



FREDERICK COUNTY PLANNING COMMISSION
March 9, 2016

TITLE:

Russell Property Lot 100

FILE NUMBER:

**S-1140, AP #16118, APFO #15989, FRO
#15990**

REQUEST:

**Combined Preliminary/Final Subdivision
and APFO Approval**

The Applicant is requesting major subdivision approval to subdivide the existing 35.11 acre Remainder 1 into one (1) new 2.54 acre lot to be known as Lot 100.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the northwest corner of Buckeystown Pike MD 85 and Westview Drive.

TAX MAP/PARCEL: Tax Map 86, Parcel 175

COMP. PLAN: General Commercial (GC), Limited Industrial (LI), & Resource Conservation (RC)

ZONING: General Commercial (GC) & Limited Industrial (LI)

PLANNING REGION: Frederick

WATER/SEWER: W-3/S-3

APPLICANT/REPRESENTATIVES:

APPLICANT: Russell Holdings, LLC.

OWNER: Russell Holdings, LLC.

ENGINEER: Harris, Smariga & Associates, Inc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF:

Tolson DeSa, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

Exhibit 1-Plat Rendering: Russell Lot 100
Exhibit 2- Letter of Understanding (LOU) Russell Home2 Suites (Lot 100)

STAFF REPORT

ISSUE

The Applicant is requesting Combined Preliminary/Final major subdivision approval to re-subdivide the existing 35.11 acre Remainder 1 to create one (1) new 2.54 acre Lot 100 (See Graphic #1). Throughout the Russell property there have been 6 lots created by subdivision of the original 1965 parcel.

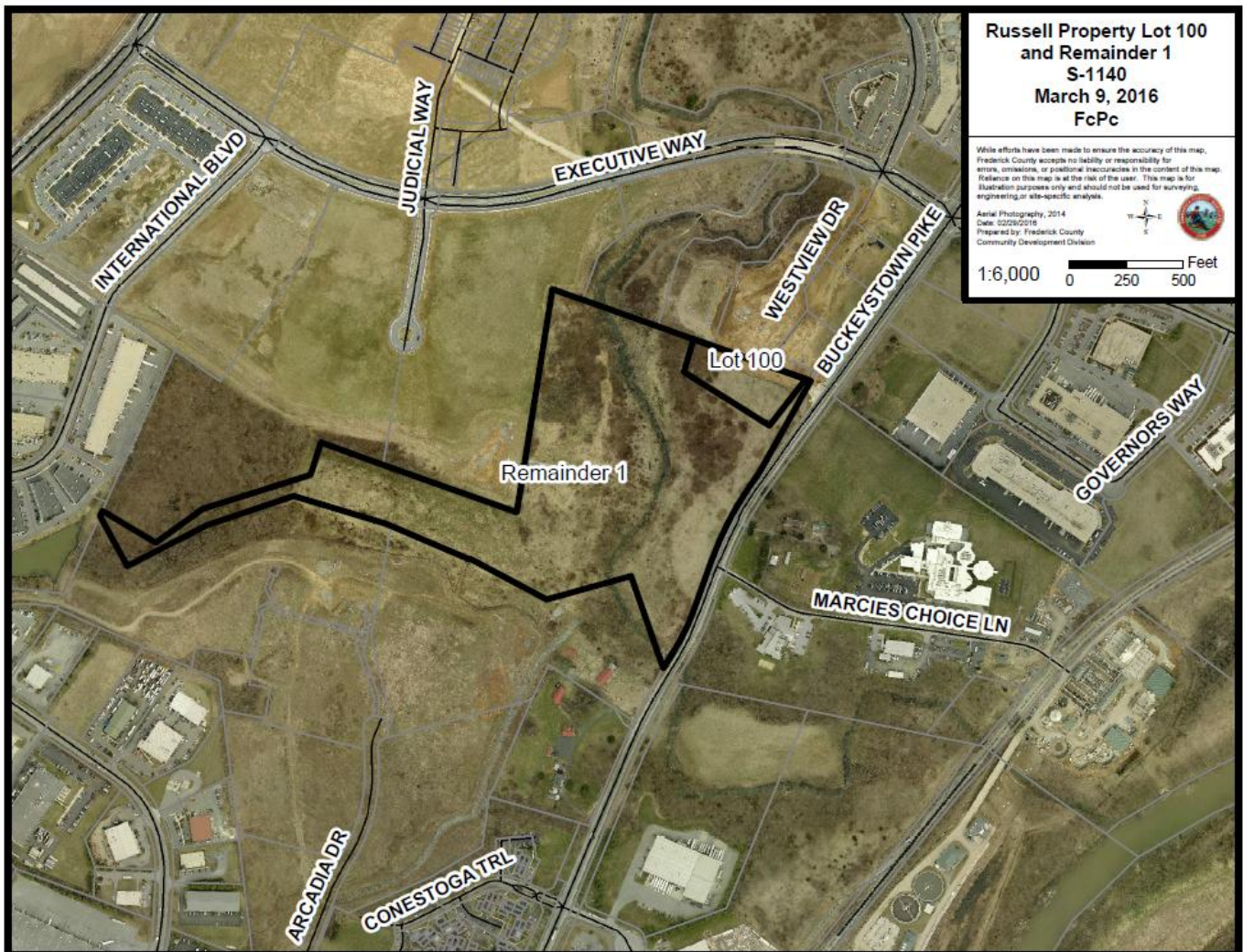
Development Request

This will be the 7th lot taken off of the Russell tract; therefore this subdivision is considered a major subdivision. Major subdivisions must be approved by the Planning Commission.

This site is proposed to be the location of a 117-room, 68,511 square foot hotel. In accordance with the County subdivision regulations, APFO compliance will be addressed with this combined preliminary/final subdivision plat, and a separate site development plan SP-04-11 (AP# 15988) has been submitted for the proposed hotel.

The Adequate Public Facilities Ordinance states that all commercial/industrial subdivisions must be tested for APFO. Therefore, this subdivision is before the Frederick County Planning Commission for Combined Preliminary/Final Subdivision Plat and APFO approval.

Graphic #1 Russell Property Remainder 1 & Lot 100 Aerial



BACKGROUND

Development History

The original property (approximately 140 acres) from which this subject property is being subdivided has the following zoning history:

- The original property was zoned Agriculture on the 1959 Frederick County Zoning Map.
- A 1970 rezoning changed the zoning to Residential Mobile Home District.
- The entire original site was comprehensively rezoned to Planned Unit Development (PUD) in 1972.
- The 1977 Zoning Maps were updated in 1989, and showed a 1988 rezoning of the property into several zones, but primarily Office/Research/Industrial (ORI) for about 95% of the Russell Property.
- The 2000/2001 Adamstown Comprehensive Rezoning process changed the ORI zoning to limited industrial (LI).
- The 2010 County-wide Comprehensive Rezoning process changed the LI zoning on a 5.46 acre "L" shaped portion of the Russell Remainder 1 location along MD 85 to General Commercial (GC). Lot 100 is comprised of 2.54 acres of this "L" shaped portion of the Russell Remainder 1.

Russell Site Plan History:

On August 16, 2006, the FCPC approved a Combined Preliminary Plat/Final Site Plan Application for 6 industrial lots containing 11 office/warehouse buildings for a total of 413,730 square feet on 104.45 acres.

- The original approval period for the Russell Site Plan (AP 4041) was two years, with an 8/16/2008 expiration date. The Site Plan approval was extended for 2 three-year periods to 8/16/2014, and expired on that date.

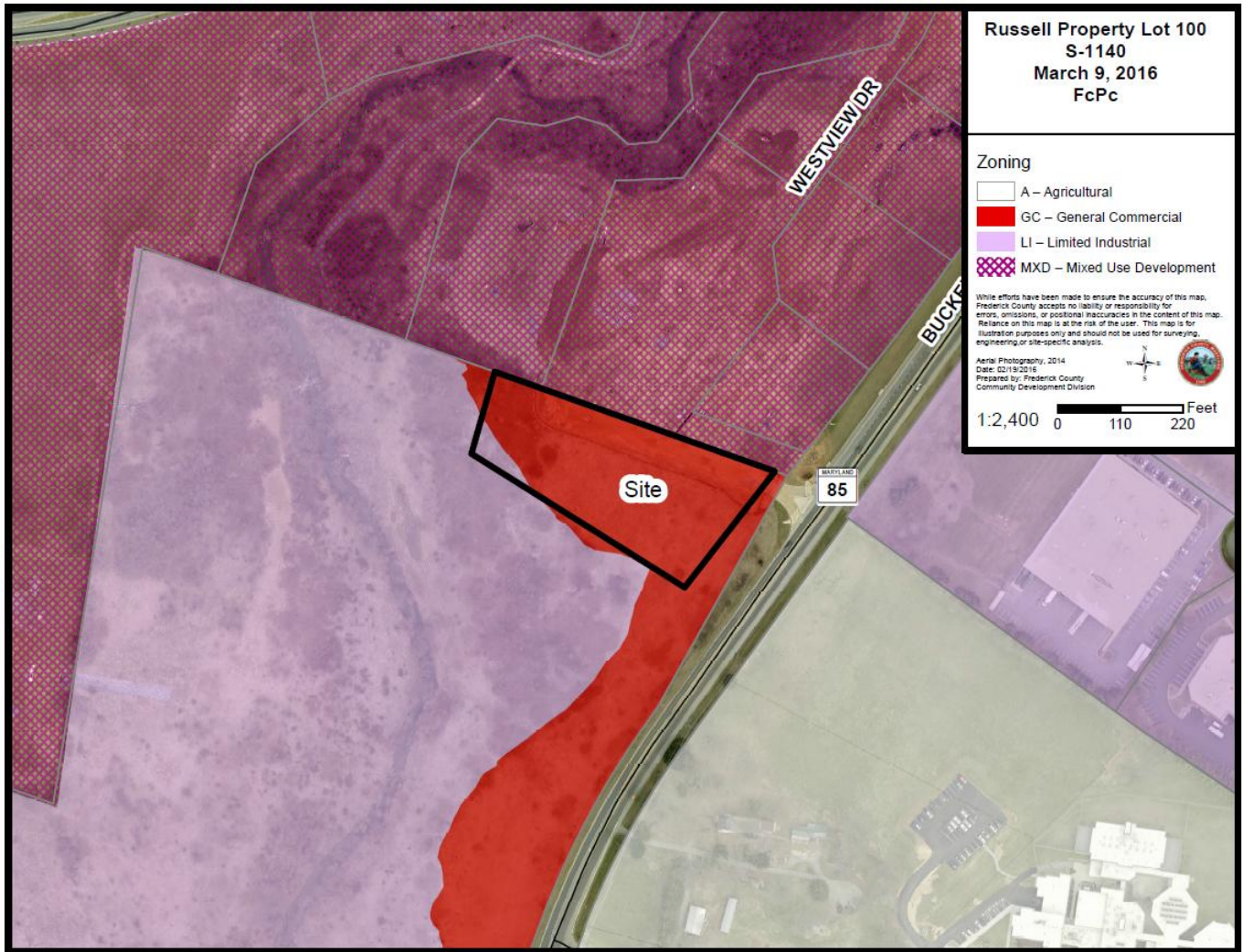
On October 15, 2014, the FCPC reviewed and approved site plans for Lots 1, 2, & 6. Staff worked with the Applicant to bring the previously approved site plans further into compliance with the existing Code within the confines of the recorded plats, while avoiding a complete redesign of the project.

The current Combined Preliminary/Final Plat is being processed concurrently with a Site Development Plan (AP# 15988) for Home 2 Suites to be developed on the newly created Lot 100.

Existing Site Characteristics

The area of the proposed Lot 100 is zoned General Commercial (GC), and there is a small, undeveloped portion of the site to the west that is zoned Limited Industrial (LI) (See Graphic #2). The LI portion of the site to the west is encumbered with a FRO conservation easement and FEMA floodplain and will remain within the waterbody/floodplain setback area.

Graphic #2 Russell Property Lot 100 Zoning Map



ANALYSIS

A. LAND, DIMENSIONAL, AND BULK STANDARDS

- 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 General Commercial zoning district and land use designation are intended to provide general retail commercial and business services. The proposed hotel and the design pattern of the proposed adjacent Lot 107 subdivision meet the requirements for this district and comply with the intent of the land use designation.

- 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 existing site is currently vacant and includes 100-year FEMA Floodplain per FEMA Map 24021C0435 D, LOMOR revision dated 11/22/2007. There is an existing Forest Conservation Easement located on the western portion of the site. The Applicant is working with Staff (with final approval by the County Executive) to modify the previously approved Forest Conservation Plan AP 6866 and release a

Russell Property Lot 100

March 9, 2016

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portion of the existing easement #7 (L.6859 F. 683) that is above the waterbody buffer and within the limits of this lot. No wetlands were found on the area of the proposed lot.

3. **Dimensional Requirements/Bulk Standards §1-19-6.100:** Section 1-19-6.100 of the Zoning Ordinance stipulates the setback requirements and the minimum lot area for the proposed hotel use. The setback requirements for a 'Hotel or Motel' within the GC zoning district are 25-foot front yard, 40-foot rear yard, with 15' side yards. The minimum lot size for the zoning district is 20,000 square feet. The proposed lot size (2.54 acres) and lot dimensions provide sufficient area for development of a typical hotel use with associated parking. The proposed plan meets the required Bulk/Dimensional requirements for the General Commercial zoning district.
4. **Floodplain District Regulations (§1-19-9.110) and Waterbody Buffer Requirements (§1-19-9.400):** *A minimum setback of 25 feet shall be provided from all Floodplain district boundaries. No new development shall be permitted in areas of flooding soils. A parcel, lot, or tract of land submitted to Frederick County for subdivision or resubdivision review and approval shall be subject to the waterbody buffer requirements.*

There is a 25' floodplain buffer as well as a waterbody buffer that extends into the site. No building, structures, or impervious surfaces, and no activities requiring clearing or grading over 5,000 sq ft, will be permitted in the waterbody buffer except as permitted under 1-19-9.400 of the Z.O. No fill or work is proposed within the 100 year floodplain.

Land, Dimensional, and Bulk Standards Findings/Conclusions

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

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 Applicant proposes to access Lot 100 via the existing right-in, right-out entrance off of MD 85. The entrance meets County and SHA standards for a commercial entrance. The proposed entrance meets sight distance requirements and has been approved by Development Review Engineering Staff.

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 Applicant proposes to access Lot 100 via the existing right-in, right-out entrance off of MD 85. The proposed entrance meets sight distance requirements and has been approved by Development Review Engineering Staff and SHA staff.

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.*

The existing access with MD 85 is 960' from the adjacent access point (Executive Way) which complies with the FCPC Entrance Spacing Policy.

Access Findings/Conclusions

The proposed lot will meet all County and State 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 site is to be served by public water and sewer and is classified W-3, S-3. The entire site is in pressure Zone #1 with water coming from New Design WTP and Sewer flowing into the Ballenger McKinney WWTP. While the public sewer and water facilities are currently adequate to serve the Project, the Applicant acknowledges that capacity is not guaranteed until purchased. The Division of Utilities and Solid Waste Management have reviewed and approved the proposed subdivision.

D. OTHER APPLICABLE REGULATIONS

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

Adequate Public Facilities Ordinance (APFO) – Chapter 1-20:

1. **Schools.** Schools are not impacted because the proposed development is a non-residential use.
2. **Public Water/Sewer.** The Property has a water and sewer classification of W-3, S-3. While the public sewer and water facilities are currently adequate to serve the project, the Applicant recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable county regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.
3. **Road Improvements:** A traffic impact analysis (TIA) dated November 2, 2015 was performed for this Project by The Traffic Group. Based on the ITE trip generation rates for all-suites hotel rooms and a reasonable assumption related to use of the Remainder, the development of the Project would result in 50 am and 53 pm weekday peak hour trips. Any future modification to the site plan which would have the effect of increasing the projected trip generation or a significant redistribution of site traffic would be subject to new analysis under APFO.

The traffic impact study evaluated the capacity of three intersections along MD 85: Crestwood Blvd, Executive Way, and English Muffin Way. These intersections are all expected to operate at acceptable levels of service in the AM and PM peak hours in the future with site generated and background traffic.

However, in full satisfaction of APFO requirements per §1-20-12(H), the Applicant is required to provide fair share contributions to existing escrow accounts that are impacted by the proposed development of the site. The Applicant shall pay into County-held escrow accounts the following pro rata contributions:

- 1) Improvements at MD 85 @ English Muffin Way (Escrow Account # 3253) for signalization of the intersection. \$212.
- 2) Improvements at MD 85 @ English Muffin Way (Escrow Account # 3761) for eastbound left turn lane and improved westbound right turn radius. \$2,444.

- 3) Improvements at MD 85 @ Crestwood Blvd. (Escrow Account # 3282) for 4th northbound through lane. \$47,611.

Prior to the recordation of the final plat, the Applicant must pay \$50,267 to the above-referenced escrow accounts for these road improvements. Should these payments not be made within one year of the execution of the attached Letter of Understanding (LOU), the County reserves the right to adjust this amount, based on an engineering cost index. The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on March 9, 2019.

Forest Resource Ordinance – Chapter 1-21: FRO requirements for this site were met in 2007 as part of the overall Russell Property development (FRO Plan S-1104, AP 6866). Mitigation was provided via a combination of forest conservation easements and payment of fee-in-lieu. However, the Home 2 Suites Site Development Plan proposes to impact 13,877 square feet (0.318 acres) of recorded FRO easement. The Applicant has submitted a revised Final Forest Conservation Plan (AP 15990) proposing to release this impacted area from the FRO easement, which if approved will generate a 0.64 acre replacement mitigation requirement. The Applicant proposes to provide this mitigation via purchase of forest banking credits. Although this explanation is being provided to the Planning Commission for informational purposes, the County Executive has final approval authority of FRO easement releases. Approval of the revised Final Forest Conservation Plan, Site Plan, and Combined Preliminary/Final Plat for this development project does not guarantee final approval of the partial release deed by the County Executive. The revised Final Forest Conservation Plan must be approved, the FRO easement partial release deed recorded, and replacement mitigation provided prior to Site Plan final approval and prior to the recordation of the Combined Preliminary/Final Plat.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Approved
Development Review Planning:	Hold: Address all agency comments as the plat proceeds to completion.
State Highway Administration (SHA):	Conditional Approval
Div. of Utilities and Solid Waste Mngt. (DUSWM):	Conditional Approval
Health Dept.	N/A
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 combined Preliminary/Final Plat. Plat approval may be granted for the lesser of five (5) years from Planning Commission approval or the period of APFO approval, which is three (3) years. Therefore, if the Planning Commission conditionally approves the preliminary plan and APFO, the preliminary plan and APFO approval will be valid for a period of three (3) years from the date of Planning Commission approval to March 9, 2019.

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. Address all agency comments as the plan proceeds through to completion.
2. The recorded Liber Folio for the newly created Lot 100 shall be listed on SP-04-11, AP 15988.

Prior to final plat recordation all of the following must be completed:

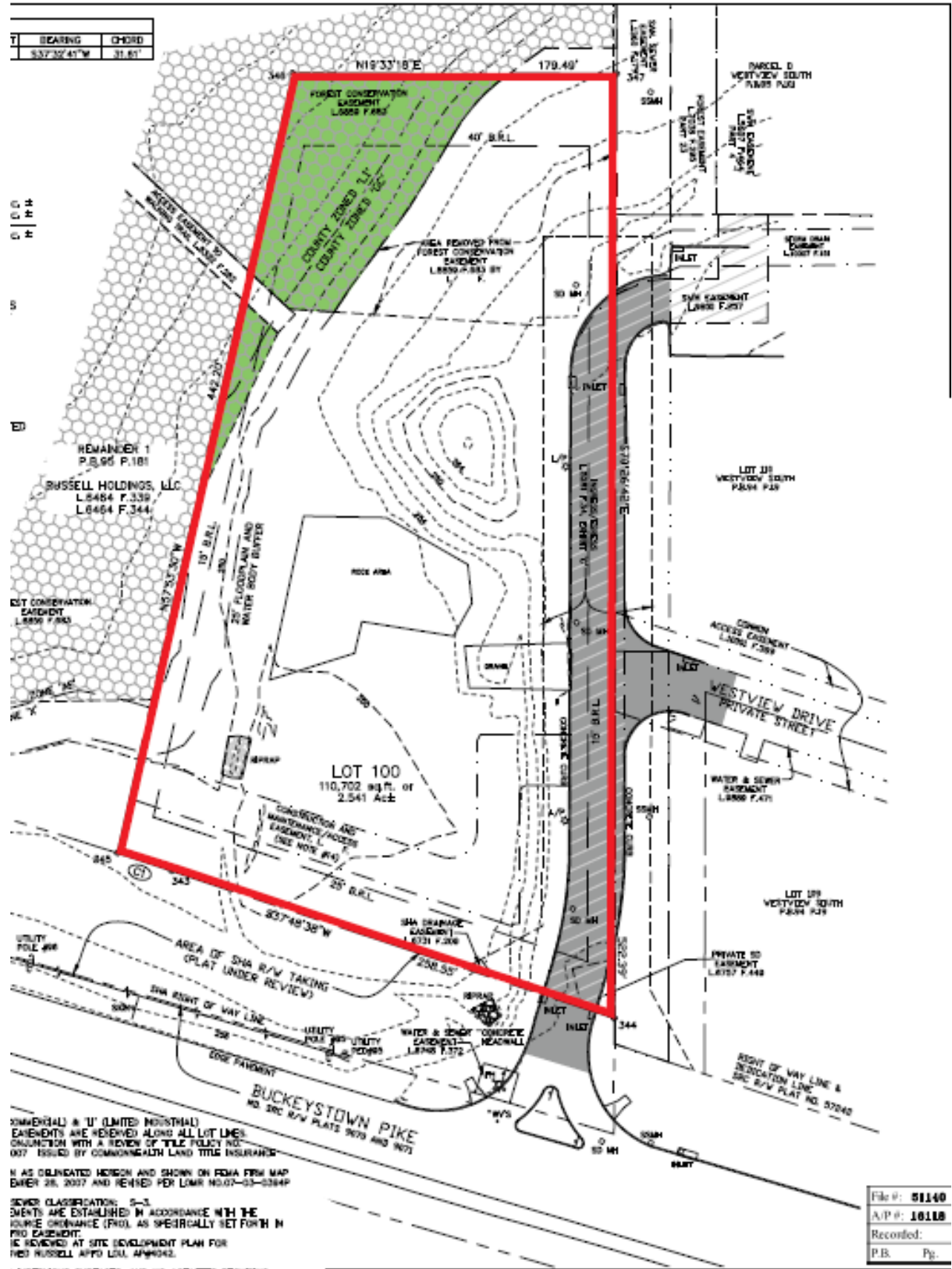
1. All necessary water and/or sewer easements shall be submitted, approved and recorded, and the Liber / Folio numbers shown on the plat.
2. Construction/Maintenance/Access Easement between Lot 100 and the southern GC Russell Property remainder portion must be recorded and the Liber/Folio numbers shown on the plat, and reflected on the Home 2 Suites Site Development Plan AP 15988.
3. The required W/S facilities must be under contract and be within 90 days of completion/operation before DUSWM can certify recordation of plats. Work must be commenced, i.e., NTP issued and noticeable work completed. Staff notes that an 89 day construction contract will not certify plat recordation.
4. The revised Final Forest Conservation Plan must be approved, the FRO easement partial release deed recorded, and replacement mitigation provided prior to Site Plan final approval and prior to the recordation of the Combined Preliminary/Final Plat. Note that approval of the revised Final Forest Conservation Plan, Site Plan, and Combined Preliminary/Final Plat for this development project does not guarantee final approval of the partial release deed by the County Executive.
5. The Applicant must satisfy the terms identified in the attached Lot 100 Russell Property Letter of Understanding, including the payment of \$50,267 to County road improvement escrow accounts prior to the recordation of the plat.

PLANNING COMMISSION ACTION

MOTION TO APPROVE AS MODIFIED

I move that the Planning Commission **APPROVE** S-1140 AP #16118, including APFO approval, **with conditions** as listed in the staff report for the proposed Russell Property Lot 100 Combined Preliminary/Final Plat, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit #1: Plat Rendering of Russell Property Lot 100





FREDERICK COUNTY GOVERNMENT
DIVISION OF PLANNING & PERMITTING

Jan H. Gardner
County Executive

Steven C. Horn, Division Director

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Lot 100 Russell Property

Preliminary Plan S-1140 AP #15989

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Russell Holdings, LLC (the "Developer"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Lot 100 Russell Property Preliminary Plan (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements and contributions to road escrow accounts, as specified below are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's approximate 2.541 acre parcel which is zoned GC (General Commercial) and its Remainder, and located west of Buckeystown Pike and south of Executive Way. This APFO approval will be for the development of 117 all-suites hotel rooms, which is shown on the companion site plan for the above-referenced Project, which were both conditionally approved by the Commission on March 9, 2016.

Schools: Schools are not impacted because the development of the property is a non-residential use.

Water and Sewer: While the public sewer and water facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq, and all applicable county regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

Road Improvements: A traffic impact analysis (TIA) was performed for this Project by The Traffic Group dated November 2, 2015. Based on the ITE trip generation rates for all-suites hotel rooms and a reasonable assumption related to use of the Remainder, the development of the Project would result in 50 am and 53 pm weekday peak hour trips. This Letter sets forth the Developer's obligation associated with the construction as depicted on the above referenced site plan; any future modification to the site plan which would have the effect of increasing the

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projected trip generation or a significant redistribution of site traffic would be subject to new analysis under APFO.

In full satisfaction of APFO requirements per §1-20-12(H), the Developer is required to provide fair share contributions to existing escrow accounts that are impacted by the proposed development of the site. The Developer shall pay into County-held escrow accounts the following pro rata contributions:

- 1) Improvements at MD 85 @ English Muffin Way (Escrow Account # 3253) for signalization of the intersection. The estimated cost of the Road Improvement is \$73,176. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.29%. Therefore the Developer hereby agrees to pay \$212 to the escrow account for this Road Improvement.
- 2) Improvements at MD 85 @ English Muffin Way (Escrow Account # 3761) for eastbound left turn lane and improved westbound right turn radius. The estimated cost of the Road Improvement is \$104,888. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 2.33%. Therefore the Developer hereby agrees to pay \$2,444 to the escrow account for this Road Improvement.
- 3) Improvements at MD 85 @ Crestwood Blvd. (Escrow Account # 3282) for a 4th northbound through lane. The estimated cost of the Road Improvement is \$1,158,300. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 4.11%. Therefore the Developer hereby agrees to pay \$47,611 to the escrow account for this Road Improvement.


Therefore, prior to the recordation of the plat, the Developer hereby agrees to pay \$50,267 to the above-referenced escrow accounts for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on March 9, 2019.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures next page]

Russell Holdings, LLC:

By:  Date: 2/3/16
Matthew Holbrook, Regional Partner, St. Johns Properties

FREDERICK COUNTY PLANNING COMMISSION:

By: _____ Date: _____
William Hopwood, Chair or Robert White, Secretary

ATTEST:

By: _____ Date: _____
Gary Hessong, Director, Permits & Inspections

Planner's Initials / Date  2/4/16
(Approved for technical content)

County Attorney's Office Initials / Date _____
(Approved as to legal form)