



PGCPB No. 2022-39

File No. 5-21112 and 5-21113

## R E S O L U T I O N

WHEREAS, Calm Retreat LLC is the owner of a 6.94-acre parcel of land being part of Parcel 23, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned Town Activity Center – Edge; and

WHEREAS, on March 17, 2022, DR Horton filed an application for approval of Final Plats of Subdivision for 12 parcels and 74 lots; and

WHEREAS, the application for approval of the aforesaid Final Plats of Subdivision, also known as Final Plats 5-21112 and 5-21113 for Calm Retreat, Plats 3 and 4, 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 April 7, 2022, 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, new Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1704 of the Subdivision Regulations, the associated Preliminary Plan of Subdivision 4-19024 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 Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

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

WHEREAS, on April 7, 2022, 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 5-21112 and 5-21113, including a Variation from Section 24-128(b)(7)(A) of the Subdivision Regulations, to allow 22 single-family attached dwellings lots, which do not have frontage on a public right-of-way, to be served by alleys, pursuant to the conditions of Preliminary Plan of Subdivision 4-19024.

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 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 approximately 2,100 feet north of the intersection of US 301 (Robert Crain Highway) and Chadds Ford Drive, on the southbound side of US 301. The subject Final Plats (5-21112 and 5-21113) are filed in accordance with Preliminary Plan of Subdivision (PPS) 4-19024, which was approved by the Prince George's County Planning Board on December 10, 2020 (PGCPB Resolution No. 2020-182) for 58 parcels and 488 lots on 72.10 acres. Detailed Site Plan DSP-19028 was subsequently approved for development of 488 single-family attached residential dwelling units for the subdivision known as Calm Retreat.

The subject final plats total 6.94 acres of the overall project and are located in the Town Activity Center – Edge (TAC-E) Zone. However, the approved PPS and DSP were approved, pursuant to the prior Subdivision Regulations and Zoning Ordinance, and pursuant to the prior zoning for the site of Mixed Use-Transportation Oriented (M-X-T) development. The subject final plats are therefore also approved, in accordance with the prior regulations and M-X-T Zone requirements. The final plats contain a total of 12 parcels and 74 lots.

These final plats of subdivision are in conformance with 4-19024. However, the applicant requested the Planning Board's approval of a variation from Section 24-128(b)(7)(A) of the prior Prince George's County Subdivision Regulations to allow 22 single-family attached dwelling lots (Lots 24–34 and 51–54, Block A and Lots 1–7, Block B), all of which do not have frontage on a public right-of-way, to be served by alleys, as discussed further below.

3. **Setting**—The subject property is located on Tax Map 154, Grids F-2, in Planning Area 85A. The subject property is bounded to the east by an existing automobile sales use in the TAC-E Zone and the right-of-way of US 301; to the south by existing residential development in the TAC-E and Legacy Comprehensive Design (LCD) Zones, as well as vacant land in the TAC-E Zone where future commercial development is planned; to the west by vacant land in the Rural Residential (RR) Zone that is subject to a special exception allowing for surface mining; and to the north by an auto sales (trailers, cars, and trucks) use in the TAC-E Zone.

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

	<b>EXISTING</b>	<b>APPROVED</b>
Zone(s)	TAC-E	TAC-E
Use(s)	Vacant	Commercial Single-Family Attached
Acreage	6.94 acres	6.94 acres
Lots	0	393
Outlots	0	74
Parcels	1	12
Variance	No	No
Variation	No	Yes 24-128(b)(7)(A)

The requested variation from Section 24-128(b)(7)(A) was received on December 20, 2021, as a companion request to the subject final plats of subdivision and heard at the Subdivision and Development Review Committee (SDRC) meeting on April 1, 2022, in accordance with Section 24-113(b) of the Subdivision Regulations.

5. **Variation**—The applicant filed a variation request from Section 24-128(b)(7)(A), to permit 22 single-family attached dwellings lots, which do not have frontage on a public right-of-way, to be served by alleys. The variation request is dated September 16, 2020, was revised June 9, 2021, and was submitted on December 20, 2021.

The variation is necessary to support the lotting pattern, which was analyzed and approved with the PPS and DSP for the subject property. The variation has now been filed to meet the technical submittal requirements, and the findings for approval of the variation are outlined below:

**Section 24-128(b)(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.**

- (i) The pavement width of private roads may be reduced to not less than a minimum of twenty-two (22) feet when it is determined that the provision of the minimum width is consistent with a safe, efficient, hierarchical street system for a development.**
- (ii) The pavement width of private alleys shall be not less than eighteen (18) feet when it is determined that the provision of the minimum width is consistent with a safe, efficient, vehicular access to individual lots. Since alleys only provide vehicular access to lots with frontage on a public street, alleys shall not be required to be improved with street trees or curb and gutter, unless a drainage problem has been identified by the Department of Permitting, Inspections, and Enforcement or the Department of Public Works and Transportation.**

For purposes of platting, pursuant to PPS 4-19028, the applicant requested a variation from the above requirement, which restricts the use of alleys to serve any use to the circumstance where the lot has frontage on a public right-of-way.

#### **Review of Variation**

Twenty-two lots within the subject final plats (3 and 4) for Calm Retreat, receive access by means of alleys, but do not front on a public street, as required by Section 24-128(b)(7)(A). The identified lots are proposed for single-family attached dwellings, which are oriented toward a public or private street, but are separated from direct frontage on the streets by open space parcels containing common elements such as fencing and sidewalks. It is appropriate that the common elements are located within the open space areas which are to be conveyed to and maintained by the homeowners association. The separation of the lot lines from direct frontage on a public street does not change the operation or orientation of the dwellings to the streets or the alley access. The applicant requested a variation, pursuant to Section 24-113. There are four criteria that must be met for this variation to be approved (a fifth criterion is not applicable to the zone or the proposed use), which are addressed by the applicant's variation request dated June 9, 2021, incorporated by reference herein. The criteria, with discussion, are noted below:

- (1) The granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property;**

Private streets proposed in the subdivision are 22 feet wide, while alleys are a minimum of 18 feet in width. All lots included in this variation request will be served at the rear by an alley with a minimum pavement width of 18 feet and will access the private streets within the subdivision via alleys. The private streets are designed to accommodate fire and rescue access requirements of the County. The subject property's circulation does not affect other properties. Therefore, the granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to 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;**

The subject property is uniquely shaped by two master-planned rights-of-way which bisect the long and narrow property. The lots are oriented so that dwellings screen the views of alleys from the adjacent public rights-of-way and provide a neotraditional design. The Prince George's County Department of Public Works and Transportation does not maintain streets and alleys which providing parking and access for this townhouse development, and thus the use of private streets and alleys is necessary to provide circulation and on-street parking for this development. These conditions are not generally applicable to other properties.

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

Granting the variation will not be in violation of any law, ordinance, or regulation. The variation from Section 24-128(b)(7)(A), in accordance with Section 24-113, is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The design of this subdivision was reviewed with the PPS and DSP applicable to the subject site and does not change the operational nature of the lot access, which was previously approved.

- (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 subject property is narrow at its frontage on US 301 and includes a 3,400-foot-long master-planned arterial road (A-55) and the master-planned right-of-way extension of General Lafayette Boulevard (MC-502). The site is also impacted by a tributary of Mattawoman Creek. These site features form the developable areas of the property, which must be designed with private streets and alleys due to the County maintenance requirements. Requiring public streets in tandem with private alleys is unnecessary and at odds with compact development and density envisioned for the M-X-T Zone, would require additional right-of-way improvements and the reduction of lots, and would diminish necessary on-street parking to serve the development. Strict application of the requirements would not be a mere inconvenience but would prevent the development of the property, in accordance with the zoning and operational needs of the development.

The Planning Board finds that the site is unique to the surrounding properties and the variation is supported by the required findings. 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 variation from Section 24-128(b)(7)(A) is approved to

permit the above-stated lots to be served by an alley, which do not have frontage on a public right-of-way.

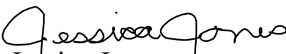
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*

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 Geraldo, with Commissioners Bailey, Geraldo, and Washington voting in favor of the motion, with Commissioner Shapiro abstaining, and with Commissioner Doerner absent absent at its regular meeting held on Thursday, April 7, 2022, in Upper Marlboro, Maryland.

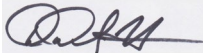
Adopted by the Prince George's County Planning Board this 28th day of April 2022.

Peter A. Shapiro  
Chairman

By   
Jessica Jones  
Planning Board Administrator

PAS:JJ:MV:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner  
M-NCPPC Legal Department  
Date: April 25, 2022