



FREDERICK COUNTY PLANNING COMMISSION

August 9, 2017

TITLE: Rick Messner Subdivision

FILE NUMBER: M-3166, AP 17214 (APFO N/A, FRO N/A)

REQUEST: **Sketch Plan (Non-Binding Approval)**
The Applicant is requesting non-binding Sketch Plan approval for a 2-lot subdivision to be served by a 2,330 foot long panhandle.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the north side of Auburn Road, 2,700 feet south of Baugher Road
TAX MAP/PARCEL: Map 32, Parcel 21
COMP. PLAN: Natural Resource
ZONING: Resource Conservation
PLANNING REGION: Frederick
WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Rick Messner
OWNER: Rick Messner
SURVEYOR/ENGINEER: Robert Srouer
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Mike Wilkins, Senior Planner

ATTACHMENTS:

EXHIBIT 1- Sketch Plan

STAFF REPORT

ISSUE

The Applicant is requesting Sketch Plan approval for a 2-lot Resource Conservation subdivision on a 25-acre property. The Sketch Plan process is offered to Applicants so that they may receive the opinion of the Planning Commission before committing to the preparation of Preliminary or Combined Preliminary/Final subdivision plan.

In accordance with §1-16-59 of the Subdivision Regulations, the FcPc shall give its opinion regarding the sketch plan and may grant non-binding approval of the lot layout for the purpose of percolation testing only. The review of the sketch plan does not infer any special status on the plan, but is only to allow a subdivider to determine feasibility of the project prior to incurring extensive costs for surveying and engineering.

§1-16-59 (H-I) of the Subdivision Regulations outlines the items that the FcPc should review on sketch plan applications;

(H) The Planning Commission will in general be reviewing the sketch plan with regard to the following points:

- (1) Interior street configuration;*
- (2) Entrance locations (both new streets and driveways);*
- (3) Traffic effect on existing and proposed roads;*
- (4) Type of water and sewage system;*
- (5) Feasibility of a subdivision in the area:
 - (a) Total number and size of lots;*
 - (b) Effect of building in school district, school bus service;*
 - (c) Approximate lot layout, parkland, reserved areas.**
- (6) New techniques in land development.*
- (7) Preservation of environmental features.*
- (8) Conformance with the Comprehensive Plan.*

(I) The Commission will be reviewing at a minimum the general suitability of design with regards to topography, drainage, erosion and vertical alignment of streets, and preservation of environmentally sensitive areas.

BACKGROUND

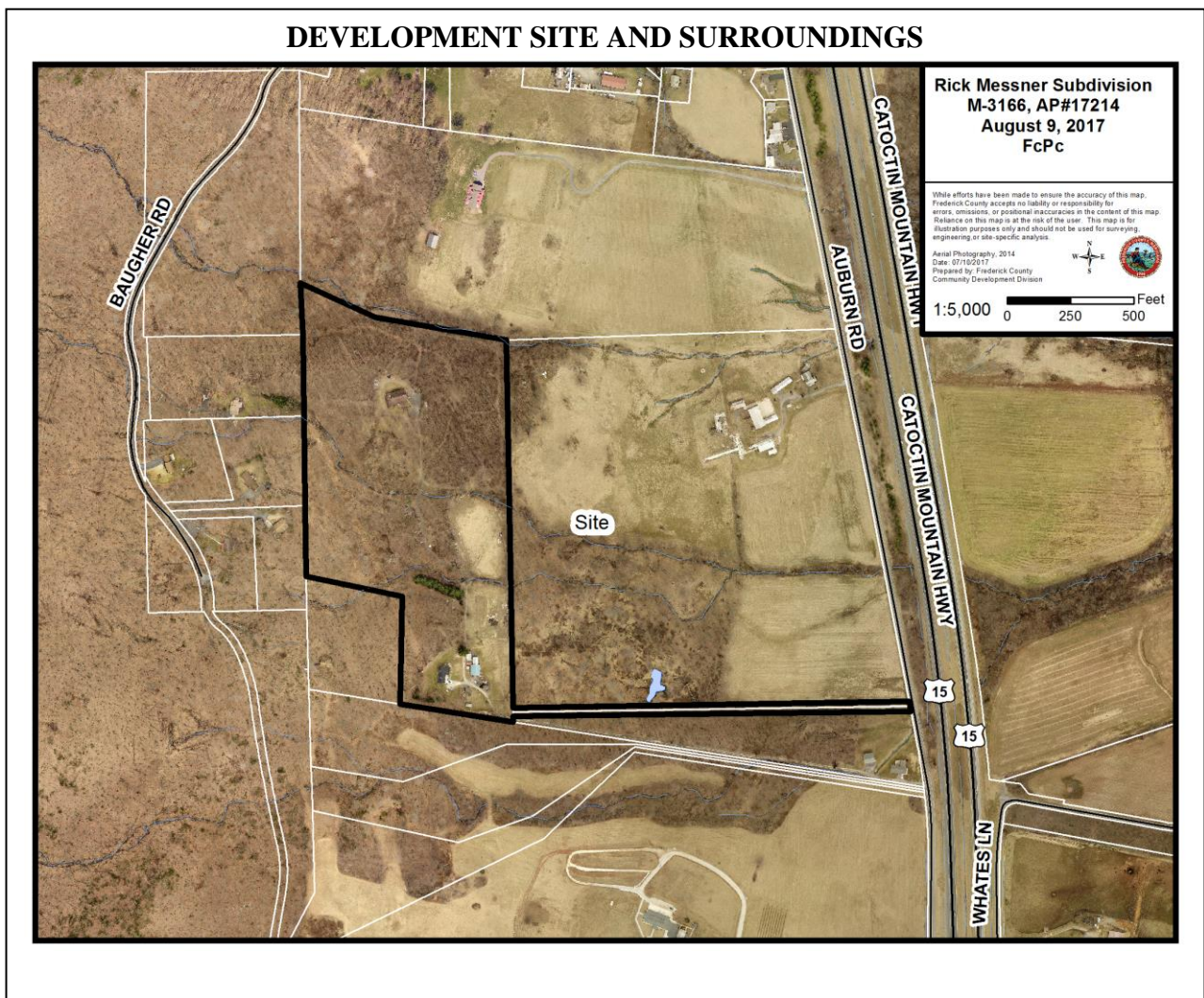
Two houses are located on the property. The principal dwelling was constructed in 1973 (11918-A Auburn Rd.) and the tenant house was constructed in 1983 (11918-B Auburn Rd.). The Applicant wishes to create a new lot so that each of these existing homes sits on an individual lot.

This parcel has no previous subdivision activity, therefore this application for 2 lots is considered a minor subdivision. Minor subdivisions are typically reviewed and approved by Staff, however; this application has one issue that must be reviewed by the Planning Commission. The Applicant proposes to serve one of the proposed lots with a panhandle that exceeds 1,800 feet in length, which is prohibited per §1-16-219(C)(7) except under specific circumstances (as discussed later in this report).

Any decision that the Planning Commission makes (at this time) on the issue of panhandle length is non-binding. The Applicant will submit a Preliminary Plan or a Combined Preliminary/Final Plat to the Planning Commission in the future to request a modification of §1-16-219(C)(7) to permit a new lot with a panhandle that exceeds 1,800 feet in length.

Existing Site Characteristics

Parcel 21 is a mostly forested property. Approximately 4.50 acres around the principal dwelling is unforested, and a small area around the tenant house has also been cleared. Two streams flow across the property and a third stream runs near and along the northern property line. Maryland DNR maps indicate that wetlands may be located along the middle stream and the northernmost stream. The site does not contain any mapped FEMA floodplain or flooding soils. Wet soils are located along the stream systems. Most of the property consists of gentle slopes of 15% or less, with pockets of moderate (15 %+) to steep (25 %+) slopes. The proposed subdivision will have no new impacts to these environmental features since the houses and driveways already exist.

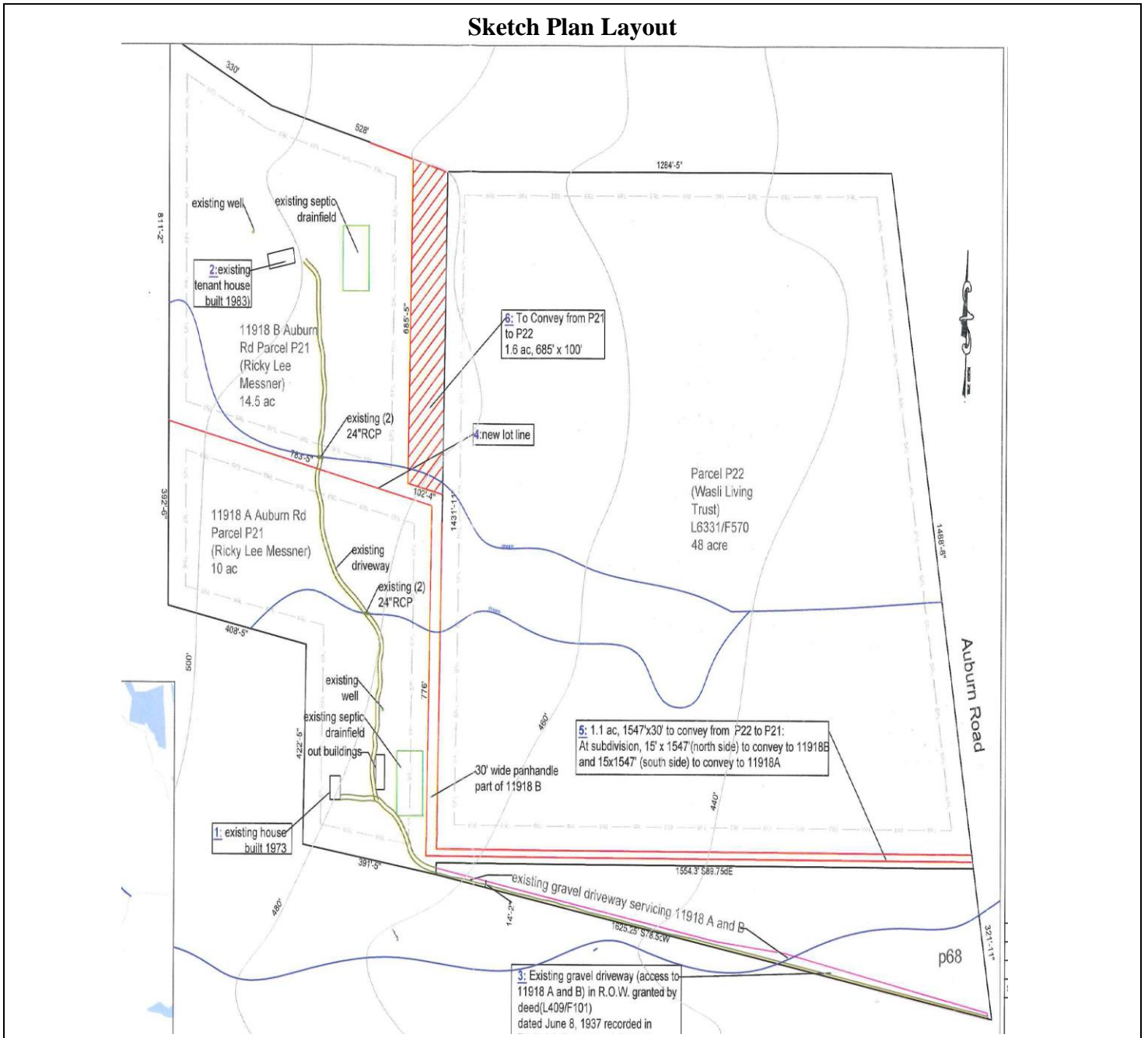


- A. § 1-16-59(H). Sketch Plan Review Criteria.**
(1) Interior street configuration;

(2) Entrance locations (both new streets and driveways);

The Applicant proposes to access the lots via Auburn Road, which is an existing local road as identified on the County Comprehensive Plan. Auburn road exceeds the 16 foot width requirement for servicing minor subdivisions. The parcel is currently landlocked, meaning it does not have fee-simple road frontage. All new lots must have fee-simple road frontage to a County or State maintained public road in accordance with §1-19-4.520 of the Zoning Ordinance. The Applicant proposes to add 1.10 acres from the adjoining Parcel 22 (owned by the Wasli Living Trust) to Parcel 21 in order to obtain the required road frontage to Auburn Road. This added acreage will be divided into two panhandles to serve the two proposed lots. The panhandle that will serve the principal dwelling will be approximately 1,554 feet long. The panhandle proposed to serve the existing tenant house will be 2,330 feet in length.

The two existing houses on Parcel 21 currently use an existing 14+/- foot wide common driveway that is located on and shared with Parcel 68. A deed recorded in 1937 (L.409 F.101) grants Parcel 21 a perpetual right of way over this driveway. Although the proposed panhandles are not located over this driveway, the Applicant proposes to continue using this existing driveway.



§ 1-16-59(H). Sketch Plan Review Criteria continued.

(3) Traffic effect on existing and proposed roads;

Since the two proposed lots will be created around two existing houses, no additional traffic will be added to Auburn Road.

(4) Type of water and sewage system;

The property has no planned water or sewer service. The lots will be served by private well and septic systems. Although the houses are currently served by existing septic systems, the Health Department is requiring percolation testing and new 10,000 sq. foot septic areas for each dwelling.

(5) Feasibility of a subdivision in the area:

- (a) Total number and size of lots;*
- (b) Effect of building in school district, school bus service;*
- (c) Approximate lot layout, parkland, reserved areas.*

Both of the proposed lots meet the minimum 10 acre lot size requirement. The proposed minimum lot width (300 feet) and yard areas (50 foot front yard, 50 foot rear yard, and 50 foot side yard) meet Resource Conservation District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance. The lots range in size from 10 acres to 14.50 acres.

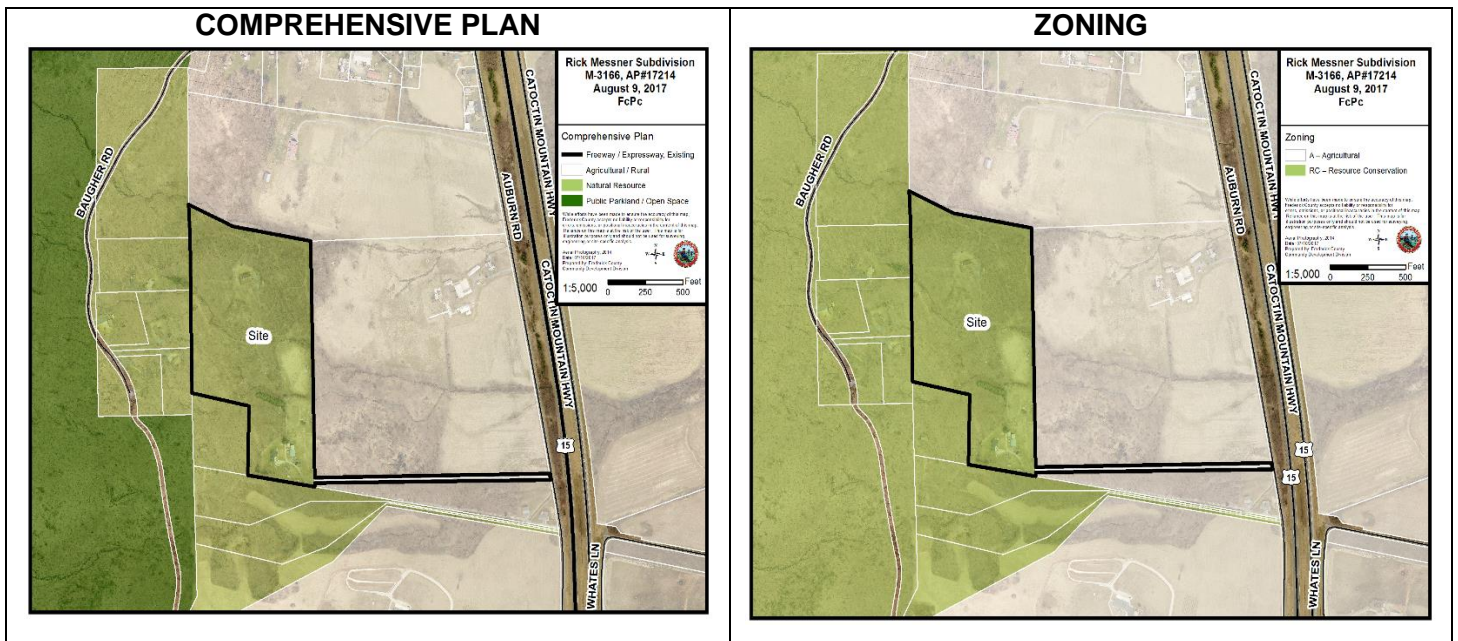
The proposed development is considered a minor subdivision and is exempt from APFO schools testing. Parkland dedication is not required for minor subdivisions. No reservations are proposed, but a small area of road right of way dedication will be required along the frontage of the proposed panhandles.

(6) New techniques in land development.

No new techniques are being utilized.

(7) Preservation of environmental features.

No new impacts to environmental features is anticipated.



(8) Conformance with the Comprehensive Plan.

The subject property has a Natural Resource Comprehensive Plan designation. The Comprehensive Plan describes the Natural Resource designation as follows: *This Plan applies the Natural Resource land use plan designation to the mountain areas with contiguous forests and stream corridors. The stream corridors would include the major streams defining the County's 20 sub watersheds. Within the mountain/forestlands and the stream corridors would also include 100-year floodplain, plant/animal habitat, steep slopes, and wetlands. The purpose of the land use plan designation is to identify and highlight these features relative to the community growth areas. The plan designation itself does not impose any restriction or regulation on properties.* No new impacts to environmentally sensitive areas is proposed. The proposed subdivision conforms to the Comprehensive Plan.

B. § 1-16-59(I). Sketch Plan Review –Additional Criteria.

(I) The Commission will be reviewing at a minimum the general suitability of design with regards to topography, drainage, erosion and vertical alignment of streets, and preservation of environmentally sensitive areas.

Because the proposed lots will be designed around existing houses and driveways, there will be no new impacts to topography, drainage, erosion and vertical alignments of driveways, or environmentally sensitive areas.

C. OTHER 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 a Natural Resource Comprehensive Plan designation. The Comprehensive Plan describes the Rural Residential designation as follows: *This Plan applies the Natural Resource land use plan designation to the mountain areas with contiguous forests and stream corridors. The stream corridors would include the major streams defining the County's 20 sub watersheds. Within the mountain/forestlands and the stream corridors would also include 100-year floodplain, plant/animal habitat, steep slopes, and wetlands. The purpose of the land use plan designation is to identify and highlight these features relative to the community growth areas. The plan designation itself does not impose any restriction or regulation on properties.* No new impacts to environmentally sensitive areas is proposed. The proposed subdivision conforms to the Comprehensive Plan.

- 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, adjoining subdivisions, and land uses. The lots will be designed around the existing houses, driveways, wells, and septic areas. No new impacts to environmental features are proposed.

- 3. Lot Size and Shape. Panhandle Lots §1-16-219 (C)(1):** *Panhandle lots are permitted in minor subdivisions.*

The Applicant proposes to add 1.10 acres from the adjoining Parcel 22 (owned by the Wasli Living Trust) to Parcel 21 in order to obtain the required fee-simple road frontage to Auburn Road. This added acreage will be divided into two panhandles to serve the two proposed lots. The panhandle that will

serve the principal dwelling will be approximately 1,554 feet long. The panhandle proposed to serve the existing tenant house will be 2,330 feet in length.

§1-16-219(C)(7) of the Subdivision Regulations states;

Panhandles shall not exceed 1,800 feet in length in the agricultural, resource conservation, R-1 and R-3 zoning districts; 1,000 feet in length in the R-5 and R-8 zoning districts; or 700 feet in length in the R-12 and R-16 zoning districts. The length of panhandles in residential portions of floating zones and in commercial and industrial zoning districts should not exceed 700 feet and shall require Planning Commission approval. Panhandle length may exceed the maximum length noted above for the subdivision of a single lot around an existing dwelling constructed prior to July 17, 1992 provided that the dwelling is habitable, no additional lots or remainders will be created with a panhandle that exceeds the maximum panhandle lengths, and the panhandle incorporates the existing driveway serving the dwelling.

The panhandle proposed to serve the existing tenant house will exceed 1,800 feet in length. While the panhandle will serve an existing, habitable dwelling that was constructed prior to July 17, 1992 (it was constructed in 1983) and no additional lots will be created with a panhandle that exceeds 1,800 feet in length, the design fails to meet the third provision that requires the panhandle incorporate the existing driveway. In order for the Planning Commission to grant a modification to §1-16-219(C)(7), the Applicant must demonstrate that the request meets the provisions outlined under §1-16-30 (Modifications) of the Subdivision Regulations at the next phase of the subdivision process.

The existing driveway is located on Parcel 68. Land for the two proposed panhandles cannot be taken from Parcel 68. Three panhandles already exist along the south side of the existing driveway (serving Lots 1-3, Springfield Manor subdivision). Creating two new panhandles over the driveway would create a series of 5 panhandles, and §1-16-219(C)(3) of the Subdivision Regulations does not permit more than 4 panhandles in a row under any ownership. Adding 20 feet of land from Parcel 68 would also bring the new side property line very close the existing house, which is located at the corner of the existing driveway and Auburn Road.

4. 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 houses are currently served by existing septic systems and wells. The Health Department is requiring new percolation tests for the update the septic areas, which will be performed after the approval of this sketch plan. The site must be tested during the restricted soils season.

Subdivision Regulation Requirements Findings/Conclusions: The project will meet all Subdivision Regulation requirements if the Planning Commission grants non-binding approval of the proposed 2,330 foot long panhandle to serve 11918-B Auburn Road. The Applicant must demonstrate that the request meets the provisions outlined under §1-16-30 (Modifications) of the Subdivision Regulations at the next phase of the subdivision process, at which time the Planning Commission may grant binding approval of the modification request.

D. 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 minor subdivision is exempt from APFO requirements.
3. **Forest Resource Ordinance – Chapter 1-21:** A FRO application must be submitted with the next phase of the subdivision process (Preliminary Plan or Combined Preliminary/Final Plat).

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditional Approval. Driveway apron may require upgrading.
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: Percolation testing must be conducted.
Office of Life Safety	N/A
DPDR Traffic Engineering	Conditional Approval: Adequate sight distance will need to be demonstrated at driveway access prior to subdivision approval.
Historic Preservation	N/A

RECOMMENDATION

The Planning Commission must determine if the proposed 2,330 foot long panhandle to serve 11918-B Auburn Road is acceptable in accordance with §1-16-219(C)(7) of the Subdivision Regulations.

Staff recommends that the Planning Commission give its opinion regarding the sketch plan. The Planning Commission may or may not grant non-binding approval of the lot layout for the purpose of percolation testing only. The review of the sketch plan does not infer any special status on the plan, but is only to allow a subdivider to determine feasibility of the project prior to incurring extensive costs for surveying and engineering.

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 applicable provisions within the Subdivision Regulations and Zoning Ordinance.

Should the Planning Commission grant non-binding approval of this application (M-3166, AP 17214), Staff recommends that the following items be added as conditions to the approval:

1. The Planning Commission grants non-binding approval of a modification to §1-16-219(C)(7) of the Subdivision Regulations to allow a new panhandle over 1,800 feet in length that will serve an existing, habitable dwelling that was constructed prior to July 17, 1992, where no additional lots

will be created with a panhandle that exceeds 1,800 feet in length, but does not incorporate the existing driveway.

2. The Applicant shall submit a Preliminary Plan or a Combined Preliminary/Final Plat to the Planning Commission to obtain binding approval of a modification of §1-16-219(C) to permit a new panhandle that exceeds 1,800 feet in length.
3. The Applicant shall comply with all Staff and agency comments through the completion of the plan.

PLANNING COMMISSION ACTION

MOTION

I move that the Planning Commission **[grant non-binding approval with conditions as listed in the staff report] OR [deny non-binding approval]** for application M-3166 (AP 17214) for the proposed Rick Messner sketch plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.