



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

MCPB No. 18-071  
Preliminary Plan No. 12012021B  
Black Hill  
Date of Hearing: July 19, 2018

JUL 25 2018

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on July 8, 2013, the Planning Board, by Resolution MCPB No. 13-38, approved Preliminary Plan No. 120120210, creating 11 lots for up to 1,618 residential units including 1,178 age restricted units, and up to 1.1 million square feet of commercial use on approximately 108 acres of land in the TMX-2 zone, located South and east 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 the 2009 Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, on May 3, 2016, the Planning Board approved an amendment to Preliminary Plan No. 12012021A (MCPB No. 16-025) to modify the mix of allowed residential uses by reducing the number of residential units to 1,229, removing the age restriction on most of the residential units, and allowing for up to 140 assisted living units on the Subject Property; and

WHEREAS, on March 22, 2018, Black Hills Germantown LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) to create a new 5.8-acre lot and a new private street parcel, and to remove a storm drain easement on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12012021B, Black Hill ("Preliminary Plan," "Amendment," 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 July 6, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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Approved as to  
Legal Sufficiency:

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MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

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.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12012021B to create a new 5.8-acre lot and a new private street parcel, and to remove a storm drain easement by modifying the following conditions:<sup>1</sup>

- 1) Approval under this Preliminary Plan is limited to 13 lots, and four parcels, for a maximum of 1,097,800 square feet of office space, 91,400 square feet of retail space, a 350-room hotel, and 1,229 residential units (including 12.5% MPDUs). No more than 140 of the units may be assisted living units.
- 3) The Preliminary Plan must comply with all conditions of approval for the Project Plan No. 92012004B.
- 8) The Applicant must show on the record plat a parcel for the following private streets as well as construct the roads to the design standards specified below:
  - a. Private Street Parcel A from Private Street Parcel D to Private Street 1<sup>st</sup> Street, with a minimum parcel width of 69.34 feet. Private Street Parcel A must be constructed to MCDOT Road Code Standard MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.
  - b. Private Street B with a minimum parcel width of 40.34 feet from Crystal Rock Drive to 5<sup>th</sup> Street. Private Street B must be constructed to Montgomery County Department of Transportation ("MCDOT") Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street, modified as shown on the Certified Preliminary Plan.
  - c. Private Street C with a minimum parcel width of 37.34 feet from Crystal Rock Drive to 5<sup>th</sup> Street. Private Street C must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street, modified as shown on the Certified Preliminary Plan.
  - d. Private 1<sup>st</sup> Street with a minimum parcel width of 69.34 feet. Private Street 1<sup>st</sup> Street must be constructed to MCDOT Road Code Standard MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.
  - e. Private 2<sup>nd</sup> Street with a minimum parcel width of 69.34 feet. Private Street 2<sup>nd</sup> Street must be constructed to MCDOT Road Code Standard

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<sup>1</sup> 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.

MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.

- f. Private 3<sup>rd</sup> Street with a minimum parcel width of 69.34 feet. Private Street 3<sup>rd</sup> Street must be constructed to MCDOT Road Code Standard MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.
- g. Private 4<sup>th</sup> Street with a minimum parcel width of 69.34 feet. Private Street 4<sup>th</sup> Street must be constructed to MCDOT Road Code Standard MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.
- h. Private 5<sup>th</sup> Street (Winged Foot Lane) west of Century Boulevard from Street C to Street A with a minimum parcel width of 37.34 feet. Private 5<sup>th</sup> Street must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street, modified as shown on the Certified Preliminary Plan.
- i. Private Street Parcel D (Winged Foot Lane) east of Century Boulevard with a minimum parcel width of 69.34 feet. Private Street Parcel D must be constructed to MCDOT Road Code Standard MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.
- j. Private Main Street (Oakland Hills Blvd) from Private Street C to Century Boulevard with a minimum parcel width of 131.34. Private Main Street must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street, modified as shown on the Certified Preliminary Plan.
- k. Private Main Street (Oakland Hills Blvd) from Century Boulevard to Private Street A with a minimum parcel width of 163.34 feet. This section of Private Main Street must be constructed to MCDOT Road Code Standard MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.

12) The Applicant must provide Private Road(s) located in Private Road Parcels D and E, and Private Roads 3<sup>rd</sup> St and 4<sup>th</sup> Street, including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Road"), subject to the following conditions:

- a. The Private Roads to be constructed in Road Parcels D and E must remain in the Private Road parcel. For Private Roads 3<sup>rd</sup> Street and 4<sup>th</sup> Street, the record plat must clearly delineate the Private Road and include a metes and bounds description of the boundaries of the Private Road.

- b. The Private Road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq.
- c. Prior to issuance of building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Preliminary Plan or a subsequent Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

For the Private Roads located in Parcel C, Plat No. 25312, the record plat must reflect the following: private streets from back of curb to back of curb to be located within separate parcels; private streets and adjacent sidewalks to be included within a public use and access easement.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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:

*Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan as revised by previous amendments, and all findings not specifically addressed remain in effect.*

- 1) *The layout of the subdivision, including size, width, shape, orientation and diversity of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The new 5.8-acre lot, new private street parcels, and reduced lot sizes for future commercial properties are appropriate for the subdivision given its location and type of development contemplated, considering the applicable requirements of Chapter 59. The new 5.8-acre lot is to accommodate up to 130,000 square feet of

office use. The lot is adequately sized to accommodate the office building, necessary parking, and Public Use spaces, while meeting the design standards of the TMX-2 zone. There are minimal zoning requirements that would constrain building placement except for a Sector Plan 200-foot setback from I-270 which the lot can adequately accommodate.

The parcels for private streets east of Century Boulevard are adequate for the intended street sections. The original Preliminary Plan contemplated private street parcels, but they were only sized to accommodate the actual road pavement section. The accompanying sidewalks and street trees would be located in easements on the individual building lot(s) adjacent to the streets. The policy on private streets, including the private street covenant has subsequently changed. The Applicant has increased in size the street parcels east of Century Boulevard to accommodate the sidewalks and street trees within the private street. The larger street parcels resulted in a reduction in the size of lot(s) 12, 13 and 14 as shown on the Preliminary Plan. This lot size reduction does not limit the ability for the future office to develop as planned because there are no setback requirements in the TMX-2 zone and the areas added to the private street parcels were already identified as sidewalk easements in previous versions of the Preliminary Plan.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and 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.

  
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Casey Anderson, Chair  
Montgomery County Planning Board