



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

MCPB No. 13-133
Preliminary Plan No. 12012002A
Pike & Rose (Mid Pike Plaza)
Date of Hearing: October 10, 2013

NOV 15 2013

RESOLUTION

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

WHEREAS, by resolution dated March 14, 2012, corrected on July 19, 2012, the Planning Board approved Preliminary Plan No. 120120020 for five lots and a maximum density of 3,442,888 square feet of total development including a maximum of 1,716,246 square feet of commercial uses on 24.38 acres of land split-zoned CR3 C1.5 R2.5 H200 and CR4 C3.5 R3.5 H300 and bound by Montrose Parkway on the north, Hoya Street on the west, Rockville Pike on the east, and Old Georgetown Road on the south ("Subject Property"), in the White Flint Sector Plan ("Sector Plan") area; and

WHEREAS, on February 8, 2013, Federal Realty Investment Trust ("Applicant"), filed a preliminary plan amendment to resubdivide and reconfigure five lots into 14 lots and three private road parcels to be platted in phases; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12012002A, Pike & Rose ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board on September 30, 2013 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 10, 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 October 10, 2013, the Planning Board voted to approve the Application subject to conditions on the motion of Commission Dreyfuss, seconded by

Approved as to
Legal Sufficiency:

Commissioner Anderson, by a vote of 4-0, Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor, and Commissioner Presley absent;

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12012002A to replace conditions 1, 4, 6, 7, 12, 25, and 32 of the previous approval, remove condition 17 of the previous approval, and add conditions 33-38, as follows:¹

1. Approval is limited to 14 lots for a maximum density of 3,442,888 square feet of total development including a maximum of 1,716,246 square feet of non-residential uses. A minimum of 12.5% of any residential units must be moderately priced dwelling units (MPDUs).
4. The Applicant must dedicate, and the record plat must reflect, the sector plan recommended 120-foot right-of-way (60 feet from centerline) for Towne Road as shown on the Preliminary Plan.
6. The Applicant must dedicate, and the record plat must reflect, the sector plan recommended 70-foot right-of-way for business district street B-15 (Grand Park Avenue) as shown on the Preliminary Plan.
7. The Applicant must dedicate, and the record plat must reflect, the sector-plan recommended 80-foot right-of-way for business district street B-16 (Rose Avenue) as shown on the Preliminary Plan.
12. The Applicant must obtain and record a certificate of compliance for all required off-site forest conservation areas as required by the development sequencing program.
- ~~17. Proof of conveyance of the portion of the property owned by SHA must be provided to staff prior to recordation of proposed Lot 1C.~~
25. The following development sequencing program applies:
 - a. Demolition of existing buildings may commence upon preliminary plan approval and prior to certified site plan approval and recordation of plats.
 - b. Additional clearing and grading for site construction and issuance of below-grade permits may occur once all certificates of compliance for required off-site forest conservation areas are recorded and prior to certified site plan approval and recordation of plats for each phase.
 - c. No recordation of plats or issuance of above ground building permits prior to certified site plan approval. Applicant may submit plats for staff review prior to certified site plan approval and recordation of certificates of compliance for required off-site forest conservation areas.
 - d. No core and shell building permits shall be issued prior to recordation of plats.

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.

- e. The Applicant may obtain demolition, access, and utility permits prior to the approval of the Certified Site Plan and Record Plat, subject to approval by MCDOT and DPS. The Applicant may obtain a sheeting and shoring permit for Building 7 after submitting, but prior to the approval of, Certified Site Plan and Record Plat, subject to the approval of DPS.
32. The Applicant must prepare and submit traffic signal warrant studies for the Rockville Pike/Rose Avenue and Old Georgetown Road/Grand Park Avenue intersections prior to the issuance of Use and Occupancy Certificates.
33. Business district street B-3 (Trade Street) may be implemented as a private street 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 adjacent parallel sidewalks, and must be reviewed and approved by MCDOT and M-NCPPC.
 - d. The design of the roads must follow or improve on the corresponding Montgomery County Road Code standard for a similar public road, unless 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 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 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 the corresponding Road Code standard for a similar public road.
 - 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 easements must be shown on the record plat.

34. Prose Street, Meeting Street, and Street 2 must be located within their own parcels, separate from the proposed development, and the record plat must reflect a public use and access easement over the private streets and adjacent parallel sidewalks.
35. The Planning Board accepted and hereby incorporates as conditions of approval the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated August 30, 2013. 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.
36. The Planning Board accepts, and hereby incorporates as conditions of approval, the recommendations of the Maryland State Highway Administration (SHA) in its letter dated September 17, 2013. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by SHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
37. The Planning Board accepts, and hereby incorporates as conditions of approval, the recommendations of the Montgomery County Department of Permitting Services (MCDPS) in its letter dated August 22, 2013. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
38. All previous conditions of approval from Resolution 12-26, dated March 14, 2012 and corrected on July 19, 2012, remain in full force and effect, except as modified by this Resolution.

BE IT FURTHER RESOLVED, that all other conditions of approval for Preliminary Plan 120120020 remain valid, unchanged and in full force and effect;

BE IT FURTHER RESOLVED, that, having fully considered the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference and upon consideration of the entire record, the Montgomery County Planning Board FINDS, that, except as specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect, and with the conditions of approval, that:

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

This revision does not materially change the existing approvals for uses and square footage. The amended Preliminary Plan substantially conforms to the Master Plan. The Property is currently limited to a maximum 3,442,888 square feet of total development including a maximum of 1,716,246 square feet of non-residential

commercial uses. This amendment makes no changes to these limitations. The street and public space network conforms to the master plan recommendations to create an urban grid that encourages pedestrian activity.

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

The development of this site continues to be bound to the density and uses approved with the original approval. The finding of Adequate Public Facilities, including schools, fire and rescue access, roads, water and sewer remains valid for the square footages approved.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The lots are of the appropriate size, shape, width and orientation to accommodate the multiple uses expected to occur on the Subject Property. The location and uses are appropriate in that this area was designated as an urban area in the Master Plan, and this subdivision establishes an urban grid as envisioned by the Master Plan. As amended, the Preliminary Plan remains in conformance with all applicable sections of the Subdivision Regulations.

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

The Planning Board approved the original preliminary plan subject to requirements to on the terms of the approved preliminary forest conservation plan. The Property continues to be bound by the conditions of the approved forest conservation plan, as amended by the Phase 2 Site Plan which is approved concurrently with this Preliminary Plan.

- 5. The Amendment meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

This finding is based on MCDPS's approval of a preliminary stormwater management concept for the entire site at the time of the original preliminary plan approval, and its review and approval of a revised stormwater management concept in connection with this Amendment. The proposed amendment meets all applicable stormwater management requirements.

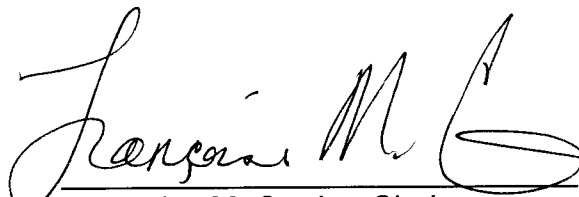
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 15 2013 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Anderson voting in favor, and Commissioners Dreyfuss and Presley absent, at its regular meeting held on Thursday, October 24, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board