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## Preliminary Plan 4-04003

Application	General Data
<b>Project Name:</b> <b>RIVER'S EDGE</b>  <b>Location:</b> West side of Riverview Road, approximately 1,600 feet south of West Riverview Road.  <b>Applicant/Address:</b> Florida on the Potomac 14416 Old Mill Road, Suite #201 Upper Marlboro, MD. 20772	Date Accepted: 03/4/04
	Planning Board Action Limit: 05/12/04
	Plan Acreage: 23.50
	Zone: R-E/R-C-O
	Lots: 8
	Outlot: 1
	Planning Area: 80
	Tier: Developing
	Council District: 08
	Municipality: N/A
	200-Scale Base Map: 214SW01

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners Previous Parties of Record 01/20/04 Registered Associations: (CB-58-2003)
	Sign(s) Posted on Site: 04/21/04

Staff Recommendation		Staff Reviewer: Whitney Chellis	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-04003  
River's Edge Lots 1-8 and Outlot A

OVERVIEW

The subject property is located on Tax Map 122, Grid C-4, and is known as Parcel 153, never having been the subject of a record plat of subdivision. The property is approximately 23.50 acres and is zoned R-E. The property has frontage on Riverview Road to the east and is abutting the Potomac River to the west. Approximately 13.64 acres of the property are located within the Chesapeake Bay Critical Area in the Resource Conservation Overlay Zone (R-C-O).

The applicant is proposing to subdivide the property into eight lots and one outlot. The lots are on the 9.86 acres of the property located outside the R-C-O Zone. The eight lots are proposed in conformance with the conventional standards for development in the R-E Zone. The minimum lot size in the R-E Zone is 40,000 square feet. The proposed lots range in size from 43,700 square feet to 54,600 square feet. Access is proposed via Riverview Road. The applicant has proposed to extend a 60-foot-wide dedicated public street into the property to provide the 50 feet of street frontage required on a public right-of-way for the construction of single-family dwellings in the R-E Zone.

The property is currently improved with an uninhabitable single-family dwelling unit, an accessory pool, and a boat ramp to the Potomac River. The existing dwelling is located within the R-C-O Zone. The existing pool and boat ramp are located within the 100-foot primary buffer of the Potomac River. Section 27-548.17 of the Zoning Ordinance requires a minimum lot size in the R-C-O of 20 acres for a single-family dwelling unit. However, Section 27-548.10(c) provides for the grandfathering of lots and parcels created prior to the enactment of the CBCA overlay zones. This section provides that all buildable lots (except outlots) within a subdivision recorded prior to December 1, 1985, shall remain buildable lots, regardless of lot size, in certain circumstance. Because the applicant is proposing to subdivide Parcel 153 beyond the configuration that existed in 1985, the applicant is subject to all current code requirements for new lots. Therefore, in order to retain the existing dwelling located within the R-C-O, a 20-acre lot must be created for the dwelling. The grandfather provision is silent to existing dwellings but is specific to grandfathering of existing "lots" and sets forth standards for proposed lots.

Originally the applicant proposed to retain the existing dwelling on Outlot A. However, staff advised the applicant that Section 24-101(b)(8) of the Subdivision Regulations defines an outlot as a piece or parcel of land that remains within a subdivision but which does not meet the minimum requirements of the Zoning Ordinance for a buildable lot and is, therefore, not usable as a legal building site. Therefore, staff advised the applicant that the existing dwelling and accessory structures must be removed from the 13.64-acre outlot. Staff was concerned that it could be construed that the outlot was in fact a buildable lot because of the existing dwelling. Creating an outlot with an existing dwelling is contradictory to the definition of an outlot.

The applicant then considered the creation of a lot instead of an outlot to contain the existing dwelling. However, staff advised the applicant that the creation of a “new” lot within the R-C-O Zone required a minimum lot size of 20 acres. The Chesapeake Bay Critical Area Commission has agreed with staff that a lot can contain portions of land within the R-C-O and not be required to be created at 20 acres, if the dwelling is to be constructed outside the R-C-O-zoned portion of the property. Section 27-118.01 of the Zoning Ordinance provides that a lot may be classified in more than one zone. Further, a determination by the Associate General Council (McIntyre to Von Adelung Bond) dated 1988 sets forth that the location of the principle use of the property may guide the development standards associated with an individual lot. In the case cited in the 1988 memorandum, the property was split-zoned R-A and O-S. The property’s street frontage was in the R-A Zone and the dwelling was to be constructed on the R-A-zoned portion of the property. It was determined that the minimum lot size would be consistent with the regulations of the R-A Zone and that the O-S-zoned portion of the property could be utilized in meeting the lot size required in the R-A Zone.

Therefore, the applicant had two options. Revise the preliminary plan to create one 20-acre lot to retain the existing dwelling in the R-C-O Zone and create two new 40,000 square foot lots outside the R-C-O Zone. The second option was to raze the existing dwelling and incorporate the 13.64 of R-C-O-zoned land into one of the proposed 40,000-square-foot lots. This would create a 14.55-acre lot. This lot would be split-zoned, with a portion of the lot being zoned R-C-O and a portion being zoned R-E. The applicant could then propose the construction of the dwelling within the R-E-zoned portion of the property; a building restriction line consistent with the zoning line between the R-C-O and R-E Zone would preserve the R-C-O-zoned portion of the property. This proposal would then be consistent with the interpretation set forth in the Associate General Council memorandum (McIntyre to Von Adelung Bond) dated 1988. The proposed preliminary plan would then be eight lots and incorporate the outlot into one of the lots located at the end of the cul-de-sac, extending into the property from Riverview Road. Staff is recommending that the preliminary plan be revised consistent with the second scenario described above.

There are several items of note relating to this property. The property is currently the subject of a rezoning application (A-9905), which is pending. The applicant is requesting the rezoning of the R-C-O portion of the property (13.64 acres) to the Limited Development Overlay Zone (LDO). The LDO would allow for the subdivision of the land consistent with the underlying zoning of the property, R-E (40,000-square-foot lot sizes), as opposed to the R-C-O requirement of 20 acres. The rezoning case is pending and has no bearing on the preliminary plan application at this time. The site has also been the subject of intense scrutiny regarding its designation as Historic Site #80-14, Broad Creek Archeological Site, as discussed further in Finding 12 of this report. And finally as indicated, the property is located within the Chesapeake Bay Critical Area; the portion of the property zoned R-C-O is subject a Chesapeake Bay Critical Area Conservation Plan. Conservation Plan CP-04008 is a subject of this preliminary plan application and is discussed further in Finding 2 of this report.

## SETTING

The property is located on the west side of Riverview Road approximately 1,900 feet north of its intersection with Sero Estates Drive in the Broad Creek Community. The undeveloped Tent Landing Subdivision is abutting to the north, zoned R-E and R-R, also subject to the R-C-O Zone. To the east across Riverview Road is the Riverview Road Subdivision, recently subdivided (REP-192@70). To the south are large acreage parcels of land, generally developed with single-family dwellings, zoned R-E and R-C-O.

## FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	R-E, R-C-O	R-E, R-C-O
Use(s)	Residential	Residential
Acreage	23.50	23.50
Lots	0	8
Outlots	0	1
Parcels	1	0
Dwelling Units:		
Detached	1 (to be razed)	8 (proposed)

2. **Environmental**—The Environmental Planning Section previously reviewed a Zoning Map Amendment for a portion of this property, A-9955. This 23.50-acre property includes 13.64 acres of land in the Chesapeake Bay Critical Area (CBCA) that is currently zoned R-E/R-C-O and is the subject of A-9955 for a rezoning to R-E/L-D-O. A-9955 is pending before the Zoning Hearing Examiner at this time. This plan is being reviewed under the current zoning.

The property does not include streams, wetlands, floodplains or the associated buffers to these features. No areas of steep slopes with highly erodible soils or areas of severe slopes have been found to occur on the property. There are no nearby sources of traffic-generated noise. Marlboro clay is not found to occur in the vicinity of this property. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic or historic roads in the vicinity of the property.

A simplified Forest Stand Delineation (FSD) was submitted for review with A-9955 and was found to satisfy the requirements for an FSD in accordance with the *Prince George’s County Woodland Conservation and Tree Preservation Technical Manual*. The entire 23.50-acre property is exempt from the requirements of the Prince George’s County Woodland Conservation and Tree Preservation Ordinance because 13.64 acres is located in the Chesapeake Bay Critical Area, which has more stringent requirements than the Woodland Conservation Ordinance, and the 9.86-acre portion of the property located outside the CBCA has less than 10,000 square feet of existing woodland.

A portion of the property is within the Chesapeake Bay Critical Area. Section 24-151 of the Subdivision Regulations requires the approval of a Chesapeake Bay Critical Area Conservation Plan by the Planning Board prior to the approval of a Preliminary Plan of Subdivision. Staff is recommending approval of Chesapeake Bay Critical Area Plan, CP-04008.

The CBCA Conservation Plan consists of five sheets: (1) Site Inventory, (2) Development Concept, Preservation Plan, Stormwater Concept Plan, (3) Mitigation Plan, Afforestation Plan, (4) Erosion and Sediment Control Plan, and (5) Sediment Control Detail Sheet.

Sheet #1 correctly indicates there are no threatened or endangered species, no colonial waterbird nesting sites, no forests with interior dwelling bird species, no Natural Heritage Areas, no waterfowl staging areas, no anadromous fish spawning streams, no wetlands, and no tributary streams on the site. The mean high tide line is not shown on the plans and without this line being clearly shown, the location of the 100-foot-wide primary CBCA buffer cannot be determined. The areas containing steep slopes are correctly identified.

Soils boundaries and soil characteristics are correctly shown. The woodlands on the site are adequately described. All existing development features are correctly shown.

Sheet #2 indicates that the existing pool, dwelling, poles and other existing site features are to be removed. The existing access road to the boat ramp and the boat ramp are to remain. A stormdrain is proposed to be installed unless other alternative stormwater management can be provided that does not impact the primary buffer, as discussed in Finding 11 of this report.

Sheet #3 shows the proposed planting of 2.10 acres of mixed native tree species. The required afforestation is 15 percent of the gross tract within the Chesapeake Bay Critical Area or 2.05 acres on the subject property. Planting of the 100-foot buffer is required by the conservation manual and the planting along the northern boundary will serve to increase the size of an existing woodland and meet the 15 percent afforestation requirement. The plan does not show the required and proposed amounts of afforestation. There are also minor revisions needed to the afforestation notes on the plan. These notes must be revised to state that the mowing to occur will only be around individual plants and that the planting of trees will be in a random fashion and not in rows.

Sheet #4 illustrates proposed grading for the installation of the stormdrain; however, it fails to account for the removal of the pool, dwelling, poles and other existing site features. It may be possible to provide stormwater management in the area of proposed Lot 5 and eliminate the need for the stormdrain outfall within the primary buffer. The amount of existing and proposed impervious surfaces should be provided on the CP.

According to the *Prince George's County Soil Survey*, the principal soils on the site are in the Aura, Elkton, Galestown, Keyport and Sassafras soils series. The most significant limitations associated with these soils include high water tables and impeded drainage that would have the greatest impact on sites requiring septic systems; however, public water and sewer are proposed. This information is provided for the applicant's benefit. No further action is needed as it relates to this Preliminary Plan of Subdivision review. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review.

### **Water and Sewer Categories**

The water and sewer service categories are W-3 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003.

3. **Community Planning**—The subject property is located within the limits of the 1981 Master Plan for Subregion VII, Planning Area 80, in the Broad Creek Community. The land use recommendation for the property is residential estate at a density of up to one dwelling unit per acre. The 2002 General Plan locates the property in the Developing Tier. The vision for portions of the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities. The proposed preliminary plan is consistent with the recommendation of the master plan and the General Plan.
4. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, the proposed preliminary plan is exempt from the requirements of the mandatory dedication of parkland because all of the proposed lots exceed one acre in size.

5. **Trails**—The adopted and approved Subregion VII master plan and the 1985 Equestrian Addendum to the adopted and approved Countywide Trails Plan recommend that Riverview Road be designated as a Class III bikeway. Riverview Road was also recently included as part of the Potomac Heritage Trail on-road bicycle route. In keeping with prior approvals along Riverview Road (4-01027), wide asphalt shoulders are recommended to safely accommodate bicyclists. “Share the Road” signage is also recommended to alert motorists to the possibility of in-road bicycle traffic.
6. **Transportation**—The transportation staff determined that a traffic study was not warranted by the size of the proposed development. However, a recent traffic count was available to staff for the intersection of Fort Washington Road and Livingston Road. This was used to determine adequacy. Therefore, the findings and recommendations outlined below are based upon a review of relevant 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.”

The site is within the Developing Tier, as defined in the General Plan for Prince George’s County. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

**Unsignalized intersections:** The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The application is a plan for a residential development of eight single-family dwelling units. The proposed development would generate 6 AM (1 in, 5 out) and 7 PM (5 in, 2 out) peak-hour vehicle trips as determined using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

The traffic generated by the proposed plan would primarily impact the intersection of Fort Washington Road and Livingston Road, which is signalized. The count indicates that the critical intersection currently operates at LOS A (CLV 823) during the AM peak hour and LOS A (CLV 975) during the PM peak hour. With background development, the critical intersection operates at LOS A (CLV 942) during the AM peak hour and LOS B (CLV 1,091) during the PM peak hour. There are no programmed improvements in the county Capital Improvement Program (CIP) or the state Consolidated Transportation Program (CTP).

With the assignment of 6 AM peak-hour trips and 7 PM peak-hour trips, the critical intersection will operate at LOS A (CLV 945) during the AM peak hour and LOS B (CLV 1,094) during the PM peak hour.

Access to the lots would be from River’s Edge Circle, with a 60-foot right of way. The new subdivision road would access existing Riverview Road. Direct access to Riverview Road should not be permitted from the proposed lots, and the applicant will be responsible for the dedication of 30 feet from the centerline of the existing pavement. This is accurately reflected on the

preliminary plan. Riverview Road is maintained by the Prince George's County Department of Public Works and Transportation. The applicant will be responsible for any associated frontage or road improvements recommended by DPW&T. There are no master plan road issues associated with this proposal. Fort Washington Road (C-228) is the nearest master plan roadway.

Based on the preceding findings, the Transportation Planning Section finds that adequate transportation facilities exist to service the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved.

7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

**Finding**

**Impact on Affected Public School Clusters**

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	8 sfd	8 sfd	8 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	1.92	0.48	0.96
Actual Enrollment	4433	4689	8654
Completion Enrollment	156.96	86.22	158.07
Cumulative Enrollment	0.96	32.70	65.40
Total Enrollment	4592.84	4808.40	8878.43
State Rated Capacity	4512	5114	7752
Percent Capacity	101.79	94.02	114.53

Source: Prince George's County Planning Department, M-NCPPC, December 2003

These figures are correct on the day the referral memo was written for this preliminary plan. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts on existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue facilities and concluded the following:
- a. The existing fire engine service at Allentown Fire Station, Company 47, located at 10900 Fort Washington Road has a service travel time of 4.61 minutes, which is within the 5.25-minute travel time guideline.
  - b. The existing ambulance service Allentown Fire Station, Company 47, located at 10900 Fort Washington Road has a service travel time of 4.61 minutes, which is within the 6.25-minute travel time guideline.
  - c. The existing paramedic service at Allentown Fire Station, Company 47, located at 10900 Fort Washington Road has a service travel time of 4.61 minutes, which is within the 7.25-minute travel time guideline.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic services. These findings are in conformance with the standards and guidelines contained in the *Approved Public Safety Master Plan* (1990) and the “Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities.”

9. **Police Facilities**—The proposed development is within the service area for Police District IV-Oxon Hill. The Planning Board’s current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is the capacity for additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision
10. **Health Department**—The Health Department notes that a raze permit will be required to remove the existing dwelling on Outlot A and that the abandoned shallow well and septic tank must be properly backfilled and sealed if the dwelling is to be razed.
11. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. Two Stormwater Management Concept Plans have been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. SWM Plan 11933-2004-00 has been approved for Outlot A and 3374-2003-00 has been approved for the development of Lots 1-8. Development must be in accordance with the approved plans unless otherwise modified.

The preliminary plan and the conservation plan demonstrate a stormwater outfall within the limits of the 100-foot primary buffer of the Chesapeake Bay Critical Area. The applicant has indicated the possibility of deleting the disturbance to the primary buffer by removing the proposed outfall within the buffer. The applicant is currently exploring the possibility of locating stormwater management on Lot 5 or Lot 4, removing the need for the outfall at its current location. If the applicant succeeds in deleting the outfall within the primary buffer, a parcel would be created to contain the stormwater management facility outside the R-C-O Zone. If the applicant were unsuccessful in removing the need for the outfall within the primary buffer, a variance would be required to locate the outfall in the primary buffer. The Chesapeake Bay Critical Area plan, which is required to be approved prior to the approval of this preliminary plan, would need to be



revised and brought back to the Planning Board for an evaluation of the impact, in the form of a variance, as a companion to the revised conservation plan. A determination as to the appropriate location for the stormwater facility is necessary prior to the approval of the final plat of subdivision.

12. **Historic**—The subject property (Parcel 153) is designated Historic Site 80-14, the Broad Creek Archeological Site. It is a 23.5-acre parcel of land that slopes west from Riverview Road to the bank of the Potomac River. During the 18<sup>th</sup> and 19<sup>th</sup> centuries, this property was part of a larger (nearly 500-acre) tract of land known as Tent Landing Farm, owned by the Lyles family. The principal residences of the Lyles family were approximately 1½ miles to the northeast (Harmony Hall and Want Water) in the community of Broad Creek, but it was on the subject property that at least five members of the Lyles family were buried. On another part of the Tent Landing Farm (approximately one-quarter mile north of the subject property), the Lyles family operated a landing/fishery known as Tent Landing. The subject property was originally included in the Inventory of Historic Resources because of the mistaken understanding by the 1970s historic site surveyors that the historic landing was located on the subject property.

Long before the Lyles family became associated with this property, it had been used as a campsite by local Native American groups. There is well-documented physical evidence of periodic use and occupation of the subject property (and the land adjoining it on the north) as a campsite for more than 5,000 years before the arrival of European people. This documentation was gathered through a series of archeological investigations undertaken for the Marriott Corporation during the period between 1987 and 1990. The initial Phase I archeological investigation was first conducted on 67.5 acres—the 23.5-acre subject property, identified in that document as Parcel B, and the approximately 44-acre parcel of land adjoining it on the north, identified as Parcel A. This led to a Phase II investigation of part of that area, followed by a Phase III investigation of a smaller part (Locus 1 of Archeological Site 18PR131) of the second investigation. A final report on the Phase II and III investigations has recently been completed and provided by the applicant (the present owner of the subject property); this report has been reviewed by M-NCPPC archeology staff.

The applicant applied for a change in the Overlay Zone for the central section of the subject property from R-E/R-C-O to L-D-O (the area between 300 feet and 1,000 feet from the bank of the Potomac River). The rezoning application (A-9905) is pending.

Archeological investigation during the period of 1987 to 1990 identified an archeological site (18PR319). This site straddles the fence line between the subject property (Parcel 153) and the abutting property to the north and extends into the northeasterly section of the subject property. Both Phase I and Phase II investigations of this site were carried out, and a small number of historic and prehistoric artifacts were recovered. Based on the results of the Phase II investigation, Archeological Site 18PR319 was determined not eligible for listing in the National Register of Historic Places, and no further archeological work was recommended. A final report on the Phase II investigation of 18PR319 has not been completed.

The applicant has submitted a final report (Phase II and III Archeological Investigations in a Portion of Site 18PR131, Prince George's County, Maryland) on the Phase II and Phase III archeological investigation of Locus 1 in Site 18PR131. Data recovery (as mitigation) has been completed in Locus 1.

In a memo dated March 24, 2004, the Historic Preservation and Public Facilities Planning Section recommended that a final report on the Phase II archeological investigation of Archeological Site

18PR319 should be completed and submitted for review as part of the review of this case. However, that recommendation was written before the final report on Archeological Site 18PR131 was submitted. The final report on 18PR131 includes, in its introduction (pages 2 and 3), information on nearby Site 18PR319. The report states that Archeological Site 18PR319 is disturbed, that its archeological resources lack integrity, and that the concentration of artifacts is probably the result of erosion. The report indicates that, at the time of the Phase II investigation and for the reasons cited above, 18PR319 was not considered eligible for listing in the National Register. The report was provided to Donald Creveling, M-NCPPC Archeology Program Manager, for review. In a memorandum regarding 18PR319, Mr. Creveling states that although the report on Locus 1 in 18PR131 does not constitute a final Phase II report on 18PR319, he agrees with its conclusions about 18PR319, i.e., that Archeological Site 18PR319 is disturbed and its archeological resources lack integrity. Therefore, preservation staff withdrew its previous recommendation for a final report on the Phase II work on 18PR319.

The Phase I survey of the entire 23.5-acre property identified significant concentrations of artifacts in the area of the first terrace and the western part of the second terrace of Lot 5. This is the area within approximately 750 feet of the Potomac River bank, i.e., to the westernmost boundary of the Phase II investigation. However, no investigation beyond shovel test pits has been undertaken in this part of the property. If the Chesapeake Bay Overlay rezoning is approved, development may be allowed in part of this area where concentrations of artifacts have been identified but will be subject to the approval of a Historic Area Work Permit and subject to the review of HPC.

Proposed Lots 1 and 2, as well as the proposed subdivision road, are partially located within the boundaries of Archeological Site 18PR319. However, because it has been determined that this archeological site is disturbed and its resources lack integrity, development of the road and these lots will not have an adverse effect upon significant archeological resources. Moreover, archeology staff has concluded that a Phase II report on Archeological Site 18PR319 is not necessary.

The area within 750 feet of the riverbank (part of the Chesapeake Bay Critical Area, zoned R-C-O) has not been investigated beyond Phase I survey and may include significant archeological features that should be protected. These archeological resources are located in the western portion of proposed Outlot A and will not be adversely affected by development of the lots. Because this western portion is located in the R-C-O Zone, it cannot be developed. Staff originally recommended that a conservation easement be placed over an area between 300 feet from the riverbank and the westernmost boundary of the Phase II investigation of 18PR131. However, staff would note that any disturbance to this area would require the review and approval of a Historic Area Work Permit by the HPC.

Because the entire 23.5-acre subject property is a designated historic site, development of each of the eight building lots will require application for a Historic Area Work Permit (HAWP) for grading and construction, to be reviewed by the Historic Preservation Commission.

The applicant has committed to providing a sign to be erected in the area of proposed Lot 1, commemorating the site of the Lyles Family Cemetery. Siting and erection of this sign will require application for a Historic Area Work Permit.

Any required removal of structures from the western portion of Outlot A will require an HAWP and may require further (Phase II) archeological investigation. Required reforestation may also require a HAWP if it falls within the archeologically sensitive area.

The subject property was part of the larger Tent Landing Farm owned by the Lyles family during the antebellum period. Records indicate that during the early 19<sup>th</sup> century at least 17 African-American slaves were working at Tent Landing Farm. Phase I and II archeological investigation has been carried out on much of the 23.5-acre subject property, and has not revealed any evidence of slave housing or burials. Further excavation of the presently developable section of the property (i.e., the 9.6 easternmost acres) should not be required. However, the developer should be alerted to the remaining possibility of unmarked burials in this area.

This application was referred to the Historic Preservation Commission (HPC). At the writing of this staff report, the application has not been heard by that body.

## RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:
  - a. To incorporate Outlot A into Lot 5, and label a building restriction line for the dwelling unit consistent with the R-C-O zoning line.
  - b. To indicate that direct access to Riverview Road from the lots is not permitted.
2. Any abandoned well or septic system shall be pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department prior to final plat approval.
3. In conformance with the adopted and approved Subregion VII master plan and the 1985 Equestrian Addendum to the adopted and approved Countywide Trails Plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
  - a. Riverview Road to be designated as a Class III bikeway with appropriate signage. Because Riverview Road is a county right-of-way, the applicant, and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of this signage. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit.
  - b. A minimum five-foot-wide (including the gutter pan), hard-surface shoulder (Class III bikeway) shall be constructed along the subject property's entire frontage of Riverview Road, per the concurrence of DPW&T.
4. A Historic Area Work Permit (HAWP) will be required for any development or disturbance on Lots 1-8 or Outlot A prior to issuance of any grading or building permits, unless altered or changed by HPC.
5. If any evidence of burials comes to light during development, state law requires cessation of work and appropriate treatment pursuant to Article 27 of the Annotated Code of Maryland, Sections 265 and 267A. Proposed treatment shall be reviewed and approved by the M-NCPPC archeologist prior to resumption of activity.

6. Prior to the approval of the final plat, the applicant shall file a revision to CP-04008 to obtain a variance to locate the stormwater outfall in the 100-foot primary buffer or shall relocate the stormwater management facility outside the R-C-O portion of the property. The facility shall be located on an parcel of land to be conveyed to a homeowners association (HOA).
7. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association, if a parcel is necessary for stormwater management.
8. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) open space land for stormwater management, if it has been determined to be necessary. Land to be conveyed shall be subject the following:
  - a. Conveyance shall take place prior to the issuance of building permits.
  - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
  - c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
  - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
  - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
  - f. Stormdrain outfalls shall be designed to avoid adverse impacts on abutting properties or on the R-C-O portion of the property. The location and design of drainage outfalls shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
9. The final plat shall carry a note that direct access is denied to Riverview Road from the proposed lots.
10. The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restrictions shown on the approved Chesapeake Bay Critical Area Plan (CP-04008).”

11. Prior to signature approval, the Conservation Plan shall be revised to state the required amount of afforestation and the amount to be provided on site and to state the existing and proposed amounts of impervious surfaces. In addition, the afforestation notes shall be revised to state that the maintenance mowing to occur within afforestation areas will only be around individual plants and that the planting of trees will be in a random fashion and not in rows.
12. Prior to signature approval of the preliminary plan, the Conservation Plan shall be revised to remove any reference to disturbance within the CBCA primary buffer until a variance has been submitted and approved by the Planning Board.

STAFF RECOMMENDS APPROVAL OF CONSERVATION PLAN CP-04008.