

R E S O L U T I O N

WHEREAS, MSTC III Holdings, LLC is the owner of a 10.11-acre parcel of land known as Parcel 5, said property being in the 7th Election District of Prince George's County, Maryland, and being zoned Town Activity Center-Edge (TAC-E); and

WHEREAS, on May 17, 2022, St. John Properties, Inc. filed an application for approval of a Final Plat of Subdivision for 3 parcels and 22 lots; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plats 5-21143 and 5-21144 for Melford Town Center, Plats 11 and 12, 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 Plan of Subdivision 4-16006 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 Plats of Subdivision 5-21143 and 5-21144, including a Variation from Section 24-122(a) of the prior Subdivision Regulations, to eliminate or modify the width of the standard public 10-foot-wide PUE requirement, as set forth herein, 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 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 currently part of properties known as Parcel 5, as described in the deed recorded among the Prince George’s County Land Records in Liber 17411 at folio 710 and Parcel 7 recorded in Liber 40129 at folio 350. The property is located on Tax Map 47 in Grid F-3 and Tax Map 48 in Grid A-3. The property is within the Town Activity Center-Edge Zone and was previously zoned Mixed Use-Transportation Oriented. 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 preliminary plan of subdivision (PPS) approval was obtained under the prior regulations, which remains valid.

The subject site is being platted, in accordance with PPS 4-16006 for Melford Village, which was approved by the Prince George’s County Planning Board on March 9, 2017 (PGCPB Resolution No. 17-45) for mixed-use development on 129.16 acres. The PPS approved 205 townhouse lots and 111 parcels for development of 359,500 square feet of commercial use, 205 single-family attached units, 44 two-family dwelling parcels (88 units), and 1,500 multifamily units, for a total of 1,793 dwelling units. The property is also subject to a Detailed Site Plan, DSP-18034, which was approved by the Planning Board on January 17, 2019 (PGCPB Resolution No. 19-13).

These final plats of subdivision are in conformance with lotting pattern established with PPS 4-16006 and DSP-18034-01 and constitute a total of 10.11 acres of the overall Melford Village development. However, the applicant requested the Planning Board’s approval of a variation, along with these final plats of subdivision, in order to eliminate or modify the standard 10-foot-wide public utility easements (PUEs) along the following proposed public streets: Lake Melford Avenue, Hardisty Way, and Rosie Oliver Street, as discussed further below.

3. **Setting**—The subject property is located in the northeastern quadrant of the intersection of MD 3 (Robert Crain Highway) and US 50/US 301 (John Hanson Highway) in Planning Area 71B and Council District 4, within the City of Bowie. The overall Melford site is bounded to the north by the Agricultural-Residential Zone, to the east by Residential, Multifamily-12 Zone; to the south by the US 50/301 right-of-way, and a small vacant property in the Agriculture and Preservation Zone; and to the west by the MD 3 right-of-way.

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

	EXISTING	APPROVED
Zone	TAC-E	TAC-E
Use	Vacant	Residential
Acreage	10.11	10.11
Lots	0	22
Outlots	0	0
Parcels	1	3
Variance	No	No
Variation	No	Yes Section 24-122(a)

The requested variation from Section 24-122(a) of the Subdivision Regulations was received on January 24, 2022 and heard on February 4, 2022, 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 plats of subdivision.

5. **Variation**—The applicant filed a variation request from Section 24-122(a) to eliminate or modify the width of the standard public 10-foot-wide PUE requirement along either side of the following proposed public streets:

- Lake Melford Avenue (No PUE along south side)
- Hardisty Way (No PUE along both sides)
- Rosie Oliver Street (modification of the required 10-foot-wide PUE to a 5-foot-wide PUE along the east side of the road)

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 applicable 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. For the purposes of platting, pursuant to PPS 4-16006 and in accordance with the Subdivision Regulations, the applicant requested a variation from the above requirement. The required PUEs are provided on the property along Melford Boulevard and Marconi Drive. However, the plats do not show the required PUEs along the other proposed public rights-of-way, and instead utilities are to be provided within the public rights-of-way. Also, the required 10-foot-wide PUE along the east side of Rosie Oliver Street is modified to 5-foot-wide, due to an existing stormdrain pipe location.

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 January 18, 2022, 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;**

Ten-foot-wide easements for public utilities along both sides of all public rights-of-way ensure utility access will be able to serve the subject site and surrounding development. PUEs are provided along Curie Drive and Melford Boulevard, but not along the other public rights-of-way. The applicant also proposed a 5-foot-wide PUE along the east side of Rosie Oliver Street, due to an existing stormdrain pipe location. The utilities are to be located within the rights-of-way for the referenced public streets, in conformance with the approved design guidelines for the Melford Town Center, rather than along the streets. The location and size of the PUEs still provide sufficient space to install the utility infrastructure necessary to serve the development and surrounding properties. Granting a variation to the PUE requirements will not be detrimental to public safety, health, or welfare, or injurious to other property, because the location and size of the easements is sufficient to serve the subdivision 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 conditions of this property are unique, due to existing environmental constraints, compact design guidelines, and the existing Melford historic site. 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, which may require nonstandard design of right-of ways where utilities are placed within the rights-of-way. The applicant's request to eliminate or modify the PUE requirement along either side of the referenced public streets 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 variation from Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The final plats and variation request for the location of PUEs was referred to the City of Bowie and the public utility companies. No referred agency opposed this request. The utilities will need to be designed in direct coordination with the individual utility companies, in order to meet all requisite requirements and design standards, at the time of permitting. No applicable law, ordinance, or regulation will be violated if this variation is granted.

- (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 existing environmental constraints, compact design guidelines, and the Melford historic site restrict development of the standard PUEs, as required, and would result in a hardship on the owner. The requirements of the compact design guidelines imposed on this development are features that are arguable unique, and 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. As a result, implementing the standard 10-foot PUE requirement would impact the compact design of the approved DSP-18034 and be contrary to the Melford Village Design Guidelines, approved via CSP-06002-01.

The required criteria of approval for a variation from Section 24-122(a), to eliminate the standard 10-foot-wide PUE along the public rights-of-ways, as described above, and modify the width of the standard 10-foot-wide PUE to 5-feet-wide along Rosie Oliver Street, is met.

6. **Referral and Comments from other Entities**—A consent letter was provided from the City of Bowie regarding the requested variation. AT&T responded that they have no facilities in the area. No objections from the utility companies were received.

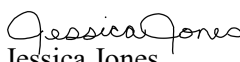
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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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.

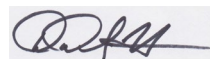
Adopted by the Prince George's County Planning Board this 21st day of July 2022.

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 19, 2022