

Black Rock Estates Homeowners Association
P.O. Box 672
Funkstown, Maryland 21734

April 27, 2021

Washington County Department of Planning & Community Development
80 West Baltimore Street
Hagerstown, MD 21740

RE: Black Rock Planned Unit Development – Rezoning No. RZ-21-003
Response from Black Rock Estates Homeowners Association

Dear Sirs:

The Black Rock Estates Homeowners Association (the “Association”), which represents 154 property owners within our development, has been notified by the DRB Group and Morris & Ritchie Associates, Inc. (“Morris & Ritchie”) of the Planned Unit Development that is proposed to be developed on the 200+/- acres adjacent to Black Rock Estates. In response to our notification by the DRB Group of the proposed PUD Development, the Association sent a letter to Nick Liparini of DRB Group advising said parties of the Association’s numerous concerns regarding the plan as proposed, and advising that we believe the plan submitted, or anything similar, to be wholly unacceptable. A copy of said letter to Mr. Liparini, dated March 15, 2021 has been submitted herewith as Exhibit 1. Additionally, the Association summarized our concerns regarding the proposed PUD Development in a letter to this Planning Commission on March 22, 2021. A copy of said letter has been submitted herewith as Exhibit 2.

Since these initial letters detailing the Association’s concerns were prepared and provided to the noted parties, the Association has obtained and reviewed a copy of the Major Change Request submitted by Sean D. Davis of Morris & Ritchie dated February 16, 2021 and the Point-by-Point Response to County/HOA Comments submitted by Morris & Ritchie dated April 16, 2021.

Having reviewed these documents, the Association, and the home owners whom we represent, continue to have serious concerns about the proposed PUD Development. These concerns are as follows:

OVERVIEW OF THE PROJECT

In the PUD Concept Plan dated February 5, 2021, Morris & Ritchie proposes a development consisting of 1,148 units over approximately 220 acres for a proposed gross density of 5.2 DU/AC. As this Planning Commission is likely aware, in 2002 the same property owner, Manny Shaool working with Fox and Associates, Inc. (“Fox & Associates”) submitted a request for rezoning of this same property from Agricultural to Residential Planned Unit Development Use (the “2002 Plan”). At that time, the proposed PUD consisted of 593 units over the same approximately 220 acres for a proposed gross density of 2.69 DU/AC. In reviewing the 2002 Plan, the Planning Commission made findings of fact with respect to population change, availability of public facilities, present and future transportation patterns, and compatibility with existing and proposed development for the area. Based on these finds of fact, the Planning Commission recommended denial of the requested map amendment /rezoning. As noted in its report and recommendation, attached herewith as Exhibit 3, the Planning Commission came to this decision for a number of reasons, including the 2002 Plan’s incompatibility with the existing development trend in the community (single-family residential use) and inadequate infrastructure to support the density of the proposed development. Despite the Planning Commission’s recommendation, the Washington County Commissioner’s approved the 2002 PUD and rezoning.

No construction began and no remedial measures to address the Planning Commission’s concerns from their 2002 review were taken with respect to the 2002 PUD until the current PUD Concept Plan of February 5, 2021 was prepared. It does not appear that the property owner or developer have taken any steps over the course of the last ten (10) years to remediate or mitigate any of the concerns raised by the Planning Commission in 2002 for this development.

The current PUD Concept Plan of February 5, 2021 nearly doubles the density from the previous 2002 Plan.¹ Morris & Ritchie note that the increase in density is necessary to offset increased costs for regulatory compliance and anticipated amenities.² However, as no

¹ The Association notes that the proposed density of the PUD Concept Plan of February 5, 2021 exceeds the current zoning density for the area by nearly 30%. Residential Transition areas are zoned for 2 to 4 units per acre. As such, the approximate 220 acres covered by the current PUD Concept Plan should be designed with between 440 and 880 units to remain in compliance with the zoning density.

² The Association notes that the current PUD Concept Plan of February 5, 2021 does not identify any specific amenities for the proposed development beyond a small green space. When what currently exists as Black Rock Estate was developed, the homeowners were promised various amenities, including a community center. No such community center ever materialized. Additionally, when the 2002 PUD was proposed, the Black Rock Estates community was once again advised that there would be a community center developed at the border of the current neighborhood and the new development adjacent to Sasha Boulevard. However, the current PUD Concept Plan provides for homes in that location and does not have any space identified for such a community center. As such, the Association and its homeowners are skeptical that any such amenities will ever come to fruition.

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improvements have been made to the impacted county infrastructure since 2002, the increased density will add a significant burden to the already marginal infrastructure. In response to the current PUD Concept Plan proposal, the Washington County Division of Plan Review and Permitting, City of Hagerstown Utilities Department, Water and Wastewater Division, and the Hagerstown Fire Department submitted comments identifying a number of concerns regarding the current PUD proposal. The responses provided by Morris & Ritchie largely ignore the specific noted concerns and fail to provide concrete effectual solutions, but rather, reference future *potential* and very hypothetical solutions.

The concerns for the Association and the current residents of Black Rock Estates can be summarized into three interrelated categories, namely:

- (1) Traffic increase beyond what Mt. Aetna and the Black Rock Estates neighborhood can safely accommodate and lack of appropriate entrances to and from the proposed PUD;
- (2) Water pressure and usage issues;
- (3) Poor transition design between proposed PUD development & Black Rock Estates.

TRAFFIC INCREASE & LACK OF APPROPRIATE ENTRANCES

The density increase in the current PUD Concept Plan proposal noted above is expected to generate an additional 8,109 vehicle trips per day. This is an increase of 79% over the vehicle trips anticipated by the 2002 Plan. Additionally, under the current PUD Concept Plan proposal, the only entrances to and egress from the proposed PUD site are via Mt. Aetna directly or via Sasha Boulevard connecting to Mt. Aetna. The entrance directly off of Mt. Aetna is located on the far east end of the proposed PUD site. As such, the majority of the units in the current PUD Concept Plan are significantly closer to Sasha Boulevard than to the entrance directly off of Mt. Aetna. While Nick Liparini of DRB Group advised the Association in a phone call that Sasha Boulevard would be for “emergency vehicle access,” there has been no plan submitted providing for a second entrance to the proposed PUD site other than Sasha Boulevard. Additionally, in response to Washington County Engineering Comment 2 noting that a second connection to another major roadway needed to be provided, Morris & Ritchie responded that two distinct points of access were provided, namely Mt. Aetna Road and Sasha Boulevard. As such, it is clear that Morris &

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Ritchie anticipates that Sasha Boulevard will in fact be a main entrance to and egress from the proposed development rather than an emergency access as indicated to the Association.

The Association submits that the increase in traffic through Black Rock Estates generated by the PUD development is unacceptable, particularly when you consider that the majority of the proposed units are closer in proximity to Sasha Boulevard, and that the current road infrastructure through Black Rock Estates cannot sustain this level of increased traffic. Contrary to the suggestion by Morris & Ritchie that Sasha Boulevard is a “major roadway,” Sasha Boulevard is in fact a narrow two-lane road through an existing neighborhood with heavy pedestrian traffic. In fact, Sasha Boulevard contains no dividing line between its two lanes of traffic, suggesting that it was never intended for heavy vehicle traffic. Sasha Boulevard has no sidewalks and the storm water feature on the east side of the roadway is not protected by a guard rail.

Because residents approaching the new PUD development from Hagerstown on Mt. Aetna would have to pass the Sasha Boulevard entrance on the way to the proposed “main entrance,” it should be presumed that most traffic going to the new PUD development would divert up Sasha Boulevard through Black Rock Estates. It is wholly unreasonable for Morris & Ritchie to rely on the capabilities of the proposed “main entrance” directly off of Mt. Aetna when said entrance is isolated on the far eastern boundary of the proposed PUD development when a majority of traffic will be to and from the west of the PUD development. It should be anticipated that residents of the proposed PUD development will take the most direct route, i.e., through Black Rock Estates. Given that Sasha Boulevard will in fact be the main access point for the proposed PUD development, the Washington County Highway Plan requirements provide that a 300-foot access separation is required. However, such an access separation is not feasible at that location.

Additionally, because Sasha Boulevard flows into Mt. Aetna, the current PUD Concept Plan proposal actually provides for Mt. Aetna as the only means of entry to and egress from the PUD site. As such, the increased traffic flow anticipated by the additional 8,109 trips per day will have a significant impact on all of the communities and residents living along Mt. Aetna Road. The Association questions whether Mt. Aetna can adequately sustain this increased traffic level. Mt. Aetna is a two-lane road with no sidewalks. It is heavily used by pedestrians for recreational

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purposes and runs directly adjacent to a park. Additionally, it is a curvy road, whose speed limit is 35 miles per hour, with many direct access points for residential driveways.

The Washington County Zoning Ordinance requires the Planning Commission to make findings of fact to consider the impacts of the proposed development on public roadways. Additionally, design standards require that “existing and planned streets and highways shall be of sufficient capacity to serve existing traffic and all new traffic when fully developed” and that the “capacity of existing streets and highways serving a PUD shall be considered by the Planning Commission in determining density.” *See Zoning Ordinance for Washington County, Maryland, Rev. 18, April 26, 2018, Sections 16A.4(i) 1 and 2.* Said Zoning Ordinance explicitly provides that “density resulting in traffic capacity being exceeded on streets and highways *shall not* be permitted.” (Emphasis added.) To the Association’s knowledge, there has not been a traffic study performed to assess the traffic capacity of Mt. Aetna or to determine the impact of the 8,109 additional daily trips up and down Mt. Aetna as a result of the proposed PUD Concept Plan.

As the Washington County Division of Plan Review and Permitting notes in their comments, there have been significant changes to the road networks in the Robinwood corridor since the traffic study was prepared for the 2002 PUD. In their response Morris & Ritchie note that since the 2002 PUD Robinwood Drive has been upgraded to four (4) lanes with new signalization and greatly improved capacity for higher traffic volumes. However, the Association would submit that unless a point of entrance to and egress from the proposed PUD development is established off of Robinwood Drive directly that such improvements are largely irrelevant to the traffic impact of the current PUD Concept Plan.

Additionally, having the only access to the proposed PUD via Mt. Aetna also poses a safety concern in the event of emergency in the proposed PUD development. In the event of a fire or other emergency, if Mt. Aetna were to be blocked west of Sasha Boulevard, emergency vehicles coming from Hagerstown or Funkstown would have to go all the way to Maryland Route 66 to access the PUD development, taking significantly longer to access the development and the emergency. In their comments to the PUD Concept Plan, the Hagerstown Fire Department noted a concern about the high fire risk in the high-density housing proposed in the development. Limited access to the proposed PUD development only exacerbates the risk posed on this high-density

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housing. In their responses, Morris & Ritchie provide no means of mitigation for this fire hazard concern. Additionally, Washington County Division of Plan Review and Permitting Engineer noted in their comments that several of the internal roads in the proposed PUD development fail to meet the Washington County geometric criteria. As planned, some of the curves have radii that are too small, potentially exacerbating the difficulty for large emergency vehicles to respond to any given emergency within the planned PUD development. In their response, Morris & Ritchie provide no explanation as to how to address this emergency safety concern but again provide a generic response that any issue will be addressed later.

As such, the Association urges the Planning Commission to reject the current PUD Concept Plan until such time that a new traffic study can be performed to assess the impact of the increased traffic from the proposed PUD on Mt. Aetna and the Robinwood corridor. Additionally, the Association urges the Planning Commission to reject the current PUD Concept Plan until another access point to the north and east of the PUD development has been established to naturally direct the huge anticipated increase in traffic away from Sasha Boulevard and reduce the burden of traffic onto Mt. Aetna.

WATER PRESSURE & SERVICE CONCERNS

In their comments to the PUD Concept Plan of February 5, 2021, the City of Hagerstown Utilities Department, Water and Wastewater Division (“City of Hagerstown”) noted that the future water usage within this PUD will be approximately 229,600 gallons. The City of Hagerstown further noted that Water Zone 5, within which this PUD is located, has limitations in distribution system pressure and fire flow ability without the addition of the PUD. The City of Hagerstown in their comments further noted and provided supporting data demonstrating that the proposed PUD will push the water demand of Water Zone 5 beyond the limitations in the City of Hagerstown’s Water System Master Plan. According to said Master Plan, when the expected water demand “approaches,” not exceeds, the limitations, upgrades to the water infrastructure are required. The Master Plan identifies upgrades to include the addition of a water storage tank in Water Zone 5. In response to the City of Hagerstown’s comments regarding the proposed PUD’s strain on the already inadequate water infrastructure, Morris & Ritchie fail to address the upgrades identified as appropriate by the City, but rather note that “a location within the PUD for a *potential future*

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elevated water tower to serve the entire area” has been provided. (Emphasis added.) Morris & Ritchie both fail to commit to providing the needed water infrastructure improvements for their proposed PUD and also fail to acknowledge that these infrastructure improvements are a necessity BEFORE the proposed development pushes the water usage of Water Zone 5 beyond its limits.

The Association would submit that the water usage of Water Zone 5 may already be pushing beyond its currently limits as Black Rock Estates already experiences water pressure and water service issues. Residents of the Black Rock Estates community have continuously noted issues of low water pressure when showering or using appliances. Some residents of the community report appliances simply not running for lack of water. In an article from the Herald Mail from September 1, 2017, then Mayor Bob Bruchey noted said complaints by residents of Black Rock Estates regarding water pressure issues. A copy of said Herald Mail article is attached herewith as Exhibit 4.

Additionally, the Hagerstown Fire Department in their comments to the PUD Concept Plan noted that Water Zone 5, within which this PUD is located, has struggled to meet both domestic and fire protection water flows. Additionally, the Fire Department noted that these struggles are well known and documented. Notably, on August 22, 2017, a massive fire broke out at Woodbridge Apartments along Robinwood Drive. The Chief of the Funkstown Volunteer Fire Company noted that hydrants in the area failed to produce an adequate flow of water to fight the blaze. Additionally, in July 2010, a two-alarm fire at a house on Shalom Lane in Black Rock Estates resulted in \$1.3 million in damages to the home, when the blaze could not be contained. At the time, Funkstown Fire Chief reported that low water pressure in two fire hydrants in the development hampered firefighting efforts. These issues are detailed in an article from the Herald Mail dated November 29, 2017, attached herewith as Exhibit 5, as well as Exhibit 4 noted above. In their comments to the PUD Concept Plan, the Hagerstown Fire Department notes that as a result of the water-usage constraints highlighted by these recent fires in the area, the Funkstown Volunteer Fire Department added multiple tankers to *partially compensate* for the lack of needed fire flow. In response to the Hagerstown Fire Department’s concerns raised in their comments, Morris & Ritchie simply note that they “believe there are viable means to address this comment.” However, Morris & Ritchie fail to acknowledge that the inadequate fire flow for the proposed

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location of the PUD is a public safety issue that MUST be addressed BEFORE the water issue is exacerbated by the addition of nearly 1,200 additional dwelling units. Additionally, Morris & Ritchie's "belief" that they can address this issue at some future time is simply inadequate to satisfy the Washington County Zoning Ordinance requiring the Planning Commission to consider the "impact on... fire and police protection" before making a recommendation on approval of any zoning matter. The only action proposed by Morris & Ritchie to address the very real fire safety concerns raised by the City of Hagerstown, the Hagerstown Fire Department, the Funkstown Volunteer Fire Company and the residents of Black Rock Estates is to connect to an existing water stub off Kings Crest Boulevard to create a water loop. However, Morris & Ritchie have provided no support for the proposition that this action will in any way impact the noted water and fire safety concerns.

In Comment 5, the Hagerstown Fire Department notes that they *strongly* recommend that further development *does not* occur as proposed. Additionally, a member of the Association spoke with Fire Chief Jerry Kiplinger of the Funkstown Volunteer Fire Company on or about April 23, 2021 regarding the current PUD Concept Plan. At that time, Chief Kiplinger advised that he was opposed to proceeding with the PUD as proposed. The Association proposes that the increase in water usage as a result of the proposed PUD development will exacerbate the current water pressure and service issues unless appropriate improvements are made to the water distribution system before any construction begins on the new development and appropriate provisions to maintain adequate water flow and pressure are identified and implemented by Morris & Ritchie and the developer of the current PUD proposal.

POOR TRANSITION DESIGN & IMPACT ON CURRENT NEIGHBORHOOD

The Washington County Zoning Ordinances, Section 16A.4 "Design Standards" provide that the zoning ordinances' purpose are "to ensure that the PUD is compatible with neighboring properties and that it provides a quality living environment for its residents." *See Washington County Zoning Ordinance, Section 16A.4, Maryland, Rev. 18, April 26, 2018.* The Zoning Ordinance further provides that adequate buffers and screens are required to facilitate this compatibility. *See Id.* In the Planning Commission's review of the 2002 Plan, the Planning Commission determined that the original 2002 PUD, at one-third the density of the current PUD

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Concept Plan, was “incompatible with the current single-family residential development patterns in the area, the location of the multi-family units adjacent to the Rural/Agricultural Area did not provide for an adequate transition from high intensity development within the Urban Growth Area to low intensity development associated with the Rural/Agricultural Area.” The Association submits that the current PUD Concept Plan remains incompatible with the current Black Rock Estates development and does not provide an adequate buffer as required by the Zoning Ordinances.

The current PUD Concept Plan provides for no transition space between the current Black Rock Estates community and the proposed PUD development. Additionally, the size of the single-family lots and homes in the proposed PUD development that abut Black Rock Estates will be significantly smaller and have a completely different exterior look than the existing homes. The Bylaws of Black Rock Estates provide that dwellings in the development may not be less than 2500 square feet and must be constructed of all brick. The homes in Black Rock Estates are on approximately $\frac{3}{4}$ acre lots. The proposed PUD Concept Plan proposes places vinyl sided homes of typically less than 2,000 square feet on lots average 10,000 square feet directly adjacent to the homes in Black Rock Estates with no buffer or screen. The PUD Concept Plan provides for approximately 35 lots and homes abutting Black Rock Estates. The PUD Concept Plan further provides for some of these homes to be placed such that they are facing Black Rock Estate homes in two directions.

Additionally, Morris & Ritchie have provided no plan for a transition space between the extremely divergent home styles of the proposed PUD development and Black Rock Estates. The 2002 Plan contemplated an “Active Recreation Area” as a buffer between the proposed development and Black Rock Estates. It was anticipated that this “Active Recreation Area” would include a community center, pool, and tennis courts. The current PUD Concept Plan does not include such an “Active Recreation Area.” In fact, the current PUD Concept Plan does not contemplate a wall, a green space, a fence, or even a modicum of distance between the homes in Black Rock Estates and the proposed much small homes of inconsistent design.

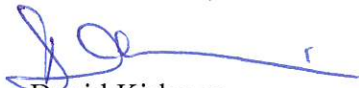
This is not in accordance with either the spirit or the letter of the Zoning Ordinance requiring new development to be compatible with and to minimize adverse effects to the existing

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properties. In their submission, Morris & Ritchie make the conclusory statement that “much thought and consideration has been invested into the design and preservation of home values for our present and future neighbors.” However, this seems unlikely to the Association. Placing significantly smaller homes on significantly smaller lots that use less costly construction methods adjacent to the existing homes will have a negative impact on the market value of the properties within the existing Black Rock Estates. Morris & Ritchie further state that the new PUD Concept Plan “creates a much stronger overall community design.” However, the Association struggles to understand how such a stronger overall community design might stem from the development of a community that completely lacks consistency with the existing neighborhoods and properties.³

The proposed PUD Concept Plan development is clearly not appropriate for the community on which Morris & Ritchie and the developer propose to force it upon. Residents of both Black Rock Estates and many neighboring communities along Mt. Aetna will be harmed if the current PUD Concept Plan is approved. As such, the Black Rock Estates Homeowners Association believes that the PUD Concept Plan dated February 5, 2021 is unacceptable and raises a number of concerns for our community. As such, we are asking the Planning Commission to reject the current PUD Plan, or any plan that may reflect similar characteristics, as contrary to the spirit of the Washington County Zoning Ordinances.

For the Board,



David Kirkman
President

Black Rock Estates Homeowners Association

³ Morris & Ritchie note in their February 16, 2021 letter to the Planning Commission that the increased density in the current PUD Concept Plan is required in order for the PUD to be profitable to the developer.