



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

MCPB No. 13-93
Site Plan No. 820130250
Crystal Rock Public Roads Infrastructure Plan
Date of Hearing: June 27, 2013

AUG 1 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board") is authorized to review site plan applications; and

WHEREAS, on May 9, 2013, North Village-270 Ltd. Partnership ("Applicant"), filed an application for approval of a site plan to construct Crystal Rock Drive and Century Boulevard and certain public utilities as shown on the Preliminary Plan, ahead of the development of buildings and other structures, on 6.69 acres of Transit Mixed Use ("TMX-2") zoned-land, 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 ("Subject Property"), in the Germantown Employment Area Sector Plan ("Sector Plan") area; and

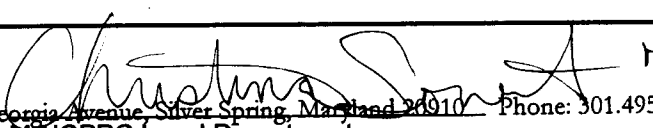
WHEREAS, Applicant's site plan application was designated Site Plan No. 820130250, Crystal Rock Public Roads Infrastructure Plan ("Site Plan" or "Application"); and

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 June 14, 2013, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 27, 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 June 27, 2013 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Anderson, seconded by Commissioner Dreyfuss, with a vote of 3-0; Commissioners Anderson, Dreyfuss, and Wells-Harley voting in favor. Commissioners Carrier and Presley were absent.

Approved as to
Legal Sufficiency:

 7/22/13
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820130250 to construct Crystal Rock Drive and Century Boulevard (public roads within the property) as shown on the Preliminary Plan on the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan No. 920120040 as listed in the Planning Board resolution dated May 30, 2013.

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120120210 as approved by the Planning Board on June 13, 2013 unless amended.

Environment

3. Forest Conservation & Tree Save

- a. The 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 any 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

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.

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 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 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 equivalent replacement of the natural vegetation, in the area that will be disturbed by the redistribution of the excess topsoil along the northeastern property boundary, directly adjacent to I-270.
- b. Provide landscape planting details.
- c. The equivalent replacement of the natural vegetation along I-270 is intended to serve as an intermediate solution 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 (for Landscaping required in Condition #8) 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 one 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.

- b. 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.
- c. The development program must provide phasing for installation of landscaping and lighting.
- d. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, 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.

BE IT FURTHER RESOLVED, that all site development elements as shown on Crystal Rock Public Roads Infrastructure Plan drawings stamped by the M-NCPPC on June 12, 2013, shall be 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 Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. The Site Plan is consistent with Project Plan No. 920120040, which was approved in accordance with the optional method of development for the TMX-2 Zone.

The Application does not require a development plan, diagrammatic plan, or a schematic development plan. The location and design of Crystal Rock Drive and Century Boulevard remains substantially unchanged from that approved in Project Plan No. 920120040.

2. The Site Plan meets all of the requirements of the zone in which it is located

The 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. With respect to building height, setbacks, green space, and density, which are to be reviewed under future site plan applications, this Application in no way affects those elements of the mixed use concept.

Requirements of the TMX-2 Zone

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the TMX-2 Zone.

Data Table

<u>SITE DATA</u>		
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 the buildings and structures, the 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. The Subject Property under this Site Plan consists of approximately 6.69 acres of future public rights-of-way and adjacent area required for construction of Crystal Rock Drive and Century Boulevard and certain public utilities that are associated with this road construction.

Crystal Rock Drive and Century Boulevard are classified as main streets in the Sector Plan with 100 foot wide rights-of-way to accommodate four travel lanes, street trees, lawn panels, pedestrian scale lighting, on-street parking (off-peak only), and the Bicycle Beltway. The rights-of-way will also accommodate the required stormwater management for the roadway. The construction approved with this Site Plan is limited to only that necessary to construct Crystal Rock Drive and Century Boulevard and to install certain public utilities that must be built in concert with these specific roads. The site impacts have been reduced to minimize ground disturbing activities. The Limits of Disturbance (LOD) were 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 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 approved alignment and road construction is compatible with the adjacent and confronting properties and uses as well as the development shown on the approved Project Plan and Preliminary Plan. The completion of Crystal Rock Drive and Century Boulevard through the Subject Property is essential to meet the Sector Plan's connectivity goals by providing the necessary vehicular network and pedestrian connections traversing the Subject Property.

The closest impact to an adjacent use is a storm drain outfall which runs along the southern border of the Subject 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 law.

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 Protected Trees and for the impacts to five other Protected Trees. This variance request was approved in conjunction with the Project Plan and associated PFCP 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 Protected Tree (identified as tree #262) for the construction of a sidewalk in the Crystal Rock Drive right-of-way. This tree will be impacted but will be saved.

Unwarranted Hardship Basis

Under the TMX 2 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 that 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. 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 Subject Property. The tree and/or its critical root zone 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 the 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 - 2. The Germantown Employment 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 this 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 Protected Tree to be physically removed or required to be counted as cleared which are not within existing forest. 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 that the variance be granted if mitigation is provided.

Variance

The Planning Board grants the variance for the impacts to Protected 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 and was used to identify the environmental constraints and forest resources on the Subject Property as part of the Project Plan, Preliminary Plan and for the review of this Application. The Subject Property contains 65.10 acres of forest, 9.8 acres of stream valley buffer (SVB) and 0.04 acres of wetlands. There are two streams on, or immediately adjacent to, the Subject Property both within the Little Seneca Creek watershed, designated as Use I-P.

Stormwater Management and Erosion and Sediment Control

The Subject Property is not located within a Special Protection Area, and a Water Quality Plan is not required. The Application is subject to Chapter 19 and meets all applicable requirements for water resources protection. The Application has an approved stormwater management concept from the Montgomery County Department of Permitting Services dated, November 16, 2012. The stormwater concept provides water resource protection for all development shown on the Preliminary Plan including construction of Crystal Rock Drive and Century Boulevard and the associated utilities. The stormwater management concept will meet required stormwater management goals for this Application using public/private micro-bioretenion within the streetscape and planter boxes with other stormwater management facilities adjacent to the parallel parking areas within the public ROW.

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 Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 1 2013 (which is the date that this resolution is mailed to all parties of record); and

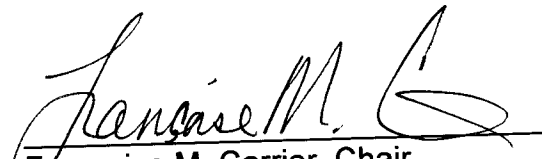
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Vice Chair Wells-Harley, with Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor, and Chair Carrier abstaining, at its regular meeting held on Thursday, July 25, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board