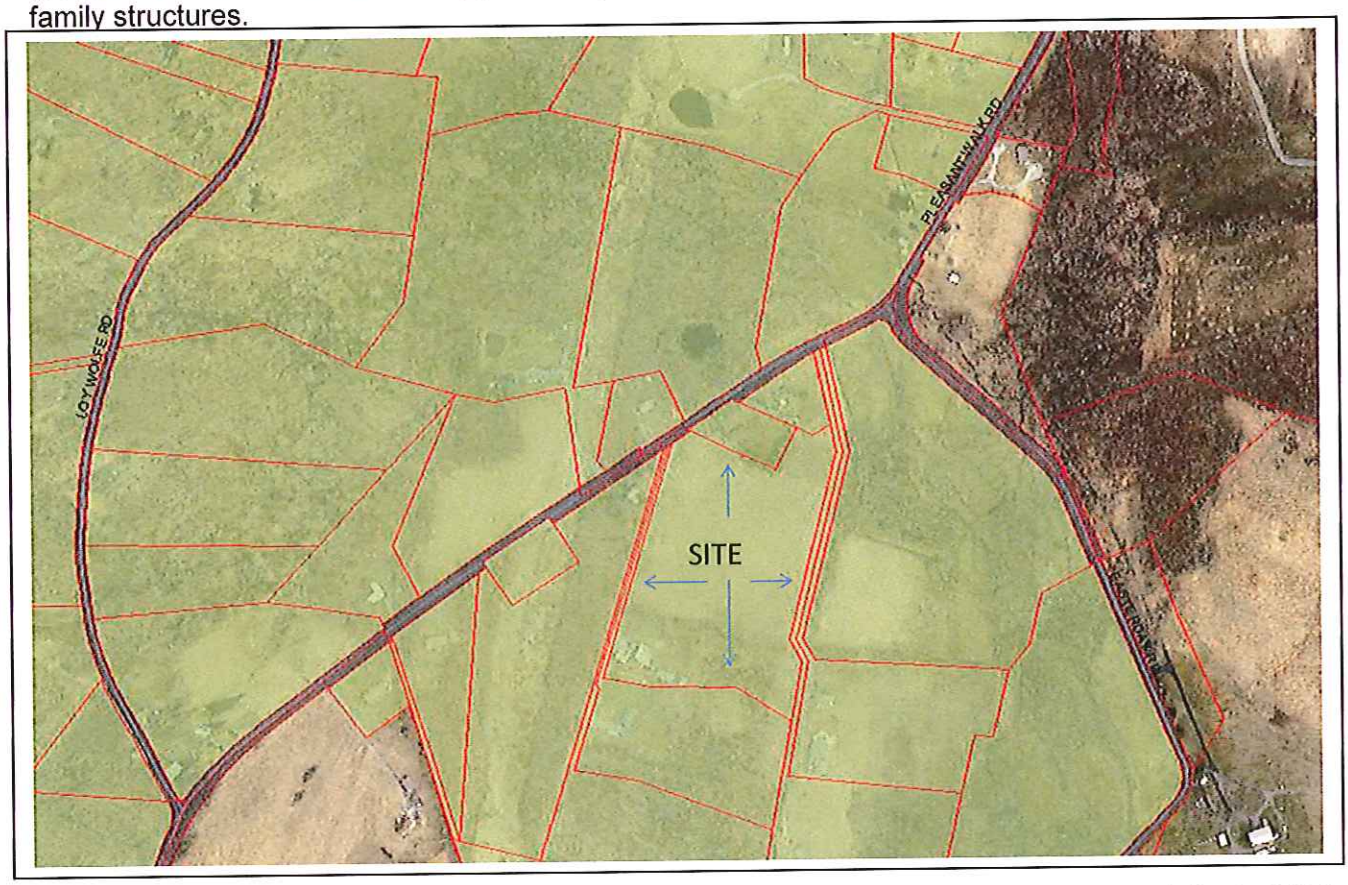
Lot 2-C was created as a remainder lot on a plat recorded in 2006 (Plat book 80, Page 109).

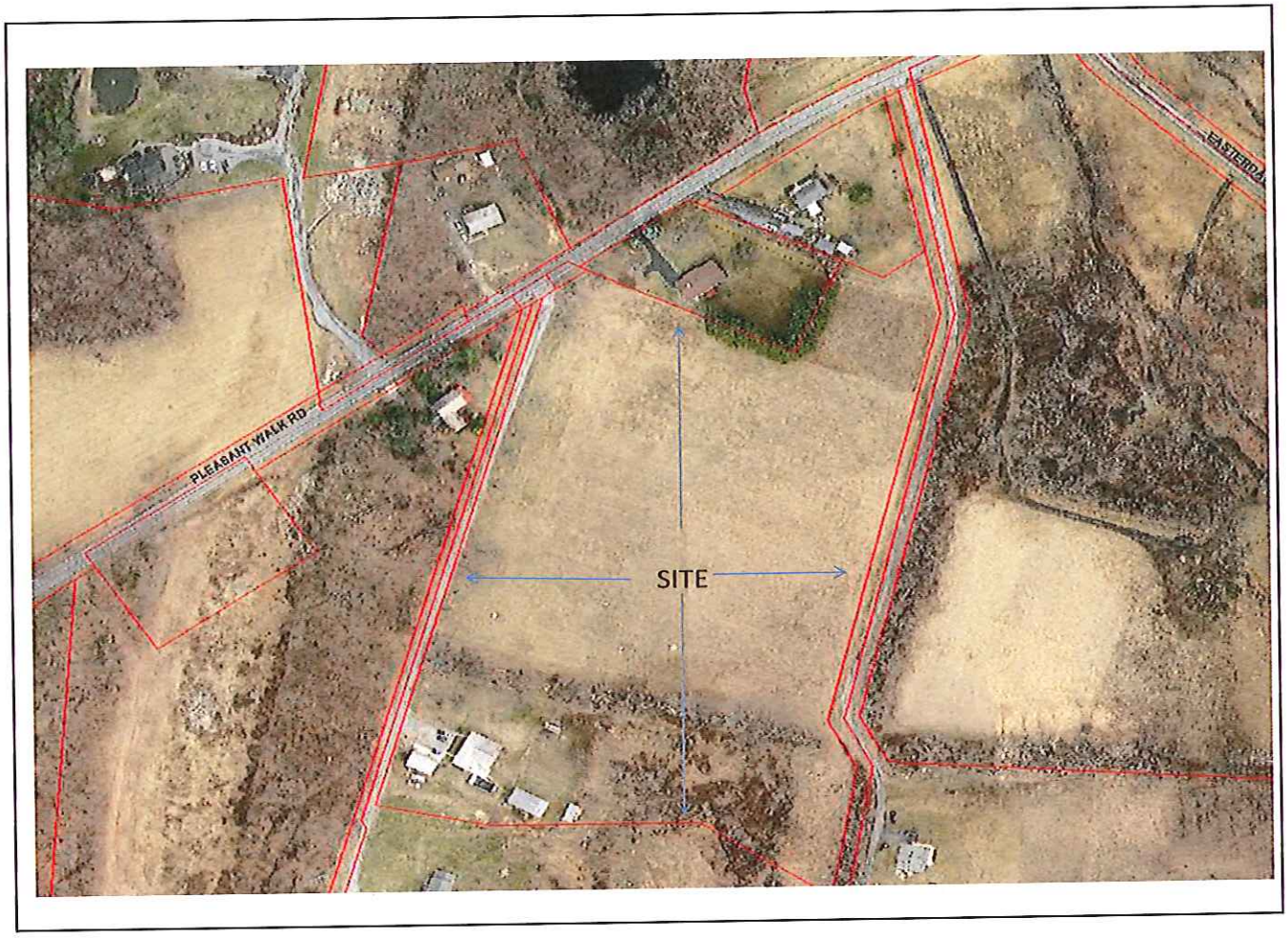
Section 1-16-3 of the Subdivision regulations defines a major subdivision as "*any subdivision that would bring the total number of lots off the original parcel to 6 or more.*" Original parcel is defined as "*a lot, tract or parcel of land as it existed by deed or plat description on April 6, 1965.*"

The proposed Lot 2-D will be the 9th lot off the original parcel and is therefore considered a major subdivision. Major subdivisions require review and approval by the FcPc per § 1-16-8 (C) of the Subdivision Regulations.

Existing Site Characteristics

The 10.068 acre site is primarily unforested open ground. A residential structure and typical assessory structures are situated on the proposed Lot 2-C remainder, while proposed lot 2-D is situated on open ground. The site is surrounded by previously recorded lots, most of which are occupied with single family structures.





ANALYSIS

A. LAND, DIMENSIONAL, AND BULK STANDARDS 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.*

The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements.

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 topography and soils on this site are not unique and do not provide opportunities for alternative subdivision designs. There are no wooded areas or water bodies on the site. The proposed lot is similar to the surrounding properties in regards to design, lot size, and proposed single family residential use.

3. ***Dimensional Requirements/Bulk Standards §1-19-6.100:*** *The minimum lot size for single*

family lots in the Resource Conservation zone is 10 acres. However, §1-19-7.200 (A)(1), permits legal lots of record that existed as of May 20, 2008 that are at least 10 acres in size, but less than 20 acres in size, to be subdivided into one residential lot and a remainder. These lots shall have a minimum lot size of 5 acres. The minimum setback is 50 feet from all property lines.

The subject property is 10.068 acres and existed as of May 20, 2008. Therefore, it meets the lot size requirements per *§1-19-7.200 (A)(1).* The 50 foot setbacks are shown on the plat and meet the requirements per §1-19-6.100.

4. ***Resource Conservation District Sensitive Area Protection §1-19-7.200:*** *Areas with slopes of 25% grade and greater shall not be developed, floodplains, wetlands, and habitats of threatened and endangered species shall be protected, and forest cutting or clearing shall be limited to 40,000 square feet. New streets are prohibited in the Resource Conservation District.*

There are no steep slopes, floodplains, wetlands, habitats, or forest on site. No new streets are proposed.

Land, Dimensional, and Bulk Standards Requirements Findings/Conclusions

The proposed subdivision meets all land, dimensional, and bulk standards requirements.

B. ACCESS

1. ***Public Facilities §1-16-12 (B)(3)(b):*** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

The proposed lots will access Pleasant Walk Road, which is a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.

2. ***Lot Access to Streets §1-16-240: (A)****The Planning Commission shall have the right to approve or disapprove any point of ingress and egress to any lot…****(B)*** *The Planning Commission may require the subdivider to provide ingress and egress to a particular lot or tract through the remainder of the property…*

The proposed Lot 2-D will access Pleasant Walk Road via the existing use-in-common driveway apron used by Lot 2-C and the other lots previously recorded in this subdivision. A small segment of new driveway is required to cross the front to Lot 2-C. This portion of the driveway must be constructed prior to lot recordation.

3. ***Driveway Entrance Spacing Policy:*** *This policy, adopted by the FcPc in 2002 and amended in 2004, provides a system of evaluating driveway locations for public safety, to preserve the rural character of roads located in the rural parts of the County, and allowing tighter spacing in areas of the County designated for denser development.*

This Application is not subject to the entrance spacing criteria because no new driveway entrances are proposed.

Access Findings/Conclusions

The proposed lot will meet all County access requirements.

C. WATER AND SEWER FACILITIES

1. ***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 water and sewer classification of "No Planned Service" and must utilize a private well and septic system. The subdivision may proceed with percolation testing and well drilling once the FcPc has granted approval in accordance with §1-16-9 (B)(4). The well and the septic area must be approved by the Health Department prior to lot recordation.

D. OTHER APPLICABLE REGULATIONS

Stormwater Management – Chapter §1-15.2: This single lot subdivision will address SWM at the time of building permit application.

APFO – Chapter §1-20: Proposed Lot 2-D is the 5th lot recorded from the original parcel since the adoption of the APFO (1991). For the purposes of APFO, this application is considered a minor subdivision and is exempt from APFO. Any additional subdivision from the original parcel will trigger APFO testing and mitigation requirements.

1. ***Schools.*** N/A
2. ***Water/Sewer.*** N/A
3. ***Roads.*** N/A

Forest Resource Ordinance – Chapter §1-21: The Applicant has filed a FRO exemption application and an Intrafamily Transfer Declaration of Intent for Lot 2-D. With this Declaration, Lot 2-D must be conveyed to the owner or to a child of the owner with the intent to construct a single family dwelling for use as their residence. The lot must remain under their ownership for at least five years. Lot 2-C qualifies for the Real Estate Transfer exemption as it is already developed. Failure to meet the requirements of these exemptions may require the owner to meet all applicable FRO requirements.

Summary of Agency Comments

Other Agency or Ordinance Requirements	***Comment***
Development Review Engineering (DRE):	Approved
Development Review Planning:	Hold. Must meet all agency and FcPc comments and conditions.
State Highway Administration (SHA):	N/A
Div. of Utilities and Solid Waste Mngt. (DUSWM):	N/A
Health Dept.	Hold. Percolation testing and well drilling required.
Office of Life Safety	N/A
DPDR Traffic Engineering	Approved
Historic Preservation	N/A

RECOMMENDATION

Staff has no objection to conditional approval of the proposed subdivision. If the Planning Commission conditionally approves the subdivision, the plan is valid until November 8, 2016 in accordance with the 2009 and 2011 Extension Ordinances.

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

1. Comply with all agency comments.
2. The portion of the driveway serving Lot 2-D that is located on Lot 2-C must be constructed prior to lot recordation.
3. The well and the septic area must be approved by the Health Department prior to lot recordation.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-340 (AP 7226) with conditions** as listed in the staff report for the proposed subdivision, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.