

AGREEMENT

This Agreement is made this 20th day of September, 2007 by and between Montgomery Mall, LLC, a Delaware limited liability company, (the "Developer") and the Montgomery Mall Citizens Advisory Panel ("MMCAP"), a Maryland nonprofit organization.

RECITALS:

1. MMCAP is the confederation of local communities bordering and/or allegedly affected by the redevelopment of Westfield Montgomery (the "Mall") a regional shopping center in Montgomery County, Maryland. Developer has initiated development proposals for the expansion and redevelopment of the existing Mall.
2. In 2005 Developer obtained approval from the Maryland-National Capital Park and Planning Commission (the "Planning Board") of a preliminary plan of subdivision that authorized expansion of the Mall by up to an additional 500,000 sf of GLA and included within the Mall lot a previously unsubdivided parcel of about 2.7 acres (the "Preliminary Plan"). At the same time, Developer obtained from the Planning Board approval of a site plan to build out about 308,000 sf of GLA, including the construction of a new and expanded transit center in the northeast edge of the Mall site (the "Site Plan").
3. In 2006 Developer acquired the Westlake Crossing Shopping Center, a 2.4 acre strip center parcel bordered on three sides by the Mall and facing Westlake Drive. Thereafter Developer submitted an application to amend the 2005 preliminary plan of subdivision approval to incorporate the strip center lot within the Mall's lot. In addition, Developer submitted a site plan amendment application to increase the approved build-out to 525,000 sf of GLA (the original 500,000 sf plus the existing Developer square footage of 25,000 GLA).
4. In February, 2007, MMCAP was formed and presented a series of concerns to Developer and the Planning Board staff relating to the redevelopment. In June 2007, Developer presented to the community a series of modifications to the plans in an effort to respond to community issues.
5. In the summer of 2007, Developer then submitted revised site plan amendments consistent with the June presentation to MMCAP. These modifications reduced the GLA to 360,000 sf of GLA, which resulted in an almost 50% reduction in the length of a garage structure along Westlake Drive. Additional changes were made to address Planning Board staff comments and input received from MMCAP.
6. Dialog between Developer and MMCAP has continued and the parties have agreed to additional changes to the redevelopment proposals which they will ask to be incorporated in the Planning Board approval of the pending amendments to subdivision and site plans (the "Development Approvals"). Based on these changes, MMCAP will support the pending Development Approvals before the Planning Board set for hearing on September 20, 2007 and Developer will accept these modified conditions. MMCAP will request no further modifications or other changes in connection with this redevelopment project.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the sufficiency of which the parties hereby acknowledge, the parties hereby agree as follows:

I. Westlake Drive: Developer will modify the pavement cross-section, described in the Planning Board staff memoranda for the Sept 20th Planning Board hearing, to add a 3 foot bike lane and 1 foot curb/gutter along the Mall property line on the east side of Westlake Drive by increasing the width of the Public Improvements Easement on the eastern side of Westlake Drive. To do so, Developer will relocate the utilities along the east side pursuant Exhibit A attached hereto (comprising of four pages). This change will not affect the Mall's property line, the setbacks, or the location of any improvements, but will encroach on the landscape area, affecting some of the landscape design elements along Westlake Drive.

II. Westlake Drive Parking Deck Façade: Developer will modify the Westlake Drive parking structure as depicted on the attached elevations attached hereto as Exhibit B (comprising four pages). The modifications will include:

- (a) Stepping back the façade along Westlake Drive from the main entrance to the south;
- (b) Articulating the parapet height;
- (c) Adding articulating elements to the façade to include awnings, handrails, and variations of structural concrete finishes;
- (d) Adding natural stone materials along the baseline of the deck;
- (e) Adding a covered walkway with lighting from the entrance to the Mall entry, to allow pedestrian passage from Westlake Drive into the Mall; and
- (f) Stepping back the façade will result in the loss of approximately 100 parking spaces, which reduction is subject to the approval of the Planning Board, and is in addition to the already requested waiver to 7,177 spaces. MMCAP will support the reduced number of parking spaces to 7,077.

III. Mid-Block Pedestrian Crossing along Westlake Drive: Subject to approval by Montgomery County Department of Public Works and Transportation, Developer will locate a mid-block pedestrian crossing with pedestrian refuge island between Westlake Terrace and the garage entrance on Westlake Drive, ("DPW&T"). Upon DPW&T 's approval of a mid-block crosswalk, Developer will move the exterior stair along the north side of the deck to match up with the southern most mid block crossing which MMCAP is proposing.

IV. Transit Center: Developer will support MMCAP's request that the bus service from the new transit center feature additional routes using Westlake Drive and serving the needs of communities affected by the relocation of the transit center.

V. Work Progress Liason: Developer will respond to community concerns via a designated representative of MMCAP during the construction phase regarding matters of concern to the community, plantings, and issues related to construction.

VI. Warranty and Authorization: MMCAP represents and warrants that MMCAP is authorized to represent all its constituent associations in accordance with its Bylaws, a copy of which is attached hereto as Exhibit C. Attached hereto as Exhibit D is a copy of the Board Resolution of MMCAP approving this Agreement and certified by the Secretary of the MMCAP Board as having been duly adopted at a legally constituted meeting of the MMCAP Board.

MMCAP's constituent associations include, without limitation, the following:

- (1) Alta Vista Gardens / Lone Oak / North Bethesda Grove Civic Association;
- (2) Ayr lawn Citizens Association;
- (3) Chelsea Tower Condominium Association;
- (4) Crestberry Homeowners Association;
- (5) Devonshire Homeowners Association;
- (6) Luxmanor Citizens Association;
- (7) Maplewood Citizens Association;
- (8) Seven Locks Civic Association;
- (9) Windermere Homeowners Association;
- (10) Westlake Park Condominium "A" Condominium Association;
- (11) Westlake Park Condominium "B" Condominium Association;
- (12) Westlake Park Condominium "C" Condominium Association;
- (13) West Spring Condominium Association; and
- (14) Wildwood Hills Citizens Association.

VII. Covenant Not to Initiate Action: MMCAP will not initiate any action against the Developer in any judicial, quasi-judicial or administrative forum, with respect to the Development Approvals, as modified by this Agreement, nor file any administrative appeals or other proceedings with any court, the Planning Board, or any other governmental agencies, to oppose or challenge the Development Approvals, as modified by this agreement.

VIII. Public Support: It is intended that any settlement between Developer and MMCAP will require MMCAP to support publicly the pending Development Approvals with the conditions described above, and MMCAP will not request any further modifications to the proposed plans. MMCAP will propose the modifications agreed to in paragraphs I, II and III above, in the form of the conditions attached hereto as Exhibit E.

IX. Effect on 1958 Covenants: This settlement and any actions taken pursuant to it are without prejudice to the parties' different positions regarding the continued enforceability and viability of the covenants recorded among the land records of Montgomery County, Maryland in Liber 2464 at Folio 262 on June 4, 1958 (the "Covenants"). No construction pursuant to the Development Approvals of the Planning Board and any other governmental agency shall be deemed to be or may be used as evidence supporting a claim that the Covenants have been violated by this construction. No signatory to this Agreement and no successor or assign of any signatory may claim that any redevelopment hereunder violates the Covenants. It is the intention of the parties hereto that execution of this Agreement will have no legal effect on the rights or liabilities of either of the parties hereto as to future redevelopment of the property.

IX. Conditions Precedent: The following conditions must precede performance of any obligation hereunder by Developer:

(1) The Preliminary Plan and Site Plan amendments which are to be heard by the Planning Board on September 20, 2007 must be approved, as submitted by Developer with the modifications agreed to and contained herein.

(2) Developer must receive all final governmental approvals for the project as submitted and consistent with this Agreement. For purposes of this Agreement, all final development approvals shall include all governmental action necessary to effect the Development Approvals, including the expiration of any appeal periods and/or the resolution of the appeals in favor of the Developer.

(3) There will be no impediments to implementation by Developer of the Development Approvals including, without limitation, any direct or collateral attacks in a judicial or other forum on the Development Approvals.

ATTEST/WITNESS

Montgomery Mall, LLC

By:

By: _____
John Pattillo, Senior Vice President

ATTEST/WITNESS

Montgomery Mall Citizens Advisory Panel

By:

By: *Sari J. Lantz*

By: *Peter Downes*
Peter Downes, President