



Site Plan No. 820130250: Crystal Rock Drive and Century Boulevard (Including a Forest Conservation Plan)

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Staff Report Date: 06/14/13

Description

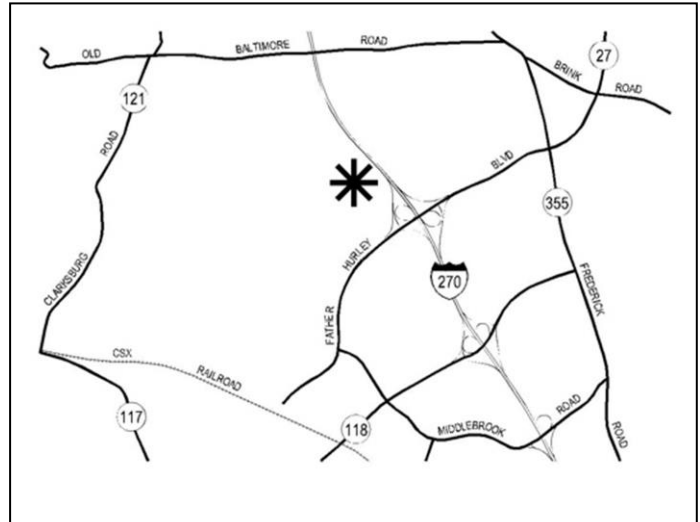
Site Plan No. 820130250: Crystal Rock Drive and Century Boulevard (Including a Forest Conservation Plan)

Construction of an extension to Crystal Rock Drive and Century Boulevard, located north of Father Hurley Boulevard/Ridge Road (MD 27) between Crystal Rock Drive and I-270, TMX-2 Zone, Sector Plan for the Germantown Employment Area

Staff Recommendation: Approval with Conditions

Application Filing Date: May 19, 2013

Applicant: North Village - 270 Ltd. Partnership Lerner Enterprises



Summary

This Site Plan Application is to allow construction of Crystal Rock Drive and Century Boulevard including consideration of a Final Forest Conservation Plan within the Crystal Rock development.

- The area covered by this Site Plan and Final Forest Conservation Plan is limited to the limits of disturbance required to construct Crystal Rock Drive and Century Boulevard including necessary utilities and placement of excess soil.
- No building construction is associated with this Site Plan Application; it will allow the Final Forest Conservation Plan to proceed to the Planning Board prior to preparation of sediment and erosion control permits for the public road construction.
- The alignment of the proposed public roads (Crystal Rock Drive and Century Boulevard) is in substantial conformance with alignment and right-of-way sections shown on the approved Preliminary Plan and Project Plan.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 820130250, Crystal Rock Public Roads Infrastructure Plan, for the construction of Crystal Rock Drive, Century Boulevard, and related utilities on 6.69 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on June 12, 2013 are required except as modified by the following conditions.

Conformance with Previous Approvals

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan 920120040 as listed in the Planning Board resolution dated May 30, 2013.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 120120210 as approved by the Planning Board on June 13, 2013 unless amended.

Environment

3. Forest Conservation & Tree Save

- a. The proposed development shall comply with the conditions of the Final Forest Conservation Plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services issuance of sediment and erosion control permits. With the exception of clearing and grading activities allowed in Condition 4, no clearing or grading is permitted with the infrastructure plan.
- b. All Category I conservation easements must be recorded prior to and land disturbing activities.
- c. Record plat of subdivision shall reflect a Category I conservation easement over all areas of stream buffers and forest conservation.
- d. Conservation easements may be recorded using a metes and bounds description and sketch if preceding recordation of plats, provided the recording information for the conservation easement is referenced and the easement line is shown on subsequent record plats.
- e. Amendments to the forest conservation plan must be submitted and approved by the Planning Board with all future site plans, mandatory referrals, and special exceptions, prior to any clearing and grading.
- f. No encroachment into stream buffers for stormwater management facilities or sediment control facilities is allowed without permission of the Planning Board, except for necessary outfalls and temporary sediment control facilities in non-forested portions of the stream buffers. If at later stages of stormwater review and design it is determined that the stormwater management facility is not properly sized and must be enlarged to accommodate the proposed drainage areas, the applicant will have to find additional space outside the stream buffer. This may require the reconfiguration of layouts and loss of developable area.

4. Clearing and Grading

The following may proceed upon approval of the Infrastructure Site Plan, Sediment and Erosion Control Plans and Final Forest Conservation Plan: a) clearing and mass grading for

the roads , sewer, and staging and stockpiling being approved by this Infrastructure Plan; and installation of temporary sediment and erosion control devices. No construction of roads (not shown), buildings or retaining walls may proceed until subsequent certified Site Plan approvals for each individual Site Plan. Notwithstanding the above, clearing and grading activities may not be permitted beyond the limits of disturbance submitted as part of this Site Plan.

5. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated November 16, 2012 unless amended and approved by the Montgomery County Department of Permitting Services.

Site Plan

6. Transportation & Circulation

- a. The median within Century Boulevard will be extended to discourage left turning movements from the secondary intersections in close proximity of the traffic circle.
- b. Americans with Disabilities Act (ADA) ramps will be aligned to provide the shortest distance possible at pedestrian crossings.
- c. The pedestrian crossing near the intersection of Dorsey Mill Road and Century Boulevard will be improved with two ADA ramps.
- d. Pedestrian sidewalks must be a minimum of 5 feet or greater.
- e. All intersections with the primary roadways (i.e. Century Boulevard and Crystal Rock Drive) must all meet the minimum development standards. Two-lane streets will be a minimum of 22 feet wide to ensure adequate passing distance, and one-way streets will be a minimum of 20 feet wide.

7. Site Design

- a. The streetscape design and location of street trees along Century Boulevard and Crystal Rock Drive are subject to change as the next development phases are reviewed by Maryland National Capital Park and Planning Commission (M-NCPPC).
- b. The grading design along I-270 is subject to change when the respective Site Plan application is accepted and reviewed.

8. Landscaping

- a. Provide a temporary evergreen landscape buffer along the northeastern property boundary, directly adjacent to I-270.
- b. Provide landscape planting details.
- c. The landscape buffer along I-270 is intended to serve as a temporary screen and is subject to be modified with the review and approval of subsequent Site Plan applications.

9. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for commercial development.
- b. The height of the light poles within the public right-of-way will not exceed 20 feet including the mounting base.

10. Landscape Surety

The Applicant must provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety must include plant material. Surety to be posted prior to issuance of first building permit for the development, and will be tied to the development program.
- b. Provide a cost estimate of the materials, which, upon Staff approval, will establish the initial bond amount.
- c. Completion of plantings will be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

11. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- a. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- b. The development program must provide phasing for installation of landscaping and lighting.
- c. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

12. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

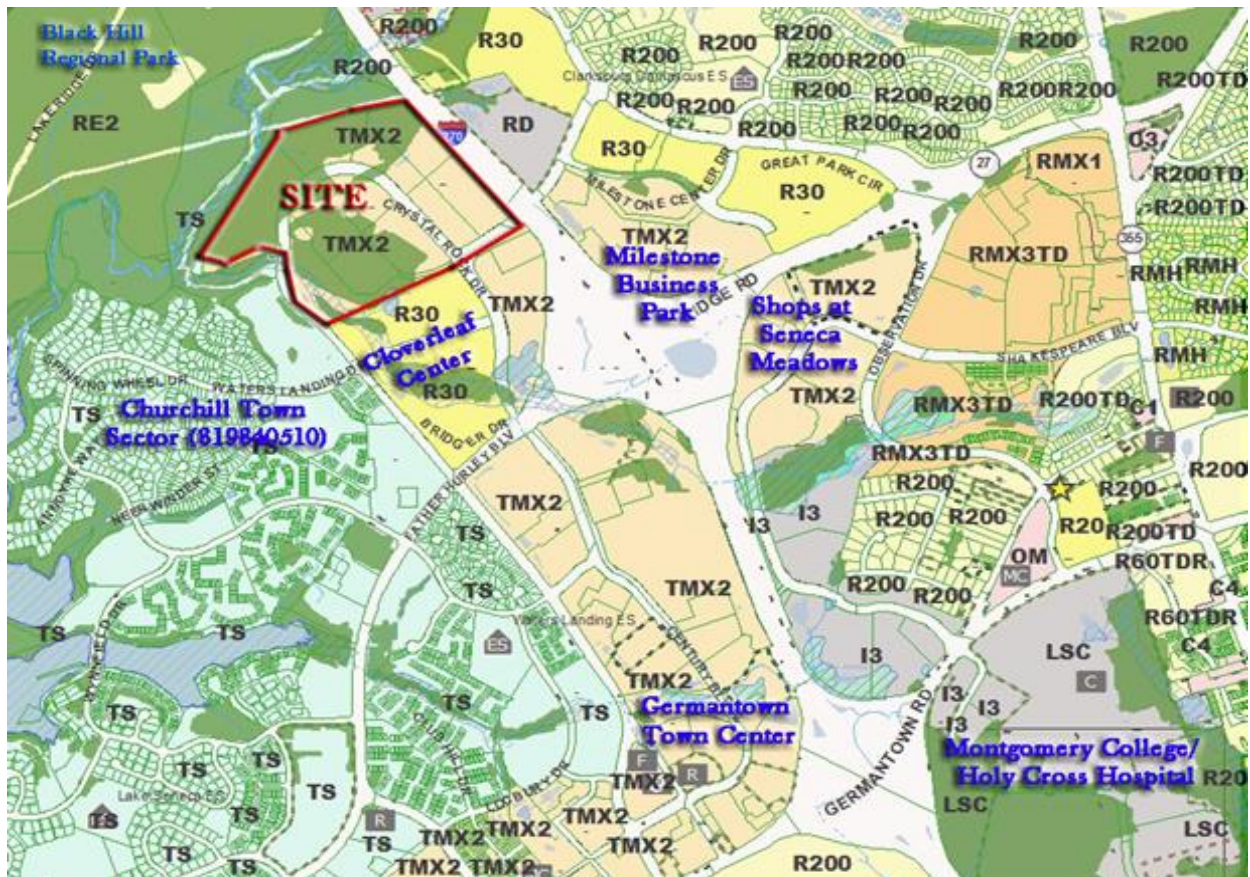
- a. Include the Final Forest Conservation approval, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Modify the Project Data Table to reflect development standards enumerated in the staff report.
- d. Ensure consistency of all details and layout between Site and Landscape Plans.

DISCUSSION

Vicinity

The subject property is approximately 107.7 acres in size and zoned TMX -2; located approximately 1.5 miles north of the Germantown Town Center, and 0.6 miles north of the interchange of Ridge Road/Father Hurley Boulevard (MD 27) and I-270 ("Property" or "Subject Property"). The Property is located west of I-270, south of Black Hills Regional Park (zoned Town Sector, TS) and north of the existing Cloverleaf townhouse development (zoned R-30). A tributary of Little Seneca Creek with a large stream buffer of trees is located on the western boundary of the Property in the TS Zone.

Local public facilities include the Germantown Library, the Montgomery College Campus with the new Holy Cross Hospital, Waters Landing Elementary School, Martin Luther King Jr. Middle School, Seneca Valley High School, and Black Rock Center for the Arts. The approved residential and commercial developments include the Churchill Town Sector (819840510, approved May 1984) zoned TS, Cloverleaf Center (No. 81998006B, approved February 2004) zoned R-30 and TMX-2, Milestone Business Park (No. 82001009C, approved February 2011) zoned I-3/TMX-2, and Shops at Seneca Meadows (No. 820100140, approved January 2011) zoned TMX-2.



Vicinity Map

Site Description

The Property is located in the northern portion of the Germantown Employment Area near the Corridor Cities Transit way (CCT), directly adjacent to Black Hill Regional Park and I-270. The Waters Landing Golf Driving Range (Site Plan No. 819950170) was developed as a temporary use on a portion of the Property (approximately 21.2 acres) in March 1995. The primary access point is Crystal Rock Drive; which dead ends at the golf driving range. The Property slopes from the northern boundary adjacent to I-270 toward the southern boundary directly adjacent to the existing townhouses, and naturally drains toward the Little Seneca Creek. The Property is partially forested (60 percent of the gross tract area). A tributary of Little Seneca Creek bisects the southern portion of the Property. There are no historic structures located on the Property. The existing development consists of a golf driving range, a surface parking lot, a maintenance shed, landscaping and lighting.



Aerial Photo

Previous Approvals

In accordance with the 1989 Germantown Master Plan, Preliminary and Site Plans were approved for the Lerner property with 1,300,000 square feet (sf.) of commercial space in the TS Zone (see Appendix D). As a condition of approval, the Applicant dedicated approximately 64 acres of the land towards open space (currently known as Black Hill Regional Park). The parkland dedication increased the size of the park, ensured a forested stream valley buffer, and extended the recreational opportunities and public amenities.

The zoning of the Property was changed from TS to TMX-2 in October 2009 as part of the adopted Sectional Map Amendment (SMA) following the approval of the Germantown Employment Area Sector Plan.

Project Plan 920120040 was approved on May 30, 2013 for a mixed-use development with a total of 3,284,000 square feet (0.7FAR), including 1,097,800 square feet of office use, 91,400 square feet of retail use, 243,240 square feet of hotel use, and 1,618 total residential units (including 190 MPDUs) on 107.70 acres of TMX-2 zoned land

Preliminary Plan 120120210 was approved on June 13, 2013 (resolution not yet adopted) for a mixed-use development with a total of 3,284,000 square feet (0.7FAR), including 1,097,800 square feet of office use, 91,400 square feet of retail use, 243,240 square feet of hotel use, and 1,618 total residential units (including 190 MPDUs) on 107.70 acres of TMX-2 zoned land.

Project Description

The Applicant seeks to construct the required Crystal Rock Drive and Century Boulevard (public roads within the property) as shown on the Preliminary Plan ahead of the development within the 6.69 acres of public rights-of-way including construction of public utilities ("Project"). The Project is to accommodate public street access required for the future development of approximately 1,097,800 square feet of office development, 243,240 square feet of hotel development, 1,851,560 square feet of residential development, and 91,400 square feet of retail space. The construction of Crystal Rock Drive and Century Boulevard is the first phase of six for the development of the Property.

Crystal Rock Drive and Century Boulevard are classified as main streets in the Germantown Employment Area Sector Plan. Their rights-of-way will be 100 feet wide and will accommodate four travel lanes, street trees, lawn panels, pedestrian scale lighting, on-street parking, and the Bicycle Beltway. They will also accommodate the required stormwater management for the public road surfaces.

Certain public utilities for the proposed development will also be constructed within Crystal Rock Drive and Century Boulevard as part of this Application. This includes water, sewer, storm drains, fire suppression, as well as electrical and communication lines that must be located within the paved portion of the right-of-way, or as otherwise required for purposes of permitting outside of the right-of-way. The Project also includes grading along I-270 to relocate topsoil from the construction of the public roads and the location of public water and sewer connections for future development.



Figure 1: Overall View of Proposed Public Roads

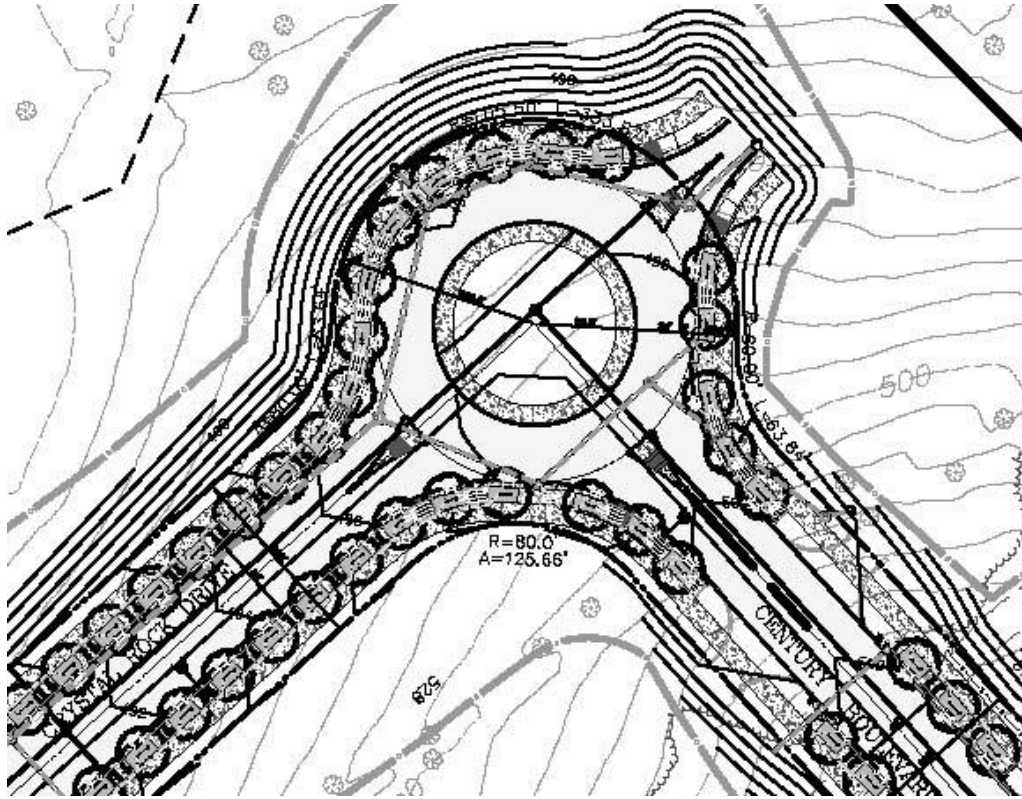


Figure 2: Traffic Circle at Intersection of Crystal Rock Drive and Century Boulevard

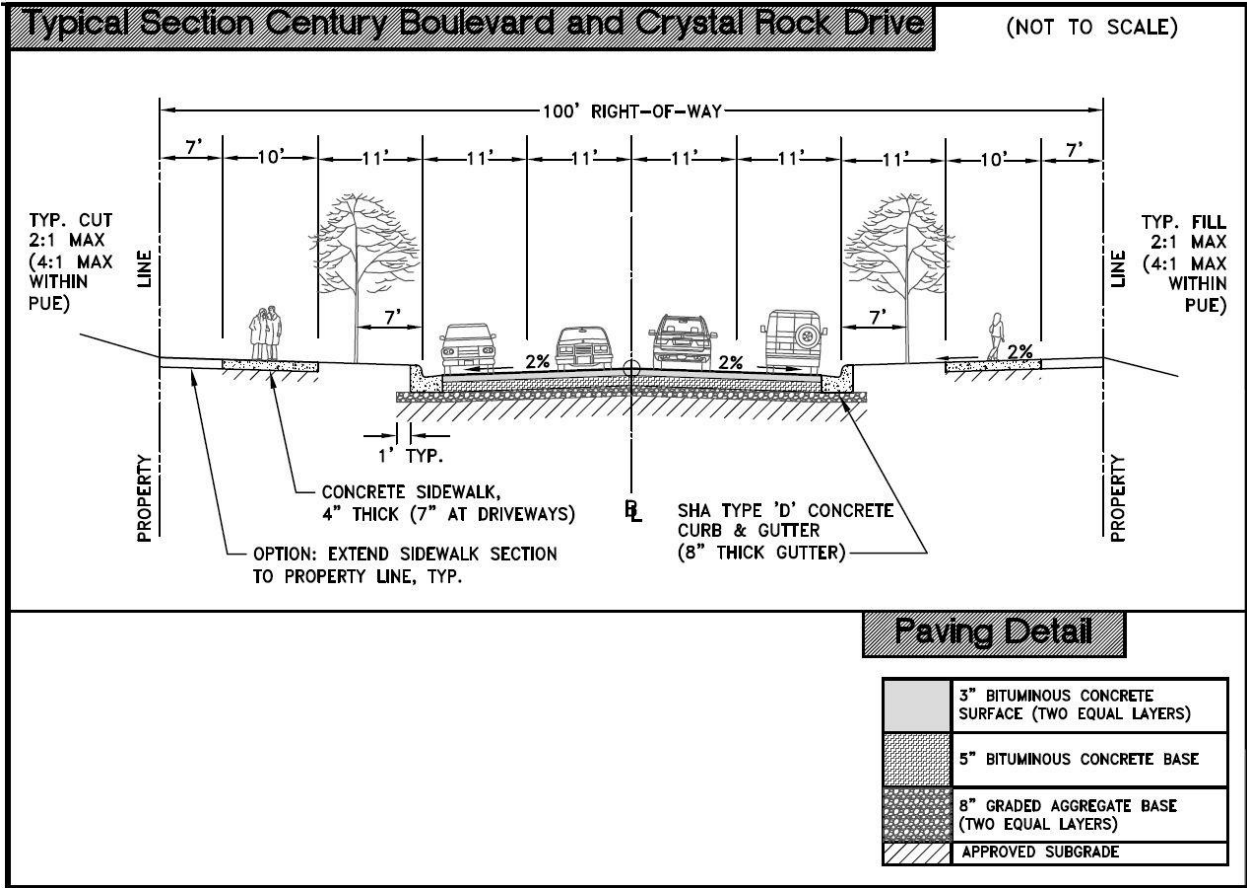


Figure 3: Typical Roadway Section

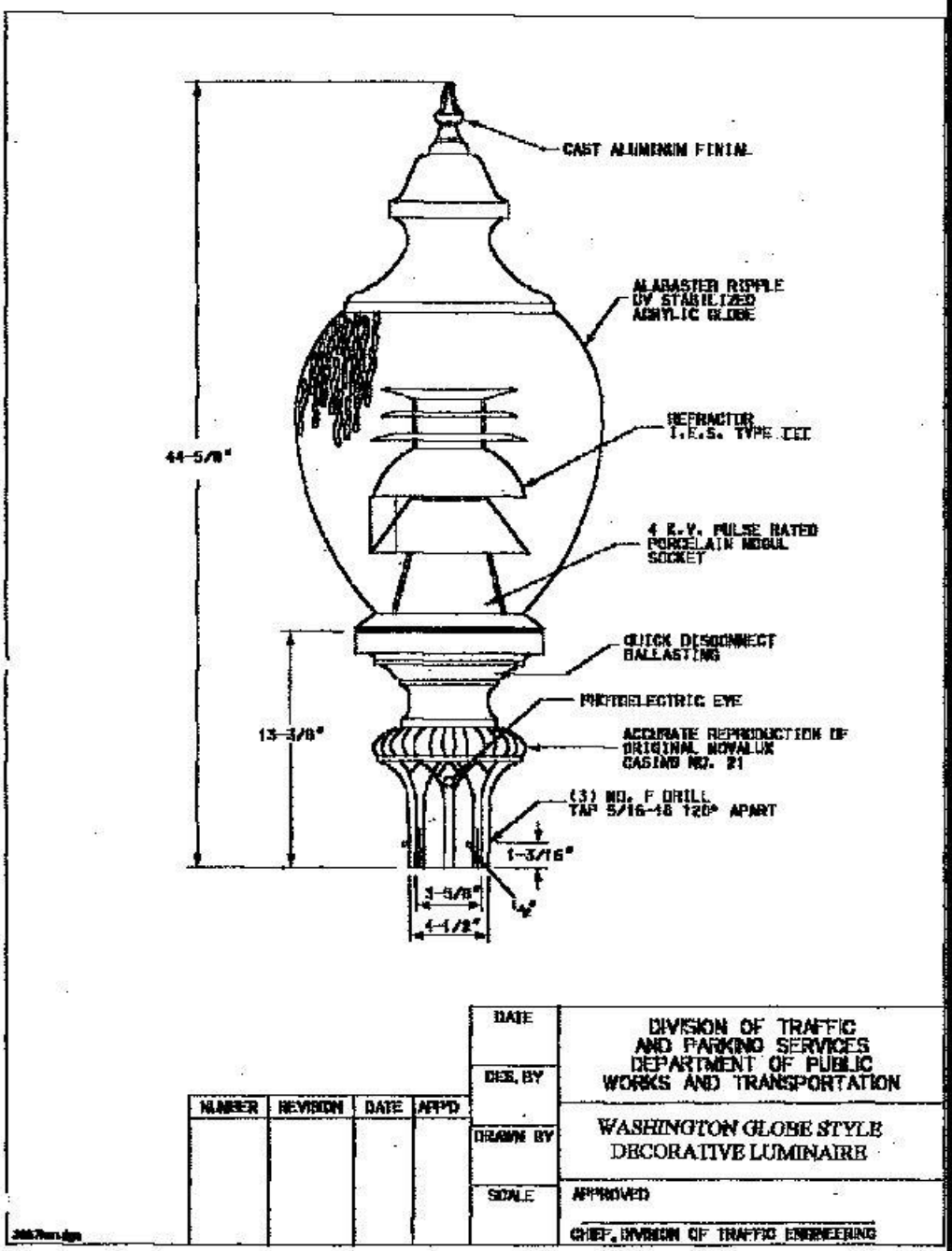


Figure 4: Proposed Street Light Fixture

ANALYSIS AND FINDINGS

1. The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.

The Project does not require development plan, diagrammatic plan, or a schematic development plan. The Subject Site Plan has an approved Project Plan (#920120040). The location and design of Crystal Rock Drive and Century Boulevard remain the same as approved in the Project Plan.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The proposed use is allowed in the TMX-2 Zone and this Site Plan fulfills the purposes of the zone by providing interconnected streets in order to facilitate the future construction of mixed-use development. The following Project Data Table compares the previously approved Project Plan with the modifications proposed Public Roads Infrastructure Plan. With respect to building height, setbacks, green space, and density the proposed development is unaffected with this Application.

SITE DATA		
SUBJECT PROPERTY:	CRYSTAL ROCK DRIVE & CENTURYB BOULEVARD RIGHT-OF-WAYS CHURCHILL TOWN SECTOR GERMANTOWN	
ZONING:	TMX-2 (TRANSIT MIXED USE)	
PROPOSED USE:	PUBLIC ROAD	
PROJECT AREA:	EX. ROAD RIGHT-OF-WAY ABANDONMENT = 308,919 S.F. OR 7.09 AC. ROAD DEDICATION = 291,453 S.F. OR 6.69 AC. CRYSTAL ROCK DR & CENTURY BLVD. LIMIT OF DISTURBANCE = 869,022 S.F. OR 19.95 AC.	
	REQUIRED/ALLOWED (TMX-2 ZONE)	APPROVED BY THE PLANNING BOARD AND BINDING BY THE APPLICANT
SITE AREA:		
TOTAL SITE AREA (TS & TMX-2 ZONES)	N/A	7,486,089 sf. 171.85 ac.
BLACK HILL PARK DEDICATION (TS ZONE)	2,794,504 sf. 64.15 ac.	2,794,569 sf. 64.15 ac.
GROSS TRACT AREA (TMX-2 ZONE)	N/A	4,691,520 sf. 107.70 ac.
PUBLIC R/W DEDICATION (CRYSTAL ROCK DR. & CENTURY BLVD. & DORSEY MILL RD.)	461,593 sf. 10.61 ac.	462,005 sf. 10.61 ac.
NET LOT AREA (TMX-2 ZONE)	N/A	4,229,515 sf. 97.10 ac.
MAX. FAR:		
COMMERCIAL USES	N/A	0.31 (1,432,440 sf.)
RESIDENTIAL USES	N/A	0.39 (1,851,560 sf.)
MAXIMUM TOTAL	0.7	0.70 (3,284,000 sf.)

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

There are no buildings, structures, open spaces, or recreational facilities associated with this Site Plan. This Site Plan is for approximately 6.69 acres of public rights-of-way, the construction of Crystal Rock Drive and Century Boulevard within those rights-of-way and the public utilities that are associated with this construction. Certain public utilities while not required for the use of the roadway will be constructed underneath the paving are linked to the physical construction of the roadway.

Crystal Rock Drive and Century Boulevard are classified as main streets in the Germantown Employment Area Sector Plan. Their rights-of-way will be 100 feet wide and will accommodate four travel lanes, street trees, lawn panels, pedestrian scale lighting, on-street parking (off-peak

only), and the Bicycle Beltway. They will also accommodate the required stormwater management for the roadway within and adjacent to the right-of-way. The construction proposed with this site plan is limited to the requirements necessary to construct Crystal Rock Drive and Century Boulevard the site impacts have been reduced to minimize ground disturbing activities. The Limits of Disturbance (LOD) was modified to save as much forest as possible until the next phase of development occurs. The alignment of both roadways is consistent with the approved Preliminary Plan and Project Plan.

The pedestrian and vehicular circulation systems are consistent with the Preliminary and Project Plans, and they are adequate, safe, and efficient. Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. The Site Plan proposes pedestrian sidewalks which will be a minimum of five feet wide. Safety is further enhanced with street trees and lighting fixtures, which will slow vehicular traffic. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation.

4. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

There are no proposed structures or new uses associated with this site plan. The construction of Crystal Rock Drive and Century Boulevard is consistent with the Germantown Employment Area Sector Plan, the approved Project Plan, and the approved Preliminary Plan.

The proposed roadway is compatible with the adjacent and confronting properties and uses as well as pending development plans. The completion of Crystal Rock Drive and Century Boulevard thought out the site will help realize the master plans connectivity goals and will also provide a pedestrian connection traversing the property.

The closest impact to an adjacent use is a storm drain outfall which runs along the southern border of the Property adjacent to the Kinster Road townhomes. While the majority of the pipe will be underground, the outfall of the pipe will need to be stabilized with rip-rap and will create visible area of approximately 30 feet by 35 feet. The storm drain outfall is a required element of the approved stormwater management plan and is required for the construction of the roadway. The impact is visual in nature and will be approximately four to six feet lower than the elevation of the adjoining properties.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable laws.*

The proposed development is subject to Chapter 22A and meets all the applicable requirements for forest protection and the Environmental Guidelines.

Forest Conservation

The Preliminary Forest Conservation Plan (PFCP) submitted and reviewed as part of the Project Plan proposed 31.20 acres of forest clearing and 33.90 acres of forest retention on 107.7 acres. Based on the land use category, the amount of existing forest, the amount of forest clearing, and the amount of forest

retention, the development shown on the Project Plan did not generate a planting requirement that is in addition to the amount of forest retained.

The Final Forest Conservation Plan (FFCP) submitted in conjunction with this Site Plan shows 31.20 acres of forest clearing and 33.90 acres of forest retention on 108.8 acres. The net tract area has increased from that shown on the PFCP by 0.38 acres to include some off-site improvements. However, based on the land use category, the amount of existing forest, the amount of forest clearing, and the amount of forest retention, the Site Plan does not generate a planting requirement that is in addition to the amount of forest retained, and it is consistent with the previously approved Preliminary FCP.

The FFCP as submitted is in compliance with Chapter 22A and in substantial conformance with the previously approved PFCP.

Forest Conservation Variance

Section 22A-12(b)(3) of the County code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. Trees that are 30 inches and greater diameter at breast height (DBH) are given priority status ("Protected Tree"). This section of the code requires those areas to be left in an undisturbed condition unless the applicant obtains a variance in accordance with Chapter 22A-21 of the County code. The Applicant may request in writing a variance from this Chapter if the Applicant demonstrates that enforcement would result in unwarranted hardship to the Applicant.

Previous Forest Conservation Variance Granted

On March 14, 2013 the Planning Board granted a variance request for the removal of 38 trees and for the impacts to five trees. This Variance listed Tree #378 as removed and did not grant the variance for the impacts to Tree #2 as originally requested. This variance request was approved in conjunction with the Project Plan and associated Preliminary Forest Conservation Plan approval.

Forest Conservation Variance Amendment Request

This variance request is an amendment to the variance that was approved by the Planning Board on March 14, 2013 and is required because of an increase to the impact to one tree (#262) for the construction of a sidewalk in the Crystal Rock Drive right of way, but the tree will still be saved.

Unwarranted Hardship Basis

Under the TMX - Transit Mixed Use zone, the Sector Plan anticipates a dense urban form that utilizes transit-oriented development techniques and a transit-oriented, walkable community. The starting locations for the master planned rights-of-way for Crystal Rock Drive and Century Blvd. are fixed locations at the Property boundaries as these roads already exist offsite but terminate at the Subject Property. This further hinders the Applicant's ability to reduce impacts to Protected Trees. Of the Protected Trees being removed, virtually all of it is in areas the Sector Plan indicates are appropriate for development. If a variance for this Property was not considered, the Applicant would not be able to achieve the goals of the Sector Plan, which would severely limit any new development on the Property.

Variance Findings

The Planning Board must make a finding that the Applicant has met all requirements of Chapter 22A-21 before granting the variance. Staff has made the following determination on the required findings:

1. Will not confer on the applicant a special privilege that would be denied to other applicants;

Granting the variance will not confer a special privilege on the Applicant as disturbance of the tree is due to the development of the Property. The tree and/or its critical root zone lie within the developable area of the Property. Granting a variance request to allow land disturbance within the developable portion of the Property is not unique to this applicant.

2. Is not based on conditions or circumstances which are the result of the actions by the applicant;

The Property is zoned TMX - Transit Mixed Use. The Germantown Employment Sector Plan depicts a dense urban form that utilizes transit-oriented development techniques and imposes special conditions on the Property by requiring a transit-oriented, walkable community. The conditions or circumstances that require the variance are a circumstance of executing the recommendations in the Sector Plan, and existing conditions of the Property are not a direct result of this particular application.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is a result of the proposed development and not a result of land or building use on a neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Tree being impacted is not within a stream buffer, wetland, or a special protection area and is intended to remain.

Mitigation for Trees Subject to the Variance Provisions

The Planning Board has been consistent in requiring mitigation for any specimen trees to be physically removed or required to be counted as cleared that are not within existing forest. Mitigation for the trees within the existing forest is already being achieved, since the trees are shown on the forest conservation worksheet as forest cleared. This Variance does not remove any additional trees and no additional mitigation is necessary.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code, Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on May 17, 2013. On June 12, 2013 the County Arborist issued a

recommendation on the variance. The county Arborist recommends that the variance can be granted if mitigation is provided.

Variance Recommendation

Staff recommends that the variance be granted for the impacts to Tree #262 with no additional mitigation.

Environmental Guidelines for the Protection of Streams, Buffers, Wetlands, Floodplains, and Seeps

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420110370 for this Subject Property was approved on October 10, 2011. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property; which contains 65.10 acres of forest. Approximately 46 acres is high priority forest. There are 90 trees 30 inches and greater diameter at breast (DBH). Additionally there were 318 trees between 24" and 30" DBH on the property. Topography is generally sloping from east to west. There are some steep slopes along the streams. There are two streams on or immediately adjacent to the property running along the northwest and southwest boundaries of the Property. The Property contains 9.8 acres of stream valley buffer (SVB) and 0.04 acres of wetlands. The Subject Property is within the Little Seneca Creek watershed; a Use I-P watershed. The Countywide Stream Protection Strategy) rates streams in this watershed as excellent condition.

Stormwater Management and Erosion and Sediment Control

The Property is not located within a Special Protection Area, and a Water Quality Plan is not required. In accordance with Chapter 19, this Property is exempt from the water quality resources protection requirements. The project will provide for SWM to be stored and treated on-site for water quantity control and quality improvement. The SWM concept is acceptable and proposes to meet required SWM goals via green roofs and public/private micro-bioretenion within the streetscape and planter boxes. SWM facilities are also proposed adjacent to the parallel parking areas within the public ROW. The proposed development is subject to Chapter 19 and meets all applicable requirements for water resources protection. The project has an approved Stormwater Management Concept from Montgomery County Department of Permitting Services dated November 16, 2012.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received any correspondence on this matter.

APPENDICES

- A. Relevant Resolution(s)
- B. Agency Letters
- C. Forest Conservation Variance Correspondence



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 13-37
Project Plan No. 920120040
Crystal Rock
Date of Hearing: March 14, 2013

MAY 30 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review project plan applications; and

WHEREAS, on May 23, 2012, North Village – 270 Ltd. Partnership C/O Lerner Enterprises ("Applicant"), filed an application for approval of a Project Plan for a mixed-use development with a total of 3,284,000 square feet (0.7 FAR), including 1,097,800 square feet of office use, 91,400 square feet of retail use, 243,240 square feet of hotel use, and 1,618 total residential units (including 190 MPDUs) on 107.70 acres of TMX-2 zoned-land, located north of Father Hurley Boulevard/Ridge Road (MD 27), between Crystal Rock Drive and I-270 ("Subject Property"), in the Germantown West Policy Area, Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920120040, Crystal Rock ("Application" or "Project Plan"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 4, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 14, 2013, the Planning Board held a public hearing on the Application, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 14, 2013, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Anderson, seconded by Commissioner Presley, with a vote of 3-0; Commissioners Anderson, Carrier, and Presley voting in favor, and with Commissioners Dreyfuss and Wells-Harley being absent from the hearing.

Approved as to
Legal Sufficiency:

[Signature] 5/8/13

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NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board APPROVES Project Plan No. 920120040 for a mixed-use development with a total of 3,284,000 square feet (0.7 FAR), including 1,097,800 square feet of office use, 91,400 square feet of retail use, 243,240 square feet of hotel use, and 1,618 total residential units (including 190 MPDUs) on 107.70 acres of TMX-2 zoned-land on the Subject Property, subject to the following conditions:¹

1. DEVELOPMENT CEILING

The development is limited to a maximum 0.7 FAR on the 107.70 acres, including the following:

- a. Employment uses may not exceed the following.
 - Office Use: 1,097,800 square feet;
 - Retail Use: 91,400 square feet; and
 - Hotel Use: 243,240 square feet (350 rooms).
- b. Residential uses may not exceed 0.39 FAR.
 - Non Age-restricted units: 440 units including MPDUs; and
 - Age-restricted units for Senior Adults: 1,178 units including MPDUs.

2. BUILDING HEIGHTS AND DENSITY

- a. Building heights must not exceed 143 feet for the multi-family, office, retail and hotel uses.
- b. The building heights of the townhouse units, directly adjacent to the existing community, may not exceed 42 feet.
- c. The building height of the Senior Adult housing facilities (identified as Building V on the Project Plan) may not exceed 72 feet.
- d. The building heights must be terraced to ensure compatibility with the neighboring townhouse communities.

3. HOUSING

The Housing and Related Facilities for Senior Adults, hereinafter referred to as Senior Adult housing, may not be converted into non-age restricted units without first revising the traffic study for the approved Project and Preliminary Plans. Occupancy of the Senior Adult housing is limited to the definition (section 59-A-2.1) in the Zoning Ordinance. Senior Adults are defined as persons 62 years and older.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

4. MODERATELY PRICED DWELLING UNITS (MPDUs)

The development must provide a minimum of 12.5 percent MPDUs evenly dispersed within the non-age restricted units and the age-restricted units, consistent with the requirements of Chapter 25A. Senior Adult housing facilities without a full kitchen do not qualify as a complete dwelling unit; therefore, these units will not provide MPDUs.

5. LEED CERTIFICATION

- a. The Applicant will meet the principles of LEED-ND (Leadership in Energy and Environmental Design for Neighborhoods) as outlined in the Public Facilities, Amenities and Other Design Features Table (on page 16 of this resolution), and as shown on the Project Plan.
- b. The Applicant must also make good faith efforts to achieve a LEED Silver rating for buildings. The Applicant must inform the M-NCPPC Staff of the LEED Certification Level for which they are applying prior to the issuance of the final use and occupancy certificate. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate, the Applicant must provide the M-NCPPC Staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating including an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating and their extra costs. Submission of this report constitutes compliance with this condition.

6. ENVIRONMENT

- a. The Applicant must plant (3) 3" caliper native canopy trees on-site as mitigation for the Variance trees removed.
- b. The Final Forest Conservation Plan must show location and species of all mitigation plantings.
- c. Revise *Limits of Disturbance (LOD)* within the wetland buffer near the south side of the Subject Property to avoid any impacts to the wetland buffer.
- d. Submission and approval of a final forest conservation plan consistent with the preliminary forest conservation plan must occur prior to any land disturbing activities.
- e. Category I conservation easements must be placed over all areas of forest retention, forest planting, and stream/environmental buffers as shown on the preliminary forest conservation plan prior to any land disturbing activities.

7. PUBLIC FACILITIES, AMENITIES, AND OTHER DESIGN FEATURES

- a. The Applicant must provide a minimum of 41 percent of the net lot area for on-site public use space. The final design and details will be determined during the Site Plan review process.

- b. The streetscape design must include street trees (approximately 30 feet on-center), pedestrian oriented street lights (approximately 60 feet on-center), and street furniture.
- c. Within the streetscape, the buildings should be setback approximately 28 feet from the curb along Century Boulevard and Crystal Rock Drive, and from the curb 15 feet along private streets.
- d. The public use space must be easily and readily accessible to the general public and available for public enjoyment.
- e. The public facilities and amenities will include Black Hill Preserve, Preserve Plaza, Village Green North and South, Main Street East and West Park, Main Street Retail Plaza, South Residential Green Space, Gateway Plaza, Hiker/Biker Trail and public art.
- f. The final locations for the retail uses will activate the streetscape along Century Blvd, the gateway entrance to the Subject Property (at the intersection of Century Blvd and Dorsey Mill Road) and the public use space areas.

8. OTHER DESIGN FEATURES

The Applicant will meet the goals and objectives set forth within the Public Facilities, Amenities and Other Design Features (page 16). As required in section 59D-2.11, the incorporation of other design features will create a sustainable environment capable of supporting the greater densities and intensities permitted under the Optional Method of development. The Applicant will submit supporting drawings and documentation that further demonstrate the following criteria during the Site Plan process.

- a. Provide pedestrian sidewalks at a minimum of 10 feet wide on both sides of public streets, and 8 feet wide on both sides of the private streets. The sidewalks must be free and clear of all obstructions (including stairwell, utility boxes, and tree pits).
- b. Provide green roofs on the multi-family structured parking facilities.
- c. Provide a minimum tree canopy coverage of 40 percent of the total net tract area. The tree canopy coverage will include the preservation of existing forest and new tree plantings.
- d. Provide building articulations on the structured parking facilities directly adjacent to I-270.
- e. Concentrate the tallest office and hotel buildings along the north eastern property boundary (directly adjacent to I-270).

9. PUBLIC USE SPACE

All record plats that include public use space must include a note that all public use spaces as illustrated on the Certified Site Plan(s) must be maintained in perpetuity by the property owners and access must be provided to the general public.

10. DEVELOPMENT STAGING

The development will be built in the following six phases. With the exception of Phase 1, the uses within Phases 2 thru 6 may be constructed at any order. However, the public amenities and facilities must be constructed with each phase as shown. The public use spaces and associated amenities listed below must reference the conditions above. The construction and inspection schedules will be determined at Site Plan.

- a. Phase 1 consists of the pre-construction activities and construction of the public infrastructure, including the realignment of Crystal Rock Drive and Century Boulevard (Blvd.) This phase requires an approved Infrastructure Plan prior to the issuance of the first building permit.
- b. Phase 2 consists of the construction of some of the residential units (senior adult multi-family buildings), clubhouse, office building (G), the 350-room hotel building (C), portions of the parking garage (B), associated amenities, and infrastructure (Main Street: east/west parks and retail plaza).
- c. Phase 3 consists of the construction of some non-age restricted multi-family buildings, the Senior Adult townhouses, the Senior Adult multi-family (Building N), associated amenities and infrastructure (South Residential Green, natural/hard surface hiker/biker trails, Nature Pavilion and Preserve Plaza).
- d. Phase 4 consists of the construction of non-age restricted multi-family (Building T), office building (H), portions of the parking garage (D), Senior housing facilities (Building V), associated amenities and infrastructure (natural/hard surface biker/hiker trail and Black Hill Preserve).
- e. Phase 5 consists of the construction of two office buildings (I & F), portions of the parking garage (B & D), associated amenities and infrastructure (Gateway Plaza, and Village Green north/south).
- f. Phase 6 consists of the construction of office building E, associated amenities and infrastructure.

11. COORDINATION FOR ADDITIONAL APPROVALS REQUIRED PRIOR TO THE SITE PLAN APPROVAL

- a. The Applicant must coordinate with the Division of Transit Services with regard to improvements to Ride-On bus facilities in the local vicinity of this project.
- b. The Applicant must present preliminary public art and amenity concepts to the Art Review Panel prior to scheduling the Site Plan for a public hearing.

12. BUILDING LOT TERMINATION

- a. The Applicant must purchase 6.8 BLTs for the commercial space and 7.3 BLTs for the residential space prior to the release of the first building permit.
- b. The purchase of commercial and residential BLTs must be modified to reflect any changes to the employment uses.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920120040, Crystal Rock stamped received by M-NCPPC on December 13, 2012, are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and having considered the entire record, all applicable elements of Section 59-D-2.42, and the relevant provisions of Section 59-D-2.43, the Planning Board FINDS, with the conditions of approval, that:

(a) The Application complies with all of the intents and requirements of the zone.

The Subject Property, zoned TMX-2, is in accordance with section 59C-14.212 of the Montgomery County Zoning Ordinance which states that the purpose and intent of this zone is to:

(1) Implement the recommendations of the approved and adopted Sector Plans for Transit Station Development Areas by facilitating mixed-use development with a compatible network of interconnecting streets, open spaces, plazas, and civic and community oriented uses. Providing flexible development standards, and encouraging designs that produce desirable relationships among individual buildings, the circulation system public spaces and adjacent areas, and foster use of non-auto forms of transportation, including pedestrian, bicycle, and public transit.

The Project Plan implements the recommendations of the Sector Plan for Transit Station Development Areas by providing a mixed-use development within walking distance of the Corridor Cities Transit (CCT) station. The platted public ROW for Crystal Rock Drive and Century Boulevard (Blvd.) will be abandoned and re-aligned in order to consistently integrate the urban-grid pattern of the private streets, which directly corresponds to the Germantown Urban Design Guidelines. The urban grid pattern provides safe connections into the existing roadways and the private streets. The pedestrian and vehicular circulation systems encourage the use of bicycles and public transit through the efficient design of the public and private streetscapes. The primary flow of regional vehicular traffic will be on the public streets (Crystal Rock Drive, Century Blvd. and Dorsey Mill Road); while the private streets will manage

and disperse the flow of local vehicular traffic. Sidewalks, ranging from 10 to 18 feet in width, are located within the public and private streetscapes on both sides of the road. The plantings, building facades, and public use spaces are designed to enhance the pedestrian experience. Open spaces, plaza areas, civic and community oriented uses are provided within public use spaces; some of which are strategically placed along the streets to keep the community engaged and slow vehicular traffic. The circulation system and street network encourages desirable relationships among individual buildings and creates walkable blocks that facilitate active streetscapes.

(2) *Encourage land assembly.*

The Subject Property is owned by Lerner Enterprises (the Applicant). Preliminary Plan No. 119870120 approved and platted 12 lots within the TS zone. The Project Plan and new Preliminary Plan will reassemble the 12 lots into 10 lots and 5 parcels in 2 blocks. The entire property is 107.70 acres; of which 43 acres (not including the roadway dedications) will be privately developed. Block A is centrally located toward the southwest of Century Blvd. and southeast of Crystal Rock Drive. Block A will consist of 6 lots and 2 parcels. Parcel A of Block A will protect and preserve the stream valley buffer; while parcel B of Block A separates the buildings from the public use space between the individual lots. Block B forms an L-shape directly adjacent to I-270 and Black Hill Regional Park, and consists of 4 lots and 3 parcels. Black Hill Preserve (approximately 25 acres) is located on Lot 1 and will be placed within a Category I Forest Conservation Easement separate from parcels A, B and C of Block B.

(3) *Provide a variety of housing opportunities.*

The Application is composed of different housing opportunities: Senior Adult multi-family buildings, townhouses for Senior Adults, and multi-family non-age restricted units. Most of the residents within the community will be of retirement age (62 and up). The high-rise and low-rise multi-family, and townhouse buildings offer a variety of unit types within walking distance of the CCT, public amenities (i.e. Black Hill Regional Park), retail and employment uses.

(4) *Promote the effective use of transit facilities; and*

The close proximity of the Subject Property to the future CCT station will facilitate the convenient use of public transit. The pedestrian circulation system connects sidewalks and hiker/biker trails. The Sector Plan recommends that the minimum number of required off-street parking spaces (6,295 spaces) become the maximum allowed on-site. The Maryland-National Capital Park and Planning Commission (M-NCPPC) Staff, the Department of Transportation (DOT) and the Applicant will

continue to coordinate shared-use programs during the Site Plan approval process. The specific details of shared parking agreements, bike-share stations, carpooling, and vanpooling spaces may be incorporated into the lease agreements for the employment uses. Bus stops and bike share stations will also encourage and promote the effective use of public transit.

(5) Provide for Building Lot Terminations (BLTs).

The Project Plan requires that the purchase of BLTs for the commercial uses and residential uses be finalized during the Site Plan approval process. The Applicant is currently obligated to purchase approximately 6.8 BLTs for the commercial uses and approximately 7.3 BLTs for the residential uses. The BLT calculations will reflect any changes to the mix of uses and density if amended.

(6) Additional provisions for optional method of development projects.

In accordance with the additional provisions for the optional method of development (section 59C-14.25), the density and building height should generally decrease as the distance from a transit facility increases; and lower as the distance to single family homes decreases. Buildings are sited to minimize the impact of shadows on single family neighborhoods outside the TMX zones. Building heights may be adjusted to avoid or minimize environmental impacts; and the project meets all the standards and requirements of the TMX zone.

The overall site layout conforms to the additional provisions for the Optional Method and the Sector Plan recommendations. The tallest office and hotel buildings (approximately 12 stories or 143 feet) are located north of Century Blvd, Crystal Rock Drive and Dorsey Mill Road, away from the existing townhouses toward the southern edge of the property. The architectural design features of these buildings will be clearly visible from I-270. The shortest residential buildings (approximately 2-3 stories) are located directly adjacent to the forested stream valley buffer and the existing townhouses. The overall building orientation is also efficiently designed to maximize daylighting during the peak hours of the day, on the building facades and within the public use spaces. Therefore, the building heights have been designed to minimize environmental and shade impacts on the neighboring properties.

Requirements of the TMX-2 zone

The data table below lists the required development standards approved by the Planning Board and binding on the Applicant. The Planning Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the Optional Method of development in the TMX-2 zone.

	Required/Allowed (TMX-2 Zone)	Approved by the Planning Board and Binding by the Applicant
Site Area:		
Total Site Area (TS and TMX-2)	N/A	7,486,089 sf. 171.85 ac.
Black Hill Park Dedication (TS Zone)	2,794,504 sf. 64.15 ac.	2,794,569 sf. 64.15 ac.
Gross Tract Area (TMX-2 Zone)	N/A	4,691,520 sf. 107.70 ac.
Public ROW Dedication	461,593 sf. 10.61 ac.	462,005 sf. 10.61 ac.
Net Lot Area (TMX-2 Zone)	N/A	4,229,515 sf. 97.10 ac.
Commercial (gross floor area):		
▪ Office/Employment, max.	1,500,000 sf. max.	1,097,800 sf.
▪ Retail, max.	110,000 sf. max.	91,400 sf.
▪ Hotel (350 rooms), max.	Hotel	243,240 sf.
▪ Maximum total commercial	1,610,000 sf. (plus hotel)	1,432,440 sf.
Residential Units:		
▪ Senior Adult units	N/A	1,178 units
▪ Non-age restricted units	N/A	440 units
▪ MPDUs (12.5% w/o bonus)	12.5%	190 units, 12.5%
Total	N/A	1,618 units max.
Max. FAR:		
▪ Commercial Uses	N/A	0.31 (1,432,440 sf.)
▪ Residential Uses	N/A	0.39 (1,851,560 sf.)
▪ Maximum Total	0.70	0.70 (3,284,000 sf.)
Min. BLTs (12.5% of Floor Area)		
Residential Uses	7.3	7.3
Commercial Uses	6.8	6.8
Min. Building Setbacks (ft.):		
▪ From I-270	200 feet	200 feet
▪ From a residential zone	25 feet	90 feet
▪ From parkland	N/A	170 feet
Max. Building Height (ft.)	143 feet	35 - 143 feet
Green Areas:		
▪ Forest	N/A	92.16 ac.
▪ Open Space Areas	0.75 ac.	25.04 ac.
▪ Green Roofs	N/A	4.13 ac.
▪ Other Recreation Areas	N/A	0.3 ac.
Combined Public Space:		
▪ Min. On-Site Public Use Space	20% (845,909 sf.)	41.24% (1,744,318 sf.)
▪ Added Off-Site Amenities	N/A	39.11% (1,654,226 sf.)
Off-street Parking:		
▪ Min. Bicycle Spaces	5%/spaces provided	315 spaces
▪ Min. Motorcycle Spaces	2% or 10 spaces/lot	100 spaces
▪ Total Spaces (excluding on-street)	6,295 spaces	6,295 spaces

(b) The Application is consistent with the Sector Plan.

The Project Plan with conditions is consistent with the Sector Plan and the Germantown Urban Design Guidelines. The following paragraphs summarize the recommendations specifically pertaining to the development.

Land Use

The land use and density are consistent with the recommendations in the Sector Plan. The Sector Plan recommends that this area evolve from the temporary use (i.e. golf driving range), to an employment location highlighted by additional residential, retail and hotel uses (Sector Plan, page 62).

Development Design Concept

The layout of the site is consistent with the Land Use diagrams and the design framework in the Sector Plan (pages 21 and 63). The buildings are located adjacent to the streets to establish pedestrian oriented sidewalks and public spaces. The street level retail is located on the ground floor of the office buildings along Century Blvd., near the future hotel and the multi-family, low-rise buildings. The street block lengths range from 250 feet to 350 feet (Sector Plan, pages 25-26). The street trees will enhance the identity of the neighborhood in accordance with the Sector Plan. Other streetscape improvements may include pedestrian scaled lighting, street furniture and artist pavement patterns.

Public Spaces and Amenities

The public amenities incorporate sustainable green designs that help uniquely define the neighborhood and connect into the larger greenbelt system at the property edges (Sector Plan, page 26). The Black Hill Preserve and stream valley buffer areas provide opportunities for scenic vistas at the end of streets to view Black Hill Regional Park. A green common area is located in the center of the development. In addition, a variety of active recreational facilities are located throughout the development. The South Residential green space area is adjacent to the existing Cloverleaf community to create a transition in land uses, ensure compatibility and provide an adequate buffer between property boundaries.

Location of Buildings, Heights and Transitions

The Project Plan locates the tallest buildings along the northern and eastern edges of the site and away from the existing townhouse developments along the southern boundary. The building heights on the overall site range from 143 feet to 35 feet. Locating the tallest buildings along the northern and eastern edge also maximizes solar access to the streets and the public spaces.

Transportation

The Germantown Employment Area Sector Plan diagrams (Map 11), illustrate a curved roadway alignment along Century Blvd. and Crystal Rock Drive with a public right-of-way of 100 feet (Sector Plan, page 33). The roadway alignment meets the recommendations of the transportation framework, the street character and the roadway network. The local and arterial roadways will form a dense grid pattern that evenly disperses the traffic, thereby improving the circulation, access and pedestrian environment along Century Blvd (i.e. the main street corridor). The streetscape provides consistent standards for street trees and understory plantings, lighting, seating areas, bike accommodations and on-street parking (Sector Plan, page 30). On-street parking is provided during off-peak hours to ensure adequate space and distance for sharing the road with bike riders. The 4-lane roadway alignment will slow vehicular traffic and efficiently connects into existing roads.

The buildings are setback from I-270 approximately 200 feet as recommended (Sector Plan, pages 30 and 36) in anticipation of future roadway expansions. The Project Plan also acknowledges the Maryland Transit Administration's (MTA) Corridor Study (S-2009), and will continue to coordinate with the State Highway Administration (SHA) and the Department of Transportation (DOT). The hotel and office buildings will be visible from I-270.

The Project Plan includes a network of public and private streets in a grid pattern as recommended by the Sector Plan. These streets will distribute traffic throughout the development. The streets are designed to accommodate pedestrians and bicyclists as well as vehicles. The development will also create connections to the future Corridor Cities Transitway (CCT), the adjacent Black Hill Regional Park, and the adjacent portions of the Germantown Employment Corridor.

The first phase of the development will include the dedication and construction of Crystal Rock Drive and Century Blvd. The entrance and exit to the Subject Property will remain exactly as shown in the Sector Plan. The alignment within the boundaries of the Subject Property will be modified to reduce the speed of traffic, provide safe pedestrian crosswalks and establish an identifiable transition or traffic circle at the intersection of Crystal Rock Drive and Century Blvd. The public right-of-way (100 feet from building façade to building façade) accommodates four lanes of traffic. Pedestrian sidewalks are accommodated within the public right-of-way, and provide access to the future CCT station and bus transit facilities (Sector Plan, page 30-31).

The Project Plan includes a bikeway connection (Sector Plan, page 75) to Black Hill Regional Park as recommended in the Sector Plan. In addition, an on-road

bikeway will be accommodated along Crystal Rock Drive and Century Blvd. Paved and natural surface trails are also located within the development.

An extensive system of sidewalks throughout the development provides an alternative to the automobile and improves the access to the future transit stations, the Germantown Town Center, the adjacent parkland, and other natural areas in accordance with the recommendations in the Sector Plan.

Final streetscape and building setbacks will be determined during the review of the Site Plan. The future streetscape plan must include closely spaced street trees (approximately 30 feet on-center), pedestrian oriented street lights (approximately 60 feet on-center), and street furniture. The buildings should have a setback of approximately 28 feet along Century Blvd. and Crystal Rock Drive and fifteen feet along all private streets from the curb without stairs or other obstructions in the setback area to accommodate pedestrian access.

Environment

The Project Plan emphasizes the preservation and conservation of natural resources in accordance with the recommendations in the Sector Plan (pages 39-42).

- The Black Hill Preserve provides a significant setback and protects forest resource located between Black Hill Regional Park and any development that will preserve the tributaries of Little Seneca Creek, enhance wildlife habitat, and provide recreational resources.
- A Category I Forest Conservation Easement is located directly adjacent to Black Hill Regional Park to protect the forest. The Project Plan will also preserve the wetland resources in the headwaters of a tributary of the Little Seneca Creek by providing a stream buffer protected from development as recommended in the Sector Plan. The tree canopy will be augmented and enhanced to approximately 40 percent of the site area as recommended in the Sector Plan.
- This project will set a new standard for the approach to the design of sustainable neighborhoods in the Germantown Employment Area. The neighborhood's location near the future transitway in the mixed-use employment area and the Project Plan's enhanced system of public open spaces and sidewalks establishes a community that can satisfy many of the daily needs of residents and employees. The many linkages and pedestrian orientation reduce dependence on the automobile. The orientation of the blocks and location of buildings will enhance solar access to public spaces, maximize opportunities for daylighting of buildings, and reduce energy consumption. Finally, the strategies for environmental protection and preservation, including forest conservation, wetland protection, habitat protection, and augmented tree canopy, are consistent with the recommendations in the Sector Plan and Urban Design Guidelines.

Balance of Jobs and Housing

The Sector Plan recommends a maximum of 1,500,000 sf. of employment space, a maximum of 110,000 sf. of retail space and a hotel specifically for the Subject Property (page 63); which could generate approximately 5,760 jobs. The intent is to achieve an overall balance of land uses for the entire Germantown planning area or a jobs to housing ratio of approximately 1.5 (page 18). Within the Sector Plan area the land use plan could result in a ratio of jobs to housing of approximately 4.19. To achieve these results, the Sector Plan recommends a concentration of jobs near the Town Core and a mix of uses including more housing for sites located away from the Town Core (page 44 and 45). The land use plan (page 62) also shows a substantial area for residential development on the interior of the Subject Property and mixed-use including housing along I-270, but the number of dwelling units is not specified.

The Project Plan provides a mix of office (1,097,800 sf.), a 350-room hotel (243,240 sf.) and retail uses (91,400 sf.); which creates approximately 5,106 jobs. The jobs to housing ratio (approximately 3.15) is based on the total residential units (1,618 units) and is consistent with the Sector Plan.

The mix of jobs and housing is consistent with the land use flexibility provided in the Sector Plan (page 19). The mix of retail, office and hotel uses provides significant opportunities for employment with housing in the Sector Plan Area. The mix of uses is appropriate for the Subject Property located away from the concentration of employment uses in the Town Core, the provision of Senior Adult housing generates a limited need for employment opportunities, and the Sector Plan provides for flexibility in the mix of land uses for specific sites.

(c) *Because of its location, size, intensity, design, operational characteristics and staging, the development is compatible with and not detrimental to, existing or potential development in the general neighborhood.*

The location, size, and intensity of the development are compatible with the existing and potential developments in the general neighborhood. The neighboring properties (immediately south) are primarily residential townhouse communities. Germantown Town Center (i.e. Core Neighborhood) is located within a 2 mile radius south of the Subject Property. The proximity to regional amenities (i.e. Germantown Town Center, I-270, Black Rock Center, Montgomery College, the approved Holy Cross Hospital, etc.) and the future CCT station establish the Subject Property as a prime location for transit oriented development. Adequate access to the Subject Property and the future CCT station will be provided along Crystal Rock, Century Blvd. and Dorsey Mill Road. The urban grid pattern adequately manages the local and regional traffic flow through the Subject

Property, reduces walking distances, provides alternative internal connections, and establishes the framework for an efficient streetscape design.

The design, orientation and operational characteristics provide a desirable and compatible transition to the existing townhouse community toward the south. The Project Plan will improve existing circulation systems through the construction of Crystal Rock and Century Blvd. within the first phase of the construction process. Furthermore, the intent of the Sector Plan and TMX-2 zone will be fulfilled through the construction of a sustainable transit oriented community near the CCT station. While the existing operational character of the Subject Property will change from a golf driving range to a mixed-use development, the mixed-use development offers greater public benefits.

The initial staging of the public amenities package includes the construction of shared-use pathways (Crystal Rock Drive and Century Blvd.) and the roadway dedication of 10.61 acres. The public right-of-way will be constructed first. Black Hill Preserve (Lot 11) and the stream valley buffer (Lot 13) will protect and preserve existing forest within easements according to the Preliminary Forest Conservation Plan. The Main Street corridor (retail plaza, east and west park) is the main central community space, and will be developed within the second phase of construction. The public use spaces will be phased in conjunction with their associated uses. The staging meets the recommendations of the Sector Plan, and provides a comprehensive public amenities package that adequately accommodates the employment needs and public benefits of the community on and off-site.

- (d) The development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.***

The mixed-use development will not overburden the existing public facilities and services, as the initial stages of construction include major roadway improvements to the existing public facilities. The development will satisfy the Local Area Transportation Review (LATR) requirements, and is subject to enter into a traffic mitigation agreement (TMA). The TMA and the school facilities payment will all be finalized before the first stage of construction. The Subject Property is located within the Germantown West Policy Area; which does not stipulate any Policy Area Mobility Review (PAMR) trip mitigation requirements. The school facilities payment is calculated based on the total number of non-age restricted units (currently 440 units). This payment is subject to change should there be any modifications.

The development phasing of the project currently consists of six stages. The first stage will provide the public roadway and infrastructure improvements that are necessary to ensure safe and adequate circulation on and offsite. The second stage of construction consists of residential, office, retail, and hotel uses. The surface and structured parking facilities and public use spaces will also be constructed in conjunction with their associated uses.

(e) *The development is more efficient and desirable than could be accomplished by the use of the standard method of development.*

The mixed-use development (3,284,000 sf. or 0.7 FAR) is more desirable and more efficient than the Standard Method (2,345,750 sf. or 0.5 FAR). The public facilities, amenities, and other design features that support the creation of a green neighborhood with greater densities are divided into the following categories:

- Public use space and placemaking - Increases the amount of public use space on and offsite and establishes a sense of place within the community.
- Linkages and pedestrian orientation - Gives hierarchy to the pedestrian circulation systems, promotes active streetscapes, and encourages shared uses pathways.
- Compatibility, solar orientation and green buildings – Meets the environmental objectives for green buildings in the Sector Plan (page 39 and 41), and the County’s requirements for sustainable buildings.
- Environmental protection and preservation – The Forest Conservation Plan requirements (Chapter 22A) will be met on-site; therefore, no afforestation is required. However, the Subject Property will provide additional design features and the preservation of wetland resources. The tree canopy provided also plays a major role in decreasing the environmental impacts.

According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of Optional Method projects is the provision of additional public amenities:

“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.”

To this end, the Application is proffering the following package of amenities and public facilities:

Public Facilities, Amenities and Other Design Features			
Items	Standard Method	Optional Method	Summaries
Public Use Space and Placemaking			
▪ Min. On-site public use space	10 %	41 %	Percent of the net lot area (97.10 acres)
▪ Public Art	N/A	Provided	Public art has been discussed with the Art Review Panel, and the BlackRock Center
▪ Open Space and Recreation	Meets recreation standards	Provides recreation and open space	Meets the recreation standards and provides added open space
Linkages and Pedestrian Orientation			
▪ Dedication and Construction of Crystal Rock Drive, Century Blvd and Dorsey Mill Road	N/A	10.61 acres	Crystal Rock Drive, and Century Blvd. constructed in the first development phase.
▪ Max. walking distance	NA	Approx. ¼ mile	All development within ¼ mile
▪ Max. length of blocks	N/A	Approximately 350 feet	Provides an active streetscape and promotes walking
▪ Width of sidewalks and streetscape	5 feet	15 feet to 28 feet	Provides a pedestrian orientation
▪ Hiker/biker trails	N/A	Approximately 1.25 miles, 8 feet wide within	Loop system provided around the perimeter, to the Black Hill Regional Park and to the CCT
Compatibility, Solar Orientation, Green Building Technology and BLTs			
▪ Solar orientation of streets and blocks	NA	Provided	Maximizes solar access to public use spaces, streets and the buildings for daylighting
▪ Green roof areas	NA	Provided	Provided over structured parking facilities for the multi-family residential buildings
▪ BLTs	NA	Provided	Provided based on the commercial (6.8), and residential (7.3) uses

Environmental protection and preservation			
▪ Forest Preserved	52 %	52 %	Based on the requirements for forest conservation
▪ Tree Canopy	30 – 40 %	40 %	Forest conservation area plus a minimum of 600 trees added
▪ Building Coverage	75 %	35 %	Preserves green space areas
▪ Wetland and stream protection	Required	Provided	Protects wetlands and streams

- Black Hill Preserve – Located north of Crystal Rock Drive, adjacent to Buildings E, J, O, and T.
- Gateway Plaza – Located north of Dorsey Mill Road, directly adjacent to Buildings I and N.
- Village Green North – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings B, F, and G.
- Village Green South – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings D, H, and I.
- Main Street - Retail Plaza – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings C, G, and H.
- Main Street - East Park – Located south of Century Blvd., toward the center of the Subject Property between Buildings L and M.
- Main Street - West Park – Located south of Century Blvd., toward the center of the Subject Property between Buildings Q and R.
- South Residential Green Space – Located at the end of Dorsey Mill Road, between the existing townhouses and the townhouses (Buildings S).
- Walking/Cycling Trail and Public Green Space – Located south of I-270 and Black Hill Preserve, along the perimeter of the Subject Property.
- Nature Path and Connection to Black Hill Regional Park – Located south of I-270 and Black Hill Preserve, near Buildings B and E.
- Nature Pavilion – Located south of I-270 and Black Hill Preserve. Near the traffic circle at the intersection of Century Blvd. and Crystal Rock Drive, between Buildings E and J.
- Preserve Plaza – Located south of I-270 and Black Hill Preserve. Near the traffic circle at the intersection of Century Blvd. and Crystal Rock Drive, between Buildings E and J.

(f) *The Application includes moderately priced dwelling units in accordance with Chapter 25A of this Code.*

The Project Plan provides 12.5 percent MPDUs (minimum 190 units) as required by Chapter 25A. In accordance with the conditions of approval, MPDUs will be evenly distributed within the multi-family units (Senior Adult and non-age restricted units) and the townhouse units. The Applicant and the Department of Housing and Community Affairs (DHCA) will continue to work on a final agreement during the Site Plan review process.

(g) *The Application satisfies any applicable requirements for forest conservation under Chapter 22A.*

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 420110370 for the Subject Property was approved on October 10, 2011. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property; which contains 65.10 acres of forest. Approximately 46 acres is high priority forest. There are 90 trees 30 inches and greater diameter at breast (DBH). Additionally there were 318 trees between 24" and 30" DBH on the Subject Property. Topography is generally sloping from east to west. There are some steep slopes along the streams. There are two streams on or immediately adjacent to the Subject Property running along the northwest and southwest property boundaries. The Subject Property contains 9.8 acres of stream valley buffer (SVB) and 0.04 acres of wetlands and is within the Little Seneca Creek watershed; a Use I-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as excellent condition.

The Forest Conservation Plan (FCP) submitted and reviewed as part of the Project Plan proposes 31.20 acres of forest clearing and 33.90 acres of forest retention. Based on the land use category, the amount of existing forest, the amount of forest clearing, and the amount of forest retention, the development shown on the Project Plan does not generate a planting requirement that is in addition to the amount of forest retained. The Application meets all standard requirements of Chapter 22A; however there are several key Sector Plan statements and objectives that need to be reviewed in addition to the standard requirements.

Sector Plan Recommendations

On page 40 of the Sector Plan, the area wide recommendation section under Forest Resources and Urban Tree Canopy section states:

"An analysis of the sector plan area shows that canopy coverage of at least 31 percent is achievable. Achieving this goal depends on retaining substantial areas

of remaining existing forest, including most of the forest on the Lerner and Montgomery College properties.”

This Application will retain 33.90 acres, or 52.1%, of the existing forest on the Lerner Property.

Also on page 40 of the Sector Plan further states:

“Outstanding forest resources on the Montgomery College campus and the North End should be retained to prevent fragmentation of upland forests.”

The Subject Property is within the North End District and contains 46.01 acres of High Priority forest of which 12.11 acres or 26.3% will be cleared for development. However, the term “outstanding” is not defined by the Forest Conservation Law and may not directly correlate to high priority forest so it is difficult to judge which specific forest was to be addressed. Under any circumstance, the clearing, including the high priority forest clearing, has been done in a way that does not fragment upland forest.

On pages 64 and 65 under the district recommendations for the North End District in the Urban Form recommendations, bullet six states:

“Preserve forest adjacent to Black Hills Regional Park on the north side of Century Boulevard as it curves into Crystal Rock Drive and use all available means to incorporate it into the existing park, or place in a conservation easement.”

The recommendation does not define how much forest adjacent to Black Hills Regional Park on the north side of Century Boulevard must be saved. Although certain diagrams on page 63 seem to indicate that potential development may be desirable in some of the forest north of the Century Boulevard right-of-way, forest preservation has been executed in this area and the limits of disturbance have been reduced to protect more high priority forest resources than their original proposal.

The FCP as submitted is in compliance with Chapter 22A and in substantial conformance with the Sector Plan as it relates to forest conservation issues.

Forest Conservation Variance

Section 22A-12(b)(3) of the County code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. Trees that are 30 inches and greater diameter at breast height (DBH) are given priority status (“Protected Tree”). This section of the code requires those areas to be left in an undisturbed condition unless the Applicant obtains a variance in accordance with Chapter 22A-21 of the County code. The Applicant may request

in writing a variance from this Chapter if the Applicant demonstrates that enforcement would result in unwarranted hardship to the Applicant.

Unwarranted Hardship Basis

Under the TMX - Transit Mixed Use zone, the Sector Plan anticipates a dense urban form that utilizes transit-oriented development techniques and a transit-oriented, walkable community. The starting locations for the master planned rights-of-way for Crystal Rock Drive and Century Blvd. are fixed locations at the property boundaries as these roads already exist offsite but terminate at the Subject Property. This further hinders the Applicant's ability to reduce impacts to Protected Trees. Of the Protected Trees being removed, virtually all of it is in areas the Sector Plan indicates are appropriate for development. If a variance for the Subject Property was not considered the Applicant would not be able to achieve the goals of the Sector Plan, which would severely limit any new development on the Subject Property.

Variance Findings

The Planning Board must make a finding that the Applicant has met all requirements of Chapter 22A-21 before granting the variance. The following site analysis has been determined:

1. Will not confer on the Applicant a special privilege that would be denied to other applicants;

Granting the variance will not confer a special privilege on the Applicant as disturbance and/or removal of trees are due to the development of the Subject Property. The trees and/or their critical root zones lie within the developable area of the Subject Property. Granting a variance request to allow land disturbance within the developable portion of the Subject Property is not unique to this Applicant.

2. Is not based on conditions or circumstances which are the result of the actions by the Applicant;

The Subject Property is zoned TMX - Transit Mixed Use. The Sector Plan depicts a dense urban form that utilizes transit-oriented development techniques and imposes special conditions on the Subject Property by requiring a transit-oriented, walkable community. The conditions or circumstances that require the variance are a circumstance of executing the recommendations in the Sector Plan, and existing conditions of the Subject Property are not a direct result of actions by the Applicant.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The variance is a result of the development and not a result of land or building use on a neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed are not within a stream buffer, wetland, or a special protection area. Additionally, the mitigation should be at a rate that approximates the form and function of the Protected Trees removed offsetting the loss of the water quality benefits of the individual trees removed. Furthermore, a stormwater management concept plan has been approved by the Montgomery County Department of Permitting Services using Environmental Site Design standards.

Mitigation for Trees Subject to the Variance Provisions

The Planning Board requires mitigation for any specimen trees to be physically removed or required to be counted as cleared that are not within existing forest. Mitigation for the trees within the existing forest is already being achieved, since the trees are shown on the forest conservation worksheet as forest cleared. This Application has requested the removal of 37 trees, of which only one is outside of existing forest on the Subject Property.

Mitigation should be at a rate that approximates the form and function of the trees removed. The replacement will occur at a ratio of approximately 1" caliper size for every 4" DBH removed, using trees that are 3" caliper in size. This means that for the 31 inches of variance trees removed, it should be mitigated by the Applicant with (3) 3" caliper native canopy trees (7.75" rounded up to the nearest 3") on the Subject Property. While these trees will not be as large as the tree lost, they will provide some immediate canopy and will help augment the canopy coverage and eventually fill in open areas of the forest where the large trees have been removed. The total amount of variance mitigation required for this project is (3) 3" caliper native canopy trees to be planted on-site.

The Planning Board grants a variance to remove 38 trees and impact five trees. However; Tree #378 should be listed as removed and no variance is granted for the impacts to Tree #2.

(i) The Application satisfies any applicable requirements for water quality resources protection under Chapter 19.

In accordance with Chapter 19, the Subject Property is not located within a Special Protection Area; therefore a Water Quality Plan is not required, and the water resource protection requirements are not applicable. The stormwater management will be stored and treated on-site for water quantity control and quality improvement. The stormwater management concept is acceptable and meets the required stormwater management goals via green roofs and public/private micro-bioretenement within the streetscape and planter boxes. Stormwater management facilities are also located adjacent to the parallel parking areas within the public right-of-way.

(j) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable Master or Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.

The Project Plan exceeds the 20 percent public use space requirement by providing approximately 41 percent on-site. The streetscape (10.61 acres) within the public right-of-way will provide additional public benefits off-site.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is MAY 30 2013 (which is the date that this Resolution is mailed to all parties of record); and

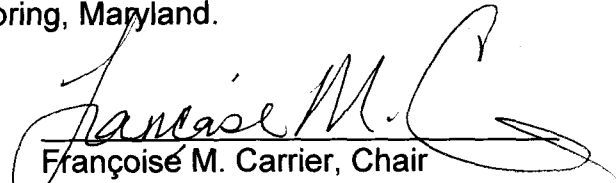
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, May 16, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

Penn, Joshua

From: Farhadi, Sam <Sam.Farhadi@montgomerycountymd.gov>
Sent: Wednesday, May 15, 2013 1:12 PM
To: Penn, Joshua
Cc: Carter, John
Subject: Crystal Rock Public Roads Infrastructure Site Plan 8-20130250

Hi Josh,

Here are our comments for above site plan (please note we have not included any comments for the onsite as this site plan applies to the public streets only):

- Per MCDOT letter for the preliminary plan 1-20120210 dated 12/3/12:
 - o Condition 2c and 2d: Need cross section for Dorsey Mill Road;
 - o Condition 2f and 5: Provide truck turning movements;
 - o Condition 3: Provide details for the SWM in the R/W. Current design does not seem acceptable;
 - o Condition 4: Provide details for the ramps, steps, awning and walls protruding into the R/W OR the will not be allowed;
 - o Condition 11: A maximum of 8% grade is allowed;
 - o Condition 12: Provide 100' tangent between the intersections;
 - o Condition 14: design of any bump-outs to be per MCDPS detail;
 - o Condition 25: Evaluate the offset and size of the median/splitter island on Century Blvd at Dorsey Mill Road and also at the traffic circle;
 - o Condition 34: Work with DOT - Commuter Services / Sande Brecher to prepare and execute TMAg;
 - o Condition 36: Provide PUE along all public streets.
- Design of the traffic circle to be per MCDPS standard;
- Label the curb radii for access points;
- Provide and label sidewalk to ADA standards (label and ensure five feet wide free and clear) aligned with pedestrian crossings with no surface feature along the site frontage. Label it across the driveways to be flush with the driveways or provide handicap ramps;
- Provide sight distance analysis for the proposed access points;
- The followings need to be conditions of the certified site plan to be done at permit stage:
 - o Storm drain adequacy analysis;
 - o Private open space covenant;
 - o Slope/drainage easement.
- Coordinate with DOT Transit, Ms. Stacy Coletta 240 777-5836 on possible bus stop requirements;
- Horizontal curve radii need to be at least 300' to meet the minimum requirements.

Please let me know if you have any question.

Sam



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

June 12, 2013

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Crystal Rock (Far North), DAIC 120120210, NRI/FSD application accepted 11/18/2010

Dear Ms. Carrier:

The County Attorney's Office has advised that Montgomery County Code Section 22A-12(b)(3) applies to any application required under Chapter 22A submitted after October 1, 2009. Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

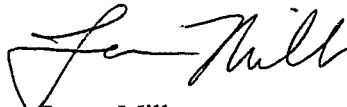
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that revisions to the LOD are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Chief



April 10, 2013

Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Crystal Rock
MHG Project No. 10.102.11
Tree Variance

To Whom It May Concern:

On behalf of Lerner Enterprises, the applicant of the above referenced Forest Conservation Plan, we hereby request a variance for the removal of thirty eight specimen trees and the impact to, but not removal of, six specimen trees, required by the Maryland Natural Resource Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code. This variance request is an amendment to the variance that was approved by the planning board on March 14th, 2013. The impact to one tree (#262) has increased for the construction of a sidewalk in the Crystal Rock Drive right of way, but the tree will still be saved. The proposed removal/impact of forty four trees over thirty inches in diameter including the additional impact to tree #262 would satisfy the variance requirements as described below.

1. *Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The subject site consists of a total tract area of 107.70 acres along Crystal Rock Drive. The property is zoned TMX – Transit Mixed Use. The Germantown Employment Sector Plan requires a dense urban form that utilizes transit-oriented development techniques. The Sector Plan imposes special conditions on the property by requiring a transit-oriented, walkable community which necessitates development scaled to the pedestrian. There are a total of 65.10 acres of existing forest onsite, or 60% of the site is forested. Because the site contains a significant amount of forest, it makes conforming with the goals of the Sector Plan unobtainable without impacts to the forest. 33.90 acres of the existing forest will be preserved in conservation easements. This preserved forest represents over 30% of the total tract area, more than the conservation threshold. In

addition, neither reforestation nor afforestation is required for this project under the Forest Conservation Law.

The number of specimen trees to be removed is directly related to the significant amount of forest existing on site. However, as noted above, no reforestation or afforestation will be required. Development has been focused on the open areas of the site. The starting locations for the master planned Rights of Way for Crystal Rock Drive and Century Boulevard are fixed locations at the property lines as these roads exist off-site, terminating at the property. This further hinders the applicant's ability to reduce impacts to the forest. Of the forest being removed, virtually all of it is in areas which the Germantown Employment Area Sector Plan indicates are appropriate for development.

2. *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;*

The proposed use is compatible with the surrounding properties and with the Germantown Employment Area Sector Plan. The proposed construction leaves intact virtually all the forest north and west of the original Crystal Rock Drive right-of-way intact, for use as public and private open space, as is shown on Map 22 of the Sector Plan. We also believe that our proposal adequately meets the terms of the Environmental Framework outlined in that Plan.

The inability to remove the subject trees would limit the development of the property as envisioned by the Sector Plan. Significant alterations to the proposed building and construction types, unit diversity, urban form, and building heights of the Project would be required to alter the Plan to preserve more forest areas. The Plan was developed considering "best practices" environmental, planning and economic principles. We have tried hard to minimize the limits of disturbance in order to create a more urban, walkable and overall more compact development than the already approved T-S zone project. Each of the components of the pending Plan are essential to its character and success. The submitted Plan accomplishes an appropriate balancing of all the legislated requirements and restraints. Any further changes to the plan will have cascading effects that will endanger the overall quality of the Plan and the success of the Project.

Given the high proportion of existing forest on the property, this limitation would create a significant disadvantage for the applicant and deprives the applicant of the rights enjoyed by the neighboring and/or similar properties not subject to this approval process.

3. *Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;*

A Stormwater Management Concept for this property will be submitted for review and approval by the Department of Permitting Services. This approval, once granted, will confirm that the goals and objectives of the current state water quality standards have been met for the proposed improvements to the site.

4. *Provide any other information appropriate to support the request.*

A copy of the Preliminary Forest Conservation Plan has been provided as part of this variance request. The proposed removal of the thirty seven specimen trees and impacts to six specimen trees is indicated on the plan. In addition, the plan notes the requirement for a total of 7.75" DBH inches in replacement trees to be planted as mitigation for the removal of specimen trees outside of the forest. This is the equivalent of 3 trees @ 3" caliper. It is anticipated that this requirement will be met with landscape trees to be planted on site. In addition, the six specimen trees to be impacted but saved will receive all necessary stress reduction measures, overseen by an arborist, including but not limited to: tree protection fence, root pruning, deep root fertilization and watering, raised sidewalks, and aeration matting. These stress reduction measures will be detailed on the final forest conservation plan. Please let us know if any other information is necessary to support this request.

As previously noted, this variance request is an amendment to the variance that was approved by the planning board on March 14th, 2013. The increased impact to tree #262 for the construction of a sidewalk in the Crystal Rock Drive right of way is required and therefore is a justified impact and meets the variance requirements. See attached tree list for impact percentages. All necessary stress reduction measures will be taken to protect the tree.

Please contact me via email, at fjohnson@mhgpa.com, or by phone, at (301) 670-0840 should you have any additional comments or concerns.

Thank you,



Frank Johnson

Specimen Variance Mitigation Table

ID #	Common Name	Scientific Name	DBH	Conditions/Remarks	Disposition	% Impact of Save trees	Mitigation (DBH x .25)
2	Northern Red Oak	Quercus rubra	31	Good	Save	33%	Tree save measures
3	White Oak	Quercus alba	32	Good	REMOVE	N/A	forest worksheet
5	White Oak	Quercus alba	30	Good - wire in tree	REMOVE	N/A	forest worksheet
8	Pignut Hickory	Carya glabra	30	Good	REMOVE	N/A	forest worksheet
11	Northern Red Oak	Quercus rubra	43	Good	REMOVE	N/A	forest worksheet
13	White Oak	Quercus alba	44	Good/Fair; rot, barbed wire	REMOVE	N/A	forest worksheet
18	Tulip Poplar	Liriodendron tulipifera	34 - 18	Fair - poor structure	REMOVE	N/A	forest worksheet
22	Red Maple	Acer rubrum	33 - 16 15	Fair/Poor, poor structure, dead wood	REMOVE	N/A	forest worksheet
24	Red Maple	Acer rubrum	30 - 25 22 20 10 10	Fair/poor structure, rot, epic, growth	REMOVE	N/A	forest worksheet
25	Mockernut Hickory	Carya tomentosa	31	Fair - 75% of champion, deadwood, cav.	REMOVE	N/A	7.75
26	White Oak	Quercus alba	40	Good, Fair/stairs, vines	REMOVE	N/A	forest worksheet
27	Tulip Poplar	Liriodendron tulipifera	30	Poor - Split	REMOVE	N/A	forest worksheet
29	Tulip Poplar	Liriodendron tulipifera	34 - 24 10	Fair/Poor, large rotten bole, poor structure	Save	0%	N/A
30	Northern Red Oak	Quercus rubra	41	Fair/dieback/some deadwood	Save	0%	N/A
34	dead tree	unknown	30	Dead	Save	0%	N/A
35	Northern Red Oak	Quercus rubra	33	Good, vines, codom @ 6'	Save	0%	N/A
52	Tulip Poplar	Liriodendron tulipifera	30	Good/Fair, hollow @ base	REMOVE	N/A	forest worksheet
56	Red oak	Quercus rubra	31	Good - some deadwood	REMOVE	N/A	forest worksheet
62	Black Oak	Quercus velutina	31	Fair/dieback/deadwood	Save	0%	N/A
63	Black Oak	Quercus velutina	30	good/deadwood	Save	0%	N/A
69	Northern Red Oak	Quercus rubra	31	Fair/Deadwood/Dieback	save	0%	N/A
73	Black Oak	Quercus velutina	34	Poor/deadwood/co-dom @ 5', 1 bole dead, tree leaning on it, dieback	REMOVE	N/A	forest worksheet
88	Red oak	Quercus rubra	34	Good/deadwood	Save	0%	N/A
89	Red oak	Quercus rubra	32	Fair/deadwood, dieback fungus	Save	0%	N/A
90	Red oak	Quercus rubra	35	Good/deadwood/dieback	Save	0%	N/A
91	Red oak	Quercus rubra	31	Good, Fair/deadwood/dieback	Save	0%	N/A
101	Red oak	Quercus rubra	30	Good, deadwood	Save	0%	N/A
102	Red oak	Quercus rubra	30	Poor, deadwood/ 1bole dead @ 40', dieback	Save	0%	N/A
108	Black Oak	Quercus velutina	30	Good, deadwood	Save	0%	N/A
110	Tulip Poplar	Liriodendron tulipifera	31	Good/Fair - co-dom @ 4.5'	Save	0%	N/A
128	Tulip Poplar	Liriodendron tulipifera	30	good/fair - deadwood, co-dom @ 50'	Save	0%	N/A
130	Tulip Poplar	Liriodendron tulipifera	35	Fair, co-dom @ base but fused to 6'	Save	0%	N/A
137	Red oak	Quercus rubra	30	good co-dom @ 20'	Save	0%	N/A
152	Tulip Poplar	Liriodendron tulipifera	32	Good	Save	0%	N/A
155	Red oak	Quercus rubra	31	Good	Save	0%	N/A
170	Red oak	Quercus rubra	31	Fair, deadwood, dieback	Save	0%	N/A
190	Red oak	Quercus rubra	30	Good, Fair, over wires, dieback, lightning scar	Save	0%	N/A
198	Red oak	Quercus rubra	32	Good, deadwood	Save	0%	N/A
219	Red oak	Quercus rubra	30	Fair, deadwood, dieback	Save	0%	N/A
221	Red oak	Quercus rubra	30	Good, dieback	Save	0%	N/A
226	Tulip Poplar	Liriodendron tulipifera	36	Good, Fair, co-dom @ 4.5'	Save	0%	N/A
235	Red oak	Quercus rubra	30	Poor, dieback, struck by lightning/wood split top to bottom	REMOVE	N/A	forest worksheet
236	Red oak	Quercus rubra	37	Good - co-dom @ 4.5'	Save	0%	N/A
238	Silver Maple	Acer saccharinum	30 - 22	Good, vines	REMOVE	N/A	forest worksheet
239	Silver Maple	Acer saccharinum	40	Good, vines	REMOVE	N/A	forest worksheet
240	Silver Maple	Acer saccharinum	34	Good/Fair - co-dom @ 6'	REMOVE	N/A	forest worksheet
246	Red oak	Quercus rubra	30	poor, deadwood, cav, swollen base, heavy vines, almost dead	REMOVE	N/A	forest worksheet
248	Mulberry	Moraceae spp.	33 - 20 20	Poor - 33" co-dom @ 5', vines	REMOVE	N/A	forest worksheet
250	Black Cherry	Prunus serotina	34	Fair, deadwood, co-dom @ 5'	REMOVE	N/A	forest worksheet
257	Tulip Poplar	Liriodendron tulipifera	35	Poor, deadwood, large bark scar, dieback, co-dom @ 5'	REMOVE	N/A	forest worksheet
261	White Oak	Quercus alba	35	Fair, deadwood, co-dom @ 10', swollen base	REMOVE	N/A	forest worksheet
262	Red oak	Quercus rubra	31	Fair/Poor, deadwood, cav, rot, cavity @ 10', leans	Save	32%	Tree save measures
263	Red oak	Quercus rubra	35	Good, co-dom @ 5' (12" bole)	Save	0%	N/A
271	Red oak	Quercus rubra	34	Good, Fair, co-dom @ 4.5'	Save	0%	N/A
278	Tulip Poplar	Liriodendron tulipifera	30	Good, co-dom @ 6'	Save	0%	N/A
279	Tulip Poplar	Liriodendron tulipifera	30	Good, Fair, lopsided canopy	Save	0%	N/A
283	White Oak	Quercus alba	31	Good, Fair, deadwood, leans	Save	0%	N/A
284	White Oak	Quercus alba	31	Good, Fair, Epic	Save	0%	N/A
289	Tulip Poplar	Liriodendron tulipifera	34	Good, curved trunk	Save	0%	N/A
292	Tulip Poplar	Liriodendron tulipifera	30	Good	Save	0%	N/A
297	Tulip Poplar	Liriodendron tulipifera	32	Good, co-dom @ 5'	Save	0%	N/A
299	Tulip Poplar	Liriodendron tulipifera	35	Good, deadwood	Save	0%	N/A
303	Tulip Poplar	Liriodendron tulipifera	30	good	Save	0%	N/A
309	Tulip Poplar	Liriodendron tulipifera	32	Good, co-dom @ 5'	Save	18%	Tree save measures
311	Red oak	Quercus rubra	36	Good	Save	7%	Tree save measures
312	Red oak	Quercus rubra	36	Dead, 36" w/ other 3 boles fallen (stumps 4'-8" tall)	Save	20%	Tree save measures
319	Tulip Poplar	Liriodendron tulipifera	30	good	REMOVE	N/A	forest worksheet
321	Tulip Poplar	Liriodendron tulipifera	30	good, fair, tree stand	REMOVE	N/A	forest worksheet
322	Tulip Poplar	Liriodendron tulipifera	42	good	REMOVE	N/A	forest worksheet
342	Tulip Poplar	Liriodendron tulipifera	35	Fair, deadwood, vines	REMOVE	N/A	forest worksheet
346	Red Maple	Acer rubrum	31 - 20	Fair, deadwood, part of 20" fallen	REMOVE	N/A	forest worksheet
347	Tulip Poplar	Liriodendron tulipifera	30 - 16	Good - codom @ base	REMOVE	N/A	forest worksheet
349	Tulip Poplar	Liriodendron tulipifera	30	good	REMOVE	N/A	forest worksheet
350	Tulip Poplar	Liriodendron tulipifera	32	good	REMOVE	N/A	forest worksheet
358	Tulip Poplar	Liriodendron tulipifera	41	good, fair, co-dom @ 6'	REMOVE	N/A	forest worksheet
365	Tulip Poplar	Liriodendron tulipifera	37	Good/Fair, co-dom @ 4.5'	REMOVE	N/A	forest worksheet
368	Tulip Poplar	Liriodendron tulipifera	44	good, co-dom @ 6'	REMOVE	N/A	forest worksheet
371	Tulip Poplar	Liriodendron tulipifera	47	good, co-dom @ 8'	REMOVE	N/A	forest worksheet
374	Black Cherry	Prunus serotina	32	Fair	REMOVE	N/A	forest worksheet
376	White Ash	Fraxinus americana	32	Fair, poor, rot, scar, ivy vines	REMOVE	N/A	forest worksheet
378	Silver Maple	Acer saccharinum	30 - 25	fair, deadwood, leans, vines, canopy damage	Save	34%	Tree save measures
385	Tulip Poplar	Liriodendron tulipifera	32	Good	Save	0%	N/A
402	Red Maple	Acer rubrum	32	poor, partially topped	Save	0%	N/A
403	Red Maple	Acer rubrum	35	poor, topped, hollow, cav	Save	0%	N/A