

PGCPB No. 07-23

File No. 4-06093

## R E S O L U T I O N

WHEREAS, a .76-acre parcel of land known as Northwest Hyattsville, Tax Map 42 in Grid B-4, said property being in the 16th Election District of Prince George's County, Maryland, and being zoned R-55 and D-D-O; and

WHEREAS, on August 17, 2006, Douglas and Frances M. Jackson filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 3 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06093 for Northwest Hyattsville, Jackson's Subdivision 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 25, 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 January 25, 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 Variance Application No. VP-06093, and further APPROVED Preliminary Plan of Subdivision 4-06093, Northwest Hyattsville, Jackson's Subdivision, for Lots 1-3 and Outlot A with the following conditions:

1. At time of the detailed site plan, the plan shall show the provision of 26 percent tree cover, calculated using 10-year growth increments. A table shall be provided that addresses how this condition has been met.
2. Development of this site shall be in conformance with the stormwater management concept plan and any subsequent revisions.
3. Prior to signature approval, the preliminary plan shall be revised to illustrate two 50-foot wide lots and an approximate 13-foot wide strip as part of Outlot A.
4. Prior to the approval of the final plat of subdivision, the Planning Board shall approve a detailed site plan (DSP) for the entire subdivision. In addition to the requirements of the Gateway Arts District Sector Plan, this DSP shall consider the appropriate lot configuration between Lot 2, Outlot A and the adjoining commercially zoned property. This configuration may result in alternative compliance.
5. Prior to approval of the final plat of subdivision the applicant, his heirs, successors and/or

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assignees shall pay a fee-in-lieu of parkland dedication for Lot 2 and Lot 3.

6. Prior to signature approval of the preliminary plan, a copy of the stormwater management concept approval letter with the associated plan shall be submitted.

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 consists of portions of Lots 28, 29, and 30 on recorded plat RNR 2@22, known as Northwest Hyattsville, located on Tax Map 42 Grid B-4. It is 0.76 acre in size and zoned R-55.
3. The property is generally located at the southwest corner of 40<sup>th</sup> Avenue and Nicholson Street in the City of Hyattsville.
4. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development:

	EXISTING	PROPOSED
Zone	R-55, DDO	R-55, DDO
Use(s)	Single-family residential	Single-family residential
Acreage	.76	.76
Lots	1	3
Outlots	0	1
Parcels	0	0
Dwelling Units:	1 (existing)	2 (To be constructed)
Public Safety Mitigation Fee	-	No

5. **Variances**—The applicant requested one variance with the subject application and the Planning Board approved two others to address an existing situation with an adjoining commercially zoned property and to create a lotting pattern compatible with the surrounding neighborhood.

#### **Variance Request from Section 27-442(d), Lot/Width Frontage**

Section 27-442(d), Table III of the Zoning Ordinance establishes minimum lot frontage for lots in the R-55 Zone. Variances may be granted provided the application meets the following criteria, contained within Section 27-230(a) of the Prince George's County Code.

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

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The property does have exceptional narrowness. The variances requested are for proposed Lots 1, 2, and 3. Proposed Lot 1 is currently described as the eastern half of Lot 30. This lot, while deeper than is proposed with this subdivision, currently is only 50 feet wide and contains an existing dwelling unit that is to remain. The requested variance of 15 feet from the minimum 65 feet required is to substantiate a situation that has existed since 1927. An examination of other lots along the Nicholson Street corridor reveal a similar lotting pattern where the original 100-foot-wide lots were subdivided by deed to create lots 50 feet wide (each given an east or west designation assigned to the original lot number). Granting this variance will not permit the development of any new homes along Nicholson Street and it will not affect the existing character of the street. Even with the reduction of the existing lot area (the back portion of the lot is to be incorporated into proposed Lot 2), the lot will still be 7,950 square feet in size or 22 percent larger than the minimum 6,500 square foot requirement.

Proposed Lots 2 and 3 are currently described as part of Lot 28 and Lot 29. Similar to Lot 1, both of these Lots are deeper than adjoining Lots. There are no existing homes on either Lot and proposed Lot two is adjacent to an existing commercial property. As described in the overview and setting, the applicant is proposing the creation of an outlot that is to be conveyed to the owner of the adjoining commercially zoned property. The outlot is behind that property and will serve as a buffer to proposed Lots 1 and 2. There exists, however, a paved surface serving the commercial property that is actually located on the subject property. Because the land area where the paved surface is located is needed to provide the minimum lot width at the street line for Lot 2, the applicant was proposing to incorporate this area into Lot 2 and encumber it with an easement to the owner of the commercial property. The Planning Board found this proposal to be inappropriate for the future owner of Lot 2 and that it could have lead to conflict between the property owners. The Planning Board found that it may be more appropriate to have that portion of Lot 2 incorporated into Outlot A so that the area is being used by the owner of the commercial property is actually under that ownership and is not a burden to the future owner of Lot 2.

Additionally, the Planning Board found that Lots 2 and 3 should have 50-foot lot widths similar to adjacent lots and not the flag style Lot 2 that was proposed. Similar to Lot 1 both Lot 2 and Lot 3 require a variance of 15 feet from the minimum 65 feet required. This maintains an existing lotting pattern similar to other lots along the 40th Street corridor where the original 100-foot-wide lots were subdivided by deed to create lots 50 feet wide. Granting these variances will not negatively affect the existing character of the street. The proposed configuration of the Lots will allow for each of the lots to exceed the minimum 6,500 square foot requirement. These factors combine to create an extraordinary situation not generally applicable to other properties in the area.

- (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;**

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The hardship to the owner would be the loss of Lots 1 and either 2 or 3. If the variances are not granted, the back portion of the existing eastern half of Lot 30 could not be used because the entirety of this lot would need to be removed from the application. Part of Lot 28 and Lot 29 would also need to be removed or reconfigured to one single Lot

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

The granting of these variances will not substantially impair the intent, purpose, or integrity of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District*. The plan calls for the preservation of the single-family residential neighborhood character as the anchor of the Arts District, which is exactly what is proposed by the subject application.

Staff supports this variance request for these reasons.

6. **Environmental**—This 0.76-acre site is located at the southwest corner of 40<sup>th</sup> Avenue and Nicholson Street. A review of the available information indicates that streams, wetlands, severe slopes, and areas of steep slopes with highly erodible soils are not found to occur on this property. There is no 100-year floodplain that is associated with the site. Nicholson Street and 40<sup>th</sup> Avenue are both collector roadways, and generally not regulated for noise impacts. The predominant soil types found to occur on this site according to the Prince George's County Soil Survey are Sunnyside, Shrewsbury and Christiana. These soil series have limitations with respect to steep slopes, high shrink swell potential, seasonally high water table and poor drainage, but will not affect the site layout. According to available information, Marlboro clay does not occur on this property. According to information obtained from the Maryland Department of Natural Resources Wildlife and Heritage Service, 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 this application. This property is located in the Lower Northwest Branch watershed of the Anacostia River basin and in the Developed Tier as reflected in the adopted 2002 General Plan. The site does not contain regulated areas, evaluated areas, or any network gaps identified in the Countywide Green Infrastructure Plan. The property is located in the Developed Tier as delineated on the 2002 adopted General Plan..

**Environmental Issues Addressed in the Gateway Arts District Sector Plan**

There are few specific recommendations pertaining to the environmental elements of the sector plan that relate to the subject property. This site is currently cleared of vegetation, partially developed and is less than 40,000 square feet in size. The environmental elements pertaining to the subject property are stormwater management and tree cover. The applicable elements are addressed below.

**“1.c. Stormwater Management: Existing regulations require adequate control of stormwater runoff (Subtitle 4, Division 2, Prince George's County Code)”**

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Based on the stormwater management notes, this site has Stormwater Management Concept Approval Letter 39787-2006-00, dated December 5, 2006, but was not submitted with the application. This site is a good candidate for low impact techniques such as rooftop disconnects.

**“1.g. Protection and Restoration of Woodlands: The Woodland Conservation Ordinance requires the conservation of woodlands through preservation, reforestation and afforestation of woodland and specimen trees by meeting minimum woodland conservation thresholds (Subtitle 25, Prince George’s County Code)”**

The subject property is cleared, developed and contains no qualified woodlands. The site is exempt from the requirements of the Woodland Conservation and Tree Preservation Ordinance because it is less than 40,000 square feet in size and does not have a previously approved tree conservation plan. A standard letter of exemption from the ordinance is required prior to the issuance of any permit.

**“2. Incorporate low-impact development design features and implement green building techniques that include the latest environmental technologies.”**

Because of the small size of the proposed development (three lots) it will not be necessary to implement the green building element of this guideline. The low impact design features are discussed above.

**“3. Affirm county and state Smart Growth initiatives and the policies and strategies of the General Plan. New development and redevelopment should enhance existing green infrastructure elements such as wetlands, woodlands, open space, landscaped areas, street tree corridors, and sensitive species habitats. It should also establish open space linkages where they do not currently exist.”**

**“4. Seek opportunities to create new connected green infrastructure elements. New development or redevelopment project proposals should establish landscaped areas and open space connections, wherever possible.**

The subject property is not adjacent to a designated green corridor and does not contain woodlands, wetlands or sensitive species habitat. The tree cover standards in Item 5 below will result in the establishment of landscaped areas.

**“5. Require the following tree cover areas based on ten-year tree canopies: 10 percent tree cover on all properties not in the CBCA I-D-O overlay and within the industrial areas, 15 percent tree cover on property containing an L-D-O (limited development overlay), 20 percent tree cover within mixed-use or commercial areas, and 26 percent tree cover within residential areas. Establish street trees along main transportation corridors. Count trees planted in the public right-of-way but within 16 feet of a property line toward a development’s tree coverage.”**

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At time of detailed site plan the plan should show the provision of 26 percent tree cover, calculated using 10-year growth increments. A table shall be provided that addresses how this condition has been met.

**“6. Decrease impervious surfaces by sharing parking to the fullest extent, constructing green roofs, and following the County’s Department of Environment Resources requirements to the fullest extent.”**

**“7. Use micromanagement stormwater treatment methods on new development or redevelopment projects.”**

The proposed development is so small (three lots) low impact stormwater management techniques will likely be implemented.

#### **Environmental Review**

The preliminary plan application has a signed Natural Resources Inventory (NRI/059/06), dated June 4, 2006 that was included with the application package. The preliminary plan shows all the required information correctly. This property is not subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because the site is less than 40,000 square feet in area, it contains less than 10,000 square feet of woodlands and it has no previously approved tree conservation plan. A Type I tree conservation plan was not submitted with the review package and is not required. The Environmental Planning Section, Countywide Planning Division, issued a standard letter of exemption from the ordinance on May 5, 2006. No further action is needed at this time as it relates to woodland requirements. The letter of exemption should accompany all future applications for plans and permits. A stormwater management concept approval letter and concept plan were not submitted with this application, nor was there any evidence of compliance. It appears that rooftop disconnects and other low impact, on-lot techniques will be used. Prior to signature approval of the preliminary plan, a copy of the stormwater management concept approval letter with associated plan should be submitted.

#### **Water and Sewer Categories**

The water and sewer categories are W-3 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated December 2001, therefore the property will be served by public systems. Water and sewer lines in Nicholson Street and 40<sup>th</sup> Avenue abut the property. The Washington Suburban Sanitary Commission must approve the sewer extensions before the approval of the final plat.

7. **Community Planning**—This application is not inconsistent with the 2002 General Plan development pattern policies for the Developed Tier. This application conforms to the residential-infill land use recommendations of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George’s County Gateway Arts District* for the traditional residential neighborhood character area.

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The property is located at the southwest corner of 40<sup>th</sup> Avenue and Nicholson Street. It is 0.76 acres in size. There is an existing one-story frame house on the subject site that is to remain. The proposal is to subdivide the subject property into three single-family detached residential lots, where two new lots will result while retaining the existing building on the third lot.

#### General Plan, Master Plan, and SMA

The site is located in the Developed Tier and along a General Plan designated corridor (Baltimore Avenue, US 1). The vision for corridors is mixed residential and non-residential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. This development should occur at local centers and other appropriate nodes within one-quarter mile of major intersections or transit stops along the corridor. The vision for the Developed Tier is a network of sustainable transit supporting, mixed-use, pedestrian-oriented, and medium to high-density neighborhoods. The 2004 Gateway Arts District SMA retained the underlying R-55 Zone but superimposed the Development District Overlay Zone (DDOZ), which modified the uses allowed in the R-55 Zone in the TRN character area.

#### PLANNING COMMENTS

The recently approved 2004 *Gateway Arts District Sector Plan and Sectional Map Amendment* governs development of this site. The sector plan sets goals, objectives, and concepts based on the identification of seven character areas: 1) town center, 2) arts production and entertainment, 3) neighborhood arts and production, 4) multifamily residential community, 5) traditional residential neighborhoods, 6) neighborhood commercial, and 7) stream valley park. Each character area has its own set of development district standards with the exception of the stream valley park character area. This property is in the traditional residential neighborhood character area, which is described below

Traditional residential neighborhood (TRN) character area preserves the single-family residential neighborhood character as the anchor of the Arts District. The development goal emphasizes the existing single-family detached residential neighborhoods as calm, low-traffic, and child-safe.

In the City of Hyattsville the R-55 Zone standards per the Zoning Ordinance govern development in the TRN character area while the Development District Overlay Zone (DDOZ) modified the uses allowed in the R-55 Zone in the TRN character area.

8. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George's County Subdivision Regulations Lot 1 of the subject subdivision is exempt from Mandatory Dedication of Parkland requirements because there is an existing house on the site. In accordance with Section 24-135(a) of the Prince George's County Subdivision Regulations the Park Planning and Development Division recommends that the Prince George's County Planning Board require a payment of a fee-in-lieu of dedication from Lots 2 and 3 as applicable from the subject subdivision because land available for dedication is unsuitable due to its size and location.



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9. **Trails**—The Adopted and Approved Gateway Arts District Sector Plan designates both Nicholson Street and 40<sup>th</sup> Avenue as master plan bicycle/pedestrian corridors. The sector plan recognized the importance of bicycle and pedestrian accommodations in the area, and places an emphasis on multi-modal access to Metro. Sidewalks, trails, and on-road bicycle facilities are all envisioned as crucial components of walkable, livable communities. More specifically, Recommendation 6 of the sector plan recommends the provision of appropriate bikeway signage, bike lane striping, sidewalks, and traffic calming measures (if necessary) along both 40<sup>th</sup> Avenue and Nicholson Street (sector plan, page 45).

Existing sidewalks are present along the subject site's entire frontages of both Nicholson Street and 40<sup>th</sup> Avenue. An evaluation of the feasibility of designated bike lanes will have to be undertaken to determine where bike lanes can be accommodated along both road corridors. While it is not practical to stripe bike lanes for the relatively short road frontage of the subject application, it may be feasible to provide designated bike lanes along most or all of each road, depending upon right-of-way constraints and other factors. This is best determined for the entire road corridor through a separate study or evaluation outside the subdivision process. Appropriate pavement markings and/or signage will be determined by the City of Hyattsville on these municipal streets.

10. **Transportation**—The subject application involves one existing and two proposed lots – that would have a minimal impact on adjacent roadways. Driveway access to the two new proposed lots would be via 40<sup>th</sup> Avenue. The right-of-way for Nicholson Street is substandard. The plan must be revised to show dedication of an additional five feet along Nicholson Street (ultimate 50-foot right-of-way) unless the City of Hyattsville determines in writing that additional right of way is not needed. The site is not within or adjacent to any master plan transportation facilities. The proposed lots are within the Town of Hyattsville.

#### Transportation Staff Findings

The application is a preliminary plan of subdivision for a residential development consisting of 3 single-family residential lots with one existing residence. The proposed net development would generate 2 AM and 2 PM peak hour vehicle trip as determined using "Guidelines for the Analysis of the Traffic Impact of Development Proposals."

The site is within the developed 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) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 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



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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 MD 500 (Queens Chapel Rd) and Nicholson Street. 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 MD 500 and Nicholson Street. 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 2 AM and 2 PM net peak hour trips will have a de minimus impact upon delay in the critical movements at the intersection of MD 500 and Nicholson Street.

#### 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. This finding is conditional upon a determination by the Town of Hyattsville of the appropriate right of way along Nicholson Street.

11. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for 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 7	Middle School Cluster 4	High School Cluster 4
Dwelling Units	2 sfd	2 sfd	2 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	.48	.12	.24
Actual Enrollment	35,388	11,453	16,879
Completion Enrollment	218	52	105
Cumulative Enrollment	102	25.50	51
Total Enrollment	35,811.44	11,556.36	17,086.72
State Rated Capacity	39,187	11,272	15,314
Percent Capacity	91.39	102.52	111.58

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

These figures are correct on the day this referral was written. They are subject to change under

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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 amount 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, 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 policies for review of school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

12. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section have reviewed this subdivision for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(B)(E) of the Zoning Ordinance.

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 Hyattsville, Company 1, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department. 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, 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.

13. **Police Facilities**—The Prince George's County Planning Department has determined that this preliminary plan is located in Police District I. The response standard is 10 minutes for emergency calls and 25 minutes for non-emergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on August 17, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	01/05/05-06/05/06	10.00	18.00

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on June 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, the 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.

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14. **Health Department**—The Health Department reviewed the application and has no comment.
15. **Stormwater Management**—The application for Stormwater Management Concept Approval 39787-2006-00 was approved December 5, 2006. Development must be in accordance with this approved plan.
16. **Archeology**—Phase I archeological survey is not recommended for the above-referenced property. However, the applicant should be aware that state or federal agencies might require archeological investigation through the provisions of Section 106 of the National Historic Preservation Act.
17. **Historic Preservation**—The Historic Preservation and Public Facilities Section has reviewed the subject area and has found that there is no effect on historic resources.
18. **The City of Hyattsville**—In an e-mail to staff sent the following day, Mayor Gardiner informed staff that at a public hearing on January 16, 2007, the City of Hyattsville voted unanimously to oppose the subject application. He noted that the city had concerns over the relationship between the future house on Lot 2 located behind the future house on Lot 1. Additionally, the relationship between Lot 2 and the adjacent commercial property was questioned.

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.

\* \* \* \* \*

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 Clark, with Commissioners Eley, Clark and Parker voting in favor of the motion, and with Commissioners Vaughns and Squire abstaining at its regular meeting held on Thursday, January 25, 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