

R E S O L U T I O N

WHEREAS, Maryland Science and Technology Center II, LLC is the owner of 10.47 acres 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 June 29, 2021, St. John Properties, Inc. filed an application for approval of a Final Plat of Subdivision for nine parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-20110 for The Mansions 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 July 8, 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 July 8, 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 5-20110, including a Variation from Section 24-122(a) of the Subdivision Regulations, to eliminate the standard 10-foot-wide public utility easement requirement 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 approximately 600 feet north of Melford Boulevard, in the northeastern quadrant of the intersection of Currie Drive and Lake Melford Avenue. 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 project was approved for mixed use development including residential and commercial uses. Detailed site plan, DSP-19052,

was approved by the Planning Board on March 12, 2020, for 11.35 acres and contains the land area that is the subject of Final Plat of Subdivision 5-20110.

The subject final plat totals 10.47 acres within Melford Village and is located within the Mixed Use-Transportation Oriented (M-X-T) Zone. The final plat contains nine parcels 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 boundaries of Parcels GG, HH, JJ, and MM along Lake Melford Avenue, as discussed further below.

3. **Setting**—The subject property is located in the City of Bowie on Tax Map 47 Grid 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, the subject property abuts a vacant wooded parcel with commercial development beyond; to the west, the subject property is bound by Curie Drive and vacant partially wooded land beyond; to the east, the subject property abuts a series of ponds and vacant wooded land beyond; to the south, the subject site is bound by Lake Melford Avenue and vacant partially wooded land beyond. The surrounding vacant properties have existing approvals for future development within the larger Melford Village development.
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	10.47 acres	10.47 acres
Lots	0	0
Outlots	0	0
Parcels	2	9
Variance	No	No
Variation	No	Yes Section 24-122(a)

The requested variation from Section 24-122(a) was received on November 17, 2020 and heard on November 30, 2020, at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations, as a companion request for the approval 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 Parcels GG, HH, JJ, and MM along Lake Melford Avenue. The variation request was dated November 12, 2020 and received on November 17, 2020.

The variation is necessary to accommodate the compact development required by conceptual site plan, CSP-06002-01, which was analyzed and approved with the PPS and DSP for the site. 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 Curie Drive and Lake Melford Avenue. The applicant is proposing to provide the required 10-foot-wide PUE on the properties along Curie Drive, but not along Lake Melford Avenue. The subject site is currently vacant and partially wooded and is proposed to be developed with several multifamily residential buildings. In lieu of providing the required PUE along Lake Melford Avenue on Parcels GG, HH, JJ, and MM, 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 of the Subdivision Regulations 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 November 12, 2020, 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;**

In this particular case, not providing the required PUE in its standard location will not be detrimental to public safety, health, or welfare or injurious to other properties as the utilities will be provided within the public right-of-way of Lake Melford Avenue. The utilities will be available to serve the subject site and surrounding properties even if the easement is not in its standard location and therefore, will not be detrimental to the public safety, health, or welfare, or injurious to other property.

- (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 states that the conditions of this property are unique due to existing environmental constraints, compact design guidelines, and features around the perimeter owned by the City of Bowie. Environmental constraints and the presence of municipality owned features around the property's perimeter are elements that most properties under development in Prince George's County must consider. However, the Planning Board finds that the requirements of the compact design guidelines imposed on this development are elements that are arguably unique. The property is 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. The Planning Board finds that the applicant's request to eliminate the PUE requirement along Lake Melford Avenue is warranted given the unique nature of the design guidelines imposed on the subject property.

- (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. Furthermore, the applicant states that this variation request is in line with Condition 2a. of PGCPB Resolution No. 2020-24 from DSP-19052. The variation from Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board.

(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, compact design guidelines, and features around the perimeter owned by the City of Bowie, development of the PUEs as required would result in a hardship on the owner. As stated previously, environmental constraints and the presence of municipality owned features around the property’s perimeter are elements that most properties under development in Prince George’s County must consider. However, the requirements of the compact design guidelines imposed on this development are features that are arguable unique. In this particular case, the standard PUE requirement would negatively impact the owner’s ability to meet the mixed-use and compact development scheme approved in CSP-06002-01 for the subject site and surrounding properties. DSP-19052 approved the multifamily buildings on Parcels GG, HH, JJ, and MM to be setback less than 10 feet from the proposed right-of-way of Lake Melford Avenue, which supports compact and walkable developments. As a result, the Planning Board finds that implementing the standard 10-foot-wide PUE requirement would impact the compact design of the approved buildings and be in contrary to the Melford Village Design Guidelines approved via CSP-06002-01.

The Planning Board finds that the criteria for variation approval have been met, and therefore approves the variation from Section 24-122(a), for the elimination of the standard 10-foot-wide PUE requirement along the northern side of Lake Melford Avenue.

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. A letter of concurrence was provided from the City of Bowie regarding the requested variation. Verizon indicated they were not opposed to the variation and AT&T responded 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 Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Geraldo and Hewlett voting in favor of the motion, and with Commissioner Doerner temporarily absent at its regular meeting held on Thursday, July 8, 2021, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 29th day of July 2021.

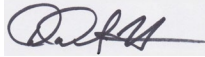
Elizabeth M. Hewlett
Chairman

Jessica Jones

By Jessica Jones
Planning Board Administrator

EMH:JJ:KD:nz

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: July 12, 2021