



Black Hill / ViaSat: Project Plan No. 92012004B, Preliminary Plan No. 12012021B, Site Plan No. 82013025E and Site Plan No. 820180110

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Completed: 07/06/18

**A. Black Hill: Project Plan Amendment No 92012004B:**

Application to amend existing condition 5 regarding Public Use Space amenities and required retail locations, and condition 9 regarding phasing of public amenities located within the employment area of Black Hill;

**B. Black Hill: Preliminary Plan Amendment No 12012021B:**

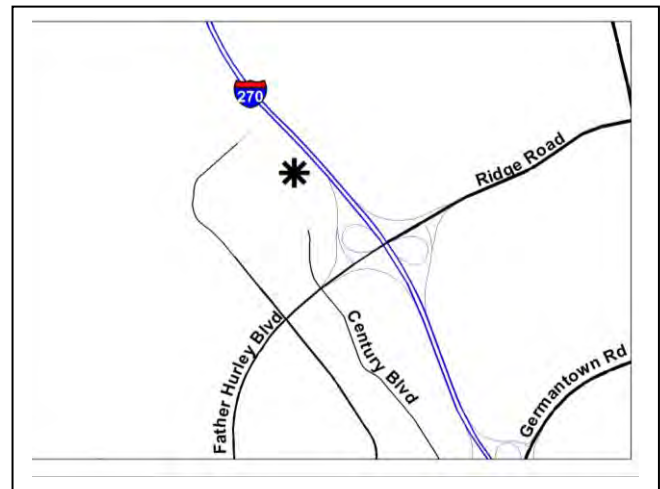
Application to resubdivide to create one lot for up to 130,000 sq. ft. of office space, and to modify existing lots and private street parcels;

**C. Black Hill: Infrastructure Site Plan No. 82013025E**

Application to amend the Final Forest Conservation Plan for Black Hill to include the final elevations and design for a portion of the Site, and to add a condition allowing future Site Plan Applications to amend the Final Forest Conservation Plan for Black Hill without the need to amend the Infrastructure Site Plan;

**D. ViaSat: Site Plan No. 820180110:**

Application to construct up to one, 130,000 sq. ft. office building with associated parking, over two phases;



The project is located on the south and east side of Black Hill Regional Park, west of I-270 and north of the future Dorsey Mill Road. Black Hill items A, B and C are 96.92 acres, and ViaSat is a sub-set of the Black Hill property at approximately 5.8 acres; CR 0.75, C-0.5 R-0.5 H-145T and Germantown Transit Mixed Use Overlay Zone, but reviewed under the TMX-2 zone; 2009 Germantown Employment Area Master Plan.

**Recommendations** – Approval with conditions of the Project Plan amendment, the Preliminary Plan amendment, the Infrastructure Site Plan amendment and the Site Plan

**Applicants:**

Project Plan, Preliminary Plan, and Infrastructure Site Plan - Black Hills Germantown LLC (Lerner Properties)  
Site Plan - ViaSat Inc

**Applications Accepted:** March 22, 2018

**Review Basis:** Chapter 22A, Chapter 50, Chapter 59

## EXECUTIVE SUMMARY

Staff Recommends **Approval with Conditions** of the Project Plan amendment, the Preliminary Plan amendment, the Infrastructure Site Plan amendment and the new Site Plan (“Application”). The purpose of the Application is to allow for the construction of up to 130,000 square feet of new office space, in one building to be built over two phases. The ViaSat site is approximately 5.8 acres located on the northwest corner of Century Blvd. and the future Dorsey Mill Road (“ViaSat Property”). The Black Hill project, formerly known as Crystal Rock, encompasses just under 97 net acres and is more broadly located on the west side of I-270, south of Black Hill Regional Park, east of Crystal Rock Drive and north of Dorsey Mill Road (“Black Hill Property”). The Black Hill Property has previous approvals for Project and Preliminary Plans that set forth a basic vision for how the Black Hill Property would develop, and the Infrastructure Site Plan was approved also covering the entire Black Hill Property to allow for infrastructure and forest conservation work to occur before subsequent site plans were submitted for review.

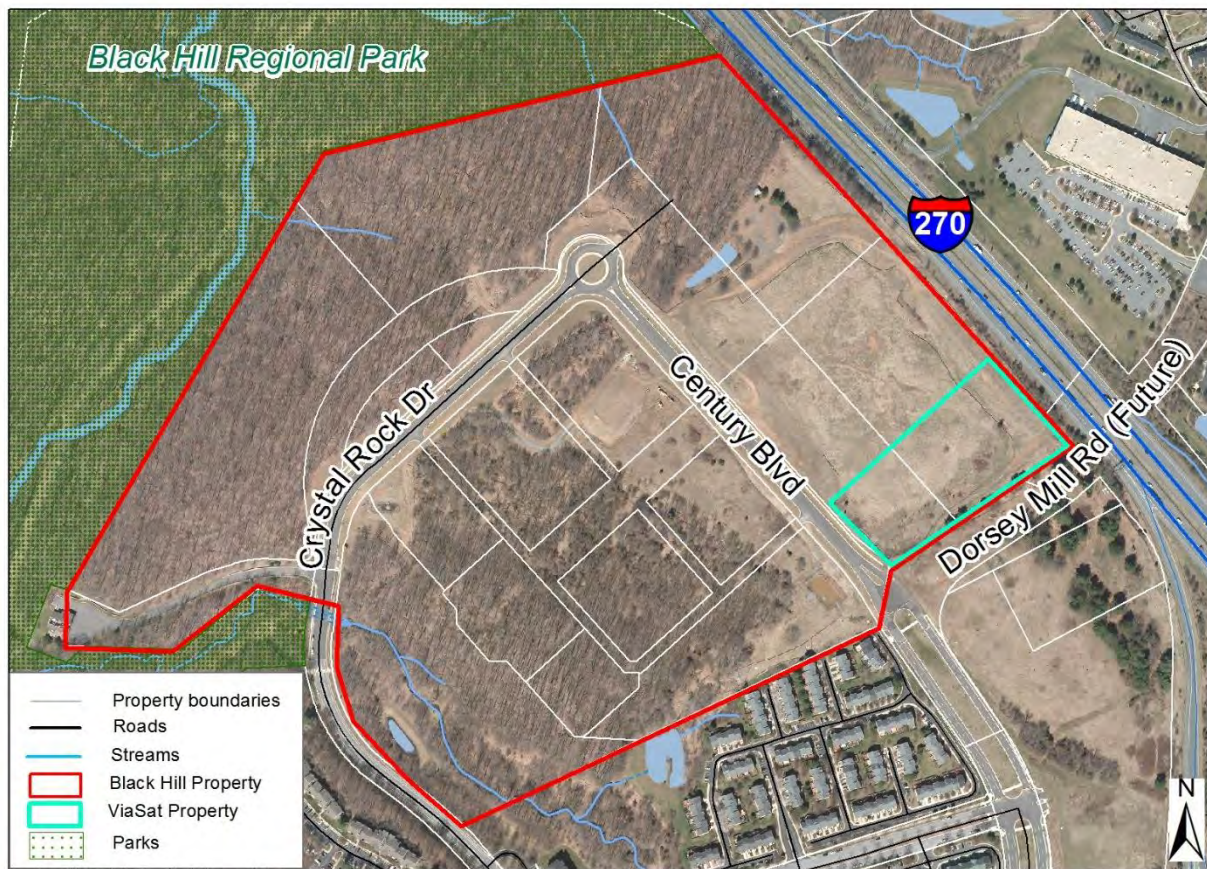


Figure 1 – Aerial Map

The Black Hill Property and ViaSat Property are currently zoned CR-0.75, C-0.5, R-0.5, H-145T, but are being reviewed under the TMX-2 Zone. The Project Plan, Preliminary Plan, and Infrastructure Site Plan amendments are pursuant to exemption Section 59.7.7.1.B.3 for the amendment of an approved plan previously approved before October 30, 2014, and the new Site Plan is pursuant to exemption Section 59.7.7.1.B.1 for Applications in Progress before October 30, 2014, which allows an Applicant to proceed through any additional required application under the standards of the Zoning Ordinance in effect on October 29, 2014.



To approve the ViaSat Site Plan, amendments to the existing Project Plan, Preliminary Plan and Infrastructure Site Plan are necessary. The Project Plan No. 92012004B is being amended to revise conditions 5e, 5f and 9 to update the list of public amenities, to remove the requirement that retail be located on the ground floor of Building I facing the Gateway Plaza and to modify the staging requirements for when Public Use spaces are required. The Preliminary Plan No. 12012021B is being reviewed to create a separate lot for Building I, and to bring the remaining private street parcels up to current standards. Infrastructure Site Plan Amendment No. 82013025E is necessary to update the Final Forest Conservation Plan to show final grading and design of Building I, and to allow for non-standard improvements within the public right-of-way. The applicant for the three Black Hill Property amendments is Black Hills Germantown LLC - Lerner Company ("Black Hill Applicant"). The new Site Plan application No. 820180110 is for the ViaSat Property, to accommodate up to 130,000 square feet of office space, in a new three-story building, including structured parking. The ViaSat Site Plan is submitted by a representative of the ViaSat Company ("ViaSat Applicant").



*Figure 2 – Proposed ViaSat Building*

Staff to date has received one piece of correspondence from the community, raising concerns that the proposed ViaSat building does not meet the Master Plan recommendations or the intended goals of the Project Plan. Staff finds the proposed Site Plan does substantially meet the goals of the Master Plan, and further analysis of the community concern is discussed later in this Staff Report.

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## SECTION 1 – RECOMMENDATIONS AND CONDITIONS

**Project Plan Amendment No. 92012004B:** Staff recommends approval with conditions for the Project Plan Amendment. All conditions of Project Plan No. 92012004A remain in full force and effect except for 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, 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.

Staff also recommends the following new condition for the Project Plan Amendment:

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.

**Preliminary Plan Amendment No. 12012021B:** Staff recommends approval with conditions for the Preliminary Plan Amendment. All conditions of Preliminary Plan No. 12012021A remain in full force and effect except as modified by the conditions below.

- 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 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 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 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.

**Infrastructure Site Plan Amendment No. 82013025E:** Staff recommends approval of the Infrastructure Site Plan Amendment with conditions. All conditions of approval of the Infrastructure Site Plan No. 820130250 (as amended through the D amendment) remain in full force and effect except as modified by the following new condition. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.

- 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.

**Site Plan No. 820180110:** Staff recommends approval with conditions of the Site Plan. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.

- 1) Project Plan Conformance

The development must comply with the conditions of approval for Project Plan Amendment No. 920012004B, as approved concurrently with the Site Plan.
- 2) Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan Amendment No. 12012021B, as approved concurrently with the Site Plan.
- 3) Infrastructure Site Plan Conformance

The development must comply with the conditions of approval for Infrastructure Site Plan Amendment No. 82013005E for purposes of Forest Conservation, as approved concurrently with the Site Plan.

4) Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated May 30, 2018, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

5) Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated May 17, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.

6) MCDPS – ROW Permitting

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Permitting and Plan Review Section (MCDPS-RPP) in its letter dated May 29, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

7) Public Use Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 101,144 square feet of public use space (39% of net lot area) on-site.
- b. The Applicant must construct the Gateway Plaza and Linear Park, and the Hiker/Biker Trail, as shown on the Certified Site Plan.
- c. The Applicant must grade for the Village Green South, located north of the ViaSat building, as shown on the Certified Site plan.
- d. Before the issuance of use and occupancy certificates for the commercial development, all public use space areas on the Subject Property must be completed.

8) Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to benches, trash receptacles, decorative lighting, bicycle racks and decorative paving within the Gateway Plaza and Linear Park and the Hiker/Biker trail.

9) Transportation

The Applicant must construct the Private Street on Parcel D (Winged Foot Lane) to the standards approved by Preliminary Plan No. 12012021B, and must construct all sidewalks, both on and off the Subject Property, to applicable ADA standards. Before the release of bond or surety, the Applicant must provide DPS Z&SPE Staff with certification from a licensed civil engineer that all streets and sidewalks have been built to the above standards.

10) Pedestrian & Bicycle Circulation

The Applicant must provide 26 long-term and eight short-term bicycle parking spaces.

- a. The long-term spaces must be in a secured, well-lit facility located in the covered parking garage area, and the short-term spaces must be inverted-U racks (or approved equal) installed near the buildings primary entrance facing toward the visitor parking and employee parking garage. The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
- b. The Applicant must provide for a 10-foot wide shared use path along Century Boulevard, and eight-foot wide sidewalk along the private street, and an eight-foot wide shared use path for the Hiker/Biker trail.

11) Building Lot Terminations (BLTs)

Before issuance of the any building permit, the Applicant must provide proof to the Department of Permitting Services (DPS) that the density for the entire Black Hill development project remains under the 0.5 FAR threshold, under which no BLTs are required.

12) Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets 09-ARCH-820180110-A04.021, 09-ARCH-820180110-A04.022, and 09-ARCH-820180110-MATERIAL\_BOARD of the submitted architectural drawings, as determined by Staff.

13) Landscaping

The Applicant must install all landscaping materials and elements as shown on the Certified Site plan prior to issuance of the final inspection for the commercial building. Plant material may be installed up to six months or one planting season after the final inspection.

14) Lighting

- a. Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on proposed fixtures on top of the parking garage to prevent excess illumination and glare.
- d. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads and residentially developed properties.
- e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

15) Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other



form of surety in accordance with Section 59.7.3.4.K.4 [59-D-3.5(d)] of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, the Hiker/Biker path and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, and street trees and street lights along the private road. The surety must be posted before issuance of the any building permit of development and will be tied to the development program.
- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

16) Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

17) Certified Site Plan

Before 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 stormwater management concept approval letter, development program, Fire & Rescue approval and Site Plan resolution on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.

## SECTION 2 – PROPERTY LOCATION, ANALYSIS & HISTORY

### Property Location

The Application consists of two distinct geographies, one is a subset of the other. The Project Plan, Preliminary Plan and Infrastructure Site plan Amendments are all part of the Black Hill Property geography, which is approximately 97 net acres located on the west side of I-270, south and east of Black Hill Regional Park and north of the Cloverleaf condominium townhomes (red outline in Figure 3). The Black Hill Property is at the northern terminus of Century Boulevard and Crystal Rock Drive and is at the northern edge of the 2009 Germantown Employment Area Sector Plan. When the Black Hill plans were first approved, the Black Hill Property was zoned TMX-2, but was rezoned CR-0.75, C-0.5, R-0.5, H-145T on October 30, 2014. The ViaSat Property is a proposed lot within the Black Hill Property, approximately 5.8 acres in size, located in the southeast corner of the Black Hill Property (blue outline in Figure 3). The ViaSat Property is bounded to the south by the right-of-way for the future Dorsey Mill Road, to the east by I-270, to the west by Century Boulevard, and to the north by a new private street. The ViaSat Property shares the same current and previous zone as the Black Hill Property.



Figure 3 – Vicinity Map

### Site Analysis

The Black Hill Property is mostly undeveloped and is in pre-development phases including rough grading, installation of utilities and the two major public roads, and limited stormwater management. Portions of the Black Hill Property along either side of the Century Boulevard are cleared of forest while other areas closer to the on-site streams and the Black Hill Regional Park are still forested. The Black Hill Property's



topography features gently rolling hills with the highest elevation generally in the center, with the elevation dropping away at all sides, terminating in stream valley buffer areas to the north and west. The ViaSat Property is in the eastern corner of the Black Hill Property and is located within an area that was previously cleared and used as a golf course and driving range. The ViaSat Property contains no noteworthy environmental features.



Figure 4 – Aerial Map

## History

### Project Plan 920120040 and Preliminary Plan 120120210

On March 14, 2013, the Planning Board held a hearing for the Project Plan and Preliminary Plan for Crystal Rock. The Project Plan No. 920120040 was approved by Resolution MCPB No. 13-37 on May 30, 2013 and the Preliminary Plan No. 120120210 was approved by Resolution MCPB No. 13-38 on July 8, 2013. These plans approved the creation of 11 lots for a total of 3,284,000 square feet of mixed-use development including up to 1,097,800 square feet of office space, up to 91,400 square feet of retail use, up to 243,240 square feet (350 rooms) of hotel use, and up to 1,618 residential units. Of the residential units, no more than 440 units were to be non-age restricted and the remaining 1178 units were age restricted. These applications also laid out the right-of-way for Crystal Rock Drive and Century Boulevard, and envisioned a network of private streets providing local access to the new development. The Project Plan also laid out the basic staging plan for the required Public Use spaces and amenities which were to be provided with future site plan applications.



#### Project Plan 92012004A and Preliminary Plan 12012021A

On March 10, 2016 the Planning Board held a hearing for amendments to the Project Plan, approved by Resolution MCPB No. 16-024, mailed on May 3, 2016 and a Preliminary Plan for Black Hill (Formerly Crystal Rock) approved by Resolution MCPB No. 16-025, mailed on May 3, 2016, to remove the age-restriction on most of the residential units, and to decrease the total number of residential units to 1,229 (140 age-restricted and 1,089 all ages units). The amendments also modified the APF approvals, amended the stormwater management and made the necessary modifications to conditions of approval.



*Figure 5 – Project Plan 92012004A*

#### Infrastructure Site Plan 820130250 and Amendments

The entire Black Hill Property is covered by an infrastructure Site Plan that was first approved August 1, 2013. The inclusion of this Infrastructure Site Plan was necessary for the Applicant of Black Hill to start infrastructure improvements to the site before subsequent site plans were filed. The Infrastructure Site Plan contains the approvals for the public roads, stormwater management for the roads, and the FFCP for all of Black Hill. The Infrastructure Site Plan has been amended four times previously. The A amendment was approved by Resolution MCPB No. 16-027 on May 3, 2016 and it updated the FFCP pursuant to the Black Hill Multi-Family site plan plans. The B amendment was actually approved before Amendment A, by Resolution MCBP 15-151 on December 30, 2015, which amended the FFCP to show the necessary



grading along the southern Black Hill Property boundary for Dorsey Mill Road. The C amendment was approved on July 3, 2018, by Resolution No. 18-051 to amend the FFCP to show the final designs for the Thrive Assisted Living site plan. The D amendment was approved by Resolution No. 17-076 on August 1, 2017 to relocate 0.58 acres of Category I Conservation Easement on the Black Hill Property.

#### Other Site Plans

##### *820150060 – Black Hill Phase IIA (Multi-Family)*

This site plan application was approved by Resolution MCPB No. 16-026 dated May 3, 2016, for the construction of up to 649 residential units (including 82 MPDUs), 7,325 square feet of commercial retail uses, construction of certain public amenity spaces, creation of private streets and other necessary site improvements on approximately 29.5 acres of land, located in the central portion of the Black Hill Property.

##### *820160100 – Thrive Assisted Living*

This site plan application was approved by corrected Resolution MCPB No. 17-002 dated February 16, 2017 to allow the construction of 140 units of assisted living on 2.31 acres of land. The Thrive Assisted Living is located in the western portion of the Black Hill Property, on the south side of Crystal Rock Drive.

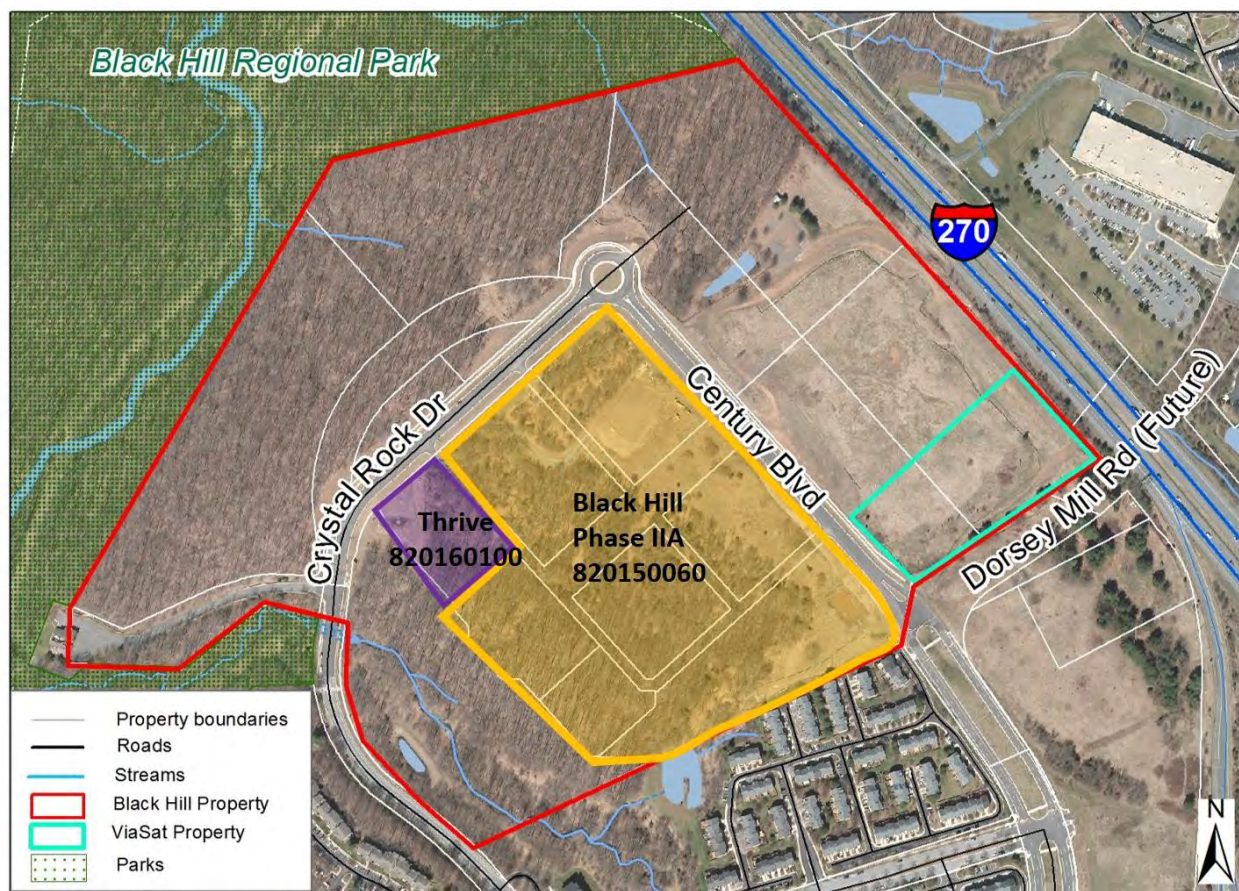


Figure 6 – Existing Site Plan Boundaries

### SECTION 3 – PROPOSAL

The Applicant has submitted amendments to the Black Hill Project Plan, Preliminary Plan, and Infrastructure Site Plan and a new Site Plan for ViaSat. The Applications are to allow for the construction of up to 130,000 square feet of office space in the southeast corner of the Black Hill Property. The Project Plan amendment modifies conditions of approval regarding staging and amenities, the Preliminary Plan amendment creates a new building lot and updates private streets, and the Infrastructure Site Plan amendment updates the Final Forest Conservation Plan (FFCP) and proposes to limit the number of necessary future amendments to the Infrastructure Site Plan.

#### Project Plan Amendment No. 92012004B

The Black Hill Applicant has submitted an amendment to the Project Plan for Black Hill to amend three previous conditions of approval: condition 5e regarding the list of required Public Use spaces, condition 5f regarding the location of retail uses, and condition 9 which set the staging for the provision of the Public Use spaces.

Condition 5 of the Project Plan contains requirements for the provisions of Public Use spaces, facilities, amenities and other design features. Specifically, condition 5e lists all of the required Public Use spaces in Black Hill including the Black Hill Preserve, Preserve Plaza, Village Green North, Village Green South, Main Street East Park, Main Street West Park, Main Street Retail Plaza, South Residential Linear Park, Gateway Plaza, Hiker/Biker Trail, Transit Plaza, various neighborhood greens and locations for public art. Located on the ViaSat Property is the Gateway Plaza amenity space, which is situated directly on the corner of Century Boulevard and the future Dorsey Mill Road. As part of the Project Plan Amendment, the Applicant is requesting to modify the design and intent of the Gateway Plaza by incorporating a linear park along the building frontage with Century Boulevard.



Figure 7 – Public Use Spaces



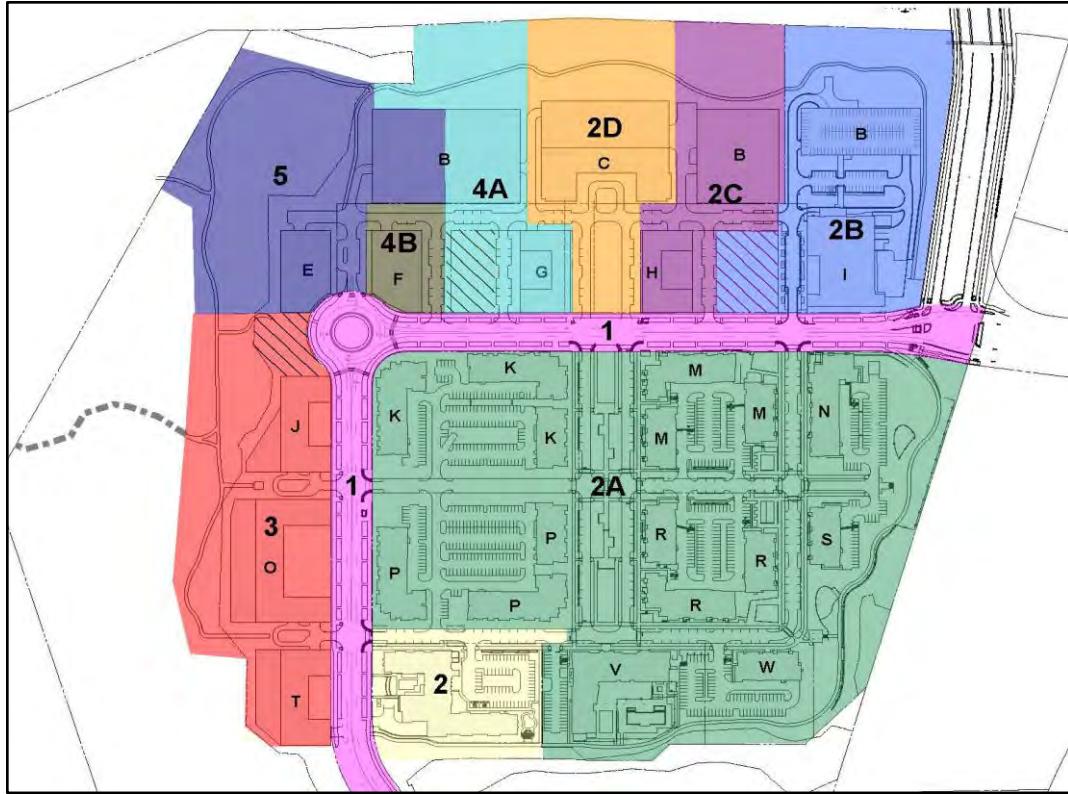
This application still proposes a plaza at the corner that will include shade, seating and bike racks, and now also proposes a linear park that will continue the same hardscape and landscape design with additional areas of seating. Condition 5e is proposed to be updated to rename the Gateway Plaza as Gateway Plaza and Linear Park.

Condition 5f of the Project Plan lists where the retail spaces should be located in Black Hill and includes frontages along Century Boulevard and the Gateway Plaza located at the corner of Century Boulevard and Dorsey Mill Road. The building proposed by the Applicant does not include any retail, in large part because the ViaSat company requires a high level of security and cannot share the building with other tenants. Furthermore, the market for general retail is weak, and the remainder of the proposed retail in Black Hill is located along the 'main' street, which would isolate any retail provided in the ViaSat building. The amendment to Condition 5f would remove the requirement of providing retail facing the Gateway Plaza and Linear Park, but retaining the requirement for retail along portions of Century Boulevard and to specify retail along the Main Street Retail Plaza.

The Project Plan Amendment also proposes substantial changes to existing condition 9, which is the Development Staging condition. At the time of the original approvals, Staff and the Applicant did not know what order the future phases of development would occur in Black Hill, and an attempt was made to tie the provisions of certain Public Use and amenity spaces to the provision of certain buildings. This was based on one of many hypothetical build-out scenarios considered. As Black Hill has started to develop, it's become clear the proposed staging is not practical, as it is requiring certain Public Use spaces be completed before the adjacent buildings are being built. The concern is the Public Use spaces may go unused if they are isolated from the development, and may later be damaged by future construction activities. The Project Plan Amendment requests a new staging scheme that ties the provision of public amenities to the completion of the adjacent buildings. The new staging being proposed is as follows; the listed public and private amenities should be required by the associated future site plan. The trigger for completion of each specific amenity or facility to be determined by the appropriate 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 it's 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, 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.



*Figure 8— General Phasing Plan*

**Preliminary Plan Amendment No. 12012021B**

An amendment to the Preliminary Plan for Black Hill is submitted to create a new, approximately 5.8-acre lot, to allow for the construction of up to 130,000 square feet of office space. The preliminary plan amendment also proposes a new private street parcel 'D'; to modify the existing lot and private street parcel sizes throughout the employment portion of Black Hill, and to abandon an existing but unused storm drain easement first created by deed in 2007 before planning had started for the Black Hill Property.

The new 5.8-acre lot will be for the ViaSat corporation (see accompanying Site Plan No. 820180110) and will be bounded by Century Boulevard to the west, Dorsey Mill Road to the south, I-270 to the east, and a new private street to the north. This new lot is being subdivided from a larger parcel approved in the original Preliminary Plan, at the request of the ViaSat Applicant. The Preliminary Plan Amendment also creates new private street parcel 'D' for the private street on the north side of the ViaSat Property. The previously approved private street parcels in the original Preliminary Plan were done prior to current planning policies on private streets and are only wide enough to cover the pavement section. The accompanying sidewalks and street trees were to be provided in easements adjacent to the street parcels. New private street policy and private road covenant requests that the parcel be sized to accommodate the roadway and any necessary sidewalks and street trees adjacent to the street. This modification increases the size of the private street parcels and slightly reduces the size of existing lots 12, 13 and 14.

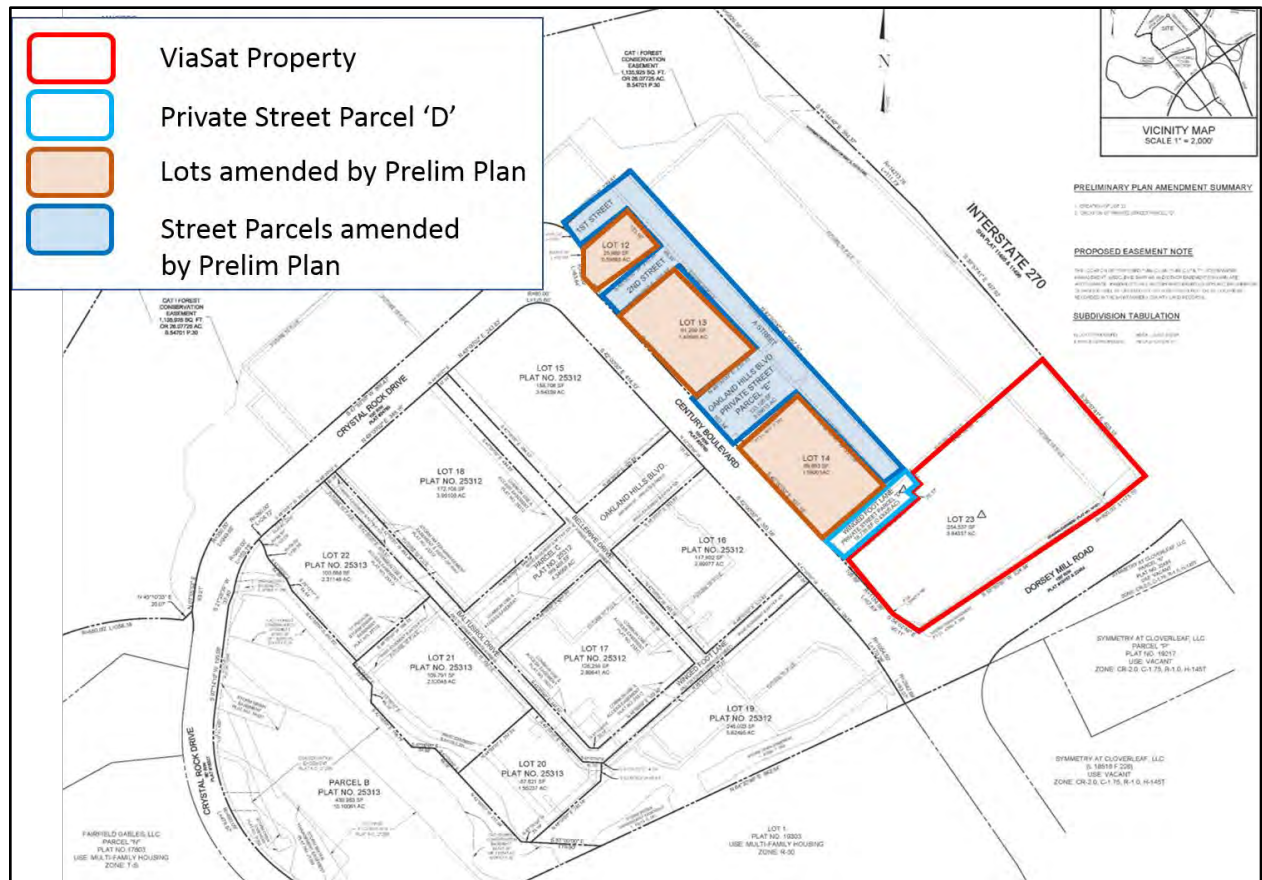


Figure 9 – New lots and parcels

#### Infrastructure Site Plan No. 82013025E

The Infrastructure Site Plan for Black Hill is being amended to update the FFCP to show the final designs for the ViaSat Site Plan Application, to update improvements shown in the right-of-way of Century Boulevard in front of the ViaSat Property to approve non-standard paving in the typical two-foot wide maintenance area, and to add two new conditions allowing future site plan applications to make amendments by proxy to the Infrastructure Site Plan, rather than requiring each new application for site plans in the future to also amend the Infrastructure Site Plan.

The amendment to the FFCP is straight forward and updates all applicable plan drawings to show the final grading, limits of disturbance (“LOD”), and building location that is proposed by the ViaSat Site Plan. There are no changes proposed to the tract area, no changes to forest clearing or mitigation and no expansion to the LOD that require any significant analysis. The amendments to the right-of-way for Century Boulevard is also minimal in nature. As part of the ViaSat Site Plan, there is a proposed Linear Park Public Use space on the ViaSat Property that includes decorative hardscape, landscaping, decorative lighting, stormwater management plantings and seating. These improvements are intended to seamlessly connect to the public sidewalks that are located along Century Boulevard, however the standard cross-section for Century Boulevard includes a two-foot wide grass maintenance strip. The amendment in the right-of-way is to allow the ViaSat improvements to encroach onto the right-of-way adjacent to the public sidewalk across the frontage.

Additionally, the Black Hill Applicant is proposing two new conditions that will reduce the number of times the Infrastructure Site Plan needs to be amended in the future. Both conditions would allow future Site Plan approvals within Black Hill to take action on their portion of the FFCP and on any proposed changes to the road right-of-way rather than needing to physically amend the Infrastructure Site Plan.

#### Site Plan No. 820180110 - ViaSat

On March 22, 2018 a new site plan application was accepted for ViaSat, Plan No. 820180110, which proposes up to 130,000 square feet of office space on a 5.8-acre lot, to be constructed over two phases. The first phase of the project will construct 97,000 square feet of office in a three-story building. The Phase one portion of the building will be the western 3/4 of the total structure, setting the building edge along Century Boulevard and the private street. Phase one will also construct the new private street, the Gateway Plaza and Linear Park, private outdoor amenity area and most of the necessary employee and visitor parking. The second phase adds 33,000 square feet of office space as a two-story addition to floors two and three, supported by columns over the visitor parking area, and would add an addition to the parking structure that would connect to the upper parking level.



*Figure 10 – Phasing, as seen from Village Green South*

#### *Circulation*

The ViaSat Site Plan proposes a new private street along the north side of the ViaSat Property between the building and proposed Village Green South. This street is part of a larger planned grid of private streets, and would serve as the vehicle access to the buildings, parking and loading area. The new street includes on-street parking, tree panels and sidewalks on both sides of the street. Employee parking is proposed in a two-level garage toward the back (east) of the site, and there is a visitor parking lot provided at ground level near the visitor entrance. A one-way (southbound) drive isle for drop-offs, loading trucks and fire access is provided immediately adjacent to the buildings eastern façade. Vehicles using this one-way drive-isle will return to the private street by passing back through the visitor parking lot. The loading for the building will be located on the south side of the building adjacent to Dorsey Mill Road, but no access is proposed directly to Dorsey Mill Road. This is the preferred loading location by the ViaSat Applicant because it works the most efficiently for ViaSat's internal operations, and it hides the loading from view from the pedestrian circulation. The Site Plan also proposes to construct the portion of the Hiker/Biker trail Public Use amenity located on the ViaSat Property, which is ultimately planned to fully encircle the Black Hill Development. This trail will start in the Gateway Plaza, travel east between the ViaSat loading and parking areas and Dorsey Mill Road. The Hiker/Biker trail then turns north within the landscaped setback between the parking garage and I-270. This trail will eventually continue north behind future office and hotel use, providing access into Black Hill Regional Park.



### *Public Use and Amenity Space*

The Project Plan for Black Hill identified numerous Public Use Spaces and amenities that are to be provided at the time of site plan as the Black Hill development builds out. Three major amenities are identified for the ViaSat Property; the Hiker/Biker trail, the Village Green South, and the Gateway Plaza and Linear Park. The ViaSat Site Plan as described before is providing for its portion of the hiker/biker trail which will eventually encircle the Black Hill development. The Gateway Plaza and Linear Park was first envisioned by the Germantown Employment Area Master Plan, which identified the need for public space at the intersection of Dorsey Mill Road and Century Boulevard to act as anchors for the future Corridor Cities



*Figure 11 – Amenity Spaces Boundaries*

Transitway (CCT) station planned at this location. The ViaSat Site Plan proposes a plaza on this corner featuring decorative pavers, bicycle parking and room for a possible bikeshare station, landscaping, seating and some stormwater management devices. In addition, a linear open space will be located along Century Boulevard providing room for additional landscaping, a pedestrian scale walkway, decorative lighting, seating and stormwater management. The Project Plan for Black Hill also envisions a large public green located between the ViaSat Property and a future Building H to the north. This space is intended to serve as a large public gathering area, and the ViaSat Site Plan is contributing its share of constructing this amenity by grading the space. Building H will complete the Village Green South as part of a future site plan. In addition to the public amenities, the ViaSat Applicant stressed the desire for internal private amenity space for employees which is provided for internal to the building with dining space and a coffee space, and external to the building with a secure outdoor flexible area on the south side of the building near the loading area, and a semi-enclosed outdoor area that opens toward the Village Green South.

### *Building and Site Design*

The ViaSat office building is proposed as three-story tall with, up to 130,000 square feet of space built in two phases. The design of the building strives to balance transparency and street activation toward the public realm while respecting the ViaSat Applicants need for a high security facility. The first phase will be 97,000 square feet and will establish the building frontages to Century Boulevard and to the new



private street to the north. The building will be set back 16 feet from right-of-way edge from Century Boulevard to accommodate the linear park, and has no setback from the private street parcel to the north. On the south side of the building, there is a greater setback from the future Dorsey Mill Road with both public and private amenity space planned, with a fence separating the two.



*Figure 12 – Southwest Corner of the Building*

The portion of the building directly against Century Boulevard is one-story, with the second and third floors stepped back approximately 30 feet. The first floor uses along Century Boulevard and the private street include spaces requiring less security such as conference space and private amenity space like the employee gym allowing for increased building transparency. The finished floor elevation for the first floor is on grade with the private street but is approximately eight feet above grade at southwest corner overlooking the Gateway Plaza. The wall below the first floor will be mostly screened by terraced stormwater management facilities with landscape materials. This elevation change increase the perceived height of the building adjacent to the Gateway Plaza, framing the open space. The remainder of the Gateway Plaza space is framed in by a four to six-foot high wall elevating the private outdoor amenity space, with additional decorative fencing on top, screening the private amenity space from public view. The lower part of this retaining wall will also be partially screened by vegetation and is also proposed to have the company sign mounted to it. The materials of the wall and fencing is designed to match the primary building. The upper floors of the building are also stepped back slightly from the private street, but the building will still create a three-story tall presence when viewed from the Village Green South. Included on the ground floor of the private street façade is a private amenity area that is open to the outside but still privatized by fencing. This private open space will have an employee door providing access to the street corner of Century Boulevard and the private street.

To further enhance the building design and activation as a gateway feature, the Site Plan proposes a stairwell on the southwest corner of the building that will be enclosed with glass creating an element of movement and connectivity within the building, and a large bank of windows will provide transparency with indoor conference space which will be prominently visible on the third at the corner of Century Boulevard and the new private street. The design and materials of the upper floors is distinct from the first floor, which in conjunction with the building step back along Century Boulevard and the elevated portion of the building over the visitor parking provides for a visually interesting, modern design.



*Figure 13 – Century Blvd Elevation*

The parking garage structure is located in the back of the ViaSat Property closest to I-270 but will generally not be visible from the interstate because it is being built into an existing hillside. The bottom floor of the garage is at ground level facing the building while the top level of the garage is accessed at grade on the I-270 side and is supported over the lower parking level. The proposed parking expansion in phase II will at grade with the top floor, and will extend east adding one more drive isle and row of parking to the upper level.

## SECTION 4 – COMMUNITY OUTREACH

### Community Outreach

The Applicants have met all noticing and outreach requirements as part of the application process, including properly posting signage along the Property frontage, providing notice to adjacent property owners and HOAs, and hosting a pre-submission meeting. The pre-submission meeting for the Project, Preliminary and Infrastructure Site Plan amendment, and new Site Plan application was held simultaneously on Tuesday December 19, 2017 at the current ViaSat offices in Seneca Meadows in Germantown. According to the minutes submitted there were two people in attendance. The ViaSat Applicant team described the company and their plans for the proposed building. Questions were raised about land ownership, why the retail is being removed from the proposal, why this corner site was chosen and whether the design of the site was appropriate.

During the review process, one of the two community members who attended the pre-submission meeting reached out to Staff raising concerns that the minutes provided by the Applicants attorney were misleading. He felt the questions he had asked at the meeting were written down in a way that sounded less concerning than they really were. The citizen supplemented the record with what they said the questions were, and what their concerns are with the ViaSat application (Attachment K). The email recieved raises concerns that the ViaSat Site Plan does not contribute to the walkability planned for the Black Hill neighborhood, and that the design of the proposed building is very imposing, suburban, and will feel like a fortress similar to the near-by data center. The concerns were mainly design focused and said elements such as the screening fences, walls, lack of retail, and lack of a front entrance along the street add to the suburban feeling that already exists in older Germantown office development rather than implementing the walkable vision set forth by the Sector Plan.

Staff acknowledges the numerous concerns raised, however we disagree that the proposed Site Plan is not activating for walking or that the plan is suburban like the existing development in the vicinity. The proposed ViaSat building does lack street level retail and also lacks a main entrance facing the street, but other site and building design features add to the street level interest of the building. Staff worked with the ViaSat Applicant to ensure the ground floor facing Century Boulevard and the new private street is programmed to have much of the indoor amenity spaces such as the employee lounge, gym and meeting rooms which have lots of windows adding building transparency and are frequently in use adding movement inside the space. The concurrent amendment with the Project Plan to add a linear park feature along Century Boulevard was also negotiated with Staff to increase the outdoor amenities and usability of this frontage. There are many examples in the Washington DC region where higher security buildings without ground level retail or access has been successfully incorporated into urban walkable environments such as the United Therapeutics campus in Downtown Silver Spring.

Staff also does not find the proposed ViaSat building to be overly fortress-like or suburban in design or form. The building placement is immediately adjacent to the new private street, and is only set back 16 feet from Century Boulevard to accommodate the Public Use space. The associated parking and loading space with ViaSat is located on the far side of the building and is in structured parking. Most of the suburban office development in Germantown has the building set back far from the road, with surface parking in front of the building. The data-center just down the street on Century Boulevard does have a fortress like feel, but it is located behind a landscaped berm and the only presence that building has on the street is through the secured gated entrance. While the portion of the ViaSat building facing Dorsey Mill Road is fenced off, the Dorsey Mill frontage was always envisioned by the Project plan to not be activated, because of the Hiker/Biker trail and because the grade of Dorsey Mill Road will climb to bridge I-270. The design of the retaining wall and screening fence at the Gateway Plaza uses similar materials that are used on the main building and will help frame the space at a pedestrian scale.

## SECTION 5 – ANALYSIS AND FINDINGS PROJECT PLAN AMENDMENT 92012004B

The following analysis and findings are for Project Plan Amendment No. 92012004B. All analysis and findings previously made with Project Plan No. 920120040 (as amended) remain in effect except as modified by the findings below.

### *Basis For Consideration*

In performing Staff's Analysis, Zoning Ordinance Section 59-D-2.43, 'Basis For Consideration', requires that *in reaching its determination on the application for the optional method of development and in making the required findings, the Planning Board Must consider the following 10 elements as part of the review:*

- a. The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under Chapter 56.*
- 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.*
- c. Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.*
- d. Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreation areas, commercial and employment areas and public facilities.*
- e. The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type and use and neighborhood.*
- f. The adequacy of provisions for construction of moderately priced dwelling units in accordance with Chapter 25A if that Chapter applies.*
- g. The staging program and schedule of development*
- h. The adequacy of forest conservation measures proposed to meet any requirements under Chapter 22A.*
- i. The adequacy of water resource protection measures proposed meets requirements under Chapter 19.*

- j. Payment of a fee acceptable to the Planning Board may satisfy all or some of the requirements for any public use space, or public facilities and amenities under the requirements established elsewhere in this Section.*

These basis' for consideration were considered by Staff and the Planning Board as part of the analysis for the original Project Plan findings, pursuant to Section 59-D-2.42 of the Zoning Code. The proposed amendment to condition 5e specifically impacts consideration b above, warranting analysis by Staff for its adequacy. The original Project Plan established a plan of public amenities for Black Hill that was considered adequate for providing convenient areas for rest, relaxation and social activities, that were designed as accessories to the development, and were located to provide for adequate light, air and circulation. One of the required amenities was the Gateway Plaza, which was located on the southwest corner of the ViaSat Property. This plaza served as an attractive 'gateway' entrance to the Black Hill community from the future CCT. The revised Public Use Space plan would reduce the size of the plaza but then adds a linear park along Century Boulevard. This linear park provides a link between the Gateway Plaza with the Village Green South. This re-envisioned Gateway Plaza and Linear Park would still act as a gateway feature, providing an access to the Hiker/Biker trail around the entire development, and will contain bicycle parking, seating and shade which is consistent to the original intent of the space. The linear park extends this landscaped feature further into the Black Hill site with additional seating, shade and providing for a parallel, pedestrian focused walkway separate from the primary shared use path area. Staff believes the change from Gateway Plaza to Gateway Plaza and Linear Park still fulfils the intent of the open amenity space for Black Hill and recommends approving the change to condition 5e.

The Project Plan Amendment also requests a change to condition 5f, to remove the requirement for retail facing the Gateway Plaza and instead to focus the retail near the intersection of the identified 'Main Street' and Century Boulevard, and along the Main Street Retail Plaza. The initial Project Plan envisioned retail located in Building I (the ViaSat building) to activate the entrance to the Black Hill community and to entice visitors further into the site. The ViaSat Applicant requires a building with high security that does not share space with other tenants. Furthermore the Black Hill Applicant believes the retail on this corner would not prosper and the limited retail that is approved with Black Hill should be clustered in one central node of activity. Staff finds that the linear park feature along Century Boulevard with the proposed building transparency on the ground floor provides adequate activation at the entrance to the Black Hill Community. Staff further and acknowledges the challenges in the retail market for leasing isolated commercial space; a trend that has been shared by many architects and urban designers in recent presentations to Staff. Therefore, in conjunction with modifying the Public Use space along Building I, Staff recommends removing the requirement that retail be provided facing the Gateway Plaza.

### *Findings*

- 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 through the D amendment. Concurrent with the Project Plan Amendment is a submitted amendment for the Infrastructure Site Plan which will update the ViaSat Property portion of the FFCP with final grading and improvements. No expansions to LOD, or changes to protected trees, easements or other environmental features are changing with the amendment, therefore all requirements for Chapter 22A remain.

## **SECTION 6 – ANALYSIS AND FINDINGS PRELIMINARY PLAN AMENDMENT 12012021B**

The following analysis and findings are for Preliminary Plan Amendment No. 12004042A. The Preliminary Plan Amendment is limited to changes on approximately 13 acres east of Century Boulevard and west of I-270, for lots 12, 13, 14, and 23, plus the private street parcels. All previous findings of Preliminary Plan No. 12012021A, which were made under the old Subdivision Code remain in full force and effect except as modified below.

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 proposed lot, expanded private street parcels, and reduced commercial lot sizes are appropriate for the subdivision given its location and type of development contemplated, considering the applicable requirements of Chapter 59. The Preliminary Plan Amendment proposes one new lot approximately 5.8 acres in size for the construction of Building I as shown on the previous plans. Building I, which being reviewed concurrently by Site Plan No. 820180110, may be up to 130,000 square feet in size. The proposed lot is adequately sized to accommodate the proposed office building, necessary parking, and Public Use spaces, and can meet 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 proposed new lot can adequately accommodate.

The parcels planned for the private streets east of Century Boulevard are adequate for the intended street sections. Other than Crystal Rock Drive and Century Boulevard, all streets in Black Hill are proposed as private streets. 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. Staff requested the yet to be platted private street parcels east of Century Boulevard be increased in size to include the sidewalks and street trees within the private street. The Black Hill Applicant agreed to show these changes, which has resulted in a slight increase in the private street parcels, and a corresponding decrease in the size of the proposed lot(s) 12, 13 and 14 as shown on



the Preliminary Plan to be reduced in size. 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 now proposed as private street parcels were already identified as sidewalk easements.

## **SECTION 7 – ANALYSIS AND FINDINGS INFRASTRUCTURE SITE PLAN AMENDMENT 82013025E**

The following findings pertain to the Infrastructure Site Plan Amendment Application, No. 82013025E. The Site Plan is reviewed under the Zoning Ordinance in effect on October 29, 2014 subject to the exemption in Section 59.7.7.1.B.3. Therefore, the following findings are those located in the Zoning Ordinance in effect October 29, 2014 under Section 59-D-3.4(c). All previous findings of Site Plan No. 82013025D remain in full force and effect except as modified below.

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 ViaSat Site Plan which is being reviewed concurrently is proposing Public Use space located along the entire Century Boulevard frontage, which wants to be connected to the public sidewalks 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 and Staff supports the modifications as shown on the plan drawings.

As conditioned, modifications to the public right-of-way as a result of a new site plan would no longer require an Infrastructure Site Plan amendment and could instead be shown directly on the respective site plan application that is proposing the changes.

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 FFCP for the entire 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 project which is concurrently reviewed with this Amendment. The impacts of the ViaSat project 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.

The Infrastructure Site Plan as conditioned would allow future site plan applications that occur within the boundaries of the original FFCP to no longer need to amend the Infrastructure Site Plan just for purposes of amending the FFCP. The intent would allow the future site plan applications to update the FFCP sheets within their respective site plan application, with the final changes to the FFCP sheets to be included in the Infrastructure Site Plan after the site plan is certified. Cabin Branch, another large project with an Infrastructure Site Plan, has a condition that allows for this relationship between the project wide FFCP and smaller area site plans and it has worked well in terms of project management. Certain amendments to the FFCP that are outside the scope of an individual site plan

are still made directly to the Infrastructure Site Plan. Staff recommends the Planning Board support the amendment to allow future site plans to directly amend the FFCP without having to amend the entire Infrastructure Site Plan.

## **SECTION 8 – ANALYSIS AND FINDINGS SITE PLAN 820180110**

The following findings pertain to Site Plan Application, ViaSat, No. 820180110. The Site Plan is reviewed under the Zoning Ordinance in effect on October 29, 2014 subject to the exemption in Section 59.7.7.1.B.3. Therefore, the following findings are those located in the Zoning Ordinance in effect October 29, 2014 under Section 59-D-3.4(c).

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 Site Plan is consistent with Project Plan 92012004B as amended, which is being reviewed concurrently, in terms of density, uses, Public Use facilities and amenities, green area, and setbacks envisioned for the ViaSat Property. The ViaSat Property is identified as Building I on the Project Plan which envisioned an office building, with a Gateway Plaza and Linear Park, and a portion of the Hiker/Biker trail, which are all provided with this Site Plan.

The Property is not subject to a development plan, diagrammatic plan, a schematic development plan certified by the Hearing Examiner.

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 Site Plan is not subject to an urban renewal plan approved under Chapter 56.

### Intent and Purpose of the Zone

The Site Plan complies with the intents and requirements of the TMX-2 zone under optional method, in Section 59-C-14.2, which it is reviewed under. The intent of the zone is to implement master plan recommendations by:

- Facilitating mixed-use development with a compatible network of interconnecting streets, open squares, plazas, and civic and community oriented uses;
- Providing flexible development standards; and
- Encouraging designs that produce a desirable relationship among individual buildings, the circulation system, public spaces, and adjacent areas, and that foster use of non-auto forms of transportation including pedestrian, bicycle, and public transit.

The TMX-2 zone also encourages land assembly, providing a variety of housing opportunities, promote the effective use of transit, and providing for Building Lot Terminations. The ViaSat Site Plan is implementing part of the larger Black Hill Project Plan which is a 97 net acre mixed use project with employment, retail, a variety of age-restricted and free market housing, hotel space, a network of interconnected private and public streets, open spaces, and dedication to Black Hill Regional Park. The ViaSat Property specifically provides an employment use close to a planned CCT station,

implements two of the Public Use areas in Black Hill and features unique building design not seen before in Germantown that includes modern lines, building stepbacks and variations of façade treatments. The ViaSat Site Plan will also implement a portion of the private street network adjacent to the building which continues a grid of streets approved by other site plans and envisioned by the Project Plan.

#### Master Plan

Section 59-C-14.213(a) is a specific requirement within the TMX-2 zone that development must be consistent with the recommendations of the applicable master or sector plan. The ViaSat Property is located within the 2009 Germantown Employment Area Sector Plan “Sector Plan”. The Sector Plan’s future vision states “This Plan establishes a vision that will transform Germantown’s central employment corridor into a vibrant town center and mixed-use uptown districts. The Germantown of the future will be the center of business and community life in upper Montgomery County”. The Sector Plan envisions Germantown completing an economic core, increasing employment, and organizing development around transit. Other areawide recommendations include a zoning strategy which placed the TMX-2 zone on the ViaSat Property and established a vision for urban form which includes clustering development near future transit stations, interconnecting transportation options, creating gathering spaces, establishing centers, and creating meaningful street character.

These areawide Sector Plan visions are better understood at the scale of the entire Black Hill community, as a large mixed-use community based around transit, with a defined network of streets, sidewalks, trails, open spaces and street-oriented development which the preceding Project Plan for Black Hill was found to be conforming with. The ViaSat Property was identified as one of many office building locations on the Project Plan, and this Site Plan is implementing that use. Increasing employment uses in Germantown has been difficult and the ViaSat Site Plan reversed that trend by increasing the local employment, and adds that employment density at the entrance to one of the large centers of activity organized near a future transit stop. The Site Plan is also providing Public Use areas necessary for the future transit station and for expanding the amount of public amenity space throughout Germantown. While this building does not itself provide ground level retail as an activating use, the ViaSat Applicant has redesigned the internal floorplan of the building to locate indoor amenity spaces such as the employee gym and major conference rooms along the Century Boulevard and private street frontages to provide lots of ground floor transparency and indoor activity toward the public realm.

The Sector Plan divides the plan geography into eight ‘districts’, where more local and property specific recommendations further refine these areawide recommendations. The ViaSat Property is part of the North End District, on the property identified as the Lerner Property which is shown as a mixed-use area on the future land use map. There are urban form, land use, and transportation recommendations for the North End District. Not all the recommendations pertain to the Lerner Property, or pertain in a way that the ViaSat Site Plan would be responsible for, however many are relevant and include the following:

- Orient signature office buildings and employment uses closest to I-270
- Line the east side of Century Blvd with six-story buildings, reducing the sense of building bulk and mass by limiting heights to three or four stories at street level and stepping back to upper floors
- Building setbacks from I-270 should maintain the existing setback of 200 feet from the current right-of-way

- Develop the east side of Century Blvd with wide sidewalks that can accommodate café's and seating areas
- Provide an urban plaza directly adjacent to the transit station with seating, lighting, shelter and other amenities
- Introduce a network of streets with short blocks 250 to 350 feet in length

Staff finds the ViaSat Site Plan substantially conforms to these recommendations. The ViaSat property is adjacent to I-270, and is creating a unique design not seen before in Germantown that will be visible from I-270 while still maintaining the 200 foot setback. The existing Infrastructure Site Plan laid the groundwork for a 10-foot wide shared use path along the east side of Century Blvd, and the Site Plan's inclusion of the Gateway Plaza and Linear Park creates additional pedestrian focused areas that will accommodate sitting, lighting, landscaping and bicycle parking. The ViaSat Site Plan also will build a section of private street that starts to create smaller urban sized blocks that have been previously considered in the Project and Preliminary Plan phases. While the ViaSat building does not reach the six-story height envisioned for Century Boulevard, it does incorporate building stepbacks with the upper floors about 30 feet set back from the first floor, and the topography helps give the proposed building a taller appearance from the intersection of Century Boulevard and Dorsey Mill Road.

#### Development Standards

In addition to the specific analysis discussed above, the following Table 1 shows the Site Plans conformance to the other development standards of the TMX-2 zone optional method, and to the Project Plan.

**Table 1 – Data Table for RMX-1/TDR-6 Optional Method of Development**

<b>Development Standard</b>	<b>Permitted/Required by Zoning</b>	<b>Approved by 92012004B &amp; 12012021B</b>	<b>Proposed by 820180110</b>
<b>General Standards</b>			
Net Tract Area (Lot 22)	18,000 sq ft minimum	5.84 ac (254,537 sq ft.)	5.84 ac (254,537 sq ft.)
Building Coverage (Max)	Set by Project Plan	35%	32%
Minimum Public Use Space <sup>1</sup>	20% of total Project	51% (2.14 M sq. ft.)	39% (101,144 sq ft.)
Maximum Building Height	143 feet	143 feet	55 feet
<b>Minimum Setbacks</b>			
Adjacent Building <sup>2</sup>	0 ft/15ft	0 ft/15ft	N/A
Adjacent Residential Zone	25 ft	90 ft	N/A to this lot
Public Streets	0 ft	0 ft	16 ft
I-270	Master Plan 200 ft	200 ft	200 ft
<b>Maximum Density (FAR)</b>			
Permitted by zoning	2.0 (9.38 M Sq Ft)		
Per the Master Plan	0.7 (3.28 M Sq Ft)	0.7 (3.28 M Sq Ft)	130,000 Sq Ft
Commercial Density	Set by Project Plan	0.3 (1.43 M Sq Ft)	130,000 Sq Ft

<sup>1</sup> Minimum public use space is based on the entire Project Plan boundary. Some Site Plan applications may have less than the minimum on individual lots, including Lot 22.

<sup>2</sup> Setbacks are 0ft if the adjacent building has no windows. Setbacks is a minimum of 15ft if there are windows. No buildings are currently adjacent to the proposed building therefore the setbacks are not applicable



Development Standard	Permitted/Required by Zoning	Approved by 92012004B & 12012021B	Proposed by 820180110
Required BLTs	Based on Density	14.1 BLTs	0 <sup>3</sup>
Parking for ViaSat <sup>4</sup>			
Phase 1 Min/Max	194/291	N/A	267
Phase 2 Min/Max	260/390	N/A	281
Accessible Parking	9 <sup>5</sup>	N/A	9
Motorcycle Parking	6	N/A	6
Car-Share	3	N/A	3
Electric Charging Spaces	3	N/A	3
Bicycle Parking			
Long Term	22	N/A	26
Short Term	4	N/A	8

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

#### **Location of Buildings and Structures**

The location of buildings and structures is adequate, safe and efficient. The VisSat Site Plan proposes one office building, to be constructed in two phases, totaling 130,000 square feet. The location of phase I (97,000 square feet) is immediately adjacent to the new private street, and is set back approximately 16 feet from Century Boulevard. This building placement defines both street edges while providing room for the Linear Park along Century Boulevard. The phase II expansion would be horizontal on levels two and three and would extend east over the area of visitor parking for ViaSat, minimizing any future disruption to just the ViaSat Property. In addition to the office building, a two-level parking garage is proposed for employees which will be located east of the office building. This location is in the back of the Property, minimizing views of the parking area from the streets and other developments within Black Hill. The increase in elevation from the main building toward the interstate also allows the parking to tuck into the hill, so that the lower level of the garage is on grade with the ground floor of the building, while the upper level is on grade with the land further east. The Gateway Plaza and Linear Park at the southwest corner of the ViaSat Property will have some terraced planning beds and stormwater management structures that are designed to be a part of the amenity area, and there will be a wall and privacy fence helping frame in the remainder of the amenity space. This wall and fence will match the architecture of the main building to make it appear to be part of the structure. This frames the Gateway Plaza, and the wall will be partially softened with landscaping and will also contain the company's sign.

<sup>3</sup> BLTs are not required until the project pulls building permits totaling 0.5 FAR. Data is tracked on all Black Hill Site Plans. Current approvals total 0.24 FAR and permits only total 0.0235 FAR.

<sup>4</sup> ViaSat is using the parking standards of the Zoning Ordinance in effect on October 30, 2014 pursuant to 59.7.7.1.B.3.b

<sup>5</sup> Accessible Parking is based on a % of each parking facility with no fewer than 2 in each facility. The garage and the visitor lot are being considered as two separate parking facilities with 2 spaces in the visitor lot and 7 in the garage.

## **Location of Open Spaces, Landscaping and Lighting**

### Open Spaces

The location of the open spaces is safe, adequate and efficient. The TMX-2 zone has a minimum 20% Public Use space, and the Project Plan approved a Black Hill total of 51% Public Use space. This Site Plan is providing for 39% Public Use space, which is a fair portion based on the locations for the Public Use space pre-determined at Project Plan for all of Black Hill.

The two main Public Use spaces being provided are the Gateway Plaza and Linear Park on the western side of the ViaSat Property, and the Hiker/Biker trail which extends along the southern and eastern portion of the ViaSat Property. The Gateway Plaza and Linear Park is designed to be an urban, designed space with defined hardscape, planting beds, lighting, seating and bike parking, and serves as a front door to the greater Black Hill community. The plaza portion acts as a natural terminus for the Hiker/Biker trail, and as a destination upon disembarking the future CCT. The Linear Park acts as a green corridor into Black Hill connecting the corner plaza with the Village Green South. The Linear Park also provides a more pedestrian oriented space away from the main shared use path closer to Century Boulevard. The Hiker/Biker trail in contrast is a more passive space intended to be enjoyed by walking, jogging or bicycling, and is a part of a network that will eventually encircle the entire Black Hill community.

### Landscaping and Lighting

The location and quantity of landscaping and lighting is safe, adequate and efficient on the ViaSat Property. The landscaping proposed is typical for that for Public Use spaces and parking facilities. Within the more formal Gateway Plaza and Linear Park, planters with shade and ornamental trees provide vertical interest and shade while grasses and shrubs fill in other non-hardscape areas and soften the building foundation. Stormwater management facilities adjacent to the building edge are also landscaped and add to the greenery, but are not the prevue of the Board. Along the Hiker/Biker trail, the area will generally be lawn, with multiple clusters of shade trees and understory shrubs are placed to provide a park-like setting with shade and sun and to provide a buffer between the trail and the parking areas. Also, a meadow of native perennials will be established near I-270 providing visual interest and wildlife habitat. The Hiker/Biker trail is routed close to the side of the parking garages southern edge because its avoiding grading easements for the future Dorsey Mill Road Bridge, but the ViaSat Applicant has offered a five-foot wide buffer with shrubs along the garage to soften this edge. The new private street will contain street trees located in tree panels adjacent to the roadway, which is typical of new street construction.

The lighting plans were reviewed for conformance with standards to ensure there is not excessive glare and that less than 0.5 footcandles of light extend beyond the site boundary, except for street lighting. The primary lighting is for the parking lot and garage in the eastern portion of the ViaSat Property, and within the Gateway Plaza and Linear Park along Century Boulevard. The parking lot lighting will have cut-off fixtures to minimize the glare while safely and adequately illuminating the facilities. The lighting in the amenity spaces is decorative and pedestrian scaled as a supplement the existing street lighting along Century Boulevard.

## **Pedestrian and Vehicular Circulation**

### Pedestrian and Bicycle Circulation

The location and design of the pedestrian and bicycle circulation on the ViaSat Property is safe, adequate, and efficient. Much of the pedestrian circulation will occur in the public or private rights-of-way with sidewalks planned for along the sides of the new private street, and the existing sidewalk being upgraded to the required shared use path along Century Boulevard. The ViaSat Applicant is coordinating with MNCPPC and MCDPS to implement a raised cross-walk where the shared use path paralleling Century Boulevard crosses the private street because this intersection will likely be high volume for cars and pedestrians, and raising the sidewalk slows vehicles down enhancing pedestrian safety. The Gateway Plaza and Linear Park provide additional areas for pedestrian movement and act as a refuge from the shared use path. The Hiker/Biker trail being built on the south and east side of the ViaSat Property is designed as an eight-foot wide trail which is consistent with the previous sections built by other developments and is adequate as a recreation amenity. Between the parking garage and building a 14-foot wide paver sidewalk is planned providing direct access from the parking to the main building. As this sidewalk passes through the visitor parking the drive isle is marked with a crosswalk.

### Vehicle Circulation

The location and design of vehicle circulation on the ViaSat Property is safe, adequate and efficient. Direct access to the front door and the rear loading bays is provided with a one-way drive isle that will intersect with the new private street opposite planned street A, and will run along the east side of the building. In addition, the one-way drive isle provides fire and emergency vehicle access to the building. The return movement for vehicles is through the visitor parking lot. There is also access to both visitor and employee parking through a drive isle that continues east, completing a four-way intersection where street parcel D, and street A intersect. This circulation pattern is efficient for locating all public access points at one intersection, minimizing pedestrian conflicts and keeping access off of the public streets. Internal to the site, the parking structure has two points of access at the ground floor, and one point of access to the upper level. This is adequate for the size and shape of the garage.

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

The proposed structures are compatible with existing and planned surrounding uses and site plans. The only existing development near the ViaSat Property is a community of townhouse style condominiums located on the west side of Century Boulevard, just south of where the future Dorsey Mill Road will be constructed. The southwest corner of the ViaSat Property with the Gateway Plaza and Linear Park will be visible to some of these dwellings. The presence of the public amenity space and landscaping, and the design of the three-story building with building stepback ensure the employment use does not dominate the views from the existing residents.

Immediately south of the ViaSat Property is a large tract of land currently in the early stages of development review for a mixed-use development. Likely plans include multi-family dwellings and office use closest to the ViaSat Property, which is consistent and compatible with the intensity of office use proposed with this Site Plan and with the Sector Plan vision for higher intensity uses in proximity to the future CCT.



Within Black Hill, pre-construction activities are taking place for previously approved multi-family buildings just west of Century Boulevard, which when completed will finish framing the entrance to Black Hill. The height and scale of the buildings is similar on either side of Century Boulevard. The zero setbacks from the private street help create a street edge necessary to frame the southern side of the future Village Green South which will be just north of the ViaSat Property. The parking facilities located in the east of the site, closest to the Dorsey Mill Road bridge and I-270 keep the auto-oriented uses together, away from the pedestrian dominant spaces within the Black Hill community.

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 Site Plan Amendment meets the requirements of Chapter 22A, Forest Conservation Law, and Chapter 19, Water Resource Protection. Forest Conservation for all properties within Black Hill is covered with the Infrastructure Site Plan. Concurrent with this Site Plan Application is an amendment to the Infrastructure Site Plan, No. 82013025E, which is being amended to show the final grading and development being proposed with this Site Plan. There are no proposed changes to the ultimate LOD, any on-site forest resources or any conservation easements. Pending the approval to the amendment to the Infrastructure Site Plan, the ViaSat Site Plan will be in conformance with the requirements of Chapter 22A.

The Department of Permitting Services, Water Resources Section issued an approval of the Site Development Stormwater Management Plan for the ViaSat Property on May 30, 2018. The plan will meet stormwater management goals using various micro bioretention facilities. The ViaSat Applicant will need to submit a final stormwater management plan prior to construction of the proposed building.

## **SECTION 9 – CONCLUSION**

The Applications meet all requirements established in the Subdivision Regulations and the Zoning Ordinance. Access and public facilities will be adequate to serve the proposed new lot, the use conforms with the Master Plan and the general requirements of Chapter 59, and the Applications have been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Staff recommends approval of the Project Plan, Preliminary Plan, and Site Plan Amendments, with the conditions as enumerated in the Staff Report.

## **ATTACHMENTS**

- A. Preliminary Plan Amendment Drawing
- B. Infrastructure Site Plan Amendment Drawing
- C. ViaSat Site Plan Drawing
- D. Project Plan 92012004A Opinion
- E. Preliminary Plan 12012021A Opinion
- F. Infrastructure Site Plan 82013025C Opinion
- G. MCDPS Stormwater letter
- H. MCDOT letter from 12012021A
- I. MCDPS Fire & Rescue memo
- J. MCDPS ROW Permitting memo
- K. Citizen Correspondence
- L. Project Plan Extension



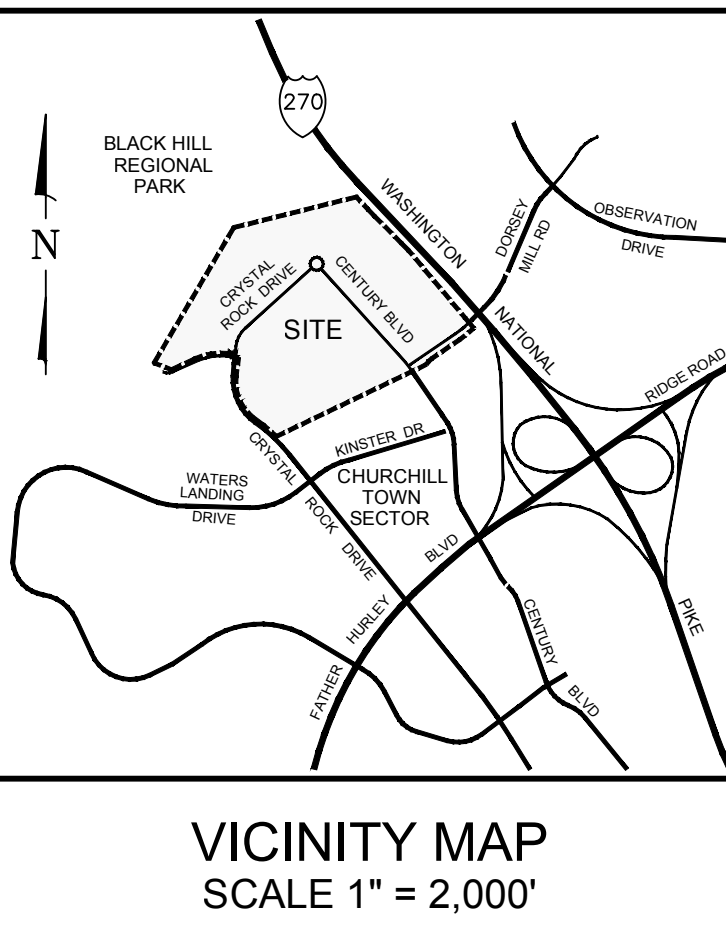
Attachment A

MHG

Civil Engineers  
Land Planners  
Landscape Architects  
Land Surveyors

9220 Wightman Road, Suite 120  
Montgomery Village, MD 20888  
Phone: 301.670.0840  
www.mhga.com

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PRELIMINARY PLAN AMENDMENT SUMMARY

- 1. CREATION OF LOT 23
- 2. CREATION OF PRIVATE STREET PARCEL "D".

PROPOSED EASEMENT NOTE

THE LOCATION OF PROPOSED PUBLIC USE, PUBLIC UTILITY, STORMWATER MANAGEMENT, WSSC, BIKE SHARING AND OTHER EASEMENTS SHOWN ARE APPROXIMATE. EASEMENTS WILL BE PREPARED BASED ON SPECIFIC ENGINEERING DESIGN AND WILL BE CREATED ON THE SUBDIVISION PLAT OR BY DOCUMENT RECORDED IN THE MONTGOMERY COUNTY LAND RECORDS.

SUBDIVISION TABULATION

13 LOTS PROPOSED	AREA = 3,497,180 SF.
4 PARCELS PROPOSED	AREA = 725,026 SF.

BLACK HILL GERMANTOWN, LLP  
C/O LERNER ENTERPRISES

200 TOWER OAKS BLVD.  
8TH FLOOR  
ROCKVILLE, MD 20852  
PHONE: (301)284-6000

NO.	DESCRIPTION	DATE

TAX MAP EV561 WSSC 229RW13  
PLATS 22484-22486, 24760  
& 25312-25313

2ND ELECTION DISTRICT  
MONTGOMERY COUNTY  
MARYLAND

LOTS 11 - 24 &  
PARCELS B, C & D

BLACK HILL

PROJ. MGR PGL

DRAWN BY PGL

SCALE 1"= 100'

DATE 05/25/2018

PRELIMINARY PLAN  
12012021B

PROPOSED LOTS

PROJECT NO. 10.102.51

SHEET NO. 4 OF 5

MNCPPC  
BLACK HILLS REGIONAL PARK  
(PREVIOUSLY DEDICATED - L.12755 F.384)  
ZONE: T-S

CAT I FOREST  
CONSERVATION  
EASEMENT  
1,135,925 SQ. FT.  
OR 26.07725 AC.  
B.54701 P.30

CAT I FOREST  
CONSERVATION  
EASEMENT  
1,135,925 SQ. FT.  
OR 26.07725 AC.  
B.54701 P.30

LOT 11  
1,932,578 SF  
44.36589 AC

LOT 12  
25,999 SF  
0.59685 AC

LOT 13  
61,239 SF  
1.40585 AC

LOT 15  
PLAT NO. 25312  
158,706 SF  
3.64339 AC

LOT 18  
PLAT NO. 25312  
172,108 SF  
3.95105 AC

LOT 22  
PLAT NO. 25313  
100,688 SF  
2.31148 AC

LOT 21  
PLAT NO. 25313  
109,791 SF  
2.52045 AC

LOT 20  
PLAT NO. 25313  
67,621 SF  
1.55237 AC

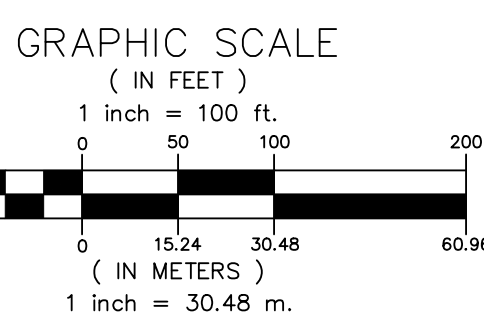
LOT 19  
PLAT NO. 25312  
245,023 SF  
5.62495 AC

LOT 1  
PLAT NO. 19303  
USE: MULTI-FAMILY HOUSING  
ZONE: R-30

LOT 4  
PLAT NO. 19303  
USE: MULTI-FAMILY HOUSING  
ZONE: R-30

PARCEL B  
PLAT NO. 25313  
439,983 SF  
10.10061 AC

FAIRFIELD GABLES, LLC  
PARCEL "N"  
PLAT NO. 17603  
USE: MULTI-FAMILY HOUSING  
ZONE: T-S



SURVEYOR'S CERTIFICATE  
I HEREBY CERTIFY THAT THE BOUNDARY SHOWN HEREON IS CORRECT  
BASED ON EXISTING DEEDS AND PLATS RECORDED AMONG THE LAND  
RECORDS OF MONTGOMERY COUNTY, MARYLAND, SUBJECT TO CHANGE  
UPON COMPLETION OF A FINAL SURVEY. TOPOGRAPHY FROM SOURCES  
NOTED HEREON.  
DATE MACRIS, HENDRICKS, & GLASCOCK, P.A.  
BY: BARRY EDWARD HOYLE  
PROFESSIONAL LAND SURVEYOR  
NO. REG. NO. 21135  
LICENSE EXPIRES: 6-21-18



# Attachment B

NATURAL SURFACE PATH  
LOCATION TO BE  
ADJUSTED IN THE FIELD,  
IN COORDINATION WITH  
M-NCP&PC PARKS  
DEPARTMENT AND  
PLANNING DEPARTMENT.

FOREST CONSERVATION WORKSHEET

5-4-02

NET TRACT AREA

A. Total tract area	108.08
B. Land dedication above (parks, county facility, etc.)	0.00
C. Land dedication for roads or utilities (not being constructed by this plan)	0.00
D. Area to remain in commercial agricultural production/use	0.00
E. Other deductions (specify)	0.00
F. Net Tract Area	108.08

LAND USE CATEGORY (from Forest Technical Manual)

Input the number "1" under the appropriate land use.  
limit to only one entry.

ARA	MOR	DA	HDR	MPD	CA
0	0	0	0	1	0
G. Afforestation Threshold	15%	# F =	16.21		
H. Conservation Threshold	20%	# F =	21.62		

EXISTING FOREST COVER

I. Existing forest cover	65.10
J. Area of forest above afforestation threshold	48.89
K. Area of forest above conservation threshold	43.48

BROKEN EVEN POINT

L. Forest retention above threshold with no mitigation	30.31
M. Clearing permit (if not without mitigation)	34.79

PROPOSED FOREST CLEARING

N. Total area of forest to be cleared	31.07
O. Total area of forest to be retained	34.03

PLANTING REQUIREMENTS

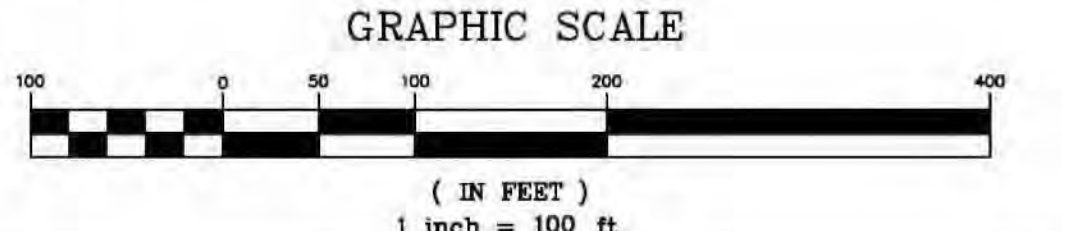
P. Reforestation for clearing above conservation threshold	7.77
Q. Reforestation for clearing below conservation threshold	0.00
R. Credit for retention above conservation threshold	12.41
S. Total reforestation required	0.00
T. Total afforestation required	0.00
U. Credit for landscaping (may not exceed 20% of "S")	0.00
V. Total reforestation and afforestation required	0.00

VICINITY MAP  
SCALE 1" = 2,000'

LEGEND	
☆	SPECIMEN TREE
●	SIGNIFICANT TREE
—	FOREST BOUNDARY
✱ ✱	TREE TO BE REMOVED
○	PROPOSED SHADE TREE FOR VARIANCE MITIGATION
○	PROPOSED STREET TREES
—	LIMIT OF DISTURBANCE
—	STREAM VALLEY BUFFER
—	STREAM/WATER
—	WETLAND
—	WETLAND BUFFER
—	FLOOD PLAIN BRL
—	FLOOD PLAIN
○	CRITICAL ROOT ZONE RADIUS = 1.5 FEET PER INCH DBH
SF — SF	SILT FENCE
SSF — SSF	SUPER SILT FENCE
—	EARTH DIKE
—	FOREST TO BE REMOVED

NOTES:  
1. ALL FOREST RETAINED WILL BE PROTECTED WITH A CATEGORY I FOREST CONSERVATION EASEMENT.

DEVELOPER'S CERTIFICATE	
The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 822130255 including financial bonding, forest planting, maintenance, and all other applicable agreements.	
Developer's Name:	Black Hill Germantown, LLLP
Contact Person or Owner:	Printed Company Name
	Jim Policaro
	Printed Name
Address:	2000 Tower Oaks Blvd., 8th Floor, Rockville, MD 20852
Phone and Email:	301-284-6000 polcaro@errier.com
Signature:	



QUALIFIED PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS CORRECT AND THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF EXISTING STATE AND COUNTY FOREST CONSERVATION LEGISLATION.

DATE: FRANK C. JOHNSON

RECOGNIZED AS QUALIFIED PROFESSIONAL BY MD. DEPT. OF NATURAL RESOURCES COMAR 08.19.06.01

82013025E REVISION NOTE:  
PROPOSED OFFICE BUILDING AND PARKING GARAGE WSSC 229 NW 13

OWNER/DEVELOPER  
BLACK HILL GERMANTOWN, LLLP  
C/O LERNER ENTERPRISES  
2000 TOWER OAKS BLVD., 8TH FL.  
ROCKVILLE, MD 20852  
PHONE: 301-284-6000

REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/11/14	Amendment to FCP 820130250	FCJ
2	2/12/16	Amendment to FCP 820130250	FCJ
3	7/12/17	Amendment to FCP 820130250	FCJ
4	5/3/18	Amendment to FCP 820130250	FCJ

AMENDED FINAL FOREST CONSERVATION PLAN - COMPOSITE SHEET  
**BLACK HILL (FORMERLY CRYSTAL ROCK)**  
VIASAT  
CHURCHILL TOWN SECTOR GERMANTOWN  
2ND ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

**MHG** Macris, Hendricks & Glascock, P.A.  
Engineers ■ Planners  
Landscape Architects ■ Surveyors

9220 Wightman Road, Suite 120  
Montgomery Village, Maryland 20886-1278  
Phone 301.670.0840  
Fax 301.948.0693  
www.mhga.com

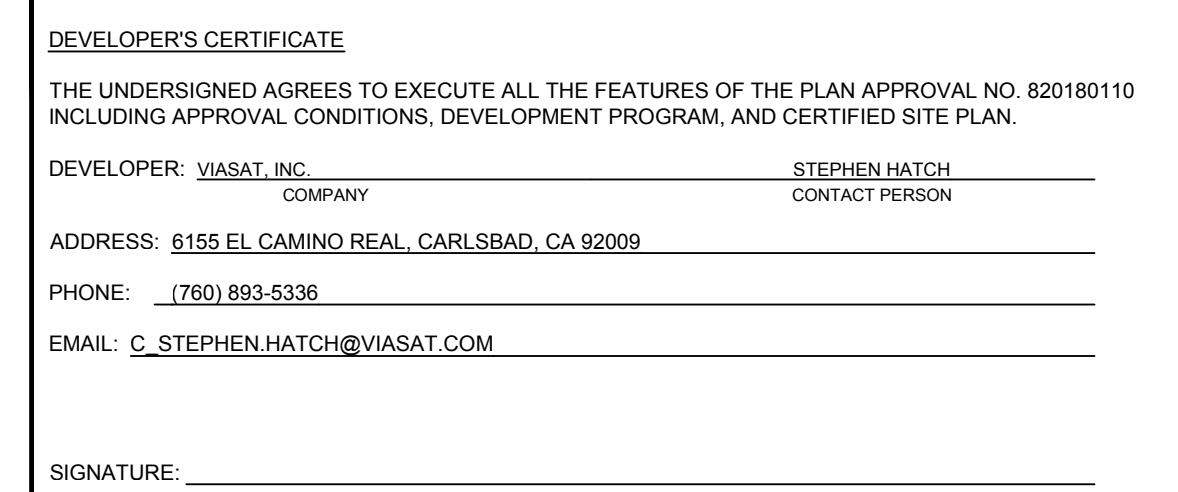
Proj. Mgr. PCL  
Designer FCJ  
Date 6-12-13  
Project No. 10-102-12  
Scale 1" = 100'  
Sheet 1 of 9

FOREST CONSERVATION DATA TABLE	
DESCRIPTION	SIZE
Total Tract Area	108.08 Acres (includes 0.38 ac off-site disturbances)
Tract remaining in Agricultural Use	0 Acres
Road & utility ROW (unimproved)	0 Acres
Total Existing Forest	
Existing Forest	65.10 Acres
Total Forest Retention	34.03 Acres**
Total Forest Cleared	31.07 Acres
Land Use Category	Transit Mixed Use (TMC-2)
Afforestation Threshold	15%
Conservation Threshold	20%
Forest in Wetlands Retained	0.01 Acres
Cleared	0 Acres
Planted	0 Acres
Forest in 100-year Floodplain Retained	3.10 Acres
Cleared	0 Acres
Planted	0 Acres
Forest in Stream Valley Buffer Retained	7.90 Acres
Cleared**	0.20 Acres
Planted	0 Acres
Forest in other Priority Areas Retained	0 Acres
Cleared	0 Acres
Planted	0 Acres
Stream Valley Buffer	8.80 Acres
Length (2 streams)	6,300 Feet
Avg. Width (per side)	200 Feet

FOREST REMOVAL TABLE BY FOREST STAND		
FOREST STAND #	STAND SIZE (SF / AC)	FOREST TO BE REMOVED (SF / AC)
1	201,777 / 4.63	199,325 / 4.58
2	1,477,627 / 33.92	332,369 / 7.63
3	310,552 / 7.13	310,552 / 7.13
4	309,141 / 7.10	309,141 / 7.10
5	209,786 / 4.81	181,296 / 4.16
6	317,024 / 7.28	10,568 / 0.24
7	9,974 / 0.23	9,974 / 0.23
TOTALS	2,835,881 / 65.10	1,353,225 / 31.07

\*Cleared due to construction of master planned road Crystal Rock Drive.  
\*\*Additional forest saved above original approval requirement of 33.90 acres due to replacement of unforested easement recorded in error overlapping stormwater management facility.









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

MAY 3 2016

MCPB No. 16-024  
Project Plan No. 92012004A  
**Black Hill**  
Date of Hearing: March 10, 2016

**RESOLUTION**

WHEREAS, under Section 59-7.7.1.B.1 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board reviewed this application under the procedures and standards of the Zoning Ordinance in effect prior to October 29, 2014, including the zoning then in effect; and

WHEREAS, under Section 59-D-2 of the Zoning Ordinance in effect prior to October 29, 2014, the Montgomery County Planning 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 and Germantown Employment Area Sector Plan (“Sector Plan”) area; and

WHEREAS, on January 23, 2015, Black Hills Germantown, LLP, C/O Lerner Enterprises (“Applicant”) filed an amendment application to modify the conditions of approval in order to eliminate the age-restriction on the multi-family units, decrease the total number of residential units to 1,229 units (including 136 MPDUs), revise the development phasing, increase the public use space, change the internal circulation, and modify the parking facilities.

WHEREAS, Applicant’s Project Plan Amendment application was designated Project Plan No. 92012004A, 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

Approved as to  
Legal Sufficiency:

*Christina Sorrento* 4/6/16



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Planning Board, dated February 29, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 10, 2016, 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, on March 10, 2016, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Wells-Harley with a vote of 5-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Project Plan No. 92012004A to modify the conditions of approval, eliminate the age-restriction from the multi-family units, decrease the total number of residential units to 1,229 units (including 136 MPDUs), revise the development phasing, change the internal circulation and modify the parking facilities on the Subject Property, subject to the following conditions:<sup>1</sup>

**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:
  1. 0.31 FAR
  2. Office Use: 1,097,800 square feet;
  3. Retail Use: 91,400 square feet; and
  4. Hotel Use: 350 rooms (243,240 square feet).
- b. Residential uses may not to exceed the following:
  1. 0.39 FAR
  2. Senior adult housing: 140 units; and
  3. Non age-restricted multi-family: 1,089 units

**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 multi-family buildings, directly adjacent to the Cloverleaf community (southeast), must not exceed 50 feet.
- c. The building height of the Senior Adult housing facilities (identified as Building U, Lot 22 on the Project Plan) must not exceed 72 feet.

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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.

- d. The building heights on the southern border must be terraced to ensure compatibility with the existing residential developments (e.g. Cloverleaf community).

### **3. HOUSING**

The senior housing and associated facilities, hereinafter referred to as Senior Adult housing, must 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 persons 62 years and older as defined in Section 59-A-2.1 of the Zoning Ordinance.

### **4. MODERATE PRICED DWELLING UNITS (MPDUs)**

The development must provide a minimum of 12.5 percent MPDUs onsite, evenly distributed within the multi-family buildings, and consistent with the requirements of Chapter 25A.

- a. Senior Adult housing facilities without a full kitchen do not qualify as a complete dwelling unit; therefore, the Senior Adult housing facility will not include MPDUs.
- b. Prior to the certification of each future Site Plan, the Department of Housing and Community Affairs (DHCA) must review and approve the bedroom distribution of the MPDUs.

### **5. PUBLIC FACILITIES, AMENITIES, AND OTHER DESIGN FEATURES**

- a. The Applicant must provide 51 percent of the net lot area for on-site public use space, as shown on the Project Plan. The final design and details will be determined during the Site Plan review process.
- b. The streetscape design along the private streets must include street trees (at a maximum of 30 feet on-center), street lights (at a maximum of 60 feet on-center), public art, and street furniture.
- c. Appropriate signage must be provided indicating that the public use spaces and the public artworks must be easily and readily accessible for the enjoyment of the general public.
- d. 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, Hiker/Biker Trail, Transit Plaza, neighborhood greens spaces and public artworks.
- e. The final locations for the retail uses must activate the streetscape along Century Blvd, the gateway entrance to the development (at the intersection of Century Blvd and Dorsey Mill Road) and the public use space areas.



## **6. OTHER DESIGN FEATURES**

The Applicant will meet the goals and objectives set forth within the Table 2: Public Facilities, Amenities and Other Design Features (Optional Method development column) of the Staff Report. 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 requested under the Optional Method of development. The Applicant must submit supporting drawings and documentation addressing the following criteria prior to the Certified Site Plan approval.

- a. Provide pedestrian sidewalks at a minimum width of 10 feet on both sides of public streets, and 5 feet on both sides of the private streets. The sidewalks must be free and clear of all obstructions, including but not limited to stairwells, utility boxes, and tree pits.
- b. Provide a minimum tree canopy coverage of 40 percent of the total net tract area. The tree canopy coverage must include the preservation of existing forest and new tree plantings.
- c. Submit architectural drawings for the parking facilities (Buildings B and D) directly adjacent to I-270, including architectural and design treatment for the northeast and southwest facades.

## **7. PUBLIC USE SPACE**

- a. 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.
- b. The Applicant must provide a minimum of 20% of the net lot area as public use space.

## **8. Building Lot Termination (BLTs) Development Right**

- a. The Applicant must provide proof of purchase and/or payment of 14.17 BLTs to the Department of Permitting Services prior to the issuance of building permits for density in excess of the base 0.5 FAR (or 2,345,760 sf.) of combined non-residential and residential square footage.
- b. Prior to the release of each building permit, the Applicant must submit to the Department of Permitting Services a certified running tabulation of the individual building square footage and the cumulative total square footage for this project against the 0.5 FAR.

## **9. DEVELOPMENT STAGING**

The development will be built in the following six phases. With the exception of Phase 1 (already completed), the uses within Phases 2 thru 6 may be constructed in any order. However, the public amenities and facilities associated with the specific uses 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, associated SWM facilities, and the realignment of Crystal Rock Drive and Century Blvd.
- b. Phase 2 (a and b) will include the construction of residential units (approximately 53% of the total number), clubhouse, office building (G) with associated retail uses, the 350-room hotel building (C) with associated retail uses, Senior housing facilities (Building U), a portion of the parking facilities (B), associated public amenities (Main Street: east/west parks and retail plaza), neighborhood green spaces, and necessary infrastructure.
- c. Phase 3 will include the construction of the remaining residential units (approximately 47% of the total number), associated public amenities (South Residential Green, natural/hard surface hiker/biker trails, Nature Pavilion and Preserve Plaza), and infrastructure.
- d. Phase 4 consists of office buildings (H) with associated retail uses, the remaining portion of the parking facilities, associated public amenities (natural/hard surface biker/hiker trail and Black Hill Preserve) and infrastructure.
- e. Phase 5 consists of the construction of two office buildings (Buildings I & F) with associated retail uses, remaining portion of the parking garage (Buildings B & D), associated public amenities (Gateway Plaza, and Village Green north/south), and infrastructure.
- f. Phase 6 consists of the construction of office building E, associated public amenities, and infrastructure.

#### **10. 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 coordinate with Montgomery County Department of Transportation regarding the bike station within the Transit Plaza.

BE IT FURTHER RESOLVED that all elements shown on the latest electronic version, submitted in December 2015 via ePlans to the M-NCPPC, and as of the date of the Staff Report February 29, 2016, 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



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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 would comply with all of the intents and requirements of the zone.*

The Project Plan Amendment was reviewed under the Zoning Ordinance in effect prior to October 30, 2014. The Property is zoned TMX-2. In accordance with the zone and the Project Plan requirements, this amendment will provide significant public facilities, amenities and other design features that will create an environment capable of supporting the greater densities and intensities.

- (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 by providing a mixed-use development within walking distance of the Corridor Cities Transit (CCT) station. In accordance with the original Project Plan approval, the amendment was reviewed as per the following established design criteria:

Public Use Space and Placemaking Features - The public amenities are appropriately scaled based on the neighborhood's hierarchy throughout the mixed-use development. The hierarchy is based on the building heights and the character of the roadways. Open space areas directly adjacent to the public roadways, hiker/bike trails, and the Main Street central green spaces make the grandest gestures as these public facilities are more accessible to the general public (i.e. a larger population). Open space areas directly adjacent to the residential dwelling units and along the private roadways (internal to the site, along 5<sup>th</sup> Street and Streets B and C) are intentionally more intimate as these public facilities will be more accessible to the local residents (i.e. a smaller population). Other public use spaces, green spaces, on-site recreation facilities, and off-site design features add quality to the neighborhood, establish a way-finding system, and create desirable placemaking characteristics. Onsite public use space equates to 51 percent (2,153,134 sf.) of the net tract area, which exceeds the 20 percent minimum required in the TMX-2 zone. The clubhouse, hiker/biker trail connections,



multi-purpose fields, open lawn areas, and open play areas offer a variety of active and passive activities. The recreational supply and demand values are determined during the Site Plan process. The streetscape design within the public right-of-way provides a pedestrian connection to the CCT station and the trail system.

Linkages and Pedestrian Orientation - The entire mixed-use development is organized around a street grid pattern. Crystal Rock Drive and Century Blvd. are the primary roadways, mainly intended to direct local and regional traffic through the development. The primary roadways will accommodate bicycles, motorcycles, vehicular traffic, and on-street parking during off-peak hours. The amended Project Plan will eliminate 2<sup>nd</sup> Street; therefore, increasing the block length by  $\pm 220$  feet. Blocks K and P are approximately  $\pm 500$  feet long by  $\pm 350$  feet wide. Although the length of the block has increased, the proposed buildings do not prohibit pedestrians from walking through the surface parking facility to Street B or C. Access to public space is provided through the use of sidewalks and trails. Ground floor retail and public use spaces enhance the streetscape and are conveniently located along the primary roadways in order to attract transit commuters, activate the public use spaces, and calm vehicular traffic. The extension of Dorsey Mill Road was approved with the original Project Plan and Site Plan No. 82013025B. The design and construction of Dorsey Mill Road is subject to change based on the Applicant's coordination with SHA's approval. In the center of the development, the building footprints and frontages along Street B have been modified from the previous approvals to reflect the changes to the parking facilities. Street B is considered a secondary roadway, because it provides a direct connection (mainly utilized by the local residents) from the southeast to the northwest side of the development. Street B also provides access to the surface parking facilities (within the internal blocks). The multi-family residential buildings have been broken up into smaller footprints and are designed to enclose the outer edges of the larger blocks (along Main Street, Street C, 5<sup>th</sup> Street, Century Blvd. and Crystal Rock Drive).

*(2) Encourage Land Assembly;*

The Property is owned by Lerner Enterprises (the Applicant). The Project Plan Amendment and Preliminary Plan Amendment will reassemble the previously approved 11 lots into 12 lots and 5 parcels. The entire property is 107.70 acres; the net tract area is 96.92 acres (90% of the gross tract area).

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



The Project Plan amendment is requesting a different housing type mix that reduces the variety of housing opportunities previously approved to include: 1) fee simple townhomes, 2) age-restricted multi-family units, and 3) assisted living. This amendment will modify the housing options to include: 1) non age-restricted multi-family dwelling units, and 2) an assisted living facility on 96.92 acres of land. The Planning Board finds that the amended mix of housing still meets the intent of the Sector Plan to provide a variety within walking distance of the future CCT station. The residential building façade treatments and articulations will express variations through the use of different color palettes.

The Project Plan will provide 8 different building types, façade treatments and a variety of unit types (e.g. 1 bedroom, 2-bedroom, and 3 bedroom units).

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

The close proximity of the Property to the future CCT station facilitates the convenient use of public transit. The pedestrian circulation system connects sidewalks and hike/biker trails in order to generate high walking and transit scores within the neighborhood. The Sector Plan recommends that the minimum number of required off-street parking spaces (6,295 spaces) become the maximum allowed onsite.

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

BLTs are required by the TMX-2 Zone to support the Agricultural Land Preservation Fund under Chapter 2B (Section 59-C-14.27). For any building permit to construct floor area above the standard method of development, the Applicant is required to purchase BLTs at a rate of 12.5% of the total density that exceeds 0.5 FAR (2,345,760 sf.). Prior to construction of the remaining 0.2 FAR, the Applicant is required to purchase 14.17 BLTs when the development reaches this threshold. The calculation of BLTs is based on the proportionate mix of residential (56% of the total requested density) and non-residential uses (44% of the requested density).

*In accordance with the additional provisions for the optional method of development (Section 59-C-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.*

*(b) The application would be consistent with the applicable Sector Plan*

The Board finds that the amended Project Plan application conforms with the recommendations of the Sector Plan and the 2010 Germantown Urban Design Guidelines. The Project Plan proposes a mix of office (1,097,800 sf.), a 350-room hotel (243,240 sf.) and retail uses (91,400 sf.); which provides for approximately 5,106 jobs. The jobs to housing ratio (approximately 4.15) will be more consistent with the recommendations of the Sector Plan, due to the reduction in the total number of residential units (1,229 units). The mix of jobs and housing is consistent with the land use flexibility provided in the Sector Plan (page 18). The proposed mix of retail, office and hotel uses provides significant opportunities for employment with housing in the Germantown Employment Area. The proposed mix of uses are appropriately located away from the concentration of commercial uses in the Town Core. The Sector Plan recommends (on pages 25 and 65) shorter block lengths (250 feet to 350 feet). However, the largest block is 347 ft. wide by 494 ft. long. Although the length of the block has increased, the circulation through the surface parking facility is feasible. Per the Urban Form recommendations of the Sector Plan (pages 10, 20, and 21), high quality landscape designs were encouraged through the design of neighborhood parks, green space areas, and through the activation of the streetscapes. The landscape and streetscape designs enhance the walkability of the site; which is the primary purpose of the zone.

*(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 location, size, and intensity of the development are compatible with the existing developments in the general neighborhood. The development will not be detrimental to potential developments and supports future development by having completed the Century Blvd. and Crystal Rock Drive roadways through the site. Adequate access to the development and the proposed CCT station is provided along Crystal Rock Drive, Century Blvd., and Dorsey Mill Road. The urban grid pattern adequately manages the local and regional traffic flow through the development, reduces walking distances, provides alternative internal connections, and establishes the framework for an efficient streetscape design.

*(d) The proposal would 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*



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*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 TMA will all be finalized before the first stage of construction. The Property is located within the Germantown West Policy Area; which does not stipulate any Transportation Policy Area (TPAR) trip mitigation requirements. The Subject Property is within the Seneca Valley High School Cluster area. The 440 high rise multi-family units approved under Resolution MCPB 13-38 are subject to a School Facility Payment at the elementary school level pursuant to the Subdivision Staging Policy in effect for FY 2013. The 649 low rise multi-family units (and 140 senior housing units) approved under this Project Plan are not subject to a School Facility Payment pursuant to the Subdivision Staging Policy in effect for FY 2016. The development phasing currently consists of six stages. The first phase constructed the public roadways and infrastructure improvements that are necessary to ensure safe and adequate circulation on and offsite. The second stage of construction consists of residential, office, some retail, and hotel uses.

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

#### **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 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 by Previous Approvals	Amended Project Plan No. 92012004A
Gross Tract Area	N/A	4,691,520 sf. (107.70 ac.)
Public ROW Dedication	461,593 sf. (10.61 ac.)	469,661 sf. (10.78 ac.)
Net Lot Area	N/A	



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Max. Commercial (gross floor area):			
Office/ Employment	1,500,000 sf.		1,097,800 sf.
Retail	110,000 sf.		91,400 sf.
Hotel (max. 350-rooms)	Hotel		243,240 sf.
Total Commercial	1,610,000 sf.		1,432,440 sf.
Residential Units			
Non Age-restricted Units	440 units		953 units
Age-restricted	1,178 units		140 units
MPDUs (min.)	190 units		136 units
Total Units	1,618 units		1,229 units
Max. FAR			
Commercial Uses	0.31 (1,432,440 sf.)		0.31 (1,432,440 sf.)
Residential Uses	0.39 (1,851,560 sf.)		0.39 (1,851,560 sf.)
Total FAR	0.70 (3,284,000 sf.)		0.70 (3,284,000 sf.)
Min. BLTs (12.5% of Floor Area)			
Residential Uses	7.3		7.29
Non-residential Uses	6.8		6.88
Total BLTs	14.1		14.17
Min. Building Setback (ft.)			
From I-270	200		200
From a residential zone	90		90
From Parkland	170		170
Max. Building Height (ft.)	143		143
Building C (Hotel)	143		143
Building E (Office)	143		143
Building F (Office)	143		143
Building G (Office)	143		143
Building H (Office)	143		143
Building I (Office)	143		143
Building J (Multi-family)	125		125
Building K-1 (Multi-family)	125		125
Building K-2 (Multi-family)	N/A		125
Building K-3 (Multi-family)	N/A		125
Building L (Multi-family)	125		125



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Building M-1 (Multi-family)	125		125
Building M-2 (Multi-family)	N/A		125
Building M-3 (Multi-family)	N/A		125
Building N-1 (Multi-family)	50		50
Building O (Multi-family)	125		125
Building P-1 (Multi-family)	125		125
Building P-2 (Multi-family)	N/A		125
Building P-3 (Multi-family)	N/A		125
Building R-1 (Multi-family)	72		72
Building R-2 (Multi-family)	N/A		72
Building R-3 (Multi-family)	N/A		72
Building S-1 (Multi-family)	50		50
Building T (Multi-family)	72		72
Building U (Assisted Living Facility)	72		72
Building V-1 (Community Center & Multi-family)	72		72
Building W-1 (Multi-family)	72		72
Public Use Space (% of Net Tract Area):			
Onsite Public Use Space	41.24%		51%
Off-street Parking			
Min. Bicycle Spaces	315 spaces		309 spaces
Min, Motorcycle Spaces	100 spaces		120 spaces
Total Spaces	6,295 spaces		6,188 spaces

Under Zoning Ordinance Section 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:



1. **Black Hill Preserve** – Located north of Crystal Rock Drive, adjacent to Buildings E, J, O, and T.
2. **Gateway Plaza** – Located north of Dorsey Mill Road, directly adjacent to Buildings I and N.
3. **Village Green North** – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings B, F, and G.
4. **Village Green South** – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings D, H, and I.
5. **Main Street - Retail Plaza** – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings C, G, and H.
6. **Main Street - East Park** – Located south of Century Blvd., toward the center of the Property between Buildings L and M.
7. **Main Street - West Park** – Located south of Century Blvd., toward the center of the Property between Buildings Q and R.
8. **Transit Plaza** – Located at the intersection of Street B and Crystal Rock Drive.
9. **Neighborhood Parks** –
  - a. M-1 Retail Plaza – Located near Building M-1 at the intersection of 5<sup>th</sup> Street and Century Blvd.
  - b. M-3 Community Garden Area – Located near Building M-3 at the intersection of Street B and 5<sup>th</sup> Street.
  - c. R-3 Bocce Ball Court – Located near Building R-3 at the intersection of Street B and 5<sup>th</sup> Street.
  - d. R-3 Neighborhood Green – Located near Buildings R-1 and R-3 at the intersection of Street C and 5<sup>th</sup> Street.
10. **South Residential Green Space (aka "Linear Park")** – Located at the end of Dorsey Mill Road and Street B, between the existing Cloverleaf Center townhouses and the multi-family Buildings S and W.
11. **Walking/Cycling Trail and Public Green Space** – Located south of I-270 and Black Hill Preserve, along the perimeter of the property.
12. **Nature Path and Connection to Black Hill Regional Park** – Located south of I-270 and Black Hill Preserve, near Buildings B and E.
13. **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.
14. **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.
15. **Park Dedication** – Located off-site, north of Black Hill Preserve.
16. **The Community Center** – Located on the first floor of Building V-1.

(f) *The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.*



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The Project Plan must provide 12.5 percent MPDUs onsite (136 units) as required by Chapter 25A. In accordance with the conditions of approval, MPDUs will be evenly distributed within the multi-family dwelling 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 proposal satisfies any applicable requirements for forest conservation under Chapter 22A.*

The Final Forest Conservation Plan for the Property was originally approved on August 15, 2013 as Site Plan No. 820120250 Crystal Rock – Public Roads Infrastructure Plan and was subsequently updated to include the Dorsey Mill Road intersection #82013025B on December 17, 2015.

- (h) *The proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.*

The Property is not located within a Special Protection Area, and a Water Quality Plan is not required. The original Stormwater Management Concept was approved in November 2012 and uses a variety of stormwater management techniques to meet the ESD requirements. In accordance with the conditions of the original Stormwater Management approval, each respective Site Plan application will require Stormwater Management approval.

- (i) *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 minimum public use space requirement by providing approximately 51 percent of the net tract area. However, the parkland dedication (1994) and the streetscape (10.78-acres) within the public ROW 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



MCPB No. 16-024  
Project Plan No. 92012004A  
Black Hill  
Date of Hearing: March 10, 2016

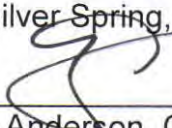
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is MAY 3 2016 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson and Commissioners Dreyfuss and Presley voting in favor, and Vice Chair Wells-Harley and Commissioner Fani-González absent, at its regular meeting held on Thursday, April 21, 2016, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board

MR. RICHARD BRUSH, MANAGER  
MCDPS-WATER RES. PLAN REVIEW  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
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Black Hill  
Item #3  
03/10/2016  
Speaker Sign-up Sheet

No.	Name & Address	Email Address Phone #	Name of Group or Affiliation Issue of Concern
1	Robert Brewer, Jr. 3 Bethesda Metro Center, Ste. 460 Bethesda, MD 20814 James Policardo 2000 Tower Oaks Boulevard, 8th Fl Rockville, MD 20852 Miguel Irola Chris Schein Frank Andre 750 E. Pratt Street, Ste. 1100 Baltimore, MD 21202 <b>Applicants</b>		Black Hill  Lerner  Hord Coplan Mgmt.
2	Chris Turnbull 1420 Spring Hill Road, Ste. 610 Tysons, VA 20132		Wells & Associates Cabin Branch
3	Michael Conley 3404 Leland Street Chevy Chase, M 20815		WHI Cabin Branch
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**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAY 3 2016

MCPB No. 16-025  
Preliminary Plan Amendment No. 12012021A  
**Black Hill**  
Date of Hearing: March 10, 2016

**RESOLUTION**

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

WHEREAS, in June 2013, the Planning Board, by Resolution MCPB No. 13-38, approved Preliminary Plan No. 120120210, creating 11 lots for mixed-use development with 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 MPUDs) on 107.70 acres of land in the TMX-2 zone, located north of Father Hurley Boulevard, east of Crystal Rock Drive and west of I-270 ("Subject Property"), in the Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, on January 23, 2015, Black Hill Germantown, LLP, c/o Lerner Enterprises ("Applicant") filed an application for approval of an amendment to the previously approved Preliminary Plan(s) to modify the traffic study to reflect changes to the office, assisted living facility, and residential uses (non age-restricted), update the Adequate Public Facilities (APF), modify the conditions of approval, and stormwater management (SWM) concept for the Subject Property; and

WHEREAS, Applicant's application to amend the Preliminary Plan was designated Preliminary Plan No. 12012021A, 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 February 29, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 10, 2016, 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

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910

MNCPPC Legal Department

www.MCParkandPlanning.org

E-Mail: mcp-chairman@mncppc.org

Chairman's Office: 301.495.4605 Fax: 301.495.1320



WHEREAS, on March 10, 2016, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Fani-Gonzalez with a vote of 5-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12012021A to modify the traffic study, revise the APF, modify the conditions of approval, and the SWM concept. The following conditions will supersede the original conditions of approval:<sup>1</sup>

- 1) Approval under this Preliminary Plan is limited to 12 lots and 3 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 a total of 1,229 residential units (including 12.5% MPDUs). No more than 140 of the units dedicated to Senior Adult housing units.
- 2) 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.
- 3) The Preliminary Plan must comply with all conditions of approval for the Project Plan No. 92012004A.
- 4) Prior to the release of the first building permit for Phase 2 of the development, as specified in the Project Plan, the Applicant must submit design details to the Montgomery County Department of Transportation ("MCDOT") and the State Highway Administration ("SHA") and construct the following roadway improvements to the extent required by MCDOT and SHA:
  - a. Construct Crystal Rock Drive and Century Boulevard to full width standards through the Property in accordance with Montgomery County Department of Permitting Services approved phased Black Hill Crystal Rock Drive and Century Boulevard Public Roadway Plans.
  - b. The Applicant must construct the following improvements at the intersection of Ridge Road (MD 27) and Observation Drive:
    - Restripe a second left-turn lane on southbound Observation Drive eastbound MD 27.
    - Provide necessary traffic signal modifications.
  - c. The Applicant must participate on a pro rata share to provide the following improvements at the MD 355/ West Old Baltimore Road intersection.
    1. Widen eastbound approach of West Old Baltimore Road to provide for a separate right-turn lane to southbound MD 355.

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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.

2. Widen the northbound approach of MD 355 to provide for a separate left-turn lane on to westbound West Old Baltimore Road.
  3. Widen the southbound approach of MD 355 to provide separate right-turn lane to westbound West Old Baltimore Road.
  4. Install traffic signal if warranted by the background development.
- 5) Prior to the release of the building permit which contains the 371st residential unit in Phase 2 of the development as specified in the Project Plan (excluding the assisted living units), the Applicant must submit 70% design completion details to SHA and MCDOT for the MD 118/MD 355 intersection to construct the following improvements:
- I. On MD 355, construct a third southbound through/right-turn lane.
  - II. On MD 355, construct a second southbound left-turn lane to Germantown Road (MD 118).
  - III. On westbound Germantown Road (MD 118), construct a separate right turn lane on to northbound MD 355.
  - IV. Provide necessary traffic signal modification

These improvements must be completed prior to the issuance of any use and occupancy permit exceeding the 549<sup>th</sup> residential unit (excluding the assisted living units).

- 6) Prior to the release of the building permit which contains the 371st unit in Phase 2 of the development as specified in the Project Plan (excluding the assisted living units), the Applicant must complete 100% design to SHA and MCDOT and posting of bonds at MD 27/MD 355 to construct the following improvements:
- I. Construct a second dedicated eastbound left-turn lane on MD 27 to northbound MD 355.
  - II. Provide necessary traffic signal modifications.

These improvements must be completed prior to the issuance of any use and occupancy permit exceeding the 549<sup>th</sup> residential unit (excluding the assisted living units).

- 7) Prior to release of each building permit after Phase 2A, excluding the assisted living units, the Applicant must submit to DPS a certified running tabulation of the vehicle trips associated with the individual building square footage and the cumulative total of vehicle trips associated with each building permit pulled on the Property. Prior to the vehicle threshold being met, the Applicant must construct the following improvements before the release of the triggering building permit.
- a. Prior to the release of any building permit exceeding 22% of the total peak hour trips (549 vehicle trips in the AM or 512 vehicle trips in the PM, whichever threshold is met first) for the development as specified in the Preliminary Plan, the Applicant must construct the following improvements at the intersection of Father Hurley Boulevard and Crystal Rock Drive:
    - I. Provide necessary traffic signal modifications as per MCDOT.



- II. Construct a second dedicated northbound right-turn lane on Crystal Rock Drive to eastbound Father Hurley Boulevard.
  - b. Prior to the release of any building permit exceeding 30% of the total peak hour trips (749 vehicle trips in the AM or 698 vehicle trips in the PM, whichever threshold is met first) for the development as specified in the Preliminary Plan, the Applicant must construct the following improvements at the intersection of MD 118 and MD 117:
    - I. Construct a second northbound left turn lane on Germantown Road (MD118) onto westbound Clopper Road (MD 117).
    - II. Provide necessary traffic signal modifications.
  - c. At the Ridge Road (MD 27)/ Brink Road intersection:
    - i. Participate in the construction of a second westbound through lane on Brink Road.
    - ii. Provide necessary traffic signal modifications.
- 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 A with a minimum parcel width of 37.34 feet from 1<sup>st</sup> Street to 5<sup>th</sup> Street. Private Street A 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.
  - b. Private Street B with a minimum parcel width of 37.34 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 37.34 feet from Century Boulevard to Street A. Private 1<sup>st</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.
  - e. Private 2<sup>nd</sup> Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 2<sup>nd</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.
  - f. Private 3<sup>rd</sup> Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 3<sup>rd</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.
  - g. Private 4<sup>th</sup> Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 4<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.

- h. Private 5<sup>th</sup> Street with a minimum parcel width of 37.34 feet from Street C to Street A. 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 Main Street (North and South sections) with a minimum parcel width of 131.34 feet from Street C to Street A. 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.
- 9) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated November 16, 2012, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.
  - 10) Final location and number of MPDUs to be determined at the time of Site Plan.
  - 11) The Applicant must provide proof of purchase and/or payment of the required BLTs within each phase of development in accordance with the Site Plan conditions.
  - 12) 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.
  - 13) The record plat must reflect a Category I easement over all areas of stream valley buffers and forest conservation as shown on the approved forest conservation plan.
  - 14) The record plat must reflect all areas under Homeowners Association (HOA) ownership, if applicable.
  - 15) The final number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at Site Plan.
  - 16) In the event that a subsequent Site Plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration, location or right-of-way width or alignment, or an increase in units or square footage above those specified in Condition #1, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.
  - 17) At the time of Site Plan, the Applicant must comply with Section 59-C-14.27 of the Zoning Ordinance regarding Special Regulations for use of BLT Development Rights.



- 18) The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for a total of 145 months (12 years) from the original initiation date (August 8, 2013) of the Planning Board Resolution according to the following schedule:
  - I. Within 85 months (7 years) - Issuance of building permits for Phases I and II as identified by Project Plan.
  - II. Beyond 85 months (years 7 -12) – issuance of building permits for all remaining development.
- 19) The Subject Property is within the Seneca Valley High School Cluster area. The 440 high rise multi-family units approved under Resolution MCPB 13-38 are subject to a School Facility Payment at the elementary school level pursuant to the Subdivision Staging Policy in effect for FY 2013. The 649 low rise multi-family units (and 140 senior housing units) approved under this Preliminary Plan are not subject to a School Facility Payment pursuant to the Subdivision Staging Policy in effect for FY 2016.

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 Preliminary Plan substantially conforms to the Sector Plan.*

The Sector Plan contains recommendations for roadway, transit, and bikeway facilities. Crystal Rock Drive and Century Boulevard will both function as a business district street (B-11) with four lanes (two in each direction) and a right-of-way of 100 feet. Dorsey Mill Road extended will function as a business district street (b-11) with four lanes (two in each direction and right-of-way of 150 feet. Dorsey Mill Road extended will also include a 50 foot transitway for the future CCT and a shared-use path (SP-66). In accordance with the Mandatory Referral (MR2016007), Dorsey Mill Road extended bridges over I-270, and is proposed to have separated bicycle lanes (also known as a cycle track) on both sides of the road and a shared use path on the south side of the road. This is consistent with the current recommendations in the Sector Plan, but also provides an enhancement with separated bicycle lanes.

2. Public facilities will be adequate to support and service the area of the approved subdivision.

The site is located within the Seneca Valley school cluster. The public schools within this cluster are reviewed on an annual basis. Based on the modifications in this Application, a school facilities payment is required for the 440 high-rise multi-family unit; however, is not required for the 649 low-rise multi-family units. The Applicant must make a School Facilities Payment to MCDPS for the 440 high-

rise multi-family units at the elementary school level. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

The office and residential uses will be reduced, and the number of beds in the assisted living facility will be increased. The residential mix will be modified to allow for all non age-restricted multi-family units. As a result of these changes, the development will generate 118 additional trips in the AM peak hour and 114 additional trips in the PM peak hour. The retail space is intended to support the development and is not intended to attract any trips outside the development, thus there is a 100% internal capture of the retail trips. The Preliminary Plan will satisfy the LATR and TPAR requirements of the Adequate Public Facilities (APF) review, as conditioned. The traffic study was revised and submitted (dated April 2015) to determine the impact of the development on the area transportation system. Twenty-one local intersections were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard. The Brink Road/ Ridge Road intersection and the Frederick Road (MD 355)/ West Baltimore Road intersection were not reanalyzed with the updated traffic impact study, because it did not exceed the Critical Lane Volume (CLV) threshold, and the Applicant agreed to construct the improvements and complete their mitigation requirement as conditioned in the original Preliminary Plan approval.

Adequate vehicular and pedestrian access is provided. Vehicular access to the Property is from Crystal Rock Drive and Century Blvd. A 10-foot sidewalk will be installed along the public right-of-way and connected into the existing pathways at the edges of the Property. This Property will be served by public water and sewer systems, under the W-3 and S-3 categories, as allowed and approved by the County. WSSC has accepted the conceptual design of the sewer and water supply systems.

The Preliminary Plan has been reviewed by the Montgomery County Fire and Rescue Services, who have determined that there is appropriate access for fire and rescue vehicles. Electrical and telecommunications services are also available to serve the development.

3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable Master Plan, and for the type of development or use contemplated.

The size, shape, width, and orientation of the lots were reviewed to determine if the lots are appropriate given the location of this development for the types and uses intended for each lot. As labeled on the Preliminary Plan, Lots 15, 18, 19, and 20 were modified to accommodate a different building footprint and housing



type. Multi-family residential units are provided within these lots and the urban grid pattern is consistent with the previous approval. The lots are appropriately sized to meet the Sector Plan recommendations for building massing and compatibility to the transit station.

4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.

The Final Forest Conservation Plan for this Property was originally approved in August 2013 as Site Plan No. 820120250 Crystal Rock – Public Roads Infrastructure Plan, and was subsequently updated to include the Dorsey Mill Road intersection (Site Plan No. 82013025B) in December 2015. The Preliminary Plan conforms to the Chapter 22A, because it is unchanged from the amended Project Plan No. 92012004A approval.

5. All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management" Section 19-20 through 19-35.

The original SWM concept was approved in November 2012 and uses a variety of techniques to meet the ESD requirements. In accordance with the original SWM approval, each respective Site Plan application will require a subsequent SWM approval.

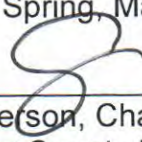
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 3 2016 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson and Commissioners Dreyfuss and Presley voting in favor, and Vice Chair Wells-Harley and Commissioner Fani-González absent, at its regular meeting held on Thursday, April 21, 2016, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board



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

MCPB No. 18-051  
Site Plan No. 82013025C  
Black Hill  
Date of Hearing: June 28, 2018

JUL 03 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 site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, on August 1, 2013, the Planning Board, by Resolution MCPB No. 13-93, approved Site Plan No. 820130250 to construct Crystal Rock Drive and Century Blvd. 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 site plan, designated 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 site plan, designated 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 site plan, designated 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, Suite 200, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

**www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org**



WHEREAS, on March 28, 2016, Black Hill Germantown LLLP ("Applicant") filed an application for approval of an amendment to the previously approved site plans to reflect the grading and construction of the Black Hill - Thrive Assisted Living Facility Site Plan 820160100 on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82013025C, Black Hill Public Roads and Infrastructure ("Site 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 June 14, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 28, 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 Site Plan No. 82013025C to include the limits of disturbance, grading and improvements associated with the Thrive Assisted Living Site Plan 820160100 approval.

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

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Site Plan No. 82013025C, Black Hill Public Roads and Infrastructure, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning 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. 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.*

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.*

The Amendment is subject to the forest conservation law and meets all the applicable requirements for forest protection under Chapter 22A. The Subject Property had a Final Forest Conservation Plan that was approved as part of the Site Plan for the Black Hill Infrastructure and Public Roads 820130250. The original Site Plan approval included a Final Forest Conservation Plan covering 108 acres of land that identified forest retention and protection in Category I conservation easements, forest clearing, and no forest planting requirement. The Application shows the final grading and limits of disturbance associated with the Black Hill - Thrive Assisted Living Site Plan. The Application is consistent with the originally approved Final Forest Conservation Plan for the overall Black Hill development, and it does not result in any impact to existing forest, Category I conservation easements, specimen trees, or other environmental features.

The Site Plan is subject to Chapter 19 regarding water resource protection and stormwater management, and a stormwater concept was approved as part of the Site Plan for Black Hill - Thrive Assisted Living 820160100.

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 03 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

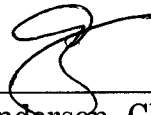


Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**CERTIFICATION**

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 Cichy, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, June 28, 2018, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board

MR. RICHARD BRUSH, MANAGER  
MCDPS-WATER RES. PLAN REVIEW  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [rick.brush@montgomerycountymd.gov](mailto:rick.brush@montgomerycountymd.gov)

MS. LISA SCHWARTZ  
DHCA  
100 MARYLAND AENUE  
4<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [lisa.schwartz@montgomerycountymd.gov](mailto:lisa.schwartz@montgomerycountymd.gov)

MR. MARK BEALL  
MCDPS-ZONING  
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ROCKVILLE, MD 20850  
By email [mark.beall@montgomerycountymd.gov](mailto:mark.beall@montgomerycountymd.gov)

MR. CHRISTOPHER ANDERSON  
MPDU MANAGER, DHCA  
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By email  
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MIKE PLITT  
MACRIS,HENDRICKS & GLASCOCK PA  
9220 WIGHTMAN ROAD,SUITE 120  
MONTGOMERY VILLAGE, MD 20886

MR. GREG LECK  
MCDOT  
101 MONROE ST  
10<sup>th</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [greg.leck@montgomerycountymd.gov](mailto:greg.leck@montgomerycountymd.gov)

MR. ATIQ PANJSHIRI  
MCDPS-RIGHT-OF-WAY  
PERMITTING  
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MS. CHRISTINA CONTRERAS  
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ROCKVILLE, MD 20850  
By email  
[christina.contreras@montgomerycountymd.gov](mailto:christina.contreras@montgomerycountymd.gov)

MR. ALAN SOUKUP  
MCDDEP-WATER & WASTEWATER POLICY  
255 ROCKVILLE PIKE, SUITE 120  
ROCKVILLE, MD 20850  
By email [alan.soukup@montgomerycountymd.gov](mailto:alan.soukup@montgomerycountymd.gov)

Patrick La Vay  
9220 Wightman Rd Ste 120  
Montgomery Village MD 20886

MR. MARK ETHERIDGE, MANAGER  
MCDPS-SEDIMENT/STORMWATER  
INSPECTION & ENFORCEMENT  
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ROCKVILLE, MD 20850  
By email [mark.etheridge@montgomerycountymd.gov](mailto:mark.etheridge@montgomerycountymd.gov)

MR. EHSAN MOTAZEDI  
MCDPS-SITE PLAN ENFORCEMENT  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [ehsan.motazedi@montgomerycountymd.gov](mailto:ehsan.motazedi@montgomerycountymd.gov)

MR. GENE VON GUNTEN  
MCDPS-WELL & SEPTIC  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [gene.vongunten@montgomerycountymd.gov](mailto:gene.vongunten@montgomerycountymd.gov)

James Policaro  
Lerner Enterprises  
2000 Tower Oaks Blvd., 8th Floor  
Rockville, MD 20852





## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

May 30, 2018

Mr. Steve Wilde  
Macris, Hendricks, and Glascock, P.A.  
9220 Wightman Road, Suite 120  
Montgomery Village, MD 20886

Re: **SITE DEVELOPMENT REVISED  
STORMWATER MANAGEMENT PLAN**  
Request for Black Hills-VIASAT  
Project Phase: 2A  
Preliminary Plan #: 1201202021A  
SM File #: 242487  
Tract Size/Zone: 5.94/CR2  
Total Concept Area: 5.94ac  
Lots/Block: Proposed Lot 23  
Parcel(s): 9 & 10  
Watershed: Little Seneca Creek

Dear Mr. Wilde:

Based on a review by the Department of Permitting Services Review Staff, the Site Development Stormwater Management Plan for the above-mentioned site is **acceptable**. The plan proposes to meet required stormwater management goals via the use of micro bioretention.

The following **items** will need to be addressed **during** the final stormwater management design plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.
5. The conditions with the November 16, 2012 original approval and any subsequent revisions remain unchanged and valid.
6. There appears to be available room to increase the footprint of PB # 3 and PB # 5. An attempt must be made to provide at least 1" of treatment volume in each of these structures.



Mr. Steve Wilde  
May 30, 2018  
Page 2 of 2

7. The ESD volume for a portion of Winged Foot Lane has been maximized within the property limits. Additional compensation will be permitted within the limits of lot 23.

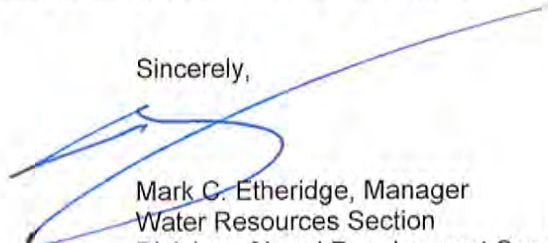
This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the final stormwater management design plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



Mark C. Etheridge, Manager  
Water Resources Section  
Division of Land Development Services

MCE: TEW

cc: N. Braunstein  
SM File # 242487

ESD Acres:	5.94ac
STRUCTURAL Acres:	N/A
WAIVED Acres:	N/A





DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Al R. Roshdieh  
Acting Director

August 17, 2015

Mr. Michael Garcia, Transportation Coordinator  
Area 3 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 12012021A  
Black Hills (formerly Crystal Rock)

Dear <sup>Mike</sup>~~Mr. Garcia~~:

We have completed our review of the revised amended preliminary plan dated December 11, 2014. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. All comments from the December 3, 2012 MCDOT letter – in particular, the previously established modified typical sections for Crystal Rock Drive and Century Boulevard - remain applicable unless modified below.

At the permit stage, the applicant should coordinate with the Department of Permitting Services (Right-of-Way Plan Review Section) and the MCDOT Division of Traffic Engineering & Operations (Traffic Engineering Studies Section) to determine if the proposed typical section for the roundabout (at the intersection of Crystal Rock Drive and Century Boulevard) should be modified to provide a truck collar (to narrow the pavement area available for passenger vehicle movements and reduce vehicle speeds within the roundabout).

2. The applicant should coordinate with the MCDOT Division of Transportation Engineering for the Dorsey Mill Road bridge crossing Interstate 270, the Century project (12002095B) on the west side of Interstate 270 and the Milestone project (11987271C) on the east side of Interstate 270.

Office of the Director

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101 Monroe Street, 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 FAX  
[www.montgomerycountymd.gov/dot](http://www.montgomerycountymd.gov/dot)

3. The applicant should coordinate with The Courts at Clarksburg development (120120060, 820150030) for off-site improvements to the intersection of Brink Road and Ridge Road (MD27). We recommend this developer work that applicant (Windridge Farms, LLC), the MDSA, and the Department of Permitting Services to enter into an agreement which will coordinate the required improvements, result in joint permit(s) from the regulatory agencies, and minimize the number of parties involved in the delivery of those improvements.
4. Prior to approval of record plat, the applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and this Department. Within MCDOT, the applicant should coordinate with Ms. Sande Brecher, Chief of the Office of Transportation Planning/Commuter Services Section. Ms. Brecher can be reached at 240-777-8383. The following items should be coordinated with Commuter Services and incorporated into the TMAg, which will include but not be limited to the following elements:
5. Incorporate transit-oriented design building elements into the project design to facilitate transit use, including the following options:
  - Design lobbies to emphasize two-way visibility for transit or shuttles.
  - Orient office building lobbies toward public roads for maximum visibility of transit options. Orient residential building lobbies to face public roads for maximum visibility of non-auto transportation options (buses, taxis, shuttles, etc).
  - Provide a concierge/reception desk in major residential and office buildings with an area where transit information and pass sales can be transacted – e.g., obtaining transit information, loading of SmarTrip cards.
6. Provide space for at least six external real-time transit information signs at highly-used locations in the Project to assist employees, residents, shoppers and visitors with commuter information. Applicant will provide conduit, electrical and internet connections, and will install County-provided equipment, including display monitors. Applicant will pay for five years of maintenance for the exterior signs. Additional interior monitors will need to be provided in lobbies of major buildings and can be incorporated into office and residential building communications systems. Applicant will reimburse the County for the cost of the monitors.
7. Provide bicycle parking spaces and commuter shower/change facility. Provide bike racks, lockers and bicycle storage facilities, as well as publicly-accessible bike parking; clarify location(s). Both publicly- and privately-accessible bike racks should be conveniently located. Provide showers and changing rooms in the office buildings to encourage use of bicycling and walking as a means of commuting in size and number per zoning ordinance or make permanent arrangements for use of convenient alternatives (fitness center, hotel, etc.).



8. Identify proposed locations for a minimum of 4 bikesharing stations,,including one near the proposed CCT station and the other three distributed at key nodal points on the site. One site should be located to facilitate access to Black Hill Regional Park. All stations would not have to be implemented in Phase 1; future bikesharing stations could be made operational in later phases of the development, but designation of sites for all bikesharing stations should occur as early in the project design as possible (Preliminary Plan).

Bikeshare stations must be sited at locations that will optimize use of the system to connect employees, residents and visitors at the Project to transit and to major origins and destinations throughout the Project and surrounding area. To the extent possible, bikeshare stations should be selected to also be proximate to off-street bicycle trails and other safe cycling infrastructure. Specific bikeshare station sites will be selected in concert with MCDOT to ensure consistency with bikeshare system objectives and siting requirements.

The applicant will be required to contribute to the cost of bikeshare facilities and services in accordance with County Code and other regulations in place at the time of occupancy of each building.

9. Parking considerations:

- (a) Minimize Parking. We recommend that the Applicant be required to provide parking at the minimum level possible.

Also, provide for shared parking to the maximum extent possible.

Note: On-street parking spaces cannot be counted towards meeting the project's parking space requirements. We reserve the right to remove on-street parking to address traffic operations and/or concerns.

- (b) Provide flexibility in design of parking areas to enable mixed uses to share parking areas so as to make most efficient use of them. This also strengthens the incentive to reduce drive-alone commuting and parking among employees, since doing so frees up spaces for other uses including retail customers. That approach will only work if the unused parking areas for employees can be made available once a decrease in demand is realized.
- (c) Provide adequate numbers of carpool and vanpool parking spaces in highly visible, preferentially-located spots in office parking facilities.
- (d) Provide adequate number of car sharing vehicle parking spaces in highly visible, preferentially-located spots available to the public.

Mr. Michael Garcia  
Preliminary Plan No. 12012021A  
August 17, 2015  
Page 4

- (e) Provide at least two electric car charging stations on site for each development use.
10. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.

Thank you for the opportunity to review this amended preliminary plan. If you have any questions or comments regarding this letter, please contact William Whelan, our Development Review Area Engineer for this project, at [william.whelan@montgomerycountymd.gov](mailto:william.whelan@montgomerycountymd.gov) or at (240) 777-7170.

Sincerely,  
*Anish Dewani*  
*for Greg Leck.*  
Gregory M. Leck, Manager  
Development Review  
Office of Transportation Policy

M:\corres\FY16\Traffic\Active\12012021A, Black Hills – MCDOT prelim plan review ltr.docx

cc: Jim Policaro Black Hills Germantown, LLC  
Mike Plitt Macris, Hendricks & Glascock PA  
Robert Brewer Lerch, Early & Brewer, Chtd  
Kipling Reynolds M-NCPPC Area 3  
Moline Jackson M-NCPPC Area 3  
Preliminary Plan folder  
Preliminary Plan letters notebook

cc-e: Atiq Panjshiri MCDPS RWPR  
Mark Etheridge MCDPS WRM  
Sande Brecher MCDOT DTS  
Beth Dennard MCDOT DTS  
Stacy Coletta MCDOT DTS  
Khursheed Bilgrami MCDOT DTEO  
Mark Terry MCDOT DTEO  
Andrew Bossi MCDOT OTP  
William Whelan MCDOT OTP





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**Department of Permitting Services  
Fire Department Access and Water Supply Comments**

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**DATE:** 17-May-18  
**TO:** Stephen Crum - [scrum@mhgpa.com](mailto:scrum@mhgpa.com)  
Macris, Hendricks & Glascock  
**FROM:** Marie LaBaw  
**RE:** Black Hill - Viasat  
820180110

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**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **17-May-18**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

## DPS-ROW CONDITIONS OF APPROVAL

May 29, 2018

**820180110 ViaSat**

Contact: Sam Farhadi at 240 777-6333

We have reviewed site and landscape plans files:

“07-SITE-820180110-C2.01.pdf V3” uploaded on/ dated “5/25/2018” and  
“08-LL-820180110-L2.01.pdf V4” uploaded on/ dated “5/25/2018”.

The following needs to be addressed prior to the certification of site plan:

1. Remove all pavement markings in the public ROW from the site plan.

and the followings need to be conditions of the certified site plan:

1. Proposed non-standard items in the ROW are limited to benches and landscaping (pavements are subject to notes on site plan sheet C2.01):
  - a. they are subject to review and approval by MCDPS at the time of ROW permit;
  - b. if accepted, ROW permit and maintenance and liability agreement are required.

2. Traffic Mitigation Agreement: MCDOT/Commuter Services provides information to employees throughout the County, and recommends that the Applicant be required to work with Commuter Services to adopt a Transportation Demand Management program through a Traffic Mitigation Agreement (TMAg). The proposed office is part of the overall multi-phased, mixed-use Black Hill development, which is intended to be a Transit Oriented Development. The location of this project is in a Transit Mixed-Use Zone, the project is proximate to the Germantown Transit Center, and the site was chosen in part due to its proximity to a future CCT station. Therefore, it is critical that Commuter Services have the ability to work with the building owners/management to inform employees and visitors at the Project about, and promote alternatives to, single occupancy auto commuting.

The TMAg required as part of the conditions of approval for the entire Black Hill mixed-used development was executed in May 2017. Tribute at Black Hill, located within the Black Hill development, was also required to execute a separate TMAg because that portion of the development was ultimately under separate ownership (the TMAg was executed in 2017). Similarly, because the VIASAT property is owned by Black Hill but will be purchased by VIASAT following approval of the development plans, a separate TMAg will need to be executed prior to issuance of any building permits.

TMAg provisions will include but not be limited to:

- Identification of a point of contact for TDM efforts
- Provision of information and access for events to enable promotion of alternative modes



- Displays (Real Time/Dynamic and Static Transit and other TDM Information)
  - Employee Parking Management
3. Bikesharing: MCDOT/ Commuter Services recommends that Applicant not be required to provide space on-site for a bikeshare station, as the project is not projected to generate sufficient demand on its own to support a full station. However, It is recommended that Applicant be required to contribute to the planned network of bikeshare stations in the Black Hill development with a payment for half the capital cost of a 19-dock bikeshare station, or approximately \$34,000. The intra-development network in Black Hill will ultimately connect to the CCT station and the Germantown Transit Center. MCDOT will select a location for a bikeshare station in this portion of Black Hill that will serve the VIASAT office building and other nearby uses, based upon the requirements of the bikesharing system. The exact location of the bikeshare station to which Applicant's contribution will be applied will be determined once bikeshare becomes operational in Germantown. The Applicant will also be required to take other actions in concert with the MCDOT to promote use of bikesharing among employees and visitors at the Project.

## Berbert, Benjamin

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**From:** tom milavec <tom.milavec@gmail.com>  
**Sent:** Monday, May 21, 2018 1:13 PM  
**To:** Berbert, Benjamin  
**Subject:** Re: Plan Application : 820180110

Hi Ben,

Thank you for the quick response! After reading this I am finding some discrepancies from my notes of the conversation. If you don't mind I would like to add clarifications of this so you can amend or take into consideration for this plan:

### **Correction to Note 9:**

This is not correct- the question was “How will this current site plan and architecture contribute to the ‘walkability’ of the Black Hill neighborhood?”

As this is a review on the site plan the neighborhood has been told by the developer and county that this masterplan and subsequent lots will have a level of mixed-use and walkability. Unfortunately, this site plan does not meet that expectation in any way.

- Due to the security concerns this building will be a fortress - similar to the data center just south of this property, thus the future architecture and fencing will be bold and create a sense of opacity that is not conducive to a ‘walkable’ or ‘approachable’ mixed-use neighborhood. Fences along a public right of way, imposing architecture and a lack of anything mixed-use in our mind does not meet the expectation set forth by the development and the masterplan.
- I am sad they left out the real discussion on this - makes sense as it was not positive to their plan

### **Correction to Note 10:**

This is not correct - the question DID address the design and appearance of the ‘suburbanesque’ nature of the site plan and architecture presented. The overwhelming response was that this feels suburban and the client / landowner clearly don't have concern for that fact. If the goal of the masterplan and development is to create a walkable, mixed-use, pedestrian friendly and generally a new model of office/residential development - this plan falls flat and brings back the old suburban ideals of office parks. Interestingly enough, exactly like the old dated office parks not even a mile down the road - which are currently unoccupied in a great number.

- This proposal is THE typical suburban office park proposal of walling off the public right of way and creating an enclave at the FRONT DOOR of a new mixed-use development. It is ‘suburbanesque’ in every sense of the word and the community has not seen any real modifications addressed to address this.
- Big fences, completely dead space along pedestrian right of ways - this is not ‘walkable’ or ‘mixed-use’ especially when the majority of activity across the street will be bus and human walking. This design is for cars driving at least 55mph.
- I am sad they left out the real discussion on this - makes sense as it was not positive to their plan

I am disheartened at the fact that these are clearly manipulated notes from Jody S. Kline to offer the meeting discussion in a positive note. I can assure you that Nicole and I were not pleased with the presentation and were vocal about the major holes in the plan presented and community expectations. This seems like a quick pitch from the land owner to move something on this development - sadly at the expense of creating a real new neighborhood.



This site plan should not be approved until they address some major items to ensure this architecture matches the masterplan and community goals. It starts with the site plan. If they don't address and get the human occupied zone correct I am confident the architecture will be brutal and we'll have another uncomfortable and sad piece of architecture in this neighborhood. It makes me think that we might need to discuss a design review board for this development.

Thank you for your time Ben - please let me know if anything sparks interest, I'm happy to discuss in more detail. My main goal here is make sure the information is represented correctly and you and your team hear real public comment (especially since there was no county representative or public in attendance). Makes it easy for the facts and concerns to slip past into nothing.

Tom Milavec

On May 21, 2018, at 8:10 AM, Berbert, Benjamin <[benjamin.berbert@montgomeryplanning.org](mailto:benjamin.berbert@montgomeryplanning.org)> wrote:

Good morning Mr. Milavec,

I have attached the correspondence that was sent to us from the public pre-submission meeting. I can't speak for whether the above captured every question or comment, but generally these submitted minutes are summaries and not full transcripts. If you feel that comments of yours have been left out, or if you wish to submit your comments to our office we could be glad to ensure they become a part of the record.

**Ben Berbert**

Planner Coordinator, Area 3

301-495-4644

<image001.png>

---

**From:** tom milavec <[tom.milavec@gmail.com](mailto:tom.milavec@gmail.com)>

**Sent:** Sunday, May 20, 2018 10:19 AM

**To:** Berbert, Benjamin <[benjamin.berbert@montgomeryplanning.org](mailto:benjamin.berbert@montgomeryplanning.org)>

**Subject:** Plan Application : 820180110

Hello Benjamin,

I am writing you as you are indicated as the lead reviewer for the ViaSat application [820180110](#) located on Century Boulevard, 1200 East of Crystal Rock Drive in Germantown, MD. As a property owner in the adjacent townhome development I attended the site plan public meeting late last year. While I was only one of two members of the public in attendance I do remember a legal representative from the client or land developer in attendance taking notes on the discussion that he said would be entered into record and circulated for the site plan review.

I have not seen any record of my comments circulated nor am I able to find this in any public record available under this plan review. Can you provide me with some more detail on the notes taken at that public meeting and if you were not presented with a record I'm happy to share my comments with you to ensure that it is part of public record for this site plan submission as they were critical of the plan presented. I want to ensure that public comment is reviewed and available to you and your team.

Thank you,  
Tom Milavec  
Cloverleaf Townhome Owner  
Germantown, MD  
<05-PMTG-820180110.pdf>





**Montgomery County Planning Department**  
**Maryland-National Capital Park and Planning Commission**

Effective: December 5, 2014

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 Silver Spring, Maryland 20910-3760

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## REGULATORY PLAN EXTENSION REQUEST

☒ Request #1

☐ Request #2

M-NCPPC Staff Use Only			
File Number		MCPB Hearing Date	
Date Received			

**Plan Name:** Black Hill

**Plan No.** 92012004B

This is a request for extension of:

☒ Project Plan  
☐ Preliminary Plan

☐ Sketch Plan  
☐ Site Plan

The Plan is tentatively scheduled for a Planning Board public hearing on: 07/06/18

The Planning Director may postpone the public hearing for up to 30 days without Planning Board approval. Extensions beyond 30 days require approval from the Planning Board.

**Person requesting the extension:**

☐ Owner, ☐ Owner's Representative, ☒ Staff (check applicable)

Benjamin Berbert

M-NCPPC

Name

Affiliation/Organization

8787 Georgia Avenue

Street Address

Silver Spring

MD

20910

City

State

Zip Code

(301) 495-4644

benjamin.berbert@montgomeryplanning.org

Telephone Number ext. Fax Number

E-mail

We are requesting an extension for 2 weeks until July 19, 2018

Describe the nature of the extension request. Provide a separate sheet if necessary.

Staff is requesting the Project Plan Amendment for Black Hill be extended by two weeks. This allows the hearing for the Project Plan Amendment to be considered concurrently with the Preliminary Plan Amendment and the new Site Plan application for the ViaSat property.

**Signature of Person Requesting the Extension**

6/14/18

Signature

Date

**Extension Review**

*Planning Director Review for Extensions 30 days or less*

I, the Planning Director, or Director's designee, have the ability to grant extensions of the Planning Board public hearing date of up to 30 days and approve an extension of the Planning Board public hearing date from 7/6/18 until 7/19/18.

*Steven Wright*  
Signature

7/2/18  
Date

*Planning Board Review for Extensions greater than 30 days*

The Montgomery County Planning Board reviewed the extension request on \_\_\_\_\_ and approved an extension for more than 30 days of the Planning Board public hearing date from \_\_\_\_\_ until \_\_\_\_\_.