

R E S O L U T I O N

WHEREAS, Leo Bruso is the owner of a 13.64-acre parcel of land in the 8th Election District of Prince George's County, Maryland, and being zoned R-E/R-C-O; and

WHEREAS, on April 16, 2004, Leo Bruso filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of constructing a subdivision on a parcel of land where part is within the Chesapeake Bay Critical Area; and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-04008 for River's Edge, 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 February 24, 2005, for its review and action in accordance with Zoning Ordinance, Subtitle 27, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with condition; and

WHEREAS, on February 24, 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 27, Prince George's County Code, the Prince George's County Planning Board APPROVED Conservation Plan CP-04008, for River's Edge with the following condition:

1. Prior to signature of the conservation plan, the plan shall be revised to show the proposed disturbance within the CBCA primary buffer that will be the subject of a raze permit.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. **Site Description**

The property is located on the west side of Riverview Road, approximately 1,000 feet south of the intersection of Riverview Road and West Riverview Road. The western property line is the Potomac River and has associated steep slopes along the shoreline. There is an area of 100-year floodplain, but no streams or wetlands are on the property. The minimum 100-foot Chesapeake Bay Critical Area buffer, but no expanded buffer, occurs on the site. 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 Aura, Elkton, Galestown, Keyport and Sassafra 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. 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. The site is in the Developing Tier according to the adopted General Plan.

2. **Background**

The Environmental Planning Section previously reviewed a Zoning Map Amendment for a portion of this property, A-9955. The 23.50-acre property includes 13.64 acres of land in the Chesapeake Bay Critical Area (CBCA), which is currently zoned R-E/R-C-O and is the subject of A-9955 for a rezoning to R-E/L-D-O. A-9955 is pending before the Zoning Hearing Examiner at this time. This plan is being reviewed under the current zoning. Preliminary Plan of Subdivision 4-04162 is concurrently under review. CBCA Conservation Plan CP-04008 was heard by the Planning Board on July 8, 2004, and was continued to an indefinite date. Revised plans were accepted for processing on October 22, 2004. The conservation plan must be approved before the preliminary plan may be approved.

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 entire 23.50-acre property is exempt from the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because 13.64 acres is 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.

The CBCA conservation plan consists of five sheets: (1) site inventory, (2) development concept, preservation plan, stormwater concept plan, (3) mitigation plan, afforestation plan, (4) erosion and sediment control plan, and (5) sediment control detail sheet.

Sheet 1 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 correctly shown.

Sheet 2 indicates that the existing pool, dwelling, poles and other existing site features are to be removed. The existing access road to the boat ramp is to remain. A stormdrain is proposed to be

installed.

Sheet 3 shows the proposed planting of 2.09 acres of mixed native tree species. The required afforestation is 15 percent of the gross tract within the Chesapeake Bay Critical Area, or 2.05 acres on the subject property. Planting of the 100-foot buffer, as required by the *Chesapeake Bay Critical Area Conservation Manual*, has been shown. The planting along the northern boundary will serve to increase the size of the existing woodland and meet the 15 percent afforestation requirement. The planting will consist of the seedlings of mixed native tree species in a random pattern. A five-year management plan is specified with planting to occur from February to April.

Sheet 4 illustrates proposed grading for the installation of the stormdrain; however, it fails to account for the removal of the pool, dwelling, poles, and other existing site features. Any proposed disturbance within the CBCA buffer generally requires a variance to the requirements of the *Chesapeake Bay Critical Area Conservation Manual*; however, according to the Department of Environmental Resources, a “raze permit” is not the same as a “grading permit.” Raze permits are not subject to the Chesapeake Bay Critical Area program requirements.

Recommended Condition: Prior to signature approval, the conservation plan shall be revised to show the proposed disturbance within the CBCA primary buffer that will be the subject of a raze permit.

3. **Summary**

On November 5, 2004, the Subdivision Review Committee determined that the conservation plan was in general conformance with the requirements of the L-D-O Zone and the conservation manual; however, the plan required a technical change as noted above. The revised plans will meet the requirements of the conservation manual, the L-D-O Zone, and the R-E Zone.

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 Eley, seconded by Commissioner Harley, with Commissioners Eley, Harley, Squire, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, February 24, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 17th day of March 2005.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:JS:wrc