

R E S O L U T I O N

WHEREAS, Summerfield Morgan Investments, LLC is the owner of a 2.65-acre parcel of land known as Lots 1-52 and Parcels A-G, being in the 13th Election District of Prince George's County, Maryland, and being zoned Local Activity Center (L-A-C), Development District Overlay (D-D-O), with a portion within the Military Installation Overlay (M-I-O); and

WHEREAS, on March 7, 2019, Summerfield Morgan Investments, LLC filed an application for approval of a Final Plat of Subdivision for 52 lots and 6 parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-18111 for Summerfield at Morgan Station, Phase 3, Plat 1 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 on March 21, 2019, 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 March 21, 2019, 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 5-18111 for Summerfield at Morgan Station, Phase 3, Plat 1, including a Variation from Section 24-128(b)(12) for public utility easements (PUEs) non-contiguous to a private right-of-way, pursuant to the conditions of Preliminary Plan of Subdivision 4-14001.

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 on the east side of Garrett A. Morgan Boulevard, approximately 1,200 feet north of its intersection with MD 214 (Central Avenue). The site is currently vacant and is the subject of Preliminary Plan of Subdivision (PPS) 4-14001, approved by the Prince George's County Planning Board on July 9, 2015 (PGCPB Resolution No. 15-71), which approved the Summerfield at Morgan Station, Phase 3, subdivision composed of 52 lots and 7 parcels on 11.34 acres. The site is located in the Local Activity Center (L-A-C) and Development District Overlay (D-D-O) Zones, with a portion of the site located in the Military Installation Overlay (M-I-O) Zone.

This final plat of subdivision application is in conformance with PPS 4-14001. The application includes the Planning Board’s approval of a variation from Section 24-128(b)(12) of the Subdivision Regulations, for PUE’s which are non-contiguous to a private right-of-way on the subject property, as discussed further.

3. **Setting**—The property is located on Tax Map 67, Grid B3, in Planning Area 72, is zoned L-A-C and D-D-O, and is partially within the M-I-O Zone. The site is bound to the east by open space and multifamily residential uses in the Residential-Medium Development (R-M) and D-D-O Zones; to the south and west by Garrett A. Morgan Boulevard, with the Washington Metropolitan Area Transit Authority Morgan Boulevard Metro Station beyond in the Mixed Use-Infill (M-U-I) and D-D-O Zones; and to the north by single-family residential uses in the L-A-C and D-D-O Zones, with Ridgefield Boulevard beyond.
4. **Development Data Summary**—The following information relates to the subject final plat of subdivision application.

	<b>EXISTING</b>	<b>APPROVED</b>
Zone(s)	L-A-C D-D-O M-I-O	L-A-C D-D-O M-I-O
Use(s)	Vacant	Residential
Acreage	2.65	2.65
Lots	0	52
Outlots	0	0
Parcels	1	6
Public Safety Mitigation Fee	No	No
Variance(s)	No	No
Variation	No	Yes
		24-128(b)(12)

The variation from Section 24-122(a) of the Subdivision Regulations was accepted on January 25, 2019 as set forth in Finding 5 below, and heard on February 8, 2019 at the Subdivision and Development Review Committee (SDRC) meeting as required by Section 24-113(b) of the Subdivision Regulations.

5. **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.**

The standard requirement for PUEs on private roads is 10 feet wide along either side and adjacent to private rights-of-way. The application provides two private rights-of-way within the subdivision, Sean Taylor Way and Goldstone Court, which will both include 10-foot-wide PUEs along one side of each right-of-way. The site is currently vacant and is approved for 52 single-family attached townhome units. The applicant demonstrates that the 10-foot-wide PUE along Sean Taylor Way will be positioned 7 feet within the private right-of-way of Sean Taylor Way and 3 feet within the abutting Lot 32, effectively making the PUE non-contiguous with the right-of-way. A non-contiguous PUE will also be provided along Goldstone Court, along Lots 26–32 and Lots 33–52, for a 4-foot-wide Washington Suburban Sanitary Commission (WSSC) easement for utility installation adjacent to the right-of-way. The positioning of this WSSC easement causes the PUE to be shifted away and thus non-contiguous with Goldstone Court. The variation for non-contiguous PUEs allows the retention of the consolidated lotting pattern, which mitigates the impacts of the development on environmental conditions present on-site and conforms with development previously approved in Specific Design Plan SDP-1704.

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;**

The application provides a non-contiguous PUE adjacent to a private right-of-way. Not providing the standard contiguous PUE will not be detrimental to the public safety, health, or welfare, or injurious to other property. Utilities will be provided by PUEs for the entire subdivision. Specifically, a 10-foot-wide PUE will straddle the private right-of-way of Sean Taylor Way and the adjacent Lot 32. Additionally, along Lots 26–32 and Lots 33–52 abutting

Goldstone Court, utilities will be provided in a 10-foot-wide PUE, which will be shifted away from Goldstone Court to provide a 4-foot-wide WSSC easement. The placement of these two PUEs, non-contiguous with their respective rights-of-way, will ensure that utilities will be available to serve lots within the subdivision, while also allowing the applicant to manage the utility-related right-of-way constraints.

**(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 subject property contains several unique conditions, which are generally not applicable to other properties. The subject property is constrained by existing development abutting the site to the north, south, and east. The site contains various environmental features such as steep slopes, floodplains, and a stream. The subject property is uniquely located across the street from the Morgan Boulevard Metro Station. Design guidelines, approved with Comprehensive Design Plan CDP-0301, for the subject property reflect the intent to create an urban area within walking distance of the Morgan Boulevard Metro Station. In order to comply with the CDP design guidelines and achieve the highest and best use of the property, while mitigating impacts to the environmental features mentioned, the application provides non-contiguous 10-foot-wide PUEs along the private rights-of-way of Sean Taylor Way and Goldstone Court.

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

The variation from Section 24-128(b)(12) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. This variation was referred to the Potomac Electric Power Company (PEPCO), WSSC, Washington Gas, Comcast, Verizon, and AT&T. The variation allows for WSSC to be provided with separate easements for wet utilities, per their standard requirement, while also providing adequate space for other utilities. None of the utilities offered comments on this application for variation. Therefore, the variation will not violate 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;**

Due to the particular physical surroundings, including the property's unusual shape, the presence of steep slopes on the site, and constraints due to existing surrounding development, the application provides PUEs non-contiguous to

two public rights-of-ways, in lieu of providing the standard 10-foot-wide PUE adjacent to either side of a private right-of-way. Following the strict letter of these regulations would create a particular hardship to the owner, as it would result in a significant redesign of the site, which is already limited in developable area. A redesign would be excessive, as the 10-foot-wide PUEs are provided, saving that they have been provided in a slightly altered location from the strict letter of this regulation. Additionally, given the property's site constraints, the site has been designed to maximize the relatively small developable portion of the property, and the standard position of the PUEs would create a hardship for the owner in conforming with the development approved previously in SDP-1704 for the subject property.

- (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 L-A-C, D-D-O, and M-I-O. Therefore, this provision does not apply.

The Planning Board finds that this site is unique to the surrounding properties and that the variation approval is supported by the required findings herein. This approval 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.

- 6. **Further Planning Board Findings and Comments from Other Entities**—The variation was referred to the PEPCO, WSSC, Washington Gas, Comcast, Verizon, and AT&T. No comments were received from the agencies referred.

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 Bailey, seconded by Commissioner Doerner, with Commissioners Bailey, Doerner, Geraldo, Washington, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, March 21, 2019, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 28th day of March 2019.

Elizabeth M. Hewlett  
Chairman

By Jessica Jones  
Planning Board Administrator

EMH:JJ:CD:gh