



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

## Preliminary Plan 4-05063

Application	General Data
<b>Project Name:</b> <b>SUNNY ACRES</b>  <b>Location:</b> East side of Oak Glen Way, approximately 1,060 feet southeast of its intersection with Sunny Lane.  <b>Applicant/Address:</b> Travis Dyer 6 Montgomery Village Avenue Suite 200 Gaithersburg, MD 20879	Date Accepted: 05/8/06
	Planning Board Action Limit: 07/17/06
	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)
	Sign(s) Posted on Site and Notice of Hearing Mailed:
	04/5/06 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 was the subject of a previous record plat, (Sunny Acres, BB 8@11), that was recorded in 1940. The property is currently approved with two detached, single-family dwellings. Unless the applicant provides 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 proposes subdivision of the property into two building lots. The proposed re-subdivision 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. It is proposed that the original dwelling fronting Oak Glen Way should 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. 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 therefore flag lots are not permitted on the subject property. At this time no revised plans have been submitted for this application.

The 30-day mandatory posting deadline for this case was on June 13, 2006. The site has not been posted, and a waiver to the posting requirements set forth in Section 27-125.03(a) of the Zoning Ordinance has not been requested. Therefore, staff is recommending disapproval of the subject application, as discussed further in Finding 3 of this report, due to lack of sufficient public notice.

Furthermore, staff is compelled to recommend disapproval of the subject application due to inadequate Fire Department staffing levels, as discussed further in Finding 2 of this report. This application is within the initial 70-day review period; however, a waiver letter has not been submitted for this application that would allow the review period to extend to 140-days. Currently, the Planning Board's mandatory action limit on this case is July 17, 2006. Staff has made repeated phone calls and e-mails to the applicant requesting a 70-day waiver letter to be submitted. At the time of the writing of this report, no waiver letter for this application has been submitted.

## 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:		0
Detached	2 (on 1 lot)	2
Public Safety Mitigation Fee		No

2. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance. The subject application was accepted on May 8, 2006.

The Prince George's County Planning Department has determined that this preliminary plan is within the required seven-minute response time for the first due fire station Ritchie, Company 37, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department.

The Fire Chief has reported that the current staff complement of the Fire Department is 686 (99.13 percent), which is below the staff standard of authorized strength of 692 or 100 percent as stated in CB-56-2005.

The Fire Chief's report for adequate equipment is contained in a memorandum dated March 28, 2006. That memorandum states that the "department has adequate equipment and has developed an equipment replacement program to meet all the service delivery needs for all areas of the county."

The Fire Chief's report for current staffing for the Fire Department is contained in a memorandum dated March 28, 2006. That memorandum states that the number of "net operational employees" is 672, which equates to 96.97 percent of the authorized strength of 692 fire and rescue personnel.

As previously noted, the subject application was accepted on May 8, 2006. Section 24-122.01(e)(2) of the Subdivision Regulations state: "If any of the required statements in this Subsection are not provided that meet the criteria specified in this Section on the date the application is accepted by the Planning Board or within the following three monthly cycles of response time reports, then the Planning Board may not approve the preliminary plan until a mitigation plan between the applicant and the county is entered into and filed with the Planning Board."

One key element to the ordinance language cited above is the creation of a window for the application of the fire and rescue adequacy test that runs from "the date the application is accepted by the Planning Board or within the following three monthly cycles of response time reports." This means that an application is afforded the opportunity to pass the test in a time frame that spans approximately 90 days. With regard to data on fire and rescue staffing levels prior to the receipt of the March 28, 2006, letter from the Fire Chief, some clarity needs to be provided.

Since January 1, 2006 (the beginning of the time frame when the standard of 100 percent of the authorized strength of 692 fire and rescue personnel must be met), staff has received four memorandums from the Fire Chief (January 1, 2006, February 1, 2006, March 5, 2006, and March 28, 2006). The data presented in these four memorandums varies in the description of the personnel being counted as applicable to the percentage of the authorized strength standard. Although the number of personnel presented varies only slightly (694, 694, 696, and 693 respectively), the description of the status of these personnel has changed or been clarified from memorandum to memorandum.

It seems clear to staff that since the beginning of 2006, each reporting of personnel has included certain numbers of trainees and/or recruits that were not intended to be considered applicable to the minimum percentage requirement. This becomes apparent when comparing the January 1 and February 1 memorandums. Both reflect a total authorized strength of 694 personnel, but the February 1 memorandum identifies 46 members of that complement in the training academy. The March 5 memorandum does not provide a breakdown of the 696 personnel total, but the March 28 memorandum identifies 21 recruits as part of the "actual total strength" of 693.

Given the totality of the information identified above, staff concludes that since the acceptance of the subject application, the minimum staffing level for fire and rescue personnel, as required by Section 24-122.01(e)(1)(B)(ii), has not been met. Therefore, pursuant to Section 24-122.01(e)(2), staff is compelled to recommend disapproval of the subject application at this point in time.

3. **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. 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 FIRE AND RESCUE SERVICES PURSUANT TO SECTION 24-122.01(e) OF THE SUBDIVISION REGULATIONS, AND INADEQUATE PUBLIC NOTICE PURSUANT TO SECTION 27-125.03 OF THE ZONING ORDINANCE.**