

R E S O L U T I O N

WHEREAS, Miles D. Bower is the owner of a 19.96-acre parcel of land known as part of Parcel 85, Tax Map 122/C-4, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on April 5, 2001, Land and Commercial, Inc. filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 19 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-01027, Riverview Reserve was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on June 7, 2001 for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on June 7, 2001, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plat of Subdivision 4-01027, Riverview Reserve for Lots 1-19 with the following conditions:

1. Prior to approval of the final plat of subdivision the applicant shall pay a fee-in-lieu of parkland dedication for each lot under one acre in size.
2. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assigns shall pay an Adequate Public Facilities fee of \$2,160.00 per dwelling unit unless fully offset by a school facility surcharge payment. Any amount not offset shall be paid and divided among the schools at a rate determined by the guidelines. This adequate public facilities fee would be placed in an account to relieve overcrowding at Potomac Landing Elementary School.
3. The applicant shall obtain approval from DPW&T for the construction of double access aprons, to be constructed for Lots 2 and 3, Lots 4 and 5, Lots 6 and 7, Lots 8 and 9, Lots 10 and 11, Lots 13 and 14, Lots 15 and 16, and Lots 18 and 19. Any modification to this condition shall require approval by the Planning Director or the designee.
4. A Class III bikeway, a minimum five-foot wide (including the gutter pan), hard-surface shoulder shall be constructed along the subject property=s entire frontage of Riverview

Road.

5. Development of this subdivision shall be in accordance with the approved Stormwater Management Concept Plan #7982-2001.
6. Prior to signature approval the preliminary plan shall be revised:
 - a. To provide the net lot area of the proposed flag lots, exclusive of the flag stems.
 - b. To extend the limits of no direct access to Riverview Road from Lot 17, an additional 50 feet to the south.
 - c. To provide the net tract area exclusive of land to be dedicated for the public right-of-way.
7. Prior to approval of the final plat of subdivision the applicant, his assessors and/or assigns shall submit a phase one environmental assessment of the property to the Health Department for approval.
8. Prior to the approval of building permits for Lots 4, 5, and 8, a limited Detailed Site Plan shall be approved by the Planning Board or their designee. The limited DSP shall ensure compatibility with the historic context of the Lyles Family graveyard, located on part of Parcel 85, to the west. In the event that the graveyard is approved for relocation by the State=s Attorney=s office prior to the approval of building permits for those lots, a limited detailed site plan shall not be required.
9. Prior to the approval of the final plat of subdivision the applicant, his heirs, successors and or assigns shall submit a copy of covenants, recorded in land records, which will guide development of the proposed dwellings. The covenants shall help to ensure that the proposed dwelling units are compatible and in character with the surrounding neighborhood.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The subject property is located on the east side of Riverview Road in Fort Washington. The property is in the south east quadrant, at a location where Riverview Road turns ninety degrees in an easterly direction, and is intersected by Riverview Road West. The property is located approximately 2,000 feet east of the Potomac River and is not located within the limits of the Chesapeake Bay Critical Area. The property is generally located at a higher elevation than the surrounding property. The applicant has proposed a A stacked@ lotting pattern that will allow all the dwellings to be sited facing the Potomac

River. Currently, the portion of Parcel 85 on the west side of Riverview Road, across the street from the subject site, is generally void of trees, which enhances the possibility of a view from the subject property of the Potomac River.

3. Environmental - This site is not subject to the provisions of the Woodland Conservation Ordinance because it contains less than 10,000 square feet of woodland and is not subject to a previously approved Tree Conservation Plan. The Environmental Planning Section has reviewed the Preliminary Plan and finds that the submission meets all applicable environmental requirements. An exemption letter will be required to be submitted with any application for permit.

A review of the information available indicates that no streams, wetlands, 100-year floodplain, or steep and severe slopes are found to occur on this property. The site is located in the Swan Creek watershed, which is a tributary to the Potomac River. No adverse off-site noise impacts have been identified which would limit the development of this property for this use.

The soils found to occur on this property, according to the Prince George=s County Soil Survey, include the Keyport and Galestown series. The Keyport series has a K factor of 0.43 and has limitations with respect to seasonally high water tables and impeded drainage. The Galestown series has no significant limitations. A soils study may be required by the Department of Environmental Resources prior to the issuance of permits. There are no rare, threatened or endangered species located in the vicinity of this property based on information provided by the Maryland Department of Natural Resources - Natural Heritage Program. There are no scenic or historic roads in the vicinity.

The Comprehensive Ten Year Water and Sewerage Plan designates this property in water and sewer category 3.

4. Historic - The Riverview Reserve subdivision is proposed to be developed on that part of Parcel 85 which lies on the east side of Riverview Road. Parcel 85, assessed as 43.55 acres, also comprises, on the west side of Riverview Road, an area of land that stretches to the bank of the Potomac River.

That portion of Parcel 85 located to the west of Riverview Road (not the subject property) is listed in the AInventory of Historic Resources@ of the *Historic Sites and Resources Plan 1992*, as Historic Resource 80-14, *Tent Landing*. The Lyles Family Graveyard is located on this property. This private burial ground includes five handsome altar tombs

dating from 1826 and 1828. They are the burials of Dennis Magruder Lyles, who died in August 1828, and four of his minor children who died in July, August, September and December 1826.

This grouping of altar tombs is an important visual feature of the property. A swimming pool and bath house are also located near the western edge of the property. Historic Resource 80-14 is listed as *Tent Landing*, however a recent archeological investigation (*An Archeological Reconnaissance Survey of Proposed Fort Washington Lifecare Retirement Community, Prince George=s County, Maryland*, John Milner Associates, Inc., 1988) strongly suggests that the nineteenth-century *Tent Landing* was actually located approximately one-fourth mile to the north, and not on that portion of Parcel 85 located across Riverview Road from the subject property.

Burial Grounds are protected by State Law (see Sections 265 and 267 of Article 27 of the *Annotated Code of Maryland*). Any proposed changes to burial grounds must receive approval from the State=s Attorney. There are also requirements for the treatment of burial grounds that are affected by development pursuant to Section 24-135.02 of the Subdivision Regulations. The developer has applied to the State=s Attorney for legal permission to move the burials and markers of the Lyles Family Graveyard.

The subject development plan involves only that section of the parcel on the east side of Riverview Road and does not include the burial ground. The subject property is separated from the western part of the property by the north-south line of Riverview Road.

Six of the nineteen proposed lots are flag lots; of those Lots 4, 5, and 8 will be visible from the Lyles Family Graveyard. If a decision is reached by the States Attorney=s office that the Lyles Family Graveyard is to remain on Parcel 85, staff recommends that a limited Detailed Site Plan (DSP) for Lots 4, 5 and 8 be required. The limited DSP should include the review of sight lines from the graveyard to the locations of the proposed structures on these lots. In addition the limited DSP shall address siting, architecture, rooflines and building materials for the dwellings to be constructed on those lots. Review of a limited DSP will ensure that siting and massing (size and scale) of the proposed dwellings on Lots 4, 5, and 8 are compatible with the historic context of the graveyard.

If the applicant demonstrates through appropriate documentation from the States Attorney=s office that the graveyard has been relocated, a limited detailed site plan would not be required.

5. Community Planning - This proposal for 19 residential lots in the R-E Zone conforms with the land use recommendations of the 1981 Master Plan and the 1984 *SMA for Subregion VII*, which recommends Large Lot Areas or Agricultural Areas.

The subject property has existed as a large estate lot with a private airstrip. It is a non-conforming use that existed prior to adoption of zoning for this portion of Prince

Goerge=s County. The airport is licensed by the Maryland Aviation Administration as a private use airport. This airport has had little use in recent years and is therefore not known to have been a neighborhood nuisance. The lack of residential development on surrounding properties is also believed to have contributed to the lack of complaints relating to the airport use.

However, there are few, if any, regulatory limits on the amount of air traffic that can use this airport facility as invited guests. As this part of the Fort Washington community continues to develop with more residential homes, in accordance with master plan recommendations, the potential for incompatibility with the private aircraft operations will increase. Conversion of this non-conforming airstrip to residential use removes that threat.

6. Parks and Recreation - In accordance with Section 24-134(a)(3)(B) of the Subdivision Regulations all the lots over one acre in size are exempt from the requirement for mandatory dedication of parkland. However, in accordance with Section 24-134(a), the Park Planning and Development Division recommends that a fee-in-lieu of dedication of parkland be required for each lot below one acre in size. A fee-in-lieu is required because the land available for dedication of parkland is unsuitable due to size and location.
7. Trails - The 1985 Equestrian Addendum to the Adopted and Approved Countywide Trails Plan designates Riverview Road as a Class III bikeway and is recommended for a master plan trail/bikeway. Staff recommends that, a minimum five-foot wide (including the gutter pan), hard-surface shoulder should be constructed along the subject property=s entire frontage of Riverview Road.
8. Transportation - The Transportation Planning Section has reviewed the subject application. The property is located south and east of Riverview Road, near its intersection with River Road West and approximately 4,500 feet west of its intersection with Fort Washington Road. The applicant proposes a residential subdivision of 19 single family detached lots on the site.

The transportation staff determined that weekday traffic counts were needed at the signalized intersection of Fort Washington Road and Riverview Road. In response, the applicant submitted traffic counts taken May 2001 at this location and along Riverview Road in front of the subject property. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

Summary of Traffic Impacts

The staff has reviewed weekday traffic operations in the vicinity of the site using new counts taken in May 2001. The staff is specifically analyzing the following intersection:

Fort Washington Road/Riverview Road (signalized)

Existing conditions at the critical intersection in the AM peak hour are Level-of-Service (LOS) A, with a critical lane volume (CLV) of 809. In the PM peak hour, operating conditions are LOS A with a CLV of 902. This analysis indicates that acceptable traffic conditions exist adjacent to the site.

A review of background development in the area was conducted by staff, and five significant approved but unbuilt developments were identified in the immediate area. The transportation staff assumed no growth rates for through traffic since neither street is likely to serve traffic outside of the immediate area. There are no improvements to roadways in the area which are funded in either the County Capital Improvement Program or the State Consolidated Transportation Program. Background traffic conditions at the critical intersection are LOS A with a CLV of 865 in the AM peak hour, and LOS A with a CLV of 969 in the PM peak hour.

The *Guidelines* contain trip generation rates for residential development. A total of 19 single family residences are proposed, which would generate 14 AM peak hour vehicle trips (2 in and 12 out) and 17 PM peak hour vehicle trips (12 in and 5 out). These trips would be distributed as follows:

90 percent northbound along Fort Washington Road and, 10 percent southbound along Fort Washington Road. Total traffic conditions at the critical intersection are LOS A with a CLV of 877 in the AM peak hour, and LOS A with a CLV of 986 in the PM peak hour.

The Prince George's County Planning Board, in the *Guidelines for the Analysis of the Traffic Impact of Development Proposals* has defined level of service D (LOS D) as the lowest acceptable operating condition on the transportation system. The critical intersections have been found to be operating acceptably, at LOS D or better, in both peak hours with the proposed development of the subject property.

The proposed development is not adjacent to any master plan roadways. Dedication shown on the plan along Riverview Road is acceptable and consistent with past dedication for adjacent properties.

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

9. Schools - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Regulations to Analyze the Development Impact on Public School Facilities* (revised January 2001) (CR-4-1998) and finds the following:

Projected Impact on Affected Public Schools

Affected School Name	D.U. by Type	Pupil Yield Factor	Development Pupil Yield	5-Year Projection	Adjusted Enrollment	Total Projected Enrollment	State Rated Capacity	Projected% Capacity
Potomac Landing Elementary School	19 SFD	0.24	4.56	540	0	544.56	494	110.23%
Eugene Burroughs Middle School	19 SFD	0.06	1.14	869	0	870.14	999	87.10%
Friendly High School	19 SFD	0.12	2.28	1529	0	1531.28	1593	96.13%

Source: Prince George=s County Planning Department, M-NCPPC, January 2001

Since the affected Potomac Landing Elementary School projected percentage of capacity is greater than 105%, an Adequate Public Facilities fee of \$2,160.00 per dwelling unit is required. The amount of the Adequate Public Facilities fee for schools shall be offset by the School Facilities Surcharge. Any amount not offset shall be paid and divided among the schools at a rate determined by the guidelines.

10. Fire and Rescue - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities and concluded the following:
 - a. The existing fire engine service at Allentown Road Fire Station, Company 47 located at 10900 Fort Washington Road has a service response time of 4.17 minutes which is within the 5.25 minutes response time guideline.
 - b. The existing ambulance service at Allentown Road Fire Station, Company 47 located at 10900 Fort Washington Road has a service response time of 4.17 minutes which is within the 6.25 minutes response time guideline.
 - c. The existing paramedic service at Allentown Road Fire Station, Company 47 located at 10900 Fort Washington Road has a service response time of 4.17 minutes, which is within the 7.25 minutes response time guideline.
 - d. The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic service.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

11. Police Facilities - The proposed development is within the service area for Police District IV-Oxon Hill. In accordance with Section 24-122.01(c)(1) of the Subdivision Regulations the existing County's police facilities will be adequate to serve the proposed Riverview Reserve development. This police facility will adequately serve the population generated by the proposed subdivision.
12. Health Department - The Health Department has reviewed the proposed subdivision and offers the following comments:
 - a. Any septic system that had served the residences of this property must be backfilled after being pumped by a licensed scavenger. The septic systems are considered abandoned and should be located on the preliminary plan.
 - b. The shallow well on the property is no longer used as a potable water supply. If the applicant wishes to use the well for agricultural uses, then a request in writing must be submitted to the Health Department. However, to maintain the well, the well must be structurally sound, located 100 feet from sources of contamination, and show through laboratory analysis that it is not ducally contaminated. A sign must be posted near the well if it is to remain, warning individuals that the well is not portable and is unsafe to drink.

If the well is not to be retained then it must be backfilled and sealed in accordance with Code of Maryland Regulations 26.04.04 by a licenced well driller or witnesses by a representation of the Environmental Engineering Program prior to approval of the final plat of subdivision.
 - c. A raze permit is required prior to the removal of any of the structures on site. Removal of any hazardous material from the buildings to be razed will be required through that approval process. A raze permit can be obtained through the Department of Environmental Resources.
 - d. Because the site previously contained a private airport a Phase I Environmental Assessment of the property should occur prior to approval of the final plat to determine if any environmental impacts occurred due to the airport use.
13. Stormwater Management - The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is not required. A Stormwater Management Concept Plan, #7982-2001, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.
14. Lot Size Averaging - The applicant has proposed to utilize the Lot Size Averaging (LSA) provision provided for in Section 24-121(a)(12) of the Subdivision Regulations for this R-E zoned property.

The subject property is approximately 19.96 acres of land. Section 27-423 of the Prince George=s County Zoning Ordinance establishes the zoning requirements for lot size averaging. Specifically, in the R-E Zone:

- A. The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (40,000 square feet).
- B. At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (40,000 square feet).

For this 19.09 net acres of land, 20 lots would be allowed (831,700 sq.ft / 40,000). The applicant proposes 19 lots. Twelve of the proposed lots meet or exceed 40,000 square feet. Therefore, the proposed subdivision meets the minimum zoning ordinance standards for lot size averaging.

Further, Section 24-121(a)(12) requires that the Planning Board make the following findings in permitting the use of lot size averaging:

- A. **The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.**

The subdivision layout as proposed by the applicant provides for larger, more private lots at the rear, in a more environmentally sound manner than could be obtained under a conventional R-E zone lotting pattern. The layout with the smaller lots fronting the road and the large lots stacked behind them provides retention of the natural contour of the land by retaining the rear yards on the larger flag lots and the site in general, in a natural state. The layout proposes to substantially reduce the amount of new impervious area and its potential storm water run off by eliminating the need for a new public street through the property to provide access for a conventional layout. The provision of a street for access would have required substantial grading of the site.

- B. **The subdivision design provides for an adequate transition between the proposed lot sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.**

The proposed subdivision provides for an adequate transition between the reduced lot sizes and the abutting properties by locating them in the center of the site, abutting Riverview Road. The conventional 40,000 to 65,000 square foot lots are proposed around those lots abutting the sites perimeter. In general the conventional R-E Zone lot frontage required at the street is held by the small lots to provide a uniform appearance with the adjoining R-E zoned properties.

C. The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.

The major natural feature of the property is its openness, and smooth natural contours with views of the Potomac River. The applicant has proposed a lotting pattern that will assist in retaining this natural feature by minimizing the need for grading. By utilizing the development tool of lot size averaging the applicant has proposed the dwellings towards the western portion of the site, retaining the large open areas to the rear of the larger lots to the east.

Staff supports the applicants proposal to utilize the LSA provision for the development of this property.

15. Flag Lot - The proposal includes six flag lots, proposed Lot 2, 3, 6, 7, 10, and 11. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. The proposed flag lots satisfies the design standards found in Section 24-138.01(d) as follows:
- a. **A maximum of two tiers are permitted.** The applicant is proposing three-two tier flag lots.
 - b. **The flag stem has a minimum width of 25 feet for the entire length of the stem. This minimum shall be maintained from the street line to the lot area. Driveways located within flag stems serving single lots shall be set back a minimum of 5 feet from the parallel lot lines, unless modified to address unique site characteristics.** The applicant is proposing a 25-foot wide flag stem for all the flag lots to be maintained from the street to the lot area. However, the applicant has proposed double access aprons to minimize the number of access points onto Riverview Road. Therefore, the driveways at the street line will not maintain a 5-foot setback from the lot line at the street. Because of the properties unique terrain and the applicant desire to preserve this environmental feature staff supports the modification to this design standard where necessary to accomplish the double access aprons at the street.
 - c. **The net lot area, exclusive of the stem, must meet the minimum lot size standard.** Based on the scale drawing the net lot area of each of the flag lots exceeds the minimum 40,000 square feet of net lot area required for Lot Size Averaging in the R-E Zone. Lots 2, 3, 6, 7, 10, and 11 are proposed as part of the conventional 40,000 square foot lots in this development to meet the LSA provision of Section 27-423 of the Zoning Ordinance. However, the preliminary plat does not distinguish the area of the stem from the net lot area. Prior to the signature approval of the preliminary plat it should be revised to show the correct net lot area for the proposed flag lots.

The proposed flag lots satisfy the required findings found in Section 24-138.01(f)(1) as follows:

- (A) **The design is clearly superior to what would have been achieved under conventional subdivision techniques.** The applicant submitted with the application for subdivision review a proposed conventional lot layout. Although the layout provided for internal circulation instead of direct vehicular access onto Riverview Road, extensive grading would have been required to provide an internal public street. Further, the orientation of the dwellings along the internal public street sited the houses with backs and sides of dwellings to Riverview Road. This property has a significant view of the Potomac River, orienting the fronts of houses to the Riverview Road and the Potomac River incorporates this significant view into the design of the development.
- (B) **The transportation system will function safely and efficiently.** The applicant proposal to provide double access aprons onto Riverview Road which reduces the number of access points from 19 to 11. In addition Lot 17, which was of concern originally will be restricted in its access location to provide the most sight distance available in a safe manner to the residence of that lot. The Transportation Planning Section has reviewed the proposal and recommends approval based on a through site review and evaluation.
- (C) **The use of flag lots will result in the creative design of a development that blends harmoniously with the site and with adjacent development.** The major natural feature of the property is its openness, and smooth natural contours with views of the Potomac River. The applicant has proposed a lotting pattern that will assist in retaining this natural feature of the site by minimizing the need for grading. By utilizing the development tool of flag lots the applicant has proposed to locate the dwellings towards the western portion of the site and retaining the large open areas to the rear of the larger lots to the east. This also helps to preserve the natural views of the River from the subject property. The surrounding properties are generally undeveloped, with no clear development pattern.
- (D) **The privacy of adjoining property owners has been assured in accordance the evaluation criteria established above.** The proposed development is in harmony with the surrounding development which is limited at this time. The site will be developed in accordance with the Prince George=s County Landscape Manual which sets forth the buffering requirements in Prince George=s County for development.

Staff supports the applicants use of flag lots in accordance with Section 24-138.01(d) and Section 24-138.01(f)(1) of the Subdivision Regulations.

16. At the June 7, 2001 Planning Board hearing for the subject case, citizens voiced concerns

regarding the quality and compatibility of the proposed dwellings in relationship to the surrounding well established neighborhood. At the hearing the applicant proffered recordation of covenants which would guide development of dwellings on the site. The proposed covenants would ensure quality development and the compatibility of the proposed dwelling units with the surrounding neighborhood. The covenants may relate to construction materials and the square footage of dwellings. The applicant proffered to sit down with the homeowners associations to acquaint them with the types of conditions and restrictions the applicant intends to place on this subdivision prior to recordation so they will be familiar with the recorded document.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with Circuit Court for Prince George=s County, Maryland within thirty (30) days following the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Lowe, with Commissioners Eley, Lowe, Brown, Scott and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, June 7, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 21st day of June 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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