



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

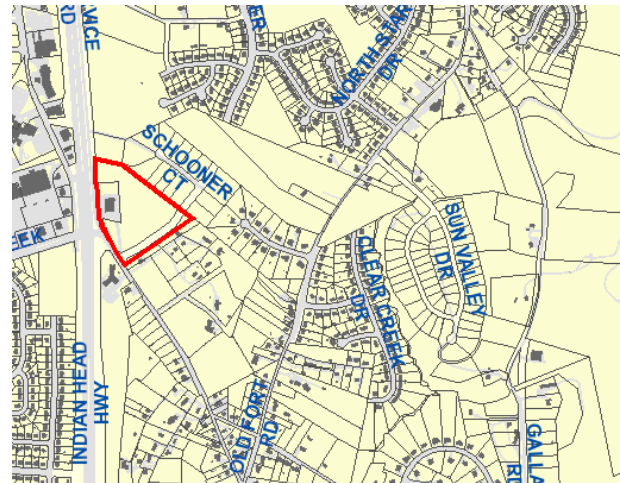
Note: Staff reports can be accessed at <http://mncppc.iqm2.com/Citizens/Default.aspx>

# Preliminary Plan of Subdivision Livingston of Fort Washington

## 4-07050

REQUEST	STAFF RECOMMENDATION
Extension of preliminary plan of subdivision validity period.	APPROVAL of one-year extension

<b>Location:</b> At the northeast corner of Livingston Road at its intersection with MD 210 (Indian Head Highway), and approximately 105 feet north of Rich Hill Drive.	
Gross Acreage:	12.27
Zone:	C-S-C
Gross Floor Area:	80,000 sq. ft.
Dwelling Units:	0
Lots:	0
Parcels:	5
Planning Area:	80
Council District:	08
Election District:	05
Municipality:	N/A
200-Scale Base Map:	215SE01
<b>Applicant Address:</b> Livingston of Fort Washington, LLC P.O. Box 581 Riva, MD 21140	
<b>Staff Reviewer:</b> Antoine Heath <b>Phone Number:</b> 301-952-3554 <b>Email:</b> Antoine.Heath@ppd.mncppc.org	



Planning Board Date:	01/13/2022
Planning Board Action Limit:	N/A
Mandatory Action Timeframe:	N/A
Memorandum Date:	12/27/2021
Date Filed:	10/29/2021
Informational Mailing:	N/A
Acceptance Mailing:	N/A
Sign Posting Deadline:	N/A

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/](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

December 27, 2021

## MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Antoine Heath, Senior Planner, Subdivision Section *AH*  
Development Review Division

VIA: Sherri Conner, Supervisor, Subdivision Section *SC*  
Development Review Division

SUBJECT: **Preliminary Plan of Subdivision 4-07050  
Livingston of Fort Washington  
Extension Request**

This Preliminary Plan of Subdivision (PPS), 4-07050, was approved by the Prince George's County Planning Board on December 6, 2007, and the resolution of approval was adopted on January 3, 2008 (PGCPB Resolution No. 07-233). The PPS was approved for five parcels and is valid through December 31, 2021, due to prior legislative extensions of the validity period. By letter dated October 29, 2021, and revised on December 22, Arthur J. Horne, Jr. of the Law Offices of Shipley & Horne, P.A., representing Livingston of Fort Washington, LLC, requests a one-year extension until December 31, 2022. This is the applicant's first extension request.

Section 24-119(d) of the Prince George's County Subdivision Regulations authorizes the Planning Board to grant an extension to the normal expiration of a PPS pursuant to the criteria below in bold text. Staff analysis of the required criteria is provided in plain text.

- (5) **An approved preliminary plan of subdivision shall remain valid for two (2) years from the date of its approval unless an extension of the validity period is granted.**
- (A) **Extensions of the validity of an approved preliminary plan may be granted by the Planning Board provided:**
  - (i) **The request is filed prior to the expiration of the preliminary plan approval;**

**(ii) The preliminary plan remains in conformance with all the requirements of Subtitle 27 applicable to the subject property;**

Staff finds that the above criteria (i) and (ii) are met.

**(iii) Two (2) years is not sufficient time to prepare the final plat(s);**

The applicant states that extensive delays in obtaining a right-of-way (ROW) dedication determination from the Maryland State Highway Administration (SHA) for the subject property's frontage on MD 210 (Indian Head Highway) has prevented the applicant from platting the property. Condition 16 of the PPS requires parcels D and E, comprising approximately 3.65 acres of the subject site, be placed in reservation for a period of not less than three years.

From the time of PPS approval until now, the applicant has benefited from multiple legislative extensions via Prince George's County Council. This includes Prince George's County Council Bills CB-7-2010, CB-8-2011, CB-70-2013, CB-80-2015, CB-98-2017, CB-60-2018, and CB-74-2020. These extensions were enacted to allow a PPS to remain valid for an extended period of time, due to a weakened market from the nationwide 2007–2009 recession, the poor market conditions that followed, and the COVID-19 pandemic.

In order to preserve the development rights of the property, the applicant filed Detailed Site Plan DSP-20030 in September 2020, which has not been accepted yet due to issues surrounding ROW reservation on the property and is discussed further below. The applicant also states that SHA just made a decision on the ROW determination in 2021. As a result of reservation applicable to the property and the legislative extensions, staff finds that two years has not been sufficient time to prepare final plats, and that the above criterion has been met.

**(iv) The applicant is not unduly delaying the filing of the final plat(s);**

The applicant states that they have not delayed the filing of the final plats and has indicated that factors outside their control have led to their inability to proceed with preparation of the final plats. The applicant states that the extensive time required in obtaining a ROW determination from SHA for Parcels D and E of the subject property has delayed the acceptance of DSP-20030 filed by the applicant until 2020, and that SHA only recently rendered a decision on the ROW in 2021.

Staff agrees that the applicant is required to plat Parcels D and E of the subject site in reservation, in accordance with Condition 16 of PPS 4-07050. The applicant provided an exhibit, dated July 20, 2016, of correspondence from Maryland-National Capital Park and

Planning staff. In this correspondence, the applicant and staff discussed the reservation expiration, and its effect on the property, given the time that had passed since the PPS approval. However, Condition 16 of the PPS required that the 3-year reservation period would not commence until the reservation was platted, but also allowed the applicant to request cancellation of the reservation from the Planning Board if the reservation no longer appeared necessary. The reservation was never platted and so, upon filing of the DSP, the applicant began pursuing the agreements of SHA and the property owner, in order to cancel the reservation. The agreement for cancellation of reservation did not receive final correspondence from SHA until February of 2021.

The applicant also filed a final plat of subdivision for the subject property in 2020, which has been reviewed by staff to the extent possible and is now only awaiting the approval of the DSP, in order to move forward to approval. Staff finds that the applicant is not unduly delaying the filing of the final plat, and that the above criteria has been met.

- (v) **The validity of a preliminary plan consisting of less than one hundred (100) residentially zoned lots or less than one hundred (100) gross acres of commercially or industrially zoned land or land designated for nonresidential uses in any CDZ or M-X-T Zone shall not be extended more than one (1) year from the normal expiration of the approved preliminary plan;**

This is the first extension requested by the applicant, which is not more than one year. It is noted that the normal expiration of two years was deferred from January 3, 2010 to December 31, 2021, in accordance with legislative extensions approved by the County Council.

Pursuant to the findings presented above, staff recommends that the Planning Board approve a one-year extension.