

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAR 03 2023

MCPB No. 23-015
Site Plan No. 82009014C
Ourisman Ford at Montgomery Mall
Date of Hearing: February 23, 2023

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, on September 17, 2009, the Planning Board, by Resolution MCPB No. 09-123, approved Site Plan No. 820090140, for 340 dwelling units, including 43 MPDUs (12.5%), 42,000 gross square feet of retail use, and 12,000 gross square feet of restaurant space on 4.08 acres of C-2 zoned-land, located in the northwest quadrant of the intersection of Motor City Drive and Westlake Terrace ("Subject Property"), in the North Bethesda/Garrett Park Master Plan area; and

WHEREAS, on October 25, 2018, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82009014B¹ (MCPB No. 18-088) to pursue development approvals under the CRT-2.5 C-1.5 R-2.0 H-150 Zone and the 2017 Rock Spring Master Plan, including the elimination of retail uses, an increase of four dwelling units, and a revised site design on the Subject Property; and

WHEREAS, on October 26, 2022, RAE Titleholder LLC. ("Applicant") filed an application for approval of an amendment to the previously approved plans to 1) remove proposed sound barrier fence; 2) make minor adjustments to passive recreation area layout and planting design; 3) reconfigure private courtyard areas; 4) reconfigure walk-up unit entries, 5) remove one walk-up unit; 6) make minor revisions to architectural elevations; 7) eliminate four stormwater facilities; and 8) revise the stormwater facility footprint at the southeast corner of the building on the Subject Property; and

¹ A previous application, designated Site Plan Amendment No. 82009014A, was submitted but never officially accepted by the Planning Department.

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82009014C, Ourisman Ford at Montgomery Mall ("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 Planning Board, dated February 13, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 23, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Piñero, seconded by Commissioner Hill, with a vote of 4-0; Chair Zyontz, Commissioners Branson, Hill and Piñero voting in favor with Vice Chair Presley absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82009014C to 1) remove proposed sound barrier fence; 2) make minor adjustments to passive recreation area layout and planting design; 3) reconfigure private courtyard areas; 4) reconfigure walk-up unit entries, 5) remove one walk-up unit; 6) make minor revisions to architectural elevations; 7) eliminate four stormwater facilities; and 8) revise the stormwater facility footprint at the southeast corner of the building on the Subject Property; by modifying the following condition:²

10. Noise Attenuation

- a) Before issuance of any building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatment that the building shell for residential dwelling units affected by exterior noise levels projected above 65 dBA Ldn will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b) If the plan changes in any manner that affects the validity of the noise analysis dated August 12, 2022 regarding acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.
- c) Before issuance of any Use and Occupancy Certificate for residents, the Applicant must certify that the noise impacted units have been constructed

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.

for an interior level not to exceed 45 dBA Ldn in accordance with the certification of an engineer who specializes in acoustical treatments.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Ourisman Ford at Montgomery Mall, Site Plan No. 82009014C, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above condition of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or provided 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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.

5. The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.

b) Chapter 22A, Forest Conservation.

Noise

The Planning Department's *Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development* ("Noise Guidelines," Montgomery County Planning Board, 1983) establish guidelines for the evaluation and mitigation of excessive transportation noise impacts to sensitive developments such as residential buildings and neighborhoods. Noise studies are required to determine if exterior public spaces or building faces are exposed to excessive noise. The standard for what constitutes excessive noise depends on whether development occurs in a rural, suburban, or urban area, or in an area near major transportation noise sources such as large highways. Due to its proximity to Interstate 270 and other high traffic volume roads, the Ourisman Ford site is evaluated under the urban standard, which recommends that public open spaces should be protected from noise levels exceeding 65 dBA Ldn when possible. Interior spaces are to be designed and constructed to keep interior noise levels at or below 45 dBA Ldn.

The Applicant submitted a revised noise study dated August 12, 2022, to account for the removal of the proposed sound fence along the Property's eastern line due to the infeasibility of installing fencing within the Pepco easement or MDOT SHA right-of-way. The revised noise study shows exterior noise levels that exceed the 65 dBA Ldn limit of the Noise Guidelines. Noise levels within the private courtyard, however, will remain below 65 dBA Ldn. In addition, a relatively small portion of the larger private courtyard/pool area will have noise levels above 65 dBA Ldn, and the impacted area only contains a path of egress and maintenance shed.

Under Section 2.2.2 of the Noise Guidelines, a waiver of the noise guidelines is appropriate if exterior attenuation is not feasible due to site-related constraints of size, shape, or topography. In this case, the size of the Property and the approximately 60-foot-wide Pepco easement preclude installation of the fence on the Property, and MDOT SHA will not allow installation of the fence within the adjacent right-of-way. Installation of the sound fencing is therefore infeasible on this Property and a waiver of the exterior noise guidelines is appropriate.

Enhanced building materials must be incorporated into the building materials to mitigate interior noise levels to meet the 45 dBA Ldn standard.

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 § 59-7.3.4.H; 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 MAR 03 2023 (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 Hill, seconded by Commissioner Branson, with a vote of 4-0-1; Chair Zyontz, and Commissioners Branson, Hill and Piñero, voting in favor of the motion, with Vice Chair Presley abstaining, at its regular meeting held on Thursday, March 2, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board

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Ourisman Ford at Montgomery Mall;
Site Plan Amendment
No. 82009014C