



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

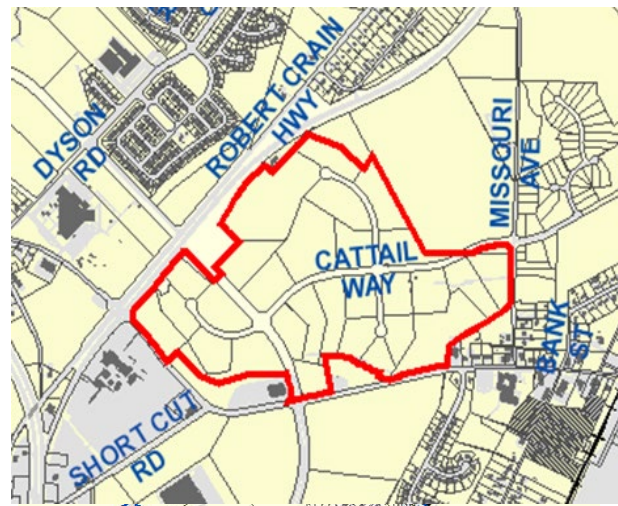
Note: Staff reports can be accessed at <http://mncppc.iqm2.com/Citizens/Default.aspx>

Preliminary Plan of Subdivision Stephen's Crossing at Brandywine

4-11004

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

Location: Southeast of the intersection of US 301 (Robert Crain Highway) and MD 381 (Brandywine Road).	
Gross Acreage:	169.34
Zone:	M-X-T/M-I-O
Gross Floor Area:	300,000 sq. ft.
Dwelling Units:	1,295
Lots:	379
Parcels:	73
Outlots	1
Planning Area:	85A
Council District:	09
Election District:	11
Municipality:	N/A
200-Scale Base Map:	217SE07, 217SE08, 218SE07, 218SE08
Applicant/Address: Route 301 Industrial CPI LTD Partnership PO Box 740 Warrenton, VA 20188	
Staff Reviewer: Antoine Heath Phone Number: 301-952-3554 Email: Antoine.Heath@ppd.mncppc.org	



Planning Board Date:	01/13/2022
Planning Board Action Limit:	N/A
Mandatory Action Timeframe:	N/A
Memorandum Date:	12/29/2021
Date Filed:	11/22/2021
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/.
Please call 301-952-3530 for additional information.

December 29, 2021

MEMORANDUM

TO: The Prince George's County Planning Board

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

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

SUBJECT: **Preliminary Plan of Subdivision 4-11004
Stephen's Crossing at Brandywine
Extension Request**

This preliminary plan of subdivision (PPS) was approved by the Prince George's County Planning Board on October 2, 2014, and the resolution of approval was adopted on October 23, 2014 (PGCPB Resolution No. 14-110(C)). This PPS was approved for 379 lots, 73 parcels, and 1 outlot and is valid through December 31, 2021, due to prior legislative extensions of the validity period. By letter dated October 29, 2021, Edward C. Gibbs, Jr of the Law Offices of Gibbs and Haller, requests a six-year extension until December 31, 2027. This is the applicant's first extension request.

Section 24-119(d)(5) and (6) of the Prince George's County 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 criteria below apply given the recent adoption of Prince George's County Council Bill CB-93-2021. The criteria, which may be considered, are shown in bold text and staff analysis of conformance to each criterion is given in plain text.

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 PPS exceeds the minimum development requirements to have been valid for six years and to be eligible for extension subject to the criteria below. Specifically, the subject property consists of more than 150 gross acres in the Mixed Use-Transportation Oriented Zone and was approved for development consisting of 1,295 dwelling units and 300,000 square feet of commercial development. This project has remained valid for seven years due to prior legislative extensions.

(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**

No public infrastructure, which the developer is responsible for in accordance with the PPS approval, and pursuant to the requirements of Section 24-122.01 and Section 24-124 of the Subdivision Regulations, has been constructed. Therefore, staff finds this criterion has not been 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**

The applicant has indicated that litigation, in part, has prevented the completion of the development. Following the approval of the PPS, the Friends of Croom Civic Association and others filed a petition for judicial review in the Circuit Court for Prince George's County in opposition to the proposed development. The Planning Board's decision was upheld by the court in November 2015. However, opponents of the proposed development filed an appeal to the Maryland Court of Special Appeals, which also upheld the Planning Board's decision, in May 2017.

The applicant also indicated that environmental issues associated with wetlands on the site have also played a part delaying the development. In accordance with the findings and condition of PPS 4-11004, the applicant was required to designate 5.85 acres of the subject site as an outlot, due to wetlands on the eastern portion of

the property that were not previously identified. This required that development of this outlot be subject to a new PPS (4-15011), which was approved in 2016. Further, PPS 4-11004 is bisected by two rights-of-way, which are needed to access the site. These are Mattawoman Drive and Cattail Way. The PPS requires Cattail Way be constructed prior to Mattawoman Drive. However, Cattail Way bisects the boundaries of PPS 4-15011, which has been delayed due to the environmental issues. In order for the subject development design and implementation to begin, these environmental issues are required to be addressed. The applicant provided and exhibit with the request letter which indicates that the wetland permit submitted in 2012 was denied in 2015 due to insufficient information. This required a new application to be filed. In 2016, the Maryland Department of the Environment (MDE) and the United States Army Corps of Engineers (USACOE) conducted a field review determining the wetland delineation was incorrect and requested a re-delineation.

The applicant provided further exhibits detailing the continuous pursuit of approvals for the subject site in chronological order from 2005–2021. According to the extensive exhibits provided, multiple field reviews, and revisions to drawings, meetings have taken place since prior to the PPS approval through 2021 in order to coordinate the required environmental information and approvals from MDE and the USACOE. However, the process has taken longer than anticipated and delays by the reviewing agencies have not been the fault of the applicant. In light of this information, staff finds that the applicant has been proceeding in a diligent manner to complete the development, and that the criteria above has 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 has not put forth any information that would indicate that the staging plan cannot be met as a result of government failure to extend necessary services or infrastructure. 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.

The applicant has requested a six-year extension and staff finds that the requisite provision for granting the extension has been met. Given the size of the project, infrastructure improvements needed, and inability to have begun developing the property thus far is justification to grant the six-year extension.

Although justification for each of the criteria is analyzed above, only one of the criteria under Section 24-119(d)(6)(B) of the Subdivision Regulations is required to be met in order to grant the extension. Pursuant to the findings presented above, staff recommends that the Planning Board approve the requested six-year extension.