TITLE: Harding Farm, Sec. 3, Lots 1RA & 1RB

FILE NUMBER: S-538, AP 18726 (APFO 18580, FRO 18581)

REQUEST: Combined Preliminary/Final Plat Approval
The Applicant is requesting approval to resubdivide Lot 1R into two (2) lots (1RA & 1RB) in a major subdivision.

PROJECT INFORMATION:
ADDRESS/LOCATION: 5440 Urbana Pike
TAX MAP/PARCEL: Map 77, P/o Parcel 185
COMP. PLAN: General Commercial
ZONING: General Commercial
PLANNING REGION: Frederick
WATER/SEWER: W1; S1

APPLICANT/REPRESENTATIVES:
APPLICANT: Magnus South LLC
OWNER: Same
APFO APPLICANT: Robert Haddad, Love My Carwash
SURVEYOR/ENGINEER: Harris Smariga and Assoc.
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Jerry Muir, Principal Planner I

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
EXHIBIT 1- Combined Preliminary/Final Plat
2- APFO Letter of Understanding (LOU)
STAFF REPORT

ISSUE
The Applicant is requesting combined preliminary/final plat approval in order to subdivide the existing lot 1R (2.62 acres) into two lots; 1RA (1.61 acres) and 1RB (1.01 acres). Lot 1R is currently occupied by the Wawa convenience store and gas station. An original plan by Wawa to construct a carwash in conjunction with this use was never realized and now an outside party (Magnus LLC) wishes to subdivide the lot in order to construct the carwash on a separate parcel. The Love My Carwash site plan (SP97-23, AP 18579) is on the Planning Commission agenda for review and approval.

BACKGROUND
This property has been the subject of several subdivision applications since 1984.
- 1984 A 14 acre Lot 1 was created.
- 1989 and 1998 Lot 1 was replatted in combination with Lot 3R to create various parcels.
- 2003 Lot 1R was platted in its current 2.62 acre form to accommodate 2 restaurants.

This will be the 23rd lot taken off of Harding Farm; therefore this subdivision is considered a major subdivision. Major subdivisions must be approved by the Planning Commission.

Existing Site Characteristics
Existing Lot 1R containd 2.62 acres. Proposed Lot 1RA will be 1.61 acres and is occupied by the Wawa convenience store and gas station. Proposed Lot 1RB will be 1.01 acres and is undeveloped.

The site is bordered on three sides by public roads; Urbana Pike (MD 355) to the east, Holiday Drive to the north, and Spectrum Drive to the west. Pizza Hut (currently unoccupied) and Sleep Inn are situated to the south of the site.
ANALYSIS

A. ZONING ORDINANCE REQUIREMENTS

1. District Regulations, Design Requirements For Specific Districts §1-19-6.100:

   General Commercial lot requirements per Subdivision plats are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed 1RB</th>
<th>1RA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area</td>
<td>12,000 SF</td>
<td>44,041</td>
<td>70,152</td>
</tr>
<tr>
<td>Lot width</td>
<td>100</td>
<td>283</td>
<td>174</td>
</tr>
<tr>
<td>Front</td>
<td>25</td>
<td>40</td>
<td>80</td>
</tr>
<tr>
<td>Side</td>
<td>8</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Rear</td>
<td>25</td>
<td>NA Corner lot</td>
<td>NA</td>
</tr>
</tbody>
</table>
The proposed lots meet the minimum lot size requirement. The required front, rear, and side setbacks are shown and noted on the plan and meet the Zoning Ordinance requirements. The front BRLs must be shown on the plat. The BRL table shown on the plat is incorrect and must be revised.

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 General Commercial. The proposed land use and subdivision design complies with the Comprehensive Plan and meets 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.

There are no physical site features of note. The proposed land use will be similar to the uses found on the adjoining commercial properties.

3. 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.

This requirement is met on all street frontages.

Lot 1RA will gain direct access via existing entrances along MD 355 and Holiday Drive. These access locations were approved by the Planning Commission during the Wawa site plan approval process. Lot 1RB will gain direct access from Spectrum Drive via a common access easement that is shared with the Sleep Inn and former Pizza Hut. Lot 1RA also has access through this common easement.

A private easement recorded in L.6908 F397 provides the right to adjust and modify the internal circulation access between lot owners as required by site development. There is no reference to that document on this plat. The recording reference needs to be noted on the plat.

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 W1; S1 water and sewer classification. The new lot 1RB will be served by a 2" connection and no water meter easement is required for that size connection. Sewer easements already exist on the site. There are three areas of easements that were not previously platted. They are all portions of water and sewer easements and are graphically shown on the plat. These three easements must be
recorded and the recording references added prior to plat 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 will be reviewed with the Site Plan application.

**APFO – Chapter 1-20:** See Exhibit #2: Letter of Understanding (LOU) for details.

**Schools:** Schools are not impacted because the development of the property is a non-residential use.

**Water and Sewer:** Water and sewer classifications are W-1 / S-1. While the public sewer and water facilities are currently adequate to serve the project, the Applicant recognizes that capacity is not guaranteed until purchased.

**Road Improvements:** Based on a Traffic Impact Analysis entitled “Love My Car Carwash”, submitted by the Traffic Group dated June 6, 2018, the Project will generate 40 weekday PM and 98 Saturday mid-day peak trips and is not required to mitigate road improvements per §1-20-31(D) because an adequate Level of Service (LOS E or better) is attained at all study area intersections, which include Holiday Drive intersections with MD 355, Spectrum Drive and the site access, as well as the site access with Spectrum Drive.

In satisfaction of APFO requirements per 1-20-12(H) to provide fair share contributions to existing road escrow accounts, the Applicant shall pay $33,135 to the escrow accounts specified in the LOU.

**Period of Validity:** The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval is valid until October 10, 2021.

**Forest Resource Ordinance – Chapter 1-21:**
FRO was previously mitigated as part of the Wawa development application (AP 12533).
Summary of Agency Comments

<table>
<thead>
<tr>
<th>Other Agency or Ordinance Requirements</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Review Engineering (DRE):</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>Development Review Planning:</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>Div. of Utilities and Solid Waste Mngt. (DUSWM):</td>
<td>Hold. Recording references must be filled in prior to recordation</td>
</tr>
<tr>
<td>Health Dept.</td>
<td>Hold until DUSWM approval is granted</td>
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<tr>
<td>DPDR Traffic Engineering</td>
<td>Approved</td>
</tr>
<tr>
<td>FRO</td>
<td>Approved</td>
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</table>

**RECOMMENDATION**

Staff has no objection to conditional approval of this 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-538, AP 18726), 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. Add a reference to the private access easement recorded in L.6908 F397.
3. Add the front BRLs to the plat and revise the BRL table to reflect the GC zoning requirements.
4. Add the recordation references for the W&S easements prior to plat recordation.
5. The Combined Preliminary/Final Plat approval is valid for three (3) years from the date of FcPc approval. Therefore, the Plat approval expires on October 10, 2021.

**PLANNING COMMISSION ACTION**

**MOTION TO APPROVE**

I move that the Planning Commission APPROVE S-538 (AP 18726), including APFO approval (AP 18580) with the 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.
ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Harding Farm, Section 3, Lot 1RB (Love My Car Carwash)

Combined Preliminary / Final Plat, Subdivision S-538, AP#18580

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Love My Car Carwash, Inc. (the "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 Harding Farm, Section 3, Lot 1RB (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 subdivision of the Developer's 2.622 +/- acre parcel of land, which is zoned General Commercial and located in the southeast quadrant of the intersection of Spectrum Drive and Holiday Drive. This APFO approval will be for the addition of a one-tunnel car wash on lot 1RB, which is shown on the site plan (AP#18579) associated with the preliminary / final plat for the above-referenced Project, which was conditionally approved by the Commission on October 10, 2018.

Schools: Schools are not impacted because the development of the property is a non-residential use.

Water and Sewer: Lot water and sewer classifications are W-1 / S-1. While the public sewer and water facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded or that building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable County regulations, including but not limited to Sec. 1-18-106 of the Frederick County Subdivision Regulations.

Road Improvements: Based on a Traffic Impact Analysis entitled "Love My Car Carwash", submitted by the Traffic Group dated June 8, 2018, the Project will generate
40 weekday PM and 98 Saturday mid-day peak trips and is not required to mitigate road improvements per §1-20-31(D) because an adequate Level of Service is attained with site traffic added to background traffic conditions.

In satisfaction of APFO requirements per 1-20-12(H) to provide fair share contributions to existing escrow accounts, the Developer shall pay into County-held escrow accounts the following pro rata contribution:

1. MD 85 (Buckeystown Pike) / MD 355 (Urbana Pike) Intersection: construction of an eastbound acceleration lane or second signalized northbound right turn lane. Contribute the appropriate pro-rata share (1.76% of $438,500) to Existing Escrow Account No. 3287 for improvement of this intersection by others. As determined by the County Traffic Engineer, pro-rata contribution to this road improvement is $7,718.

2. MD 85 (Buckeystown Pike) / Guilford Road Intersection: construction of a second northbound left turn lane and westbound receiving lanes. Contribute the appropriate pro-rata share (0.76% of $549,491) to Existing Escrow Account No. 3976 for improvement of this intersection by others. As determined by the County Traffic Engineer, pro-rata contribution to this road improvement is $4,176.

3. MD 85 (Buckeystown Pike) / Grove Road Intersection: construction of pedestrian improvements. Contribute the appropriate pro-rata share (0.31% of $121,200) to Existing Escrow Account No. 4292 for improvement of this intersection by others. As determined by the County Traffic Engineer, pro-rata contribution to this road improvement is $376.

4. MD 85 (Buckeystown Pike) / Spectrum Drive Intersection: construction of an additional southbound through lane. Contribute the appropriate pro-rata share (1.14% of $1,830,220) to Existing Escrow Account No. 4025 for improvement of this intersection by others. As determined by the County Traffic Engineer, pro-rata contribution to this road improvement is $20,865.

Therefore, prior to lot recordation, the Developer hereby agrees to pay $33,135 to the escrow accounts described above for the Road Improvement. 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 three (3) years from the date of Commission approval; therefore, the APFO approval expires on October 10, 2021.
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 on next page]
LOVE MY CAR CARWASH, INC.:

By: [Signature] Date: 9/6/2018
Robert Haddad, Owner

FREDERICK COUNTY PLANNING COMMISSION:

By: Bob White, Chair or Sharon Suarez, Secretary

ATTEST:

By: Gary Hessong, Director, Permits & Inspections

Planner's Initials / Date

County Attorney's Office Initials / Date

(Approved as to legal form)