



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

MCPB No. 18-072
Site Plan No. 82013025E
Black Hill
Date of Hearing: July 19, 2018

JUL 25 2018

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

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

WHEREAS, on August 1, 2013, the Planning Board, by Resolution MCPB No. 13-93, approved Infrastructure Site Plan No. 820130250 to construct Crystal Rock Drive and Century Boulevard and public utilities, ahead of the development of buildings and other structures on 108 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 (MD27) and I-270 ("Subject Property"), in the Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, on December 30, 2015, the Planning Board approved an amendment to the previously approved Infrastructure Site Plan, designated Infrastructure Site Plan No. 82013025B (MCPB No. 15-151), to reflect the disturbance for the Dorsey Mill Road interchange where it encroached on the Subject Property; and

WHEREAS, on May 3, 2016, the Planning Board approved an amendment to the previously approved Infrastructure Site Plan, designated Infrastructure Site Plan No. 82013025A (MCPB No. 16-027), to reflect the grading and construction for the Black Hill Phase IIA development on the Subject Property; and

WHEREAS, on August 1, 2017, the Planning Board approved an amendment to the previously approved Infrastructure Site Plan, designated Infrastructure Site Plan No. 82013025D (MCPB 17-076), to relocate 0.58 acres of Category I conservation easement on the Subject Property; and

Approved as to

Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910

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WHEREAS, on July 3, 2018, the Planning Board approved an infrastructure site plan amendment to the previously approved Infrastructure Site Plan, designated Infrastructure Site Plan No. 82013025C (MCPB 18-051), to update the Forest Conservation Plan to reflect the grading and construction of the Black Hill - Thrive Assisted Living Facility on the Subject Property; and

WHEREAS, on March 22, 2018, Lerner Enterprises, LLC (“Applicant”) filed an application for approval of an Infrastructure Site Plan amendment to update the Final Forest Conservation Plan to show final grading and design of a new structure and to allow for non-standard improvements within a portion of the public right-of-way for Century Boulevard on approximately 5.8 acres of the on 96.92 acre Subject Property, on Transit Mixed Use (“TMX-2”) zoned-land, located 1.5 miles north of Germantown Town Center, 0.6 miles north of the interchange at Ridge Road/Father Hurley Boulevard (MD 27) and I-270, and south east of Crystal Rock Drive (“Subject Property”), in the Germantown West Policy Area and Germantown Employment Area Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s Infrastructure Site Plan amendment application was designated Infrastructure Site Plan Amendment No. 82013025E, Black Hill (“Infrastructure 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 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, and at the hearing the Planning Board 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 as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Infrastructure Site Plan Amendment No. 82013025E to update the Final Forest Conservation Plan to show final grading and design of a new structure and to allow for non-standard improvements within a portion of the public right-of-way for Century Boulevard on approximately 5.8 acres of the on 96.92-acre Subject Property, by adding the following condition:¹

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.

1) Future Site Plan Coordination

- a. The submission of future site plans or site plan amendment applications, that as part of the application would also require an amendment to the Infrastructure Site Plan for purposes of updating the Final Forest Conservation Plan (“FFCP”), may make the amendments to the FFCP sheet(s) as part of the respective site plan or site plan amendment application, rather than submitting a concurrent amendment application to this Infrastructure Site Plan.
- b. The submission of future site plans or site plan amendment applications, that as part of the application would also require an amendment to the Infrastructure Site Plan for purposes of updating improvements to be constructed within the right-of-way may make those amendments as part of the site plan or site plan amendment application, rather than submitting a concurrent amendment application to this Infrastructure Site Plan.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Infrastructure Site Plan No. 82013025E, 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 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 site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.

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

Pedestrian Circulation

Pedestrian circulation will continue to be safe, adequate, and efficient with the amendment to the Infrastructure Site Plan. The Infrastructure Site Plan was reviewed concurrently with an adjacent site plan that locates Public Use space along the east side of Century Boulevard. The Applicant wants to ensure the public sidewalk and Public Use Space are connected by providing paving over sections of the existing two-foot wide maintenance areas. These modifications are necessary to enable seamless access and circulation between these spaces. In the future, amendments to right-of-way circulation proposed by future site plan applications

will no longer need to physically amend the Infrastructure Site Plan and may instead show the proposals on the future site plan drawings.

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 Infrastructure Site Plan continues to meet the requirements of Chapter 22A and Chapter 19. The Final Forest Conservation Plan (FFCP) for the entire 108-acre Black Hill Property was first approved in August 2012 and included 65.10 acres of existing forest, 31.20 acres of proposed forest clearing, and 33.90 acres of Category I Conservation Easement. The Infrastructure Site Plan Amendment updates the FFCP with the proposed development, grading and final LOD for the ViaSat site plan No. 820180110 which was concurrently reviewed with this Amendment. The impacts of the ViaSat site plan does not result in any changes to the amount or location of forest clearing, conservation easements or the ultimate LOD, therefore the FFCP continues to be in compliance with the law. In the future, amendments to the FFCP for purposes of updating the drawings to show final grading and development approved by future site plans will no longer need to physically amend the Infrastructure Site Plan and may instead show the FFCP changes as part of the site plan applications.

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 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).

* * * * *

CERTIFICATION

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 Fani-González, seconded by Commissioner Cichy, 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