

R E S O L U T I O N

WHEREAS, Broadcreek Yacht and Recreational Club is the owner of a 1.64-acre parcel of land known as Parcel 154, and the "Recreation Area" as described on the Broadwater Estates record plat (WWW28@99), located on Tax Map 122 in Grid E-3, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R & L-D-O; and

WHEREAS, on August 1, 2008, Broadcreek Yacht and Recreational Club filed an application for approval of a Preliminary Plan of Subdivision for 2 lots and 1 outlot; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-08044 for Broadwater 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 January 22, 2009, 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 of the application with conditions; and

WHEREAS, on January 22, 2009, 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 4-08044, Broadwater Estates, for Lots 1 and 2 and Outlot A with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Add a note that "Outlot A is to be retained by the owner and is not a legal building site pursuant to Section 24-101(b)(9)."
  - b. Provide an arrow from the bearing and distance on Lot 1 for the north west property line.
  - c. Revise general note 6 to reflect that the allowable density based on net tract area is 2 lots.
  - d. Revise general note 19 to reflect that the site is exempt because it is located within the CBCA.
  - e. Revise either general note 13 or 28 to reflect accurately the amount of 100-year

- f. floodplain delete the inaccurate note, and make appropriate adjustments to the plan.  
Revise general note 10 to state that “The 2001 Water and Sewer Plan, as amended, designates this property in Water and Sewer Category 3 as of July 28, 2008.”
2. Development of this site shall be in conformance with the Stormwater Management Concept Plan 17080-2008-00, and any subsequent revisions.
  3. At the time of final plat the applicant shall dedicated a ten-foot public utility easement along the public right-of-way (ROW) as delineated on the approved preliminary plan of subdivision.
  4. Prior to the approval of the final plat the following notes shall be place on the plat:
    - a. “This property is within the Chesapeake Bay Critical Area, in which development is strictly controlled. Development is subject to Chesapeake Bay Critical Area Plan CP-08004 and Conservation Agreement and any subsequent revisions. Prior to the approval of permits for Lots 1 and 2, a new Conservation Plan and Agreement shall be required for each lot.”
    - b. “Outlot A is not a legal building site.”
  5. Prior to approval of the final plat the approved Conservation Agreement associated with CP-08004 shall be approved and recorded among the land records of Prince George's County.
  6. Prior to approval of the Final Plat of subdivision the applicant and the applicant’s heirs, successors and/or assignees shall pay a fee-in-lieu of parkland dedication.

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 north side of Broad Creek Drive approximately 500 feet north of its intersection with Riverview Road.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	<b>EXISTING</b>	<b>APPROVED</b>
Zone	R-R/L-D-O	R-R/L-D-O
Use(s)	Private Club	Single-family dwellings
Acreage	1.64	1.64
Lots	0	2
Outlots	0	1
Parcels	1	0
Dwelling Units:		
Detached	0	2
Public Safety Mitigation Fee		No

4. **Environmental**—A Chesapeake Bay Critical Area Plan CP-08004 for the subject property is currently under review. Section 24-151 of the Subdivision Regulations requires the approval of a Chesapeake Bay Critical Area (CBCA) Conservation Plan by the Planning Board prior to the approval of the preliminary plan of subdivision. The required conservation plan was approved by the Planning Board at the hearing of January 22, 2008, prior to the subject application.

The associated CBCA Plan (CP-08004) is for the entire property and a conceptual plan. Prior to the approval of the final plat the agreement associated with CP-08004 is required to be approved and recorded in land records (Section 27-548.11). Prior to each building permit for Lots 1 and 2 a new CBCA Plan and agreement associated with the specific development proposal will be required for each lot. Outlot A will not be a legal building site as defined by Section 24-101(b)(9) of the Subdivision Regulations.

**Site Description**

The property abuts Broad Creek, contains 100-year floodplain and is entirely located within the Chesapeake Bay Critical Area. The 100-foot CBCA primary buffer (.98 acres) extends over Lots 1 and 2, and Outlot A. Although there are some scattered trees and shrubs, there is no woodland as defined by the Woodland Conservation and Tree Preservation Ordinance on-site. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on the property or on adjacent properties. There are no designated scenic or historic roads in the vicinity of the property. This property is located in the Potomac River watershed.

**Master Plan Conformance**

The site is located within the April 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*. Except for noting that the property is within the Chesapeake Bay Critical Area, there are no specific recommendations pertaining to the environmental elements of the master plan that relate to the subject property.

### ***Approved Countywide Green Infrastructure Plan Conformance***

The *Approved Countywide Green Infrastructure Plan* designates the area within the 100-foot CBCA buffer as a Regulated Area and the remainder of the site is a designated Network Gap. The proposed development will be in conformance through the implementation of a CBCA conservation plan and agreement.

### **Environmental Review**

An approved Natural Resources Inventory, NRI/049/07, was submitted with the application. As indicated the property abuts Broad Creek, contains 100-year floodplain and is within the Chesapeake Bay Critical Area. There are areas with steep and severe slopes; however, most of them are man-made and associated with the bulkhead and a drainage way.

The property is not subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because it is entirely within the Chesapeake Bay Critical Area. Properties within the Chesapeake Bay Critical Area are subject to more stringent requirements than those afforded by the Woodland Conservation Ordinance.

According to the *Prince George's County Soil Survey* the principal soils are in the Keyport series. Keyport soils are highly erodible and are in the B-hydric series. Beltsville soils are highly erodible, may have a perched water table and are in the C-hydric group. Leonardtown soils may have a perched water table, poor drainage, wetlands inclusions and are in the D-hydric group. This information is provided for the applicant's benefit. Prince George's County may require a soils report in conformance with CB-94-2004 during the permit review process.

A Stormwater Management Concept Plan and Letter, CSD 17080-2008-00, were submitted with the subject application. The plan requires the use of drywells to serve the residential lots. This information will be reflected on the CBCA conservation plan.

The final plat should note that the property is within the Chesapeake Bay Critical Area and that development is strictly controlled and subject to the approval of a CBCA Plan and Agreement.

5. **Water and Sewer Categories**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2001 Water and Sewer Plan, as amended by CR-43-2005, placed this property in Water and Sewer Category 3, Community System. The provision of water and sewerage to this site is consistent with the 2006 Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment and the 2002 Approved General Plan.

The 2001 Water and Sewer Plan as amended, designates this property in Water and Sewer Category 3 as of July 28, 2008, and the site will therefore be served by public systems.

6. **Community Planning**—The property is located within the Developing Tier as delineated in the 2002 *Prince George's County Approved General Plan*. One of the visions for the Developing Tier is to maintain a pattern of low-to moderate-density suburban residential communities. The applicant proposes two lots on 1.64 acres which maintains the pattern of low to moderate density of the surrounding community.

The property is also located within the limits of the 2006 Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment, in Planning Area 80 in the South Potomac community. The land use recommendation for this property is low-density residential up to 3.5 dwelling units per acre. The sectional map amendment retained the R-R Zone and the Chesapeake Critical Area (L-D-O) designations. The preliminary plan proposes development consistent with the R-R zone and the low density land use recommendations.

The preliminary plan is not inconsistent with the land use pattern for Developing Tier and conforms to the 2006 Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment as set forth in all of the findings of this resolution.

7. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations the applicant should pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location.
8. **Trails**—The preliminary plan was reviewed for conformance to the Countywide Trails Plan and the 2006 Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment which contain no trail recommendations for this property.
9. **Transportation**—The proposed development of two residences would generate 2 AM and 2 PM peak hour vehicle trips as determined using “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

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.

The traffic generated by the proposed preliminary plan would impact the intersection of Fort Washington Road and Riverview Road. This intersection is signalized.

There are no projects to improve this intersection in either the County Capital Improvement Program (CIP) or the State Consolidation Transportation Program (CTP).

There are no recent available turning movement counts at the critical intersection of Fort Washington Road and Riverview Road. Through review of River's Edge Preliminary Plan of Subdivision (4-04162) in 2005, it was determined that the critical intersection of Fort Washington Road and Riverview Road would operate acceptably under existing, background, and total traffic. Given that the "Guidelines" allow this site to be considered de minimus, the Planning Board finds that 2 AM and 2 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the Fort Washington Road and Riverview Road intersection.

The site is not within or adjacent to any master plan transportation facilities. Based on the preceding findings adequate transportation facilities would exist to serve the subdivision as required under Section 24-124 of the Prince George's County Code.

10. **Schools**—The preliminary plan has been evaluated for its impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CR-23-2003 and the following findings have been made:

**Impact on Affected Public School Clusters**

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	2 DU	2 DU	2 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	.48	.12	.24
Actual Enrollment	4,524	4,065	7,278
Completion Enrollment	112.08	45.54	91.08
Cumulative Enrollment	24.96	34.38	68.76
Total Enrollment	4,636.56	4,110.66	7,369.32
State Rated Capacity	4,775	4,983	7,792
Percent Capacity	97.10%	82.49%	94.58%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

County Council bill CB-31-2003 established a school facilities surcharge in the amounts 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 (WMATA).

CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,177 and \$14,019 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. This project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-31-2003 and CR-23-2003.

11. **Fire and Rescue**—This preliminary plan has been evaluated for adequacy of fire and rescue services in accordance with Section 24-122.01(a)(2), Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance and the following findings have been made:
  - a. This preliminary plan is within the required 7-minute response time for the first due fire station Silesia 47, using the *Seven (7) Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire/EMS Department.
  - b. Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn fire and rescue personnel staffing levels.
  - c. The Fire/EMS Chief has reported that the Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.
  
12. **Police Facilities**—The subject property is located in Police District IV, Oxon Hill. The response time standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the proceeding 12 months. The preliminary plan was accepted for processing by the Planning Department on August 1, 2008.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
November 2008	11/07–11/08	9 minutes	13 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met January 6, 2009.

The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in CB-56-2005.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn police personnel staffing levels.

13. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision and noted that the existing pool and pool pump house still remained on-site as of September 24, 2008. The Health Department conducted a raze permit inspection on May 17, 2007. The Department of Environmental Resources (DER) issued a raze permit (20333-2007-00) on July 10, 2007. Any hazardous materials located in the pool pump house on site should be removed and properly stored or discarded prior to the structure being razed. The Port-A-John found near the existing swimming pool should be pumped out by a licensed scavenger and removed from the site as part of the permit process.
14. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, 17080-2008-00 has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with that approved plan.
15. **Historic**—The subject property is located at 501 Broad Creek Drive in Fort Washington, Maryland. The subject property is located on Broad Creek, a tributary of the Potomac River. Several prehistoric sites have been previously identified on Broad Creek. Prehistoric sites have been found in similar settings and the probability of identifying prehistoric archeological resources is moderate to high.

An examination of aerial photographs and tax records indicates that portions of the property were used for agricultural purposes and for access to Broad Creek throughout the early 20<sup>th</sup> century. Under the ownership of John Miller from 1891 to 1907, a brick yard was established on a larger parcel. A road visible in the 1938 aerial photographs running through the subject property may have been associated with the earlier brick yard operations. The parcel was used for recreational purposes for the Broadwater Estates development beginning in the late 1950s.

Fifteen archeological sites have been identified within a one-mile radius of the subject property. Nine sites date to the prehistoric period, three date to the historic period, and three are multi-component prehistoric and historic sites. In addition, there are four County Historic Sites, Silesia School (80-12), Piscataway House (80-024-9), Want Water Ruins (80-024-10) and Harmony Hall (80-024-11), located within a one-mile radius of the subject property. Want Water Ruins and Harmony Hall are listed in the National Register of Historic Places. Three of the sites are within

the Broad Creek Historic District. This property is not located within the Broad Creek Historic District.

In accordance with the Planning Board's directives, as described in the *Guidelines for Archeological Review*, May 2005, and consistent with Subtitle 24-104, 24-121(a)(18), and 24-135.01, the property was the subject of a Phase I archeological investigation to identify any archeological sites that may be significant to the understanding of the history of human settlement in Prince George's County, including the possible existence of slave quarters and slave graves, as well as archeological evidence of the presence of Native American peoples.

The Phase I (Identification) archeological investigation, according to the Planning Board's *Guidelines for Archeological Review* (May 2005), was completed on the entire 1.57 acres. The Planning Board concurs with the reports conclusions that no further archeological work is necessary.

16. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations when utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents recorded on the record plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The preliminary plan of subdivision correctly delineates a ten-foot public utility along the public right-of-way as requested by the utility companies. The ten-foot PUE should be delineated on the final plat.

17. **Background**— The subject property is located on Tax Map 122 in Grid E-3, is 1.64 acres, and comprised of Parcel 154, and the “Recreation Area” as described on the Broadwater Estates record plat (WWW28@99) which was recorded in land records in 1956. The property is located entirely within the Chesapeake Bay Critical Area in the Limited Development Overlay (L-D-O) Zone on Broad Creek. Approximately 0.98 acres is located within the 100-foot critical area primary buffer. Section 24-151 of the Subdivision Regulations requires the approval of a Chesapeake Bay Critical Area (CBCA) Conservation Plan by the Planning Board prior to the approval of the preliminary plan of subdivision. The required conservation plan (CP-08004) was approved on January 22, 2008.

The property is currently improved with a swimming pool, basketball court and several small piers which are not being utilized, and have fallen into disrepair. The property is not owned and operated by a homeowners association, but is in private ownership and is a private club with the sale of memberships. Currently there are nine member families in the Broad Creek Yacht and Recreation Club, Inc. The applicant has indicated that in accordance with the by-laws, all are property owners and residents of Broadwater Estates. The current owners have indicated that over the last several years the membership has declined and as a result the owners have proposed to subdivide the property into two single-family dwelling unit lots and one outlot. All of the existing

structures are to be razed.

The area of Outlot A (17,660 square feet) is to be retained by the property owners, and topographically not associated with the pool and basketball court which are located along the properties majority frontage with Broad Creek Drive. Outlot A is proposed with a 19-foot-wide “stem” which fronts on Broad Creek Drive and extends north along the eastern property line and gradually slopes toward the water front. The stem will provide frontage on a public street and the ability for continued access to the water front. Outlot A widens out to 125 feet wide at the water front and is relatively flat and well maintained. A concrete boat ramp extends north from Outlot A into Broad Creek. Outlot A, as defined by Section 24-101(b)(9) of the Subdivision Regulations will not be a legal building site.

In the L-D-O Overlay Zone lot sizes are guided by the underlying zoning. In this case, the minimum net lot area required in the R-R Zone is 20,000 square feet. Lot 1 is approximately 24,076 square feet and encumbered by 100-year floodplain, and has a net lot area of 20,006 square feet. Lot 2 is 30,157 square feet also encumbered by 100-year floodplain, and has a net lot area of 20,003 square feet. Vehicular access to each lot will be via individual driveways directly onto Broad Creek Drive to the south. Each lot is proposed with water frontage along the north property line. Both lots 1 and 2 exceed the minimum requirements for the development of single-family dwelling units in the R-R Zone.

18. **At the Planning Board Hearing on January 22, 2009**-The Historic Preservation Section staff presented a recommendation from the Historic Preservation Commission dated January 21, 2009, which recommended that the Planning Board place a condition on the height of the proposed dwelling on Lot 1 because of the possible impact to the view from the Broad Creek Historic District. Specifically that:

“The Historic Preservation Commission recommends the approval of Preliminary Plan of Subdivision 4-08044 and Chesapeake Bay Critical Area Plan CP-08004 with the condition that the applicant agree to a restrictive covenant on proposed Lot 1 that limits the maximum height of any future construction on this lot to less than 35 feet from the existing grade.”

The Planning Board noted that the proposed dwelling unit on Lot 1 is not a part of the review of the preliminary plan or the conceptual CBCA plan and found that establishing a height restriction on a dwelling which is not under review may be premature.

The Planning Board determined that with the review of the CBCA plan for Lot 1, which is required prior to building permits, they will consider the issue raised by the HPC, and the Broad Creek Historic District Local Advisory Committee mentioned in the HPC recommendation of January 21, 2009, and did not include a condition restricting the height of the dwelling of Lot 1 at this 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 date of notice of 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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns, Cavitt and Parker voting in favor of the motion at its regular meeting held on Thursday, January 22, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 12th day of February 2009.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator