

R E S O L U T I O N

WHEREAS, a 2.23-acre parcel of land known as Parcel 11, Tax Map 131 in Grid B-2, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned L-D-O and R-E; and

WHEREAS, on March 22, 2007, J. Riley and Mary F. Smirnow filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06095 for Swan Creek Club Development 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 March 22, 2007, 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 March 22, 2007, 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 4-06095, Swan Creek Club Development, for Lots 8 and 9 with the following conditions:

1. The following note shall be placed on the final plat:

“Development of Lot 8 is subject the Chesapeake Bay Critical Area Conservation Plan CP-87017/02 or any subsequent revision. Development of Lot 9 is subject the Chesapeake Bay Critical Area Conservation Plan CP-06001 or any subsequent revision.”

2. Prior to final plat approval, Chesapeake Bay Critical Area Plan CP-06001 shall be signed.
3. The final plat for Lot 9 shall show a 180-foot building restriction line from Hatton Point Road, a 105-foot build restriction line from the mean high tide line, an 18-foot building restriction line parallel to the south property boundary and a 17-foot building restriction line from Lot 8.
4. The final plat shall have the following note:

“Prior to issuance of a building permit for proposed Lot 9, the Chesapeake Bay Critical Area Plan, CP-06001, shall be revised to show the total impervious surfaces and to show the driveway and house footprint. The revisions to the Conservation Plan may be approved by

staff if no variances to any provision of the Zoning Ordinance are required.”

5. Prior to signature approval of the preliminary plan, the General Notes shall be revised to reflect existing Water Category 3 and Sewer Category 5;
6. Development of this site shall be in conformance with the approved stormwater management concept plan and any subsequent revisions.
7. Prior to the approval of any building permits, a limited detailed site plan for Lot 9 shall be approved by the Planning Board that shall consider the shape, mass, siting, architectural materials and landscaping. The purpose of this site plan review shall be a plan that is deemed the most compatible with the immediate neighborhood.
8. Prior to the approval of the detailed site plan for Lot 9, information shall be obtained from Prince George’s County regarding the existing drainage problem along Hatton Point Road. This information shall address whether the future development on Lot 9 will help or exacerbate the existing drainage problems and what solution(s) the county may deem appropriate to solve this problem.
9. Prior to signature approval, the preliminary plan shall be revised to show the existing stormwater easement on proposed Lot 8 and the Liber and Folio of the recorded easement shall be reflected in the general notes.

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 subject property is located on Tax Map 131, Grid B-2, and is known as Parcel 11. The property is approximately 2.23 acre in area and is zoned L-D-O and R-E.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-E\ L-D-O	R-E\ L-D-O
Use(s)	Single-family Residences	Single-family Residences
Acreage	2.23	2.23
Lots	0	2
Outparcels	0	0
Parcels	1	0
Dwelling Units:	1 (to remain)	2 (1 new)
Public Safety Mitigation Fee		No

4. **Subdivision**—On February 5, 2007 a letter was sent to staff from James F. Garrett, Vice President of the Potomac Valley Citizens Association. That letter notes the strong opposition of the Association and its concerns regarding the affect this subdivision will have on the character of their neighborhood. The letter also requests that the plan be subject to the requirements of the Chesapeake Bay Critical Area Commission.

On February 7, 2007 Subdivision and Environmental Planning staff met with neighboring residents of the subject property and the applicant to discuss the proposed development. Discussed at length were the overall processes for the submission, review and approval of a Chesapeake Bay Critical Area plan and a preliminary plan of subdivision. As noted in their letter, residents expressed concerns about the character of the neighborhood given the siting of the future house and its location in relationship to the other homes. Although not addressed in the letter, another concern was raised at this meeting regarding serious drainage problem that has plagued an area along Hatton Point Road. Both of these issues are major concerns to the residents, especially the adjacent property owner who expressed a third concern about a verbal agreement with the applicant not to further subdivide the property.

While the two proposed lots were found to meet all of the applicable Zoning Ordinance requirements, staff acknowledges the house siting/character issue that was raised. One element of confusion has been that for Lot 9, the proposed house location reflected on the preliminary plan and the proposed house location reflected on the CBCA plan are not consistent. Staff believes that the most effective way to address the house siting/character issue is to have a detailed site plan approved by the Planning Board prior to the issuance of any permits for Lot 9. This site plan review can focus on the shape, mass, siting, architectural materials and landscaping. The intent of the site plan review would be a plan that is deemed the most compatible with the immediate neighborhood.

With regard to the drainage problem, the applicant has obtained approval of a conceptual stormwater management plan from Prince George's County. While the entirety of the subject property slopes down and away from the Hatton Point Road and should not exacerbate this existing problem, it is prudent to bring this matter to the attention of the county prior to the approval of the more detailed technical storm drainage plan. This could be accomplished in concert with the detailed site plan noted above.

With regard to the assertion that there was a verbal agreement limiting the resubdivision of a portion of this property, staff believes this to be a civil matter between the respective landowners.

5. **Environmental**—The Planning Board approved a Chesapeake Bay Critical Area Conservation Plan, CP-88017, on December 8, 1988. That plan was for the construction of an addition to an existing single-family detached residential structure and the construction of a garage. The Board of Appeals granted variances to allow construction within the 100-foot CBCA buffer, to allow construction within the side yard setback; to allow construction within the rear yard setback; and to allow construction to exceed the height limit set by the Zoning Ordinance. All of the existing

development is consistent with the Zoning Ordinance and the approved Chesapeake Bay Critical Area Plan. A revised Chesapeake Bay Critical Area Plan is required because of the significant change in the proposed development of the property. The current application is for two lots in the R-E zone.

On February 7, 2007, February 22, 2007 and March 7, 2007 Subdivision and Environmental Planning staff and the applicant met with neighboring residents of the subject property to discuss the proposed development.

Discussed at length were the overall processes for the submission, review and approval of a Chesapeake Bay Critical Area plan and a preliminary plan of subdivision. As noted in their letter, residents expressed concerns about the character of the neighborhood given the siting of the future house and its location in relationship to the other homes. Although not addressed in the letter, another concern was raised regarding a drainage problem that has plagued an area along Hatton Point Road. Both of these issues are major concerns to the residents.

With regard to the drainage problem, the applicant has obtained approval of a conceptual stormwater management plan from Prince George's County. While the entirety of the subject property slopes down and away from Hatton Point Road and should not exacerbate this existing problem, it is prudent to bring this matter to the attention of the county. Staff informed the citizens to contact the Department of Environmental Resources to address the drainage problem.

Site Description

The 2.23-acre property in the R-E/L-D-O zones is located on the west side of Hatton Point Road approximately 300 feet south of its intersection with Swan Creek Road. The entire property is within the Chesapeake Bay Critical Area. There are no streams or wetlands on the property. There is a 100-year floodplain associated with the Potomac River. Extensive areas of steep slopes with highly erodible soils and areas of severe slopes occur along the Potomac River shoreline and within the 100-foot CBCA buffer. Lot 8 contains an existing single-family detached structure. There are no nearby sources of traffic-generated noise. The proposed development is not a noise generator. According to the "Prince George's County Soil Survey" the principal soils on the site are in the Sassafras series. 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, 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. The site is in the Developing Tier according to the adopted General Plan. The *Countywide Green Infrastructure Plan* indicates that the area of steep and severe slopes abutting the Potomac River is designated as a regulated area and the remainder of the property is a designated network gap.

Environmental Review

A signed Natural Resources Inventory (NRI), NRI/54/05, was submitted with the application.

There is 100-year floodplain on the property, but no streams or wetlands. All of the steep slopes are adjacent to the Potomac River shoreline and completely within the 100-foot CBCA buffer. The FSD indicates one forest stand totaling 0.59 acres and seven specimen trees.

The entire property is exempt from the requirements of the Prince George's County Woodland Conservation Ordinance because it is entirely within the Chesapeake Bay Critical Area that has more stringent requirements. During the review of the CBCA Conservation Plan, woodland mitigation requirements will be addressed.

The entire property is within the Chesapeake Bay Critical Area. A Chesapeake Bay Critical Area Conservation Plan, CP-06001, has been submitted. Section 24-151 of the Subdivision Regulations requires the approval of a Chesapeake Bay Critical Area Plan prior to the approval of any Preliminary Plan of Subdivision. All requirements of the CBCA Critical Area legislation must be met prior to the Planning Board taking action on the preliminary plan application.

A note should be placed on the Final Plat detailing the development restrictions on Lots 8 and 9 subject the Chesapeake Bay Critical Area Conservation Plan CP-87017/02 and CP-06001 and any subsequent revisions.

The final plat for Lot 9 should show a 180-foot building restriction line from Hatton Point Road, a 105-foot build restriction line from the mean high tide line, an 18-foot building restriction line parallel to the south property boundary and a 17-foot building restriction line from Lot 8.

According to the "Prince George's County Soil Survey" the principal soils on the site are in the Sassafras series. Sassafras soils have no significant problems for development. This information is provided for the applicant's benefit. No further action is needed as it relates to this Preliminary Plan of Subdivision review. The issue of retaining wall use is addressed in the review of the Conservation Plan. The Prince George's County Department of Environmental Resources may require a soils report during the permit process review. The approved Stormwater Management Concept Plan and Letter, CSD #222-2004-02, were submitted with this application. The plan shows the use of dry wells on individual lots to control water quantity and quality.

Water and Sewer Categories

The 2001 Water and Sewer Plan designate Parcel 11 and part of Lot 5 in Water Category 3 and Sewer Category 5. Proposed Lot 9, to be comprised of parts of Parcel 11 and Lot 5, were approved for a waiver application for a single residential connection to public sewer. Water and Sewer lines in Hatton Point Road abut proposed Lot 9.

6. **Community Planning**—This application is located in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers and employment areas that are increasingly transit serviceable. The 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* shows the property as having a residential, low-density land use at a density up to 3.5

dwelling units per acre. There is currently one single-family residential dwelling. The applicant is proposing two single-family residential lots. The 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* retains the existing underlying R-E Zone and Limited Development Overlay (L-D-O) Zone. This preliminary subdivision is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. This preliminary subdivision conforms to the residential, low-density land use recommendation in the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment*.

7. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George’s County Subdivisions Regulations, Lots 8 and 9 of the subject subdivision are both exempt from Mandatory Dedication of Parkland requirements because each Lot is over one acre in size.
8. **Trails**—The 1985 Equestrian Addendum to the adopted and approved Countywide Trails Plan recommends the Potomac River Trail in the vicinity of the Potomac River at the subject site. This recommendation has been reinforced by the recently Adopted Henson Creek-South Potomac Master Plan, although no specific route is designated. An on-road bicycle route has already been designated for the Potomac Heritage Trail. Staff is currently working with the Department of Parks and Recreation, the National Park Service, DPW&T, and local citizen groups to determine an appropriate location for an off-road Potomac Heritage Trail. Land use constraints and existing development prevent the trail from being located along the Potomac River for its entirety, as indicated on the 1985 Equestrian Addendum. In the vicinity of the subject site, there is a substantial amount of existing residential development along the river that precludes the development of the trail on the waterfront. In this instance, it will be necessary to utilize trails or bikeways parallel to roadways (such as Riverview Road) and existing parkland to make the necessary connections. Roads are open section with no sidewalks in the vicinity of the subject site. There are no master plan trails recommendations.
9. **Transportation**—The subject application involves two single-family residential lots—with one more net residence—that would have a minimal impact on adjacent roadways. Access to the two new lots would be via Hatton Point Road. One additional driveway will be provided. The site is not within or adjacent to any master plan transportation facilities. No dedication is required.

TRANSPORTATION STAFF FINDINGS

The application is a preliminary plan of subdivision for a residential development consisting of two single-family residential lots to be created within an existing and developed tax parcel. The proposed net development would generate 1 AM and 1 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 Swan Creek Road and Riverview Road. There are no projects to improve this intersection in either the County Capital Improvement Program or the State Consolidation Transportation Program. Staff has no recent counts at the critical intersection of Swan Creek Road and Riverview Road. Due to the limited trip generation of the site, the Prince George's County Planning Board could deem the site's impact at this location to be de minimus. Staff would therefore recommend that the Planning Board find that 1 AM and 1 PM net peak hour trips will have a de minimus impact upon delay in the critical movements at the Swan Creek Road and Riverview Road intersection.

TRANSPORTATION STAFF CONCLUSIONS

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved. No transportation-related conditions are required at this time.

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 Ordinance.

The Prince George's County Planning Department has determined that this preliminary plan is within the required 7-minute response time for the first due fire station Allentown Road, Company 47, using the *7 Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire Department. Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels. The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The preliminary plan is located in Police District IV. The response 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 October 26, 2006.

Reporting Cycle	Date	Emergency Calls	Non-emergency
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Acceptance Date	09/05/05-09/05/06	10.00	22.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for non emergency calls were met on September 5, 2006. The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

12. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for impact 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.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	1 sfd	1 sfd	1 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	0.24	0.06	0.12
Actual Enrollment	3,946	5,489	9,164
Completion Enrollment	121	64	127
Cumulative Enrollment	17.52	108.96	217.92
Total Enrollment	4,084.76	5,662.02	9,509.04
State Rated Capacity	4,033	6,114	7,792
Percent Capacity	101.28	92.61	122.04

Source: Prince George's County Planning Department, M-NCPPC, December 2005

These figures are correct on the day this referral memo was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between interstate highway 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 on 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 \$7,671 and \$13,151 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 adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

13. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision and has no comments.
14. **Stormwater Management**— A stormwater management concept plan is required prior to signature approval of the preliminary plan. The approval number and date should be indicated on the preliminary plan. Development must be in accordance with this approved plan.
15. **Archeology**—A Phase I archeological survey is not recommended on the above-referenced 1.87-acre property in Fort Washington, Maryland. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The property appears to have been previously impacted by construction of an extant house, garage, septic field, and driveway. Although the property lies on the Potomac River, it is felt that modern construction has already adversely impacted any archeological resources that may be present. However, the applicant should be aware that there are seven prehistoric sites and one historic site within a one-mile radius of the subject property. The prehistoric sites were discovered on land not previously developed. There are also several archeological sites, historic sites, and historic resources within a two-mile radius of the subject property.

Moreover, Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies or federal permits are required for a project.
16. **Historic Preservation**—The subject application for preliminary plan of subdivision has no effect on historic resources.
17. **Notes on the Preliminary Plan**—The General Notes on the preliminary plan contain errors regarding the existing water and sewer categories, exemptions to mandatory park dedication and minimum lot standards. Additionally, the stormwater management approval date and number should be placed on the plan. All of these elements should either be added or corrected prior to signature approval of the preliminary plan.

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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns and Parker voting in favor of the motion, and with Commissioner Eley absent at its regular meeting held on Thursday, March 22, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 12th day of April 2007.

R. Bruce Crawford
Executive Director

By Frances J. Guertin
Planning Board Administrator

RBC:FJG:IT:bjs