



**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 A<sup>1</sup> 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

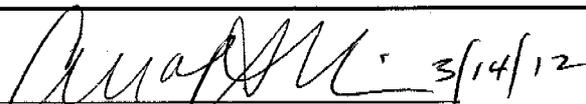
WHEREAS, on December 10, 2007, the Planning Board approved an amendment to the site plan, Site Plan 82005003A (MCPB Resolution 07-193) to i) increase the approved gross leasable square feet of commercial retail space by 59,384 square feet for a total of 1,601,556 gross leasable square feet of commercial 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

<sup>1</sup> The name of the project has been changed to Westfield Montgomery Mall

Approved as to  
Legal Sufficiency:

  
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 conditions<sup>2</sup>:

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

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<sup>2</sup> 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

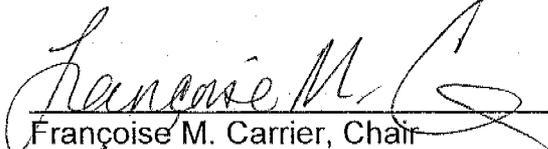
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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