



FREDERICK COUNTY PLANNING COMMISSION

September 10, 2014

TITLE: Adamstown Village, Section III, Lots 1-4

FILE NUMBER: S-678, AP 14638 (APFO N/A, FRO 14550)

REQUEST: **Agricultural Cluster Concept Plan Approval**
The Applicant is requesting Concept Plan approval for a 4-lot Agricultural Cluster subdivision on a 27.27-acre property.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the north side of East Basford Road, 2,100 feet east of US 15

TAX MAP/PARCEL: Map 103, Parcels 001

COMP. PLAN: Agricultural/Rural

ZONING: Agricultural

PLANNING REGION: Adamstown

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: I. Gerald Ginsburg

OWNER: Wibur Farm, LLLP

SURVEYOR/ENGINEER: Terra Solutions Engineering

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 4-lot Agricultural Cluster subdivision on a 27.27-acre property.

BACKGROUND

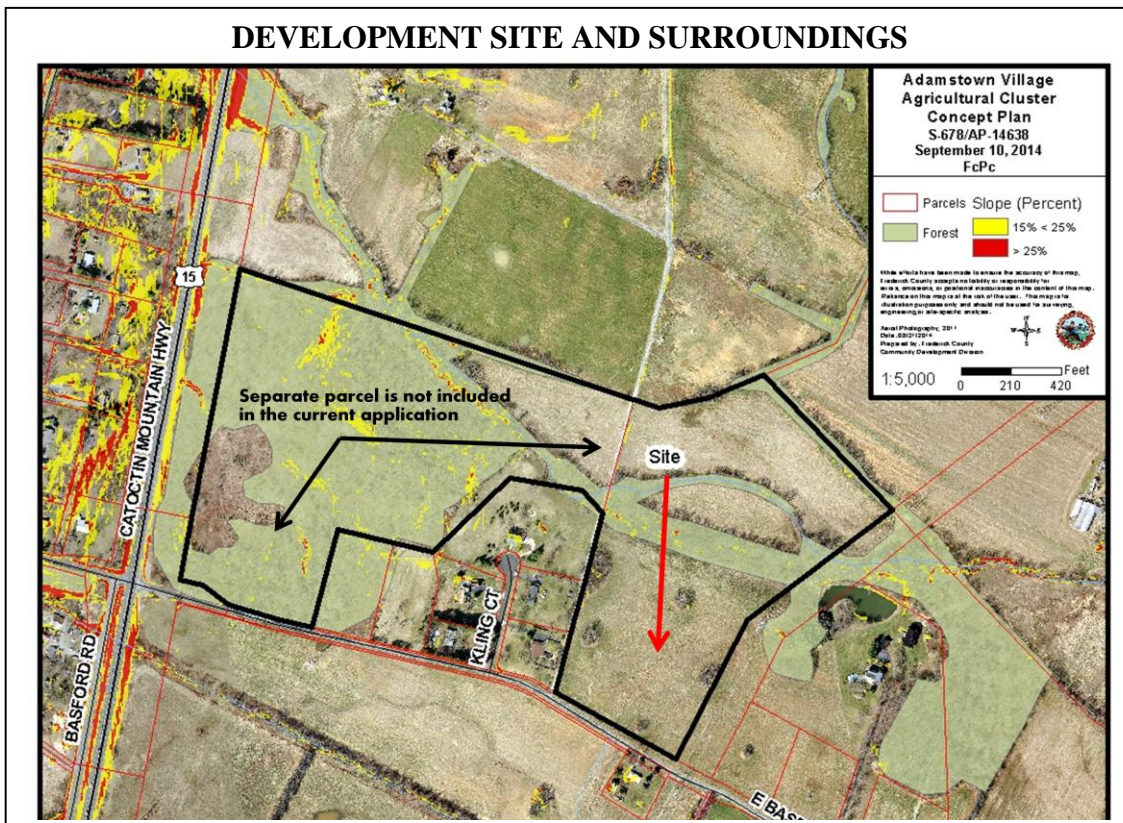
On December 11, 2013, the FcPc reviewed an Agricultural Cluster Concept Plan for the property, consisting of two separate parcels. The Applicant proposed to utilize the Agricultural Cluster provisions of §1-19-7.300(C) to transfer the development potential of these two parcels to a single parcel to create an 8-lot subdivision served by a new public cul-de-sac street. This Concept Plan received approval, allowing the Applicant to proceed with percolation testing. The percolation testing yielded five acceptable septic areas.

Due to the limited number of successful percolation areas, the Applicant has returned with a new Agricultural Cluster Concept Plan. The new plan involves only one parcel (as opposed to two) and proposes 4 lots to be served by a common driveway (as opposed to 8 lots served by a new public street).

This property has been the subject of one previous subdivision application;

- In 1975, an eight lot subdivision was recorded from parcel 22 (Adamstown Village, Section 2, P.B. 11 P.G. 196).

Parcel 22 was part of the previously approved concept plan, but is not part of the current application. Since the previously recorded lots did not come off of parcel 001, the proposed 4-lot Ag Cluster subdivision is a minor subdivision.



Existing Site Characteristics

The property consists of a single parcel containing 27.27 acres. Approximately 23.48 acres of the parcel is utilized for farming and 3.78 acres is forested. The 6.75 acres proposed to be subdivided into lots is currently used for farming. A stream system runs through the property roughly 200 feet to the north of the proposed lots.

Concept Plan Layout



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 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. The proposed average lot size is 1.69 acres, and the largest proposed lot is 1.99 acres.

The 1.69 average lot size is 0.19 acres above the required 1.50 acres as required in §1-19-7.300(C)(2)(c). However, §1-19-7.300 of the Zoning Ordinance gives the FcPc the authority to grant a modification to this requirement based on percolation testing and other Health Department requirements. As noted earlier in this report, percolation testing resulted in only five approved septic areas as shown on the Concept Plan. The wells for each lot must have a minimum 100 foot separation from all septic areas, and in the case of Lot 4 a 200 foot separation is required by the Health Department. Since the approved septic areas cannot be relocated and the wells must be located 100 or 200 feet away from all septic areas, the lots cannot be designed to meet the 1.50 acre average lot size requirement.

Staff finds that the FcPc may grant this modification as the lots cannot be designed to meet the 1.50 acre average lot size requirement due to the septic and well restrictions.

§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:

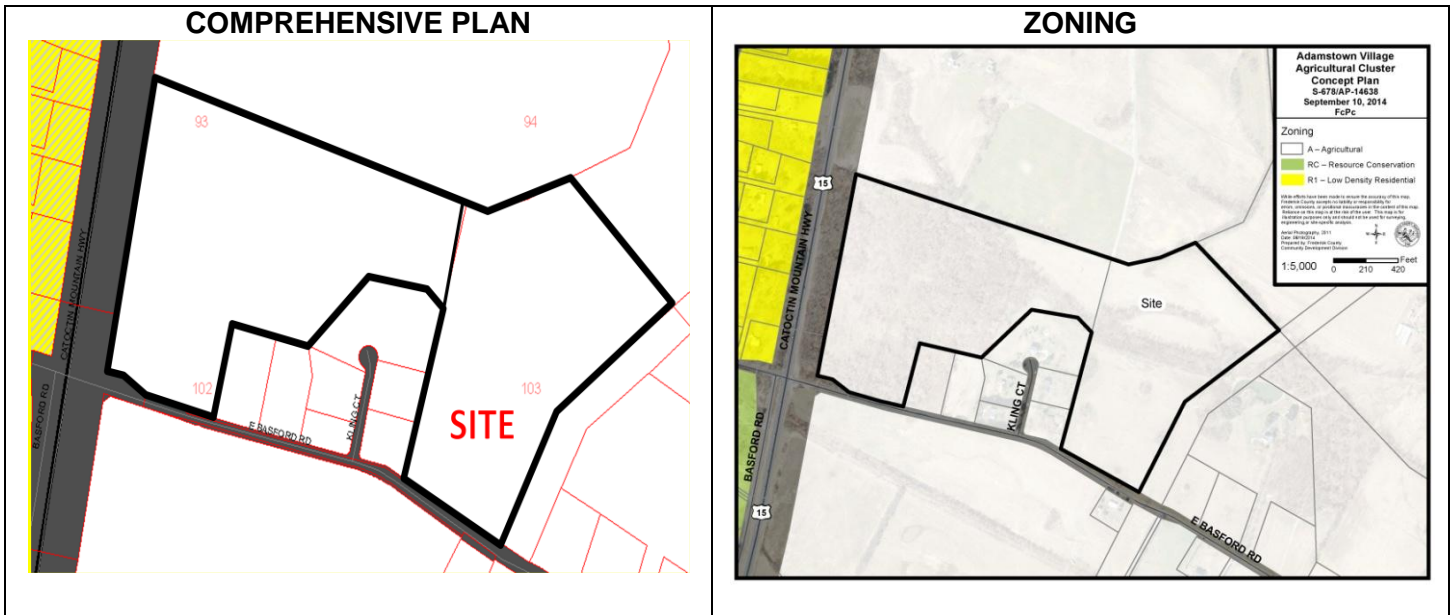
(b) The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.

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 four-lot subdivision is situated in the southeast corner of the property, between the existing Adamstown Village subdivision and a Potomac Edison electric transmission line corridor. The entire property consists of Class I and II prime agricultural soils (these soils are shown and labeled on the Concept Plan). The site of the proposed subdivision consists of class II soils. However, there is no other area of the property with adequate road frontage for subdivision. The proposed subdivision location is adjacent to existing residential development.

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 and grants a modification to permit an average lot size of 1.69 acres, which is 0.19 acres above the Zoning Ordinance requirement average of 1.5 acres.



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 avoids the wet, low-lying areas of the site. The stream valleys are not impacted. Very minimal forest clearing (0.10 acres) is proposed. As previously discussed, the proposed subdivision is located between the existing Adamstown Village subdivision and the Potomac Edison electric transmission line corridor.

- 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 are located on the 20.336 acre remainder, but are not on or within 100 feet of the proposed lots.

- 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 proposed lots will access a proposed 30' wide common access easement that will have a 12' foot wide paved travelway. East Basford Road has an existing 20 foot wide travelway. Lot access to East Basford Road will be via the common driveway that will be constructed over the panhandles serving lots 2, 4, and Lot 5- 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 constructed prior to lot recordation in accordance with §1-16-109(D)(8). Lot access will meet the Subdivision Regulation requirements.

Sight distance from the proposed driveway location will be adequate once a pair of locust trees is removed along the property frontage.

- 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.

Panhandles are proposed to serve Lots 2, 4, and 5-Remainder. Panhandles in minor subdivisions do not require a modification from the FcPc.

- 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 will be performed after the approval of this concept plan. Wells must be drilled prior to lot recordation.

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 subject to meeting APFO requirements. APFO will be reviewed at the Preliminary Plan phase of the development.
- 3. Forest Resource Ordinance – Chapter 1-21:** A Combined Preliminary/Final Forest Conservation plan has been submitted and is under review. The development site contains 3.78 acres of existing forest, of which 0.10 acres will be removed. The Applicant proposes to meet the FRO requirements by retaining the existing 3.68 acres of forest and planting 1.84 acres of new

forest in the waterbody buffer. Both the existing forest and the newly planted forest will be placed into a perpetual FRO easement. The FRO plan must be approved prior to approval of a preliminary subdivision plan. FRO mitigation must be provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditional Approval. If the proposed earth disturbance to construct the driveway exceeds 5,000 square feet, stormwater management will be required in accordance to the 2007 MDE SWM Design Manual.
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.	Conditional Approval.
Office of Life Safety	N/A
DPDR Traffic Engineering	Conditional Approval. ID trees to be removed and add note that requires these trees to be removed prior to lot recordation. Add also the note that certifies adequate SSD with the numbers required and achieved.
Historic Preservation	N/A

RECOMMENDATION

If the Planning Commission finds that the proposed subdivision meets the Ag Cluster provisions of the Zoning Ordinance, and grants a modification of the average lot size requirement in accordance with §1-19-7.300(C)(2)(c) 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 and grants a modification of the average lot size requirement in accordance with §1-19-7.300(C)(2)(c) of the Zoning Ordinance. Should the FcPc grant approval of this application (S-678, AP 14638), 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 FRO plan must be approved, and FRO mitigation must be provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.
3. 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.
4. The locust trees that are impairing the sight distance from the proposed driveway location must be removed prior to lot recordation.
5. The common driveway must be constructed prior to lot recordation in accordance with §1-16-109(D)(8).
6. The combined preliminary/final plat shall include a note that the lot owners shall be responsible for maintaining the common driveway.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-678 (AP 14638) with conditions** as listed in the staff report for the proposed Adamstown Village, Section III, Lots 1-4 Agricultural Cluster concept plan, including granting a modification of the average lot size requirement in accordance with §1-19-7.300(C)(2)(c) of the Zoning Ordinance, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.