

R E S O L U T I O N

WHEREAS, MSTC I, LLC/St. John Properties is the owner of a 25.10-acre parcel of land known as part of Parcel 1, said property being in the 7th Election District of Prince George's County, Maryland, and being zoned Mixed Use-Transportation Oriented (M-X-T); and

WHEREAS, on April 23, 2019, St. John Properties, Inc. filed an application for approval of a Final Plat of Subdivision for 2 parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-18099 for Aspen at Melford, Parcel 1 and Parcel A 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 May 2, 2019, 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; and

WHEREAS, on May 2, 2019, the Prince George's County Planning Board approved 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 Final Plat of Subdivision 5-18099 for Aspen at Melford, Parcel 1 and Parcel A, including a Variation from Section 24-122(a) for the absence of a public utility easement (PUE) on the property along Lake Melford Avenue, pursuant to the conditions of Preliminary Plan of Subdivision 4-16006.

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 the Land Use Article of the Annotated Code of Maryland.
2. **Background**—The subject property is located on the west side of Curie Drive, approximately 600 feet north of its intersection with Melford Boulevard. The site is currently vacant and is the subject of a Preliminary Plan of Subdivision (PPS) 4-16006, approved by the Prince George's County Planning Board on March 9, 2017 (PGCPB Resolution No. 17-45), which approved the Melford Village subdivision and is composed of 256 lots and 50 parcels on 129.15 acres, in the Mixed Use-Transportation Oriented (M-X-T) Zone.

This final plat of subdivision application is in conformance with PPS 4-16006. The application includes the Planning Board’s approval of a variation from Section 24-122(a) of the Subdivision Regulations, for the absence of a public utility easement (PUE) on the property, along Lake Melford Avenue, as discussed further.

3. **Setting**—The property is located in the City of Bowie on Tax Map 47, Grid F3, in Planning Area 71B, and is zoned M-X-T. The site is bounded by surrounding properties, which are all within Melford Village and within the M-X-T Zone. To the north, the subject property abuts an existing pond, with developed commercial office uses beyond; to the west is a historic cemetery parcel and the aforementioned pond, which extends to the west abutting Melford Boulevard, with commercial office uses beyond; to the east, the site is bounded by Curie Drive and vacant undeveloped properties, which include wooded and cleared areas beyond; to the south, the site is bounded by the historic Melford House parcel, which is largely surrounded by wooded areas, and Melford Boulevard further south, with developed commercial office and industrial uses beyond.
4. **Development Data Summary**—The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	M-X-T	M-X-T
Use(s)	Vacant	Residential
Acreage	6.62	6.62
Lots	0	0
Outlots	0	0
Parcels	1	2
Public Safety Mitigation Fee	No	No
Variance(s)	No	No
Variation	No	Yes
		24-122(a)

The variation from Section 24-122(a) of the Subdivision Regulations was accepted on December 24, 2018 as set forth in Finding 5 below, and heard on January 11, 2019 at the Subdivision and Development Review Committee (SDRC) meeting as required by Section 24-113(b) of the Subdivision Regulations.

5. **Variation**—Section 24-122(a) requires the following:

Section 24-122-Public facilities requirements.

- (a) **When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.**

The standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. The subject property's eastern boundary currently abuts the public right-of-way of Curie Drive. The application provides a new public right-of-way, Lake Melford Avenue (formerly proposed as East West Boulevard), along the southern edge of the property, which will be dedicated to the City of Bowie. The existing 10-foot-wide PUE will continue to be provided on the property along Curie Drive, but a 10-foot-wide PUE will not be provided along Lake Melford Avenue. The site is currently vacant and is approved for a multifamily residential building and outdoor plaza. In lieu of the PUE along Lake Melford Avenue, utilities will be provided within the public right-of-way of Lake Melford Avenue, in order to mitigate impacts to sensitive features on surrounding properties and to conform with specific design guidelines set forth for the development of the site.

Section 24-113 sets forth the required findings for approval of a variation request:

Section 24-113. Variations.

- (a) **Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle and Section 9-206 of the Environment Article; 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 will not be detrimental to the public safety, health, or welfare, or injurious to other property;**

The application does not provide the standard 10-foot-wide PUE on the subject property, adjacent to the public right-of-way of Lake Melford Avenue. Not providing the PUE will not be detrimental to the public safety, health, or welfare, or injurious to other property. Utilities will be provided within the public right-of-way of Lake Melford Avenue and will be available to serve the subject site and surrounding properties.

- (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 subject property contains several unique conditions, which are generally not applicable to other properties. A historic cemetery parcel currently exists adjacent to the subject property. Environmental features, such as an existing pond, are also adjacent to the subject property. Additionally, the property is subject to Conceptual Site Plan CSP-06002-01, which approved the Melford Village Design Guidelines. These unique guidelines call for the compact design of the subject site and adjacent properties. In order to achieve this design, utilities are called to be placed in the right-of-way. Therefore, in order to mitigate the impact of the approved development on the surrounding site features, and in order to conform to the specific design guidelines set forth for the subject property, the application provides a compact development scheme on-site and nonstandard right-of-way design where utilities are placed within the right-of-way, warranting a variation from the required 10-foot-wide PUE.

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

The variation to Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. This variation request was referred to the Potomac Electric Power Company (PEPCO), the Washington Suburban Sanitary Commission (WSSC), Washington Gas, Baltimore Gas and Electric (BG&E), Verizon, Comcast, and the City of Bowie. WSSC will be provided with separate easements for wet utilities, per their standard requirement. With the exception of the City of Bowie, which responded in support of the variation request, no other comments have been received in response to the variation request. Therefore, the variation will not violate any other applicable law, ordinance, or regulation.

- (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 the strict letter of these regulations is carried out;**

Due to the particular physical surroundings, including the sensitive environmental and historic areas adjacent to the subject property, utilities will be integrated into the public right-of-way, instead of being provided in a standard 10-foot-wide PUE along either side of the public right-of-way. Following the strict letter of these regulations would create a particular hardship to the owner, with the implementation of the standard 10-foot-wide PUE, as it would have an impact on the adjacent historic and environmental features. Additionally, the

standard PUE would create a hardship for the owner in meeting the mixed-use development scheme approved in the CSP for the subject site and surrounding properties. The standard PUE would also impact the compact design and layout of the multifamily building and outdoor plaza approved in Detailed Site Plan DSP-18007 for the subject property. The building footprint approved in the DSP will be less than 10 feet away from the right-of-way, and utilities will be within the right-of-way to further support the compact design of the site. As a result, implementing the standard 10-foot-wide PUE would impact the compact design of the approved building and would be contrary to the design guidelines established for the subject and surrounding properties in CSP-06002-01.

- (5) **In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where multifamily dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113(a), above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the Prince George’s County Code.**

The subject property is zoned M-X-T. Therefore, this provision does not apply.

The Planning Board finds that this site is unique to the surrounding properties and that the variation approval is supported by the required findings herein. This approval will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which in part is to encourage creative design that accomplishes the purpose of the Subdivision Regulations in a more efficient manner.

- 6. **Further Planning Board Findings and Comments from Other Entities**—The variation was referred to PEPCO, WSSC, Washington Gas, BG&E, Comcast, Verizon and the City of Bowie. A letter of concurrence was provided from the City of Bowie regarding the requested variation. No other comments were received from the agencies referred.

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

* * * * *

PGCPB No. 19-57
File No. 5-18099
Page 6

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 Bailey, seconded by Commissioner Doerner, with Commissioners Bailey, Doerner, Geraldo, and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, May 2, 2019, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of May 2019.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

EMH:JJ:CD:gh