



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>

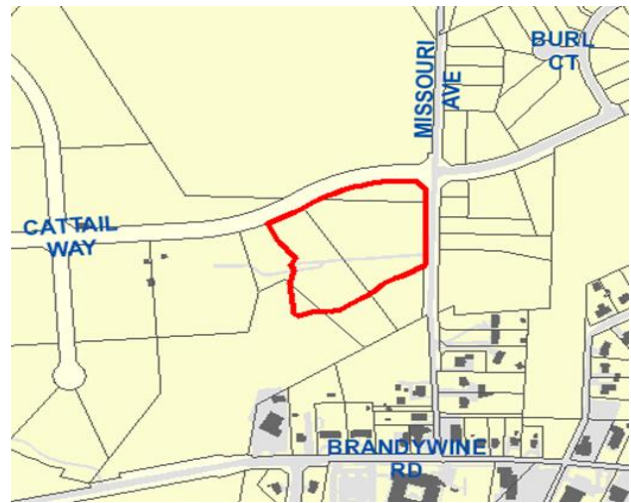
Preliminary Plan of Subdivision

4-15011

Stephen's Crossing at Brandywine, Outlot W

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

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|---|--------------------|
| Location: Southeast of the intersection of US 301 (Robert Crain Highway) and MD 381 (Brandywine Road). | |
| Gross Acreage: | 7.12 |
| Zone: | RMF-48 |
| Prior Zone: | M-X-T |
| Reviewed per prior Subdivision Regulations: | Section 24-1704(a) |
| Gross Floor Area: | N/A |
| Dwelling Units: | 56 |
| Lots: | 56 |
| Parcels: | 9 |
| Planning Area: | 85A |
| Council District: | 09 |
| Municipality: | N/A |
| Applicant/Address: Route 301 Industrial CPI LTD Partnership PO Box 740 Warrenton, VA 20188 | |
| Staff Reviewer: Eddie Diaz-Campbell Phone Number: 301-952-3665 Email: Eddie.Diaz-Campbell@ppd.mncppc.org | |



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|------------------------------|------------|
| Planning Board Date: | 01/12/2023 |
| Planning Board Action Limit: | N/A |
| Mandatory Action Timeframe: | N/A |
| Memorandum Date: | 12/05/2022 |
| Date Filed: | 11/18/2022 |
| 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.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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

December 5, 2022

MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Eddie Diaz-Campbell, Planner II, Subdivision Section *EDC*
Development Review Division

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

SUBJECT: **Preliminary Plan of Subdivision 4-15011
Stephen's Crossing at Brandywine, Outlot W
Extension Request**

This preliminary plan of subdivision (PPS) was approved by the Prince George's County Planning Board on December 3, 2015 and the resolution of approval was adopted on January 7, 2016 (PGCPB Resolution No. 15-129). This PPS was approved for 56 lots and 9 parcels for development of 56 townhouse dwelling units and is valid through December 31, 2022, due to prior legislative extensions of the plan's validity period. By letter dated November 17, 2022, Edward C. Gibbs, Jr of the Law Offices of Gibbs and Haller, requests a one-year extension until December 31, 2023. This is the applicant's first extension request.

It is noted that the subject PPS is associated with the overall 169.34-acre Stephen's Crossing at Brandywine development, which is subject to PPS 4-11004. The Planning Board approved a six-year extension of the validity period of 4-11004 on January 13, 2022. However, 4-15011 supersedes 4-11004 for the 7.12 acres of the subject site. The subject PPS must receive a separate extension to remain valid.

PPS 4-15011 was approved under the provisions of both the prior Prince George's County Zoning Ordinance and Prince George's County Subdivision Regulations. Pursuant to Section 24-1704(a) of the Subdivision Regulations, the subdivision approval is valid for the period of time specified under the prior Subdivision Regulations. Extensions of time available under the prior Subdivision Regulations remain available. Therefore, the applicant's request for an extension to December 31, 2023 may be approved if the relevant criteria in the prior Subdivision Regulations are met.

Sections 24-119(d)(5) and (6) of the prior Subdivision Regulations authorize the Planning Board to grant an extension to the normal expiration of a PPS. Specifically, for the subject PPS, Section 24-119(d)(5)(A)(i) through (v) provide the required findings for the Planning Board to grant an extension of the plan's validity period because the PPS consists of less than 100 residentially zoned lots. The criteria that must be considered are shown in **BOLD** text and staff's analysis is provided in plain text.

Section 24-119(d)(5):

(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;

This extension request was filed on November 18, 2022, prior to the expiration of the plan on December 31, 2022. Therefore, this criterion is met.

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

The property was in the Mixed Use-Transportation Oriented (M-X-T) Zone at the time of the PPS approval, and now, under the current Zoning Ordinance, it is in the Residential Multifamily-48 (RMF-48) Zone. At the time the PPS was reviewed and approved in 2015, the standards of the M-X-T Zone and the requirements of the prior Zoning Ordinance (prior Subtitle 27) applied. Pursuant to Section 24-1703(d) of the current Subdivision Regulations, so long as the PPS remains valid, the project may proceed to the next steps in the approval process and continue to be reviewed and decided under the prior Zoning Ordinance. Therefore, the standards of the prior M-X-T Zone and the requirements of the prior Subtitle 27 continue to apply. The PPS remains in conformance with these prior requirements, and so staff finds this criterion is met.

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

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 played a part delaying the development. In accordance with the findings and condition of PPS 4-11004, the applicant was required to designate a portion of the Stephen's Crossing 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, ultimately resulting in the submission and approval of PPS 4-15011. Further, construction of the collector road Cattail Way, which is required to provide access to the development within 4-15011, has been delayed due to the environmental issues. These environmental issues must be addressed for the subject development to proceed to the next steps in the approval process.

The applicant provided an exhibit with the extension request letter (included on pages 317–320 of the backup of this staff memorandum) 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's exhibit details the continuous pursuit of approvals for the subject site in chronological order from 2005–2021. According to this exhibit, multiple field reviews, revisions to drawings, and meetings have taken place since prior to the PPS approval through 2021, to coordinate the required environmental information and approvals from MDE and USACOE. However, the process has taken longer than anticipated, and delays by the reviewing agencies have not been the fault of the applicant. A detailed site plan (DSP-20050) covering the area of this PPS, which is required prior to the approval of final plats, could not be approved until March 31, 2022. In light of this information, staff finds that two years has not been enough time to prepare the final plats.

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

The issues related to litigation and protection of the on-site wetlands described above have protracted the development of the overall Stephen's Crossing at Brandywine project and caused the more than six-year delay between the approval of the PPS and the approval of the DSP. This was not an undue delay because the issues needed to be addressed before the development could move forward. Less than a year has elapsed since approval of the DSP, and the applicant will

now need time to ensure the conditions of the PPS applicable at the time of final plat are met. Therefore, staff finds that the applicant has not been unduly delaying the filing of the final plat.

- (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;**

The PPS consists of less than 100 residential lots, and so, this criterion is applicable. This is the first extension requested by the applicant for this PPS, and it is not for more than one year. Therefore, the criterion is met.

Pursuant to the findings presented above, staff recommends that the Planning Board approve a one-year extension. If a one-year extension is approved, the PPS will be valid through December 31, 2023.