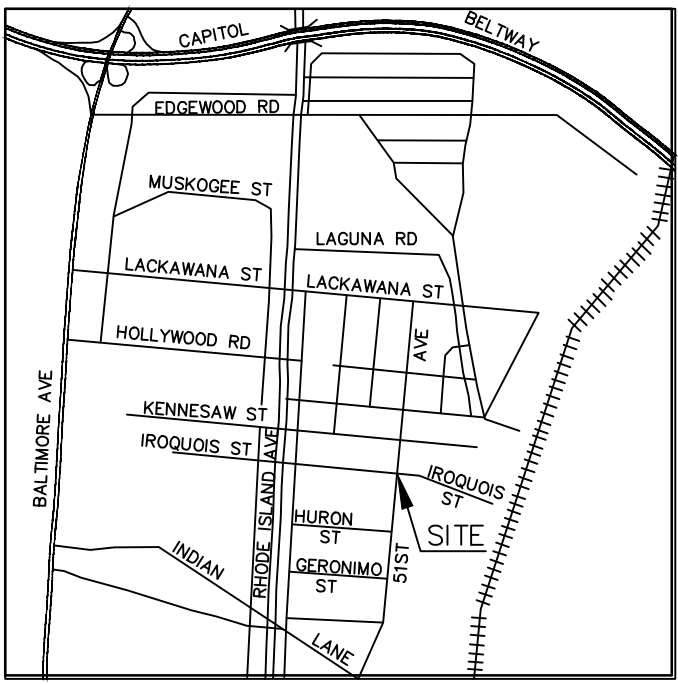


SOIL CHARACTERISTICS					
Map Symbol	Map Unit Name	K-Factor	Hydric Rating	Hydrological Soil Group	Drainage Class
CdD	Christiana-Downer-Urban Land Complex Soil 5-15% slope	--	Non-Hydric	D	Moderately Well Drained



VICINITY MAP

SCALE: 1"=2000'

GENERAL NOTES

- Number of Lots Proposed: (2) SINGLE FAMILY DETACHED
- Existing Zoning: RSF-65 Prior Zoning: R-55;
- Property Use : Residential
- Property Area : 10,175 SF OR 0.2335 AC
- Tax Account: 2298552
- Water Supply : Public ; Water Catagory : W-3
- Sewer Supply : Public ; Sewer Catagory : S-3
- Tax Map : 25 ; Grid : F-4
- W.S.S.C. 200' Sheet Number : 211 NE 05
- Soil Type: See Table
- Topographic Information : By Applied Civil Engineering
- Flood Plain Information : N/A
- Easement Area : N/A
- Public Area "Parkland" : This PPS is Exempt from Requirement of Mandatory Dedication of Park Land for Lot 50 to Provide a Proposal for Lot 49 (fee-in-lieu)
- Wetlands Or Perennial Streams : N/A
- Historic District : N/A
- Adjacent Cemetery : N/A
- Gateway Sign Or Entrance Feature Proposed : N/A
- Approved NRI-033-2022 Dated 3/30/2022
- Deed Reference : L. 36489 @ F. 310
- This site is exempt from the Woodland Conservation Ordinance, Exemption Number S-045-2022.
- Site in or adjacent to an easement held by the Maryland Environmental Trust, The Maryland Agricultural Land Preservation Foundation, or any other land trust or organization: NO
- Site within the Chesapeake Bay Critical Area: NO
- Sustainable Growth Tier : Yes ; Tier 1
- Interim Land Use Control Zone (ILUC): No
- Military Installation Overlay Zone : No
- Center or Corridor Location: No
- SWM Concept Plan # 5170-2022, dated April, 2022.
- Existing Lots: 1-3, Block 10
- Plat Book LIB A @ Plat Pages 131-132
- The Purpose of This Subdivision is to Create Two Lots.
- Area of Environmental Regulated Features: 0 SF

Zone R-55

REQUIREMENTS

PROVIDED

		Lot 49	Lot 50
Use	Residential	Residential	Residential
Type	Single Family	Single Family	Single Family
Density	6.7	8.6	8.5
Min Lot Size	6500 SF	5049 SF	5126 sf
Min Lot Width Street	45'	62.00'	66.50'
Min Lot Width Building	65'	65.55'	75.00'
Front Set Back	25'	25'	25'
Side Set Back	17/8	17/8	17/8
Rear Set Back	20'	20'	13'

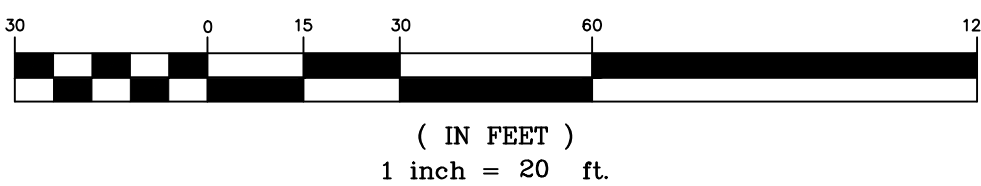
LEGEND

EXISTING CONTOUR	100
PROPOSED CONTOUR	100
PROPERTY LINE	
R/W BASE LINE	
EXISTING DRAIN PIPE	
SOIL DIVIDE	SmA SaE
SOIL TYPE	CdD

PROFESSIONAL CERTIFICATION

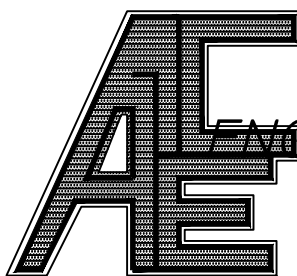
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 20444, Expiration Date: 9/6/22.

GRAPHIC SCALE



4-22019

E.F.NAME:		REVISIONS		
DESIGNED: _____ DATE: Jan. 2022				
DRAWN: _____ DATE: Jan. 2022		DATE	BY	
CHECKED: _____ DATE:				
APPROVED: _____ DATE:				



APPLIED CIVIL ENGINEERING
INC.

ENGINEERING * PLANNING * SURVEYING * LAND DEVELOPMENT
& PERMIT PROCESSING
9470 ANNAPOLIS ROAD, SUITE 414
LANHAM, MARYLAND 20706
TEL. (301) 459-5932



OWNER/APPLICANT/DEVELOPER

Hanadi Chalabi
5101 IROQUOIS ST
COLLEGE PARK, MD 20740
240-417-1912

PRELIMINARY PLAN OF SUBDIVISION

5101 IROQUOIS ST
Lots 1-3, Block 10
DANIEL'S PARK
Berwyn (21 st) Election District
Prince George's County, Maryland

SCALE: 1" = 20' CONTRACT No.: -- SHEET 1 OF 1

DANIEL'S PARK
PRELIMINARY PLAN OF SUBDIVISION (4-22019)
STATEMENT OF JUSTIFICATION
VARIANCES FROM 27-442(b) MIN NET LOT AREA FOR LOTS 49 & 50,
27-442(h) DENSITY, & 27-442 (e) REAR YARD SETBACK FOR LOT 50

OWNER/APPLICANT: Chalabi Hanadi
5101 Iroquois Street
College Park, MD 20740

ATTORNEY/AGENT: Law Offices of Norman D. Rivera, Esq. LLC
17251 Melford Blvd., Suite 200
Bowie, MD 20715
301-352-4973

CIVIL ENGINEER: Applied Civil Engineering
9470 Annapolis Road #414
Lanham, MD 20706
301-459-5932

1. DESCRIPTION OF PROPERTY

The subject property is located at the southeast corner of the intersection of Iroquois Street and 51st Avenue, in Planning Area 66, and Council District 1. The subject site is also located within the boundary of the *2001 Approved Sector Plan and Sectional Map Amendment for the Greenbelt Metro Area*. **The property will be developed under the prior R-55 Zone to be consistent with the neighborhood which consists of numerous lots of an average of 5000 SF.** A recent case was approved on November 18, 2021, by the Planning Board in Resolution PGCPB No. 2021-132 and File No. 4-20041.

The subject property is located on Tax Map 25 in Grid F4, consists of three existing lots, and contains a total of 10,175 square feet. An application for a Preliminary Plan of Subdivision has been filed to subdivide the existing three lots into two lots. An existing single-family detached structure is located on what is proposed to become Lot 50 and is proposed to remain. One additional single-family detached residence is contemplated to be developed on Proposed Lot 49. The following Variances are requested in association with the Preliminary Plan of Subdivision application.

2. **REQUEST FOR APPROVAL OF A VARIANCE FROM SECTION 27-442(b) MINIMUM NET LOT AREA & 27-442(h) DENSITY**

As noted above, the applicant is requesting approval of a preliminary plan for subdivision of three existing lots into two lots. A Variance from Section 27-442(b) of the Zoning Ordinance is requested to allow for a reduction in minimum net lot area in the R-55 Zone (6,500 square foot minimum). We will remain R-55 for the purposed of this application, which seeks to establish a minimum of 5,000 square feet per lot. Lot 49 is proposed to contain 5,049 square feet and Lot 50 is proposed to contain 5,126 square feet. The Zoning Ordinance sets forth the following criteria for approval of a Variance and justification for compliance follows each required finding.

Sec. 27-230 Variance

A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board, as applicable, finds that:

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

RESPONSE: *The Applicant is filing this application as permitted by the Transitional Provisions for two years in the prior zone, which is R-55. The extraordinary situation pertaining to the subject property is that the prior Zoning Ordinance amended as of April 1, 2022, included a minimum net lot area of 5,000 square feet for lots in the R-55 Zone meeting the following criteria, which is applicable to the site: "Lot that is part of a resubdivision of land on a plat that was originally recorded prior to November 29, 1949, and was composed of lots having an average net area of 5,000 square feet or less." The subject application involves a request for the resubdivision of lots that were originally recorded in 1906 as part of the Addition to Daniel's Park subdivision (plat*

enclosed). Therefore, the proposed lots are subject to a 5,000 minimum net lot area requirement under the old Ordinance.

The applicant's proposed lot sizes are justifiable because the lot sizes are allowable prior to April 1 of this year and are consistent with similarly aged properties within the neighborhood. In fact, there are multiple properties within one block of the subject site that are similarly sized. Two examples are 5205 Kenesaw Street {Lots 15 and 16) and 5203 Kenesaw Street (Lots 13 and 14), both of which contain 5,009 square feet. Lots 33 and 34, across 51st Avenue from the subject property, are also well below 6,500 square feet at 5,663 and 5,489 square feet, respectively.

Another case recently approved is PGCPB No. 2021-132 File No. 4-20041 for Part of Lots 42 and 43 in Block 4 of the Addition to Daniels Park Subdivision. The Resolution notes the same fact pattern present in our application (enclosed):

*“2. **Background**—The subject site is 0.31 acre (13,564 square feet) and is located at the northeast corner of 50th Place and Kenesaw Street, in the City of College Park. The property is known as Part of Lots 42 and 43 in Block 4 of the Addition to Daniels Park Subdivision, and since 1964, it has been a legal acreage parcel. The property is currently recorded in the Prince George’s County Land Records in Liber 37534 folio 52. The site is in the One-Family Detached Residential (R-55) Zone and is subject to the 2001 Greenbelt Metro Area Approved Sector Plan and Sectional Map Amendment (sector plan and SMA). The site is currently developed with a single-family detached dwelling and an accessory garage, which are to remain.*

“The applicant proposes to establish two lots (Lots 51 and 52) in order to develop one additional single-family detached dwelling on the east side of the property. Several variances, described in detail further in this

resolution, were requested to develop the site as shown on the plans.

“Under the site’s existing conditions, the existing dwelling and acreage parcel are exempt from having a preliminary plan of subdivision (PPS) and a final plat of subdivision, under Section 24-107(b)(7)(A) of the Prince George’s County Subdivision Regulations. However, a PPS is required in order to divide the land and develop the second proposed dwelling. The subject PPS is considered a minor subdivision under Section 24-117(a) of the Subdivision Regulations; however, it was heard by the Prince George’s County Planning Board due to the requested variances.

“The applicant requested variances to Section 27-442, subsections (b), (d), € , and (i) of the Prince George’s County Zoning Ordinance. Subsections (b) and (d) relate to net lot area and lot width, respectively, and variances are requested to these sections in order to establish Lot 52 with a net lot area and a lot width below the minimum requirements of the R-55 Zone. Subsections € and

“(i) relate to setbacks and accessory buildings, respectively, and variances were requested to these sections in order to permit the setbacks of the existing dwelling and its garage, most of which also fall below the minimum requirements of the R-55 Zone. The variances may be divided into two categories: first, those requested to permit existing conditions on the property; and second, those requested in order to establish a second lot (Lot 52), also known as those requested to permit proposed conditions. The variances, including the findings for approval, are discussed further in this resolution.

2. Setting—*The site is surrounded on all sides by one-family detached dwellings in the R-55 Zone. Kenesaw Street and 50th Place are owned and*

operated by the City of College Park. The nearest major roadway is Rhode Island Avenue, located about 600 feet west of the site.

"Many of the homes in the neighborhood, including those located directly south of the property across Kenesaw Street, are located on properties which are composed of multiple record lots. These properties were, in general, assembled to meet a 5,000-square-foot minimum lot area standard, and a minimum 50-foot width standard, which is permitted because the record lots were recorded prior to 1928. The platting history of the property and the surrounding area is discussed further in the Previous Approvals finding of this resolution.

It is the applicant's contention that this case cited along with other lot sizes approved in the Daniels Park Subdivision constitute the "extraordinary situation or condition" of this Finding for a Variance to reduce the lot area to what is sought. Likewise, the density is effectively amended under 27-442(h).

- (2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

RESPONSE: *The existing house was developed in the R-55 Zone on three lots of over 10,000 SF. The Applicant seeks to combine 3 lots into 2 lots consistent with the above. The area variance as noted in case law is to be analyzed by the "practical difficulty" standard rather than exceptional or undue hardship (See attached decision by the ZHE in SE-4694, VSE-4834, page 20):*

(5) "Practical difficulties" has been defined in Carney v. Baltimore. 201 Md.130,137 (1952).as follows:

The expression "practical difficulties or unnecessary hardship" means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are not necessary to carry out the spirit of the ordinance and which are of such a degree of severity that their existence amounts to a substantial and unnecessary injustice to the applicant.

Exceptions on the ground of practical difficulties or unnecessary hardships should not be made except where the burden of the general rule upon the individual property would not, because of its unique circumstances, serve the essential legislative policy. and so would constitute an entirely unnecessary and unwanted invasion of the basic right of private property.

(6) An area variance (such as the one requested herein) need only satisfy the "practical difficulties" standard. (See, Richard Roeser Professional Builders, Inc. v. Anne Arundel County, 368 Md. 294.

793 A.2d 545 (2001)) Finally, the hardship may not be self-created, As noted by the Court of Appeals in Chesapeake Bay Foundation, Inc, v, ocw Dutchship Island, LLC. 439 Md.588. 623-624 (2013):

[T]he critical issue in determining whether a hardship is self-created is whether the property owner could have avoided the need for a variance. In other words, if a property owner has a hand in creating the 'peculiar circumstances' that cause his need for a variance, the owner's hardship is self-created. But when the 'peculiar circumstances' arise from the zoning restrictions themselves, the owner's hardship is not self-created,"

In this case, we are consistent with prior zoning ordinance. The citation reflects the law, and we are going to develop in the existing R-55 Zone as

permitted. *This code cite allows for consistency and was part of the Code as allowed by the Transitional Provisions of the new Code. The lot sizes are consistent with the neighborhood and in character.*

- (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

RESPONSE: *General Plan*

This PPS is located within the Established Communities policy area. Plan 2035 describes Established Communities as areas appropriate for context-sensitive infill and low- to medium-density development and recommends maintaining and enhancing existing public services, facilities, and infrastructure to ensure that the needs of residents are met (page 20).

Sector Plan

The sector plan recommends medium-suburban density residential uses on the subject property (Map 4, page 32). The associated SMA retained the property in the R-55 Zone (Map 38, page 168).

This PPS conforms to the sector plan and SMA because the single-family residential use aligns with the plan's recommended medium-suburban density residential use.

The proposed subdivision will not impair the General Plan or Master Plan because the requested variances will not create a new lot which is out of character with the neighborhood, as noted above. Several examples of nearby lots which are less than 6,500 square feet have been provided. It should also be noted again that Section 27-442 of the recently replaced Zoning Ordinance included several circumstances under which land in the R-55 Zone may be formed into lots which are below the typical minimum size requirements, one of which applies to the subject property.

3. REQUEST FOR APPROVAL OF A VARIANCE FROM SECTION 27-442(e) MINIMUM REAR YARD DEPTH FOR PROPOSED LOT 50

A Variance from Section 27-442(e) is requested to allow for a reduction in the minimum rear yard depth in the R-55 Zone to allow for the existing single-family detached structure on proposed Lot 50 to remain. The Zoning Ordinance sets forth the following criteria for approval of a Variance and justification for compliance follows each required finding.

Sec. 27-230 Variance

A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board, as applicable, finds that:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

RESPONSE: *In this case, the practical difficulty is the shape of the site in terms of laying out lots of 5,000 square feet with the proper rear yard setback is not practical as the existing home is to stay. The owner seeks to build a second home for their family on the new "second" lot and keep the existing house on the new "first" lot. The layout issue is not self-created. It is not practical to remove an existing house for the sake of the rear yard setback. If and when the house is removed or replaced, the setback can be restored.*

The requested rear yard setback on Lot 50 is justifiable, as the 13-foot rear yard is deep enough to ensure Lot 50 will not encounter any lot coverage or maintenance issues while allowing the 67-year-old development to remain. Providing the standard rear yard setback of 20 feet would require the removal of the existing dwelling and would result in only nominal changes to the form and function of the development. In addition, the side yard for the existing house is a minimum of 8' and 14' is provided so there is adequate space for yards. Forcing the removal of the existing residence would result in an undue hardship upon the owner of the property.

- (2) The strict application of this Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

RESPONSE: *The requested rear yard setback on Lot 50 is justifiable, as the 13-foot rear yard is deep enough to ensure Lot 50 will not encounter any lot coverage or maintenance issues while allowing the 67-year-old development to remain. Providing the standard rear yard setback of 20 feet would require the removal of the existing dwelling and would result in only nominal changes to the form and function of the development. Forcing the removal of the existing residence would result in an undue hardship upon the owner of the property.*

- (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

RESPONSE: *General Plan*

This PPS is located within the Established Communities policy area. Plan 2035 describes Established Communities as areas appropriate for context-sensitive infill and low- to medium-density development and recommends maintaining and enhancing existing public services, facilities, and infrastructure to ensure that the needs of residents are met (page 20).

Sector Plan

The sector plan recommends medium-suburban density residential uses on the subject property (Map 4, page 32). The associated SMA retained the property in the R-55 Zone (Map 38, page 168).

This PPS conforms to the sector plan and SMA because the single-family residential use aligns with the plan's recommended medium-suburban density residential use.

The proposed subdivision will not impair the General Plan or Master Plan because the requested variances will not create a new lot which is out of character with the neighborhood, as noted above.

CONCLUSION

For the foregoing reasons, the Applicant believes the subject Variance requests conform to the required findings stated in Section 27-3613 of the Zoning Ordinance. Based on the foregoing analysis, as well as the plans and supporting documentation filed in conjunction with this application, the applicant respectfully requests the approval of Variances from Section 27-442(b) to allow minimum net lot areas less than 6,500 square feet for Lots 49 and 50, Section 27-442(e) to allow density exceeding 6.7 dwelling units per acre for Lots 49 and 50, and 27-442(e) to allow a reduced rear yard setback for Lot 50.

Respectfully submitted,

By:  _____

Attorney for Applicant

Norman D. Rivera

Date: 10/20/2022