

THE HOWARD HUGHES CORPORATION, \* BEFORE THE  
PETITIONER \* PLANNING BOARD OF  
PLANNING BOARD CASE NO. 435 \* HOWARD COUNTY,  
MARYLAND

\* \* \* \* \*

**DECISION AND ORDER**

The Planning Board of Howard County Maryland held a public hearing on February 1, 2018, (continued on March 15, and April 19, 2018), in accordance with Section 125.0.E of the Howard County Zoning Regulations, to consider the petition of the Howard Hughes Corporation, Owner, to approve a Final Development Plan, FDP-DC-L-1, which proposes Downtown Mixed-Use Development consisting of 72,400 SF of retail and restaurant (54,244 SF net new), 242,000 SF of office (113,402 SF net new) and a maximum of 509 residential dwelling units on 12.04 acres. 65,270 SF of Downtown Community Commons is also proposed within the project area. The project is located within an area known as the Lakefront Core Neighborhood, located east of Little Patuxent Parkway and west of Lake Kittamaquindi on land identified as Tax Map 30, Grid 20, Parcel 369, Tax Map 36, Grid 1, Parcels 293 and 298, and Tax Map 26, Grid 2, Parcel 321. It is zoned NT and designated as Downtown Mixed-Use Area on the Downtown Columbia Plan – A General Plan Amendment.

The Notice of Hearing was published and the subject property was posted in accordance with the Planning Board’s requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case.

Pursuant to the Planning Board’s Rule of Procedure, the reports and official documents pertaining to the petition, including the Technical Staff Report, the Downtown Columbia Plan, the Zoning Regulations, Downtown-wide Design Guidelines, Subtitle 11 of the Subdivision and Land Development Regulations – Adequate Public Facilities, and the Sign Ordinance, amended for Downtown Columbia as Council Bill 56-2010, were made part of the record.

The Petitioner was represented by Todd Brown, Esq. There were several area residents and organizations who appeared in opposition to the Petition, all whom were representing themselves.

After carefully evaluating all testimony and evidence accepted into the record, the Planning Board made the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. The Planning Board has the authority to review and make a decision regarding the proposed Final Development Plan in accordance with the pertinent criteria set forth, pursuant to Section 125.0.E.4 of the Zoning Regulations. Those criteria are as follows:
  - a. The Downtown Neighborhood Concept Plan, the Neighborhood Specific Design Guidelines, and the Neighborhood Specific Implementation Plan conform with the Downtown-Wide Design Guidelines; the Downtown Columbia Plan (including the Street and Block Plan, the Neighborhoods Plan, the Maximum Building Heights Plan, the Primary Amenity Space Framework Diagram, the Street Framework Diagram, the Bicycle

and Pedestrian Plan, and the Open Space Preservation Plan). Any proposed change(s) will not be detrimental to the overall design concept and phasing for Downtown Revitalization. Limited change in building heights may be approved based on compatibility, character and height of nearby existing and planned development and redevelopment, and open spaces in the area. However, in no event shall the maximum building height for Downtown Revitalization exceed twenty stories.

- b. The Neighborhood Design Guidelines submitted with the Final Development Plan offer sufficient detail to guide the appearance of the neighborhood over time, and promote design features that are achievable and appropriate for Downtown Revitalization in accordance with the Design Guidelines and the Downtown Columbia Plan.
- c. The Final Development Plan conforms with the Neighborhood Documents; the Revitalization Phasing Plan, the Downtown Community Enhancements, Programs, and Public Amenities (CEPPA) Implementation Chart and Flexibility Provisions; the Downtown-wide Design Guidelines; the Downtown Columbia Plan, (including the Street and Block Plan, the Neighborhoods Plan, the Maximum Building Heights Plan, the Primary Amenity Space Framework Diagram, the Street Framework Diagram, the Bicycle and Pedestrian Plan, and the Open Space Preservation Plan). Limited change in building heights may be approved based on compatibility, character, and height of nearby existing and planned development and redevelopment, and open spaces in the area. However, in no event shall the maximum building height for Downtown Revitalization exceed twenty stories.
- d. The Final Development Plan, when considered in the context of surrounding planned or existing development, provides a balanced mix of housing, employment, commercial, arts, and cultural uses in each phase.
- e. The Final Development Plan satisfies the affordable housing requirement.
- f. The bicycle, pedestrian, and transit network creates convenient connections throughout the subject area and connect, wherever possible, to existing and planned sidewalks, path, and routes adjoining the development.
- g. The Final Development Plan protects land covered by lakes, streams or rivers, flood plains and steep slopes, and provides connections, where possible to existing and planned open space within the neighborhood and in surrounding area.
- h. The Final Development Plan provides the location of Downtown Community Commons required under Section 125.A.9.h as indicated in the Neighborhood Concept Plan.
- i. The Final Development Plan is in harmony with existing and planned vicinal land uses. In making this determination, the Planning Board shall consider, if appropriate:
  - 1. Landscape features on the boundary of the plan area, which may include protection of existing vegetation or grade changes that provide a natural separation, or landscape planting;
  - 2. The size of buildings along the edges of the plan area through limits on building height or other requirements;
  - 3. The use and design of nearby properties and
  - 4. The adopted Downtown Columbia Plan recommendations for height, building massing and scale, and neighborhood connectivity.
- j. The development, as proposed by this Final Development Plan, is adequately served by public facilities; including any proposed mitigation or development staging. It further

complies with the Adequate Public Facilities Ordinances (Title 16, Subtitle 11 of the Howard County Code) for both schools and roads.

- k. The Final Development Plan protects environmentally sensitive features and provides environmental restoration in accordance with the Downtown Columbia Plan.
  - l. The Final Development Plan protects any historic or culturally significant existing sites, buildings or structures, and public art.
  - m. The Final Development Plan proposes any appropriate plan to satisfy the requirement for art in the community.
  - n. The Final Development Plan provides a plan to hold, own, and maintain in perpetuity land intended for common, quasi-public amenity use and public art that is not publicly owned, including, without limitation, any Downtown Community Commons, Downtown Parkland, Downtown Arts, Cultural and Community Use, and Downtown Neighborhood Square shown on the Final Development Plan.
  - o. To better ensure conformance with the Community Enhancements, Programs and Public Amenities provisions, the Final Development Plan provides for a plan to establish membership in the Downtown Columbia Partnership and payment of the annual charges. Each Final Development Plan shall show a consistent means of calculating and providing the required annual charges.
2. The Planning Board has the authority to review and make a decision on the requested CEPPA alternative compliance in accordance with the Section 125.0.A.9.h.3, “if a specific CEPPA identified in the Downtown CEPPA Implementation Chart cannot be provided because (I) the consent of the owner of the land which the CEPPA is to be located or from whom access is required cannot reasonably be obtained; (II) all necessary permits or approvals cannot reasonably be obtained from applicable governmental authorities; or (III) factors exist that are beyond the reasonable control of the petitioner, then the Planning Board shall (I) require the petitioner to post security with the County in an amount sufficient to cover the cost of the original CEPPA; or (II) approve an alternate CEPPA comparable to the original and appropriate timing for such alternate CEPPA or alternative timing for the original CEPPA. In approving an alternate comparable CEPPA or timing, the Planning Board must conclude the alternate comparable CEPPA or timing: (I) does not result in piecemeal development inconsistent with the plan; (II) advances the public interest; and (III) conforms with the goals of the Downtown Plan.
3. Jill Manion-Farrar presented the Technical Staff Report for the Department of Planning and Zoning, which recommended approval of the Lakefront Core Final Development Plan (FDP), Phase 1, FDP-DC-L-1, which includes the Lakefront Core Neighborhood Concept Plan, Lakefront Core Specific Design Guidelines, and Lakefront Core Specific Implementation Plan, subject to addressing all remaining Subdivision Review Committee comments in the letter dated December 22, 2017. The Technical Staff Report also recommended approval of the alternative compliance timing for CEPPA #19 to 3,900,000 SF of development and alternative compliance timing of CEPPA #22 to 2,600,000 SF of development.

Ms. Manion-Farrar described the existing conditions of the proposed FDP land area as existing improved land consisting 76,9895 SF of retail, 178,624 SF of office and 28,385 SF of “other” uses. Approximately 18,156 SF of existing retail and 128,598 SF of existing office would be demolished. The area would be redeveloped as a mixed-use project with 72,400 SF of new retail, 242,000 SF of

new office and 509 residential units for a net increase of 54,244 of retail, 113,402 SF of office, and 509 residential units. The new land use configuration would be 10.62 acres of proposed Downtown Mixed-Use Area (DMUA) and 1.42 acres of Downtown Community Commons (DCC). A grid street network is proposed, including a south extension of Wincopin Circle from the existing circle to the Whole Foods driveway, which is a road segment now originally included in the Downtown Columbia Plan Street Framework Diagram. Ms. Manion-Farrar presented the requested boundary change for the Lakefront Core to encompass two parcels fronting on Little Patuxent Parkway, and a request to increase the maximum building height of these two parcels from 9 stories/120' to 15 stories/170'. In order to mitigate the increase height, the petitioner, at the recommendation of the Design Advisory Panel, implemented variation and massing standards for the blocks, with a 50% cap for each block's land area to reach the maximum height. The standards are provided within the Lakefront Core Neighborhood Design Guidelines to be approved with the FDP.

Ms. Manion-Farrar also presented the request for alternative compliance and corresponding justification from the petitioner for CEPPA 19, which requires the construction of the Lakefront Terrace amenity and CEPPA 22, the deeding of a Neighborhood Square to the County. The petitioner is requesting to switch the milestone timing of these to requirements to allow additional time for the developer, the County and the State to determine the need and design of a potential 3<sup>rd</sup> interchange to Route 29 within the vicinity of the Lakefront Terrace, as indicated in the Downtown Columbia Plan.

The staff technical staff report found that the petitioner's application met all applicable criteria for approval, including for the proposed modifications from the Downtown Columbia Plan exhibits.

4. Ahead of calling expert witnesses for the Petitioner, Mr. Brown requested that the DPZ file for FDP-DC-L-1 be incorporated into the record in its entirety including, the justification statement from the petitioner dated January 1, 2018. In addition, Mr. Brown added the following exhibits into the record:
  - a. Applicant Exhibit #1 – Copies of the Certificate of Posting and Certificate of Advertising
  - b. Applicant Exhibit #2 – Certification that the Pre-submission Community Meeting was held as required on June 7, 2017.
  - c. Applicant Exhibit #3 – Letter dated November 3, 2017 regarding the finding of Adequacy Public Facilities for schools and housing allocations
  - d. Applicant Exhibit #4A – 4D – Resumes of technical witnesses (Cecily Bedwell, Design Collective; Michael Cheney, Groundswell; Carl Gutschick, GLW; Michael Workosky, Wells and Associates)

In addition, a copy of petitioner's complete presentation was later incorporated into the record as Applicant Exhibit #5.

5. Greg Fitchitt, Vice President of Development for the Howard Hughes Corporation, testified regarding the status of Downtown Columbia Revitalization, identified the Lakefront Core Area, and also introduced the partners and design team for the Lakefront Core. Mr. Fitchitt testified that the FDP plan area does not include land owned by Columbia Association, but that the Howard Hughes Corporation is coordinating improvements and design with the Columbia Association. Mr. Fitchitt testified that the proposed project is a redevelopment that replaces some existing buildings, a single level parking deck and surface parking with a new mixed-use development to include 509 dwelling units (condominium and apartment), 242,000 SF of new office space, 72,400 SF of new retail and

restaurant space, and approximately 65,000 SF of new amenity space (comprised of the Lakefront Connection, and the Neighborhood Square, which would be dedicated to the County and include Veteran's Monument). Mr. Fitchitt addressed the boundary adjustment proposed as part of the FDP so that it includes development-ready sites and will include the bulk of new development proposed on the FDP, and allows HHC to build the Lakefront Connection, which achieves a major goal of the Downtown Columbia Plan to provide access and visibility to the Lakefront.

On cross-examination, Mr. Fitchitt testified that the purpose of the proposed phasing for the recordation of the FDP is due to a loan on a parcel that includes the Whole Foods and some of the surface parking to be redeveloped. The lender will not permit changes to the parcel without a more definitive understanding of what specific improvements would be made. The proposed phasing allows the FDP to be recorded against the remaining parcels immediately. The FDP would then be recorded again for the remaining southern portion once the lender approves the changes, the loan is refinanced or the loan is paid off.

On cross-examination, Mr. Fitchitt defined the term "vibrant" as an active area with lots of pedestrians, where people go because they are interested in the atmosphere and stated on follow-up that increased height for office and residential buildings tends to add more people to the downtown (living and working) as well as allows for economic viability of condominium development. Mr. Fitchitt further testified that while it may be possible to get the same number of units with a solid 9-story block, that the goal of the plan was to have varied heights and architecturally interesting buildings.

On cross-examination, Mr. Fitchitt defined "foreseeable future," in regard to the development of the southern parcel, to approximately 3-5 years.

On cross-examination, Mr. Fitchitt testified that affordable housing would be provided in accordance with the Development Rights and Responsibilities Agreement adopted by County Council in November 2016. Mr. Fitchitt responded to a follow-up question that the immediacy of availability would depend on the unit type.

In response to cross-examination regarding public art requirements, and whether fee-in-lieu would be paid or if the art would be delivered, Mr. Fitchitt testified that the decision would be made later, but that all art has been delivered in the neighborhoods thus far.

Mr. Fitchitt testified on cross-examination that the requested height increase for two blocks does not equate to market conditions taking precedence to the Downtown Columbia Plan. Height adjustments have been made on several FDPs thus far as permitted by the Downtown Columbia Plan, Downtown-wide Design Guidelines, and the Zoning Regulations.

In response to a question on cross-examination if the parking garages and the Whole Foods surface lot would be accessible by the public, Mr. Fitchitt responded that parking is not the subject of the FDP, but he anticipates that adequate parking will be available to the public.

Mr. Fitchitt testified that the proposal does not include improvements on the west side of Little Patuxent Parkway as the land is not owned by the petitioner, and that there is no coordinator with the property owner on the west side to complete the connection to the Mall.

In response to a question whether the alignment of the future 3<sup>rd</sup> interchange would encroach into the Lakefront Terrace area Mr. Fitchitt testified that the future connection is not yet designed and the uncertainty is part of the reason that they are requesting a delay in fulfilling the CEPPA requirement for the terrace. He further testified that the design will be a collaborative effort between The Howard Hughes Corporation, the County, and the State.

On cross-examination regarding the expanded Lakefront Core boundary and the purpose for expanding the boundary, Mr. Fitchitt explained that 80% of the development proposed is on the newly added parcels, which are controlled by the Howard Hughes Corporation and nearly demolition- and development-ready. Adding the parcels allows them to proceed with development within the Lakefront, and to get the Lakefront Connection in place.

Mr. Fitchitt testified on cross-examination that the purpose of the Neighborhood Square CEPPA was to have a publicly owned amenity space, and the location of the Veteran's Monument would be a use on the Neighborhood Square. Mr. Fitchitt testified that all the Lakefront property has steep topography, but believed that the Neighborhood Square would be visible and the design would address ADA accessibility.

Mr. Fitchitt acknowledged on cross-examination that CEPPA requirements could be completed at any time up to the stated milestone in the Downtown Columbia Plan.

Mr. Fitchitt testified that the reason that 15 story buildings have not yet been built in the areas of Downtown that the Downtown Columbia Plan permits such height is due to market conditions that make the Lakefront a more viable location for a condominium project. Mr. Fitchitt testified upon further cross-examination that he was aware that the Lakefront Core identified in the Downtown Columbia Plan was a special place, explaining that proposed height increases are outside the originally delineated Lakefront Core area. Mr. Fitchitt affirmed that buildings facing Wincopin Circle may be taller than 9 stories and up to 15 stories but not for the entire block because there will be restrictions on variations and massing.

On cross-examination Mr. Fitchitt repeated that there are three differences proposed on the FDP from what was shown on the Downtown Columbia Plan exhibits, including the modification of the boundary, modification to the height, and the modification of the extension of Wincopin Circle, in addition to the CEPPA alternative compliance. Mr. Fitchitt disagreed that the proposed demolition of the American Cities Building and the retention of the Teacher's Building constitute a major change because while an illustrative plan exhibit within the plan showed the American Cities building remaining and the Teacher's Building redeveloped, the plan did not require the preservation of any building except the former Rouse Company Headquarters.

Mr. Fitchitt testified that he did not believe that the Downtown Columbia Plan relied on the removal of the Teacher's Building in citing the Lakefront Connection to provide better views to the lake and that he believed that the proposed design results in an improved view.

Mr. Fitchitt testified that both special events and the daily population of a space with residents and workers creates vibrancy, and that the proposed design increase the amount of public space available for special events.

Mr. Fitchitt testified that the Veteran's group selected the Lakefront location for a monument.

Mr. Fitchitt testified that all parcels within the FDP area are currently owned by HRD or subsidiaries to HRD.

6. Cecily Bedwell, Principal, Design Collective, 601 East Pratt Street, Baltimore, testified on behalf of the petitioner regarding the proposed Lakefront Core Neighborhood Design Guidelines and the Lakefront Core Neighborhood Implementation Plan. Ms. Bedwell summarized the highlights of the neighborhood design guidelines and how they were crafted to meet both downtown-wide and Lakefront Neighborhood specific objectives. Ms. Bedwell explained that in addition to the cap on the number of stories, the plan limits the number of feet that a building may be, and that the height difference in feet between a 9-story building and 15-story building is about 50 feet. Ms. Bedwell further opined that with the higher elevation and increased height limits on the west side of Little Patuxent Parkway, allowing 15-stories on the east side of Little Patuxent Parkway would provide a good transition to the Lakefront. Ms. Bedwell quoted the Building Articulation Section of the Downtown-wide Design Guidelines, section G., which states that height subzones may be modified in accordance with the Zoning regulations to provide a variety of heights within a neighborhood, and testified that the Lakefront Core Neighborhood Guidelines will require variations and massing requirements within the blocks to ensure that that a whole block is not built at 15 stories.

Ms. Bedwell testified to the proposed southern extension of Wincopin Circle and provided illustrations for special paving for the private section of the road, and provided a descriptive summary and illustrative examples of the proposed road section types, setbacks of buildings from road curb lines, architecture, signage and amenity spaces, and how Design Advisory Panel (DAP) recommendations were followed. Ms. Bedwell identified trees to remain and to be removed within project area, and stated 75 new trees would be planted. Ms. Bedwell testified that 6,594 SF of existing open areas would be impacted with the development, 42,554 SF of existing open area within the defined project boundary is to remain, and 27,194 SF of new open area will be provided, thereby increasing the overall open space to the Lakefront. Ms. Bedwell also summarized the elements of the Lakefront Core Implementation Plan, including overall neighborhood yield per use and Downtown Community Commons required (24,022 SF) and what will be provided (44,008 SF of primary amenity space with the Lakefront Connection and 26,225 SF of secondary amenity space with the Neighborhood Square and Veteran's Monument).

With regard to DAP's recommendations pertaining to the requested building height increases, Ms. Bedwell quoted a memo summarizing the DAP recommendation generated by Design Collective: "The DAP supported 15-story maximum building heights along the east side of LPP. The DAP noted the importance of stepping back or stepping down that portion of a building facing the Lakefront. This would allow amenity spaces on top of the roof face the Lakefront."

Ms. Bedwell testified the Lakefront Connection is generally proposed in the same location as shown on the Downtown Columbia Plan, adjusted only slightly south. Ms. Bedwell also testified that the

50% maximum of the 15-story height per block would be north and south of the Lakefront Connection amenity area, and that the height is not intended to be increased within the original Lakefront Core.

Ms. Bedwell testified that setbacks along Wincopin Circle will be a minimum of 15' and maximum of 25', and that it will be a maximum of 35' along Little Patuxent Parkway.

Ms. Bedwell testified that some grading will be needed to even out the existing slopes to complete the southern extension of Wincopin Circle to Whole Foods.

Ms. Bedwell testified that ultimately there would be crosswalks across Little Patuxent Parkway connecting the Lakefront and the Mall.

On cross-examination, Ms. Bedwell testified that the tallest existing structure in the area is the Vantage House, at 12-13 stories. On cross-examination to a question on the compatibility of 20 story buildings with the surrounding area, Ms. Bedwell replied by summarizing the goals of the Downtown Columbia Plan and that 20 stories was identified as a maximum height during that process, and that she does not define "compatibility" as mirroring and replicating existing heights, and believes it allows for transitions.

Ms. Bedwell testified that in order to extend Wincopin Circle some identified trees would have to be removed, and that the Bear Statue will be relocated within the Lakefront Core. The Hug statue would like move 10' from its current location.

On Cross examination Ms. Bedwell testified that gateways are identified as entry areas and frame a view to a corridor identified within the context of the overall complete development and that the gateway threshold set with the Lakefront Connection fits with the east-west connection from the Mall to the Lakefront, as identified on the plan. Mr. Horowitz questioned if there is a building cutting a view from the Lakefront. Ms. Bedwell testified that the term "iconic elements" relates to future architectural features such as the existing fountain not terminated vistas.

Ms. Bedwell stated that the Site Development Plan will provide specific design details, including furniture.

7. Michael Cheney, Managing Director of Urban Design, Groundswell, Philadelphia, PA, testified regarding the proposed design of the Lakefront Connection and the Downtown Neighborhood Square, and how the design intends to create views to the lake and activate the amenity spaces. Mr. Cheney identified the Downtown Columbia Plan's objective to locate the Downtown Neighborhood Square near existing or proposed open space where pedestrian activity is encouraged. Mr. Cheney testified that the conceptual design of the proposed Downtown Neighborhood Square includes terracing to compensate for the downward slope toward the lake, the creation of activity zones, and construction of an ADA accessible route to the Lakefront. Mr. Cheney stated that all renderings of the amenity spaces are conceptual at this time and that detailed designs will be presented with the future site development plan.

On cross-examination, Mr. Cheney testified that "vibe" is the look and feel of the space.

Mr. Cheney testified that he did not have precise information as to the elevation difference from the road to the open space as the FDP is a conceptual design stage.



Regarding a question as to the purpose of the public square for free speech and assembly and how the Veteran's Monument would be accessible during a rally, Mr. Cheney testified there would be distinct elevation zones. The higher, western zone includes the Veteran's Monument and there is a lower eastern terrace. Mr. Cheney affirmed that the free speech zone would be closer to the lake. Mr. Cheney said the lower terrace would be visible from the future road. As to whether the free speech zone would be 25,000 SF, Mr. Cheney responded that the Veteran's Monument has not been designed and the design team would take concerns regarding space and visibility into consideration at the site development plan stage.

8. Mr. Carl Gutschick, Professional Engineer and Principal, Gutschick Little and Weber, 3909 National Drive, Burtonsville, testified regarding the drawings of the Final Development Plan and Neighborhood Concept Plan. Mr. Gutschick described the essential elements of both plans and testified that stormwater management would be designed with site development plan using state redevelopment standards. Mr. Gutschick testified that no environmental restoration is proposed within the final development plan boundaries.

On cross-examination, Mr. Gutschick stated that the 15-story maximum can be identified on the Neighborhood Concept Plan.

On cross-examination regarding a question as to how building height is measured relative to grade change, Mr. Brown proffered by stating that the Lakefront Core Neighborhood Design Guidelines provide guidance to measure height on Page 176. Mr. Gutschick testified that the Downtown Revitalization section in the Zoning Regulations defers to guidance on height to the Neighborhood Design Guidelines.

9. Michael Workosky, Vice President, Wells and Associates, 1420 Spring Hill Rd, Tysons, VA, testified regarding the traffic study submitted with the Final Development Plan. Mr. Workosky identified the intersections studied as part of the adequate public facilities analysis for roads, and stating that impacts to vehicular, bicycle and pedestrian travel was included in the analysis. Mr. Workosky testified that the submitted traffic study does not include the future Symphony Woods Road connection to Broken Land Parkway or a future jug-handle near that location. Mr. Workosky identified potential improvements and signalization to ensure requirements are met and testified that the project would be served by adequate transportation facilities in accordance with the Howard County Adequate Public Facilities Act (APFO). Mr. Workosky addressed the proposed Wincopin Circle southern extension and its importance to reduce traffic impacts on Little Patuxent Parkway, as well to improve pedestrian and bicycle connectivity within the neighborhood. Mr. Workosky testified that the DAP strongly supported the connection. Each Site Development Plan will be tested again to ensure the project continues to be served with the adequate public traffic facilities as buildings are constructed, in accordance with APFO.

Mr. Workosky testified in cross-examination that the submitted traffic study can be considered accurate and valid as it is reviewed by DPZ and DPW staff. Mr. Workosky further testified that due to many of the incremental improvements that have already occurred in Downtown and the mitigation proposed with the traffic study, including two new signals, he does not believe there will be failing intersections because of this project.

Mr. Workosky testified on cross-examination that intersections are tested as an unsignalized condition, and that a failure would indicate a signal may be a possible mitigation measure. Mr. Workosky also testified that sight distance is tested as the SDP stage as a criterion for mitigation.

Mr. Workosky testified that the Wincopin Circle extension to the south was not analyzed for pedestrian traffic. Upon further cross-examination, Mr. Workosky testified that a pedestrian signal is typically warranted at any crossing forecasted to have 100 pedestrians in any four-hour period, but that the Little Patuxent Parkway is not yet forecasted because it is identified as a future condition. Mr. Workosky testified that the existing pedestrian bridge over Little Patuxent Parkway is currently envisioned to remain in place.

Mr. Workosky also testified that the location of garage entrances and loading would be determined at site development plan stage, but that the right-in/right-out configuration would not necessarily complicate their placement. In response to another question, Mr. Workosky testified that the jug-handle at Broken Land Parkway and the 3<sup>rd</sup> (Route 29) interchange were not required with this FDP for the road network to function adequately, but that nothing on this FDP precludes the 3<sup>rd</sup> interchange being built in the future.

Mr. Workosky testified on cross-examination that the rules to conduct a traffic study require that they reflect AM and PM peak hours on a typical weekday. In response to a question from Mr. Horowitz on the shape of Parcel E being rectangular, Mr. Gutschick responded the land boundaries would be reconfigured with the phasing of the FDP.

On cross-examination, Mr. Workosky testified that the FDP and Traffic Study identify the potential for parallel parking on Little Patuxent Parkway, there will be circumstances to allow for it at the Site Development Plan.

Mr. Workosky acknowledged that he was unsure if the open space strip along Little Patuxent Parkway, originally set aside for transit but that will now have a multi-use path, precludes the opportunity for transit in the future

Mr. Workosky testified that while a right-in/right-out condition at the intersection of Wincopin Circle and Little Patuxent Parkway may increase traffic at the Whole Foods signal, it would be a small increase and would not create a traffic conflict, even during events.

10. Mr. Fitchitt testified that the third interchange is contemplated later in the plan (60-70% buildout of Downtown) and that prior to proceeding with a Site Development Plan for Parcel B that Howard Hughes would want more clarity in the potential design of the 3<sup>rd</sup> interchange. In response to a follow-up question regarding how the square footage of development proposed on the FDP approaches the CEPPA threshold for the Lakefront Terrace, Mr. Fitchitt responded that the 2.6 Million SF threshold is approached with the buildout of Crescent Area 3 and what is proposed with the Lakefront Core FDP and that while the threshold is approaching at the FDP stage, the CEPPAs are enforced at the SDP and building permit level and that threshold will not be reached for some time. Mr. Fitchitt also testified that because the design of the 3<sup>rd</sup> interchange is so far off, complicating the delivery of the Lakefront Terrace, that the swap of the CEPPA with the Neighborhood Square is proposed to ensure one of the amenities is delivered within the 2.6 Million SF timeframe.

Mr. Fitchitt provided a timeline for completing the CEPPA for the Wilde Lake pathway.

Mr. Fitchitt stated that Howard Hughes would program and maintain the Lakefront Connection.

11. Mr. Jervis Dorton testified in opposition to the petition. Mr. Dorton provided his credentials as an architect, working for the Rouse Company for 30 years as an architect and planner and that he consulted with General Growth Properties for four years. Mr. Dorton testified that the proposed FDP does not conform to the Downtown Columbia Plan and Downtown-wide Design Guidelines. Mr. Dorton testified the proposed 15 stories exceeds the permitted height on the approved plan, and the 60% increase does not meet the definition of “limited” building height change permitted by the Zoning Code. Mr. Dorton further testified that the private road connection of Wincopin Circle south to Whole Foods is a substantial deviation from the Street Framework Diagram shown on the Downtown Columbia Plan and negatively impacts culturally significant elements of the existing Lakefront open space.

On cross-examination, Mr. Dorton agreed the Downtown-wide Design Guidelines recommended a variety of building heights, and that the Downtown-wide Design Guidelines state that maximum height sub-zones may be modified. In response to a follow-up question, Mr. Dorton disagreed the Zoning Regulations allows for a maximum building height of 20 stories anywhere within Downtown, but that it does allow a limited change based on compatibility and the height of nearby planned and existing development. Mr. Dorton further responded that he interprets the language that sub-zones that already allow 20-stories could not be increased beyond that limit. Mr. Dorton testified that he was not aware that the Planning Board previously approved building height increases but understands the Crescent was not built to the allowable height.

12. Three individuals testified in support of the plan:

Joan Lancos, 6110 Covington Road, Columbia, testified in support of the Final Development Plan proposal, including the Wincopin Circle extension, the increased height, and the CEPPA alternative compliance request, encouraging flexibility to get the best design.

David Phillips, 10299 Wilde Lake Terrace, Columbia, testified in support of the Final Development Lakefront Core Plan, with increased height, density and well programmed open spaces.

Robert Gillette, 16311 Cattail River Drive, Woodbine, president of the Howard County Veteran’s Foundation, testified in support of the proposed plan. Mr. Gillette believes it is fitting that the monument would also be the location where first amendment rights could be exercised. Mr. Gillette further testified he is in support of the proposed uses and increased commercial tax base. Mr. Coleman asked if a playground is compatible with the Veteran’s Monument. Mr. Gillette responded that it is, as it is envisioned not a memorial of fallen soldiers but a reverence to returning military members and their families.

13. The following individuals testified in opposition to the proposed FDP and neighborhood documents, or to the elements of the plan that deviate from the Downtown Columbia Plan exhibits and CEPPA requirements:

Mr. Jervis Dorton testified in opposition to the proposed Final Development Plan for the Howard County Citizen Association to state that the documents submitted are not in accordance with the

Downtown Columbia Plan, due to the proposed building height increase exceeding what would be deemed “limited” and is not compatible with the surrounding properties. Mr. Dorton also stated for the HCCA that the Wincopin Circle extension discourages pedestrian access to the Lake and negatively impacts cultural resources. Mr. Dorton also testified that the FDP is not adequately served by public facilities because there is no provision for adequate parking for public events and no reciprocal easement agreement for parking is established.

Mr. Joel Hurewitz, testified in opposition of the proposed Final Development Plan, particularly for Criterion H and the use of adjacent properties, stating that cultural activities are not proposed, that connectivity is not accurately represented, there is not adequate connections to the west of Little Patuxent Parkway, that the proposed layout blocks access and visibility to the Lake and the cultural resources at the Lakefront. Mr. Hurewitz further testified that the layout of the amenity space is broken up, not allowing connectivity. Mr. Hurewitz testified a civic use, such as a library, should be proposed within this area. Mr. Hurewitz took issue with several definitions included in the Lakefront Core Neighborhood Design Guidelines. Mr. Hurewitz provided visual examples of separation of open space from loading and parking facilities and provided an example of an alternative arrangement for the open space that he believes better connectivity to surrounding properties and improved amenity locations.

Ms. Deb Jung supports the Downtown Columbia Plan, but testified in opposition to the proposed building height increase.

Councilwoman Jennifer Terrasa testified as an individual in opposition to the proposed height increase on the FDP. Ms. Terrasa believes that the height limitations were adopted with the Downtown Columbia Plan after careful placement of the height sub-zones, with no conditions changing to necessitate a height change, and is concerned that the increased building height within the lower height sub-zones at the Lakefront. Ms. Terrasa further testified to her opposition to approve private roads. Ms. Terrasa also testified in opposition to the CEPPA alternative compliance and the frequency of alternative proposals. Specifically, Ms. Terrasa stated the swap of CEPPA requirements does not allow the Downtown Neighborhood Square to be provided earlier than it already can be, and that the justification for the alternative compliance does not adequately meet the criteria for CEPPA alternative compliance. Ms. Terrasa stated she approved the adoption of the Zoning Regulations related to Downtown Revitalization and the Downtown-wide Design Guidelines, but that the absolute cap to 20 stories was not intended to preclude the use for Building Height chart in the General Plan to govern maximum height. She stated she did not recall 20 stories being contemplated adjacent to the Lakefront Core area.

Bill Santos testified to his objection to the proposed building height increase, to the location of the proposed Downtown Neighborhood Square co-located with the Veterans Monument and reduced visibility for public process, and to the CEPPA timing alternative due to the uncertainty of the 3rd interchange. Mr. Santos recommended that economic considerations or other logical issues such as construction standards or meeting other zoning requirements should be considered when considering building heights but doesn't believe compatibility due to building heights across Little Patuxent Parkway is an adequate justification.

Linda Wengel testified for the Town Center Village Board in opposition to the proposed building height increase and the southern extension of Wincopin Circle. Ms. Wengel affirmed that the

Downtown-wide Design Guidelines referred to 9 story building in the northern section of the Lakefront as a modest scale.

Richard Talkin testified in support of the plan, but believes parking for the public should be incorporated into the FDP and objected to the proposed building height increase. Mr. Talkin further testified that decisions on increased building height and allowing on-street parallel parking should not be made with the FDP because there is not enough information on how parking considerations are driving these decisions and requests from the developer. On cross-examination, Mr. Talkin could not reference in the Zoning Regulations that parking information in the FDP for Downtown Revitalization is required.

Joel Broida testified in opposition to the proposed increase building heights and the Wincopin Circle extension, and expressed his concerns regarding increased traffic.

Barbara Wright testified in opposition to the Final Development Plan, in particular the height, the traffic in Wincopin Circle, and the alternative compliance requests for the CEPPA.

14. In rebuttal and cross-examination, Mr. Fitchitt offered the following additional testimony:

- a. Mr. Fitchitt testified that there will not be a division of space for the area identified for First Amendment free speech rights and the Downtown Neighborhood Square; they would be integrated. The monument is envisioned to be within the First Amendment right zone.
- b. Regarding the Wincopin Circle extension, Mr. Fitchitt testified that the location of the extension shows a building in the original Street and Block Plan, and that the street would be pedestrian friendly, low speed with special pavers, and it is for that reason that it cannot be a public street as the County will not maintain special paving. It will also allow the street to be closed for special events, expanding the open space at that time. He also testified that the intent is to plant more trees than what exist in the area today.
- c. Mr. Fitchitt contended that the Little Patuxent Square is 12 stories on certain sides of the building as is the Merrill Lynch building. Allowing the required variation of building heights proposed in the Design Guidelines will limit building increases, allows a variation in height and massing that would not be possible with the current 9 store height limit.
- d. Finally, Mr. Fitchitt testified that it is difficult to get financing for the Lakefront Terrace or other open space without a project to tie it with. Allowing the swap allows the Lakefront Terrace area to be probably planned and allows delivery of the Neighborhood Square and the Veteran's Monument at an earlier date.
- e. Regarding Mr. Talkin's testimony on parking; Mr. Fitchitt responded that they did not require parking to be underground but that the Little Patuxent Square site was required to park within their own site.
- f. Mr. Fitchitt testified that it is unknown now under which building project the Terrace Steps would be financed and built. Mr. Fitchitt testified that 15 stories is a height that they know they can have the flexibility to make the project economically viable and to be attractive to investors and obtain financing. Mr. Fitchitt quoted the DAP memo stating the importance of stepping down and allowing rooftop amenities, will taller portions of the building at 15 stories not exceeding 50% of the structure.
- g. Mr. Fitchitt testified that height would be measured from the elevation at the highest classification street, which supersedes the Zoning Regulation definition of mean building

height. Mr. Fitchitt indicated there would be caps on building height as well as architectural limitations on floor to floor heights for different project types.

- h. As to the issue of whether CEPPAs should be tied to project Mr. Fitchitt responded that since milestones are tied to building permits, CEPPAs are effectively tied to projects.
  - i. Mr. Fitchitt acknowledged that the notch of Parcel E is not shown on the building concept, but he does not believe that leaving the notch would open up views to the Lake and further indicated that he believed that pulling the building farther back from the Lakefront is more desirable.
15. The Board is persuaded that the evidence, based on the testimony provided by the petitioner's witnesses as outlined in Findings of Fact 5-12 and 26, and the information in the Department of Planning and Zoning's Technical Staff Report, convincingly demonstrate the proposed Lakefront Core Neighborhood Concept Plan, the Lakefront Core Neighborhood Design Guidelines, the Lakefront Core Neighborhood Implementation Plan, and the Lakefront Core Final Development Plan meet the requirements established in the criteria set forth in Section 125.0.E.4 of the Zoning Regulations and summarized in the Department of Planning and Zoning's Technical Staff Report, in particular:

- a. Overall, the Board believes the Neighborhood Concept Plan, the Neighborhood Specific Design Guidelines, and the Neighborhood Specific Implementation Plan conform with the Downtown-Wide Design Guidelines; the Downtown Columbia Plan (including the Street and Block Plan, the Neighborhoods Plan, the Maximum Building Heights Plan, the Primary Amenity Space Framework Diagram, the Street Framework Diagram, the Bicycle and Pedestrian Plan, and the Open Space Preservation Plan). While the Board acknowledges the concerns of the opponents regarding the building height, it also finds that the Petitioner offered compelling testimony, particularly as described in Findings of Fact #5, 6, and #26, that demonstrate that the building height increases would be limited in nature particularly with the prescribed mitigation outlined of requiring variation of height within a block, a cap of 50% of a block reaching the 15 story maximum, and the concept of stepping down toward the Lakefront, as described in the testimony of Mr. Fitchitt and Ms. Bedwell, and in the testimony that compatibility allows for the transition of building heights. The Board was also compelled by the DAP's support of the building height increases. Overall, the proposed height increases limited to Parcels E and H was found to be meet the standard for limited building height increases, not to exceed 20 stories outlined in Section 125.0.E.4a of the Zoning Regulations.

Similarly, the Board was persuaded by the testimony as summarized in Findings of Fact #5, #6 and #9 that the extension of a private street connection designed for pedestrian compatibility between Wincopin Circle and the Whole Foods Driveway, also supported by the Design Advisory Panel, was in conformance with the Downtown Columbia Plan.

Finally, the Board was persuaded that the inclusion of parcels adjacent to Little Patuxent Parkway into the Lakefront Core Neighborhood Boundary remained in conformance with the Downtown Columbia Plan.

- b. The Board was persuaded by the staff's technical staff report and the testimony of Ms. Bedwell described in Findings of Fact #6 that the Neighborhood Design Guidelines offer sufficient detail to guide the appearance of the neighborhood over time, and promote design features that are achievable and appropriate for Downtown Revitalization in accordance with the Design Guidelines and the Downtown Columbia Plan.

- c. The Board was persuaded that the Final Development Plan conforms with the submitted Neighborhood Documents, the Revitalization Phasing Plan, the Downtown Community Enhancements, Programs, and Public Amenities (CEPPA) Implementation Chart and Flexibility Provisions; the Downtown-wide Design Guidelines; the Downtown Columbia Plan, (including the Street and Block Plan, the Neighborhoods Plan, the Maximum Building Heights Plan, the Primary Amenity Space Framework Diagram, the Street Framework Diagram, the Bicycle and Pedestrian Plan, and the Open Space Preservation Plan), as outlined by staff in the technical staff report and identified by witnesses for the Petitioner as summarized in the above Findings of Fact.

Further, regarding the request for alternative timing for compliance for CEPPAs #19 and #22, the Board agrees with testimony that factors exist that are beyond the reasonable control of the petitioner in regard of the appropriate timing for the design and construction of the Lakefront Terrace relative to the uncertainty of the design, construction and timing of a future roadway leading to the 3<sup>rd</sup> interchange with Route 29 within the same approximate location, and that timing and design of that roadway would be in part determined by County and State agencies. The Board does not believe the opposition testimony related to this item provided sufficient evidence that the petitioner did not meet the justification for requesting the alternative compliance or that the alternative was insufficient. The Board believes that the petitioner provided adequate justification to permit alternative CEPPA compliance to be approved by Planning Board, as outlined within, and that it is reasonable to swap the timing of two CEPPA requirements both related to amenity spaces to ensure the delivery of one of the amenity spaces required by the CEPPAs delivered within the 2.9 Million SF of development threshold. Staff confirmed 3.9 Million SF would be well ahead of Downtown build-out, but precise timing is difficult without the individual site plans approved, and the pace is determined in part by market conditions. It was determined by the Board that the Downtown planning process must be fluid, and that flexibility was built into the Downtown Columbia Plan and Zoning Regulation language.

- d. The Final Development Plan, when considered in the context of surrounding planned or existing development, provides a balanced mix of housing, employment, commercial, arts, and cultural uses in each phase as outlined in the DPZ technical staff report and the testimony of Mr. Fitchitt summarized in Findings of Fact #5.
- e. The Final Development Plan satisfies the affordable housing requirement. The Board was persuaded by the information in the DPZ staff report, and the testimony of Mr. Fitchitt as summarized in Findings of Fact #5 that the proposed Final Development Plan satisfies the affordable housing requirement.
- f. The Board was persuaded by the evidence submitted and the testimony of Ms. Bedwell and Mr. Workosky that convenient connections were established with this plan, and acknowledged that while the FDP established the framework for a connection to the properties west of Little Patuxent Parkway, that such improvements were beyond the scope of the plan and that the responsibility of the Petitioner is to set the framework for the connection.
- g. The Board was persuaded by the staff's technical staff report that the Final Development Plan protects land covered by lakes, streams or rivers, flood plains and steep slopes, and provides connections, where possible to existing and planned open space within the neighborhood and in surrounding area.
- h. The Board was persuaded by the staff's technical staff report and the testimony as outlined in Findings of Fact #5, 6, 7 and #26 that the Final Development Plan provides the location

of Downtown Community Commons required under Section 125.A.9.h, as indicated in the Neighborhood Concept Plan. The Board agreed that the proposed Lakefront Connect provided the amenity framework as illustrated in the Downtown Columbia Plan. The Board finds that the location with the site constraints, particularly the topography, and the co-location of the proposed Veteran's Monument with an identified purpose of the Downtown Neighborhood Square dedicated to the public for a first amendment rights zone, meets the requirements of Section 125.A.9.h of the Zoning Regulations. Ultimately, while considering opposition's testimony, the Board determined that the site factors were not in conflict with the proposed intent of the Downtown Neighborhood Square.

- i. The Board was persuaded that the Final Development Plan is in harmony with existing and planned vicinal land uses. The Board was not convinced by the opposition testimony related to the 15-story height adjacent to the 4-story zone being incompatible considering the evidence provided by the Petitioner that that height variation was a goal of the plan and the massing and articulation would complement the original Lakefront Core scale. The Planning Board was persuaded that the design responded to the natural grade change in the project area appropriately and that the use and design for nearby properties would be complimented and encourage connectivity.
- j. The Board was persuaded that the development, as proposed by this Final Development Plan, is adequately served by public facilities and that the proposed mitigation identified by Mr. Workosky as summarized in Findings of Fact #9 are appropriate. It was further acknowledged that additional traffic studies would be submitted with each SDP. The Board accepted the letter entered into the record as Applicant Exhibit #3 as evidence that allocations are available for the proposed 509 residential units and the proposed project passes the open/closed schools test. The Board found that sufficient evidence was presented that the proposed FDP complies with the Adequate Public Facilities Ordinances (Title 16, Subtitle 11 of the Howard County Code) for both schools and roads.
- k. The Board is persuaded, as established in staff's technical staff report and as testified by Mr. Gutschick in Findings of Fact #8 that there are no environmentally sensitive features within the project area and no environmental restoration required within the project area.
- l. The Board is persuaded by testimony that public art within the project area will be kept safe during construction and will ultimately be located within the project vicinity. The Board did not identify any historic or culturally significant sites, buildings or structures negatively impacted by the proposal.
- m. The Board was persuaded by the testimony provided in Findings of Fact #5 that the Final Development Plan proposes an appropriate plan to satisfy the requirement for art in the community.
- n. The Board was persuaded, as outlined in staff's technical staff report, that the Final Development Plan provides a plan to hold, own, and maintain in perpetuity land intended for common, quasi-public amenity use and public art that is not publicly owned, including, without limitation, any Downtown Community Commons, Downtown Parkland, Downtown Arts, Cultural and Community Use, and Downtown Neighborhood Square shown on the Final Development Plan.
- o. The Board was persuaded, as outlined in staff's technical staff report that the Final Development Plan provides for a plan to establish membership in the Downtown Columbia Partnership and payment of the annual charges. Each Final Development Plan shall show a consistent means of calculating and providing the required annual charges.



## CONCLUSIONS OF LAW

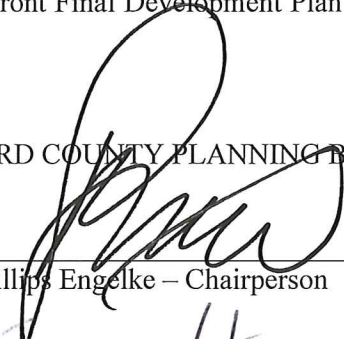
1. The Petitioner, as one seeking the Planning Board's approval of the Lakefront Core Neighborhood Concept Plan, Lakefront Core Neighborhood Design Guidelines, the Lakefront Core Implementation Plan, and the Lakefront Core Final Development Plan, collectively filed with the Department of Planning and Zoning as FDP-DC-L-1, has the burden of demonstrating that criteria of subsections a. through o. of Section 125.0.E.4 have been met, in order for the Board to approve the above-mentioned plan and associated neighborhood documents.
2. There is sufficient evidence in the record, as identified in the Board's Findings of Fact above, for the Board to conclude that the Petitioner has met its burden of demonstrating that it has satisfied the above-cited criteria for approval.
3. For the reasons stated in the above Findings of Fact, the Board concludes that the Petitioner has conclusively established through the evidence in the record that the following criteria for approval have been met by its proposal:
  - a. The Downtown Neighborhood Concept Plan, the Neighborhood Specific Design Guidelines, and the Neighborhood Specific Implementation Plan conform with the Downtown-Wide Design Guidelines; the Downtown Columbia Plan (including the Street and Block Plan, the Neighborhoods Plan, the Maximum Building Heights Plan, the Primary Amenity Space Framework Diagram, the Street Framework Diagram, the Bicycle and Pedestrian Plan, and the Open Space Preservation Plan). Any proposed change(s) will not be detrimental to the overall design concept and phasing for Downtown Revitalization. Limited changes in building heights may be approved and have been approved based on compatibility, character and height of nearby existing and planned development and redevelopment, and open spaces in the area, as specifically provided in the above findings of fact. However, in no event shall the maximum building height for Downtown Revitalization exceed twenty stories.
  - b. The Neighborhood Design Guidelines submitted with the Final Development Plan offer sufficient detail to guide the appearance of the neighborhood over time, and promote design features that are achievable and appropriate for Downtown Revitalization in accordance with the Design Guidelines and the Downtown Columbia Plan.
  - c. The Final Development Plan conforms with the Neighborhood Documents; the Revitalization Phasing Plan, the Downtown Community Enhancements, Programs, and Public Amenities (CEPPA) Implementation Chart and Flexibility Provisions; the Downtown-wide Design Guidelines; the Downtown Columbia Plan, (including the Street and Block Plan, the Neighborhoods Plan, the Maximum Building Heights Plan, the Primary Amenity Space Framework Diagram, the Street Framework Diagram, the Bicycle and Pedestrian Plan, and the Open Space Preservation Plan). Limited changes in building heights may be approved based on compatibility, character, and height of nearby existing and planned development and redevelopment, and open spaces in the area. However, in no event shall the maximum building height for Downtown Revitalization exceed twenty stories.
  - d. The Final Development Plan, when considered in the context of surrounding planned or existing development, provides a balanced mix of housing, employment, commercial, arts, and cultural uses in each phase.
  - e. The Final Development Plan satisfies the affordable housing requirement.

- f. The bicycle, pedestrian, and transit network creates convenient connections throughout the subject area and connect, wherever possible, to existing and planned sidewalks, path, and routes adjoining the development.
  - g. The Final Development Plan protects land covered by lakes, streams or rivers, flood plains and steep slopes, and provides connections, where possible to existing and planned open space within the neighborhood and in surrounding area.
  - h. The Final Development Plan provides the location of Downtown Community Commons required under Section 125.A.9.h, as indicated in the Neighborhood Concept Plan.
  - i. The Final Development Plan is in harmony with existing and planned vicinal land uses. In making this determination, the Planning Board shall consider, if appropriate:
    - i. Landscape features on the boundary of the plan area, which may include protection of existing vegetation or grade changes that provide a natural separation, or landscape planting;
    - ii. The size of buildings along the edges of the plan area through limits on building height or other requirements;
    - iii. The use and design of nearby properties and
    - iv. The adopted Downtown Columbia Plan recommendations for height, building massing and scale, and neighborhood connectivity.
  - j. The development, as proposed by this Final Development Plan, is adequately served by public facilities; including any proposed mitigation or development staging. It further complies with the Adequate Public Facilities Ordinances (Title 16, Subtitle 11 of the Howard County Code) for both schools and roads.
  - k. The Final Development Plan protects environmentally sensitive features and provides environmental restoration in accordance with the Downtown Columbia Plan.
  - l. The Final Development Plan protects any historic or culturally significant existing sites, buildings or structures, and public art.
  - m. The Final Development Plan proposes an appropriate plan to satisfy the requirement for art in the community.
  - n. The Final Development Plan provides a plan to hold, own, and maintain in perpetuity land intended for common, quasi-public amenity use and public art that is not publicly owned, including, without limitation, any Downtown Community Commons, Downtown Parkland, Downtown Arts, Cultural and Community Use, and Downtown Neighborhood Square shown on the Final Development Plan.
  - o. To better ensure conformance with the Community Enhancements, Programs and Public Amenities provisions, the Final Development Plan provides for a plan to establish membership in the Downtown Columbia Partnership and payment of the annual charges. Each Final Development Plan shall show a consistent means of calculating and providing the required annual charges.
4. The Planning Board has the decision-making ability to alter the timing of CEPPA requirements under Section 125.0.A.9.h.3, that the parameters for justification have been met, specifically that factors existing that are beyond the Petitioner's reasonable control, and that the alternative timing proposed for CEPPA #22 to be met prior to the issuance of a building permit for the 2.6 millionth SF of development and CEPPA #19 to be met prior to the issuance of a building permit for the 3.9 millionth SF of development is appropriate given the extenuating circumstances.

For the foregoing reasons, the petition of the Howard Hughes Corporation to approve the Lakefront Core Neighborhood Concept Plan, the Lakefront Core Neighborhood Design Guidelines, the Lakefront Core Implementation Plan, and the Lakefront Core Final Development Plan, as well as the CEPPA alternative compliance to swap the timing of CEPPA #19 and CEPPA #22, on this 21<sup>st</sup> day of June, 2018, APPROVED by the Planning Board of Howard County, Maryland, subject to the following condition:


1. The Design Advisory Panel recommendations for the Lakefront Final Development Plan must be followed specifically in the design of the building and sites.

HOWARD COUNTY PLANNING BOARD


  
\_\_\_\_\_  
Phillips Engelke – Chairperson  
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Erica Roberts – Vice-Chairperson  
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Delphine Adler  
\_\_\_\_\_  
Ed Coleman  
\_\_\_\_\_  
Kevin McAiley

PB Case No. 435

ATTEST:

  
\_\_\_\_\_  
Valdis Lazdins  
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:  
HOWARD COUNTY OFFICE OF LAW  
Gary W. Kuc, County Solicitor

  
\_\_\_\_\_  
Paul T. Johnson  
Deputy County Solicitor

### **List of Petitioner's Exhibits**

1. Applicant Exhibit #1 – Copies of the Certificate of Posting and Certificate of Advertising
2. Applicant Exhibit #2 – Certification that the Pre-submission Community Meeting was held as required on June 7, 2017.
3. Applicant Exhibit #3 – Letter dated November 3, 2017 regarding the finding of Adequacy Public Facilities for schools and housing allocations
4. Applicant Exhibit #4A – 4D – Resumes of technical witnesses (Cecily Bedwell, Design Collective; Michael Cheney, Groundswell; Carl Gutschick, GLW; Michael Workosky, Wells and Associates)
5. Applicant Exhibit #5 - A copy of petitioner's complete presentation

### **List of Protestant's Exhibits**

1. Resume of Jervis Dorton
2. HCCA permission for Jervis Dorton to testify on behalf of the group
3. Joel Horowitz – alternative amenity space design