



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 Lusby's Lane

4-17014

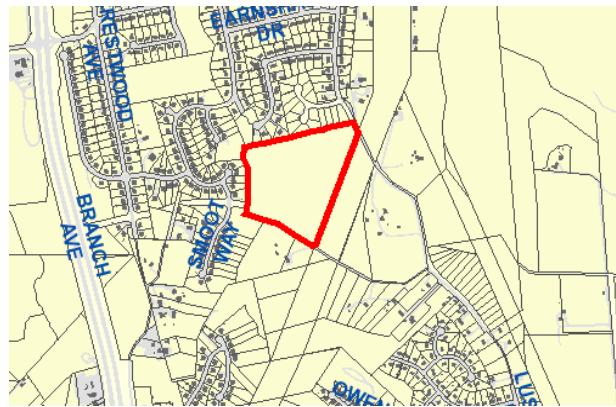
REQUEST	STAFF RECOMMENDATION
Extension of the preliminary plan of subdivision validity period.	APPROVAL of one-year extension

Location: On the west side of Lusby's Lane, approximately 950 feet south of its intersection with Lusby's Turn.

Gross Acreage:	32.13
Zone:	RR/MIO
Prior Zone:	R-R/M-I-O
Reviewed per prior Subdivision Regulations:	Section 24-1704(a)
Gross Floor Area:	N/A
Dwelling Units:	29
Lots:	29
Parcels:	6
Planning Area:	85A
Council District:	09
Municipality:	None

Applicant/Address:
Tristate Development LLC
611 Live Oak Drive
McLean, VA 22101

Staff Reviewer: Eddie Diaz-Campbell
Phone Number: 301-952-3665
Email: Eddie.Diaz-Campbell@ppd.mncppc.org



Planning Board Date:	03/02/2023
Planning Board Action Limit:	N/A
Mandatory Action Timeframe:	N/A
Memorandum Date:	02/15/2023
Date Filed:	01/26/2023
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/. 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

February 15, 2023

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 4-17014
Lusby's Lane
Extension Request**

This preliminary plan of subdivision (PPS) was approved by the Prince George's County Planning Board on February 4, 2021, and the resolution of approval was adopted on March 4, 2021 (PGCPB Resolution No. 2021-18). This PPS was approved for 29 lots and 6 parcels, for development of 29 single-family detached dwelling units, and is valid through March 4, 2023. By letter dated January 6, 2023, Matthew C. Tedesco, representing Tristate Development LLC, requests a one-year extension until March 4, 2024. This is the applicant's first extension request.

PPS 4-17014 was approved under the provisions of the prior Prince George's County Zoning Ordinance and 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 March 4, 2024 may be approved, if the relevant criteria in the prior Subdivision Regulations are met.

Sections 24-119(d)(5)(A) of the prior Subdivision Regulations authorize the Planning Board to grant an extension to the normal expiration of a PPS. The criteria that must be considered are shown in **BOLD** text and staff's analysis of conformance to each criterion 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 January 26, 2023, prior to expiration of the plan on March 4, 2023. 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 located in the Rural Residential (R-R) and Military Installation Overlay (M-I-O) Zones, at the time of PPS approval in 2021. Under the current Zoning Ordinance, the property remains in the equivocal versions of those zones (RR and MIO). At the time of PPS approval, the requirements of the prior Zoning Ordinance 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 requirements of the prior Subtitle 27 continue to apply. The PPS remains in conformance with these prior requirements, and staff find this criterion is met.

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

The applicant has indicated that they are neither a developer nor a builder, and do not have the capability on their own to pursue the technical requirements of filing a final plat, including creating the necessary drawings. The applicant was not able to sign an agreement with a builder who would complete the final plat and ultimately buy the land and build the development, until May 6, 2022, more than a year after the PPS approval. Then, on September 19, 2022, the builder backed out of the agreement with the applicant, without having bought the land or completed the final plat. At present, the applicant has no buyer for the land, but has re-engaged the engineering firm they partnered with to complete the PPS drawings, in order to complete the final plat drawings. In theory, the applicant could have engaged the original engineering firm right after the PPS approval, in order to complete the final plat drawings more quickly. However, staff believe the applicant acted reasonably by seeking a builder first, given that a builder could absorb the expense of

creating and filing final plats better than they could. The applicant could not have foreseen the difficulties they would face finding and retaining a builder/buyer. Given the above, staff find that two years was not enough time for the applicant to prepare a final plat.

There are some remaining issues that must be addressed before a final plat can be filed, including a title issue described by the applicant related to dedication of right-of-way for Lusby's Lane and the conditions of approval of the PPS, which must be met prior to approval of the final plat. Approval of a one-year extension would give the applicant the time needed to address these remaining issues and file the plat.

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

Filing of the final plat has been delayed for reasons beyond the applicant's control, including their lack of necessary expertise to complete the plats, their engagement with experts who backed out of an agreement to help them, and discovery of the aforementioned title issue, which did not come to light until the applicant re-engaged the original engineering firm. Despite these setbacks, the applicant is currently pursuing final plat approval. Therefore, staff finds that the applicant is not unduly delaying 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, 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 recommend that the Planning Board approve a one-year extension. If a one-year extension is approved, the PPS will be valid through March 4, 2024.