



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

Preliminary Plan 4-94010

Application	General Data
Project Name: FRANCES BOWIE PROPERTY CLUSTER Location: Southwest side of Largo Road at its intersection with Kettering Drive. Applicant/Address: Bowie, Frances S. 601 Largo Road Upper Marlboro, MD 20772	Date Accepted: 05/06/97
	Planning Board Action Limit: N/A
	Plan Acreage: 29.47
	Zone: R-R
	Lots: 35
	Parcels: 4
	Planning Area: 73
	Council District: 06
	Municipality: N/A
	200-Scale Base Map: 201SE10

Purpose of Application	Notice Dates
RECONSIDERATION HEARING: This Preliminary Plan was approved by the Planning Board on June 9, 1994. Robert A. Manzi of Knight, Manzi, Brennan, Shay & Ham, P.A., by letter dated May 6, 1997, requested a reconsideration of Conditions No. 1(a), 2(g) & 7 and Finding 13, of PGCPB 94-185. The Planning Board approved the request for reconsideration on June 19, 1997.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) 03/31/03
	Sign(s) Posted on Site: N/A
	Variance(s): Adjoining Property Owners: N/A

Staff Recommendation		Staff Reviewer: Alan Hirsch	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

April 1, 2003

MEMORANDUM

TO: Prince George's County Planning Board

FROM: Alan S. Hirsch, Planning Supervisor

SUBJECT: Frances Bowie Cluster Reconsideration Hearing
Preliminary Plan of Subdivision 4-94010

OVERVIEW

Preliminary Plan of Subdivision 4-94010 was originally approved on June 9, 1994, and the resolution for that approval was adopted on July 7, 1994. That resolution contained nine conditions of approval supported by 21 findings. On May 16, 1996, the Planning Board approved a one-year extension, making the preliminary plan valid until July 7, 1997. By a letter dated May 6, 1997, the applicant (Frances S. Bowie) requested a reconsideration of three conditions and one finding contained in the original approval. On June 19, 1997, the Planning Board approved the reconsideration request.

At the time of the reconsideration request in 1997, staff expressed a serious concern to the applicant's representative regarding the conveyance of a portion of the subject property prior to the recordation of the final plat of subdivision for the subject property. Section 7-117, Article 28, Annotated Code of Maryland and Section 24-107(b), Subdivision Regulations, Prince George's County Code, both prohibit the sale of a portion of a property until the final plat of subdivision has been approved and recorded. Notwithstanding that concern, a contract to sell (a subdivide from the rest of the property), the historic site on the property known as Mount Lubentia and a portion of what was then proposed Lot 29 was brought to fruition in November of 1997.

After the Planning Board's approval of the request for reconsideration in June of 1997, several years passed before any contact was initiated by the applicant's representative. On January 30, 2002, staff met with the applicant's representative and a potential contract purchaser. At that time, it was acknowledged that since there is no mandatory action time frame on reconsideration hearings, the application was technically still in a state to move forward with the reconsideration hearing. At that meeting, however, staff renewed the concern expressed in 1997 regarding the previous conveyance of a portion of the subject property. Furthermore, staff indicated to the parties that any future possible recommendation for approval would be predicated upon the inclusion of the entirety of the property as described in 1994. By a letter dated April 9, 2002, the applicant's representative put forth the position that while acknowledging that they were subject to the Planning Board on this matter, they did not believe that it was their "...duty to necessarily make this comply with the law in light of the fact that the Purchaser's handled the settlement and apparently got a Deed on record." When contacted by the potential contract purchaser, staff indicated that the position of requiring the entirety of the property as described in 1994 prior to any recommendation for approval had not changed.

Subsequent to April 2002, contact was made with the owners of the historic site, J. Andrew and Sondra Wallace. Mr. and Mrs. Wallace also contacted M-NCPPC to gain additional understanding of the circumstances regarding the original preliminary plan approval and what was expected to move forward. On March 21, 2003, Mr. and Mrs. Wallace signed the application form as a party to the subject application. The entire area of the subject application (29.44 acres) is owned by Frances S. Bowie (24.01 acres) and Mr. and Mrs. Wallace (5.43 acres). The applicants, with regard to the current processing of the subject application, are William Chesley as a contract purchaser and Mr. and Mrs. Wallace as a partial property owner.

SETTING

The subject property is located on the west side of MD 202 at its intersection with Kettering Drive. The site is bounded by MD 202 on the east, developed R-R-zoned subdivisions on the north and south, and the Largo Knolls Community Park on the west.

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-R	R-R
Use(s)	Residential	Residential
Acreage	29.44	29.44
Lots	0	35
Parcels	2	4
Dwelling Units:		
Detached	2 (to remain)	33 new (35 total)

Reconsideration Items—As previously noted, the original approval of Preliminary Plan of Subdivision 4-94010 contained nine conditions of approval supported by 21 findings. The 1997 request for reconsideration pertained to Conditions 1(a), 2(g), and 7 and Finding 13. The three conditions are as follows:

- “1. Prior to signature approval of the preliminary plat, the following changes shall be made:
 - “a. The access drive to Lot 29 shall be moved to the south side of Lot 28. Lot 30 shall be increased in size to a minimum of 13,000 square feet.”
- “2. A Detailed Site Plan shall be approved prior to the Final Plat; it shall address but not be limited to the following:
 - “g Details of the restoration and relocation, and the timing of such, for the historic dairy structure.”
- “7. The following note shall be placed on the Final Plat of Subdivision: ‘No direct access shall be allowed to MD 202 for lots abutting MD 202 except for the existing entrance to the historic site located on proposed Lot 36.’”

The one finding is as follows:

- “13. The subject site includes a County Historic Site, Mount Lubentia (#73-16), which is also listed on the National Register of Historic Places. Mount Lubentia was built in 1798 by Dennis Magruder, and is considered one of the county's best examples of Federal-style plantation architecture and is noted for its fine decorative detail (see *Landmarks of Prince George's County*, John Hopkins University Press, 1993). During the British invasion of 1814, county records were stored at Mount Lubentia.

“As part of the Preliminary Plat of Subdivision application, the applicant requested that the Environmental setting for the Historic Site be altered. On April 19, 1994, the Historic Preservation Commission reviewed the above-referenced application and voted in favor of an amended Environmental Setting of approximately 12.78 acres. The revised historic setting increased the overall size of the setting from approximately 6.9 acres to 12.78 acres and includes a 5.10-acre lot with the historic mansion and several outbuildings; the Bowie family cemetery located on Lot 32; and Parcels A and C, which will be owned and maintained by the homeowners' association.

“The historic Bowie family cemetery is located within the environmental setting for Mount Lubentia. Section 24-135.02 of the Subdivision Regulations requires that the following measures be observed when subdividing land which contains an existing cemetery:

- (1) “The corners of the cemetery shall be staked in the field prior to preliminary plat approval. The stakes shall be maintained by the applicant until preliminary plat approval.
- (2) “An inventory of existing cemetery elements (such as walls, gates, landscape features and tombstones, including a record of their inscriptions) and their condition shall be submitted as part of the preliminary plat application.
- (3) “The placement of lot lines shall promote long-term maintenance of the cemetery and protection of existing elements.
- (4) “An appropriate fence or wall constructed of stone, brick, metal or wood shall be maintained or provided to delineate the cemetery boundaries. The design of the proposed enclosure and a construction schedule shall be approved by the Planning Board, or its designee, prior to the issuance of any permits. When deemed appropriate, the Planning Board may require a limited review detailed site plan in accordance with Sec. 27-286 of the Prince George's County Code, for the purpose of reviewing the design of the proposed enclosure.
- (5) “If the cemetery is not conveyed and accepted into municipal ownership, it shall be protected by arrangements sufficient to assure the Planning Board of its future maintenance and protection. The applicant shall establish a fund in an amount sufficient to provide income for the perpetual maintenance of the cemetery. These arrangements shall ensure that stones or markers are in their original location. Covenants and/or other agreements shall include a determination of the following:
 - (A) “Current and proposed property ownership;
 - (B) “Responsibility for maintenance;

- (C) “A maintenance plan and schedule;
- (D) “Adequate access; and
- (E) “Any other specifications deemed necessary by the Planning Board.
- (b) “Appropriate measures to protect the cemetery during the development process shall be provided, as deemed necessary by the Planning Board.
- (c) “The Planning Board, or its designee, shall maintain a registry of cemeteries identified during the subdivision review process.
- (d) “Upon approval of a preliminary plat of subdivision, any cemetery approved in accordance with this section that does not meet the regulations of the zone in which it is located, shall be deemed to be a certified nonconforming use unless otherwise specified by the Planning Board.

“The limits of the cemetery were delineated on the subject application. Because of its historic nature, additional research will be necessary in order to fully inventory the existing cemetery elements. The staff recommended that, at the time of detailed site plan review, the applicant provide all additional required information including a complete inventory, details of the required cemetery enclosure, and the arrangements required to ensure the future maintenance and protection of the cemetery.

“Part (d) of Section 24-135.02 of the Subdivision Regulations states that upon approval of the preliminary plat of subdivision, any cemetery approved in accordance with the Subdivision Regulations but do not meet the requirements of the zone in which it is located shall be approved as a nonconforming use unless otherwise specified by the Planning Board. A cemetery is not an allowed use in the R-R Zone, therefore, if the Planning Board approves the subject application, the cemetery will then be approved as a nonconforming use.

“The proposed Environmental Setting includes an eighteenth-century octagonal dairy that was moved to the site in the early 1970s from a nearby plantation. The dairy is located approximately 150 feet north of the mansion, very close to proposed Lot 29. The applicant proposed to move the dairy to an existing octagonal foundation near the historic mansion. Currently, the dairy is in a deteriorated state and is not resting on a foundation but on steel beams.

“The recommendation from the Historic Preservation Commission includes four conditions of approval. One of the recommendations requires that one of the originally proposed lots near the historic house be deleted. The revised plans incorporate this requirement. Another recommendation requires that the architecture of all the houses in the development be compatible with the historic site, including all fences on lots that abut the Environmental Setting. The remaining recommendation pertains to the required landscape buffers on lots adjacent to the Environmental Setting. These recommendations were incorporated per Conditions 2e, 2j and 2k.”

Condition 1(a) pertained to a proposed flag lot (Lot 29) whose access stem was located adjacent to the historic site. The intent of the condition was to relocate the necessary driveway for that lot further away from the historic site. Because the area (exclusive of the stem) of Lot 29 was incorporated into the area of land conveyed with the historic site, this condition is no longer necessary. The area of land that was to be the flag stem for Lot 29 has been incorporated into adjacent Lot 28. Proposed Lot 28 is significantly wider than the majority of surrounding lots. Additionally, the southern portion of lot 28 (where it abuts the historic site) contains existing trees. Staff believes that there should be a condition ensuring that the proposed dwelling unit on Lot 28 be located in the northern portion of the lot and that the existing tree stand in the southern portion of the lot be retained to the greatest extent possible.

Condition 2(g) pertained to the restoration of a historic dairy structure that was to be relocated. Since the original approval, this structure has been relocated to an area within the historic site. The location of this structure needs to be identified on the current preliminary plan.

Condition 7 pertained to a restriction of no vehicular access to MD 202, with the exception of the existing access to the historic site (then Lot 36). With the loss of Lot 29, the historic site is proposed Lot 35.

Finding 13 pertaining to the historic nature of the property is still appropriate with a modification. The following amendment should be made in the text of Finding 13 regarding the historic dairy structure:

“The Environmental Setting of the Mount Lubentia Historic Site includes an eighteenth-century octagonal dairy structure that was moved to the site in 1971 from the neighboring Graden plantation site. The dairy is now located approximately 150 feet north of the mansion, in deteriorated condition, and resting on steel beams. Stabilization of the structure is in process, and it is hoped that eventual restoration will be accomplished.”

2. **Schools**—The original approval of Preliminary Plan 4-94010 and the subsequent approval of the reconsideration request occurred prior to the enactment of subdivision requirements pertaining to adequacy of schools. It is staff’s position that timing of a new final action in 2003 should include the analysis and subsequent restrictions that would be imposed on all new dwelling units pursuant to the application of the test for school adequacy. The applicant has previously indicated that the application of a school adequacy test would be acceptable.

The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001).

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 2	Middle School Cluster 2	High School Cluster 2
Dwelling Units	32 sfd	32 sfd	32 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	7.68	1.92	3.84
Actual Enrollment	6182	4896	9660
Completion Enrollment	234	197	393
Wait Enrollment	96	225	451
Cumulative Enrollment	6.24	5.52	11.04
Total Enrollment	6525.92	5325.44	10518.88
State Rated Capacity	6616	4638	8770
Percent Capacity	96.64	114.82	119.94
Funded School	N/a	N/a	Frederick Douglass addn.

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

These figures are correct on the day the referral memo was written. They are subject to change under the provisions of CB-40 and CR-23. Other projects that are approved, prior to the public hearing on this project, will cause changes to these figures. The numbers that will be shown in the resolution of approval are the ones that will apply to this project.

The affected middle and high school clusters capacities are greater than 105 percent. There is no funded school in the affected middle school cluster. The Frederick Douglass addition is the funded school in the affected high school cluster. Therefore, this subdivision can be approved with a six-year waiting period in accordance with Section 24-122.02

RECOMMENDATION

APPROVAL, subject to all of the original conditions and finding, with the exception of the previously discussed change to Finding 13 and following changes to the conditions of approval:

1. Prior to signature approval of the Preliminary Plat, the following changes shall be made:
 - a. [The access drive to Lot 29 shall be moved to the south side of Lot 28. Lot 30 shall be increased in size to a minimum of 13,000 square feet.] The location of the historic dairy barn shall be identified on the preliminary plan.
2. A detailed site plan shall be approved prior to the final plat; it shall address but not be limited to the following:
 - e. Landscape buffers required [for] on those lots adjacent to the environmental setting.
 - g. [Details of the restoration and relocation, and the timing of such, for the historic dairy structure.] The proposed dwelling unit on Lot 28 shall be located in the northern portion of

the lot, and the existing tree stand in the southern portion of the lot shall be retained to the greatest extent possible.

10. No building permits shall be issued for this subdivision until the percent capacity, as adjusted pursuant to the School Regulations, at all the affected school clusters are less than or equal to 105 percent or six years have elapsed since the time of the approval of the preliminary plan of subdivision; or pursuant to the terms of an executed school facilities agreement whereby the subdivision applicant, to avoid a waiting period, agrees with the County Executive and County Council to construct or secure funding for construction of all or part of a school to advance capacity.