

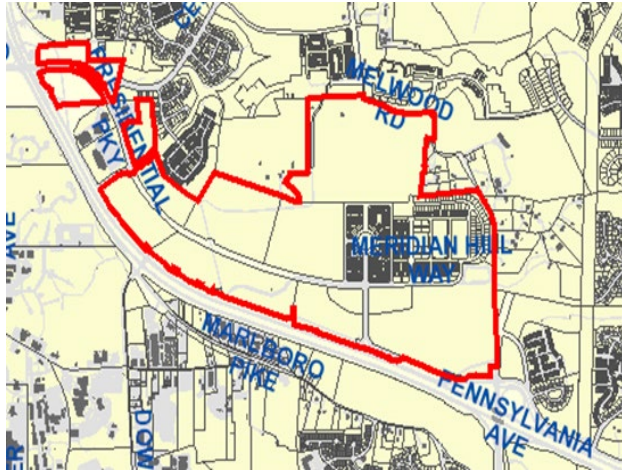


The Maryland-National Capital Park and Planning Commission  
Prince George's County Planning Department  
Development Review Division  
301-952-3530

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

# Preliminary Plan of Subdivision Westphalia Center

4-08002

REQUEST		STAFF RECOMMENDATION	
Extension of preliminary plan of subdivision validity period.		APPROVAL of six-year extension	
<b>Location:</b> North of MD 4 (Pennsylvania Avenue), from the Suitland Parkway interchange to the Woodyard Road interchange.			
Gross Acreage:	482.57		
Zone:	TAC-E/MIO		
Prior Zone:	M-X-T/M-I-O		
Reviewed per prior Subdivision Regulations:	Section 24-1704(a)		
Gross Floor Area:	5,900,000 sq. ft.		
Lots:	1,352		
Parcels:	211		
Planning Area:	78		
Council District:	06		
Municipality:	N/A		
<b>Applicant/Address:</b> The Walton Companies Attn: Steve Krupinski 8800 North Gainey Center Drive, Suite 345 Scottsdale, AZ 85258		Planning Board Date:	12/07/2023
<b>Staff Reviewer:</b> Mridula Gupta <b>Phone Number:</b> 301-952-3504 <b>Email:</b> Mridula.Gupta@ppd.mncppc.org		Planning Board Action Limit:	N/A
		Mandatory Action Timeframe:	N/A
		Memorandum Date:	11/29/2023
		Date Filed:	11/15/2023
		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.

November 29, 2023

**MEMORANDUM**

TO: The Prince George's County Planning Board

FROM: Mridula Gupta, Planner IV, Subdivision Section  
Development Review Division

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

SUBJECT: **Preliminary Plan of Subdivision 4-08002  
Westphalia Center  
Extension Request**

This preliminary plan of subdivision (PPS) was approved by the Prince George's County Planning Board on June 4, 2009, and the resolution of approval was adopted on June 25, 2009 (PGCPB Resolution No. 09-93). This PPS was approved for 1,352 lots and 211 parcels and was valid through December 31, 2021, due to prior legislative extensions of the validity period. By letter dated October 26, 2021, William M. Shipp of O'Malley, Miles, Nylen & Gilmore, P.A., requested a six-year extension until December 31, 2027. However, only a two-year extension was available to the PPS; this extension was approved by the Planning Board on December 9, 2021. As a result, the PPS is valid until December 31, 2023. By letter dated November 15, 2023, William M. Shipp of O'Malley, Miles, Nylen & Gilmore, P.A., requests a six-year extension until December 31, 2029. This is the applicant's second extension request.

In accordance with Section 24-1704(a) of the Prince George's County Subdivision Regulations, subdivision approvals of any type remain valid for the period of time specified in the Subdivision Regulations under which the subdivision was approved. In addition, extensions of time which were available under those Subdivision Regulations shall remain available. PPS 4-08002 was approved in accordance with the Subdivision Regulations which were in existence prior to April 1, 2022 (hereby referred to as prior Subdivision Regulations).

Section 24-119(d)(5) and (6) of the prior Subdivision Regulations authorizes the Planning Board to grant an extension to the normal expiration of a PPS. In the instance of the subject PPS, the following criteria apply given the adoption of Prince George's County Council Bill CB-93-2021:

**Section 24-119(d)(6):**

**(A) An approved preliminary plan shall remain valid for (6) years from the date of its approval, unless extensions of the validity period are granted, of subdivision consisting of:**

- (i) more than four hundred (400) residentially zoned lots or dwelling units; or**
- (ii) more than one hundred and fifty (150) gross acres of commercially or industrially zoned land or land designated for nonresidential uses in any CDZ or M-X-T Zone; or**
- (iii) at least three hundred thousand (300,000) square feet or more of commercial or industrial development in any CDZ or M-X-T zoned project.**

The subject property was located in the prior Mixed Use-Transportation Oriented (M-X-T) Zone. The subject PPS exceeds the minimum development requirements to have been valid for six years and to be eligible for extension subject to the criteria below. This project is valid until December 31, 2023, due to prior legislative extensions and a two-year extension approved on December 9, 2021.

**(B) An extension of up to two (2) years from the expiration of an approved preliminary plan or any extension thereof may be granted by the Planning Board provided:**

- (i) Public infrastructure which was determined to be the developer's responsibility in accordance with the requirements of Section 24-122.01 and Section 24-124 has been constructed by the developer in order to accommodate all stages of development; or**

Staff find that a significant amount of the public infrastructure, for which the developer is responsible, in accordance with the PPS approval, and pursuant to the requirements of Sections 24-122.01 and 24-124 of the prior Subdivision Regulations, has been constructed for some areas and is progressing toward completion. This includes Presidential Parkway and the Woodyard Road interchange at MD 4, and roadways and stormwater management facilities internal to the subdivision. These major roadway improvements form the main access to Westphalia Center and accommodate all stages of development. Therefore, staff find this criterion to be met.

- (ii) The developer has been proceeding in a diligent manner to complete the development and has been unable, through no fault of the developer, to complete development within the time frame specified; or**

Staff find that the applicant has been proceeding with platting of the PPS since 2013, and portions of the development have been completed on the southern and eastern regions of the property. Namely, development of the

residential portion of Phase 1 of the Westphalia Town Center has been completed. Town Center East (Phases 2 and 3) has an approved detailed site plan (DSP), has been platted, and construction is ongoing. Town Center North has an approved DSP, and a portion has been platted. Amendments to the approved DSP have been filed since the last extension, to further the residential development in Town Center North.

Within the last two years, the applicant also filed and obtained approval of a PPS to increase the number of residential lots in Town Center North. In the same time period, a reconsideration of PPS 4-08002 was approved to revise the location of a future transit center.

To date, approximately two-thirds of single-family residential development has been approved. However, none of the commercial/retail development, which was to support more than the 4,000 dwellings proposed, has been approved. An application for nonresidential development, which included a fulfillment center, was previously filed and later withdrawn in response to community opposition. Thereafter, an application for two warehouse buildings was filed through Detailed Site Plan DET-2022-001, and was denied by the Prince George's County District Council in May 2023. Presently, a development proposal for infrastructure for the retail component of Phase 1 (DSP-22042) is tentatively scheduled for a Planning Board hearing on December 14, 2023. Based upon the illustrative plan for the proposed retail development in Phase 1, approximately 146,000 square feet of commercial development, a 100-room hotel, and 454 dwelling units are proposed. However, the current development proposal, if approved, could be significantly delayed should the PPS validity not be extended.

The applicant provides that the size and complexity of the project, fluctuations in the private market, and reduced demand for commercial space post-COVID have caused delays beyond their control. The legislative extensions granted account for market conditions which enabled this PPS to remain valid for an initial 12 years. Beyond that, the applicant cites various efforts to commence the nonresidential component of the project since their first extension request was granted. The applicant lists the two development proposals referenced in the previous paragraph, as evidence of their good faith effort to begin the nonresidential development. The applicant also refers to the extensive infrastructure already constructed, or currently funded, to further support their intent.

Therefore, staff find that the criteria above have been satisfied.

**(iii) A staging plan applied to the approval cannot be met as a result of government failure to extend necessary services or infrastructure;**

The applicant notes that two major off-site public improvements (MD 4 and Suitland Parkway interchange, and MD 4 and Westphalia Road interchange) which are not the responsibility of the applicant, are required for the development of the project. The applicant claims that the delay in the

completion of these necessary components of infrastructure by the responsible government agencies had led to the inability to attract commercial development to the property, but has not elaborated or provided evidence of such instances. Staff also note that the applicant has an option to complete improvements to the MD 4 and Westphalia Road intersection in lieu of paying a pro rata share of the cost of construction to the County (Condition 48.h. of PGCPB Resolution No. 09-93(A)).

Staff find that the applicant has not sufficiently demonstrated that the staging plan cannot be met as a result of government failure to extend necessary services or infrastructure. Therefore, this criterion has not been met.

- (C) Notwithstanding any provisions of this subsection to the contrary, from and after January 1, 2022, an extension of up to six (6) years from the expiration of an approved preliminary plan or any extension thereof may only be granted by the Planning Board subject to the provisions of Section(d)(6)(B)(i) through (iii) herein.**

As allowed under this provision, the applicant requests a six-year extension, which was made available after January 1, 2022, and thereafter.

Although justification for each of the criteria is indicated above, only one of the criteria under Section 24-119(d)(6)(B) of the prior Subdivision Regulations is required to be met in order to grant the extension. Staff find that the criteria under subsections (B)(i) and (B)(ii) have been met, and pursuant to the findings presented above, staff recommend that the Planning Board approve a six-year extension until December 31, 2029. Staff note that this PPS received an automatic certificate of adequacy, pursuant to Section 24-1704(g) of the Subdivision Regulations, which is valid until April 1, 2034.