



Preliminary Plan of Subdivision 4-10020 Waiver of the Rules of Procedure and Reconsideration Request The Vineyards II

REQUEST	STAFF RECOMMENDATION
Waiver of the Rules of Procedure and Reconsideration Request	DISCUSSION

Location: At the terminus of Hunt Webber Drive, approximately 0.50 mile west of MD 381 (Brandywine Road).

Gross Acreage: 90.69

Zone: RSF-95

Prior Zone: R-80

Gross Floor Area: N/A

Dwelling Units: 64

Lots: 64

Outparcels: 1

Parcels: 5

Planning Area: 81A

Council District: 09

Municipality: N/A

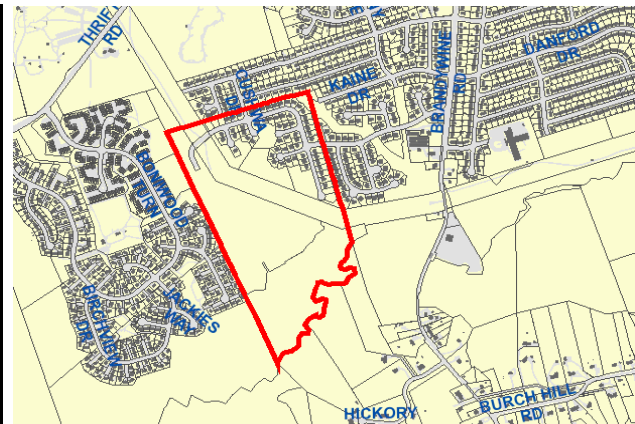
Requestor/Address:

US Home, LLC
7035 Albert Einstein Drive, Suite 200
Columbia, MD 21046

Staff Reviewer: Jason Bartlett

Phone Number: 301-780-2465

Email: Jason.Bartlett@ppd.mncppc.org



Planning Board Date: 01/16/2025

Planning Board Action Limit: 01/27/2025

Memorandum Date: 01/08/2025

Date Received: 12/13/2024

Notice to Previous Parties of Record (Applicant): 12/13/2024

Notice to Previous Parties of Record (M-NCPPC): 12/31/2024

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at

http://www.mncppcapps.org/planning/Person_of_Record/.

Please call 301-952-3530 for additional information.



December 31, 2024

MEMORANDUM

TO: The Prince George's County Planning Board

VIA: Mridula Gupta, Acting Supervisor, Subdivision Section *MG*
Development Review Division

FROM: Jason Bartlett, Planner II, Subdivision Section *JB*
Development Review Division

SUBJECT: **Preliminary Plan of Subdivision 4-10020
Waiver of the Rules of Procedure and Reconsideration Request
The Vineyards II**

Pursuant to Section 12(a) of the Prince George's County Planning Board's Rules of Procedure, on December 13, 2024, Thomas H. Haller, representing US Home, LLC, requested a suspension of the Prince George's County Planning Board's Rules of Procedure (Section 10(a)), which requires that a reconsideration request be submitted no more than 14 calendar days after the date of notice of the final decision. The request pertains to Preliminary Plan of Subdivision (PPS) 4-10020, for which the PPS resolution of approval (PGCPB No. 12-107) was adopted by the Planning Board on November 29, 2012.

Suspension of the Planning Board's rules requires the concurring vote of four members of the Board (Section 12(a)). If the Board grants the requested suspension, the applicant specifically requests reconsideration of Condition 15f of the resolution. Per Section 10(e) of the Rules of Procedure, reconsideration may only be granted if, in furtherance of substantial public interest, the Board finds that an error in reaching the original decision was caused by fraud, surprise, mistake, inadvertence, or other good cause. The Maryland Supreme Court has interpreted good cause to include subsequent new or different factual information that would justify a different conclusion, but not a mere change of mind.

On October 3, 2019, the Planning Board approved a reconsideration of Condition 15e of the PPS resolution of approval (PGCPB No. 12-107), related to the timing for completion of a master plan trail, in furtherance of substantial public interest, due to other good cause or inadvertence which resulted in an error. Approval of the reconsideration was memorialized in PGCPB Resolution No. 12-107(A); whereby, Condition 15e was revised to modify the timing for completing a master plan trail and Condition 15f was added to require amendment of the recreational facilities agreement (RFA) requiring construction of the trail be completed within five years following recordation of the amended RFA.

Now, the applicant requests that Condition 15f, as set forth in the amended PGCPB Resolution No. 12-107(A), be reconsidered and revised to include a provision to allow the applicant additional time for completing construction of the master plan trail.

- 15. The applicant and the applicant's heirs, successors, and/or assignees shall design and construct the master-planned Piscataway Creek Trail as shown on Parcel D (M-NCPPC) on the preliminary plan of subdivision:**
- a. Prior to approval of the first building permit, the applicant shall confer with the Department of Parks and Recreation (DPR) concerning the exact alignment of the master planned trail along Piscataway Creek and of the connecting trails from the adjoining residential areas. The alignment shall be approved by DPR.**
 - b. Prior to approval of the first building permit, the applicant shall submit trail construction plans along with three original, executed public recreational facilities agreements (RFA). Upon approval by DPR, the RFAs shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.**
 - c. Prior to the start of any trail construction, the applicant shall have the location of the trail staked in the field and approved by DPR.**
 - d. At a minimum of three weeks prior to the start on any trail construction, the applicant shall submit to DPR a performance bond, letter of credit, or other suitable financial guarantee, in an amount to be agreed upon with DPR.**
 - *e. The ten-foot master-planned trail shall be completed and ready for use either (i) prior to [issuance] approval of the [60th] 64th building permit, or (ii) the applicant shall obtain approval of a preliminary plan of subdivision for Outparcel A, as depicted on the plat of subdivision recorded at Plat Book 243-52, with a condition requiring construction of the trail, whichever occurs first.**
 - *f. Prior to approval of the 60th building permit, the applicant shall revise the recreational facilities agreement (RFA) recorded at Liber 37376 Folio 566 to (i) reflect the triggers for completion of the trail and (ii) add a provision that failure to complete construction of the trail within five years following recordation of the revised RFA shall be considered a default, which allows the Prince George's County Department of Parks and Recreation (DPR) to send notice of default to the surety company and to require payment of the bond that has been posted with DPR.**

The applicant's proposed revision to Condition 15f is given in the December 12, 2024 letter requesting the reconsideration, as follows, with underlined text being the proposed addition and ~~[bracketed]~~ text being the proposed deletion:

- *f. Prior to approval of the 60th building permit, the applicant shall revise the recreational facilities agreement (RFA) recorded at Liber 37376 Folio 566 to (i) reflect the triggers for completion of the trail and (ii) add a provision that failure to complete construction of the trail within five years following recordation of the revised RFA shall be considered a default, which allows the Prince George's County Department of Parks and Recreation (DPR) to send notice of default to the surety company and to require payment of the bond that has been posted with DPR[.], unless DPR agrees to an extension of the trail construction, which extension shall be reflected in a revision to the RFA. In the event that DPR agrees to an extension of the trail construction, the Applicant shall post a new performance bond, letter of credit or other suitable financial guarantee adjusted for inflation.**

After approval of the 2019 reconsideration, the revised RFA was executed and recorded among the Land Records of Prince George's County on February 14, 2020, in accordance with Condition 15f. Per the current condition, the applicant is required to complete the trail no later than February 14, 2025. The applicant, in their December 12, 2024 letter, enumerated several factors which have impeded trail construction such that they will not be able to satisfy Condition 15f. The applicant provides that the requested reconsideration is in furtherance of substantial public interest and that inadvertence or other good cause has resulted in an error regarding the stated condition. The applicant submits that it was an inadvertent error to not provide discretion to the Prince George's County Department of Parks and Recreation (DPR) in Condition 15f to modify the timing, if necessary, given the unique history of the property which includes environmental impacts in planning the trail alignment and need for further subdivision of the property. The applicant also submits that approval of the request for reconsideration is in furtherance of public interest because the trail will be constructed as originally envisioned, and it is further in public interest to ensure that the environmental impacts are appropriately evaluated. Finally, failure to provide DPR discretion to adjust the timing of the trail construction, when Condition 15f was added in 2019, was an inadvertent error and good cause exists to modify the condition, as requested, to allow the applicant to defer construction.

If the Planning Board finds its decision was in error, due to fraud, surprise, mistake, inadvertence, or other good cause, it may grant the applicant's request for reconsideration, and staff will provide an analysis on the merits of the request at a later Planning Board hearing.