Black Hill (Crystal Rock), Site Plan Amendment for Forest Conservation Plan Purposes, 82013025F

Description

A. Black Hill (Crystal Rock): Site Plan No. 82013025F
Application to remove and relocate 0.02 acres of Category I Conservation Easement; Located on Crystal Rock Drive, 3,000 feet north of Kinster Drive, 107.7 acres, on the west side of I-270, CR Zone, 2009 Germantown Sector Plan.

Applicant: Black Hills Germantown LLLP
Acceptance Date: November 28, 2018
Review Basis: Chapters 59 and 22A

Summary

- The review of this Application is in two parts:
  Part A – Final Forest Conservation Plan Amendment 82013025F (Black Hill)
  Part B - Mandatory Referral MR2019007 Black Hill (Crystal Rock) Potomac Edison Substation
  (discussed in a separate staff report).

- Staff Recommendation: APPROVAL WITH CONDITIONS

- Applicant requests to remove approximately 0.02 acre of Category I Conservation Easement, and to mitigate onsite at a 2:1 rate via a fee-in-lieu payment for the purposes of constructing a power substation and connecting to existing power lines.

- This Infrastructure Site Plan Amendment is an amendment to the Final Forest Conservation Plan (FFCP)
SECTION 1 – RECOMMENDATION AND CONDITIONS

SITE PLAN NO. 82013025F: Staff recommends approval with conditions of the Site Plan Amendment No. 82013025F. All previous conditions of Site Plan No. 820130250 through 82013025E that are not modified herein, remain in full force and effect. M-NCPPC Staff (“Staff”) recommends approval with conditions of the limited amendment to the Site Plan for Forest Conservation Plan purposes subject to the following conditions:

1. Prior to any clearing, grading or construction on the Subject Property, the Applicant must abandon the 0.02 acres of Category I easement shown on the amended FFCP of the original Category I Conservation Easement recorded among the County Land Records in Liber 47964 at Folio 231. The abandonment document must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.
2. Prior to any clearing, grading or construction on the site, the Applicant must provide the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.04-acre requirement.
3. Applicant must have all required site inspections performed by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
4. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC Forest Conservation Inspector.
5. The limits of disturbance (“LOD”) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Amended Final Forest Conservation Plan.

SECTION 2 – SITE LOCATION AND DESCRIPTION

SITE DESCRIPTION
The Black Hill development consists of approximately 107.70 acres, zoned CR; located approximately 1.5 miles north of the Germantown Town Center, and 0.6 miles north of the interchange of Ridge Road/Father Hurley Boulevard (MD 27) and I-270. The development is located west of I-270, south of Black Hill Regional Park and north of the existing Cloverleaf townhouse development (zoned R-30) outlined in red below (Figure 1).

The natural topography generally falls away from I-270 (high point), slopes downward toward the existing townhouses within the Cloverleaf Center, and naturally drains into the Little Seneca Creek (lowest point). A tributary of Little Seneca Creek boarders the southwest portion of the site and includes a forested stream buffer between the property and the Cloverleaf Center development.

The property is under construction for various previous approvals for Thrive Assisted Living, Phase I of the multi-family residential, and Implementation of the Infrastructure Plan.
SECTION 3 – APPLICATION AND PROPOSAL

PROJECT HISTORY
Since the original approval in August 2017, FFCP 820150290 has been amended five times to allow for development throughout the Property, including Black Hill Phase IIA (82013025A), construction related to the Dorsey Mill Road interchange (82013025B), activities related to the Thrive Assisted Living (82013025C), and to permit the relocation of conservation easements on the Property (82013025D). The most recent amendment 82013025E was approved by the Planning Board in July of 2018.

PROJECT DESCRIPTION
On November 28, 2018 an application was filed for an amendment to the Site Plan to update the FFCP under Site Plan No. 82013025F (Attachment A). The Applicant is proposing to remove approximately 0.02 acres (871 square feet) of Category I Conservation Easement in the northeast corner of the Property. The purpose of amending the forest conservation easement is to meet the design needs of the development of the proposed electrical substation that will distribute electricity to all the Black Hill development. The design must maintain safe clearance and existing overhead lines crossing I-270 cannot be altered to avoid easement impacts. The easement to be removed will be mitigated at 2:1 via a fee in lieu payment.
SECTION 4 – ANALYSIS AND FINDINGS

PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FFCP. This Application is not a major amendment and is considered a Director level approval under the Forest Conservation Regulations COMCOR 22A.00.01.13 A (2) because it does not entail the removal of more than 5,000 square feet of forest. However, the Planning Board’s policy requires all changes to an approved and recorded easement to be reviewed by the Board.

In this Application, the Applicant proposes to remove and relocate 0.02 acres of Category I Conservation Easement on the Subject Property.
ANALYSIS AND FINDINGS

The Site Plan Amendment is for Forest Conservation purposes and is being reviewed under the old Zoning Ordinance in effect on and prior to October 29, 2014 because it is subject to grandfathering under Section 7.7.1.B.1. Unless explicitly stated below, all previous Planning Board findings from the original Site Plan approval as amended remain in full force and 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 laws.

The Planning Board approved a Final Forest Conservation Plan (FFCP) 820130250 for the Black Hill Public Roads Infrastructure Plan encompassing approximately 108 acres of land that was part of the NRI/FSD approval. The FFCP included 65.10 acres of existing forest, 31.07 acres of forest clearing, and 34.03 acres of forest retention which is protected in Category I conservation easements.

This amendment 82013025F is for small reduction (0.02 acre) of the Category I Conservation Easement to allow for the proposed substation to safely connect into the existing overhead power lines that cross I-270. The existing overhead electric supply lines are already in place. To maintain safe clearances while connecting to the fixed point any connection would impact the recorded easement. This location minimizes the impact to trees, forest, easements, and aesthetics.

The resulting forest clearing therefore increases to 31.09 acres, the forest retention decreases to 33.86 which will remain in Category I easement.

Additionally, by mitigating the easement removal via fee-in-lieu payment, at a 2:1 rate, will ensure the FFCP requirements for the overall original development will remain satisfied and additionally meet the Board’s policy on easement removal.

The revised Site Plan Amendment for Forest Conservation Plan purposes meets all applicable requirements and intents of Chapter 22A regarding forest conservation. The FFCP requirements associated with the original site plan 820130250 have not been altered as a result of this application.

SECTION 5 - CITIZEN CORRESPONDENCE AND ISSUES

The Property was properly signed with notification of the upcoming Site Plan amendment prior to the November 28, 2018, submission. All adjoining and confronting property owners, civic associations, and other registered interested parties have been notified of the submitted application to amend the Category I Conservation Easement.

As of the date of this report, Staff has received no correspondence by letter, email or phone of opposition or support to this revised application.

SECTION 6 – CONCLUSION

The proposed amendment meets all requirements established in Chapter 22A, Forest Conservation Law. Therefore, approval of the Application with the conditions specified herein is recommended.
Staff recommends that the Planning Board approve this FFCP Amendment for Site Plan purposes with the conditions specified above.

ATTACHMENTS
   A. Revised Final Forest Conservation Plan
AMENDMENT NOTES
AMENDMENT F includes the following changes to Site Plan # 82013025E:
1. New substation
2. Removal of 0.02 acre of conservation easement
NATURAL SURFACE PATH LOCATION TO BE ADJUSTED IN THE FIELD, IN COORDINATION WITH MONROE PARKS DEPARTMENT AND PLANNING DEPARTMENT.