



PGCPB No. 2020-108

File No. 5-19182

R E S O L U T I O N

WHEREAS, 5-19182 is the owner of a 110.63-acre parcel of land known as South Lake, said property being in the 7th Election District of Prince George's County, Maryland, and being zoned Employment and Institutional Area (E-I-A); and

WHEREAS, on June 3, 2020, South Lake Partners, LLC filed an application for approval of a Final Plat of Subdivision for 5 outparcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-19182 for South Lake, Plat 1 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 18, 2020, 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 June 18, 2020, 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 5-19182, including a Variation from Section 24-122(a) of the Subdivision Regulations, for a modification of the location of the public utility easement, pursuant to the conditions of Preliminary Plan of Subdivision (PPS) 4-04035 and 4-17027.

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. The subject property is located in the southwest quadrant of the intersection of MD 214 (Central Avenue) and US 301 (Robert Crain Highway). The site is currently being improved under a multi-phased mixed-use development scheme for a subdivision known as South Lake (formerly Karington), in accordance with Preliminary Plan of Subdivision (PPS) 4-04035 and 4-17027, which were approved by the Prince George's County Planning Board on October 21, 2004 (PGCPB Resolution No. 04-247) and January 10, 2019 (PGCPB Resolution No. 19-06), respectively. The site is a total of approximately 381.52 acres. The subject final plat totals 110.63 acres within the overall South Lake subdivision and is located in the Employment

and Institutional Area (E-I-A) Zone. The final plat of subdivision included in this application contains a total of five outparcels and roadway dedication, to support the development of infrastructure for the site, approved under Detailed Site Plan DSP-05042.

This final plat of subdivision is in conformance with PPS 4-04035 and 4-17027. 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 location of a public utility easement (PUE) along US 301 and MD 214 as discussed further.

3. Setting— The property is located on Tax Map 70, Grids D-3 and D-4, in Planning Area 74A. The subject property is bounded to the north by MD 214; to the south by vacant and industrially used properties in the E-I-A Zone; to the east by US 301, and to the west by the remaining land area of the South Lake project in the E-I-A Zone.
4. Development Data Summary— The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	E-I-A	E-I-A
Use(s)	Residential/Commercial	Residential/Commercial
Acreage	110.63 acres	110.63 acres
Lots	0	0
Outparcels	2	5
Parcels	0	0
Variance	No	No
Variation	No	Yes 24-122(a)

The requested variation from Section 24-122(a) was received on April 14, 2020, and heard on May 1, 2020, 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 final plat of subdivision.

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 PUEs is 10 feet wide along both sides of all public rights-of-way. The subject site abuts MD 214 and US 301; however, water line easements

exist along the site's frontage on these public rights-of-way in the area where a PUE is required. Other utilities are currently provided within the public right-of-way. The applicant provided a statement of justification dated April 2, 2020, incorporated by reference herein, addressing the approval criteria for a variation in order to eliminate the PUE required along MD 214 and US 301. Instead, PUEs are provided along the public and private streets internal to the subdivision, with 90-degree crossings over the existing water line easements in order to bring utilities to the site.

Section 24-113 sets forth the required findings for approval of a variation request as follows:

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 applicant proposes dry utility service to the site by providing PUEs along the network of internal public and private streets, which will serve each lot. Abutting properties are currently provided with utility service, which will continue and will not be impacted by the approval of this variation. Therefore, the granting of this variation 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 circumstances impacting the PUE provision for this property are unique in that a water line easement currently exists where a PUE is required on-site, and other utilities are currently existing within the public right-of-way. This approval does not circumvent the requirement for planning utility service to the site, but prevents conflicts with existing wet utilities.

(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. This variation was referred to Baltimore Gas & Electric (BG&E), the Washington Suburban Sanitary Commission (WSSC), Comcast, Verizon, AT&T, Washington Gas and the City of Bowie. WSSC will be provided separate easements for wet utilities, per their standard requirement. No objection to this request was received from the referred agencies. Coordination for placement of dry utilities may be further coordinated at the permitting stage of development. Therefore, the variation does 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 property abuts by existing rights-of-way on two sides, with utilities currently in place in those rights-of-way. A water line easement exists where a PUE would normally be required on the subject site. The combination of the existing built environment and the location of the existing utilities create a unique physical condition on this specific property. It is impractical to conform with the strict letter of these regulations because wet and dry utilities cannot be collocated, and relocation of all utilities would be a particular and unnecessary hardship.

- (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 E-I-A; therefore, this provision does not apply.

The Planning Board finds that the site is unique to the surrounding properties and the variation is supported by the required findings. The variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which, in part, is to ensure that public utilities are available to serve the site.

3. **Referral and Comments from other Entities**—The requested variation was referred to Washington Gas, Comcast, Verizon, BG&E, AT&T, WSSC, and the City of Bowie. None of the referred agencies objected to the approval of this application.

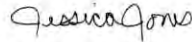
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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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 Washington, with Commissioners Bailey, Washington, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, June 18, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of July 2020.

Elizabeth M. Hewlett
Chairman



By Jessica Jones
Planning Board Administrator

EMH:JJ:AH:nz

APPROVED AS TO LEGAL SUFFICIENCY
David S. Warner /s/
M-NCPPC Legal Department
Date: June 26, 2020