

R E S O L U T I O N

WHEREAS, West Hyattsville Property Co., LLC is the owner of a 2.03-acre parcel of land known as Parcel 1, said property being in the 17th Election District of Prince George's County, Maryland, and being zoned Mixed Use-Transportation Oriented (M-X-T) and is within a Transit District Overlay (T-D-O) Zone; and

WHEREAS, on September 11, 2020, West Hyattsville Property Co., LLC filed an application for approval of a Final Plat of Subdivision for one parcel; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-20040 for Riverfront at West Hyattsville Metro, Plat 8 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 September 17, 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 September 17, 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 5-20040, including a Variation from Section 24-121(a)(3) of the Subdivision Regulations, for direct access to an arterial roadway..

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. **Background**— The subject property is currently known as Parcel 1, recorded in Plat Book ME 252-14 (1.87 acres) and includes 0.15 acre of surplus right-of-way of Ager Road for a total of 2.03 acres, which is incorporated with the instant final plat. The site is located on the west side of Ager Road, an arterial roadway, at its intersection with Little Branch Run, north of the West Hyattsville Metro Station. The property is zoned Mixed Use-Transportation Oriented (M-X-T) and is within a Transit District Overlay (T-D-O) Zone, subject to the 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the*

West Hyattsville Transit District Overlay Zone? The site is currently vacant and subject to Preliminary Plan of Subdivision (PPS) 4-15020 (PGCPB Resolution No. 17-42).

A Detailed Site Plan (DSP-20004) was approved by the Prince George’s County District Council on July 27, 2020 for the construction of a 44,362-square-foot medical office building and accessory parking garage on Parcel 1. The DSP was approved reflecting direct vehicular access to the proposed parking garage on Parcel 1 from Ager Road, which was not provided for with the PPS. The Planning Board resolution (PGCPB Resolution No. 2020-88) for the DSP acknowledges that in order to approve direct access to Ager Road a variation from Section 24-121(a)(3) of the Subdivision Regulations would be required at the time of final plat, and the findings of Section 24-113 of the Subdivision Regulations made by the Planning Board. The applicant filed this final plat application with the requisite companion variation in order to develop in accordance with the approved DSP.

3. **Setting**— The property is located on Tax Map 41, Grids D-4 and E-4 in Planning Area 68, and is zoned M-X-T and T-D-O. Development surrounding this site are also within the T-D-O Zone and include: multi-family residential in the M-X-T Zone to the north; the West Hyattsville Metro Station in the M-X-T Zone to the south; Ager Road to the east; and Maryland-National Capital Park and Planning Commission-owned parkland in the Reserved Open Space Zone to the west.
4. **Development Data Summary**— The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	M-X-T/T-D-O	M-X-T/T-D-O
Use(s)	Vacant	Medical Office
Acreage	2.03	2.03
Lots	0	0
Parcels	1	1
Variance	No	No
Variation	No	Yes 24-121(a)(3)

The variation from Section 24-121(a)(3) was received on June 29, 2020 and heard on July 13, 2020 at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b), as a companion request to the final plat of subdivision.

5. **Variation**—Ager Road, along the frontage of the subject property, is an arterial roadway. Section 24-121(a)(3) establishes design guidelines for lots that front on arterial roadways. This section requires that these lots be developed to provide direct vehicular access to either a service road or an interior driveway, when feasible as an alternative to direct access onto an arterial roadway. The applicant filed a variation from Section 24-121(a)(3).

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 proposal has been reviewed by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) and the Prince George's County Department of Public Works and Transportation (DPW&T), and no negative impacts have been identified by either agency. An additional access point at the intersection of Little Branch Run and Ager Road will help to mitigate traffic at the parking garage entrance.

(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 states that the property has frontage on Little Branch Run to the north, Ager Road to the east, and abuts the West Hyattsville Metro Station to the south, which limits the options for accessibility to the site. Little Branch Run provides the primary residential access to the larger subdivision of Riverfront at West Hyattsville, while the Metro property does not provide access to the south. The combination of the residential land uses to the north and west, the Metro to the south, and the dense medical office use, in accordance with the M-X-T zoning in a T-D-O Zone, is unique to the surrounding properties.

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

The variation request does not violate any law, ordinance, or regulation. The approval of a variation is unique to the Subdivision Regulations and under the sole authority of the Planning Board. In addition, this proposal has been reviewed by the Prince George's County Planning Department Transportation

Planning Staff and the road operating agency for adequacy and proper siting of the access to Ager Road.

- (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 applicant states that without the proposed right-in/right-out access point to and from the garage, all patient and commercial vehicle access would be forced onto Little Branch Run, which is primarily a residential roadway and could result in traffic conflicts. The use of the additional limited vehicular access from Ager Road creates the best traffic relationship between the land uses, and promotes safety for the adjacent sites and roadway users by creating a circulation pattern through the site that is not achievable without the Ager Road access.

- (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.

The Planning Board finds that the site is unique to the surrounding properties and the variation is supported by the required findings. The approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which in part, is to ensure the public health, safety, and welfare. The planning and design requirements codified in Section 24-121 are served by the configuration, as approved.

6. **Referrals**—The requested variation was referred to Verizon, The Potomac Electric Power Company, Baltimore Gas and Electric, Comcast, Washington Gas, and the City of Bowie. None of the referred agencies objected to the approval of this application.

A letter dated April 11, 2020 (Giles to Hurlbutt) was provided with the DSP-20004 case that referenced comments from the operating agencies, DPIE and DPW&T. In this letter, DPIE stated the proposal calls for an additional right-in/right-out entrance onto southbound Ager Road, and the entrance needs to install an island that separates the entering and exiting traffic. DPIE stated that they have no objections to the subject DSP. The island limiting access to right-in/ right-out will be required by DPIE at time of permitting.

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 Doerner, with Commissioners Bailey, Doerner, Washington and Hewlett voting in favor of the motion, and with Commissioner Geraldo absent at its regular meeting held on Thursday, September 17, 2020 in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 24th day of September 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: September 22, 2020