



FREDERICK COUNTY PLANNING COMMISSION
April 9, 2014

TITLE: **Urbana Commons (Lots 1-3, & 5)
Preliminary Subdivision Plan**

FILE NUMBER: **S-1133, AP 14156, APFO 14160, FRO
14158**

REQUEST: **Preliminary Subdivision Plan**
The Applicant is requesting Preliminary Subdivision Plan approval in order to divide the 4.75-acre site into four (4) commercial lots including a modification of the Forest Resource Ordinance to permit the removal of one non-hazardous specimen tree located in an area planned for extensive grading to accommodate the planned internal driveway.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the north side of Fingerboard Road (MD 80) at its intersection with Worthington Boulevard (relocated MD 355) in Urbana.

TAX MAP/PARCEL: Tax Map 96, Parcels 189 and 38
COMP. PLAN: General Commercial
ZONING: General Commercial (GC)
PLANNING REGION: Urbana
WATER/SEWER: W-3/S-3

APPLICANT/REPRESENTATIVES:

APPLICANT: Fingerboard Road Properties, LLC
OWNER: Fingerboard Road Properties, LLC
ENGINEER: Fox & Associates, Inc
ARCHITECT: Not Listed
ATTORNEY: Not Listed

STAFF: Denis Superczynski, Principal Planner II

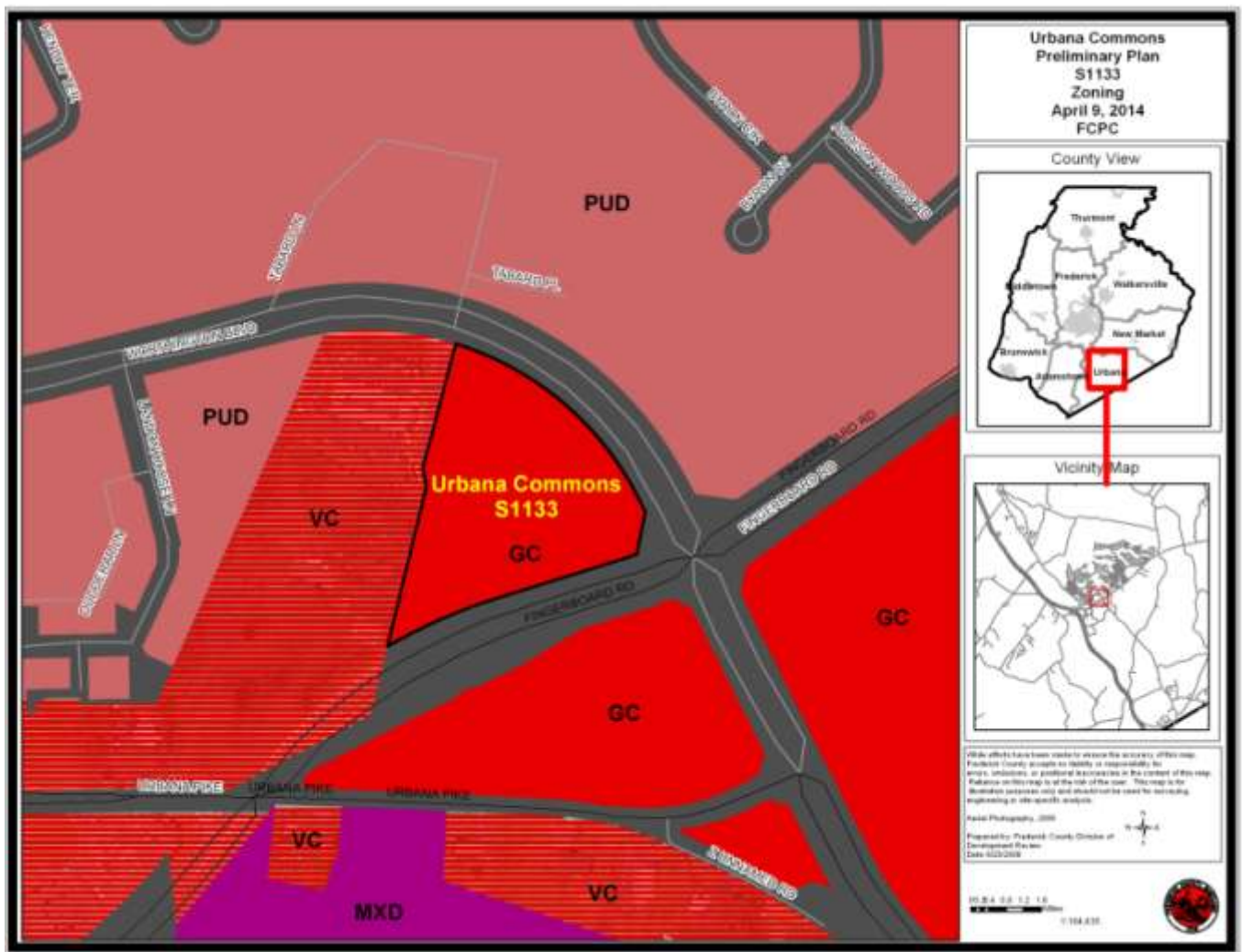
RECOMMENDATION: Conditional Approval

STAFF REPORT

ISSUE

The Applicant is requesting preliminary subdivision plan approval for four (4) commercial lots on 4.75 acres adjacent to the Villages of Urbana PUD. The proposed Preliminary Plan reflects what will be (after addition plat recordation) the reconfigured property boundary shared with the adjacent parcel (TM 96, P.38) for the purpose of developing a shared internal driveway to serve multiple parcels. In addition, the Applicant seeks a modification of the Forest Resource Ordinance to permit the removal of one non-hazardous specimen tree located in an area planned for extensive grading to accommodate the planned internal driveway serving both the Urbana Commons development as well as the Landon House complex. An Addition Plat has been submitted to reconfigure the boundary between the Urbana Commons and Landon House sites and is the subject of a separate application (AP 14260) by the same Applicant.

Access to the four proposed commercial lots will occur via a private internal street, to be named Welmar Drive, which forms the western boundary of parcel 189.



BACKGROUND

Overview: The subject site received Preliminary Subdivision Plan approval and Concept Site Plan approval for four commercial lots in 2006. Two restaurants, a commercial structure, and a medical office building were originally proposed for this site. Final Plat approval and Final Site Plan approval was granted only for Lot 4 and the medical office on Lot 4 (SP-99-08, now existing) in 2007. No additional activity progressed on the site after construction of the medical building in the late 2000's.

The general arrangement of development on the Urbana Commons site has remained essentially unchanged since 2006. The recent coordination of access to create a planned internal common driveway – Welmar Drive – by the Urbana Commons and Landon House adjoining landowners has resulted in a slightly reconfigured lot layout and a re-working of the internal circulation to maximize usable acreage on both sites.

The Urbana Commons site was subject to an APFO LOU dated February 2, 2008, all requirements of which have been satisfied. A limitation on the proposed intensity of uses on the Subject site is maintained via vehicular peak hour trip caps of 282 (am) and 257 (pm).

This parcel was rezoned in 2010 as part of the Countywide Comprehensive Plan update process. The parcel had previously been zoned Village Center (VC).

Substantial improvements to the regional infrastructure serving this GC site have been completed in conjunction with the development of the adjoining Villages of Urbana PUD, the Urbana ORC MXD, and surrounding commercial retail development south and southeast of this site. The proposed internal driveway will tie into the regional arterial roadway system which has been, and will continue to be, improved as a result of local development activity. The proposal includes an internal driveway circulation pattern that will be realized as illustrated in the site development plan application SP-99-08 proposed for Lot 5 (Royal Farms). Pedestrian access to, from, and across this site will likely be frequent given its location in the midst of several existing and planned commercial and residential developments. The Preliminary Subdivision Plan accommodates and advances these neighborhood connections.

Lot sizes in the proposed subdivision plan range from 31,488 square feet to 1.9310 acres. The largest proposed lot (Lot 5) is reserved for the Royal Farms convenience store, subject of a pending site development plan application SP-99-08 (AP14159). Three of the lots (Lots 1-3) front on Worthington Boulevard with the largest of those three forming the corner lot at Fingerboard Road.

ANALYSIS

The principal issues associated with this Preliminary Subdivision Plan application are:

- achieving a functionally-integrated commercial mixed use development with a range of appropriate uses in close proximity that share critical infrastructure elements
- managing access to Worthington Boulevard and Fingerboard Road with a focus on limiting the number of individual driveways and creating a natural extension of the local street road network such that reliance on the State roadways is minimized and pedestrian access is maximized
- minimizing potential conflicts between the planned convenience store lot and the adjacent medical offices, retail stores, and events complex
- configuring lots in such a way as to maximize use of the site given its unusual shape

Staff has worked with the Applicant to address major issues related to design and layout of the entire site, reviewing concurrent applications for Site Development Plan approval of the Royal Farms site and the Addition Plat necessary to reconfigure the boundary between Urbana Commons and the Landon House site. It has been the intent of the Applicant to put forward a Preliminary Plan that, if developed as shown, will be functionally integrated into the surrounding neighborhood of commercial and residential uses, while maintaining enough flexibility in layout and configuration of the lots and access points to accommodate as yet to be determined purchasers of the planned lots.

Many of the specific design issues relevant to this site are being addressed in the Royal Farms site plan SP-99-08 (AP 14159). This Preliminary Subdivision Plan establishes an adequate foundation for future site plan applications that will seek to gain approvals for specific users of Lots 1, 2, and 3.

The proposed private internal common driveway, only partially visible in this Preliminary Subdivision Plan, is the critical piece of infrastructure that allows this site to function effectively. Without this access, the configuration of this site would likely result in fewer usable lots and would not contribute enhanced efficiency (and redundancy) in the local street and sidewalk network.

No obvious land use conflicts arise with the lot layout as proposed. The opportunity to provide a 44 ft. wide reservation for a future transitway system connecting Urbana to points south (and potentially, north) builds on other such reservations along this and the I-270 corridor.

A more critical element in terms of fashioning a cohesive development on this site will be the pedestrian connections. The proposed connections must provide a logical and convenient network of walkable paths, sidewalks, and stairways to serve not only the proposed uses on this site, but on surrounding sites in this burgeoning mixed use neighborhood.

Subdivision Regulations – Chapter §1-16: This application meets the requirements of the applicable subdivision regulations in Chapter §1-16.

1. Article I: In General - § 1-16-12 *Public Facilities*

(B) *Road Adequacy*

- All proposed lots directly front on public roadways with continuous paved surfaces of at least 20 feet in width.
- All of the proposed lots will gain access to the two adjoining public minor arterial roads, Worthington Boulevard and Fingerboard Road, via a private right-of-way (to be named Welmar Drive). The proposed private right-of-way will be constructed along the western property boundary and form a connection to these state highways (Fingerboard Road-MD 80 and Worthington Blvd-MD 355 re-aligned).

- Pedestrian access to all proposed lots will be accommodated via internal paths as well as across public road frontage.

(C) Water and Sewer Facilities

- The property is classified W3/S3 on the Frederick County Water and Sewerage Master Plan indicating improvements to, or construction of, publicly-owned sewerage or water systems are planned within a 1 to 3 year time period.

2. Article IV: Required Improvements - *§1-16-109 Street, Common Driveway, and Sidewalk Construction:*

- A sidewalk exists along the southern boundary of the property terminating at the corner of Fingerboard Road and Worthington Blvd. The proposed Royal Farms Site Plan for Lot 5 (AP 14159) includes a proposed 5' sidewalk to be constructed from the Corner of Fingerboard Road and Worthington Blvd and terminating at the northern entrance of the private right-of-way to the subject property . A proposed internal pedestrian sidewalk system will link Lots 1-5 as well as provide the opportunity for a linkage to the adjacent Landon House Complex site along the shared internal private right-of-way (Welmar Drive). Crosswalks and pedestrian stairways are illustrated on the Royal Farms site plan indicating the clear intention to provide several crossing points between the employment and commercial sections of this development.
- Sidewalks must also be provided into each individual lot as each specific use receives Site Development Plan approval.

3. Article VI: Design Standards and Requirements

§ 1-16-217. Land Requirements:

- The designated land use in the Comprehensive Plan for the site is General Commercial (Urbana Commons parcel). The proposed subdivision is within a Community Growth Area (CGA), and is consistent with the general pattern of development expected within a CGA as described in the Comprehensive Plan.
- The tract of land upon which this subdivision is proposed is located at the confluence of two state-designated highways. The area surrounding the subject site can be characterized as hosting a mix of uses including retail, residential, institutional, and employment. Commercial activity on this site is appropriate and consistent with Frederick County planning documents.
- The existing topography forms a natural boundary between the Urbana Commons and adjacent Landon House site. It is along this boundary that the internal right-of-way is planned thus providing maximum use of both sites while providing shared vehicular access with a minimum of pavement.
- This site has met all of the Zoning Ordinance regulations for the GC District including the prescribed permitted uses established in Section 1-19-5.310.

§ 1-16-218. Block Shape:

- As the layout of the subject parcel only constitutes a portion of a traditional block, no block dimension is greater than 1800 feet. The shared internal driveway further diminishes the distance between pedestrian/vehicular breaks in the original land bay.

§ 1-16-219. *Lot Size and Shape:*

- The GC zoning district requires a minimum lot size of 12,000 square feet and a minimum lot width of 100' for commercial/retail land uses. All lot area, setback, buffer area and right-of-way requirements within the GC District for the land uses proposed can be accommodated with this lot layout. Lot shape is generally well-defined such that individual proposed lots may share access and other site amenities while maintaining frontage on adjoining public roadways.

§ 1-16-220 *Floodplain Development:*

- No floodplain areas are identified on this site.

§ 1-16-235. *Right-Of-Way and Paved Surface Widths:*

- The 30' proposed paved surface width of Welmar Drive (internal private right-of-way) is adequate for anticipated commercial/retail uses.
- A right-of-way reservation contiguous to and parallel with the Worthington Blvd (MD 355 re-located) right-of-way has been reserved in order that improvements associated with the future I-270 Transitway might be accommodated.

Stormwater Management – Chapter 1-15.2: A Stormwater Concept Plan will be required for lots proceeding with Site Development Plan applications.

APFO – Chapter 1-20: This application has been previously approved for APFO compliance. The site is subject to the terms of an APFO Letter of Understanding (LOU) between the Applicant and the BoCC dated February 6, 2008. All requirements of the LOU have been satisfied. Weekday peak hour trips are capped at 282(am) and 257(pm).

Forest Resource – Chapter 1-21: FRO was reviewed and approved for this tract under AP# 13634. FRO plan approval for Lots 1-3 and 5 was obtained in 2005 and the required mitigation was provided. However, two specimen trees (trees 30" or greater in diameter) have been identified on the current plans that were not shown on the 2005 plan; a 35" Red Maple, and a 33" Hackberry. Both of these trees are proposed to be removed. Per section 1-21-40 of the FRO, failure to retain a nonhazardous specimen tree requires the approval of a modification in accordance with 1-21-21.

§ 1-21-21. MODIFICATIONS.

- (A) *Modification requests. A person may submit a request to the Frederick County Planning Commission (FCPC) for a modification from this chapter or the requirements of Md. Code Ann., Natural Resources Article, §§ 5-1601 through 5-1612, if the person demonstrates that enforcement would result in unwarranted hardship to the person.*
- (B) *Required information. An applicant for a modification shall:*
- (1) *Describe the special conditions peculiar to the property that would cause the unwarranted hardship;*
 - (2) *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;*
 - (3) *Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;*
 - (4) *Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;*
 - (5) *Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and*
 - (6) *Verify that the granting of a modification will not adversely affect water quality.*

- (C) *Modification approval. The FCPC must make a finding that the applicant has met the requirements in subsection (B) of this section and that enforcement would cause the applicant unwarranted hardship before the FCPC may approve any modification.*

The FRO defines “nonhazardous tree” as a tree that is void of structural defects (such as basal cavities, trunk rot, cracks, breaks, splits, or unusual structure) that will not impact structures, roads, and walkways if the tree falls. The 35” Red Maple has structural defects (unusual branching structure and top-heavy condition) and a target (road and walkway) and therefore is not deemed a nonhazardous tree. A modification from the FcPc is not required for this tree and its removal has been approved by Staff.

The 33” Hackberry is in good condition and is considered a nonhazardous specimen tree, requiring FcPc approval for its removal. The tree is currently located on the Landon House property, but the required grading for the private drive on the Urbana Commons site necessitates significant disturbance of this tree's critical root zone. While this specimen tree is not affected directly by the Addition Plat submitted to reconfigure the shared boundary between the Landon House and Urbana Commons sites, the need to construct the common driveway in order to serve the Royal Farms lot compelled this Applicant to move forward with the FRO modification. The Applicant’s justification statement, which demonstrates how they meet the 6 criteria for granting a modification, is printed on sheet 2 of the Forest Modification Request Existing Conditions Plan.

Staff notes that the 2005 FRO Plan and Preliminary Plan illustrated significant grading in the area of the 33” Hackberry. Given that the private lane on the Urbana Commons site has been planned for and approved since 2005, Staff does not object to the approval of this modification request.

Historic Preservation – Chapter 1-23: There are no historic resources located on this site.

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>	Address all agency comments as the plan proceeds through to completion
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	Approved
<i>Health Dept.</i>	Hold (pending resolution of z-hooks on plan)
<i>Office of Life Safety</i>	Approved
<i>Forest Resource (FRO)</i>	Conditional Approval pending approval of modification request
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	Conditional Approval

RECOMMENDATION

Staff has no objection to conditional approval of this Preliminary Subdivision Plan. If the Planning Commission conditionally approves the Preliminary plan, along with the requested FRO modification, the Preliminary plan shall be valid for a period of five (5) years from the date of Planning Commission approval.

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. Planning Commission approval of the requested FRO Modification to permit the removal of one (1) non-hazardous specimen tree as proposed
3. Inclusion of the 44 ft. transitway reservation area along Worthington Boulevard between the internal driveway (north entrance) and the intersection of Worthington Boulevard and Fingerboard Road (MD 80) as shown on the Preliminary Subdivision Plan.
4. Approval of any final subdivision plats for Lot 3 or Lot 5 shall be contingent upon approval of the Addition Plat (AP14260) amending the boundary between parcels 38 and 189 (Tax Map 96).
5. No final signature approval of a Site Plan for Lots 1-3 or Lot 5 shall be completed until the Preliminary Subdivision Plan has been approved.
6. No final plat can be approved prior to abandonment of the existing well and septic system on Lot 5.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE** Preliminary Plan S-1133, AP 14156 **with conditions** as listed in the staff report for the proposed 4-lot subdivision plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting. Additionally, I move that the Planning Commission **APPROVE** the requested modification per Section 1-21-21 of the Forest Resource Ordinance to permit the removal of one (1) non-hazardous specimen tree on the adjoining site (TM 96, Parcel 38).