



FREDERICK COUNTY PLANNING COMMISSION

January 14, 2015

TITLE: Good Water Subdivision, Section 1, Lots 5 & 6

FILE NUMBER: M-264, AP 14327 (APFO N/A, FRO 14328-14329)

REQUEST: **Agricultural Cluster Concept Plan Approval**
The Applicant is requesting Concept Plan approval for a 2-lot Agricultural Cluster subdivision on a 173.14-acre property.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the north side of Richard Remsburg Road, 600 feet west of Holter Road

TAX MAP/PARCEL: Map 75, Parcel 82

COMP. PLAN: Agricultural/Rural

ZONING: Agricultural

PLANNING REGION: Brunswick

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Arthur House, Et. Al.

OWNER: Arthur House, Et. Al.

SURVEYOR/ENGINEER: Rothenhoefer Engineers

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Mike Wilkins, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Concept Plan

STAFF REPORT

ISSUE

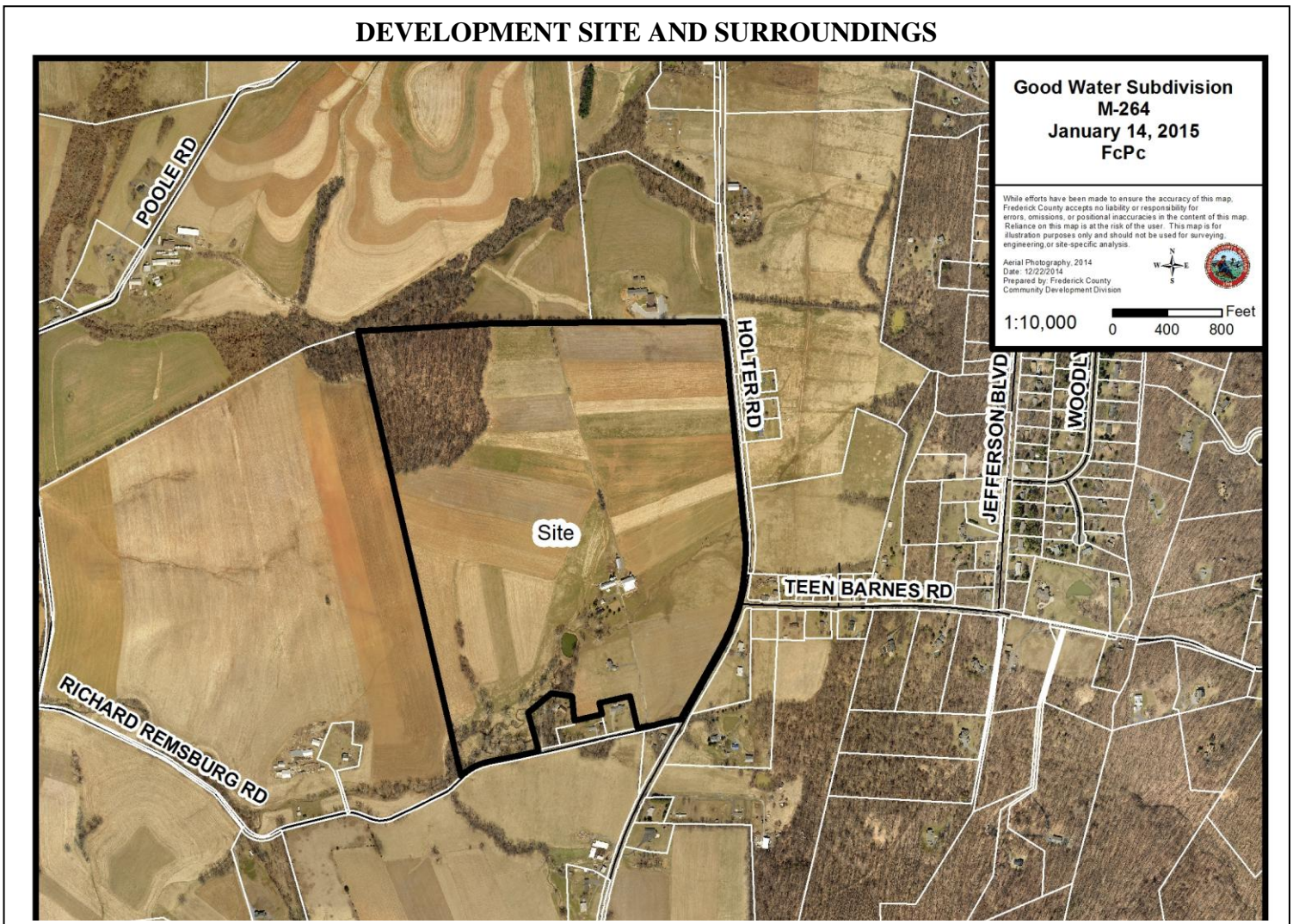
The Applicant is requesting Concept Plan approval for a 2-lot Agricultural Cluster subdivision on a 173.14-acre property.

BACKGROUND

This parcel has been the subject of previous subdivision applications;

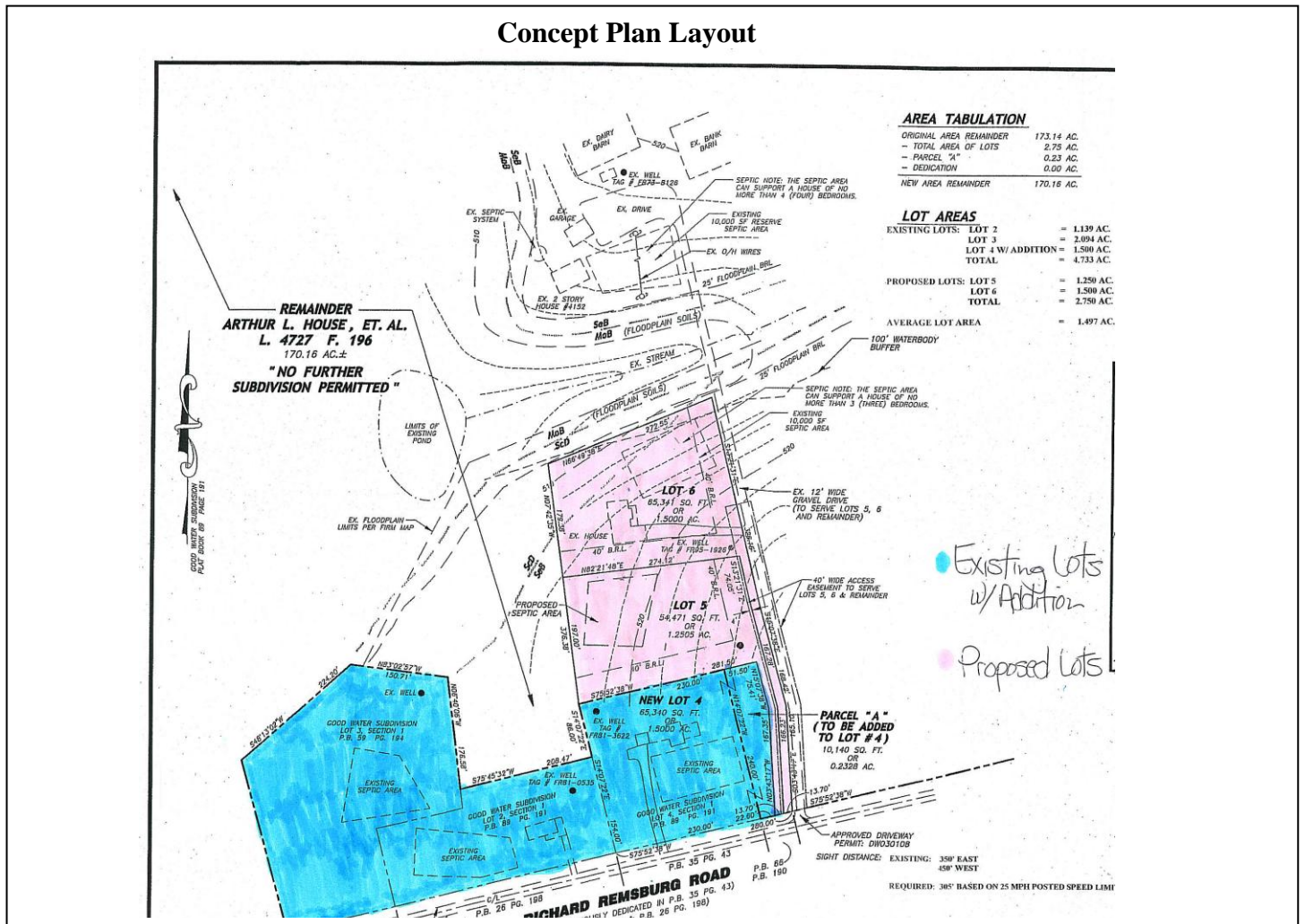
- In 1983, Lot 2 was recorded (Good Water Subdivision, PB 26 PG 198).
- In 1985, Lot 3 was recorded (Good Water Subdivision, PB 32 PG 48).
- In 1987, Lot 4 was recorded (Good Water Subdivision, PB 35 PG 43).
- In 2002, an AG Cluster Concept Plan was approved for a Lot 5, but this plan has since expired.

Proposed lots 5 & 6 will create the 4th and 5th lots off the parcel since 1965 and is therefore a minor subdivision.



Existing Site Characteristics

The property consists of a single parcel containing 173.14 acres. The entire parcel is utilized for farming with the exception of a 19 acre +/- forested area in the northwest corner of the farm. The 2.75 acres proposed to be subdivided into lots is within the area that is currently farmed. A stream, FEMA floodplain, and a band of flooding soils run just behind proposed Lot 6. A small portion of the 100' waterbody buffer falls within proposed Lot 6. Lot 6 is designed around an existing house and septic area.



ANALYSIS

1. § 1-19-7.300. AGRICULTURAL DISTRICT.

§1-19-7.300(B): The minimum lot size for single-family dwellings will be 40,000 square feet...

§1-19-7.300(C)(2)(c): Clustering Requirements. Minimum lot size, width and yard areas shall be as specified in the Agricultural District. Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres. The Planning Commission shall have the authority to grant modifications to lot sizes based on percolation and other Health

Good Water Subdivision, Section 1, Lots 5 & 6 Ag Cluster Concept Plan

January 14, 2015

Page 3 of 8

Department requirements.

All of the proposed lots meet the minimum 40,000 sq ft lot size requirement. The proposed minimum lot width (100 feet) and yard areas (40 foot front yard, 30 foot rear yard, and 10 foot side yard) meet Agricultural District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance. Lot 5 is 1.25 acres and Lot 6 is 1.50 acres. The average size of the previously recorded lots (Lots 2-4) and the two proposed lots is 1.23 acres. The proposed subdivision meets the individual lot size and average lot size criteria under §1-19-7.300(C)(2)(c) of the Zoning Ordinance.

§1-19-7.300(C)(2)(d): *A minor subdivision of 3 lots will be permitted to be subdivided on an original tract of land 25 acres or less...On an original tract of land containing more than 25 acres, the Planning Commission may allow 1 lot in addition to those allowed on lesser tracts for each additional 50 acres or part thereof above the first 25 acres...*

This parcel consists of 173.14 acres. Under the cluster provisions, up to 6 lots could be subdivided off the property (3 base + 3 bonus lots= 6). Proposed Lots 5 & 6 will be the 4th and 5th lots off the subject parcel since 1965. The 6th potential lot is being forfeited as noted on the plan and in accordance with 1-19-7.300(C)(3)(a).

§1-19-7.300(C)(1): Clustering: Purpose and intent.

(a) To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.

(b) To provide for a well-planned development while minimizing the use of prime agricultural land.

§1-19-7.300(C)(3): Procedures:

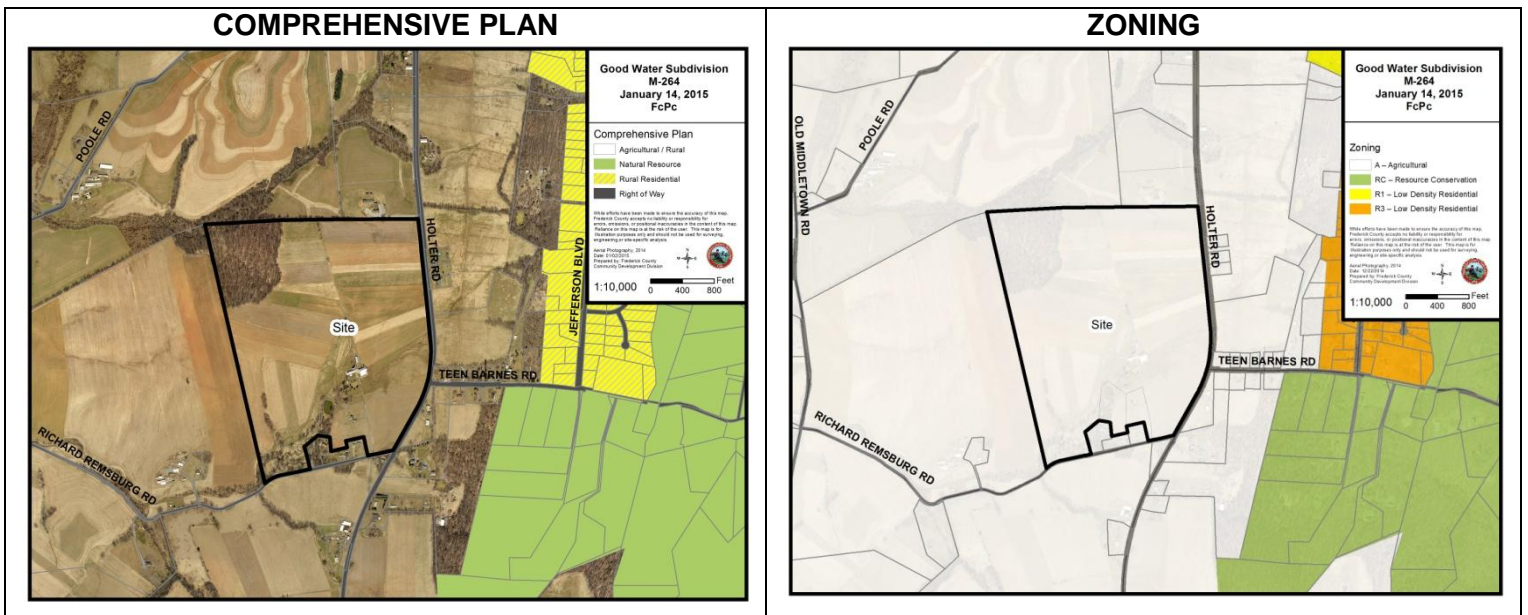
(b) The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.

1. Soils. The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.

2. Surrounding land use and zoning. The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.

The proposed two-lot subdivision is situated in the center of the property, along Richard Remsburg Road and adjacent to the previously recorded lots. The site of the proposed subdivision does contain prime agricultural soils (SeB Class II). However, the majority of the farm contains prime agricultural soils (Class I, II, and III soils). The only soil on the property that is not a prime agricultural soil is the MoB flooding soil, which is not developable. The proposed subdivision location is adjacent to existing residential development thereby minimizing the impact to the agricultural use of the property.

Zoning Ordinance Requirements Findings/Conclusions: The proposed subdivision will meet all Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.



A. SUBDIVISION REGULATION 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 subject property has an Agricultural/Rural Comprehensive Plan land use designation (see map above). The proposed land use and subdivision design complies with the Comprehensive Plan and will meet Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

- 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 site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions, and land uses. The area of the proposed subdivision does not contain unique topography or forest. The subdivision does contain prime agricultural soils which, as discussed previously in this report, are unavoidable. A small portion of the 100' waterbody buffer falls within the rear of Lot 6. The proposed subdivision is located next to the previously recorded and developed lots.

- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.*

Wet soils (MoB) are located exactly behind Lot 6. The existing house on Lot 6 is 130 feet from the wet soils boundary.

Road Access Requirements. Public Facilities §1-16-12 (B)(3)(a): *For minor subdivisions; A 16-foot travelway width shall be the normal minimum standard...".*

The proposed lots will access Richard Remsburg Road, which has a 16 foot wide travelway. Lot access to Richard Remsburg Road will be via an existing driveway that currently serves the existing house on proposed Lot 6 and the house on the Remainder. Notes will be required on the final plat indicating that the lot owners shall be responsible for maintaining the common driveway. The common driveway must be a minimum of 12 feet wide prior to lot recordation in accordance with §1-16-109(D). The Office of Life Safety (OLS) notes that a minimum 16 foot wide common driveway is typically required by OLS. However, in this case OLS will approve the 12 foot driveway width since only one new house is proposed. Staff notes that the driveway does not appear to be a uniform 12 foot width on the 2014 aerial photograph of the site. The surveyor will need to confirm that the driveway is 12 feet wide from Richard Remsburg Road up to the point where only one residential structure is served by the driveway. Lot access will meet the Subdivision Regulation requirements once the minimum 12 foot driveway width is verified.

Sight distance from the proposed driveway location exceeds the minimum requirements (305 required, 450-500 feet provided).

- 4. Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that "excellence of design" will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine "excellence of design" based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

Lots 5 and 6 are designed as panhandle lots. Panhandle lots are permitted in minor subdivisions and do not require an FcPc modification.

- 7. Water and Sewer Facilities. 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 private wells and septic systems. The percolation tests for Lot 5 will be performed after the approval of this concept plan. Wells must be drilled prior to lot recordation. Lot 6 has an existing well and septic.

Subdivision Regulation Requirements Findings/Conclusions: The project will meet all Subdivision Regulation requirements once all agency comments and conditions are met.

B. OTHER APPLICABLE REGULATIONS

- 1. Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. Stormwater management will be addressed with future plan submittals.
- 2. APFO – Chapter 1-20:** This subdivision is exempt from meeting APFO requirements since it is a minor subdivision.
- 3. Forest Resource Ordinance – Chapter 1-21:** The Applicants have applied for an exemption from FRO. Lot 5 is being created for the owner or child of the owner in accordance with the signed Intrafamily Transfer Declaration of Intent. Lot 6 is utilizing the Real Estate Transfer

exemption, which is utilized for lots created around existing development where no new development is proposed. The exemption applications have been approved.

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Conditional Approval
<i>Development Review Planning:</i>	Hold. Must meet all agency and FcPc comments and conditions.
<i>State Highway Administration (SHA):</i>	N/A
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	N/A
<i>Health Dept.</i>	Hold. Percolation testing and well drilling required prior to lot recordation. Existing septic and well on remainder must be evaluated.
<i>Office of Life Safety</i>	Conditional Approval. Driveway must be 12 feet wide up to the point where it serves only one residential structure.
<i>DPDR Traffic Engineering</i>	Conditional Approval: label minimum sight distance requirement on plan.
<i>Historic Preservation</i>	N/A

RECOMMENDATION

If the Planning Commission finds that the proposed subdivision meets the Ag Cluster provisions of the Zoning Ordinance, then Staff has no objection to the conditional approval of the Concept Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements if the FcPc finds that the development meets the requirements of the Ag Cluster provisions. Should the FcPc grant approval of this application (M-264, AP 14327), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. Concept Plan approval shall become null and void at the end of one (1) year from the date of FcPc approval unless a preliminary plan or combined preliminary/final plat is submitted for approval within this one year approval period.
3. The common entrance and common driveway must meet minimum requirements prior to lot recordation in accordance with §1-16-109(D).

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE M-264 (AP 14327) with conditions** as listed in the staff report for the proposed Good Water Subdivision, Section 1, Lots 5 & 6 Agricultural Cluster concept plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.