

R E S O L U T I O N

WHEREAS, BEP Hyattsville, LLC is the owner of a 21.16-acre parcel of land known as Parcels 1–5, said property being in the 17th Election District of Prince George’s County, Maryland, and being zoned Regional Transit-Oriented, High Intensity and designated as part of the zone’s Core and Edge areas (RTO-H-C and RTO-H-E); and

WHEREAS, on June 15, 2022, Bald Eagle Partners, LLC filed an application for approval of a Final Plat of Subdivision for five parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-20179 for Dewey Property, Parcels 1-5 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 June 30, 2022; and

WHEREAS, new Regulations for the Subdivision of Land, Subtitle 24, Prince George’s County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1704(a) of the Subdivision Regulations, the associated Preliminary Plans of Subdivision 4-18022 and 4-19033 approval remains valid under the prior Subdivision Regulations and the subject final plats of subdivision must be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the subdivision approval; and

WHEREAS, therefore, the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Regulations for the Subdivision of Land, Subtitle 24, Prince George’s County Code in existence prior to April 1, 2022; and

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

WHEREAS, on June 30, 2022, 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 5-20179, including a Variation from Section 24-122(a) of the prior Subdivision Regulations, to eliminate the standard 10-foot public utility requirement on Parcel 1, along the south side of Public Road A and the western side of Public Road B, pursuant to the conditions of Preliminary Plans of Subdivision 4-18022 and 4-19033.

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 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 in the northeast quadrant of the intersection of Belcrest Road and Toledo Road in the City of Hyattsville. The subject property is currently being improved in accordance with two separate Preliminary Plans of Subdivision 4-18022 and 4-19033. PPS 4-18022, covering Parcels 1–4, was approved by the Prince George's County Planning Board on July 18, 2019 (PGCPB Resolution No. 19-82), for multifamily residential development. PPS 4-19033, covering Parcel 5, was approved by the Planning Board on December 12, 2019 (PGCPB Resolution No. 19-129), for multifamily residential and commercial development. In addition to the aforementioned preliminary plans, the subject property is also being improved in accordance with two Detailed Site Plans DSP-19050 and DSP-19050-01. DSP-19050 covers Parcel 5 and was approved by the Planning Board on July 30, 2020 (PGCPB Resolution No. 2020-125), for 321 multifamily dwelling units and 1,258 square feet of commercial/retail uses. DSP-19050-01 covers Parcels 1–4 and was approved by the Planning Board on July 30, 2020 (PGCPB Resolution No. 2020-127), for 529 multifamily dwelling units as the second phase of the Dewey Property development. Parcel 1, the subject of a variation request which is further discussed below, was approved for a 361-unit multifamily building under DSP-19050-01. The overall Dewey Property development totals 21.16 acres.

The subject final plat totals 21.16 acres and is located within the Regional Transit-Oriented, High Intensity Core and Edge (RTO-H-C and RTO-H-E) Zones. The property was previously located in the Mixed Use-Infill (M-U-I) and Transit District Overlay (T-D-O) Zones. This application was submitted for review under the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, pursuant to Section 24-1704(a) of the Subdivision Regulations, because the PPS approvals were obtained under the prior regulations, which remain valid.

The final plat contains five parcels and is in conformance with 4-18022 and 4-19033. However, the applicant requested the Planning Board's approval of a variation from Section 24-122(a) of the Subdivision Regulations, to eliminate the standard 10-foot public utility easement (PUE) requirement on Parcel 1, along the south side of Public Road A and the western side of Public Road B (as designated on the approved PPS), as discussed further below.

3. **Setting**—The subject property is located in the City of Hyattsville, on Tax Map 42 in Grids A1 and B1, in Planning Area 68. To the north, the subject property abuts a religious institution in the Residential, Single-Family-65 (RSF-65) Zone; to the east, the subject property abuts Maryland-National Capital Park and Planning Commission buildings and vacant wooded land in the RTO-H-E, RTO-H-C, and RSF-65 Zones; to the south, the subject property is bound by Toledo Road, a municipal road in the City of Hyattsville, with commercial and multifamily uses in the RTO-H-C Zone beyond; and to the west, the subject property is bound by Belcrest Road, a municipal road in the City of Hyattsville, with multifamily dwelling units in the RTO-H-C, RTO-H-E, and Residential, Single-Family Attached Zones beyond.

4. **Development Data Summary**— The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	RTO-H-C/RTO-H-E	RTO-H-C/RTO-H-E
Use(s)	Vacant	Mixed Use (Commercial and Residential)
Acreage	21.16 acres	21.16 acres
Lots	0	0
Outlots	0	0
Parcels	2	5
Variance	No	No
Variation	No	Yes, Section 24-122(a)

The requested variation from Section 24-122(a) was received on March 1, 2021 and heard on March 19, 2021, at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Variation**—The applicant filed a variation request from Section 24-122(a) to eliminate the standard 10-foot PUE requirement on Parcel 1 along the south side of Public Road A and the western side of Public Road B. The variation request was dated February 26, 2021 and submitted on March 1, 2021.

This variation is necessary to accommodate the design elements of the Downtown Core character area, as defined in the 2016 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone* (TDDP), which was analyzed and approved with the preliminary plans and DSPs 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.**

For the purposes of platting, pursuant to 4-18022, the applicant requested a variation from the above requirement that requires the provision of a 10-foot PUE along both sides of a public right-of-way on Parcel 1.

Review of Variation

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.

Parcel 1 within the subject property is bound to the north and east by Public Roads A and B, respectively. To the south and west of Parcel 1 are two additional existing public roads, Toledo Road and Belcrest Road, respectively. The applicant is proposing to eliminate the required 10-foot PUE on Parcel 1 along Public Roads A and B. The applicant argued that the site-specific constraints from the TDDP impact the ability to include the required PUE, in accordance with Section 24-122(a). The subject property is located within the Downtown Core character area of the TDDP. This area requires specific elements to be incorporated into the streetscape to create a walkable and transit-oriented community within the Prince George's Plaza Transit District. The applicant argues that the inclusion of a 10-foot PUE makes the requirements of the TDDP impossible to achieve. Parcel 1 currently contains a parking lot and is approved to be developed with a 361-unit multifamily building. In lieu of providing the required PUE along Public Roads A and B on Parcel 1, all needed utilities for the proposed multifamily units will be accessed through the PUEs along Toledo Road and Belcrest Road.

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 February 26, 2021, incorporated by reference herein. The criteria, with discussion, are noted below:

(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 along Public Roads A and B on Parcel 1 will not be detrimental to public safety, health, or welfare, or be injurious to other properties. Public Roads A and B are internal to the subject property and will not affect utility connections to other properties. In addition, the surrounding public rights-of-way of Toledo Road and Belcrest Road, which abut Parcel 1 of the subject property to the south and west, respectively, provide the necessary PUEs to support the approved development.

(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 the proximity to Belcrest Road and Toledo Road, compliance with Americans with Disabilities Act (ADA) regulations, and location within the Downtown Core area of the TDDP as conditions existing on the subject property that are not generally found on other properties. The proximity to existing public roads and compliance with ADA regulations are elements that most, if not all, properties must consider. However, the location of the subject property within the Downtown Core character area of the TDDP is a condition not found on other properties. The Downtown Core character area requires minimum (the closest to the curb a building may be built) and maximum (the furthest from the curb a building may be built) build-to lines of 15 and 20 feet, respectively. Within the minimum build-to line of 15 feet, a 6-foot tree zone, a 5-foot walk zone, and retail, residential, and/or buffer zones (with varying widths as needed) are required. Given these requirements, the inclusion of a 10-foot PUE makes the

maximum build-to line of 20 feet impossible to achieve. The applicant's request to eliminate the PUE requirement on Parcel 1 along the south side of Public Road A and the western side of Public Road B is warranted given the impact of the design guidelines 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. 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 subject property contains particular physical surroundings, shape, and topographic conditions that lend a hardship on the owner because of its triangular shape and the presence of a large swath of primary management area (PMA). This PMA contains a proposed regional stormwater facility and takes up a large area of land in the middle of the subject property. In addition, the subject property is surrounded on all sides by public streets triggering the requirement for PUEs along the entire perimeter of the site, and conformance with the design elements of the TDDP imposed along the public roads. The hardship on the owner in this case results from the subject property being unusually shaped with development envelopes constricted by a large portion of the property located within the PMA. Due to the presence of public roads bordering the subject property, the applicant is required to provide PUEs along all four sides of the subject property. Internal Public Roads A and B are also required to meet the design criteria of the TDDP. However, the PUE requirement overlaps and conflicts with the required placement of buildings per the TDDP required build-to lines. Requiring the PUE along Public Roads A and B within the already constrained building envelope on the subject property will negatively impact the owner's ability to meet the design criteria of the TDDP and therefore, the overall goals of the TDDP, thus creating a unique hardship that is more than an inconvenience.

The required criteria of approval for a variation from Section 24-122(a), to eliminate the standard 10-foot PUE requirement on Parcel 1 along the south side of Public Road A and the western side of Public Road B, is found to be met.

6. **Referral and Comments from other Entities**—The requested variation was referred to the City of Hyattsville, the Washington Suburban Sanitary Commission, the Potomac Electric Power Company, Comcast, AT&T, and Verizon for review. The City of Hyattsville had no comment on the request. The Prince George's County Department of Permitting, Inspections and Enforcement

responded to the requested variation and had no objections to the request. None of the other agencies that the request was referred to objected to the approval of this application.


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 Geraldo, with Commissioners Bailey, Geraldo, and Shapiro voting in favor of the motion, and with Commissioners Doerner and Washington absent at its regular meeting held on Thursday, June 30, 2022, in Upper Marlboro, Maryland.

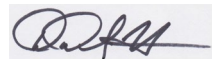
Adopted by the Prince George's County Planning Board this 21st day of July 2022.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:MV:jah

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: July 14, 2022