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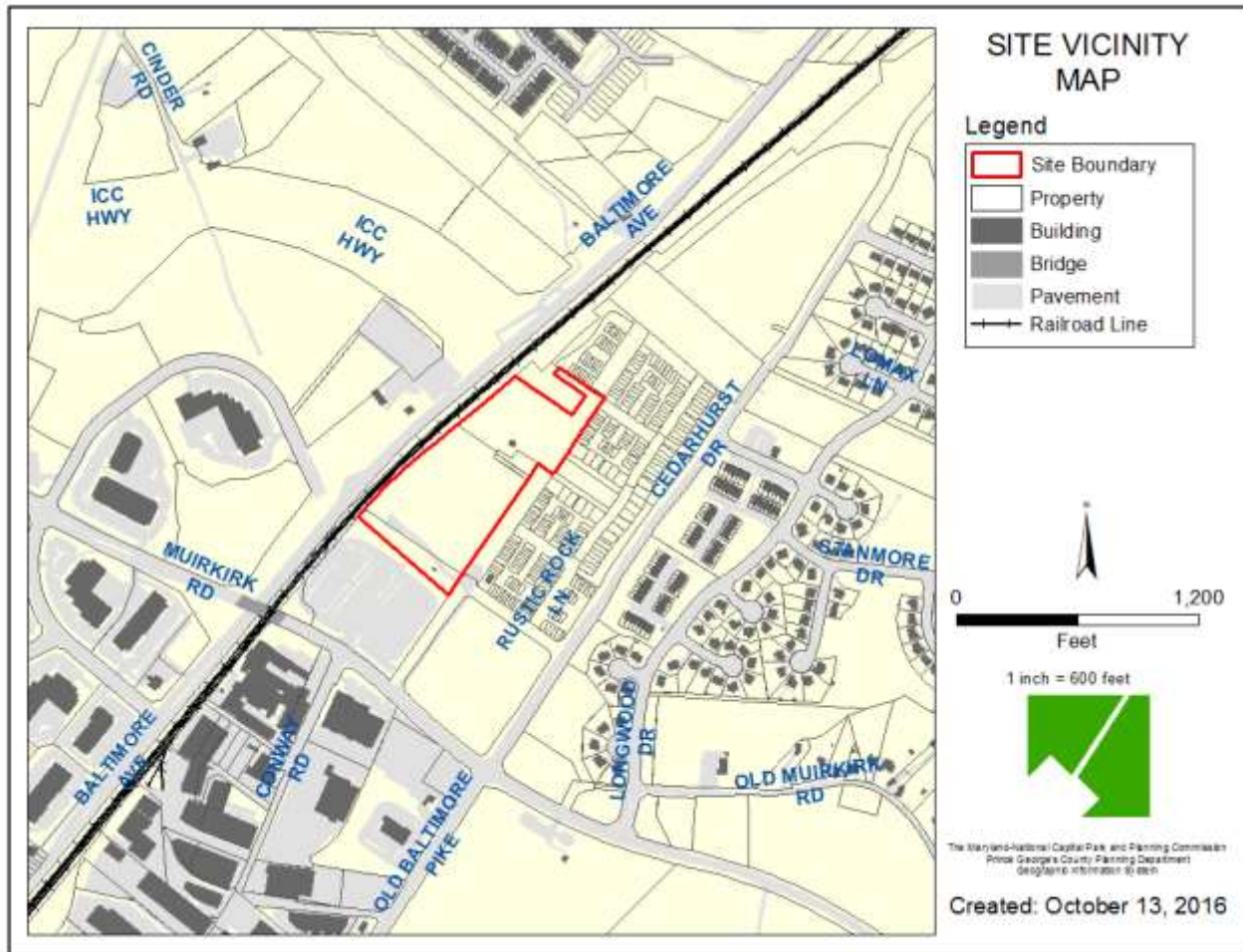
## Final Plats of Subdivision Reconsideration Hearing

**5-18037 and 5-18038**

Application	General Data	
<b>Project Name:</b> The Brick Yard, Plats 15 & 16  <b>Location:</b> On the west side of Brickyard Boulevard, approximately 634 feet north of its intersection with Muirkirk Road.  <b>Applicant/Address:</b> CalAtlantic Group, Inc. 14280 Park Meadow Drive, Suite 108 Chantilly, VA 20151  <b>Property Owner:</b> Same as applicant  The Brick Yard Homeowners Association, Inc. 11300 Rockville Pike, Suite 907 Rockville, MD 20852	Planning Board Hearing Date:	06/28/18
	Staff Report Date:	06/20/18
	Date Accepted:	05/10/18
	Planning Board Action Limit:	N/A
	Plan Acreage:	12.71
	Zone:	I-2
	Gross Floor Area:	N/A
	Lots/Dwelling Units:	188
	Parcels:	15
	Planning Area:	62
	Council District:	01
	Election District:	10
	Municipality:	N/A
	200-Scale Base Map	216NE07

Purpose of Application	Notice Dates	
Reconsideration Hearing	Previous Parties of Record (Applicant)	None

<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Cheryl Bressler <b>Phone Number:</b> 301-952-3504 <b>E-mail:</b> Cheryl.Bressler@ppd.mncppc.org	
<b>APPROVAL</b>	<b>APPROVAL WITH CONDITIONS</b>	<b>DISAPPROVAL</b>	<b>DISCUSSION</b>
X			



THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Final Plats of Subdivision 5-18037 and 5-18038  
The Brick Yard, Plats 15 & 16

OVERVIEW

The subject property is located on the west side of Brickyard Boulevard, north of Muirkirk Road, and is currently known as Parcels C, D, F, G, and I, recorded among the Prince George's County Land Records on plat titled The Brick Yard in Plat Book REP 233-65 and 85. The property is partially developed with an existing private street (Calico Rock Landing) and a stormwater management pond on Parcel I, a cell tower on Parcel D, and a billboard on Parcel C, which are proposed to remain. The subject property is the subject of Preliminary Plan of Subdivision 4-16035, approved by the Prince George's County Planning Board on June 29, 2017 (PGCPB Resolution No. 17-91). The overall area of the property is 12.71 acres and is located in the Heavy Industrial (I-2) Zone. The applicant is proposing 188 lots and 15 parcels for the construction of a townhouse development. A detailed site plan (DSP) is required for development of this site, in accordance with the requirements of the underlying zoning and proposed use, as contained in Section 27-475.06.05 of the Prince George's County Zoning Ordinance (County Council Bill CB-21-2006) for a MARC Planned Community. Detailed Site Plan DSP-07034-09 for the townhouse development was approved by the Planning Board on June 29, 2017 (PGCPB Resolution No. 17-89).

The applicant is requesting the Planning Board's approval of a variation from Section 24-128(b)(12) of the Subdivision Regulations for alternate locations for public utility easements.

Staff recommends approval of the final plats of subdivision and variation based on the findings contained in this technical staff report.

SETTING

The property is located on Tax Map 9, Grid E-4, in Planning Area 62, and is zoned I-2. Development surrounding this site includes townhouse development and a clubhouse to the north, also within the Brickyard community; the CSX MARC train tracks to the west; a parking lot serving the Muirkirk MARC train station to the south; and Brickyard Boulevard (private right-of-way) to the east.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject final plats of subdivision application and the proposed development.

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	I-2	I-2
Use(s)	MPC/Cell Tower and Billboard (to remain)	Single-Family Attached (188 Units)
Acreage	12.71	12.71
Lots	0	188
Outlots	0	0
Parcels	5	15
Dwelling Units:	0	188
Public Safety Mitigation Fee	No	No
Variance(s)	No	No
Variation(s)	No	Yes

Section 24-128(b)(12)

The requested variation from Section 24-128(b)(12) was accepted on May 7, 2018, and heard at the Subdivision and Development Review Committee meeting on May 18, 2018, as required by Section 24-113(b) of the Subdivision Regulations, as a companion request to the final plats of subdivision.

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

**(b) The Planning Board may approve plats and 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 public utility easements (PUEs) is 10 feet wide along at least one side of all private rights-of-way. The subject property's unique shape, border constraints, location, and density requirements challenge traditional design approaches for lot arrangement and other design elements. Because of these design challenges, the proposed layout utilizes private roadways and alleys, which contain water, sewer, and stormdrains. The Washington Suburban Sanitary Commission (WSSC) requires a 30-foot easement over these areas and does not allow their easements to overlap PUEs. Therefore, this requires that some of the PUEs are provided in alternative locations and alternative widths. Thus, the purpose of the regulation is met, as PUEs are provided, but in a different location and configuration. All units will be served from the alternative PUE layout and all utilities will have access thereto.

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;**

Granting the variation from the required PUE location and width will not be detrimental in any way to the public safety, health, or welfare, or be injurious to other property. The purpose of the requirement in Section 24-128(b)(12) is to ensure that adequate provision is made for public utilities in projects served by private roads. In this case, the shape and physical site constraints of the subject property severely constrain design alternatives and unit yield for providing a PUE layout as required by the Subdivision Regulations. These constraints create an untenable situation whereby the applicant would experience practical difficulties in developing the property with townhouse units in sufficient density, to adhere to the MARC Planned Community development requirements, if it were not able to explore alternative PUE locations. As proposed, adequate provisions have been made for public utilities, ensuring that granting the requested variation will not create any detriment to public safety, health, or welfare. The granting of the variation also has no impact on 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;**

Existing major infrastructure and transportation facilities on, and adjacent to, the property have required a lot design, which cannot fully meet the requirements for PUE locations and widths and, at the same time, implement the densities required by the MARC Planned Community legislation. These conditions are unique to this site and there are no other properties that are similarly constrained by existing major infrastructure, transportation facilities, natural features, property size, and shape, which is exceptionally narrow and elongated when compared 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. This variation request for the location of PUEs was referred to Baltimore Gas and Electric (BGE), WSSC, Washington Gas, Comcast, the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), Verizon, and American Telephone and Telegraph (AT&T). WSSC will be provided separate easements for wet utilities, per their standard requirement. DPIE provided a response indicating no objection to the proposed PUE locations. A response from the remaining utility companies referred was not received. Therefore, the granting of the variation does not constitute a violation of 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 physical characteristics of the site and their impact on the site layout have been stated above. It is not feasible to locate PUEs adjacent to all private right-of-way lines in the required width and develop the property as envisioned in the MARC Planned Community legislation. The impact of not granting the variation would be a severe and unnecessary loss of units, where alternate options for the location and design of PUEs can be accommodated, which would place a particular hardship on 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.**

This section does not apply to the variation request regarding the location and width of the PUEs because the property is zoned I-2.

This site is unique to the surrounding properties and the variation request is supported by the required findings herein. 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.

3. **Further Planning Board Findings and Comments from Other Entities**—The requested variation was referred to BGE, WSSC, Washington Gas, Comcast, DPIE, Verizon, and AT&T. A letter of concurrence was received from DPIE regarding the requested variation. A response from the remaining utility companies was not received.

**STAFF RECOMMENDS:**

- Approval of Final Plats of Subdivision 5-18037 and 5-18038
- Approval of Variation from Section 24-128(b)(12)