



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

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

JUL 18 2013

RESOLUTION

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

WHEREAS, on May 23, 2012, North Village – 270 Ltd. Partnership C/O Lerner Enterprises ("Applicant"), filed an application for approval of a Preliminary Plan to create 11 lots for a mixed-use development with 1,097,800 square feet of office use, 91,400 square feet of retail use, 243,240 square feet of hotel use, and 1,618 total residential units (including 190 MPDUs) on 107.70 acres of land zoned TMX-2, located north of Father Hurley Boulevard, east of Crystal Rock Drive and west of I-270 ("Subject Property"), in the Germantown West Policy Area, Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120120210, Crystal Rock ("Application" or "Preliminary Plan"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 4, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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

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

Approved as to
Legal Sufficiency:

Christina Jones 6/20/13

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board APPROVES Preliminary Plan No. 120120210 to create 11 lots for a mixed-use development including 1,097,800 square feet of office use, 91,400 square feet of retail use, 243,240 square feet of hotel use, and 1,618 total residential units (including 190 MPDUs) on 107.70 acres of TMX-2 zoned-land on the Subject Property, subject to the following conditions:²

1. Approval under this Preliminary Plan is limited to 11 lots for a maximum of 1,097,800 square feet of office space, 91,400 square feet of retail space, a 350 room hotel and a total of 1,618 residential units including 12.5% MPDU's. No more than 440 units will be non-age restricted.

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

² For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

2. The Housing and Related Facilities for Senior Adults, hereinafter referred to as Senior Adult housing, may not be converted into non-age restricted units without first revising the traffic study for the approved Project and Preliminary Plans. Occupancy of the Senior Adult housing is limited to the definition (section 59-A-2.1) in the Zoning Ordinance. Senior Adults are defined as persons 62 years and older.
3. The Preliminary Plan must comply with all conditions of approval for Project Plan No. 920120040
4. Prior to the release of the first building permit for Phase II of development as specified in the Project Plan, the Applicant must submit design details to MNCPPC, the Montgomery County Department of Transportation ("MCDOT") and the State Highway Administration ("SHA") and construct the following roadway improvements to the extent required by MCDOT:
 - a. Construct Crystal Rock Drive and Century Boulevard to full width standards through the Subject Property.
 - b. At the Father Hurley Boulevard (Blvd.)/Crystal Rock Drive intersection:
 - Restripe the northbound thru lane on Crystal Rock Drive to include a second right-turn lane on to eastbound Father Hurley Blvd.
 - On eastbound Father Hurley Blvd., construct a second left-turn lane on to northbound Crystal Rock Drive.
 - Provide necessary traffic signal modifications.
 - c. At the MD 27/Observation Drive intersection:
 - Construct a second left-turn lane on southbound Observation Drive to eastbound MD 27.
 - Restripe the second southbound Observation Drive through lane to a second right turn lane.
 - Provide necessary traffic signal modifications.
 - d. At the MD 27/MD 355 intersection:
 - Construct a second dedicated left-turn lane on MD 27 to northbound MD 355.
 - Provide necessary traffic signal modifications.
 - e. At the MD 27/Brink Road intersection:
 - Construct a second westbound through lane on Brink Road.
 - Provide necessary traffic signal modifications.
 - f. At the MD 118/MD 117 intersection:
 - On eastbound MD 117, construct a second left-turn lane to northbound MD 118.
 - Provide necessary traffic signal modifications.
 - g. At the MD 118/I-270 interchange
 - Construct a second left-turn lane on eastbound MD 118 to northbound I-270

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

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

9. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated November 16, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
10. The Applicant must construct all road improvements within the rights-of-way shown on the Certified Preliminary Plan to the full width mandated by the Master Plan and/or to the design standards imposed by MCDOT. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
11. Final location and number of MPDU's to be determined at the time of Site Plan.
12. The Subject Property is within the Seneca Valley High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the elementary school level at the multi-family garden apt. high-rise unit rate for all units for which a building permit is issued and for which a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
13. The Applicant must dedicate the public road rights-of-way to the full width designated on the Certified Preliminary Plan for the Crystal Rock Drive, Century Blvd and Dorsey Mill Road.
14. The Applicant must provide proof of purchase and/or payment of the required BLT's within each phase of development established at the time of Site Plan prior to release of the first building permit for core and shell construction within each phase.
15. The record plat must reflect the following: private streets from back of curb to back of curb to be located within separate parcels; private streets and adjacent sidewalks to be included within a recorded public use and access easement with the liber and folio referenced on the record plat.
16. The record plat must reflect a Category I easement over all areas of stream valley buffers and forest conservation as shown on the approved forest conservation plan.

17. The record plat must reflect all areas under Homeowners Association (HOA) ownership, if applicable, and specifically identify stormwater management parcels.
18. The final number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at Site Plan.
19. At the time of a Site Plan submission containing any of the senior housing units, the Applicant must submit for Staff review, draft HOA document language that identifies the specific units or buildings designated as senior housing as defined under 59-A-2.1 of the zoning ordinance and the limitations as to residence of that designation.
20. In the event that a subsequent Site Plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration, location or right-of-way width or alignment, or an increase in units or square footage above those specified in Condition #1, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.
21. At the time of Site plan, the Applicant must comply with Section 59-C-14.27 of the Zoning Ordinance regarding Special Regulations for use of BLT Development Rights.
22. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for a total of 145 months (12 years) from the date of mailing of this Planning Board Resolution according to the following schedule:
 - Within 85 months (7 years) - Issuance of building permits for Phases I and II as identified by Project Plan.
 - Beyond 85 months (years 7 -12) – issuance of building permits for all remaining development.
23. Prior to approval of the first site plan (except one exclusively for infrastructure) for any Property approved pursuant to Preliminary Plan No. 120120210, Crystal Rock, the Applicant must provide for review by Staff, a public use and access easement to Montgomery County, in trust for the public, in a recordable form containing provisions to address the following:
 - a) Entitlement for open and unobstructed public use of the easement for all customary vehicular, pedestrian and bicycle access, as well as loading. The easement granted to the public must be volumetric, in order to accommodate uses below and above the street easement area;

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

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

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

1. *The Preliminary Plan substantially conforms to the Master Plan.*

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

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

Roads

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

Right-of-Way Abandonment

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

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

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

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

Other Public Facilities

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

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included*

in the applicable master plan, and for the type of development or use contemplated.

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

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

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

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

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

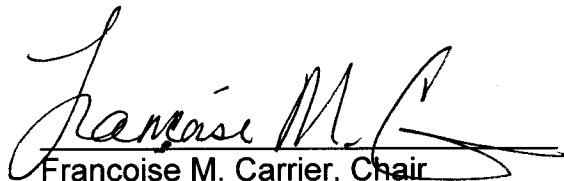
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 8 2013 (which is the date that this Resolution is mailed to all parties of record); and

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

* * * * *

CERTIFICATION

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


Françoise M. Carrier, Chair
Montgomery County Planning Board