

R E S O L U T I O N

WHEREAS, Crossover Church, Inc., the Mayor and City Council of Hyattsville, the Renaissance Square Artists' Housing LLLP, and Hyattsville Town One, LLC, is the owner of a 4.39-acre parcel of land known as Parcel 1, Parcel 2, and Parcel 3, said property being in the 16th Election District of Prince George's County, Maryland, and being zoned Commercial Office (C-O), Commercial Shopping Center (C-S-C), Mixed Use-Infill (M-U-I), and Development District Overlay (D-D-O); and

WHEREAS, on May 10, 2021, UIP Asset Management, Inc. filed an application for approval of a Final Plat of Subdivision for three parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-20016 for Armory Apartments, Plat 1, Parcels 1 through 3 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 May 20, 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 May 20, 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 5-20016, including a Variation from Section 24-122(a) of the Subdivision Regulations to eliminate the standard 10-foot-wide public utility easement requirement along the Jefferson Street extension, pursuant to the conditions of Preliminary Plan of Subdivision 4-17008.

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 located on the west side of US 1 (Baltimore Avenue), approximately 100 feet south of the intersection of US 1 and Jefferson Street, in the City of Hyattsville. The site is 4.39 acres and is within the Town Center character area of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District* (Gateway Arts District Sector Plan and SMA). The subject property is platted in accordance with Preliminary Plan of Subdivision (PPS) 4-17008. This PPS was approved by the

Prince George’s County Planning Board on January 31, 2019 (PGCPB Resolution No. 2020-153) for 3 parcels for development of a 285-unit multifamily building with 30,000 square feet of ground floor commercial retail on Parcel 1, and a connected 7-story shared parking garage on Parcel 2. PPS 4-17008 also included development rights for an existing 44-unit multifamily building on Parcel 3 that is to remain.

The subject final plat totals 4.39 acres and is located within the Commercial Office (C-O), Commercial Shopping Center (C-S-C), Mixed Use-Infill (M-U-I), and Development District Overlay (D-D-O) Zones. The final plat contains 3 parcels and is in conformance with PPS 4-17008. However, the applicant is requesting the Planning Board’s approval of a variation from Section 24-122(a) of the Prince George’s County Subdivision Regulations to eliminate the standard 10-foot-wide public utility easement (PUE) requirement along the Jefferson Street extension, to be dedicated with the subject plat and abutting Parcels 1, 2, and 3, as discussed further below.

3. **Setting**—The subject property is located in the City of Hyattsville on Tax Map 42 in Grid C4, and Tax Map 50 in Grid C1 in Planning Area 68. To the north, a portion of the property is bounded by Jefferson Street, with property beyond zoned One-Family Detached Residential (R-55) and Multifamily High Density Residential (R-10), and developed with residential uses. The adjacent property to the northeast of the site is zoned C-S-C and developed with a religious institution. To the south, the property is bounded by Hamilton Street and an unnamed alley, with property beyond zoned C-S-C and C-O and developed with office uses. To the west, the property is zoned R-55 and developed with an institutional use. To the east, the property is bounded by US 1, with property beyond zoned C-S-C and M-U-I, and developed with commercial and mixed-use development. All surrounding properties are within the D-D-O Zone.
4. **Development Data Summary**—The following information relates to the subject final plat of subdivision application.

| | EXISTING | APPROVED |
|-----------|-----------------------|------------------------|
| Zone(s) | C-O/C-S-C/M-U-I/D-D-O | C-O/C-S-C/M-U-I/D-D-O |
| Use(s) | Residential | Residential/Commercial |
| Acreage | 4.39 acres | 4.39 acres |
| Lots | 3 | 0 |
| Outlots | 0 | 0 |
| Parcels | 7 | 3 |
| Variance | No | No |
| Variation | No | Yes 24-122(a) |

The requested variation from Section 24-122(a) was received on September 9, 2020 and heard on September 18, 2020 at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Variation**—The applicant filed a variation request from Section 24-122(a) to eliminate the standard 10-foot-wide PUE requirement along the Jefferson Street extension along Parcels 1, 2, and 3. The variation request was dated September 4, 2020 and submitted September 9, 2020. The variation has now been filed to meet the technical submittal requirements, and the 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 10 feet wide along both sides of all public rights-of-way. For purposes of platting, pursuant to PPS 4-17008, and in accordance with the Subdivision Regulations, the applicant seeks a variation from the above requirement for a portion of Jefferson Street, which extends into the subdivision to provide direct access to Parcels 1, 2, and 3. It is noted that a PUE will be provided along the existing right-of-way of Jefferson Street, and that a variation was previously approved with PPS 4-17008 for the PUE along US 1 where utilities are existing in the right-of-way.

Review of Variation

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. Parcel 1, within the subject property, is bound to the north by Jefferson Street and to the east by US 1, and is approved to be developed with a mixed-use building. Parcel 3, within the subject property, is bound to the north by Jefferson Street and contains an existing multifamily building that is to remain. Parcel 2 will access Jefferson Street via a dedicated extension of the existing road into the subject site. The applicant is proposing to eliminate the required 10-foot-wide PUE along the Jefferson Street extension on Parcels 1, 2, and 3.

In accordance with Section 24-113, 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 September 4, 2020, 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;**

The applicant's variation request states that a 10-foot-wide PUE will be provided along the existing right-of-way of Jefferson Street. The applicant states, and the Planning Board finds, that not providing the required PUE along the Jefferson Street extension will not be detrimental to the public safety, health, or welfare, or injurious to other properties because utilities for Parcels 1 and 3 will be provided in the 10-foot-wide PUE along the existing Jefferson Street right-of-way. Parcel 1 will also access the utilities present in the existing right-of-way of US 1. Parcel 2 will obtain utilities through the approved shared parking garage's connection to the mixed-use building on Parcel 1. The Jefferson Street extension is internal to the subject property and will not affect utility connections to the parcels within the Armory Apartments development or the adjacent 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 subject property's frontage on public rights-of-way having existing utilities, the approved shared parking garage, the adjacent historic property, and the current ownership are indicators of unique conditions for the requested variation. While the adjacent historic property is a measure of uniqueness to this site, it is not applicable to this variation request, as it is not prohibitive to providing a PUE at this location.

The three parcels are owned or for contract purchase by separate entities, including private developers and the City of Hyattsville. The subject property is located within the town center character area, as defined in the Gateway Arts District Sector Plan and SMA. The Town Center character area identified providing off-street shared parking facilities as an areawide recommendation. The City of Hyattsville is partnered with the private developer for the Armory Apartments project to create a shared parking structure with public and private spaces on Parcel 2. The Jefferson Street extension is for the purpose of ensuring public access to the shared parking garage for pedestrians and vehicles. In addition to the unique location and shape of the public access (Jefferson Street extension) of the Armory Apartments project, the subject property is bound to the north by Jefferson Street and to the east by US 1. Both roads currently provide utilities in their existing rights-of-way.

While being located in the Town Center character area of the Gateway Arts District Sector Plan and SMA is not necessarily a unique feature, the development of a shared parking structure with public and private partners, the need to provide dedicated vehicular and pedestrian access to the shared parking garage, and the presence of existing utilities in adjacent rights-of-way are unique elements to the property. The applicant's request to eliminate the PUE on the Jefferson Street extension is warranted given the unique features of the subject property and the development proposal itself.

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

The applicant's variation request states that granting the variation will not be in violation of any law, ordinance, or regulation. The variation from Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board.

(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;

While the subject property is not affected by shape or topographical conditions, the subject property is physically surrounded to the north and east by public streets containing existing utilities in their rights-of-way. When coupled with the PUE requirement, the presence of existing utilities and the requirement to provide an adjacent additional PUE creates a particular hardship on the subject property. Utilities for Parcels 1 and 3 will be provided in the 10-foot-wide PUE along the existing Jefferson Street right-of-way. Parcel 1 will also access the utilities present in the existing right-of-way of US 1. Parcel 2 will obtain utilities through the approved shared parking garage's connection to the mixed-use building on Parcel 1. Requiring additional utilities on the Jefferson Street extension creates a unique hardship that is more than an inconvenience, as utilities will be provided in alternative locations.

By virtue of positive findings for each of the criteria for variation approval, the variation from Section 24-122(a) for the elimination of the standard 10-foot-wide PUE requirement along the Jefferson Street extension on Parcels 1, 2, and 3 is approved and cited on the plat.

- 6. Referral and Comments from other Entities**—The requested variation was referred to the City of Hyattsville, Washington Suburban Sanitary Commission, PEPCO, Comcast, AT&T, and Verizon for review. AT&T does not have facilities in the area of the subject property and therefore had no comment on the request. None of the other agencies that the request was referred to 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 Geraldo, seconded by Commissioner Bailey, with Commissioners Geraldo, Bailey, Doerner, Washington, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, May 20, 2021, in Upper Marlboro, Maryland.

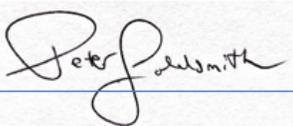
Adopted by the Prince George's County Planning Board this 17th day of June 2021.

Elizabeth M. Hewlett
Chairman


By Jessica Jones
Planning Board Administrator

EMH:JJ:KD:nz

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department
Date: May 26, 2021