

R E S O L U T I O N

WHEREAS, Roland Johnson is the owner of a .57-acre parcel of land known as Parcel 220, Tax Map 97 in Grid F-4, said property being in the 8<sup>th</sup> Election District of Prince George's County, Maryland, and being zoned R-80; and

WHEREAS, on September 21, 2005, Land and Compass filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05013 for Haverstock Hills, Johnson's Addition To, Lots 1 and 2 was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on January 5, 2006, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on January 5, 2006, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Variance Application No. VP-05013, and further APPROVED Preliminary Plan of Subdivision 4-05013, Haverstock Hills, Johnson's Addition To, for Lots 1 and 2 with the following conditions:

1. Development shall be in conformance with the approved stormwater management concept plan (3037-2005-00) and any subsequent approved revisions thereto.
2. Prior to the issuance of a grading permit for the development, A public safety mitigation fee shall be paid in the amount of \$7,560 (\$3,780 x two dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for all urban consumers. The actual fee to be paid will depend upon the year the grading permit is issued.

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 at the southeast quadrant of the intersection of Brinkley Road and Bushey Drive. The site is developed with a single-family residence. Surrounding properties are similarly developed in the R-80 Zone, with a large number of them having driveways directly onto Brinkley Road.
3. **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-80	R-80
Use(s)	Single-family Residence	Single-family Residence
Acreage	0.57	0.57
Lots	0	2
Outparcels	0	0
Parcels	1	0
Dwelling Units:	1	2 (1 new)

4. **Environmental**—A review of the available information indicates that there are no streams, wetlands or 100-year floodplain on the property. The site is currently developed with a single family detached residential structure. There is no woodland on the site. The site eventually drains into Henson Creek in the Potomac River watershed. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no nearby sources of traffic-generated noise. The proposed use is not expected to be a noise generator. There are no designated scenic and historic roads in the vicinity of this property. According to the “Prince George’s County Soil Survey,” the principal soils on the site are in the Beltsville series. According to available information, Marlboro clays are not found to occur in the vicinity of this property. No portion of the property is in or near any regulated area or evaluation area as designated in the Green Infrastructure Plan. This property is located in the Developing Tier as reflected in the adopted General Plan.

**Natural Resources Inventory**

The Environmental Planning Section previously approved a natural resources inventory for the subject property. There are no streams, wetlands or 100-year floodplain on the property. The site is currently developed with a single-family detached residential structure. There is no woodland on the site.

### **Woodland Conservation**

This property is not subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is less than 40,000 square feet and there is no previously approved tree conservation plan.

### **Soils**

According to the "Prince George's County Soil Survey," the principal soils on the site are in the Beltsville series. Beltsville soils are in the C-hydric series, are high erodible, and are subject to perched water tables and impeded drainage.

### **Water and Sewer Categories**

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

5. **Community Planning**—The property is located in Planning Area 76B/Camp Springs. The 1981 Master Plan for Subregion VII recommends suburban residential land use at a density up to 3.5 dwelling units per acre. The 2002 General Plan places this property in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable. The proposed plan is consistent with the recommendations of the master plan and the General Plan. (Note: The Planning Board adopted the 2005 Preliminary Henson Creek-South Potomac Master Plan and Sectional Map Amendment on December 1, 2005. Approval by the District Council is anticipated in January, 2006. The adopted plan and sectional map amendment retains the R-80 zoning of the site.)
6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Park Planning and Development Review Division recommends that the applicant pay a fee-in-lieu of the mandatory dedication of parkland requirements for Lot 2 because the land available for dedication is unsuitable due to its size and location. Lot 1 is exempt from mandatory dedication requirements because it contains an existing residence.
7. **Trails**—There are no trail issues identified in the adopted and approved Master Plan for Subregion VII.
8. **Transportation**—The applicant has not prepared a traffic impact study. It was not required by the transportation staff based on the proposed use of the site. Based on the two single-family lots that would be created, one of which is already improved with single-family residences, the proposed development would generate 1 AM and 1 PM peak-hour vehicle trips as determined using the "Guidelines for the Analysis of the Traffic Impact of Development Proposals" (revised September 2002).

The site is within the Developing Tier, as defined in the 2002 General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

**Unsignalized intersections:** The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal study and install the signal (or other less costly traffic controls) if deemed warranted by the appropriate operating agency.

#### **Transportation Staff Comments**

The traffic generated by the proposed preliminary plan would impact the intersection of Brinkley Road and Bushey Drive.

Staff has no recent counts at the critical intersection of Brinkley Road and Bushey Drive. Due to the limited trip generation of the site, the Prince George's County Planning Board could deem the site's impact at this location to be de minimus. Staff would therefore recommend that the Planning Board find that 1 AM and 1 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the Brinkley Road/Bushey Drive intersection.

#### **Access**

The proposed layout shows both lots gaining access from Bushey Drive, removing the driveway access from Brinkley Road.

#### **Transportation Conclusion**

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

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following.

**Impact on Affected Public School Clusters**

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	1 sfd	1 sfd	1 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	0.24	0.06	0.12
Actual Enrollment	3946	5489	9164
Completion Enrollment	121	64	127
Cumulative Enrollment	4.08	1.02	2.04
Total Enrollment	4071.32	5554.08	9293.16
State Rated Capacity	4033	6114	7792
Percent Capacity	100.95%	90.84%	119.27%

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

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia, \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority, or \$12,000 per dwelling for all other buildings. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,412 and \$12,706 to be paid at the time of issuance of each building permit.

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

The Historic Preservation and Public Facilities Planning Section staff finds that this project is consistent with the review for school facilities as contained in Section 24-122.02, CB-30-2003, CB-31-2003 and CR-23-2003.

10. **Fire and Rescue**—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 Allentown Road, Company 32, using the *Seven- Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire Department.

The Fire Chief has reported that the current staff complement of the Fire Department is 704 (101.73 percent), which is above the staff standard of 657 or 95 percent of authorized strength of 692 as stated in CD-56-2005.

The Fire Chief has reported by letter, dated 11/01/05 that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The Prince George’s County Planning Department has determined that this preliminary plan of subdivision is located in Police District IV. 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 proceeding 12 months, beginning with January 2005.

The subject application was accepted on September 21, 2005.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	01/05/05-08/05/05	11.00	23.00
Cycle 1	01/05/05- 09/05/05	11.00	23.00
Cycle 2	01/05/05- 10/05/05	11.00	24.00
Cycle 3	01/05/05- 11/05/05	11.00	24.00

This application does not meet the emergency response time standard for police. CB-56-2005 provides for mitigation of police inadequacies through approval of a mitigation plan. These mitigation plans are to be created in accordance with guidelines that have been enumerated by the District Council in CR-78-2005, which establishes a police facilities mitigation charge (as adjusted by the percentage change in the Consumer Price Index for all urban consumers) in the amount of \$3,780 per dwelling unit. Any approval of this application would be subject to the payment of this charge.

12. **Health Department**—The Health Department reviewed this application and has no comments.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that because of the minor nature of the proposed development, a fee-in-lieu payment is appropriate for this development. The site has an approved stormwater management concept plan (3037-2005-00, dated February 14, 2005), which shows two drywells to serve the proposed new structure. Development of the site must be in conformance with this plan or any approved revision thereto.
14. **Historic Sites/Cemeteries**—There are no known historic sites or cemeteries on or adjoining the subject property. However, the applicant should be aware that if burials are found during any phase of the development process, development activity must cease in accordance with state law. No further archeological investigation is recommended.
15. **Public Utility Easement**—The preliminary plan includes the required ten-foot-wide public utility easement. This easement will be shown on the final plat.

16. **Variation to Section 24-121**—Proposed Lot 1 does not have the 150-foot lot depth required per Section 24-121(a)(4). A variation from this requirement is necessary and has been submitted.

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 the 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 requirement for a 150-foot lot depth is to provide for public safety, health and welfare by primarily allowing adequate setback from road noise for proposed development along arterial roadways. A review of aerial photographs reveals that proposed Lot 1 has been occupied with a single-family residence at its current location since at least 1965 and undoubtedly before. The granting of this variation would not result in a greater impact on the existing residence and simply allow the applicant to develop its property consistent with the lots in the surrounding Haverstock Hills subdivision, none of which have the 150-foot lot depth. (Note: The 2005 adopted Henson Creek-South Potomac Master Plan recommends downgrading Brinkley Road [MC-701] along this segment to a major collector of 2-4 lanes within an 80- to 116-foot right-of-way. This would negate the need for a variation.)

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

The subject property has been developed in its current configuration for more than 40 years. Requiring a 150-foot lot depth would not change the impact of road noise on the existing house on proposed Lot 1.

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

The proposed impact is not a violation of any other applicable law, ordinance or regulation. The existing home will remain unchanged.

- (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 requirement for a 150-foot lot depth is impractical in this case. This requirement is imposed as a means toward protecting proposed development from noise intrusion. In this case, the development on Lot 1 is not speculative; it has been in existence for more than 40 years. This, in concert with the fact that surrounding development has not been required to meet the 150-foot lot depth requirement, would seem a particular hardship to the owner if the strict letter of the regulation were required.

Staff supports the variation request for the reasons stated above.

17. **Variations to Section 27-442(e)**—As noted above, two variances are required to validate the location of the existing dwelling on Lot 1. Because Lot 1 is a corner lot and has less frontage on Bushey Drive than Brinkley Road, the lot fronts on Bushey Drive rather than Brinkley Road in accordance with Section 27-107.01(a)(134). Thus the yards to the north and south (previously the front and rear yards, respectively) of the dwelling are now side yards and the yard to the east (previously a side yard) is now a rear yard. In the instant case, proposed Lot 1 is required to have a 25-foot side yard along Brinkley Road (a variable-width [minimum 7.8 feet] yard is shown) and a 20-foot rear yard to the east (a variable width [7.3 feet minimum] yard is shown).

Section 27-230 of the Zoning Ordinance contains the criteria for granting variances:

- (a) A variance may only be granted when the Planning Board finds that:**
- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

The existing building has been at this location for more than 40 years. Although the building is set back from the edge of the existing roadway approximately 57 feet, the ultimate right-of-way width for Brinkley Road is shown on the 1981 master plan as 120 feet. In addition, the lot line proposed to split this parcel results in a shuffling of the yards so that the front and rear yards are now side yards and the side yard to the east is now the rear yard, although the orientation of the house remains the same. The 2005 adopted Henson Creek-South Potomac Master Plan recommends downgrading Brinkley Road (MC-701) along this segment to a major collector of 2-4 lanes within an 80 to 116-foot right-of-way. The age of the existing development on the site, the change in the right-of-way over time, and the reorientation of the yards result in an extraordinary situation that permits the granting of this variance.

- (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 requirement for a 25-foot side yard and 20-foot rear yard is impractical in this case. This requirement is imposed as a means toward providing adequate buffering from adjoining streets and residences. The residence on Lot 1 has been in existence for more than 40 years. Further, even if the parcel were not being split, the variance for the front yard (now a side yard) would be required to validate the existing situation. Given these facts, staff concludes that the strict application of this Subtitle will result in an undue hardship upon the owner of the property.

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

The redevelopment of this property is consistent with the development pattern that has occurred on adjacent properties and will result in Lot 1 gaining access from Bushey Drive rather than Brinkley Road. The requested variances will, therefore, not impair the intent of these plans.

Staff recommends approval of the variance request for the reasons stated above.

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

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Vaughns, with Commissioners Eley, Vaughns, and Hewlett voting in favor of the motion, with Commissioner Squire absent at its regular meeting held on Thursday, January 5, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of February 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator