



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

Note: Staff reports can be accessed at <https://www.mncppc.org/883/Watch-Meetings>

Preliminary Plan of Subdivision 4-19012 Waiver of the Rules of Procedure and Reconsideration Request Enclave at Westphalia

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

Location: Approximately 3900 feet north of the intersection of MD 4 (Pennsylvania Avenue) and Woodyard Road.

Gross Acreage: 68.70

Zone: RMF-20

Prior Zone: M-X-T/M-I-O

Reviewed per prior Subdivision Regulations: Section 24-1704(e)

Gross Floor Area: N/A

Dwelling Units: 356

Lots: 356

Parcels: 41

Planning Area: 78

Council District: 06

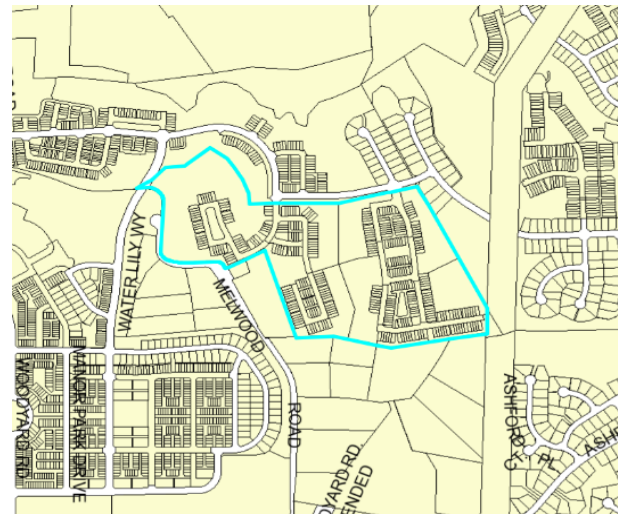
Party of Record (Requester)/Address:

Braveheart Land, LLC
2077 Somerville Road, Suite 206
Annapolis, MD 21401

Staff Reviewer: Antoine Heath

Phone Number: 301-952-3554

Email: Antoine.Heath@ppd.mncppc.org



Planning Board Date: 07/27/2023

Planning Board Action Limit: 07/27/2023

Mandatory Action Timeframe: 30 days

Memorandum Date: 07/11/2023

Date Received: 06/27/2023

Previous Parties of Record: 06/27/2023
(Applicant)

Previous Parties of Record: 07/11/2023
(M-NCPPC)

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.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

July 11, 2023

MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Antoine Heath, Planner II, Subdivision Section
Development Review Division

VIA: Sherri Conner, Planning Supervisor, Subdivision Section
Development Review Division

SUBJECT: **Preliminary Plan of Subdivision 4-19012**
Waiver of the Rules of Procedure and Reconsideration Request
Enclave at Westphalia

By letter dated June 26, 2023, Thomas H Haller, representing the applicant, Braveheart Land, LLC, requested a waiver of the Prince George's County Planning Board's Rules of Procedure which requires that a reconsideration request be submitted no less than 14 calendar days after the date of notice of the final decision (Section 10(a)). The resolution of approval for Preliminary Plan of Subdivision (PPS) 4-19012 (PGCPB Resolution No. 2021-41) was adopted by the Planning Board on April 8, 2021. Suspension of the Board's rules requires the concurring vote of four members of the Board (Section 12(a)). If the Planning Board grants the requested waiver, the applicant specifically requests reconsideration of Condition 17 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 Planning 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.

Access to the subject site was approved via Bridle Vale Road and Dower House Road, which are located north of the site. However, these two roads are located off-site. The applicant is reliant upon the developer to the north to develop these roads, in order to gain access to the property. At the time of the PPS approval, staff recommended a condition to ensure that access to the site would be available, prior to any building permit. That condition was, as follows:

- 16. Prior to the approval of any building permit within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:**
- a. Bridle Vale Road extension; Extend the stub end of existing Bridle Vale Road for approximately 1,300 feet as a primary residential street to its terminus at Dower House Road.**

However, the applicant was concerned that, if this condition was not satisfied within three years of the approval of the detailed site plan (DSP), there would be no way to vest the DSP. Construction has to begin in order for a DSP to be vested, in accordance with Section 27-287 of the Prince George's County Zoning Ordinance. As a result, the Prince George's County Planning Board agreed to modify Condition 16, and adopt Condition 17, to provide an alternative to vest the DSP without the entire length of Bridle Vale Road being permitted and bonded. These conditions read, as follows:

- 16. Except as provided in Condition 17, Prior to the approval of any building permit within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:**
- a. Bridle Vale Road extension; Extend the stub end of existing Bridle Vale Road for approximately 1,300 feet as a primary residential street to its terminus at Dower House Road.**
- 17. In the event that Dower House Road has full financial assurances and is permitted for construction to the northern boundary of the subject property, the applicant may obtain building permits for Lots 1-3, Block A to allow for the completion of all necessary excavation and piers and footings of the three townhouse units.**

DSP-16045 was approved by the Planning Board (PGCPB Resolution No. 2021-47) on December 9, 2021, and expires on December 9, 2024. However, neither Bridle Vale Road nor Dower House Road have been permitted. The purpose of the applicant's waiver and reconsideration request is to revise Condition 17, to construct the foundation of the dwelling unit located on Lot 57, in order to vest the DSP without reliance on a third party. The applicant's proposed revisions to Condition 17 are given in the June 26, 2023 statement of justification (SOJ), requesting the reconsideration. The applicant provides that this request is due to inadvertence, furtherance of substantial public interest, and is supported by good cause. In regard to inadvertence, the applicant indicates that the PPS was approved, based on the assumption that construction of the Parkside development to the north would continue to proceed, in accordance with the market conditions that existed at the time, and that a nationwide interest rate hike caused by inflation would delay construction projects was not taken into consideration. In regard to furtherance of substantial public interest and good cause, the applicant indicates that a new DSP, identical to the one previously approved, will have to be approved again, which serves no public purpose, and will require the applicant to bear an unnecessary expense at no fault of their own. Along with the SOJ,

the applicant submitted an exhibit, depicting the locations of the subject rights-of-way, as well as the lot proposed for development.

If the Planning Board grants the applicant's request for a waiver and reconsideration, staff will provide an analysis on the merits of the request at a later Planning Board hearing.