



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Preliminary Plan 4-05063

Application	General Data
Project Name: SUNNY ACRES Location: East side of Oak Glen Way, approximately 1,060 feet southeast of its intersection with Sunny Lane. Applicant/Address: Travis Dyer 6 Montgomery Village Avenue Suite 200 Gaithersburg, MD. 20879	Date Accepted: 05/8/06
	Planning Board Action Limit: 10/26/06
	Plan Acreage: 1.01
	Zone: R-80
	Lots: 2
	Parcels: 0
	Planning Area: 75A
	Tier: Developed
	Council District: 06
	Municipality: N/A
	200-Scale Base Map: 204SE07

Purpose of Application		Notice Dates	
RESIDENTIAL SUBDIVISION		Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-58-2003)	04/5/06
		Sign(s) Posted on Site and Notice of Hearing Mailed:	Not Posted
Staff Recommendation		Staff Reviewer: John Ferrante	
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 4-05063
Sunny Acres, Lots 1 and 2 (Re-subdivision of Lot 101)

OVERVIEW

The subject property is located on Tax Map 82, Grid A-2, and is known as Lot 101. The property is zoned R-80 and consists of approximately 1.01 acres. The property is the subject of a previous record plat, Sunny Acres, BB 8@11, that was recorded in 1940. The property is currently improved with two detached, single-family dwellings. Unless the applicant could provide documentation demonstrating that the additional single-family dwelling on the property was constructed legally, in conformance with zoning regulations, or a legal nonconforming use, the second dwelling at the rear of the property would be considered a zoning violation. The applicant is proposing to subdivide the property into two building lots. The proposed resubdivision of the property is not an attempt to legitimize the second dwelling on the property by creating a legal building lot for each existing dwelling. The preliminary plans submitted for this application demonstrate that the dwelling at the rear of the property will be razed, and a new single-family dwelling is proposed. The original dwelling fronting Oak Glen Way is proposed to remain. However, the plans submitted with this application demonstrate that this dwelling is encroaching approximately five feet into the recorded, 50-foot building restriction line.

This application is proposing a flag lot to serve the proposed dwelling at the rear of the property. At the Subdivision Review Committee meeting on June 2, 2006, the applicant was informed that flag lots are only permitted in the R-80 Zone if the property is located within the Chesapeake Bay Critical Area, was zoned R-80 prior to December 18, 1989, and is not the subject of a record plat. Although the property was rezoned from R-R to R-80 through the 1986 adopted Sectional Map Amendment for Suitland-District Heights and Vicinity and is the subject of a recorded record plat (Sunny Acres, BB 8@11), the property is not within the Chesapeake Bay Critical Area. Therefore, this property does not conform to the flag lot requirements for the R-80 Zone as set forth in Section 27-441(b) of the Zoning Ordinance, and the use of flag lots are not permitted on the subject property.

The engineer for this case has demonstrated little to no effort in the pursuit of this application. Staff has had to initiate all contact with the engineer for this case including phone calls and e-mails throughout the review period of this application. Many phone calls and e-mails were not returned by the engineer, and staff was unsuccessful in obtaining a 70-day waiver for the July 13, 2006, hearing, even though revised plans were never submitted for this application and the site was never posted prior to that hearing.

At the July 13, 2006, public hearing for this case, staff had recommended disapproval for inadequate fire department staffing levels and lack of sufficient public notice. As previously stated, the site had never been posted for the July 13, 2006, hearing, and a waiver to the posting requirements set forth in Section 27-125.03(a) of the Zoning Ordinance had not been requested. A representative for the engineer, West Consulting Group, did appear at the July 13, 2006, hearing, and requested a continuance. The Planning Board granted the continuance request based on the engineer's assurances that this case will be pursued with a great deal more effort than previously demonstrated.

On September 13, 2006, staff informed the engineer that the sign posting deadline for the October 19, 2006, public hearing was on September 19, 2006. Staff had asked the engineer if they planned to pursue this application, as still no revised plans have been submitted for this case and no further contact has been initiated by the engineer. The engineer informed staff that he would be in touch the following day, after consulting with the attorney for this case. At this time, the engineer has still not contacted staff, and no revised plans have been submitted since this case was accepted on May 8, 2006. The site was also not posted for the October 19, 2006, public hearing, even after staff's reminder on September 13, 2006, just six days prior to the posting deadline.

Therefore, staff is compelled to recommend disapproval of the subject application, as discussed further in Finding 2 of this report, due to lack of sufficient public notice in accordance with Section 27-125.03 of the Zoning Ordinance.

SETTING

The property is located on the east side of Oak Glen Way, approximately 1,060 feet southeast of its intersection with Sunny Lane. All surrounding properties consist of detached single-family dwellings within the R-80 Zone.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	PROPOSED
Zone	R-80	R-80
Use(s)	Single-Family Dwellings	Single-Family Dwellings
Acreage	1.01	1.01
Lots	1	2
Dwelling Units:		
Detached	2 (on 1 lot)	2 (1 new)
Public Safety Mitigation Fee		No

2. **Public Notice**—Section 2(b) of the Administrative Practices requires all preliminary plans of subdivision to be posted a minimum of 30 days prior to the public hearing. The applicant signed and received a copy of a document clearly spelling out this requirement at the June 2, 2006, Subdivision Review Committee meeting. Furthermore, the applicant was made aware of the October 19, 2006, hearing date. In this case, the applicant did not post the site. Therefore, there has not been sufficient public notice and staff is recommending disapproval of this application.

RECOMMENDATION

DISAPPROVAL DUE TO INADEQUATE PUBLIC NOTICE PURSUANT TO SECTION 27-125.03 OF THE ZONING ORDINANCE.