



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAY 3 2016

MCPB No. 16-027  
Site Plan No. 82013025A  
Black Hill  
Date of Hearing: March 10, 2016

## RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review Site Plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this Site Plan under the procedures and standards of the Zoning Ordinance in effect prior to October 29, 2014, including the zoning then in effect; and

WHEREAS, in June 2013, the Planning Board, by Resolution MCPB No. 13-93, approved Site Plan No. 820130250 for the approval to construct Crystal Rock Drive and Century Boulevard (public roads) and certain public utilities as shown on the Preliminary Plan, ahead of the development of buildings and other structures on 6.69 acres of zoned-land, 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 ("Subject Property"), in the Germantown Employment Area Sector Plan ("Sector Plan") area; and


WHEREAS, in December 2015, the Planning Board approved an amendment to the previously approved Site Plan, designated Site Plan No. 82013025B (MCPB No. 15-151), to the Final Forest Conservation Plan ("FFCP") to reflect the grading and construction of Dorsey Mill Road ("Application" or "Amendment"); and

WHEREAS, in January 2015, Black Hill Germantown, LLP, c/o Lerner Enterprises ("Applicant") filed an application for approval of an amendment to the previously approved Site Plan to update the FFCP and the associated stormwater management ("SWM") on the Subject Property; and

WHEREAS, Applicant's application to amend the Site Plan was designated Site Plan No. 82013025A, Black Hill ("Site 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

Approved as to  
Legal Sufficiency:

 4/13/16

8787 Georgia Avenue, Suite 200, Bethesda, Maryland 20814 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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



Planning Board, dated February 29, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82013025A for revisions to the FFCP and associated SWM subject to the following conditions:<sup>1</sup>

1. Project Plan Conformance  
The development must comply with the conditions of approval for the amended Project Plan No. 92012004A.
2. Preliminary Plan Conformance  
The development must comply with the conditions of approval for the amended Preliminary Plan No. 12012021A.
3. Forest Conservation & Tree Save
  - a) The development must comply with the conditions of the Final Forest Conservation Plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services issuance of sediment and erosion control permits. With the exception of clearing and grading activities allowed in Condition 4, no clearing or grading is permitted with the infrastructure plan.
  - b) All Category I conservation easements must be recorded prior to any land disturbing activities.
  - c) Record plat of subdivision must reflect a Category I conservation easement over all areas of stream buffers and forest conservation.
  - d) Conservation easements may be recorded using a metes and bounds description and sketch if preceding recordation of plats, provided the recording information for the conservation easement is referenced and the easement line is shown on subsequent record plats.

---

<sup>1</sup> 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.



- e) Amendments to the Final Forest Conservation Plan must be submitted and approved by the Planning Board with all future site plans, mandatory referrals, and special exceptions, prior to any clearing and grading.
- f) The submission and approval of an amended Final Forest Conservation Plan must be consistent with any subsequent approvals.
- g) No encroachment into stream buffers for stormwater management facilities or sediment control facilities is allowed without permission of the Planning Board, except for necessary outfalls and temporary sediment control facilities in non-forested portions of the stream buffers. If at later stages of stormwater review and design it is determined that the SWM facility is not properly sized and must be enlarged to accommodate the drainage areas, the Applicant will have to find additional space outside the stream buffer. This may require the reconfiguration of layouts and loss of developable area.
- h) The Applicant must plant three 3" caliper native canopy trees on-site as mitigation for the Variance trees removed.
- i) The Final Forest Conservation Plan must show location and species of all mitigation plantings.
- j) Category I conservation easements must be placed over all areas of forest retention, forest planting, and stream/environmental buffers as shown on the Final Forest Conservation Plan prior to any land disturbing activities.

4. Clearing and Grading

The following may proceed upon approval of the Infrastructure Site Plan, Sediment and Erosion Control Plans and Final Forest Conservation Plan: a) clearing and mass grading for the roads, sewer, and staging and stockpiling being approved by this Infrastructure Plan; and b) installation of temporary sediment and erosion control devices. Clearing and grading activities will not be permitted beyond the limits of disturbance submitted as part of this Site Plan, until subsequent approvals for each individual Site Plan are approved.

5. SWM

The development is subject to SWM Concept approval conditions dated November 16, 2012 unless amended and approved by the Montgomery County Department of Permitting Services.

6. Transportation & Circulation

- a) The median within Century Boulevard will be extended to discourage left turning movements from the secondary intersections in close proximity of the traffic circle.
- b) Americans with Disabilities Act (ADA) ramps will be aligned to provide the shortest distance possible at pedestrian crossings.
- c) The pedestrian crossing near the intersection of Dorsey Mill Road and Century Boulevard will be improved with two ADA ramps.



- d) Pedestrian sidewalks must be a minimum of 5 feet or greater.
- e) All intersections with the primary roadways (i.e. Century Boulevard and Crystal Rock Drive) must all meet the minimum development standards. Two-lane streets will be a minimum of 22 feet wide to ensure adequate passing distance, and one-way streets will be a minimum of 20 feet wide.

7. Site Design

- a) The grading design along I-270 is subject to change when the respective Site Plan application is accepted and reviewed.

8. Landscaping

- a) Provide equivalent replacement of the natural vegetation, in the area that will be disturbed by the redistribution of the excess topsoil along the northeastern property boundary, directly adjacent to I-270.
- b) Provide landscape planting details.
- c) The equivalent replacement of the natural vegetation along I-270 is intended to serve as an intermediate solution and is subject to be modified with the review and approval of subsequent Site Plan applications.

9. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for commercial development.
- b) The height of the light poles within the public right-of-way will not exceed 20 feet including the mounting base.

10. Landscape Surety

- The Applicant must provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:
- a. The amount of the surety must include plant material. Surety to be posted prior to issuance of first building permit for the development, and will be tied to the development program.
  - b. Provide a cost estimate of the materials, which, upon Staff approval, will establish the initial bond amount.
  - c. Completion of plantings will be followed by inspection and bond reduction. Inspection approval starts the 1-year maintenance period and bond release occurs at the expiration of the 1-year maintenance period.
  - d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Prior to issuance of the first building permit, the agreement will be executed.

11. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified

Site Plan. The development program must include the following items in its phasing schedule:

- a. Sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the FFCP, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c. The development program must provide phasing for installation of landscaping and lighting.
- d. The development program must provide phasing of dedications, SWM, sediment and erosion control, and other features.

12. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the FFCP approval, SWM concept approval, development program, inspection schedule, and Site Plan Resolution on the approval or cover sheet.
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Modify the Project Data Table to reflect development standards enumerated in the Staff Report.
- d. Ensure consistency of all details and layout between Site and Landscape Plans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 82013025A, submitted via ePlans to the M-NCPPC as of the date of the Staff Report February 29, 2016, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and 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 the Site Plan Amendment will only modify the FFCP.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and



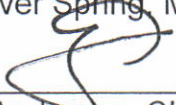
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is     MAY 3 2016     (which is the date that this Resolution is mailed to all parties of record); and

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