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March 13, 2025

VIA ELECTRONIC DELIVERY

Mr. Artie Harris, Chair
And members of the Montgomery County Planning Board
Maryland National Capital Park and Planning Commission
2425 Reedie Drive, 14th Floor
Wheaton, Maryland 20902

Re: Black Hill Townes
Site Plan No. 820240100
March 20, 2025 Planning Board Hearing

Dear Chair Harris and Members of the Planning Board:

Our firm represents Black Hill Germantown, LLC, an affiliate of Lerner Enterprises (the “Applicant” or “Lerner”), in connection with the above-referenced Site Plan application. We would like to call your attention to a few key issues to be discussed during the March 20, 2025 Planning Board hearing. Specifically, Lerner requests the removal of proposed Conditions No. 10(c) (regarding a widened pedestrian connection) and 10(g) (pertaining to undergrounding of existing utility boxes). These are discussed in greater detail below, but in summary:

- (1) **Condition No. 10(c) – Widened Pedestrian Connection.** The Applicant cannot accommodate Staff’s request to widen Lerner’s proposed 18-foot pedestrian connection without losing a unit or eliminating an alternative pedestrian connection added at Staff’s request. The additional 12 feet of width Staff seeks is unnecessary to achieve the goal of improving visibility of the common open space, which is already accessible via multiple pedestrian connections from Crystal Rock Drive and Black Hill Regional Park.
- (2) **Condition No. 10(g) – Undergrounding of Utility Boxes.** The Applicant also cannot comply with the last-minute request to underground the existing utility boxes located along Crystal Rock Drive due to both practical and financial constraints. Above ground transformers and other utility boxes are standard in townhouse communities, especially in suburban locations such as Germantown. Undergrounding them would impose extraordinary expense and create maintenance challenges due to the required

larger vaults and metal grates. These larger vaults could have impacts on the number of units and/or pedestrian connections through the site.

The Board should be aware that the conditions at issue are not required by any provision of law or regulation, and they are not recommended by any master plan or other policy document.

I. Background

This Site Plan governs the next phase of the Black Hill development, which includes 69 rental townhomes on a narrow site at the northern end of the property, along Crystal Rock Drive (the “Property”). These townhomes will enhance housing diversity within this mixed-use, pedestrian-oriented development (and up-County as a whole), while adding much-needed family-sized MPDUs.

However, the Property is significantly constrained by its size, shape and topography, which dictates the layout of the site. This narrow, small (5.7 acre) site is sandwiched between Crystal Rock Drive (to the south) and Black Hill Regional Park (to the north), for which the Applicant previously dedicated 64 acres of land to the Parks Department. There is also a considerable amount of topography on the Property. The existing grade differential between Crystal Rock Drive and the northern property boundary varies between 20-30 feet.

To address these challenges, the site requires a substantial amount of re-grading and the construction of large retaining walls (some of which are 12 feet tall). As a result of these unique site conditions, a linear layout provides the best opportunity to maximize the number of housing units to meet current housing demand targets, while ensuring consistent street activation along Crystal Rock Drive and minimizing direct views of retaining walls from residences.

II. Extensive Collaboration with Park and Planning Staff

The Applicant has worked with Staff for more than three years on this Project. Initial discussions focused on converting the previously approved multi-family high-rise development into rental townhomes given market conditions (for which the Applicant engaged RCLCO to prepare a detailed market analysis). Since June 2022, the Applicant has been working to address various design comments received from Staff. Although the linear nature of the layout remains largely unchanged, as that is the most efficient layout given the size, width and topography, the Applicant has made a number of significant changes to the building layout, open space design, and building architecture to address many of Staff’s comments while adapting to the Property’s natural constraints. This extensive collaboration culminated with a site visit on March 10, 2025. Notable design modifications include:

- Created a 31 foot-wide central mews for visual and physical connections to the common open space;
- Relocated units to create two additional, 18 feet-wide direct pedestrian connections to the common open space, which are aligned with Baltusrol and Bellerive Drive;
- Redesigned northern row of townhomes to have dual-fronts to activate the common open space;
- Enlarged and enhanced common open space amenities;
- Redesigned the “entry plaza” along Century Boulevard to serve as an additional entrance to the common open space; and
- Narrowed the internal lane to minimize its width to the extent practicable.

In agreeing to these changes Lerner has gone beyond what is required by the zoning code, subdivision ordinance, and master plan in the interest of collaboration to produce a high-quality project that will serve as an asset to the community.

III. Requested Changes to Conditions of Approval

Despite extensive collaboration, unresolved issues remain. To avoid further delays in delivering this critical housing development, the Applicant seeks the Board’s support for the following:

A. Eliminate Condition No. 10(c) – Widened View Corridor

The Applicant requests to eliminate Condition No. 10(c), which requires at least 30 feet of separation between certain buildings to enhance visibility and access to the common open space.

The Applicant cannot accommodate this request without losing unit(s) or eliminating other important view corridors (like the central mews) that were provided directly in response to Staff comments. As importantly, this additional 12 feet of width (*i.e.* 30 feet requested, as compared to 18 feet currently proposed) is not required to achieve Staff’s goal of ensuring visibility to the common open space, which is strategically located adjacent to the forest conservation area/Black Hill Regional Park on the northern end of the site.

The current passageway aligned with Baltusrol Drive is already 18 feet wide, which is ample width to create a pleasing pedestrian connection (*i.e.* this exceeds the CR Incentive Guidelines which require only a minimum width of 15 feet for mid-block pedestrian connections). Not only is this connection amply sized, it is **one of four (4) direct pedestrian**

connections proposed to the common open space from Crystal Rock Drive – including the 30 foot wide central mews.

An additional “Entry Plaza” (*i.e.* a public gathering space that includes a vertical shade element, various seating options and landscaping, which is not required for this phase) has been designed in coordination with Staff to provide an inviting, direct connection to the common open space. The Applicant also proposes to construct an approximately 1,625 linear foot natural surface trail, with a pedestrian bridge at the stream crossing, connecting Black Hill Regional Park to the common open space on the Property. This trail provides another substantial public pedestrian connection.

The Applicant believes the existing design meets the goals identified by Staff without requiring further modifications. The Applicant has provided numerous, significant connections to the common open space. The Applicant does not believe that widening the already proposed view corridor by 12 feet is appropriate, given the design consequences that such a change would necessitate, including losing a unit or eliminating one of the important, alternative connections.

B. Eliminate Condition No. 10 (g) – Undergrounding of Utilities

The Applicant requests to eliminate Condition No. 10(g), which requires the Applicant to underground all above grade transformers and utility boxes along Crystal Rock Drive. Staff raised this request for the first time on March 10, 2025, after multiple years of dialogue, despite the fact that the Applicant has been transparent from the inception (both on the plans and in the comment/response letter) that the existing utility boxes located along Crystal Rock Drive are one of the significant constraints precluding the Applicant from implementing Staff’s request for wider view corridors (discussed above). It was only with the posting of the Staff Report that the Applicant became aware that Staff would be insisting on the undergrounding of this longstanding, existing infrastructure.

Given the significant dialogue that has occurred between Staff and the Applicant on this project over the past several years, it is disappointing to be required to respond to such a significant request less than two weeks before the scheduled Planning Board hearing. Moreover, for other practical and cost reasons, the Applicant cannot accept this condition.

Undergrounding these utilities presents practical challenges and would add substantial cost to this Project. The undergrounding of these utilities would cost \$300,000 or more. We emphasize “or more,” given the last-minute nature of this request, which has precluded the Applicant from being able to fully evaluate all of the potential additional costs. These costs cannot be viewed in a vacuum and are in addition to the substantial public amenities that the Applicant has already agreed to construct, including the natural trail connection through Black Hill Regional Park (which necessitates a pedestrian bridge at the stream crossing) and the Entry Plaza (which is not required for this phase).

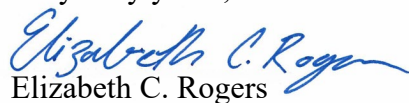
These utility boxes have been common for many years in residential townhouse communities, particularly in suburban communities such as Germantown. Given that common practice, and the additional maintenance challenges associated with below grade infrastructure, Potomac Edison is unlikely to approve of the relocation of these units underground. Furthermore, the vaults required to house this infrastructure would be significantly larger than the footprint of the existing boxes and would need to be covered by an unsightly metal grates, negating any aesthetic benefit. These larger vaults could have impacts on the number of units and/or pedestrian connections through the site. Given the larger footprint of the required vaults, it is unlikely that undergrounding the utilities would meaningfully change the Applicant's ability to accommodate Staff's design comments, discussed above. There is no practical need for this change aside from subjective aesthetic concerns.

IV. Conclusion

For the reasons discussed herein, the Applicant respectfully requests that the Board eliminate Site Plan Conditions No. 10(c) and 10(g), to allow for this next phase of the Black Hill development to finally move forward, which adds to the diversity of housing stock in up-County. As is evident from the existing phases, which include over 9.06 acres of public open space, plus 35.5 acres of conservation areas, in addition to the 64 acres previously dedicated by Lerner to Black Hill Regional Park, the Black Hill development provides substantial public benefits and amenities. The building architecture and layout provide a high quality of design that activates and engages the pedestrian environment and creates a truly exceptional public realm. This next phase continues that legacy. The building layout and design for the proposed rental townhomes activates and engages both Crystal Rock Drive and the common open space at the northern end of the Property; provides 51,500 square feet (or 1.18 acres) of *additional* common open space; and creates a true public amenity through the new trail connection created to Black Hill Regional Park, which can be enjoyed by all.

We look forward to discussing these matters and any additional minor refinements with the Board on March 20, 2025. Thank you for your time and consideration.

Very truly yours,


Elizabeth C. Rogers

Cc: Jason Sartori
Robert Kronenberg
Patrick Butler
Sandra Pereira
Jim Policaro
Robert Brewer
Casey Anderson

From: [Heidi Lee](#)
To: [MCP-Chair](#)
Subject: Fwd: Delivery Status Notification (Failure)
Date: Thursday, March 20, 2025 7:59:22 AM

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Chairman:

This is Heidi Lee from Germantown. I received the postcard of “Planning Board Hearing”.

I hope that land can be kept and protected for nature. Trees and animals’ home lands have been eaten away by humans. Their habitats are getting less and less.

Eventually their lands disappear, they cannot live, and humans will disappear too.

Every inch of land is treasure. We need a new law that allows each person to get a reasonable size of living space. Many people own very large lands for buildings, mansions and activity facilities. Those luxury spaces or lands should be returned to nature for survival and not be disturbed by humans.

Also people need to control birth and control human population, build environmentally friendly and resource saving houses.

Sincerely

Heidi Lee