

R E S O L U T I O N

WHEREAS, Redevelopment Authority of Prince George's County is the owner of a 1.6607-acre parcel of land known as Parcel 2 and part of Parcel A, said property being in the 13th Election District of Prince George's County, Maryland, and being zoned Mixed Use-Transportation Oriented (M-X-T); and

WHEREAS, on September 19, 2019, Pennrose Properties filed an application for approval of a Final Plat of Subdivision for two parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-19040 for Glenarden Redevelopment, Plat 2, Phase 2 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 October 3, 2019, 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 October 3, 2019, 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 5-19040, including a Variation from Section 24-128(b)(12) of the Subdivision Regulations, for a modification of the location of the public utility easement, pursuant to the conditions of Preliminary Plan of Subdivision 4-16038.

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 overall Glenarden Redevelopment subdivision is located in the northwest quadrant of the intersection of Brightseat Road and Evarts Street. The site is currently vacant and is the subject of Preliminary Plan of Subdivision (PPS) 4-16038, approved by the Prince George's County Planning Board on July 20, 2017 (PGCPB Resolution No. 17-97), for the Glenarden Redevelopment. The overall development is approved for 97 lots and 32 parcels on 27.23 acres for the development of 333 multifamily dwellings and 97 single-family attached dwellings (townhomes). The site is located in the Mixed Use-Transportation Oriented (M-X-T) Zone.

The subject final plat application includes two parcels, Parcel 2 and part of Parcel A (a private road parcel), which are located east of Roland Kenner Loop, north of Harrison Crest Way, and west of Brightseat Road. Parcel 1 of the Glenarden Redevelopment subdivision is north of the subject site.

This final plat of subdivision is in conformance with PPS 4-16038, with one modification. The applicant requested approval of a variation from Section 24-128(b)(12) of the Subdivision Regulations, to provide for a minor adjustment to the location of the public utility easement (PUE).

3. **Setting**—The overall Glenarden Redevelopment subdivision is located in the northwest quadrant of the intersection of Brightseat Road and Evarts Street. The project is bounded to the north by Hamlin Street, and beyond by attached single-family dwellings in the Cottages of Glenarden Subdivision in the Townhouse (R-T) Zone; to the south by Evarts Street, and beyond by the Maple Ridge Apartments in the M-X-T Zone; to the east by detached single-family dwellings in the One-Family Detached Residential Zone and Brightseat Road; and to the west by vacant land and the Cattail Branch Creek in the R-T Zone.

The property that is the subject of this final plat is located east of Roland Kenner Loop, north of Harrison Crest Way, and west of Brightseat Road. Parcel 1 of the Glenarden Redevelopment subdivision is north of the site. The subject property is located on Tax Map 60, Grid B2, in Planning Area 72, and is zoned M-X-T.

4. **Development Data Summary**—The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	M-X-T	M-X-T
Use(s)	Vacant	Multifamily and Single-Family Attached Dwelling Units
Lots	0	0
Outlots	0	0
Parcels	1	2
Public Safety Mitigation Fee	No	No
Variance(s)	No	No
Variation	No	Yes Section 24-128(b)(12)

The requested variation from Section 24-128(b)(12) of the Subdivision Regulations was accepted on July 29, 2019, as discussed in the findings below, and heard on August 9, 2019, at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Variation**—Section 24-128(b)(12) requires the following:

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 standard requirement for PUEs on private roads is 10 feet wide along either side and adjacent to private rights-of-way. The subject application provides a 10-foot-wide PUE contiguous to Parcel 2 within the proposed private right-of-way of Roland Kennard Loop, a homeowners association parcel, rather than within Parcel 2 along and contiguous to the private right-of-way.

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

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 final plat does not provide a standard contiguous PUE along one side of the private right-of-way. Not providing the contiguous PUE will not be detrimental to the public safety, health, or welfare, or injurious to other properties. Utilities are proposed to be provided by PUEs for the entire subdivision. Specifically, a 10-foot-wide PUE will be provided partially within the proposed private right-of-way where necessary, to avoid other infrastructure elements necessary to support the development. The condition associated with the variation to the PUE location request is caused by the anticipated conflict in the final design between the subject PUE, and the stormwater management (SWM) micro-bioretenion

facility.

- (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 conditions on which the variation is based are unique to the property because the property is being developed under the Residential Revitalization Ordinance, as set forth in Council Bill CB-95-2016 and Section 27-445.10 of the Zoning Ordinance. The redevelopment project is proposed to improve a demolished multifamily development by replacing the dwellings with a mix of dwelling types, as intended in the M-X-T Zone. The redevelopment project provides for housing of several types, and recreational amenities within the context of a neo-traditional walkable community. The redevelopment project will be served by a network of private roads and alleys and interconnecting walkways. Therefore, the conditions on which the variation is based are unique to this property.

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

The variation from Section 24-128(b)(12) is unique to the Subdivision Regulations, and under the sole authority of the Planning Board. This variation request was referred to the Potomac Electric Power Company (PEPCO), Baltimore Gas and Electric (BGE), Washington Suburban Sanitary Commission (WSSC), Verizon, Prince George's County Department of Public Works and Transportation (DPW&T), and the City of Glenarden. At the time of the writing of this resolution, only BGE and DPW&T provided comments on the subject variation request. BGE staff requested that the applicant provide an executed BGE right-of-way agreement, which has been satisfied. The subject variation will 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;**

Due to the necessary parking, pedestrian circulation, and other community amenities associated with the proposed dense urban development, while also incorporating the environmental site design SWM structure (micro-bioretenion facility), the application of the strict letter of these regulations has created a particular hardship to the applicant.

- (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.

Approval of the applicant's request will not have the effect of nullifying the intent and purpose of the Subdivision Regulations, which (in part) is to encourage creative design that accomplishes the purpose of the Subdivision Regulations, in a more efficient manner.

6. **Further Planning Board Findings and Comments from Other Entities**—The requested variation was referred to PEPCO, BGE, WSSC, Verizon, DPW&T, and the City of Glenarden. Comments from DPW&T and BGE were received regarding the requested variation.

DPW&T provided an email response dated September 10, 2019 (Ratliff to Conner), which noted that it is not desirable to have a PUE in the travel way. DPW&T further noted that the applicant should explore some other alternative and that the option provided by the applicant should only be used as a last resort. The applicant has provided the PUE in the locations required by the Subdivision Regulations where feasible and requests this variation for a segment of the 10-foot-wide PUE to be placed within the private right-of-way, only in the area necessary to avoid conflicts with other infrastructure needed for the development. It is also noted that the subject parcel abuts the public roadway Brightseat Road to the east, along which PUEs are provided per the standard requirement.

BGE provided an email response dated August 27, 2019 (James to Jennings), indicating objection to the variation request. In a subsequent correspondence, BGE requested that the applicant provide an executed BGE right-of-way agreement. BGE has since indicated, in an email dated September 23, 2019 (James to Jennings), that they have reached an agreement with the applicant and withdraw their objection.

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 Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Doerner, and Hewlett voting in favor of the motion, and with Commissioner Bailey absent at its regular meeting held on Thursday, October 3, 2019, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 24th day of October 2019.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

EMH:JJ:SKC:gh