



FREDERICK COUNTY PLANNING COMMISSION

February 18, 2015

TITLE: Harmony Hollow, Section 3, Lot 301

FILE NUMBER: S-1109, AP 13910 (APFO N/A, FRO 13912)

REQUEST: Combined Preliminary/Final Plat Approval

The Applicant is requesting approval to subdivide Parcel 63 into one new lot and a remainder in a major subdivision.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the east side of Hollow Road, approximately 1,800 feet north of US 40.

TAX MAP/PARCEL: Map 46/55, Parcel 63

COMP. PLAN: Natural Resource and Agricultural/Rural

ZONING: Resource Conservation and Agricultural

PLANNING REGION: Middletown

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: J. Homer Remsberg, Jr., ET. AL.

OWNER: J. Homer Remsberg, Jr., ET. AL.

SURVEYOR/ENGINEER: Rothenhoefer Engineers, Inc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Mike Wilkins

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Combined Preliminary/Final Plat

STAFF REPORT

ISSUE

The Applicant is requesting combined preliminary/final plat approval for 1 new lot on a 190.81 acre site.

BACKGROUND

This property has been the subject of several subdivision applications since 1965.

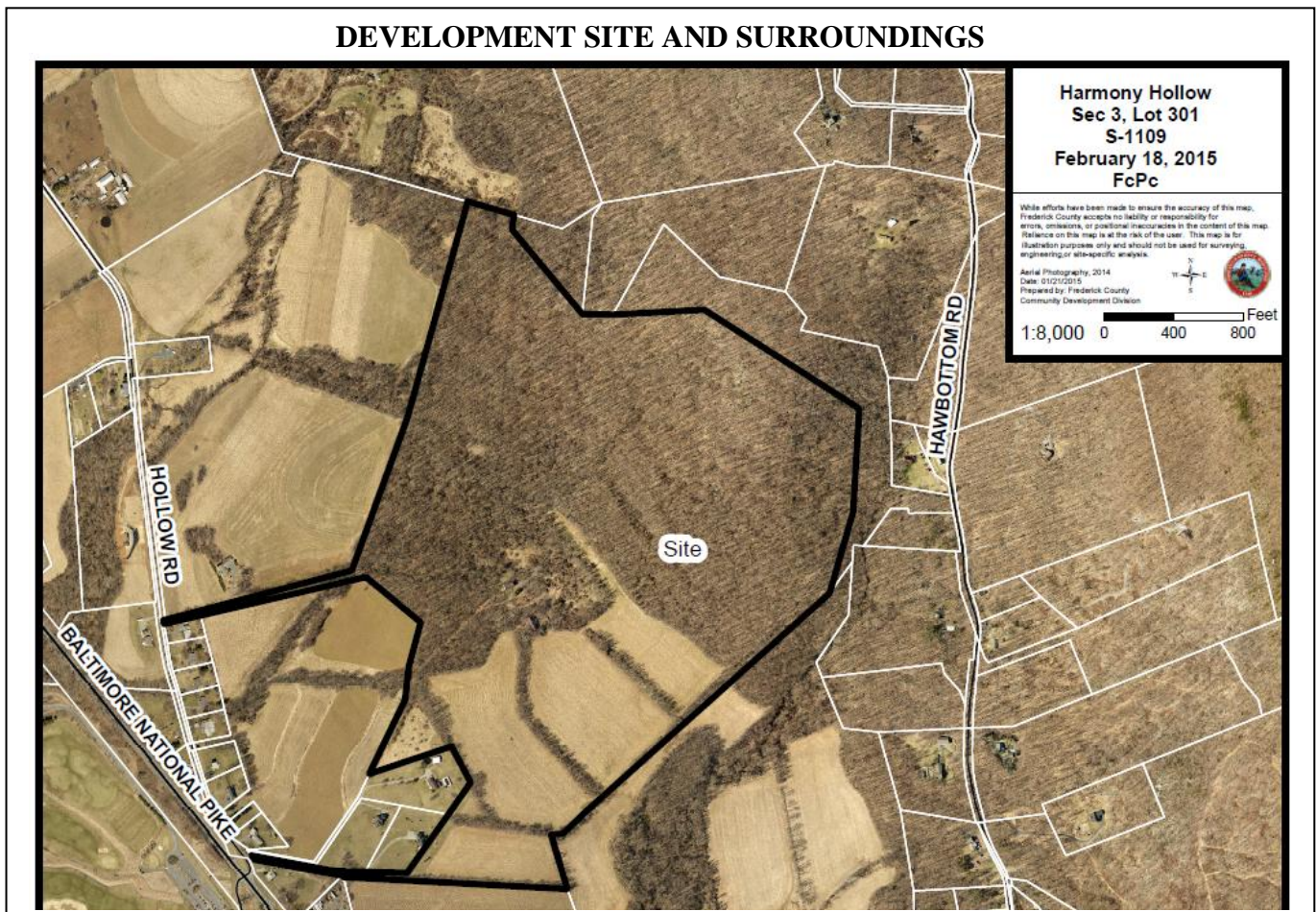
- 1977- Section 1, Lots 1 and 2.
- 1979- Farm Lot 1
- 1999- Section 2, Lots 201-203 AG Cluster subdivision.

Six (6) lots have been created from the original 1965 parcel. This application proposes creation of the 7th lot since 1965 and is considered a major subdivision, requiring FcPc review and approval.

The subdivision potential of the AG zoned portion of this parcel has been exhausted. The proposed Lot 301, while containing some AG zoned area (approximately 9.22 acres), primarily consists of Resource Conservation zoned land. The proposed house will be situated on the Resource Conservation zoned portion of the proposed lot. Therefore this subdivision is being reviewed as a Resource Conservation zoned lot.

Existing Site Characteristics

The site consists primarily of forested steep slopes, with some open fields in the AG zoned portion of the proposed lot. The proposed lot contains an existing barn and an abandoned 2 story brick and frame house that has been converted into a storage building. Two small streams are located on the proposed lot.



DEVELOPMENT SITE AND SURROUNDINGS



ANALYSIS

A. ZONING ORDINANCE REQUIREMENTS

1. **District Regulations, Design Requirements For Specific Districts §1-19-6.100:**

- A. **Agricultural District (A):** Single family residential requirements: 40,000 square foot minimum lot size, 100 foot minimum lot width, 40 foot front setback, 30 foot rear yard setback, and 10 foot side yard setback, 30 foot maximum structure height.
- B. **Resource Conservation District (RC):** Single family residential requirements: 10 acres minimum lot size, 300 foot minimum lot width, 50 foot front setback, 50 foot rear yard setback, and 50 foot side yard setback, 30 foot maximum structure height.

The proposed lot meets the minimum lot size requirement. Lot 301 will be 100.81 acres (9.22+/- acres in the AG zone, 91.59 acres+/- in the RC zone). The required front, rear, and side setbacks are shown and noted on the plan and meet the Zoning Ordinance requirements.

2. **Supplementary District Regulations § 1-19-7.200. Resource Conservation District.**

The following provisions shall apply to the Resource Conservation (RC) District.

Sensitive area protection.

(1) Areas with slopes of 25% grade and greater shall not be developed. Buildings and structures and parking areas shall not be located on slopes of 25% grade and greater.

Development is not proposed in areas of steep slope areas of 25% or greater.

(2) Floodplains and wetlands shall be protected in accordance with the standards and requirements set forth in § 1-19-9.100 through § 1-19-9.130, Floodplain District regulations.

There are no wetlands or FEMA floodplains identified on the site, but an area of flooding soils (RoB) is situated along either side of a small stream that is located approximately 350 feet north of the proposed house location. A 25 foot buffer is required from this flooding soil, which is shown on the plat.

(3) Habitats of threatened and endangered species, as identified by the Maryland Department of Natural Resources, shall be protected from development or disturbance. All subdivision and site development plans involving an area identified as a habitat site shall be referred by the county to the Maryland Natural Heritage Program for comment. On sites where a habitat is identified, a mitigation plan will be required to show that adverse impacts on habitat sites are minimized.

Staff will require as a condition of approval that the Applicant provide verification from DNR that the site does not contain habitats of threatened or endangered species.

Tree cutting and forestry activities.

(1) Forest cutting or clearing activities in connection with land development shall be minimized. All activities to which the forest resource ordinance apply shall be subject to the regulations and requirements set forth in that ordinance. In addition to the forest resource ordinance requirements, no more than 40,000 square feet shall be cleared for each home site. For all permitted nonresidential uses, site development plan approval shall require that site clearing is minimized.

The proposed house site is within a forested area of the property. Note 10 on the Combined Preliminary/Final plat stipulates that no more than 40,000 square feet of forest may be removed. The FRO Intrafamily Transfer Exemption Declaration of Intent further restricts forest clearing to 20,000 square feet.

3. Waterbody Buffer Requirements § 1-19-9.400.

(C) Waterbody buffer widths shall be determined in accordance with the requirements described below and shall apply to each side of a waterbody. As used herein, the term "moderate slope" means a slope with a gradient of 15% to less than 25%; and the term "steep slope" means a slope with a gradient of 25% or greater.

(1) The waterbody buffer width shall be derived by calculating the gradient of the slope within a 150-foot cross-section on each side of a waterbody, drawn perpendicular to the direction of water flow. Cross-sectional measurements shall be taken every 50 feet along the bank(s) of the waterbody.

(2) The minimum waterbody buffer shall be 100 feet.

(3) If 60% or more of the 150-foot cross-section includes moderate (15% to <25%) slopes, then the waterbody buffer shall be increased to 125 feet for that side of the waterbody.

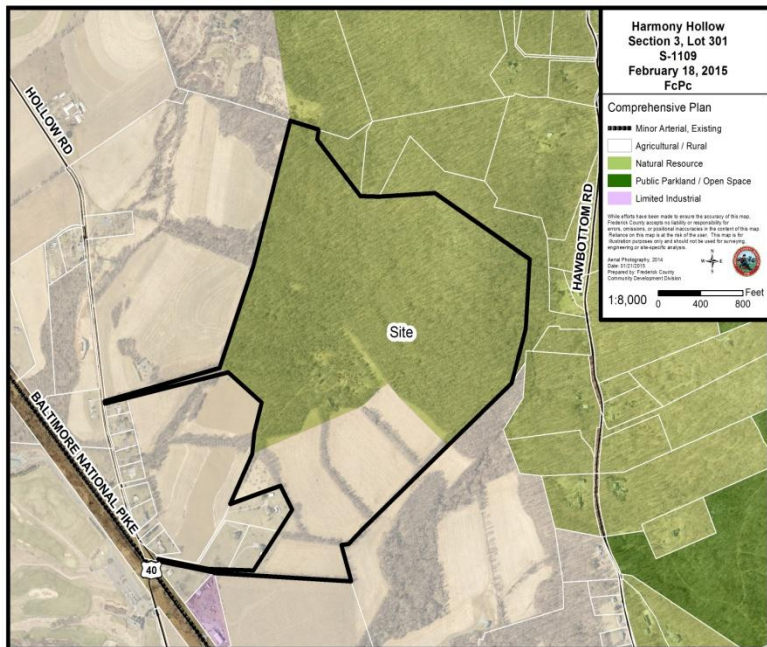
(4) If 60% or more of the 150-foot cross-section includes steep (25% or greater) slopes, then the waterbody buffer shall be increased to 150 feet, for that side of the waterbody.

Two streams are located on proposed Lot 301. The application currently depicts a 100 foot waterbody buffer. This appears to be appropriate for the northern most stream channel. The stream located directly behind the abandoned 2 story brick and frame house that has been converted into a storage building is within an area of moderate slope, which requires a 125 foot waterbody buffer. Increasing this waterbody buffer to 125 feet will not impact the lot design or the proposed new house site.

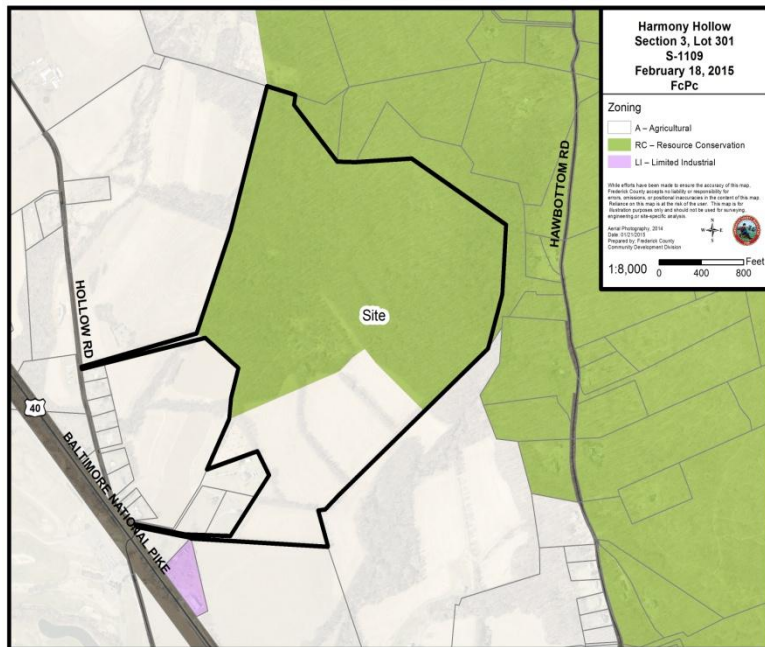
Zoning Ordinance Requirements Findings/Conclusions

The proposed subdivision will meet all Zoning Ordinance requirements.

COMPREHENSIVE PLAN



ZONING



B. 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 reflects a Comprehensive Plan land use designation of Natural Resource and Agricultural/Rural. 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 site contains steep topography, flooding soils, wooded areas, and two small streams. The proposed development avoids these features. The proposed land use will be similar to the uses found on the adjoining rural properties; single family dwellings on large lots/parcels that are used for agriculture or open space.

- 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. (b) If residential lots are proposed within "wet soils" then a geotechnical report is required to be submitted by a professional engineer registered in the*

State of Maryland. A note shall be placed on the plan that all construction shall be in conformance with the geotechnical report.

The site contains RoB wet soils, but this soil type is over 300 feet away from the proposed house site. Since the house site will be greater than 100 feet away a soils delineation report is not required.

4. Road Access Requirements. 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 lot will access Hollow Road by utilizing the existing common driveway that serves existing Lot 201-203. The existing driveway that served the now abandoned and converted house will provide access from the end of this common driveway to the proposed house site. Hollow Road is 20 feet wide and meets the minimum 20 foot wide paved road surface requirement.

5. 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.*

Proposed Lot 301 will gain fee-simple road frontage via an existing 50.57 foot wide panhandle. This panhandle was created when Farm Lot 1 was subdivided off the property in 1979. As noted under subsection 4 above, this fee-simple panhandle will not provide access to the site. Rather, the existing driveway will be utilized to access the proposed house site.

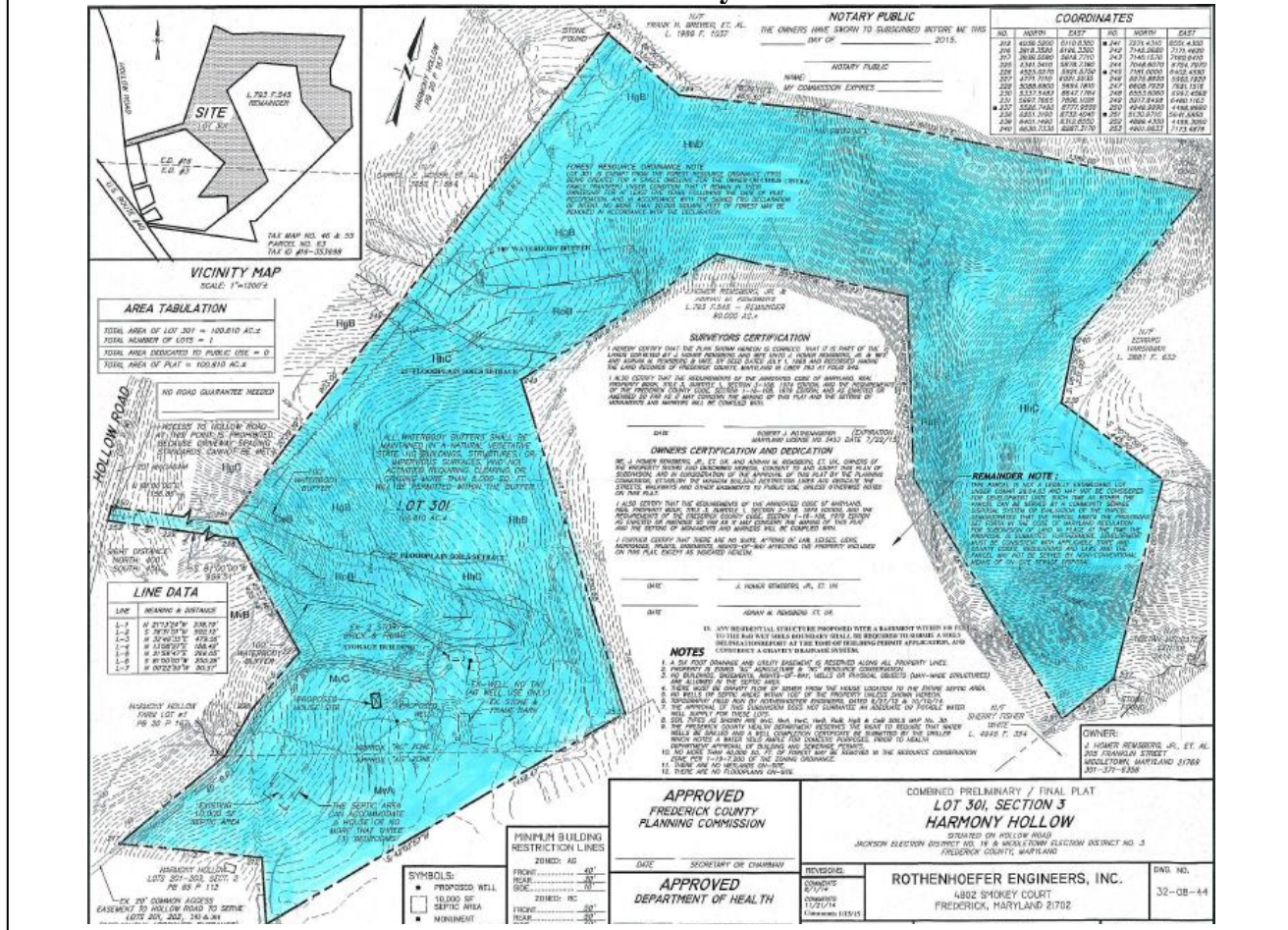
6. Water and Sewer Facilities. Public Facilities §1-16-12 (C): *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service (NPS) and must utilize private septic areas and wells. Per §1-16-12 (C)(2), wells must be drilled and septic areas approved prior to lot recordation.

Subdivision Regulation Requirements Findings/Conclusions

The project will meet all Subdivision Regulation requirements once all agency comments and conditions are complied with.

Combined Preliminary/Final Plat



C. OTHER APPLICABLE REGULATIONS

Stormwater Management – Chapter 1-15.2: Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. SWM review for the proposed large, single family lot will occur at the time of building permit application.

APFO – Chapter 1-20: As provided in section 1-20-7(B), this subdivision is exempt from meeting APFO, being the 4th lot from the original parcel since 1991.

Forest Resource Ordinance – Chapter 1-21: The Applicant has filed a Declaration of Intent to exempt Lot 301 from FRO requirements. Lot 301 is exempt from the FRO with an Intrafamily Transfer exemption because the lot is being created for the owner or child of the owner. Under the provisions of this exemption, no more than 20,000 square feet of forest may be removed.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditionally Approved:

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<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. Well must be drilled.
<i>Office of Life Safety</i>	N/A
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	Approved

RECOMMENDATION

Staff has no objection to conditional approval of the Combined Preliminary/Final Plat.

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.

Should the FcPc grant approval of this application (S-1109, AP 13910), 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. The Combined Preliminary/Final Plat approval is valid for three (3) years from the date of FcPc approval. Therefore, the Plat approval expires on February 18, 2018.
3. The Applicant shall provide verification from the Maryland Department of Natural Resources that the site does not contain habitats of threatened or endangered species.
4. Increase the waterbody buffer around the lower stream to 125 feet.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-1109 (AP 13910) with conditions** as listed in the staff report for the proposed 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.