



PGCPB No. 2020-118

File No. 5-20030

RESOLUTION

WHEREAS, NVR Inc. t/a Ryan Homes is the owner of a 0.03-acre parcel of land known as Lot 43, Block E, said property being in the 6th Election District of Prince George's County, Maryland, and being zoned Mixed-Use Town Center (M-U-TC) and Development District Overlay (D-D-O); and

WHEREAS, on July 1, 2020, NVR Inc. t/a Ryan Homes filed an application for approval of a Final Plat of Subdivision for one lot; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-20030 for Town Square at Suitland Federal Center, Lot 44, Block E 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 July 9, 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 July 9, 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 5-20030, 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 4-15005.

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 north of the Suitland Road and Silver Hill Road intersection, south of Lacey Avenue, is in the Mixed-Use Town Center (M-U-TC) and Development District Overlay (D-D-O) Zones, and is currently recorded as Lot 43, Block E in Plat Book SJH 250-40. The site is approved for the development of a single-family attached townhouse dwelling unit within a larger subdivision known as Town Square at Suitland Federal Center, in accordance with Preliminary Plan of Subdivision (PPS) 4-15005, which was approved by the Prince George's County Planning Board on December 10, 2015. The subject final plat of

subdivision is for a resubdivision of Lot 43, which is 1,317 square feet, in order to reduce the recorded public utility easement (PUE) on-site. The new lot will be known as Lot 44.

The applicant requested a variation from Section 24-122(a) of the Prince George’s County Subdivision Regulations, for the width of the PUE along Toles Park Drive. The plat was previously approved with two PUEs; one five-foot-wide PUE at the lots’ frontage along Toles Park Drive, and one six-foot-wide PUE along the rear ally. However, during construction on Lot 43, it was discovered that the building footprint was encroaching on the five-foot-wide PUE along Toles Park Drive. As a result, a decrease of the size of the five-foot-wide PUE to three feet wide was requested.

3. **Setting**—The subject property is located on Tax Map 80 in Grid E3 and is in Planning Area 75A. The subject lot abuts Toles Park Drive to the east, a rear alley to the west, Lot 42 to the north, and homeowners’ open space to the south.
4. **Development Data Summary**— The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	M-U-TC	M-U-TC
Use(s)	Residential	Residential
Acreage	0.03 acres	0.03 acres
Lots	1	1
Outlots	0	0
Parcels	0	0
Variance	No	No
Variation	No	Yes 24-122(a)

The requested variation from Section 24-122(a) was received on April 16, 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 subject final plat of subdivision.

2. **Variation**—Section 24-122(a) requires the following:

Section 24-122 – Public Facilities

- (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 Toles Park Drive to the east and a rear alley to the west. Vehicular access and utilities to serve the subject site are to be provided from the rear alley. A six-foot-wide PUE in the rear alley and a five-foot-wide PUE along Toles Park Drive were previously approved with the final plat of subdivision, pursuant to a variation in conjunction with PPS 4-15005 (PGCPB Resolution No.15-124). The applicant requested further variation from the Subdivision Regulations, to decrease the approved five-foot-wide PUE along Toles Park Drive to three feet wide. The applicant provided a statement of justification on May 28, 2020, incorporated by reference herein, which sets forth the request and analysis of the variation standards for approval.

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 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 states that this variation will not be a detriment to public safety, health, welfare, or be injurious to other properties, as all of the nearby properties are served by the rear PUE along the alley. The reduction of the PUE along the frontage of Toles Park Drive, on the subject property, will not affect any 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;**

The applicant states that conditions for this property are unique, as there are two PUE's on this lot, and the PUE being affected along Toles Park Drive will not be in use. Only the PUE along the alley will be in use and remain at six feet wide. The applicant also states that the building footprint slightly encroaches on the five-foot-wide PUE.

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

The approval of a variation is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The applicant states that the affected PUE will not be in use. This variation was referred to the gas, electric, telephone, and cable utility companies and none have opposed this request. Therefore, this 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 applicant states that because of the unusual circumstance of having two PUEs on the site, it has limited the amount of space available, and it has led to an encroachment of the building into the five-foot-wide PUE, which will not be in use. If the strict letter of the regulations is carried out, then the applicant would have to demolish a town house stick, on which construction has already begun. The applicant also states that these units are under contract with impending settlement dates, and a delay would cause a particular 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 M-U-TC. Therefore, the provision is not applicable.

The Planning Board finds that variation criteria have been adequately addressed by the applicant. The existence of the two PUEs, abutting Toles Park Drive and the alley, limiting space on the lot, are unique and the variation will not nullify the intent of the Subdivision Regulations.

3. **Referrals**—The requested variation was referred to Verizon, the Washington Suburban Sanitary Commission, Comcast, AT&T, Washington Gas, and the Potomac Electric Power Company. No responses to this request were received from the referred agencies. Utilities may be further coordinated during the permitting process.

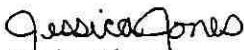
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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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, July 9, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 23rd 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: July 20, 2020