FREDERICK COUNTY PLANNING COMMISSION
March 13, 2019

TITLE: Woodland Estates, Section 3
Lot 5 & Remainder

FILE NUMBER: S-991, AP 17365, FRO 17366

REQUEST: Combined Preliminary/Final Plat Approval
The Applicant is requesting approval to subdivide a 144.6
acre property into one (1) lot and a Remainder in a major
subdivision.

PROJECT INFORMATION:
LOCATION: 11421 Daysville Road, 300’ west of Oak Tree Circle
ZONE: Resource Conservation (RC)
REGION: Walkersville
WATER/SEWER: NPS/NPS
COMP. PLAN/LAND USE: Natural Resource

APPLICANT/REPRESENTATIVES:
APPLICANT: Musselman Properties, LLC
OWNER: Musselman Properties, LLC
ENGINEER: VanMar Associates, Inc.
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Graham T. Hubbard, Principal Planner I

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
Exhibit 1 – Combined Preliminary/Final Plat Rendering
STAFF REPORT

ISSUE
The Applicant is requesting combined preliminary/final plat approval for 1 new lot on a 144.6 acre property.

BACKGROUND
This property has been the subject of several subdivision applications since 1965.
- 1988- Section 1, Lots 1 and 2.
- 1989- Section 2, Lot 1
- 1992- Section 3, Lot 6
- 1995- Section 3, Lot 4

Five (5) lots have been created from the original 1965 parcel. This application proposes creation of the 6th lot since 1965 and is considered a major subdivision, requiring FcPc review and approval.

Existing Site Characteristics

The property consists primarily of forest, with some cleared areas in the north-central portion. The proposed Remainder (eastern half) contains an existing 1 story frame house and several accessory structures. The proposed Lot 5 (western half) would be developed with a single family residence. An existing forest conservation banking easement spans most of the property, with the exception of an area that was set aside for a future home site. This plat would essentially swap out the area of easement where the house is currently proposed (close to the road) and provide forest conservation easement to “fill in” the area previously intended for the home site.
ANALYSIS

A. ZONING ORDINANCE REQUIREMENTS

1. District Regulations, Design Requirements For Specific Districts §1-19-6.100: 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 5 will be 71.03 acres and the Remainder will be 72.27 acres. The required front, rear, and side setbacks are shown and noted on the plan and meet the Zoning Ordinance requirements.


    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 house, septic field, and well are not within areas of steep slopes of 25% or greater.

    (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 flooding soils identified on the site, but an area of 100-year FEMA floodplain is situated along the eastern border, entirely within the Forest Conservation easement.

    (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.

    The plan 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.

    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 on Lot 5 is situated close to the public road which will minimize forest disturbance. No more than 40,000 square feet of forest will be cleared for the proposed Lot 5 house site, as delineated by the Limit of Disturbance on the plat.

   (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.

There are several streams that traverse the property. Waterbody buffers ranging from 100’ to 150’ have been provided for these streams in accordance with Section 1-19-9.400. The proposed house site is not located within a waterbody buffer.

**Zoning Ordinance Requirements Findings/Conclusions**

The proposed subdivision will meet all Zoning Ordinance requirements.

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**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 Natural Resource. The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning...
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, 100-year FEMA floodplain, wooded areas, wetlands, and several streams. The proposed development avoids these features. The proposed land use will be similar to the uses found on the adjoining properties.

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.

No wet soils are mapped on the property.

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 5 and the Remainder will access Daysville Road by utilizing the existing 12 foot wide common driveway that serves the property. Daysville 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.

No panhandle lots are proposed.

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.
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 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 3rd lot from the original parcel since 1991. Testing for APFO is required for the 6th and subsequent lots created since 1991.

**Forest Resource Ordinance – Chapter 1-21:** A Combined Preliminary/Final Forest Conservation Plan has been approved for Lot 5. The Applicant has filed a Declaration of Intent to exempt the Remainder from FRO requirements. The Remainder is exempt from the FRO with a Real Estate Transfer exemption because the transfer does not involve a change in land use, or new development or redevelopment, or land disturbing activities. An existing forest conservation banking easement spans most of the property, with the exception of an area that was set aside for a future home site. The proposed FRO Plan would release a portion of forest easement for the proposed house site (close to the road) and place an equal amount of forest easement to fill in the area previously intended for the home site. FRO mitigation (easement recordation) must be provided prior to lot recodation and prior to permits.

### 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>
<td>Conditionally Approved</td>
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<tr>
<td>Development Review Planning:</td>
<td>Hold. Address all agency comments. FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.</td>
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<tr>
<td>State Highway Administration (SHA):</td>
<td>N/A</td>
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<td>Div. of Utilities and Solid Waste Mngt. (DUSWM):</td>
<td>N/A</td>
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<tr>
<td>Health Dept.</td>
<td>Hold. Need to have a well driller submit a well evaluation report with the well depth, grouting (if possible), yield and well information. Well must have a vermin proof cap. Existing well must meet all current COMAR requirements. Need to have a <em>t.coliform</em> and <em>e.coli</em> test collected by a licensed sampler and processed at a state certified lab.</td>
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<tr>
<td>Office of Life Safety</td>
<td>N/A</td>
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<tr>
<td>DPDR Traffic Engineering</td>
<td>Approved</td>
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<td>Historic Preservation</td>
<td>N/A</td>
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RECOMMENDATION

Staff has no objection to conditional approval of this Combined Preliminary/Final Plat for Woodland Estates, Section 3, Lot 5 and Remainder. If the Planning Commission conditionally approves the plat, it is valid for a period of five (5) years from the date of Planning Commission approval (March 13, 2024).

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 Planning Commission grant approval of this application (S-991, AP 17365), Staff recommends that the following items be added as conditions to the approval:

Staff-proposed conditions of approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.

2. FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.

3. The plan 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.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission APPROVE S-991 (AP 17365) with conditions as listed in the staff report for the proposed Combined Preliminary/Final Plat approval for 1 new lot on a 144.6 acre property, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.