

R E S O L U T I O N

WHEREAS, a 121.16-acre parcel of land known as Parcels 3, 63, 194, Tax Map 151 in Grid F-4, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-L; and

WHEREAS, on January 23, 2006, Chesapeake Custom Homes filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 42 lots and 3 parcels; and

WHEREAS, the application for disapproval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-05098 for Belle Oak Estates 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 June 8, 2006, 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 DISAPPROVAL of the application with conditions; and

WHEREAS, on June 8, 2006, 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 DISAPPROVED the Type I Tree Conservation Plan (TCPI/87/95-01), and further DISAPPROVED Preliminary Plan of Subdivision 4-05098, Belle Oak Estates for Lots 1-42 and Parcels A-C due to inadequate fire and rescue staffing levels pursuant to Section 24-122(e)(2) of the Subdivision Regulations and to inadequate public notice.

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, does not meet 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 site is located on the north side of Berry Road, southeast of Manning Road East, and west of Bealle Hill Road. The site is undeveloped and predominately wooded. The surrounding properties are zoned R-R and R-A and are developed with single-family residences. The Bellevue National Historic Site is surrounded on three sides by the subject property. A long driveway to the historic site bisects the northern portion of the property.

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

	EXISTING	PROPOSED
Zone	R-L	R-L (As R-A)
Uses	Vacant	Single-Family Residences
Acreage	121.16	121.16
Lots	0	42
Parcels	3	3
Outlots	0	0
Dwelling Units	0	42
Public Safety Mitigation Fee		No

4. **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 February 10, 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.

5. **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 Ordinance. The subject application was accepted on January 23, 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, Accokeek, Company 24, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George’s County Fire/EMS Department.

The Fire Chief 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 report for current staffing for the Fire/EMS 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 January 23, 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 (3) monthly cycles of response time reports, then the Planning Board may not approve the preliminary pla[n] 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 (3) 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, February 1, March 5, 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.

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.

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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 Vaughns, seconded by Commissioner Squire, with Commissioners Vaughns, Squire, Eley and Parker voting in favor of the motion, and with Commissioner Clark opposing the motion, at its regular meeting held on Thursday, June 8, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of July 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator