

R E S O L U T I O N

WHEREAS, Florida on the Potomac, LLC is the owner of a 16.82-acre parcel of land known as p/o Parcel 153, Tax Map 122, Grid C-4 said property being in the O-5 Election District of Prince George's County, Maryland, and being zoned R-E, L-D-O and R-C-O; and

WHEREAS, on October 5, 2005, Land and Commercial, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 12 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05089 for River's Edge, Phase II 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 December 22, 2005, 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, with conditions of the application with conditions; and

WHEREAS, on December 22, 2005, 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 Plan of Subdivision 4-05089, River's Edge, Phase II for Lots 1-12 and Parcel A with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
  - a. Include a note indicating the raze permit number.
  - b. Locate any abandoned septic system associated with the pool house or pool or place a note that none exists with evidence from the Health Department.
2. Prior to signature approval of the preliminary plan the applicant shall submit a copy of the revised Chesapeake Bay Critical Area Plan (CP-04008/01), in accordance with the Planning Board's actions.
3. Development of this site shall be in conformance with Stormwater Management Concept Plan 3374-2003-00 and any subsequent revisions.
4. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 30,492 square feet of open space land (Parcel A).

Land to be conveyed shall be subject the following:

- a. 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.
  - b. 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.
  - c. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse, or similar waste matter.
  - d. Any disturbance of land to be conveyed to an HOA shall be in accordance with an approved plan or shall require the written consent of the Development Review Division (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.
  - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to an HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - f. Temporary or permanent use of land to be conveyed to an HOA for stormwater management shall be approved by DRD.
5. Prior to final plat the applicant shall submit a copy of the revised stormwater management concept approval letter and plan.
  6. The following note shall be placed on the final plat of subdivision:

“Development of this site is subject to the approved Chesapeake Bay Critical Area Plan (CP-04008/01). No accessory structures may be placed within the R-C-O-zoned portion of this property.”
  7. Prior to final plat, all artifacts and associated documentation shall be curated according to Maryland Historical Trust standards and gifted to the Maryland Archeological Conservation (MAC) Laboratory by the applicant.
  8. The final plat shall include the following note:

“Development of this property is subject to conditions of A-9955-C.”
  9. At time of final plat, a conservation easement shall be described by bearings and distances. The

conservation easement shall contain the 2.05 acres of required planting and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

10. Prior to the issuance of a grading permit for the development, a public safety mitigation fee shall be paid in the amount of \$45,360 (\$3,780 x 12 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per-unit factor noted above. The per-unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for All Urban Consumers. The actual fee to be paid will depend upon the year the grading permit is issued.
11. Prior to the signature approval, the applicant shall submit evidence that the Chesapeake Bay Critical Area Commission has approved the growth allocation for the Chesapeake Bay Critical Area granted by the District Council pursuant to Zoning Map Amendment A-9955.

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 property is located on the west side of Riverview Road, approximately 1,000 feet north of its intersection with Sero Estates Drive, in the Broad Creek Community.
3. **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 L-D-O & R-C-O	R-E L-D-O & R-C-O
Use(s)	Vacant	Single-family dwelling units
Acreage	16.82	16.82
Lots	2 (approved)	12 (10 additional)
Parcels	1	1
Dwelling Units:		
Detached	12 total	12 total

4. **Environmental**—The Environmental Planning Section previously reviewed Zoning Map

Amendment A-9955 and Chesapeake Bay Critical Area Conservation Plan CP-04008 for a portion of this property and Preliminary Plan of Subdivision 4-04003 for the entire property. This 23.50-acre property includes 13.64 acres of land in the Chesapeake Bay Critical Area (CBCA). Zoning Map Amendment A-9955 rezoned the 9.968 acres within the CBCA from R-C-O to L-D-O.

The property is located on the west side of Riverview Road approximately 1,100 feet south of the intersection of Riverview Road and West Riverview Road. There are no streams or wetlands on the property. All areas of steep slopes are within the 100-year floodplain and the 100-foot Chesapeake Critical Area buffer. There are no nearby sources of traffic-generated noise. The proposed development is not a noise generator. 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. This property is located in the Potomac River watershed.

An approved natural resources inventory, NRI-94-05, was submitted with this application. 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 NRI 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 shown on the plans and the location of the 100-foot-wide primary CBCA is correctly shown. 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 shown.

The entire property is exempt from the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because 13.64 acres are 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 tree conservation plan is not required.

According to the "Prince George's County Soil Survey," the principal soils on the site are in the Aura, Elkton, Galestown, Keyport and Sassafra 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.

The soils information is provided for the applicant's benefit. No further action is needed as it relates to this review. The Prince George's County Department of Environmental Resources may require a soils report 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 dated June 2003 obtained from the Department of Environmental Resources, and the site will, therefore, be served by public systems.

5. **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 master plan land use recommendation is for estate residential at a density up to one dwelling unit per acre. The proposed preliminary plan is consistent with the recommendation of the master plan for land use.

The 2002 General Plan locates this property in the Developing Tier. One of the visions for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities. The preliminary plan is consistent with the low- to moderate-density residential communities envisioned in the 2002 General Plan

The 1984 Subregion VII sectional map amendment (SMA) classified this property in the R-E Zone. The western 1,000 feet is in the Chesapeake Bay Critical Area. The westernmost 300 feet is in the Resource Conservation Overlay (R-C-O) Zone and the 700 feet east of the R-C-O Zone is in the Limited Development Overlay (L-D-O) Zone, per zoning application A-9955 as approved on July 15, 2005. The pending 2005 preliminary Henson Creek-South Potomac master plan and SMA proposes to retain the existing zoning and land use pattern. Approval of the master plan and sectional map amendment are anticipated in January 2006.

With the approval of the L-D-O Zone, the density of the residential land use, and that all the lots meet or exceed all the minimum requirements of the zoning ordinance, this proposal is in conformance with the Master Plan and General Plan.

6. **Parks and Recreation**—In accordance with Section 24-134(a)(3)(B) of the Subdivision Regulations, the lots proposed are exempt from the requirements of the mandatory dedication of parkland because all of the lots proposed have a net lot area of one acre or more.
7. **Trails**—There are no master plan trail issues associated with this application.
8. **Transportation**—The subject property consists of approximately 16.82 acres of land in the R-E Zone and the R-C-O/L-D-O Overlay Zones. The property is located on the west side of Riverview Road, approximately 1,100 feet south of West Riverview Road. The applicant proposes a residential development consisting of 12 single-family lots.

The transportation staff determined that a traffic study was not warranted by the size of the proposed development. However, a recent traffic count (October 2005) at the intersection of Fort Washington Road and Riverview Road was made available to staff. 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*.

### **Growth Policy—Service Level Standards**

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.

### **Staff Analysis of Traffic Impacts**

The application is a plan for a residential development of 12 single-family dwelling units (10 new). The proposed development would generate 9 AM (2 in, 7 out) and 11 PM (7 in, 4 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 Riverview Road, which is signalized. The count indicates that the critical intersection currently operates at LOS A (CLV 740) during the AM peak hour and LOS A (CLV 725) during the PM peak hour. With background development the critical intersection operates at LOS A (CLV 755) during the AM peak hour and LOS B (CLV 737) during the PM peak hour. There are no programmed improvements in the county Capital Improvement Program or the state Consolidated Transportation Program.

The site is proposed for development as a residential subdivision. With the assignment of 9 AM peak-hour trips and 11 PM peak-hour trips, the critical intersection will operate at LOS A (CLV 756) during the AM peak hour and LOS A (CLV 741) during the PM peak hour.

### **Site Plan Comments**

Access to the site would be from River's Edge Court, with a 60-foot right-of-way. The new subdivision road would access existing Riverview Road. The applicant was previously approved for several residential lots along River's Edge Circle at Riverview Road. Right-of-way issues and frontage improvements along Riverview Road were considered at that time and are not the

subject of this application. There are no master plan road issues associated with this proposal. Fort Washington Road is the nearest master plan roadway.

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

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for the affect of this development on 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	12 sfd	12 sfd	12 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	2.88	0.72	1.44
Actual Enrollment	4183	4688	8866
Completion Enrollment	158.40	69.06	136.68
Cumulative Enrollment	61.44	41.70	83.40
Total Enrollment	4405.72	4799.48	9087.52
State Rated Capacity	4512	5114	7752
Percent Capacity	97.64%	93.85%	117.23%

Source: Prince George's County Planning Department, M-NCPPC, December 2004

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 an 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. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,412 and \$12,706 to be paid at the time of issuance of each building permit.

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 public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and

CB-31-2003, and CR-23-2003.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Regulations.

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 Allentown Road, Company 47, 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 685 (98.99 percent), which is within the staff standard of 657 (or 95 percent) of authorized strength of 692 as stated in CD-56-2005.

The Fire Chief has reported by letter dated August 1, 2005, that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**— The Prince George's County Planning Department has determined that this preliminary plan is located in Police District IV. The standard for emergency calls response is 10 minutes and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months.

<b>Reporting Cycle</b>	<b>Date</b>	<b>Emergency Calls</b>	<b>Non-emergency</b>
Acceptance Date	09/05/05-10/05/05	11.00	23.00
Cycle 1	10/05/05-11/05/05	11.00	24.00
Cycle 2	11/05/05-12/05/05	11.00	24.00

The response time standards of 10 minutes for emergency calls for police were not met on the date of acceptance or within the following three monthly cycles. In accordance with Section 24-122.01 of the Subdivision Regulations, Preliminary Plan 4-05089 fails to meet the standards for police emergency response time. The Planning Board may not approve a preliminary plan until a mitigation plan between the applicant and the county is entered into and filed with the Planning Board in accordance with the County Council adopted *Guidelines for the Mitigation of Adequate Public Facilities for Public Safety Infrastructure*.

In accordance with CR-78-2005, the applicant has agreed, in principle, to enter into a mitigation agreement and has chosen to pay solely the mitigation fee. At the writing of this staff report, however, one additional opportunity exists for the emergency police response time to be evaluated within the three monthly cycles of response time reports since the acceptance of this application on October 5, 2005 (CB-56-2005). The November 2005 response time averages will be available on December 6, 2005, and will be provided at the public hearing. If the response time for emergency calls is found to be adequate, the applicant will not be required to enter into a mitigation agreement.



The Police Chief has reported that the current staff complement of the Police Department is 1,302 sworn officers and 43 student officers in the academy, for a total of 1,345 (95 percent) personnel, which is within the standard of 1,278 officers (or 90 percent) of the authorized strength of 1,420 as stated in CB-56-2005.

12. **Health Department**—The Health Department has no comment.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A stormwater management concept plan has been submitted and approved with Preliminary Plan 4-04162. Based on the revised preliminary plan, a revision to the stormwater management plan was required and filed with DER on September 16, 2005. Prior to final plat the applicant should submit a copy of the concept approval letter and plan. Development must be in accordance with that approved plan to ensure that development of this site does not result in on-site or downstream flooding.
14. **Historic**—This site was previously reviewed with Preliminary Plans 4-04003 and 4-04162. The subject application does not include any historic resources currently regulated by the Prince George's County Historic Preservation Ordinance (Subtitle 29 of the Prince George's County Code). However, the property has been the subject of intensive archeological investigation in recent years, in part at the direction of the Planning Board and County Council. Archeological investigations completed on the subject property include a Phase I (*An Archeological Reconnaissance Survey of the Proposed Fort Washington Lifecare Retirement Community Prince George's County, Maryland*, Cheek and Stevens 1988), which consisted of shovel test pit excavations at regular intervals over the entire property and limited Phase II excavations in portions of the subject property (Gibb 2005, *A Phase II Archaeological Site Examination of a Portion of the Broad Creek Site (18PR131), River's Edge Subdivision, Riverview Road, Fort Washington, Prince George's County, Maryland* [Final Report]).

On July 15, 2005, the District Council took action on Zoning Case A-9955, River's Edge, with the following findings (page 10):

“As to historic preservation concerns, the District Council is fully satisfied, from evidence in this record, that the applicant has found and extracted all significant Native American artifacts on the 23.50 acre site. Those artifacts will be donated to the Maryland Historical Trust. The record also indicates, and the Council concludes, that the subject property has no historic significance or importance. The property was not the site of the fishery at Tent Landing, as earlier believed; there is no evidence that a significant Native American village was located there; the Council also has no evidence that Revolutionary War military activity took place there; the council has no basis for concluding that African American activities, burials or otherwise, occurred there; and no other claim of historical significance has been substantiated by evidence.”

Although the Council found that all significant Native American artifacts have been extracted,

just recently (summer 2005) more artifacts were recovered as a result of a specific recommendation by the Planning Board on a limited area of the site (PGCPB 05-56, Condition 9). As a requirement of Preliminary Plan 4-04162, River's Edge, the Prince George's County Planning Board required (Condition 9) a limited Phase II (Evaluation) archeological investigation of the western portion of the 300-foot to 1,000-foot portion of the property. That investigation has concluded and was reviewed by staff in August 2005. The investigation focused on a small area for the limited Phase II investigation, labeled Locus 3. A total of 1,668 artifacts were recovered in these recent excavations, which consisted of seven 1-meter by 1-meter test units. The report on that work (Gibb, 2005) recommended no further archeological investigation for Locus 3 east of the 300-foot buffer. Staff concurred with that opinion on that limited area and recommended no further work or further archeological requirements for Locus 3 (east of the 300-foot buffer). The portion of the subject property west of the 300-foot buffer will be protected by Chesapeake Bay Critical Area Overlay Zone regulations.

No additional archeological work is required, with the understanding that the area within the 300-foot Chesapeake Bay Critical Area Overlay Zone will not be disturbed, except for planting required in accordance with the approved CP-04008/01.

All artifacts and associated documentation should be curated according to Maryland Historical Trust standards and gifted to the Maryland Archeological Conservation (MAC) Laboratory by the applicant, and as required by Condition 3 of A-9955-C.

15. **Preliminary Plan 4-04162**—The property is the subject of Preliminary Plan 4-04162 approved by the Planning Board on February 24, 2004. The Planning Board adopted PGCPB Resolution 05-56 on March 31, 2004. That resolution of approval contains ten conditions. Appropriate conditions have been brought forward and are contained in the condition section of this report. Upon approval of this preliminary plan, conditions of 4-04162 are no longer applicable to this portion of the property and are superceded by the approval of this application.
16. **A-9955-C**—The County Council, subsequent to the approval of Preliminary Plan 4-04162, approved A-9955 (July 15, 2005) that rezoned 9.968 acres of the property from the R-C-O Overlay Zone to the L-D-O Overlay Zone, subject to three conditions of approval:
  1. **Lot size averaging is not permitted on the subject property. Within the property covered by the application referred to in these conditions as the "subject property," there shall be no lots with area less than 40,000 square feet.**

Comment: All of the lots proposed exceed 40,000 square feet.

2. **Before work on residential structures may commence, the Planning Department must approve a limited detailed site plan for the lot or lots for which the structures are proposed, as to design landscaping, and architecture only. Before the first site plan is filed, the applicant shall consult with Historic Preservation Commission staff about the design and placement of the homes, to ensure design compatibility with**

**surrounding residential development and preservation of neighborhood character.**

Comment: Condition 9 requires a record plat note for conformance to conditions of A-9955-C. A building permit is required for “work” on a residential structure. Therefore, the limited detailed site plan is required prior to the issuance of any building permit.

- 3. All archeological or historical artifacts that have been extracted from any part of the 23.5 acre River’s Edge property, anywhere within the area between Riverview Road and the Potomac River, shall be donated to the Maryland Historical Trust, in accordance with Maryland Historical Trust regulations.**

Comment: Condition 8 proposes a reasonable time for the applicant to demonstrate conformance to this condition.

17. The subject property is located on Tax Map 122, Grid C-4, is a part of Parcel 153, and is zoned R-E. The property fronts the Potomac River to the west. Of the 16.82-acre total, approximately 13.64 acres of the property are located within the Chesapeake Bay Critical Area (R-C-O and L-D-O), which extends approximately 1,000 feet from the Potomac River onto the property. The property will be served by the extension of an existing dedicated public right-of-way, west from Riverview Road, terminating in a cul-de-sac.

The property has been the subject of several preliminary plans. The applicant, due to unresolved issues, withdrew Preliminary Plan 4-04003. Subsequent to the withdrawal of that application, Preliminary Plan 4-04162 was filed on October 19, 2004, and approved by the Planning Board on February 24, 2005. The resolution of approval for that preliminary plan (PGCPB Resolution 05-56) was adopted on March 31, 2005, by the Planning Board.

Preliminary Plan 4-04162 was for the entirety of Parcel 153 and was 23.05 acres. Eight single-family dwelling unit lots were approved with that application. Plat one, River’s Edge (REP 208@19), was recorded in land records on August 13, 2005, for six of the eight lots approved with that preliminary plan. The lots platted are located on the east side of the property along Riverview Road.

Subsequent to the approval of the preliminary plan, the applicant obtained approval of application A-9955 (July 15, 2005) that rezoned a portion (9.968 acres) of the property from the R-C-O Overlay Zone to the L-D-O Overlay Zone. Originally, the R-C-O Overlay Zone (13.64 acres) encumbered the property to 1,000 feet from the Potomac River; now, the current R-C-O (3.67 acres) encumbers the property to 300 feet from the Potomac River. A-9955 rezoned from 300 feet to 1,000 feet from the river to L-D-O, which allows for development consistent with the underlying zone (R-E).

The subject application includes the land area associated with two of the original eight lots approved with Preliminary Plan 4-04162 and not recorded in land records. The application

proposes to subdivide the area of those two lots into 12 lots, a net increase of 10, and create one parcel to be conveyed to a homeowners association. All of the lots proposed exceed the minimum net lot area (40,000 square feet), lot width, and frontage requirements of the R-E Zone, consistent with the requirements of the L-D-O Overlay Zone. Parcel A is approximately 30,492 square feet and will provide water access to all of the existing and proposed lots in the subdivision. Parcel A will extend from the end of the proposed cul-de-sac, an extension of the existing platted (but unbuilt) street, to the river.

Section 24-151 of the Subdivision Regulations requires the approval of a Chesapeake Bay Critical Area (CBCA) conservation plan by the Planning Board with any preliminary plan of subdivision within the CBCA. The Planning Board, prior to the approval of Preliminary Plan 4-04162, approved Chesapeake Bay Critical Area Conservation Plan CP-04008. The revision proposed with that plan was approved prior to the approval of this preliminary plan (CP-04008/01).

18. This case was originally scheduled and posted for the Planning Board hearing of December 8, 2005. By letter dated December 7, 2005, Thomas Deming the attorney representing the Potomac Valley Citizens Association, Inc. and Dawn Davit, called into question the finality of the zoning decision (A-9955-C), as it relates to the roll of the Chesapeake Bay Critical Area Commission and the approval of growth allocation. In order to allow staff time to review the December 7, 2005 letter from Mr. Deming, the applicant granted a 70-day waiver and the Planning Board continued the case to December 22, 2005.

By memorandum dated December 12, 2005 Andree Checkley, associate General Counsel, M-NCPPC advised the Planning Board that it was appropriate to proceed with hearing both the CBCA Plan and preliminary plan applications on December 22, 2005.

At the hearing the attorney for the applicant proffered Condition 11, to address concerns of the citizens. The Planning Board accepted the proffer.

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.

\* \* \* \* \*

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 Vaughns, with Commissioners Eley, Vaughns and Hewlett voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, December 22, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 2nd day of March 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:WC:bjs