



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 2021-132

File No. 4-20041

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

WHEREAS, Homes DC, LLC is the owner of a 0.31-acre parcel of land known as Part of Lots 42 and 43 in Block 4 of the Addition to Daniels Park Subdivision, said property being in the 21st Election District of Prince George's County, Maryland, and being zoned One-Family Detached Residential (R-55); and

WHEREAS, on August 26, 2021, Homes DC, LLC filed an application for approval of a Preliminary Plan of Subdivision for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-20041 for Daniels Park 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 October 21, 2021, for its review and action in accordance with the Land Use Article of the 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 October 21, 2021, 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 Variances from Sections 27-442(b), 27-442(d), 27-442(e), and 27-442(i), and further APPROVED Preliminary Plan of Subdivision 4-20041 for 2 lots with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to:
  - a. Show the locations and widths of any public use easement(s) required by the City of College Park along Kenesaw Street and/or 50th Place.
  - b. Relocate the public utility easement (PUE) so that it abuts the street lines of Kenesaw Street and 50th Place. If the PUE must overlap a public use easement required by the City of College Park, ensure at least 10 feet of the PUE's width is unencumbered by the public use easement.
  - c. Revise the Zoning Compliance table as follows:
    - (1) Edit the footnotes to indicate that the variances have been granted.

- d. Revise the Accessory Building table as follows:
  - (1) Rename the “Lot A” and “Lot B” columns to “Lot 51” and “Lot 52.”
  - (2) In the “Requirement” column, revise the required rear setback from 2 feet to 10 feet.
  - (3) Add a row indicating the required 30-foot setback from the side street line as well as the existing garage’s setback.
  - (4) Edit the footnotes to indicate variances have been granted for the Lot 51 rear setback and Lot 51 side street line setback.
2. A substantial revision to the mix of uses on the subject property, including any non-residential development that affects Subtitle 24 adequacy findings, as set forth in a resolution of approval, shall require approval of a new preliminary plan of subdivision prior to approval of any building permits.
3. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan (10944-2020-00) and any subsequent revisions.
4. Prior to approval of a final plat of subdivision:
  - a. The final plat shall grant public utility easements along the public rights-of-way, as delineated on the preliminary plan of subdivision.
  - b. The final plat shall reflect any public use easement(s) required by the City of College Park along Kenesaw Street and/or 50th Place, in accordance with the approved preliminary plan of subdivision. The public use easement shall be approved by the City of College Park, recorded in the Prince George’s County Land Records, and the Liber/folio shown on the final plat prior to recordation.
5. Prior to approval of the final plat of subdivision, in accordance with Section 24-135 of the Prince George’s County Subdivision Regulations, the applicant and the applicant’s heirs, successors, and/or assignees shall provide a fee-in-lieu payment for mandatory parkland dedication. The fee collected shall be applied to Service Area 2.
6. Total development within the preliminary plan of subdivision (PPS) shall be limited to uses which generate no more than 2 AM peak-hour trips and 2 PM peak-hour trips. Any development generating an impact greater than that identified herein shall require a new determination of the adequacy of transportation facilities and a new PPS.
7. In conformance with the 2009 *Approved Countywide Master Plan of Transportation*, the applicant and the applicant’s heirs, successors, and/or assignees shall provide the following improvements, unless modified in writing by the City of College Park:

- a. Sidewalks along the frontages of Kenesaw Street and 50th Place. The sidewalks shall be provided within the rights-of-way, and/or within public use easements along each street, with the exact location of the sidewalks and any needed easements to be determined by the City of College Park.

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 with conditions, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.
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), (e), 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 (e) 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.

3. **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.

Architecturally, the front of the existing dwelling faces 50th Place. However, yard designations under the Zoning Ordinance do not always align with what is suggested by the building architecture. According to Section 27-107.01 of the Zoning Ordinance, on a corner lot the front of the lot is the shortest lot line that abuts a street. The existing parcel has 105 feet of frontage on 50th Place and 130 feet of frontage on Kenesaw Street, making the front of the parcel along 50th Place. However, under proposed conditions, Lot 51 will have 105 feet of frontage on 50th Place and 70 feet of frontage on Kenesaw Street, making the front of the new lot along Kenesaw Street. This change in orientation is relevant to the requested variances and is discussed further in the Requested Variances finding of this resolution.

4. **Development Data Summary**—The following information relates to the subject PPS and the approved development.

	EXISTING	APPROVED
Zone	R-55	R-55
Use(s)	Single-Family Detached	Single-Family Detached
Acreage	0.31	0.31
Gross Floor Area	0	0
Dwelling Units	1	2
Parcels	1	0
Lots	0	2
Outlots	0	0
Variance	No	Yes Section 27-442(b) Section 27-442(d) Section 27-442(e) Section 27-442(i)
Variation	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard at the Subdivision and Development Review Committee (SDRC) meeting on September 17, 2021.

5. **Previous Approvals**—The land area subject to this PPS was first platted as Lots 19–24, Block 4, of Daniels Park, in Plat Book BDS 1 page 24, in November 1906. A certified true copy of this plat may be found in Plat Book BB 5 page 132. Each of the six record lots was 25 feet wide, and they fronted on the 30-foot-wide right-of-way which would eventually be known as Kenesaw Street (Street “G”). This plat also created numerous other 25-foot-wide record lots in the neighborhood, which are still in existence today. These record lots are generally combined with one or two other record lots to make minimum 50-foot-wide and 5,000-square-foot lots for single-family detached dwellings. According to Section 27-442, this is permitted so long as the record plat dates prior to 1928 (for the width standard - see Section 27-442(d), Footnotes 4 and 13) and 1949 (for the lot area standard - see Section 27-442(b)). The subject property is no longer subject to these lower minimums due to later platting activity post-dating 1949.

According to data from the State Department of Assessments and Taxation, the existing single-family detached dwelling was constructed in 1951. It appears that the house was constructed in anticipation of the future dedication of 50th Place, as the front of the house was built so that it would face 50th Place once the road was opened.

Lots 19-22 were consolidated into a new lot known as Lot 38, via the plat recorded in Plat Book WWW 20 page 33. This plat was approved by the Maryland-National Capital Park and Planning Commission (M-NCPPC) in December 1951, and by the Washington Suburban Sanitary Commission (WSSC) in January 1952. This plat dedicated 10 feet of right-of-way to Kenesaw Street in front of Lot 38 so that it attained its current width of 40 feet.

Lots 23-24 were consolidated into a new lot known as Lot 43, via the plat recorded in Plat Book WWW 21 page 60. This plat was approved by M-NCPPC and WSSC in October 1952. This plat dedicated 10 feet of right-of-way to Kenesaw Street in front of Lot 43, and it also dedicated part of Lot 38 to public use in order to connect 50th Place through to Kenesaw Street. 50th Place had previously dead-ended at a point north of the property. The remainder of Lot 38 was renamed Lot 42.

In March 1964, M-NCPPC approved the plat recorded in Plat Book WWW 51 page 9. This plat recorded the lot known as Lot 47, which abuts the subject property to the north. Lot 47 was recorded over the northern portion of Lots 42 and 43, and Lots 42 and 43 were not re-platted accordingly. Therefore, the remaining parts of Lots 42 and 43 became the residue of the previous 1952 plat. For this reason, the remaining parts of Lots 42 and 43 are no longer considered platted, but are instead considered an acreage parcel described by deed. Both Lot 47 and the acreage parcel have each been used for one single-family detached dwelling since 1964.

According to aerial imagery, the existing garage was constructed prior to 1965. However, it is not known if it was constructed before or after the recording of Lot 47, nor is it known if it was constructed at the same time as the existing dwelling.

6. **Community Planning**—The 2014 *Plan Prince George's 2035 Approved General Plan* (Plan 2035) and conformance with the sector plan and SMA are evaluated, as follows:

**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).

Pursuant to Section 24-121(a)(5) of the Subdivision Regulations, 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.

7. **Stormwater Management**—The site has an approved Stormwater Management (SWM) Concept Plan (10944-2020-00) and associated letter, which were approved on February 1, 2021 and are valid until February 1, 2024. According to the approval letter, this project is exempt from SWM requirements because less than 5,000 square feet will be disturbed. The letter does include several other conditions of approval, including a requirement to provide a geotechnical report to determine the underground water table at the time of permit. The project will be subject to further review at the time of permit, and the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) reserves the right to impose restrictions, if necessary, prior to permit.

Development must be in conformance with the SWM concept plan, or subsequent revisions, to ensure that on-site or downstream flooding does not occur.

8. **Parks and Recreation**—The subject PPS was reviewed for conformance with the requirements and recommendations of the sector plan and Subtitle 24, as they pertain to public parks and recreational facilities.

The subject property is not adjacent to any existing M-NCPPC parkland. The closest surrounding parks in the local area include:

- Hollywood Park, which contains a softball diamond, lighted softball diamond, full basketball court, picnic area, picnic shelter, playground, and an outdoor tennis court.
- Paint Branch Golf Complex, which is a 9-hole golf course that contains additional amenities such as a golf driving range, miniature golf course, and a pro shop.

Since this a residential subdivision, per Section 24-134(a)(1) of the Subdivision Regulations, mandatory dedication of parkland is applicable to this subdivision. In this case, application of the mandatory dedication of parkland requirement would require the dedication of 0.02 acre of land to M-NCPPC for public parks.

In addition, in accordance with Section 24-134(a)(3)(C) of the Subdivision Regulations, Lot 51 of the subject subdivision is exempt from the mandatory dedication of parkland requirement because a dwelling legally exists on the property at the time of subdivision.

The applicant proposed a payment of a fee-in-lieu of the mandatory dedication of parkland, which is in accordance with Section 24-135 of the Subdivision Regulations. A fee-in-lieu payment is acceptable because the amount of land available for dedication is unsuitable due to its small size and would not be contiguous to any existing parkland. The fee collected shall be used for additional improvements in Service Area 2.

9. **Bicycle/Pedestrian**—This PPS was reviewed for conformance with the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) and the sector plan to provide the appropriate pedestrian and bicycle transportation recommendations. The property is not located within a designated center or corridor; therefore, it is not subject to Section 24-124.01 of the Subdivision Regulations and the “Transportation Review Guidelines, Part 2.”

The subject site fronts Kenesaw Street and 50th Place. The Complete Streets element of the MPOT includes the following policies regarding the accommodation of pedestrians and bicyclists (MPOT, pages 9-10):

**Policy 2: All road frontage improvements and road capital improvement projects within the developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.**

**Policy 4: Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO Guide for the Development of Bicycle Facilities.**

**Policy 5: Evaluate new development proposals in the Developed and Developing Tiers for conformance with the complete streets principles.**

Sidewalks shall be provided along the frontages of Kenesaw Street and 50th Place, unless modified by the City of College Park with written correspondence. A letter dated September 9, 2019, from the City of College Park to the applicant (Schum to Joyeux, incorporated by reference herein), indicated a requirement for a public use easement along each street for the provision of sidewalks along each frontage, with no additional dedication of right-of-way. A second letter dated October 18, 2021 from the City to the Planning Board (Schum to Hewlett, incorporated by reference herein), modified the original requirement so that a public use easement is no longer required along Kenesaw Street, and so that the public use

easement along 50th Place is required to be 2.5 feet wide. The provision of the public use easement, along with the construction of sidewalks within the easement and/or the existing right-of-way, are under the purview of the City of College Park, and the City has the authority to make a final decision regarding the provision of sidewalks and any necessary public use easements.

The site is not within or adjacent to any roadway or pedestrian/bicycle facilities identified in the master plan.

Based on the preceding findings, adequate facilities for bicycle and pedestrian transportation will exist to serve the subdivision, in accordance with Subtitle 24.

- 10. Transportation**—The PPS is for a residential subdivision consisting of two single-family residential lots. It is determined that the subdivision will generate 2 AM and 2 PM weekday peak-hour vehicle trips. The traffic generated by this PPS would impact the intersection of Rhode Island Avenue and Kenesaw Street. This intersection is unsignalized, with the Kenesaw Street approach being stop-controlled.

The subject property is located within Transportation Service Area 1, as defined in Plan 2035. As such, the subject property is evaluated according to the following standard:

**Unsignalized intersections:** The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted, and the standards are explained below:

For two-way stop-controlled intersections a three-part process is employed: (a) vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the critical lane volume is computed.

For all-way stop-controlled intersections a two-part process is employed: (a) vehicle delay is computed in all movements using the *Highway Capacity Manual* (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the critical lane volume is computed.

The critical intersection of Rhode Island Avenue and Kenesaw 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. Due to the trip generation of this site being five peak-hour trips or fewer in accordance with the “Transportation Review Guidelines, Part 1,” the Planning Board finds the site’s impact at this location to be de minimis and that the 2 AM and 2 PM

peak-hour trips will have a de minimis impact upon delay in the critical movements at the Rhode Island Avenue and Kenesaw Street intersection.

#### Master Plan Roads

Both adjacent streets, Kenesaw Street and 50th Place, are not master plan roadways, and have dedicated rights-of-way that are smaller than the County standard. In this type of circumstance, the appropriate operating agency must determine if dedication to the minimum County standard of 50 feet is needed. A letter dated September 9, 2019, from the City of College Park to the applicant (Schum to Joyeux, incorporated by reference herein), indicates that no further dedication is required.

Based on the preceding findings, adequate facilities for transportation will exist to serve the subdivision, in accordance with Subtitle 24.

11. **Schools**—This PPS was reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and Prince George’s County Council Resolutions CR-23-2001 and CR-38-2002, *Amended Adequate Public Facilities Regulations for Schools*. The subject property is located within Cluster 2, as identified in the *Pupil Yield Factors and Public-School Clusters 2020 Update*. An analysis was conducted, and the results are as follows:

#### Residential Impact on Affected Public School Clusters by Dwelling Units (DU)

	Affected School Cluster		
	Elementary School Cluster 2	Middle School Cluster 2	High School Cluster 2
New Single-Family Detached Dwelling Units	1 DU	1 DU	1 DU
SFD Pupil Yield Factor (PYF)	0.158	0.098	0.127
SFD x PYF = Future Subdivision Enrollment	1	1	1
Adjusted Student Enrollment 9/30/19	22,492	9,262	9,372
Total Future Student Enrollment	22,493	9,263	9,373
State Rated Capacity	19,425	7,121	8,494
Percent Capacity	115%	130%	110%

Section 10-192.01 of the County Code establishes school surcharges and an annual adjustment for inflation, unrelated to the provision of Subtitle 24. The current amount is \$10,180 per dwelling if a building is located between I-95/I-495 and the District of Columbia; \$10,180 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 \$17,451 per dwelling for all other buildings. This project is located between I-95/I-495 and the District of Columbia; thus, the surcharge fee is \$10,180. This fee is to be paid to DPIE at the time of issuance of each building permit.

12. **Public Facilities**—In accordance with Section 24-122.01 of the Subdivision Regulations, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section dated September 13, 2021 (Thompson to Diaz-Campbell), incorporated by reference herein.
13. **Use Conversion**—The total development included in this PPS is two single-family detached dwellings in the R-55 Zone. If a substantial revision to the mix of uses on the subject property is proposed that affects Subtitle 24 adequacy findings, including any non-residential development, that revision of the mix of uses shall require approval of a new PPS, prior to approval of any building permits.
14. **Public Utility Easement**—Section 24-122(a) of the Subdivision Regulations requires that when utility easements are required by a public company, the subdivider should include the following statement in the dedication documents recorded on the final plat of subdivision:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The standard requirement for public utility easements (PUEs) is 10 feet wide along both sides of all public rights-of-way. The PUEs must be provided abutting the street lines. The development will front on the existing public rights-of-way for Kenesaw Street and 50th Place.

The plan currently shows a seven-foot-wide public use easement along the street frontages, and the required 10-foot-wide PUE behind the public use easement. The public use easement was requested by the City of College Park, in a letter from them to the applicant dated September 9, 2019 (Schum to Joyeux, incorporated by reference herein), which stated that the public use easement was required in lieu of street dedication in order to allow for the future construction of sidewalks. The City’s required easement notwithstanding, the PUE should abut the street lines of Kenesaw Street and 50th Place and not be behind the public use easement, as currently shown on the plans.

At the SDRC meeting on September 17, 2021, the City gave preliminary comments indicating that they would not object to their public use easement and the PUE overlapping. They further stated that, due to there being some available space for sidewalks in the existing rights-of-way, they no longer believed a public use easement was necessary along Kenesaw Street, and that the width of the of the public use easement along 50th Place could be reduced from 7 feet to 2.5 feet. The City confirmed these comments following their City Council meeting on October 12, 2021, issuing a new letter dated October 18, 2021 (Schum to Hewlett, incorporated by reference herein) with their new requirements.

The applicant should coordinate with the City and any relevant utility companies on the placement of the public use easement and the public utilities so that the future placement of sidewalk and/or utilities do not conflict. The PUE shall have at least 10 feet of its width unencumbered by the other easement to allow the placement of any necessary utilities. Prior to signature approval of the PPS, the plan shall be revised so that the PUE abuts the street lines and is at least 10 feet wide beyond the area required by the City for the public use easement.

15. **Historic**—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 subject property does not contain and is not adjacent to any Prince George’s County historic sites or resources. This proposal will not impact any historic sites, historic resources, or known archeological sites. A Phase I archeology survey is not required.
16. **Environmental**—The site has been issued a standard Letter of Exemption (S-200-2020) from the Woodland and Wildlife Habitat Conservation Ordinance because the site is less than 40,000 square feet in size and has no previous tree conservation plan approvals. A natural resources inventory (NRI-075-2020) has been issued for the site. The NRI indicates that no regulated environmental features will be impacted or exist on-site. Although unsafe soils containing Christiana complexes are mapped on-site, there are no geotechnical issues since no critical slopes that would cause significant damage or cost are anticipated with this case. No other environmental requirements have been identified for this PPS.
17. **Urban Design**—This PPS was reviewed for conformance with the requirements of the Zoning Ordinance, the Tree Canopy Coverage Ordinance, the 2010 *Prince George’s County Landscape Manual* (Landscape Manual), and conditions of previous approvals, and the following findings are made:

**Conformance with the Requirements of the Prince George’s County Zoning Ordinance**

The proposed single-family detached dwelling and the existing accessory building are permitted at the subject site in the R-55 Zone, per Section 27-441 of the Zoning Ordinance.

Conformance with Zoning Ordinance regulations is required for the proposed development at time of building permit, including, but not limited to the following:

- Section 27- 430. - R-55 Zone (One-family Detached Residential)
- Section 27-4741(b). - Table of Uses for the R-55 Zone
- Section 27-442. - Regulations in the R-55 Zone
- Part 11. - Off Street Parking and Loading, and
- Part 12. – Signs, respectively.

The applicant is requesting variances to Sections 27-442(e) and 27-442(i) to legalize the existing house and accessory building on part of Lot 42. The applicant is also requesting variances to Sections 27-442(b), 27-442(d), and 27-442(e) due to the size and configuration of Lots 51 and 52. These variances are approved as discussed in the Requested Variances finding of this resolution.

**Conformance with the 2010 Prince George's County Landscape Manual**

The site will be subject to Section 4.1, Residential Requirements, and Section 4.9, Sustainable Landscaping Requirements, of the Landscape Manual. Conformance with landscaping requirements will be evaluated at the time of building permit.

**Tree Canopy Coverage Ordinance**

In accordance with Section 25-128 of the County Code, properties in the R-55 Zone are required to provide 15 percent of the gross tract area in tree canopy coverage (TCC). The subject site is 0.31 acre and is required to provide 0.047 acre (or 2,047 square feet) of the site in TCC. Conformance with this requirement will be evaluated at the time of building permit.

- 18. City of College Park**—The City of College Park provided verbal comments at the SDRC meeting on September 17, 2021. These comments related to easements and sidewalks and are addressed in the Bicycle/Pedestrian and Public Utility Easement findings of this resolution. The City also stated that they had no objection to the requested variances.

Following their October 12, 2021 city council meeting, the City issued a letter to the Planning Board dated October 18, 2021 (Schum to Hewlett, incorporated by reference herein) giving their recommendation on the case. The City recommended approval of the PPS, approval of the requested variances, and three conditions of approval. The three conditions recommended by the City are shown in bold text below and addressed in the plain text.

**1. Prior to certification of the Preliminary Plan, the applicant shall revise the plat to:**

- a. Move the 10-foot-wide public utility easement along Kenesaw to abut the street.**

This is addressed by Condition 1b of this resolution, which requires the public utility easement to abut both Kenesaw Street and 50<sup>th</sup> Place.

- b. Provide a 2.5' public use easement along 50th Place to the City.**

This is addressed by Condition 1a of this resolution, which requires the plan to show the public use easement required by the City.

**2. Prior to approval of the Final Plat of Subdivision:**

- a. Pay a fee-in-lieu payment (\$5,045.00) for mandatory dedication of parkland which shall be applied to Service Area 2 (College Park area)**

This is addressed by Condition 6 of this resolution, which requires a fee-in-lieu payment. The specific fee required shall be calculated at the time of final plat.

**3. At the time of issuance of the County building permit:**

**a. Remove the concrete paved terrace encroachment to comply with building code requirements.**

Based on the position of the new lot line between Lot 51 and Lot 52, a strip of Lot 51's concrete paved terrace, approximately 1 foot wide, would encroach on Lot 52. This encroachment is marked as to be removed on the PPS. Because the applicant is proposing removal of the encroachment, and because according to the City removal is required by the building code, there is no need to specifically condition removal of the encroachment.

**19. Requested Variances**—This PPS includes requests for several variances, which are described in detail in this section.

The following table lists the requested variances and the Planning Board's action on each:

<b>4-20041 Daniels Park: Requested Variances</b>						
Section	Minimum Standard	Applicable Lot/Location	Requested Value	Required Value	Existing or Proposed Condition	Board Action
27-442(b)	Net lot area	Lot 52	6,300 sq. ft.	6,500 sq. ft.	Proposed	Approval
27-442(d)	Lot width at front building line	Lot 52, at front building line	60 feet	65 feet	Proposed	Approval
27-442(e)	Front yard setback	Lot 51, south side	24.2 feet	25 feet	Existing	Approval
	Side yard setback along street on corner lot	Lot 51, west side	24.6 feet	25 feet	Existing	Approval
	Side yard setback	Lot 51, east side	6.4 feet	8 feet	Proposed	Approval
27-442(i)	Setback from rear lot line for accessory building on corner lot	Lot 51, north side	1.1 feet	10 feet	Existing	Approval
	Setback from side street line for accessory building on corner lot	Lot 51, west side	29.3 feet	30 feet	Existing	Approval

**Lot Orientation**

With this PPS, the lot orientation of the subject property changes. Yard designations for corner lots are established pursuant to the definitions given in Section 27-107.01. On corner lots, the front of the lot is the shortest lot line that abuts a street. Therefore, under existing conditions

where there is only one parcel, the property faces 50th Place. Under proposed conditions, both new lots face Kenesaw Street.

Therefore, for Lot 51, the lot's front yard is between the house and Kenesaw Street, on the south side of the property. Accordingly, the yard between the house and 50th Place, on the west side of the property, is considered a side yard along a street. The rear lot line is generally opposite or parallel to the front street line, which puts the lot's rear yard on the north side of the house. This leaves the east side of the house as a regular side yard.

### **Discussion**

The subject PPS proposes to create two lots for two single-family detached dwellings. The subject property is 130 feet long, 13,564 square feet, and rectangular apart from a filet at the street corner. Based on this geometry, in principle the property could support two 65-foot-wide lots fronting on Kenesaw Street, 6,739 square feet and 6,825 square feet in size, which would meet the requirements of the R-55 Zone. However, the existing dwelling and its accessory garage would not fit within the required setbacks which would be established for a 65-foot-wide corner lot. Because of that, for the property to be subdivided without any variances granted, the existing buildings would have to be razed or at least heavily renovated. Fundamentally, the applicant requested variances because they want to avoid renovating the existing house and garage before constructing the new dwelling.

In the applicant's statement of justification (SOJ) for the variances, they explain the variances requested. In Item 1, they describe the existing conditions for the house, noting that it falls short of the 25-foot setbacks required by Section 27-442(e) along both Kenesaw Street and 50th Place. They note that these conditions are not created by the proposed subdivision of the property. In Item 2, they describe the existing conditions for the accessory garage, again noting that the garage falls short of setbacks required by Section 27-442(i), and that the shortfall is not created by the proposed subdivision. The variances requested in Items 1 and 2 are the ones described as existing conditions in the above table.

In Item 3, they describe their proposed conditions, and the shortfalls which would be created by the subdivision for which they are requesting variances. They describe two alternatives for developing the site, (a) and (b), which they considered before settling on their actual proposal, which is described in alternative (c). While alternative (c) requests more variances total than either alternatives (a) or (b), the variances are requested to a lesser degree than they would be under the other two alternatives. For instance, under alternative (a), Lot 52 would be established with a 65-foot width and would not need variances; however, the requested variance for Lot 51's side yard setback would be to allow 1.4 feet instead of 6.4 feet. The variances requested in alternative (c) of Item 3 are the ones described as proposed conditions in the above table.

Based on the applicant's SOJ and the alternatives considered, it is clear that even if all the variances for existing conditions are granted, the new lots cannot be created without either at least some variances for proposed conditions also being granted, or at least some renovations being done to the existing house. As described in the SOJ, the covered porch at the southeast corner of the house is specifically at issue; it would have to be removed or reduced in size if no variances

for proposed conditions are granted. The only other alternative which would ensure no variances for proposed conditions are needed would be to not subdivide the property.

**Authority**

Section 27-239.03 of the Zoning Ordinance states the following:

**When the District Council or Planning Board makes a final decision in a zoning case, site plan, or other request, the District Council or Planning Board shall have the sole authority to grant variances from the strict application of this Subtitle in conjunction with its approval. The Council and Planning Board shall be governed by the provisions of Section 27-230 when it grants the variance.**

Based on this section, the Planning Board has sole authority to grant the variances currently requested by the applicant in conjunction with this PPS.

**Required Findings**

As stated above, Section 27-239.03 requires that when the Planning Board has sole authority to grant variances, the Planning Board shall be governed by the provisions of Section 27-230 of the Zoning Ordinance when it grants the variance. The basic criteria which must be met for all variances are given in Section 27-230(a) of the Zoning Ordinance. The criteria are in **BOLD** text below while findings for each criterion are in plain text.

**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.**

As noted in the discussion above, the site is rectangular and large enough for two lots, 65 feet wide and greater than 6,500 square feet each. In their SOJ, the applicant agrees that the site is not exceptionally narrow or shallow, and that there is nothing exceptional regarding its shape or topography.

However, the significant age of the 68-year-old development is sufficiently extraordinary to justify the requested variances when compared to the surrounding lotting pattern found in neighboring properties. This history is described in the Previous Approvals finding of this resolution and the “Background” section of the applicant’s SOJ. The existing house was built sometime in 1951, according to the State Department of Assessments and Taxation (SDAT). However, the SDAT data is the only evidence that the house was built in 1951, as there are no permits on record for its construction. The house appears to have been built to fit into Lot 42, which was not recorded until 1952. The applicant contends the house was built before, and in anticipation of, the 1952 recordation, which may be true. There are also no permits on record for construction of the garage, though aerial imagery shows it in existence in 1965.

All of the setbacks for which variances have been requested between the house and garage and the streets are less than one foot off from their required values. Similarly, it appears there was supposed to be a two-foot side setback between the garage and Lot 47, consistent with the subject site's current orientation toward 50th Place. The change in lot orientation with this PPS changes the requirement from a two-foot side setback to a 10-foot rear setback, although no physical changes are occurring. Given the age of the buildings and the lack of permit information, it is not clear how the buildings came to fall short of the required values. However, the permits issued may have reflected correct setbacks, with the buildings only falling short based on the more recent survey conducted by the applicant. Given how minor the shortfalls are, it is reasonable to assume that the structures were previously surveyed to meet and/or intended to meet the code requirements when the buildings were constructed. The discrepancy in current measured gaps between the existing and required setback values, and the significant age of the development, which is unchanged for 68 years, justify the requested variances for existing conditions.

The significant age of the development also justifies, in this specific case, creating Lot 52 in such a way that it falls short of the standard lot size and frontage requirements for new subdivision lots in the R-55 Zone. As previously stated, the total property size is sufficient for two lots and will be comparable to the lotting pattern of surrounding properties. The 1964 platting of Lot 47 created a situation where the two remaining Parts of Lots 42 and 43 became a single acreage parcel described by deed, but still appeared to be separate lots. If the land had remained platted, Part of Lot 43 could have qualified as a building site on its own, as in the R-55 Zone, Sections 27-442(b) and (d) allow resubdivision of land originally platted prior to 1949 and 1928 into lots at least 5,000 square feet in size with at least 50 feet of lot width. The applicant's proposed lot size and width for Lot 52 is justifiable because it is closer to the typical requirements for a new lot in the R-55 Zone (6,500 square feet, 65 feet wide) than it is to those lower minimums, which could have applied to a platted lot of this age (5,000 square feet, 50 feet wide), and applies to similarly aged properties within the neighborhood. The requested side yard setback on Lot 51 is in turn justifiable, as the 6.4-foot side yard is wide enough to ensure Lot 51 will not encounter any lot coverage or maintenance issues while allowing the 68-year-old development to remain. Providing the standard side yard setback of eight feet would require significant changes to the existing dwelling and result in only nominal changes to the form and function of the development.

**(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**

The applicant states in their SOJ that since the existing house has existed for more than 68 years, it would be peculiar and unusual to raze or modify the structure to meet the current zoning code standards. With regard to the variances for existing conditions, it would be peculiar and unusual to require modifying the house and the garage to avoid these variances because the required modifications would be unrelated to the intent of the

subdivision, namely, making space for a second lot and dwelling on the property. The existing setbacks of the house and garage from the streets, and the existing setback of the garage from the northern property line, are not proposed to change in order to make room for the second lot, and would exist regardless of the proposed subdivision. For this reason, denying the variances for existing conditions would impose a peculiar and unusual practical difficulty for the applicant.

Requiring modification of the house on its east side, where a new side yard is proposed for Lot 51, would also impose an unusual practical difficulty. In their SOJ, the applicant goes into detail about what modifications the house would need if they did not get variances and had to ensure both an 8-foot side yard for Lot 51 and a 65-foot width for Lot 52. These include structural modifications to the house and its roof to remove the covered screen porch in order to meet current setback standards. However, this would ultimately result in having to remove and reconstruct far more of the house than actually falls beyond the setback line. Due to the degree of the needed changes, modifying the existing house is not a reasonable option to avoid needing the variances. The proposed 6.4-foot side yard setback on Lot 51 is therefore justified because it will allow the covered porch to remain. The proposed size and lot width of Lot 52 are in turn justified because they will allow Lot 51's side yard to achieve a width, which ensures Lot 51 does not encounter any maintenance or lot coverage issues, which would be created by a narrower yard width.

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

To respond to this criterion, the applicant notes in their SOJ that Plan 2035 shows the site's area is recommended for medium density residential development. They also note that the 1989 *Langley Park-College Park-Greenbelt Approved Master Plan and Adopted Sectional Map Amendment* shows the area as residential as well. In the current 2001 sector plan and SMA, the area is recommended for medium-suburban residential uses, so there has been no change in the plans' intent for this area. Based on findings from the Community Planning Division, given in a memorandum dated September 21, 2021 (Punase to Diaz-Campbell, incorporated by reference herein), the requested variances will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

The applicant further notes that one reason the proposed subdivision will not impair the General Plan or Master Plan is that the requested variances will not create a new lot which is out of character with the neighborhood. They give several examples of nearby lots which are less than 65 feet wide and 6,500 square feet. The Planning Board finds that neither Lot 51 nor Lot 52 would be out of character with the neighborhood. It is noted that Section 27-442 includes several circumstances under which land in the R-55 Zone may be formed into lots which are below the typical minimum size requirements, and while none of them were found to apply to the subject property, this is due to the platting and unique

approval history of the property, which caused the subject property to become an acreage parcel. The requested variances both allow the lots to fit into the existing neighborhood and to closely conform to the typical minimum requirements.

The variance requests are supported by the required findings of Section 27-230(a) and are therefore approved.


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.

\* \* \* \* \*

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 Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Doerner and Hewlett voting in favor of the motion, and with Commissioner Bailey recused at its regular meeting held on Thursday, October 21, 2021, in Upper Marlboro, Maryland.

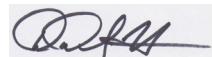
Adopted by the Prince George's County Planning Board this 18th day of November 2021.

Elizabeth M. Hewlett  
Chairman

  
By Jessica Jones  
Planning Board Administrator

EMH:JJ:EDC:nz

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner  
M-NCPPC Legal Department  
Date: November 2, 2021