



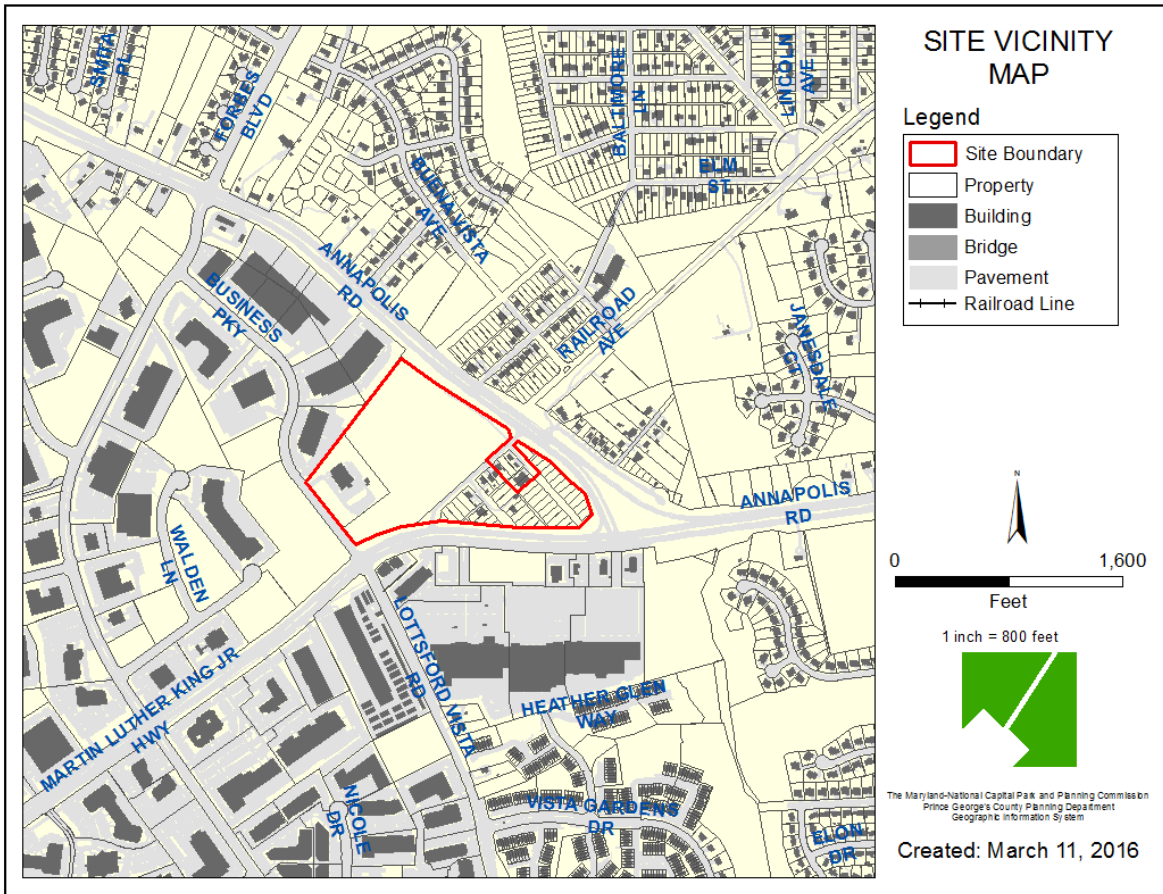
Note: Staff reports can be accessed at <http://mncppc.igmp2.com/Citizens/Default.aspx>.

Final Plats of Subdivision 5-18039 and 5-18041

Application	General Data	
Project Name: Vista Garden West Location: West side of MD 450 (Annapolis Road), north side of MD 704 (Martin Luther King Jr. Highway) and the east side of Business Parkway. Applicant/Address: Buena Vista West, LLC 10100 Business Parkway Lanham, MD 20708 Property Owner: Same as applicant	Planning Board Hearing Date:	10/18/18
	Staff Report Date:	10/03/18
	Date Accepted:	10/03/18
	Mandatory Action Timeframe:	30 days
	Plan Acreage:	10.23 (Plat 1) 8.56 (Plat 3)
	Zone:	M-X-T
	Gross Floor Area:	N/A
	Lots/Dwelling Units:	115
	Parcels:	22
	Planning Area:	70
	Council District:	05
	Election District	20
	Municipality:	N/A
	200-Scale Base Map:	207NE09

Purpose of Application	Notice Dates	
Final Plats of Subdivision (Plat 1 and Plat 3)	Abutting Property Owners:	N/A
Variation from Sections 24-128(b) (12) and 24-122(a)	Sign(s) Posted On-site:	N/A

Staff Recommendation		Staff Reviewer: Amber Turnquest Phone Number: 301-952-3554 E-mail: Amber.Turnquest@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: Variation from Sections 24-128(b)(12) and 24-122(a)
Plat 1–Vista Gardens West, Lots 1–115 and Parcels B–N, Block A and Parcel A, Block C
Plat 3–Vista Gardens West and Plat 3 Parcels 1–7, Block C Vista Gardens West

OVERVIEW

In 2016, the applicant obtained approval of a Preliminary Plan of Subdivision (PPS) 4-13024 (PGCPB Resolution No. 16-91(C)) for Vista Gardens West for 115 single-family attached dwelling unit lots (townhouses) and 22 parcels; 75,000 square feet of gross floor area (GFA); 15,000 square feet of existing office to remain; and a 126-room hotel. Plat 1, Lots 1–115 and Parcels B–N, Block A and Parcel A, Block C Vista Gardens West contains the residential area of the site and Plat 3, Parcels 1–7, Block C Vista Gardens West contains the commercial portion of the site.

The applicant has filed three record plats for the entirety of the site within the validity period of the PPS. Two of the plats (Plats 1 and 3) require variations for non-standard utility easements (PUE). The variation request for Plat 1 is from 24-128(b)(12) for private streets, and the variation request for Plat 3 is from 24-122(a) for public streets. The variation request was not filed with the PPS and therefore is required prior to the approval of these final plats. The applicant has proposed only minor adjustments to the location of the PUEs.

The final plats have been reviewed and are in conformance with the findings and conditions of the PPS and subsequently approved DSP-16055 (PGCPB Resolution No. 17-158). The variations were referred to the affected utility companies and comments were received from Washington Gas indicating that they had no objection to the request. No other responses from the utility companies were received within the 30-day referral period.

Staff recommends **approval** of the variations based on the findings contained in this technical staff report.

SETTING

The property is zoned Mixed Use–Transportation Oriented (M-X-T) and is located on Tax Map 45, Grid A-4, in Planning Area 70. The subject property is bounded to the northeast by Annapolis Road. Across Martin Luther King Jr. Highway to the south are the Vista Gardens Shopping Center in the Commercial Shopping Center (C-S-C) Zone, the Lottsford-Palmer building in the Commercial Office (C-O) Zone, and the Hanson Palmer Business Park in the Light Industrial (I-1) Zone. To the west, across Business Parkway, is an office building in the Heavy Industrial (I-2) Zone and to the northwest, is the Washington Business Park in the I-1 Zone.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. The requested variations from Sections 24-128(b)(12) and 24-122(a) were heard on May 18, 2018 at the Subdivision and Development Review Committee (SDRC) meeting, as required by Section 24-113(b) of the Subdivision Regulations, as a companion request to final plats of subdivision.
2. **Variations**—The public utility easements (PUE) along the public and private rights-of-way are a minimum of 10 feet in width, as required. However, in several locations the easements are not contiguous to the public right-of-way (Section 24-122(a)) and proposed private rights-of-way (Section 24-128(b)(12)) as required. The applicant filed a variation request for easements at two locations in the subdivision that are not abutting the proposed private rights-of-way and at one location that is not abutting a public right-of-way.

Variations from Section 24-122(a) and Section 24-128(b)(12)—Section 24-122(a) and Section 24-128(b)(12) require 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.**

A 10-foot-wide PUE located along the public street is the standard requirement of the public utility companies. The applicant proposes to maintain 10-foot PUEs, although the PUE would not abut the right-of-way boundary in one location. The location, as described in the applicant's statement of justification (SOJ), deviates from the right-of-way boundary to avoid an existing sewer manhole cover.

Section 24-128. Private roads and easements.

- (b) **The Planning Board may approve preliminary plans of development containing private roads, rights-of-way, alleys, and/or easements under the following conditions:**
 - (12) **Private roads provided for by this Subsection shall have a public utility easement contiguous to the right-of-way. Said easement shall be at least ten (10) feet in width, and shall be adjacent to either right-of-way line.**

The proposed development includes a network of private roads, which provide 10-foot PUEs, although the PUE would not abut the right-of-way boundaries in two locations. Washington Suburban Sanitary Commission (WSSC) utility design restrictions do not permit overlapping PUEs within their easements. Therefore, at the two locations as described in the applicant's SOJ, the applicant proposes that the PUE deviate from the right-of-way boundary.

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of a variation. The variations were analyzed together because they are identical in their requirements. The following findings are made for both variations together:

- (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 granting of this variation to permit the PUE in alternate locations will not be detrimental to public health, safety, or welfare. PUEs are provided along all public rights-of-way, and along all private rights-of-way in the subdivision, save for three locations as described in the applicant's SOJ. In no case are the PUEs along the public or private rights-of-way less than 10 feet in width and will not affect 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 circumstances impacting the development of the subject property are unique and do not allow the applicant to avoid impacting the locations identified in the SOJ. The location of the existing WSSC easements and an existing sewer manhole prevent the proposed PUEs to overlap. These conditions are unique to the subject property and are not generally applicable to other properties.

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

The variations from Sections 24-122(a) and 24-128(b)(12) are unique to the Subdivision Regulations and under the sole authority of the Planning Board. The final design of the lots, private roadways, and public utility easements will be reviewed and approved by the appropriate reviewing authorities during the development process. Each lot or parcel will have PUEs of sufficient width to meet the needs of the associated wet and dry utility providers. Therefore, the variations do not constitute a violation of 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 incorporation of the public use pedestrian trail, 100-year floodplain, and tree preservation areas into the overall development plan to utilize existing sewer utilities along the frontage of MD 704 (Martin Luther King Jr. Highway) at Parcels 3 and 4, has added increased constraints on the overall layout/design of

the development. The resulting configuration requires the need for the variation to offset the PUE in three locations. To require the PUEs along the entire frontage would result in a particular hardship in having to relocate existing WSSC easements, and relocation of utility poles.

- (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-X-T; therefore, this provision does not apply.

As described above, the site is unique to the surrounding properties and the variations are supported by the required findings. The approval of the variations will not have the effect of nullifying the intent and purpose of the Subdivision Regulations. Therefore, staff recommends **approval** of the Variation from Section 24-122(a) and the Variation from Section 24-128(b)(12) for the nonadjacent locations of the PUE.

3. **Referral and Comments from other Entities**—The requested variations were referred to the, the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), Prince George's County Department of Public Works and Transportation (DPW&T) the Washington Suburban Sanitary Commission (WSSC), Comcast, Verizon, AT&T, Baltimore Gas and Electric Company (BG&E), and Washington Gas. None of the above-referenced referral agencies, objected to the approval of this application.

RECOMMENDATION

- Approval of a Variation from Section 24-122(a)
- Approval of a Variation from Section 24-128(b)(12)