

R E S O L U T I O N

WHEREAS, St. John Properties, Inc. is the owner of a 3.69-acre parcel of land known as Melford Village, 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 October 4, 2021, St. John Properties, Inc. filed an application for approval of a Final Plat of Subdivision for one parcel; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-21052 for Northern Retail at Melford Town Center 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 14, 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; and

WHEREAS, on October 14, 2021, 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 5-21052, including a Variation from Section 24-122(a) of the Subdivision Regulations, to eliminate the standard 10-foot-wide public utility easement 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 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 property is located north of the intersection of Lake Melford Avenue and Melford Boulevard. The site is currently being improved under a larger development known as Melford Village, in accordance with preliminary plan of subdivision (PPS) 4-16006, which was approved by the Prince George's County Planning Board on April 6, 2017 (PGCPB Resolution No. 17-45). The total acreage of Melford Village is 129.16 acres, and the overall project was approved for mixed-use development, including residential and commercial uses. A detailed site plan, DSP-18026, was approved by the Planning Board (PGCPB Resolution

No. 19-12) on January 24, 2019, for 8.83 acres and contains the land area that is the subject of Final Plat of Subdivision 5-21052 and the land area south of Lake Melford Avenue.

The subject final plat totals 3.69 acres within Melford Village in the Mixed Use-Transportation Oriented (M-X-T) Zone. The final plat contains one parcel and is located in the center of Melford Village.

The final plat of subdivision is in conformance with PPS 4-16006. However, the applicant requested the Planning Board’s approval of a variation from Section 24-122(a) of the Prince George’s County Subdivision Regulations, to eliminate the standard 10-foot-wide public utility easement (PUE) requirement on the southern boundary of Parcel 5 along Lake Melford Avenue, as discussed further below.

3. **Setting**—The subject property is located in the City of Bowie on Tax Map 47 in Grids E3 and F3 and in Planning Area 71B. The subject property is bounded on all sides by other sections of Melford Village in the M-X-T Zone. To the north and west, the subject property abuts land owned by the City of Bowie containing a stormwater management pond with Melford Boulevard and Science Drive beyond; to the east of the subject property is a vacant parcel; to the south, the subject property abuts Lake Melford Avenue with vacant and partially wooded land beyond. The surrounding vacant properties have existing approvals for future development within Melford Village.
4. **Development Data Summary**—The following information relates to the subject final plat of subdivision application.

	<b>EXISTING</b>	<b>APPROVED</b>
Zone(s)	M-X-T	M-X-T
Use(s)	Vacant	Commercial
Acreage	3.69 acres	3.69 acres
Lots	0	0
Outlots	0	0
Parcels	1	1
Variance	No	No
Variation	No	Yes Section 24-122(a)

The requested variation from Section 24-122(a) was received on July 8, 2021 and heard on July 23, 2021 at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations, as a companion request to the subject final plat of subdivision.

5. **Variation**—The applicant filed a variation request from Section 24-122(a) to eliminate the required 10-foot-wide PUE along the southern boundary of Parcel 5 along Lake Melford Avenue. Lake Melford Avenue is a public right-of-way dedicated to the City of Bowie. The variation request was dated and received on July 8, 2021 and is incorporated by reference herein.

The variation is necessary to accommodate the compact development required by the Conceptual Site Plan, CSP-06002-01, for the overall Melford Village development which was analyzed and approved along with the PPS and DSP for the subject property. The variation has now been filed to meet the technical submittal requirements, and the findings for approval of the variation are outlined below:

**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 a 10-foot-wide easement along both sides of all public rights-of-way to ensure adequate and continuous utility access and provision for all development. The subject property's southern and western boundaries abut the public rights-of-way of Lake Melford Avenue and Melford Boulevard, respectively.

The applicant is proposing to provide the required 10-foot-wide PUE on the western property boundary along Melford Boulevard, but not along Lake Melford Avenue. The subject property is currently vacant and partially wooded and is proposed to be developed with one commercial building for retail use. In lieu of providing the required PUE along Lake Melford Avenue on Parcel 5, wet and dry utilities will be provided within the public right-of-way of Lake Melford, an alternative design which has been approved for properties to the east along this right-of-way. Providing public utilities in the right-of-way of Lake Melford Avenue is proposed in order to mitigate impacts to sensitive features on surrounding properties and to conform with specific design guidelines set forth for development of the subject property. The development on Parcel 5 will also gain access to utilities via the PUE along Melford Boulevard on the western edge of the subject property.

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

There are four criteria that must be met for this variation to be approved (a fifth criterion is not applicable to the zoning of the subject property), which are addressed by the applicant's variation request dated July 8, 2021, incorporated by reference herein. The criteria, with discussion, are noted below:

**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;**

Not providing the required PUE in its standard location on Parcel 5 along Lake Melford Avenue will not be detrimental to public safety, health, or welfare or injurious to other properties. Wet and dry utilities will be provided within the public right-of-way of Lake Melford Avenue. Furthermore, utilities may be accessed through the PUE along the western boundary of the subject property abutting Melford Boulevard. Access to utilities will be available to serve the subject site and surrounding properties even if the easement is not in its standard location along Lake Melford Avenue and therefore, will not be detrimental to the public safety, health, or welfare, or injurious to other 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 applicant's variation request lists existing environmental constraints (including specimen trees), the presence of an adjacent historic site (the Melford Cemetery, Historic Site 71B-016, to the north), and compact design guidelines as conditions not generally applicable to other properties. While the applicant lists existing environmental constraints, specifically the presence of specimen trees, as a condition not generally applicable to other properties, most, if not all, development in Prince George's County must contend with the presence of specimen trees and therefore, adjust development to preserve these trees or apply for variances to remove them. However, the Planning Board finds the adjacent historic site and compact design guidelines are conditions present on the subject property that are not generally applicable to other properties. The Melford Cemetery, Historic Site 71B-016, is adjacent to the northern boundary of the subject property. The presence of the historic site restricts the development envelope to the southern area of the subject property, closer to Lake Melford Avenue, leaving less area to accommodate parking, landscaping, and other requirements for commercial development. The property is also subject to

CSP-06002-01, which approved the Melford Village Design Guidelines. These guidelines call for the compact design of the subject site and adjacent properties, which may require non-standard design of rights-of way where utilities are placed within the right-of-way and not on the subject properties themselves to accommodate pedestrian focused and walkable development. The applicant's request to eliminate the PUE requirement along Lake Melford Avenue is warranted, given the presence of the adjacent historic site and compact development design guidelines as these are conditions not generally found on other properties.

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

The applicant's variation request states that granting the variation will not be in violation of any law, ordinance, or regulation. The variation from 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 Potomac Electric Power Company, the Washington Suburban Sanitary Commission, Washington Gas, Baltimore Gas and Electric Company, Comcast, Verizon, AT&T, and the City of Bowie. The City of Bowie and the Prince George's County Department of Permitting, Inspections and Enforcement responded in support of the variation request, and AT&T stated they had no facilities in the area. No other comments were received in response to the variation request. Wet and dry utilities will be provided within the public right-of-way of Lake Melford Avenue and in the PUE on the western side of the subject property along Melford Boulevard. 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;**

The applicant's variation request states that due to the existing environmental constraints, the adjacent historic site, and compact design guidelines, the standard requirement for the PUE along Lake Melford Avenue would result in a hardship on the owner if it were to be required. The Planning Board finds the particular physical surroundings include the abutting historic site which forms the circular void in the subject property and results in its irregular shape. In this particular case, the historic site constricts the development envelope to the southern portion of the subject property, leaving little room for design elements required for commercial development. Furthermore, the subject property must conform to the development guidelines approved under CSP-06002-01 which proposes a mixed-use and compact development scheme. DSP-18026, approved in accordance with CSP-06002-01 and PPS 4-16006, proposes that the commercial

structure on Parcel 5 be less than 10 feet away from the proposed right-of-way of Lake Melford Avenue, which supports a compact and walkable development that is in line with the overall vision for Melford Village. As a result, implementing the standard 10-foot-wide PUE requirement along Lake Melford Avenue would impact the compact design of the approved building on Parcel 5 and be in contrary to the Melford Village Design Guidelines, approved via CSP-06002-01.

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 variation 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. **Referral and Comments from other Entities**—The requested variation was referred to the Potomac Electric Power Company, the Washington Suburban Sanitary Commission, Washington Gas, Baltimore Gas and Electric Company, Comcast, Verizon, AT&T, and the City of Bowie. An email from the City of Bowie was provided stating that the city has no objection to the variation request. The Prince George’s County Department of Permitting, Inspections and Enforcement also commented that they had no objections to the request. In addition, AT&T responded to the referral that they have no facilities in the area. 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 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 Bailey, seconded by Commissioner Washington, with Commissioners Bailey, Washington, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, October 14, 2021, in Upper Marlboro, Maryland.

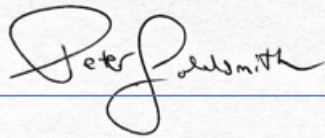
Adopted by the Prince George's County Planning Board this 28th day of October 2021.

Elizabeth M. Hewlett  
Chairman

  
By Jessica Jones  
Planning Board Administrator

EMH:JJ:KD:nz

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department  
Date: October 19, 2021