



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 2020-32

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772  
TTY: (301) 952-4366  
www.mncppc.org/pgco  
File No. 5-19090 through 5-19093

## RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed Final Plats of Subdivision, Application No. 5-19090 through 5-19093, Marlboro Ridge, Plats 71-74, requesting Final Plats of Subdivision in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on March 12, 2020, the Prince George's County Planning Board finds:

1. **Development Data Summary**—The following information relates to the final plats of subdivision included in this application.

	APPROVED	APPROVED
Zone	R-R/M-I-O	R-R/M-I-O
Total Site Area	70.68	70.68 acres
Use(s)	Vacant	Residential
Number of Lots	0	88
Number of Parcels	1	7
Variation	No	Yes Section 24-128(b)(12)

The requested variation from Section 24-128(b)(12) was accepted on July 30, 2019, as discussed in Finding 2 below, and heard on August 23, 2019 at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations.

2. **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.**

Private streets will serve the lots within the approved subdivision for Marlboro Ridge, which consists of single-family attached and detached lots. The approval of a variation from the above standard will relocate the required PUE to the rear of the single-family attached lots within Phase 6, rather than along the private street frontage.

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;**

This application for the approval of 10-foot-wide PUEs for dry utilities along the rear property line of townhouse lots will not pose an elevated risk to public safety, health, or welfare. The locations of above-ground equipment, including pedestals, transformers and junction boxes, are actually further away from the proposed houses when the PUE is located in the rear, versus the front.

- (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;**

Running the PUEs for dry utilities in the rear of townhouse lots is paramount because it removes unsightly gas and electric meters from the front and greatly improves the streetscape. This is a thoughtful design consideration that is consistent with the overall development of Marlboro Ridge and not generally applicable to other properties.

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

The variation to Section 24-128(b)(12) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. PUEs for dry utilities have been approved in the rear of the townhouse lots at many other Toll Brothers' developments throughout Maryland, and elsewhere in the Prince George's County. The relocation of utilities to the rear of the lots meets the intent of the regulation, which is to ensure utility service to each lot, while reducing conflict with the dwelling units and other utilities. Approval of 10-foot-wide PUEs for

dry utilities along the rear property line, instead of the front property line, does not violate any 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 Marlboro Ridge Subdivision contains steep slopes and areas of Marlboro Clay, for which careful design has been approved in order to provide for appropriate placement of development and associated infrastructure. A network of private streets is approved, which are required to provide access to the townhouse lots. A particular hardship to the owner would result if the standard 10-foot-wide PUE is required in front of the Phase 6 townhouse lots because all previous townhouse phases within Marlboro Ridge were designed, approved, and built with 10-foot-wide PUEs in the rear. This includes 395 townhouse lots in Phases 1A, 1D, 2C, 3A, 4A, and 5. Requiring the PUE in front of the 88 townhouse lots in Phase 6, which would be encumbered by an easement that all other townhouse lots in Marlboro Ridge are not subject to, would not provide the most beneficial relationship for the location of utilities and results in the design and placement of utility connections and equipment that is out of character with the neighborhood.

- (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 R-R. Therefore, this provision is not applicable.

This site is unique to the surrounding properties, and the variation is supported by the required findings herein. Approval of the requested variation 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.

3. **Referrals**—The variation was referred to Verizon, PEPCO, Washington Suburban Sanitary Commission, the Prince George's County Department of Permitting, Inspections and Enforcement, Comcast, and Washington Gas. None of the referred agencies offered comments or opposed this application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application.

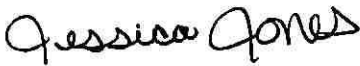
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the Circuit Court for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

\* \* \* \* \*

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 Geraldo, with Commissioners Bailey, Geraldo, Doerner, Washington and Hewlett voting in favor of the motion at its regular meeting held on Thursday, March 12, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 2nd day of April, 2020.

Elizabeth M. Hewlett  
Chairman



By Jessica Jones  
Planning Board Administrator

EMH:JJ:TS:nz

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department  
Date: March 18, 2020