

RESOLUTION

WHEREAS, Jack and June Hillegas are the owners of a 13,503-square foot parcel of land known as Lot 14, located on Tax Map 51, in Grid E-1, said property being in the 2nd Election District of Prince George's County, Maryland, and being zoned One-Family Detached Residential (R-55); and

WHEREAS, on November 2, 2010, Jack and June Hillegas filed an application for approval of a Preliminary Plan of Subdivision for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-09024 for Haywood's Addition to West Lanham, Lots 14 and 15, 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 31, 2011, 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 31, 2011, 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 4-09024, Haywood's Addition to West Lanham, Lots 14 and 15, including a Variation from Section 24-121(a)(4) for 2 lots with the following conditions:

- I. Prior to signature approval of the preliminary plan of subdivision, the preliminary plan shall be revised to:
 - a. Show the unmitigated 65 dBA Ldn noise contour at 228 feet from the centerline of Veterans Parkway (MD 410).
 - b. Provide the definition of lot frontage in the general notes and how it was determined for Lot 15.
 - c. Remove "route" from the preliminary plan.
 - d. Revise General Note 9 to include the property description.
 - e. Provide the stormwater management approval dates.

- f. Label denial of access to MD 410 from Lot 15.
2. Development of this site shall be in conformance with Stormwater Management Concept Plans 24156-2008-00 and 28590-20080-00 and any subsequent revisions.
3. At the time of final plat, the applicant shall dedicate a ten-foot public utility easement (PUE) along the public rights-of-way as delineated on the approved preliminary plan of subdivision. The PUE shall remain free and clear of site improvements unless express permission is granted by all of the affected utility companies.
4. Prior to approval of building permits by The Maryland-National Capital Park and Planning Commission (M-NCPPC), the permit plans for each lot shall orient building structures to be parallel to MD 410, which shields the associated rear outdoor activity areas from traffic generated noise impacts associated with MD 410.
5. Prior to the issuance of building permits for proposed residential structures, the applicant shall submit certification by a professional engineer with competency in acoustical analysis to the Environmental Planning Section (M-NCPPC) demonstrating that the design and construction of building shells within the noise corridor of MD 410 will attenuate noise to interior noise levels of 45 dBA Ldn or less.
6. Prior to approval of the final plat, the applicant and the applicant's heirs, successors, and/or assignees shall pay a fee-in-lieu of the mandatory dedication of parkland in accordance with the requirements of Section 24-135 of the Subdivision Regulations.
7. The final plat shall reflect the denial of access from Lot 15 to MD 410.

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. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	R-55	R-55
Use(s)	Vacant	Residential
Acreage	13,503 sq. ft.	13,503 sq. ft.
Lots	1	2
Outlots	0	0
Parcels	0	0
Dwelling Units:		
Detached	0	2
Public Safety Mitigation Fee	No	No
Variation	No	Yes (Section 24-121(a)(4))
Variance	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on November 29, 2010. The requested variation to Section 24-121(a)(4) was accepted on November 2, 2010 and was heard by the SDRC on November 29, 2010.

3. **Environmental**—A Natural Resources Inventory (NRI-005-08) was previously reviewed for the subject property. A review of the available information indicates that there are no streams, wetlands, 100-year floodplain, areas of severe slopes, nor areas of steep slopes on highly erodible soils on the site. There are no Marlboro clays found on the site. The site is adjacent to MD 410, a master-planned arterial roadway that generates sufficient traffic that results in noise levels that are above the residential standard of 65 dBA Ldn. The soils found to occur on the site, according to the *Prince George's County Soil Survey*, are in the Sassafras series. 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 adjacent to this property. The site is in the Brier Ditch watershed of the Anacostia River Basin. This property is located in the Developed Tier as delineated in the *Prince George's County Approved General Plan*.

Master Plan Conformance

The subject property is located within the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity (Planning Area 69)*. The plan contains specific environmental recommendations and design standards that require review for conformance. The environmental requirements for woodland conservation, stormwater management, and noise are addressed below.

Countywide Green Infrastructure Plan Conformance

This does not contain any elements within the designated area of the *Approved Countywide Green Infrastructure Plan*.

Environmental Review

The preliminary plan application has a signed Natural Resources Inventory (NRI-005-08) dated October 8, 2008 that was included with the application package. The site does not contain any regulated features. The existing site information is correctly shown on the NRI and the associated plans.

This property is exempt from the requirements of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because it is less than 40,000 square feet in size and has no previously approved tree conservation plans. A standard letter of exemption from the Woodland and Wildlife Habitat Conservation Ordinance for this site was issued November 29, 2010. A Type I tree conservation plan is not required with this application.

Subtitle 25, Division 3: Tree Canopy Coverage Ordinance requires a minimum percentage of tree canopy coverage (TCC) on projects that require a grading permit. Properties zoned R-55 are required to provide a minimum of 15 percent of the gross tract area in tree canopy. The gross tract area is 13,503 square feet resulting in a requirement for TCC of 0.05 acre or 2,178 square feet, which will be required to be met at the time of review of permits.

The NRI shows that several large trees exist on the site that, if properly preserved, could be counted toward meeting the TCC requirement. Additional landscaping will need to be added as necessary to provide conformance with the requirements. Prior to approval of building permits by The Maryland-National Capital Park and Planning Commission (M-NCPPC) for the subject site, a tree canopy coverage schedule will be required.

The site is adjacent to MD 410, a designated arterial roadway. For residential uses, rear outdoor activity areas must have noise levels of 65 dBA Ldn or less in order to be in conformance with State of Maryland standards. Rear yards should be oriented away from MD 410. Front yards should be oriented in a parallel manner to MD 410. The interiors of all residential structures must have noise levels of 45 dBA Ldn or less to be in conformance with state standards, and is required.

According to the Environmental Planning Section's noise model, the unmitigated 65 dBA Ldn noise contour is approximately 228 feet from the centerline of MD 410. The unmitigated 65 dBA Ldn noise contour needs to be shown on the preliminary plan. Based on this measurement, the entire site will be impacted by noise above the state standard of 65 dBA Ldn for rear outdoor activity areas and 45 dBA Ldn for interior areas.

However, The Maryland-National Capital Park and Planning Commission (M-NCPPC) noise model assumes flat surfaces without surface conditions that would elevate noise levels. The topography between MD 410 and the subject lots is not flat, with the lots being substantially lower in elevation than the road. This situation results in lower noise levels than those predicted in the model. The surface conditions between MD 410 and the proposed lots are vegetated and do not add to the existing noise levels. Therefore, the Planning Board supports the variation for lot depth with conditions related to dwelling unit orientation, and building shell construction.

Based on the topography shown on the signed NRI and confirmed during a site visit, proposed Lot 15 is approximately 30 feet lower than MD 410 and proposed Lot 14 is approximately 20 feet lower than MD 410. Generally, when a site is topographically lower than the adjacent street, it is less impacted by traffic generated noise, particularly the lower levels of the proposed structures. Because the entire site is within the area impacted by noise above the state standard, mitigation will be required. Because a noise barrier would not be practical to address noise impacts to outdoor activity areas, the proposed front of the residential structures should be parallel to MD 410 such that the rear outdoor areas are shielded from traffic generated noise impacts. For interior areas, the first and second floor elevation of the proposed structures should be designed with materials that will mitigate the interior areas to 45 dBA Ldn or less. These standards will be required at the time of building permit approval by M-NCPPC.

4. **Variation**—The subject property is adjacent to MD 410, an arterial roadway, and Section 24-121(a)(4) of the Subdivision Regulations states:

(a) **The Planning Board shall require that proposed subdivisions conform to the following:**

- (4) **Residential lots adjacent to existing or planned roadways of arterial classification shall be platted with a minimum depth of one hundred and fifty (150) feet. Residential lots adjacent to an existing or planned roadway of freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of three hundred (300) feet. Adequate protection and screening from traffic nuisances shall be provided by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate.**

For this preliminary plan of subdivision, the application is subdividing an existing lot into two lots for the construction of single-family dwelling units. The proposed new dwellings will be consistent with adjacent development. Additionally, the proposed lots are further from the noise generator than lots that are located on the south side of Ingraham Street.

Veterans Parkway (MD 410) was constructed approximately 35 feet higher in elevation than the proposed lots and is buffered by existing established evergreen trees between Veterans Parkway and the subject site.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests as follows:

- a. **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

- (1) The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The property is in the Developed Tier and is consistent with the goals of the sector plan; the applicant is proposing new single-family dwellings at the street end of an established block of dwelling units. The subdivision requirements for land adjacent to an arterial roadway is that they must be platted with a minimum lot depth of 150 feet and front on either an interior street or service road. This lot depth provides opportunities to place a dwelling where the impacts will be mitigated to the extent possible. Granting a variation would not be injurious to the public or adjoining properties in this case, with conditions which will mitigate the noise impacts.

- (2) The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The conditions on which the variation is based are unique to the property. This is the only property located on Ingraham Street that has frontage at the intersection of Ingraham Street and MD 410. At this location MD 410 is approximately 30 feet higher in elevation than the subject property. Generally, unusable rear yards are not supportable. In this instance this property is situated in such a manner that the rear yards can be shielded by a parallel orientation of the dwellings to MD 410. Other properties on Ingraham Street have rear yards that face MD 410, have steep grades and are entirely subject to noise of 65 dba and greater. The triangular shape

and size of the property, as well as its location in the established residential neighborhood, are unique to the property.

- (3) **The variation does not constitute a violation of any other applicable law, ordinance or regulation; and**

Approval of this variation will not constitute a violation of other applicable laws because the applicant will have to obtain permits from other local, state, and federal agencies as required by their regulations.

- (4) **Because of the peculiar physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulation is carried out.**

The General Plan envisions a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The medium density neighborhood where this property is located is existing and is not inconsistent with the General Plan. The property does have peculiar physical surroundings and shape. The property does not meet the minimum lot depth and is in fact the only property on Ingraham Street that has an intersection with Ingraham and Veterans Parkway (MD 410). The property is also approximately 30 feet lower than the noise generator (Veterans Parkway). With steep slopes and a peculiar triangular shape this property is unable to meet the lot depth requirement and would cause a particular hardship on the owner and result in the inability to develop the lot in keeping with other established dwellings on the same street. Some of the dwellings located on Ingraham Street have backyards that abut the noise generator.

The Planning Board grants the request for a variation from Section 24-121(a)(4) of the Subdivision Regulations for Lots 14 and 15.

5. **Community Planning**—The applicant proposes the construction of a two new single-family dwelling. In accordance with the General Plan, this application is located in the Developed Tier.

The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The preliminary plan of subdivision application is consistent with the General Plan Development Pattern policies for the Developed Tier. The approval of the variation from lot depth will not change the character of the lotting pattern and is not inconsistent with the General Plan of master plan.

The proposed land use is consistent with the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity*.

6. **The Department of Parks and Recreation (DPR)**—In accordance with Section 24-134(a) 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.
7. **Trails**—The preliminary plan was reviewed for conformance with the *Countywide Master plan of Transportation (MPOT)* and the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity*.

There are no non-vehicular and transportation-related issues identified. The subject lot has access to Ingraham Street, which does not contain sidewalks. The area master plan does not contain any trail recommendations that affect the subject property.

Based on the preceding analysis, adequate bicycle and pedestrian transportation facilities will exist to serve the proposed use as required under Section 24-123 of the Subdivision Regulations from the standpoint of non-vehicular circulation and transportation. With the right-of-way dedication required DPW&T could install sidewalks if determined appropriate in the future.

8. **Transportation**—The subject property consists of approximately 13,503 square feet of land in the R-55 Zone. The property is located on Ingraham Street at the terminus of Ingraham Street and (MD 410). The applicant proposes to subdivide the existing lot and construct two new single-family dwellings. Therefore, it is determined that the proposed subdivision would generate 2 AM and 2 PM weekday peak-hour vehicle trips.

Both proposed lots have planned driveway access to Ingraham Street. This is a non master-planned roadway with a 50-foot right-of-way. The site plan shows approximately 65 feet of additional pavement and an oblong-shaped dead end. Driveway access and planned pavement on Ingraham Street will be reviewed by the Prince George's County Department of Public Works and Transportation (DPW&T). Access to Lot 15 from MD 410 is denied.

Lot 15 borders MD 410 (Veterans Parkway), is a master plan arterial facility with a 120-foot-wide right-of-way. Adequate right-of-way in accordance with master plan requirements has already been dedicated or deeded. Therefore, no further right-of-way dedication is required of this plan.

The traffic generated by the proposed preliminary plan would impact the intersection of 76th Avenue and Ingraham Street. This intersection is unsignalized.

Analysis of Traffic Impacts

The subject property is located within the Developed Tier, as defined in the *Prince George's County Approved General Plan*. 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* (Transportation Research Board) 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 critical intersection of 76th Avenue and Ingraham Street is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

No recent turning movement counts are available at the critical intersection of 76th Avenue and Ingraham Street. Due to the limited trip generation of this site, the Prince George's County Planning Board has deemed the site's impact at this location to be de minimus, and found that 2 AM and 2 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the 76th Avenue and Ingraham Street intersection.

The two lots being created would have direct driveway access to Ingraham Street. Ingraham Street will be extended by approximately 65 feet to accommodate two planned driveways. The proposed paving plan will require approval by DPW&T for street construction permits.

Based on the preceding findings, adequate transportation facilities will exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

9. **Schools**—The Special Projects Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Resolution 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 DU	2 DU	2 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	0.32	0.26	0.28
Actual Enrollment	32,508	9,899	16,049
Total Enrollment	32,508.32	9,899.26	16,049.28
State Rated Capacity	39,039	11,571	16,314
Percent Capacity	83%	85%	98%

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-95/495 (Capital Beltway) 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); or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,299 and \$14,227 to be paid at the time of the issuance of each building permit.

The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

10. **Fire and Rescue**—This preliminary plan of subdivision includes construction of two single-family dwellings.

This preliminary plan is within the required seven-minute response time for the first due fire station, West Lanham Hills, Company 28, using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive temporarily 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.

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

Capital Improvement Program (CIP)

The Prince George's County Capital Budget and Program for Fiscal Years 2011–2016 provides funding for a replacement Fire/EMS station at 6200 Belcrest Road.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the “Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities.”

11. **Police Facilities**—The subject property is located in Police District I, Hyattsville.

The response time standard for emergency calls is ten minutes and the standard for nonemergency calls is 25 minutes. 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 November 2, 2010.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Non-emergency Calls
Cycle 1	11/2009–10/2010	9 minutes	7 minutes
Cycle 2			
Cycle 3			

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on November 8, 2010.

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

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

12. **Health Department**—The Prince George's County Health Department, Environmental Engineering Program, has reviewed the preliminary plan of subdivision and has no comments to offer.
13. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is not required. A Stormwater Management Concept Plan, 28590-2008-00, for proposed Lot 15 has been approved with conditions. Copies of an approved Stormwater Management Concept Letter and Plan (24156-2008) were also submitted for Lot 14.

These approvals will ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with the approved plans.

14. **Historic**—A Phase I archeological survey is not recommended on the above-referenced 13,503-square-foot property located at 7510 Ingraham Street in Landover Hills, Maryland. The probability of archeological sites within the subject property is low. However, the applicant should be aware that there is one previously identified archeological site, Cherry Hill Cemetery (18PR381), a late 19th to early 20th century African American family cemetery, located within one mile of the subject property. In addition, there are three county Historic Sites, #69-021 Cherry Hill Cemetery, #69-023-17 Wormley House, and #69-023-27 Thomas Hunster House, located within one mile 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.

The subject property has no the effect on identified historic sites, resources, or districts.

15. **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 must include the following statement in the dedication documents established on the final 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 easement (PUE) along the public rights-of-way as requested by the utility companies. The PUE must remain free and clear from any site improvements including parking.

16. **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 2008 *Water and Sewer Plan* placed this property in water and sewer Category 3, Community System, and will therefore be served by public systems.

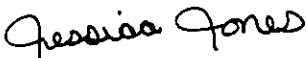
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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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 Cavitt, with Commissioners Squire, Cavitt and Vaughns voting in favor of the motion, and with Commissioners Clark and Parker absent at its regular meeting held on Thursday, March 31, 2011, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 28th day of April 2011.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Acting Planning Board Administrator

PCB:JJ:JT:arj

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department

Date

4-6-11