



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

MCPB No. 18-073
Project Plan No. 92012004B
Black Hill
Date of Hearing: July 19, 2018

JUL 25 2018

RESOLUTION

WHEREAS, under Section 59-7.7.1.B.3 of the Zoning Ordinance, the Planning Board reviewed this application under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, under Section 59-D-2 of the Zoning Ordinance in effect on October 29, 2014, the Montgomery County Planning Board is authorized to review project plan applications; and

WHEREAS, on March 22, 2018, Black Hills Germantown LLC ("Applicant") filed an application for approval of a project plan to amend existing condition 5 regarding Public Use Space amenities and required retail locations, and condition 9 regarding phasing of public amenities located on 96.92 acres of TMX-2 zoned-land, located on the south and east side of Black Hill Regional Park, west of I-270 and north of the future Dorsey Mill Road ("Subject Property"), in the Germantown West Policy Area and Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's project plan application was designated Project Plan No. 92012004B, Black Hill ("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 July 6, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 19, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

Approved as to
Legal Sufficiency:

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Project Plan No. 92012004B to amend existing condition 5 regarding Public Use Space amenities and required retail locations and existing condition 9 regarding phasing of public amenities on the Subject Property, and to add a new condition 10, as set forth below.¹ All conditions of Project Plan No. 92012004A remain in full force and effect except as modified below.

5) Public Facilities, Amenities, and Other Design Features

- e. The Public Use Space must include Black Hill Preserve, Preserve Plaza, Village Green North and South, Main Street East and West Park, Main Street Retail Plaza, South Residential Linear Parks, Gateway Plaza and Linear Park, Hiker/Biker Trail, Transit Plaza, neighborhood greens spaces and public artworks.
- f. The final locations for the retail uses must activate the streetscape along Century Blvd near the intersection of the Main Street, and the Public Use Space Main Street Retail Plaza.

9) Development Staging

With the exception of Phase 1 (already completed), the uses within the remaining phases may be constructed in any order. However, the Public Use Space and amenities and facilities associated with the specific uses must be constructed with each phase as shown. The construction and inspection schedules will be determined at Site Plan.

- a. *Phase 1:* Pre-construction activities and installation of public infrastructure for Crystal Rock Drive and Century Boulevard
- b. *Phase 2:* Construction of the Senior Housing facility and its adjacent portion of the hiker/biker trail
- c. *Phase 2A:* Construction of multi-family residential units in buildings K, M, N, P, R, S, V and W, associated private streets, and public and private amenity spaces including a resident clubhouse, Main Street Parks (east and west), South Residential Green, and the adjacent portion of the hiker/biker trail
- d. *Phase 2B -* Construction of commercial Building I, the adjacent private street, necessary parking in parking area B, the Gateway Plaza and Linear Park, the adjacent portion of the hiker/biker trail, and rough grading of the Village Green South
- e. *Phase 2C:* Construction of commercial Building H, any incomplete adjacent private streets, the necessary parking in parking area B, completion of Village Green South, and constructing the portion of hiker/biker trail behind parking area B if not previously completed by others. If Phase 2C precedes Phase 4A,

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.

then ensure the Main Street Retail Plaza is rough graded. If Phase 2C follows Phase 4A, then complete the Main Street Retail Plaza.

- f. *Phase 2D*: Construction of hotel building C, construction of the adjacent portions of the hiker/biker trail, including behind parking area B if not already completed by others, and the completion of Main Street east of Century Boulevard including rough grading for the Main Street Retail Plaza if not already completed by others.
- g. *Phase 3*: Construction of residential buildings J, O and T, necessary parking, access, and private amenities, and adjacent portions of the hiker/biker trail. If Phase 3 precedes Phase 5, then grade for the Preserve Plaza, provide a temporary trail connection through the Preserve Plaza area to the hiker/biker trail, and ensure the hiker/biker trail connects to the Black Hill Regional Park trails. If Phase 3 follows Phase 5, then construct the Nature Pavilion.
- h. *Phase 4A*: Construction of commercial Building G, the adjacent private streets, the hiker/biker trail behind parking area D if not completed by others, ensure the necessary parking in parking area D. If Phase 4A precedes Phase 4B, then rough grade for Village Green North. If Phase 4A follows Phase 4B, then complete the Village Green North.
- i. *Phase 4B*: Construction of commercial Building F, any adjacent private streets, ensure necessary parking in parking area D. If phase 4B precedes Phase 4A, then rough grade for Village Green North. If Phase 4b follows Phase 4A, then complete the Village Green North.
- j. *Phase 5*: Construction of commercial Building E, the adjacent private street if necessary, ensuring necessary parking in parking area D, and its adjacent section of the hiker/biker trail. If Phase 5 precedes Phase 3, then install the Preserve Plaza and ensure the hiker/biker trail connects to the Black Hill Regional Park trails. If Phase 5 follows Phase 3, then install the Preserve Plaza and construct the Nature Pavilion.

10) Future Approvals - Commercial Uses

Any future Site Plan, Site Plan amendment or request to amend the Project Plan for any property or portion of property within the boundary of this Project Plan, that materially reduces the size of non-residential uses, may at Staff discretion require an amendment to the Project Plan to find conformance with the Master Plan.

BE IT FURTHER RESOLVED that all elements shown on the latest electronic version of Black Hill 92012004B, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, 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. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved project plan, as revised by previous amendments, and all findings not specifically addressed remain in effect.*
- b. *Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the development and are planned, designed and situated to function as necessary physical and aesthetic open areas among and between individual structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.*

The above basis for consideration from Section 59-D-2.43 was examined by the Planning Board because the Project Plan Amendment changes the Public Use Space amenity areas that must be provided. The original Project Plan included a large Gateway Plaza at the corner of Century Boulevard and future Dorsey Mill Road. The Project Plan Amendment reduces the size of the Gateway Plaza, while adding a new Linear Park, connecting the Gateway Plaza with the Village Green South. This results in a net equal amount of Public Use Space available within the entire Project Plan, and the amenities within the Linear Park include the same opportunities for shade, walking, and seating as the Gateway Plaza. The Public Use Space will be activated through building transparency on the ground floor and will help draw visitors into the larger Black Hill Development through the green gateway.

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

The Project Plan Amendment maintains buildings at a size and intensity that are compatible with existing or planned development, including a revised staging plan that ensures the delivery of public infrastructure and amenities in a timely and practical manner. The Project Plan Amendment maintains employment uses at the entrance to Black Hill and modifies the Public Use areas to reinforce the gateway concept where Building I is located. The modified staging requested by the Black Hill Applicant will ensure that public amenities and facilities are constructed in Black Hill as each future phase is completed, in an orderly and logical way so that each building contributes to the public amenities adjacent to its footprint. The modified staging also ensures the improvements being made are close to new

construction, increasing the likelihood that they will be used, while reducing the chance that future site work negatively impacts the Public Use areas.

h. Any applicable requirements for forest conservation under Chapter 22A

The Property is currently covered by an approved FFCP, approved by Infrastructure Site Plan 820130250, as amended. The Project Plan makes no changes to the limits of disturbance, protected trees, easements, or other environmental features. Therefore, all requirements for Chapter 22A remain.

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 JUL 25 2018 (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).

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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 Fani-González, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, July 19, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board