

R E S O L U T I O N

WHEREAS, a .61-acre parcel of land known as Lots 19 and 20, Block One, Tax Map 33 in Grid D-4, said property being in the 21st Election District of Prince George's County, Maryland, and being zoned R-55; and

WHEREAS, on April 2, 2007, Alan G. Tyler 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 4-06114 for College Park, Elmore Powers Addition To 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 July 12, 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 July 12, 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. V-06114, and further APPROVED Preliminary Plan of Subdivision 4-06114, College Park, Elmore Powers Addition To, including a Variation from Section 24-121 for Lots 21-23 with the following conditions:

1. The applicant and the applicant's heirs, successors, and/or assignees shall construct a standard sidewalk along the subject site's entire frontage of Bowdoin Avenue and Harvard Road unless modified by the City of College Park. This sidewalk shall be in accordance with the standards set forth by the City of College Park within the dedicated road right-of-way and shall be separate from the required public utility easement.
2. The applicant and the applicant's heirs, successors, and/or assignees shall dedicate ten feet of right-of-way along the subject property on Harvard Road. The additional right-of-way and adjusted public utility easement shall be reflected on the preliminary plan prior to signature approval.
3. Prior to approval of the final plat of subdivision, the applicant, heirs, successors and/or assignees shall pay a fee-in-lieu of parkland dedication for Lot 23. Lots 21 and 22 are exempt because there are existing dwellings.

4. The applicant shall comply with Section 27-548.42(b) and Section 27-548.433 (b)(2) of the Aviation Policy Area Regulations of the Prince George’s County Zoning Ordinance, with regard to maximum height, and disclosure on both the final plat and deed, that the property is located within approximately one mile of a general aviation airport and is subject to over flight by aircraft.
5. Prior to the approval of a building permit for Lot 23, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures within prescribed noise corridors have been designed to reduce interior noise levels to 45dBA (Ldn) or less.
6. Development of this site must be in accordance with the approved conceptual stormwater management plan, 5768-2005-00.
7. Prior to the approval of a building permit for Lot 23, a limited detailed site plan shall be approved by the Planning Board or its designee to address size, location, scale, orientation, architectural character, and general compatibility to the surrounding dwellings.

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 is located on Tax Map 33, Grid D-4, and is known as Lots 19 and 20, Block One. The property is approximately 0.61 acre in area and is zoned R-55. The subject property is located within the jurisdiction of the City of College Park, Maryland.
3. The subject property is located at the northwest corner of Harvard Road and Bowdoin Avenue within the City of College Park in the Calvert Hills neighborhood.
4. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	R-55	R-55
Use(s)	Single-family Residences	Single-family Residences
Acreage	0.615	0.615
Lots	2	3
Outparcels	0	0
Parcels	0	0
Dwelling Units:	2 (to remain)	3 (1 new)
Public Safety Mitigation Fee		No

5. **Subdivision**—The applicant has requested a variation to 24-121 for lot depth for proposed Lots 21 and 22 and is also seeking approval for variances for proposed Lots 21 and 22 for an existing structure encroaching the property (Lot 21) and the minimum-side yard for a corner property (Lot 22)

**Variation**

The applicant's letter requesting a variation from the required 150-foot distance from the centerline of the B&O Railroad tracks indicates that the house to be constructed on Lot 23 will meet this requirement. Lots 21 and 22 both have existing structures. The existing house on Lot 22 can serve as a noise barrier to the proposed home on Lot 23. Section 24-121(a)(4) of the Subdivision Regulations requires residential lots adjacent to railroads such as the B&O Railroad to be platted with a minimum lot depth of 300 feet. As shown on the preliminary plan, Lots 23 and 22 do not meet the 300-foot lot depth requirement. The applicant has requested a variation to this requirement. Staff has no objections to the request due to the fact that there are two existing single-family residences on two of the lots for which the variation is necessary. There are some concerns about noise from the railroad, however; those concerns are will be addressed via noise mitigation conditions for the lot yet to be delivered. Therefore, staff supports the variation to 24-121(a)(4) for lot depth.

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

**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 will not be detrimental to the public safety, health, or injurious to other property;**

The applicant is proposing three lots that do not meet the 300-foot lot depth adjacent to a railroad. The applicant is proposing to subdivide the site into three lots for single-family residences. The two existing single-family residences are to remain on proposed Lot 21 and proposed Lot 22. The existing dwellings located on proposed Lot 21 and 22 establish a lot line averaging less than 300-feet from the railroad.

- (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 confluence of a tight block pattern (confining streets approximately 200 feet apart), R-55 zoning, the location of two existing structures to remain, and a railroad are not generally applicable to other properties.

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

If granted in accordance with staff recommendation, the resulting lots should be able to be developed without the need for future variances. All other elements of the future development will be pursuant to a permit process which should ensure conformance to all the appropriate laws, ordinances and regulations.

- (4) Because of the particular 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 strict letter of these regulations is carried out;**

The subject application is proposing three lots; two already exist. The College Park-University of Maryland Metro Station and the Marc train station are northeast of the property. If the variation is granted in accordance with staff recommendation, the applicant would be able to subdivide the property into the three lots, which conforms to the proposed medium density in the College Park/UM Metro metropolitan center. If the variation is not granted given the location of the existing houses to remain, the application would have no additional lots.

### **Variance**

The applicant is seeking approval for variances of two feet from the two-foot minimum side yard setback, required for accessory structures, to sanction the location of an existing garage along the northern property line located on proposed Lot 21

The City of College Park is recommending that the applicant dedicate ten feet of right-of-way along the frontage of the subject property on Harvard Road for the construction of a four-foot sidewalk. Lot 22 is located at the northwest corner of Harvard Road and Bowdoin Avenue. A corner property requires a 25-foot minimum side yard setback where the side yard abuts a street. It is due to this request that a variance is required for Lot 22.

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;**

The 0.65-acre site is one of a few developable sites located in the town center area. The existing railroad, the existing structures, and the sidewalk dedication also dictate the configuration of the proposed lots. The creation of blocks of houses is typical of traditional city streets and is also typical of medium-density developments. 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;**

The hardship to the owner would be the removal of the existing structures: the garage on proposed Lot 21 and the existing home on proposed Lot 22. If the variance is not granted, these structures would need to be removed for compliance or for Lot 22 the sidewalk would not be constructed.

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

The granting of this variance will not substantially impair the intent, purpose, or integrity of the 1989 approved master plan for Langley Park-College Park-Greenbelt and vicinity. The subject site is included within the town center of the master plan. The plan recommends medium-suburban single-family detached dwellings, which is exactly what is proposed by the subject application.

6. **Environmental**—A standard letter of exemption from the Woodland Conservation Ordinance was issued on March 17, 2005, because the site is less than 400,000 square feet in size and does not have a previously approved tree conservation plan. A review of the available information indicates that streams, wetlands, severe slopes, and areas of steep slopes with highly erodible soils are not found on this property. There is no 100-year floodplain that is associated with the site. Harvard Road and Bowdoin Avenue are both collector roadways and generally not regulated for noise impacts. The site is adjacent to the B&O Railroad to the east, which is a major noise generator and generally regulated for noise. The predominant soil types found to occur on this site according to the Prince George's County Soil Survey are Elsinboro and Bibb. These soil series have moderate limitations with respect to poor drainage, impeded drainage, high water table, perched water table, and poor stability 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 adjacent to the property. This property is located in the Northwest Branch watershed of the Anacostia River basin and in the Developed Tier as reflected in the adopted 2002 General Plan.

### **Environmental Issues Addressed in the Langley Park-College Park-Greenbelt & Vicinity Master Plan**

The subject property is located within Analysis Area C-6 of the Langley Park-College Park-Greenbelt and vicinity master plan. There are no specific environmental recommendations or design standards that require review for conformance. The environmental requirements for woodland conservation and stormwater management are addressed in the Environmental Review section below.

#### ***Countywide Green Infrastructure Plan Conformance***

The site is not within the designated network of the approved *Countywide Green Infrastructure Plan*.

#### **Environmental Review**

The preliminary plan application has a staff-signed natural resources inventory (NRI/101/05) that was included with the application package. The NRI contains all of the required information.

This property is exempt from the provisions of the Prince George's County Woodland Conservation Ordinance because the property is less than 40,000 square feet gross tract area 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. A standard letter of exemption from the ordinance was issued by the Environmental Planning Section, Countywide Planning Division, on March 17, 2005. The letter of exemption should accompany all future applications for plans and permits.

A stormwater management concept approval letter (5768-2005-00) dated March 2, 2006, was submitted with the subject property. The concept approval letter cited no conditions of approval. Requirements for stormwater management will be met through subsequent reviews by the Department of Public Works and Transportation, Office of Engineering.

The subject property is adjacent to the B&O Railroad to the east, a noise generator generally regulated for noise impacts. The revised plan as submitted shows conceptual locations of proposed structural footprints on Lot 23. The existing house on proposed Lot 22 faces Bowdoin Avenue, which provides shielding for its outdoor activity area. Furthermore, the house on Lot 23 is positioned so that the outdoor activity area is also shielded for the noise source by the two dwelling on Lots 21 and 22. Prior to the approval of a building permit for Lot 23, a certification by a professional engineer with competency in acoustical analysis should be placed on the building permits stating that building shells of structures within prescribed noise corridors have been designed to reduce interior noise levels to 45dBA (Ldn) or less.

### **Water and Sewer Categories**

The water and sewer service categories are W-3 and S-3 according to water and sewer maps dated June 2003 and obtained from the Department of Environmental Resources. The property will be served by public systems. Water and sewer lines abut the property.

7. **Community Planning**—This application is not inconsistent with the 2002 General Plan Development Pattern policies for centers in the Developed Tier. This application is located in the Developed Tier, and is in a designated center (College Park/UM Metro Metropolitan Center). The site is located west of the Metro Green Line in a historic neighborhood that was not envisioned for development to metropolitan center guidelines.

The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The vision for centers is mixed residential and nonresidential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. This application conforms to recommendations of the master plan for medium-suburban residential land use.

Property in the College Park metropolitan center, located in the historic portions of College Park, should be reviewed according to the recommendations of the appropriate master plan. The proposed development conforms to the medium-suburban land use recommendations of the 1989 approved master plan for Langley Park-College Park-Greenbelt and vicinity for this area.

The proposed development is located under the traffic pattern for a small general aviation airport (College Park Airport) and is approximately 2,200 feet southwest of the runway. This area is subject to Aviation Policy Area regulations adopted by CB-51-2002 (DR-2) as Section 27-548.32 through 27-548.48 of the Zoning Ordinance. Specifically, the subject property is located in Aviation Policy Area APA-6. In particular, the applicant should be made aware of height and purchaser notification requirements contained in these regulations.

Residential land uses are allowed in this aviation policy area in accordance with standard zoning regulations. The APA regulations contain additional height requirements in Section 27-548.42 and purchaser notification requirements for residential property sales in Section 27-548.43 that are relevant to evaluation of this application. In APA-6, no building permit may be approved for a structure higher than 50 feet unless the applicant demonstrates compliance with FAR Part 77.

8. **Parks and Recreation**—In accordance with Section 24-134(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 as applicable from the subject subdivision because land available for dedication is unsuitable due to its size and location. Lots 21 and 22 are exempt because there are existing dwellings that are to remain.

9. **Trails**—There are no master plan trails issues identified in the 1990 Langley Park-College Park-Greenbelt master plan that impact the subject property. The site lies in between, but outside of, the sector plans for the College Park US 1 Corridor and the College Park-Riverdale TDOZ. However, lying only a few blocks from the College Park Metro, pedestrian access should be accommodated in the vicinity of the subject site. It should be noted that both the adopted and approved College Park US 1 Corridor sector plan and the adopted and approved College Park-Riverdale Transit District Development Plan recommend continuous sidewalks along both sides of all roads in order to accommodate walkable communities and pedestrian access to Metro and other destinations. Mandatory Development Requirement S-18 requires sidewalks and streetscape amenities along both sides of all roads within the New Carrollton-Riverdale TDOZ (TDDP, page 76).

Similarly, the College Park US 1 Corridor sector plan does recommend sidewalks on both sides of all roads (sector plan, page 63). This goal is included in the DDOZ in the Public Areas section, with the following wording included in the objective and Design Standard A (sector plan, page 171):

**Objective: To encourage alternative modes of transportation to the automobile by creating safe opportunities for walking and bicycling; to provide a continuous system of sidewalks and crosswalks with convenient trail connections; and to establish a comfortable and inviting pedestrian-oriented environment within the development district.**

- (A) All roads within the development district shall have a continuous system of sidewalks along both sides of the street. Refer to the Street Age table (Table 16) in S3. Building Siting and Setbacks for the width of new sidewalks in the development district.**

These requirements were included in the sector plan and TDDP to safely accommodate pedestrian movement through the study area and to make it possible to walk to destinations such as schools, parks, and Metro. The subject application is less than ¼ mile from the College Park Metro. The subject property's frontages of Harvard Road and Bowdoin Avenue do not currently include standard sidewalks. Harvard Road immediately to the west of the subject site includes a sidewalk. Similarly, a portion of Bowdoin Avenue to the north of the subject site includes a sidewalk.

Discussions with the City of College Park have emphasized the importance of providing sidewalks along the subject site's frontages of both roads. Due to the close proximity of the Metro station and the somewhat fragmented nature of the existing sidewalk network, staff recommends that sidewalks be provided along the site's frontages of both Harvard Road and Bowdoin Avenue. These sidewalks should be shown on the approved preliminary plan in a manner that does not conflict with or impact the P.U.E. Consequently the sidewalks should be constructed within the dedicated road right-of-way, with the P.U.E. being provided off the sidewalk. This may require a transition to the existing public utility easements on the adjacent properties. It appears that additional right-of-way dedication is required along Harvard Road. The approved preliminary plan should show the additional right-of-way dedication, location of the sidewalks within the right-of-way, and the location of the public utility easements. The easements should be outside the right-of-way and located off the sidewalk.



10. **Transportation**—The proposed subdivision would create a total of three residential lots, of which two are improved with existing residential dwellings. Two lots are proposed to have access to Bowdoin Avenue and one to Harvard Road. Both of these roadways are improved residential streets with 40 and 30 feet of dedicated rights-of-way, respectively. The streets providing frontage to the development are maintained by the City of College Park; therefore, frontage improvements and right-of-way dedication requirements will be determined by the city.
11. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision 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 College Park, Company 12, using the *7 Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire Department. Pursuant to CR-69-2006, 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.
12. **Police Facilities**—The preliminary plan is located in Police District I. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency 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 September 5, 2006.

<b>Reporting Cycle</b>	<b>Date</b>	<b>Emergency Calls</b>	<b>Nonemergency</b>
Acceptance Date	01/05/05-08/05/06	10.00	17.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on September 5, 2006. Pursuant to CR-69-2006, 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 police chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

13. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for impact on 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:

**Finding**

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	0.48	0.12	0.24
Actual Enrollment	35,388	11,453	16,879
Completion Enrollment	218	52	105
Cumulative Enrollment	102	25.50	51
Total Enrollment	35,708.48	11,530.62	17,035.24
State Rated Capacity	39,187	11,272	15,314
Percent Capacity	91.12%	102.29%	111.24%

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

These figures are correct on the day this referral memo was written. They are subject to change under the 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 amounts 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 on 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 a 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 adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

14. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision and has noted that a drainage field for sump pump discharge—not for sewage disposal—spans the two existing lots and terminates on the third proposed lot to the rear of the existing houses. This was identified by the three above-grade clean-outs, as pointed out by the property owner.
15. **Stormwater Management**—The Department of Public Works and Transportation, Office of Engineering, has approved stormwater management concept plan 5768-2005-00. Development must be in accordance with this approved plan.
16. **Archeology**—A Phase I archeological survey is not recommended for the above-referenced property. However, the applicant should be aware that a 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.

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 Vaughns, seconded by Commissioner Clark, with Commissioners Vaughns, Clark, Cavitt, Squire and Parker voting in favor of the motion at its regular meeting held on Thursday, July 12, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 26th day of July 2007.

R. Bruce Crawford  
Executive Director

By Frances J. Guertin  
Planning Board Administrator