



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

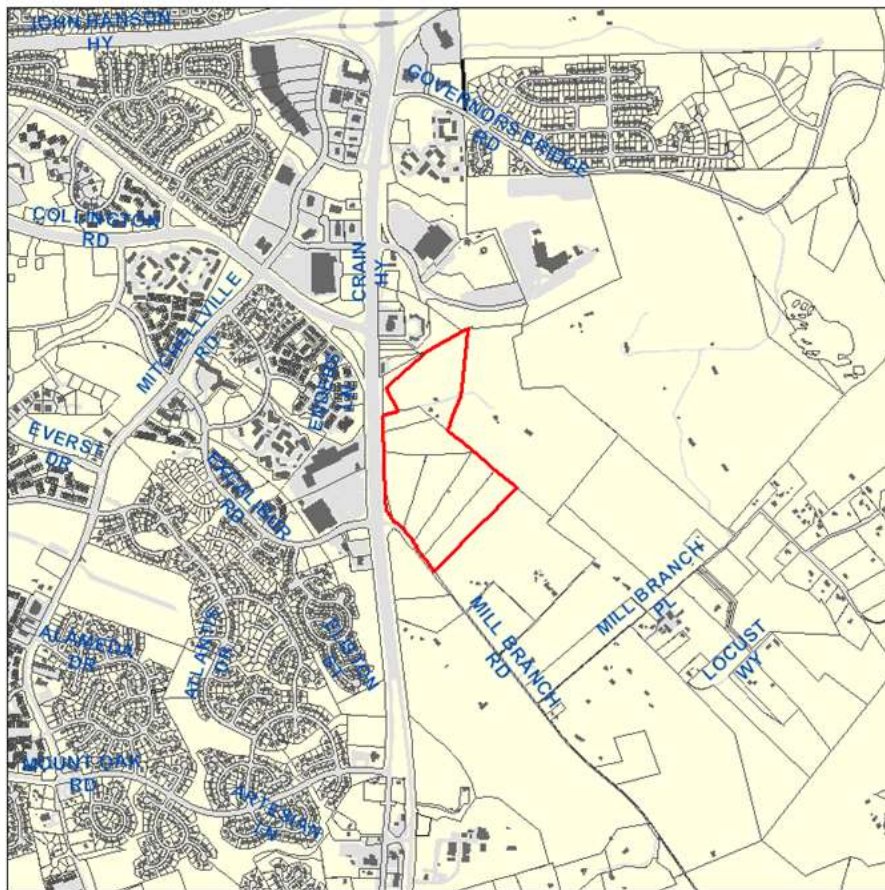
## Preliminary Plan 4-08052

### Waiver of Rules of Procedure, Reconsideration Request and Reconsideration Hearing

Application	General Data	
<b>Project Name:</b> Mill Branch Crossing  <b>Location:</b> Northeast quadrant of the intersection of Robert S. Crain Highway (MD 301) and Mill Branch Road.  <b>Applicant/Address:</b> Mill Branch Crossing, LTD. 150 White Plains Road, Suite 400 Tarrytown, NY 10591  <b>Property Owner:</b> Mill Branch Crossing, LTD. 150 White Plains Road, Suite 400 Tarrytown, NY 10591	Planning Board Hearing Date:	12/17/15
	Memorandum Date:	12/08/15
	Date Received:	11/19/15
	Planning Board Action Limit:	N/A
	Mandatory Action Timeframe	12/18/15
	Plan Acreage:	73.98
	Zone:	C-S-C
	Gross Floor Area:	800,000 sq. ft.
	Lots/Dwelling Units:	N/A
	Parcels:	1
	Planning Area:	74B
	Council District:	04
	Election District	07
	Municipality:	City of Bowie
	200-Scale Base Map:	205NE14/15

Purpose of Application	Notice Dates	
Waiver of Rules of Procedure Reconsideration Request – Disapproval Reconsideration Hearing – Disapproval	Previous Parties of Record (Applicant)	11/18/15
	Previous Parties of Record (M-NCPPC)	12/07/15

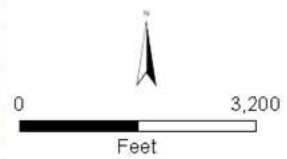
<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Whitney Chellis <b>Phone Number:</b> 301-952-4325 <b>E-mail:</b> Whitney.Chellis@ppd.mncppc.org	
<b>APPROVAL</b>	<b>APPROVAL WITH CONDITIONS</b>	<b>DISAPPROVAL</b>	<b>DISCUSSION</b>
		<b>X</b>	



## SITE VICINITY MAP

### Legend

- Site Boundary
- Property
- Building
- Bridge
- Pavement
- Railroad Line



The Maryland-National Capital Park and Planning Commission  
Prince George's County Planning Department  
Geographic Information System

Created: December 1, 2008

December 8, 2015

**MEMORANDUM**

TO: Prince George's County Planning Board

FROM: Whitney Chellis, Supervisor, Subdivision Review Section, Development Review Division

SUBJECT: Reconsideration Request and Hearing for Mill Branch Crossing 4-08052

The applicant requests a reconsideration of the June 25, 2015 action of the Prince George's County Planning Board granting a one-year extension of the validity period of the preliminary plan of subdivision (PPS).

The PPS at hand was approved by the Planning Board and the resolution (PGCPB No. 09-85) adopted on June 18, 2009. The two-year validity period provided for in Section 24-119 of the Subdivision Regulations carried the validity period to June 18, 2011. With the enactment of five District Council Bills (CB-008-2009 (one year), CB-007-2010 (one year), CB-008-2011 (two years), CB-070-2013 (two years), and CB-080-2015 (2-years)), the validity period for this PPS has been legislatively extended until December 31, 2017, or six years beyond what the code would normally provide (24-119), for a total validity period of eight years, notwithstanding the one-year extension granted by the Planning Board, which runs concurrently with the legislative extension.

The applicant requests that the Planning Board reconsider its approval of the one-year extension of the validity period granted on June 25, 2015 because that action is running concurrently with the legislative extension. The provision, which results in the concurrent running of the validity period, is derived from the legislation and has existed in each of the five council bills enacted by the District Council. If the Planning Board reverses its action on the extension granted on June 25, 2015, the applicant will then have the opportunity to come back to the Planning Board and ask for the extension (24-119) back, extending the validity period further until December 31, 2018, resulting in an ultimate validity period of nine years.

The Planning Board Rules of Procedure state [a]:

**Reconsideration may only be granted if, in furtherance of substantial public interest, the Board finds that an error in reaching the original decision was caused by fraud, surprise, mistake, inadvertence or other good cause.**

The applicant, in their request dated November 18, 2015 (LaRocca to Hewlett), offers that:

“[T]he basis for the reconsideration (Section 10.(C)) is surprise that the Prince George’s County District Council agreed to further extend the validity of preliminary plans.”

Staff does not agree that the request to reconsider the extension granted by the Planning Board is in furtherance of substantial public interest, and offers that the public interest is best served by the action of the District Council in the adoption of the extension bill(s), which did not suspend any action of the Planning Board in subdivision matters, and is intended to run concurrently with the Subdivision Regulations (CB-080-2015, Section 1).

Each year since 2010, in anticipation of the possibility that a further legislative extension would be proposed prior to the December 31 expiration, staff received PPS extension requests as early as August. In those cases, the extension is held in a pending status until there is certainty whether the District Council will again extend validity periods. As specifically stated in the Council bills, any Planning Board extension would run concurrently with a legislative extension, which is common knowledge. In fact, this year, staff had eight extensions filed as early as August that were being held in a pending status until November 27, 2015, which is the day that CB-080-2015 became law. This applicant chose to proceed to the Planning Board with their request.

Further, staff does not believe that the Planning Board erred in reaching their original decision because of surprise. In fact the District Council had enacted the same legislative extensions for preliminary plans four times (at the time of approval of the extension) over the last six years, since 2009 (CB-008-2009 (one year), CB-007-2010 (one year), CB-008-2011 (two years), and CB-070-2013 (two years)), not including this year’s legislation, CB-080-2015, which is another two-year extension bill.

Staff recommends that the Planning Board not grant the request for reconsideration, and recommends disapproval of the reconsideration.