
PREVIOUS APPROVALS

PROJECT PLAN

On March 14, 2013 (MCPB No. 13-37 mailing date May 30, 2013) the Planning Board approved Project Plan No. 920120040 to allow 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.

On March 10, 2016 (MCPB No. 16-024 mailing date May 3, 2016) the Planning Board approved Project Plan Amendment 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 July 19, 2018 (MCPB No. 18-073 mailing date July 25, 2018) the Planning Board approved Project Plan Amendment No. 92012004B to amend public use space amenities and required retail locations, the phasing of public amenities on the site, and to require a project plan amendment if there is a materially reduction in the size of non-residential uses within the site.

PRELIMINARY PLAN

On May 23, 2013 (MCPB No. 13-38 mailing date July 8, 2013) the Planning Board approved Preliminary Plan No. 920120040 to create 11 lots for a mixed-use development 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.

On May 23, 2013 (MCPB No. 16-025 mailing date March 10, 2016) the Planning Board approved Preliminary Plan Amendment No. 92012004A to create 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), with no more than 140 of the units dedicated to Senior Adult housing units, modify the traffic study, revise the APF and the stormwater management concept plan.

On July 19, 2018 (MCPB No. 18-071 mailing date July 25, 2018) the Planning Board approved Preliminary Plan Amendment No. 92012004B to create a new 5.8-acre lot and a new private street parcel, and to remove a storm drain easement.

On May 24, 2024, the Planning Director approved Preliminary Plan Administrative Amendment No. 92012004C to revise the development phasing schedule to facilitate future project amendments in response to housing market demands.

SITE PLAN

Site Plan No. 820130250 (Infrastructure Plan)

On June 27, 2013 (MCPB No. 13-93 mailing date August 1, 2013), the Planning Board approved Site Plan No. 820130250 for the construction of Crystal Rock Drive and Century Boulevard as public roads.

On December 17, 2015 (MCPB No. 15-151 mailing date December 30, 2015) the Planning Board approved Site Plan Amendment No. 82013025B to amend the Final Forest Conservation Plan to reflect grading and construction of a portion of Dorsey Mill Road.

On March 10, 2016 (MCPB No. 16-027 mailing date May 3, 2016) the Planning Board approved Site Plan Amendment No. 82013025A for revisions to the Final Forest Conservation Plan and associated stormwater management plan.

On July 27, 2017 (MCPB No. 17-076 mailing date August 1, 2018) the Planning Board approved Site Plan Amendment No. 82013025D to amend the final forest conservation plan to remove and relocate 25,193 square feet of a Category 1 Conservation Easement on the site.

On June 28, 2018 (MCPB No. 18-051 mailing date July 3, 2018) the Planning Board approved Site Plan Amendment No. 82013025C to include the limits of disturbance, grading, and improvements associated within the Thrive Assisted Living Site Plan No. 820160100.

On February 7, 2019 (MCPB No. 19-017 mailing date March 19, 2019) the Planning Board approved Site Plan Amendment No. 82013025F to amend the final forest conservation plan to reflect the Potomac Edison substation and remove 0.02 acres of Category 1 Conservation Easement on the site.

On July 19, 2019 (MCPB No. 18-072 mailing date July 25, 2018) the Planning Board approved Site Plan Amendment No. 82013025E to amend the final forest conservation plan to show final grading and design of a new structure and to allow non-standard improvements within a portion of the public right-of-way of Century Boulevard.

Site Plan No. 820150060 (Residential Phase 2A)

On March 10, 2016 (MCPB No. 16-026 mailing date May 3, 2016) the Planning Board approved Site Plan No. 820150060 for the construction of up to 649 residential units (including 82 MPDUs) and up to 7,325 square feet of commercial uses in multiple buildings south of Crystal Rock Drive and west of Century Boulevard.

On August 16, 2021, the Planning Director approved Site Plan Amendment No. 82015006A to allow minor modifications to concrete paving, parking spaces, pool layout, lawn grading, ADA sidewalk, playground equipment, screen structures, public art reviewed by the Art Review Panel, ornamental fencing, site furniture, retail canopy, light fixtures, plantings, monument sign as reviewed by DPS sign review panel.

On August 16, 2021, the Planning Director approved Site Plan Amendment No. 82015006A to allow minor modifications to a dog park, dumpster area, opens space/bus shelter, bike share station, neighborhood signage, parking, sidewalks and hardscape, landscaping, corrections to the cover sheet data table, provide more three-bedroom units, adjustments to the unit mix, relocate retail space, and relocate indoor space amenity.

Site Plan No. 820160100 (Thrive Assisted Living)

On January 19, 2017 (MCPB No. 17-002 corrected resolution mailing date February 16, 2017) the Planning Board approved Site Plan No. 820160100 to allow an assisted living facility with up to 140 beds.

On August 16, 2021, the Planning Director approved Site Plan Amendment No. 82016010A to allow minor modification to building height, site light fixtures, bicycle racks, location of synthetic turf, outdoor site furniture, landscape seating planters, add a door and ramp for fire command center.

Site Plan No. 820180110 (Viasat)

On July 19, 2018 (MCPB No. 18-074 mailing date July 25, 2018) the Planning Board approved Site Plan No. 820180110 for the construction of a 130,000 square foot office building.

On February 8, 2019 (MCPB No. 19-025 mailing date March 15, 2019) the Planning Board approved Site Plan Amendment No. 82018011A to remove a vehicle drop-off lane, re-align a sidewalk, adjust a multi-user trail route, adjust location of trash enclosure, revise the parking layout, landscaping, and lighting.

On February 8, 2019, the Planning Director approved Site Plan Amendment No. 82018011B to allow minor modifications to relocate light bollards, eliminate one light bollard, monument sign, concrete paving, private amenity space access, and garage bike parking.



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

MCPB No. 13-37
Project Plan No. 920120040
Crystal Rock
Date of Hearing: March 14, 2013

MAY 30 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board" or "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, Germantown Employment Area Sector Plan ("Sector Plan") area; and


WHEREAS, Applicant's project plan application was designated Project Plan No. 920120040, Crystal Rock ("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 Planning Board, dated March 4, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 14, 2013, the Planning Board held a public hearing on the Application, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 14, 2013, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Anderson, seconded by Commissioner Presley, with a vote of 3-0; Commissioners Anderson, Carrier, and Presley voting in favor, and with Commissioners Dreyfuss and Wells-Harley being absent from the hearing.

Approved as to
Legal Sufficiency:

 5/8/13

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board APPROVES Project Plan No. 920120040 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 on the Subject Property, subject to the following conditions:¹

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.
 - Office Use: 1,097,800 square feet;
 - Retail Use: 91,400 square feet; and
 - Hotel Use: 243,240 square feet (350 rooms).
- b. Residential uses may not exceed 0.39 FAR.
 - Non Age-restricted units: 440 units including MPDUs; and
 - Age-restricted units for Senior Adults: 1,178 units including MPDUs.

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 townhouse units, directly adjacent to the existing community, may not exceed 42 feet.
- c. The building height of the Senior Adult housing facilities (identified as Building V on the Project Plan) may not exceed 72 feet.
- d. The building heights must be terraced to ensure compatibility with the neighboring townhouse communities.

3. HOUSING

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.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

4. MODERATELY PRICED DWELLING UNITS (MPDUs)

The development must provide a minimum of 12.5 percent MPDUs evenly dispersed within the non-age restricted units and the age-restricted units, consistent with the requirements of Chapter 25A. Senior Adult housing facilities without a full kitchen do not qualify as a complete dwelling unit; therefore, these units will not provide MPDUs.

5. LEED CERTIFICATION

- a. The Applicant will meet the principles of LEED-ND (Leadership in Energy and Environmental Design for Neighborhoods) as outlined in the Public Facilities, Amenities and Other Design Features Table (on page 16 of this resolution), and as shown on the Project Plan.
- b. The Applicant must also make good faith efforts to achieve a LEED Silver rating for buildings. The Applicant must inform the M-NCPPC Staff of the LEED Certification Level for which they are applying prior to the issuance of the final use and occupancy certificate. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate, the Applicant must provide the M-NCPPC Staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating including an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating and their extra costs. Submission of this report constitutes compliance with this condition.

6. ENVIRONMENT

- a. The Applicant must plant (3) 3" caliper native canopy trees on-site as mitigation for the Variance trees removed.
- b. The Final Forest Conservation Plan must show location and species of all mitigation plantings.
- c. Revise Limits of Disturbance (LOD) within the wetland buffer near the south side of the Subject Property to avoid any impacts to the wetland buffer.
- d. Submission and approval of a final forest conservation plan consistent with the preliminary forest conservation plan must occur prior to any land disturbing activities.
- e. Category I conservation easements must be placed over all areas of forest retention, forest planting, and stream/environmental buffers as shown on the preliminary forest conservation plan prior to any land disturbing activities.

7. PUBLIC FACILITIES, AMENITIES, AND OTHER DESIGN FEATURES

- a. The Applicant must provide a minimum of 41 percent of the net lot area for on-site public use space. The final design and details will be determined during the Site Plan review process.

- b. The streetscape design must include street trees (approximately 30 feet on-center), pedestrian oriented street lights (approximately 60 feet on-center), and street furniture.
- c. Within the streetscape, the buildings should be setback approximately 28 feet from the curb along Century Boulevard and Crystal Rock Drive, and from the curb 15 feet along private streets.
- d. The public use space must be easily and readily accessible to the general public and available for public enjoyment.
- e. The public facilities and amenities will include Black Hill Preserve, Preserve Plaza, Village Green North and South, Main Street East and West Park, Main Street Retail Plaza, South Residential Green Space, Gateway Plaza, Hiker/Biker Trail and public art.
- f. The final locations for the retail uses will activate the streetscape along Century Blvd, the gateway entrance to the Subject Property (at the intersection of Century Blvd and Dorsey Mill Road) and the public use space areas.

8. OTHER DESIGN FEATURES

The Applicant will meet the goals and objectives set forth within the Public Facilities, Amenities and Other Design Features (page 16). 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 permitted under the Optional Method of development. The Applicant will submit supporting drawings and documentation that further demonstrate the following criteria during the Site Plan process.

- a. Provide pedestrian sidewalks at a minimum of 10 feet wide on both sides of public streets, and 8 feet wide on both sides of the private streets. The sidewalks must be free and clear of all obstructions (including stairwell, utility boxes, and tree pits).
- b. Provide green roofs on the multi-family structured parking facilities.
- c. Provide a minimum tree canopy coverage of 40 percent of the total net tract area. The tree canopy coverage will include the preservation of existing forest and new tree plantings.
- d. Provide building articulations on the structured parking facilities directly adjacent to I-270.
- e. Concentrate the tallest office and hotel buildings along the north eastern property boundary (directly adjacent to I-270).

9. PUBLIC USE SPACE

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.

10. DEVELOPMENT STAGING

The development will be built in the following six phases. With the exception of Phase 1, the uses within Phases 2 thru 6 may be constructed at any order. However, the public amenities and facilities 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, including the realignment of Crystal Rock Drive and Century Boulevard (Blvd.) This phase requires an approved Infrastructure Plan prior to the issuance of the first building permit.
- b. Phase 2 consists of the construction of some of the residential units (senior adult multi-family buildings), clubhouse, office building (G), the 350-room hotel building (C), portions of the parking garage (B), associated amenities, and infrastructure (Main Street: east/west parks and retail plaza).
- c. Phase 3 consists of the construction of some non-age restricted multi-family buildings, the Senior Adult townhouses, the Senior Adult multi-family (Building N), associated amenities and infrastructure (South Residential Green, natural/hard surface hiker/biker trails, Nature Pavilion and Preserve Plaza).
- d. Phase 4 consists of the construction of non-age restricted multi-family (Building T), office building (H), portions of the parking garage (D), Senior housing facilities (Building V), associated amenities and infrastructure (natural/hard surface biker/hiker trail and Black Hill Preserve).
- e. Phase 5 consists of the construction of two office buildings (I & F), portions of the parking garage (B & D), associated amenities and infrastructure (Gateway Plaza, and Village Green north/south).
- f. Phase 6 consists of the construction of office building E, associated amenities and infrastructure.

11. 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 present preliminary public art and amenity concepts to the Art Review Panel prior to scheduling the Site Plan for a public hearing.

12. BUILDING LOT TERMINATION

- a. The Applicant must purchase 6.8 BLTs for the commercial space and 7.3 BLTs for the residential space prior to the release of the first building permit.
- b. The purchase of commercial and residential BLTs must be modified to reflect any changes to the employment uses.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920120040, Crystal Rock stamped received by M-NCPPC on December 13, 2012, 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 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 complies with all of the intents and requirements of the zone.

The Subject Property, zoned TMX-2, is in accordance with section 59C-14.212 of the Montgomery County Zoning Ordinance which states that the purpose and intent of this zone is to:

(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 for Transit Station Development Areas by providing a mixed-use development within walking distance of the Corridor Cities Transit (CCT) station. The platted public ROW for Crystal Rock Drive and Century Boulevard (Blvd.) will be abandoned and re-aligned in order to consistently integrate the urban-grid pattern of the private streets, which directly corresponds to the Germantown Urban Design Guidelines. The urban grid pattern provides safe connections into the existing roadways and the private streets. The pedestrian and vehicular circulation systems encourage the use of bicycles and public transit through the efficient design of the public and private streetscapes. The primary flow of regional vehicular traffic will be on the public streets (Crystal Rock Drive, Century Blvd. and Dorsey Mill Road); while the private streets will manage

and disperse the flow of local vehicular traffic. Sidewalks, ranging from 10 to 18 feet in width, are located within the public and private streetscapes on both sides of the road. The plantings, building facades, and public use spaces are designed to enhance the pedestrian experience. Open spaces, plaza areas, civic and community oriented uses are provided within public use spaces; some of which are strategically placed along the streets to keep the community engaged and slow vehicular traffic. The circulation system and street network encourages desirable relationships among individual buildings and creates walkable blocks that facilitate active streetscapes.

(2) Encourage land assembly.

The Subject Property is owned by Lerner Enterprises (the Applicant). Preliminary Plan No. 119870120 approved and platted 12 lots within the TS zone. The Project Plan and new Preliminary Plan will reassemble the 12 lots into 10 lots and 5 parcels in 2 blocks. The entire property is 107.70 acres; of which 43 acres (not including the roadway dedications) will be privately developed. Block A is centrally located toward the southwest of Century Blvd. and southeast of Crystal Rock Drive. Block A will consist of 6 lots and 2 parcels. Parcel A of Block A will protect and preserve the stream valley buffer; while parcel B of Block A separates the buildings from the public use space between the individual lots. Block B forms an L-shape directly adjacent to I-270 and Black Hill Regional Park, and consists of 4 lots and 3 parcels. Black Hill Preserve (approximately 25 acres) is located on Lot 1 and will be placed within a Category I Forest Conservation Easement separate from parcels A, B and C of Block B.

(3) Provide a variety of housing opportunities.

The Application is composed of different housing opportunities: Senior Adult multi-family buildings, townhouses for Senior Adults, and multi-family non-age restricted units. Most of the residents within the community will be of retirement age (62 and up). The high-rise and low-rise multi-family, and townhouse buildings offer a variety of unit types within walking distance of the CCT, public amenities (i.e. Black Hill Regional Park), retail and employment uses.

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

The close proximity of the Subject Property to the future CCT station will facilitate the convenient use of public transit. The pedestrian circulation system connects sidewalks and hiker/biker trails. The Sector Plan recommends that the minimum number of required off-street parking spaces (6,295 spaces) become the maximum allowed on-site. The Maryland-National Capital Park and Planning Commission (M-NCPPC) Staff, the Department of Transportation (DOT) and the Applicant will

continue to coordinate shared-use programs during the Site Plan approval process. The specific details of shared parking agreements, bike-share stations, carpooling, and vanpooling spaces may be incorporated into the lease agreements for the employment uses. Bus stops and bike share stations will also encourage and promote the effective use of public transit.

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

The Project Plan requires that the purchase of BLTs for the commercial uses and residential uses be finalized during the Site Plan approval process. The Applicant is currently obligated to purchase approximately 6.8 BLTs for the commercial uses and approximately 7.3 BLTs for the residential uses. The BLT calculations will reflect any changes to the mix of uses and density if amended.

(6) Additional provisions for optional method of development projects.

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

The overall site layout conforms to the additional provisions for the Optional Method and the Sector Plan recommendations. The tallest office and hotel buildings (approximately 12 stories or 143 feet) are located north of Century Blvd, Crystal Rock Drive and Dorsey Mill Road, away from the existing townhouses toward the southern edge of the property. The architectural design features of these buildings will be clearly visible from I-270. The shortest residential buildings (approximately 2-3 stories) are located directly adjacent to the forested stream valley buffer and the existing townhouses. The overall building orientation is also efficiently designed to maximize daylighting during the peak hours of the day, on the building facades and within the public use spaces. Therefore, the building heights have been designed to minimize environmental and shade impacts on the neighboring properties.

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 aforementioned 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 (TMX-2 Zone)	Approved by the Planning Board and Binding by the Applicant
Site Area:		
Total Site Area (TS and TMX-2)	N/A	7,486,089 sf. 171.85 ac.
Black Hill Park Dedication (TS Zone)	2,794,504 sf. 64.15 ac.	2,794,569 sf. 64.15 ac.
Gross Tract Area (TMX-2 Zone)	N/A	4,691,520 sf. 107.70 ac.
Public ROW Dedication	461,593 sf. 10.61 ac.	462,005 sf. 10.61 ac.
Net Lot Area (TMX-2 Zone)	N/A	4,229,515 sf. 97.10 ac.
Commercial (gross floor area):		
▪ Office/Employment, max.	1,500,000 sf. max.	1,097,800 sf.
▪ Retail, max.	110,000 sf. max.	91,400 sf.
▪ Hotel (350 rooms), max.	Hotel	243,240 sf.
▪ Maximum total commercial	1,610,000 sf. (plus hotel)	1,432,440 sf.
Residential Units:		
▪ Senior Adult units	N/A	1,178 units
▪ Non-age restricted units	N/A	440 units
▪ MPDUs (12.5% w/o bonus)	12.5%	190 units, 12.5%
Total	N/A	1,618 units max.
Max. FAR:		
▪ Commercial Uses	N/A	0.31 (1,432,440 sf.)
▪ Residential Uses	N/A	0.39 (1,851,560 sf.)
▪ Maximum Total	0.70	0.70 (3,284,000 sf.)
Min. BLTs (12.5% of Floor Area)		
Residential Uses	7.3	7.3
Commercial Uses	6.8	6.8
Min. Building Setbacks (ft.):		
▪ From I-270	200 feet	200 feet
▪ From a residential zone	25 feet	90 feet
▪ From parkland	N/A	170 feet
Max. Building Height (ft.)	143 feet	35 - 143 feet
Green Areas:		
▪ Forest	N/A	92.16 ac.
▪ Open Space Areas	0.75 ac.	25.04 ac.
▪ Green Roofs	N/A	4.13 ac.
▪ Other Recreation Areas	N/A	0.3 ac.
Combined Public Space:		
▪ Min. On-Site Public Use Space	20% (845,909 sf.)	41.24% (1,744,318 sf.)
▪ Added Off-Site Amenities	N/A	39.11% (1,654,226 sf.)
Off-street Parking:		
▪ Min. Bicycle Spaces	5%/spaces provided	315 spaces
▪ Min. Motorcycle Spaces	2% or 10 spaces/lot	100 spaces
▪ Total Spaces (excluding on-street)	6,295 spaces	6,295 spaces

(b) The Application is consistent with the Sector Plan.

The Project Plan with conditions is consistent with the Sector Plan and the Germantown Urban Design Guidelines. The following paragraphs summarize the recommendations specifically pertaining to the development.

Land Use

The land use and density are consistent with the recommendations in the Sector Plan. The Sector Plan recommends that this area evolve from the temporary use (i.e. golf driving range), to an employment location highlighted by additional residential, retail and hotel uses (Sector Plan, page 62).

Development Design Concept

The layout of the site is consistent with the Land Use diagrams and the design framework in the Sector Plan (pages 21 and 63). The buildings are located adjacent to the streets to establish pedestrian oriented sidewalks and public spaces. The street level retail is located on the ground floor of the office buildings along Century Blvd., near the future hotel and the multi-family, low-rise buildings. The street block lengths range from 250 feet to 350 feet (Sector Plan, pages 25-26). The street trees will enhance the identity of the neighborhood in accordance with the Sector Plan. Other streetscape improvements may include pedestrian scaled lighting, street furniture and artist pavement patterns.

Public Spaces and Amenities

The public amenities incorporate sustainable green designs that help uniquely define the neighborhood and connect into the larger greenbelt system at the property edges (Sector Plan, page 26). The Black Hill Preserve and stream valley buffer areas provide opportunities for scenic vistas at the end of streets to view Black Hill Regional Park. A green common area is located in the center of the development. In addition, a variety of active recreational facilities are located throughout the development. The South Residential green space area is adjacent to the existing Cloverleaf community to create a transition in land uses, ensure compatibility and provide an adequate buffer between property boundaries.

Location of Buildings, Heights and Transitions

The Project Plan locates the tallest buildings along the northern and eastern edges of the site and away from the existing townhouse developments along the southern boundary. The building heights on the overall site range from 143 feet to 35 feet. Locating the tallest buildings along the northern and eastern edge also maximizes solar access to the streets and the public spaces.

Transportation

The Germantown Employment Area Sector Plan diagrams (Map 11), illustrate a curved roadway alignment along Century Blvd. and Crystal Rock Drive with a public right-of-way of 100 feet (Sector Plan, page 33). The roadway alignment meets the recommendations of the transportation framework, the street character and the roadway network. The local and arterial roadways will form a dense grid pattern that evenly disperses the traffic, thereby improving the circulation, access and pedestrian environment along Century Blvd (i.e. the main street corridor). The streetscape provides consistent standards for street trees and understory plantings, lighting, seating areas, bike accommodations and on-street parking (Sector Plan, page 30). On-street parking is provided during off-peak hours to ensure adequate space and distance for sharing the road with bike riders. The 4-lane roadway alignment will slow vehicular traffic and efficiently connects into existing roads.

The buildings are setback from I-270 approximately 200 feet as recommended (Sector Plan, pages 30 and 36) in anticipation of future roadway expansions. The Project Plan also acknowledges the Maryland Transit Administration's (MTA) Corridor Study (S-2009), and will continue to coordinate with the State Highway Administration (SHA) and the Department of Transportation (DOT). The hotel and office buildings will be visible from I-270.

The Project Plan includes a network of public and private streets in a grid pattern as recommended by the Sector Plan. These streets will distribute traffic throughout the development. The streets are designed to accommodate pedestrians and bicyclists as well as vehicles. The development will also create connections to the future Corridor Cities Transitway (CCT), the adjacent Black Hill Regional Park, and the adjacent portions of the Germantown Employment Corridor.

The first phase of the development will include the dedication and construction of Crystal Rock Drive and Century Blvd. The entrance and exit to the Subject Property will remain exactly as shown in the Sector Plan. The alignment within the boundaries of the Subject Property will be modified to reduce the speed of traffic, provide safe pedestrian crosswalks and establish an identifiable transition or traffic circle at the intersection of Crystal Rock Drive and Century Blvd. The public right-of-way (100 feet from building façade to building façade) accommodates four lanes of traffic. Pedestrian sidewalks are accommodated within the public right-of-way, and provide access to the future CCT station and bus transit facilities (Sector Plan, page 30-31).

The Project Plan includes a bikeway connection (Sector Plan, page 75) to Black Hill Regional Park as recommended in the Sector Plan. In addition, an on-road

bikeway will be accommodated along Crystal Rock Drive and Century Blvd. Paved and natural surface trails are also located within the development.

An extensive system of sidewalks throughout the development provides an alternative to the automobile and improves the access to the future transit stations, the Germantown Town Center, the adjacent parkland, and other natural areas in accordance with the recommendations in the Sector Plan.

Final streetscape and building setbacks will be determined during the review of the Site Plan. The future streetscape plan must include closely spaced street trees (approximately 30 feet on-center), pedestrian oriented street lights (approximately 60 feet on-center), and street furniture. The buildings should have a setback of approximately 28 feet along Century Blvd. and Crystal Rock Drive and fifteen feet along all private streets from the curb without stairs or other obstructions in the setback area to accommodate pedestrian access.

Environment

The Project Plan emphasizes the preservation and conservation of natural resources in accordance with the recommendations in the Sector Plan (pages 39-42).

- The Black Hill Preserve provides a significant setback and protects forest resource located between Black Hill Regional Park and any development that will preserve the tributaries of Little Seneca Creek, enhance wildlife habitat, and provide recreational resources.
- A Category I Forest Conservation Easement is located directly adjacent to Black Hill Regional Park to protect the forest. The Project Plan will also preserve the wetland resources in the headwaters of a tributary of the Little Seneca Creek by providing a stream buffer protected from development as recommended in the Sector Plan. The tree canopy will be augmented and enhanced to approximately 40 percent of the site area as recommended in the Sector Plan.
- This project will set a new standard for the approach to the design of sustainable neighborhoods in the Germantown Employment Area. The neighborhood's location near the future transitway in the mixed-use employment area and the Project Plan's enhanced system of public open spaces and sidewalks establishes a community that can satisfy many of the daily needs of residents and employees. The many linkages and pedestrian orientation reduce dependence on the automobile. The orientation of the blocks and location of buildings will enhance solar access to public spaces, maximize opportunities for daylighting of buildings, and reduce energy consumption. Finally, the strategies for environmental protection and preservation, including forest conservation, wetland protection, habitat protection, and augmented tree canopy, are consistent with the recommendations in the Sector Plan and Urban Design Guidelines.

Balance of Jobs and Housing

The Sector Plan recommends a maximum of 1,500,000 sf. of employment space, a maximum of 110,000 sf. of retail space and a hotel specifically for the Subject Property (page 63); which could generate approximately 5,760 jobs. The intent is to achieve an overall balance of land uses for the entire Germantown planning area or a jobs to housing ratio of approximately 1.5 (page 18). Within the Sector Plan area the land use plan could result in a ratio of jobs to housing of approximately 4.19. To achieve these results, the Sector Plan recommends a concentration of jobs near the Town Core and a mix of uses including more housing for sites located away from the Town Core (page 44 and 45). The land use plan (page 62) also shows a substantial area for residential development on the interior of the Subject Property and mixed-use including housing along I-270, but the number of dwelling units is not specified.

The Project Plan provides a mix of office (1,097,800 sf.), a 350-room hotel (243,240 sf.) and retail uses (91,400 sf.); which creates approximately 5,106 jobs. The jobs to housing ratio (approximately 3.15) is based on the total residential units (1,618 units) and is consistent with the Sector Plan.

The mix of jobs and housing is consistent with the land use flexibility provided in the Sector Plan (page 19). The mix of retail, office and hotel uses provides significant opportunities for employment with housing in the Sector Plan Area. The mix of uses is appropriate for the Subject Property located away from the concentration of employment uses in the Town Core, the provision of Senior Adult housing generates a limited need for employment opportunities, and the Sector Plan provides for flexibility in the mix of land uses for specific sites.

- (c) Because of its location, size, intensity, design, operational characteristics and staging, the development is 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 and potential developments in the general neighborhood. The neighboring properties (immediately south) are primarily residential townhouse communities. Germantown Town Center (i.e. Core Neighborhood) is located within a 2 mile radius south of the Subject Property. The proximity to regional amenities (i.e. Germantown Town Center, I-270, Black Rock Center, Montgomery College, the approved Holy Cross Hospital, etc.) and the future CCT station establish the Subject Property as a prime location for transit oriented development. Adequate access to the Subject Property and the future CCT station will be provided along Crystal Rock, Century Blvd. and Dorsey Mill Road. The urban grid pattern adequately manages the local and regional traffic flow through the Subject

Property, reduces walking distances, provides alternative internal connections, and establishes the framework for an efficient streetscape design.

The design, orientation and operational characteristics provide a desirable and compatible transition to the existing townhouse community toward the south. The Project Plan will improve existing circulation systems through the construction of Crystal Rock and Century Blvd. within the first phase of the construction process. Furthermore, the intent of the Sector Plan and TMX-2 zone will be fulfilled through the construction of a sustainable transit oriented community near the CCT station. While the existing operational character of the Subject Property will change from a golf driving range to a mixed-use development, the mixed-use development offers greater public benefits.

The initial staging of the public amenities package includes the construction of shared-use pathways (Crystal Rock Drive and Century Blvd.) and the roadway dedication of 10.61 acres. The public right-of-way will be constructed first. Black Hill Preserve (Lot 11) and the stream valley buffer (Lot 13) will protect and preserve existing forest within easements according to the Preliminary Forest Conservation Plan. The Main Street corridor (retail plaza, east and west park) is the main central community space, and will be developed within the second phase of construction. The public use spaces will be phased in conjunction with their associated uses. The staging meets the recommendations of the Sector Plan, and provides a comprehensive public amenities package that adequately accommodates the employment needs and public benefits of the community on and off-site.

- (d) The development does 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 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 development will satisfy the Local Area Transportation Review (LATR) requirements, and is subject to enter into a traffic mitigation agreement (TMA). The TMA and the school facilities payment will all be finalized before the first stage of construction. The Subject Property is located within the Germantown West Policy Area; which does not stipulate any Policy Area Mobility Review (PAMR) trip mitigation requirements. The school facilities payment is calculated based on the total number of non-age restricted units (currently 440 units). This payment is subject to change should there be any modifications.

The development phasing of the project currently consists of six stages. The first stage will provide the public roadway and infrastructure improvements that are necessary to ensure safe and adequate circulation on and offsite. The second stage of construction consists of residential, office, retail, and hotel uses. The surface and structured parking facilities and public use spaces will also be constructed in conjunction with their associated uses.

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

The mixed-use development (3,284,000 sf. or 0.7 FAR) is more desirable and more efficient than the Standard Method (2,345,750 sf. or 0.5 FAR). The public facilities, amenities, and other design features that support the creation of a green neighborhood with greater densities are divided into the following categories:

- Public use space and placemaking - Increases the amount of public use space on and offsite and establishes a sense of place within the community.
- Linkages and pedestrian orientation - Gives hierarchy to the pedestrian circulation systems, promotes active streetscapes, and encourages shared uses pathways.
- Compatibility, solar orientation and green buildings – Meets the environmental objectives for green buildings in the Sector Plan (page 39 and 41), and the County's requirements for sustainable buildings.
- Environmental protection and preservation – The Forest Conservation Plan requirements (Chapter 22A) will be met on-site; therefore, no afforestation is required. However, the Subject Property will provide additional design features and the preservation of wetland resources. The tree canopy provided also plays a major role in decreasing the environmental impacts.

According to the Zoning Ordinance (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:

Public Facilities, Amenities and Other Design Features			
Items	Standard Method	Optional Method	Summaries
Public Use Space and Placemaking			
▪ Min. On-site public use space	10 %	41 %	Percent of the net lot area (97.10 acres)
▪ Public Art	N/A	Provided	Public art has been discussed with the Art Review Panel, and the BlackRock Center
▪ Open Space and Recreation	Meets recreation standards	Provides recreation and open space	Meets the recreation standards and provides added open space
Linkages and Pedestrian Orientation			
▪ Dedication and Construction of Crystal Rock Drive, Century Blvd and Dorsey Mill Road	N/A	10.61 acres	Crystal Rock Drive, and Century Blvd. constructed in the first development phase.
▪ Max. walking distance	NA	Approx. ¼ mile	All development within ¼ mile
▪ Max. length of blocks	N/A	Approximately 350 feet	Provides an active streetscape and promotes walking
▪ Width of sidewalks and streetscape	5 feet	15 feet to 28 feet	Provides a pedestrian orientation
▪ Hiker/biker trails	N/A	Approximately 1.25 miles, 8 feet wide within	Loop system provided around the perimeter, to the Black Hill Regional Park and to the CCT
Compatibility, Solar Orientation, Green Building Technology and BLTs			
▪ Solar orientation of streets and blocks	NA	Provided	Maximizes solar access to public use spaces, streets and the buildings for daylighting
▪ Green roof areas	NA	Provided	Provided over structured parking facilities for the multi-family residential buildings
▪ BLTs	NA	Provided	Provided based on the commercial (6.8), and residential (7.3) uses

Environmental protection and preservation			
▪ Forest Preserved	52 %	52 %	Based on the requirements for forest conservation
▪ Tree Canopy	30 – 40 %	40 %	Forest conservation area plus a minimum of 600 trees added
▪ Building Coverage	75 %	35 %	Preserves green space areas
▪ Wetland and stream protection	Required	Provided	Protects wetlands and streams

- Black Hill Preserve – Located north of Crystal Rock Drive, adjacent to Buildings E, J, O, and T.
- Gateway Plaza – Located north of Dorsey Mill Road, directly adjacent to Buildings I and N.
- Village Green North – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings B, F, and G.
- Village Green South – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings D, H, and I.
- Main Street - Retail Plaza – Located south of I-270 and north of Century Blvd., directly adjacent to Buildings C, G, and H.
- Main Street - East Park – Located south of Century Blvd., toward the center of the Subject Property between Buildings L and M.
- Main Street - West Park – Located south of Century Blvd., toward the center of the Subject Property between Buildings Q and R.
- South Residential Green Space – Located at the end of Dorsey Mill Road, between the existing townhouses and the townhouses (Buildings S).
- Walking/Cycling Trail and Public Green Space – Located south of I-270 and Black Hill Preserve, along the perimeter of the Subject Property.
- Nature Path and Connection to Black Hill Regional Park – Located south of I-270 and Black Hill Preserve, near Buildings B and E.
- 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.
- 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.

(f) The Application includes moderately priced dwelling units in accordance with Chapter 25A of this Code.

The Project Plan provides 12.5 percent MPDUs (minimum 190 units) as required by Chapter 25A. In accordance with the conditions of approval, MPDUs will be evenly distributed within the multi-family units (Senior Adult and non-age restricted units) and the townhouse 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 Application satisfies any applicable requirements for forest conservation under Chapter 22A.

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 420110370 for the Subject Property was approved on October 10, 2011. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property; which contains 65.10 acres of forest. Approximately 46 acres is high priority forest. There are 90 trees 30 inches and greater diameter at breast (DBH). Additionally there were 318 trees between 24" and 30" DBH on the Subject Property. Topography is generally sloping from east to west. There are some steep slopes along the streams. There are two streams on or immediately adjacent to the Subject Property running along the northwest and southwest property boundaries. The Subject Property contains 9.8 acres of stream valley buffer (SVB) and 0.04 acres of wetlands and is within the Little Seneca Creek watershed; a Use I-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as excellent condition.

The Forest Conservation Plan (FCP) submitted and reviewed as part of the Project Plan proposes 31.20 acres of forest clearing and 33.90 acres of forest retention. Based on the land use category, the amount of existing forest, the amount of forest clearing, and the amount of forest retention, the development shown on the Project Plan does not generate a planting requirement that is in addition to the amount of forest retained. The Application meets all standard requirements of Chapter 22A; however there are several key Sector Plan statements and objectives that need to be reviewed in addition to the standard requirements.

Sector Plan Recommendations

On page 40 of the Sector Plan, the area wide recommendation section under Forest Resources and Urban Tree Canopy section states:

"An analysis of the sector plan area shows that canopy coverage of at least 31 percent is achievable. Achieving this goal depends on retaining substantial areas

of remaining existing forest, including most of the forest on the Lerner and Montgomery College properties.”

This Application will retain 33.90 acres, or 52.1%, of the existing forest on the Lerner Property.

Also on page 40 of the Sector Plan further states:

“Outstanding forest resources on the Montgomery College campus and the North End should be retained to prevent fragmentation of upland forests.”

The Subject Property is within the North End District and contains 46.01 acres of High Priority forest of which 12.11 acres or 26.3% will be cleared for development. However, the term “outstanding” is not defined by the Forest Conservation Law and may not directly correlate to high priority forest so it is difficult to judge which specific forest was to be addressed. Under any circumstance, the clearing, including the high priority forest clearing, has been done in a way that does not fragment upland forest.

On pages 64 and 65 under the district recommendations for the North End District in the Urban Form recommendations, bullet six states:

“Preserve forest adjacent to Black Hills Regional Park on the north side of Century Boulevard as it curves into Crystal Rock Drive and use all available means to incorporate it into the existing park, or place in a conservation easement.”

The recommendation does not define how much forest adjacent to Black Hills Regional Park on the north side of Century Boulevard must be saved. Although certain diagrams on page 63 seem to indicate that potential development may be desirable in some of the forest north of the Century Boulevard right-of-way, forest preservation has been executed in this area and the limits of disturbance have been reduced to protect more high priority forest resources than their original proposal.

The FCP as submitted is in compliance with Chapter 22A and in substantial conformance with the Sector Plan as it relates to forest conservation issues.

Forest Conservation Variance

Section 22A-12(b)(3) of the County code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. Trees that are 30 inches and greater diameter at breast height (DBH) are given priority status (“Protected Tree”). This section of the code requires those areas to be left in an undisturbed condition unless the Applicant obtains a variance in accordance with Chapter 22A-21 of the County code. The Applicant may request

in writing a variance from this Chapter if the Applicant demonstrates that enforcement would result in unwarranted hardship to the Applicant.

Unwarranted Hardship Basis

Under the TMX - Transit Mixed Use zone, the Sector Plan anticipates a dense urban form that utilizes transit-oriented development techniques and a transit-oriented, walkable community. The starting locations for the master planned rights-of-way for Crystal Rock Drive and Century Blvd. are fixed locations at the property boundaries as these roads already exist offsite but terminate at the Subject Property. This further hinders the Applicant's ability to reduce impacts to Protected Trees. Of the Protected Trees being removed, virtually all of it is in areas the Sector Plan indicates are appropriate for development. If a variance for the Subject Property was not considered the Applicant would not be able to achieve the goals of the Sector Plan, which would severely limit any new development on the Subject Property.

Variance Findings

The Planning Board must make a finding that the Applicant has met all requirements of Chapter 22A-21 before granting the variance. The following site analysis has been determined:

1. Will not confer on the Applicant a special privilege that would be denied to other applicants;

Granting the variance will not confer a special privilege on the Applicant as disturbance and/or removal of trees are due to the development of the Subject Property. The trees and/or their critical root zones lie within the developable area of the Subject Property. Granting a variance request to allow land disturbance within the developable portion of the Subject Property is not unique to this Applicant.

2. Is not based on conditions or circumstances which are the result of the actions by the Applicant;

The Subject Property is zoned TMX - Transit Mixed Use. The Sector Plan depicts a dense urban form that utilizes transit-oriented development techniques and imposes special conditions on the Subject Property by requiring a transit-oriented, walkable community. The conditions or circumstances that require the variance are a circumstance of executing the recommendations in the Sector Plan, and existing conditions of the Subject Property are not a direct result of actions by the Applicant.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The variance is a result of the development and not a result of land or building use on a neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed are not within a stream buffer, wetland, or a special protection area. Additionally, the mitigation should be at a rate that approximates the form and function of the Protected Trees removed offsetting the loss of the water quality benefits of the individual trees removed. Furthermore, a stormwater management concept plan has been approved by the Montgomery County Department of Permitting Services using Environmental Site Design standards.

Mitigation for Trees Subject to the Variance Provisions

The Planning Board requires mitigation for any specimen trees to be physically removed or required to be counted as cleared that are not within existing forest. Mitigation for the trees within the existing forest is already being achieved, since the trees are shown on the forest conservation worksheet as forest cleared. This Application has requested the removal of 37 trees, of which only one is outside of existing forest on the Subject Property.

Mitigation should be at a rate that approximates the form and function of the trees removed. The replacement will occur at a ratio of approximately 1" caliper size for every 4" DBH removed, using trees that are 3" caliper in size. This means that for the 31 inches of variance trees removed, it should be mitigated by the Applicant with (3) 3" caliper native canopy trees (7.75" rounded up to the nearest 3") on the Subject Property. While these trees will not be as large as the tree lost, they will provide some immediate canopy and will help augment the canopy coverage and eventually fill in open areas of the forest where the large trees have been removed. The total amount of variance mitigation required for this project is (3) 3" caliper native canopy trees to be planted on-site.

The Planning Board grants a variance to remove 38 trees and impact five trees. However; Tree #378 should be listed as removed and no variance is granted for the impacts to Tree #2.

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

In accordance with Chapter 19, the Subject Property is not located within a Special Protection Area; therefore a Water Quality Plan is not required, and the water resource protection requirements are not applicable. The stormwater management will be stored and treated on-site for water quantity control and quality improvement. The stormwater management concept is acceptable and meets the required stormwater management goals via green roofs and public/private micro-bioretenment within the streetscape and planter boxes. Stormwater management facilities are also located adjacent to the parallel parking areas within the public right-of-way.

- (j) 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 public use space requirement by providing approximately 41 percent on-site. The streetscape (10.61 acres) within the public right-of-way 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

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is MAY 30 2013 (which is the date that this Resolution is mailed to all parties of record); and

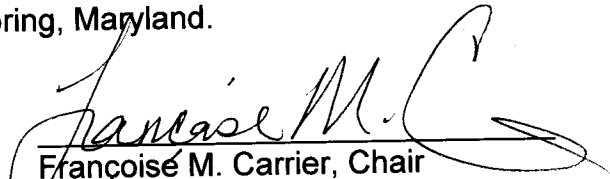
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, May 16, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



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

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

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:¹

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.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

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

- 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

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

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

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

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 5th 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,

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

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 2nd Street; therefore, increasing the block length by ± 220 feet. Blocks K and P are approximately ± 500 feet long by ± 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, 5th 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;

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

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.

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

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

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

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	

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

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

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

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:

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

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 5th Street and Century Blvd.
 - b. M-3 Community Garden Area – Located near Building M-3 at the intersection of Street B and 5th Street.
 - c. R-3 Bocce Ball Court – Located near Building R-3 at the intersection of Street B and 5th Street.
 - d. R-3 Neighborhood Green – Located near Buildings R-1 and R-3 at the intersection of Street C and 5th 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.*

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

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

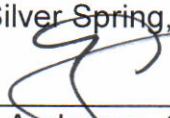
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is ~~MAY 3 2016~~ (which is the date that this Resolution is mailed to all parties of record); and

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).

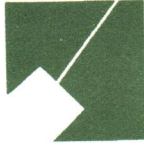
* * * * *

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



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

MCPB No. 18-073
Project Plan No. 92012004B
Black Hill
Date of Hearing: July 19, 2018

JUL 25 2018

RESOLUTION

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

WHEREAS, under Section 59-D-2 of the Zoning Ordinance in effect on October 29, 2014, the Montgomery County Planning Board is authorized to review project plan applications; and

WHEREAS, on March 22, 2018, Black Hills Germantown LLC (“Applicant”) filed an application for approval of a project plan to amend existing condition 5 regarding Public Use Space amenities and required retail locations, and condition 9 regarding phasing of public amenities located on 96.92 acres of TMX-2 zoned-land, located on the south and east side of Black Hill Regional Park, west of I-270 and north of the future Dorsey Mill Road (“Subject Property”), in the Germantown West Policy Area and Germantown Employment Area Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s project plan application was designated Project Plan No. 92012004B, 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 Planning Board, dated July 6, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 19, 2018, the Planning Board held a public hearing on the Application 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.

Approved as to
Legal Sufficiency:

M-NCPPC Legal Department
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Project Plan No. 92012004B to amend existing condition 5 regarding Public Use Space amenities and required retail locations and existing condition 9 regarding phasing of public amenities on the Subject Property, and to add a new condition 10, as set forth below.¹ All conditions of Project Plan No. 92012004A remain in full force and effect except 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,

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

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.

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.

BE IT FURTHER RESOLVED that all elements shown on the latest electronic version of Black Hill 92012004B, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and having considered the entire record, all applicable elements of 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. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved project plan, as revised by previous amendments, and all findings not specifically addressed remain in effect.*
- 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.*

The above basis for consideration from Section 59-D-2.43 was examined by the Planning Board because the Project Plan Amendment changes the Public Use Space amenity areas that must be provided. The original Project Plan included a large Gateway Plaza at the corner of Century Boulevard and future Dorsey Mill Road. The Project Plan Amendment reduces the size of the Gateway Plaza, while adding a new Linear Park, connecting the Gateway Plaza with the Village Green South. This results in a net equal amount of Public Use Space available within the entire Project Plan, and the amenities within the Linear Park include the same opportunities for shade, walking, and seating as the Gateway Plaza. The Public Use Space will be activated through building transparency on the ground floor and will help draw visitors into the larger Black Hill Development through the green gateway.

- 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. The Project Plan makes no changes to the limits of disturbance, protected trees, easements, or other environmental features. Therefore, all requirements for Chapter 22A remain.

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

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is JUL 25 2018 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, July 19, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board



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

MCPB No. 13-38
Preliminary Plan No. 120120210
Crystal Rock
Date of Hearing: March 14, 2013 and June 13, 2013

JUL 18 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary 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 Preliminary Plan to create 11 lots for a 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 MPDUs) on 107.70 acres of land zoned TMX-2, located north of Father Hurley Boulevard, east of Crystal Rock Drive and west of I-270 ("Subject Property"), in the Germantown West Policy Area, Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120120210, Crystal Rock ("Application" or "Preliminary 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 Planning Board, dated March 4, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 14, 2013, the Planning Board held a public hearing on the Application, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 14, 2013, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Anderson, seconded by Commissioner Presley, with a vote of 3-0; Commissioners Anderson, Carrier, and Presley voting in favor, with Commissioners Dreyfuss and Wells-Harley absent; and

Approved as to
Legal Sufficiency:

Christina Jones 6/20/13

M-NCPPC Legal Department
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, on May 23, 2013, the Planning Board held a public hearing to consider a request by Staff to reconsider the Application in order to evaluate a condition that was recommended by the Planning Board at the March 14, 2013 hearing pertaining to private streets shown on the Preliminary Plan; and

WHEREAS, the Planning Board voted to reconsider the Application and set a date of June 13, 2013 for that reconsideration hearing, on motion of Commissioner Anderson, seconded by Commissioner Dreyfuss, with a vote of 3-0, Commissioners Anderson, Carrier and Dreyfuss voting in favor, with Commissioner Wells-Harley ineligible to vote and Commissioner Presley absent; and

WHEREAS, following review and analysis of the Application by Staff, Staff issued a memorandum to the Planning Board, dated June 13, 2013¹ ("Amended Staff Report"); having included in the Amended Staff Report, the original Staff Report and all matters of record from the March 14, 2013 hearing, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions; and

WHEREAS, on June 13, 2013, the Planning Board held a public hearing on the Application to reconsider certain conditions pertaining solely to private streets as discussed in the Amended Staff Report, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 13, 2013, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Anderson, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor with Commissioner Presley absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board APPROVES Preliminary Plan No. 120120210 to create 11 lots for a mixed-use development 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 on the Subject Property, subject to the following conditions:²

1. Approval under this Preliminary Plan is limited to 11 lots 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 1,618 residential units including 12.5% MPDU's. No more than 440 units will be non-age restricted.

¹ The date on the Amended Staff Report was incorrect. The Amended Staff Report was posted online on June 3, 2013, not June 13, 2013.

² 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. 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 Project Plan No. 920120040
4. Prior to the release of the first building permit for Phase II of development as specified in the Project Plan, the Applicant must submit design details to MNCPPC, 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:
 - a. Construct Crystal Rock Drive and Century Boulevard to full width standards through the Subject Property.
 - b. At the Father Hurley Boulevard (Blvd.)/Crystal Rock Drive intersection:
 - Restripe the northbound thru lane on Crystal Rock Drive to include a second right-turn lane on to eastbound Father Hurley Blvd.
 - On eastbound Father Hurley Blvd., construct a second left-turn lane on to northbound Crystal Rock Drive.
 - Provide necessary traffic signal modifications.
 - c. At the MD 27/Observation Drive intersection:
 - Construct a second left-turn lane on southbound Observation Drive to eastbound MD 27.
 - Restripe the second southbound Observation Drive through lane to a second right turn lane.
 - Provide necessary traffic signal modifications.
 - d. At the MD 27/MD 355 intersection:
 - Construct a second dedicated left-turn lane on MD 27 to northbound MD 355.
 - Provide necessary traffic signal modifications.
 - e. At the MD 27/Brink Road intersection:
 - Construct a second westbound through lane on Brink Road.
 - Provide necessary traffic signal modifications.
 - f. At the MD 118/MD 117 intersection:
 - On eastbound MD 117, construct a second left-turn lane to northbound MD 118.
 - Provide necessary traffic signal modifications.
 - g. At the MD 118/I-270 interchange
 - Construct a second left-turn lane on eastbound MD 118 to northbound I-270

- Provide traffic signal modifications
- h. At the MD 118/Goldenrod Lane intersection:
- On northbound Goldenrod Lane, construct a second left-turn lane on to westbound MD 118.
 - Provide necessary traffic signal modifications.
- i. At the MD 118/MD 355 intersection:
- On MD 355, construct a third left-turn lane to westbound MD 118.
 - On MD 355, construct a second left-turn lane to eastbound MD 118.
 - On MD 118, construct a second eastbound through lane
 - On MD 118, construct a separate right turn lane on to northbound MD 355.
 - Provide necessary traffic signal modification.
- j. The Applicant must participate on a pro rata share to provide the following improvements at the MD 355/ West Old Baltimore Road intersection.
- Widen eastbound approach of West Old Baltimore Road to provide for a separate right-turn lane to southbound MD 355.
 - Widen the northbound approach of MD 355 to provide for a separate left-turn lane on to westbound West Old Baltimore Road.
 - Widen the southbound approach of MD 355 to provide separate right-turn lane to westbound West Old Baltimore Road.
 - Install traffic signal if warranted by the background development.
5. The Planning Board hereby abandons certain portions of the Crystal Rock Drive right-of-way as identified on plan drawing titled "Proposed Subdivision and RW Abandonment Exhibit" dated 10-24-12 and included in the Staff Report. The Resolution number associated with this Preliminary Plan approval must be reflected on any plat that includes the abandoned areas.
6. The Planning Board has accepted the recommendations of MCDOT in its letters dated December 3, 2012 and January 7, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. Prior to recordation of plat for the public streets, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
8. The Planning Board has accepted the recommendations of the Montgomery County Department of Fire and Rescue Services ("MCFRS") in its letter dated January 8, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by

MCFRS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

9. The Planning Board has accepted 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 does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
10. The Applicant must construct all road improvements within the rights-of-way shown on the Certified Preliminary Plan to the full width mandated by the Master Plan and/or to the design standards imposed by MCDOT. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
11. Final location and number of MPDU's to be determined at the time of Site Plan.
12. The Subject Property is within the Seneca Valley High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the elementary school level at the multi-family garden apt. high-rise unit rate for all units for which a building permit is issued and for which a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
13. The Applicant must dedicate the public road rights-of-way to the full width designated on the Certified Preliminary Plan for the Crystal Rock Drive, Century Blvd and Dorsey Mill Road.
14. The Applicant must provide proof of purchase and/or payment of the required BLT's within each phase of development established at the time of Site Plan prior to release of the first building permit for core and shell construction within each phase.
15. 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 recorded public use and access easement with the liber and folio referenced on the record plat.
16. 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.

17. The record plat must reflect all areas under Homeowners Association (HOA) ownership, if applicable, and specifically identify stormwater management parcels.
18. The final number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at Site Plan.
19. At the time of a Site Plan submission containing any of the senior housing units, the Applicant must submit for Staff review, draft HOA document language that identifies the specific units or buildings designated as senior housing as defined under 59-A-2.1 of the zoning ordinance and the limitations as to residence of that designation.
20. 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.
21. 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.
22. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for a total of 145 months (12 years) from the date of mailing of this Planning Board Resolution according to the following schedule:
 - Within 85 months (7 years) - Issuance of building permits for Phases I and II as identified by Project Plan.
 - Beyond 85 months (years 7 -12) – issuance of building permits for all remaining development.
23. Prior to approval of the first site plan (except one exclusively for infrastructure) for any Property approved pursuant to Preliminary Plan No. 120120210, Crystal Rock, the Applicant must provide for review by Staff, a public use and access easement to Montgomery County, in trust for the public, in a recordable form containing provisions to address the following:
 - a) Entitlement for open and unobstructed public use of the easement for all customary vehicular, pedestrian and bicycle access, as well as loading. The easement granted to the public must be volumetric, in order to accommodate uses below and above the street easement area;

- b) Entitlement for the private streets to accommodate public utility easements;
- c) Obligation for the Applicant to construct the streets pursuant to comparable MCDOT structural construction standards, at the Applicant's expense;
- d) Obligation for the Applicant to maintain and repair the streets in acceptable conditions for all access and loading purposes, at its expense;
- e) Obligation for the Applicant to keep the streets free of snow, litter and other obstructions and hazards at all reasonable times, at its expense;
- f) Obligation to install traffic control devices within the easement area, based on prevailing standards, at the County's request, and at the Applicant's expense;
- g) Obligation for the Applicant to designate a suitable organization with responsibility for implementing Condition #22 d), e) and f).
- h) Entitlement for the Applicant or its designee to close private streets for normal maintenance and repair at reasonable times and upon reasonable prior notice to the public. Closure for recreational purposes, i.e., Block Parties, Parades, Races, etc., must follow MCDOT protocol to include, but not be limited to:
 - Signage notifying public of road closures, lane restrictions, or parking restrictions to be in place at least one week prior to closure at locations in accordance with adopted MCDOT standards.
 - Maintain vehicular and pedestrian access to properties abutting closure if possible, and open to emergency vehicle passage at all times.
 - Traffic control devices to be placed in accordance with adopted MCDOT standards.
 - Written notice in accordance with adopted MCDOT standards.

- Coordination with affected civic associations, homeowners associations and businesses to be notified in writing two weeks prior to event.
- Dimensions of signage in accordance with adopted MCDOT standards

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff as presented at the hearings and as set forth in the Staff Report and Amended 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 Master Plan.

The Planning Board determined that the Preliminary Plan establishes the required rights of way for the new alignment of Century Blvd. and Crystal Rock Drive within the development. The Preliminary Plan shows the dedication for these new roads to a width of 100 feet, suitable for four travel lanes to accommodate the traffic demand and be wide enough to provide the sidewalks shown on the Project Plan. The grid pattern established by the public and private streets meets the Sector Plan recommendation to create a pedestrian oriented development, with short blocks of less than 350 feet and with a low design speed along these roads of 35 miles per hour.

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

Roads

The Planning Board considered the analysis contained in the Staff Report and the Amended Staff Report which addressed the Local Area Transportation Review ("LATR"), the Policy Area Mobility Review ("PAMR"), pedestrian and vehicular circulation systems and the recommendations within the Sector Plan. The Planning Board determined that the Preliminary Plan, as conditioned, satisfies all LATR and PAMR requirements. Further, the Board finds that the private and public pedestrian and transportation systems will be adequate to serve the lots and development proposed on the Subject Property.

Right-of-Way Abandonment

Under the Planning Board's authority pursuant to Section 50-15(c) of the Subdivision Regulations, the Board considered a request by the Applicant to abandon portions of the previously dedicated, but unbuilt, Crystal Rock Drive and

Century Boulevard rights-of-way that traverse the Subject Property. The Board determined that the rights-of-way subject to this abandonment are not in public use. In support of the request, the Applicant proposed a new alignment for Crystal Rock Drive and Century Blvd which allows the road to better address Sector Plan goals.

The Board determined that the new alignment, as shown on the Preliminary Plan, provides for an urban scale layout that tends to slow traffic speed and allows safer pedestrian crossings within shorter block dimensions. The new roundabout is an essential traffic calming feature that addresses the Sector Plan target speed of 35 miles per hour. The new alignment was found to be more consistent with the Sector Plan's goal for mixed-use development and better supports the relationship of residential uses fronting one side of the street, confronting to retail and office uses on the opposite side of the street. The four-lane roadway within the re-aligned 100 foot wide right-of-way will have sufficient capacity to meet area wide traffic needs as well as pedestrian and bicyclist needs. MCDOT has reviewed and approved the new road alignment and cross sections.

The Planning Board determined that the new alignment is superior to the existing right-of-way alignment and recommends that those portions of the existing right-of-way that are no longer necessary for road construction purposes will be abandoned. The Planning Board required a condition for any record plat which contained area of the abandoned right-of-way to reference the Preliminary Plan Resolution number to memorialize the Planning Board's action on the abandonment.

Other Public Facilities

All other public facilities and services are found to be adequate to serve the development. The Preliminary Plan was reviewed by all required public utilities and service agencies providing service to the Subject Property. All agencies recommended approval of the Application. Police stations, firehouses, and health clinics are operating at acceptable levels according to the Subdivision Staging Policy currently in effect. The Subject Property is within the Seneca Valley High School Cluster which is operating above acceptable capacity levels at the elementary school level. Therefore, the Applicant will need to make a School Facility Payment at the elementary school level at the multi-family garden apt. high-rise unit rate for all units for which a building permit is issued and for which a School Facilities Payment is applicable.

- 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 determined to be appropriate given the location of this development, the recommendations of the Sector Plan and for the types of uses intended for the Subject Property. The grid pattern is specifically recommended by the Sector Plan to reduce the length of the overall blocks in order to create a more walkable community. Large lots will accommodate multi-family apartment buildings towards the interior of the Subject Property. Other large lots will accommodate office buildings and the hotel structure to be located adjacent to I-270. Smaller lots are located along the southern boundary of the Subject Property to provide for townhouse units to address compatibility with existing townhomes on Kinster Drive immediately to the south of the Subject Property. The lots are also appropriately sized to meet the Sector Plan recommendations for building mass and compatibility with respect to the location of the future Corridor City Transitway station.

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

The Planning Board found that Project Plan No. 920120040, Crystal Rock, complied with Chapter 22A and approved a forest conservation plan with the Project Plan. The Planning Board determined that the development shown on the Preliminary Plan is substantially unchanged from that shown on the Project Plan and therefore, the Preliminary Plan is in compliance with the forest conservation plan approved with Project Plan No. 920120040 and that the Preliminary Plan satisfies the requirements of Chapter 22A.

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 Planning Board accepted the stormwater management approval recommendation of the MCDPS – Water Resources Section contained in a letter dated November 16, 2012. The stormwater management concept is in conformance with Chapter 19 of the County Code and addresses the stormwater requirements for the development shown on the Preliminary Plan.

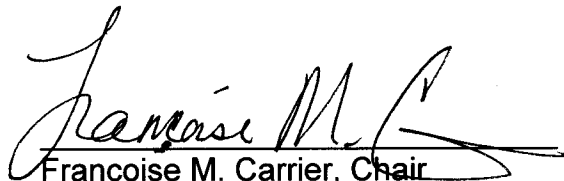
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 8 2013 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, June 27, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



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

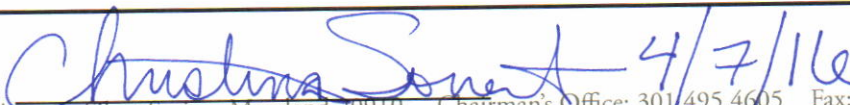
WHEREAS, on January 23, 2015, Black Hill Germantown, LLP, c/o Lerner Enterprises ("Applicant") filed an application for approval of an amendment to the previously approved Preliminary Plan(s) to modify the traffic study to reflect changes to the office, assisted living facility, and residential uses (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:


Christina Sorenson 4/7/16

8787 Georgia Avenue

M-NCPPC Legal Department

Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

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:¹

- 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.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

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 549th 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 549th 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 1st Street to 5th 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 5th 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 5th 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 1st Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 1st 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 2nd Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 2nd 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 3rd Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 3rd 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 4th Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 4th 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 5th Street with a minimum parcel width of 37.34 feet from Street C to Street A. Private 5th 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.

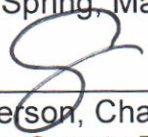
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 3 2016 (which is the date that this Resolution is mailed to all parties of record); and

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



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

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

JUL 25 2018

RESOLUTION

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

WHEREAS, on July 8, 2013, the Planning Board, by Resolution MCPB No. 13-38, approved Preliminary Plan No. 120120210, creating 11 lots for up to 1,618 residential units including 1,178 age restricted units, and up to 1.1 million square feet of commercial use on approximately 108 acres of land in the TMX-2 zone, located South and east of Black Hill Regional Park, West of I-270, and north of the future Dorsey Mill Road ("Subject Property"), in the Germantown West Policy Area and the 2009 Germantown Employment Area Sector Plan ("Sector Plan") area; and


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

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

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12012021B, Black Hill ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 6, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to
Legal Sufficiency:


8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
M-NCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, on July 19, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

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

- 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 1st 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 5th 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 5th 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 1st Street with a minimum parcel width of 69.34 feet. Private Street 1st 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 2nd Street with a minimum parcel width of 69.34 feet. Private Street 2nd Street must be constructed to MCDOT Road Code Standard

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- MC-2005.02: Business District Street with Parking on Both Sides, modified as shown on the Certified Preliminary Plan.
- f. Private 3rd Street with a minimum parcel width of 69.34 feet. Private Street 3rd 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 4th Street with a minimum parcel width of 69.34 feet. Private Street 4th 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 5th Street (Winged Foot Lane) west of Century Boulevard from Street C to Street A with a minimum parcel width of 37.34 feet. Private 5th 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 3rd St and 4th Street, including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Road"), subject to the following conditions:
- a. The Private Roads to be constructed in Road Parcels D and E must remain in the Private Road parcel. For Private Roads 3rd Street and 4th Street, the record plat must clearly delineate the Private Road and include a metes and bounds description of the boundaries of the Private Road.

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

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

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

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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

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

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

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

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

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 25 2018 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, July 19, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

BLACK HILL

MINOR PRELIMINARY PLAN AMENDMENT NO. 12012021C

Description

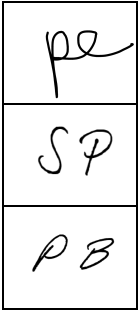
Request to modify the Adequate Public Facilities (APF) phasing schedule for a Preliminary Plan of Subdivision.

Preliminary Plan Amendment
No. 12012021C

Completed: 5-23-2024

Administrative Approval by
Planning Director

2425 Reddie Drive
Floor 14
Wheaton, MD 20902



Phillip Estes, AICP, Planner III, Upcounty Division, Phillip.Estes@montgomeryplanning.org

Sandra Pereira, RLA, Supervisor, Upcounty Division, Sandra.Pereira@montgomeryplanning.org

Patrick Butler, AICP, Division Chief, Upcounty Division, Patrick.Butler@montgomeryplanning.org

LOCATION

Northeast quadrant of Crystal Rock Drive and Century Boulevard, Germantown

MASTER PLAN & ZONE

2009 *Germantown Employment Area Sector Plan*, Germantown Transit Mixed Use Overlay Zone, CR-0.75 C-0.5 R-0.5 H-145T

PROPERTY SIZE

171.7 acres gross tract area

APPLICANT

Black Hills Germantown, LLP

ACCEPTANCE DATE

February 22, 2024

REVIEW BASIS

Chapter 50



SUMMARY

- The Minor Preliminary Plan Amendment will revise the phasing schedule to facilitate future project amendments to reflect current market demands for housing within the existing validity period set by the original approval.
- Pursuant to Sec. 50.4.3.J.7.a (Adequate Public Facilities, Extensions), a request to amend any validity period phasing schedule may be approved by the Planning Director if the length of the total validity period is not extended.
- The proposed Amendment is consistent with the provisions of Sec. 50.4.3.J.7.a (Adequate Public Facilities, Extensions) of the Montgomery County Subdivision Ordinance. The Amendment does not alter the intent, objectives, or requirements of the Planning Board’s approval of the Preliminary Plan.
- No community comments or correspondence have been received for this Application.

Pursuant to Sec. 50.4.3.J.7.a (Adequate Public Facilities, Extensions), a request to amend any validity period phasing schedule may be approved by the Planning Director if the length of the total validity period is not extended.

A pre-application meeting with the community or parties of record is not required. Pursuant to Division 7.5 (Public Notice), the Applicant must provide public notice of the Amendment.

On February 22, 2024, Black Hills Germantown, LLP (“Applicant”) filed a preliminary plan amendment application designated Preliminary Plan Amendment No. 12012021C (“Application”) to amend the phasing schedule as described below.

Pursuant to Division 7.5, a Notice of Application was mailed by the Applicant to all required parties on February 27, 2024. The notice gave interested parties 15 days to review and comment on the Application. To date, staff has received no comments or correspondence.

SITE DESCRIPTION

As show below, the Subject Property is generally located at northeast quadrant of Crystal Rock Drive and Century Boulevard, Germantown (“Subject Property” or “Property”) (Figure 1). The overall Property is 171.7 acres of gross tract area and is currently zoned CR-0.75, C-0.5, R-0.5, H-145T and is within the Germantown Transit Mixed Use Overlay Zone. To date, the Applicant has improved the Property by constructing multiple apartment buildings, an assisted living facility, the Viasat office building, roads, sidewalks, and public amenities.



Figure 1 - Vicinity Map

PREVIOUS APPROVALS

On December 19, 1998, the Planning Board approved Site Plan No. 819990060 (MCPB mailing date January 14, 1999) to allow a maximum of 400,000 gross square feet of commercial office space.

On March 14, 2013, the Planning Board approved Project Plan No. 920120040 (MCPB No. 13-37) for a mixed-use development with a total of 3,284,000 square feet of floor area.

On June 13, 2013, the Planning Board approved Preliminary Plan No. 120120210 (MCPB No. 13-38) to create 11 lots for up to 1,618 residential units including 1,178 age restricted units, and up to 1.1 million square feet of commercial uses.

On June 27, 2013, the Planning Board approved Site Plan No. 820130250 (MCPB No. 13-93) for the construction of Crystal Rock Drive and Century Boulevard as public roads.

On December 17, 2015, the Planning Board approved Site Plan Amendment No. 82013025B to amend the associated Final Forest Conservation Plan to reflect changes in the grading.

On March 10, 2016, the Planning Board approved Project Plan Amendment No. 92012004A (MCPB No. 16-024) to eliminate the age-restriction from multi-family units and decrease the total number of residential units to 1,229.

On March 10, 2016, the Planning Board approved Site Plan No. 820150060 (MCPB No. 16-026) for the construction of up to 649 residential units and up to 7,325 square feet of commercial use in 16 separate buildings south of Crystal Rock Drive and west of Century Boulevard.

On March 10, 2016, the Planning Board approved Site Plan Amendment No. 82013025A (MCPB No. 16-027) to allow amendments to grading, stormwater management, transportation, and the Forest Conservation Plan.

On May 3, 2016, the Planning Board approved Preliminary Plan Amendment No. 12012021A (MCPB No. 16-025) to modify the mix of allowed residential uses by reducing the number of residential units to 1,229, remove the age restriction on most of the residential units, and allow up to 140 assisted living units while maintaining the maximum of 1.1 million square feet of commercial uses.

On January 19, 2017, the Planning Board approved Site Plan No. 820160100 (MCPB No. 17-002) to allow an assisted living facility with a maximum of 140 beds.

On June 28, 2018, the Planning Board approved Site Plan Amendment No. 82013025C (MCPB No. 18-051) to include the limits of disturbance, grading and improvements associated with Site Plan. No. 820160100.

On July 19, 2018, the Planning Board approved Site Plan Amendment No. 82013025E (MCPB No. 18-072) to update the Final Forest Conservation Plan to show final grading and design.

On July 27, 2017, the Planning Board approved Site Plan Amendment No. 82013025D (MCPB No. 17-076) to remove a portion of Category 1 conservation easement and to relocate it on the property.

On July 19, 2018, the Planning Board approved Preliminary Plan Amendment No. 12012021B (MCPB No. 18-071) to create a new 5.8-acre lot and new private street parcel, and to remove a storm drain easement.

On July 19, 2018, the Planning Board approved Project Plan Amendment No. 92012004B (MCPB No. 18-073) to amend public use space amenities, the location of retail uses, and phasing of public amenities.

On July 19, 2018, the Planning Board approved Site Plan No. 820180110 (MCPB No. 18-074) for the construction of a 130,000 square foot office building (Viasat) located in the northeast quadrant of the intersection of Century Boulevard and Dorsey Mill Road.

On February 7, 2019, the Planning Board approved Site Plan Amendment No. 82013025F (MCPB No. 19-017) to update the Final Forest Conservation Plan to reflect the Potomac Edison substation and remove 0.02 acres of Category 1 conservation easement.

On September 25, 2019, the Planning Director approved Site Plan Amendment No. 82016010A to allow minor modifications including changes to light fixture standards, bike rack standards, and the location of outdoor tables and seating.

PROPOSAL

Following the approvals described above, the Applicant is now seeking to amend Preliminary Plan No. 12012021B to revise the general phasing schedule to better reflect current market conditions and in anticipation of future amendment applications to develop the remaining portions of the Property. As shown in Table 1, the revised phasing grants a two-year extension for the completion of all parts of Phase 1 and Phase 2, while leaving the remaining phases and total validity period unchanged.

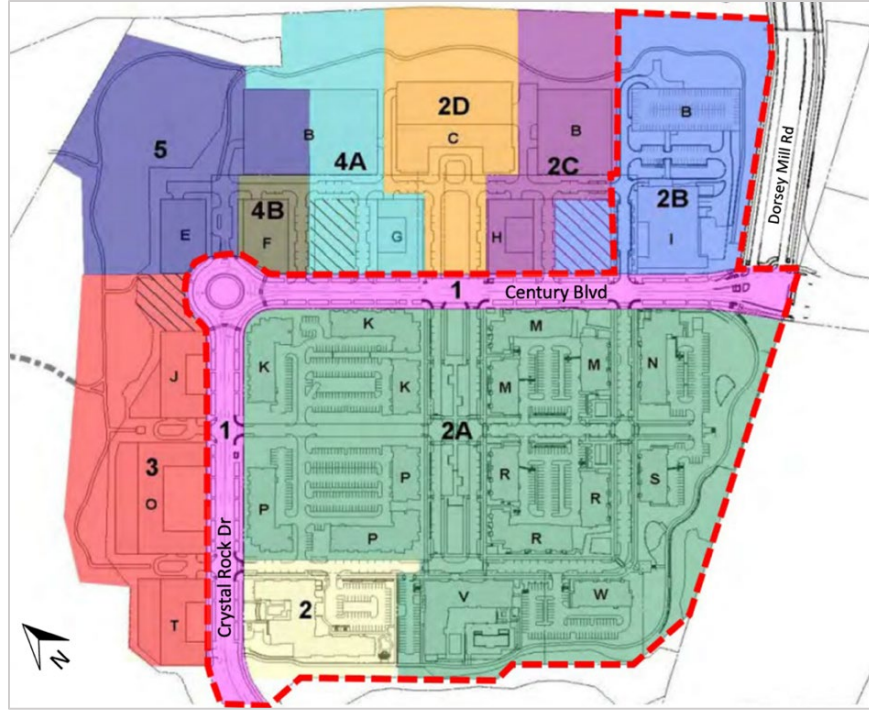


Figure 2 - General Phasing Plan with built or pending construction show within the dashed-line

Table 1 - Construction Status and Phasing for Preliminary Plan No. 120120210C

Phase Number	Construction Status	Expiration Date per Planning Board Approval	Adjusted Expiration Date per County Council Extensions	Proposed Phase Expiration Date
1	Built	8/8/2020	8/8/2024	8/8/2026
2	Built	8/8/2020	8/8/2024	8/8/2026
2A	Portions built, under construction, permitted/pending construction	8/8/2020	8/8/2024	8/8/2026
2B	Built	8/8/2020	8/8/2024	8/8/2026
2C	Unbuilt ¹	8/8/2020	8/8/2024	8/8/2026
2D	Unbuilt ¹	8/8/2020	8/8/2024	8/8/2026
3	Pending review of Site Plan No. 820240100	8/8/2025	8/8/2029	No change
4A	Unbuilt ¹	8/8/2025	8/8/2029	No change
4B	Unbuilt ¹	8/8/2025	8/8/2029	No change
5	Unbuilt ¹	8/8/2025	8/8/2029	No change

¹ Per Applicant, pending expected future amendment applications.

The following amended condition is proposed:

22. The Adequate Public Facility ("APF") review for the Preliminary Plan No. 120120210 will remain valid for a total of ~~145~~ 144 months (12 years) from the ~~date of mailing of this original~~ initiation date (August 8, 2013) of Planning Board Resolution MCPB No. 13-38 according to the following schedule:

- Within ~~85~~ 108 months (7 9 years) - Issuance of building permits for ~~Phases I and II~~ Phase 1, Phase 2, Phase 2A, Phase 2B, Phase 2C and Phase 2D, as identified by Project Plan No. 920120040, as amended.
- Beyond ~~85~~ 108 months (years 7 9 - 12) - issuance of building permits for all remaining development phases.

ANALYSIS

Preliminary Plan Amendment

Pursuant to Sec. 50.4.3.J.7.a (Adequate Public Facilities, Extensions), a request to amend any validity period phasing schedule may be approved by the Planning Director if the length of the total validity period is not extended. The Amendment does not extend the total validity period of the application. The Amendment revises the internal phasing schedule. The original dates in Condition No. 22 do not reflect any applicable and automatic extensions granted by the County Council.

- 1) *The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.***

The Applicant filed an Application for an amendment of the phasing schedule on February 2, 2024, which is before the applicable validity period phases expire on August 8, 2024. The overall validity period will expire on August 8, 2029.

- 2) *The applicant must submit a new development schedule or phasing plan for completion of the project for approval.***

The Applicant has submitted a proposed new phasing plan for completion of the Project (Table 1). Since the approval of the preliminary plan, the Applicant has constructed a significant portion of the development including the construction of Crystal Rock Drive and Century Boulevard through the Property and other public amenities. The proposed APF phasing adjustment will not significantly affect the timing for the remaining infrastructure improvements. However, the Applicant indicates that due to the lack of demand for office space and higher demand for housing, the Applicant will seek

future preliminary plan and site plan amendments to facilitate the construction of additional housing, which will require the additional time adjustment requested.

- 3) For each extension of an adequate public facilities determination:**
- a) the applicant must not propose any additional development above the amount approved in the original determination;**
 - b) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;**
 - c) the Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest;**
 - d) an application may be made to extend an adequate public facilities period for a lot within a subdivision covered by a previous adequate public facilities determination if the applicant provides sufficient evidence for the Board to determine the amount of previously approved development attributed to the lot; and**
 - e) if the remaining unbuilt units would generate more than 10 students at any school serving the development, the Board must make a new adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of Board review.**

This provision is not applicable because the Applicant's does not propose an extension of the APF validity time period. The overall APF validity period remained unchanged and will expire on August 8, 2029.

CONCLUSION

The proposed Amendment is consistent with the provisions of Sec. 50.4.3.J (Adequate Public Facilities) of the Montgomery County Subdivision Ordinance. The Amendment does not alter the intent, objectives, or requirements of the Planning Board's approval of the preliminary plan.

This Amendment shall remain valid per Sec. 50.4.2.G (Plan Validity) of the Subdivision Ordinance. The Applicant is responsible for submitting a certified plan after approval by the Director for the specific modifications.

ACCEPTED AND APPROVED BY:



JASON K. SARTORI, PLANNING DIRECTOR

May 24, 2024

DATE APPROVED