



MAY 3 2016

MCPB No. 16-025
Preliminary Plan Amendment No. 12012021A
Black Hill
Date of Hearing: March 10, 2016

RESOLUTION

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

WHEREAS, in June 2013, the Planning Board, by Resolution MCPB No. 13-38, approved Preliminary Plan No. 120120210, creating 11 lots for mixed-use development with 1,097,800 square feet of office use, 91,400 square feet of retail use, 243,240 square feet of hotel use, and 1,618 total residential units (including 190 MPUDs) on 107.70 acres of land in the TMX-2 zone, located north of Father Hurley Boulevard, east of Crystal Rock Drive and west of I-270 ("Subject Property"), in the Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, on January 23, 2015, Black Hill Germantown, LLP, c/o Lerner Enterprises ("Applicant") filed an application for approval of an amendment to the previously approved Preliminary Plan(s) to modify the traffic study to reflect changes to the office, assisted living facility, and residential uses (non age-restricted), update the Adequate Public Facilities (APF), modify the conditions of approval, and stormwater management (SWM) concept for the Subject Property; and

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

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated February 29, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 10, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:

Christina Sorenson 4/7/16

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

WHEREAS, on March 10, 2016, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Fani-Gonzalez with a vote of 5-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12012021A to modify the traffic study, revise the APF, modify the conditions of approval, and the SWM concept. The following conditions will supersede the original conditions of approval:¹

- 1) Approval under this Preliminary Plan is limited to 12 lots and 3 parcels for a maximum of 1,097,800 square feet of office space, 91,400 square feet of retail space, a 350-room hotel, and a total of 1,229 residential units (including 12.5% MPDUs). No more than 140 of the units dedicated to Senior Adult housing units.
- 2) The Housing and Related Facilities for Senior Adults, hereinafter referred to as Senior Adult housing, may not be converted into non age-restricted units without first revising the traffic study for the approved Project and Preliminary Plans. Occupancy of the Senior Adult housing is limited to the definition (Section 59-A-2.1) in the Zoning Ordinance. Senior Adults are defined as persons 62 years and older.
- 3) The Preliminary Plan must comply with all conditions of approval for the Project Plan No. 92012004A.
- 4) Prior to the release of the first building permit for Phase 2 of the development, as specified in the Project Plan, the Applicant must submit design details to the Montgomery County Department of Transportation ("MCDOT") and the State Highway Administration ("SHA") and construct the following roadway improvements to the extent required by MCDOT and SHA:
 - a. Construct Crystal Rock Drive and Century Boulevard to full width standards through the Property in accordance with Montgomery County Department of Permitting Services approved phased Black Hill Crystal Rock Drive and Century Boulevard Public Roadway Plans.
 - b. The Applicant must construct the following improvements at the intersection of Ridge Road (MD 27) and Observation Drive:
 - Restripe a second left-turn lane on southbound Observation Drive eastbound MD 27.
 - Provide necessary traffic signal modifications.
 - c. The Applicant must participate on a pro rata share to provide the following improvements at the MD 355/ West Old Baltimore Road intersection.
 1. Widen eastbound approach of West Old Baltimore Road to provide for a separate right-turn lane to southbound MD 355.

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

2. Widen the northbound approach of MD 355 to provide for a separate left-turn lane on to westbound West Old Baltimore Road.
 3. Widen the southbound approach of MD 355 to provide separate right-turn lane to westbound West Old Baltimore Road.
 4. Install traffic signal if warranted by the background development.
- 5) Prior to the release of the building permit which contains the 371st residential unit in Phase 2 of the development as specified in the Project Plan (excluding the assisted living units), the Applicant must submit 70% design completion details to SHA and MCDOT for the MD 118/MD 355 intersection to construct the following improvements:
- I. On MD 355, construct a third southbound through/right-turn lane.
 - II. On MD 355, construct a second southbound left-turn lane to Germantown Road (MD 118).
 - III. On westbound Germantown Road (MD 118), construct a separate right turn lane on to northbound MD 355.
 - IV. Provide necessary traffic signal modification

These improvements must be completed prior to the issuance of any use and occupancy permit exceeding the 549th residential unit (excluding the assisted living units).

- 6) Prior to the release of the building permit which contains the 371st unit in Phase 2 of the development as specified in the Project Plan (excluding the assisted living units), the Applicant must complete 100% design to SHA and MCDOT and posting of bonds at MD 27/MD 355 to construct the following improvements:
- I. Construct a second dedicated eastbound left-turn lane on MD 27 to northbound MD 355.
 - II. Provide necessary traffic signal modifications.

These improvements must be completed prior to the issuance of any use and occupancy permit exceeding the 549th residential unit (excluding the assisted living units).

- 7) Prior to release of each building permit after Phase 2A, excluding the assisted living units, the Applicant must submit to DPS a certified running tabulation of the vehicle trips associated with the individual building square footage and the cumulative total of vehicle trips associated with each building permit pulled on the Property. Prior to the vehicle threshold being met, the Applicant must construct the following improvements before the release of the triggering building permit.
- a. Prior to the release of any building permit exceeding 22% of the total peak hour trips (549 vehicle trips in the AM or 512 vehicle trips in the PM, whichever threshold is met first) for the development as specified in the Preliminary Plan, the Applicant must construct the following improvements at the intersection of Father Hurley Boulevard and Crystal Rock Drive:
 - I. Provide necessary traffic signal modifications as per MCDOT.

- II. Construct a second dedicated northbound right-turn lane on Crystal Rock Drive to eastbound Father Hurley Boulevard.
 - b. Prior to the release of any building permit exceeding 30% of the total peak hour trips (749 vehicle trips in the AM or 698 vehicle trips in the PM, whichever threshold is met first) for the development as specified in the Preliminary Plan, the Applicant must construct the following improvements at the intersection of MD 118 and MD 117:
 - I. Construct a second northbound left turn lane on Germantown Road (MD118) onto westbound Clopper Road (MD 117).
 - II. Provide necessary traffic signal modifications.
 - c. At the Ridge Road (MD 27)/ Brink Road intersection:
 - i. Participate in the construction of a second westbound through lane on Brink Road.
 - ii. Provide necessary traffic signal modifications.
- 8) The Applicant must show on the record plat a parcel for the following private streets as well as construct the roads to the design standards specified below:
 - a. Private Street A with a minimum parcel width of 37.34 feet from 1st Street to 5th Street. Private Street A must be constructed to Montgomery County Department of Transportation ("MCDOT") Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
 - b. Private Street B with a minimum parcel width of 37.34 feet from Crystal Rock Drive to 5th Street. Private Street B must be constructed to Montgomery County Department of Transportation ("MCDOT") Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
 - c. Private Street C with a minimum parcel width of 37.34 feet from Crystal Rock Drive to 5th Street. Private Street C must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
 - d. Private 1st Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 1st Street must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
 - e. Private 2nd Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 2nd Street must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
 - f. Private 3rd Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 3rd Street must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
 - g. Private 4th Street with a minimum parcel width of 37.34 feet from Century Boulevard to Street A. Private 4th Street must be constructed to MCDOT

Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.

- h. Private 5th Street with a minimum parcel width of 37.34 feet from Street C to Street A. Private 5th Street must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
 - i. Private Main Street (North and South sections) with a minimum parcel width of 131.34 feet from Street C to Street A. Private Main Street must be constructed to MCDOT Road Code Standard MC-2003.09: Primary/Principal Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
- 9) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated November 16, 2012, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.
 - 10) Final location and number of MPDUs to be determined at the time of Site Plan.
 - 11) The Applicant must provide proof of purchase and/or payment of the required BLTs within each phase of development in accordance with the Site Plan conditions.
 - 12) The record plat must reflect the following: private streets from back of curb to back of curb to be located within separate parcels; private streets and adjacent sidewalks to be included within a public use and access easement.
 - 13) The record plat must reflect a Category I easement over all areas of stream valley buffers and forest conservation as shown on the approved forest conservation plan.
 - 14) The record plat must reflect all areas under Homeowners Association (HOA) ownership, if applicable.
 - 15) The final number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at Site Plan.
 - 16) In the event that a subsequent Site Plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration, location or right-of-way width or alignment, or an increase in units or square footage above those specified in Condition #1, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.
 - 17) At the time of Site Plan, the Applicant must comply with Section 59-C-14.27 of the Zoning Ordinance regarding Special Regulations for use of BLT Development Rights.

- 18) The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for a total of 145 months (12 years) from the original initiation date (August 8, 2013) of the Planning Board Resolution according to the following schedule:
 - I. Within 85 months (7 years) - Issuance of building permits for Phases I and II as identified by Project Plan.
 - II. Beyond 85 months (years 7 -12) – issuance of building permits for all remaining development.
- 19) The Subject Property is within the Seneca Valley High School Cluster area. The 440 high rise multi-family units approved under Resolution MCPB 13-38 are subject to a School Facility Payment at the elementary school level pursuant to the Subdivision Staging Policy in effect for FY 2013. The 649 low rise multi-family units (and 140 senior housing units) approved under this Preliminary Plan are not subject to a School Facility Payment pursuant to the Subdivision Staging Policy in effect for FY 2016.

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

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

The Sector Plan contains recommendations for roadway, transit, and bikeway facilities. Crystal Rock Drive and Century Boulevard will both function as a business district street (B-11) with four lanes (two in each direction) and a right-of-way of 100 feet. Dorsey Mill Road extended will function as a business district street (b-11) with four lanes (two in each direction and right-of-way of 150 feet. Dorsey Mill Road extended will also include a 50 foot transitway for the future CCT and a shared-use path (SP-66). In accordance with the Mandatory Referral (MR2016007), Dorsey Mill Road extended bridges over I-270, and is proposed to have separated bicycle lanes (also known as a cycle track) on both sides of the road and a shared use path on the south side of the road. This is consistent with the current recommendations in the Sector Plan, but also provides an enhancement with separated bicycle lanes.

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

The site is located within the Seneca Valley school cluster. The public schools within this cluster are reviewed on an annual basis. Based on the modifications in this Application, a school facilities payment is required for the 440 high-rise multi-family unit; however, is not required for the 649 low-rise multi-family units. The Applicant must make a School Facilities Payment to MCDPS for the 440 high-

rise multi-family units at the elementary school level. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

The office and residential uses will be reduced, and the number of beds in the assisted living facility will be increased. The residential mix will be modified to allow for all non age-restricted multi-family units. As a result of these changes, the development will generate 118 additional trips in the AM peak hour and 114 additional trips in the PM peak hour. The retail space is intended to support the development and is not intended to attract any trips outside the development, thus there is a 100% internal capture of the retail trips. The Preliminary Plan will satisfy the LATR and TPAR requirements of the Adequate Public Facilities (APF) review, as conditioned. The traffic study was revised and submitted (dated April 2015) to determine the impact of the development on the area transportation system. Twenty-one local intersections were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard. The Brink Road/ Ridge Road intersection and the Frederick Road (MD 355)/ West Baltimore Road intersection were not reanalyzed with the updated traffic impact study, because it did not exceed the Critical Lane Volume (CLV) threshold, and the Applicant agreed to construct the improvements and complete their mitigation requirement as conditioned in the original Preliminary Plan approval.

Adequate vehicular and pedestrian access is provided. Vehicular access to the Property is from Crystal Rock Drive and Century Blvd. A 10-foot sidewalk will be installed along the public right-of-way and connected into the existing pathways at the edges of the Property. This Property will be served by public water and sewer systems, under the W-3 and S-3 categories, as allowed and approved by the County. WSSC has accepted the conceptual design of the sewer and water supply systems.

The Preliminary Plan has been reviewed by the Montgomery County Fire and Rescue Services, who have determined that there is appropriate access for fire and rescue vehicles. Electrical and telecommunications services are also available to serve the development.

3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable Master Plan, and for the type of development or use contemplated.

The size, shape, width, and orientation of the lots were reviewed to determine if the lots are appropriate given the location of this development for the types and uses intended for each lot. As labeled on the Preliminary Plan, Lots 15, 18, 19, and 20 were modified to accommodate a different building footprint and housing

type. Multi-family residential units are provided within these lots and the urban grid pattern is consistent with the previous approval. The lots are appropriately sized to meet the Sector Plan recommendations for building massing and compatibility to the transit station.

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

The Final Forest Conservation Plan for this Property was originally approved in August 2013 as Site Plan No. 820120250 Crystal Rock – Public Roads Infrastructure Plan, and was subsequently updated to include the Dorsey Mill Road intersection (Site Plan No. 82013025B) in December 2015. The Preliminary Plan conforms to the Chapter 22A, because it is unchanged from the amended Project Plan No. 92012004A approval.

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

The original SWM concept was approved in November 2012 and uses a variety of techniques to meet the ESD requirements. In accordance with the original SWM approval, each respective Site Plan application will require a subsequent SWM approval.

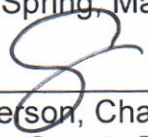
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 3 2016 (which is the date that this Resolution is mailed to all parties of record); and

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

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with Chair Anderson and Commissioners Dreyfuss and Presley voting in favor, and Vice Chair Wells-Harley and Commissioner Fani-González absent, at its regular meeting held on Thursday, April 21, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board