

Preliminary Plan No. 120120210: Crystal Rock (Reconsideration)

Staff Report Date: 6/13/2013

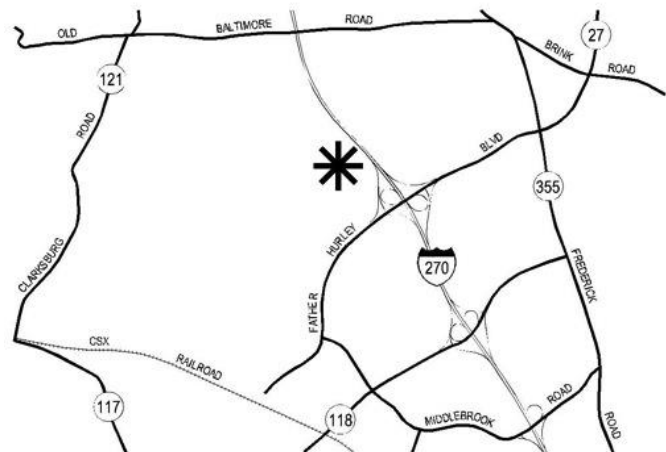
EAW Richard A. Weaver, Supervisor, Area 3, richard.weaver@montgomeryplanning.org 301.495.4544

JAC John Carter, Chief, Area 3, john.carter@montgomeryplanning.org

Preliminary Plan No. 120120210: Crystal Rock

Mixed-use development with a total of 3,284,000 SF (0.7 FAR), including 1,097,800 sf. office, 91,400 sf. retail, 243,240 sf. hotel with 350 rooms, and 1,618 total residential units, located north of Father Hurley Boulevard/Ridge Road (MD 27), between Crystal Rock Drive and I-270, 107.70 acres, TMX-2 Zone, Sector Plan for the Germantown Employment Area

Staff Recommendation: Approval, subject to revised conditions



Summary

On May 23, 2013, the Planning Board approved a reconsideration request submitted by the Acting Director to discuss modifications to a specific condition that was placed on the approval of the Crystal Rock Preliminary Plan application at the March 14, 2013 public hearing. The condition is related to the manner in which the private streets shown on the preliminary plan are administered and who will have that authority. At the Reconsideration Request hearing, the Planning Board Chair waived the normal filing deadline as provided in Rule 4.12.1 of the Board's Rules of Procedure and elected to take this matter up prior to issuance of a Resolution on the preliminary plan. Staff suggested two options at the Reconsideration hearing: 1) to place a note on the record plat that identified the means by which the private streets are to be administered, or 2) to record a private street - public access and maintenance easement that addressed the concerns of the Planning Board regarding how the public is allowed open and unobstructed use of the private streets; who will be responsible for the long-term maintenance of the private streets and under what conditions might the private streets be closed to vehicular traffic. Staff recommends the latter option and proposes revised conditions to those outlined in the Staff Report dated March 4, 2013 (Attachment A).

DISCUSSION and RECOMMENDATION

On March 14, 2013, the Montgomery County Planning Board approved a combined Project Plan (920120040) and Preliminary Plan (120120210) application, for a maximum of 3,284,000 sf. (0.7 FAR) of development, including 1,097,800 sf. office, 91,400 sf. retail, 243,240 sf. hotel with 350 rooms, and 1,618 total residential units on 107 acres zoned TMX-2, in Germantown. As part of the Preliminary Plan discussion, the Planning Board was concerned about the long term maintenance and enforcement of the private streets on the Crystal Rock Preliminary Plan. Specifically, the Planning Board was concerned about who would oversee the maintenance; how the public would be guaranteed rights of access; and the circumstances under which the controlling entity could close the private streets to traffic. The Planning Board sought to have the Montgomery County Department of Transportation (“MCDOT”) be the authority to dictate the long term enforcement of the private streets on Crystal Rock and crafted a condition based largely on a condition that was applied to another approved preliminary plan in which MCDOT took such a role.

In the Reconsideration Request letter dated May 13, 2013, (Attachment B), Staff explained to the Board that MCDOT will only agree to a maintenance and enforcement role for private streets in unique circumstances. Staff further explained that the Crystal Rock private streets do not have any particular unique circumstances that would prompt MCDOT’s involvement; therefore, the condition placed on the Crystal Rock Preliminary Plan approval could not be enforced. The Planning Board agreed that the condition was not enforceable but lacking participation by MCDOT, looked to Staff for solutions to address the long term maintenance, repair, and continuous rights of the public to access private streets. The Board also questioned who would enforce requests to close such private streets either temporarily or permanently. Staff suggested two options at the Reconsideration hearing:

- 1) Place a note on the record plat that identified the means by which the private streets are to be administered, or
- 2) Record a private street - public use and access easement to address the concerns of the Planning Board regarding rights of access, long-term maintenance, and street closures.

Staff recommends option No. 2 as the preferred means to provide perpetual notice to all heirs and assigns of any property in the Crystal Rock development as to the administration and limitations of the private street system within the development. Under this proposal, the public use and access easement will be submitted to Staff for review with the first Site Plan for Crystal Rock (not including the infrastructure plan) and will be recorded prior to the first record plat.

Staff recommends that Condition #15 should be modified with the added underlined language to require that the liber and folio reference for any recorded public use and access agreement be shown on the record plat(s). Staff also recommends that condition #22 be added to outline the elements of the easement proposal. All other conditions of approval remain unchanged from those approved at the March 14, 2013 public hearing.

Modify condition #15 as follows:

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 liber and folio referenced on the plat(s).

Add condition #22 as follows:

22. 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.

CONCLUSION

Staff believes that the adoption of the conditions as modified above will address the concerns of the Planning Board with respect to the long term administration of the private streets for the Crystal Rock Preliminary Plan. The expectations for the private street system will be memorialized in a recorded document. Further, the closures of any private street will follow the protocol used by MCDOT as outlined in their permit applications for road closures. Staff recommends that the Planning Board approve Preliminary Plan No. 120120210 with the conditions as approved at the March 14, 2013 hearing and as revised by this Staff Report with all findings made at the March 14, 2013 public hearing for conformance with Chapter 50 of the Montgomery County Code including, adequacy of public facilities and conformance with the Germantown Employment Area Sector Plan.

ATTACHMENTS

- A.** March 4, 2013, Staff Report
- B.** May 13, 2013, Reconsideration Request memo



Project Plan No. 920120040 and Preliminary Plan No. 120120210: Crystal Rock

MCS. Molline Smith, Area 3 Senior Planner, Project Plan, molline.smith@montgomeryplanning.org, 301.495.4573

EAW Richard Weaver, Area 3 Supervisor, Preliminary Plan richard.weaver@montgomeryplanning.org, 301.495.4544

JAC John Carter, Area 3 Chief, john.carter@montgomeryplanning.org, 301.495.4575

Completed: 03-04-13

Description

***A. Project Plan No. 920120040: Crystal Rock with Preliminary Forest Conservation Plan**

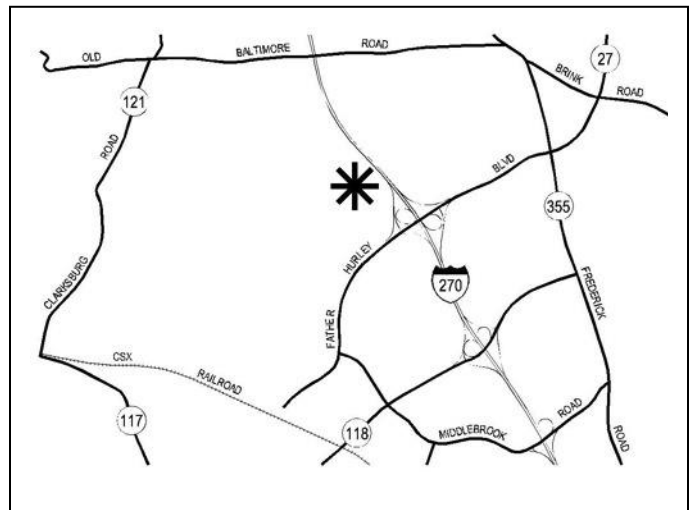
Mixed-use development with a total of 3,284,000 SF (0.7 FAR), including 1,097,800 sf. office, 91,400 sf. retail, 243,240 sf. hotel with 350 rooms, and 1,618 total residential units, located north of Father Hurley Boulevard/Ridge Road (MD 27), between Crystal Rock Drive and I-270, 107.70 acres, TMX-2 Zone, Sector Plan for the Germantown Employment Area

Staff Recommendations: Approval with Conditions

***B. Preliminary Plan No. 120120210: Crystal Rock with Road Abandonments**

Mixed-use development with a total of 3,284,000 SF (0.7 FAR), including 1,097,800 sf. office, 91,400 sf. retail, 243,240 sf. hotel with 350 rooms, and 1,618 total residential units, located north of Father Hurley Boulevard/Ridge Road (MD 27), between Crystal Rock Drive and I-270, 107.70 acres, TMX-2 Zone, Sector Plan for the Germantown Employment Area

Staff Recommendations: Approval with Conditions



Application Filing Date: May 23, 2012

Applicant: North Village - 270 Ltd. Partnership Lerner Enterprises

Summary

The Project and Preliminary Plan applications propose a mixed-use development of commercial and residential uses in accordance with the Optional Method of development.

- Public facilities, amenities, and other design features that create an environment capable of supporting the greater densities and intensities permitted by the Optional Method of development including:
 - Public use spaces and placemaking features;
 - Linkages and pedestrian orientation;
 - Compatibility, solar orientation and green building technology; and
 - Environmental protection and conservation.
- A new public roadway alignment for Crystal Rock Drive and Century Boulevard that is consistent with the goals and objectives of the Germantown Employment Area Sector Plan.
- Building Lot Terminations (BLTs) will be required at Site Plan approval to preserve agriculture and rural open space.
- Staff has not received any opposition to the Project and Preliminary Plans

TABLE OF CONTENTS

SECTION 1: PROJECT DESCRIPTION

Vicinity	3
Site Description	4
Previous Approvals	4
Project Description & Summary	5
Public Use Spaces and Facilities	7
Community Outreach	12

SECTION 2: PROJECT PLAN

Recommendations and Conditions.....	12
Basis of Consideration	16
Analysis and Findings (includes Preliminary Forest Conservation Plan and Tree Variance)	17

SECTION 3: PRELIMINARY PLAN

Recommendations and Conditions	40
Analysis and Findings (includes road abandonments)	4

TABLES

Project Data Table for the TMX-2 Zone	20
Comparison of the Standard Method with the Optional Method of Development	26
Specimen Tree Table	34

ILLUSTRATIONS

Vicinity Map	3
Aerial Photo	4
Illustrative Project Plan	5
Proposed Land Use Plan: Roadways and Green Space Areas	7
Site Layout and Building Orientation	8
Green Space Diagram	8
Proposed Vehicular Circulation Diagram	9
Compatibility, Shading and Solar Orientation	10
Views towards Forested Property Edge	11
Circulation Diagram	18
Public Use Spaces	27-32
Approved TS Office Park and Proposed Project Plan	33
Wetland Buffer Impacts	34
Specimen Tree #378 Proposed Impacts	36

APPENDICES

A.	Letters of Justification from the Applicant (dated January 2013)
B.	Agency Approval letters
C.	Preliminary Forest Conservation Plan
D.	Previous Approvals

SECTION 1: PROJECT DESCRIPTION

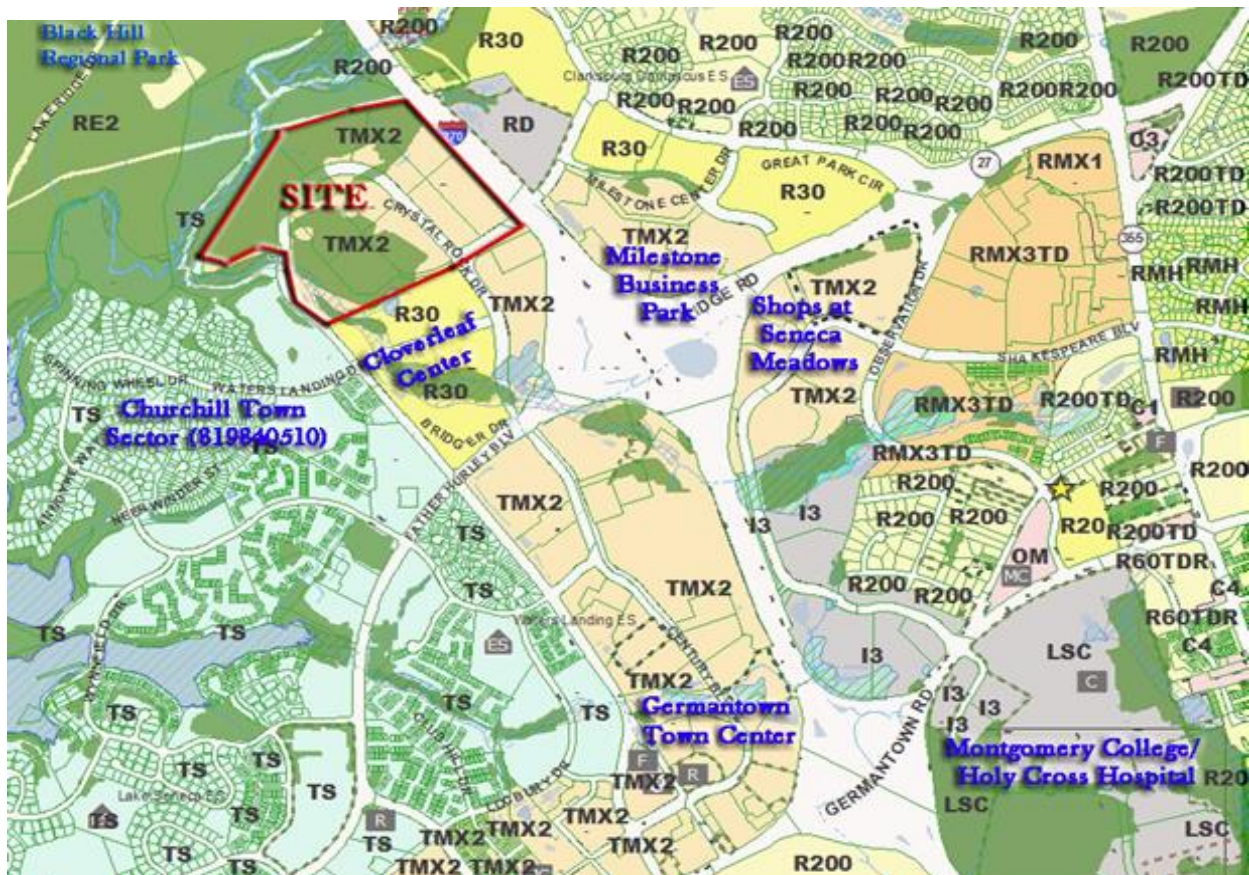
PROJECT DESCRIPTION

Vicinity

The subject property is approximately 107.7 acres in size and zoned TMX -2; located approximately 1.5 miles north of the Germantown Town Center, and 0.6 miles north of the interchange of Ridge Road/Father Hurley Boulevard (MD 27) and I-270 ("Property" or "Subject Property"). The Property is located west of I-270, south of Black Hills Regional Park (zoned Town Sector, TS) and north of the existing Cloverleaf townhouse development (zoned R-30). A tributary of Little Seneca Creek with a large stream buffer of trees is located on the western boundary of the Property in the TS Zone.

Local public facilities include the Germantown Library, the Montgomery College Campus with the new Holy Cross Hospital, Waters Landing Elementary School, Martin Luther King Jr. Middle School, Seneca Valley High School, and BlackRock Center for the Arts. The approved residential and commercial developments include the Churchill Town Sector (819840510, approved May 1984) zoned TS, Cloverleaf Center (No. 81998006B, approved February 2004) zoned R-30 and TMX-2, Milestone Business Park (No. 82001009C, approved February 2011) zoned I-3/TMX-2, and Shops at Seneca Meadows (No. 820100140, approved January 2011) zoned TMX-2.

Vicinity Map



Site Description

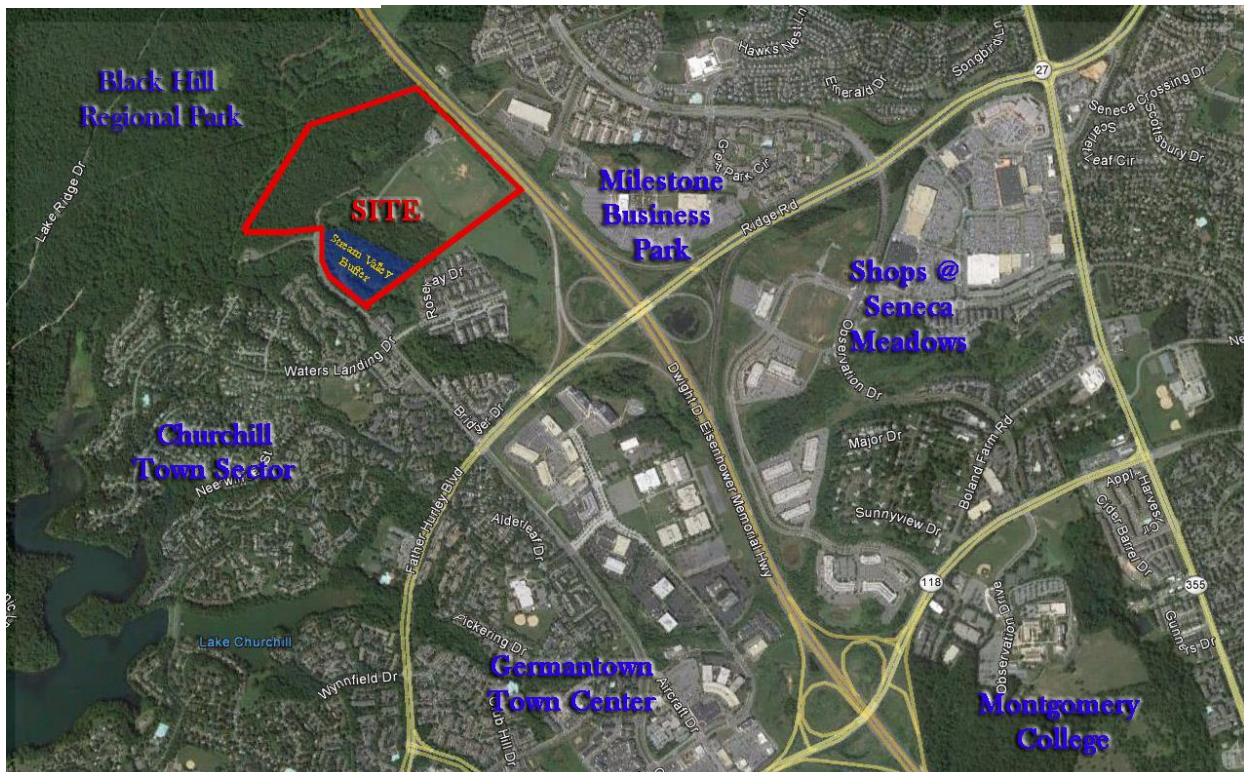
The Property is located in the northern portion of the Germantown Employment Area near the Corridor Cities Transitway (CCT), directly adjacent to Black Hill Regional Park and I-270. The Waters Landing Golf Driving Range (Site Plan No. 819950170) was developed as a temporary use on a portion of the Property (approximately 21.2 acres) in March 1995. The primary access point is Crystal Rock Drive; which dead ends at the golf driving range. The Property slopes from the northern boundary adjacent to I-270 toward the southern boundary directly adjacent to the existing townhouses, and naturally drains toward the Little Seneca Creek. The Property is partially forested (60 percent of the gross tract area). A tributary of Little Seneca Creek bisects the southern portion of the Property. There are no historic structures located on the Property. The existing development consists of a golf driving range, a surface parking lot, a maintenance shed, landscaping and lighting.

Previous Approvals

In accordance with the 1989 Germantown Master Plan, Preliminary and Site Plans were approved for the Lerner property with 1,300,000 square feet (sf.) of commercial space in the TS Zone (see Appendix D). As a condition of approval, the Applicant dedicated approximately 64 acres of the land towards open space (currently known as Black Hill Regional Park). The parkland dedication increased the size of the park, ensured a forested stream valley buffer, and extended the recreational opportunities and public amenities.

The zoning of the Property was changed from TS to TMX-2 in October 2009 as part of the adopted Sectional Map Amendment (SMA) following the approval of the Germantown Employment Area Sector Plan. The parkland dedication was not included within the Sector Plan boundary; therefore, the zoning on the dedicated parkland remains TS and is not included in the application for the Project or Preliminary Plans.

Aerial Photo



PROJECT DESCRIPTION

The existing golf driving range will be replaced with mixed-use development (0.70 FAR) as recommended by the Sector Plan. The Project Plan proposal consists of 1,618 total residential units (including 190 moderately priced dwelling units, MPDUs), office space (1,097,800 sf.), a 350-room hotel (243,240 sf.) and retail space (91,400 sf.). Most of the residential units (approximately 73 percent) are age-restricted for Senior Adults 62 years and above, as defined in the Zoning Ordinance, Section 59-A-2.1 ("Senior Adult"). The MPDUs will be provided within both the Senior Adult housing units (181 units) and the non-age restricted buildings (9 units). In accordance with the TMX-2 Zone and the Project Plan requirements, the Optional Method of development must provide significant public facilities, amenities and other design features that will create an environment capable of supporting the greater densities and intensities.

Brief Project Summary:

- Total Site Area: 107.70 acres.
- Total Development: 3,284,000 sf.
- Total Office Space: 1,097,800 sf. (Buildings E, F, G, H, and I)
- Total Retail Space: 91,400 sf.
- Hotel: 243,240 sf. (350-rooms, Building C)
- Total Residential Units: 1,618 units (including 190 MPDUs)
 - 440 units with MPDUs (high-rise and non-age restricted housing units, Buildings J, O and T)
 - 1,178 units with MPDUs (low-rise and townhouse units for Senior Adults, Buildings K, L, M, N, P, Q, R, S, V and W)

Illustrative Project Plan



Sector Plan and Design Guidelines for the Germantown Employment Area

The 2009 Germantown Employment Area Sector Plan and 2010 Germantown Urban Design Guidelines provide specific planning and design recommendations for this Property. The Project Plan proposes to construct a mixed-use development consistent with these recommendations. Approximately 43 acres of the land will be privately developed for residential and commercial uses; while 33 acres of forest will be preserved on-site. The project will dedicate 10.61 acres for the public right-of-way (ROW) for Crystal Rock Drive, Century Boulevard (Blvd.) and Dorsey Mill Road, thereby creating a sustainable network of roads that provide linkages to public use and private green space areas.

TMX-2 Zone - Public Facilities, Amenities and Other Design Features

In addition to consistency with the Sector Plan and Design Guidelines, the Project Plan proposes a system of public facilities, amenities and other design features that are intended to create an environment capable of supporting the greater densities and intensities permitted by the Optional Method of development as required in Section 59-D-2.11 of the Zoning Ordinance.

The following pages summarize the public facilities, amenities and other design features for the Project Plan. To meet this requirement, the Project Plan emphasizes the sustainable features of green neighborhood planning and design. The Applicant has met with Staff to discuss the key features of green neighborhood planning and design in accordance with the environmental framework specified in the Sector Plan. Staff has augmented the review of this Project Plan application by preparing a survey of green neighborhoods throughout the United States. Sustainable planning principles, precedents and other applications have been identified within the Germantown Employment Area.

In summary, the Germantown Employment Area Sector Plan and Urban Design Guidelines emphasize the creation of a mixed-use neighborhood near transit facilities that include the following:

- Public use spaces and placemaking features;
- Linkages and pedestrian orientation;
- Compatibility, solar orientation and green building technology; and
- Environmental protection and conservation.

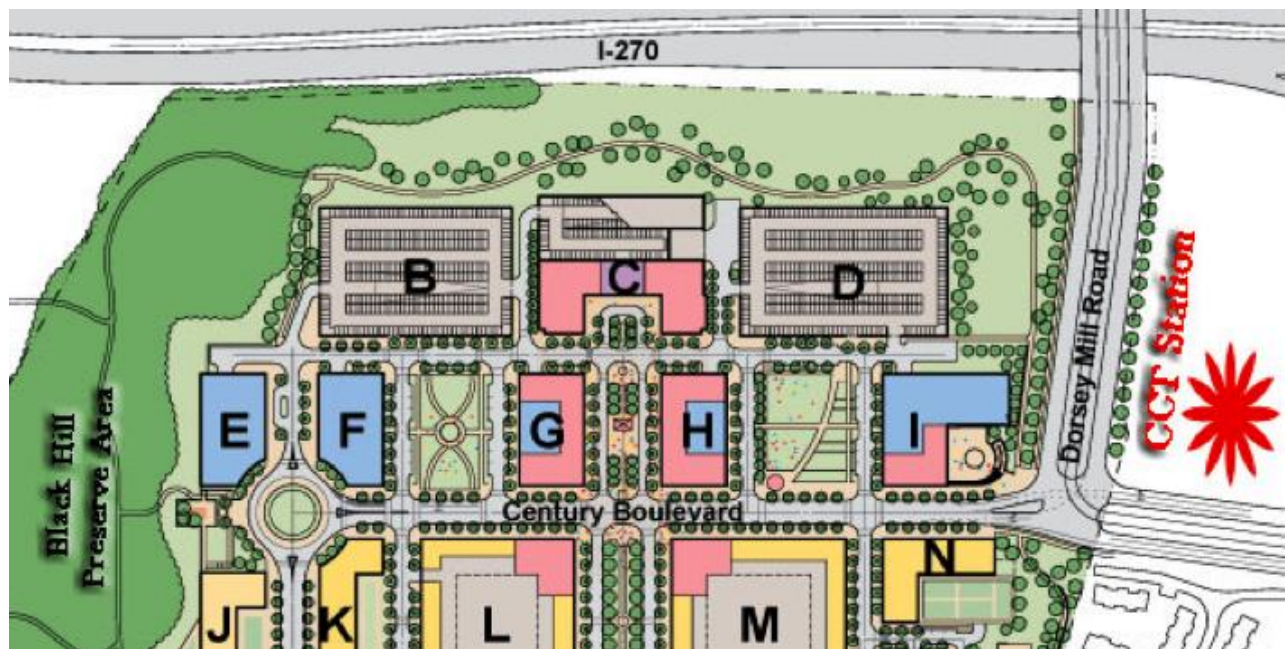
These features meet the requirements in the Zoning Ordinance and the recommendations in the Sector Plan, and create a successful mixed-use neighborhood that serves the needs of the Germantown Employment Area.

Public Use Spaces and Placemaking Features

In contrast to the Standard Method of development, additional public facilities, amenities, and other design features have also been provided. The following public use spaces, green spaces, on-site recreation facilities, and off-site design features add quality to the neighborhood and create desirable placemaking characteristics.

- **Public use space and public art** - The on-site proposed public use spaces of 41 percent of the net lot area exceeds the minimum 20 percent required in the TMX-2 zone. These spaces not only provide a variety of design features, but they also establish opportunities for community interaction and placemaking. The Art Review Panel has recommended specific locations for public art as placemaking features, and they recognize opportunities to establish temporary or permanent exhibits and programs with other local public facilities (i.e. the American Indian Heritage Education Association, and BlackRock Center for the Arts).
- **Private Green Spaces** - A series of green roofs are proposed above the multi-family parking structures. These areas will be accessible to the residents.
- **On-site recreational facilities** - The clubhouse, tennis courts, hiker/biker trail connections, multi-purpose fields, open lawn areas, and open play areas will offer a variety of active and passive activities. The recreational supply and demand values will be determined during the Site Plan process.
- **Additional off-site amenities** - The streetscape design within the public ROW provides a pedestrian connection to the CCT station and the trail system. In anticipation of constructing a mixed-use development near the future CCT station, parkland was dedicated by the Applicant in 1994. The parkland dedication is not included within this application; however, it is publicly accessible (visually and physically) by the on-site trail system.

Land Use Plan: Roadways & Green Space Areas



Site Layout and Building Orientation



Green Space Diagram

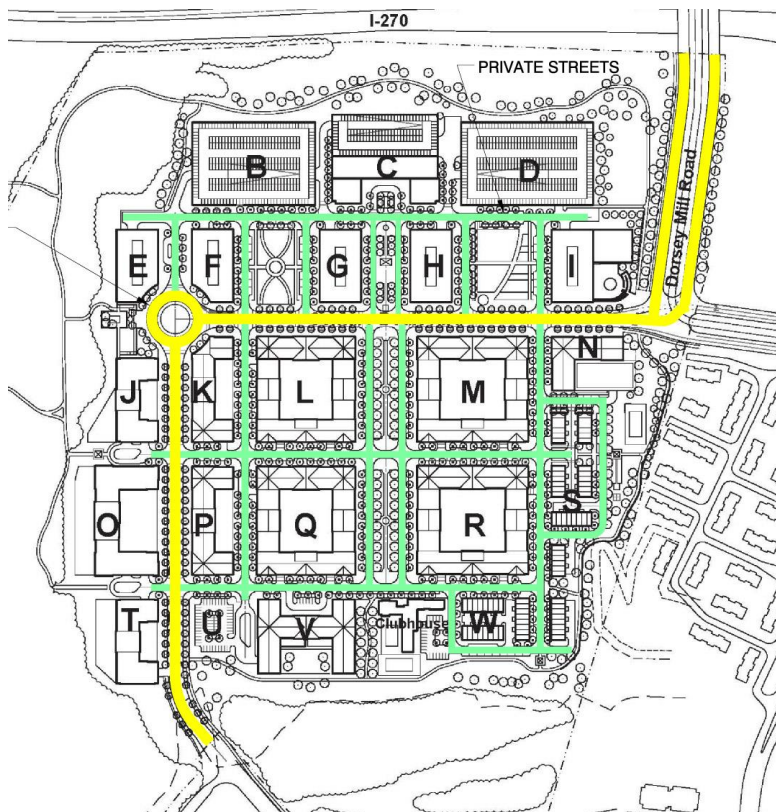


Linkages and Pedestrian Orientation

In response to the requirement in the Sector Plan (page 36), the Applicant has proposed a circulation system that gives priority to pedestrians. The Zoning Ordinance also encourages flexible designs that foster use of non-automobile forms of transportation (Section 59- C-14.212 (a3)).

- **Network of pedestrian oriented streets, sidewalks and bikeways** - The network will give priority to the pedestrians. The maximum block lengths are approximately 350 feet as recommended by the Sector Plan (page 25) and the Design Guidelines. The entire development is organized around a street grid pattern. Crystal Rock Drive and Century Blvd. will be realigned through the Property and will intersect at a traffic circle. Both roadways will accommodate bicycles, motorcycles, vehicular traffic, and on-street parking during off-peak hours.
- **Access to public use spaces** - Access to public space is provided along the sidewalks and trails. Ground floor retail and public use spaces are conveniently located along the street edge in order to attract transit commuters, activate the public use spaces and calm traffic.
- **Streetscape** - The proposed streetscape along Crystal Rock Drive and Century Boulevard provides continuous pedestrian sidewalks (ranging from 15 to 28 feet wide). The proposed street trees, outdoor dining areas, retail spaces and benches will enhance the pedestrian experience. These design features create vibrant pedestrian public spaces (Sector Plan, page 25).
- **Dedication of streets** - Century Blvd. and Crystal Rock Drive will be dedicated and constructed in the first phase of development. Dorsey Mill Road will also be dedicated; however, construction will await the I-270 overpass.
- **Access to recreation and links to regional trail systems** - Natural surface trails and hard surface hiker/biker trails that loop around the perimeter of the Property and connects into existing regional trails will provide an alternative “park-like” setting. The hiker/biker trail system may also include an educational component and can be used as a platform for displaying rotational public art pieces to establish partnerships with the local public facilities (i.e. BlackRock Center and/or the American Indian Heritage).

Proposed Vehicular Circulation Diagram: Public Roads (yellow) and Private Roads (green)



Compatibility, Solar Orientation, and Green Buildings Technology

The following design features are intended to establish compatibility with existing and proposed adjacent development as required by the Zoning Ordinance. The features proposed by the Project Plan include:

- **Building height and shadow impacts** - The neighborhood is designed to minimize shadow impacts on the adjacent townhouse community to help establish compatibility (section 59C-14.25). The non-age restricted housing, office and hotel buildings (tallest buildings on-site) form an L-shape pattern on the northern sides of the Property. The buildings step down in height from I-270 as the development approaches the southeastern edge of the Property, adjacent to the existing townhouse neighborhood. The office buildings and the hotel building (illustrated north of Century Blvd. below) are the tallest buildings (143 feet maximum) clearly visible from I-270.
- **Street orientation** - The street pattern is designed at a 45 degrees angle from the east/west orientation to maximize the afternoon solar exposure on the streets and public use spaces.
- **Building Orientation** - The blocks are designed to take advantage of solar exposure to all facades of the buildings to maximum opportunities for daylighting interior spaces.
- **Green roof areas** - Green roof areas are proposed on the top levels of the structured parking facilities on the multi-family buildings to provide usable green space.
- **Green neighborhood and buildings** - The multi-family residential, office and hotel buildings will meet the required standard for LEED certification. The entire neighborhood also parallels the principles established for green neighborhoods.
- **Building Lot Termination (BLTs)** - BLTs are required by the TMX-2 Zone to support the Agricultural Land Preservation Fund under Chapter 2B (Section 59-C-14.27). The proposed development exceeds the standard method FAR of 0.5; therefore, the Applicant will be required to purchase BLTs as a part of the Site Plan approval process.

Compatibility, Shading and Solar Orientation:

- *The grid pattern with an east/west orientation maximizes solar access to streets and open space*
- *Building facades with an east/west orientation maximizes solar access for daylight of buildings*



Environmental Protection and Preservation

The Project Plan proposes the following environmental features to protect and preserve the natural environment; therefore, decreasing the negative impacts of the development on neighboring properties. The following features meet the minimum requirements.

- **Forest Conservation** - The Project Plan approval (section 59D-2.12(d7) and (d8)) requires compliance with Chapter 22A (Forest Conservation) and Chapter 19 (Water Quality Resource Protection, SWM). The stream valley buffer, located near the southwest and northwest Property boundaries, includes 9.8 acres of forest and 0.04 acres of wetlands. The forest conservation area exceeds the minimum threshold for forest retained; therefore, the Property has no reforestation requirements.
- **Wetland, habitat, and stream protection** - The forested edge along the northwestern and southwestern boundary will provide a natural buffer between the proposed residential properties and the adjacent streams, wetlands and wildlife habitats.
- **Tree Canopy** - The streetscape will accommodate bio-retention facilities within the tree pits. The tree plantings will increase the tree canopy a minimum of 40 percent, provide shade, and frame major views. The tree canopy calculation also includes the existing forest cover, the planted trees along the sidewalks, natural and hard surface trails, the stream valley buffer, and the afforested areas on-site. The images below demonstrate the proposed character along the pedestrian pathways within the public use spaces.
- **Stormwater management facilities:** The Environmental Site Design (ESD) standards will manage and treat surface runoff on-site, limit the impacts of land disturbance, irrigate plantings, and replenish groundwater.

In conclusion, the goals and objectives discussed above are directly linked to other agency approvals (i.e. SWM, Forest Conservation Plan, and the Green Buildings Law), and will create a new standard for sustainable neighborhoods for the Germantown Employment Area.

Forested areas along the northwest and southwest boundary adjacent to the Stream Valley Buffer



COMMUNITY OUTREACH

The Applicant has met all signage, noticing and pre-submission meeting requirements. Notices for both the Project (920120040) and Preliminary (120120210) Plans were sent out on March 12, 2012, and a community meeting was held on December 15, 2012. Since the community meeting, the Applicant has reduced the total number of residential units by 337, the amount of office by 74,020 sf., and the retail by 3,600 sf. Staff has not received correspondence on either the Project or Preliminary Plan applications.

SECTION 2: PROJECT PLAN

PROJECT PLAN RECOMMENDATIONS AND CONDITIONS

Staff recommends approval of the Project Plan No. 920120040, Crystal Rock for a mixed-use development including 1,097,800 square feet of office uses, 91,400 square feet of retail uses, 1,618 residential uses (including 12.5% MPDUs), and a 350-room hotel (243,240 sf.) on 107.70 acres of land zoned TMX-2. All development elements as shown on the Project Plans stamped December 13, 2012, are required except as modified by the following conditions:

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 with MPDUs; and
 - Age-restricted units for Senior Adults: 1,178 units with 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 50 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.

4. MODERATE 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 (page 26 of this Staff Report), 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 LOD within the wetland buffer near the south side of the 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 proposed 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 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 (Optional Method development column) on pages 26 of the Project Plan 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 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 Blvd.
- 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 the non-age restricted multi-family buildings, the Senior Adult townhouses, 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 office buildings (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.

BASIS FOR CONSIDERATION

In accordance with section 59D-2.43, Basis for Consideration which states: In reaching its determination on the application for the optional method of development and in making the required findings, the Planning Board must consider:

- (a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures.
- (b) Whether the open spaces, including developed open space, are sized and located to provide 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 individuals structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.
- (c) Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.
- (d) Whether the proposed development contributed to the overall pedestrian circulation system. Pedestrian walkways must:
 - (1) be located, designed and sized to conveniently handle pedestrian traffic efficiently and without congestion;
 - (2) be separated from vehicular roadways and designed to be safe, pleasing and efficient for movement of pedestrians;
 - (3) contribute to a network of efficient, convenient and adequate linkages in the area of the development including linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.
- (e) The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.
- (f) The adequacy of provisions for construction of moderately priced dwelling units in accordance with Chapter 25A if that chapter applies.
- (g) The staging program and schedule of development.
- (g) The adequacy of forest conservation measures proposed to meet any requirements under Chapter 22A.
- (h) The adequacy of water resource protection measures proposed to meet any requirements under Chapter 19.

FINDINGS

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board and in concert with the basis considerations. Staff makes the following findings:

(a) *The application would comply with all of the intents and requirements of the zone.*

The 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 a 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 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 proposed 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 proposed 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 proposed circulation system and street network encourages desirable relationships among individual buildings and creates walkable blocks that facilitate active streetscapes. The circulation diagram on the next page overlays the proposed street alignment with the Sector Plan recommendations.

Circulation Diagram



(2) Encourage Land Assembly

The Site is owned by Lerner Enterprises (the Applicant). Preliminary Plan No. 119870120 approved and platted 12 lots within the TS zone (see Appendix D). The Project and new Preliminary Plan will reassemble the 12 lots into 10 lots and 5 parcels in 2 blocks (see page 46 of this report). 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 proposed 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. Black Hill Preserve (approximately 25 acres) is located on Block B 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 development 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 Property to the future CCT station will facilitate the convenient use of public transit. The proposed pedestrian circulation system connects sidewalks and hike/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 M-NCPPC Staff, 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 proposed mix of uses and density if amended.

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 generally 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 village buffer and the existing townhouses. The overall building orientation is also efficiently designed to maximize the daylighting during the peak hours of the day, on the building facades and the within the public use spaces. Therefore, the proposed building heights have been designed to minimize environmental and shade impacts on the neighboring properties.

The following Project Data Table compares the proposed project to previous approvals, the Sector Plan recommendations and the Zoning Ordinance requirements.

Project Data Table

	Previously Approvals (TS Zone)	Required/Allowed (TMX-2 Zone)	Proposed TMX-2 Zone
Site Area:			
Total Site Area (TS and TMX-2)	7,486,003 sf. 171.85 ac.	N/A	7,486,089 sf. 171.85 ac.
Black Hill Dedication (TS Zone)	2,794,504 sf. 64.15 ac.	2,794,504 sf. 64.15 ac.	2,794,569 sf. 64.15 ac.
Gross Tract Area (TMX-2 Zone)	4,691,499 sf. 107.70 ac.	N/A	4,691,520 sf. 107.70 ac.
Public ROW Dedication	461,593 sf. 10.61 ac.	461,593 sf. 10.61 ac.	462,005 sf. 10.61 ac.
Net Lot Area (TMX-2 Zone)	N/A	N/A	4,229,515 sf. 97.10 ac.
Commercial (gross floor area):			
▪ Office/Employment, max.	1,300,000 sf.	1,500,000 sf. max.	1,097,800 sf.
▪ Retail, max.	N/A	110,000 sf. max.	91,400 sf.
▪ Hotel (350 rooms), max.	N/A	Hotel	243,240 sf.
▪ Maximum total commercial	1,300,000 sf.	1,610,000 sf. max.	1,432,440 sf.
Residential Units:			
▪ Senior Adult units	N/A	N/A	1,178 units
▪ Non-age restricted units	N/A	N/A	440 units
▪ MPDUs (12.5% w/o bonus)	N/A	12.5%	190 units, 12.5%
Total	N/A	N/A	1,618 units max.
Max. FAR:			
▪ Commercial Uses	0.28	N/A	0.31 (1,432,440 sf.)
▪ Residential Uses	NA	N/A	0.39 (1,851,560 sf.)
▪ Maximum Total	0.28	0.70	0.70 (3,284,000 sf.)
Min. BLTs¹ (12.5% of Floor Area)	N/A		
Residential Uses	N/A	7.3	7.3
Commercial Uses	N/A	6.8	6.8
Max. Building Setbacks (ft.):			
▪ From I-270	N/A	200 feet	200 feet
▪ From a residential zone	N/A	25 feet	90 feet
▪ From parkland	N/A	N/A	170 feet
Max. Building Height (ft.)	100 feet	143 feet	35 - 143 feet
Green Areas:			
▪ Forest	N/A	N/A	92.16 ac.
▪ Open Space Areas	N/A	N/A	25.04 ac.
▪ Green Roofs	N/A	N/A	4.13 ac.
▪ Other Recreation Areas	N/A	N/A	0.3 ac.
Combined Public Space:			
▪ Min. On-Site Public Use Space	N/A	20% (845,909 sf.)	41.24% (1,744,318 sf.)
▪ Added Off-Site Amenities	N/A	N/A	39.11% (1,654,226 sf.)

¹ BLTs will be purchased and finalized during the Site Plan review process.

Off-street Parking:²			
▪ Min. Bicycle Spaces	N/A	5%/spaces provided	315 spaces
▪ Min. Motorcycle Spaces Total	N/A	2% or 10 spaces/lot	100 spaces
Spaces (excluding on-street)	5,351 spaces	6,295 spaces	6,295 spaces

(b) The application would be consistent with the applicable Sector plan.

Staff finds that the proposed application with conditions is consistent with the Approved and Adopted Germantown Employment Area Sector Plan (“the Plan”) and the Germantown Urban Design Guidelines. The following paragraphs summarize the recommendations specifically pertaining to the development.

Land Use

The proposed land use and density are consistent with the recommendations in the Plan. The 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 proposed layout of the Site is generally consistent with the diagrams in the Plan for the (Sector Plan, page 63). The buildings are located adjacent to the streets to establish pedestrian oriented sidewalks and public spaces (Sector Plan, page 21). 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 has been proposed. In addition, a variety of active recreational facilities are proposed throughout the development. The South Residential green space area is proposed 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.

² Off-street parking calculations to be finalized during the Site Plan review process.

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 ROW of 100 feet (Sector Plan, page 33). The proposed 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 proposed during off-peak hours to ensure adequate space and distance for sharing the road with bike riders. Staff finds that the proposed 4-lane roadway alignment will slow vehicular traffic and efficiently connects into existing roads. The platted alignment will be abandoned with the approval of the Preliminary Plan (page 45 of this Staff Report).

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, 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.

Dedication of Crystal Rock Drive and Century Blvd. - 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 property will remain exactly as shown in the Sector Plan. The alignment within the boundaries of the 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 ROW (100 feet from building façade to building façade) accommodates four lanes of traffic. Pedestrian sidewalks are accommodated within the public ROW, and provide access to the future CCT station and bus transit facilities (Sector Plan, page 30-31).

Bikeways and Trails - The Project Plan includes a bikeway connection (SP-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 proposed within the development.

Pedestrian Orientation - The Project Plan proposes an extensive system of sidewalks throughout the development to provide an alternative to the automobile and improve 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) as summarize in the following..

- **Environmental Framework** - The Project Plan proposes the creation the Black Hill Preserve that provides a significant setback and protected 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.
- **Forest, Urban Tree Canopy and Wetland Resources** - The Project Plan proposes a Category I Forest Conservation Easement 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.
- **Green Design and Buildings** - 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 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 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 Master Plan area or a jobs to housing ratio of approximately 1.5 (page 18). The overall land use plan for the Employment Area 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 Property and mixed-use including housing along I-270, but the number of dwelling units is not specified. The maps in the Sector Plan are considered as guides when reviewing development applications, but they are not considered rigid requirements for specific locations (page 19).

The proposed Project Plan with 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 proposed jobs to housing ratio (approximately 3.15) is based on the total residential units (1,618 units).

Staff finds that the proposed mix of jobs and housing is consistent with the land use flexibility provided in the Sector Plan (page 19). 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 is appropriate for this 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, 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 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 Property. The proximity to regional amenities (i.e. Germantown Town Center, I-270, BlackRock Center, Montgomery College, the approved Holy Cross Hospital, etc.) and the future CCT station establish the property as a prime location for transit oriented development. Adequate access to the 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 Property, reduces walking distances, provides alternative internal connections, and establishes the framework for an efficient streetscape design.

The proposed 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 Property will change from a golf driving range to a mixed-use development, the proposed use 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 ROW 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 proposed staging meets the recommendations of the Germantown Employment Area 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 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 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 Project Plan for the proposed 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 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 proposed surface and structured parking facilities and public use spaces will also be constructed in conjunction with their associated uses.

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

The proposed Optional Method of 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 establish 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 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.

The following Public Facilities, Amenities and Other Design Features table compares the Standard and Optional Methods of development.

Comparison of the Standard Method with the Optional Method of Development in the TMX-2 Zone

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	Proposed	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 proposed	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	Proposed	Protects wetlands and streams

Public use space and placemaking

A variety of public use spaces are identified in the following paragraphs and on the following map. A more detailed discussion of several of these public use spaces, public facilities, amenities and other design features is included on the following pages.

Map of Public Use Spaces, Public Facilities, and Other Design Features



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. **South Residential Green Space** – Located at the end of Dorsey Mill Road, between the existing townhouses and the proposed townhouses (Buildings S).

9. **Walking/Cycling Trail and Public Green Space** – Located south of I-270 and Black Hill Preserve, along the perimeter of the property.
10. **Nature Path and Connection to Black Hill Regional Park** – Located south of I-270 and Black Hill Preserve, near Buildings B and E.
11. **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.
12. **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.
13. **Park Dedication** – Located off-site, north of Black Hill Preserve.

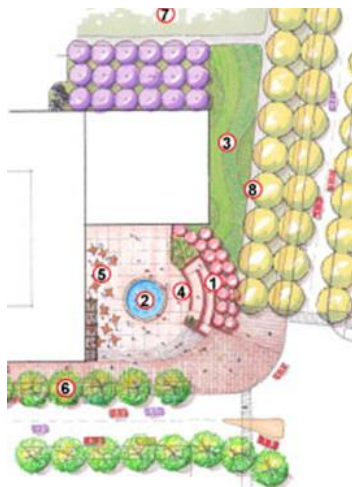
Public Use Space and Placemaking

The Gateway Plaza area and the South Residential Green Space

These areas are designed to provide active and accessible public use space for the Germantown Employment Area and to welcome “visitors” to the neighborhood.

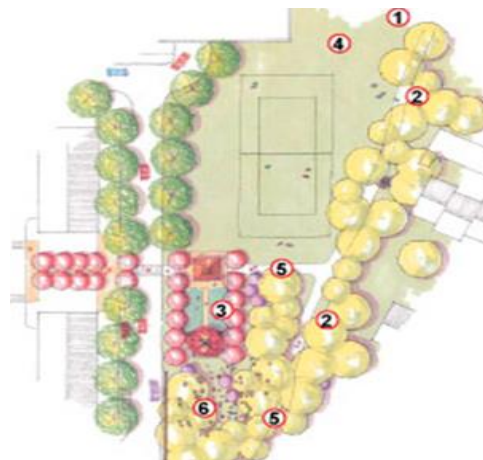
- **Gateway Plaza** - The gateway plaza area is approximately 0.8 acres, and will be activated by restaurants and retail shops on the ground level of Building I. The design of this space will be enhanced with public art, a variety of seating arrangements, and landscaping. The open play area is an informal gathering space that will be used for non-programmed activities. This area is intended to attract patrons from the Corridor Cities Transit station into the community.
- **South Residential Green Space** - This public use space is mainly intended to attract the surrounding residents. The concept of the south residential green space originates from the need to address compatibility between the southern edge of the property and the existing townhouse communities. This space is approximately 1.5 acres and will be used as a local shared park. The design provides an open play area that welcomes and integrates the new development with the existing townhouses.

Gateway Plaza



- ① Landscape Walls
- ② Focal Point - Art/Fountain/Tree
- ③ Extensive Landscaping
- ④ Seating Area
- ⑤ Cafe Area
- ⑥ Stormwater Management Feature
- ⑦ Lawn Area
- ⑧ Walking Paths

South Residential Green Space



- ① Entry Feature
- ② Extensive Landscaping
- ③ Seating
- ④ Recreational Field
- ⑤ Walking Paths
- ⑥ Playground

The Black Hill Preserve, Natural Surface Trails, and Nature Pavilion

These areas are transitional public spaces located between the Black Hill Regional Park and multi-family high-rise buildings and office buildings. The nature pavilion space has a plaza area that leads to the natural surface trails within the Black Hill Preserve area. The nature pavilion and plaza overlook the park setting, and will be used for educational purposes. The combined area (Black Hill Preserve, the nature pavilion and the natural surface trails) is approximately 25.4 acres. The shared pathways are conceptual placeholders that will be finalized with the Parks Department during the Site Plan review process. The trail system connects the Property to Black Hill Regional Park, encourages active recreational uses, and offers the community more sustainable circulation systems.

Black Hill Preserve and Nature Pavilion



- ① Nature Pavilion
- ② Focal Point - Art/Fountain
- ③ Extensive Landscaping
- ④ Seating Area
- ⑤ Lawn Area
- ⑥ Walking Paths

Village Green North and South

The combined area of these spaces is approximately 1.8 acres. These spaces are intended to attract patrons into the space; thereby activating the Main Street corridor along Century Blvd. The site designs provide green space with seating, landscaping and opportunities for public art.

- **North Village Green** - This public use space is located between Buildings F and G, and is designed as a formal garden with a central node used to connect pathways throughout the space. Retail space and seating areas are provided near the hotel use, north of Century Boulevard.
- **South Village Green** - This public use space is located between Buildings H and I, and is designed as a contemporary garden with space to accommodate active play. The focal point has been pushed toward the street edge in order to provide more open green space areas; for which the boundaries of each type of activity are divided by pedestrian pathways. Both Village Green areas are rectangular and bordered by office and retail uses, on-street parking, and drive aisles.

Village Green North



- ① Central Plaza with Seating
- ② Focal Point - Art/Fountain/Tree
- ③ Extensive Landscaping
- ④ Kiosk
- ⑤ Cafe Area
- ⑥ Stormwater Management Feature
- ⑦ Lawn Area
- ⑧ Walking Paths
- ⑨ Landscape Walls
- ⑩ Bocce Court

Public Green South



- ① Central Plaza with Seating
- ② Focal Point - Art/Fountain/Tree
- ③ Extensive Landscaping
- ④ Kiosk
- ⑤ Cafe Area
- ⑥ Stormwater Management Feature
- ⑦ Lawn Area
- ⑧ Walking Paths
- ⑨ Landscape Walls
- ⑩ Bocce Court

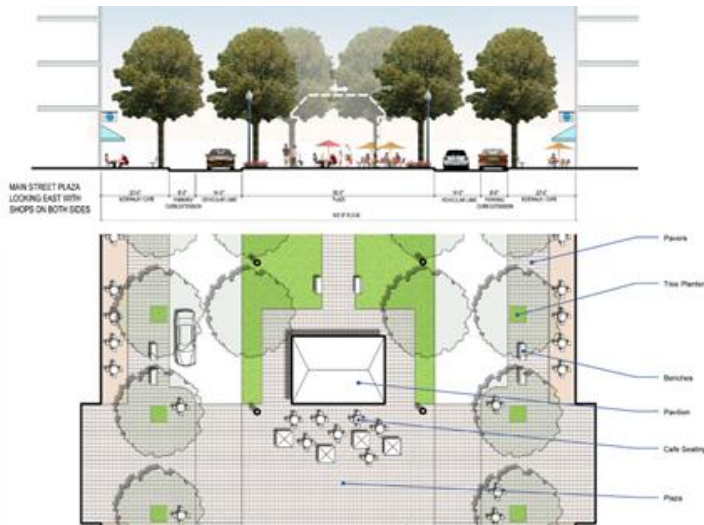
Main Street (Retail plaza, East and West Parks) and the Hiker/Biker Trail system

These spaces are intended to provide walkable connections through the center and along the edges of the property. The Main Street spaces stretch toward the south (approximately 150 feet long and 70 feet wide), starting within the retail portion of the Property (between Buildings G and H). The total area is 1.2 acres of land centrally located, and bordered by on-street parking and drive aisles. The entire space is divided into three different sections:

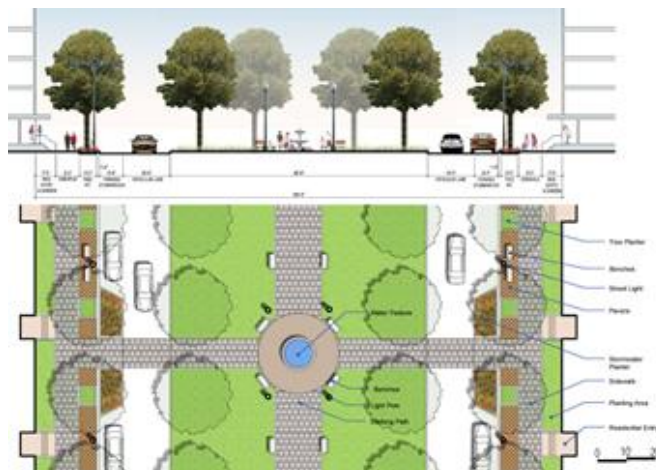
- Main Street Retail Plaza
- Main Street East Park
- Main Street West Park

Each space will be extensively landscaped, and activated with public art and adjacent uses. The size and central location of the Main Street designs emphasize the north/south circulation systems and integrate the residential and commercial uses.

Main Street Retail Plaza

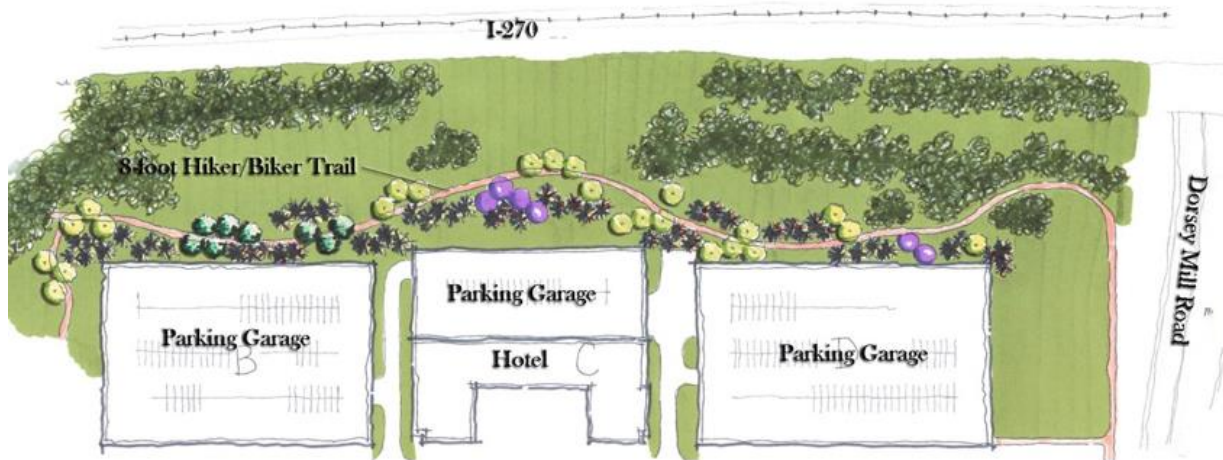


Main Street East and West Park (Residential Area)



The entire shared use hiker/biker trail system is approximately 1.25 acres of land wrapped around the perimeter and linked to the existing park trails and neighborhood pathways. The trails will be 8 feet wide, and depending on its proximity to the environmental sensitive areas, will be composed of natural surface or bituminous paving materials. Topiary designs and fitness stations will also be considered wherever feasible.

On-Site Trail System: Proposed 8-foot Hiker/Biker Trail (along I-270)



Public Art

These public amenities will be incorporated into the overall fabric of the development. The Applicant has met with the Art Review Panel to discuss their conceptual sketches, opportunities to integrate permanent and temporary art forms, and the establishment of local partnerships with the BlackRock Performing Arts Center and other programs. In accordance with the Sector Plan (page 25), public art should also be coordinated with the American Indian Heritage Education Association.

Linkages and Pedestrian Orientation

The Project Plan proposes to develop a community that gives priority to pedestrians as required in the Germantown Employment Area Sector Plan (page 36) in a manner that is more efficient and desirable than the standard method. The augmented grid system of streets, the wide and varied sidewalks, the hiker/biker trail system, and the commitment to an enhanced streetscape system provide a standard for this Optional Method of development that is more desirable than the Standard Method of development. In the first phase of development, the Project Plan proposes to construct Crystal Rock Drive and Century Blvd.

Compatibility, Solar Orientation and Green Building Technologies

The Project Plan has addressed the need to meet the environmental objectives in the Sector Plan (page 39 and 41), and the County requirement for sustainable buildings. The Project Plan locates the tallest buildings along the northern boundaries. The buildings step down to the adjacent townhouse neighborhood for compatibility, but also reduce shade impacts within the interior streets and public spaces. The orientation of the street blocks and the buildings help to maximize solar access to the sidewalks and public spaces, and create daylighting opportunities that reduce energy consumption. The

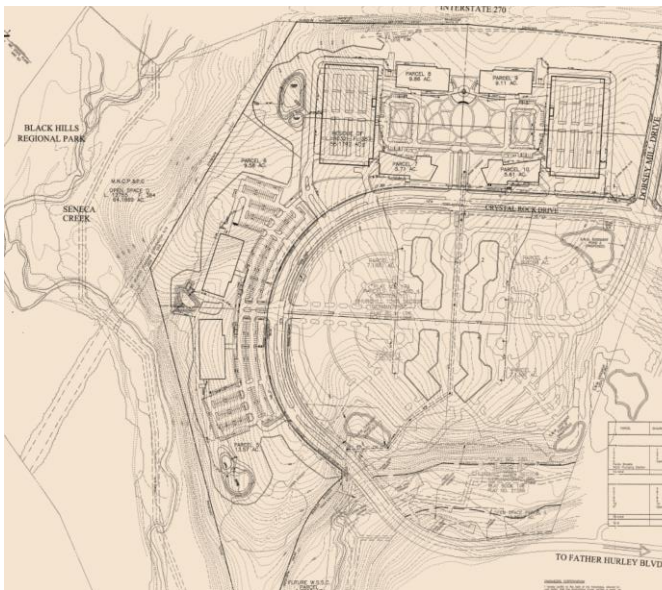
Project Plan provides green roofs above the parking garages of the multi-family senior housing buildings to reduce the overall carbon footprint.

Environmental Protection and Preservation

The proposed development meets the minimum Optional Method requirements for environmental protection and preservation. The requirements for forest conservation, wetland protection and stream protection will be met on-site. The Project Plan also meets the recommendations for tree canopy in the Sector Plan.

The Staff finds that the Project Plan proposed under the Optional Method of development, is more efficient and desirable than the Standard Method. The placemaking features, the enhanced linkages, the attention to solar access and energy conservation, and the protection of the natural environment establish a public benefits package of design features that is more efficient and desirable than the standard method of development. These public facilities, amenities and other design features also create a neighborhood that parallels the sustainable neighborhood principles that have been established by the U.S Green Buildings Council for Leadership in Energy and Environment - Neighborhoods (LEED-ND). The maps below compare the approved development in the TS zone (see Appendix C with the proposed Project Plan.

Approved TS Office Park



Proposed Project Plan

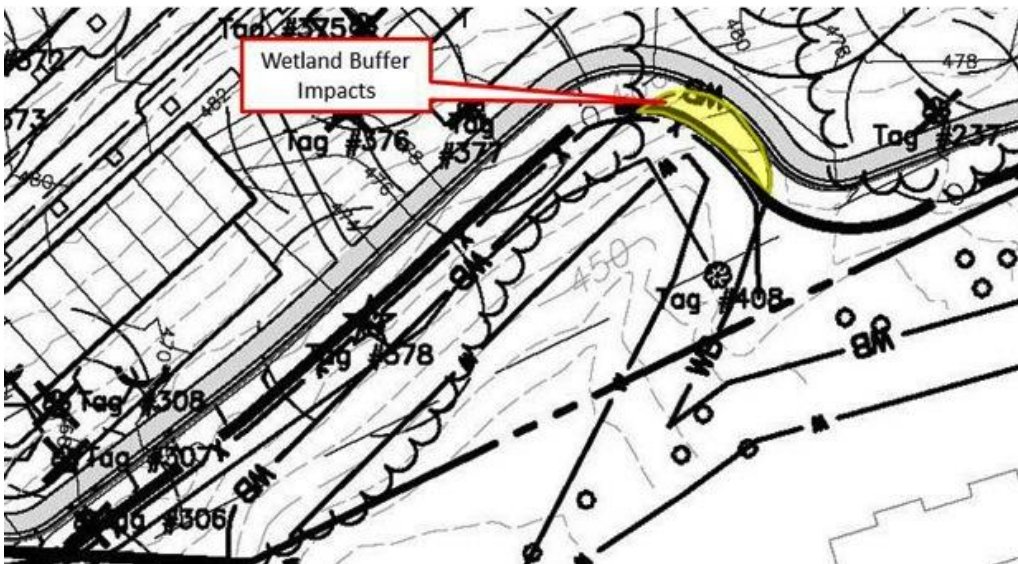


- (f) The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.**

The Project Plan will provide 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 (see *Appendix B for Agency Approvals*).

- (g) The proposal satisfies any applicable requirements for forest conservation under Chapter 22A.**

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420110370 for this 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 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 property running along the northwest and southwest boundaries of the Property. The Property contains 9.8 acres of stream valley buffer (SVB) and 0.04 acres of wetlands. The Subject Property 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.



Wetland Buffer Impacts

The project shows a proposed impact to the wetland buffer for a hard surface trail on the south side of the Property near the boundary of forest stands 4 and 5. Staff recommends that at the time of the appropriate Site Plan, this particular section of pathway be realigned, to the greatest extent possible, in order to avoid impacts to the wetland buffer. The Countywide Stream Strategy (CSPS) rates streams in this watershed to be in excellent condition.

Forest Conservation Plan

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 project meets all standard requirements of Chapter 22A; however there are several key Sector Plan statements and objectives³ 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 it 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 project proposes to retain 33.90 acres, or 52.1%, of the existing forest on the Lerner Property.

Also on page 40 of the Sector Plan, the area wide recommendation section under Forest Resources and Urban Tree Canopy section the first bulleted recommendation 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 proposed 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, Staff has stressed forest save in this area and the Applicant has responded

³ Germantown Forward: Germantown Employment Area Sector Plan 2009

by tightening the limits of disturbance and relocating and entire building to protect additional high priority forest resources.

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 identifies 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.

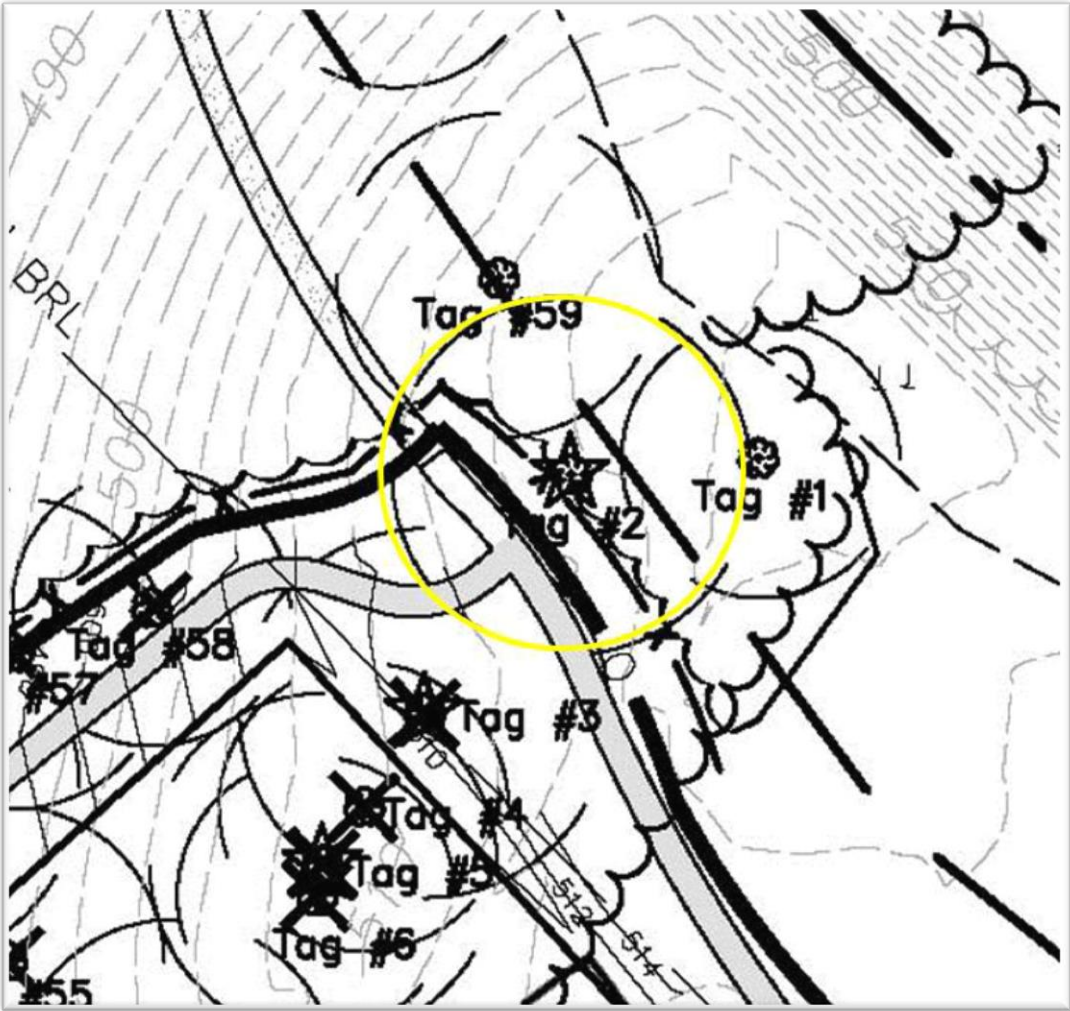
Development of the Property as proposed, requires that 37 Protected Trees be removed and 6 Protected Trees be impacted, therefore, a variance is required.

Specimen Tree Removal Table						
ID #	Common Name	Scientific Name	DBH	Conditions/Remarks	Disposition	Mitigation
3	White Oak	Quercus alba	32	Good	REMOVE	forest worksheet
5	White Oak	Quercus alba	30	Good - wire in tree	REMOVE	forest worksheet
8	Pignut Hickory	Carya glabra	30	Good	REMOVE	forest worksheet
11	Northern Red Oak	Quercus rubra	43	Good	REMOVE	forest worksheet
13	White Oak	Quercus alba	44	Good/Fair; rot, barbed wire	REMOVE	forest worksheet
18	Tulip Poplar	Liriodendron tulipifera	34	Fair - poor structure	REMOVE	forest worksheet
22	Red Maple	Acer rubrum	33	Fair/Poor, poor structure, dead wood	REMOVE	forest worksheet
24	Red Maple	Acer rubrum	30	Fair/poor structure, rot, epic, growth	REMOVE	forest worksheet
25	Mockernut Hickory	Carya tomentosa	31	Fair - 75% of champion, deadwood, cav.	REMOVE	7.75
26	White Oak	Quercus alba	40	Good, Fair/stairs, vines	REMOVE	forest worksheet
27	Tulip Poplar	Liriodendron tulipifera	30	Poor - Split	REMOVE	forest worksheet
52	Tulip Poplar	Liriodendron tulipifera	30	Good/Fair, hollow @ base	REMOVE	forest worksheet
56	Red oak	Quercus rubra	31	Good - some deadwood	REMOVE	forest worksheet
73	Black Oak	Quercus velutina	34	Poor/deadwood/co-dom @ 5', 1 bole dead, tree leaning on it, dieback	REMOVE	forest worksheet
235	Red oak	Quercus rubra	30	Poor, dieback, struck by lightning/wood split top to bottom	REMOVE	forest worksheet
238	Silver Maple	Acer saccharinum	30	Good, vines	REMOVE	forest worksheet
239	Silver Maple	Acer saccharinum	40	Good, vines	REMOVE	forest worksheet
240	Silver Maple	Acer saccharinum	34	Good/Fair - co-dom @ 6'	REMOVE	forest worksheet
246	Red oak	Quercus rubra	30	poor, deadwood, cav, swollen base, heavy vines, almost dead	REMOVE	forest worksheet
248	Mulberry	Moraceae spp.	33	Poor - 33" co-dom @ 5', vines	REMOVE	forest worksheet
250	Black Cherry	Prunus serotina	34	Fair, deadwood, co-dom @ 5'	REMOVE	forest worksheet
257	Tulip Poplar	Liriodendron tulipifera	35	Poor, deadwood, large bark scar, dieback, co-dom @ 5'	REMOVE	forest worksheet
261	White Oak	Quercus alba	35	Fair, deadwood,co-dom @ 10', swollen base	REMOVE	forest worksheet
319	Tulip Poplar	Liriodendron tulipifera	30	good	REMOVE	forest worksheet
321	Tulip Poplar	Liriodendron tulipifera	30	good, fair, tree stand	REMOVE	forest worksheet
322	Tulip Poplar	Liriodendron tulipifera	42	good	REMOVE	forest worksheet
342	Tulip Poplar	Liriodendron tulipifera	35	Fair, deadwood, vines	REMOVE	forest worksheet
346	Red Maple	Acer rubrum	31	Fair, deadwood, part of 20" fallen	REMOVE	forest worksheet
347	Tulip Poplar	Liriodendron tulipifera	30	Good - codom @ base	REMOVE	forest worksheet
349	Tulip Poplar	Liriodendron tulipifera	30	good	REMOVE	forest worksheet
350	Tulip Poplar	Liriodendron tulipifera	32	good	REMOVE	forest worksheet
358	Tulip Poplar	Liriodendron tulipifera	41	good, fair, co-dom @ 6'	REMOVE	forest worksheet
365	Tulip Poplar	Liriodendron tulipifera	37	Good/Fair, co-dom @4.5'	REMOVE	forest worksheet
368	Tulip Poplar	Liriodendron tulipifera	44	good, co-dom @ 6'	REMOVE	forest worksheet
371	Tulip Poplar	Liriodendron tulipifera	47	good, co-dom @ 8'	REMOVE	forest worksheet
374	Black Cherry	Prunus serotina	32	Fair	REMOVE	forest worksheet
376	White Ash	Fraxinus americana	32	Fair, poor, rot, scar, ivy vines	REMOVE	forest worksheet

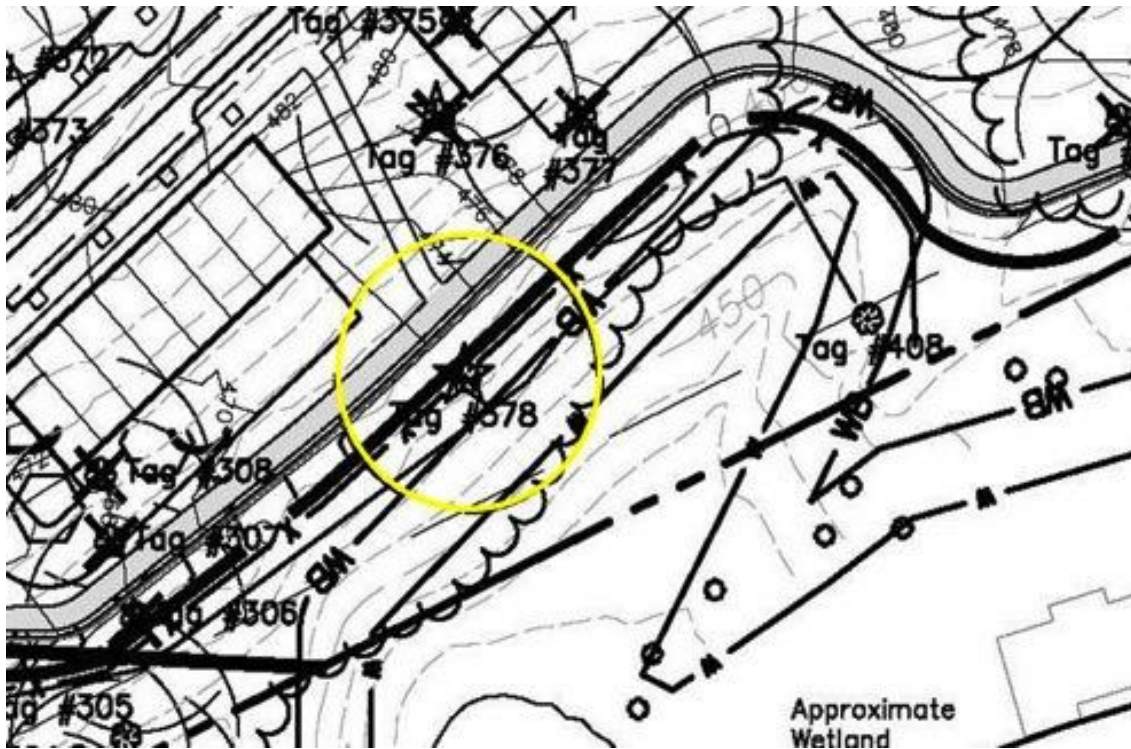
Specimen Tree Impacted Table							
ID #	Common Name	Scientific Name	DBH	Conditions/Remarks	Disposition	% Impact of Save trees	Mitigation
2	Northern Red Oak	Quercus rubra	31	Good	Save	33%	Tree save measures
262	Red oak	Quercus rubra	31	Fair/Poor, deadwood, cav, rot, cavity @ 10', leans	Save	1%	Tree save measures
309	Tulip Poplar	Liriodendron tulipifera	32	Good, co-dom @ 5'	Save	18%	Tree save measures
311	Red oak	Quercus rubra	36	Good	Save	7%	Tree save measures
312	Red oak	Quercus rubra	36	Dead, 36" w/ other 3 boles fallen (stumps 4'-8' tall)	Save	20%	Tree save measures
378	Silver Maple	Acer saccharinum	30	fair, deadwood, leans, vines, canopy damage	Save	34%	Tree save measures

Staff believes that tree #378 which is requested for impact only should be considered removed and that Tree #2 should not be impacted to fulfill the implementation of the Project Plan. Tree #2 is a 31" DBH Northern Red Oak in the northeastern portion of the Property outside the LOD and adjacent to I-270. The only proposed impact is for a hard surface trail to run nearby. This trail could be relocated entirely outside the CRZ. Staff is confident that impact to this Protected Tree is unavoidable, and that the hard surface trail can do realigned to avoid any impact Tree#2.

Specimen Tree #2 Proposed Impacts



Tree #378 is a 30" DBH Silver maple located on the south side of the property adjacent to the wetland which extends across the property line from the Kinster Drive Development. The variance request indicates 33 percent impact to the CRZ, but the plan indicates the LOD might go through the trunk of the tree. Based upon the proposed impacts and the proximity of the LOD to the trunk of the tree, staff would recommend that the Planning Board grant a variance to remove this tree.



Specimen Tree #378 Proposed Impacts

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 Sector Plan indicates are appropriate for development. If a variance for this Property was not considered the Applicant would not be able to achieve the goals of the Sector Plan, which would be severely limit any new development on the 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. Staff has made the following determination on the required findings:

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 Property. The trees and/or their critical root zones lie within the developable area of the Property. Granting a variance request to allow land disturbance within the developable portion of the 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 Property is zoned TMX - Transit Mixed Use. The Germantown Employment Sector Plan depicts a dense urban form that utilizes transit-oriented development techniques and imposes special conditions on the 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 Property are not a direct result of this particular application.

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

The requested variance is a result of the proposed 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 requested 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 proposed 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 storm water 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 has been consistent in requiring 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 plan has requested the removal of 37 trees, of which only one is outside of existing forest on the Property.

Mitigation should be at a rate that approximates the form and function of the trees removed. Staff is recommending that replacement 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 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 recommended for this project would be (3) 3" caliper native canopy trees to be planted on-site.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code, Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on December 3, 2012. On January 2, 2013 the County Arborist issued a recommendation (Appendix C). The county Arborist recommends that the variance can be granted if mitigation is provided.

Variance Recommendation

Staff recommends that the variance be granted for the removal of 38 trees and for the impacts to five trees. Staff recommends that Tree #378 should be listed as removed and that no variance be granted for the impacts to Tree #2.

Staff will continue to work with the Applicant through the Site Plan review process to minimize the environmental impacts, while maximizing the environmental benefits on-site in a sustainable manner.

(i) 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. In accordance with Chapter 19, this Property is exempt from the water quality resources protection requirements. The project will provide for SWM to be stored and treated on-site for water quantity control and quality improvement. The SWM concept is acceptable and proposes to meet required SWM goals via green roofs and public/private micro-bioretenment within the streetscape and planter boxes. SWM facilities are also proposed adjacent to the parallel parking areas within the public ROW.

(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. However, the parkland dedication and the streetscape (10.61 acres) within the public ROW will provide additional public benefits off-site. While the parkland dedication is not included in this Project Plan application, the Applicant's substantial contribution to Black Hill Regional Park has protected the existing high priority forest directly adjacent to the Little Seneca Creek tributaries, improved the quality of surface runoff, increased the total area of the regional park, provided wildlife habitat, and established a green edge as recommended in the 2009 Germantown Employment Area Sector Plan.

CONCLUSION

The Staff recommends approval of the Project Plan with the conditions described at the beginning of this section (page 15). The Project Plan is consistent with the recommendations in the Germantown Employment Area Sector Plan and meets the requirements for the Optional Method of development in the TMX-2 Zone.

SECTION 3: PRELIMINARY PLAN

RECOMMENDATIONS AND CONDITIONS

The Preliminary Plan meets all requirements for Adequate Public Facilities, conformance with master plan and lot configuration established in Chapter 50 of the County Code, the Subdivision Regulations. Staff recommends approval of the Preliminary Plan No. 120120210, including abandonment of certain portions of the Crystal Rock Drive right-of-way, subject to the following conditions:

1. Approval under this Preliminary Plan is limited to 10 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 1,178 of the units will be Senior Adult housing units, and no more than 440 units will be non-age restricted.
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 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 R/W 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 letter dated 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 and low-rise unit rates 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 public use and access easement.
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.

ANALYSIS AND FINDINGS

A Preliminary Plan must analyze a proposed development for conformance with Chapter 50 of the County Code, the Montgomery County Subdivision Regulations. The Subdivision Regulations require that a preliminary plan: conforms to the local area master plan or sector plan; have adequate public facilities; has appropriately dimensioned lots; and adequately protect environmental features. The Preliminary Plan encompasses the same 107.7 acres contained in the Project Plan application and contemplates the same development. While the Project Plan focuses on optional density as it relates to public facilities, amenities and other design features, the Preliminary Plan focuses on the necessary lot configuration and infrastructure required to serve the development shown on the Project Plan. The Germantown Employment Area Sector Plan contains recommendations for building design, neighborhood design, streetscape, and other compatibility concerns that go beyond the capabilities of a Preliminary Plan, hence, the review of the Project Plan provides the best opportunity to examine all of the building and design details for conformance to the Sector Plan. The Project Plan has been found to be in conformance with the Sector Plan and therefore, the Preliminary Plan findings for conformance to the Sector Plan are also made.

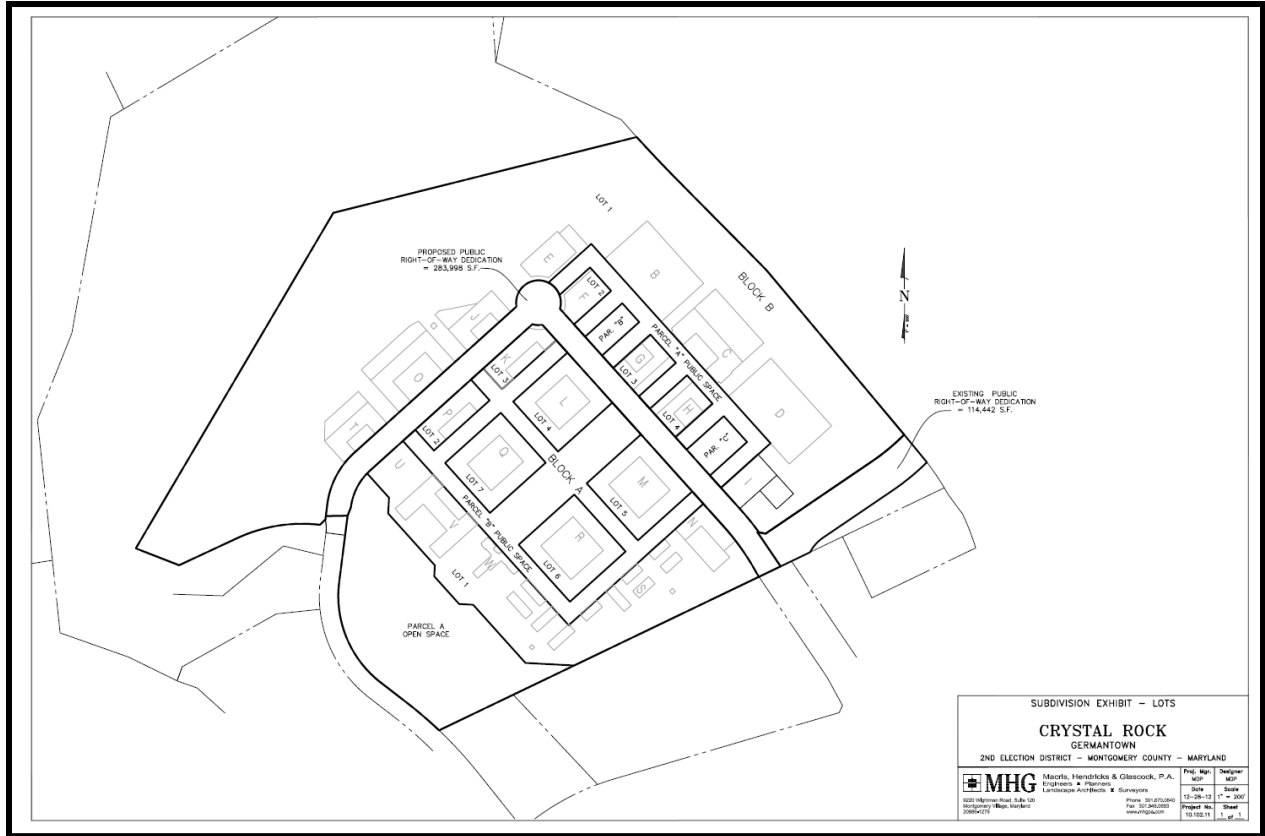
With respect to roads, the Preliminary Plan proposes a new alignment of Crystal Rock Drive and Century Blvd through the Property that brings the two roads together at a roundabout feature in its northern corner. The right-of-way for these two roads is 100 feet in width as recommended by the Sector Plan. The cross section of the road will consist of four travel lanes also recommended by the Sector Plan. The connection of Century Boulevard and Crystal Rock Drive will provide adequate access for this community to Father Hurley Boulevard, I-270; Germantown Road and the future Dorsey Mill Road overpass and transit station. As part of the transportation requirements, the developer will be required to improve numerous intersections within the local area as outlined in the conditions of approval.

A grid system of private streets will disperse traffic and pedestrians throughout the interior of the development. In general, the private streets will be built to public street standards but maintained by a private entity. The pavement of the private streets, including the curbs, will be located within their own separate parcels and public access easements over the private streets and adjacent sidewalks will assure public passage. The grid system of the private street parcels essentially establishes lots and blocks that are also in a grid layout. With few exceptions, all lots have access to a public or private street on all four sides.

Sector Plan Conformance

As noted previously in this report, Staff finds that the Project Plan conforms to the Sector Plan and the Preliminary Plan is substantially the same as the Project Plan. The Preliminary Plan establishes the required rights of way for the new alignment of Century Blvd., Crystal Rock Drive and Dorsey Mill Road 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 design speed along this road of 35 miles per hour. With the additional findings made for the Project Plan, the Preliminary Plan is in substantial conformance with the Sector Plan.



Adequate Public Facilities

Transportation

Based on the details of the Local Area Transportation Review (LATR), the Policy Area Mobility Review (PAMR), circulation systems, and the Sector Plan recommendations and guidelines; Staff has concluded that the Preliminary Plan, with conditions, will satisfy the LATR and PAMR requirements of the Adequate Public Facilities review.

Thirty two intersections were identified as critical intersections affected by the proposed office development and were examined in the traffic study to determine whether they meet the applicable congestion standard for this area. The congestion standard in the Germantown West and Clarksburg Policy Areas is 1,425 Critical Lane Volumes (CLV) and 1600 CLV in the Germantown Town Center Policy Area. The result of the CLV analysis is summarized in Table 1.

Intersections Analyzed	Existing		Background		Total * w/o Improvement		Total ** w/ Improvement	
	AM	PM	AM	PM	AM	PM	AM	PM
	Father Hurley Blvd/ Crystal Rock Dr	648	1056	815	1372	1050	1748	1028
Father Hurley Blvd/I-270 SB off-ramp	541	549	782	831	920	984		
Father Hurley Blvd/I-270 NB off-ramp	579	619	805	1023	973	1089		
Ridge Rd (MD 27) /Observation Dr	846	1324	1619	2298	1686	2355	1561	1619
MD 27/MD 355	1056	1201	1617	1720	1657	1807	1585	1576
MD 355/Henderson Corner Rd	930	861	1284	1311	1284	1311		
MD 27/Brink Rd	901	1073	1292	1555	1339	1594	1339	1493
MD 355/MD 118	1149	1312	1557	1989	1738	2012	1530	1804
MD 118/Observation Dr	506	670	715	818	852	938		
MD 118/I-270 NB off- ramp	609	949	706	1301	902	1374		
MD 118/I-270 SB off- ramp	730	949	924	1166	1219	1280		
MD 118/Middlebrook Rd	825	1176	1069	1452	1143	1515		

MD 118/Crystal Rock Dr	922	1200	1116	1364	1215	1594		
MD 118/Aircraft Dr	762	1001	884	1141	1128	1409		
MD 118/Wisteria Dr	655	1075	844	1256	918	1319		
MD 118/MD 117	872	1126	1424	1704	1543	1816	1152	1428
MD 118/Seneca Meadows Parkway	622	785	1306	1639	1350	1759	1274	1380
MD 355/W. Old Baltimore Rd	1454	1395	2450	2465	2542	2544	2114	1610
Father Hurley Blvd/Middle Brook Rd	714	816	988	1124	1094	1158		
MD 119/Middlebrook Rd	926	899	988	1074	998	1113		
MD 118/Father Hurley Blvd	239	474	538	878	638	1015		
Intersections Analyzed	Existing		Background		Total * w/o Improvement		Total ** w/ Improvement	
	AM	PM	AM	PM	AM	PM	AM	PM
Father Hurley Blvd/Crystal Rock Dr	648	1056	815	1372	1026	1667	1088	1376
Father Hurley Blvd/I-270 SB off-ramp	541	549	782	831	853	928		
Father Hurley Blvd/I-270 NB off-ramp	579	619	805	1023	906	1070		
Ridge Rd (MD 27) /Observation Dr	1015	1117	2220	2366	2265	2519	2175	2276
MD 27/MD 355	1056	1201	1617	1720	1657	1807	1585	1576

MD 355/Henderson Corner Rd	930	861	1284	1311	1284	1311		
MD 27/Brink Rd	901	1073	1292	1555	1339	1594	1339	1493
MD 355/MD 118	1149	1312	1557	1989	1738	2012	1530	1804
MD 118/Observation Dr	459	610	668	758	805	878		
MD 118/I-270 NB off-ramp	742	1157	845	1536	1041	1609	902	1374
MD 118/I-270 SB off-ramp	730	949	924	1166	1219	1280		
MD 118/Middlebrook Rd	825	1176	1069	1452	1143	1515		
MD 118/Crystal Rock Dr	922	1200	1116	1364	1215	1594		
MD 118/Aircraft Dr	762	1001	884	1141	1128	1409		
MD 118/Wisteria Dr	655	1075	844	1256	918	1319		
MD 118/MD 117	872	1126	1424	1704	1625	1816	1181	1571
MD 118/Seneca Meadows Parkway	622	785	1306	1639	1350	1759	1274	1380
MD 355/W. Old Baltimore Rd	1454	1395	2450	2465	2542	2544	2114	1610
Father Hurley Blvd/Middle Brook Rd	714	816	988	1124	1094	1158		
MD 119/Middlebrook Rd	926	899	988	1074	998	1113		
MD 118/Father Hurley Blvd	239	474	538	878	638	1015		

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

As shown in the above table, all intersections are currently operating at an acceptable CLVs level except the AM peak hour condition at the MD 355/W. Old Baltimore Road intersection.

Under the background development (the existing traffic plus traffic from the approved/un-built developments), the MD 355/MD 27, MD 355/MD118, MD 355/W. Old Baltimore Road, MD 27/Observation Drive, MD 27/Brink Road, MD 118/I-270 northbound off-ramp, MD 118/MD 117, and the MD 118/Seneca Meadows Parkway intersections are projected to operate at unacceptable CLVs level during the various weekday peak hours.

Under the total future development (the background traffic plus traffic from the Property), the unacceptable traffic conditions under background development are projected to worsen without any intersection improvement. With implementation of the intersection improvements to be provided by the Applicant, all these failing intersections would operate either at an acceptable CLVs or at a number of trips equal to 150 percent of the CLV impact attributable to the development during both the weekday AM and PM peak hours. Therefore, this preliminary plan application meets the LATR requirements of the APF review.

MCDOT requires additional detail and analysis prior to acceptance of the roadway improvements outlined in the Applicant's traffic study. MCDOT recommends that prior to submission of the first Site Plan the Applicant must submit concept plans for all proposed roadway improvements to MCDOT and MDSHA to confirm the proposed improvements are feasible and appropriate. If any of the proposed improvements are found to be infeasible, the Applicant must find alternative roadway improvements acceptable to MCDOT and MDSHA to satisfy the LATR requirements.

Policy Area Mobility Review (PAMR)

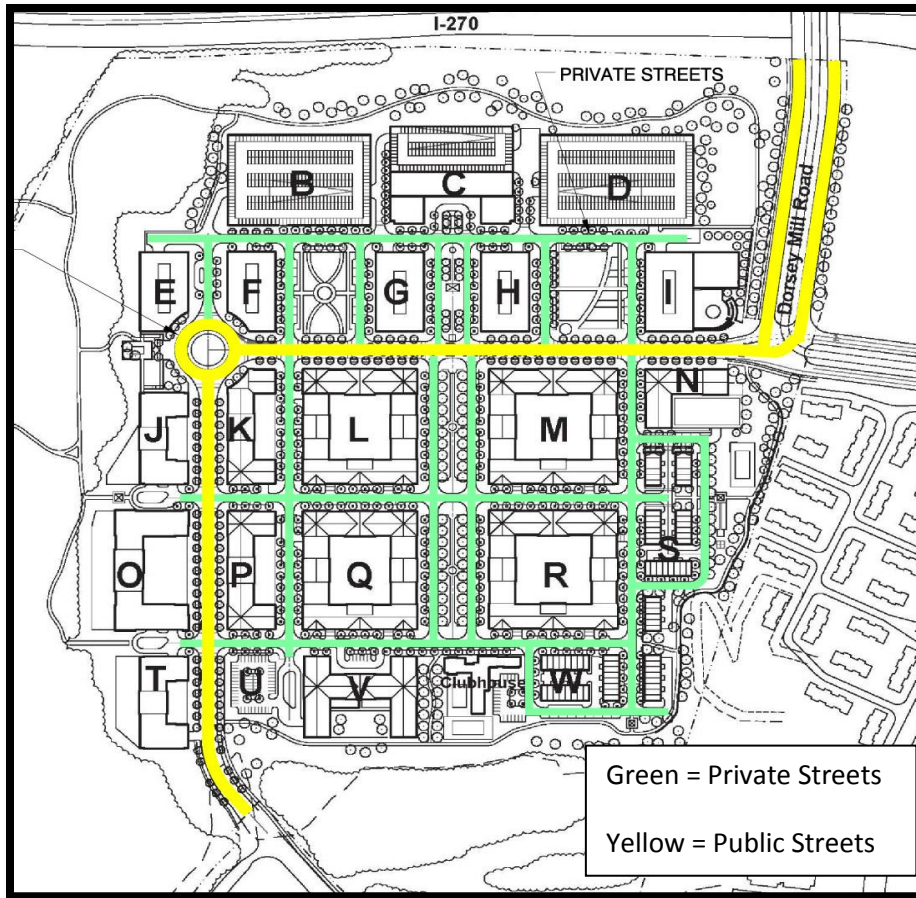
The Property is located within the Germantown West Policy Area where there is no PAMR trip requirement according to the current Subdivision Staging Policy.

Site Access and Vehicular/Pedestrian Circulation

The Property is to be accessed from Crystal Rock Drive and Century Boulevard with regional access to the Site via the I-270 interchanges with Father Hurley Boulevard, Middlebrook Road, and MD 118. Staff finds that the proposed access point to be adequate to accommodate the Site-generated traffic.

Staff has reviewed the proposed internal traffic/pedestrian circulation system shown on the preliminary plan and finds that the private street system will be adequate to serve the vehicular and pedestrian needs for the development. MCDOT has also reviewed the private streets as they intersect with the public streets and finds that the public streets will not be negatively affected by the operation of the private street system. The system of private streets forms a strong grid pattern that is envisioned by the Sector Plan. Private streets will generally be no less than 22 feet from curb face to curb face to accommodate two lanes of travel and no less than 38 feet from curb face to curb face to accommodate two lanes of travel and parking on both sides. In conjunction with the adjacent sidewalks, the private streets system provides adequate interconnectivity and circulation for pedestrians and vehicles.

To accommodate flexibility in building design and the building relationship to the private street system at the time of Site Plan, the private streets will be included within separate parcels to contain the private street only, from back of curb to back of curb. The adjacent sidewalks will not necessarily be included within the separate parcel; however both the sidewalks and the private streets will be included within a public access easement. The final width of sidewalks and the proximity of buildings to the private streets will be determined at Site Plan.

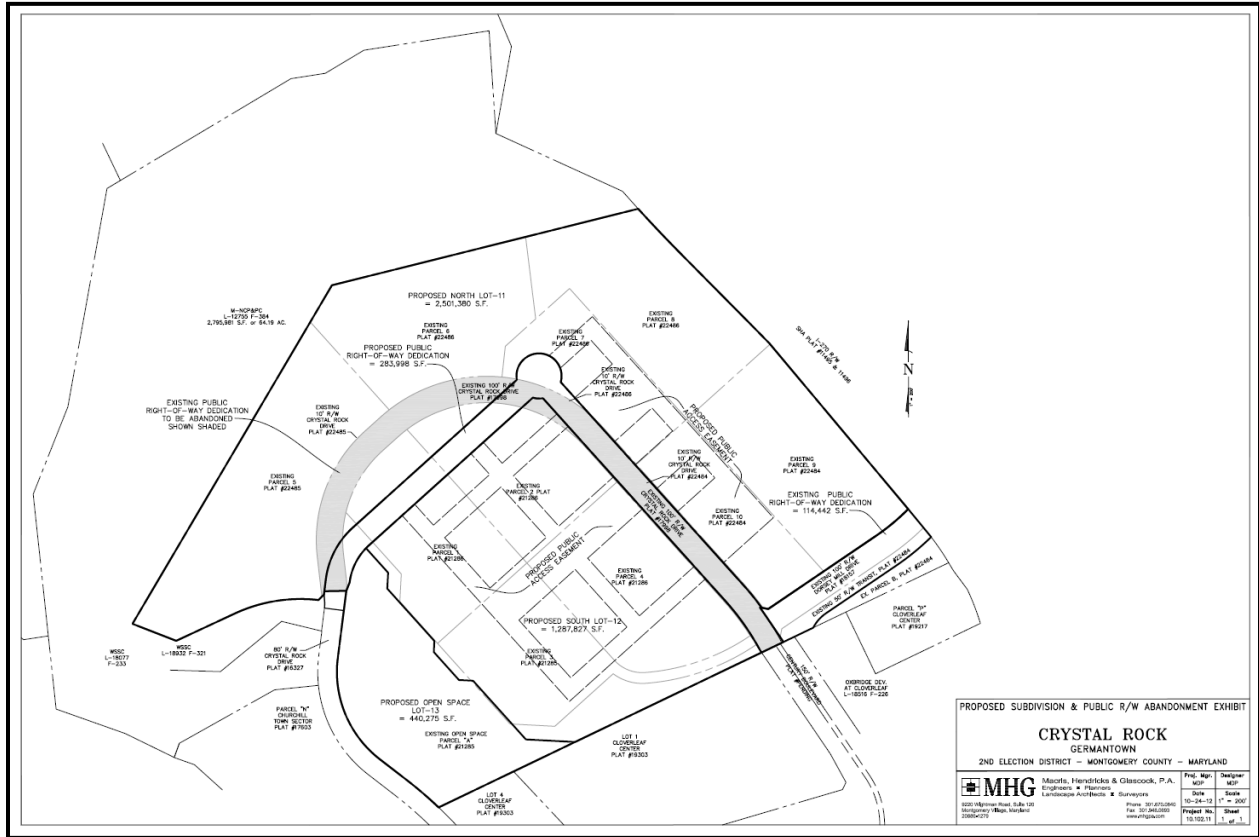


Abandonment of Crystal Rock Drive

The prior approval of the Lerner property for 1.3 million square feet of office development required dedication of Crystal Rock Drive with a 100 foot wide right-of-way to accommodate a four-lane cross section which generally follows the 1989 Germantown Master Plan alignment and supported the intensive office uses that were approved under the TS zone. The Applicant has proposed a new alignment of Crystal Rock Drive and Century Blvd which will require that the existing, unbuilt ROW will need to be abandoned under the Planning Board’s authority in Section 50-15(c)(2) of the Subdivision Regulations. The proposed alignment segments Crystal Rock Drive and Century Blvd into two separate roads rather than a single sweeping curve as approved under the former Lerner property plan. The roads meet at a traffic circle and create a more defined intersection. Century Blvd. will continue southward to connect with an adjoining portion of Century Blvd. soon to be built by Montgomery County.

Staff supports the proposed alignment of Crystal Rock Drive and Century Blvd. which allows for a more urban scale layout, provides for the four lane Sector Plan cross section, and allows safer pedestrian crossings within shorter block dimensions. The roundabout also provides an essential traffic calming feature to address the Sector Plan target speed of 35 miles per hour. The new alignment of the two roads is more consistent with a mixed-use development, where residential uses front to the street with retail and office uses are confronting on the opposite side. Pedestrian activity is encouraged and expected to be considerably higher than in the previously approved office complex. The four-lane roadway will have sufficient capacity to meet regional traffic needs. MCDOT has reviewed the proposed

design changes and has approved of the more grid-like network of roadways including the roundabout. Staff also supports abandonment of portions of the dedicated, but un-built portions of the Crystal Rock Drive and Century Boulevard right-of-ways that will not be needed. The Applicant will abandon the entire section of Crystal Rock Drive from its current constructed terminus to the southern property line or to abandon portions that are no longer needed.



Traffic Mitigation Agreement (TMAG)

MCDOT required the Applicant to enter into a TMAG with the Planning Board and MCDOT prior to approval of the initial record plat for this development by the Planning Board. The Applicant must coordinate with the Division of Transit Services/Commuter Services Section, MCDOT in preparing the TMAG.

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. Water and sewer service is adequate. The gas, electrical and telecommunication utilities all recommend approval of the application. Police stations, firehouses, and health clinics are all operating at acceptable levels according to the Subdivision Staging Policy currently in effect. The Property is within the Seneca Valley High School Cluster which is operating above acceptable capacity 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 and low-rise unit rates for all units for which a building permit is issued and for which a School Facilities Payment is applicable.

Lot Configuration

The size, shape width and orientation of the lots were reviewed to determine if they were appropriate given the location of this development, the recommendations of the Sector Plan and for the types of uses intended for the Property. The lots are appropriately dimensioned. As discussed, 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. The large lots will accommodate multi-family apartment buildings, both low-rise and high-rise. Other large lots will accommodate the office buildings and hotel structure. As discussed by the Project Plan, the building height step down towards the existing townhomes along Kinster Drive is achieved by the smaller, one family attached lots in the southern portions of the Property. The lots are appropriately sized to meet the Sector Plan recommendations for building massing and compatibility to the transit station.

Forest Conservation

The Project Plan was found to be in conformance with Chapter 22A of the Montgomery County Forest Conservation Law., therefore, the Preliminary Plan also conforms to Chapter 22A because it is unchanged from the Project Plan.

**Crystal Rock
Project Plan Application
Statement of Justification (Revised)
December 3, 2012**

I. Introduction

This revised Project Plan Application (“Application”) for the Crystal Rock project is submitted for consideration by the Montgomery County Planning Board on behalf of North Village—270 Limited Partnership (Lerner Enterprises) (the “Applicant”), the owner of property located at Crystal Rock Drive north of Father Hurley Boulevard in Germantown, Maryland (the “Property”).

II. Property Information

The Property consists of 107.703 acres of gross tract area (4,691,500 square feet) located in the TMX-2 (Transit Mixed-Use) Zone. A former portion of the Property (64.16 acres) now part of Black Hill Regional Park was dedicated from the Property and is still zoned T-S (Town Sector). The Property now zoned TMX-2 was previously zoned T-S. Sectional Map Amendment G-887 rezoned this portion of the Property to the TMX-2 Zone. The Property is currently improved with a golf driving range, which will no longer operate once the Crystal Rock project is built.

III. Prior Approvals for the Property

The Planning Board approved Preliminary Plan No. 1-87012 (the “Original Preliminary Plan”) for the Property on September 12, 1996 at two separate public hearings: first, on October 27, 1988 and second, on November 11, 1995. The Preliminary Plan approved a total of 1.3 million square feet of office use on up to 12 lots in the T-S Zone, as well as a dedication of 64.16 acres of land to enlarge Black Hill Regional Park. The original validity period of the adequate public facilities (APF) review for the Property expired on November 28, 2007. However, the Planning Board granted a new 8 year APF validity period for the Property on September 20, 2007, which would expire on November 28, 2015. However, on two occasions in recent years, the Montgomery County Council has granted automatic two year extensions to valid APF approvals.

Subsequent to Preliminary Plan approval, the Planning Board approved two Site Plans for the Property (8-99006 and 8-02003) under the T-S zone, which cover the entirety of the Property and the full density approved at subdivision. The Applicant also recorded plats for the entire subdivision for this site-planned

development, including public rights-of-way for Crystal Rock Drive and Dorsey Mill Road.

IV. Overview of the Project

Through this Application, the Applicant seeks to improve the Property with office, hotel, retail and residential development. The Applicant seeks to develop the Property with approximately 1,097,800 square feet of office development, 243,240 square feet of hotel development (350 keys), 1,851,560 square feet of residential development and 91,400 square feet of retail space, for a total maximum density of 3,284,000 square feet (the "Project").

The Project will principally consist of the following elements:

- (a) office buildings and a hotel concentrated along the west side of I-270 and east side of Century Boulevard;
- (b) convenience retail areas located within office buildings, the hotel and active adult buildings along Century Boulevard and Main Street;
- (b) residential development located to the west of the office buildings, hotel and Century Boulevard;
- (c) twelve major public amenity areas:
 - (1) A 64.16 acre dedication addition to Black Hill Regional Park on the north end of the Project (already accomplished);
 - (2) Black Hill Preserve, a substantial private open space adjoining Black Hill Regional Park on the north end of the Project, which is intended to preserve high priority forest in this vicinity;
 - (3) Preserve Plaza, which connects to the Black Hill Preserve, along with a perimeter walking/cycling trail encircling the Project and featuring a nature pavilion;
 - (4) Village Green North and Village Green South, substantial neighborhood green spaces interspersed between the office buildings east of Century Boulevard;

- (5) Main Street East Park, Main Street West Park, and Main Street Retail Plaza, all part of Main Street, a walkable green boulevard running in an east-west direction through the Project;
 - (6) South Residential Green Space, an open green area on the south end of the Project adjoining a nearby townhouse development; and,
 - (7) Gateway Plaza, located at the Project's entrance to Century Boulevard.
- (d) a realignment and construction of portions of Crystal Rock Drive and Century Boulevard, joined by a rotary at the northeastern end of the Project.

As described in Section VII of this Statement, the 2009 Germantown Employment Area Sector Plan ("Sector Plan") recommends a mixed-use development for the Property. The Project will implement the recommendations for the Property included in the Sector Plan by creating an exciting pedestrian and transit oriented, mixed-use residential and commercial community, which is compatible with the character of the surrounding area.

Principal access to the Project will be provided from Crystal Rock Drive and Century Boulevard. Portions of the dedicated (but un-built) Crystal Rock Drive will be abandoned concurrently with this Application where they do not align with the proposed new road alignments of Crystal Rock Drive and re-named Century Boulevard (north of the Property line). Future access from the east side of I-270 will be provided by Dorsey Mill Road.

Page 19 of the Sector Plan explains that "diagrams showing roads on new locations are meant to convey connectivity, and not necessarily their precise alignments." The Germantown Design Guidelines recommend a more urban scale alignment of Crystal Rock Drive. On those bases, and because the Applicant prefers a more urban scale alignment for Crystal Rock Drive, this Application proposes a change to the sweeping curve alignment of the 1989 Germantown Master Plan proposal for Crystal Rock Drive. Instead, Crystal Rock Drive will have a tighter radius and trajectory more to the south, will intersect Century Boulevard on a right angle through a rotary, and will continue southward as Century Boulevard to connect with an adjoining portion of Century Boulevard soon to be built by Montgomery County.

Crystal Rock Drive will be realigned as a 100 foot right-of-way road with 44 foot wide paving sections and four travel lanes. Century Boulevard will be

realigned as a 100 foot right-of-way road with four travel lanes. Main Street will function as the primary east-west private boulevard through the Project and will connect the commercial and residential portions of the Project.

Regional access to the Project will be from I-270, Father Hurley Boulevard, Century Boulevard and Dorsey Mill Road.

The Project complies with the relevant provisions of the Sector Plan and the Germantown Employment Area Sector Plan: Urban Design Guidelines (“Design Guidelines”), and creates a mixed-use development for the North End area of Germantown. The Project also complies with the Optional Method of Development standards set forth in the Montgomery County Zoning Ordinance (“Zoning Ordinance”) as described in Sections V and VI of this Statement, as well as the Subdivision Regulation requirements as set forth in Chapter 50 of the Montgomery County Code.

The Applicant has been working directly with the community surrounding the Property. The Applicant hosted its pre-submission outreach meeting for the Project at the Upcounty Regional Services Center on the evening of December 15, 2011. Eighteen community participants attended, including Leslie Saville and Molline Smith from the Maryland-National Capital Park and Planning Commission (M-NCPPC). To date, we believe the community is generally supportive of the Project.

The Applicant simultaneously filed Preliminary Plan Amendment No. 120120210 for the proposed development on the Property with this Application.

V. Project’s Conformance with the Zoning Ordinance

1. Section 59-D-2.42 sets forth the findings that the Planning Board must make for approval of an Optional Method of Development application. Section 59-D-2.42(a) specifically requires that the Project Plan application comply with all of the intents and requirements of the zone. As discussed below, the Project complies with all of the specific requirements of the TMX-2 Zone (Optional Method of Development) as set forth in Section 59-C-14.2 *et seq.*
2. Section 59-C-14.212 sets forth the purposes of the TMX Zones:
 - (a) Implement the recommendations of approved and adopted master or sector plans for Transit Station Development Areas by:

- (1) facilitating mixed-use development with a compatible network of interconnecting streets, open squares, plazas, and civic and community oriented uses;
 - (2) providing flexible development standards; and
 - (3) encouraging designs that produce a desirable relationship among individual buildings, the circulation system, public spaces, and adjacent areas, and that foster use of non-auto forms of transportation, including pedestrian, bicycle, and public transit.
- (b) Encourage land assembly.
 - (c) Provide a variety of housing opportunities.
 - (d) Promote the effective use of transit facilities.
 - (e) Provide for building lot terminations (BLTs).

The Project implements the Sector Plan's recommendations for the Property and through the use of the Optional Method of Development and flexible TMX-2 development standards facilitates a mixed-use development with a compatible network of interconnecting streets, open green squares, plazas, and civic and community oriented uses.

The Project's design produces a desirable relationship among individual buildings, the circulation system, public spaces, and adjacent areas, and fosters the use of non-auto forms of transportation, including pedestrian, bicycle, and public transit. A hiker/biker trail will run along the edge of the Property, which will link to the Black Hill Regional Park trail, a nature pavilion and other community amenities. The Project promotes the effective use of transit facilities given its proximity to the proposed Dorsey Mill CCT Station and Ride-On Metro Bus.

The Project provides a variety of housing opportunities including market-rate, active adult and assisted living units.

The Project is obligated to purchase BLTs. The Applicant has computed that 6.8 BLTs are required for the commercial space, and 7.3 BLTs are required for the residential space.

- 3. Section 59-C-14.213 of the Zoning Ordinance establishes the general requirements for development in the TMX Zones:

- (a) Development under the TMX zone must be consistent with the recommendations of the applicable master or sector plan.
- (b) If residential uses are included in a development, Moderately Priced Dwelling Units must be provided under Chapter 25A, and workforce housing units may be provided under Section 59-A-6.18 and Chapter 25B. The maximum residential FAR may be increased in proportion to any MPDU bonus density. Workforce housing units may increase the maximum residential FAR under Section 59-A-6.18.2. Site plan review under Section 59-D-3 is required.

As described in Section VII of this Statement, the Project is in accordance with the recommendations set forth in the Sector Plan. In accordance with Chapter 25A of the Montgomery County Code, 12.5% of the total number of residential units will be provided as Moderately Priced Dwelling Units ("MPDUs"). The Applicant has filed a Preliminary Plan of Subdivision application concurrently with this Project and will later file site plans for the Project.

- 4. Section 59-C-14.214 sets forth the requirements for off-street parking for the TMX Zones (in addition to the parking requirements set forth in Article 59-E):
 - (a) the minimum number of parking spaces for every residential unit, without regard to the number of bedrooms in each unit, is 1 space for every market rate unit and .5 space for every MPDU and workforce housing unit;
 - (b) the minimum number of parking spaces required for office development in the Southern Area must be used to determine the minimum number of spaces required for office development in the South Central Area; however, for office space under a lease to any government agency or entity for a duration of 15 years or more, the minimum number of spaces required is 1.5 spaces for every 1,000 square feet of gross floor area; and
 - (c) the minimum number of parking spaces required for general retail and restaurant use is 4 spaces for every 1,000 square feet of gross leasable area, if less than 20 percent of the leasable area is devoted to restaurant use.

The Project proposes approximately 6,188 total parking spaces for the Property. Almost all of the parking will be located underground or in parking structures. The final number of parking spaces for the Project will be determined

at the time of future site plan applications. The Project will provide handicapped accessible, motorcycle and bicycle parking spaces. See Section X for the Parking Waiver Request.

5. Section 59-C-14.215 establishes the required location for land classified in the TMX Zones.

Land classified in the TMX zone must be located in a Transit Station Development Area.

The Property is located in a Transit Station Development Area.

6. Section 59-C-14.22(b) provides additional guidance for optional method of development projects located in the TMX Zones:

- (1) Under the optional method, greater densities may be permitted and there are fewer specific standards, but additional public facilities and amenities must be provided by the developer. The procedure for the approval of an optional method of development project is under Section 59-D-2. Site plan review is required under Section 59-D-3. Site plans submitted for optional method projects must be consistent with general design principles recommended by the applicable master or sector plan, and design guidelines adopted by the Planning Board to implement the applicable master or sector plan.

- (2) Projects that are subject to subdivision under Chapter 50 have the option of submitting a Division 59-D-2 Project Plan. If the applicant chooses not to submit a Project Plan, the Planning Board must find that the proposed subdivision will satisfy the standards of 59-D-2.42 and 59-D-2.43 in order to approve the preliminary plan of subdivision.

The Applicant is providing additional public facilities and amenities under the optional method of development in exchange for greater permitted densities and fewer specific standards in accordance with Section 59-D-2 of the Zoning Ordinance. The Applicant is submitting a preliminary plan of subdivision application concurrently with this Application and will later file site plans for the Project, which are consistent with general design principles recommended by the Sector Plan and Design Guidelines.

7. Section 59-C-14.241 provides that the minimum net lot area required for any optional method of development project in the TMX-2 Zone is 18,000 square feet.

As shown on the Project Plan, the net lot area for the Project well exceeds the minimum net lot area required under this section.

- 8. Section 59-C-14.242 provides that the maximum building coverage (percentage of net lot area) is determined at project plan for projects under the optional method of development in the TMX-2 Zone; there is no specific standard required by the TMX-2 zone.

The Project’s maximum building coverage will not exceed 25%.

- 9. Section 59-C-14.243 sets forth a minimum public use space (percent of net lot area) requirement of 20% for any optional method of development project in the TMX-2 Zone.

As shown in the Project Plan, the Project provides 53.7% on-site public use space, which well exceeds the minimum public use space required under this section.

- 10. Section 59-C-14.244 provides that the maximum building height (in feet) is determined at project plan for projects under the optional method of development in the TMX-2 Zone. There is no specific standard required by the TMX-2 Zone.

In accordance with the Sector Plan, the Project’s building heights will not exceed 143 feet and will gradually step down towards the residential community located to the south of the Project.

- 11. Section 59-C-14.245 sets forth the minimum setback requirements for projects under the optional method of development in the TMX-2 Zone. In general, the minimum setback requirements are determined at project plan. There is no setback required from a public right-of-way for an optional method of development project in the TMX-2 Zone. Section 59-C-14.245 also contains the following setback requirements for projects under the optional method of development in the TMX-2 Zone:

	<u>Optional Method</u>	<u>Special Provisions</u>
<u>From an adjacent building on a separate lot</u>	<u>Determined at project plan</u>	A setback is not required for any building if the proposed building and any building on an abutting lot has no windows or apertures facing the lot line. The setback must be 15 feet in the optional

		method if the proposed building or any building on an abutting lot has windows or apertures facing the lot line that provide light, access, or ventilation to a habitable space.
<u>From an adjacent single family residential zone</u>	<u>25'</u>	

The adjoining property to the south is zoned R-30. A setback well in excess of 25' (approximately 90') has been provided in this vicinity.

12. Section 59-C-14.246 provides that the maximum density of development (floor area ratio) under the optional method of development in the TMX-2 Zone is 2.0 FAR. Section 59-C-14.246 also states that the maximum residential FAR may be increased in proportion to any MPDU density bonus and workforce housing units provided on-site.

The Project will contain a 0.70 FAR, the maximum recommended for the Property by the Sector Plan.

13. Section 59-C-14.247 requires that under the optional method of development, projects in the TMX-2 Zone that exceed 0.5 FAR must be supported by the purchase of Building Lot Termination (BLT) development rights for 12.5% of any density that exceeds 0.5 FAR.

The Project is obligated to purchase BLTs. The Applicant has computed that 6.8 BLTs are required for the commercial space, and 7.3 BLTs are required for the residential space.

14. Section 59-C-14.25 sets forth additional requirements for optional method of development projects in the TMX-2 Zone:

- (a) In approving an optional method project, the Planning Board must find that the project meets the requirements of Section 59-D-2. The Planning Board must also find, in the context of development in the Transit Station Development Area or on the site of the application, that the project satisfies the following criteria:

- (1) Density and building height should generally decrease as the distance from a transit facility increases;

- (2) Density and building height should generally be lower as the distance to single family homes decreases;
- (3) Buildings should be sited to minimize the impact of shadows on single family neighborhoods outside the TMX zone;
- (4) Building heights may be adjusted to avoid or minimize environmental impacts; and
- (5) The project meets all standards and requirements of the TMX zone.

Section V of this Statement addresses how the Project meets the requirements of Section 59-D-2. The Project's density and building height generally decrease as the distance from the Dorsey Mill Transit Station increases. The Project's density and building height generally decrease as the distance to the residential community to the south of the Property decreases. The Project's buildings are also sited to minimize the impact of shadows on this community. The Project meets all standards and requirements of the TMX zone.

- 15. Section 59-C-14.251 provides a property owner with two alternatives to having to provide some or all of a TMX-2 zoned project's required public use space on site by:
 - (a) authorizing a payment instead of all or some of the required public facilities and amenities, or any required public use space; or
 - (b) permitting any required public use space to be provided off-site in the same Transit Station Development Area.

This Section does not apply to the Project. The Project will not provide any off-site public use space, public facilities or public amenities in lieu of on-site spaces.

VI. Project's Conformance with the Optional Method of Development Requirements

Section 59-D-2.42 of the Zoning Ordinance sets forth the findings required to be made for approval of an Optional Method of Development application. As described below, the Project satisfies each applicable requirement listed in 59-D-2.42:

1. The Project complies with all of the intents and requirements of the zone.

The Project complies with all of the intents and requirements governing development within the TMX-2 Zone. The specific requirements are set forth in Section V of this Application.

2. The Project is consistent with the applicable sector plan. However:

- (1) To permit the construction of all MPDUs under Chapter 25A, including any bonus density units, on-site in zones with a maximum permitted density more than 39 dwelling units per acre or a residential FAR more than .9, a project plan may exceed:

- (A) any dwelling unit per acre or FAR limit recommended in a master plan or sector plan, but must not exceed the maximum density of the zone; and

- (B) any building height limit recommended in a master plan or sector plan, but must not exceed the maximum height of the zone. The additional FAR and height allowed by this subsection is limited to the FAR and height necessary to accommodate the number of MPDUs built on site plus the number of bonus density units.

- (2) To permit the construction of all workforce housing units required under § 59-A-6.18 and Chapter 25B on-site, the Planning Board must permit:

- (A) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;

- (B) any residential density or residential FAR limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and

- (C) any building height limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

(3) An optional method of development project need not conform to the applicable sector plan's or urban renewal plan's recommendation to provide a mid-block pedestrian path on private property if the applicable plan does not recommend the continuation of the mid-block pedestrian path on confronting private property across a road right-of-way, or if the applicable plan recommends that the mid-block pedestrian path cross a major highway.

The Project is generally consistent with the recommendations of the Sector Plan. The Project proposes mixed-use residential and commercial development, which provides continuity through landscaping, buffer areas, on-site public amenities and the extension of Crystal Rock Drive and Century Boulevard. A detailed description of the Project's conformance to the Sector Plan is set forth below in Section VII.

3. Because of its location, size, intensity, design, operational characteristics and staging, the Project is compatible with, and not detrimental to, existing or potential development in the general neighborhood.

The Project is designed to ensure compatibility with the general neighborhood, and is not detrimental to existing or potential development. Residential and commercial uses are appropriate uses for this Property.

The Project will contain residential and commercial uses, public green spaces and other amenity features including public art, fountains, and Preserve Plaza and Black Hill Preserve, which connect to the expanded Black Hill Regional Park and a nature pavilion. These elements of the Project will service the surrounding residential and commercial uses by providing outside gathering spaces for residents, employees and retail customers. The design of the Project ensures compatibility with the existing and potential neighborhood in several ways:

- (a) The Project facilitates a mixed-use project with step down building heights towards the residential neighborhood to the south; and,

- (b) The green spaces and landscaping will serve as buffered areas between the Project and its neighboring residential and commercial properties, thereby ensuring compatibility.

4. The Project will not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located in a transportation management district

designated under Chapter 42A, is subject to a traffic mitigation agreement that meets all the applicable requirements.

The road network proposed for the Project and in the area surrounding the Property will be adequate to meet the traffic generated by the Project. The Applicant is submitting a traffic study prepared by The Traffic Group as part of this Application, which addresses the Project's projected traffic impact and how the Project satisfies Local Area Transportation Review (LATR). A Policy Area Mobility Review (PAMR) study is not required for the Project because the Project is located in the Germantown West Policy Area, which does not require trip mitigation. There is adequate public water and sewer capacity to serve the Project. The proposed staging program provides a timely provision of services. The Property is not located within a transportation management district.

The Project is located in the Seneca Valley School Cluster, which has adequate school capacity. Although the Seneca Valley School Cluster has inadequate school capacity at the elementary school level, the Seneca Valley School Cluster permits new residential development subject to a school facility payment, which the Applicant will provide for the elementary school.

5. The Project will be more efficient and desirable than could be accomplished by the use of the standard method of development.

Under the standard method of development for the TMX-2 zone, only lower density development is permitted with lower building heights. Specifically, the standard method of development contains a maximum density of development of 0.5 FAR with limited building heights, whereas the optional method of development contains a maximum density of development of 2.0 FAR. The Project proposes an approximate 0.7 FAR, the maximum recommended for the Property by the Sector Plan. However, the Project is only possible under the Optional Method of Development's flexible development standards because the Project's building heights exceed the standard method of development's 42 foot maximum building height. Additionally, the public green spaces and amenities proposed as part of this Application will provide important public benefits.

6. The Project will include moderately priced dwelling units under Chapter 25A, if the requirements of that chapter apply.

In accordance with Chapter 25A of the Montgomery County Code, 12.5% of the total number of residential units will be provided as MPDUs.

7. When a project plan includes more than one lot under common ownership, or is a single lot contained two or more CBD zones, and would transfer public open space or development density from one lot

to another, or transfer densities within a lot with two or more CBD zones, under 59-C-6.2351 or 59-C-6.2352, the Planning Board may approve the project plan only if:

- (1) The project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or
- (2) The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or
- (3) The project will result in an overall land use configuration that is significantly superior in meeting the goals of the applicable master or sector plan and the zone than what could be achieved without the proposed transfer.

This Section does not apply to the Project. There is no proposed transfer of public open space or development density from one lot to another.

8. Any applicable requirements for forest conservation under Chapter 22A.

Environmental Planning Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the Property on October 10, 2011 (No. 420110810). The Applicant is submitting the required Preliminary Forest Conservation Plan as part of this Application.

9. Any applicable requirements for water quality resource protection under Chapter 19.

Since the Property is not located within a Special Protection Area, a Water Quality Plan is not required as part of this Application.

The Applicant has submitted a Stormwater Management Concept ("Concept") for the Project to the Montgomery County Department of Permitting Services (DPS), Water Resources Section, which is currently under review. As shown in the Concept, the Project will provide for stormwater to be stored and treated on site for water quantity control and quality improvement. The Project will meet the required water quality treatment and water quantity control needs through use of Environmental Site Design (ESD) to the Maximum Extent Possible (MEP) and structural facilities.

Stormwater management techniques will be divided by street type: pedestrian retail streets, private streets and public roads. Pedestrian retail

streets will provide flush mounted tree grates. Public roads will provide stormwater management adjacent to the parallel parking. Proposed stormwater management quantity control and quality improvement techniques include permeable pavements, bioretention facilities, rain gardens, green roofs, green walls and parks.

10. When the Planning Board allows any public use space, or public facilities and amenities to be provided off-site, the Planning Board must find that the space or improvement:
 - (1) is consistent with the goals of the applicable master or sector plan; and
 - (2) serves the public interest better than providing the public use space or public facilities and amenities on-site.

This Section does not apply to the Project. The Project will not provide any off-site public use space, public facilities or public amenities.

VII. Project's Conformance with the Sector Plan and Design Guidelines

A. Project's Conformance with the Sector Plan

On October 21, 2009, the Planning Board approved and adopted the Germantown Employment Area Sector Plan (the "Sector Plan"), which includes the Property. This Sector Plan amends other master plans that affect the Property, including the 1989 Germantown Master Plan.

The Sector Plan divides the Germantown Employment Area into eight districts and classifies the Property as part of the mixed-use and transit-oriented West Side of the North End District. The Sector Plan describes the West Side Neighborhood as a "mixed-use neighborhood within walking distance to the transit station, signature office development along I-270, and preservation of a mature forest adjacent to Black Hill Regional Park. Residential, retail and hotel uses are also envisioned."

The Sector Plan proposes that most of the Property be rezoned from TS to TMX-2 to "create a mixed-use transit-oriented community area," and proposes a green commons towards the southern end of the Property "to provide residents and workers a place to enjoy nature, exercise, walk and enjoy social gatherings." The Sector Plan also contains specific land use and zoning objectives for the property and the North End Neighborhood, including:

- Orient signature office buildings and employment uses along I-270 on the Lerner property (NE-2). Allow up to 1.5 million square feet of employment uses, a hotel, and up to 110,000 square feet of retail space. Residential development may include a mix of high-rise and low-rise residential units, provided the total density for the site does not exceed 0.7 FAR;
- For the west side of I-270, permit building heights of 143 feet, clustered at the transit station and along I-270. Throughout the district, provide a three to four story base and set back upper floors. Step down building heights towards existing residential communities;
- Building setbacks from I-270 should maintain the existing setback of 200 feet from the current right-of-way. If the I-270 right-of-way is widened, setbacks may be reduced to maintain the existing building line;
- Terminate vistas with the forested Germantown greenbelt as Century Boulevard turns into Crystal Rock Drive;
- Preserve forest adjacent to Black Hill 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. Outstanding forest resources on the...North End should be retained to prevent fragmentation of upland forests;
- Provide a 0.75-acre common in the residential portion of the Lerner property to be privately developed and maintained for public use;
- Provide an urban plaza directly adjacent to the transit station with seating, lighting, shelter, and other amenities;
- Provide streetscape improvements in accordance with the streetscape plan;
- Provide a dedicated street crossing over I-270, an extension of Dorsey Mill Road connecting the east and west sides of I-270 with four travel lanes and the CCT;
- Incorporate direct access to the Dorsey Mill station to and from north I-270. This access can be provided by either direct access ramps at the Dorsey Mill Road interchange or a revision to the Father Hurley

Boulevard interchange. The new access will create multi-modal options between future managed lanes and bus services on I-270 and CCT transit service along Century Boulevard. This access should also reduce congestion at the junction of Father Hurley Boulevard with Crystal Rock Drive, reduce commercial traffic use of Kinster Drive, and provide better access to businesses along Century Boulevard;

- Introduce a network of new streets with short blocks, such as 250 to 350 feet in length;
- Extend Crystal Rock Drive to Dorsey Mill Road as a four-lane business street.

The Project facilitates the goals for the Property set forth in the Sector Plan. The Project aims to transform a currently underutilized property located in the West Side neighborhood within the North End District into a lively mixed-use development, which contains connected public green spaces, and streets activated by residents, workers and commuters. The Project will provide a range of housing options, including a diverse mix of market-rate units, active adult and assisted living units, as well as a range of convenience retail uses. Moreover, the Applicant hopes to attract commuters who use the Dorsey Mill CCT station into the convenience retail.

The Project's density and mix of uses are also in accordance with the Sector Plan's recommendations. The overall density of the Project is approximately 0.7 FAR, the maximum recommended by the Sector Plan. The office and hotel uses will be oriented along I-270. The Project proposes approximately 1,097,800 square feet of office uses, a hotel, and 91,400 square feet of retail space. The residential development proposes a mix of high-rise and low-rise residential units. The Project's building heights will not exceed 143 feet and will gradually step down towards the residential community located to the south of the Project. Building setbacks from I-270 will maintain the existing setback of 200 feet from the current right-of-way.

The Project's design will terminate vistas with the forested Germantown greenbelt as Century Boulevard turns into Crystal Rock Drive at the proposed rotary, as well as from the north/south private streets in the Project which have vistas for Black Hill Preserve.

The design of the Project preserves forest adjacent to Black Hill Regional Park on the north side of Century Boulevard as it curves into Crystal Rock Drive and uses all available means to incorporate it into the existing park, or place in a

conservation easement. In addition, the proposed Black Hill Preserve will not only preserve this forested area, but will permit access by residents, workers and others from the Project to this area and to the adjoining Black Hill Regional Park.

The Project provides two substantial public green spaces interspersed between the office buildings, Village Green North and Village Green South, which will be privately developed and maintained for public use by residents and workers in the Project. In addition, the Main Street--East Park, and the Main Street--West Park, along with the Main Street—Retail Plaza, provide additional public use spaces in the core of the Project. Together and individually, they more than meet the requirement to provide a 0.75 acre common area.

The Project provides streetscape improvements in accordance with the streetscape plan along Crystal Rock Drive and Century Boulevard. Crystal Rock Drive's alignment connects it to future Dorsey Mill Road and Century Boulevard.

In accordance with the Sector Plan's goals, the Project proposes a new, higher density, mixed-use development located adjacent to the Dorsey Mill CCT Station and County Ride-On Metro Bus service that contains convenience retail uses. The Project's location will encourage the use of public transportation by the Project's residents, tenants, and customers. In this vicinity, the Gateway Plaza is proposed to link the Project to the CCT, and fulfill the requirement to provide an urban plaza directly adjacent to the transit station.

The block layout in the Project is designed to meet the standard for short blocks of approximately 250—350' in length.

B. Project's Conformance with the Design Guidelines

In June, 2010, the Montgomery County Planning Department published the Germantown Employment Area Sector Plan: Urban Design Guidelines ("Design Guidelines"), which is intended to implement the recommendations contained in the Sector Plan.

The Design Guidelines contains specific Area Guidelines for each of the eight districts established by the Sector Plan. The Design Guidelines locates the Property in the West Side Neighborhood of the North End District and contains the following recommendations for the West Side Neighborhood and the Property.

- Straighten Century Boulevard's curving alignment to preserve more woodland adjacent to Black Hill Regional Park;

- The Project's design accomplishes this objective.
- Utilize the recommended Crystal Rock Greenway to connect to Black Hill Regional Park's trail system, and to the Sector Plan's Bicycle Beltway;
 - This objective is not possible to accomplish because the Greenway is intended for portions of Crystal Rock Drive to the south of the Property, except for a shared use path north of Father Hurley Boulevard, which the Project provides within the Property.
- Locate retail close to the Transit station along Century Boulevard;
 - The proposed Gateway Plaza and office building I will enable convenience retail uses to be provided in very close proximity to the CCT station.
- Open spaces for public use will be privately developed;
 - As described in the public amenity space plans, there are many public amenity areas of different character and function, all of which will be privately developed. The one exception is the 64 acres dedicated to Black Hill Regional Park, which is to be developed by the Parks Department.
- Locate public use spaces such as urban plazas along Century Boulevard, where they can be activated by adjacent retail uses;
 - As described in the public amenity space plans, Village Green North and Village Green South accomplish this objective.
- Locate a 0.75 acre neighborhood green defined by streets close to residential development;
 - This objective is fulfilled by Village Green North, Village Green South, Main Street—East Park, Main Street—West Park, and Main Street—Retail Plaza.
- Contribute to the development of the Crystal Rock Greenway, which connects the Town Center to Black Hill Regional Park;

- This objective does not apply to this Project, as explained above.
- Preserve existing forest adjacent to Black Hill Regional Park;
 - This objective has been fulfilled by the proposed creation of Black Hill Preserve.
- Improve existing stormwater ponds with informal landscape and native species;
 - This objective does not apply to this Project, because there are no existing stormwater management ponds within the Property that are intended to be addressed by this objective.
- Century Boulevard, Dorsey Mill Road and local streets should be framed with street-oriented buildings;
 - The Project's design accomplishes this objective by locating office buildings and active adult multi-family buildings in close proximity to these streets.
- Highest density and height should be around the Transit station and along I-270 – maximum height 143 feet. The Design Guidelines also illustrates that (1) building heights for the Property should range between 72 feet and 143 feet with a step down to 60 feet adjacent to the existing residential community to the south of the property, (2) the location of retail in the property should be concentrated along Century Boulevard and (3) a green commons should be located towards the center of the property, running in an east-west direction.
 - The Project's design accomplishes all of these objectives, as can be seen by a review of the plans demonstrating building heights and densities.
- Establish compatibility with existing residences along Kinster Drive.
 - The Project has located the South Residential Green Space adjoining this townhouse community, thereby providing a generous setback for new structures from existing ones, as well as a functional green area for use of new and existing residents. In addition, the Project provides on residential units in this area, all of which have lower building heights.

- The Design Guidelines identifies the northern and eastern portions of the Crystal Rock Drive loop and Dorsey Mill Drive as main streets, which are defined as “two to four-lane streets that distribute traffic.” The Design Guidelines states that “[m]ain street character is achieved with a single row of closely spaced, tall growing street trees in lawn panels, trees in the median (if divided), pedestrian scaled lighting, and on-street parking where permitted by MCDOT.”
 - The Project’s design accomplishes these objectives, as can be seen by a review of the plans.
- The Design Guidelines identifies the new internal project streets and Kinster Drive as local streets, which are defined as “two-lane streets with pedestrian scaled lighting, closely spaced, single row of tall growing trees, sidewalks on both sides, and on street parking where permitted by MCDOT.” The Design Guidelines further explains that “local streets provide the internal circulation for a district and may be public or private.”
 - The Project meets these objectives by proposing all streets except Crystal Rock Drive and Century Boulevard to be private streets. The design character of these streets is consistent with the objectives, as can be seen by reviewing the plans.
- Utilize the recommended Crystal Rock Greenway to connect to Black Hill Regional Park’s trail system, and to the Sector Plan’s Bicycle Beltway;
 - This objective is met through the design of Crystal Rock Drive where it meets the Black Hill Regional Park’s trail system.

VIII. Public Use and Amenity Space

Under the Optional Method of Development in the TMX-2 Zone, the Applicant is required to provide a minimum of 20% of the Property’s net lot area as public use space. The Project exceeds this requirement as reflected by the 53.7% on-site public use space being provided.

The Project provides twelve major public amenities:

First, the Project dedicates approximately 64 acres for the expansion of Black Hill Regional Park. This dedication was actually accomplished during the initial subdivision approval for the Property. Since the earlier subdivision density was never implemented, the Black Hill Regional Park dedication is offered in this Application as a substantial public amenity for the Project Plan.

Second, the Project proposes the creation of Black Hill Preserve, a substantial forested area at the north end of the site adjacent to Black Hill Regional Park. This area preserves high priority forest area in this vicinity, and provides a public use area of unusual beauty with walking paths to enable residents and workers to appreciate the splendor of the forest.

Third, the Project features Preserve Plaza, which connects to the Black Hill Preserve. This Plaza is located at the north end of the Project.

Fourth, the Project proposes a nature pavilion in the vicinity of Preserve Plaza. This pavilion will provide shelter and amenities to those using Preserve Plaza, the Black Hill Preserve, and Black Hill Regional Park.

Fifth, the Project features an extensive walking/cycling trail encircling the entire Project. At places impervious and at places pervious, this trail promotes recreational activity throughout the Project for residents and workers, as well as the general public.

Sixth, the Project proposes Gateway Plaza, a plaza at the south end of the Project near the CCT station. This Plaza is intended to serve as an amenity to CCT users, as well as workers at the adjoining office building. It is served by convenience retail facilities.

Seventh and Eighth, the Project proposes Village Green North and Village Green South, which are substantial green areas of varying design on the east side of Century Boulevard. They provide recreational areas for office workers, retail patrons and residents.

Ninth, Tenth, and Eleventh, the Project proposes three interrelated areas along Main Street, the main avenue traversing the Project: Main Street—East Park, Main Street—West Park, and Main Street—Retail Plaza. These public use areas are located in the median of this grand avenue, and are designed to attract residents, workers, and the general public and to provide a myriad of recreational amenities.

Twelfth, the Project proposes the South Residential Green Space, a substantial green area near existing townhouses south of the Project, which also contains tennis courts.

IX. Staging

The Project will be developed in six phases, which will be addressed in detail at the time of site plan review. The projected phases are listed below as follows, subject to change as circumstances warrant:

- Phase 1: Pre-construction activities and construction of public road infrastructure, including realignment and construction of Crystal Rock Drive and Century Boulevard; and
- Phase 2A: Construction of active adult residential uses (multi-family buildings) and clubhouse, together with associated amenities and infrastructure (Main Street – East Park; Main Street – West Park);
- Phase 2B: Construction of office building G, the hotel (C), portions of garage structure B, and associated amenities and infrastructure (Main Street – Retail Plaza);
- Phase 3: Construction of market rate housing and townhouse active adult units, and associated amenities and infrastructure (South Residential Green Space; Walking/Cycling Trail; Natural Path; Nature Pavilion; Preserve Plaza);
- Phase 4: Construction of office building H, portions of garage structure D, and assisted living uses, along with associated amenities and infrastructure (Walking/Cycling Trail; Black Hill Preserve);
- Phase 5: Construction of two office buildings (I&F), portions of parking garages (B&D), and associated amenities and infrastructure (Gateway Plaza; Village Green North; Village Green South); and,
- Phase 6: Construction of office buildings E, along with associated amenities and infrastructure.

The Applicant requires flexibility with respect to the overall implementation order and composition of the various phases and therefore, respectfully requests that the phases' order and composition are ultimately subject to the Applicant's

determination. The phases will be defined in greater detail at the time of site plan.

X. Parking Waiver Request

Pursuant to Section 59-E-4.5 of the Zoning Ordinance, the Applicant requests approval of a parking waiver from the required number of parking spaces. Based on Project Plan calculations, the Project would require 6,295 parking spaces, and the Project proposes to provide 6,188 off-street parking spaces, approximately 98.3% of the estimated requirement. Although the final parking requirements and provisions will not occur until the time of Site Plan, a waiver is requested now to assure Code compliance.

Parking requirements have been computed for all use elements of the Project, including office, hotel, retail, active adult residential units, and market rate multi-family residential units. For the active adult and multi-family residential units, the Applicant has assumed a unit mix that may be adjusted at the time of Site Plan. Standard requirements have been used for the other uses. These calculations do not account for the likely lowering of parking requirements when the Zoning Ordinance is rewritten.

The parking waiver is sought on the basis that the Project will provide substantial opportunities for shared parking and for on-street parking on both private streets as well as public streets in non-peak hours. The office buildings close to the hotel will be able to share spaces to accommodate hotel events. There is lesser demand than usual for retail spaces, given that the primary utilization of the retail areas will be by office workers and residents of the Project—all of whom will have their parking needs already addressed elsewhere.

On-street parking likely will be available on Century Boulevard during off-peak hours for retail shoppers, as well as the majority of the parking spaces provided on-street in the private streets throughout the Project. Because the Project is within an easy walking distance to a planned Corridor-Cities Transitway (CCT) stop at Dorsey Mill Road, the Applicant fully anticipates that a large portion of the Project's residents and customers will utilize public transit or walk to access the Project. The proposed parking is also more in line with the County's present efforts to substantially reduce parking requirements in transit-oriented areas.

The waiver is specifically sought for 107 spaces, which represents 1.7% of the required number of spaces (6,295). These calculations are likely to be adjusted when the Project's Site Plan applications are filed and processed.

XI. Conclusion

As demonstrated by the contents of this Application, the Project complies with all of the Zoning Ordinance requirements governing development of an Optional Method of Development project in the TMX-2 zone. The Project also satisfies the requirements of the Subdivision Regulations. In addition, the Application is consistent with the general recommendations for the Property contained in the Sector Plan and Design Guidelines. We look forward to working with Technical Staff on this exciting application and ultimately in presenting the Project Plan to the Planning Board. Thank you in advance for your consideration.

XII. Application Components

As part of this Project Plan application, the Applicant is submitting the following items, in addition to this Statement of Justification:

1. Complete application form and checklist;
2. Complete fee schedule and worksheet;
3. Filing fees;
4. Description of plan;
5. Applicant's certificate of compliance;
6. Notice list;
7. Application notice letter;
8. Pre-submission meeting information;
 - a. Community meeting affidavit,
 - b. Copy of invitation letter,
 - c. Typed list of invitees,
 - d. Typed list of meeting attendees,
 - e. Sign-in sheets from community meeting,
 - f. Copy of meeting minutes.
9. Verification of site posting;
 - a. Sign posting affidavit,
 - b. Plan drawing showing the location of posted signs,
 - c. Date stamped photographs showing the posted signs.

10. Meeting Minutes from November 17, 2011, November 30, 2011 and January 4, 2012 Pre-Submission Meetings with M-NCPPC staff;
11. Project Plan Drawings.

**Crystal Rock
Preliminary Plan Application
Statement of Justification (Revised)
December 12, 2012**

I. Introduction

This revised Preliminary Plan Application (“Application”) for the Crystal Rock project is submitted for consideration by the Montgomery County Planning Board on behalf of North Village—270 Limited Partnership (Lerner Enterprises) (the “Applicant”), the owner of property located at Crystal Rock Drive north of Father Hurley Boulevard in Germantown, Maryland (the “Property”).

II. Property Information

The Property consists of 107.703 acres of gross tract area (4,691,500 square feet) located in the TMX-2 (Transit Mixed-Use) Zone. A former portion of the Property (64.16 acres) now part of Black Hill Regional Park was dedicated from the Property and is still zoned T-S (Town Sector). The Property now zoned TMX-2 was previously zoned T-S. Sectional Map Amendment G-887 rezoned this portion of the Property to the TMX-2 Zone. The Property is currently improved with a golf driving range, which will no longer operate once the Crystal Rock project is built.

III. Prior Approvals for the Property

The Planning Board approved Preliminary Plan No. 1-87012 (the “Original Preliminary Plan”) for the Property on September 12, 1996 at two separate public hearings: first, on October 27, 1988 and second, on November 11, 1995. The Preliminary Plan approved a total of 1.3 million square feet of office use on up to 12 lots in the Town Sector (T-S) Zone, as well as a dedication of 64.16 acres of land to enlarge Black Hill Regional Park. The original validity period of the adequate public facilities (APF) review for the Property expired on November 28, 2007. However, the Planning Board granted a new 8 year APF validity period for the Property on September 20, 2007, which would expire on November 28, 2015. However, on two occasions in recent years, the Montgomery County Council has granted automatic two year extensions to valid APF approvals.

Subsequent to Preliminary Plan approval, the Planning Board approved two Site Plans for the Property (8-99006 and 8-02003) under the T-S zone, which cover the entirety of the Property and the full density approved at subdivision. The Applicant also recorded plats for the entire subdivision for this site-planned

development, including public-rights-of-way for Crystal Rock Drive and Dorsey Mill Road.

IV. Overview of the Project

Through this Application, the Applicant seeks to improve the Property with office, hotel, retail and residential development. The Applicant seeks to develop the Property with approximately 1,097,800 square feet of office development, 243,240 square feet of hotel development (350 keys), 1,851,560 square feet of residential development and 91,400 square feet of retail space, for a total maximum density of 3,284,000 square feet (the "Project").

The Project will principally consist of the following elements:

- (a) office buildings and a hotel concentrated along the west side of I-270 and east side of Century Boulevard;
- (b) convenience retail areas located within office buildings, the hotel, and active adult buildings along Century Boulevard and Main Street;
- (b) residential development located to the west of the office buildings, hotel and Century Boulevard;
- (c) twelve major public amenity areas:
 - (1) A 64.16 acre dedication addition to Black Hill Regional Park on the north end of the Project (already accomplished);
 - (2) Black Hill Preserve, a substantial private open space adjoining Black Hill Regional Park on the north end of the Project, which is intended to preserve high priority forest in this vicinity;
 - (3) Preserve Plaza, which connects to the Black Hill Preserve, along with a perimeter walking/cycling trail encircling the Project and featuring a nature pavilion;
 - (4) Village Green North and Village Green South, substantial neighborhood green spaces interspersed between the office buildings east of Century Boulevard;

- (5) Main Street East Park, Main Street West Park, and Main Street Retail Plaza, all part of Main Street, a walkable green boulevard running in an east-west direction through the Project;
 - (6) South Residential Green Space, an open green area on the south end of the Project adjoining a nearby townhouse development; and,
 - (7) Gateway Plaza, located at the Project's entrance to Century Boulevard.
- (d) a realignment and construction of portions of Crystal Rock Drive and Century Boulevard, joined by a rotary at the northeastern end of the Project.

As described in Section VII of this Statement, the 2009 Germantown Employment Area Sector Plan ("Sector Plan") recommends a mixed-use development for the Property. The Project will implement the recommendations for the Property included in the Sector Plan by creating an exciting pedestrian and transit oriented, mixed-use residential and commercial community, which is compatible with the character of the surrounding area.

Principal access to the Project will be provided from Crystal Rock Drive and Century Boulevard. Portions of the dedicated (but un-built) Crystal Rock Drive will be abandoned concurrently with this Application where they do not align with the proposed new road alignments of Crystal Rock Drive and re-named Century Boulevard (north of the Property line). Future access from the east side of I-270 will be provided by Dorsey Mill Road.

Page 19 of the Sector Plan explains that "diagrams showing roads on new locations are meant to convey connectivity, and not necessarily their precise alignments." The Germantown Design Guidelines recommend a more urban scale alignment of Crystal Rock Drive. On these bases, and because the Applicant prefers a more urban scale alignment for Crystal Rock Drive, this Application proposes a change to the sweeping curve alignment of the 1989 Germantown Master Plan proposal for Crystal Rock Drive. Instead, Crystal Rock Drive will have a tighter radius and trajectory more to the south, will intersect Century Boulevard on a right angle through a rotary, and will continue southward as Century Boulevard to connect with an adjoining portion of Century Boulevard soon to be built by Montgomery County.

Crystal Rock Drive will be realigned as a 100 foot right-of-way road with 44 foot wide paving sections and four travel lanes. Century Boulevard will be

realigned as a 100 foot right-of-way road with four travel lanes. Main Street will function as the primary east-west private boulevard through the Project and will connect the commercial and residential portions of the Project.

Regional access to the Project will be from I-270, Father Hurley Boulevard, Century Boulevard and Dorsey Mill Road.

The Project complies with the relevant provisions of the Sector Plan and the Germantown Employment Area Sector Plan: Urban Design Guidelines (“Design Guidelines”), and creates a mixed-use development for the North End area of Germantown. The Project also complies with the Optional Method of Development standards set forth in the Montgomery County Zoning Ordinance (“Zoning Ordinance”) as described in Sections V and VI of this Statement, as well as the Subdivision Regulation requirements as set forth in Chapter 50 of the Montgomery County Code.

The Applicant has been working directly with the community surrounding the Property. The Applicant hosted its pre-submission outreach meeting for the Project at the Upcounty Regional Services Center on the evening of December 15, 2011. Eighteen community participants attended, including Leslie Saville and Molline Smith from the Maryland-National Capital Park and Planning Commission (M-NCPCC). To date, we believe the community is generally supportive of the Project.

The Applicant simultaneously filed a Project Plan (920120040) for the proposed development on the Property with this Application.

V. Project’s Conformance with the Zoning Ordinance

1. Section 59-D-2.42 sets forth the findings that the Planning Board must make for approval of an Optional Method of Development application. Section 59-D-2.42(a) specifically requires that the Project Plan application comply with all of the intents and requirements of the zone. As discussed below, the Project complies with all of the specific requirements of the TMX-2 Zone (Optional Method of Development) as set forth in Section 59-C-14.2 *et seq.*
2. Section 59-C-14.212 sets forth the purposes of the TMX Zones:
 - (a) Implement the recommendations of approved and adopted master or sector plans for Transit Station Development Areas by:

- (1) facilitating mixed-use development with a compatible network of interconnecting streets, open squares, plazas, and civic and community oriented uses;
 - (2) providing flexible development standards; and
 - (3) encouraging designs that produce a desirable relationship among individual buildings, the circulation system, public spaces, and adjacent areas, and that foster use of non-auto forms of transportation, including pedestrian, bicycle, and public transit.
- (b) Encourage land assembly.
 - (c) Provide a variety of housing opportunities.
 - (d) Promote the effective use of transit facilities.
 - (e) Provide for building lot terminations (BLTs).

The Project implements the Sector Plan's recommendations for the Property and through the use of the Optional Method of Development and flexible TMX-2 development standards facilitates a mixed-use development with a compatible network of interconnecting streets, open green squares, plazas, and civic and community oriented uses.

The Project's design produces a desirable relationship among individual buildings, the circulation system, public spaces, and adjacent areas, and fosters the use of non-auto forms of transportation, including pedestrian, bicycle, and public transit. A hiker/biker trail will run along the edge of the Property, which will link to the Black Hill Regional Park trail, a nature pavilion and other community amenities. The Project promotes the effective use of transit facilities given its proximity to the proposed Dorsey Mill CCT Station and Ride-On Metro Bus.

The Project provides a variety of housing opportunities including market-rate, active adult and assisted living units.

The Project is obligated to purchase BLTs. The Applicant has computed that 6.8 BLTs are required for the commercial space, and 7.3 BLTs are required for the residential space.

- 3. Section 59-C-14.213 of the Zoning Ordinance establishes the general requirements for development in the TMX Zones:

- (a) Development under the TMX zone must be consistent with the recommendations of the applicable master or sector plan.
- (b) If residential uses are included in a development, Moderately Priced Dwelling Units must be provided under Chapter 25A, and workforce housing units may be provided under Section 59-A-6.18 and Chapter 25B. The maximum residential FAR may be increased in proportion to any MPDU bonus density. Workforce housing units may increase the maximum residential FAR under Section 59-A-6.18.2. Site plan review under Section 59-D-3 is required.

As described in Section VII of this Statement, the Project is in accordance with the recommendations set forth in the Sector Plan. In accordance with Chapter 25A of the Montgomery County Code, 12.5% of the total number of residential units will be provided as Moderately Priced Dwelling Units ("MPDUs").

- 4. Section 59-C-14.214 sets forth the requirements for off-street parking for the TMX Zones (in addition to the parking requirements set forth in Article 59-E):
 - (a) the minimum number of parking spaces for every residential unit, without regard to the number of bedrooms in each unit, is 1 space for every market rate unit and .5 space for every MPDU and workforce housing unit;
 - (b) the minimum number of parking spaces required for office development in the Southern Area must be used to determine the minimum number of spaces required for office development in the South Central Area; however, for office space under a lease to any government agency or entity for a duration of 15 years or more, the minimum number of spaces required is 1.5 spaces for every 1,000 square feet of gross floor area; and
 - (c) the minimum number of parking spaces required for general retail and restaurant use is 4 spaces for every 1,000 square feet of gross leasable area, if less than 20 percent of the leasable area is devoted to restaurant use.

The Project proposes approximately 6,188 total parking spaces for the Property. Almost all of the parking will be located underground or in parking structures. The final number of parking spaces for the Project will be determined at the time of future site plan applications. The Project will provide handicapped

accessible, motorcycle and bicycle parking spaces. See Section XVII for the Parking Waiver Request.

5. Section 59-C-14.215 establishes the required location for land classified in the TMX Zones.

Land classified in the TMX zone must be located in a Transit Station Development Area.

The Property is located in a Transit Station Development Area.

6. Section 59-C-14.22(b) provides additional guidance for optional method of development projects located in the TMX Zones:

- (1) Under the optional method, greater densities may be permitted and there are fewer specific standards, but additional public facilities and amenities must be provided by the developer. The procedure for the approval of an optional method of development project is under Section 59-D-2. Site plan review is required under Section 59-D-3. Site plans submitted for optional method projects must be consistent with general design principles recommended by the applicable master or sector plan, and design guidelines adopted by the Planning Board, to implement the applicable master or sector plan.

- (2) Projects that are subject to subdivision under Chapter 50 have the option of submitting a Division 59-D-2 Project Plan. If the applicant chooses not to submit a Project Plan, the Planning Board must find that the proposed subdivision will satisfy the standards of 59-D-2.42 and 59-D-2.43 in order to approve the preliminary plan of subdivision.

The Applicant is providing additional public facilities and amenities under the optional method of development in exchange for greater permitted densities and fewer specific standards in accordance with Section 59-D-2 of the Zoning Ordinance. This preliminary plan of subdivision application is being filed concurrently with a Project Plan Application, and the Applicant will later file site plans for the Project, which will be consistent with general design principles recommended by the Sector Plan and Design Guidelines.

7. Section 59-C-14.241 provides that the minimum net lot area required for any optional method of development project in the TMX-2 Zone is 18,000 square feet.

As shown on the Preliminary Plan, the net lot area for the Project well exceeds the minimum net lot area required under this section.

- 8. Section 59-C-14.242 provides that the maximum building coverage (percentage of net lot area) is determined at project plan for projects under the optional method of development in the TMX-2 Zone; there is no specific standard required by the TMX-2 zone.

The Project’s maximum building coverage will not exceed 25%.

- 9. Section 59-C-14.243 sets forth a minimum public use space (percent of net lot area) requirement of 20% for any optional method of development project in the TMX-2 Zone.

As shown in the Preliminary Plan, the Project provides 53.7% on-site public use space, which well exceeds the minimum public use space required under this section.

- 10. Section 59-C-14.244 provides that the maximum building height (in feet) is determined at project plan for projects under the optional method of development in the TMX-2 Zone. There is no specific standard required by the TMX-2 Zone.

In accordance with the Sector Plan, the Project’s building heights will not exceed 143 feet and will gradually step down towards the residential community located to the south of the Project.

- 11. Section 59-C-14.245 sets forth the minimum setback requirements for projects under the optional method of development in the TMX-2 Zone. In general, the minimum setback requirements are determined at project plan. There is no setback required from a public right-of-way for an optional method of development project in the TMX-2 Zone. Section 59-C-14.245 also contains the following setback requirements for projects under the optional method of development in the TMX-2 Zone:

	<u>Optional Method</u>	<u>Special Provisions</u>
<u>From an adjacent building on a separate lot</u>	<u>Determined at project plan</u>	A setback is not required for any building if the proposed building and any building on an abutting lot has no windows or apertures facing the lot line. The setback must be 15 feet in the optional

		method if the proposed building or any building on an abutting lot has windows or apertures facing the lot line that provide light, access, or ventilation to a habitable space.
<u>From an adjacent single family residential zone</u>	<u>25'</u>	

The adjoining property to the south is zoned R-30. A setback well in excess of 25' (approximately 90') has been provided in this vicinity.

12. Section 59-C-14.246 provides that the maximum density of development (floor area ratio) under the optional method of development in the TMX-2 Zone is 2.0 FAR. Section 59-C-14.246 also states that the maximum residential FAR may be increased in proportion to any MPDU density bonus and workforce housing units provided on-site.

The Project will contain a 0.70 FAR, the maximum recommended for the Property by the Sector Plan.

13. Section 59-C-14.247 requires that under the optional method of development, projects in the TMX-2 Zone that exceed 0.5 FAR must be supported by the purchase of Building Lot Termination (BLT) development rights for 12.5% of any density that exceeds 0.5 FAR.

The Project is obligated to purchase BLTs. The Applicant has computed that 6.8 BLTs are required for the commercial space, and 7.3 BLTs are required for the residential space.

14. Section 59-C-14.25 sets forth additional requirements for optional method of development projects in the TMX-2 Zone:
 - (a) In approving an optional method project, the Planning Board must find that the project meets the requirements of Section 59-D-2. The Planning Board must also find, in the context of development in the Transit Station Development Area or on the site of the application, that the project satisfies the following criteria:
 - (1) Density and building height should generally decrease as the distance from a transit facility increases;

- (2) Density and building height should generally be lower as the distance to single family homes decreases;
- (3) Buildings should be sited to minimize the impact of shadows on single family neighborhoods outside the TMX zone;
- (4) Building heights may be adjusted to avoid or minimize environmental impacts; and
- (5) The project meets all standards and requirements of the TMX zone.

The Project's density and building height generally decrease as the distance from the Dorsey Mill Transit Station increases. The Project's density and building height generally decrease as the distance to the residential community to the south of the Property decreases. The Project's buildings are also sited to minimize the impact of shadows on this community. The Project meets all standards and requirements of the TMX zone.

- 15. Section 59-C-14.251 provides a property owner with two alternatives to having to provide some or all of a TMX-2 zoned project's required public use space on site by:
 - (a) authorizing a payment instead of all or some of the required public facilities and amenities, or any required public use space; or
 - (b) permitting any required public use space to be provided off-site in the same Transit Station Development Area.

This Section does not apply to the Project. The Project will not provide any off-site public use space, public facilities or public amenities in lieu of on-site spaces.

VI. Project's Conformance with the Optional Method of Development Requirements

Section 59-D-2.42 of the Zoning Ordinance sets forth the findings required to be made for approval of an Optional Method of Development application. As described below, the Project satisfies each applicable requirement listed in 59-D-2.42:

- 1. The Project complies with all of the intents and requirements of the zone.

The Project complies with all of the intents and requirements governing development within the TMX-2 Zone. The specific requirements are set forth in Section V of this Application.

2. The Project is consistent with the applicable sector plan. However:

(1) To permit the construction of all MPDUs under Chapter 25A, including any bonus density units, on-site in zones with a maximum permitted density more than 39 dwelling units per acre or a residential FAR more than .9, a project plan may exceed:

(A) any dwelling unit per acre or FAR limit recommended in a master plan or sector plan, but must not exceed the maximum density of the zone; and

(B) any building height limit recommended in a master plan or sector plan, but must not exceed the maximum height of the zone. The additional FAR and height allowed by this subsection is limited to the FAR and height necessary to accommodate the number of MPDUs built on site plus the number of bonus density units.

(2) To permit the construction of all workforce housing units required under § 59-A-6.18 and Chapter 25B on-site, the Planning Board must permit:

(A) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;

(B) any residential density or residential FAR limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and

(C) any building height limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

(3) An optional method of development project need not conform to the applicable sector plan's or urban renewal plan's recommendation

to provide a mid-block pedestrian path on private property if the applicable plan does not recommend the continuation of the mid-block pedestrian path on confronting private property across a road right-of-way, or if the applicable plan recommends that the mid-block pedestrian path cross a major highway.

The Project is generally consistent with the recommendations of the Sector Plan. The Project proposes mixed-use residential and commercial development, which provides continuity through landscaping, buffer areas, on-site public amenities and the extension of Crystal Rock Drive and Century Boulevard. A detailed description of the Project's conformance to the Sector Plan is set forth below in Section VII.

3. Because of its location, size, intensity, design, operational characteristics and staging, the Project is compatible with, and not detrimental to, existing or potential development in the general neighborhood.

The Project is designed to ensure compatibility with the general neighborhood, and is not detrimental to existing or potential development. Residential and commercial uses are appropriate uses for this Property.

The Project will contain residential and commercial uses, public green spaces and other amenity features including public art, fountains, and Preserve Plaza and Black Hill Preserve, which connect to the expanded Black Hill Regional Park, and a nature pavilion. These elements of the Project will service the surrounding residential and commercial uses by providing outside gathering spaces for residents, employees and retail customers. The design of the Project ensures compatibility with the existing and potential neighborhood in several ways:

- (a) The Project facilitates a mixed-use project with step down building heights towards the residential neighborhood to the south; and,
- (b) The green spaces and landscaping will serve as buffered areas between the Project and its neighboring residential and commercial properties, thereby ensuring compatibility.

4. The Project will not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located in a transportation management district designated under Chapter 42A, is subject to a traffic mitigation agreement that meets all the applicable requirements.

The road network proposed for the Project and in the area surrounding the Property will be adequate to meet the traffic generated by the Project. The Applicant is submitting a traffic study prepared by The Traffic Group as part of this Application, which addresses the Project's projected traffic impact and how the Project satisfies Local Area Transportation Review (LATR). A Policy Area Mobility Review (PAMR) study is not required for the Project because the Project is located in the Germantown West Policy Area, which does not require trip mitigation. There is adequate public water and sewer capacity to serve the Project. The proposed staging program provides a timely provision of services. The Property is not located within a transportation management district.

The Project is located in the Seneca Valley School Cluster, which has adequate school capacity. Although the Seneca Valley School Cluster has inadequate school capacity at the elementary school level, the Seneca Valley School Cluster permits new residential development subject to a school facility payment, which the Applicant will provide for the elementary school.

5. The Project will be more efficient and desirable than could be accomplished by the use of the standard method of development.

Under the standard method of development for the TMX-2 zone, only lower density development is permitted with lower building heights. Specifically, the standard method of development contains a maximum density of development of 0.5 FAR with limited building heights, whereas the optional method of development contains a maximum density of development of 2.0 FAR. The Project proposes an approximate 0.70 FAR, the maximum recommended by the Sector Plan. However, the Project is only possible under the Optional Method of Development's flexible development standards because the Project's building heights exceed the standard method of development's 42 foot maximum building height. Additionally, the public green spaces and amenities proposed as part of this Application will provide important public benefits.

6. The Project will include moderately priced dwelling units under Chapter 25A, if the requirements of that chapter apply.

In accordance with Chapter 25A of the Montgomery County Code, 12.5% of the total number of residential units will be provided as MPDUs.

7. When a project plan includes more than one lot under common ownership, or is a single lot contained two or more CBD zones, and would transfer public open space or development density from one lot to another, or transfer densities within a lot with two or more CBD zones, under 59-C-6.2351 or 59-C-6.2352, the Planning Board may approve the project plan only if:

- (1) The project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or
- (2) The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or
- (3) The project will result in an overall land use configuration that is significantly superior in meeting the goals of the applicable master or sector plan and the zone than what could be achieved without the proposed transfer.

This Section does not apply to the Project. There is no proposed transfer of public open space or development density from one lot to another.

8. Any applicable requirements for forest conservation under Chapter 22A.

Environmental Planning Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the Property on October 10, 2011 (No. 420110810). The Applicant is submitting the required Preliminary Forest Conservation Plan as part of this Application.

9. Any applicable requirements for water quality resource protection under Chapter 19.

Since the Property is not located within a Special Protection Area, a Water Quality Plan is not required as part of this Application.

The Applicant has submitted a Stormwater Management Concept ("Concept") for the Project to the Montgomery County Department of Permitting Services (DPS), Water Resources Section, which is currently under review. As shown in the Concept, the Project will provide for storm water to be stored and treated on site for water quantity control and quality improvement. The Project will meet the required water quality treatment and water quantity control needs through use of Environmental Site Design (ESD) to the Maximum Extent Possible (MEP) and structural facilities.

Stormwater management techniques will be divided by street type: pedestrian retail streets, private streets and public roads. Pedestrian retail streets will provide flush mounted tree grates. Public roads will provide stormwater management adjacent to the parallel parking. Proposed stormwater management quantity control and quality improvement techniques include

permeable pavements, bioretention facilities, rain gardens, green roofs, green walls and parks.

10. When the Planning Board allows any public use space, or public facilities and amenities to be provided off-site, the Planning Board must find that the space or improvement:
 - (1) is consistent with the goals of the applicable master or sector plan; and
 - (2) serves the public interest better than providing the public use space or public facilities and amenities on-site.

This Section does not apply to the Project. The Project will not provide any off-site public use space, public facilities or public amenities.

VII. Project's Conformance with the Sector Plan and Design Guidelines

A. Project's Conformance with the Sector Plan

On October 21, 2009, the Planning Board approved and adopted the Germantown Employment Area Sector Plan (the "Sector Plan"), which includes the Property. This Sector Plan amends other master plans that affect the Property, including the 1989 Germantown Master Plan.

The Sector Plan divides the Germantown Employment Area into eight districts and classifies the Property as part of the mixed-use and transit-oriented West Side of the North End District. The Sector Plan describes the West Side Neighborhood as a "mixed-use neighborhood within walking distance to the transit station, signature office development along I-270, and preservation of a mature forest adjacent to Black Hill Regional Park. Residential, retail and hotel uses are also envisioned."

The Sector Plan proposes that most of the Property be rezoned from TS to TMX-2 to "create a mixed-use transit-oriented community area," and proposes a green commons towards the southern end of the Property "to provide residents and workers a place to enjoy nature, exercise, walk and enjoy social gatherings." The Sector Plan also contains specific land use and zoning objectives for the property and the North End Neighborhood, including:

- Orient signature office buildings and employment uses along I-270 on the Lerner property (NE-2). Allow up to 1.5 million square feet of employment uses, a hotel, and up to 110,000 square feet of retail space. Residential development may include a mix of high-rise and low-rise residential units, provided the total density for the site does not exceed 0.7 FAR;
- For the west side of I-270, permit building heights of 143 feet, clustered at the transit station and along I-270. Throughout the district, provide a three to four story base and set back upper floors. Step down building heights towards existing residential communities;
- Building setbacks from I-270 should maintain the existing setback of 200 feet from the current right-of-way. If the I-270 right-of-way is widened, setbacks may be reduced to maintain the existing building line;
- Terminate vistas with the forested Germantown greenbelt as Century Boulevard turns into Crystal Rock Drive;
- Preserve forest adjacent to Black Hill 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. Outstanding forest resources on the...North End should be retained to prevent fragmentation of upland forests;
- Provide a 0.75-acre common in the residential portion of the Lerner property to be privately developed and maintained for public use;
- Provide an urban plaza directly adjacent to the transit station with seating, lighting, shelter, and other amenities;
- Provide streetscape improvements in accordance with the streetscape plan;
- Provide a dedicated street crossing over I-270, an extension of Dorsey Mill Road connecting the east and west sides of I-270 with four travel lanes and the CCT;
- Incorporate direct access to the Dorsey Mill station to and from north I-270. This access can be provided by either direct access ramps at the Dorsey Mill Road interchange or a revision to the Father Hurley Boulevard interchange. The new access will create multi-modal

options between future managed lanes and bus services on I-270 and CCT transit service along Century Boulevard. This access should also reduce congestion at the junction of Father Hurley Boulevard with Crystal Rock Drive, reduce commercial traffic use of Kinster Drive, and provide better access to businesses along Century Boulevard;

- Introduce a network of new streets with short blocks, such as 250 to 350 feet in length;
- Extend Crystal Rock Drive to Dorsey Mill Road as a four-lane business street.

The Project facilitates the goals for the Property set forth in the Sector Plan. The Project aims to transform a currently underutilized property located in the West Side neighborhood within the North End District into a lively mixed-use development, which contains connected public green spaces, and streets activated by residents, workers and commuters. The Project will provide a range of housing options, including a diverse mix of market-rate units, active adult and assisted living units, as well as a range of convenience retail uses. Moreover, the Applicant hopes to attract commuters who use the Dorsey Mill CCT station into the convenience retail.

The Project's density and mix of uses are also in accordance with the Sector Plan's recommendations. The overall density of the Project is approximately 0.7 FAR, the maximum recommended by the Sector Plan. The office and hotel uses will be oriented along I-270. The Project proposes approximately 1,097,800 square feet of office uses, a hotel, and 91,400 square feet of retail space. The residential development proposes a mix of high-rise and low-rise residential units. The Project's building heights will not exceed 143 feet and will gradually step down towards the residential community located to the south of the Project. Building setbacks from I-270 will maintain the existing setback of 200 feet from the current right-of-way.

The Project's design will terminate vistas with the forested Germantown greenbelt as Century Boulevard turns into Crystal Rock Drive at the proposed rotary, as well as from the north/south private streets in the Project which have vistas for Black Hill Preserve.

The design of the Project preserves forest adjacent to Black Hill Regional Park on the north side of Century Boulevard as it curves into Crystal Rock Drive and uses all available means to incorporate it functionally into the existing park. In addition, the proposed Black Hill Preserve will not only preserve this forested

area, but will permit access by residents, workers and others from the Project to this area and to the adjoining Black Hill Regional Park.

The Project provides two substantial public green spaces interspersed between the office buildings, Village Green North and Village Green South, which will be privately developed and maintained for public use by residents and workers in the Project. In addition, the Main Street--East Park, and the Main Street--West Park, along with the Main Street—Retail Plaza, provide additional public use spaces in the core of the Project. Together and individually, they more than meet the requirement to provide a 0.75 acre common area.

The Project provides streetscape improvements in accordance with the streetscape plan along Crystal Rock Drive and Century Boulevard. Crystal Rock Drive's alignment connects it to future Dorsey Mill Road and Century Boulevard.

In accordance with the Sector Plan's goals, the Project proposes a new, higher density, mixed-use development located adjacent to the Dorsey Mill CCT Station and County Ride-On Metro Bus service that contains convenience retail uses. The Project's location will encourage the use of public transportation by the Project's residents, tenants, and customers. In this vicinity, the Gateway Plaza is proposed to link the Project to the CCT, and fulfill the requirement to provide an urban plaza directly adjacent to the transit station.

The block layout in the Project is designed to meet the standard for short blocks of approximately 250—350' in length.

B. Project's Conformance with the Design Guidelines

In June, 2010, the Montgomery County Planning Department published the Germantown Employment Area Sector Plan: Urban Design Guidelines ("Design Guidelines"), which is intended to implement the recommendations contained in the Sector Plan.

The Design Guidelines contains specific Area Guidelines for each of the eight districts established by the Sector Plan. The Design Guidelines locates the Property in the West Side Neighborhood of the North End District and contains the following recommendations for the West Side Neighborhood and the Property.

- Straighten Century Boulevard's curving alignment to preserve more woodland adjacent to Black Hill Regional Park;
 - The Project's design accomplishes this objective.

- Utilize the recommended Crystal Rock Greenway to connect to Black Hill Regional Park's trail system, and to the Sector Plan's Bicycle Beltway;
 - This objective is not possible to accomplish because the Greenway is intended for portions of Crystal Rock Drive to the south of the Property, except for a shared use path north of Father Hurley Boulevard, which the Project provides within the Property.
- Locate retail close to the Transit station along Century Boulevard;
 - The proposed Gateway Plaza and office building "I" will enable convenience retail uses to be provided in very close proximity to the CCT station.
- Open spaces for public use will be privately developed;
 - As described in the public amenity space plans, there are many public amenity areas of different character and function, all of which will be privately developed. The one exception is the 64 acres dedicated to Black Hill Regional Park, which is to be developed by the Parks Department.
- Locate public use spaces such as urban plazas along Century Boulevard, where they can be activated by adjacent retail uses;
 - As described in the public amenity space plans, Village Green North and Village Green South accomplish this objective.
- Locate a 0.75 acre neighborhood green defined by streets close to residential development;
 - This objective is fulfilled by Village Green North, Village Green South, Main Street—East Park, Main Street—West Park, and Main Street—Retail Plaza.
- Contribute to the development of the Crystal Rock Greenway, which connects the Town Center to Black Hill Regional Park;
 - This objective does not apply to this Project, as explained above.

- Preserve existing forest adjacent to Black Hill Regional Park;
 - This objective has been fulfilled by the proposed creation of Black Hill Preserve.
- Improve existing stormwater ponds with informal landscape and native species;
 - This objective does not apply to this Project, because there no existing stormwater management ponds within the Property that are intended to be addressed by this objective.
- Century Boulevard, Dorsey Mill Road and local streets should be framed with street-oriented buildings;
 - The Project's design accomplishes this objective by locating office buildings and active adult multi-family buildings in close proximity to these streets.
- Highest density and height should be around the Transit station and along I-270 – maximum height 143 feet. The Design Guidelines also illustrates that (1) building heights for the Property should range between 72 feet and 143 feet with a step down to 60 feet adjacent to the existing residential community to the south of the Property, (2) the location of retail in the Property should be concentrated along Century Boulevard and (3) a green commons should be located towards the center of the Property, running in an east-west direction.
 - The Project's design accomplishes all of these objectives, as can be seen by a review of the plans demonstrating building heights and densities.
- Establish compatibility with existing residences along Kinster Drive.
 - The Project has located the South Residential Green Space adjoining this townhouse community, thereby providing a generous setback for new structures from existing ones, as well as a functional green area for use of new and existing residents. In addition, the Project provides only residential uses in this vicinity, all of which have lower building heights.

- The Design Guidelines identifies the northern and eastern portions of the Crystal Rock Drive loop and Dorsey Mill Drive as main streets, which are defined as “two to four-lane streets that distribute traffic.” The Design Guidelines states that “[m]ain street character is achieved with a single row of closely spaced, tall growing street trees in lawn panels, trees in the median (if divided), pedestrian scaled lighting, and on-street parking where permitted by MCDOT.”
 - The Project’s design accomplishes these objectives, as can be seen by a review of the plans.
- The Design Guidelines identifies the new internal project streets and Kinster Drive as local streets, which are defined as “two-lane streets with pedestrian scaled lighting, closely spaced, single row of tall growing trees, sidewalks on both sides, and on street parking where permitted by MCDOT.” The Design Guidelines further explains that “local streets provide the internal circulation for a district and may be public or private.”
 - The Project meets these objectives by proposing all streets except Crystal Rock Drive and Century Boulevard to be private streets. The design character of these streets is consistent with the objectives, as can be seen by reviewing the plans.
- Utilize the recommended Crystal Rock Greenway to connect to Black Hill Regional Park’s trail system, and to the Sector Plan’s Bicycle Beltway;
 - This objective is met through the design of Crystal Rock Drive where it meets the Black Hill Regional Park’s trail system.

VIII. Public Use and Amenity Spaces

Under the Optional Method of Development in the TMX-2 Zone, the Applicant is required to provide a minimum of 20% of the Property’s net lot area as public use space. The Project exceeds this requirement as reflected by the 53.7% on-site public use space being provided.

The Project provides twelve major public amenities:

First, the Project dedicates approximately 64 acres for the expansion of Black Hill Regional Park. This dedication was actually accomplished during the

initial subdivision approval for the Property in the early 1990s. Since the earlier subdivision density was never implemented, the Black Hill Regional Park dedication is offered in this Application as a substantial public amenity for the Preliminary Plan.

Second, the Project proposes the creation of Black Hill Preserve, a substantial forested area at the north end of the site adjacent to Black Hill Regional Park. This area preserves high priority forest area in this vicinity, and provides a public use area of unusual beauty with walking paths to enable residents and workers to appreciate the splendor of the forest.

Third, the Project features Preserve Plaza, which connects to the Black Hill Preserve. This Plaza is located at the north end of the Project.

Fourth, the Project proposes a nature pavilion in the vicinity of Preserve Plaza. This pavilion will provide shelter and amenities to those using Preserve Plaza, the Black Hill Preserve, and Black Hill Regional Park.

Fifth, the Project features an extensive walking/cycling trail encircling the entire project. At places impervious and at places pervious, this trail promotes recreational activity throughout the Project for residents and workers, as well as the general public.

Sixth, the Project proposes Gateway Plaza, a plaza at the south end of the Project near the CCT station. This Plaza is intended to serve as an amenity to CCT users, as well as workers at the adjoining office building. It is served by convenience retail facilities.

Seventh and Eighth, the Project proposes Village Green North and Village Green South, which are substantial green areas of varying design on the east side of Century Boulevard. They provide recreational areas for office workers, retail patrons and residents.

Ninth, Tenth, and Eleventh, the Project proposes three interrelated areas along Main Street, the main avenue traversing the Project: Main Street—East Park, Main Street—West Park, and Main Street—Retail Plaza. These public use areas are located in the median of this grand avenue, and are designed to attract residents, workers, and the general public and to provide a myriad of recreational amenities.

Twelfth, the Project proposes the South Residential Green Space, a substantial green area near existing townhouses south of the Project, which also contains tennis courts.

IX. Phasing

The Project will be developed in six phases, which will be addressed in detail at the time of site plan review. The projected phases are listed below as follows, subject to change as circumstances warrant:

- Phase 1: Pre-construction activities and construction of public road infrastructure, including realignment and construction of Crystal Rock Drive and Century Boulevard; and
- Phase 2A: Construction of active adult residential uses (multi-family buildings) and clubhouse, together with associated amenities and infrastructure (Main Street – East Park; Main Street – West Park);
- Phase 2B: Construction of two office building G, the hotel (C), portions of garage structure B, and associated amenities and infrastructure (Main Street – Retail Plaza);
- Phase 3: Construction of market rate housing and townhouse active adult units, along with associated amenities and infrastructure (South Residential Green Space; Walking/Cycling Trail; Natural Path; Nature Pavilion; Preserve Plaza);
- Phase 4: Construction of office building H, portions of garage structure D, and assisted living uses, together with associated amenities and infrastructure (Walking/Cycling Trail; Black Hill Preserve);
- Phase 5: Construction of two office buildings (I&F), portions of parking garages (B&D), and associated amenities and infrastructure (Gateway Plaza; Village Green North; Village Green South); and,
- Phase 6: Construction of office building E, along with associated amenities and infrastructure.

The Applicant requires flexibility with respect to the overall implementation order and composition of the various phases and therefore, respectfully requests that the phases' order and composition are ultimately subject to the Applicant's determination. The phases will be defined in greater detail at the time of site plan.

X. Adequate Public Facilities and Phasing Schedule

As previously discussed in Section III of this Statement, the Adequate Public Facilities (APF) determination made by the Planning Board associated with the Original Preliminary Plan for 1,300,000 square feet of office use is valid until November 28, 2015, prior to two automatic extensions granted thereafter by the Montgomery County Council. In this Application, the Applicant requests a new, 12 year APF determination for the Project.

Pursuant to Section 50-20(c)(3)(A)(iii) of the Subdivision Regulations (as recently amended by Subdivision Regulation Amendment 11-01), the Planning Board can make an APF determination for “no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after April 1, 2009 and before April 1, 2013.” In accordance with Sections 50-20(c)(3)(B) and 50-34(g) of the Subdivision Regulations, the Applicant is requesting a validity period that is the maximum specified in the Subdivision Regulations, 12 years.

The Applicant believes that the phasing schedule described in Section IX promotes the public interest for a variety of reasons. First, the phasing schedule allows the Applicant to effectively coordinate the delivery of office, hotel, retail and residential uses and provide the most reasonable sale and rent prices to future owners and tenants during uncertain and constantly evolving market conditions. Second, the phasing schedule permits the Applicant to manage the pre-construction issues inherent to such a complex project including the construction of two large public roads. Third, the phasing schedule allows an orderly implementation of required public infrastructure and amenities to accompany the development of new uses.

Pursuant to Section 50-20(c)(3)(B) of the Subdivision Regulations, the Applicant expects to complete Phases 1 and 2 during the first 5--7 years after the Application is approved. However, the Applicant requires some flexibility with respect to the overall implementation order and composition of the various phases and therefore, respectfully requests that the phases' order and composition are ultimately subject to the Applicant's determination.

Granting a 12 year APF validity period would promote the public interest. The Project is a complex, multi-use development that requires many years for build-out. It will constitute one of the largest mixed-use developments in Montgomery County when constructed (3,284,000 square feet, approximately the same size as the Pike & Rose project in White Flint that recently received a 12 year APF determination from the Montgomery County Planning Board). The road system (public and private), open spaces, and public benefits of the Project are

site-wide, extensive and interrelated. Granting the maximum APF validity period for this Project will help implement the goals of the Sector Plan to promote more transit friendly, mixed-use, urban scale development, because its design, location and functions maximize these goals. A 12 year APF determination for the Project will not result in hoarding limited school or transportation capacity. Relatively few school children are projected to be created by the Project due to the unit mix of active adult units (no school children), and multi-family high rise units (low generation rate). The transportation capacity for Germantown is being expanded by this Project's LATR improvements and ultimately by the CCT, which has a transit stop adjoining this Project at Dorsey Mill Station; in addition, there are relatively few competitive projects in this vicinity of Germantown and they will not be stymied by a longer APF validity period for this Project. For these reasons, the Applicant seeks a 12 year APF validity period.

XI. Traffic Analysis and School Capacity

As part of this Application, the Applicant is required to demonstrate that public facilities are adequate to accommodate the Project. Accordingly, the Applicant has submitted a traffic study prepared by The Traffic Group, which addresses the Project's projected traffic impact. The study concludes that the local intersections will operate within the permitted congestion standards during the weekday AM and PM peak hours with the addition of certain intersection improvements. A Policy Area Mobility Review (PAMR) study is not required for the Project because the Project is located in the Germantown West Policy Area, which does not require trip mitigation.

The Project is located in the Seneca Valley School Cluster, which has adequate school capacity. Although the Seneca Valley School Cluster has inadequate school capacity at the elementary school level, the Seneca Valley School Cluster permits new residential development subject to a school facility payment, which the Applicant will provide. Relatively few school students are projected to be created by the Project, due to its unit mix (active adult units, assisted living units, and multi-family high rise units).

XII. Natural Resources Inventory/Forest Stand Delineation and Forest Conservation

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the Property was reviewed and approved by M-NCPPC on October 10, 2011 (No. 420110810). The Applicant is submitting the required Preliminary Forest Conservation Plan as part of this Application.

XIII. Stormwater Management

The Applicant has submitted a Stormwater Management Concept (“Concept”) for the Project to the Montgomery County Department of Permitting Services (DPS), Water Resources Section, which is currently under review. As shown in the Concept, the Project will provide for stormwater to be stored and treated on site for water quantity control and quality improvement. The Project will meet the required water quality treatment and water quantity control needs through use of Environmental Site Design (ESD) to the Maximum Extent Possible (MEP) and structural facilities.

Stormwater management techniques will be divided by street type: pedestrian retail streets, private streets and public roads. Pedestrian retail streets will provide flush mounted tree grates. Public roads will provide stormwater management adjacent to the parallel parking. Proposed stormwater management quantity control and quality improvement techniques include permeable pavements, bioretention facilities, rain gardens, green roofs, green walls and parks.

XIV. Sediment and Erosion Control

A Sediment and Erosion Control Plan will be prepared and submitted to DPS for approval prior to commencement of construction on the Property. Sediment control devices such as stabilized construction entrances, silt fences, perimeter earth dikes and inlet protection will be provided as required. Sediment controls will minimize sediment laden water created by construction activity.

XV. Existing and Proposed Utilities

A Utility Exhibit is included with this Application, which demonstrates the existing and proposed utilities for the Project. Water is supplied to the Property by the Washington Suburban Sanitary Commission.

XVI. Partial Abandonment

Pursuant to Section 50-15(c)(2) of the Subdivision Regulations, the Applicant requests through this Application the abandonment of certain portions of Crystal Rock Drive previously dedicated which are not proposed to be built in

the Project. As explained earlier in this Statement, the sweeping curve existing dedicated alignment of Crystal Rock Drive is proposed to be replaced by a tighter radius, more urban scale section of Crystal Rock Drive in the northern and western portions of the Property, transitioning through a proposed rotary in the northeast corner of the Property to the southerly portion of Crystal Rock Drive to be renamed Century Boulevard, since this road represents an extension of Century Boulevard from the south. An exhibit is included in this Application demonstrating where and how previously dedicated portions of Crystal Rock Drive should be abandoned as part of the subdivision process by the Montgomery County Planning Board, and where and how they will be replaced by new sections of Crystal Rock Drive and Century Boulevard proposed to be dedicated by this Application.

The road sections to be abandoned meet the requirements of Section 50-15 of the Subdivision Regulations. These road sections have never been in public use, the road has never been constructed, and the public interest will be equally (or better) served by their replacement with functionally equivalent and Sector Plan compliant road sections serving the Project. The Planning Board is authorized to approve the abandonment under these circumstances, which is a more efficient use of regulatory resources for the abandonment process.

XVII. Parking Waiver Request

Pursuant to Section 59-E-4.5 of the Zoning Ordinance, the Applicant requests approval of a parking waiver from the required number of parking spaces. Based on Project Plan calculations, the Project would require 6,295 parking spaces, and the Project proposes to provide 6,188 off-street parking spaces, approximately 98.3% of the estimated requirement. Although the final parking requirements and provisions will not occur until the time of Site Plan, a waiver is requested now to assure Code compliance.

Parking requirements have been computed for all use elements of the Project, including office, hotel, retail, active adult residential units, and market rate multi-family residential units. For the active adult and multi-family residential units, the Applicant has assumed a unit mix that may be adjusted at the time of Site Plan. Standard requirements have been used for the other uses. These calculations do not account for the likely lowering of parking requirements when the Zoning Ordinance is rewritten.

The parking waiver is sought on the basis that the Project will provide substantial opportunities for shared parking and for on-street parking on both private streets as well as public streets in non-peak hours. The office buildings

close to the hotel will be able to share spaces to accommodate hotel events. There is lesser demand than usual for retail spaces, given that the primary utilization of the retail areas will be by office workers and residents of the Project—all of whom will have their parking needs already addressed elsewhere.

On-street parking likely will be available on Century Boulevard during off-peak hours for retail shoppers, as well as the majority of the parking spaces provided on-street in the private streets throughout the Project. Because the Project is within an easy walking distance to a planned Corridor-Cities Transitway (CCT) stop at Dorsey Mill Road, the Applicant fully anticipates that a large portion of the Project's residents and customers will utilize public transit or walk to access the Project. The proposed parking is also more in line with the County's present efforts to substantially reduce parking requirements in transit-oriented areas.

The waiver is specifically sought for 107 spaces, which represents 1.7% of the required number of spaces (6,295). These calculations are likely to be adjusted when the Project's Site Plan applications are filed and processed.

XVIII. Conclusion

As demonstrated by the contents of this Application, the Project complies with all of the Zoning Ordinance requirements governing development of an Optional Method of Development project in the TMX-2 zone. The Project also satisfies the requirements of the Subdivision Regulations. In addition, the Application is consistent with the general recommendations for the Property contained in the Sector Plan and Design Guidelines. We look forward to working with Technical Staff on this exciting application and ultimately in presenting the Preliminary Plan to the Planning Board. Thank you in advance for your consideration.

XIX. Application Components

As part of this Preliminary Plan application, the Applicant is submitting the following items, in addition to this Statement of Justification:

1. Complete application form and checklist;
2. Complete fee schedule and worksheet;
3. Filing fees;
4. Description of plan;

5. Applicant's certificate of compliance;
6. Notice list;
7. Application notice letter;
8. Pre-submission meeting information;
 - a. Community meeting affidavit,
 - b. Copy of invitation letter,
 - c. Typed list of invitees,
 - d. Typed list of meeting attendees,
 - e. Sign-in sheets from community meeting,
 - f. Copy of meeting minutes.
9. Verification of site posting;
 - a. Sign posting affidavit,
 - b. Plan drawing showing the location of posted signs,
 - c. Date stamped photographs showing the posted signs.
10. Meeting Minutes from November 17, 2011, November 30, 2011 and January 4, 2012 Pre-Submission Meetings with M-NCPPC staff;
11. Preliminary Plan Drawings.



Martin O'Malley, *Governor*
Anthony G. Brown, *LL. Governor*

Darrell B. Mobley, *Acting Secretary*
Melinda B. Peters, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION
October 25, 2012

RE: Montgomery County
I-270
Crystal Rock
SHA Tracking No. 12APMO042
County Project Plan No. 920120040
Mile Point 15.78

Mr. Ki H. Kim
Area 3 Transportation Coordinator
M-NCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Mr. Kim,

Thank you for the opportunity to review the Traffic Impact Study prepared by The Traffic Group, Inc., dated September 18, 2012 (received on September 27, 2012), for the Crystal Rock mixed-use transit oriented development in Montgomery County, Maryland. The State Highway Administration (SHA) has focused our review on the state routes. Therefore, comments will not be provided regarding intersections along the County network unless they affect the state roadway. The major report findings and the Maryland State Highway Administration (SHA) comments and conclusions are as follows:

- Access to the Crystal Rock development is proposed via Dorsey Mill Road, Century Boulevard, and Crystal Rock Drive (all County roads). The following uses are proposed:
 - 70 townhouse units
 - 440 apartments – market rate
 - 1,008 independent living units
 - 100 assisted living units
 - 1,115,000 SF office space
 - 91,400 SF retail space (all ancillary to development)
 - 350 hotel rooms
- The study analyzed the following SHA intersections under existing, background and future conditions:

<ul style="list-style-type: none"> ○ MD 27 & Observation Drive ○ MD 27 & Brink Road ○ MD 27 & MD 355 ○ MD 355 & West Old Baltimore Road ○ MD 355 & Henderson Corner Road ○ MD 355 & Milestone Center Access ○ MD 355 & Shakespeare Boulevard 	<ul style="list-style-type: none"> ○ MD 118 & MD 117 ○ MD 118 & Wisteria Drive ○ MD 118 & Middlebrook Road ○ MD 118 & Crystal Rock Drive ○ MD 118 & Aircraft Drive ○ MD 118 & I-270 southbound ramps ○ MD 118 & I-270 northbound ramps
---	---

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.roads.maryland.gov

- MD 118 & Goldenrod Lane
 - MD 118 & Observation Drive
 - MD 118 & MD 355
 - MD 118 & Father Hurley Drive
 - MD 119 & Middlebrook Road
 - I-270 northbound ramps & MD 27
 - I-270 southbound ramps & Middlebrook Road
 - I-270 southbound ramps & Father Hurley Blvd
- The report concludes that improvements are needed at nine intersections (seven of which are SHA) to mitigate site impacts and/or provide an acceptable Critical Lane Volume (CLV). The report recommends participation through contribution of a pro-rata share to the following improvements at each of the intersections:
 - MD 355 & West Old Baltimore Road
 - Construct a separate eastbound right turn lane along West Old Baltimore Road
 - Construct a traffic signal based on trips generated by background developments
 - MD 27 & MD 355
 - Construct a second eastbound left turn lane along MD 27
 - Traffic signal modifications
 - MD 27 & Brink Road
 - Construct a second westbound thru lane on Brink Road
 - Traffic signal modifications
 - MD 118 & MD 117
 - Construct a second eastbound left turn lane along MD 117
 - Traffic signal modifications
 - MD 118 & I-270 northbound ramps
 - Construct a second eastbound left turn lane along MD 118
 - Traffic signal modifications
 - MD 118 & Goldenrod Lane
 - Construct a second northbound left turn lane along Goldenrod Lane
 - Traffic signal modifications
 - MD 118 & MD 355
 - Construct a third northbound left turn lane along MD 355
 - Construct a second southbound left turn lane along MD 355
 - Construct a second eastbound thru lane along MD 118
 - Construct a separate westbound right turn lane along MD 118
 - Traffic signal modifications

Based on the information provided, the SHA offers the following comments:

1. Exhibit #1 should designate the site of the proposed development in addition to the intersections being studied.
2. Please provide some discussion regarding proposed site access points.

3. MD 27 (Ridge Road) is not a state route south of MD 355. Please change the name accordingly to Ridge Road instead of MD 27 for study area intersections #10 and #11 throughout the report.
4. All of the intersections along MD 118 between Middlebrook Road and MD 117 are included in the study except for MD 118 at Dawson Farm Rd. We understand MD 118 at Dawson Farm Rd is not a part of the initial scoping agreement, however, for consistency, please include it in the analysis. Otherwise, explain why it cannot be included.
5. The Pedestrian, Bike, and Transit Statement section of the report does not appear to include potential connections to the Corridor Cites Transitway (CCT) for residents or businesses. Please include an assessment of the potential for pedestrian or bicycle connections to the CCT and how these users would be accommodated between the development and the CCT, including any improvements necessary.
6. The report indicates a new signal at MD 355 & West Old Baltimore Rd. However, the full study was not included. Please provide a traffic signal warrant study or documentation that this study was conducted as part of another development.
7. The improvements for MD 118 & MD 117 listed in the text do not match the ones shown on Exhibit 11 and in the analysis. The text indicates a second left turn lane only along eastbound MD 117, while the exhibit and the analysis show another left turn lane northbound along MD 118. Please verify which is correct and update the document as needed.
8. It is noted in the report that the recommended improvements are conceptual in nature and that the feasibility of their implementation will be included in the next phase of the studies. Putting the feasibility of the proposed improvements aside, please include a more thorough discussion on the proposed geometric changes and the proposed traffic signal modifications and operations.
9. On Page 2 of the report under Summary of Findings and Recommendations, please provide the specific details for each development and proposed improvement that support the statement "Certain roadway improvements are conditions of prior approval". It is further stated on Page 19, that some of the improvements identified in the study involve participation in improvements that are already committed to by other developments. In light of this information, please:
 - a. Identify and explicitly list the roadway improvements proposed/already committed to by the background developments in the study.
 - b. Clarify whether the CLV analysis for the background traffic conditions reflects the roadway improvements committed by the other background developments?
10. The report cites that ten of the study area intersections are projected to operate with unacceptable CLVs even under background conditions. These intersections will further deteriorate with the site generated traffic if necessary mitigation is not put into place. The report identifies certain improvements to lower the CLVs but does not clarify the roles, responsibilities, timelines and funding sources for each of these improvements. Please provide a plan of action which includes all of the aforementioned information.

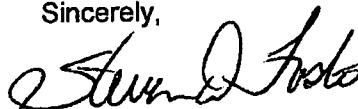
11 We understand that the APFO guidelines do not require traffic operational analysis using simulation models. CLV analysis looks at traffic operations at intersections in an isolated manner and fails to capture the queuing, cycle failures and interactions between closely spaced intersections. The total traffic volumes in the study area represent over-saturated conditions, particularly intersections with CLVs greater than 1800. We believe a comprehensive traffic simulation analysis should be conducted as part of the study in order to more fully and accurately understand future traffic operations in the area.

Although not along State roadways/intersections, SHA offers the following additional comments regarding County roadways for M-NCPPC to use at its discretion:

12. Bicycle/pedestrian facilities that would provide safe and effective access between the proposed site and Waters Landing Park on Kinster Drive, should be included in the report.
13. Waters Landing Drive provides access to Black Hill Regional Park, and accessing that recreational area could also require improvements to the Kinster Drive intersection. Especially, if the proposed development includes an access point into the regional park and a link to the planned CCT. SHA recommends the developer coordinate with the Mr. Larry Cole, Master Planner/Multi-Modal Networks Unit at the Maryland-National Capital Park and Planning Commission (MNCPPC). Mr. Cole may be reached at 301-495-4528 or via email at larry.cole@montgomeryplanning.org and will be able to assist in developing a more appropriate analysis of the bicycle and pedestrian needs in the study area.

The SHA will require the submission of six (6) hard copies and one (1) electronic revised traffic impact study and point-by-point response. Please send this information to the SHA Access Management Division addressed to Mr. Steven D. Foster to the attention of Mr. Nick Driban and reference the SHA Tracking Number on the submission. Unless specifically indicated in the SHA response on this report, the comments contained herewith do not supersede previous comments made on this development application. Please keep in mind that you can view the reviewer and project status via the SHA Access Management Division's web page at (<http://www.roads.maryland.gov/pages/amd.aspx>). If you have any questions regarding the enclosed traffic report comments, please contact Mr. Nick Driban at 410-545-0398 or via email at CDriban@sha.state.md.us.

Sincerely,



Steven D. Foster, Chief
Access Management Division

SDF/cnd

cc: Ms. Maria Bhatti, SHA District 3
Ms. Mary Deitz, SHA RIPD
Mr. Nick Driban, SHA AMD

Mr. Bob French, SHA CPD
Mr. Roy Gothie, SHA RIPD
Mr. Wes Guckert, The Traffic Group, Inc
Mr. Greg Leck, MCDOT
Mr. Subrat Mahapatra, SHA TFAD
Mr. Jon Makhlof, SHA AMD
Ms. L'Keisha Markley, SHA RIPD
Mr. Mark McKenzie, SHA AMD
Mr. Scott Newill, SHA AMD
Mr. Johnson Owusu-Amoako, SHA CPD
Mr. Saed Rahwanji, SHA TDSD
Mr. Errol Stoute, SHA TDSD
Mr. Morteza Tadayon, SHA TFAD
Ms. Connie Yarborough, SHA TFAD



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

January 7, 2013

Mr. Ki Kim, Planner/Coordinator
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 1-20120210
Project Plan No. 9-20120040
Crystal Rock LATR / PAMR

Dear Mr. ^{ki:} Kim:

We have completed our review of the Local Area Transportation Review and Policy Area Mobility Review dated September 18, 2012, and prepared by The Traffic Group, Inc. Total development evaluated by the analysis includes:

- 1,618 dwelling units (70 townhouse units, 440 apartments, 1,008 independent living units, and 100 assisted living units)
- 1,115,000 square feet of office
- 91,400 square feet of retail
- 350-room hotel

We offer the following comments:

Local Area Transportation Review (LATR)

1. Father Hurley Boulevard south of MD 355 is County-maintained; not State-maintained MD 27. Please revise all references accordingly.
2. We defer to the Maryland State Highway Administration for comment regarding state-maintained roadways, including MD 27, MD 117, MD 118, and MD 355.
3. Clarify the build-out year for the project & any assumed growth rates.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

Mr. Ki Kim
Preliminary Plan No. 1-20120210
January 07, 2013
Page 2

4. The proposed modifications for the County roadway approaches to a number of the intersections proposed for improvement are not sufficiently detailed and analyzed (at a design and operations level) for us to be able to support approval of those proposals at this time.

To confirm the proposed modifications are feasible and appropriate, **we recommend that - at or before submission of the first site plan for the project to the Planning Commission - the applicant be required to submit to MNCPPC, MCDOT, and MDSHA concept plans for the proposed modifications** which detail:

- a. Existing & proposed pavement
 - b. Existing & proposed right-of-way and easements
 - c. Existing (as applicable) and proposed lengths of proposed modifications
 - d. Existing & proposed typical cross-sections
 - e. If applicable, consideration of any modifications necessary along receiving lanes, as in the case of additional through or turn lanes; or with regards to right-turn acceleration lanes
 - f. If applicable, confirmation of adequate turn radii, including opposing turn radii in cases where additional turn lanes are proposed
 - g. Existing traffic signal operations & proposed modifications
 - h. At Father Hurley Blvd / Crystal Rock Drive intersection (regarding the proposed restriping of a through lane to a right-turn lane), **we recommend that the applicant evaluate converting the existing right-turn lane into a single channelized free-right or creating a second right-turn lane through the construction of an additional lane.**
5. Resurfacing and refreshing / reapplication of pavement markings may be required for any modifications affecting pavement, including changes to pavement markings.
 6. A signal at Father Hurley Blvd and Hopkins Rd was activated on October 2, 2011. This location should be included in the analysis.
 7. A signal is planned for the intersection of Father Hurley Blvd and Dawson Farm Rd. This location should be included in the analysis.

Mr. Ki Kim
Preliminary Plan No. 1-20120210
January 07, 2013
Page 3

8. Regarding Exhibit 1 (Site Location Map):
 - a. Show the site location in Exhibit 1 .
 - b. Show intersection 32 (Crystal Rock Dr and Dorsey Mill Rd).
 - c. Clarify existing roads, roads in construction, and proposed roads.
9. Clarify map text in Exhibit 1A (Site Plan).
10. With regards to Exhibit 2:
 - a. At the following locations, existing right turns are channelized and must be detailed appropriately with a symbol in the existing lane use diagram. These movements are not controlled by the signal. Please show these movements on the figure and verify that the associated right turn volumes do not contribute toward the CLV calculations:
 - i. Southwestbound Father Hurley Blvd at Crystal Rock Dr
 - ii. Northwestbound Middlebrook Rd at Father Hurley Blvd
 - iii. All approaches of MD 27 and MD 355
 - iv. Northbound MD 355 at Henderson Corner Rd,
Westbound Henderson Corner Rd at MD 355
 - v. Southbound MD 355 at MD 118
 - vi. All approaches of MD 117 and MD 118 except EB MD 117
 - b. Ridge Rd at Observation Dr: The NB left from Ridge Rd has become a dual left turn and converted to Protected phasing, as of July 2012. Revise the lane use diagram and CLV calculations.
 - c. Observation Dr at MD 118: SB lane use should be thru-right and thru-left, not a right-turn only and thru-left. Revise the lane use diagram and CLV calculations.
 - d. MD 118 at I-270 NB On Ramp: Phase 6 (EB thru) has been eliminated and is no longer signal controlled. Revise the lane use diagram and CLV calculations.
 - e. Middlebrook Rd and Great Seneca Hwy: WB right-turns from the driveway are not signal controlled. Revise the lane use diagram and CLV calculations.

Mr. Ki Kim
Preliminary Plan No. 1-20120210
January 07, 2013
Page 4

11. Regarding the pedestrian crossing times detailed in Exhibit 13:
 - a. Crossing distances are to be measured from the curb to the edge of the far travel lane, not curb to curb.
 - b. "Desired times" are to be obtained by dividing the crossing distance by 3.5 ft/s and then subtracting the total clearance time for that associated phase; not the 1 second mentioned in note 2.
 - c. Crosswalks along the mainline are generally set to "rest in walk". This allows the walk phase to stay up for most of the mainline's green phase. Due to the "rest in walk" setting, the times observed in the field are not what are programmed in the controller. Signal timings, including pedestrian timings, can be obtained from the Transportation Management Center at 240-777-2190.
 - d. Pedestrian crossing times are reported to be inadequate at 27 pedestrian crossings at 18 intersections. Montgomery County is already in the process of updating the existing clearance times and pedestrian walk times. No action is necessary from the applicant at this time.
12. The Pedestrian, Bike, and Transit Statement does not include any mention of the Corridor Cities Transitway and associated accessibility of the station, despite a station proposed to be located immediately adjacent to the site.

Policy Area Mobility Review (PAMR)

13. The site is located within the Germantown West Policy Area, which does not stipulate any PAMR trip mitigation requirements.

Thank you for the opportunity to review this report. If you have any questions or comments regarding this letter, please contact Mr. Andrew Bossi, our Development Review Area Engineer for this project, at andrew.bossi@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



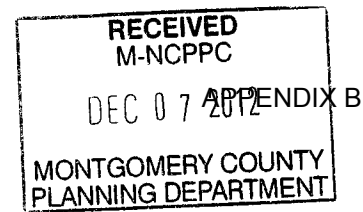
Gregory M. Leck, Manager
Development Review Team

Mr. Ki Kim
Preliminary Plan No. 1-20120210
January 07, 2013
Page 5

m:\subdivision\bossia01\developments\west\crystal rock (1-2012-0210)\2013 01 07 - tis review, gml revs.doc

cc: Jim Policaro North Village
Mark Lerner North Village
Wes Guckert Traffic Group
Robert Brewer, Jr. Lerch, Early, & Brewer
Scott Newill MDSHA AMD
John Carter M-NCPPC Area 3
Rich Weaver M-NCPPC Area 3
Molline Smith M-NCPPC Area 3
Catherine Conlon M-NCPPC DARC
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Rick Kiegel MDMTA
Fred Lees MCDOT DTEO
Mark Terry MCDOT DTEO
Will Haynes MCDOT DTEO
Bruce Mangum MCDOT DTEO
Kamal Hamud MCDOT DTEO
Andrew Bossi MCDOT DTEO



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

December 3, 2012

Molline Smith, Senior Planner
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 1-20120210
Project Plan No. 9-20120040
Crystal Rock

Dear Ms. Smith:

We have completed our review of the preliminary plan dated May 17, 2012. This plan was reviewed by the Development Review Committee at its meeting on July 23, 2012. We recommend approval of the plan subject to the following comments:

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

Design Exceptions

1. Regarding the Design Exception Request for the realignment of Crystal Rock Drive:
 - a. Approval is needed from the Planning Board for such a deviation from the master plan. MCDOT must formally support the larger curve as designated in the master plan, meeting the design standards for a 35 MPH roadway.
 - b. We would not oppose the more grid-like network of roadways as proposed by the applicant. We concur with the applicant's October 24, 2012, traffic analyses finding that the proposed roadway configuration (including two-lane roundabout) can operate adequately and safely while providing an improved urban environment more conducive toward pedestrians and bicyclists.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 2

- c. The proposed abandonment is acceptable to this Department. Approval is subject to the granting of any necessary vehicular, pedestrian, drainage, or public utility easements along the realigned roadway.

An existing trail is present across the public right-of-way connecting two private properties owned by the applicant. This trail appears to provide access to a gas line to the north of the property, but no response was received from Washington Gas indicating any existing use or agreements for this trail. Given the lack of objecting response & that the trail connects private property owned by the applicant, we do not believe the trail qualifies as providing public use for purposes of abandonment considerations.

However, it is suggested that the applicant proactively coordinate directly with Washington Gas on any needs they may have for accessing the nearby gas line. Contact Ms. Mayauda Bowens (mbowens@washgas.com) and Mr. Allan Melliza (amelliza@washgas.com, 703-750-4256).

2. Regarding the Design Exception Request for the change in cross-section along both Crystal Rock Drive and Century Boulevard:
 - a. We approve a change in the cross-section to provide for a total of four lanes with off-peak parking. This results in 44' of pavement width.
 - b. Applicant is required to dedicate the full master planned 100 ft right-of-way.
 - c. At site plan, provide information detailing the updated roadway cross-sections for Crystal Rock Dr, Century Blvd, and Dorsey Mill Rd. These should maintain a minimum 6 ft width of continuous sidewalk, clarify any bicycle amenities (noting parking regulations), dimension lane widths, and provide details regarding stormwater management structures within the public right-of-way.
 - d. The submitted preliminary plan dimensions Dorsey Mill Rd as having a 56' median area to be primarily utilized by the Corridor Cities Transitway, but associated text states a 100' dedication + 50' for transit. Confirm, as it appears the latter 50' dedication for transit should instead read 56'.
 - e. At site plan, clarify how each road would transition from 4 to 2 lanes during off-peak periods at both the roundabout as well as upon approach into the development. Note that ultimately: pavement markings will not show off-peak parking stalls but will ultimately resemble a normal 2 lanes per direction.

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 3

- f. At site plan, provide turning movement diagrams for the roundabout confirming that it may be safely navigated by the largest vehicle expected to frequent the site, notwithstanding any comments Fire and Rescue Services may provide.
 - g. Specific hours for parking restrictions will be determined prior to record plat. MCDOT maintains the authority to modify parking regulations as necessary.
 - h. Both approaches of Street D at Century Blvd shall operate as right-in / right-out, physically restricted by an extended roundabout splitter island.
3. Regarding the Design Exception Request for stormwater management facilities in public right-of-way using structural micro-bioretenion facilities behind the curb: in general we support approval for providing stormwater facilities in the public right-of-way, but we request additional information on the proposed system. At the site plan stage, provide details on any proposed stormwater management devices. Such devices must comply with standards approved by the Department of Permitting Services (MCDPS). Information should be provided on capacity, overflow treatments, maintenance needs, tripping hazards, and space for provision of parking meters &/or street signs. A minimum 6 ft width of continuous sidewalk must be maintained within the public right-of-way.
4. Regarding the Design Exception Request for ramps, steps, awnings, and walls protruding into the public right-of-way using structural micro-bioretenion facilities behind the curb: we will require greater detail at site plan to render a position on this request.
 - a. Awnings may not be of significant concern, but objects at ground-level may pose tripping hazards and must not conflict with ADA requirements, necessitating detailed review.
 - b. A suggested option is to place a planter strip along the building side to fill in between stairs and other objects, maintaining a minimum 6 ft width of continuous sidewalk within the public right-of-way.
5. Regarding the Design Exception Request for 25' radii instead of 30' radii: we are willing to consider this request upon receipt of confirmation showing that turns to and from public streets may be safely completed by the largest vehicle expected to frequent the site, notwithstanding any comments Fire and Rescue Services may provide.
6. Regarding the Design Exception Request to allow curb and gutter in a Class IV watershed: in accordance with Section 49-33(1) of the Montgomery County Code, curb and gutter may not be installed within the public right-of-way in an environmentally sensitive watershed unless certain waiver criteria have been satisfied. We defer to MCDPS regarding this request for a waiver. However, in considering the context of the development we would support a waiver for curb and gutter.

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 4

General Review Comments

7. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
8. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
9. At site plan submit storm drain and/or flood plain studies, with computations, for our review and approval. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same. If the proposed subdivision drains to a closed section public street, include spread computations in the impact analysis. Include analysis of the 100 year post-development runoff into the culvert beneath Crystal Rock Dr. Provide a concept storm drain system for Crystal Rock Dr, Century Blvd, and Dorsey Mill Rd.
10. The limits of the floodplain and the building restriction lines are to be shown on the plan where applicable. The floodplain is to be dimensioned from the property line.
11. An 8% grade is the maximum permitted along a roadway. While the 8% grade along Crystal Park Dr meets this requirement, it is preferable that this grade be reduced if feasible; particularly if an uncontrolled ped/bike crossing is proposed along this slope. Ensure that sight distance across crests is adequate per the Road Code.
12. Provide a minimum 100 ft tangent between intersections & driveways along public streets. If this distance cannot be met (as appears to be the case at the first intersection immediately east of the roundabout along Century Blvd), provide a Design Exception Request with consideration of restricted traffic movements and sight distances.
13. In order to ensure adequate driveway capacity, particularly egress volume, provide a minimum fifty (50) foot tangent section before encountering cross traffic on-site, for all driveways.
14. Ensure that the length of bump-outs complies with MCDPS standards. Note that if longer bump-outs are necessary they may impact the number of on-street parking spaces provided.
15. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 5

16. The proposed private streets must be sufficiently wide to accommodate two-way vehicular traffic. Private streets are to be designed to allow an SU-30 truck to circulate without crossing the centerline nor the curb line.
17. In accordance with Section 49-33(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided on both sides of the proposed public streets unless the applicant is able to obtain a waiver from the appropriate government agency.
18. Truck loading space requirements to be determined in accordance with the Executive Branch's "Off-Street Loading Space" policy. Show where truck loading spaces are proposed, particularly any which may impact public roads. If fewer spaces are provided than required, the applicant will need to submit a Design Exception request with their proposal for how to manage provided spaces.
19. On the site plan, delineate the location and dimensions of the proposed truck loading and/or dumpster spaces.
20. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans with Disabilities Act. Show pedestrian ramps across all legs where applicable, specifically along Crystal Rock Dr, Century Blvd, at the roundabout, at the intersection of Century Blvd and Dorsey Mill Rd, at any controlled intersections, and at any proposed midblock crossings.
21. We do not support an uncontrolled trail crossing as shown along Crystal Rock Dr near the property line. The nature of the horizontal and vertical geometry makes this crossing unsuitable. Consider the feasibility of aligning this trail with one of the nearby intersections or providing a grade-separated crossing.
22. The Sector Plan's alignment of SP-75 (Off-Road Shared Use Path) proposes for the path to run along Crystal Rock Dr, terminating at the Black Hill Regional Bikeway Trail. The applicant's Justification Statement reads "*This objective is not possible to accomplish because the [path] is intended for portions of Crystal Rock Dr to the south of the Property, except for a shared use path north of Father Hurley Blvd, which the Project provides within the property.*" It is unclear to what objective, specifically, the Justification Statement is referring to. MCDOT recommends the applicant be required to construct the trail along the west side of Crystal Rock Dr in accordance with the Sector Plan. Planning Board approval is required for any deviations from the Sector Plan.

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 6

23. The Sector Plan's alignment of SP-66 (Off-Road Shared Use Path) proposes to follow the Corridor Cities Transitway (CCT) alignment along the west side of Century Blvd and the north side of Dorsey Mill Rd. The applicant's plans do not reflect any such facility. MCDOT recommends the applicant be required to construct the trail along the west side of Crystal Rock Drive in accordance with the Sector Plan. Planning Board approval is required for any deviations from the Master Plan.
24. For issues in the vicinity of Century Boulevard and Dorsey Mill Road: the applicant is to coordinate with Rick Kiegel of the MTA (410-767-1380) with regards to the CCT and Yasamin Esmaili of MCDOT (240-777-7226) with regards to the Century Blvd CIP project.
25. Evaluate the offset and size of the median / splitter island on the north leg of Century Blvd at its intersection with Dorsey Mill Rd. Ensure that the transition from the wider cross-section to the south & the narrowed cross-section to the north complies with all design standards associated with such traffic shifts and lane transitions.
26. Clarify the operations of Main Street:
 - a. Would it operate as a couplet of one-way streets?
 - b. Intersection control at Century Blvd.
27. Ensure safe bicycle and pedestrian circulation on private as well as public streets.
28. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
29. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
30. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at 240-777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 7

31. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at 240-777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
32. Provide traffic signal conduit at the intersection of Century Blvd and Dorsey Mill Rd. This work is to be coordinated with Mr. Bruce Mangum of MCDOT (240-777-2190) regarding signal design, Ms. Yasamin Esmaili of MCDOT (240-777-7226) regarding the Century Blvd CIP project, and Mr. Rick Kiegel of MTA (410-767-1380) regarding the Corridor Cities Transitway.
33. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with Brett Linkletter, Chief of the Division of Highway Services, Tree Maintenance Section at 240-777-7651.
34. Prior to approval of the record plat by MCDPS, the applicant will need to enter into a Traffic Mitigation Agreement (TMAG) with the Planning Board and this Department. Within MCDOT, the applicant should coordinate with Ms. Sandra Brecher, Chief of the Division of Transit Services/Commuter Services Section. Ms. Brecher may be contacted at 240-777-5800. The following items should be coordinated with Commuter Services and potentially incorporated into the TMAG:
 - a. Consider incorporating these transit-oriented design building elements into the project design:
 - i. Design lobbies to emphasize two way visibility for transit or shuttles.
 - ii. Orient office building lobbies toward public roads for maximum visibility of transit options. Orient residential building lobbies to face public roads for maximum visibility of non-auto transportation options (buses, taxis, shuttles, etc).
 - iii. Provide a concierge/reception desk in residential and or office buildings with an area where transit information and pass sales can be transacted – e.g., obtaining transit information, loading of SmarTrip cards.

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 8

- b. Provide space for an adequate number of external real-time transit information signs (at least 6) at highly-used locations in the Project to assist employees, residents, and visitors with commuter information. Applicant will provide conduit, electrical and internet connections, and will install County-provided equipment, including display monitors. Interior monitors can be incorporated into office and residential building communications systems. Applicant will reimburse the County for the cost of the monitors. The Applicant will pay for five years of maintenance for the signs.
- c. Provide bicycle parking spaces and commuter shower/change facility. Provide bike racks, lockers and bicycle storage facilities. Consider additional publicly-accessible bike parking and also clarify location(s). Both publicly- and privately-accessible bike racks should be conveniently located. Consider providing showers and changing rooms in the office buildings to encourage use of bicycling and walking as a means of commuting.
- d. Identify proposed locations for a minimum of 4 bikesharing stations, including 1 near the proposed CCT station and the other 3 distributed at key nodal points on the site. One site should be located to facilitate access to Black Hill Regional Park. All stations would not have to be implemented at Phase 1, future bikesharing stations could be made operational once the development gets into Phases 2 & 3 (active adult and market-rate residential developments) but allocating and proposing locations for all bikesharing stations should occur as early in the project design as possible (preliminary plan). The project will be required to pay the capital costs for each such station and five (5) years of operating expenses. Applicant will be encouraged to take other actions in concert with the TMD to promote use of bikesharing among residents, employees and visitors at the Project.
- e. Parking considerations:
 - i. Minimize Parking. Given that this development is in a Transit Mixed (TMX) use and Town Sector (TS) zone, no more than the minimum number of parking spaces required should be provided. Although it was noted in justification statement that federal agency tenants demand higher parking minimums, we recommend that the Applicant check provisions of TMX and TS zoning provisions to ensure parking is at the minimum level possible. Clarify difference between number of parking spaces stated in justification statement and preliminary plan: 6,073 minimum parking spaces, 6,170 proposed in the justification statement, 6,650 proposed on the preliminary plan.

Ms. Molline Smith
 Preliminary Plan No. 1-20120210
 December 03, 2012
 Page 9

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

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

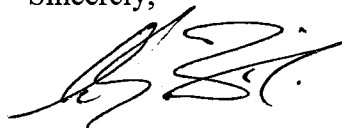
- ii. Provide flexibility in design of parking areas to enable mixed uses to share parking areas so as to make most efficient use of them. This also strengthens the incentive to reduce drive-alone commuting and parking among employees, since doing so frees up spaces for other uses including retail customers. That approach will only work if the unused parking areas for employees can be made available once a decrease in demand is realized.
 - iii. Provide adequate numbers of carpool and vanpool parking spaces in highly visible, preferentially-located spots in office parking facilities.
 - iv. Provide adequate number of car sharing vehicle parking spaces in highly visible, preferentially-located spots.
 - v. Provide at least two electric car charging stations on site for each development use (retail, hotel, office and residential uses).
35. At or before the permit stage, please coordinate with Ms. Stacy Coletta of our Division of Transit Services to coordinate improvements to Ride-On bus facilities in the vicinity of this project. Ms. Coletta may be contacted at 240 777-5800.
36. Provide necessarily Public Utilities Easements along Crystal Rock Dr, Century Blvd, and Dorsey Mill Rd, or otherwise provide alternative utility accommodations through the site acceptable to each impacted utility.
37. Permit and bond will be required as a prerequisite to MCDPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
- A. Street grading, paving, curbs and gutters, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Crystal Rock Dr and Century Blvd (Context Sensitive Road Design Standard MC-2005.03 modified).
- NOTE: Public Utilities Easements are to be graded on a side slope not to exceed 4:1.**
- B. Along Crystal Rock Dr, Century Blvd, and Dorsey Mill Rd: maintain a minimum 6 ft width of continuous sidewalk along both sides of each roadway.

Ms. Molline Smith
Preliminary Plan No. 1-20120210
December 03, 2012
Page 10

- C. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
- D. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- E. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by MCDPS and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by MCDPS.
- F. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- G. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Andrew Bossi, our Development Review Area Engineer for this project, at andrew.bossi@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

Andrew Bossi for

Ms. Molline Smith
 Preliminary Plan No. 1-20120210
 December 03, 2012
 Page 11

m:\correspondence\fy13\traffic\active\120120210, crystal rock, prelim plan ltr.doc

cc: Jim Policaro North Village
 Mark Lerner North Village
 Mike Plitt Macris, Hendricks, & Glascock
 Robert Brewer, Jr. Lerch, Early, & Brewer
 John Carter M-NCPPC Area 3
 Rich Weaver M-NCPPC Area 3
 Ki Kim M-NCPPC Area 3
 Catherine Conlon M-NCPPC DARC
 Preliminary Plan folder
 Preliminary Plan letters notebook

cc-e: Rick Kiegel MDMTA
 Amy Butler Stevens MCDPS SWFMP
 Atiq Panjshiri MCDPS RWPR
 Sam Farhadi MCDPS RWPR
 Rick Brush MCDPS WRM
 Bill Campbell MCDPS WRM
 Marie LaBaw MCFRS
 Bruce Johnston MCDOT DTE
 Aruna Miller MCDOT DTE
 Yasamin Esmaili MCDOT DTE
 Mike Cassedy MCDOT DTE
 Stacy Coletta MCDOT DTS
 Sande Brecher MCDOT DTS
 Beth Dennard MCDOT DTS
 Brett Linkletter MCDOT DHS
 Dan Sanayi MCDOT DTEO
 Fred Lees MCDOT DTEO
 Mark Terry MCDOT DTEO
 Bruce Mangum MCDOT DTEO
 Andrew Bossi MCDOT DTEO



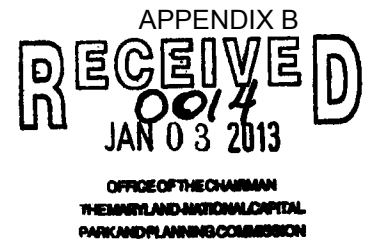
FIRE MARSHAL COMMENTS

DATE: 08-Jan-13
TO: Mike Plitt
Macris, Hendricks & Glascock
FROM: Marie LaBaw
RE: Crystal Rock
920120040 120120210

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **08-Jan-13** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

***** Parking restrictions required at time of site plan *****



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

January 2, 2013

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Crystal Rock (Far North), DAIC 120120210, NRI/FSD application accepted on 11/18/2010

Dear Ms. Carrier:

The County Attorney's Office has advised that Montgomery County Code Section 22A-12(b)(3) applies to any application required under Chapter 22A submitted after October 1, 2009. Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law.

It is my understanding that several items have not been resolved to the satisfaction of the environmental reviewer within the Planning Department. These items include the following:

- The letter requesting a variance has a discrepancy in the number of trees removed.
- Disturbance to tree # 2 does not appear to be justified.
- Off-site disturbance to tree #262 is not included in the variance request.
- Tree # 378 should be considered a removal.

Once these items are resolved to the satisfaction of the Planning Department, I recommend the following pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.

Françoise Carrier
January 2, 2013
Page 2

2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, is not interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that revisions to the LOD are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Chief



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

November 16, 2012

Diane R. Schwartz Jones
Director

Mr. Steven Wilde
Macris Hendricks and Glascock P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279

Re: Stormwater Management **CONCEPT** Request
for Crystal Rock
Preliminary Plan #: 120120210
SM File #: 242487
Tract Size/Zone: 107.2 acres/ TMX -2
Total Concept Area: 67.4 acres
Lots/Block: NA
Parcel(s): NA
Watershed: Little Seneca Creek

Dear Mr. Wilde:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via public and private streetscape micro-bioretenion, micro-bioretenion, micro-bioretenion planter boxes and green roofs.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. This approval is for the entire site to satisfy requirements in the Preliminary Plan process. As such, this approval provides all necessary requirements to proceed to the design stage for Crystal Rock Drive and Century Boulevard. However, as each subsequent phase of this development goes to the Site Plan stage, a separate Storm Water concept or a revision to this concept will be required prior to the approval of each particular Site Plan approval.
2. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
3. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
4. An engineered sediment control plan must be submitted for this development.
5. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
6. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

7. MCDOT approval will be required for any Storm Water structures within the Public Right of Way prior to any future concept approvals or changes to the proposed Storm Water design approved with this concept.

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

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

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

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB: tla 11/16/12

cc: C. Conlon
SM File # 242487

ESD Acres:	67.4
STRUCTURAL Acres:	0
WAIVED Acres:	0



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

January 4, 2013

Ms. Molline Smith
M-NCPPC - Area 3 Division
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Crystal Rock
Project Plan No. 920120040 and Preliminary Plan No. 120120210

Dear Ms. Smith:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced revised project and preliminary plan submissions. DHCA has received the following assurances from the Applicant:

- The 100 proposed Assisted Living units are not “dwelling units” as defined by Chapter 25A, and are therefore not subject to the requirements of Chapter 25A.
- While DHCA would prefer that all of the MPDUs be located in the non-Active Adult units, no more than a proportional share of the MPDUs will be located in the Active Adult units.

Based on the above assurances, DHCA recommends Approval of the project and preliminary plans. DHCA expects to have further discussions with the Applicant regarding MPDU locations at site plan, when the applicant has more information regarding the form of tenure of the Active Adult units.

Please note that Sheet No. 1 of the preliminary plan submission and Sheet No. 7 of the project plan submission contain an error. In the Proposed Residential Units Chart, the 181 MPDUs should be labeled Multiple Family, and the 9 MPDUs should be labeled Townhouse.

Please also note that at site plan, DHCA will need to review and approve a proposed bedroom mix of the multi-family MPDUs and market rate units, and locations of townhouse MPDUs. At certified site plan, DHCA will need to review and approve schematic floor plans of

Division of Housing

Moderately Priced
Dwelling Unit
FAX 240-777-3709

Housing Development
& Loan Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691

Licensing & Registration Unit
240-777-3666
FAX 240-777-3699

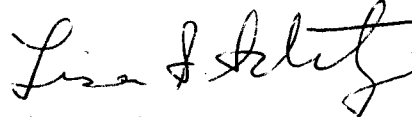
100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-3600 • www.montgomerycountymd.gov/dhca



Ms. Molline Smith
January 4, 2013
Page 2 of 2

the proposed residential buildings showing locations of MPDUs and market rate units on each floor, with a summary chart of location and bedroom composition of MPDUs and market rate units, as well as schematic floor plans (including dimensions and square footage) for each MPDU unit type.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa S. Schwartz". The signature is fluid and cursive, with a large initial "L" and "S".

Lisa S. Schwartz
Senior Planning Specialist

cc: Robert G. Brewer, Jr., Lerch Early & Brewer
Katherine Holt, M-NCPPC
Leslie Saville, M-NCPPC
Christopher J. Anderson, Manager, Single Family Housing Programs, DHCA

LAND-USE
L-1-6035 F-483
L-1-3015 F-483
USE: BLACK HILLS REGIONAL PARK
ZONE: RE-2

LITTLE SENECA
CREEK

BLACK HILLS
REGIONAL PARK

FOREST TO BE REMOVED
FROM STAND #2
348,358 S.F.
8.00 AC.

AREA PREVIOUSLY DEDICATED TO BLACK HILL PARK
NOT INCLUDED IN THIS FOREST CONSERVATION APPLICATION

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

FOREST TO BE REMOVED
FROM STAND #6
10,228 S.F.
0.23 AC.

CHURCHILL TOWN SECTOR
PARCEL #17
CHURCHILL TOWN SECTOR
USE: MONTGOMERY COUNTY
ZONE: RE-2

FOREST TO BE REMOVED
FROM STAND #1
201,777 S.F.
4.63 AC.

FOREST TO BE REMOVED
FROM STAND #3
310,552 S.F.
7.13 AC.

FOREST TO BE REMOVED
FROM STAND #7
9,974 S.F.
0.23 AC.

FOREST TO BE REMOVED
FROM STAND #4
309,141 S.F.
7.10 AC.

FOREST TO BE REMOVED
FROM STAND #5
169,926 S.F.
3.88 AC.



LEGEND

- SIGNIFICANT TREE
- ☆ SPECIMEN TREE
- ✱ SIGNIFICANT & SPECIMEN TREES TO BE REMOVED
- LIMIT OF DISTURBANCE
- ▭ EXISTING FOREST TO REMAIN CATEGORY 1
- ▭ FOREST TO BE REMOVED
- ▭ FOREST STAND BOUNDARY
- ▭ TREE PROTECTION FENCING

VICINITY MAP
SCALE 1" = 2,000'

FOREST CONSERVATION WORKSHEET
PAR NORTH HILLSIDE

NET TRACT AREA:	5.44g.02
A. Total tract area ...	107.70
B. Land dedication for easements, county facility, etc. ...	0.00
C. Land dedication for roads or utilities (not being constructed by this plan) ...	0.00
D. Area to remain in commercial agricultural production/use ...	0.00
E. Other deductions (Specify) ...	0.00
F. Net Tract Area ...	107.70

LAND-USE CATEGORY (from Tract Technical Manual)
Input the number "1" under the appropriate land use, limit to only one entry.

ABA	MBR	IDA	HBR	MPD	CA
0	0	0	0	1	0

EXISTING FOREST COVER:

1. Existing forest cover ...	65.10
J. Area of forest above abatement threshold ...	48.95
K. Area of forest above conservation threshold ...	43.56

BREAK-EVEN POINT:

L. Forest retention above threshold with no mitigation ...	30.25
M. Clearing permitted without mitigation ...	34.85

PROPOSED FOREST CLEARINGS:

N. Total area of forest to be cleared ...	31.20
O. Total area of forest to be retained ...	33.90

PLANTING REQUIREMENTS:

P. Redensation for clearing above conservation threshold ...	7.80
Q. Redensation for clearing below conservation threshold ...	0.00
R. Credit for retention above conservation threshold ...	12.36
S. Total abatement required ...	0.00
T. Total abatement required ...	0.00
U. Credit for landscaping (may not exceed 20% of "S") ...	0.00
V. Total abatement and abatement required ...	0.00

FOREST REMOVAL TABLE
BY FOREST STAND

FOREST STAND #	STAND SIZE (SF / AC)	FOREST TO BE REMOVED (SF / AC)
1	201,777 / 4.63	201,777 / 4.63
2	1,477,627 / 33.92	348,358 / 8.00
3	310,552 / 7.13	310,552 / 7.13
4	309,141 / 7.10	309,141 / 7.10
5	209,766 / 4.81	168,926 / 3.88
6	317,024 / 7.28	10,228 / 0.23
7	9,974 / 0.23	9,974 / 0.23
TOTALS	2,835,881 / 65.10	1,358,956 / 31.20

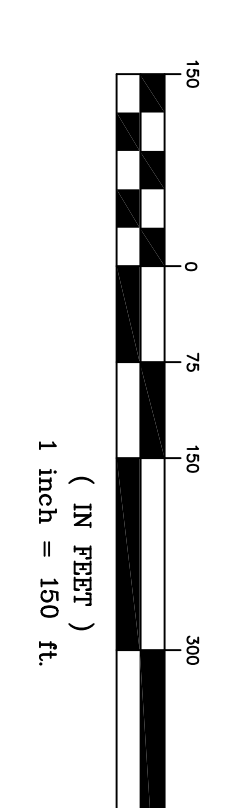
FOREST CONSERVATION DATA TABLE

DESCRIPTION	SIZE
Total Tract Area	107.70 Acres
Total Land Dedication (Agricultural Use, Road, Easement, etc.)	0.00 Acres
Total Forest to be Retained	33.90 Acres
Total Forest to be Cleared	31.20 Acres
Total Forest Cleared	31.20 Acres
Forest in 100-year Floodplain	0.00 Acres
Forest in 100-year Floodplain (Retention)	0.00 Acres
Forest in 100-year Floodplain (Removal)	0.00 Acres
Forest in other Priority Areas (Retention)	0.00 Acres
Forest in other Priority Areas (Removal)	0.00 Acres
Stream Valley Buffer (Retention)	0.00 Acres
Stream Valley Buffer (Removal)	0.00 Acres
Forest in other Priority Areas (Retention)	0.00 Acres
Forest in other Priority Areas (Removal)	0.00 Acres

- NOTES:**
1. ALL FOREST RETAINED WITHIN STANDS 1-6 WILL BE PROTECTED WITH A CATEGORY 1 FOREST CONSERVATION EASEMENT.
 2. APPLICANT RETAINS THE RIGHT TO INSTALL NATURAL SURFACE PATHS WITH LOCATION CONSULTATION FROM MONTGOMERY COUNTY PARKS DEPARTMENT AND MNOPPC.
 3. APPLICANT RETAINS THE RIGHT TO INSTALL BENCHES ADJACENT TO THE NATURAL SURFACE PATH.
 4. APPLICANT RETAINS THE RIGHT TO MAINTAIN THE PATH AND FORESTED AREAS AS NEEDED TO ENSURE THE USE AND ENJOYMENT OF THE AREA BY THE RESIDENTS OF THE PROJECT.

OWNER/DEVELOPER
LENNER ENTERPRISES
2000 TOWER OAKS BLVD.
8TH FLOOR
ROCKVILLE, MD 20852
PHONE: 301-284-6000

PRELIMINARY FOREST CONSERVATION PLAN
PARCELS 11 & 12
CRYSTAL ROCK
RE-SUBDIVISION OF PARCELS 3 THRU 10, CHURCHILL TOWN SECTOR GERMANTOWN
2ND ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND



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

DATE: _____
FRANK C. JOHNSON
RECOGNIZED AS QUALIFIED PROFESSIONAL BY MD. DEPT. OF NATURAL RESOURCES
COMAR 08.19.06.01

REVISIONS

NO.	DATE	DESCRIPTION	BY
1	10.10.12	rev. per comments	USB
2	10.24.12	rev. remove park area	USB
3	12.3.12	rev. remove building A	USB

TAX MAP EX 31
MSSC 228 NW 13

MHG
Marcis, Hendricks & Glascock, P.A.
Engineers • Planners
Landscapes Architects • Surveyors

9220 Widgeon Road, Suite 100
Montgomery Village, Maryland
20886-7219
Phone 301.670.0640
Fax 301.648.0683
www.mhga.com

Proj. No. 10-102-11
Map No. 1
Date 03-12-12
Scale 1" = 150'
Project No. 1
Sheet 1 of 3

M-NCP&PC
L-3706 F-1-SB7
SEE BLACK HILLS REGIONAL PARK
ZONE: RE-2

LITTLE SENECA
CREEK

AREA PREVIOUSLY DEDICATED TO BLACK HILL PARK
NOT INCLUDED IN THIS FOREST CONSERVATION APPLICATION

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



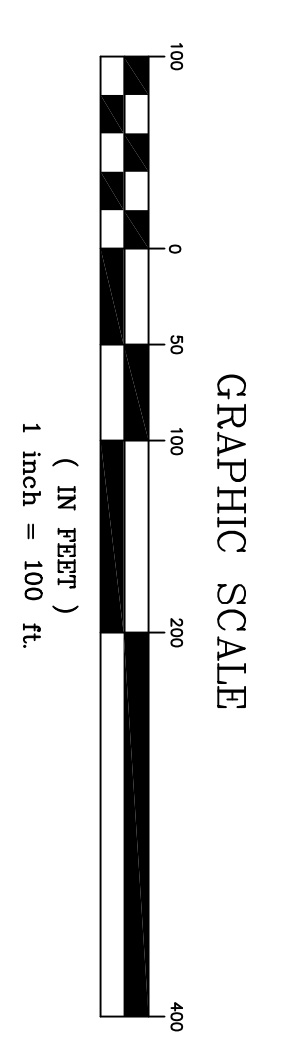
LEGEND

- SIGNIFICANT TREE
- ☆ SPECIMEN TREE
- ✱ SIGNIFICANT & TO BE REMOVED TREES
- CRITICAL ROOT ZONE RADIUS = 1.5 FEET PER INCH DBH
- LIMIT OF DISTURBANCE
- TREE PROTECTION RENCING

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

FRANK C. JOHNSON
RECOGNIZED AS QUALIFIED PROFESSIONAL
BY MD. DEPT. OF NATURAL RESOURCES
CDMAR 08/19/06/01

DATE _____



OWNER/DEVELOPER
LENNER ENTERPRISES
2000 TOWER OAKS BLVD.
8TH FLOOR
ROCKVILLE, MD 20852
PHONE: 301-284-6000

NO.	DATE	DESCRIPTION	BY
3	12.3.12	rev remove building A	VSB
2	10.24.12	rev remove park area	VSB
1	10.10.12	rev. per comments	VSB

TAX MAP EV 31
MSSC 228 NW 13

PRELIMINARY FOREST CONSERVATION PLAN
PARCELS 11 & 12
CRYSTAL ROCK
RE-SUBDIVISION OF PARCELS 3 THRU 10, CHURCHILL TOWN SECTOR GERMANTOWN
2ND ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

CHURCHILL TOWN SECTOR
PLAN #17003
USE: MULTIFAMILY OPEN SPACE
ZONE: T-8

CHALLENGE DEV. AT
CLOVERLEAF
1-18816 F-206
BASE VACANT ZONE
T-8-2

PARCEL #11
CLOVERLEAF CENTER
PLAN #8217
USE: VACANT ZONE
T-8-2

PARCEL #12
CHURCHILL CENTER
PLAN #17003
USE: MULTIFAMILY OPEN SPACE
ZONE: T-8

MHG
Marcis, Hendricks & Glascock, P.A.
Engineers • Planners
Landscape Architects • Surveyors

9220 Wiggins Road, Suite 120
Montgomery Village, Maryland
20886-7219
Phone 301.670.0840
Fax 301.648.0883
www.mhga.com

Proj. Mgr. Designer
Map. GSH
Date 03-12-12
Scale 1" = 100'
Project No. 10-102-11
Sheet 2 of 3

APPENDIX D

Previous Approvals Sheet

Town Sector Zone (C-1522) was approved in May 1965.

Churchill Town Sector Plan (original Development Plan, F-148) was originally approved in November 1967 under the RR zone; which consisted of 1,504 acres of land. The land distribution was such that 109 acres was designated for commercial uses, 75 acres was designated for industrial uses, 100 acres designated for University Science Center, 803.89 acres was designated for residential uses, 12 acres was designated for churches, 294.20 acres was designated for open space and recreational uses, 55 acres was designated for schools, and 55 acres was designated for highways projected for a maximum population of 22,530 people (calculating approximately 15 people per acre).

Amendment to the Germantown Master Plan and Development Plan (DPA 83-3) was adopted October 1986 to change the North Village (the Property) from the RR zone to the TS zone in order to increase the amount of employment and change the development sequence plan. Specifically related to the Property, the North Village portion was amended to allow up to 2.7 million square feet for a research and development park.

Amendment to the Development Plan (DPA 89-3) was adopted October 1990. Specifically related to the Site, the North Village was amended to decrease the area designated for industrial/employment from 2.7 million square feet with an interim limitation of 400 maximum peak hour trips to 1.3 million square feet with no interim limitations within the TS zone.

Zoning Text Amendment (No. 09-06) approved October 5, 2009 to reclassify the TS zone to TMX-2 to allow a mix of uses and more density near the transit facilities.

Preliminary Plan Approvals

Preliminary Plan No. 119870120 (original, mailed November 1988) was approved for 1.3 million square feet of office on 12 lots created on 81 acres of land within the TS zone; including the dedication of “public and private open space” (parkland property). The parkland deed was later signed June 17, 1994.

Amended Preliminary Plan (mailed March 7, 1995) was approved for the interim use of a golf driving range and associated uses as approved under the Special Exception No. S-2129 and Site Plan. The validity period was extended to April 7, 1998.

Amended Preliminary Plan (mailed November 1995) was approved the phasing of 240,000 square feet of the total 1.3 million square feet of office development on 110.20 acres of land zoned TS.

Amended Preliminary Plan (mailed September 20, 1996) approved Phase I consisting of 400,000 square feet (30% of the project) by December 1998, and Phase II consisting of 900,000 square feet (70% of the project) by December 2001.

Amended Preliminary Plan (mailed January 31, 2003) approved revised conditions 4-7; which were specifically related to the construction of Century Blvd (4-lane divided highway), and the construction of Crystal Rock Drive (4-lane divided roadway).

Site Plan Approvals

Site Plan No. 819950170 (mailed March 4, 1995) was approved 620 square feet for retail use on 21.02 acres of land zoned TS.

Site Plan No. 820020030 (mailed November 4, 2002) approved 900,000 square feet of office on 55.34 acres on land zoned TS.

Site Plan No. 81995017A (administrative approval) approved in April 18, 2002 for modifications to the landscape and lighting plans in response to a violation issued in August 2001.



MATZ, CHILDS & ASSOCIATES OF ROCKVILLE, INC.
CONSULTING ENGINEERS AND PLANNERS

322 N. Stonestreet Avenue, Rockville, Md. 20850. Tel. 301, 762-5533

John C. Childs, L. S.
Associates
George W. Bushby, L. S.
Edward G. Echeverria, A. I. P.
A. Mario Loiederman, P. E.
William M. Kelly, L. S.
John Strong Smith, P. E.

November 28, 1967

NOTES ON THE TOWN SECTOR PLAN - CHURCHILL INVESTMENTS ET AL
AT GERMANTOWN

1. The location of the Town Sector Plan of 1504.0923 acres has been plotted on the approved Germantown Master Plan at a scale of 1" to 1000'. The land holdings form what is a logical first stage development for Germantown adjacent to the Sherman Fairchild Technology Center.
2. The Identification Map of the Churchill Investments, Inc. has been attached noting the Metes and Bounds at a scale of 1" - 400' with the attached Description of the property.
3. The Vicinity Map for the Town Sector has been included at the same scale showing the existing zoning of Germantown with a minimum of a 1,000 feet surrounding the Town Sector boundary.
4. The Land Use Plan is presented in four (4) parts at a scale of 1"-200'. The plan has been designed, consistent with the General Master Plan for Germantown as adopted in October 1966. In Table No. i, Land Use Distribution, the major land use categories proposed for the Town Sector are tabulated. All the elements of living and work that make up a comprehensive cross-section of the new town have been included.

The residential land of 803.89 acres has been divided into four major categories, R-1 through R-4, as tabulated in Table No. II, Housing Schedule. We propose a total of 8,200 dwellings for a population of 22,530. The "R-1" category consists of single-family detached dwellings with densities ranging from 1.2 to 3.5 dwellings per acre. "R-2" is essentially Townhouse clusters with densities of 8 to 12 dwellings per acre. "R-3" is composed of terraced and garden apartments with an average of two stories formed along the lake shores, the treed areas and greenways at an average density of 17.5 dwelling units per acre. "The R-4" is essential high density apartments at densities from 20 to 40 dwelling units per acre composed along the high-density sinew.



MATZ, CHILDS & ASSOCIATES OF ROCKVILLE, INC.

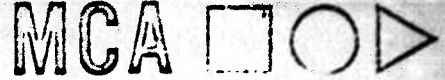
November 22, 1967

TOWN SECTOR PLAN - CHURCHILL INVESTMENTS - 1504 ACRES

GERMANTOWN - NEW TOWN - MARYLAND

TABLE I - LAND USE DISTRIBUTION

	<u>Area In Acres</u>
1. <u>Commercial</u>	109
2. <u>Industrial</u>	75
3. <u>University Science Center</u>	100
4. <u>Residential</u>	803.89
5. <u>Education</u>	
Public Schools	55
4 Elementary Schools	
1 Junior High School	
6. <u>Churches</u>	12
* 7. <u>Open Spaces and Recreation</u>	
a. Greenbelt - Little Seneca Park - Golf and Cemetery	250
b. Lake	19.2
c. Urban Parks	5
d. Recreation	20
8. <u>Major Highways</u>	<u>55</u>
TOTAL IN TOWN SECTOR ---	1,504.0923 Acres



MATZ, CHILDS & ASSOCIATES OF ROCKVILLE, INC.

November 22, 1967

TOWN SECTOR PLAN - CHURCHILL INVESTMENTS - 1504 ACRES

GERMANTOWN - NEW TOWN - MARYLAND

TABLE II - HOUSING SCHEDULE PROPOSED IN TOWN SECTOR ON 803.89 ACRES

	Density	No. Of Dwellings	Person Per DU	Population	Area in Acres
R-1	2.0	800	3.7	2960	391.89
R-2	12	2500	3.4	8500	209
R-3	17.5	2500	2.65	6670	143
R-4	25.0	1500	2.0	2600	80
Sub-Total		7300		20,730	803.89
"R-CBD"	30	900	2.0	1,800	
TOTALS		8200		22,530	803.89

*Balance of 900 units in high rise over 33 1/2 acres of Commercial at 30 DU/AC.

** Maximum allowable population at present is 22,560.

Resolution No. 10-2203
Introduced: October 7, 1986
Adopted: October 7, 1986

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

DEVELOPMENT AND PLANNING
THE MARYLAND-WASHINGTON REGIONAL DISTRICT
PARK AND PLANNING COMMISSION

OCT 15 1986

By: District Council

ALAN G. GIBBS, MD.

Subject: Approval of Amendments to Germantown Master Plan and Amendments to Churchill Town Sector Development Plan (DPA 83-3)

Background

1. On May 1, 1986, the Montgomery County Planning Board submitted a Final Draft of the 1985 Germantown Master Plan Amendment to the District Council proposing to:
 - o change the staging recommendations of five parcels
 - o change the land use recommendations of five parcels
 - o change the zoning recommendations of four parcels
 - o change the alignment of two roadways and delete one other roadway.
2. On April 24, 1984, by Resolution No. 10-685, the District Council deferred several proposed amendments to the Churchill Town Sector Development Plan to be considered in connection with the Comprehensive Review of the Germantown Master Plan. The proposed amendments to the Churchill Town Sector Development Plan are:
 - o Change the North Village portion of the property adjacent to I-270 from primarily a residential use to allow an approximate 2,700,000 square foot research and development park.
 - o Deletion of Village Center Commercial and replacement of it by 210 low rise apartments.
 - o Addition of a 3.5 acre commercial area on the west side of Crystal Rock Drive in a portion of parcel GA.
3. The Montgomery County Planning Board requested, in its testimony at the District Council's August 5, 1986, public hearing on the Final Draft Germantown Master Plan Amendment, that Amendment H concerning the Madeline V. Waters House be deleted from consideration.
4. At the Planning, Housing and Economic Development Committee worksession on September 30, 1986, the Montgomery County Planning Board recommended that Interim Development Guidelines be established for Amendment A (Prudential Property), Amendment D (Fairchild Property), and Amendment E (Town Center Core), and indicated that these guidelines are to be added to those included in the text of the Amendment.

The Development Guidelines recommended by the Montgomery County Planning Board Amendment A (Prudential Property) are also to apply to the Churchill Town Sector Development Plan Amendments (DPA 83-3).

The District Council at a worksession on October 7, 1986, reviewed the proposed amendments to the Germantown Master Plan, the Churchill Town Sector Development Plan, and the recommendations of the Montgomery County Planning Board and the Planning, Housing and Economic Development Committee.

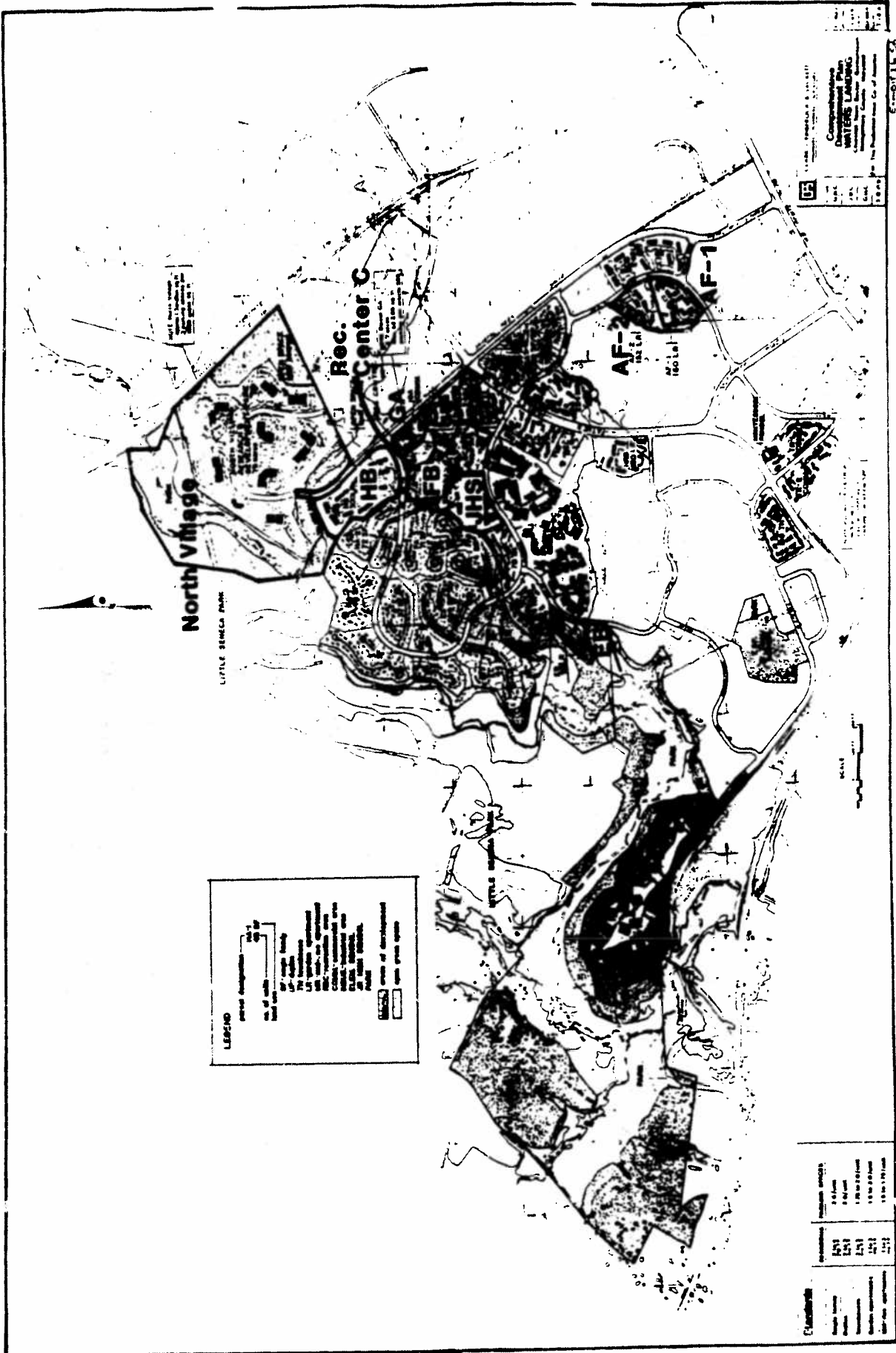
Action

The County Council for Montgomery County, Maryland, sitting as the District Council or that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution:

The Final Draft 1985 Amendments to the Germantown Master Plan and the amendments to the Churchill Town Sector Development Plan (DPA 83-3), are approved with the following revisions:

Summary of Council Approved Amendments to Germantown Master Plan

<u>Description of Amendment</u>	<u>Development Sequence Plan</u>		<u>Zoning Plan</u>		<u>Land Use Plan</u>	
	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>
Prudential (Amendment A) Amends the Land Use Plan from residential at 3-12 units per acre to employment	-	-	-	-	Residential (3-12 units per acre)	Employment
Milestone Property (Amendment B) Amends the Development Sequence Plan from Stage Three to Stage Two and amends Zoning Plan from R-200 to I-3	Stage Three	Stage Two	R-200	I-3	-	-
Park 270 (Amendment C) Amends the Zoning Plan from R-200 to I-3, and amends the existing zoning from C-2 to I-3 in accord with Approved Zoning Plan	-	-	R-200 C-2 (existing zoning)	I-3	Residential	Employment
Fairchild (Amendment D) Amends the Development Sequence Plan from Stages Two and Three to Stage Two and amends the Land Use Plan from industrial to suitable for planned development under MXPD Zone	Stages Two & Three	Stage Two	-	-	-	Adds statement to Master Plan text that the property is suitable for planned development under MXPD Zone.



North Village

LITTLE SENECA PARK

Rec. Center C

AF-1

F-1

LEGEND

- ▬ Airport Runway
- ▬ Taxiway
- ▬ Road
- ▬ Utility Line
- ▬ Power Line
- ▬ Telephone Line
- ▬ Cable
- ▬ Sewer
- ▬ Water
- ▬ Storm Sewer
- ▬ Drainage
- ▬ Fencing
- ▬ Wall
- ▬ Gate
- ▬ Building
- ▬ Storage
- ▬ Parking
- ▬ Area of Development
- ▬ Area of Interest

Scale	1:50,000
Scale	1:25,000
Scale	1:12,500
Scale	1:6,250
Scale	1:3,125

COMBINED AIR FORCE CENTER
WATERS LANDING

Resolution No.: 11-2262

Introduced: October 2, 1990

Adopted: October 2, 1990

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY

OCT 17 1990

By: County Council

Subject: Approval of Development Plan Amendment (DPA) No. 89-3, Lerch, Early, Roseman and Frankel, Chartered, Attorneys for North Village-270 Limited Partnership, Waters Landing Partners, NV Land, Inc., Waters Landing Limited Partnership, Prudential Insurance Co. of America, Waters Landing Professional Park Limited Partnership, Imperial Development Corporation and the Ryland Group, Inc., Applicants

Background

1. On October 30, 1968, the District Council approved Zoning Application No. P-148 to rezone from the R-R Zone (one-half acre density) to the Town Sector Zone 1,504 acres known as the Churchill Town Sector, located in Germantown, in the 2nd Election District.
2. On August 1, 1989, Development Plan Amendment No. 89-3 was filed which requested an amendment to six areas of the development plan amounting to 242.7 acres to bring North Village, Parcels EB, AF-1, AF-2, EB, and JHS into conformance with previously approved or pending site or subdivision plans and to change the configuration and acreage of Parcels GA and FB and to change the proposed improvements for recreation area C. The current development and proposed changes are described below.

Amendment 1-North Village. Presently approved industrial/employment 75 acres, 2.7 million square feet with an interim limitation of 400 maximum peak hour trips.

Requested Change to Industrial/Employment. 75 acres, 1.3 million square feet with no interim limitation, pursuant to comprehensive amendment to Germantown Master Plan.

Amendment 2-Parcels JHS, AF-1 and AF-2. Presently Parcel JHS shows 240 low-rise apartments (720 people) and Parcel AF shows 288 mid-rise apartments (576 people).

Requested Change on Parcel JHS to 131 townhouses (393 people) in accordance with approved supplementary plan and site development plans (project under construction) and to transfer excess population from Parcel JHS to Parcels AF-1 and AF-2 and to change land use Parcels AF-1 and AF-2 from mid-rise apartments to low-rise apartments.

Amendment 3-Parcels HB and Parcel EB. Presently Parcel HB shows 342 low-rise apartments (972 people) and Parcel EB shows 130 mid-rise apartments (260 people).

Requested Change on Parcel HB to 300 low-rise apartments (900 people) in accordance with approved site development plan, to transfer 34 people from Parcel HB to Parcel EB and to change land use of Parcel EB from mid-rise apartments to 98 low-rise apartments (294 people) and to transfer excess population (38 people) to Parcel AF.

Amendment 4-Recreation Center C. Presently shows a swimming pool, two tennis courts, an exercise station or course and a multi-purpose court.

Requested Change of Recreation Center C to show a minimum of two tennis courts, an exercise station, a multi-purpose court and a possible future swimming pool for the request of the Waters Landing Homeowners Association.

Amendment 5. Presently Parcel FB is shown as an elementary school site on 10 acres.

Requested Change to show an 8.2 acre public park pursuant to the comprehensive amendment to the Germantown Master Plan.

Amendment 6. Presently Parcel GA is show as a 3.4 acre commercial parcel with 74,000 square feet maximum.

Requested Change to show 4.7 acres with 62,200 square feet maximum.

3. The application was initially reviewed by the Technical Staff of the Maryland-National Capital Park and Planning Commission who, in a report dated December 6, 1989, recommended approval; the full Planning Board considered the application on December 14, 1989, and by a 4-to-1 vote recommended approval with conditions.

4. After the Planning Board's action, the applicants requested that further action on the application be suspended pending further revision to the DPA. On May 31, 1990, the Planning Board voted to reconsider its earlier recommendation. The Technical Staff reviewed the revised DPA and, in a report dated June 29, 1990, recommended approval. The Planning Board considered the revised DPA on July 5, 1990, and by a 4-0 vote recommended approval for amendments 1, 2, 3 and 6. With respect to amendments 4 and 5, the Board recommended that they be combined to provide for an 11.7 acre public park in place of the private recreation center and pool. The applicants revised the DPA to conform with this condition. Supplementary plans submitted along with the DPA were approved by the Planning Board.

5. There is no community opposition to the proposed DPA and the Planning Board recommended that a public hearing is unnecessary. The record and the recommendation were transmitted to the District Council for its immediate consideration.

6. On October 2, 1990, the District Council reviewed DPA 89-3, and found that it complies with the requirements of the Town Sector Zone, the specific performance standards delineated in §59-D-1.6.1(a-e), and bears sufficient relationship to the public interest to justify its approval.

Action

For these reasons, the County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

DPA No. 89-3 is approved for amendments number 1, 2, 3 and 6; and amendments 4 and 5 are approved as revised by Exhibit 33(a) which combines the two proposals to provide for an 11.7 acre public park in place of the private recreation center and pool proposed; and provided, however, that the applicants must submit within 10 days of this action copies of the approved development plan containing those revisions specified above for certification by the hearing examiner in the form required under §§59-D-1.63 and 1.64.

This is a correct copy of Council action.



Mary K. Edgar
Acting Secretary of the Council

DPA 89-3

the recent amendments to the Master Plan. The technical staff, therefore, recommends approval of DPA-89-3.

BACKGROUND

Zoning Application No. F-148 was approved for the Town Sector Zone in October, 1968. It was originally known as the Churchill development. Several comprehensive amendments to the development plan have occurred over the years. The most recent amendment was approved in 1986, as part of the amendments to the 1974 Germantown Master Plan. Most of the development is approved, and much has either been built or is under construction. Approval and completion of the subject parcel will complete the Water's Landing development.

PROPOSED AMENDMENT

The attached information, supplied by the applicant, lists the proposed amendments for each of the nine parcels affected. The staff notes that the overall effect of the changes in the residential areas is a net loss of 5 persons. Thus, there is no problem with exceeding the zone-mandated limit of 15 persons per gross acre. The proposed changes are in accord with the land use recommendations of the recently-adopted amendments to the Germantown Master Plan.

The amendment to the employment/industrial area proposes 1.3 million square feet of employment development. The 1986 Master Plan amendment and development plan amendment (DPA 83-3) had proposed up to 2.7 million square feet of floor area, with an interim limit of 400 peak hour trips. A preliminary plan for 400,000 square feet of employment has been approved. The

DPA 89-3

approved 1989 Master Plan amendment permits up to 1.4 million square feet. DPA-89-3 proposes only 1.3 million square feet which, in effect, means that an additional 900,000 square feet could be developed above current approvals. New development will still be subject to APF review.

Parcel JHS had been designated for a junior high school in the original development plan. However, Montgomery County Public Schools determined that the site was not needed for school purposes. Development on the site was approved in an earlier DPA. The unused population from the development on this site is to be transferred to Parcels AF-1 and AF-2.

Parcel GA is designated for commercial development. The development plan currently shows an area of 3.4 acres and a maximum development of 74,000 square feet. The DPA proposes to expand the area of the site to 4.7 acres, but reduce the development to 62,200 square feet of professional office space.

There appears to be only two minor points at issue on the proposed DPA. The first is whether or not another swimming pool needs to be shown on Rec. Center site C. The other matter concerns possible environmental problems on site EB.

With regard to the pool issue, the DPA proposes to delete the requirement for another pool. As can be seen in the applicant's analysis of future pool needs, the unserved population is only 39 units, given the four pools already programmed. By formula in the County Code, it would be simpler to slightly expand the deck area of one of the two community pools already programmed/built. That matter can be examined during the site

DPA 89-3

plan review process for the remaining residential parcels and made a condition of approval. The proposed amendment would not preclude construction of a pool if future demand seems to warrant it. What the amendment does is allow the recreation area to go forward and examine future needs after full build-out.

The Urban Design Division has the following comments on the proposed change to Parcel EB:

"Urban Design staff has met with the applicant several times. The applicant will get back to us with a revised site plan to address the following concerns:

- "1. The current site plan would eliminate the native trees lining the public recreation path on the south and totally change the path experience; the path would approach the lake along an asphalt parking lot. The applicant is to relocate some of the parking to the center of the site, which is already cleared.
- "2. The units at the northern property line would come closer to the property line than do the existing units, and would require the removal of the last native trees on the northern part of the site. The view of the lake from the road at the northern property line is excellent, and an effort should be made to preserve a view corridor.
- "3. The applicant has made an attempt to pull the units back from the lake, but this development remains closer and more visible from the lake and the public path than any other project on Lake Seneca."

The staff notes that Parcel EB is currently designated in the development plan for 130 mid-rise units. For all intents and purposes, the amount of clearing and grading would be the same as is necessary for the proposed 98 garden units. As can be seen in the Urban Design staff's memo, they are working with the applicant to try and minimize the negative impact that development on this site would have. The Parks Department had no comment on the proposed amendment.

DPA 89-3

The following comments have been received from the Environmental Planning Division:

Staff has no comments on the proposed development plan amendment for 8 parcels in Waters Landing. It should be noted that for those parcels which do not already have an approved site plan, at the preliminary subdivision and site plan stages, plans should show undisturbed open space areas in stream valleys that conform to staff's steep slope guidelines. These plans should also address stormwater management and safe conveyance of run-off to SWM facilities."

CONCLUSIONS

The staff finds that the proposed development plan amendment does not substantially alter the character of the Town Sector development. There is only a net loss of 5 persons, as a result of the changes to the residential areas, and employment square footage will be reduced from currently approved levels. All of the proposed changes appear to be in accordance with the recommendations in the recently-adopted amendments to the Germantown Master Plan. Staff, therefore, recommends approval of the proposed amendment. Staff also recommends that no public hearing is necessary, since there has been no opposition to the request.

DM:ds/spd/b:dpa893.dm

Attachments

EXHIBIT A

Date: 11-22-89

AMTERS LANDING DENSITY TABULATION: (PARCEL AF PART 1)

Parcels Completed or Under construction	Total Units
DB/DC	362
BA	132
LEC	156
HRB	150
CB	248
* EC 1-2	1112
ES	68
CS	240
FA-1	74
FC	78
EA	114
FA-3	71
FA-2	27
AA	216
CC	120
HA-2	66
HA-1	45
JNS	121
BLACK HILL	150
NB	300
Sub total	2880
Parcels w/ site plan pending:	
ES	98
AF-1	144
TOTAL UNITS INCL. PENDING SITE PLANS	3122

MCPB
Item # 18
1/12/95

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

January 3, 1995

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Deane Mellander for the Planning Department (495-4570)

SUBJECT: Board of Appeals Special Exception Petition No. S-2129
Golf Driving Range, Water's Landing, Germantown

Staff Recommendation: APPROVAL subject to the following conditions:

1. The applicant is bound by all submitted statements and plans.
2. All structures to be set back at least 100 feet from the right-of-way of I-270.
3. Approval of a landscaping, lighting, and signage plan by the M-NCPPC technical staff.
4. Clearing, if any, to be reviewed and approved as part of the Montgomery County Forest Conservation legislation.
5. Submittal of a stormwater management concept plan to the Montgomery County Department of Environmental Protection.
6. Approval of an access permit by the Montgomery County Department of Transportation.

BACKGROUND

The applicant, North Village-270 Limited Partnership, has requested a special exception to permit a golf driving range on the west side of I-270 north of the new interchange with MD 27. Under the provisions of Section 59-C-7.23 of the Zoning Ordinance, a golf driving range is allowed by special exception

S-2129

in the Town Sector Zone. Any special exception use authorized in any zone may be approved in the Town Sector Zone.

The site, approximately 20 acres in size, is located in an area of the Water's Landing development plan that has been approved and intended for office development. The applicant has indicated verbally to staff that the golf driving range is intended to be an interim use until such time as the market for office/employment development dictates redevelopment of this site for that use.

At one time the site was a part of a private golf course operated by the Century 21 office development near the MD 118 interchange. The tees will be located on the north end of the site. The topography reflects a descending slope from north to south. The low point is at the southwest corner of the site. The total change in grade is approximately 30 feet. There are only a few scattered small conifer trees on the site.

As shown on the attached site plan, the golf driving range would measure 300 yards long with golfers hitting from north to south, parallel to I-270. There would be 40 tees for patrons, 20 being covered for inclement weather, a chipping and putting area, a sand practice bunker, nine baseball batting cages, and a possible future miniature golf area. To keep balls within the range, golf netting 40 feet high is proposed to be mounted on poles along the side of the property paralleling I-270. The length of the netting would be approximately 950 feet. A 6-foot

S-2129

chain link fence is proposed along the west and south sides of the site. The range would be lit by floodlights mounted on 30-foot high poles located behind the tees. These lights would be designed and arranged so as not to reflect or cause glare into any residential area. Other proposed facilities include a building measuring 12 feet by 36 feet containing the sales area, vending machines, ball dispenser, and rest rooms, and a small 12 feet by 16 feet maintenance shed for equipment and tractor storage. The parking area will have access off a driveway from the current end of Crystal Rock Drive. The plan proposes 93 parking spaces including 4 handicapped.

The surrounding area is currently vacant. The closest residences are about 1,600 feet south of the site, at the point where Crystal Rock Drive currently dead-ends. The area to the east of the site is being graded for the new I-270/MD 27 interchange and for future office/R&D development. The area across I-270 to the north is also vacant. The remaining lots within the subdivision are undeveloped.

PROPOSAL

In support of the special exception petition the applicant states the following:

Hours of Operation

The proposed hours of operation are as follows:

Monday through Friday	9:30 a.m. to 10:30 p.m.
Saturday and Sunday	8:30 a.m. to 10:30 p.m.

There will be two shifts each day and two full-time employees on each shift, for a total of four full-time employees each day. There may be two or three additional part-time employees as warranted by demand and seasonal needs.

Access and Parking

Access to the golf driving range will be provided by an 18 foot stone drive leading from Crystal Rock Drive to the parking lot, which will contain approximately 93 parking spaces (4 handicapped). This access is of sufficient width and capacity to accommodate the traffic which will be generated by the proposed use. An alternate access in the future may be provided from the extension of Century Boulevard off of Kinster Drive. The proposed access roads are safe and will not have a detrimental impact on the adjoining neighborhood. As shown on the site plan, the driving range will provide approximately 93 parking spaces, which are sufficient to satisfy the parking requirements.

Landscaping and Lighting

Landscaping on berms will be provided on all sides of the driving range as shown on the site plan. A split rail fence will be provided around the parking area. Fencing will be provided on the perimeter of the driving range and netting will be provided along I-270 to contain errant golf balls. Outdoor lighting will be situated and shielded so that no direct light will be visible from any residence. The lighting will not adversely impact neighboring uses or I-270.

Signs

The design, size, height and location of signs shall be as shown on the site plan. The signs have been designed to complement the architectural elements of the driving range and provide an attractive identification.

ANALYSIS

The special exception was referred to the various divisions in the Planning Department for review and comment. The planning staff finds no inconsistency with the Germantown Master Plan or the Water's Landing Development Plan. The portion of the site

S-2129

closest to I-270 is designated for open space/golf course. The balance of the area is designated for office/employment development. As an interim use, the golf driving range will not preempt any future planned uses of the site.

Section 59-D-1.3(g) of the Zoning Ordinance requires that a supplementary plan be approved by the Planning Board for any revisions to a previously approved supplementary plan. The site is within an area that was last affected by Development Plan Amendment No. 89-3, approved by the District Council in October of 1990. Because the proposed special exception will modify the approved supplementary plan, a revised plan must be approved. The Planning Board will be considering the revised supplementary plan and forward comments to the Board of Appeals for inclusion in the record of the public hearing.

The staff finds that the site design is generally acceptable. In order to improve compatibility and safety, the staff recommends that all structures be set back at least 100 feet from the I-270 right-of-way. The golf driving tees are proposed to be set back 100 feet from this right-of-way. However, the batting cage is only 40 feet from the right-of-way. Staff therefore recommends that the batting cage be set back to 100 feet. This will result in a minor reconfiguration of the parking area, but there appears to be ample space to accommodate this change.

Staff finds that the special exception will have a minimal impact on transportation-related public facilities. The Institute of Transportation Engineers has not developed a trip generation rate for golf driving ranges. Therefore, in August 1994, the applicant conducted a driveway count for a similar facility in Gaithersburg. The surveyed site at the Washingtonian golf course has 45 driving mats, and generated 1.07 in-bound trips and 0.87 out-bound trips per tee in the peak hour (5:00 to 6:00 p.m.). This results in a total of 78 trips for the 40 tees proposed by the applicant. The batting cages practice bunker and chipping green would add an additional 17 total trips. The total of 95 trips in the peak hour results in a generation rate of 2.4 trips per golf tee. A similar facility in Howard County had a generation rate of 1.5 trips per tee. Staff concludes that the basis for the traffic study is very conservative.

The area that encompasses the proposed driving range is currently approved for 400 peak hour trips by approved Preliminary Plan No. 1-87012. As noted, the driving range is intended to be an interim use until such time as the approved office development can proceed. Therefore, any development that does not exceed the approved 400 peak hour trips will not have an adverse impact on the surrounding road network. Since the applicant's analysis shows that 95 peak hour trips would be generated, there will be no adverse traffic impact from the proposed driving range. The proposed access drive will be over

S-2129

property currently controlled by the applicant. Part of this driveway will be over the former roadbed of an old country lane.

A preliminary plan of subdivision for the area that included the site has already been approved by the Planning Board. However, staff understands that the applicant may seek relief from the platting requirement by requesting a variation from the subdivision regulations.

SPECIFIC AND GENERAL CONDITIONS

Upon review of the submitted plans and a site visit, planning staff finds that the proposal satisfies the specific provisions for a golf driving range found in Section 59-G-2.25 and the general conditions for the granting of a special exception found in Section 59-G-1.21 of the Zoning Ordinance. Staff therefore recommends that the special exception be approved subject to the conditions on page 1 of this staff report.

DM:ds\s-2129.rpt

Attachments

NO CONSIDERATION

DEED

THIS DEED (this "Deed"), made this 17th day of JUNE, 1994, by and between NORTH VILLAGE - 270 LIMITED PARTNERSHIP, a Maryland limited partnership (the "Grantor"), and MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION (the "Grantee").

WITNESSETH, that in consideration of Ten Dollars in hand paid, the Grantor does grant and convey unto Grantee, its successors and assigns, in fee simple, part of the property conveyed to the Grantor by a Deed recorded among the Land Records of Montgomery County, Maryland, in Liber 8032, at Folio 357, lying and being in Montgomery County, Maryland, all as more fully described in Schedule A attached hereto and incorporated herein by this reference (the "Property");

TOGETHER WITH all improvements thereupon, and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages belonging or appertaining thereto;

THIS DEED constitutes a dedication to public use of the Property for the benefit of Black Hills Regional Park, all pursuant to the approved Preliminary Plan of Subdivision 1-87012 (Churchill Far North Village);

TO HAVE AND TO HOLD the same unto and to the use of the Grantee, its successors and assigns, in fee simple;

AND, the said Grantor covenants that it will warrant specially the Property hereby conveyed; and that it will execute such further assurances of said land as may be requisite;

AND, the undersigned hereby certifies under the penalties of perjury that the actual consideration paid or to be paid for the foregoing conveyance, including the amount of any mortgage or deed of trust assumed by the Grantee is in the amount of \$0-.

AGRICULTURE TRANSFER TAX IN THE
AMOUNT OF \$ N/A
SIGNATURE AK

DEED

RECORDED
MONTGOMERY COUNTY
28888

JUL -8 11:53.3

NOV 1994

WITNESS our hands and seals the day and year first above written.

GRANTOR:

NORTH VILLAGE - 270 LIMITED PARTNERSHIP, a Maryland limited partnership

BY: LERNER ENTERPRISES LIMITED PARTNERSHIP, General Partner

By: *Theodore N. Lerner*
Theodore N. Lerner,
General Partner

By: *Mark D. Lerner*
Mark D. Lerner,
General Partner

STATE OF MARYLAND :
: ss:
COUNTY OF MONTGOMERY :

I HEREBY CERTIFY THAT on this 17 day of June, 1994, before the undersigned, a Notary Public of the State and County aforesaid, personally appeared THEODORE N. LERNER, General Partner of Lerner Enterprises Limited Partnership, a Maryland limited partnership, and that he, as such general partner, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by himself as a general partner, and further acknowledged the same to be the act and deed of North Village - 270 Limited Partnership.

GIVEN under my hand and official seal this 17 day of June, 1994.

Kira Ann Nelson
Notary Public



COMMISSION EXPIRES:

3-1-98

JUL 7 1994

2.1-1737747

TO GOVERNMENTAL, RELIGIOUS, CHARITABLE ORGANIZATION

Kira Ann Nelson

Joseph D. [Signature]

STATE OF MARYLAND :
: ss:
COUNTY OF MONTGOMERY :

I HEREBY CERTIFY THAT on this 17 day of June, 1994, before the undersigned, a Notary Public of the State and County aforesaid, personally appeared **MARK D. LERNER**, General Partner of **Lerner Enterprises Limited Partnership**, a Maryland limited partnership, and that he, as such general partner, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by himself as a general partner, and further acknowledged the same to be the act and deed of **North Village - 270 Limited Partnership**.

GIVEN under my hand and official seal this 17 day of June, 1994.

(SEAL)

Mark D. Lerner
Notary Public

MY COMMISSION EXPIRES: 3-1-98

I HEREBY CERTIFY that this instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Robert G. Brewer, Jr.
Robert G. Brewer, Jr.

AFTER RECORDATION, PLEASE RETURN TO:

Land Acquisition Specialist
M-NCPPC
9500 Brunett Avenue
Silver Spring, Md. 20910

DEPTREVAH\23013.D
031194U

CLERK'S INDEX SHEET

(For the purpose of proper indexing only)

Pursuant to the provisions and requirements of Section 3-501 of Subtitle 5, Real Property Article, Annotated Code of Maryland (1981 Repl. Vol.), the following additional information is declared by the parties hereto to be contained within this instrument:

TYPE OF INSTRUMENT: Deed

GRANTOR: NORTH VILLAGE - 270 LIMITED PARTNERSHIP
c/o Lerner Enterprises Limited Partnership
11501 Huff Court
North Bethesda, Maryland 20895

GRANTEE: MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION
9500 Burnett Avenue
Silver Spring, Maryland 20901

CONSIDERATION: \$-0-

TAX ID NUMBER: Part of 2-01-1737747

PROPERTY DESCRIPTION: Approximately 64.1869 Acres, being part of the property conveyed by Deed recorded in Liber 8032 at Folio 357, among the Land Records of Montgomery County, Maryland, located in the Clarksburg (2nd) Election District.

TITLE INSURER: Lawyers Title Insurance Corporation

CLERK:

After recording, please see that the original of the foregoing instrument is:

X Return Mail to:

Land Acquisition Specialist
M-NCPPC
9500 Brunett Avenue
Silver Spring, Md. 20901

DO NOT WRITE BELOW THIS LINE - TO BE COMPLETED BY CLERK OF COURT

VERIFIED BY: _____

DESCRIPTION
PART OF THE PROPERTY OF
NORTH VILLAGE - 270 LIMITED PARTNERSHIP
LIBER 8032 FOLIO 357

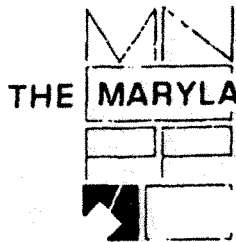
Being a piece or parcel of land hereinafter described in, through, over and across the land conveyed from The Prudential Insurance Company of America to North Village - 270 LIMITED PARTNERSHIP, by a deed dated November 19, 1987 and recorded among the Land Records of Montgomery County, Maryland in Liber 8032 at Folio 357, the same being more particularly described as follows:

BEGINNING FOR THE SAME at the beginning of the 1st or South 84° 06' 56" West 183.26 feet line of said Liber 8032 at Folio 357; thence running with the outline of said deed; the following fifteen (15) courses

- 1) South 84° 06' 56" West 183.26 feet to a point; thence
- 2) South 60° 42' 30" West 454.00 feet to a point; thence
- 3) South 19° 59' 00" West 63.40 feet to a point; thence
- 4) North 63° 59' 48" West 228.09 feet to a point; thence
- 5) North 70° 31' 38" West 305.17 feet to a point; thence
- 6) North 06° 05' 39" West 900.29 feet to a point; thence
- 7) North 21° 39' 57" East 391.83 feet to a point; thence
- 8) North 10° 09' 42" East 924.13 feet to a point; thence
- 9) North 59° 10' 36" East 890.69 feet to a point; thence
- 10) North 81° 09' 22" East 144.78 feet to a point; thence
- 11) North 59° 08' 42" East 189.63 feet to a point; thence
- 12) North 81° 10' 05" East 528.09 feet to a point; thence
- 13) South 03° 48' 40" East 428.94 feet to a point; thence
- 14) South 65° 29' 40" East 580.70 feet to a point on the southwesterly right of way line of the Washington National Pike (Interstate Route 270) as shown on SRC Plat #11496; thence running with part of said right of way line, the following course
- 15) 97.94 feet along the arc of a curve deflecting to the left, having a radius of 5829.58 feet (Chord: South 41° 44' 55" East 97.94 feet) to a point; thence running so to cross and divide said deed, the following six (6) courses

- 16) South 75° 58' 24" West 1317.17 feet to a point; thence
- 17) South 30° 30' 00" West 1633.56 feet to a point; thence
- 18) South 04° 00' 00" West 190.12 feet to a point; thence
- 19) South 88° 15' 38" East 380.30 feet to a point; thence
- 20) North 50° 38' 49" East 329.84 feet to a point; thence
- 21) South 76° 23' 05" East 170.00 feet to a point on the 27th or South 07° 06' 52" West 205.66 feet line of said Liber 8032 at Folio 357, also being the westerly right of way line of Crystal Rock Drive, as shown on a plat of subdivision entitled "PLAT NO. 154 DEDICATION OF ROAD CHURCHILL TOWN SECTOR GERMANTOWN SECTION 12" and recorded in Plat Book 142 as Plat No. 16327; thence running with the outline of said deed and said westerly right of way of Crystal Rock Drive, the following two (2) courses
- 22) South 07° 06' 52" West 105.00 feet to a point of curvature; thence
- 23) 122.51 feet along the arc of a curve deflecting to the left, having a radius of 540.00 feet (Chord: South 00° 36' 54" West 122.25 feet) to the point of beginning, containing 64.1869 acres of land, more or less.

LF 12755.390



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks, Montgomery County, Maryland
9500 Brunett Avenue • Silver Spring, Maryland 20901

Clerk of the Circuit Court
Judicial Center
Rockville, Maryland 20850

Dear Clerk:

Please record among the Land Records of Montgomery County, Maryland the attached deed conveying land to The Maryland-National Capital Park and Planning Commission. The Commission is a State-created agency authorized to buy, sell and otherwise dispose of real property interests pursuant to Article 28 of the Annotated Code of Maryland and is exempt from transfer and recording fees.

Your cooperation in this regard is appreciated.

Sincerely,

William E. Gries
Land Acquisition Specialist


WEG/dw
Enclosure

Action

MEMORANDUM

October 2, 2009

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: Action - Zoning Text Amendment 09-06, Town Sector (TS) Zone – Minimum Area

PHED Recommendations: On September 21, 2009 the Committee (3-0) recommended approval of ZTA 09-06 as introduced. In the Committee's opinion, ZTA 09-06 would help implement the recommendations of the recently adopted Germantown Sector Plan. The Committee noted that ZTA 09-06 would not affect Montgomery Village, and the Committee had no intent to affect Montgomery Village.

Background

On July 28, 2009 Zoning Text Amendment (ZTA) 09-06 was introduced. Councilmembers Knapp, Elrich, and Floreen sponsored the ZTA to implement the Germantown Sector Plan. The ZTA would amend the Town Sector (TS) Zone to allow a TS zoned area to be reduced below 1,500 acres. Such a reduction would only be allowed by the Council's approval of a sectional map amendment. A sectional map amendment may only be filed by the District Council to implement the zoning recommendations of a master plan or to correct inaccurate depictions of zoning boundaries.

There are 2 areas in the County zoned TS: 1) Churchill, and 2) Montgomery Village. Only the Churchill area has a sector plan that recommends reducing the acreage of TS zoning.

Public Hearing Testimony

On September 15, 2009 the Council held a public hearing. The Planning Board expressed concern about the consequences of ZTA 09-06. In the Board's opinion:

- 1) it appears to conflict with a provision of the TS zone that prohibits any application for zoning reclassification until 50 years after the grant of the TS zone;
- 2) undeveloped TS zoned parcels may need lengthy grandfathering provisions;

- 3) there is more flexibility in the TS zone than in the TMX-2 zone because it does not have an FAR limit.

The Planning Board's concerns did not result in a specific recommendation to deny, amend, or approve ZTA 09-06.

The Planning Staff report gave the concerns of Montgomery Village as a reason to not adopt ZTA 09-06. Testimony from Montgomery Village cited the "debate between Council staff regarding the impact ZTA 09-06 may have on Montgomery Village" as a reason for their concern. The Planning Staff report's only reference to any possible implication for Montgomery Village was stated as follows:

An important issue is whether the intended purpose of ZTA 09-06 can be achieved without also amending the provision of the Town Sector zone that ties Town Sector zoned land to a 50-year time period.¹

Issues

The concerns expressed in the Planning Board's testimony were previously given to the Council during the Council's deliberations on the Germantown Sector Plan Amendment. The Council reviewed these concerns in detail and did not find them persuasive in approving the Germantown Sector Plan Amendment. The implementation of that plan would be aided by the adoption of ZTA 09-06. Staff has not changed its opinion. For the benefit of the record and to address the concerns of the Montgomery Village Foundation, staff has addressed each issue in detail.

Can the intent of ZTA 09-06 be achieved without also amending the provision of the Town Sector zone that ties Town Sector zoned land to a 50-year time period?

If the Council adopts ZTA 09-06, it would not require amending the provision of the Town Sector zone that ties Town Sector zoned land to a 50-year time period. *The 50-year limit concerning the rezoning of TS zoned property only applies to zoning applications (Local Map Amendments) from private land owners (not Sectional Map Amendments).* ZTA 09-06 would not change that situation. The County Attorney agrees with this conclusion.²

The only reference to a delay period for new zoning applications from TS zoned land is in the provision below, reproduced in its entirety:

59-C-7.28. Procedures for application and approval.

- (e) Record plats shall indicate that the land is in the town sector zone and shall also include the following notations:
 - (1) An appropriate statement concerning all of the land which is designated for common or quasi-public use but not to be in public ownership. This statement shall grant to the public, on such land, easements covering all rights of development, construction or use other than the recreational or other quasi-public uses indicated in the

¹ Memorandum to the Planning Board, September 3, 2009, page 2.

² Although Planning Staff posed a legal question, there is no opinion from their General Counsel in the material forwarded to the Council.

approved site plan, except that, at the time of site plan approval, utilities easements may be excluded from specified areas.

- (2) A statement indicating that the plat is in accordance with the approved site plan and that development of the land is permitted only in accordance with the approved site plan and the accompanying agreements concerning the ownership and maintenance of common land, which are on file at the offices of the planning board, and that application for reclassification shall not be permitted until 50 years after the grant of the town sector zone.

Section 59-C-7.28 refers to record plats and the obligation of current and future landowners. A Sectional Map Amendment is made by application of the Planning Board to implement the Council's master plan vision. The notation on a record plat made by the land owner under §59-C-7.28 does not bind the Planning Board and the Council.

The 50 year provision deals only with the application and approval of record plats. There is nothing about duration of the zone or a prohibition on zoning changes by Sectional Map Amendments in any other provision of the TS zone, including the purpose clause.

Although it is not stated directly in their memorandum, Planning Staff is concerned that the phrase "Local Map Amendment" does not appear in §59-C-7.28. This concern is unjustified, given the context of the provision. Barring a future application for a different zone by the land owner is one of several notes required on the plat memorializing **the applicant's agreements**. Plat restrictions are to provide notice of restrictions to future land owners. The land owner does not have the authority to seek a Sectional Map Amendment and would not have that authority under ZTA 09-06. The phrase "application for reclassification" in the context of §59-C-7.28 only has the authority to refer to Local Map Amendments.

Amending §59-C-7.28 to refer only to a local map amendment application would not change the note on previous recorded plats. The language on the plat would remain the same. The authority to do Sectional Map Amendments would not change. The inability of a private property owner to do a Sectional Map Amendment would not change.

Would ZTA 09-06 affect Montgomery Village?

ZTA 09-06 will not affect Montgomery Village. ZTA 09-06 does not express any intent to affect Montgomery Village. TS zoned land would only be allowed to be reduced below 1,500 acres as the result of a Sectional Map Amendment. An application for a Sectional Map Amendment can be made by the Planning Department to implement an adopted comprehensive plan (or to correct zoning boundaries). It would require a change in an approved master or sector plan to allow any reduction to the TS zone below 1,500 acres. There are no master or sector plans that make that recommendation concerning Montgomery Village before the Council.

The Montgomery Village's prohibition on Local Map Amendments from TS zoned land expires in 2015. A review of the Gaithersburg East Master Plan will be before the Planning Board in the next several years. The Council does not know what the Planning Board may propose in the future Gaithersburg East Master Plan. It is possible the Planning Board could recommend rezoning some portion of the land zoned TS. The Council would have to consider this and the recommendation of all other parties on their

merits. Failure to pass this ZTA would not prevent someone from advocating rezoning. A Sectional Map Amendment in Germantown should not be viewed as a threat to Montgomery Village.

Would ZTA 09-06 require grand fathering provisions for undeveloped parcels in the TS zone?

The short answer is no. The recommendation of the Germantown Sector Plan would reduce the total TS area to below 1,500 acres. The intent of ZTA 09-06 is to make sure that the land remaining in the TS zone is not in a non-conforming zone.³ It does not change the rights and privileges of property owners remaining in the zone. The remaining TS zoned land in the Churchill TS zone conforms to the requirements of the TS zone.⁴ The current approved development plan would stay in effect. Amendments to the development plan can still be submitted in a manner that conforms to the TS zone.

Is it wise to change land in Churchill currently zoned TS to TMX-2?

The Planning Board touted the infinite flexibility of the TS zone as a reason to retain it; however, the Sector Plan limitations on height and density do not change by the application of a different zone. The land uses and density allowed by the TMX-2 zone are sufficient to accomplish the land use and density vision of the Sector Plan. The grandfathering provision of the TMX-2 zone allows projects approved in any stage (development plan, preliminary plan, or site plan) to proceed as previously approved. Any substantial new development beyond that which was already approved would have to meet the requirement of the TMX-2 zone.

The TS zone versus the TMX-2 zone issue was carefully reviewed by the Council when it adopted the Germantown Sector Plan. The following might be familiar to the Council; it was in a memorandum to Council recommending adoption of the Germantown Plan as amended:

TS Versus TMX-2 Zoning

Committee Recommendation: Replace TS zoning with TMX-2 zoning in various locations in the Sector Plan to better achieve the Sector Plan recommended land use vision and amenity requirements.

One of the issues that impacts several of the following properties is whether the Town Sector (TS) or Transit Station Mixed-Use (TMX-2) zone would be the better zone for mixed-use properties. Staff questions whether the TS zone is the best zone to achieve the Plan's visions for the following reasons:

- The TS zone was conceived as a suburban mixed-use zone for overall modest densities of development. It limits population to 15 people per acre, which equates to approximately 5 units per acre or up to 7.5 for multi-family, less than is appropriate for a transit station area. These population limits are problematic for some property owners.
- Since these limits apply to the entire area zoned TS, the only way to understand what may be allowed on a specific property is to know the amount of population capacity already used up and what other TS property owners are considering. The zone has worked well where there is

³ The zone currently requires 1,500 acres. In the absence of a ZTA, the application of a Sectional Map Amendment that reduced the total area to less than 1,500 acres would make the area remaining in the zone non-conforming to the provisions of the zone. Non-conforming structures and non-conforming uses are relatively common; a non-conforming zoning would be rare, if not unique.

⁴ Memorandum from Sue Edwards to Greg Russ, September 3, 2009, © 13.

a single property owner, but there could be various problems with multiple property owners. In theory, one TS development could use population capacity to the detriment of another property owner.

- There is nothing in the zone to indicate that the Planning Board may allocate this capacity among property owners or is required to adhere to a master plan recommended allocation.
- The TS zone limits total commercial development to 10% and industrial development to 6%; it is not truly a mixed-use zone appropriate for a higher density, mixed-use transit center.
- The zone provides no limits on floor area ratio (FAR), density, height, or setback.
- It does **not** require consistency with the master plan and, therefore, Staff questions whether the Planning Board would have the basis to implement many of the Sector Plan provisions that limit FAR, height, etc.
- It does not include requirements for transferable development rights or building lot termination rights.
- It does not require the provision of amenities, although several are identified in the Sector Plan.
- It does not allow bonus market units for those who exceed the minimum requirement for MPDUs, nor does it have a workforce housing provision.

Given all these factors, Staff concludes that the TS zone is no longer appropriate for application in the Employment Corridor and Town Center areas of Germantown, where transit-oriented development should be more intense and where public amenities and policies need more focus and application. The Planning Board reached a different conclusion and an e-mail from the Chair attached at © 20 to 21 argues for the TS zone. **Staff does not agree with his conclusion that the densities would be more restricted under the TMX-2 zone, because the Sector Plan calls for average densities over properties of no greater than 2 FAR, and this is consistent with the TMX-2 zone.** Staff also does not recommend any amendments to the TS zone (other than allowing a TS area to be less than 1,500 acres if rezoned by a sectional map amendment.) More extensive amendments to the TS zone could have unintended impacts on areas outside the Sector Plan, including Montgomery Village.

In Germantown, there is considerable merit to rezoning all commercial mixed-use properties to the same zone. This promotes uniformity of administration and design implementation. It avoids inadvertent anomalies in the implementation of the master plan as well. It will also allow for an easier transition to any possible future zone developed and applied in the zoning ordinance rewrite program. The land uses, mix of uses, and recommended amenities in the Sector Plan would work very well with the TMX-2 zone, which is recommended for parts of Germantown. TMX-2 is intended for mixed-use development near transit stations; the densities are consistent with the recommendations in the Plan; and the zone requires conformance with the master plan, as well as the provision of amenities and the purchase of BLTs. This issue is addressed below for each property zoned TS.

This packet contains

ZTA 09-06

Planning Board Recommendation

Planning Staff Recommendation

Montgomery Village Foundation

© page

1 – 4

5 – 6a

6b – 17

18

Zoning Text Amendment No: 09-06
Concerning: Town Sector Zone - Minimum
Size
Draft No. & Date: 1 - 7/21/09
Introduced: July 28, 2009
Public Hearing: September 15, 2009
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Knapp, Elrich, and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Allow, under certain circumstances, a reduction in the land area required for land currently zoned TS.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-7. "PLANNED UNIT DEVELOPMENT ZONES"
Section 59-C-7.2 "Town sector zone"

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 09-06 was introduced on July 28, 2009. Councilmembers Knapp, Elrich, and Floreen sponsored the ZTA to implement the Germantown Sector Plan. The ZTA would amend the Town Sector (TS) Zone to allow a TS zoned area to be reduced below 1,500 acres. Such a reduction would only be allowed by the Council's approval of a sectional map amendment. A sectional map amendment may only be filed by the District Council to implement the zoning recommendations of a master plan or to correct inaccurate depictions of zoning boundaries.

On September 15, 2009 the Council held a public hearing to receive testimony concerning the proposed text amendment.

The Planning Board expressed concern about the consequences of ZTA 09-06. In the Board's opinion:

- 1) it appears to conflict with a provision of the TS zone that prohibits any application for zoning reclassification until 50 years after the grant of the TS zone;
- 2) undeveloped TS zoned parcels may need lengthy grandfathering provisions;
- 3) there is more flexibility in the TS zone than in the TMX-2 zone because it does not have an FAR limit.

The Planning Board's concerns did not result in a specific recommendation to deny, amend, or approve ZTA 09-06.

The Planning Staff report gave the concerns of Montgomery Village as a reason to not adopt ZTA 09-06. Testimony from Montgomery Village cited the "debate between Council staff regarding the impact ZTA 09-06 may have on Montgomery Village" as a reason for their concern. The Planning Staff report's only reference to any possible implication for Montgomery Village was stated as follows:

An important issue is whether the intended purpose of ZTA 09-06 can be achieved without also amending the provision of the Town Sector zone that ties Town Sector zoned land to a 50-year time period.

After the public hearing, the Council referred the text amendment to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession to review the amendment on September 21, 2009. The Committee (3-0) recommended approval of ZTA 09-06 as introduced. In the Committee's opinion, ZTA 09-06 would help implement the recommendations of the recently adopted Germantown Sector Plan. The Committee noted that ZTA 09-06 would not affect Montgomery Village, and the Committee had no intent to affect Montgomery Village.

The District Council reviewed Zoning Text Amendment No. 09-06 at a worksession held on October 5, 2009 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 09-06 will be approved as introduced.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Division 59-C-7 is amended as follows:**

2 **Division 59-C-7. Planned Unit Development Zones.**

3 * * *

4 **Sec. 59-C-7.2 Town sector zone.**

5 * * *

6 **59-C-7.24. Area requirements.**

7 59-C-7.241. Minimum area of tract. Each application for the town sector
8 zone shall be for a tract of land which has an area of 1,500 acres or more; except[,
9 that];

10 a) an application for a tract of any size adjoining a tract in the town sector zone
11 may be filed by the original applicant or a successor in title [.] or

12 b) a sectional map amendment may reduce the area zoned TS to less than 1,500
13 acres.

14 * * *

15 **Sec. 2. Effective date.** This ordinance takes effect immediately after the
16 date of Council adoption.

17

18 This is a correct copy of Council action.

19

20

21 _____
Linda M. Lauer, Clerk of the Council



#8-1

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

OFFICE OF THE CHAIRMAN

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

September 10, 2009

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Zoning Text Amendment No. 09-06

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 09-06 at its regular meeting on September 10, 2009. The text amendment allows a Town Sector zoned area to be reduced below 1,500 acres only if accomplished by sectional map amendment. After careful review of the material of record, the Board provides the following comments.

The Board's key concerns with the ZTA 09-06 are discussed in the attached staff report. The stated purpose of ZTA 09-06 appears to conflict with a provision of the Town Sector zone that prohibits any application for reclassification until 50 years after the grant of the Town Sector zone. Under this existing provision the earliest a reclassification of Town Sector zoned land could occur would be 2015 (in Montgomery Village). A corresponding revision to ZTA 09-06 appears to be needed to avoid this problem.

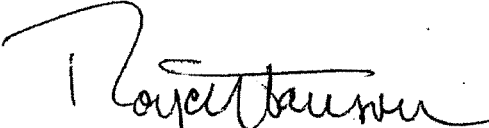
Also, the regulatory implications of a Code change that accommodates a reduction in the area classified in the Town Sector zone need to be carefully considered, since the maximum density, green area, open space, right-of-way dedications and other commitments of the original Churchill Town Sector (in this case) approval were based on a minimum development area of 1,500 acres and an approved development plan. An option to avoid the need for lengthy grandfathering, may be to not reclassify undeveloped Town Sector properties, which otherwise present different problems from grandfathering developed properties.

④ ⑤

The Board is also concerned with the impacts of the text amendment on the Churchill Town Sector of the Sector Plan for the Germantown Employment Area. The Planning Board recommendation retained the TS zone within the sector plan areas of Town Center, West End, and the western side of the North End District in order to meet a central objective of the Plan to create a vibrant town center, with an overall density of 2.0 FAR for the area from the MARC station in the West End to the CCT station at Aircraft Drive and Century Boulevard. The Board found this level of overall FAR to be important, both to support the CCT and to provide the level of activity necessary for a strong mixed use center. The Planning Board determined that it was possible to achieve both the density needed to make a vibrant town center and provide the boost in density in that area because the TS Zone does not have an FAR limitation for non-residential uses. It is even more flexible than the TMX-2 Zone, it is in the right place to have the right effect, and its continued use does not raise any of the issues associated with severing it from the rest of the TS zoned property in Germantown.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the position taken by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission at the Board's regular meeting held in Silver Spring, Maryland, on Thursday, September 10, 2009.


Royce Hanson
Chairman

RH: GR

④ ⑤A ⑥A



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

MCPB
Item #12
09/10/09

DATE: September 3, 2009
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
Ralph Wilson, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendments
PURPOSE: To amend the text of the Zoning Ordinance to allow a TS zoned area to be reduced below 1,500 acres.

TEXT AMENDMENT: 09-06
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59, the Zoning Ordinance
INTRODUCED BY: Councilmembers Knapp, Elrich and Floreen
INTRODUCED DATE: July 28, 2009
PLANNING BOARD REVIEW: September 10, 2009
PUBLIC HEARING: September 15, 2009, 1:30 PM

STAFF COMMENTS:

- The purpose of the text amendment appears to conflict with a provision of the Town Sector zone that prohibits any application for reclassification until 50 years after the grant of the Town Sector zone.
- Questions exist as to the regulatory implications of a code change that accommodates a reduction in the area classified in the Town Sector zone, since maximum density, green area, open space, right-of-way dedications and other commitments of the original Churchill (part of Germantown Master Plan) approval were based on a minimum development area of 1,500 acres and an approved development plan.
- The Montgomery Village Foundation has some concern that to allow the minimum acreage requirement to be lowered below 1,500 acres could facilitate rezoning of land in Montgomery Village in conjunction with the Gaithersburg East Master Plan update before to the 50-year mark for allowing rezoning of land currently zoned Town Sector

BACKGROUND/ANALYSIS

ZTA 09-06 was sponsored by Councilmembers Knapp, Elrich and Floreen to achieve certain Council expressed land use objectives for the Germantown Sector Plan. The

Plan focuses on the Town Center and employment areas along I-270 covering approximately 2,400 acres of the 11,000 acre Germantown Planning Area. The County Council specifically recommended replacement of the Town Sector (TS) Zone with the Transit Station Mixed-Use-2 (TMX-2) zone for approximately 246 acres presently zoned TS in the planning areas. As a result of this recommendation, an amendment to the TS Zone is necessary to allow a TS zoned area to be reduced below 1,500 acres. As proposed, a reduction would be allowed only if accomplished by sectional map amendment.

There are two areas in the County zoned TS: (1) Montgomery Village established in 1965 and (2) Churchill (Germantown) established in 1968.

An important issue is whether the intended purpose of ZTA 09-06 can be achieved without also amending the provision of the Town Sector zone that ties Town Sector zoned land to a 50-year time period.

Other Comments/Concerns

There are a number of overall potential issues associated with eliminating existing TS zoned land that, at a minimum, should be considered. The first is to what extent a property that is rezoned may rely upon open space and other contributions made under the TS zone to meet the requirements under the new zone. Typically, the grandfathering of existing development or approved development plans is provided when text amendment changes occur, including an allowance for a certain amount of expansion. The question in this case is whether undeveloped property or redevelopment of land that provided off-site contributions for its open space or other improvements will receive credit for those as part of development in the new reclassification.

The second concern with the subject proposal is that a sectional map amendment reclassifying portions of the Town Sector zone to the TMX-2 zone removes limitations that may have been placed via the development plans previously approved under the TS zone that designated particular sites for residential or non-residential uses. This enables the rezoned parcels to move forward, within the guidance of the plan, to develop without amending their development plans. However, to achieve more than standard method density in the TMX-2 zone, they must go through project plan approval by the Planning Board. This scenario at best creates confusion on what plans actually govern.

Master Plan

The 1989 Germantown Master Plan described the Churchill Town Sector as being “developed in accordance with the approved Development Plan. The Development Plan is in accordance with the 1974 Land Use Plan, although some areas are developed at lower densities” (page 50).

The 1,554-acre Churchill town sector area¹ has been created through three zoning cases:

- F-148 (October 1968) 1,504.0923 acres
- F-923 (September 1974) 25.17183 acres
- G-742 (October 1997) 24.74 acres

¹Staff was unable to verify the 1,554 acre area using G.I.S. The G.I.S. area computed to 1,537.52. Any new Development Plan Applications must verify and correct the acreage.

A portion of that acreage, approximately 300 acres, is contained within the boundaries of the Sector Plan for the Germantown Employment Area: An Amendment to the Germantown Master Plan Planning Board Draft (see map of TS boundaries/Sector Plan boundaries). The Planning Board retained the TS zone within the sector plan areas of Town Center, West End, and the western side of the North End District in order to meet a central objective of the Plan to create a vibrant town center, with an overall density of 2.0 FAR for the area from the MARC station in the West End to the CCT station at Aircraft Drive and Century Boulevard. The Board found this level of overall FAR to be important, both to support the CCT and to provide the level of activity necessary for a strong mixed use center.

The Planning Board determined that it was possible to achieve both the density needed to make a vibrant town center and provide the boost in density in that area sufficient to bring the overall average up to 2.0 using the Town Sector Zone. This is because the TS Zone does not have an FAR limitation for non-residential uses. It is even more flexible than the TMX, it is in the right place to have the right effect, and its continued use does not raise any of the issues associated with severing it from the rest of the TS zoned property in Germantown.

The County Council recommended removing approximately 246 acres from the TS zone and rezoning these properties to the TMX-2 zone (see map). The PHED Committee and County Council concluded that the TS zone was less than ideal for the Germantown Sector Plan because:

- It has no limits on density, height, or FAR.
- It does not require consistency with the Master Plan.
- It does not include requirements for transferable development rights or building lot termination easements.
- It does not require the provision of amenities (in the manner required by the TMX-2 zone).
- It limits total commercial development to 10% of the entire TS land and industrial development to 6% of the TS land area.
- It does not allow bonus market units for those who exceed the minimum requirement for MPDUs, nor does it have a workforce housing provision.

Status of Remaining Area in Churchill

The TS zone relies on a unique calculation of residential density based on unit type. In calculating density, the following standards shall apply:

- (a) One family detached dwellings shall be assumed to have an average occupancy of 3.7 persons.
- (b) Townhouses shall be assumed to have an average occupancy of 3 persons.
- (c) Multiple family dwellings less than 5 stories in height shall be assumed to have an average occupancy of 3 persons per dwelling unit.
- (d) Multiple family dwellings 5 stories in height or higher shall be assumed to have an average occupancy of 2 persons per dwelling unit.

The minimum open space within the TS zone is 10% of the total land area; the maximum commercial area is 10 % and the maximum industrial and major employment area is 6 %.

As detailed in the table within the Vision/Community-Based Planning Division memorandum (Attachment 2), the remaining area within the Churchill TS zone (based on the Council's recommendations) continues to adhere to the zoning and population requirements of the TS zone.

Property Owner Concerns

Bellmead Development Corporation submitted a letter to the PHED Committee on June 24, 2009 detailing their request for their properties to retain the TS zoning classification. Bellmead received approval in 1999 for 255,000 s.f. of retail space; approximately 180,000 s.f. has been constructed and occupied by Regal Cinema, new restaurants, banks, and a Rite Aid pharmacy.

The letter cites:

“Extensive easements for transit and roads, and a series of infrastructure improvements was constructed by Bellmead to widen Century Boulevard, improve Aircraft Drive, install utility lines, and construct a stormwater management system. A public plaza, sidewalk and streetscape improvements were provided by us. Working in cooperation with the Department of Public Works and Transportation, Bellmead constructed the Germantown Transit Center and Park and Ride facility. This investment by us of over \$15.6 million in land and improvements is an indication of Bellmead's long-standing commitment to Germantown.

This successful development has been created under the auspices of the Town Sector (TS) zone. We believe the TS zone remains the appropriate zone for the completion and endurance of the approved project. The contracts and covenants executed with the lessees and purchasers in Germantown Town Center east are based on the requirements of the TS zone. Changing the zone at this point would create confusion and force renegotiation of our contractual commitments in the midst of challenging economic times. We would rather encourage those businesses to continue and thrive under their current approvals and zone structure.

Bellmead's objective is to complete and sustain this Town center East development as a retail center. Rezoning the property to TMX now would create complications and uncertainty as to how these new standards and requirements could apply, for potential lessees of the remaining parcels as well as for improvements to existing buildings. The TMX grandfathering language is not adequate to give those assurances to our current and prospective tenants"(Attachment B).

RECOMMENDATION

The staff recommends that the concerns raised regarding ZTA No. 09-06 be transmitted to the County Council. Staff is particularly concerned that no reclassifications were to occur to Town Sector zoned land for fifty years.

Attachments

1. Zoning Text Amendment No. 09-06
2. Memorandum from Sue Edwards, Vision/Community-Based Planning to Greg Russ
3. Letter to Council President Andrews from Montgomery Village Foundation, Inc.



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

ATTACHMENT 2

September 3, 2009

MEMORANDUM

TO: Greg Russ, Planner Coordinator, Zoning Section
Build Division

FROM: Sue Edwards, Team Leader, North Central Transit Corridor *SE*
Vision Division

Leslie Saville, Planner, North Central Transit Corridor *LS*
Vision Division

SUBJECT: Zoning Text Amendment 09-06 (Town Sector Zone)

This zoning text was drafted by Council staff to amend the Town Sector Zone, Section 59-C-7.241 Area requirements to read "a sectional map amendment may reduce the area zoned TS to less than 1,500 acres". Under Section 59-H-2.6, a sectional map amendment may only be filed by the District Council to implement the zoning recommendations of a master plan or to correct inaccurate depictions of zoning boundaries.

There are two areas in the County zoned TS: Montgomery Village established in 1965 and Churchill established in 1968.

Master Plan Consideration

The 1989 Germantown Master Plan described the Churchill Town Sector as being "developed in accordance with the approved Development Plan. The Development Plan is in accordance with the 1974 Land Use Plan, although some areas are developed at lower densities" (page 50).

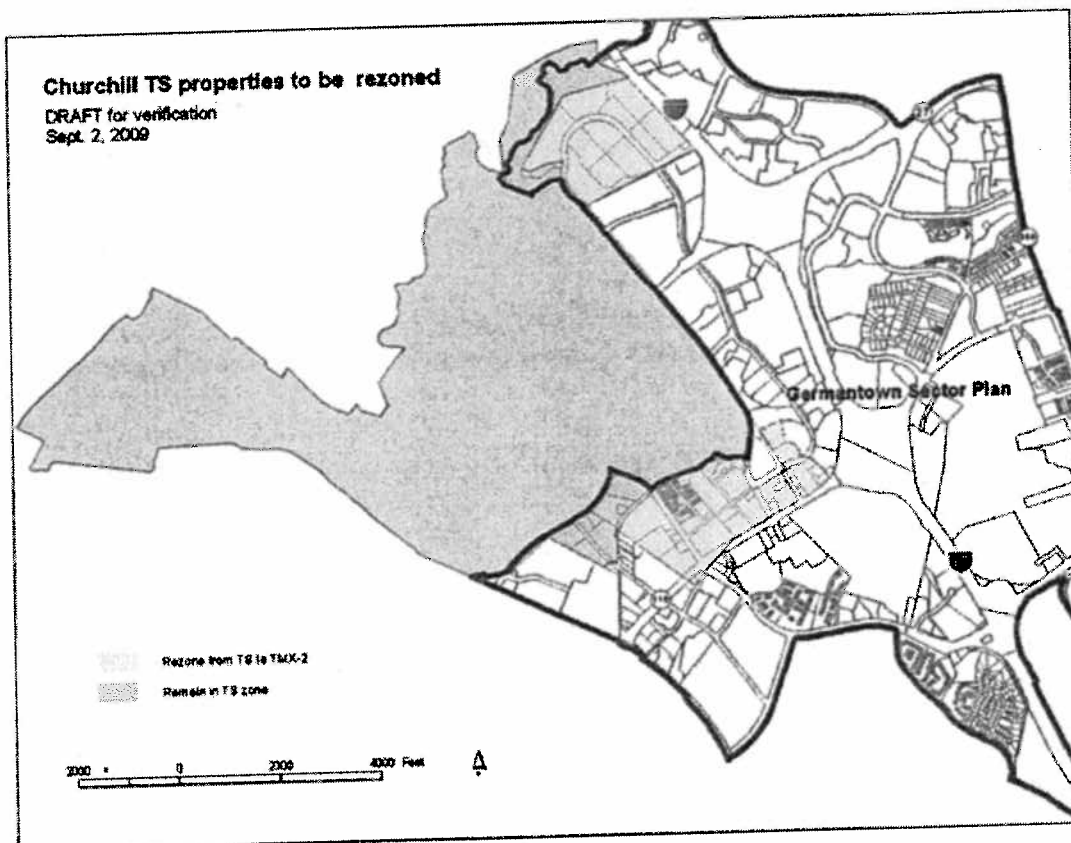
The 1,554-acre Churchill town sector area¹ has been created through three zoning cases:

- F-148 (October 1968) 1,504.0923 acres
- F-923 (September 1974) 25.17183 acres
- G-742 (October 1997) 24.74 acres

¹Staff was unable to verify the 1,554 acre area using G.I.S. The G.I.S. area computed to 1,537.52. Any new Development Plan Applications must verify and correct the acreage.

A portion of that acreage, approximately 300 acres, is contained within the boundaries of the Sector Plan for the Germantown Employment Area: An Amendment to the Germantown Master Plan Planning Board Draft (see map of TS boundaries/Sector Plan boundaries). The Planning Board retained the TS Zone within the sector plan areas of Town Center, West End, and the western side of the North End District in order to meet a central objective of the Plan to create a vibrant town center, with an overall density of 2.0 FAR for the area from the MARC station in the West End to the CCT station at Aircraft Drive and Century Boulevard. The Board felt this level of overall FAR is important, both to support the CCT and to provide the level of activity necessary for a strong mixed-use center.

The Planning Board determined that it is possible to achieve both the density needed to make a great place of the town center and provide the boost in density in that area sufficient to bring the overall average up to 2.0 using the Town Sector Zone. This is because the TS Zone does not have an FAR limitation for non-residential uses. It is even more flexible than the TMX, it is in the right place to have the right effect, and its continued use does not raise any of the issues associated with severing it from the rest of the TS zoned property in Germantown.



The County Council recommended removing approximately 246 acres from the TS Zone and rezoning these properties to the TMX-2 Zone. The PHED Committee and County Council concluded that the TS Zone was less than ideal for the Germantown Sector Plan because:

- It has no limits on density, height, or FAR.
- It does not require consistency with the Master Plan.
- It does not include requirements for transferable development rights or building lot termination easements.
- It does not require the provision of amenities (in the manner required by the TMX-2 zone).
- It limits total commercial development to 10% of the entire TS land and industrial development to 6% of the TS land area.
- It does not allow bonus market units for those who exceed the minimum requirement for MPDUs, nor does it have a workforce housing provision.

Status of Remaining Area in Churchill

The TS Zone relies on a unique calculation of residential density based on unit type. In calculating density, the following standards shall apply:

- One family detached dwellings shall be assumed to have an average occupancy of 3.7 persons.
- Townhouses shall be assumed to have an average occupancy of 3 persons.
- Multiple family dwellings less than 5 stories in height shall be assumed to have an average occupancy of 3 persons per dwelling unit.
- Multiple family dwellings 5 stories in height or higher shall be assumed to have an average occupancy of 2 persons per dwelling unit.

The minimum open space within the TS Zone is 10% of the total land area; the maximum commercial area is 10% and the maximum industrial and major employment area is 6%.

The following tables array the land uses population, and population remaining, using the acreage included in the Planning Board Draft and acreage resulting from the County Council recommendation.

Zoning Maximums and minimums				
Based on the table in the PB Draft Appendices, p. 38. and the draft map dated 9-2-09				
	Acres	Commercial (10% max)	Industrial/ major employment (6% max)	Open space (10% min)
Total acres (existing)	1,554.00	75.8	0	745.2
Approved, unbuilt		0	75	0
Percent		4.9%	4.8%	48.0%
Maximum allowed (min req)		155.4	93.2	155.4
Remaining (above min)		79.6	18.2	589.8
Total acres (proposed)	1,307.98	18.2		739.9

Zoning Maximums and minimums				
Based on the table in the PB Draft Appendices, p. 38. and the draft map dated 9-2-09				
	Acres	Commercial (10% max)	Industrial/ major employment (6% max)	Open space (10% min)
Approved, unbuilt		0	0	0
Percent		1.4%	0.0%	56.6%
Maximum allowed (min req)		130.8	78.5	130.8
Remaining (above min)		112.8	78.5	609.1

Population			
Based on the table in the PB Draft Appendices, p. 39, and the draft map dated 9-2-09			
	PB draft		Council recommendation
Total acres		1,554.00	1,307.98
People per acre allowed by zone		15	15
Total population permitted		23,310	19,619

Remaining Population *				
	PB draft		Council recommendation	
	Market units	Population	Market units	Population
One-family detached	827	3,060	827	3,060
Townhouses	2,314	6,942	2,187	6,561
Multiple family less than 5 stories	2,697	8,091	2,285	6,855
Multiple family 5 or more stories*	651	1,302		0
Total	6,489	19,395	5,299	16,476
Remainder of population credits		3,915		3,143

*Unbuilt

Staff concludes that the Council recommended acreage does not exceed any threshold of land uses contained in the zone. Open space as a proportion of the overall acreage increases. The Council recommendation reduces the commercial and industrial/major employment proportion in the remaining Churchill Town Sector.

Property Owner Concerns

Bellmead Development Corporation submitted a letter to the PHED Committee on June 24, 2009 detailing their request for their properties to retain the TS zoning classification. Bellmead received approval in 1999 for 255,000 square feet of retail space; approximately 180,000 square feet has been constructed and occupied by Regal Cinema, new restaurants, banks, and a Rite Aid pharmacy.

The letter cites:

"Extensive easements were dedicated for transit and roads, and a series of infrastructure improvements was constructed by Bellmead to widen Century Boulevard, improve Aircraft Drive, install utility lines, and construct a stormwater management system. A public plaza, sidewalk and streetscape improvements

were provided by us. Working in cooperation with the Department of Public Works and Transportation, Bellmead constructed the Germantown Transit Center and Park and Ride facility. This investment by us of over \$15.6 million in land and improvements is an indication of Bellmead's long-standing commitment to Germantown.

This successful development has been created under the auspices of the Town Sector (TS) zone. We believe the TS zone remains the appropriate zone for the completion and endurance of the approved project. The contracts and covenants executed with the lessees and purchasers in Germantown Town Center east are based on the requirements of the TS zone. Changing the zone at this point would create confusion and force renegotiation of our contractual commitments in the midst of challenging economic times. We would rather encourage those businesses to continue and thrive under their current approvals and zone structure.

Bellmead's objective is to complete and sustain this Town Center East development as a retail center. Rezoning the property to TMX now would create complications and uncertainty as to how these new standards and requirements could apply, for potential lessees of the remaining parcels as well as for improvements to existing buildings. The TMX grandfathering language is not adequate to give those assurances to our current and prospective tenants" (Attachment B).

Development Approvals

Changing the zoning from TS to TMX-2 removes the limitations that may have been placed, via the development plans previously approved under the TS Zone that designated particular sites for residential or non-residential uses. This action enables the rezoned parcels to move forward, within the guidance of the plan, to develop without amending their development plans, but to achieve more than standard density (0.5 FAR) the properties must go through project plan approval by the Planning Board.

This raises the question to what extent, if any, a property that is rezoned may rely upon open space and other contributions made under the TS Zone toward requirements under the new zone. Properties currently within Churchill TS are exempt from Forest Conservation requirements. Under requirements of the TMX-2 Zone, applicants will need to prepare an NRI/FSD, prepare a Forest Conservation Plan and be required to maximize preservation of Priority I forest.

Other requirements for stormwater management and public use space may be substantively different for the TMX-2 Zone than for TS.

SE:LS:ha G: Edwards/ZTA.Town Sector.090109

Attachment A: Bellmead letter, July 24, 2009



BELLEMEAD DEVELOPMENT CORPORATION

15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061-1615
Phone: (908) 903-7400

June 24, 2009

By Electronic Mail

Hon. Michael Knapp
Hon. Nancy Floreen
Hon. Marc Elrich
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Re: Germantown Master Plan: TS Zone Issues

Dear Council Members:

It is our understanding that consideration is being given to rezoning the properties currently in the TS zone in Germantown to the TMX zone. Following a review of the provisions of both zones, Bellemead would like to make establish on the record that it is opposed to this potential rezoning.

Bellemead acquired the subject parcels in the Germantown Town Center area, then B/C, D E and F, in the early 1980s. Approximately ten years ago, rezoning to the Town Sector Zone was granted, and a site plan was approved in 1999 for a master planned retail center, Germantown Town Center East, designed to complement the Town Center being developed to the west by Artery. This approval provided for approximately 255,000 square feet of retail space. To date, close to 180,000 square feet of space has been constructed and occupied in thirteen buildings along Century Boulevard and Aircraft Drive. The development includes the creation of the Regal Cinema and, together with several new restaurants, provides an entertainment center to anchor the eastern end of Town Center.

Extensive easements were dedicated for transit and roads, and a series of infrastructure improvements was constructed by Bellemead to widen Century Boulevard, improve Aircraft Drive, install utility lines and construct a stormwater management system. A public plaza, sidewalk and streetscape improvements were provided by us. Working in cooperation with the Department of Public Works and Transportation, Bellemead constructed the Germantown Transit Center and Park and Ride facility. This investment by us of over \$15.6 million in land and improvements is an indication of Bellemead's long-standing commitment to Germantown.

Hon. Michael Knapp
Hon. Nancy Floreen
Hon. Marc Elrich
Page 2


This successful development has been created under the auspices of the Town Sector (TS) Zone. We believe that the TS Zone remains the appropriate zone for the completion and endurance of the approved project. The contracts and covenants executed with the lessees and purchasers in Germantown Town Center East are based on the requirements of the TS zone. Changing the zone at this point would create confusion and force renegotiation of our contractual commitments in the midst of challenging economic times. We would rather encourage those businesses to continue and thrive under their current approvals and zone structure.

Bellemead's objective is to complete and sustain this Town Center East development as a retail center. Rezoning the property to TMX now would create complications and uncertainty as to how those new standards and requirements could apply, for potential lessees of the remaining parcels as well as for improvements to existing buildings. The TMX zone grandfathering language is not adequate to give those assurances to our current and prospective tenants.

There may be a point in the long-term future when wholesale redevelopment becomes desirable and supported by market conditions. If that becomes the case, Bellemead would then initiate discussions with Montgomery County and planning staff as to the appropriate amendments to the TS zone or even another zone. At this point in time, however, the Town Sector Zone has fostered a successful center of life and activity for us in Germantown and should be maintained for our properties.

Thank you for this opportunity to comment.

Very truly yours,



Adrian P. Slotmaker
Senior Vice President

cc: Ms. Marlene Michaelson
Ms. Sue Edwards
Ms. Diana Fainberg
Mr. Pete Henry
Robert G. Brewer, Esq.



MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 www.mvf.org

August 13, 2009

The Honorable Phil Andrews, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Dear Mr. Andrews:

I am writing on behalf of the Montgomery Village Foundation Board of Directors to express concern about the proposal to amend the Town Sector Zone (TSZ) in conjunction with the Germantown Master Plan and the impact this could have on Montgomery Village. Proposed Zoning Text Amendment (ZTA) 09-06, *Town Sector Zone*, makes provision for a sectional map amendment to reduce the area zoned Town Sector to less than 1,500 acres.

We have been told that an area less than 1,500 acres would only be allowed if the area is reduced by a sectional map amendment, and a sectional map amendment can only be done to implement a master plan. The Gaithersburg East Master Plan will likely be up for revision in 2011-2012.

We understand, however, that there is some debate between Council staff and the Park and Planning staff regarding the impact ZTA 09-06 may have on Montgomery Village. This heightens our concerns. We think that allowing rezoning of any of Town Sector Zone prior to the 50-year mark could have a negative impact on Montgomery Village because it may make it possible for the owner of a parcel within Montgomery Village to facilitate rezoning of their land in conjunction with the Gaithersburg East Master Plan update. We would greatly appreciate it if you could clarify this issue for us.

We don't want the proposed Zoning Text Amendment to impact Montgomery Village. We look forward to discussing Town Sector Zone in the future, particularly in conjunction with the Gaithersburg East Master Plan update. But we ask that the door not be opened *now* for a zoning change of TS Zone, if in fact affects Montgomery Village.

Please include this letter in the record for ZTA 09-06.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Hydorn'.

Bob Hydorn, President
MVF Board of Directors

cc: Dr. Royce Hanson, Chair, Montgomery County Planning Board
Sue Edwards, I-270 Corridor Team Leader, Dept. of Park and Planning
MVF Board of Directors
Bob Anderson, Chair, TD&PF Committee
David B. Humpton, EVP, Montgomery Village Foundation

Date of mailing: September 20, 1996



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation with Modifications
(Motion of Comm. Richardson, seconded by Comm. Holmes, with
a vote of 5-0; Comms. Richardson, Holmes, Baptiste, Aron, and
Hussmann voting in favor).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-87012

NAME OF PLAN: CHURCHILL-FAR NORTH VILLAGE


On 01-13-87, C/O THE ASSOCIATED CO. , submitted an application for the approval of a preliminary plan of subdivision of property in the TS zone. The application proposed to create 12 lots on 110.20 ACRES of land. The application was designated Preliminary Plan 1-87012. On 09-12-96, Preliminary Plan 1-87012 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing , the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-87012 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-87012, subject to the following conditions:

Approval to revise Preliminary Plan to provide for a Phasing Schedule and grant extension as follows:

Phase I: Record plats for at least 400,000 square feet (30% of Project) by December 31, 1998

Phase II: Record the remaining plats for 900,000 square feet (70% of Project) by December 31, 2001

Date of mailing: November 28, 1995



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

Action: Approved Staff Recommendation
(Motion of Comm. Aron, seconded by Comm. Baptiste, with a vote of 4-0; Comms. Aron, Baptiste, Holmes, and Richardson voting in favor, with Comm. Hussmann being absent).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-87012
NAME OF PLAN: CHURCHILL-FAR NORTH VILLAGE

On 01-13-87, C/O THE ASSOCIATED CO. , submitted an application for the approval of a preliminary plan of subdivision of property in the TS zone. The application proposed to create 12 lots on 110.20 ACRES of land. The application was designated Preliminary Plan 1-87012. On 11-16-95, Preliminary Plan 1-87012 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing , the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-87012 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-87012, subject to the following conditions:

Purpose: Previous Planning Board action of 10-27-88 approved a maximum of 240,000 square feet of office development. Based on the FY 96 Annual Growth Policy there is capacity available for the remaining 4,240 jobs or 1,060,000 square feet pending for this application. With the roadway improvements currently programmed and those proposed by the applicant this application may proceed for approval. All previous conditions remain in full force and effect.

Approval to revise Condition No. 1 as follows:

- (1) Prior to recording of plats, submit an amended agreement with the Planning Board to reflect the approval of an additional 1,060,000 square feet of office development resulting in a maximum total of 1.3 Million square feet (240,000 square feet previously approved). Applicant shall provide for the necessary roadway improvements as outlined in 11-9-95 Transportation Division memo.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation with Modifications,
(Motion of Comm. Keeney, seconded by Comm. Floreen, with
a vote of 5-0; Commissioners Keeney, Floreen, Christeller,
Henry and Hewitt voting in favor).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-87012
NAME OF PLAN: CHURCHILL-FAR NORTH VILLAGE


On 01-13-87, PRUDENTIAL, submitted an application for the approval of a preliminary plan of subdivision of property in the TS zone. The application proposed to create 12 lots on 81.00 ACRES of land. The application was designated Preliminary Plan 1-87012. On 10-27-88, Preliminary Plan 1-87012 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-87012 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-87012, subject to the following conditions:

1. Agreement with Planning Board to participate in construction of Middlebrook Road, Crystal Rock Drive, Wisteria Drive and Century Blvd. (or Aircraft Drive/Crystal Rock Drive connection) per 10/24/88 Transportation Division memo with improvements to be under construction prior to applicant receiving any building permits. Agreement to limit development to specific uses that will generate 400 or less peak hour trips
2. Conditions of DEP stormwater management approval
3. Dedication of area labeled "public open space" and "private open space" parcel adjacent to Parcel HB to M-NCPPC with final boundary to be determined at site plan
4. No clearing, grading or recording of lots prior to site plan approval by M-NCPPC
5. Environmental Planning Division concerns relating to stream buffers and stormwater management controls to be addressed at site plan

6. Final alignment of Crystal Rock Drive to be determined at site plan
7. Necessary easements
8. Dedication and construction of Crystal Rock Drive (100' right-of-way unless reduced to 80' at site plan review)

Date of Mailing: November 3, 1988

Date of Mailing: March 7, 1995



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation
(Motion of Comm. Baptiste, seconded by Comm. Richardson,
with a vote of 4-0; Comms. Baptiste, Richardson, Aron, and
Hussmann voting in favor, with Comm. Holmes absent).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-87012

NAME OF PLAN: CHURCHILL-FAR NORTH VILLAGE

On 01-13-87, C/O THE ASSOCIATED CO. , submitted an application for the approval of a preliminary plan of subdivision of property in the TS zone. The application proposed to create 12 lots on 110.20 ACRES of land. The application was designated Preliminary Plan 1-87012. On 03-02-95, Preliminary Plan 1-87012 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing , the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-87012 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-87012, subject to the following revised Condition No. 1:

- 1) Amend agreement with Planning Board to limit development to include an interim use of a golf driving range and associated uses as approved under Board of Appeals Case No. S-2129 and Site Plan No. 8-95017. Any deviation from approved interim use may require further Planning Board review (all other conditions remain in full force and effect).

This preliminary plan will remain valid until April 7, 1998. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD

O P I N I O N

DATE MAILED: March 14, 1995

SITE PLAN REVIEW #8-95017

PROJECT: Waters Landing Golf Course Driving Range

Action: Approval subject to conditions. Motion was made by Commissioner Baptiste, seconded by Commissioner Richardson, with a vote of 4-0, Commissioners Richardson, Hussmann, Aron, Baptiste voting for. Commissioner Holmes was absent.

The date of this written opinion is March 14, 1995 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before April 13, 1995 (which is thirty days from the date of this written opinion).

On December 15, 1994, North village Limited Partnership submitted an application for the approval of a site plan for property in the Town Sector zone. The application was designated Site Plan Review #8-95017.

On March 2, 1995, Site Plan Review #8-95017 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented by the staff and on the staff report with modifications to the conditions hereby adopted by the Montgomery County Planning Board, and which is make a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan meets all of the requirements of the zone in which it is located.
2. The locations of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.
3. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The Montgomery County Planning Board approves Site Plan Review #8-95017 as follows:

Staff recommends APPROVAL of 21.2 acres subject to the following conditions:

1. Submit a Site Plan Enforcement Agreement, Development Program, for review and approval prior to approval of the signature set. The Development Program shall include a phasing schedule which requires the landscaping to be completed as construction of the facility is completed and a clearing and grading schedule.
2. Submit a phasing plan as follows:
 - a. Phasing for all clearing and grading that will correspond to the construction schedule and will reduce soil erosion;
 - b. Phasing of each section of the development;
 - c. Phasing of stormwater management facilities and all site features.
3. Incorporate the following items into the signature set the landscaping and lighting plan prior to approval of the initial building permit:
 - a. SHA to approve location of sign along I-270 prior to inclusion on signature set.
 - b. A photometric diagram and footcandle distribution diagram of the lighting shall be submitted to staff for review to ensure compatibility with surrounding roadways.
4. No clearing or grading prior to Planning Department approval of signature set of plans.



Montgomery County Planning > Development Review > Development Activity Information Center > Search Results: 81995017A

Search Results: 81995017A

[Bookmarks this!](#)
[New Search?](#)

Application #: 81995017A
Application Type: SITE PLAN
Application Name: WATERS LANDING GOLF DRIVING RA
Site Location: ON WATERS CANDING DRIVE
Size: 0 ACRE
Master Plan: Germantown Sector Plan
Watershed: Little Seneca Creek
Application Accepted Date: 4/17/2002
Proposed Development

Application Status	Zoning	Proposed Qty.	Development Type
Original Application	TOWN SECTOR	620	Retail Center-2 or more stores

Future Planning Board Action:

No

Approved Development

Planning Board Date	Planning Board Action	Approved Qty.	Development Type
4/18/2002	ADMIN APPRVL	620	Retail Center-2 or more stores

Related Plans & Documents
Related Applications

[Search for Related Plans & Reports](#)

Application Number	Application Type
119870120	PRELIMINARY PLAN
819950170	SITE PLAN

Important Note: The Commission provides the Development Activity Information Center as a convenience to users. We are continuously adding to and updating the development data and documents that are available online. At any point, there may be a document that has not yet been posted or revised. To view the complete record on a development project, users are encouraged to visit the information counter at 8787 Georgia Avenue in Silver Spring. While you are online, if you believe you have found data or documents to be in error or if you cannot find the document you are searching for, please contact us at mcp-daicheip@mncppc-mc.org. Given the volume of work that we do, M-NCPPC cannot guarantee that all data or documents will be available online.

Montgomery County Planning Board
 Montgomery County Department of Park & Planning
 The Maryland-National Capital Park & Planning Commission
 8787 Georgia Avenue
 Silver Spring, Maryland 20910
<http://www.montgomeryplanning.org>
[Contact us](#) [Privacy](#) [Terms of Use](#)





ATTORNEYS

ROBERT C. BREWER, JR.

DIRECT 301.657.0165

RGBREWER@LERCHEARLY.COM

February 14, 2002

Wynn Witthans
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: North Village/270 Limited Partnership
Waters Landing Golf Driving Range

Dear Wynn:

At long last, I am pleased to enclose two copies of a revised Site Development, Landscaping and Lighting Plan for the Waters Landing Golf Driving Range. This revised plan responds to Mr. Garber's Notice of Violation dated August 14, 2001.

As you will recall, Mr. Garber noted two violations. One involved missing landscaping, which has been replaced by our client. The other violation was the presence of certain lights which were not shown on the approved lighting plan. In accordance with Mr. Garber's recommended corrective actions, the lighting plan has been revised to show the lights which currently exist.

I believe the submission of this revised plan resolves all outstanding issues noted by Mr. Garber. If you have any further issues or questions, please let me know. Thank you for your patience.

Best regards,

Very truly yours,

Robert G. Brewer, Jr.
Robert G. Brewer, Jr.

RGB/dsh

Enclosure

cc: Peter Rosen
J. E. Shankman
Stan Garber
Nelson Clark

WFSHDATA\Dep6\RES\RGB\LERCH\RR\trwitthans.doc

Working for pending application

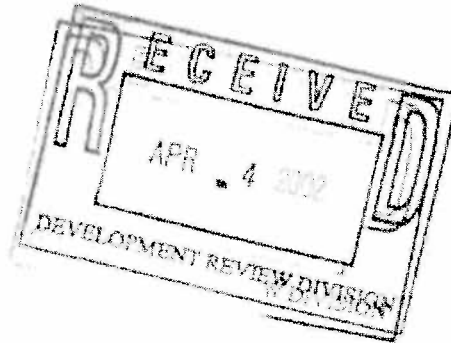


MEMORANDUM

ROBERT G. BREWER, JR.
DIRECT 301.657.0165
ROBREWER@LERCHEARLY.COM

April 1, 2002

Ms. Wynn Witthans
Development Review Division
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



Re: Waters Landing Golf Range (S-2129)

Dear Wynn:


I received your voicemail last week responding to my letter of February 14, 2002 enclosing a revised landscaping and lighting plan for Waters Landing Golf Range. You will recall that the Zoning Inspector, Mr. Garber, found several of the lights to be installed contrary to the approved plan and several plants missing. The missing landscaping was replaced, and the plan sent to you shows the lighting, as now installed.

I reviewed the special exception opinion from the Board of Appeals (copy enclosed). Condition 3 requires review and approval of a landscape and lighting plan by the M-NCPPC Technical Staff. This was done shortly after the special exception was approved in March, 1995. In fact, this was the plan used by Mr. Garber in his inspection.

I believe Mr. Garber's Notice of Violation is satisfied completely by submitting the revised landscape and lighting plan to you, as the representative of the M-NCPPC Technical Staff. The Board of Appeals has delegated to the Staff this task; you have authority to review and accept the revised plan (the only revision being to note the configuration of the lights installed seven years ago and operational since then). There is no need to prepare any site plan or to involve the Board of Appeals in this matter. Neither a site plan nor action by the Board of Appeals are required by the Zoning Ordinance or by the terms of the special exception opinion. Mr. Garber's Notice intended that we do exactly what we have done (although it took awhile, I grant you!).

Please reconsider your thought that we need to prepare a site plan. I believe you will concur with me that this small matter is now concluded with our February 14, 2002 submission to you of the revised/corrected landscape and lighting plan. Thanks very much. With best regards,

Very truly yours,


Robert G. Brewer, Jr.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: November 4, 2002
SITE PLAN REVIEW #: 8-02003
PROJECT NAME: Churchill Town Sector - Far North Village

Action: Approval subject to conditions. Motion was made by Commissioner Wellington, seconded by Commissioner Robinson, with a vote of 4-0, Commissioners Berlage, Bryant, Robinson, and Wellington voting for, and no Commissioners voting against. Commissioners Perdue was necessarily absent.

The date of this written opinion is November 4, 2002, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before December 3, 2002 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan #1- 87012R is valid, as provided in Section 59-D-3.8.

On October 31, 2001, Site Plan Review #8- 02003 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with an approved development plan;*
2. *The Site Plan meets all of the requirement of the TS zone.*
3. *The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;*
4. *Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
6. *The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection*

Therefore, the Montgomery County Planning Board APPROVES Site Plan #8-02003, which consists of 900,000 square feet of office use with the following conditions to be met prior to the release of the first building permit:

Pedestrian Circulation

1. Submit a plan of the parking garage that clearly shows the pedestrian circulation within the garage and quality of the pedestrian spaces.
2. Add sidewalks to the easternmost garage driveway entrance.
3. Submit a plan showing the connections to the pedestrian bridge and the hours of operations and availability to public.
4. Increase the pedestrian features along the frontage of the property to encourage pedestrian access from transit to buildings – provide detail planting and widened pedestrian connections.

Vehicular Circulation

5. Submit a plan of the parking garage showing the all aspects of the parking garage, ie space dimensions, circulation, lighting, etc. Lighting for the parking garages (interior and roof top) shall not create undue glare or off-site visibility in regards to residential development in the area.
6. The number of parking spaces to be reduced to conform to the Planning Board Interim Parking Guidelines of 4 spaces per 1,000 or 3,600 per full site build out.

Landscaping and Lighting

7. Additional landscaping for the parking areas for Buildings 5 and 6 to provide more depth and complete buffers.
8. Landscape plans to show no landscaping in the PUE with improved landscape screening to frontage of parking areas.
9. Lighting plan for entire project to conform to IESNA guidelines and to provide for minimal light trespass or glare, reduced levels after hours, light directed on site, adequate levels for pedestrian safety, etc.
10. Landscape plans to include additional planting for entry areas, pedestrian open space areas and screening as needed. Plans to include more shrubs, and seasonal or perennial accent areas. Any features (ie gazebos, fountains) within the open space will require more detailed schematic plans to indicate the nature of the feature – general building materials, dimensions, colors, etc.

Compatibility

11. Schematic architecture for buildings and parking garages to be submitted for review in conjunction with circulation, the pedestrian bridges and other elements.
12. Façade of parking garage to be detailed for compatibility to surroundings and impact on pedestrian environment.
13. The Planning Board or their designated representative shall review any changes to the building footprint.

Transportation Issues

14. Total development under this site plan application is limited to 900,000 square feet of office space.
15. The applicant shall participate in the County's future CIP project to construct the four-lane divided highway portion of Century Boulevard from its current terminus near Father Hurley Boulevard to its intersection with future Dorsey Mill Road by allocating a portion of their impact taxes when paid to this project.
16. The applicant shall construct Crystal Rock Drive as a four-lane divided roadway from its current terminus to its intersection with future Dorsey Mill Road as shown on the site plan.
17. The applicant shall participate in constructing an acceleration lane on Father Hurley Boulevard to accommodate the movement from northbound Crystal Rock Drive to eastbound Father Hurley Boulevard.
18. The applicant shall participate in constructing an acceleration lane on Crystal Rock Drive to accommodate the movement from westbound Father Hurley Boulevard to northbound Crystal Rock Drive including reconstruction/ reconfiguration of the median and travel lanes on the northern leg of the intersection.

Signature Set Approval – Documents and Drawings


19. Submit a Site Plan Enforcement Agreement and Development Review Program for review and approval prior to approval of the signature set as follows:

Development Program to include a phasing schedule as follows:
 - a. Landscaping associated with each parking garage; open space and building shall be completed as construction of each facility is completed.
 - b. Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - c. Clearing and grading to correspond to the construction phasing, to minimize soil erosion.
 - d. Coordination of each section of the development and roads.
 - e. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
20. Signature set of site, landscape/lighting, forest conservation and sediment and erosion Control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 - a. Limits of disturbance.

- b. Methods and locations of tree protection.
 - c. Forest Conservation areas.
 - d. Conditions of DPS Stormwater Management Concept approval letter dated September 5, 2001.
 - e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - f. The development program inspection schedule.
 - g. Location of outfalls away from tree preservation areas.
21. No clearing or grading prior to M-NCPPC approval of signature set of plans.
22. Prior to the expiration of Preliminary Plan # 1-87012R for the remaining 900,000 square feet, the Applicant is to amend the Preliminary Plan conditions of approval to reflect the revisions to the transportation requirements as stated in the conditions of approval for Site Plan # 8-02003.

G:\SP_OPINION\8-02003.doc

Date of mailing: November 28, 1995



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

Action: Approved Staff Recommendation
(Motion of Comm. Aron, seconded by Comm. Baptiste, with a vote of 4-0; Comms. Aron, Baptiste, Holmes, and Richardson voting in favor, with Comm. Hussmann being absent).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-87012
NAME OF PLAN: CHURCHILL-FAR NORTH VILLAGE

On 01-13-87, C/O THE ASSOCIATED CO. , submitted an application for the approval of a preliminary plan of subdivision of property in the TS zone. The application proposed to create 12 lots on 110.20 ACRES of land. The application was designated Preliminary Plan 1-87012. On 11-16-95, Preliminary Plan 1-87012 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing , the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-87012 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-87012, subject to the following conditions:

Purpose: Previous Planning Board action of 10-27-88 approved a maximum of 240,000 square feet of office development. Based on the FY 96 Annual Growth Policy there is capacity available for the remaining 4,240 jobs or 1,060,000 square feet pending for this application. With the roadway improvements currently programmed and those proposed by the applicant this application may proceed for approval. All previous conditions remain in full force and effect.

Approval to revise Condition No. 1 as follows:

- (1) Prior to recording of plats, submit an amended agreement with the Planning Board to reflect the approval of an additional 1,060,000 square feet of office development resulting in a maximum total of 1.3 Million square feet (240,000 square feet previously approved). Applicant shall provide for the necessary roadway improvements as outlined in 11-9-95 Transportation Division memo.



Date Mailed: January 31, 2003

Action: Approved Staff Recommendation

Motion of Comm. Bryant, seconded by
Comm. Wellington with a vote of 5-0;

Comms. Berlage, Bryant,
Robinson, Perdue, and
Wellington voting in favor

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-87012 **A**

NAME OF PLAN: CHURCHILL-FAR NORTH VILLAGE

On 01/13/87, NORTH VILLAGE-270 LIMITED PARTNERSHIP submitted an application for the approval of a preliminary plan of subdivision of property in the TS zone. The application proposed to create 12 lots on 110.20 acres of land. The application was designated Preliminary Plan 1-87012. On 12/12/02, Preliminary Plan 1-87012 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-87012 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-87012.

Approval of Request to Revise the Previous Conditions of Approval, Subject to the Following Amendments:

Incorporate Revised Conditions 4 –7 into Prior Planning Board Opinion Dated November 28, 1995

- (4) Participate in the County's future CIP Project to construct the four-lane divided highway portion of Century Boulevard from its current terminus near Farther Hurley Boulevard to its intersection with Dorsey Mill Road by allocating a portion of their impact taxes when paid to this project
- (5) Construct Crystal Rock Drive as a four-lane divided roadway from its current terminus to its intersection with future Dorsey Mill Road as shown on Site Plan 8-02003
- (6) Participate in construction of an acceleration lane on Father Hurley Boulevard to accommodate the movement from northbound Crystal Rock Drive to eastbound Father Hurley Boulevard
- (7) Participate in constructing an acceleration lane on Crystal Rock Drive to accommodate the movement from westbound Father Hurley Boulevard to northbound Crystal Rock Drive including reconstruction/reconfiguration of the median and travel lanes on the northern leg of the intersection
- (8) All applicable conditions of approval of Planning Board Opinions dated October 27, 1988 and November 28, 1995 remain in full force and effect



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

May 14, 2013

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Rose Krasnow, Acting Director, Planning Department *RK*

VIA: Richard Weaver, Supervisor, Area 3 *RW*

SUBJECT: Reconsideration Request – Crystal Rock Preliminary Plan No. 120120210

In accordance with Rule 4.12.1 of the Board's Rules of Procedure, the Planning Director requests that the Planning Board reconsider a specific condition of approval placed on Preliminary Plan No. 120120210, Crystal Rock at the March 14, 2013 public hearing. In order to reconsider this matter in the most expedient and efficient manner, the Planning Director requests that the Chair waive the filing deadline as provided in Rule 4.12.1 to reconsider this matter prior to adoption of the Resolution for this Preliminary Plan.

The condition subject to this reconsideration request was intended to address the Planning Board's interest in having the Montgomery County Department of Transportation (MCDOT) administer the private streets in the Crystal Rock development as was done on a previously approved development, DANAC-Stiles. At the March 14, 2013 hearing, the Planning Board voted to approve Preliminary Plan No. 120120210 with a condition that mirrored the condition adopted in the DANAC-Stiles preliminary plan where MCDOT had a direct role in the design, maintenance, and enforcement of certain private streets. The condition as included in the Resolution for the DANAC-Stiles application, reads as follows:

"The Applicant must design, construct, maintain, and provide the 56 feet wide public access easements for the recommended business district streets B-2 and B-7. The two new internal streets may be implemented as private streets subject to the following conditions:

- a. *The Applicant must determine the final extent, delineation, and alignment of the private streets when subsequent site plans are filed.*
- b. *Private streets must be located within their own parcel, separate from the proposed development.*
- c. *Public access easements must be granted for the streets and must be reviewed and approved by MCDOT and the Maryland-National Capital Park and Planning Commission (M-NCPPC).*

- d. *The design of the roads must follow or improve on the corresponding Montgomery County Road Code standard (2005.02 modified) for a similar public road, unless a modification is approved by MCDOT and the Planning Board at the time of future site plan.*
- e. *Installation of any public utilities must be permitted within such easements.*
- f. *The streets may not be closed for any reason unless approved by MCDOT.*
- g. *The public access easements must be volumetric to accommodate uses above or below the designated easement areas.*
- h. *Montgomery County may require the Applicant to install appropriate traffic control devices within the public access easement and the easement must grant the right to the County to construct and install such devices.*
- i. *Maintenance and Liability Agreements will be required for each public access easement area by MCDOT at the time of record plat. These agreements must identify the respective Applicant's responsibility to maintain all of the improvements within their easement areas in good fashion and in accordance with applicable laws and regulations.*
- j. *Montgomery County will inspect these streets and ensure that each has been constructed in accordance with or improving upon the corresponding Montgomery County Road Code standard (2005.02 modified) for a similar public road, unless a modification is approved by MCDOT and the Planning Board at the time of future site plan.*
- k. *The Applicant is obligated to remove snow and provide repairs to keep the roads in working order and open and if, for any reason, the Applicant does not, the County must have the right, but not the obligation, to remove snow and/or provide repairs.*
- l. *The boundary of the public access easements must be shown on the record plat."*

The above condition was applied to the DANAC-Stiles application to address a situation specific to that development where the master planned public streets were going to be built as private streets at the request of the developer. It was solely for this reason that MCDOT agreed to engage in the design, maintenance and enforcement of these specific private streets. However, none of the private streets in the Crystal Rock Preliminary Plan are shown as public streets in the master plan.

Subsequent to the Planning Board's hearing on the Crystal Rock Preliminary Plan, discussions between M-NCPPC and MCDOT Staff indicated MCDOT's unwillingness to participate in the Crystal Rock private streets since they were not master planned public streets that were being built as private streets. Therefore, the above condition was mistakenly applied to the Crystal Rock development by the Planning Board, and the condition cannot be implemented.

cc: Christina Sorrento, Associate General Counsel