TITLE: Harmony Hollow, Sect. 3, Lot 301A & 301B

FILE NUMBER: S-1109, AP 17907 (APFO N/A, FRO 17908 & 17909)

REQUEST: Combined Preliminary/Final Plat Approval
The Applicant is requesting approval to resubdivide Lot 301 into two (2) lots 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, Parcel 477
COMP. PLAN: Natural Resource and Agricultural/Rural
ZONING: Resource Conservation and Agricultural
PLANNING REGION: Middletown
WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:
APPLICANT: Perry Lynn Brandenburg & Jill Remsburg-Brandenburg
OWNER: Perry Lynn Brandenburg & Jill Remsburg-Brandenburg
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Graham Hubbard

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
EXHIBIT 1- Combined Preliminary/Final Plat
ISSUE
The Applicant is requesting combined preliminary/final plat approval for 1 new lot on a 100.81 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
- 2016- Section 3, Lot 301

Seven (7) lots have been created from the original 1965 parcel. This application proposes creation of the 8th 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 77.26 acre Lot 301B, while containing some AG zoned area (approximately 0.96 acres), primarily consists of Resource Conservation (RC) zoned land. The proposed house will be situated on the RC zoned portion of Lot 301A. Therefore this subdivision is being reviewed as a RC zoned lot.

Existing Site Characteristics
Lot 301 consists primarily of forested steep slopes, with some open fields in the southern AG zoned portion. The proposed Lot 301B contains an existing barn and an abandoned 2 story brick and frame house that has been converted into a storage building.
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 lots meet the minimum lot size requirement. Lot 301A will be 23.00 acres and Lot 301B will be 77.26 acres (0.96+/- acres in the AG zone, 76.3 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.

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.

   The proposed septic and well are not within areas of steep slopes of 25% or greater. The house location will be reviewed at the time of building permit for compliance with Section 1-19-7.200.

   (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. 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.

   There are no rare, threatened, or endangered species as confirmed by DNR letter dated June 21, 2016.

   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 an existing cleared area of the property.

(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.

A 125-foot waterbody buffer has been provided for the stream in accordance with Section 1-19-9.400.

Zoning Ordinance Requirements Findings/Conclusions

The proposed subdivision will meet all 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 a small stream. 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.

Lot 301A and 301B will access Hollow Road by utilizing the existing 12 foot wide 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 301B will gain fee-simple road frontage by splitting the existing 50’ wide panhandle into two panhandles. The existing panhandle was created when Farm Lot 1 was subdivided off the property in 1979. As noted under subsection 4 above, these fee-simple panhandles will not provide access to the site. Rather, the existing driveway will be utilized to access the proposed house site on Lot 301A.

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 on each lot 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.

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**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 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 5th lot from the original parcel since 1991. Any additional subdivision from within the original 1965 parcel boundary will require APFO review.

**Forest Resource Ordinance – Chapter 1-21:** The Applicant has filed two (2) Declarations of Intent to exempt Lots 301A and 301B from FRO requirements. Lots 301A and 301B are exempt from the FRO with

Harmony Hollow, Section 3, Lot 301A & 301B

March 14, 2018
an Intrafamily Transfer exemption because the lots are 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**

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<thead>
<tr>
<th>Other Agency or Ordinance Requirements</th>
<th>Comment</th>
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<tbody>
<tr>
<td>Development Review Engineering (DRE):</td>
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<tr>
<td>Development Review Planning:</td>
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<td>State Highway Administration (SHA):</td>
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<td>Div. of Utilities and Solid Waste Mngt. (DUSWM):</td>
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<td>Health Dept.</td>
<td>Hold. Needs to be field checked, soil evaluated and perk tested.</td>
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<td>Office of Life Safety</td>
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<td>DPDR Traffic Engineering</td>
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<td>Historic Preservation</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.

Should the FcPc grant approval of this application (S-1109, AP 17907), 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. Planning Commission approval of the requested panhandle modification per Section 1-16-219(C)(2) to create a panhandle lot in a major subdivision.
3. The Combined Preliminary/Final Plat approval is valid for three (3) years from the date of FcPc approval. Therefore, the Plat approval expires on March 14, 2021.

**PLANNING COMMISSION ACTION**

**MOTION TO APPROVE**

I move that the Planning Commission APPROVE S-1109 (AP 17907) with conditions and modifications 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.