



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

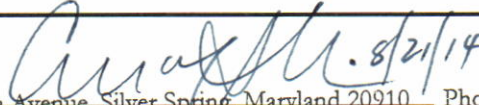
WHEREAS, on December 11, 2007, the Planning Board, by Resolution MCPB No. 07-225, approved Preliminary Plan No. 12005018A to modify the previous acreage to 60.02 acres and increase the previously approved development by 25,005 square feet; and

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:


MNCPPC Legal Department
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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