PGCPB No. 18-88 File No. 5-18020 through 5-18027

R E S O L U T I O N

WHEREAS, Premier Bank is the owner of a 57.33-acre parcel of land known as Signature Club at Manning Village, Plats 1–8, being in the 5th Election District of Prince George's County, Maryland, and being zoned Mixed Use-Transportation Oriented (M-X-T); and

WHEREAS, on July 25, 2018, MacArthur Development, LLC filed an application for approval of a Final Plat of Subdivision for 35 parcels and 312 lots; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plats of Subdivision 5-18020 through 5-18027 for Signature Club at Manning Village, Plats 1–8, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission (M-NCPPC) by the staff of the Commission on July 26, 2018, 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 26, 2018, 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 Plats of Subdivision 5-18020 through 5-18027 for Signature Club at Manning Village, Plats 1–8, including a Variation from Section 24-128(b)(7)(A), for 95 single-family detached lots served by private roads, pursuant to the conditions of Preliminary Plan of Subdivision 4-01063.

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, 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 in the northeast quadrant of the intersection of MD 210 (Indian Head Highway) and MD 228 (Berry Road). The property is zoned Mixed Use-Transportation Oriented (M-X-T) and, in 2002, the applicant obtained approval of a Conceptual Site Plan (CSP-99050). Preliminary Plan of Subdivision (PPS) 4-01063 was approved in 2002 and proposed a single lot, Lot 11, which comprised just in excess of 70± acres. At the time, it was intended that the property would be developed under a condominium regime with an age-restricted retirement community. A final plat of subdivision for Lot 11 was approved in 2005 and is recorded in Plat Book 205, Plat 45. The plat was designated Manokeek Subdivision, Plat 13. A Detailed Site Plan (DSP-04063) for Lot 11 was also approved in 2005, authorizing

111 single-family detached units, 62 residential townhomes, 82 residential villas, and 60 low-rise multifamily units. Some of the infrastructure for the development was constructed, including a pump station and a portion of the internal private road system. Two attached units were constructed.

Ultimately, the applicant contracted to purchase the property. It was the applicant's desire to develop the property with individual lots, to be sold at market rate. The applicant no longer intends to build an age-restricted retirement community. The two duplex units were previously sold to a third party and are not part of the present application.

The contract purchaser filed a request for the Planning Board to reconsider the original PPS approval. The reconsideration was approved, and a new resolution was issued by the Planning Board in 2017 (PGCPB Resolution No. 02-07(A)(C)). Subsequently, the applicant obtained approval of a revision to the Detailed Site Plan (DSP-04063-04). The development is now proposed to consist of 312 total units comprised of single-family detached homes and townhomes on individual lots. The applicant filed the revision to the DSP to approve the new layout and new architecture (DSP-04063-04). This revision was approved in 2017, pursuant to the adoption of PGCPB Resolution No. 17-153. The change was expressly authorized by Prince George's County Council Bill CB-72-2016.

This application includes approval of a variation from the provisions of Section 24-128(b)(7)(a) of the Subdivision Regulations, to allow single-family detached dwellings in the M-X-T Zone to be served by private roads, based on the findings contained in this resolution.

3. **Setting—**The property is located on Tax Map 161, Grid D-2, in Planning Area 84. The subject property is bounded to the east by vacant land in the M-X-T and Rural Residential (R-R) Zones, with single-family detached residential development beyond; to the south by MD 228 and commercial development in the M-X-T Zone beyond; to the west and north by MD 210 and single-family detached development in the R-R Zone beyond. The property has frontage on both MD 210 and MD 228.

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

	EXISTING	APPROVED
Zone(s)	M-X-T	M-X-T
Use(s)	Residential/Vacant	Residential
Acreage	57.33 acres	57.33 acres
Lots	1	312
Outlots	0	0
Parcels	2	35
Public Safety Mitigation Fee	No	No
Variance(s)	No	No
Variation	No	Yes 24-128(b)(7)(A)

The variation from Section 24-128(b)(7)(A) was accepted on April 9, 2018 and heard on April 20, 2018 at the Subdivision and Development Review Committee (SDRC) meeting, as required by Section 24-113(b) of the Subdivision Regulations, as a companion request to final plats of subdivision.

5. **Variation—**The reconsideration of PPS 4-01063 included the conversion of the previously analyzed senior community on an existing single lot into market-rate single-family lots and homeowners association parcels, which will be accessed via a network of private roads. Section 24-128(b)(7)(A) allows for developments in the M-X-T Zone to be served by private roads, but not single-family detached dwellings. Of the 312 lots, 95 lots included in this subdivision are single-family detached lots and, therefore, do not conform to the requirements of Section 24-128(b)(7)(A). The applicant filed a variation request from Section 24-128(b)(7)(A) with the PPS 4-01063 reconsideration to allow 95 single-family detached lots to be served by private roads. The variation request was submitted on June 28, 2017; however, it did not meet the technical submittal requirements for a variation, pursuant to Section 24-113(b), requiring a petition for a variation to be submitted at least 30 calendar days prior to a public hearing by the Planning Board, which commenced on July 20, 2017. The variation, although not meeting the technical requirements for submittal at the time of PPS, is necessary to support the lotting pattern and was analyzed in accordance with the required findings for approval of a variation at the time of PPS, as discussed further. With the PPS, it was determined that the variation would be submitted at the time of final plat, in order to meet the technical submittal requirements, and the findings for approval of the variation have been carried forward below.

Variation from Section 24-128(b)(7)(A)—Section 24-128(b)(7)(A) requires the following:

> **(b) The Planning Board may approve preliminary plans of development containing private roads, rights-of-way, alleys, and/or easements under the following conditions:**

(7) In Comprehensive Design and Mixed-Use Zones:

(A) For land in the V-L, V-M, R-L, R-S, R-M, R-U, M-U-I, L-A-C, M-A-C, M-X-C, M-U-TC, and M-X-T Zones, the Planning Board may approve a subdivision (and all attendant plans of development) with private roads to serve attached single-family dwellings, two-family dwellings, and three-family dwellings, but not single-family detached or multifamily dwellings, in accordance with the requirements of Subsections (e) and (f) of Section 27-433 of the Zoning Ordinance, except as hereinafter provided. In all of the above zones, and in the R-R Zone when developed as a cluster subdivision, the Planning Board may approve a subdivision with alleys to serve any permitted use, provided the lot has frontage on and pedestrian access to a public right-of-way. The District Council may disapprove the inclusion of alleys during the consideration of the detailed site plan for a cluster subdivision. For the purposes of this Section, an "alley" shall mean a road providing vehicular access to the rear or side of abutting lots, and which is not intended for general traffic circulation.

The development includes a network of private streets, which provide access to all of the lots within the subject site, including 95 single-family detached lots. Specifically, the single-family detached lots that are reflected on Plats 1–5, 7, and 8 (5-18020 through 5-18024, 5-18026, and 5-17027, respectively).

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

(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 95 single-family detached lots included in this subdivision were previously approved to be developed under a condominium regime, within a single lot served by private roads. The private road network included in this subdivision is consistent with previous approvals and is partially constructed. The creation of fee-simple lots for these units will allow for greater flexibility in ownership, without substantial alteration to the infrastructure previously approved. Therefore, granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to any other property.

(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;

This property was previously approved as a residential condominium senior community that is being converted to market-rate fee-simple lots. The infrastructure for the site was partially constructed, in accordance with previous approvals, to provide private road access to all of the condominium dwelling units. The private road network is to remain, while allowing for fee-simple lot ownership of properties. The previous approvals, existing improvements, and the conversion of units to fee-simple ownership lots is a condition which is unique to this property 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)(7)(A) is unique to the Subdivision Regulations and under the sole authority of the Planning Board and, therefore, does not violate any other 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 physical conditions of the site are such that the site is triangular-shaped, with the majority of the property's boundaries being shaped by the abutting MD 210 and MD 228 rights-of-way, from which no access is permitted. In addition, a Southern Maryland Electric Cooperative (SMECO) easement and transmission line bisects the property in one location and a large swath of environmentally sensitive area bisects the property in another location, which limits the achievable development pattern. The dwelling units within this development were previously approved to be accessed by a network of private roads. Moreover, approximately two-thirds of the site has been graded and infrastructure installed, including water and sewer lines, street paving, curb and gutter, and stormdrains, in accordance with previous approvals. Requiring strict compliance for

single-family detached units to be accessed via public streets would substantially alter the existing infrastructure and further restrict the developable area; therefore, resulting in a particular hardship to the owner.

(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 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 encourage creative residential subdivision design that accomplishes the purpose of the Subdivision Regulations in a more efficient manner. Therefore, the Planning Board approves the Variation to Section 24-128(b)(7)(A) for the 95 single-family detached lots served by private roads.

6. **Referral and Comments from other Entities—**The requested variation was referred to the Prince George's County Fire/EMS Department, the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), the Washington Suburban Sanitary Commission (WSSC), Comcast, Prince George's County Public Schools, the Maryland State Highway Administration, Potomac Electric Power Company (PEPCO), and Washington Gas. None of the agencies referred objected to the approval of this 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 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 Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, July 26, 2018, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 13th day of September 2018.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

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