



The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

Final Plats of Subdivision 5-19090 through 5-19093 Marlboro Ridge, Plats 71-74

REQUEST	STAFF RECOMMENDATION
Final Plats of Subdivision	APPROVAL
Variation from Section 24-128(b)(12)	APPROVAL

Location: Southwest of Ritchie Marlboro Road, approximately 2,500 feet south of its intersection with Westphalia Road.

Gross Acreage: 70.68

Zone: R-R/M-I-O

Gross Floor Area: N/A

Lots: 88

Parcels: 7

Planning Area: 78

Council District: 06

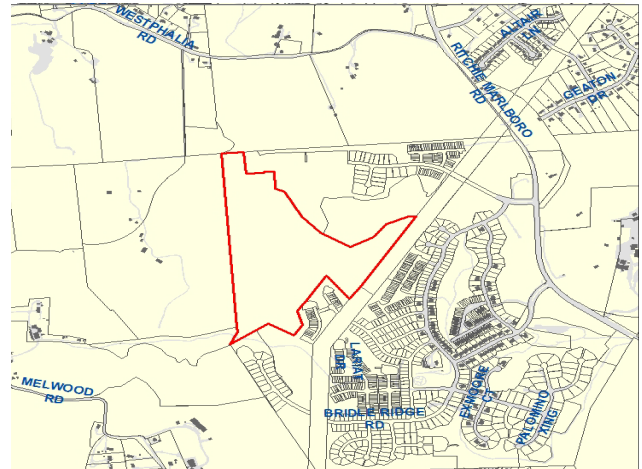
Election District: 15

Municipality: N/A

200-Scale Base Map: 205SE09

Applicant/Address:
Toll MD V Limited Partnership
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Planning Board Date: 03/12/2020

Planning Board Action Limit: 03/28/2020

Mandatory Action Timeframe: 30 days

Staff Report Date: 03/04/2020

Date Accepted: 02/27/2020

Informational Mailing: N/A

Acceptance Mailing: N/A

Sign Posting Deadline: N/A

Table of Contents

OVERVIEW	3
SETTING	3
FINDINGS AND REASONS FOR STAFF RECOMMENDATION.....	4
1. Development Data Summary.....	4
2. Variation	4
3. Referrals	6
RECOMMENDATION	6

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Final Plats of Subdivision 5-19090 through 5-19093
Variation from Section 24-128(b)(12)
Marlboro Ridge, Plats 71-74

OVERVIEW

The subject property is located southwest of Ritchie Marlboro Road, approximately 2,500 feet south of its intersection with Westphalia Road. The site is currently being improved under a multi-phased development scheme for a subdivision known as Marlboro Ridge, in accordance with Preliminary Plan of Subdivision (PPS) 4-04080, which was approved by the Prince George's County Planning Board on October 28, 2004 (PGCPB Resolution No. 04-255), and is a total of 588.63 acres. Detailed Site Plan DSP-17026 was approved by the Planning Board on January 10, 2019 (PGCPB Resolution No. 18-129) for the sixth phase (92.60 acres) of Marlboro Ridge. The subject final plats total 70.68 acres within Phase 6 of the Marlboro Ridge subdivision and are located in the Rural Residential (R-R) and Military Installation Overlay (M-I-O) Zones. The final plats of subdivision included in this application contain a total of 7 parcels and 88 lots.

These final plats of subdivision are in conformance with PPS 4-04080. However, the applicant is requesting the Planning Board's approval of a variation from Section 24-128(b)(12) of the Subdivision Regulations for the location of public utility easements (PUEs), as discussed further.

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

SETTING

The property is located in Council District 06 and Planning Area 78 in the Westphalia area of southern Prince George's County. The subject area covered by the proposed plats lies within the northern portion of the property contained in DSP-17026, west of the Potomac Electric Power Company (PEPCO) power line right-of-way that bisects the overall site. The overall Marlboro Ridge site is bounded to the northeast by the right-of-way of Ritchie Marlboro Road. To the north is vacant wooded properties in the Residential Medium Development (R-M) and Residential Estate Zones; to the west are two vacant wooded properties in the R-M Zone, and a vacant property in the Mixed Use-Transportation Oriented Zone; to the south is existing single-family detached developments in the R-R Zone; and to the southeast is an agricultural property in the Residential-Agricultural Zone.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	APPROVED	PROPOSED
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 are proposed to serve the lots within the approved subdivision for Marlboro Ridge, which consists of single-family attached and detached lots. The applicant has requested approval of a variation from the above standard, in order to 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;**

The applicant proposes approval of 10-foot-wide PUEs for dry utilities along the rear property line of townhouse lots, and claims that this poses no 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;**

The applicant provides that 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.

Staff finds that this site is unique to the surrounding properties, and that 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. **Referrals**—The requested 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.

RECOMMENDATION

APPROVAL of the requested variation.