

PGCPB No. 2024-041

File No. 5-23107

R E S O L U T I O N

WHEREAS, Williamsburg Group L.L.C. is the owner of a 5.35-acre tract of land known as Parcels 65, 109, and 131, said property being in the 10th Election District of Prince George's County, Maryland, and being zoned Residential, Rural (RR); and

WHEREAS, on May 14, 2024, Williamsburg Group L.L.C. filed an application for approval of a Final Plat of Subdivision for 7 lots, including a variation from Section 24-122(a) of the Subdivision Regulations, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022 (prior Subdivision Regulations); and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-23107 for Cole's Manor, Lots 1 through 7 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 at a public hearing on May 30, 2024; and

WHEREAS, the subject property is subject to Preliminary Plan of Subdivision 4-22017, which was approved by the Prince George's County Planning Board on March 9, 2023 (PGCPB Resolution No. 2023-26) pursuant to the prior Subdivision Regulations, and remains valid for a period of two years; and

WHEREAS, new Subdivision Regulations, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1704(a) and (b) of the Subdivision Regulations, the Preliminary Plan of Subdivision 4-22017 approval remains valid under the prior Subdivision Regulations and the subject final plats of subdivision must be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the subdivision approval; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the prior Subdivision Regulations; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application; and

WHEREAS, on May 30, 2024, 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 5-23107, including a Variation from Section 24-122(a) of the prior Subdivision Regulations, to eliminate the standard 10-foot-wide public utility easement on the east property line of Lot 7, along Donston Drive, pursuant to the conditions of Preliminary Plan of Subdivision 4-22017.

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 applicable legal requirements of Subtitles 24 and 27 of the prior 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 southwest side of Brooklyn Bridge Road, approximately 50 feet west of Cannfield Drive, and has an area of 5.35 acres. The property is comprised of three tax parcels known as Parcels 65, 109, and 131, as recorded by deed among the Prince George's County Land Records in Liber 24963 at folio 611, Liber 24963 at folio 599, and Liber 24963 at folio 605, respectively. The property is within the Residential, Rural (RR) Zone; however, this final plat was submitted for review under the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations. Under the prior Zoning Ordinance, the site was within the Rural Residential (R-R) Zone.

Pursuant to Section 24-1704(a) and (b) of the Subdivision Regulations, applications submitted under a valid subdivision approval may be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the approval of the subdivision. This final plat was filed in accordance with a preliminary plan of subdivision (PPS) approval, obtained under the prior Subdivision Regulations, which remains valid. Specifically, the subject site is being platted in accordance with PPS 4-22017, which was approved by the Prince George's County Planning Board on March 9, 2023 (PGCPB Resolution No. 2023-26), for seven lots for development of seven single-family detached residential dwelling units. This PPS was approved under the prior Subdivision Regulations and remains valid for a period of two years or until March 9, 2025.

The final plat of subdivision is in conformance with PPS 4-22017. However, the applicant requested the Prince George's County Planning Board's approval of a variation from Section 24-122(a) of the prior Subdivision Regulations, to eliminate the standard 10-foot-wide public utility easement on the east property line of Lot 7, along Donston Drive, as discussed further below.

The site is also subject to the 2010 *Approved Subregion 1 Master Plan and Sectional Map Amendment*. The final plat contains seven lots.

3. **Setting**—The subject property is located on Tax Map 2, Grids E3 and E4, in Planning Area 60. The properties to the north, beyond Brooklyn Bridge Road, consist of public parkland within the Reserved Open Space Zone. The properties abutting the subject site to the east and south are developed with single-family detached dwellings within the RR Zone. The abutting property to the west consists of parks and open space development also within the RR Zone.

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

	EXISTING	APPROVED
Zone(s)	RR	RR (Reviewed per prior R-R zoning)
Use(s)	Vacant	Residential
Acreage	5.35	5.35
Lots	0	7
Outlots	0	0
Parcels	3	0
Variance	No	No
Variation	No	Yes, Section 24-122(a)

The requested variation from Section 24-122(a) of the prior Prince George’s County Subdivision Regulations was received on October 13, 2023, and reviewed at the Subdivision and Development Review Committee meeting on December 8, 2023, as required by Section 24-113(b) of the prior Subdivision Regulations and as a companion request to this final plat of subdivision.

5. **Variation**—The applicant filed a variation request from Section 24-122(a) to eliminate the required 10-foot-wide public utility easement (PUE) along the majority of the front property line of Lot 7, saving for 21 linear feet. The variation request is dated September 20, 2023, and was received on October 13, 2023.

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 a 10-foot-wide easement along both sides of all public rights-of-way (ROWs), to ensure adequate and continuous utility access and provision for all development. The subject property has frontage along the public ROWs of Brooklyn Bridge Road and Donston Drive. Lots 1 and 2 front Brooklyn Bridge Road and Lots 3–7 front Donston Drive. The required PUE is provided on the property along the street frontage of Brooklyn Bridge Road and Donston Drive, except for along approximately 233 linear feet of the frontage of Lot 7 of this subdivision. The Donston Drive extension, included as part of this subdivision, is a continuation of the existing public street, which only serves Lots 3–7 of this subdivision and terminates in a cul-de-sac on the subject property. The PUE is provided along the entire frontage of Lots 3–6, and for 21 linear feet along the street frontage of Lot 7. However, the remainder of the PUE along the Donston Drive frontage of Lot 7 is proposed for location of stormwater management (SWM), which would conflict with the placement of utilities.

Section 24-113 of the prior Subdivision Regulations sets forth the required findings for approval of a variation request.

There are four criteria that must be met for approval of this variation (the fifth criterion is not applicable to the zoning of the subject property), which were addressed by the applicant's variation request dated September 20, 2023, 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;

In this particular case, not providing the required PUE in its standard location will not be detrimental to public safety, health, or welfare, or injurious to other properties. The PUE has been provided along the extended Donston Drive, including along a portion of the frontage of Lot 7. The properties along the existing Donston Drive are developed with existing utility service. The utilities will be sufficient to serve the five residential lots within the subdivision and accessed by the extended Donston Drive. Therefore, this variation will not be detrimental to the public safety, health, or welfare, or injurious to 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 conditions of this property are unique due to existing environmental constraints and the continuation of the existing roadway of Donston Drive. Donston Drive is extended approximately 250 linear feet, terminating in a cul-de-sac on the subject property. The location of the existing Donston Drive ROW, at the southeastern property line, dictates the location of the extension of the roadway and the five residential lots, as a continuation of the existing lotting pattern. The extension of this existing ROW is constrained by the existing floodplain within Lot 7, which is being preserved to the fullest extent possible.

The alignment of Donston Drive extension and the lotting pattern is also constrained by the SWM requirements for the development. These conditions are unique to the subject property. The applicant's request to eliminate the PUE requirement along the referenced public street is warranted, given the unique nature of the lotting pattern, which is dictated by the existing location of Donston Drive, the existing environmental features, and required SWM imposed on the subject property.

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

The variation from Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The final plat and variation request for the location of PUEs was referred to the public utility companies. No referred agency opposed this request. The proposed utilities will need to be designed in direct coordination with the individual utility companies, in order to meet all requisite requirements and design standards, at the time of permitting. No applicable law, ordinance, or regulation will be violated if this variation is granted.

(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 development proposal is respectful to the existing environmental constraints and SWM requirements. Implementation of the standard PUE location requirement along the entire extent of Donston Drive would result in a hardship for the owner. All lots are provided with a PUE, however, requiring the PUE along the entire frontage of Lot 7 would result in a particular hardship to the owner, as opposed to a mere inconvenience, because it would conflict with the existing environmental features being preserved and the location of required SWM.

The required criteria of approval for a variation from Section 24-122(a), to eliminate the standard 10-foot-wide PUE requirement along the Lot 7 frontage of Donston Drive for approximately 233 linear feet, are met. The purposes of the prior Subdivision Regulations and Section 9-206 of the Environment Article are served to a greater extent by the alternative proposal; and the absence of the required PUE on the subject plat is approved.

6. **Referral and Comments from other Entities**—The requested variation was referred to the Prince George's County Department of Permitting, Inspections and Enforcement, the Washington Suburban Sanitary Commission, Washington Gas, Baltimore Gas and Electric Company, Comcast, Verizon, and AT&T. None of the referred agencies have opposed this request.


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, Geraldo, and Shapiro voting in favor of the motion, and with Commissioner Doerner absent at its regular meeting held on Thursday, May 30, 2024, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of June 2024.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:MV:rpg


Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel