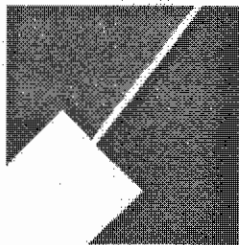


ATTACHMENT 1

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4360, www.mncppc.org

Date Mailed: APR 28 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner
Wellington, with a vote of 5-0;
Chairman Berlage and
Commissioners Perdue, Bryant,
Wellington, and Robinson, voting
in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05018

NAME OF PLAN: Westfield Shoppingtown Montgomery

The date of this written opinion is APR 28 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

On 8/02/04, Montgomery Mall, LLC ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the C-2 zone. The application proposed to create 1 lot on 57.72 acres of land located at the northeast quadrant of the intersection of Democracy Boulevard and Westlake Drive, in the Potomac Master Plan area. The application was designated Preliminary Plan 1-05018. On 1/27/05, Preliminary Plan 1-05018 was brought before the Montgomery County Planning Board for a public hearing concurrently with Site Plan No. 8-05003. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning

Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the Applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

THE SUBJECT PROPERTY

The subject property ("Subject Property") is located on the west side of I-270, between Democracy Boulevard and Westlake Terrace. It is bounded by Westlake Drive to the west and served by two freeway interchanges to the east. The property confronts multi-family housing in the R-20, R-30, and RH zones on the west side of Westlake Drive and C-2 development on the north side of Westlake Terrace. Rock Spring Corporate Office Park is located across I-270 from the site to the east. Across Democracy Boulevard to the south are existing RT zoned townhouse communities. A small shopping center (Westlake Crossing) and a Texaco gas station are located between the Subject Property and Westlake Drive.

The 57-acre site is currently developed with a 1,242,172 square foot regional shopping center and associated parking. There are two vehicular access points on the Democracy Boulevard and Westlake Terrace frontages and three on Westlake Drive. A ring road links the entrance drives with all the parking facilities. A bus transit center is located in the northwestern portion of the Subject Property near the entrance drive off Westlake Terrace. There are no stream buffers, floodplains, or wetlands on the Subject Property. The Subject Property is entirely within the Cabin John Creek sub watershed (Use Class I) of the Middle Potomac watershed.

PROJECT DESCRIPTION

This application proposes to add 500,000 square feet of gross leasable area to the existing mall for a maximum of 1,742,172 square feet of gross leasable area of general retail use, including a multi-screen movie theater and future hotel. A site plan was concurrently reviewed for this project. The future hotel is not included in this site plan. A site plan amendment will need to be submitted and approved to determine the exact location of the future hotel and the appropriate amount of associated parking.

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval with conditions in its memorandum dated January 21, 2005 ("Staff Report"). Staff's testimony at the public hearing was consistent with the Staff Report.

The Applicant appeared at the hearing represented by legal counsel and testified that it generally agreed with Staff's recommendations but did have a few concerns. The Applicant informed the Board that it had concerns related to an agreement with DPWT regarding capping the costs of the design and construction of a sales kiosk inside the mall.

Following the Applicant, Jerry Garson, Co-Chair of the Seven Locks Civic Association, Inc., testified concerning traffic problems in the area. He commented that an additional through lane is needed for northbound Tuckerman. Mr. Garson also alerted the Board to the existence of a faulty loop detector at Angus Place and Cabin John Mall. Mr. Garson requested the Board's assistance in persuading DPWT to fix the problem. Mr. Garson stated that he has concerns regarding the need for a 300-spot park and ride at this location. He said that he thinks Shady Grove would be better place for the park and ride, and he mentioned that there is nothing in the Potomac Master Plan about a park and ride in the area of the Subject Property. Mr. Garson asked the Board to consider requiring the Applicant, as a part of its afforestation requirements, to replace missing trees in the Cabin John Regional Park. In addition, Mr. Garson referenced the exit from the I-270 southbound HOV lanes directly into the mall, commenting that greater public use of this access would relieve congestion on Democracy Boulevard. Mr. Garson suggested that the public should be educated about the use of the HOV lanes both to enter the Shoppingtown mall from the southbound lanes and to exit the mall using the northbound lanes.

William Durkin testified on behalf of the owners of Westlake Crossing Center, a shopping center that is surrounded on three sides by the Shoppingtown. He noted that his client was concerned with the proposed plans for the original design of the new parking structure for the Shoppingtown on the corner of Westlake Drive and Westlake Terrace. Because of an entrance to the parking structure proposed along Westlake Drive, there was concern that this may have created a blockage across the entrance to his shopping center. Mr. Durkin noted that he appreciated that Westfield had modified its plans to eliminate that entrance.

Mr. Durkin raised an additional concern: a notation on the current site plan provides pedestrian access to Westlake Crossing Center from the proposed parking structure. Mr. Durkin advised the Board that his clients are opposed to

such access because they fear that people accessing the Shoppingtown (and its new theaters) might use his clients' parking facilities if they "arrive at the last minute." With this concern, Mr. Durkin noted that he is otherwise happy with the redevelopment of the Shoppingtown. There followed discussion among Commissioners and staff regarding this access issue. Staff observed that, in its view, such pedestrian access would afford a mutual benefit in that people could park in the parking structure who are accessing Westlake Crossing Center and its retail establishments. Mr. Durkin advised the Board that his clients would rather ensure the protection of the spaces within his client's property. He further noted for the record his view that it may be well within his clients' rights to deny pedestrian access if there is evidence that the parking in his clients' shopping center was being abused by Shoppingtown customers.

In addition to their oral testimony, the Record contains written statements from both Mr. Durkin and Mr. Garson expressing the same basic concerns about which they testified.

The Applicant testified that it has taken advantage of the HOV Lane and did promote it in various areas. The Applicant stated that it will continue to promote use of the HOV lanes to access and egress. The Applicant proffered that it would upgrade signs to include reference to the exits to the interstate as well as including the Transit Center as a destination on the mall's wayfinding system.

In response to Board member questions concerning need for park-and-ride lots, a representative of the Montgomery County Administrative Commuter Services testified that the existing park-and-ride lot serves as both a marshalling area for car and van pools but also to enable people to use the existing transit facility. She testified that the future park-and-ride lot, which will adjoin the proposed transit center would serve the same purpose; and she advised the Board that she anticipates increased demand for a park-and-ride lot over time.

Concerning afforestation issues raised by speakers, Staff advised the Board of the Commission's policy against reforesting in Commission parks as part of meeting developers' requirements. Additionally, Staff testified that Cabin John Park does not have the area to perform such planting.

The Chairman stated that he would contact the Director of DPWT to alert him to the faulty loop detector at the intersection of Seven Locks Road and Tuckerman Lane.

There followed brief discussion among Commissioners and Staff, following which there was further inquiry regarding an amendment to Item 8 of the January 27, 2005 Montgomery County Department of Public Works and Transportation

Program of Requirement for Montgomery Mall Transit Center ("POR")¹, concerning a sales kiosk. Applicant's counsel read into the record certain language agreed to between a DPWT representative and the Applicant. Applicant's counsel stated that the language of Item 8 was acceptable to DPWT and the Applicant and that the following language would be inserted before the final sentence of Item 8: "Westfield's contribution for the above-described items will not exceed \$15,000; there will be no further contribution, direct or indirect (apart from ongoing utility costs), required from Applicant." The Applicant and DPWT also agreed to add language to Item 8 specifying that the kiosk location would be provided with no obligation to pay rent.

It was further agreed between the DPWT's representative and the Applicant that the following sentence shall be added at the end of the POR: "The conditions specified and contained herein constitute the sum of Applicant's obligations to the County under this Program of Requirement, to be memorialized and implemented in the memorandum of understanding to be executed by and between the Applicant and the Department of Public Works and Transportation."

The Record contains several letters from community members regarding the application. These letters included concerns about: the lack of handicap parking spaces near Entrance 5; Montgomery Mall no longer being "senior-friendly," and including too many upscale stores and not enough moderately priced stores; the need for more benches near mall entrances; the need for rentable wheelchairs; noise levels in the food court; safety both inside and outside the mall; the glare from existing exterior lights disturbing neighboring residents' enjoyment of their properties; increased traffic levels resulting from the expansion having the potential effect of disturbing the "peacefulness" of the area; and a potential increase in the risk of crime as more people visit the expanded mall.

The Record also contains an e-mail from Joseph Cutro, an engineer representing the owner of the Westlake Crossing shopping center. Mr. Cutro's email stated that while the ownership and management of Westlake Crossing supports Westfield's expansion, an improperly located driveway combined with localized traffic overload could have negative effects.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies²; the Applicant's position;

¹ The POR was the result of negotiations between the Montgomery County Department of Public Works and Transportation and the Applicant. A copy of the POR was attached to the Revised Staff Recommendation for Site Plan 8-05003, dated January 27, 2005, which was handed out to the Planning Board and entered into the record at the public hearing.

² The application was referred to outside agencies for comment and review, including the

and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The Preliminary Plan No. 1-05018 substantially conforms to the Potomac Master Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision. This finding is made in light of testimony received at the hearing and based on evidence of record, including the Transportation Planning memorandum dated January 20, 2005. The Board observes that proffers by the Applicant to upgrade signage in the mall will assist in educating its customers about alternative ingress and egress points, which may have the effect of reducing traffic levels on nearby local streets.
- c) The size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) The application 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.
- f) The only contested issue in this application that is relevant to a preliminary plan of subdivision concerns traffic congestion, which issue is addressed through the Board's finding above that there exist adequate public facilities to support the proposed subdivision. The Board further finds that any objection (concerning a substantive issue) that was not raised prior to the closing of the Record is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-05018 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning

Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

Board approves Preliminary Plan No. 1-05018, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to an increase of 500,000 square feet of gross leasable area (sf gla) for a maximum of 1,742,172 sf gla of general retail uses, which may include a multi-screen movie theater and a future hotel.
- 2) The Applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 3) The Applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 4) No clearing, grading or recording of plats prior to site plan signature set approval.
- 5) Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 6) Dedicate additional right-of-way for 45-feet from the centerline of Westlake Drive and Westlake Terrace in accordance with the *Potomac Master Plan*, which requires a total of 90 feet for this roadway. Provide proper right-of-way truncation at the Westlake Drive and Westlake Terrace intersection.
- 7) Construct a ten-foot-wide shared use path along Democracy Boulevard, extending from Westlake Drive to edge of previous SHA path improvements near I-270 West Spur. Make a good faith effort to negotiate with the adjoining property owner of the automobile filling station located in the southwest corner of the Mall to reconstruct the existing pedestrian path to provide for a ten-foot-wide shared use path along Westlake Drive and Democracy Boulevard without purchasing additional right-of-way.
- 8) Construct an eight-foot-wide shared use path on the east side of Westlake Drive with at least a two-foot-wide setback from the curb, extending from Democracy Boulevard to Westlake Terrace.
- 9) Upgrade the existing bike lanes on the south side of Westlake Terrace at the Mall access point/Auto Park Avenue where the existing eastbound right-turn lane is to be reconstructed.

- 10) Construct seven-foot-wide concrete sidewalks along Westlake Terrace from Westlake Drive to the east side of the Mall access point/Motor City Drive.
- 11) Satisfy Local Area Transportation Review by constructing the following intersection improvements:
 - a. Add a northbound and a southbound right-turn lane from Seven Locks Road to Democracy Boulevard.
 - b. Reconfigure the existing right-turn lane on eastbound Tuckerman Lane at Seven Locks Road into a combination of right and through lane that would provide two through lanes.
 - c. Reconfigure the two-lane southbound Westlake Drive approach at Democracy Boulevard to an exclusive right-turn lane and a combination right, through, and left lane (i.e., instead of the current combination right, through, and left lane and exclusive left-turn lane).
- 12) Place in reservation for future dedication of a 35-foot-wide transitway right-of-way (additional to the requirements of the right-of-way for this road as recommended in the North Bethesda-Garrett Park Master Plan) along Westlake Terrace from I-270 West Spur to the western edge of the relocated transit center in northeast corner of the Mall, approximately 190 feet. The 35-foot-wide transitway right-of-way west of Motor City Drive along Westlake Terrace is no longer needed where the right-of-way may differ from the specific language in the master plan but remains consistent with its intent.
- 13) Relocate existing transit center and replace with new and expanded facility including associated park and ride spaces, and provide necessary non-automobile transportation amenities to promote transit and bicycle use. Exact location and design of center, and appropriate amenities, shall be determined at site plan. Prior to release of any building permits for the proposed development, the Applicant shall enter into an access easement agreement with DPWT and WMATA to provide access for transit vehicles to and from the relocated transit center.
- 14) Prior to the release of any building permits for the proposed development, the Applicant shall enter into a Traffic Mitigation Agreement (TMA) with the Planning Board and DPWT to participate in the North Bethesda Transportation Management District as a large non-residential

development within its boundary. Participation would assist in achieving and maintaining the current traffic mitigation goal for Stage 2 of 39% non-auto-driver mode share for employees.

- 15) Prior to release of any building permits for the proposed development, the Applicant shall modify the Memoranda of Understanding begun in 1984 with subsequent amendments with the Montgomery County Department of Permitting Services (DPS) to:
 - a. Continue to provide 300 off-site employee parking spaces during the peak holiday shopping period from Thanksgiving to Christmas.
 - b. Obtain a waiver of the required parking ratio to reduce the required number of parking spaces, as part of site plan approval.
- 16) Prior to the release of any building permits, Applicant shall sign a memorandum of understanding with MCDPWT regarding the Applicant's and MCDPWT's responsibilities for the construction of the transit center canopy.
- 17) Compliance with the conditions of approval of the MCDPWT letter dated January 20, 2005, unless otherwise amended.
- 18) Compliance with the conditions of the MCDPS stormwater management concept approval dated June 1, 2004.
- 19) Compliance with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 20) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for one hundred forty-four (144) months from the date of mailing of the Planning Board opinion.
- 21) Other necessary easements.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DEC 11 2007

MCPB No. 07-225

Preliminary Plan No. 12005018A

Westfield Montgomery, Parcel A

Date of Hearing: September 20, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to 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, on June 7, 2007, Montgomery Mall LLC ("Applicant"), filed an Application for approval of an amendment to the previous approval of a Preliminary Plan of subdivision for 60.02 acres of land located in the northeast quadrant of the intersection of Democracy Boulevard and Westlake Drive ("Property" or "Subject Property"), in the Potomac and Vicinity Master Plan area ("Master Plan"); and

WHEREAS, the proposed amendment includes modification of the previous acreage included in the Application, from 57.72 acres to 60.02 acres, and a 25,005 square foot increase in the previously approved maximum square footage of general retail use; and

WHEREAS, Applicant's Preliminary Plan Amendment Application was designated Preliminary Plan No. 12005018A, Westfield Montgomery, Parcel A ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated September 10, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on September 20, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

APPROVED AS TO LEGAL SUFFICIENCY
3 Dec 07
MNCPPC LEGAL DEPARTMENT

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 20, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 5-0, Chairman Hanson and Commissioners Bryant, Cryor, Lynch, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12005018A on 60.02 acres of land located in the northeast quadrant of the intersection of Democracy Boulevard and Westlake Drive ("Property" or "Subject Property"), in the Potomac and Vicinity Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan amendment is limited to a maximum of 1,767,177 square feet gross leasable area ("sf gla") of general retail uses, which may include a multi-screen theater and a future hotel.
- 2) The Applicant must dedicate and provide Public Improvement Easements (PIE) along Westlake Drive between Westlake Terrace and Democracy Boulevard as follows:
 - a. The Applicant must dedicate a ten foot minimum right-of-way for the minimum recommended 45 feet from the centerline of Westlake Drive.
 - b. The Applicant must provide a two-foot-wide PIE along eastern side of Westlake Drive for a two-foot-wide offset from the proposed shared use path/off-road bike path. If approved by the Montgomery County Department of Public Works and Transportation ("DPWT") and the Montgomery County Department of Permitting Services ("DPS"), Applicant will provide a wider PIE (approximately five feet in width) to accommodate a three foot wide bike lane with a one foot shoulder on the road along the eastern (mall) side of Westlake Drive. Doing so will require the Applicant to relocate utility poles along the mall property. Any modification to the proposed onsite landscaping in this area, to be reviewed and approved by Planning Board staff at time of certified Site Plan.
 - c. The Applicant must approach the property owners along the western side of Westlake Drive to grant a PIE up to five feet wide, at no cost to either the County or the Applicant, to permit a landscape panel between the curb and sidewalk prior to certification of the site plan.

3) The Applicant must reconstruct Westlake Drive between Westlake Terrace and Democracy Boulevard with the following cross-section from east to west:

- a. A two- foot-wide offset from the shared use path/off-road bike path outside the public right-of-way within a PIE. Per condition 2b above, Applicant will increase PIE as necessary (up to five feet wide) to accommodate an additional on-street bike lane on the eastern side of Westlake Drive if it is acceptable to all governmental agencies.
- b. An eight-foot-wide shared use path/off-road bike path along the east side.
- c. A five-foot-wide landscaped panel with street trees and utilities on the east side adjacent to the curb, that may be different on the intersection approach to Democracy Boulevard.
- d. A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the east side, if approved by DPWT and DPS.
- e. A ten-foot-wide outer northbound through lane on the west side.
- f. A ten-foot-wide inner northbound through lane.
- g. An eight-foot-wide raised median with one-foot curbs on each side or a ten-foot-wide center left-turn lane with a non-standard pavement treatment to delineate it from the through travel lanes, except on the intersection approach to Democracy Boulevard. This center median along Westlake Drive would restrict access from many of the side streets/drives on the west side to right-turns-in and right-turns-out.
- h. Two ten-foot-wide southbound through lanes.
- i. A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the west side.
- j. A five foot-wide sidewalk on the west side, unless the property owners along the western side of Westlake Drive agree to provide a PIE of up to five feet wide described in Recommendation No. 2c above. With the five-foot-wide PIE, the sidewalk can be relocated such that the cross-section should include a landscaped panel up to five feet wide with street trees (i.e., only if the PIE is a full five feet wide) and utilities between the bike lane and relocated sidewalk.

The detailed design of this cross-section must be reviewed by the Planning Board staff and approved by the DPWT prior to certification of the Site Plan.

- 4) To accommodate the Westlake Drive cross-section described in condition 3, the Applicant may reconfigure the right-most lane on the northbound Westlake Drive approach at the intersection with Westlake Terrace from a combined right-turn/through lane to right-turn lane; but only if approved by DPWT prior to certification of the Site Plan.
- 5) The Applicant must comply with the conditions of the DPWT letter dated August 30, 2007.
- 6) The Applicant must comply with the conditions of DPS' stormwater management concept approval dated July 9, 2007.
- 7) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and DPWT to participate in the North Bethesda Transportation Management Organization (TMO). The TMAg must be signed and executed by all parties prior to certification of the Site Plan.
- 8) Revise previous condition 11(c) in the Planning Board Opinion dated April 28, 2005 to read:

Provide a payment to the DPWT "CIP Intersection Improvement Fund" in an amount equal to the cost of reconfiguring the two-lane southbound Westlake Drive approach at Democracy Boulevard to an exclusive right-turn lane and a combination right, through, and left lane (i.e., instead of the current combination right, through, and left lane and exclusive left-turn lane), for their use if future County monitoring confirms that this improvement is necessary.

- 9) All other conditions of approval contained in the Planning Board Opinion dated April 28, 2005 remain in full force and effect, unless modified by the conditions above.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *Roads and transportation facilities will continue to be adequate to support and service the area of the proposed subdivision.*

The Planning Board finds that roads and transportation facilities will be safe and adequate to support and service the Property. The impacts of vehicle trips generated by combining the acreage and general retail square footage of the adjacent Westlake Crossing property with the Westfield Montgomery Mall are fully addressed by the previous Adequate Public Facilities (APF) approvals. The APF reviews for both shopping centers were based on traffic studies submitted to satisfy Local Area Transportation Review (LATR). A traffic study was required to satisfy LATR, because the proposed land use on both shopping centers generated 50 or more peak-hour trips within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 6:00 p.m.) peak periods. The results of these analyses indicate that roads and transportation facilities will be safe and adequate to support and service the proposed development with the required roadway improvements.

2. *All previous conditions remain in full force and effect.*

The Planning Board further finds that the Preliminary Plan Amendment does not affect the previous findings of the Board regarding the Preliminary Plan, and all other previous conditions of approval remain in full force and effect.

BE IT FURTHER RESOLVED, that the Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved Preliminary Plan; and

BE IT FURTHER RESOLVED, that this Resolution is
DEC 11 (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

At its regular meeting, held on Thursday, December 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Bryant, seconded by Vice Chairman Robinson, with Commissioner

Bryant, Vice Chairman Robinson, Chairman Hanson, and Commissioners Cryor and Lynch present and voting in favor. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No 12005018A, Westfield Montgomery, Parcel A.

Montgomery County Planning Board



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

SEP 8 2014

MCPB No. 14-70
Preliminary Plan No. 12005018B
Westfield Montgomery Mall
Date of Hearing: September 4, 2014

RESOLUTION

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


WHEREAS, by Opinion dated April 28, 2005, the Planning Board conditionally approved the creation of one lot for a maximum of 1,742,172 square feet of gross leasable area for general retail use, and to accommodate up to 500,000 square feet for future expansion on approximately 57.72 acres of C-2 zoned land located at the northeast quadrant of the intersection of Democracy Boulevard and Westlake Drive ("Subject Property") in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, on December 11, 2007, the Planning Board, by Resolution MCPB No. 07-225, approved Preliminary Plan No. 12005018A to modify the previous acreage to 60.02 acres and increase the previously approved development by 25,005 square feet; and

WHEREAS, on January 16, 2014, Montgomery Mall, LLC, ("Applicant") filed an application to modify Condition No. 11(a) of Preliminary Plan 120050180, which required Applicant to add both northbound and southbound turn lanes from Seven Locks Road to Democracy Boulevard. The Amendment would eliminate the requirement for the southbound right turn; and

WHEREAS, Applicant's application was designated Preliminary Plan No. 12005018B, Westfield Montgomery Mall (Lakeview Parcel P) ("Preliminary Plan," "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other government agencies, Staff issued a memorandum to the Planning Board, dated August 21, 2014, setting forth its analysis and recommendation for approval of the Application, subject to conditions ("Staff Report"); and

Approved as to
Legal Sufficiency:  8/21/14
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, on September 4, 2014, the Planning Board held a public hearing on the Application, and at the hearing heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12005018B, as follows:¹

1. Condition No. 11(a) of Preliminary Plan No. 120050180 is modified to:
 - a) "Add a northbound right-turn lane from Seven Locks Road to Democracy Boulevard. If the final design of the northbound right-turn lane has any encroachment or disturbance to the adjacent park properties, the Applicant must obtain a Park Construction Permit from the Montgomery County Department of Parks prior to commencement of any construction activities on parkland."
2. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated July 23, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, 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.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Parks in its memorandum dated August 18, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the memorandum, which may be amended by the Department of Parks provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

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

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.

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:

A new traffic analysis has confirmed that a northbound right turn lane is required but that a southbound right turn lane is unnecessary for the Applicant to satisfy the Local Area Transportation Review ("LATR") requirement. Removing the southbound right turn lane requirement would eliminate the need to use parkland and will reduce environmental impacts. The Applicant has, as part of this review process, also been able to reconfigure the northbound lane improvements to minimize environmental impacts in the south east quadrant of the intersection.

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


BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 8 2014 (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 Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Presley voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, September 4, 2014, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

**MONTGOMERY COUNTY PLANNING BOARD
OPINION**

Site Plan No.: 8-05003

Project: Westfield Shoppingtown Montgomery, Parcel A

Date of Hearing: January 27, 2005

Action: **APPROVAL SUBJECT TO CONDITIONS.** *(Motion to approve was made by Commissioner Bryant; duly seconded by Commissioner Wellington; with a vote of 5-0, Commissioners Berlage, Perdue, Bryant, Wellington, and Robinson voting in favor.)*

The date of this written opinion is APR 25 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State). This site plan shall remain valid as provided in Section 59-D-3.8.

INTRODUCTION

On January 27, 2005, Site Plan Review #8-05003 was brought before the Montgomery County Planning Board for a public hearing concurrently with Preliminary Plan No. 1-05018. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

THE SUBJECT PROPERTY

The subject property is located on the west side of I-270, between Democracy Boulevard and Westlake Terrace. It is bounded by Westlake Drive to the west and served by two freeway interchanges to the east. The property confronts

multi-family housing in the R-20, R-30 and RH zones on the west side of Westlake Drive, and C-2 development on the north side of Westlake Terrace. Rock Spring Corporate Office Park is located across I-270 from the site to the east. Across Democracy Boulevard to the south are existing RT zoned townhouse communities. A small shopping center (Westlake Crossing) and a Texaco gas station are located between the Mall and Westlake Drive.

The 57-acre site is currently developed with a 1,242-172 square-foot regional shopping center and associated parking. There are two vehicular access points on the Democracy Boulevard and Westlake Terrace frontages and three on Westlake Drive. A ring road links the entrance drives with all the parking facilities. A bus transit center is located in the northwestern portion of the site near the entrance drive off Westlake Terrace. There are no stream buffers, floodplains, or wetlands on the subject property. The subject property is entirely within the Cabin John Creek sub watershed (Use Class I) of the Middle Potomac watershed.

PROPOSED DEVELOPMENT

The subject expansion plan for Westfield Shoppingtown Montgomery proposes to increase the total gross leasable area (GLA) of the existing Montgomery Mall from 1,242,172 square feet to approximately 1,542,172 square feet, an increase of approximately 300,000 square feet or 24 percent. The plan includes both the addition of new retail/entertaining spaces and renovation of existing retail space as follows:

- a. Relocate the Hecht's Home store next to their main building.
- b. Remove the existing Sears Automotive store and build a new store near I-270.
- c. Create a new entertainment precinct, containing a new theater complex, relocated food court, restaurants and shops.
- d. Add new two-level retail component with the stores oriented towards the Westlake Terrace frontage.
- e. Remove existing three bus bays and build a new six-bus-bay transit center at the corner of I-270 and Westlake Terrace.
- f. Provide two new parking structures: a four-level garage located at the corner of Westlake Drive and Westlake Terrace and a two-level one at the corner of I-270 and Westlake Terrace (next to the new Transit Center location).
- g. Add a new retail store next to the new Westlake Drive parking garage.

The project is expected to begin construction in the summer of 2005 and open in phases over a 36-month period:

- a. Phase I - includes the relocation of the Hecht's Home Store, relocation of the Sears Automotive Center, construction of the I-270 garage and building of the new Transit Center base.
- b. Phase II - includes the re-demise of the existing space, relocation of the food court and starting construction of the Westlake Drive / Westlake Terrace garage.
- c. Phase III - includes the completion of the re-demising of space, opening of the Westlake Drive/Westlake Terrace garage, building of the retail component attached to the garage and completion of the theater.

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval with conditions in its memorandum dated January 21, 2005 ("Staff Report"). Staff's testimony at the public hearing was consistent with the Staff Report.

The Applicant appeared at the hearing represented by legal counsel and testified that it generally agreed with Staff's recommendations but did have a few concerns. The Applicant informed the Board that it had concerns related to an agreement with the Montgomery County Department of Public Works and Transportation ("DPWT") regarding capping the costs of the design and construction of a sales kiosk inside the mall.

Following the Applicant, Jerry Garson, Co-Chair of the Seven Locks Civic Association, Inc., testified concerning traffic problems in the area. He commented that an additional through lane is needed for northbound Tuckerman. Mr. Garson also alerted the Board to the existence of a faulty loop detector at Angus Place and Cabin John Mall. Mr. Garson requested the Board's assistance in persuading DPWT to fix the problem. Mr. Garson stated that he has concerns regarding the need for a 300-spot park and ride at this location. He said that he thinks Shady Grove would be better place for the park and ride, and he mentioned that there is nothing in the Potomac Master Plan about a park and ride in the area of the Subject Property. Mr. Garson asked the Board to consider requiring the Applicant, as a part of its afforestation requirements, to replace missing trees in the Cabin John Regional Park. In addition, Mr. Garson referenced the exit from the I-270 southbound HOV lanes directly into the mall, commenting that greater public use of this access would relieve congestion on Democracy Boulevard. Mr. Garson suggested that the public should be educated about the use of the HOV lanes both to enter the Shoppingtown mall from the southbound lanes and to exit the mall using the northbound lanes.

William Durkin testified on behalf of the owners of Westlake Crossing Center, a shopping center that is surrounded on three sides by the Shoppingtown. He noted that his client was concerned with the proposed plans for the original design of the new parking structure for the Shoppingtown on the corner of Westlake Drive and Westlake Terrace. Because of an entrance to the parking structure proposed along Westlake Drive, there was concern that this may have created a blockage across the entrance to his shopping center. Mr. Durkin noted that he appreciated that Westfield had modified its plans to eliminate that entrance.

Mr. Durkin raised an additional concern: a notation on the current site plan provides pedestrian access to Westlake Crossing Center from the proposed parking structure. Mr. Durkin advised the Board that his clients are opposed to such access because they fear that people accessing the Shoppingtown (and its new theaters) might use his clients' parking facilities if they "arrive at the last minute." With this concern, Mr. Durkin noted that he is otherwise happy with the redevelopment of the Shoppingtown. There followed discussion among Commissioners and staff regarding this access issue. Staff observed that, in its view, such pedestrian access would afford a mutual benefit in that people could park in the parking structure who are accessing Westlake Crossing Center and its retail establishments. Mr. Durkin advised the Board that his clients would rather ensure the protection of the spaces within his client's property. He further noted for the record his view that it may be well within his clients' rights to deny pedestrian access if there is evidence that the parking in his clients' shopping center was being abused by Shoppingtown customers.

In addition to their oral testimony, the Record contains written statements from both Mr. Durkin and Mr. Garson expressing the same basic concerns about which they testified.

The Applicant testified that it has taken advantage of the HOV Lane and did promote it in various areas. The Applicant stated that it will continue to promote use of the HOV lanes to access and egress. The Applicant proffered that it would upgrade signs to include reference to the exits to the interstate as well as including the Transit Center as a destination on the mall's wayfinding system.

In response to Board member questions concerning need for park-and-ride lots, a representative of the Montgomery County Administrative Commuter Services testified that the existing park-and-ride lot serves as both a marshalling area for car and van pools but also to enable people to use the existing transit facility. She testified that the future park-and-ride lot, which will adjoin the proposed transit center would serve the same purpose; and she advised the Board that she anticipates increased demand for a park-and-ride lot over time.

Concerning afforestation issues raised by Mr. Garson, Staff advised the Board of the Commission's policy against reforestation in Commission parks as part of meeting developers' requirements. Additionally, Staff testified that Cabin John Park does not have the area to perform such planting.

The Chairman stated that he would contact the Director of DPWT to alert him to the faulty loop detector at the intersection of Seven Locks Road and Tuckerman Lane.

There followed brief discussion among Commissioners and Staff, following which there was further inquiry regarding an amendment to Item 8 of the January 27, 2005 DPWT Program of Requirement for Montgomery Mall Transit Center ("POR")¹, concerning a sales kiosk. Applicant's counsel read into the record certain language agreed to between a DPWT representative and the Applicant. Applicant's counsel stated that the language of Item 8 was acceptable to DPWT and the Applicant and that the following language would be inserted before the final sentence of Item 8: "Westfield's contribution for the above-described items will not exceed \$15,000; there will be no further contribution, direct or indirect (apart from ongoing utility costs), required from Applicant." The Applicant and DPWT also agreed to add language to Item 8 specifying that the kiosk location would be provided with no obligation to pay rent.

It was further agreed between the DPWT's representative and the Applicant that the following sentence shall be added at the end of the POR: "The conditions specified and contained herein constitute the sum of Applicant's obligations to the County under this Program of Requirement, to be memorialized and implemented in the memorandum of understanding to be executed by and between the Applicant and the Department of Public Works and Transportation."

The Record contains several letters from community members regarding the application. These letters included concerns about: the lack of handicap parking spaces near Entrance 5; Montgomery Mall no longer being "senior-friendly," and including too many upscale stores and not enough moderately priced stores, the need for more benches near mall entrances; the need for rentable wheelchairs; noise levels in the food court; safety both inside and outside the mall; the glare from existing exterior lights disturbing neighboring residents' enjoyment of their properties; increased traffic levels resulting from the expansion having the potential effect of disturbing the "peacefulness" of the area; and a potential increase in the risk of crime as more people visit the expanded mall.

¹ The POR was the result of negotiations between the Montgomery County Department of Public Works and Transportation and the Applicant. A copy of the POR was attached to the Revised Staff Recommendation for Site Plan 8-05003, dated January 27, 2005, which was handed out to the Planning Board and entered into the record at the public hearing.

The Record also contains an e-mail from Joseph Cutro, an engineer representing the owner of the Westlake Crossing shopping center. Mr. Cutro's email stated that while the ownership and management of Westlake Crossing supports Westfield's expansion, an improperly located driveway combined with localized traffic overload could have negative effects.

FINDINGS

Based on all of the testimony and evidence presented and on the Staff Report, which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required.

An approved development plan or a project plan is not required for the subject C-2 zoned development.

2. The Site Plan meets all of the requirements of the C-2 zone in which it is located as demonstrated in the Project Data Table on page 13 of the Staff Report, which is incorporated herein by reference. The Board is persuaded by Staff's analysis in the Staff Report and Applicants letter dated January 18, 2005, that a waiver should be granted to permit a reduction of the Zoning Ordinance requirement for 5.5 parking spaces for each 1,000 gross leasable square feet to 4.5 spaces for each 1,000 gross leasable square feet. As such, the Board finds that uncontested evidence of record supports its approval of the requested waiver.
3. The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.

- a. Buildings

The proposed mall expansion plan will add new retail space to the existing mall and increase the footprint of the existing building at the north, east, and west ends of the mall. A freestanding building will be constructed near the northeastern corner of the site to accommodate the relocated Sears Automotive store. Two parking structures are proposed on the Westlake Terrace frontage to provide spaces for the additional retail/theater uses.

The Board finds, based on the uncontested evidence of record, that the location of all buildings and structures on the site are adequate, safe, and efficient.

b. Open Spaces

The existing shopping mall and associated parking facilities occupy almost the entire site. The proposed mall expansion will use some surface parking areas for additional retail space and accommodate the parking need through structured parking. The site plan provides 14.3 percent of the site, or 8.2 acres, as green area, which includes sidewalks, landscaped islands in the parking areas, and landscaped space between buildings and along the street frontages.

The proposed stormwater management concept consists of: (1) on-site channel protection measures via an existing off-site retention pond; (2) on-site water quality control via stormfilters or MCDPS approved equivalent structures. Drainage to these facilities will be delivered through flow splitter structures.

Based on the uncontested evidence of record, the Board finds the location of open spaces on the site to be adequate, safe, and efficient.

c. Landscaping

The proposed landscaping on the site consists of landscaped islands in the parking areas and landscaping between buildings and along the street frontages. Shade trees and shrubs will be provided between the proposed parking facilities and the street to minimize the visual impact of the facilities. Street trees will be planted along the street frontages, between the relocated sidewalks and curbs.

The Board finds, based on the uncontested evidence of record, that the proposed landscaping is adequate, safe, and efficient.

d. Lighting

The lighting plan shows the outdoor lighting design for all the parking areas in 10 zones. The heights of the light poles range from 24 to 36 feet. The height of the light poles along the new entrance drive shall be 12 feet. The average illuminance level for each zone varies from 1.13 to 3.04 footcandles. Consistent with the conditions of approval, the height of the light pole on the top deck of the parking garage, 24 feet, will be lowered to minimize the impact of glare or excess light on adjacent residential communities. Furthermore, as conditioned, all light fixtures will be "full cut-off fixtures" and deflectors will be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.

The Board finds, based on evidence of record, including Applicant's Lighting Plan, that the proposed lighting is adequate, safe, and

efficient. Moreover, the conditions of approval relating to the outdoor lighting design for the newly constructed parking facilities will ensure that compatibility of the proposed expansion with adjoining uses will be maximized.

- d. Recreation
Recreation facilities are not required for the proposed commercial development.
- e. Vehicular and Pedestrian Circulation
There are two vehicular access points on the Democracy Boulevard and Westlake Terrace frontages and three on Westlake Drive. The proposed plan will eliminate one access point on Westlake Drive to address the adjacent shopping center's concern. A ring road links the entrance drives with all the parking facilities.

A bus transit center is currently located in the northwestern portion of the site near the entrance drive off Westlake Terrace. The Applicant will build a new transit center in the northeastern corner of site with six bus bays to accommodate current and future transit needs. To facilitate bus circulation, the plan proposes an exclusive bus exit ramp to Westlake Terrace.

There are existing sidewalks along the Democracy Boulevard, Westlake Drive, and Westlake Terrace frontages. The Applicant proposes to upgrade the sidewalks as follows:

- a. Remove the existing sidewalk on the east side of Westlake Drive and construct an eight-foot-wide shared use path with a landscaped strip for street trees.
- b. Construct a ten-foot-wide shared use path along Democracy Boulevard, extending from Westlake Drive to edge of previous SHA path improvements near I-270 West Spur.
- c. Construct seven-foot-wide concrete sidewalks along Westlake Terrace, with street tree grass strip, from Westlake Drive to the east side of the Mall access point/Motor City Drive.

In addition, the plan also proposes lead sidewalks connecting the surrounding streets with the building entrances to facilitate pedestrian circulation within and around the mall. Conditions of approval require the Applicant to provide a safe and convenient pedestrian path from the proposed new transit center to the building entrances.

Based on the evidence of record, the Board finds the proposed vehicular and pedestrian circulation to be adequate, safe, and efficient.

With respect to the pedestrian connection between the Subject Property and the adjacent shopping center (Westlake Crossing Center), the Board finds that, based on evidence of record, such a pedestrian connection is desirable and should not be eliminated. The Board acknowledges the testimony of the Westlake Crossing Center's representative at the public hearing opposing such a connection and that property owner's position that it, as the owner of adjoining private property, may opt to block that connection in the future. The Board reserves comment on the question of whether the obstruction of a pedestrian connection by one private property owner is permissible under Maryland law. The Board further finds that the new location of the transit center will enhance pedestrian safety and result in more efficient vehicular circulation. Additionally, proffers made by the Applicant concerning the upgrading of signage to inform patrons as to the existence of alternative points of ingress and egress will serve to enhance the efficiency of onsite vehicular circulation.

The Board notes that traffic issues were addressed at the time of the preliminary plan review, as reported by the Applicant's testimony at the hearing.

4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The proposed plan will expand the existing shopping mall to add new retail stores, a multi-screen movie theater, and structured parking. The use remains the same as the current development on the site. It is compatible with the commercial development located to the north and east of the site. Street trees and landscaping buffer will be added along the street frontages on Democracy Boulevard and Westlake Drive to minimize the impact of the development on adjacent residential communities.

Based on the uncontested evidence of record, the Board finds that each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

No forest exists on the subject property. The property, however, is not exempt from the forest conservation law. There is an 8.59-acre planting requirement for this property. The Applicant is proposing to meet the planting requirements of the forest conservation law through a

combination of on site landscape planting and utilization of a forest conservation bank offsite.

Based on the evidence of record, the Board finds that the site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

PLANNING BOARD ACTION AND CONDITIONS

The Montgomery County Planning Board APPROVES Site Plan Review #8-05003 for 1,542,172 gross leasable square feet of commercial retail space, including 300,000 square feet of new space for retail, restaurant, and theater uses on 57.24 acres, and Approval of a Parking Waiver to allow a parking ratio of 4.5 spaces for each 1,000 gross leasable square feet with the following conditions:

1. **Preliminary Plan Conformance**

The proposed development shall comply with the conditions of approval for Preliminary Plan 1-05018.

2. **Site Design**

Provide a transit center design in accordance with Condition 7.

3. **Landscaping**

- a. Provide landscaping between the ring road and the proposed parking structures.
- b. Provide appropriately sized planters for trees on the top of the parking structure.
- c. Provide street trees along the street frontages of Democracy Boulevard and Westlake Drive with consistent spacing and species.
- d. Provide required trees and evergreen hedge within the landscaping strip between the parking facilities and public streets.
- e. Show the proposed sidewalks and shared paths on the Landscape Plan.
- f. Provide additional landscaped islands within the parking lot near the proposed Hecht's Home store.
- g. Provide trees along the storefront across driveway from the parking structures.
- h. Plant shrub EK 3 to 4 feet on center, PL 24-36 inches in height, and TD 4 feet on center.
- i. Consider replacing tree FP with other species.

4. **Lighting**

The outdoor lighting design for all newly constructed parking facilities shall meet the following requirements:

- a. All light fixtures shall be full cut-off fixtures.
- b. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
- c. Reduce the height of the light poles, which are to be located on the top level of the proposed parking structure near Westlake Drive, to minimize the impact of excess illumination on adjacent residential properties.
- d. The height of the light poles shall not exceed 30 feet including the mounting base.
- e. Revise the lighting design for Zone 5 to (i) meet the site lighting need of the proposed transit center, and (ii) minimize potential glare and excess illumination on I-270.

5. Pedestrian Circulation

- a. Provide a safe and convenient pedestrian path between the proposed transit center and the mall entrances.
- b. Provide adequate width for the proposed sidewalk along the storefront.
- c. All newly constructed mall driveways shall provide ADA compatible pedestrian access between perimeter county roads and internal mall entries.
- d. Provide a Public Improvements Easement (PIE), if necessary, along the Westlake Terrace frontage to accommodate the required sidewalk construction. The easement shall be recorded in the Land Records of Montgomery County, with the Liber and Folio referenced on the record plat.

6. Transportation

The Applicant shall comply with the following conditions of approval from M-NCPPEC-Transportation Planning in the memorandum dated January 21, 2005:

- a. Total development under the subject site plan is limited to 1,542,172 gross leasable square feet.
- b. Show right-of-way dedication for 45 feet from the centerline of Westlake Drive and Westlake Terrace in accordance with the Potomac Master Plan, which requires a total of 90 feet for this roadway.
- c. Construct a ten-foot-wide shared-use path along Democracy Boulevard, extending from Westlake Drive to the edge of the previous SHA path improvements near I-270 West Spur. Make a good faith effort to the negotiate with the adjoining property owner of the automobile filling station located to the southwest of the Mall to reconstruct the existing pedestrian path to provide for a ten-foot-wide shared-use path along Westlake Drive and Democracy Boulevard without purchasing additional right-of-way.

- d. Construct an eight-foot-wide shared-use path on the east side of Westlake Drive with at least a two-foot-wide setback from the curb, extending from Democracy Boulevard to Westlake Terrace.
- e. Upgrade the existing bike lanes on south side of Westlake Terrace at the Mall access point/Auto Park Avenue where the existing eastbound right-turn lane is to be reconstructed.
- f. Construct seven-foot-wide concrete sidewalks along Westlake Terrace from Westlake Drive to the east side of the Mall access point/Motor City Drive.
- g. Prior to release of any building permit for the proposed development, the Applicant shall enter into a Traffic Mitigation Agreement (TMA) with the Planning Board and DPWT to participate in the North Bethesda Transportation Management District (TMD) as a large non-residential development within its boundary. Participation would assist in achieving and maintaining its traffic mitigation goal for Stage 2 of 39% non-auto-driver mode share for employees.
- h. Prior to release of any building permit for the proposed development, the Applicant shall modify the Memoranda of Understanding starting in 1984 with subsequent amendments with the Montgomery County Department of Permitting Services (DPS) to provide 300 off-site employees' parking spaces during the peak holiday shopping period from Thanksgiving to Christmas.

7. Transit Center

The Applicant shall relocate the existing on-site transit facility and replace with a new and expanded facility to the northeast corner of the site in accordance with the following requirements:

- a. Provide a transit center and associated facilities in accordance with the Program of Requirements established by the Montgomery County Department of Public Works and Transportation (MCDPWT) dated January 27, 2005 (as amended at the January 27, 2005 public hearing).
- b. Prior to the release of any building permits for the proposed development, the Applicant shall sign a memorandum of understanding with MCDPWT regarding the Applicant's and DPWT's responsibilities for the construction of the proposed transit center.
- c. Prior to removal of the existing on-site transit facility, the Applicant shall enter into an access easement agreement with MCDPWT and WMATA to provide access for transit vehicles to and from the relocated transit center.

8. Forest Conservation

The proposed development shall comply with the conditions of the final forest conservation plan. The Applicant shall satisfy all conditions prior to recording of

plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

9. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated June 1, 2004.

10. Development Program

Applicant shall construct the proposed development in accordance with a Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. The Development Program shall include a phasing schedule as follows:

- a. The proposed new or relocated sidewalks and bike paths along Democracy Boulevard, Westlake Drive, and Westlake Terrace shall be completed prior to occupancy of any new retail store in the first phase of the development.
- b. Streets tree planting shall progress as the proposed sidewalks/bike path is completed, but no later than six months after completion of the sidewalk/bike path.
- c. The proposed new transit center and associated park-and-ride spaces, as defined in Condition 7 above, shall be completed by the Applicant and accepted by the Montgomery County Department of Public Works and Transportation prior to removal of the existing on-site transit facility.
- d. Landscaping and pedestrian paths associated with each parking facility and building shall be completed as construction of each facility is completed.
- e. Provide each phase of the development with required parking spaces, excluding the impact during the construction period.
- f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- g. Provide phasing of dedications, stormwater management, sediment/erosion control, forestation, community paths, trip mitigation or other features.

11. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of signature set of plans.

12. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Limits of disturbance.
- c. Methods and locations of tree protection.

- d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- e. Required handicapped, motorcycle and bicycle parking spaces.
- f. Additional benches or seating areas near the building entrances.
- g. Details of the proposed special paving.
- h. Changes to site and landscape plans in accordance with Conditions 2 through 6.

APPROVED AS TO LEGAL SUFFICIENCY

TAS
M-NCPPC LEGAL DEPARTMENT
DATE 4/14/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 07-193

Site Plan No. 82005003A

Project Name: Westfield Montgomery, Parcel A

Date of Hearing: September 20, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review Site Plan Applications; and

WHEREAS, on June 14, 2006, Montgomery Mall LLC ("Applicant"), filed an application for approval of a Site Plan for a total of 1,601,556 square feet of commercial retail space, including 59,384 square feet of new space for retail and restaurant uses; and a parking waiver to allow a reduction in the number and size of parking spaces in the parking structure. The new square footage of 1,601,556 includes 25,005 square feet from the existing strip center that has been acquired and included in the gsf ("gross square feet") of the mall operations ("Site Plan" or "Plan") on 60.02 acres of C-2-zoned land, located at the northwest quadrant of the intersection of Democracy Boulevard and Westlake Drive, including Parcel A of the Westlake Shopping Center ("Property" or "Subject Property"); and

WHEREAS, Applicant's Site Plan Application was designated Site Plan No. 82005003A, Westfield Montgomery, Parcel A (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated September 7, 2007, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on September 20, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, on September 20, 2007, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910

www.MCParkandPlanning.org

E-Mail: mcp-chairman@mncppc.org

WHEREAS, on September 20, 2007 the Planning Board approved the Application subject to conditions on the motion of Commissioner Bryant; seconded by Commissioner Lynch; with a vote of 5-0, Commissioners Bryant, Cryor, Hanson, Lynch and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 82005003A for 1,601,556 gross leasable square feet of commercial retail space, including 59,384 square feet of new space for retail and restaurant uses; and approval of a parking waiver to allow a parking ratio of 4.42 spaces for each 1,000 square feet of gross leasable area, and to allow modification of the size of angled parking spaces and of the width of drive aisles in a parking structure, on 60.02 gross acres in the C-2 Zone, subject to the following conditions:

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 120050180, as amended with the concurrent review.

2. Site Design

- a. The total number of parking spaces on site shall include the original waiver request of 30 fewer spaces and the additional loss of 100 spaces resulting from changes to the garage structure. The waiver will allow a parking ratio equivalent to 4.42 spaces for each 1,000 square feet of gross leasable area.
- b. A comprehensive signage and way-finding program for the parking garages shall be provided on the certified site plan.
- c. Provide additional planting within the Transit Center site.
- d. The garage structure façade on Westlake Drive shall include the following elements:
 - 1) Step back the façade approximately 60 feet on the upper level along the southwest edge, requiring the loss of 100 parking spaces.
 - 2) Articulation of the garage parapet, including but not limited to awnings, handrails, and variations of the structural concrete finishes.
 - 3) Provide natural stone materials along the baseline of the parking deck.
 - 4) Add a covered walkway running parallel to Westlake Drive with lighting from the existing mid-block pedestrian crossing to the Mall, from the

garage entrance, to allow pedestrian passage from Westlake Drive into the Mall.

- 5) Provide rooftop planting, where feasible and as approved by M-NCPPC Staff.

3. Landscaping

Replace the non-native/invasive plant material from the plant schedule.

4. Lighting

- a. Cumulative light levels from the parking structure on Westlake Drive shall be less than 0.5 footcandles at the right of way line on the east side of Westlake Drive.
- b. Pedestrian level lighting shall be provided on all walkways to the mall from adjacent roads.
- c. Except for a limited number of lights left on for safety and security, lights will be turned off in the parking structure adjacent to Westlake Drive. The security lighting plan shall be developed and included in the certified Site Plan.
- d. The height of the on-site light poles associated with the surface parking facilities shall be limited to 18 feet, including the mounting base.

5. Pedestrian Circulation

Pedestrian access to the mall from Westlake Drive and Westlake Terrace shall be provided during all construction phases. A Pedestrian Circulation Plan, including signage and phasing, shall be included as part of the certified Site Plan indicating alternative pedestrian routes during the construction phases.

6. Transportation

The Applicant shall comply with the following conditions of approval from M-NCPPC- Transportation Planning in the memorandum dated September 7, 2007:

- a. The square footage of the subject preliminary plan and site plan must be equal to the previously-approved square footage of commercial development under Preliminary Plan No. 1-05018 and Site Plan No. 8-05003 on Parcels F and P587 plus the recently-acquired adjoining Westlake Crossing, Parcel "B" Lakeview. Limit the maximum square footage of general retail use as follows.
 - 1) The Preliminary Plan revision must be limited to a maximum of 1,767,177 sf of gla ("gross leasable area") of general retail uses.

- 2) The Site Plan Amendment must be limited to a maximum of 1,601,556 sf of gla of general retail uses.
- b. The Applicant must dedicate and provide public improvement easements (PIE) along Westlake Drive between Westlake Terrace and Democracy Boulevard as follows:
 - 1) The Applicant must dedicate ten feet minimum of right-of-way for the minimum recommended 45 feet from the centerline of Westlake Drive.
 - 2) The Applicant must provide a two-foot-wide Public Improvement Easements ("PIE") along the eastern side of Westlake Drive for a two-foot-wide offset from the proposed shared use path/off-road bike path. If approved by the Montgomery County Department of Public Works and Transportation ("DPWT") and the Montgomery County Department of Permitting Services ("DPS"), Applicant will provide a wider PIE (approximately five feet in width) to accommodate a three-foot-wide bike lane with a one-foot-wide shoulder on the road along the eastern (mall) side of Westlake Drive. Doing so will require the Applicant to relocate utility poles along the mall property. The landscape design elements along Westlake Drive bordering the Westlake Garage (including evergreen plantings) will remain as per the submitted plans, except in respect to that area within the additional three feet to be included in the PIE. Any modification to the proposed onsite landscaping in this area must be reviewed and approved by Planning Board staff at the time of Certified Site Plan.
 - 3) The Applicant must approach the property owners along the western side of Westlake Drive to grant a PIE up to five feet wide at no cost to the County or the Applicant to permit a landscape panel between the curb and sidewalk prior to certification of the Site Plan.
- c. The Applicant must reconstruct Westlake Drive between Westlake Terrace and Democracy Boulevard with the following cross-section from east to west:
 - 1) A two-foot-wide offset from the shared use path/off-road bike path outside the public right-of-way within a PIE. Per condition 6(b)(2) above, Applicant will increase the PIE as necessary (up to five feet wide) to accommodate an additional on-street bike lane on the eastern side of Westlake Drive, if acceptable to all governmental agencies.
 - 2) An eight-foot-wide shared use path/off-road bike path along the east side.

- 3) A five-foot-wide landscaped panel with street trees and utilities on east side adjacent to the curb that may differ on the intersection approach to Democracy Boulevard.
- 4) A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the east side, if approved by DPWT and DPS.
- 5) If DPWT approves the Montgomery Mall Citizens Advisory Panel's (MMCAP) request for a mid-block pedestrian crossing by time of Certified Site Plan, the Applicant will provide such a crossing and will move the exterior stair along the north side of the Westlake Drive garage deck to align with such crossing. The Applicant will provide queue studies as requested by DPWT to review the MMCAP request for median/pedestrian refuge
- 6) A ten-foot-wide outer northbound through lane on the west side.
- 7) A ten-foot-wide inner northbound through lane.
- 8) An eight foot-wide raised median with one-foot curbs on each side or a ten-foot-wide center left-turn lane with a non-standard pavement treatment to delineate it from the through travel lanes, except on the intersection approach to Democracy Boulevard. This center median along Westlake Drive would restrict access from many of the side streets/drives on the west side to right-turns-in and right-turns-out.
- 9) Two ten-foot-wide southbound through lanes.
- 10) A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the west side.
- 11) A five-foot-wide sidewalk on west side, unless the property owners along the western side of Westlake Drive agree to provide a PIE of up to five feet wide. With the five-foot-wide PIE, the sidewalk can be relocated such that the cross-section should include a landscaped panel up to five feet wide with street trees (i.e., only if the PIE is a full five feet wide) and utilities between bike lane and relocated sidewalk.
- 12) The detailed final cross-section must be approved by the Planning Board staff and DPWT and in consideration of the community's needs prior to certification of the Site Plan. Westlake has committed to putting in the median if approved by DPWT or provide an alternative means of providing safe passage.

- d. The Applicant must continue consideration of the request of the adjacent homeowners groups for a possible pedestrian mid-block crossing of Westlake Drive between Westlake Terrace and the shopping center's proposed consolidated site access point. Such a mid-block crossing must include a raised median to function as a pedestrian refuge and satisfy DPWT's design standards for pedestrian safety. If satisfying DPWT design requirements, the mid-block must be shown on the plans prior to certification of the Site Plan.
- e. The Applicant must relocate the pedestrian access to the street-level retail along Westlake Drive in the northwest corner of the site to better align with the pedestrian mid-block crossing, if it satisfies DPWT design requirements. The relocated pedestrian access must be shown on the plans prior to certification of the Site Plan.
- f. To accommodate the proposed Westlake Drive cross-section above, the Applicant could reconfigure the right-most lane on the northbound Westlake Drive approach at the intersection with Westlake Terrace from a combined right-turn/through lane to right-turn lane only if approved by DPWT prior to certification of the Site Plan.
- g. The Applicant must provide adequate traffic control for the eastbound ring road approach of the shopping center's access point at Democracy Boulevard as required by DPS. The additional traffic control must be shown on the plans prior to certification of the Site Plan.
- h. The Applicant must relocate the steps outside the right-of-way for the intersection truncation at the southeast corner of Westlake Drive and Westlake Terrace. The relocated steps must be shown on the plans prior to certification of the Site Plan.
- i. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and DPWT to participate in the North Bethesda Transportation Management Organization (TMO). The TMAg must be signed and executed by all parties prior to certification of the Site Plan.
- j. The Applicant must provide 20 inverted U bike racks and have their locations approved by Transportation Planning staff prior to certification of the Site Plan.
- k. Revise previous condition 11(c) in the Planning Board Opinion dated April 28, 2005 to read:

Provide a payment to the DPWT "CIP Intersection Improvement Fund" in an amount equal to the cost of reconfiguring the two-lane

southbound Westlake Drive approach at Democracy Boulevard to an exclusive right-turn lane and a combination right, through, and left lane (i.e., instead of the current combination right, through, and left lane and exclusive left-turn lane), for their use if future County monitoring confirms that this improvement is necessary.

- I. The Applicant must retain all transportation-related conditions of approval in the Planning Board's opinion as described in the Transportation Planning staff memorandum dated January 20, 2005, unless modified by the recommendations above.

7. Transit Center

The Applicant shall comply with the conditions of approval in the memorandum from the Department of Public Works and Transportation in the letter dated August 30, 2007, specifically the program of requirements listed in the January 27, 2005 letter for the Montgomery Mall Transit Center [Attachment C].

8. Development Program

Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. Development Program shall include a phasing schedule as follows:

- a. The proposed new or relocated sidewalks and bike paths along Democracy Boulevard, Westlake Drive, and Westlake Terrace shall be completed prior to occupancy of any new retail store in the third phase of development.
- b. Street tree planting shall progress as the proposed sidewalk/bike path is completed, but no later than six months after completion of the sidewalk/bike path.
- c. The proposed new Transit Center shall be completed by the Applicant and accepted by the Montgomery County Department of Public Works and Transportation prior to removal of the existing on-site transit facility.
- d. Landscaping, lighting and pedestrian pathways associated with each parking facility/structure and building shall be completed as construction of each facility is completed.
- e. Provide each phase of the development with required parking spaces, excluding the impact during the construction period.
- f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.

- g. Provide each section of the development with necessary roads.
- h. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

9. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of the Certified Site Plan.

10. Certified Site Plan

Prior to approval of the Certified Site Plan, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, Site Plan Index, and Site Plan Resolution.
- b. The correct number of parking spaces shall be confirmed.
- c. Limits of disturbance.
- d. Resolution of all transportation issues.
- e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- f. Details of the signage and wayfinding program.
- g. Security lighting plan.
- h. Details of the conditions of approval for Site Design.

BE IT FURTHER RESOLVED that all site development elements as shown on Westfield Montgomery, Parcel A drawings stamped by the M-NCPPC on August 3, 2007, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

- 1. *The Site Plan conforms to all non-illustrative elements of a Development Plan or Diagrammatic Plan, and all binding elements of a Schematic Development Plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with*

an approved Project Plan for the Optional Method of Development if required, unless the Planning Board expressly modifies any element of the Project Plan.

An approved Development Plan or a Project Plan is not required for the subject development.

2. *The Site Plan meets all of the requirements of the C-2 zone and where applicable conforms to an Urban Renewal Plan approved under Chapter 56.*

If amended in accordance with recommended conditions, the Site Plan meets all of the requirements of the C-2 zone as demonstrated in the Data Table below. The requested parking waiver to allow a parking ratio of 4.42 spaces for each 1,000 square feet of gross leasable area and to allow modification of the size of angled parking spaces and of the width of drive aisles in the parking structure satisfies the zoning ordinance requirements. The following Data Table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

	Development Standards Approved by the Board and Binding on the Applicant
Min. Tract Area (ac.):	60.02
Max. Floor Area Ratio (FAR)	0.746
Gross Leasable Area (gla):	1,601,556
Min. Building Setbacks (ft.)	
Front (public street)	10
rear yard	0
side yard	0
Min. Residential Setback (ft.)	35
Min. Green Area (%)	15.6 (9.36 acres/ 408,083 sf)
Min. Internal Lot Landscaping (%):	5.3
Max. Building Height (ft.):	42
Parking Spaces (Based on total center GLA of 1,601,556@4.5 stalls/1,000 GLA)	
Existing Spaces to Remain	3,065

(Existing spaces = 6,405 minus 3,350 to be removed)	
New Spaces	
Garage 1 (Westlake Drive)	2,768
Garage 2 (Transit Center/I-270)	603
Surface Parking	697
Surface Parking at Sears TBA Lot	<u>44</u>
Total	7,177*

**Waiver submitted pursuant to Division 59-E-2.22 requires a minimum 'standard' parking space of 8'-6" by 18'-0". Up to 20% of the stalls may be 8'-0" by 17'-6" for employee use, and up to 10% of the stalls to be small car spaces of 7'-6" by 16'-6". When perpendicular (90 degree) parking is used, the required drive aisle for all of the above stall sizes is 20 feet, with a resulting total size of 56 feet for the module. The applicant requests an adjustment of the module for angled parking in the parking structure as follows:*

- 1. An 8'8" stall at 75 degrees on a module of 56 feet; and*
 - 2. An 8'8" stall at 65 degrees on a module of 54 feet.*
-

- 3. The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The location of the buildings and structures are adequate, safe and efficient.

The proposed mall expansion will add new retail space to the existing mall and increase the footprint of the existing building at the north, east and western ends of the mall. A freestanding building will be constructed near the northeastern corner of the site to accommodate the relocated Sears Automotive store. Two five-story parking structures are proposed: one adjacent to the Sears Automotive store and proposed Transit Center; and an additional structure along Westlake Terrace to provide spaces for the additional retail use.

A retaining wall is proposed along the Westlake Drive frontage in the area where the existing retail is presently located. The wall will vary in height from 6 feet to approximately 14 feet, which will separate the surface

parking facility associated with the street oriented retail at the entrance to the mall and the vehicular and pedestrian circulation along Westlake Drive. The wall serves two purposes: 1) provide for the change in grade from street level to proposed retail; and 2) direct pedestrians to only two points of access to the retail, negating the desire for mid-block pedestrian crossings.

b. Open Spaces

The location of the open spaces are adequate, safe and efficient.

The existing shopping mall and parking encompass the majority of the site, with open space and green areas along the perimeter of the site and within planting islands. The proposed mall expansion will utilize some of the surface parking areas for additional retail space and accommodate the parking need through structured parking. The plan proposes 9.36 acres of open space, or 15.6 percent of the property, which includes sidewalks, landscaped islands in the parking areas, and landscaped space between the buildings and along the street frontages. This represents a 5 percent increase in the requirement of the zone.

c. Landscaping and Lighting

The landscaping and lighting associated with the proposed development are adequate, safe and efficient.

The proposed landscaping on the site consists of landscaped islands within the parking areas, between the buildings and along the street frontages. The Applicant is also providing a green screen along the façade of the parking structure on Westlake Terrace. The parking structure is set back from the right-of-way to allow for terraced planting of evergreens and deciduous shrubs and trees. Street trees will be planted along the street frontages, between the relocated sidewalks and curbs.

The lighting plan provides five separate zones for the parking areas to account for the various surface parking facilities, the parking structures and pedestrian zones. The heights of the light poles, including the mounting base, are 18 feet in height to minimize the impact of glare and light spill-over on adjacent residential communities. All light fixtures will be full cut-off fixtures and deflectors or shields will be placed on fixtures causing a negative impact on adjacent properties.

d. Recreation Facilities

Recreation facilities are not required for the proposed commercial development.

e. Vehicular and Pedestrian Circulation

Vehicular and Pedestrian conditions are adequate, safe and efficient.

Access points to the site are to be provided from Democracy Boulevard, Westlake Drive and Westlake Terrace. The primary change to the access points along Westlake Drive includes the elimination of four existing vehicular access points into the existing shopping center. The internal ring road continues to link the entrance drives with the proposed and existing parking facilities.

A bus transit center is currently located in the northwest portion of the site with direct access from Westlake Terrace. The Applicant is committed to constructing a new Transit Center in the northeastern corner of the site, with direct access from Westlake Terrace. The Transit Center will include six bus bays to accommodate current and future transit needs. The Applicant is also providing safe and convenient pedestrian access from the transit center to the mall and neighboring sidewalk system.

This site is located within the boundary of the North Bethesda TMD but outside the North Bethesda/Garrett Park Planning Area. The TMAg will be signed and executed by all parties prior to certification of the site plan.

The *Countywide Bikeways Functional Master Plan* recommends a dual bikeway, DB-31 (shared use path and bike lanes) along Westlake Drive between Westlake Terrace and Democracy Boulevard. However, the County needs an additional ten feet of right-of-way from the west side in order to accommodate the on-road bike lanes. The proposed cross section will implement the southbound bike lane. The northbound bike lane will be implemented in the future if and when the additional right-of-way from west side is dedicated or purchased by the County. The *Master Plan* recommends a shared use path on the west side of Westlake Drive along the applicant's property frontage. The sidewalk along the west side of Westlake Drive can be upgraded with a landscape panel between the curb and sidewalk if the property owners grant a five-foot-wide PIE to the County.

The internal pedestrian circulation reflects a parking garage along Westlake Drive in the northwest corner of the site while providing a

pedestrian connection to street-level retail uses for the local residents who previously patronized the Westlake Crossing shopping center.

A pedestrian mid-block crossing on Westlake Drive is being considered by DPWT with this proposal. The residents of the communities on the west side of Westlake Drive currently walk across Westlake Drive to Lakeview Crossing Shopping Center that served as their local shopping center. The existing retail center is being removed and being replaced with street-level retail on the front of the proposed mall in the northwest corner. A raised median is needed to accommodate pedestrians for a mid-block crossing of Westlake Drive between Westlake Terrace and the street-level retail. Improvements to the street section within the right-of-way will need to incorporate DPWT's design standards for pedestrian safety. If approved by DPWT, a mid-block crossing would be located between Westlake Terrace and the vehicular access point along Westlake Drive.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The elements of the proposed plan are compatible with other uses and other site plans in the surrounding neighborhood and community.

The proposed expansion will add new retail space and structured parking to the existing facility. The use remains the same as the current development on the site. The existing and proposed use is compatible with the surrounding development. The parking garage along Westlake Drive has been sensitively designed to minimize visual and spatial impacts on the adjacent residential communities through architectural treatments, buffer planting along the street, screen planting on the façade of the structure, and on the rooftop plantings on the structure.

The pedestrian safety concerns address specific compatibility concerns for resolved conflicts between vehicles and pedestrians and increased attention given to the massing along Westlake Drive.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The site does not contain any forest, wetlands or other environmental features; however, the Applicant is still subject to Forest Conservation Law and subject to an 8.59-acre planting requirement. The Applicant is proposing to

satisfy the requirements of the forest conservation law through a combination of on-site landscape planting and an off-site forest mitigation bank.

The proposed stormwater management concept consists of (1) on-site channel protection measures via an off-site retention pond; and (2) on-site water quality control via stormfilters or MCDPS approved equivalent structures.

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 the date of this Resolution is DEC 10 2007 (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

At its regular meeting, held on Thursday, December 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Bryant, seconded by Vice Chairman Robinson, with Commissioner

Bryant, Vice Chairman Robinson, Chairman Hanson, and Commissioners Cryor and Lynch present and voting in favor. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 82005003A, Westfield Montgomery, Parcel A.

A handwritten signature in black ink, appearing to read "Royce Hanson", is written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board

RAK



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

MAR 23 2012

MCPB No. 12-02
Site Plan No. 82005003B
Project Name: Westfield Montgomery Mall
Hearing Date: January 12, 2012

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on April 25, 2005, the Planning Board approved Site Plan 820050030, Westfield Shoppingtown Montgomery, Parcel A¹ to allow 1,542,172 gross leasable square feet of commercial retail space on 60.02 gross acres in the C-2 zone, subject to conditions; and

WHEREAS, on December 10, 2007, the Planning Board approved an amendment to the site plan, Site Plan 82005003A (MCPB Resolution 07-193) to i) increase the approved gross leasable square feet of commercial retail space by 59,384 square feet for a total of 1,601,556 gross leasable square feet of commercial retail space; ii) approve a parking waiver to allow a parking ratio of 4.42 spaces for each 1,000 square feet of gross leasable area; and iii) to allow modification of the size of angled parking spaces and the width of the drive aisles in a parking structure, subject to conditions, including submission and approval of a certified site plan prior to any clearing or grading; and

WHEREAS, on December 5, 2011, Montgomery Mall LLC ("Applicant"), filed a site plan amendment application designated Site Plan 82005003B, Westfield Montgomery Mall (the "Amendment") to modify certain conditions of Site Plan 82005003A required for submission and approval of a certified site plan; and

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staff of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated December 21, 2011, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

¹ The name of the project has been changed to Westfield Montgomery Mall

Approved as to
Legal Sufficiency:

 3/14/12
M-NCPPC Legal Department

WHEREAS, on January 12, 2012, Staff presented the Amendment to the Planning Board at a public hearing on the Amendment (the "Hearing") where the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

WHEREAS, on January 12, 2012, the Planning Board approved the Amendment, subject to conditions, on the motion of Commissioner Anderson, seconded by Commissioner Presley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby APPROVES the Amendment, subject to the following conditions²:

1. Preliminary Plan Conformance
The proposed development shall comply with the conditions of approval for Preliminary Plan 120050180, or as amended with the concurrent review.
2. Site Design
 - a. The total number of parking spaces on site shall include the original waiver request of 30 fewer spaces and the additional loss of 100 spaces resulting from changes to the garage structure. The waiver will allow a parking ratio equivalent to 4.42 spaces for each 1,000 square feet of gross leasable area.
 - b. Provide additional planting within the Transit Center site.
 - c. The garage structure façade on Westlake Drive shall include the following elements:
 - 1) Step back the façade approximately 60 feet on the upper level along the southwest edge, requiring the loss of 100 parking spaces.
 - 2) Articulation of the garage parapet, including but not limited to awnings, handrails, and variations of the structural concrete finishes.
 - 3) Provide natural stone materials along the baseline of the parking deck.
 - 4) Add a covered walkway running parallel to Westlake Drive with lighting from the existing mid-block pedestrian crossing to the Mall, from the garage entrance, to allow pedestrian passage from Westlake Drive into the Mall.
 - 5) Provide rooftop planting, where feasible and as approved by Staff.
3. Landscaping
Replace the non-native/invasive plant material from the plant schedule.
4. Lighting

² All the conditions of Site Plan 82005003A, amended in accordance with the approval of Site Plan 82005003B are included for ease of reference.

- a. Cumulative light levels from the parking structure on Westlake Drive shall be less than 0.5 footcandles at the right of way line on the east side of Westlake Drive.
- b. Pedestrian level lighting shall be provided on all walks to the mall from adjacent roads.
- c. The height of the on-site light poles associated with the surface parking facilities shall be limited to 18 feet, including the mounting base.

5. Pedestrian Circulation

Pedestrian access to the mall from Westlake Drive and Westlake Terrace shall be provided during all construction phases. A Pedestrian Circulation Plan, including signage and phasing, shall be included as part of the certified Site Plan indicating alternative pedestrian routes during the construction phases.

6. Transportation

The Applicant shall comply with the following conditions of approval from M-NCPPC- Transportation Planning in the memorandum dated September 7, 2007.

- a. The square footage of the subject preliminary plan and site plan must be equal to the previously-approved square footage of commercial development under Preliminary Plan No. 1-05018 and Site Plan No. 8-05003 on Parcels F and P587 plus the recently-acquired adjoining Westlake Crossing, Parcel "B" Lakeview. Limit the maximum square footage of general retail use as follows:
 - 1) The Preliminary Plan revision must be limited to a maximum of 1,767,177 sf of gla ("gross leasable area") of general retail uses.
 - 2) The Site Plan Amendment must be limited to a maximum of 1,601,556 sf of gla of general retail uses.
- b. The Applicant must dedicate and provide public improvement easements (PIE) along Westlake Drive between Westlake Terrace and Democracy Boulevard as follows:
 - 1) The Applicant must dedicate 10 feet minimum of right-of-way for the minimum recommended 45 feet from the centerline of Westlake Drive.
 - 2) The Applicant must provide a two-foot-wide Public Improvement Easements ("PIE") along the eastern side of Westlake Drive for a two-foot-wide offset from the proposed shared use path/off-road bike path. If approved by the Montgomery County Department of Transportation ("MCDOT") and the Montgomery County Department of Permitting Services ("DPS"), Applicant will provide a wider PIE (approximately 5 feet in width) to accommodate a three-foot-wide bike lane with a one-foot-wide shoulder on the road along the eastern (mall) side of Westlake Drive. Doing so will require the Applicant to relocate utility poles along the mall property. The landscape design elements along Westlake Drive bordering the Westlake Garage (including evergreen plantings) will remain as per the submitted plans, except with respect to that area within the additional three feet to be included in the PIE. Any modification to

- the proposed onsite landscaping in this area must be reviewed and approved by Planning Board staff at the time of Certified Site Plan.
- 3) The Applicant must approach the property owners along the western side of Westlake Drive to grant a PIE up to 5 feet wide at no cost to the County or the Applicant to permit a landscape panel between the curb and sidewalk prior to certification of the site plan.
- c. The Applicant must reconstruct Westlake Drive between Westlake Terrace and Democracy Boulevard with the following cross-section from east to west:
- 1) A two-foot-wide offset from the shared use path/off-road bike path outside the public right-of-way within a PIE. Per condition 6(b)(2) above, Applicant will increase the PIE as necessary (up to five feet wide) to accommodate an additional on-street bike lane on the eastern side of Westlake Drive, if acceptable to all governmental agencies.
 - 2) An eight-foot-wide shared use path/off-road bike path along the east side.
 - 3) A five-foot-wide landscaped panel with street trees and utilities on east side adjacent to the curb that may be differ on the intersection approach to Democracy Boulevard.
 - 4) A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the east side, if approved by MCDOT and DPS.
 - 5) If MCDOT approves the Montgomery Mall Citizens Advisory Panel's (MMCAP) request for a mid-block pedestrian crossing by time of Certified Site Plan, the Applicant will provide such a crossing and will move the exterior stair along the north side of the Westlake Drive garage deck to align with such crossing. The Applicant will provide queue studies as requested by MCDOT to review the MMCAP request for median/pedestrian refuge.
 - 6) A ten-foot-wide outer northbound through lane on the west side.
 - 7) A ten-foot-wide inner northbound through lane.
 - 8) An eight-foot-wide raised median with one-foot curbs on each side or a ten-foot-wide center left-turn lane with a non-standard pavement treatment to delineate it from the through travel lanes, except on the intersection approach to Democracy Boulevard. This center median along Westlake Drive would restrict access from many of the side streets/drives on the west side to right-turns-in and right-turns-out.
 - 9) Two ten-foot-wide southbound through lanes.
 - 10) A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the west side.
 - 11) A five-foot-wide sidewalk on west side, unless the property owners along the western side of Westlake Drive agree to provide a PIE of up to five feet wide. With the five-foot-wide PIE, the sidewalk can be relocated such that the cross-section should include a

landscaped panel up to five feet wide with street trees (i.e., only if the PIE is a full 5 feet wide) and utilities between bike lane and relocated sidewalk.

- 12) The detailed final cross-section must be approved by the Planning Board staff and MCDOT and in consideration of the community's needs prior to certification of the site plan. Westlake has committed to putting in the median if approved by MCDOT or provide an alternative means of providing safe passage.
- d. The Applicant must continue consideration of the request of the adjacent homeowners groups for a possible pedestrian mid-block crossing of Westlake Drive between Westlake Terrace and the shopping center's proposed consolidated site access point. Such a mid-block crossing must include a raised median to function as a pedestrian refuge and satisfy MCDOT's design standards for pedestrian safety. If satisfying MCDOT design requirements, the mid-block must be shown on the plans prior to certification of the Site Plan.
- e. The Applicant must relocate the pedestrian access to the street-level retail along Westlake Drive in the northwest corner of the site to better align with the pedestrian mid-block crossing, if it satisfies MCDOT design requirements. The relocated pedestrian access must be shown on the plans prior to certification of the Site Plan.
- f. To accommodate the proposed Westlake Drive cross-section above, the Applicant could reconfigure the right-most lane on the northbound Westlake Drive approach at the intersection with Westlake Terrace from a combined right-turn/through lane to right-turn lane only if approved by MCDOT prior to certification of the Site Plan.
- g. The Applicant must provide adequate traffic control for the eastbound ring road approach of the shopping center's access point at Democracy Boulevard as required by DPS.
- h. The Applicant must relocate the steps outside the right-of-way for the intersection truncation at the southeast corner of Westlake Drive and Westlake Terrace. The relocated steps must be shown on the plans prior to certification of the Site Plan.
- i. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the North Bethesda Transportation Management Organization (TMO). The TMAg must be signed and executed by all parties prior to certification of the Site Plan.
- j. The Applicant must provide 20 inverted U bike racks and have their locations be approved by Transportation Planning staff prior to certification of the Site Plan.
- k. Revise previous condition 11(c) in the Planning Board Opinion dated April 28, 2005 to read:
Provide a payment to the MCDOT "CIP Intersection Improvement Fund" in an amount equal to the cost of reconfiguring the two-lane southbound

Westlake Drive approach at Democracy Boulevard to an exclusive right-turn lane and a combination right, through, and left lane (i.e., instead of the current combination right, through, and left lane and exclusive left turn lane), for their use if future County monitoring confirms that this improvement is necessary.

- i. The Applicant must retain all transportation-related conditions of approval in the Planning Board's opinion as described in the Transportation Planning staff memorandum dated January 20, 2005, unless modified by the recommendations above.

7. Transit Center

The Applicant shall comply with the conditions of approval in the memorandum from the Department of Public Works and Transportation in the letter dated August 30, 2007, specifically the program of requirements listed in the January 27, 2005 letter for the Montgomery Mall Transit Center.

8. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. The proposed new or relocated sidewalks and bike paths along Democracy Boulevard, Westlake Drive, and Westlake Terrace shall be completed prior to occupancy of any new retail store in the third phase of development.
- b. Street tree planting shall progress as the proposed sidewalk/bike path is completed, but no later than six months after completion of the sidewalk/bike path.
- c. The proposed new Transit Center shall be completed by the Applicant and accepted by the Montgomery County Department of Public Works and Transportation prior to removal of the existing on-site transit facility.
- d. Landscaping, lighting and pedestrian pathways associated with each parking facility/structure and building shall be completed as construction of each facility is completed.
- e. Provide each phase of the development with required parking spaces, excluding the impact during the construction period.
- f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- g. Provide each section of the development with necessary roads.
- h. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

9. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of the Certified Site Plan.

10. Certified Site Plan

Prior to approval of the Certified Site Plan, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, Site Plan index, and Site Plan resolution.
 - b. The correct number of parking spaces shall be confirmed.
 - c. Limits of disturbance.
 - d. Resolution of all transportation issues.
 - e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - f. Details of the conditions of approval for Site Design.
11. Certification
The Applicant must submit the certified site plan for review within 3 months of the date of the resolution. No building permit can be obtained for square footage over and above that which currently exists without an amendment to the Site Plan. Applicant shall not submit any further amendments to the Site Plan until a certified site plan for this Amendment has been submitted and approved by Staff.
12. Prior to the release of a building permit for the parking structure(s), the Applicant must submit an amendment to the Site Plan addressing security lighting, traffic control and wayfinding.

BE IT FURTHER RESOLVED, that the Planning Board adopts the Staff's recommendation and analysis as presented at the Hearing and set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and FINDS that the Amendment is consistent with the provisions of § 59-D-3.7 of the Zoning Ordinance and that the Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved site plan, and that all findings remain in effect; and

BE IT FURTHER RESOLVED that all site development elements as shown on Westfield Montgomery Mall drawings stamped by the M-NCPPC on June 11, 2009, shall be required, except as modified by the above conditions of approval; and

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

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

BE IT FURTHER RESOLVED, that the date of this Resolution is MAR 23 2012 (which is the date that this Resolution is mailed to all parties of record); and

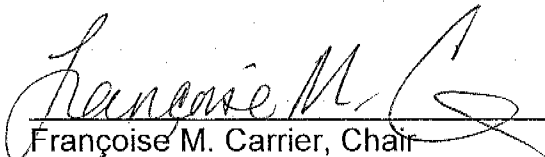
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Anderson, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor of the motion, and with Commissioner Presley absent, at its regular meeting held on Thursday, March 22, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



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

NOV 19 2012

MCPB No. 12-116
Site Plan No. 82005003C
Westfield Montgomery Mall
Date of Hearing: November 8, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on April 25, 2005, the Planning Board approved Site Plan 820050030, Westfield Shoppingtown Montgomery, Parcel A¹ to allow 1,542,172 gross leasable square feet of commercial retail space, subject to conditions, on 60.02 acres of C-2 zoned-land, located at the northeast quadrant of Democracy Boulevard and Westlake Drive ("Subject Property"), in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, on December 10, 2007, the Planning Board approved an amendment to the site plan, Site Plan 82005003A (MCPB Resolution 07-193) to i) increase the approved gross leasable square feet of commercial retail space by 59,384 square feet for a total of 1,601,556 gross leasable square feet of commercial retail space; ii) approve a parking waiver to allow a parking ratio of 4.42 spaces for each 1,000 square feet of gross leasable area; and iii) to allow modification of the size of angled parking spaces and the width of the drive aisles in a parking structure, subject to conditions, including submission and approval of a certified site plan prior to any clearing or grading; and

WHEREAS, on March 23, 2012, the Planning Board approved an amendment to the site plan, Site Plan 82005003B (MCPB Resolution 12-02) to modify certain conditions of Site Plan 82005003A required for submission and approval of a certified site plan; and

WHEREAS, on July 25, 2012, Montgomery Mall, LLC ("Applicant"), filed an application for approval of an amendment to the previously approved site plan to

¹ The name of the project has been changed to Westfield Montgomery Mall

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910

M-NCPPC Legal Department

www.MCParkandPlanning.org

Chairman's Office: 301.495.4605

Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

reconfigure approximately 65,000 square feet of previously approved gross leasable area ("GLA") and reconfigure circulation and parking on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82005003C, Westfield Montgomery Mall ("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 October 26, 2012, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 8, 2012, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Site Plan No. 82005003C for reconfiguring approximately 65,000 square feet of previously approved gross leasable area ("GLA") and reconfigure circulation and parking on the Subject Property by adding and modifying the following conditions:²

1. Preliminary Plan Conformance
The development shall comply with the conditions of approval for Preliminary Plan 12005018A as amended.
2. Site Design
 - a. The total number of parking spaces on site shall conform to the waiver request approved under Site Plan No. 82005003A, a parking ratio equivalent to 4.42 spaces for each 1,000 square feet of gross leasable area. Parking spaces and counts will be shown on the certified Site Plan.
6. Transportation
The Applicant shall comply with the following conditions of approval from M-NCPPC- Transportation Planning in the memorandum dated September 7, 2007.
 - j. The Applicant must provide 32 inverted U bike racks and have their locations be approved by Transportation Planning staff prior to certification of the Site Plan.
10. Certified Site Plan

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.

- g. Provide Staff a revised circulation plan specifically addressing the redesign of the new parking structure level 3 on sheet C1.13 resolving the potential conflicts with the ramps to levels 2 and 4, and the turning movements in the northwestern corner.
 - h. Change the Development Plan Entitlement Amendment tables on sheet C1.02A to reflect the data presented in the Approvals table on page 6 of the Staff Report and the Project Data Table on page 11 of the Staff Report.
11. Prior to the release of a building permit for the new parking structure(s), the Applicant must submit a Site Plan amendment addressing security lighting, traffic control and wayfinding.

BE IT FURTHER RESOLVED, that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect. However, all conditions of approval are included below for informational purposes:

- 1. Preliminary Plan Conformance
The development shall comply with the conditions of approval for Preliminary Plan 12005018A, as amended.
- 2. Site Design
 - a. The total number of parking spaces on site shall conform to the waiver request approved under Site Plan No. 82005003A, specifying a parking ratio equivalent to 4.42 spaces for each 1,000 square feet of gross leasable area. Parking spaces and counts will be shown on the certified Site Plan
 - b. Provide additional planting within the Transit Center site.
 - c. The garage structure façade on Westlake Drive shall include the following elements:
 - a. Step back the façade approximately 60 feet on the upper level along the southwest edge, requiring the loss of 100 parking spaces.
 - b. Articulation of the garage parapet, including but not limited to awnings, handrails, and variations of the structural concrete finishes.
 - c. Provide natural stone materials along the baseline of the parking deck.
 - d. Add a covered walkway running parallel to Westlake Drive with lighting from the existing mid-block pedestrian crossing to the Mall, from the garage entrance, to allow pedestrian passage from Westlake Drive into the Mall.
 - e. Provide rooftop planting, where feasible and as approved by Staff.
- 3. Landscaping
Replace the non-native/invasive plant material from the plant schedule.
- 4. Lighting
 - a. Cumulative light levels from the parking structure on Westlake Drive shall be less than 0.5 footcandles at the right of way line on the east side of Westlake Drive.

- b. Pedestrian level lighting shall be provided on all walks to the mall from adjacent roads.
 - c. The height of the on-site light poles associated with the surface parking facilities shall be limited to 18 feet, including the mounting base.
5. Pedestrian Circulation
Pedestrian access to the mall from Westlake Drive and Westlake Terrace shall be provided during all construction phases. A Pedestrian Circulation Plan, including signage and phasing, shall be included as part of the certified Site Plan indicating alternative pedestrian routes during the construction phases.
6. Transportation
The Applicant shall comply with the following conditions of approval from M-NCPPC- Transportation Planning in the memorandum dated September 7, 2007.
- a. The square footage of the subject preliminary plan and site plan must be equal to the previously-approved square footage of commercial development under Preliminary Plan No. 1-05018 and Site Plan No. 8-05003 on Parcels F and P587 plus the recently-acquired adjoining Westlake Crossing, Parcel "B" Lakeview. Limit the maximum square footage of general retail use as follows:
 - 1) The Preliminary Plan revision must be limited to a maximum of 1,767,177 sf of gla ("gross leasable area") of general retail uses.
 - 2) The Site Plan Amendment must be limited to a maximum of 1,601,556 sf of gla of general retail uses.
 - b. The Applicant must dedicate and provide public improvement easements (PIE) along Westlake Drive between Westlake Terrace and Democracy Boulevard as follows:
 - 1) The Applicant must dedicate 10 feet minimum of right-of-way for the minimum recommended 45 feet from the centerline of Westlake Drive.
 - 2) The Applicant must provide a two-foot-wide Public Improvement Easements ("PIE") along the eastern side of Westlake Drive for a two-foot-wide offset from the proposed shared use path/off-road bike path. If approved by the Montgomery County Department of Transportation ("MCDOT") and the Montgomery County Department of Permitting Services ("DPS"), Applicant will provide a wider PIE (approximately 5 feet in width) to accommodate a three-foot-wide bike lane with a one-foot-wide shoulder on the road along the eastern (mall) side of Westlake Drive. Doing so will require the Applicant to relocate utility poles along the mall property. The landscape design elements along Westlake Drive bordering the Westlake Garage (including evergreen plantings) will remain as per the submitted plans, except with respect to that area within the additional three feet to be included in the PIE. Any modification to the proposed onsite landscaping in this area must be reviewed and approved by Planning Board staff at the time of Certified Site Plan.

- 3) The Applicant must approach the property owners along the western side of Westlake Drive to grant a PIE up to 5 feet wide at no cost to the County or the Applicant to permit a landscape panel between the curb and sidewalk prior to certification of the site plan.
- c. The Applicant must reconstruct Westlake Drive between Westlake Terrace and Democracy Boulevard with the following cross-section from east to west:
 - 1) A two-foot-wide offset from the shared use path/off-road bike path outside the public right-of-way within a PIE. Per condition 6(b)(2) above, Applicant will increase the PIE as necessary (up to five feet wide) to accommodate an additional on-street bike lane on the eastern side of Westlake Drive, if acceptable to all governmental agencies.
 - 2) An eight-foot-wide shared use path/off-road bike path along the east side.
 - 3) A five-foot-wide landscaped panel with street trees and utilities on east side adjacent to the curb that may differ on the intersection approach to Democracy Boulevard.
 - 4) A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the east side, if approved by MCDOT and DPS.
 - 5) If MCDOT approves the Montgomery Mall Citizens Advisory Panel's (MMCAP) request for a mid-block pedestrian crossing by time of Certified Site Plan, the Applicant will provide such a crossing and will move the exterior stair along the north side of the Westlake Drive garage deck to align with such crossing. The Applicant will provide queue studies as requested by MCDOT to review the MMCAP request for median/pedestrian refuge.
 - 6) A ten-foot-wide outer northbound through lane on the west side.
 - 7) A ten-foot-wide inner northbound through lane.
 - 8) An eight-foot-wide raised median with one-foot curbs on each side or a ten-foot-wide center left-turn lane with a non-standard pavement treatment to delineate it from the through travel lanes, except on the intersection approach to Democracy Boulevard. This center median along Westlake Drive would restrict access from many of the side streets/drives on the west side to right-turns-in and right-turns-out.
 - 9) Two ten-foot-wide southbound through lanes.
 - 10) A four-foot-wide on-road bike lane that includes the one-foot-wide curb/gutter on the west side.
 - 11) A five-foot-wide sidewalk on west side, unless the property owners along the western side of Westlake Drive agree to provide a PIE of up to five feet wide. With the five-foot-wide PIE, the sidewalk can be relocated such that the cross-section should include a landscaped panel up to five feet wide with street trees (i.e., only if

- the PIE is a full 5 feet wide) and utilities between bike lane and relocated sidewalk.
- 12) The detailed final cross-section must be approved by the Planning Board staff and MCDOT and in consideration of the community's needs prior to certification of the site plan. Westlake has committed to putting in the median if approved by MCDOT or provide an alternative means of providing safe passage.
- d. The Applicant must continue consideration of the request of the adjacent homeowners groups for a possible pedestrian mid-block crossing of Westlake Drive between Westlake Terrace and the shopping center's proposed consolidated site access point. Such a mid-block crossing must include a raised median to function as a pedestrian refuge and satisfy MCDOT's design standards for pedestrian safety. If satisfying MCDOT design requirements, the mid-block must be shown on the plans prior to certification of the Site Plan.
 - e. The Applicant must relocate the pedestrian access to the street-level retail along Westlake Drive in the northwest corner of the site to better align with the pedestrian mid-block crossing, if it satisfies MCDOT design requirements. The relocated pedestrian access must be shown on the plans prior to certification of the Site Plan.
 - f. To accommodate the proposed Westlake Drive cross-section above, the Applicant could reconfigure the right-most lane on the northbound Westlake Drive approach at the intersection with Westlake Terrace from a combined right-turn/through lane to right-turn lane only if approved by MCDOT prior to certification of the Site Plan.
 - g. The Applicant must provide adequate traffic control for the eastbound ring road approach of the shopping center's access point at Democracy Boulevard as required by DPS.
 - h. The Applicant must relocate the steps outside the right-of-way for the intersection truncation at the southeast corner of Westlake Drive and Westlake Terrace. The relocated steps must be shown on the plans prior to certification of the Site Plan.
 - i. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the North Bethesda Transportation Management Organization (TMO). The TMAg must be signed and executed by all parties prior to certification of the Site Plan.
 - j. The Applicant must provide 32 inverted U bike racks and have their locations be approved by Transportation Planning staff prior to certification of the Site Plan.
 - k. Revise previous condition 11(c) in the Planning Board Opinion dated April 28, 2005 to read:
Provide a payment to the MCDOT "CIP Intersection Improvement Fund" in an amount equal to the cost of reconfiguring the two-lane southbound

Westlake Drive approach at Democracy Boulevard to an exclusive right-turn lane and a combination right, through, and left lane (i.e., instead of the current combination right, through, and left lane and exclusive left turn lane), for their use if future County monitoring confirms that this improvement is necessary.

- I. The Applicant must retain all transportation-related conditions of approval in the Planning Board's opinion as described in the Transportation Planning staff memorandum dated January 20, 2005, unless modified by the recommendations above.
7. Transit Center
The Applicant shall comply with the conditions of approval in the memorandum from the Department of Public Works and Transportation in the letter dated August 30, 2007, specifically the program of requirements listed in the January 27, 2005 letter for the Montgomery Mall Transit Center.
8. Development Program
Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:
 - a. The proposed new or relocated sidewalks and bike paths along Democracy Boulevard, Westlake Drive, and Westlake Terrace shall be completed prior to occupancy of any new retail store in the third phase of development.
 - b. Street tree planting shall progress as the proposed sidewalk/bike path is completed, but no later than six months after completion of the sidewalk/bike path.
 - c. The proposed new Transit Center shall be completed by the Applicant and accepted by the Montgomery County Department of Public Works and Transportation prior to removal of the existing on-site transit facility.
 - d. Landscaping, lighting and pedestrian pathways associated with each parking facility/structure and building shall be completed as construction of each facility is completed.
 - e. Provide each phase of the development with required parking spaces, excluding the impact during the construction period.
 - f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
 - g. Provide each section of the development with necessary roads.
 - h. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
9. Clearing and Grading
No clearing or grading prior to M-NCPPC approval of the Certified Site Plan.
10. Certified Site Plan

Prior to approval of the Certified Site Plan, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, Site Plan index, and Site Plan resolution.
 - b. The correct number of parking spaces shall be confirmed.
 - c. Limits of disturbance.
 - d. Resolution of all transportation issues.
 - e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - f. Details of the conditions of approval for Site Design.
 - g. Provide Staff a revised circulation plan specifically addressing the redesign of the new parking structure level 3 on sheet C1.13 resolving the potential conflicts with the ramps to levels 2 and 4, and the turning movements in the northwestern corner.
 - h. Change the Development Plan Entitlement Amendment tables on sheet C1.02A to reflect the data presented in the Approvals table on page 6 of the Staff Report and the Project Data Table on page 11 of the Staff Report.
11. Prior to the release of a building permit for the new parking structure(s), the Applicant must submit an amendment to the Site Plan addressing security lighting, traffic control and wayfinding.

BE IT FURTHER RESOLVED, that all site development elements as shown on Westfield Montgomery Mall drawings stamped by the M-NCPPC on September 28, 2012 and updated on October 15, 2012, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning 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 Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, diagrammatic plan, schematic development plan, nor a project plan were required for the subject site.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan Application meets the requirements of the C-2 Zone. As the project data table below indicates, the Site Plan meets all of the development standards of the zone. With respect to building height and setbacks, the approved amendment meets or exceeds all of the standards for the C-2 Zone including Section 59-C-4.351(c) that allows for taller buildings with greater setbacks. The Application is below the maximum allowed density and provides for more than the minimum required green area. The parking provided is in excess of that required with the parking waiver approved in 2007.

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the C-2 Zone.

Development Standard	Permitted/ Required	Previously Approved	Approved by the Planning Board and Binding on the Applicant
Building Height (feet)	42/90*	42	83.5*
Building Setbacks (feet)			
Front (all public right-of-ways)	10	10	10
Nearest residential zone	30	35	35
Per 59-C-4.351(c)*	250.5	n/a	258
Parking Spaces**			
Existing (spaces to remain)	n/a	3,065	4,121
Westlake Drive Garage	n/a	2,768	1,995
Westlake Terrace Garage	n/a	603	601
New Surface lots	n/a	741	635
Total (5 ½ spaces per 1,000 sq ft GLA)	8,808/ 7,079**	7,177	7,352
Parking spaces per 1,000 Sq Ft GLA	5.5/ 4.42**	4.48	4.59
Green Area (% of lot)	10	15.6	15.4
Building GLA (square feet)	1,767,177	1,601,556	1,601,556

**Section 59-C-4.351(c) accommodates a height increase to 90 feet for a building that includes a theater, on a site plan approval with over 1,200,000 square feet of GLA. Setback of 3 feet for each 1 foot of height.*

***Parking waver approved under 820050030 permitting 4.42 stalls/1,000 GLA to be used for calculating the number of required spaces.*

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Buildings and Structures

The approved changes to building and parking structure locations in this Application were found to be adequate, safe and efficient. The new Application provides for an increase in retail and entertainment space on the Subject Property in a way that reduces construction impacts and increases compatibility with surrounding uses. The retention of the existing parking structure and the construction of a theater on top of the parking reduces the need for major ground level site work, and reconfigures the GLA so that it's constructed on top of an already disturbed portion of the site, freeing up more ground level for landscaping, and circulation. The location of the new parking structure immediately to the south of the existing parking structure allows for circulation between the two structures both on the ground, and between upper levels.

- b. Open Spaces

Open spaces approved in the Application are adequate, safe and efficient for the Zone and the context of the site. The Subject Property is in the C-2 Zone, which has a minimum Green Area requirement of 10%. The open space that is provided is adequate and efficient for providing a visually appealing experience at the Mall, and exceeding the minimums set forth in the Zoning Code. The Application is providing 15.4% Green Area across the entire Property, comprised of various uses including perimeter landscaping, foundation landscaping, pedestrian plazas, and gathering areas. The reconfiguration of the buildings with the current Application provides for a new landscaped open area in a V shaped space between the existing parking structure and the Mall building. The Green Areas changed by this Amendment connect with the Green Areas across the Property forming an adequate and efficient network of improved spaces.

- c. Landscaping and Lighting

The landscaping provided in this Application is adequate, safe and efficient for softening the views of the parking structures creating an attractive presence from Westlake Drive. The parking structures will be screened by a mix of evergreen trees and the use of three greenscreen panels which will be mounted to the side of the new parking structure as a façade treatment to the new parking structure, approved in previous plans and is retained with this Application. Each greenscreen panel is 30 feet wide and feature 10 planted vines, which will provide a soft look to the wall when in combination with the other stone and metal features proposed for the façade. Retaining walls will be constructed along Westlake Drive along the frontage of the new parking structure with places for planting various types of trees, shrubs and grasses. A row of street trees are also provided along Westlake Drive between the Property and the Bike Path to provide shade and further soften the Property visually from the street. The V shaped open area created by the new layout between the existing parking structure and the new Mall expansion (Figure 6) will be softened and enhanced with trees and sedums, with additional plantings in the sidewalk that is adjacent the Mall structure. The lighting proposed for the site was found to be in compliance with lighting regulations. Light from the interior of the parking structures does not spill onto surrounding property and lighting on the roof was located in a way to minimize light shining over the sides of the garages.

d. Recreation Facilities

The Subject Property does not have a residential component therefore there are no recreational facility requirements.

e. Vehicular and Pedestrian Circulation

The pedestrian and vehicle circulation proposed with this Application is adequate, safe, and efficient. Multiple signed and paved routes provide safe pedestrian circulation to the Mall from the surrounding properties and on-site parking facilities. A pedestrian path to a Mall entrance will be provided through the parking facilities and over the vehicular ring road from the public sidewalks along Westlake Drive in the vicinity of the recently constructed mid-block crosswalk on Westlake Drive using crosswalks, sidewalks and signage. A second pedestrian sidewalk will be provided along an entrance road originating at the signalized intersection on Westlake Drive, providing access to internal sidewalks and the Mall. The Application also provides pedestrian connections to the continuous looping sidewalk that wraps around the entire exterior of the Mall, generally adjoining the Mall structure.

The vehicular circulation design safely and efficiently provides connectivity between the Property's parking facilities and the surrounding public road network. The Application modifies the previously approved ring road in response to the proposed changes to the Mall structure and parking facilities. The approved ring road alignment will maintain the existing alignment through the parking structure along Westlake Drive, and maintains the existing Property entrance along Westlake Drive. This change to the ring road will allow the existing Property entrance from Westlake Drive to remain in a configuration similar to current conditions; replacing a sharp bend in the entrance road approved in previous plans, and requiring less site work to construct. The existing ring road will tie into the previously approved ring road as it heads towards the proposed Mall expansion areas near the existing Macy's and Old Navy.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The approved changes to the Mall building and parking structures on the Subject Property are compatible with the confronting properties across Westlake Drive, and with the other portions of the Mall building and parking on the Property. The amended plans scale down the mass of building and structure façade along Westlake Drive by turning two walls (new parking structure, Mall) into three (new parking structure, existing parking structure, Mall) providing an opportunity for a variation in materials, wall articulation and landscaping. The design of the façade of the parking structures varies and includes stone, concrete, metal and living materials. The variation in materials in conjunction with landscaping will make for a pleasant experience for people on and across Westlake Drive. The retention of the existing parking structure also provides for a wider and more welcoming view into the Mall site toward the theater, creating a V like shape between the existing parking/theater and the future Mall expansion.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Subject Property is subject to the forest conservation law. There were no existing forests on site, therefore the forest conservation requirements were met through a combination of landscape credits and an off-site conservation bank. These requirements were presented and approved with a previous Site Plan approval.

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

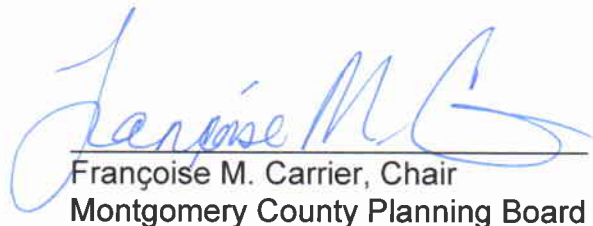
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 19 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, November 15, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



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

TO: Gwen Wright, Planning Director

VIA: Kipling Reynolds, Area 3, Chief

FROM: Benjamin Berbert, Area 3, Senior Planner

SUBJECT: Administrative Site Plan Amendment No. 82005003D: Westfield Montgomery (Previously Approved for 1,601,556 gross leasable square feet; northeast quadrant of Democracy Boulevard and Westlake Drive; 60.02 acres; C-2 Zone, Potomac Subregion Master Plan)

RECOMMENDATION

Staff recommends approval of Amendment No. 82005003D.

PROJECT DESCRIPTION

On June 17, 2015, Wayne Baldwin ("Applicant") filed an application for an amendment to Certified Site Plan No. 82005003C. The application was accepted as an administrative amendment in accordance with Section 59-D-3.7(d) of the Zoning Ordinance and designated Site Plan Amendment No. 82005003D ("Amendment"). The Amendment requests approval of the following modifications:

- 1) Install two interim monumental signs
- 2) Build an interim parking and circulation pattern adjacent to the new Transit Center
- 3) Provide an interim sidewalk and additional parking at the location of the existing Transit Center

DISCUSSION

As required, the Applicant placed proper signage on the property and sent notices regarding the Amendment to all required parties on June 29, 2015. The notice gave interested parties 15 days to review and comment on the contents of the Amendment. Staff did not receive any correspondence from the interested parties.

FINDINGS

In accordance with the Montgomery County Zoning Ordinance: Section 59-D-3.7(d), Staff finds that the Site Plan Amendment meets the following:

- (1) The Amendment does not:
 - a. Increase the building height
 - b. Increase the floor area
 - c. Increase the number of dwelling units
 - d. Prevent circulation on any street or path
- (2) The Amendment modifies one or more of the following elements of the approved Site Plan:
 - a. A parking or loading area

- b. Landscaping, a sidewalk, recreational facilities, public use space, or green area in a manner that does not alter basic elements of the plan; or
- c. Any other plan element that will have a minimal affect on the overall design, layout quality, or intent of the plan.

Interim monumental signs

The Site Plan is for the Westfield Montgomery Mall property located on the northeast quadrant of Democracy Boulevard and Westlake Drive ("Site"). Total buildout of the Site is a multi-phased project that is being accomplished while keeping the existing portions of the Westfield Montgomery Mall and surrounding parking open and safe for use. Upon completing the first phase of construction, it became apparent the site lacked monumental signage which was not planned for installation until site access is reconfigured in a later phase of development. The Applicant requests that two monumental signs be allowed in the current phase, one located at the corner of Westlake Drive and Westlake Terrace, and the second at the entrance traffic signal along Westlake Drive. The signs are approximately five feet tall, and one is approximately 14 feet long and the other 11 feet long. The signs will be constructed on a foundation of approximately one foot in height that is built into the existing terrain. The Montgomery County Sign Review Board has approved the installation of the two signs contingent on receiving a Site Plan Amendment July 24, 2014.

Interim parking and circulation pattern

The Applicant has also requested approval of interim development conditions that show how parking and traffic circulation will be accommodated as the Site is developed over multiple phases. The original site plan approval associates the relocated Transit Center as part of a larger phase of development that also includes a new parking structure and retail space in the northeast corner of the Site. The Applicant has requested permission to proceed with the Transit Center without concurrently completing the other improvements associated with this phase, effectively splitting what was planned as one phase into two smaller phases. Staff and the Applicant believe that it would be beneficial to have approved interim plans showing how parking and circulation will be safely and adequately handled as the Transit Center is transitioned from its current location to its new location before constructing the surrounding planned Site improvements. Therefore, the Amendment requests the approval of an interim circulation and parking layout concept in the vicinity of the proposed Transit Center.

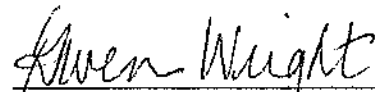
Interim sidewalk and additional parking

The Amendment also proposes an interim sidewalk and parking lot area where the Transit Center is currently located that will be implemented once that Transit Center is abandoned. This Amendment still allows for the ultimate construction of a parking structure next to the Transit Center, and additional retail along Westlake Terrace in future phases.

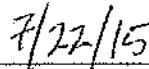
CONCLUSION

Staff recommends approval of the Certified Site Plan Amendment No. 82005003D in accordance with the required findings. This Amendment remains valid as provided in Montgomery County Code § 59-D-3.8. The Applicant is responsible for submitting an amended Site Plan for the specific modifications.

ACCEPTED & APPROVED BY:



Gwen Wright, Planning Director



Date Approved

ATTACHMENT 2



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Mitra Pedoeem
Director

June 2, 2020

Mr. Arinze Chiejina, PE
Dewberry Consultants, LLC
2101 Giaaier Road, Suite 340
Rockville, MD 20850

Via email: achiejina@dewberry.com

Re: Stormwater Management **CONCEPT**
RECONFIRMATION for Westfield Montgomery
SWM Concept #248331

Dear Mr. Chiejina:

Your request for a stormwater management reconfirmation for the above site has been evaluated. The original approved SWM concept dated September 30, 2019 is hereby reconfirmed. Please adhere to all conditions required as part of that approval. Both approval letters must be placed on the final engineering plans at time of submission.

If you have any questions regarding these actions, please feel free to contact me at 240-777-6202 or at mary.fertig@montgomerycountymd.gov.

Sincerely,

Mary M. Fertig

Mary M. Fertig, PE
Senior Permitting Services Specialist
Water Resources Section
Division of Land Development Services

Cc: SM File #: 248331
Mark Etheridge, DPS

On-Site
ESD: Required/Provided 181,026 cf / 56,540 cf
PE: Target/Achieved: 2.00"/0.62"
STRUCTURAL: 124,846 cf
WAIVED: n/a

Adjacent ROW
ESD: Required/Provided 10,898 cf / 0 cf
PE: Target/Achieved: 1.8"/0"
STRUCTURAL: 10,898 cf
WAIVED: n/a



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www.montgomerycountymd.gov/permittingservices



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Hadi Mansouri
Acting Director

September 30, 2019

Mr. Arinze Chiejina, PE
Dewberry Engineers, Inc.
2101 Gaither Road, Suite 340
Rockville, MD 20850

Re: REVISION TO Combined Stormwater
Management/Site Development Stormwater
Management Plan for Westfield
Montgomery at Westlake Drive and
Westlake Terrace
Site Plan Amendment # :82005003E
SM File #: 248331
Tract Size/Zone: 59.5 acres/GR-1.5, H-45
Total Concept Area: 27.92 acres
Legal Description: Parcel P Lakeview and
Westfield Shoppingtown Montgomery Condo
Plats No. 7866 – 7860
Address: 7107 Democracy Blvd.
Watershed: Cabin John Creek, Class I

Dear Mr. Chiejina:

Based on a review by the Department of Permitting Services Review Staff, the revision to the combined stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals for this redevelopment project via Environmental Site Design to the Maximum Extent Practicable (ESD to the MEP) in surface and planter box micro-bioretenion facilities and green roof. Volume not able to be treated in on-site ESD measures will continue to receive treatment via extended detention in an existing downstream pond (the Lakeview Townhomes Homeowners Association SWM facility.)

This concept also proposes the removal and replacement of five existing facilities constructed for previous mall improvements and for a specific off-site road improvement.



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The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. The existing stormwater easements and covenants must be terminated in their entirety and new easements and covenants recorded prior to plan approval.
4. Landscaping in SWM facilities shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purposes only and may be changed at the time of detailed plan review.
5. Because the concept includes the removal of existing stormwater management facilities, DEP must be included in the pre-construction meeting.
6. At final design demonstrate that the volume to be treated will be conveyed to the surface micro-bioretenention facilities without any bypass of runoff.
7. At final design provide roof plans and interior piping plans to support the drainage areas and to demonstrate coordination with vertical and horizontal elements of the design (location and inverts.)
8. Planter boxes require structural design and/or precast notes.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

Mr. Arinze Chiejina, PE
September 30, 2019
Page 3 of 3

If you have any questions regarding these actions, please feel free to contact Mary Fertig at 240-777-6340.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: MMF

cc: N. Braunstein
SM File # 243881

On-Site

ESD: Required/Provided 181,026 cf / 56,489 cf
PE: Target/Achieved: 2.0"/0.62"
STRUCTURAL: 124,537 cf/124,537 cf
WAIVED: N/A

Adjacent ROW

ESD: Required/Provided 10,898 cf / 0 cf
PE: Target/Achieved: 1.8"/0"
STRUCTURAL: 10,898 cf
WAIVED: N/A



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Department of Permitting Services
Fire Department Access and Water Supply Comments

DATE: 18-Jun-20
TO: Alan Barney - abarney@dewberry.com
Dewberry
FROM: Marie LaBaw
RE: Westfield Montgomery Mall Expansion - Multi-phase Mall Expansion
82005003E

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **12-Jun-20** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

August 6, 2019

Ms. Emily Tettelbaum
Mr. Troy Leftwich
Area 2 Division
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Westfield Montgomery Mall
Preliminary Plan Amendment No. 12005018C
Site Plan Amendment No. 82005003E

Dear Ms. Tettelbaum and Mr. Leftwich:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced plans and recommends Approval, with the following comment:

- At certified site plan, provide the bedroom mix of the MPDUs and market rate units, and schematic floor plans showing locations and layouts of MPDUs.

Sincerely,

Lisa S. Schwartz, Manager
Affordable Housing Programs Section

cc: Kevin Mack, The Dewberry Companies Inc.

S:\Files\recurring\Housing\MPDU\Developments\Westfield Montgomery Mall\Westfield Montgomery Mall DHCA Letter_8-6-2019.docx

Division of Housing

Affordable Housing Common Ownership Communities Landlord-Tenant Affairs Multifamily Housing

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DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R. Conklin
Director

June 17, 2020

Troy Leftwich , Planner Coordinator
Area 1 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 12005018C
Westfields Montgomery Mall

Dear Mr. Leftwich:

We have completed our review of the preliminary plan uploaded to eplans on May 8, 2020. A previous plan was reviewed by the Development Review Committee at its meeting on January 22, 2019. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. This letter and all other correspondence from this department should be included in the package.

Significant Plan Review Comments

1. In this application, the Applicant originally proposed to abandon the storm drain pipe and relocate it. This proposal has not been accepted by MCDOT. If in the future, they propose to make any changes to the existing pipe, then it will be reviewed by MCDOT

Office of the Director

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FAX

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Located one block west of the Rockville Metro Station

and DPS prior to approval of the permit. In addition, the applicant will need to provide an easement for the pipe. The width of the easement is determined by the size and depth of the pipe as stated in the *Drainage Design Criteria*. There is currently a maintenance and liability agreement for the existing pipe, which may need to be amended prior to approval of any changes to the pipe.

2. Westlake Terrace

- a. Staff determined that the road diet was infeasible at this time. Therefore, the applicant is required to construct the street cross section as shown on the plans that were uploaded on May 8, 2020.
- b. The street cross section shall include the construction of the bike facilities including the protected intersections along this road.

3. Westlake Drive

- a. The street cross section and the improvements will be finalized at the site plan amendment for this phase of development (Phase 3).
- b. The street cross section shall include the bike facilities, which may be modified in agreement with MCDOT.
- c. The details of the mid-block crosswalk that the applicant is proposing to relocate will be evaluated at the time of signing and marking permit stage.

4. In accordance with Section 50-4.3(E.5.b.) of the Montgomery County Code, we recommend the Montgomery County Planning Board require the applicant to construct an off-site shared use path along the gas stations street frontages to connect with the shared use path along the applicant's Democracy Boulevard and Westlake Drive street frontages. The details of the improvements will be finalized at the site plan stage for this phase of development.

5. The storm drain analysis was reviewed and is acceptable to MCDOT. No improvements are needed to the downstream public storm drain system for this plan.

6. Transit Center –

- a. Plan Review - The following items need to be address prior to certified preliminary plan.
 - A. Circulation plan shows vehicular paths through the existing transit center. Confirm that these are intended to be transit-only paths.
 - B. Transit center is already isolated on the corner of the current site and separated by surface parking. The future condition keeps some of the surface parking and adds an eight-story parking structure as a wall between the transit center and the future development. At a minimum, the pedestrian paths need to be stronger and more clear. The future North Bethesda Transitway BRT would terminate at this transit center. Improving the connectivity between the transit center and the buildings would result in a more transit-supportive development that doesn't relegate transit users to an afterthought.
 - C. Provide detailed plans for lighting along pedestrian path and crossing.

- D. Please confirm there is a pull-off where the buses will turn left at the parking garage towards the transit center.
 - E. If the sidewalk for the bus stop is only 6 feet wide, then it will need to be widened to MCDOT standards.
 - F. The bus pull-off area may help with the turning radius; however, we need to see the auto turns before MCDOT can make a decision.
 - G. Prior to submission of the certified Preliminary Plan, contact Ms. Deanna Archey of Transit Services for MCDOT for further clarification of the comments listed below. She can be reached at Deanna.archey@montgomerycountymd.gov.
- b. Relocation -The applicant is proposing to relocate the transit center temporarily while under construction. Prior to issuance of the first right-of-way permit, MCDOT must:
- A. Determine if the location is acceptable;
 - B. Ensure that access to the temporary transit center is adequate and there is connectivity between the transit center and mall facilities; and
 - C. Coordinate with Transit Services on MOT plans during construction phase.
 - D. The applicant must contact Ms. Deanna Archey of Transit Services prior to issuance of the right-of-way permit to ensure that the transition to the temporary location is successful. Ms. Deanna Archey can be reached at Deanna.archey@montgomerycountymd.gov.

2. Commuter Services Comments –

a. Traffic Mitigation Agreement

The Traffic Mitigation Agreement (TMAg) executed in 2012 by and among Westfield, LLC, MCDOT and the M-NCPPC Planning Board must be amended. The TMAg was required as Condition #7 of the 2012 site plan approval (#2005003B) however office, residential and the lifestyle retail uses were not included under that previous approval. Coordinate with Commuter Services regarding the provisions for the amendment (Sande Brecher, (240)777-8383 or Beth Dennard at (240)777-8384). Prior to issuance of any building permit by MCDPS, the Applicant must execute an amended Traffic Mitigation Agreement.

b. Bicycle Amenities - Provide bicycle amenities and accommodations throughout the development including the following:

- i. Bike lockers, bike storage facilities, and bike repair facility/kiosk
- ii. Showers and changing rooms/lockers in convenient locations within the development's office complex.

c. Bikesharing/Storage for Shared-Use Mobility Devices.

- A. At full build-out the Project is anticipated to generate demand sufficient to support 3 bikeshare stations. In addition to 1 space in the Interim Commuter Parking Area committed in May 2018, provide 2 additional spaces in the Project suitable for the installation of typical bikeshare stations. A typical bikeshare station requires a site that is 54' by 7' in size with four to six hours of solar exposure per day. Applicant must provide conduit to the bikeshare station in the event solar access is insufficient. The Applicant must pay the cost for preparation of the spaces. Applicant must allow MCDOT and its contractors access to the Project to install, service and maintain the bikeshare station(s). A public access easement will be required.
 - B. The location of the bikeshare stations will be coordinated between the Applicant and MCDOT, based upon the requirements of the bikesharing system and in highly-visible, convenient and well-lit locations within the Project.
 - C. Applicant will be required to assist MCDOT in the promotion of bikeshare among residents, employees and visitors at the Project, in order to accomplish the objectives of the TMD.
 - D. The County maintains full discretion to install, operate, move, relocate or discontinue service of a bikeshare station based on review and analysis of usage, performance, or budget.
 - E. If any of the bikeshare stations are not provided by the County (due to changes in the mobility industry, site constraints, low projected demand generated by the project, or other), racks, repair stations, or other suitable facilities and equipment for the orderly storage of micro-mobility devices (e.g., shared e-scooters, e-bikes), must be provided on an interim basis by the Applicant in the selected space(s). Applicant must provide conduit to provide power in the event of insufficient solar access. Applicant is responsible for preparation of the space, and the purchase, installation and maintenance of the alternative facilities. A standard detail for facilities to be installed will be provided.
- d. Displays and Communication of TDM Information (At Each Phase)
- A. Incorporate display space into lobbies and other high pedestrian activity areas and opportunity for information on each level of parking facilities (static displays)
 - B. Design space in the Heritage Court and Paseos open spaces, and in the Kiosk Area (shown as part of Phase 3) to include monitors. The monitor

- must display Real Time Transit Information and may include Project-related information (project-based maps, directories, etc.). Monitors can also provide information related to trip planning assistance.
- C. Provide monitors displaying Real Time Transit Information in lobbies, elevators, and parking facilities. This will enable outreach to residents, office building tenants, employees, visitors, hotel patrons, etc.
 - D. Provide concierge services or a reception desk in the **hotel** with an area where transit information and pass sales can be transacted for hotel guests and other visitors to the project – e.g., obtaining transit information, loading of SmarTrip cards, etc.
7. The final design of the bicycle and pedestrian facilities, including the protected intersections along the site frontage will be completed prior to issuance of the right-of-way permit for each phase of the project. We recommend that the applicant contact Mr. Corey Pitts regarding bicycle and pedestrian facilities prior to submission of right-of-way permit. Mr. Pitts of our Transportation Engineering Section can be reached at matthew.johnson@montgomerycountymd.gov.
8. MCDOT is concerned about the location of the valet. We believe it is too close to the Westlake Terrace intersection, which could create problems on Westlake Terrace. Also, the amount of crossing distant for pedestrians is significant. We request that this location continue to be evaluated and if traffic for the valet creates problems on the county roads, then the applicant will need to work with MCDOT to resolve the issues, which may include relocation of the valet.
9. If the traffic signal cabinet or related equipment along the street frontages are in the way of proposed improvements, then MCDOT will determine if they can be relocated or they need to be replaced at the time of right-of-way permit. The applicant will need to submit a concept detail of the relocated traffic signal pole and utility poles. The applicant will incur the cost of the relocation of these and any other utilities. Coordinate with Mr. Kamal Hamud prior to submission of the right-of-way permit. Mr. Hamud can be reached at kamal.hamud@montgomerycountymd.gov.
10. With the exception of the right-in from Democracy: all impacted vehicular access points should be designed to be at-grade with sidewalk, dropping down to street level between the sidewalk and roadway.

Standard Plan Review Comments

11. No steps, stoops or retaining walls for the development are allowed in County right-of-way.

12. A Public Improvement Easement is necessary for any sidewalk and/or bicycle facility that is not located in the county right-of-way and/or not maintained by the County. The PIE should be wide enough to accommodate the facility and a minimum of 1 foot beyond the facility in order for the county to maintain it. Prior to submission of the record plat, the applicant's consultant will need to determine if there is sufficient right of way to permit the bicycle and sidewalk construction. If not, the applicant will need to execute a Declaration of Public Improvements Easement document or a maintenance and liability agreement (for sidewalk maintained by the applicant). These documents are to be recorded in the Land Records of Montgomery County, with the liber and folio referenced on the record plat.
13. Provide a ten (10) foot wide Public Utility Easement (PUE) along all existing street frontages. Where a Public Improvement Easements (PIE) are being proposed, the PUE will need to be increased by the width of the PIE.
14. The Forest conservation Easement is not allowed to overlap any other easement, including but not limited to slope and grading easements.
15. Prior to approval of the record plat by the Department of Permitting Services, submit a completed, executed and sealed MCDOT Sight Distances Evaluation certification form, for the existing and proposed driveway(s), for DPS review and approval.
16. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
17. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans with Disabilities Act.
18. If the proposed development will alter any existing street lights, replacement of signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
19. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Kamal Hamud of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
20. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
21. At or before the permit stage, please contact with Mr. Wayne Miller of our Division of

Transit Services to coordinate improvements to the RideOn bus facilities in the vicinity of this project. Mr. Miller may be contacted at Wayne.Miller2@montgomerycountymd.gov or at 240 777-5836.

22. Posting of a right-of-way permit bond is a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:

- a. Paving, curbs and gutters, bicycle facilities, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Westlake Terrace.
- b. Paving, curbs and gutters, bicycle facilities, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Westlake Drive.
- c. Construct a shared use path and narrow the driveways along the gas stations' street frontages.

NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.

- d. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
- e. Permanent monuments and property line markers, as required by Section 50-4.3(G) of the Subdivision Regulations.
- f. Erosion and sediment control measures as required by Montgomery County Code 19-10(02) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- g. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Troy Leftwich
Preliminary Plan No. 12005018C
June 17, 2020
Page 9

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at rebecca.torma@montgomerycountymd.gov or (240) 383-5252.

Sincerely,

Rebecca Torma

Rebecca Torma, Manager
Development Review Team
Office of Transportation Policy

Sharepoint/transportation/directors office/development review/Rebecca/rock spring park/12005018C Westfields Montgomery mall.docx

cc-e: Sam Farhadi, MCDPS RWPR
Deanna Archey, MCDOT DTS
Beth Dennard, MCDOT CSS
Wayne Miller MCDOT DTS

82005003E Westfield Montgomery Mall

Contact: Sam Farhadi at 240 777-6333

We have reviewed site and landscape plan files uploaded on/ dated “5/8/2020”, and

The followings need to be addressed prior to the certification of site plan:

1. Access points on public roads;
 - a. Provide largest vehicle (WB-67 per the plans) right turn movements (in and out) at all intersections/ driveways designated for truck usage, for our review.
 - b. Include a note on the site plan that all protected/ truck access driveways/ intersections details will be finalized at the time of ROW permit (based on the review of item ‘a’ above). Coordination with MCDOT-Transportation Engineering about the specifics of the intersection design may be needed.
2. Clarify the locations and reason for pavement type “H03C” in ROW.
3. Street trees:
 - a. Please provide minimum five feet lawn panel and approved minor species street trees (due to OH wires) along the entire site frontage on Westlake Drive spaced 30’ apart.
 - b. Provide streetlights on the landscaping plans so any possible conflict with street trees can be identified.

March 16, 2020

Mr. Mark Pfefferlie
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Westfield Montgomery PP#12005018C and SP#82005003E

Variance Request for Impact to Critical Root Zone

Dear Mr. Pfefferlie:

As required by the State Forest Conservation Act, the Applicant, Unibail-Rodamco-Westfield, hereby requests a variance for Impact to Critical Root Zones of two (2) specimen trees (30" diameter or greater) on the property located at 7101 Democracy Boulevard, in Bethesda, Maryland (the "Property") in connection with the Westfield Montgomery Project. The Applicant, Unibail-Rodamco-Westfield, proposes to amend the Site Plan to revise the previously approved retail, parking and circulation configuration. Proposed development shall be constructed in accordance with a Development Program which shall be approved by M-NCPPC staff prior to approval of the Certified Site Plan.

The project is bounded by Democracy Blvd., Interstate 270, Westlake Drive and Westlake Terrace. The Property has a total tract area (gross) of approximately 2,614,515 square feet (or 60.021 acres), which includes land previously dedicated for right-of-way. The net site area after street dedication as shown on the record plat is 59.45 acres.

The existing development is being expanded to include an open air retail and dining district with a residential component above. This will create an iconic destination for people to live, play, shop and enjoy the outdoors.

As shown on the Forest Conservation Plan, Tree #319, a Silver Maple (*Acer sacharinum*) has a 34" diameter at breast height and Tree #321, a Pin Oak (*Quercus palustris*) has a 32" diameter at breast height. They are located at the southwest quadrant of the Property, at the Tavenshire Way entrance along Democracy Blvd. The trees are located in a green space between Tavenshire Way and the gas station entrance to the west. Per the previous Forest Conservation Plan, 7.20 acres of forest have been purchased off-site and implemented. The current plan will provide the remaining 2.08 acres of mitigation via on-site landscape and street trees, and additional off-site mitigation.

The Critical Root Zones (CRZ) of the two trees will be impacted by the construction of new or relocated sidewalks and the widening of the entrance drive. Root Pruning will be performed and Tree Protection Fence installed to protect the two trees during construction. Note that the current LOD in this area has not changed since the previous approval, therefore prior proposed Tree Protection has also not changed, so the

impact to the root systems was part of the original approvals. It is the intent of the Applicant to save these trees. The total disturbance to the CRZ of tree #319 is 218 square feet, and of tree # 321 is 2,773 square feet. It should be noted that the CRZ of tree #321 extends across the existing ring road and that 1,200 square feet of the total disturbance is within the existing pavement. It is unlikely that any significant root system lies beneath the pavement since the existing pavement pre-dates the growth of this tree. Therefore, the actual disturbance to the tree's root system is only about 1,573 square feet.

The following describes the above requested variance in further detail and provides additional justification, in accordance with Section 22A-21(b) *Variance Provisions* of the Montgomery County Forest Conservation Ordinance.

Requirements for Justification of Variance:

1. Describe the special conditions peculiar to the property which would case the unwarranted hardship;
2. Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;
3. Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;
4. Provide any other information appropriate to support the request.

Justification of Variance:

1. Describe the special conditions peculiar to the property which would case the unwarranted hardship;

Justification: Avoidance of the Critical Root Zones of the above mentioned (2) specimen trees located along the southwestern property line would severely limit the developable area of the Property. The critical root zones of these trees extend beneath the existing ring road and entrance. The proposed widening of the ring road and addition of the sidewalk connection are to reconfigure the exit lanes onto Democracy Blvd. to separate the left and right turn lanes with an island and to eliminate a dangerous head-on traffic pattern on the ring road, and were required in accordance with the previously approved Preliminary and Site plans in order to improve the vehicular and pedestrian circulation and access to the site. The law requiring submission of this variance request was established after the proposed road and pedestrian

improvements were approved as part of the 2012 Site Plan Amendment. These road improvements will not be feasible without impacting the Critical Root Zones of these two trees.

2. Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;

Justification: By not granting variance approval to the applicant, redevelopment of this property would be severely impaired. The limitations to the developable and disturbable area, when restricted by the tree's critical root zone would significantly impair the economic viability of redevelopment of this Property. Any redevelopment of the Property consistent with the approved GR zoning and the County's goals as expressed through the Master Plan would require similar levels of disturbance. The existing ring road lies within the critical root zones of these trees. In order to avoid impacting the critical root zones of these trees, this existing exit from the mall would not be able to be improved to provide adequate and safe access to the site.

3. Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;

Justification: Impact of the Critical Root Zones of these trees will not violate the State water quality standards, nor will a measurable degradation in water quality occur. The proposed development will provide an increase in pervious area over the existing conditions, thus reducing runoff. In addition, for the runoff that now occurs within the portions of the mall which will be reconstructed under this plan, stormwater requirements will be provided utilizing current practices and standards -- Environmental Site Design to the Maximum Extent Practicable. Currently only small portions of this site are being managed or treated at all. Thus, the development of this property with the disturbance to these trees will improve the water quality for this site. Stormwater management will be provided through use of green roofs and micro-bio-retention planter boxes to treat the rooftops of the new multi-story buildings and surface micro-bioretenion facilities to treat the new surface parking lots. The majority of parking is being placed in parking structures below the proposed plazas and buildings. Most of the proposed trees within the woonerf and plazas will be planted on grade with full soil depth below to extend their roots so that they can grow and provide full canopies.

4. Provide any other information appropriate to support the request.

Justification: The specimen trees are located in a small island of grass straddling the lot line that is approximately 1,000 square feet. These trees are not providing such benefits to the

Mr. Mark Pfefferlie
Westfield Montgomery
PP#12005018C and SP#82005003E
June 29, 2018

Property as to outweigh the potential of the new development which includes over one hundred and forty proposed trees, as part of the plans to create an iconic destination and community destination.

In conformance with Section 22A-21(d) of the Code, the Variance will not confer a special privilege on the Applicant that would be denied to others. Rather, as discussed above, the Variance will prevent the deprivation of rights to the Applicant that have been enjoyed by others similarly situated. The requested variance is based on plans being developed under 1) the approved zoning, and 2) County's goals as expressed through the recently approved Master Plan, not conditions or circumstances resulting from actions by the Applicant. There are no conditions relating to land or building use, either permitted or non-conforming, on a neighboring property that have played a role in the need for this variance.

Thank you for your consideration of this Tree Variance Request. We believe that the supporting information provided with this letter clearly demonstrate that the grant of the Variance pursuant to Section 22A-21(b) of the Code is appropriate in this case. If you have any questions or need more information, please do not hesitate to contact us so that we may discuss this matter further. We appreciate your consideration of this request.

Sincerely,



Kevin Mack, RLA
Associate
Dewberry

Public Improvements for Development per Preliminary and Site Plan Approvals Westfield Montgomery

Preliminary and Site Plans (1-2005018 and 8-2005003) as amended		Status
Dedications:		
Dedicate all Master Planned Road ROW's		Completed
Westlake Terrace (45' from center line)		Completed
Westlake Drive (45' from center line)		Completed
Democracy Blvd.		
Place in reservation 35' wide Transitway Easement area from I-270 (190')		Completed
Grant PIE along Westlake Drive and Westlake Terrace		Completed
Intersection Improvements:		
Add north and southbound Rt-Turn lanes from Seven Locks onto Democracy Blvd.		Completed
Reconfigure existing Rt-turn only lane on Tuckerman @ Seven Locks to Rt and Thru Lane		Completed
Payment to MCDOT CIP Intersection Improvement Fund for future change to lane configurations on southbound Westlake Drive at intersection with Democracy Boulevard as County determines need		Completed
	At site plan certification; recorded in Land Records	Signed June 27, 2012
Enter into Transportation Mitigation Agreement		
Renew Offsite Parking Agreements		
Comply with MCDOT Program Requirements for relocation of Transit Center and Related Program Requirements(Note: parties signed MOU and related construction documents in 2007))	MOU	Completed

ATTACHMENT 4

Public Improvements for Development per Preliminary and Site Plan Approvals
Westfield Montgomery

Improve/Construct Roads per approvals		
<i>Westlake Drive</i>		
Approach owners on west side of W. Dr. for 5' wide PIE for enhanced area for landscaping		Done - Not accepted by adjacent owners
Construct half-section road improvements up to existing western curb per the new Sector Plan section.		Outstanding
<i>Westlake Terrace</i>		
Construct half-section road improvements up to existing northern curb per the modified Sector Plan section		
maintaining a 52' carriageway with 5 vehicular travel lanes. (Pending Approval)		Outstanding