TITLE: Glad Hill Acres, Section 1, Block D, Lots 62A and 62B

FILE NUMBER: S-867, AP 16645 (APFO 16646, FRO 16647)

REQUEST: Combined Preliminary/Final Plat Approval
The Applicant is requesting major subdivision approval to resubdivide the existing 12.91 acre Lot 62 into two lots (11.19 acres and 1.714 acres).

PROJECT INFORMATION:
ADDRESS/LOCATION: Located along Moline Court, north of Runkles Drive.
TAX MAP/PARCEL: Map 97, Parcel 252 (previously parcel12)
COMP. PLAN: Rural Residential
ZONING: R-1 Residential
PLANNING REGION: Urbana
WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:
APPLICANT: Bessie B. Gladhill Revocable Trust
OWNER: Bessie B. Gladhill Revocable Trust
SURVEYOR/ENGINEER: J.F. Brown III & Associates
ARCHITECT: N/A
ATTORNEY: Seymour Stern

STAFF: Mike Wilkins

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
EXHIBIT 1- Combined Preliminary/Final Plat
EXHIBIT 2- Previously approved and executed APFO Letter of Understanding
STAFF REPORT

ISSUE
The Applicant is requesting combined preliminary/final plat approval to subdivide the 12.91 acre Lot 62 into two lots. The lot is zoned R-1 residential with a Rural Residential Frederick County Comprehensive Plan designation.

BACKGROUND
This lot is part of the Glad Hill Acres subdivision, which has been the subject of several subdivision applications since 1965.

- In March 1976, Glad Hill View Lot 1 was recorded.
- In 2008, Ashley Acres Lot 1 was recorded.
- On January 9, 2013 the Planning Commission reviewed the Preliminary Plan (AP 12626) for Glad Hill Acres, approving 71 out of the requested 77 lots.
- To date, 59 of the 71 lots approved on the Preliminary Plan have been recorded, including the subject Lot 62.

At the January 9, 2013 Planning Commission meeting, the Planning Commission denied 6 proposed panhandle lots. The subject Lot 62 was proposed to be 3 separate lots, two of which were designed as panhandle lots and denied approval.

The current application proposes to resubdivide Lot 62 into 2 lots. Lot 62A is a typical lot with 100 feet of road frontage along Moline Court. Lot 62B is a “taper lot”, which is defined in the Subdivision Regulations as “A lot in which the side lot lines emanating from the street do not break in direction before the minimum lot width is achieved. If the side lot lines break before the minimum lot width is achieved, then the lot will be defined as a panhandle lot…” Although Section 1-16-219(C)(2) requires that the Planning Commission grant a modification to approve panhandle lots within a major subdivision, there are no such provisions for taper lots.

The Planning Commission’s role in approving this application is limited to approving 1 new lot in a major subdivision. No modifications are required for this approval.

Existing Site Characteristics
Lot 62 is mostly forested, with a major stream, steep slopes, flooding soils, and wetland located well in the rear 2/3rd of the site. The front portion of the lot is clear, reflecting the former use as an agricultural field, and contains enough acreage to support the two proposed lots and building sites. All of the forest is in an existing Forest Conservation Easement. No forest removal is permitted or proposed. No impact to the environmentally sensitive areas is permitted or proposed.

ANALYSIS

A. ZONING ORDINANCE REQUIREMENTS

1. District Regulations, Design Requirements For Specific Districts §1-19-6.100:
   A. Residential One District (R-1): 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.
The proposed lots meet the minimum lot size requirements of the R-1 zoning district. Lot 62A will be 1.714 acres and Lot 62B will be 11.197 acres. The required front, rear, and side setbacks are shown and noted on the plan and meet the Zoning Ordinance requirements.


(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.

Proposed Lot 62B contains streams, steep slopes, flooding soils, and wetlands. A 150’ waterbody buffer
is delineated on the plan. The entire waterbody buffer falls within the recorded Forest Conservation Easement and will therefore be protected.

**Zoning Ordinance Requirements Findings/Conclusions**
The proposed subdivision will meet all Zoning Ordinance requirements.
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 Rural Residential which is intended to recognize areas of well/septic residential development and to distinguish these areas from residential development within Community Growth Areas. The proposed land use and subdivision design complies with the Comprehensive Plan and meets minimum Zoning Ordinance requirements for lot dimensions. The proposed Lot 62A will be comparable in size with most nearby lots, while proposed Lot 62B will be larger than most nearby residential lots. The new lot will utilize a proposed common entrance off of Moline Court, which has been dedicated to public use and constructed.

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 does contain some steep topography, wetlands, flooding soils, wooded areas, and a stream. All
of these areas are within a Forest Conservation Easement, so these features will remain undisturbed. The proposed land use will be similar to the uses found on the adjoining rural properties; single family dwellings on lots utilizing well and septic.

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 wet and flooding soils (HdA). The wet soils and the above referenced 100 foot impact area are within the Forest Conservation Easement and cannot be developed. Since the buildable areas of the lots are beyond 100 foot wet soils area, 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 proposed lots will have road frontage along Moline Court, which has a 20 foot wide paved travelway. *(This road was recently constructed and does not show up on the County’s aerial photography.)* The lots will share a common entrance but not a common driveway.

5. **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.

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 lots will occur at the time of building permit application.

**APFO – Chapter 1-20:** This subdivision is subject to APFO. In 2013, APFO testing was completed for the 77 lot Glad Hill Acres subdivision proposed at that time. Therefore the Letter of Understanding was
written for 77 lots (see Exhibit 2). The road escrow payment amounts and school capacity tests were also based on 77 lots. However, the Planning Commission only approved 71 lots and the LOU was edited by Staff for administrative purposes to reflect the 71 lots. If the Planning Commission approves the additional lot, the lot number will be updated to reflect the approval and a memo will be added to the file.

**ROADS:** The Applicant has already paid their pro-rata share for road improvements based on the original 77 lot proposal. Therefore APFO-roads has been fully mitigated for this 72nd lot.

**SCHOOLS:** The original APFO tested school capacity for 77 lots. Since only 71 lots were approved, there remains a 6 lot “surplus” under the original test. The original test failed at the middle and high school levels. The existing Lot 62 was mitigated utilizing the school construction fee prior to it being recorded. Therefore, the proposed Lot 62B is subject to paying the school construction fee prior to plat recordation in accordance with the previously approved LOU and per 1-20-62 of the APFO.

**WATER/SEWER:** This site is not served by public water and sewer.

*Forest Resource Ordinance – Chapter 1-21:* FRO requirements for Lot 62 were met as part of the overall Glad Hill Acres forest conservation plan. FRO mitigation has been provided. No further FRO review or mitigation is required.

### Summary of Agency Comments

<table>
<thead>
<tr>
<th>Other Agency or Ordinance Requirements</th>
<th>Comment</th>
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<tbody>
<tr>
<td><strong>Development Review Engineering (DRE):</strong></td>
<td>Hold: common driveway apron must be constructed prior to lot recordation.</td>
</tr>
<tr>
<td><strong>Development Review Planning:</strong></td>
<td>Hold. Must meet all agency and FcPc comments and conditions.</td>
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<tr>
<td><strong>State Highway Administration (SHA):</strong></td>
<td>N/A</td>
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<tr>
<td><strong>Div. of Utilities and Solid Waste Mngt. (DUSWM):</strong></td>
<td>N/A</td>
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<tr>
<td><strong>Health Dept.</strong></td>
<td>Hold. New well must be drilled for Lot 62A. Well must be drilled for Lot 62B. Septic area for Lot 62A must be tested.</td>
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<tr>
<td><strong>Office of Life Safety</strong></td>
<td>N/A</td>
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<tr>
<td><strong>DPDR Traffic Engineering</strong></td>
<td>Approved.</td>
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<tr>
<td><strong>Historic Preservation</strong></td>
<td>N/A</td>
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### 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 when the conditions below have been satisfied.

Should the FCPC grant approval of this application (S-867, AP 16645), Staff recommends that the following items be added as conditions to the approval:

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Glad Hill Acres, Lots 62A and 62B
1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.

2. Per 1-16-8 (G) of the Subdivision Regulations, the Combined Preliminary/Final Plat approval is valid for five (5) years from the date of application or the period of APFO approval, whichever is less. The APFO expires on January 9, 2017. Therefore, the Plat expires on January 9, 2017.

3. The school construction fee for the 1 new lot shall be paid prior to plat recordation in accordance with the previously approved LOU and per 1-20-62 of the APFO.

4. The common driveway entrance must be constructed under a valid permit prior to lot recordation.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission APPROVE S-867 (AP 16645) 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.
COMMUNITY DEVELOPMENT DIVISION
FREDERICK COUNTY, MARYLAND
Department of Planning and Development Review
30 North Market Street • Frederick, Maryland 21701
www.co.frederick.md.us

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Gladhill Acres

Preliminary Plat #S-867 AP #12627

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Frank & Bessie Gladhill ("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 school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved Gladhill Acres Preliminary Plan of Subdivision (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 (or 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 177.26 +/- acre parcel of land, which is zoned Low Density Residential (R-1), and located on the north side of Gladhill Brothers Road, east of Browningsville Road. This APFO approval will be effective for development of 21 new single family detached homes, which is shown on the preliminary plat for the above-referenced Project, which was conditionally approved by the Commission on January 9, 2013.

Schools: The Project is projected to generate 22 elementary school students, 14 middle school students and 17 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test falls at the middle and high school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.

Water and Sewer: The Property has a water and sewer classification of No Planned Service (NPS) in the County's Master Water and Sewer Plan.
Road Improvements: The Project will generate 64 am and 83 pm weekday peak hour trips, which exceeds the requisite 50 peak hour trip threshold required for APFO testing. As a result, an April 9, 2012 Traffic Impact Analysis was prepared by Traffic Solutions, Inc. to address APFO requirements and propose mitigation for failing facilities. In addition, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

In full satisfaction of APFO requirements to fully mitigate site-generated trips, the Developer shall pay into County-held escrow accounts the following pro rata contributions:

1. MD 80/Ijamsville Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3383 for improvement of this intersection. As determined by CDD-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is $924.

2. MD 80/MD 75 Dogleg Intersections – the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3382 for improvement of this intersection. As determined by CDD-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is $24,535.

3. MD 355/MD 75 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3847 for installation of a new traffic signal. As determined by CDD-Traffic Engineering Staff, the Applicant's pro-rata share of this road improvement is $2,058.  

Therefore, prior to plat recording, the Developer hereby agrees to pay $27,517 to the escrow accounts for these Road Improvements. Should this payment 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 four (4) years from the date of Commission approval; therefore, the APFO approval expires on January 9, 2017.

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]
DEVELOPER: Franklin & Bessie Gladhill

Franklin Gladhill

Date: Dec-19-2012

Bessie Gladhill

Date: Dec-19-2012

FREDERICK COUNTY PLANNING COMMISSION:

By: Dwaine E. Robbins, Chair or William G. Hall, Secretary

Date: 1/9/13

ATTEST:

By: Gary Hessong, Director, Permits & Inspections

Date: 1-10-13

Planner’s Initials / Date
County Attorney’s Office Initials / Date
(Approved as to legal form)