

R E S O L U T I O N

WHEREAS, GB Mall Limited Partnership is the owner of a 17.62-acre parcel of land known as Parcels II, HH, LL, KK, JJ, and GG said property being in the 13th Election District of Prince George's County, Maryland, and being zoned Commercial, General and Office (CGO); and

WHEREAS, on June 22, 2022, GB Mall Limited Partnership filed an application for approval of a Final Plat of Subdivision for 13 parcels; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-22028 for Beltway Plaza, Parcels 1–6 and A–G, 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 July 7, 2022; 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(a) of the Subdivision Regulations, the associated Preliminary Plan of Subdivision 4-19023 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 July 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 Plat of Subdivision 5-22028, including a Variation from Section 24-128(b)(12) of the prior Subdivision Regulations, to eliminate the required 10-foot-wide PUE along Private Streets A and B, pursuant to the conditions of Preliminary Plan of Subdivision 4-19023.

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 on the north side of MD 193 (Greenbelt Road), in the northeast quadrant of its intersection with Cherrywood Lane, in the City of Greenbelt. The subject site is currently part of properties known as Parcels II, HH, LL, KK, JJ, and GG which was recorded in the Prince George’s Land Records in Plat ME 258-65 dated September 27, 2021. The property is located on Tax Map 26 in Grid A-4 and B-4. The property is within the Commercial, General and office (CGO) Zone and was previously zoned Mixed Use-Infill (M-U-I), and is also within the 2013 *Approved Greenbelt Metro Area and MD 193 Corridor Sector Plan and Sectional Map Amendment* (sector plan). This application was submitted for review under the prior Prince George’s County Zoning Ordinance and prior Prince George’s County Subdivision Regulations, pursuant to Section 24-1704(a) of the Subdivision Regulations because the preliminary plan of subdivision (PPS) approval was obtained under the prior regulations, which remains valid.

The subject property is 17.62 acres and is currently being platted, in accordance with PPS 4-19023. The Prince George’s County Planning Board approved PPS 4-19023 on February 20, 2020 (PGCPB Resolution No. 2020-26), for 55 parcels for mixed use commercial and multifamily development. The property is also subject to a Detailed Site Plan, DSP-20020, which was approved by the Prince George’s County District Council on January 31, 2022 (PGCPB Resolution No. 2021-113).

This final plat of subdivision is in conformance with lotting pattern established with PPS 4-19023 and DSP-20020. However, the applicant requested the Planning Board’s approval of a variation, along with this plat of subdivision, to eliminate the 10-foot-wide public utility easements (PUEs) along proposed Private Streets A and B. The streets are contained in Parcels A, B, C, D, and F, as shown on the final plat, and discussed further below.

3. **Setting**—The subject property is located in the City of Greenbelt, in Council District 4 and Planning Area 67. The site is bounded to the north by Breezewood Drive and the Regional Transit-Oriented, Low Intensity-Edge (RTO-L-E) Zone; to the east by the Agricultural and Preservation Zone; to the south by the RTO-L-E Zone; and to the west by the Cherrywood Lane right-of-way.
4. **Development Data Summary**—The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone	CGO	CGO
Use	Vacant	Residential & Commercial
Acreage	17.62 acres	17.62acres
Lots	0	0
Outlots	0	0
Parcels	6	13
Variance	No	No
Variation	Yes, Section 24-128(b)(12)	Yes, Section 24-128(b)(12)

The requested variation from Section 24-128(b)(12) of the prior Subdivision Regulations was received on February 7, 2022, and heard on March 4, 2022, at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the Subdivision Regulations.

5. **Variation**—The applicant filed a variation request from Section 24-128(b)(12), to eliminate the required 10-foot-wide PUE along Private Streets A and B. 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—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 applicant requested approval of a variation from Section 24-128(b)(12), to remove PUEs from private rights-of-way, which was approved by the Planning Board with PPS 4-19023 on February 20, 2020 (See Finding 15 on page 34 of PGCPB Resolution No. 2020-26). The variation in conjunction with the PPS was approved to eliminate the placement of the PUEs along internal Private Streets B, C, E, F, G, and H, and part of Private Streets A and D, as depicted on the PPS. It is noted that Private Street D, as depicted on the PPS, is now designated as Private Street B on the final plat. DSP-20020 included Phase 1 of the five-phased plans to redevelop Beltway Plaza into a pedestrian-friendly mixed-use community. Phase 1 includes residential development in the northern section of the site, consisting of 750 multifamily dwelling units, a hotel, parking structures, and a recreation center. This phase will have two points of access, a new street/sidewalk connection opposite Cherrywood Terrace, and an entrance/intersection off Cherrywood Lane that consolidates multiple existing driveways.

Further, at the time of DSP for Phase 1 (DSP-20020), the Planning Board imposed Condition 4 which contemplates the now requested variation from Section 24-128(b)(12), to eliminate the PUEs in the other remaining locations not previously covered by the variation approved with the PPS. These changes were contemplated in order to provide the applicant greater flexibility to design details.

The variation to eliminate the PUEs with the PPS was granted for Street C, as shown on the PPS, which now makes up a portion of Road A shown on the final plat, and the applicant requested a variation to eliminate the remainder of the PUEs along either side of Private Streets A and B, as depicted on DSP-20020. Since the approval of PPS 4-19023, the project layout has been further refined to shift the ring road south to accommodate development area needed for Buildings 1A, 1B, and 1C, as well as to improve traffic circulation.

The standard requirement for PUEs is 10 feet wide along both sides of all public rights-of-way. PUEs are provided along the subject site's frontage of public rights-of-way (Breezewood Drive to the north, Cherrywood Lane to the west, and MD 193 to the south) and are delineated on the record plat filed in conjunction with this variation request. In addition, and as indicated above, private streets also require PUEs along one side, pursuant to Section 24-128(b)(12). The applicant has provided an exhibit which depicts the dry utility concept plan for Phase 1 and shows that all the proposed buildings will be served by existing dry utilities located within the Breezewood Drive or Cherrywood Lane public rights-of-way, or the extension of those utilities within the 10-foot-wide PUEs provided along the public rights-of-way. Dry utility service for the existing mal structure is from the south and is unaffected by the Phase 1 development. Therefore, to accommodate the ability to eliminate the PUE along Private Streets A and B, as depicted on DSP-20020, the applicant hereby requested a variation from Section 24-128(b)(12), pursuant to Section 24-113(a) of the Subdivision Regulations.

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;

Future phases of development will be served by existing utilities located within Cherrywood Lane to the west, or from the south from MD 193. Utilization of the existing PUEs at the public street frontage of the mixed-use development minimizes conflicts between the wet and dry utilities and allows flexibility to plan a complex development that will be done in phases over extended periods of time, with each DSP. During the DSP review, no issues were raised by any utility company regarding the utilization of the existing PUEs along the public rights-of-way to serve the internal redevelopment. Further, the dry utility concept plan demonstrates how all utilities will serve the redevelopment without the need for PUEs along one side of Private Streets A and B. The requested variation to eliminate PUEs along said streets will not result in any reduction of utility availability or service to the development or the surrounding properties. Therefore, granting a variation from the PUE requirements will not be detrimental to 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 conditions of this property are unique due to constraints of the site. The property is bounded on the north, west, and south by existing public rights-of-way, and immediately to the east is the existing school facility. The applicant's request to eliminate the PUE requirement along the referenced private streets is warranted given the unique nature of the existing conditions and design guidelines 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 24-128(b)(12) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The applicant is required to obtain additional DSP approvals prior to obtaining any building permits for future phases, and those utility locations will be evaluated at that time. The final plats and variation request for the location of PUEs was referred to the City of Greenbelt and 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 known 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 existing site constraints and design guidelines restrict implementation of the standard PUEs, as required, and result in a hardship on the owner. The property is bounded on the north, west, and south by existing public rights-of-way. Due to the particular physical surroundings, the denial of this variation request would result in design limitations in achieving the density levels envisioned by the sector plan and approved by the DSP and PPS. The elimination of the PUEs along Private Streets A and B will also eliminate potential conflicts with the required wet utility easements to be provided within the private rights-of-ways. Denial of this variation request would result in a hardship to the property owner because it would impose unnecessary design limitations, by limiting both the ability to work within the constraints of the site features to remain, as well as negatively impact the ability to place the buildings, street amenities, and other site features along Private Streets A and B, as approved in DSP-20020.

The required criteria of approval for a variation from Section 24-128(b)(12), to eliminate the standard 10-foot-wide PUE along the private rights-of-way, as described above, is found to be met.

6. **Referral and Comments from other Entities**—The requested variation was referred to the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE), the City of Greenbelt, the Washington Suburban Sanitary Commission, the Potomac Electric Power Company, Comcast, AT&T, and Verizon for review. A consent letter was provided from DPIE regarding the requested variation. The City of Greenbelt responded that they support this variation request. AT&T responded that they have no facilities in the area. None of the other referred agencies objected to the approval of this application.


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 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, July 7, 2022, in Upper Marlboro, Maryland.

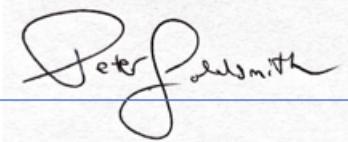
Adopted by the Prince George's County Planning Board this 28th day of July 2022.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:MV:jah

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department
Date: July 19, 2022