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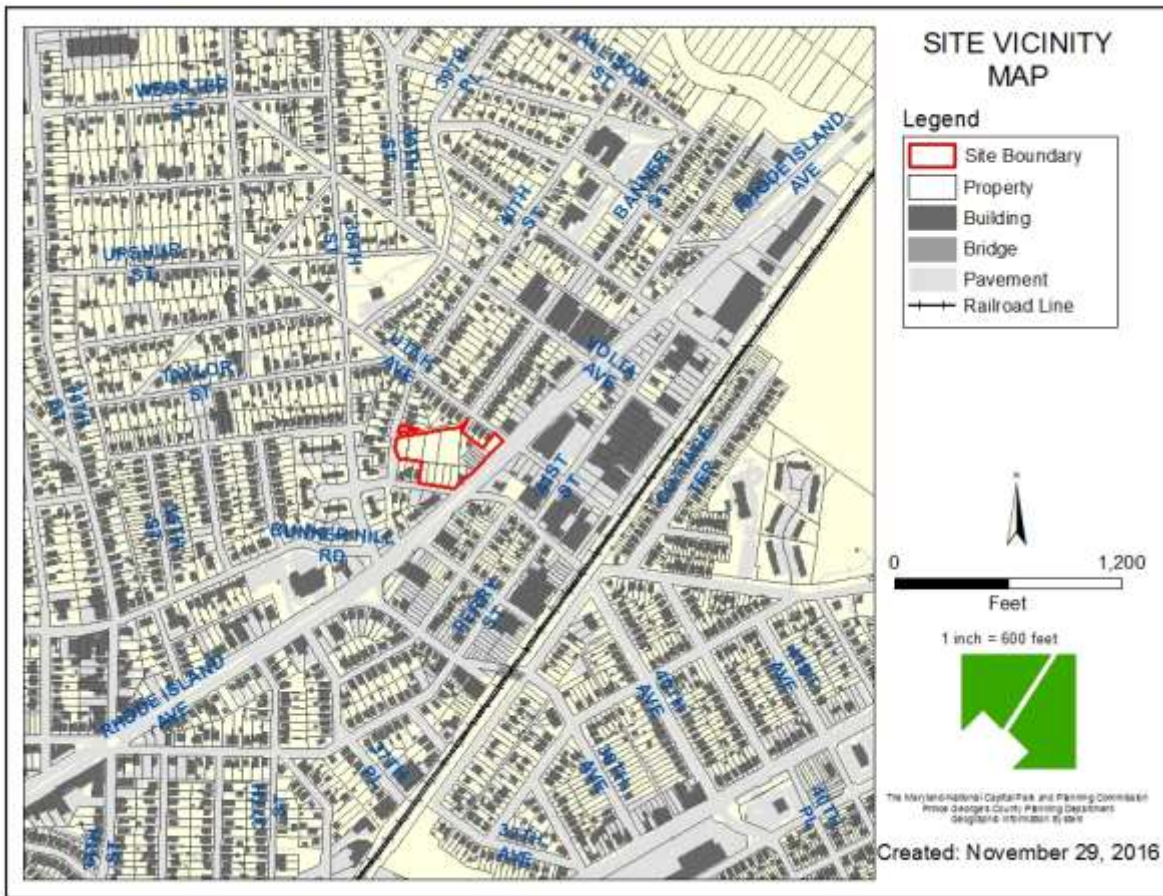
Final Plat of Subdivision

5-17051

Application	General Data	
Project Name: Artisan Location: Located in the northwest corner of the intersection of US 1 (Rhode Island Avenue) and Shepard Street. Applicant/Address: Landex Companies 801 International Drive, Suite 110 Linthicum, MD 21090 Property Owner: Redevelopment Authority of Prince George's County 9201 Basil Court Largo, MD 20774	Planning Board Hearing Date:	03/01/18
	Staff Report Date:	02/16/18
	Date Accepted:	02/16/18
	Mandatory Action Timeframe:	30 days
	Plan Acreage:	2.59
	Zone:	M-U-I/R-55 D-D-O
	Gross Floor Area/DUs:	4,772/84
	Outlots:	1
	Parcels:	1
	Tax Map Grid:	050/A-3
	Planning Area:	68
	Council District:	02
	Election District	17
	Municipality:	Brentwood
	200-Scale Base Map:	205NE03

Purpose of Application	Notice Dates	
Final plat of Subdivision with a variation from Section 24-122(a) of the Subdivision Regulations.	Abutting Property:	N/A
	Sign(s) Posted On-site:	N/A

Staff Recommendation		Staff Reviewer: Cheryl Bressler Phone Number: 301-952-3504 E-mail: Cheryl.Bressler@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Final Plat of Subdivision 5-17051
Variation from Section 24-122(a)
Artisan, Parcel 1 and Outlot A

OVERVIEW

The subject property is located in the northwest quadrant of the intersection of Rhode Island Avenue (US 1) and Shepherd Street. The subject property is currently vacant and is the subject of a preliminary plan of subdivision (PPS) 4-16027, approved by the Prince George's County Planning Board on December 8, 2016 (PGCPB Resolution No. 16-147). The subject site is 2.59 acres located in the Mixed-Use-Infill (M-U-I), One-Family Detached Residential (R-55), and entirely within the Development District Overlay (D-D-O) Zones.

This final plat of subdivision application includes one parcel and one outlot and is in conformance with PPS 4-16027. However, the applicant is requesting the Planning Board's approval of a variation from Section 24-122(a) of the Subdivision Regulations, for the location of public utility easements (PUEs), as discussed further.

Staff recommends **approval** of the final plat and variation on the findings contained in this technical staff report.

SETTING

The property is located on Tax Map 50, Grid A3 in Planning Area 68 and is zoned M-U-I, R-55 and D-D-O. Development surrounding this site is also within the D-D-O and includes; Shepherd Street and Rhode Island Avenue to the south; single-family detached zoned M-U-I and 40th Street to the west; single-family detached zoned R-55, separated from the subject site by an alley, to the north; and single-family detached zoned R-55 and Utah Avenue to the east.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	PROPOSED
Zone(s)	M-U-I (2.40 ac.) R-55 (0.19 ac.) D-D-O (2.59 ac.)	M-U-I (2.40 ac.) R-55 (0.19 ac.) D-D-O (2.59 ac.)
Use(s)	Vacant	Residential/Retail
Acreage	2.59 acres	2.59 acres
Lots	0	0
Outlots	0	1
Parcels	2	1
Public Safety Mitigation Fee	No	No
Variance(s)	No	No
Variation	No	Yes 24-122(a)

The requested variation from Section 24-122(a) of the Subdivision Regulations was accepted on March 20, 2017, as discussed in Finding 2 below, and heard on April 7, 2017 at the Subdivision Review Committee (SDRC) meeting as required by Section 24-113(b) of the Subdivision Regulations.

2. **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 public utility easements (PUEs) is 10 feet wide along both sides of all public rights-of-way. The subject site is adjacent to three existing public roads, Rhode Island Avenue, Shepherd Street, and 40th Avenue. The applicant is not proposing to provide PUEs along any of the streets because utilities exist in the public rights-of-way abutting the site.

Section 24-113 of the Subdivision Regulations 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 development does not propose PUEs along the adjacent roads; Rhode Island Avenue, Shepherd Street, and 40th Avenue, which are all public rights-of-way. Not providing PUEs will not be detrimental to the public safety, health, or welfare, or injurious to other property because utilities exist in each public right-of-way and will be available to serve the subject site without impact 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;**

This property is adjacent to three existing roads; Rhode Island Avenue, Shepherd Street, and 40th Avenue. Rhode Island Avenue is a State Highway roadway. It has all necessary utilities, which would be provided within a PUE, already located within the abutting rights-of-way. Therefore, a PUE is not necessary for the site frontage along the abutting rights-of-way. Additionally, the site falls within the Gateway Arts Development District Overlay Zone. It is more specifically located with the “Brentwood Arts Production & Entertainment” character area. This character area requires that buildings along Rhode Island Avenue to be constructed at five to twelve feet from the right-of-way. The inclusion of a PUE in this area is mostly impossible to achieve due to the distance of the right-of-way line from the curb, proposed sidewalks, micro-bio devices, and necessary gradient needed for compliance to ADA regulations. Although it is impossible to achieve, the site design still strives to achieve this character area requirement. In doing so, and with the other reason mentioned above, there is physically no room for a PUE.

Shepherd Street is a public street and has all necessary utilities located within its right-of-way. Therefore, a PUE is not necessary for the site’s frontage along this right-of-way. Additionally, similar build-to-line (BTL) requirements apply to this frontage as well. Meeting this requirement is impossible due to the existing utilities in Shepherd Street and the Americans with Disabilities Act (ADA) regulations, micro-bio devices, and distance from the right-of-way curb. Since the design of the site attempts to get as close to the build-to-line requirement, there is no room for a PUE.

Utilities also exist within the 40th Avenue public right-of-way. It would not be financially or physically feasible to relocate the existing over-head and underground utilities onto the subject site and then off the property again in order to reconnect with the existing utilities adjacent to the site, which will remain in the public right-of-way. The existing utilities function efficiently within the existing right-of-way.

- (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 for the location of PUEs was referred to the Potomac Power and Electric Company (PEPCO), the Washington Suburban Sanitary Commission (WSSC), Washington Gas, and Verizon. WSSC will be provided with separate easements for wet utilities per their standard requirement. The applicant provided letters of concurrence from Washington Gas and Comcast. No other comments were 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;**

The site is surrounded by existing development on all sides. Much of this area was built in the 1950s and platted in the 1930s without PUEs. The roads adjacent to the site contain all utilities with the right-of-way that would be necessary within a PUE. Additionally, there is a WSSC easement and build-to-line (BTL) requirements, which severely limit the space in which a PUE could be provided on the subject site. The practical and economic implications would be further exacerbated if the strict letter of these regulations are carried out. It would also be in direct violation of the Gateway Arts District Plan build-to-line requirement. It would impose another limitation to this development and hardship to the applicant.

- (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-U-I and R-55; therefore, this provision does not apply.

Staff finds that this site is unique to the surrounding properties and that the variation request is supported by the required findings herein. Approval of the applicant's request 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.

3. **Referrals**—The requested variation was referred to the Potomac Electric Power Company (PEPCO), the Washington Suburban Sanitary Commission (WSSC), and Verizon. The applicant provided letters of concurrence from Washington Gas and Comcast regarding the requested variation. No other comments were received from the agencies referred at the writing of this technical staff report.

RECOMMENDATION

APPROVAL by the Planning Board of the requested variation will be noted on the final plat to be recorded.