

August 1, 2019

Mr. Jervis Dorton
5963 Gales Lane
Columbia MD 21045
410-992-5218, jervisdorton@yahoo.com



Mr. Phil Engleke, Chair, Howard County Planning Board
c/o Mr. Valdis Lazdins, Executive Secretary
3430 Courthouse Drive
Ellicott City, MD 21043

RECEIVED

Re: **PB 435 Revisory and Rehearing Request Under Section 1.105.G.1.c, Case of Fraud, mistake or irregularity**

AUG - 1 2019

DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

Dear Mr. Engleke:

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. A Decision and Order for this case was issued on June 21, 2018.

I have since become aware of material misstatements made by the petitioner at the hearing. Accordingly, I respectfully request the Planning Board to exercise their revisory powers under Section 1.105.G.1.c, of the Planning Rules of Procedure, Case of Fraud, mistake, or irregularity. This provision empowers the Board at any time to revise or modify conditions of its decision in case of fraud, mistake, or irregularity, hence I am not time barred from making this request.

Furthermore, I respectfully request the Planning Board rehear this case under section 105.G.1.e.(1), wherein the Board may reconsider or rehear a matter, and may modify a decision, only if evidence is submitted which could not reasonably have been presented at the original hearing, or if some mistake or misrepresentation of fact or law was made at the original hearing. The evidence I have was not publicly available. There is a reference to it recorded in the land records only. I believe it will become apparent that I could not have reasonably known about the petitioner's misrepresentation at the time.

Background and Evidence of the Petitioner's Material Representation

On February 1st, 2018, I testified before the Planning Board representing the Howard County Citizens Association. My testimony contended that FDP DC L-1 then under consideration did not satisfy the Planning Board's review and approval criteria. Namely, the proposed Neighborhood Design Guidelines were not in compliance with the 2010 Downtown Columbia Plan in several respects including the Primary Amenity Framework.

Also, I testified that the Lakefront Connector now proposed is 100 feet further south, consequently, is no longer on the axis of the Mall's existing entrance plaza and future terraced steps down to Little Patuxent Parkway. This grand pedestrian link to the lakefront is featured on page 10 of the Downtown Columbia Plan, and is compromised irrevocably.

On my cross examination of Mr. Greg Fitchit, of the Howard Hughes Corporation (HHC), stated that he had no revised plans for how pedestrians would climb the embankment to reach the Mall after utilizing the Little Patuxent Parkway crosswalk. It was General Growth Properties' (GGP) land, not Howard Hughes' therefore neither the design nor the construction there was in his purview. This is memorialized in the D&O on the top of page 6:

"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."

This is untrue for several reasons. I have discovered the existence of a Development Cooperation Agreement between HHC and GGP (recently their successor in interest Brookfield Properties Retail Group), a copy of which is attached hereto as evidence. The entitlements under CB 59 2009 were granted to GGP. This agreement designates HHC as the "Community Developer". Paragraph 2 of the agreement provides for HHC and GGP to closely cooperate on the Lakefront. This agreement is incorporated by reference in the *Memorandum of Development Cooperation Agreements... by and between GGP and HHC and their affiliates, recorded in the Howard County Land records on December 13, 2010, at Liber 12922 page 25*. The entitlement

grant was made by Howard County to HHC's (FKA "Spinco") and "new" GGP's common predecessor, GGP. These entitlements are inculpatory and not assignable. Arguably, the new GGP(Brookfield) and HHC are jointly and severally liable.

I certainly should not need to remind anyone that the pedestrian connectivity between the Mall and the Lakefront is critical and a major feature of the 2010 Downtown Columbia Plan. The FDP is not in compliance with the Downtown Columbia Plan. The Petitioner showed a relocated Lakefront Connector occupying the former American City Building site. In consequence the continuity of this Connector on the west side of Little Patuxent Parkway is blocked by the Merrill Lynch Building! A design that maintains the concept of a continuous, broad pedestrian Connector as shown on the Downtown Columbia Plan should be submitted by HHC before any new construction is permitted.

Accordingly, I hereby respectfully request the Planning Board to revise and rehear PB case no. 435, for FDP DC -L-1 due to mistake, fraud or irregularity.

Sincerely

A handwritten signature in cursive script that reads "Jervis Dorton". The signature is written in black ink and is positioned below the word "Sincerely".

Jervis Dorton, Architect

CC: The Columbia Association Board of Directors, via email

Enclosure: Evidence, Development Cooperation Agreement

[CERTIFICATES OF MAILING FOLLOW]

CERTIFICATES OF MAILING

I HEREBY CERTIFY that on this 1st day of August 2019 a copy of the foregoing Revisory and Rehearing request and enclosure was mailed, postage prepaid, to Counsel.

Todd Brown, Esq.
Shulman Rogers
12505 Park Potomac Avenue
Potomac, MD 20854

Counsel for Petitioner

David Moore, Esq
Howard County Office of Law
3450 Courthouse Drive
Ellicott City, Maryland 21043

Counsel for the Howard County Planning Board


Jervis Dorton

CERTIFICATES OF MAILING
Parties to the case.

I HEREBY CERTIFY that on this 1st day of August 2019 a copy of the foregoing Revisory and Rehearing request was mailed, postage prepaid, to known parties.

Ms. Joan Lancos
6110 Covington Road,
Columbia, MD 21044

Mr. David Phillips
10299 Wilde Lake Terrace,
Columbia, MD 21044

Mr. Robert Gillette
16311 Cattail River Drive,
Woodbine,

[ADDITIONAL CERTIFICATES OF MAILING FOLLOW]

Mr. Joel Hurwitz
5681 C Harpers Farm Road
Columbia MD, 21044

Ms. Deb Jung
10971 Shadow Lane
Columbia. MD 21044

Ms. Jennifer Terrassa
7491 Setting Sun Way
Columbia, MD 21046

Mr. Bill Santos
4922 Ten Mills Rd
Columbia, MD 21044

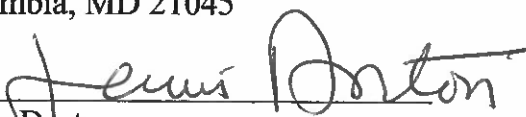
Ms. Linda Wengel
5400 Vantage Point Rd
Columbia, MD 21044

Mr. Joel Broida
5400 Vantage Point Rd
Apt 413
Columbia, MD 21044

Ms. Barbara Wright
5166 Eliot Oaks Rd.
Columbia, MD 21044

Mr. Richard Talkin
5100 Dorsey Hall Dr.
Ellicott City, MD 21043

Mr. Milton Matthews, President and CEO
The Columbia Association, Inc.
6310 Hillside Drive, Suite 100
Columbia, MD 21045



Jervis Dorton

Within 10 calendar days of filing of a request for reconsideration, modification, or rehearing, any party may file a written response to the request.

**DEVELOPMENT AGREEMENT AND MEMORANDUM OF INTENT
RELATING TO THE CORE DEVELOPMENT AREA OF
COLUMBIA TOWN CENTER**

THIS DEVELOPMENT AGREEMENT AND MEMORANDUM OF INTENT RELATING TO THE CORE DEVELOPMENT AREA OF COLUMBIA TOWN CENTER (this "Agreement") is made as of the _____ day of _____, 2010. This Agreement sets forth certain key terms and conditions for the proposed future development of the Columbia Town Center Core Development Area (as defined below) by General Growth Properties, Inc. ("GGP"), Spinco, Inc. ("Spinco") and their respective subsidiaries, successors and assigns.

I. Statement of Background and Purpose.

GGP is a debtor under the United States Bankruptcy Code (the "Bankruptcy Code"). Under an Order Pursuant to Sections 105(a) and 363 of the Bankruptcy Code (A) Approving Bidding Procedures, (B) Authorizing the Debtors to Enter into Certain Agreements, (C) Approving Issuance of Warrants, and (D) Granting Related Relief, dated May 7, 2010, Docket No. 5145 (the "Bidding Procedures Motion"), GGP entered into certain Investment Agreements and created a separate entity called Spinco. GGP proposes to transfer certain assets, both through entity transfers and property transfers, to Spinco. Pursuant to the Bidding Procedures Motion, GGP has filed a disclosure statement with the Bankruptcy Court that describes the allocation of particular assets between GGP and Spinco.

GGP, through various wholly-owned affiliates, owns real property in Howard County, Maryland, including The Mall in Columbia and adjacent parcels in Town Center. In furtherance of the Bidding Procedures Motion, GGP proposes to allocate the parcels of land within the area of Town Center shown on the attached Exhibit A-1, and known herein as the "Core Development Area." The Core Development Area generally is bounded (clockwise from the intersection of Little Patuxent Parkway and Governor Warfield Parkway) by Little Patuxent Parkway, Broken Land Parkway, the Mall ring road, a Mall entrance road (Lot 41), and Governor Warfield Parkway.

Land owned by GGP within the Core Development Area shall be allocated between GGP and Spinco as set forth on Exhibit B attached hereto and made a part hereof. The allocation was determined pursuant to the Bidding Procedures Motion, a desire to enable Spinco to control assets "with the potential for significant long-term value", and the acknowledgement that certain property was encumbered by an existing Indemnity Deed of Trust and various documents with anchor department stores that bind GGP and its affiliates. GGP shall cause Spinco to hold directly and indirectly the following entities relating to the Core Development Area: The Howard Research And Development Corporation ("HRD"), Parcel C Business Trust, and Parcel D Business Trust. GGP also shall transfer all other land owned by it or its affiliates within the NT District (hereinafter defined) to Spinco, primarily through entity transfers, other than

Benson Business Park (TGI Fridays – Parcel D) and Running Brook 7-Eleven (Lot 80, VWL).

Land within the Core Development Area, whether owned by GGP, to be owned by Spinco, or owned by unrelated third parties, is subject to a Development Area Declaration and Agreement dated December 1, 1970, as amended to date (the “DADA”) and a Loop Declaration and Agreement dated December 1, 1970, as amended to date (the “LADA”), both of which are recorded in the Land Records of Howard County, Maryland, and the property encumbered by which is shown on Exhibit A-2 attached hereto and made a part hereof.

Land within the Core Development Area, whether owned by GGP, to be owned by Spinco, or owned by unrelated third parties, is part of the New Town (“NT”) District zoning classification of Howard County, and is subject to the Howard County Zoning Regulations that establish submission requirements and the review process for any development in Town Center. The Zoning Regulations specifically require that any development in Town Center be consistent with a Downtown Columbia Plan (the “Plan”) that, among other things, (i) establishes neighborhoods and neighborhood development requirements, shown graphically on Exhibit C attached hereto, (ii) requires that GGP, as the principal property owner within the NT District, provide certain Downtown Community Enhancements, Programs and Public Amenities (“CEPPAs”) as set out on Exhibit D attached hereto, (iii) contemplates development as shown on Exhibit E attached hereto, (iv) contemplates roadway improvements as shown on Exhibit F attached hereto, and (v) limits heights as shown on Exhibit H attached hereto..

GGP has considered various issues relating to the potential development of the Core Development Area that arise out of the allocation of assets between GGP and Spinco.

II. Discussion of Issues.

A. Right of First Offer and Option to Purchase. GGP, through its applicable affiliates, promptly following the formation of Spinco, for no further consideration payable by Spinco, shall grant to Spinco, or its designated affiliate, a right of first offer (“ROFO”) and option to purchase (“Purchase Option”) on each and every of the parcels of land and improvements listed on Exhibit G attached hereto (the “ROFO and Option Property”). The ROFO and Purchase Option shall be exercisable from time to time either on individual parcels or on any combination of aggregate and individual parcels, and shall be subject to any mortgages existing on the date this Agreement is executed other than those mortgages delivered in connection with the debtor-in-possession financing obtained by GGP (as indicated on Exhibit A-1 hereto), and shall be exercisable only if no uncured default has occurred under any such mortgage at the time of the exercise. The ROFO and Option may be exercised, at the agreement of the parties, either by a deed or transfer of the ownership interests of the entity owning the property if such entity owns no property other than that to be transferred. The ROFO shall be in effect for a period of five (5) years beginning on the date of grant (the “ROFO Period”). The Purchase Option

shall be in effect immediately after the expiration of the ROFO Period and shall continue for a period of six (6) months thereafter (the "Purchase Option Period").

The ROFO shall be exclusive and irrevocable and shall obligate the property owner, and its successors and assigns, to offer the ROFO and Option Property for sale to Spinco prior to listing all or any of it with a real estate broker or otherwise holding the ROFO and Option Property out for sale to the general public or to any other buyer(s) other than an entity owned or controlled by GGP or Spinco. The first time that the property owner proposes to offer all or any of the ROFO and Option Property for sale, or if during the ROFO Period the owner shall have received an offer to purchase any or all of the ROFO and Option Property, the owner shall furnish Spinco with a written notice (the "First Offer Proposal") containing the material terms of the proposed sale, including without limitation the purchase price for each applicable portion of the ROFO and Option Property (the "Offer Price"). Spinco, or its designee, thereafter shall be entitled to receive customary diligence materials with respect to the specified ROFO and Option Property that is to be sold promptly upon request for the same. Spinco shall thereafter have the right and privilege, but not the obligation, exercisable by written notice delivered to the owner within thirty (30) days after Spinco's receipt of the First Offer Proposal (the "Election Period"), to elect to purchase the ROFO and Option Property at issue at the applicable Offer Price and on the terms and conditions contained in the First Offer Proposal. In the event that Spinco or its designee timely exercises its election, then promptly thereafter the parties shall enter into a purchase and sale agreement containing the material terms and conditions contained in the First Offer Proposal; provided, however, that closing shall occur no later than 90 days after the date of the notice of such exercise. In the event Spinco fails to exercise its election as provided above then GGP shall have the right and privilege, for a period of 270 days after the expiration of the Election Period to consummate the sale or conveyance of the ROFO and Option Property at issue without regard to the restrictions contained in this paragraph and at not less than 98% of the Offer Price and on such other material terms and conditions as set forth in the First Offer Proposal (the earlier to occur of (a) the expiration of such 270-day period or (b) the ROFO Period shall be referred to herein as the "Marketing Period"). If the owner shall not so consummate the sale or conveyance of the property at issue within the Marketing Period, or if owner shall so sell or convey a particular ROFO and Option Property within the Marketing Period leaving the remainder of the ROFO and Option Property owned by GGP and its affiliates, and the owner thereafter during the ROFO Period decides to offer that property or any or all of the remaining ROFO and Option Property for sale or receives an offer to purchase it or them, then owner again shall be obligated to offer it or them to Spinco as set forth in the paragraph below.

In the event that Spinco or its designee has not exercised its ROFO and thereafter during the ROFO Period owner intends or desires to accept an offer to purchase the ROFO and Option Property at issue at a purchase price less than 98% of the Offer Price, GGP, its successors and assigns, shall promptly deliver to Spinco a written notice and a true, correct and complete copy of such offer (the "Second Offer Notice"). Spinco, or its designee, thereafter shall have the right and privilege, but not the obligation, to purchase the ROFO and Option Property at issue at the price and on the terms and conditions

shall be in effect immediately after the expiration of the ROFO Period and shall continue for a period of six (6) months thereafter (the "Purchase Option Period").

The ROFO shall be exclusive and irrevocable and shall obligate the property owner, and its successors and assigns, to offer the ROFO and Option Property for sale to Spinco prior to listing all or any of it with a real estate broker or otherwise holding the ROFO and Option Property out for sale to the general public or to any other buyer(s) other than an entity owned or controlled by GGP or Spinco. The first time that the property owner proposes to offer all or any of the ROFO and Option Property for sale, or if during the ROFO Period the owner shall have received an offer to purchase any or all of the ROFO and Option Property, the owner shall furnish Spinco with a written notice (the "First Offer Proposal") containing the material terms of the proposed sale, including without limitation the purchase price for each applicable portion of the ROFO and Option Property (the "Offer Price"). Spinco, or its designee, thereafter shall be entitled to receive customary diligence materials with respect to the specified ROFO and Option Property that is to be sold promptly upon request for the same. Spinco shall thereafter have the right and privilege, but not the obligation, exercisable by written notice delivered to the owner within thirty (30) days after Spinco's receipt of the First Offer Proposal (the "Election Period"), to elect to purchase the ROFO and Option Property at issue at the applicable Offer Price and on the terms and conditions contained in the First Offer Proposal. In the event that Spinco or its designee timely exercises its election, then promptly thereafter the parties shall enter into a purchase and sale agreement containing the material terms and conditions contained in the First Offer Proposal; provided, however, that closing shall occur no later than 90 days after the date of the notice of such exercise. In the event Spinco fails to exercise its election as provided above then GGP shall have the right and privilege, for a period of 270 days after the expiration of the Election Period to consummate the sale or conveyance of the ROFO and Option Property at issue without regard to the restrictions contained in this paragraph and at not less than 98% of the Offer Price and on such other material terms and conditions as set forth in the First Offer Proposal (the earlier to occur of (a) the expiration of such 270-day period or (b) the ROFO Period shall be referred to herein as the "Marketing Period"). If the owner shall not so consummate the sale or conveyance of the property at issue within the Marketing Period, or if owner shall so sell or convey a particular ROFO and Option Property within the Marketing Period leaving the remainder of the ROFO and Option Property owned by GGP and its affiliates, and the owner thereafter during the ROFO Period decides to offer that property or any or all of the remaining ROFO and Option Property for sale or receives an offer to purchase it or them, then owner again shall be obligated to offer it or them to Spinco as set forth in the paragraph below.

In the event that Spinco or its designee has not exercised its ROFO and thereafter during the ROFO Period owner intends or desires to accept an offer to purchase the ROFO and Option Property at issue at a purchase price less than 98% of the Offer Price, GGP, its successors and assigns, shall promptly deliver to Spinco a written notice and a true, correct and complete copy of such offer (the "Second Offer Notice"). Spinco, or its designee, thereafter shall have the right and privilege, but not the obligation, to purchase the ROFO and Option Property at issue at the price and on the terms and conditions

contained in the Second Offer Notice (the "Second Right of Offer"). The Second Right of Offer is to be exercised by Spinco or its designee by providing to owner written notice of Spinco's election to exercise within fifteen (15) days after Spinco's receipt of the Second Offer Notice. In the event Spinco or its designee fails to exercise its Second Right of Offer as provided herein then the property owner shall have the right and privilege to proceed with the sale or conveyance of the property at issue pursuant to the Second Offer Notice.

Spinco, or its designated affiliate, may exercise the Purchase Option within the Purchase Option Period upon written notice to GGP, which notice shall specify the property to be acquired, the purchase price, the method of transfer (whether by special warranty deed or transfer of ownership of the entity if such entity owns no property other than that to be transferred), and shall be subject only to customary closing conditions such as a due diligence period not to exceed ninety (90) days (with an option to terminate within such period in favor of Spinco, provided that exercise of such termination option shall extinguish Spinco's Purchase Option with respect to such property), title and survey, customary representations and warranties of seller, including environmental representations and warranties, with recordation and transfer taxes to be evenly divided between seller and purchaser, shall not require an earnest money or escrow deposit, shall not include a financing contingency, and closing shall occur within thirty (30) days following the expiration of the due diligence period. Upon receipt of the notice, GGP shall be obligated to reply in writing for receipt by Spinco within ten (10) business days, either to accept the offer, reject the offer, or to propose a counteroffer. Failure to reply within ten (10) business days shall be deemed acceptance. If GGP rejects the offer or proposes a counteroffer that Spinco does not accept, then GGP and Spinco each within ten (10) business days shall select a professional real estate appraiser with knowledge and experience in the Howard County, Maryland office market. Both appraisers shall submit a written appraisal of the value of the property at issue (based on the current use of the property in question) on an "as-is, where-is" basis within thirty (30) business days. If the two appraisals shall not arrive at the same value of the property, then the two appraisers shall within ten (10) business days select a third professional real estate appraiser with knowledge and experience in the Howard County, Maryland office market and with whom neither party has a prior business relationship (the "Third Appraiser"). Within ten (10) business days the Third Appraiser shall select one of the two appraisals as the final purchase price, as in "baseball" arbitration, with no ability to deviate from the chosen appraisal. If Spinco or an affiliate properly exercises the Purchase Option within the Purchase Option Period, closing may occur after the lapse of the Purchase Option Period. If GGP receives an offer for any ROFO and Option Property during the Purchase Option Period, GGP within ten (10) business days of receipt shall tender that offer to Spinco and Spinco shall have the rights set forth above under the ROFO provisions regarding that offer.

The ROFO and Purchase Option as to any particular ROFO and Option Property may be assigned to HRD or to any entity directly or indirectly majority owned or managed by Spinco.

During the ROFO Period and the Purchase Option Period, GGP shall, and shall cause its applicable affiliates that own the ROFO and Option Property (the "ROFO Property Owners") to, in addition to the general development agreements set forth below, (i) allow Spinco adequate time and detail to review and comment in good faith upon any Final Development Plan relating to the ROFO and Option Property, (ii) not enlarge any buildings or parking decks on, or change any existing use of, or adversely encumber any ROFO and Option Property without HRD's prior written approval, such approval not to be unreasonably withheld or delayed, and (iii) insure and maintain the ROFO and Option Property in a manner consistent with the then-current market standard levels. GGP shall be permitted to obtain financing secured by any ROFO and Option Property (or interests in the owner entity) but not for any more than an aggregate of 75% of the value of any particular property as determined by an independent third party institutional lender. In the event that any ROFO and Option Property becomes subject to a mortgage pursuant to a loan encumbering more than one property, the loan-to-value determination contemplated by the preceding sentence shall take into account the value of the entire collateral pool securing such loan. Notwithstanding the foregoing, GGP shall not procure such financing unless it is subordinated to the ROFO and Purchase Option. It is the agreement of the parties that any property conveyed to Spinco pursuant to the Purchase Option will be free of mortgage liens unless otherwise agreed to by all parties at the time of exercise of the Purchase Option.

Upon transfer of Parcel C and Parcel D (or interests in the owner entities thereof) to Spinco, GGP (together with applicable affiliates) and Spinco shall execute and deliver a Memorandum of the ROFO and the Purchase Option containing the provisions set forth herein, which Memorandum shall be recorded in the land records of Howard County, Maryland, at Spinco's option and expense; provided, however, that with respect to any parcels that are encumbered by existing mortgage indebtedness as of the date hereof, no document will be recorded until the satisfaction of such mortgage indebtedness, and such indebtedness may be refinanced and extended on commercially reasonable terms not to exceed three (3) additional years.

B. Development Cooperation. GGP and Spinco agree that they and their affiliates shall cooperate in good faith and in a commercially reasonable manner:

1. To acknowledge and assign to HRD the role of Community Developer under the Plan, including, without limitation, architectural or declarant rights held by GGP or its affiliates over property owned by Spinco or its affiliates (and Spinco shall acknowledge and assign similar rights it holds over property owned by GGP or its affiliates). HRD shall have the responsibility to pay for and perform the obligations of Community Developer under the Plan to the extent obligated by the Plan. Spinco shall indemnify, hold harmless and defend GGP from and against any claims made against GGP by any third parties arising out of failure to perform the Community Developer role from and after the date of the assignment. All claims arising out of HRD's failure to perform the Community Developer role before the date of the assignment shall be allocated pursuant to the Cornerstone Investment Agreement and the Separation Agreement provisions regarding the same. GGP acknowledges and agrees that Spinco shall be entitled to collect

from all third party owners within the NT District, including GGP and its affiliates within the Core Development Area, amounts to recover Spinco's costs and expenses relating to the activities of the Community Developer and the CEPPAs under the Plan. Except for property currently owned by a governmental or community association entity, HRD anticipates that it would bill each property owner desiring to develop its property within the NT District a two part fee: first a per square foot proportionate allocation of the CEPPA costs plus a second fee to recoup land development costs incurred by HRD relating to Town-wide development costs not included in the CEPPA costs above and relating to a particular portion of the master planned development, which fees would be determined at the time of the submittal of the final development plan of the property owner, but only payable by GGP at the time the plans for the development were approved by Howard County, Maryland. GGP, for itself and on behalf of the GGP Mall Property Owners (hereinafter defined) covenants and agrees that it and they will condition any approval rights over expansion or alteration rights that do not exist on the date hereof of third parties within the Core Development Area upon payment by the third party of the fees set forth herein and cooperation by the third party with the Neighborhood development plan set forth below ;

2. With each other's development in the shared Neighborhoods of The Lakefront, Symphony Overlook, and Warfield as anticipated by the sketch plans shown on Exhibits E and F attached hereto. Such cooperation in good faith shall include, but not be limited to, joining in applications, submissions, legislation, design manual changes, and changes in the overall design concept that are consistent with the implementation of the Plan, or that are not detrimental to the overall design concept of the Plan. Specifically, GGP shall cooperate reasonably with HRD in the submission of (i) the amendment to the adequate public facilities ordinance, (ii) the amendment to the design manual for Town Center specific regulations, (iii) Downtown-wide design guidelines, (iv) requirements for Art in the Community, (v) the housing trust fund, (vi) Neighborhood design guidelines, (vii) Neighborhood Concept Plans, (viii) transit studies, (ix) preservation, and (x) studies and sustainability program. Costs of Spinco and HRD for items (i) through (x) shall be included in the CEPPA costs set forth in B.1. above. Costs of GGP for items (i) through (x) shall be GGP's responsibility. At the time of a proposed development that triggers a Neighborhood plan, Spinco and GGP hereby covenant mutually to prepare a Neighborhood plan that identifies the density, infrastructure, sewer, utilities and other development factors and HRD will provide written representations and warranties to GGP regarding the availability and completeness of each such item;

3. With each other to grant easements for access, construction, utilities, storm water management facilities, road improvements, pedestrian/bicycle improvements, and the relocation of existing facilities and similar matters consistent with development under the Plan, such grants to have commercially reasonable insurance (including self-insurance) and indemnification provisions customary within the industry;

4. With each other to obtain tax increment financing for transportation and parking facilities within the Core Development Area to implement the Plan;

5. With each other to implement new parking arrangements and construction phasing of development within the Core Development Area to implement the Plan, including limiting of work during peak business and retail sale periods and limiting interference with tenants and occupants of The Mall in Columbia;
6. With each other in the modification, relocation or improvement of the pedestrian bridge over Little Patuxent Parkway to Lot 48; and
7. With each other in the enforcement of covenants burdening third-party owned property.
8. Without limiting the generality of the foregoing, GGP and Spinco, for themselves and their affiliates and successors and assigns, agree that they shall not contest or otherwise oppose any development by the other party, and its successors and assigns, that is consistent with the Plan.

C. DADA and LADA. GGP and its affiliates, including but not limited to, the Owner of the Mall Parcel (as defined in the DADA and LADA), shall not amend either the DADA or the LADA to materially adversely affect the rights of Spinco or HRD, either in its capacity as current owner of property subject to the DADA and LADA, or as potential owner under the ROFO, Purchase Option and/or development rights discussed in Paragraph II.D., without the prior written consent of HRD, such consent not to be unreasonably withheld or delayed.

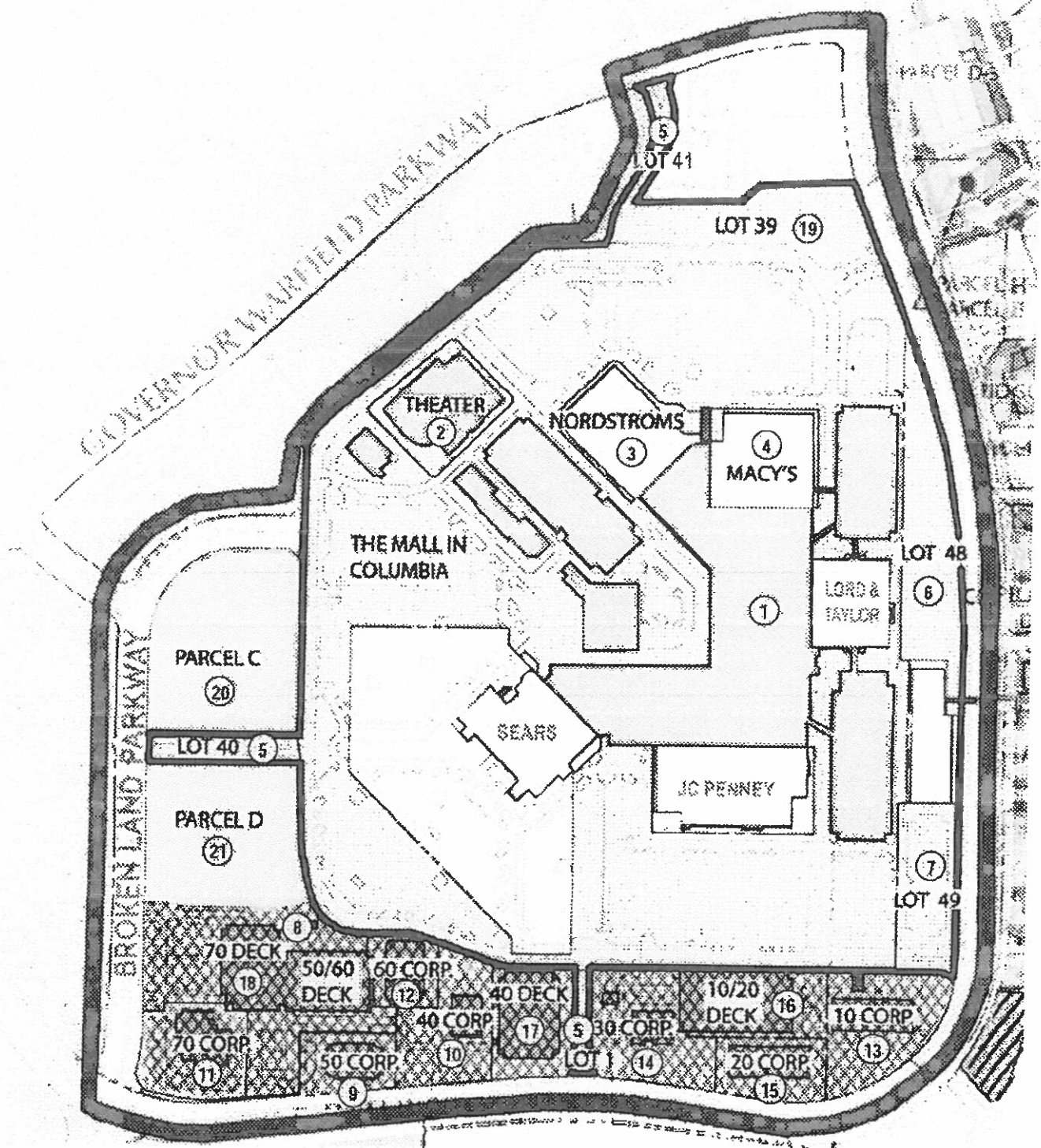
D. Grant of and Recordation of Development Rights and Covenants. GGP and Spinco acknowledge and agree that certain property within the Core Development Area owned by The Mall in Columbia Business Trust, CM Theatre Business Trust, CM-N Business Trust, CM-H Business Trust, Mall Entrances Business Trust, Lot 48 Business Trust, Lot 49 Business Trust and Columbia Land Holdings, Inc. (collectively, the "GGP Mall Property Owners") is subject to mortgage liens, and such property is identified on Exhibit A-1 hereto as the "Mall Development Area." GGP covenants and agrees, on its behalf and on behalf of its wholly-owned GGP Mall Property Owners that for a period of the lesser of (i) twenty (20) years from the date of grant, which shall be the date of the Separation Agreement, or (ii) until such time as HRD abandons in writing its role as Community Developer under the Plan and such role is not assumed in writing by an affiliate of HRD or Spinco, that if any of GGP or any of the GGP Mall Property Owners desire to develop any of their respective properties within the Mall Development Area for residential or office use pursuant to the Plan, they first shall offer in writing to Spinco or its affiliates the opportunity to purchase land and/or air rights to develop all such residential or office use at no additional cost for the land or air rights to Spinco payable to GGP or the GGP Mall Property Owners (the "Preferred Residential and Office Developer Covenant"). Notwithstanding the foregoing, office and storage purposes that are incidental to the retail merchandising and services being conducted in the Mall Development Area shall not be included in the Preferred Residential and Office Developer Covenant. Spinco's rights under the Preferred Residential and Office Developer Covenant may be assigned to HRD or to any entity that owns a controlling

interest in HRD or any entity that is controlled by HRD. Spinco or its designee thereafter shall be entitled to develop, construct, sell, transfer, and convey all residential and office buildings and related parking developed pursuant to the Preferred Residential and Office Developer Covenant to any other party at terms solely satisfactory to Spinco. Spinco shall pay for all costs relating to entitlements, construction, third party consents and other costs of development other than the cost of the land and/or air rights. If Spinco declines in writing the offer to purchase such land and/or air rights, then GGP or the applicable offering GGP Mall Property Owner(s) shall thereafter be able to develop such residential or office use itself or by offer to a third party other than Spinco. GGP covenants that it shall record a memorandum containing the terms of the Preferred Residential and Office Developer Covenant immediately prior to the refinancing of the mortgage against the property owned by the GGP Mall Property Owners, currently anticipated to be October 1, 2012, the current maturity date of the mortgage and related loans, (or at such earlier time as the existing mortgage is otherwise released or discharged for any reason), and subject to commercially reasonable extensions for refinancing not to exceed three (3) years. GGP, on its behalf and on behalf of the GGP Mall Property Owners, covenants and agrees that any new mortgage or deed of trust shall be subordinate to the terms of the Preferred Residential and Office Developer Covenant and to a memorandum of the final documentation that shall set forth the covenants and agreements of GGP in Section II B. and C. of this Agreement. Spinco acknowledges and agrees that any rights to develop residential units on the property owned by the GGP Mall Property Owners currently is limited by various agreements with tenants and other third parties. GGP and the GGP Mall Property Owners shall have no obligation to Spinco to terminate or amend any of those limitations. GGP, however, agrees, on its behalf and on behalf of the GGP Mall Property Owners that it and they will not amend the agreements to increase or impose any further limitations relating to residential and office development on any of the property owned by the GGP Mall Property Owners without the prior written consent of HRD, such consent not to be unreasonably withheld or delayed.

E. Dispute Resolution. The final documentation shall contain mutual indemnity provisions and a mutual waiver of jury trial provision, provide that Maryland law, as the law of the jurisdiction where the Core Development Area is located, shall apply to disputes between the parties, and shall acknowledge that because of the nature of the losses and damages that could be sustained by the non-defaulting party by uncured failures to perform and/or pay by the defaulting party, the parties shall agree to binding arbitration conducted by three (3) arbitrators, one selected by the non-defaulting party, the second by the defaulting party, and the third by the two arbitrators, with each arbitrator to be an independent third party with architectural, development, economic, engineering, or legal experience with mixed-use developments. The document shall not contain liquidation of damages or limitation of damages provisions.

III. Execution and Delivery of Final Documentation. GGP and Spinco shall execute and deliver a final memoranda to be recorded in the Land Records of Howard County, Maryland as set forth above and other agreements necessary or desirable to reflect or clarify the provisions of this Agreement.

Exhibit A-1¹



Core Development Zone - Columbia Town Center
 Existing Mortgages
 Spinco Allocated Parcel
 GGP Allocated Parcel
 ROFO and Option Property
 Mall Development Area

¹ The numbers in the grey circles on this Exhibit A-1 correspond to the column labeled "EXHIBIT A-1 NUMBER" on Exhibit B hereto.

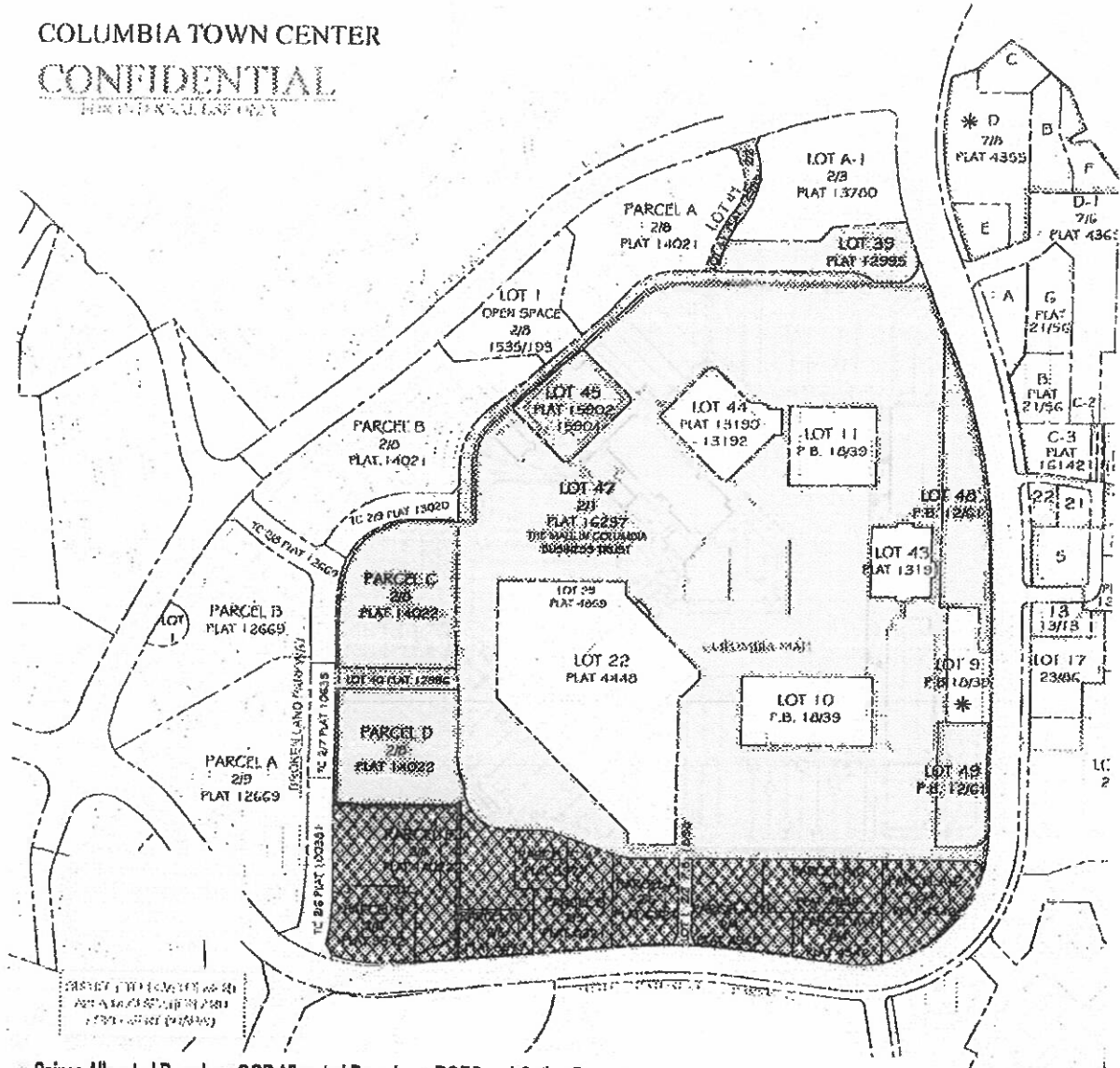
IN WITNESS WHEREOF, GGP, by its duly authorized officer, hereby executes this Memorandum as of the date first above written.

GENERAL GROWTH PROPERTIES, INC.

By: _____
Authorized Signatory

Exhibit A-2

COLUMBIA TOWN CENTER
CONFIDENTIAL
 HERRINGTON & ASSOCIATES



Spincio Allocated Parcel GGP Allocated Parcel ROFO and Option Property

EXHIBIT B

Property within the Core Development Area

<u>EXHIBIT A-1 NUMBER¹</u>	<u>PROPERTY</u>	<u>ENTITY</u>	<u>OWNER</u>
1	The Mall in Columbia	The Mall in Columbia Business Trust	GGP
2	AMC Theater	CM Theatre Business Trust	GGP
3	Nordstrom	CM-N Business Trust	GGP
4	Macy	CM-H Business Trust	GGP
5	Mall Entrance Roads (Lot 40, 41, Lot 1)	Mall Entrances Business Trust	GGP
6	Lot 48	Lot 48 Business Trust	GGP
7	Lot 49	Lot 49 Business Trust	GGP
8	Columbia Bank Drive Thru (p/o Parcel E, TC Sec. 2, Area 8)	CMI Corporate Parking Business Trust	GGP
9	Columbia Corporate Center Offices (Fifty Columbia Corporate Center – Parcel C-1 TC Sec. 2, Area 5)	Parkside Limited Partnership	GGP
10	Columbia Corporate Center Offices (Forty Columbia Corporate Center – Parcel B TC Sec. 2, Area 5)	Parkview Office Building Limited Partnership	GGP
11	Columbia Corporate Center Offices (Seventy Columbia Corporate Center – Parcel B TC Sec. 2, Area 6)	Seventy Columbia Corporate Center Limited Partnership	GGP

¹ The numbers in this column correspond to the labels on Exhibit A-1 hereto.

EXHIBIT A-1
NUMBER¹

<u>EXHIBIT A-1</u> <u>NUMBER</u> ¹	<u>PROPERTY</u>	<u>ENTITY</u>	<u>OWNER</u>
12	Columbia Corporate Center Offices (Sixty Columbia Corporate Center – Parcel C-4, TC Sec. 2, Area 5)	Park Square Limited Partnership	GGP
13	Columbia Corporate Center Offices (Ten Columbia Corporate Center – Parcel A-2, TC Sec. 2, Area 4)	10 CCC Business Trust	GGP
14	Columbia Corporate Center Offices (Thirty Columbia Corporate Center – Parcel A-7, TC Sec. 2, Area 4)	30 CCC Business Trust	GGP
15	Columbia Corporate Center Offices (Twenty Columbia Corporate Center – Parcel A-4, TC Sec. 2, Area 4)	20 CCC Business Trust	GGP
16	Parcel A-6, TC Sec. 2, Area 4 (Deck for 10, 20, 30 CCC)	CMI Corporate Parking Business Trust	GGP
17	Parcel A TC Sec. 2	CMI Corporate Parking Business Trust	GGP
18	Parcel E, TC Sec. 2 (Deck for 70 CCC)	CMI Corporate Parking Business Trust	GGP
19	Lot 39, TC Sec. 2, Area 3	Columbia Land Holdings, Inc.	GGP
20	Parcel C, TC Sec. 2, Area 8	Parcel C Business Trust	Spinco
21	Parcel D, TC Sec. 2, Area 8	Parcel D Business Trust	Spinco

EXHIBIT C

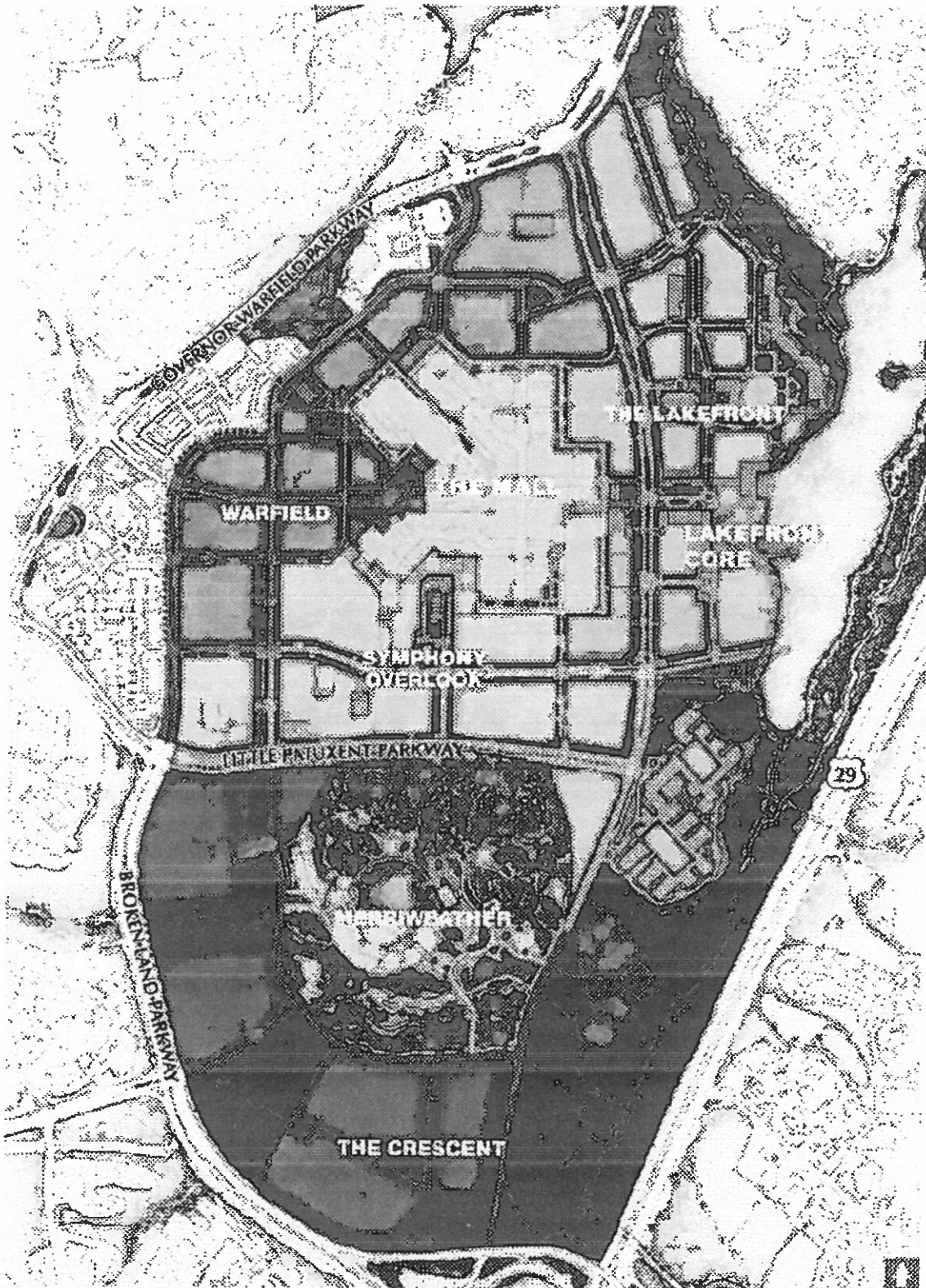


EXHIBIT D

DOWNTOWN COMMUNITY ENHANCEMENTS, PROGRAMS AND PUBLIC AMENITIES (CEPPAs) IMPLEMENTATION CHART

The Downtown CEPPA Implementation Chart identifies the timing and implementation of the various specific CEPPAs to be provided. The Downtown Columbia Plan anticipates that GGP, as the principal property owner, will undertake many of the CEPPAs. However, the responsibility lies with all property owners undertaking development or redevelopment in Downtown Columbia. Moreover, in the event of any future fragmentation of ownership of GGP's holdings, the CEPPAs must still be provided in accordance with the benchmarks established in this chart. Under such circumstances, the required CEPPAs could be funded by the developer(s) of individual parcels, a cooperative of developers or otherwise. In no case shall the obligation to provide a CEPPA to be triggered: (i) by the development or construction of downtown arts, cultural and community uses, downtown community commons, or downtown parkland; or (ii) when the development of an individual parcel of land shown on a plat or deed recorded among the County Land Records as of (effective date) consists only of up to a total of 10,000 square feet of commercial floor area and no other development. The timing and implementation of other amenities discussed in this Plan or shown in concept on the exhibits to this Plan will be governed by the zoning regulation recommended by this Plan.

If a specific CEPPA identified in the Downtown CEPPA Implementation chart cannot be provided because: (i) the consent of the owner of the land on 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 and/or timing: (i) does not result in piecemeal development inconsistent with the Plan; (ii) advances the public interest; and (iii) conforms to the goals of the Downtown Plan.

Additionally, because development phasing is inextricably linked to market forces and third party approvals, it will be important for the zoning to provide sufficient flexibility to consider a Final Development Plan which takes advantage of major or unique employment, economic development or evolving land use concepts or opportunities, and to consider a Final Development Plan amendment that adjusts the location, timing or schedule of CEPPAs and/or the residential and commercial phasing balance to take advantage of these opportunities.

PRIOR TO SUBMISSION OF THE FIRST FINAL DEVELOPMENT PLAN	
1.	GGP completed at its expense an environmental assessment of the three sub-watersheds of Symphony Stream, Wilde Lake and Lake Kittamaqundi located upstream of the Merriweather & Crescent Environmental Enhancements Study area. GGP participated with Howard County and The Columbia Association in a joint application to the Maryland Department of Natural Resources for Local implementation grant funding from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.
2.	GGP will commission at GGP's expense (i) the preparation of the Land Framework component of the Downtown Columbia Sustainability Program and (ii) a detailed outline for the Community Framework component of the Sustainability Program (Community Framework Outline). The Sustainability Program must be developed around the Sustainability Framework document referenced with this Plan. The Howard County

	Environmental Sustainability Board must be provided with a copy of the Sustainability Program, and will be invited to provide comments to the Design Advisory Panel concurrent with the Design Advisory Panel's review of the Downtown-wide Design Guidelines (Guidelines).
3.	GGP will commission at GGP's expense in consultation with Howard County a study evaluating a new Downtown Columbia Route 29 interchange between Route 175 and Broken Land Parkway and options for a connection over Route 29 connecting Downtown Columbia to Oakland Mills, including potential bicycle, transit and multimodal improvements. The study will evaluate alternative alignments and geometry, capacity analysis, preliminary environmental assessments, right of way impacts, multimodal opportunities, interaction and options with regard to the Oakland Mills bridge connection, preliminary costs, design and implementation schedule. Once the study is completed, GGP will suggest funding mechanism(s) for the potential implementation of its recommendation(s). If the study concludes that enhancing the existing pedestrian bridge is not recommended, then the funding for the renovation of the existing bridge should be used for the alternative connection recommended by the study. In addition, the pathways described in CEPPA No. 12 should be realigned to match the recommended connection.
4.	GGP will prepare at its expense Downtown-wide Design Guidelines inclusive of sustainability provisions from the Sustainability Program and a Comprehensive Signage Plan for Downtown for approval by the County Council.

	PRIOR TO APPROVAL OF THE FIRST FINAL DEVELOPMENT PLAN
5.	GGP will commission at GGP's expense and in consultation with Howard County one or more feasibility studies for the following: (i) a new Broken Land Parkway/Route 29 north/south collector road connection to Little Patuxent Parkway and (ii) a new Downtown transit center and Downtown Circulator Shuttle. With regard to the collector road, the feasibility study will evaluate alternative alignments and geometry, capacity analysis, preliminary environmental assessments, right of way impacts, preliminary costs, design and phasing of construction for this connection. With regard to the transit center, the study will evaluate both long and short term transit expectations and needs both locally and regionally so that an appropriate location and facility program can be determined. Consideration shall be given to how the facility will operate initially as a 'free standing building, and in the future as a mixed use component of the Downtown Plan. Recommendations will be provided with regard to goals, management and operations. With regard to the Shuttle, the study will evaluate and determine appropriate levels of service and phasing in of service at various levels of development. As part of this, the study should examine the relationship between the shuttle and both long and shorter term, local and regional transit expectations and needs. The shuttle feasibility study will also analyze equipment recommendations, routes and stops, proposed vehicle types, and operational and capital costs. The feasibility study shall include an evaluation and recommendations regarding ownership, capital and operational funding opportunities, responsibilities and accountability to provide guidance to the Downtown Columbia Partnership and the County.
6.	GGP and Howard County will jointly determine the functions, organizational structure, implementation phasing schedule consistent with the redevelopment phasing schedule, potential funding sources and projected funding needs of the Downtown Columbia Partnership, prior to GGP's establishment of this Partnership. The Downtown Columbia Partnership's role in promoting Downtown Columbia is outlined in Section 5.2 of the Plan. One of the primary responsibilities of the Downtown Columbia Partnership shall be the transportation initiatives outlined in the shuttle feasibility study and the promotion and

	<p>implementation of the TDMP. As such, at least fifty percent (50%) of the revenue collected pursuant to CEPPA No. 25 shall be utilized for the implementation of transportation initiatives in the shuttle feasibility study or other direct transit services downtown.</p> <p>GGP will provide the Partnership's initial operating funding as necessary to fund the initial efforts of the Partnership until other sources of funding and/or sufficient developer contributions are available to operate the Partnership. Funding provided by GGP to support initial start-up costs shall be in addition to funding provided for by CEPPA No. 23 and 25. However, after issuance of a building permit for the 500,000 square-foot of new commercial uses, GGP's obligation as described in the previous two sentences shall end and thereafter the property owners developing pursuant to Section 125.A.9 of the Howard County Zoning Regulations, including but not limited to GGP, will contribute toward funding the permanent ongoing operations of the Downtown Columbia Partnership as set forth in CEPPA No. 25.</p>
	PRIOR TO APPROVAL OF THE FIRST SITE DEVELOPMENT PLAN
7.	GGP will submit a phasing schedule for implementation of the restoration work on GGP's property and a Site Development Plan for the first phase of the environmental restoration work as described in CEPPA No. 15.
8.	GGP, in collaboration with the County, will establish the Downtown Arts and Culture Commission, an independent nonprofit organization, to promote and support Merriweather Post Pavilion's revitalization in accordance with this Plan and the development of Downtown Columbia as an artistic and cultural center.

	PRIOR TO ISSUANCE OF THE FIRST BUILDING PERMIT
9.	To facilitate the renovation of the Banneker Fire Station, GGP and the County shall cooperate to identify a site for the development of a temporary fire station while the Banneker Fire station is being renovated. GGP shall make the site available at no cost to the County on an interim basis but not longer than 30 months. GGP shall not be responsible for the development or construction costs associated with the temporary fire station. In the alternative, if prior to the issuance of the first building permit the County determines a new location for a fire station in Downtown Columbia is necessary and desirable, then GGP shall provide, subject to all applicable laws and a mutual agreement between the parties, a new location for a fire station within the Crescent Neighborhood as shown on Exhibit C by fee transfer at no cost to the County or by a long-term lease for a nominal sum.

	UPON ISSUANCE OF THE FIRST BUILDING PERMIT
10.	GGP shall contribute \$1.5 million in initial funding for the Downtown Columbia Community Housing Fund. Payment will be contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit.

	UPON ISSUANCE OF THE BUILDING PERMIT FOR THE 400TH RESIDENTIAL UNIT
11.	GGP shall contribute \$1.5 million in additional funding for the Downtown Columbia

	Community Housing Fund. Payment will be contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit.
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	PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE 500,000th SF OF DEVELOPMENT
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12.	<p>GGP will complete at its expense (i) the pedestrian and bicycle pathway from the existing Route 29 pedestrian bridge to Oakland Mills Village Center and to Blandair Park; (ii) the pedestrian and bicycle pathway from the existing Route 29 pedestrian bridge to the Crescent and Merriweather-Symphony Woods neighborhoods, inclusive of the pathway located between the Town Center Apartments and Route 29; and (iii) the pedestrian and bicycle pathway from the Crescent and Merriweather neighborhoods to Howard Community College and Howard County General Hospital. The scope and design of new pedestrian and bicycle pathways in the Plan will be guided by the new Downtown-wide Design Guidelines, Adequate Public Facilities Ordinance, and as delineated in this Plan and its Exhibit I. GGP will develop at its expense recommended maintenance standards and responsibilities for a heightened level of design and security for the new pathway improvements. When GGP submits the first Site Development Plan under this Plan, GGP will also submit a Site Development Plan to facilitate implementation of these pathway improvements.</p> <p>In addition, GGP along with the County and community will develop a scope of work for renovation of the existing Route 29 pedestrian bridge and will solicit a minimum of two proposals from separate architectural design consulting firms for alternative design improvements to the bridge structure to enhance its appearance and pedestrian safety. The consultant responses will be provided to the County for its selection, in consultation with GGP, of appropriate near-term improvements to retrofit the existing bridge. GGP will contribute up to \$500,000 towards the implementation of the selected improvements. If enhancement of the bridge is not recommended by the study in CEPPA No.3, GGP shall either post security or cash with the County in the amount of \$500,000 to be used in accordance with CEPPA NO.3.</p>
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13.	<p>GGP will enter into and record in the land records of Howard County, Maryland, a declaration of restrictive covenants that shall (1) prohibit the demolition of the former Rouse Company Headquarters building, and (2) prohibit the exterior alteration of the former Rouse Company Headquarters building, except as provided for in the Downtown-wide Design Guidelines. GGP shall provide a copy of the recorded declaration to the County. The declaration of restrictive covenants will not prohibit interior alterations or future adaptive reuse that would better integrate the building into its surroundings and activate the adjacent pedestrian spaces as described in the Downtown-wide Design Guidelines and this Plan or prohibit reconstruction of the building in the event of casualty.</p>
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	PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE 1,300,000th SF OF DEVELOPMENT
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14.	<p>GGP in cooperation with Howard Transit shall identify a location in Downtown Columbia for a new Howard County Transit Center consistent with the recommendation(s) of the feasibility study (See CEPPA No.5). GGP shall provide a location either by fee transfer at no cost or a long-term lease for a nominal sum subject to all applicable laws and regulations. Any contract of sale or lease may provide for the retention of air and subsurface development rights by GGP and allow for the co-location of public facilities or</p>
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	private development on the same parcel provided that any other use of any portion of the property does not interfere with the County's ability to use, construct, or finance the facility in the manner most advantageous to the County.
15.	GGP will complete, at GGP's expense, environmental restoration projects, including stormwater management retrofit, stream corridor restoration, wetland enhancement, reforestation and forest restoration, on its property and on property included within GGP's construction plans for the Merriweather-Symphony Woods and Crescent areas, as identified in the Land Framework of the Sustainability Program as referenced in Section 3.1 of this Plan.
16.	GGP will complete Phase I of the Merriweather Post Pavilion redevelopment program based on the redevelopment program scope and phasing outlined below. The redevelopment program will generally follow the evaluation and conclusions outlined in the October 2004 Ziger/Sneed LLP Merriweather Post Pavilion Study, Section III "Evaluation of the Site and Structures" and Section IV "Conclusions" included in the 2004 Merriweather Citizens Advisory Panel report to Howard County. Final design and scope will be determined by GGP's consultants, program and industry needs, operator recommendations, site and facility conditions and code requirements. Major components of the redevelopment program will include new handicapped parking accommodation; entrance and access modifications; restroom, concession and box office renovations and or replacement; utility systems replacement and additions; new roofs over the loge seating areas; reconfigured and replacement seating; renovated and new administration, back of house dressing and catering areas; code upgrades including fire suppression systems and handicapped ramps and pathway access. After development of preliminary renovation drawings, contractor input and schedule development, the program will be divided into three distinct phases to allow uninterrupted seasonal performances, staging and construction phasing.

	PRIOR TO APPROVAL OF THE SITE DEVELOPMENT PLAN FOR THE 1,375TH NEW RESIDENTIAL UNIT
17.	GGP shall, if deemed necessary by the Board of Education, reserve an adequate school site or provide an equivalent location within Downtown Columbia.

	PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE 2,600,000th SF OF DEVELOPMENT
18.	GGP will construct at its expense, the Wilde Lake to Downtown Columbia pedestrian and bicycle pathway. The scope and design of new pedestrian and bicycle pathways in the Plan will be guided by the new Downtown-wide Design Guidelines, Adequate Public Facilities Ordinance, and as delineated in this Plan and its Exhibit.
19.	GGP will construct at its expense the Lakefront Terrace (steps to the Lake) amenity space and pedestrian promenade (see Item 9, on Plan Exhibit G) connecting the Symphony Overlook Neighborhood to the Lakefront and Lakefront pathway. The final design of the Lakefront Terrace will be determined at the time of Site Development Plan review.
20.	GGP will complete Phase II redevelopment of Merriweather Post Pavilion based on the redevelopment program scope and phasing as outlined in CEPPA No. 16.

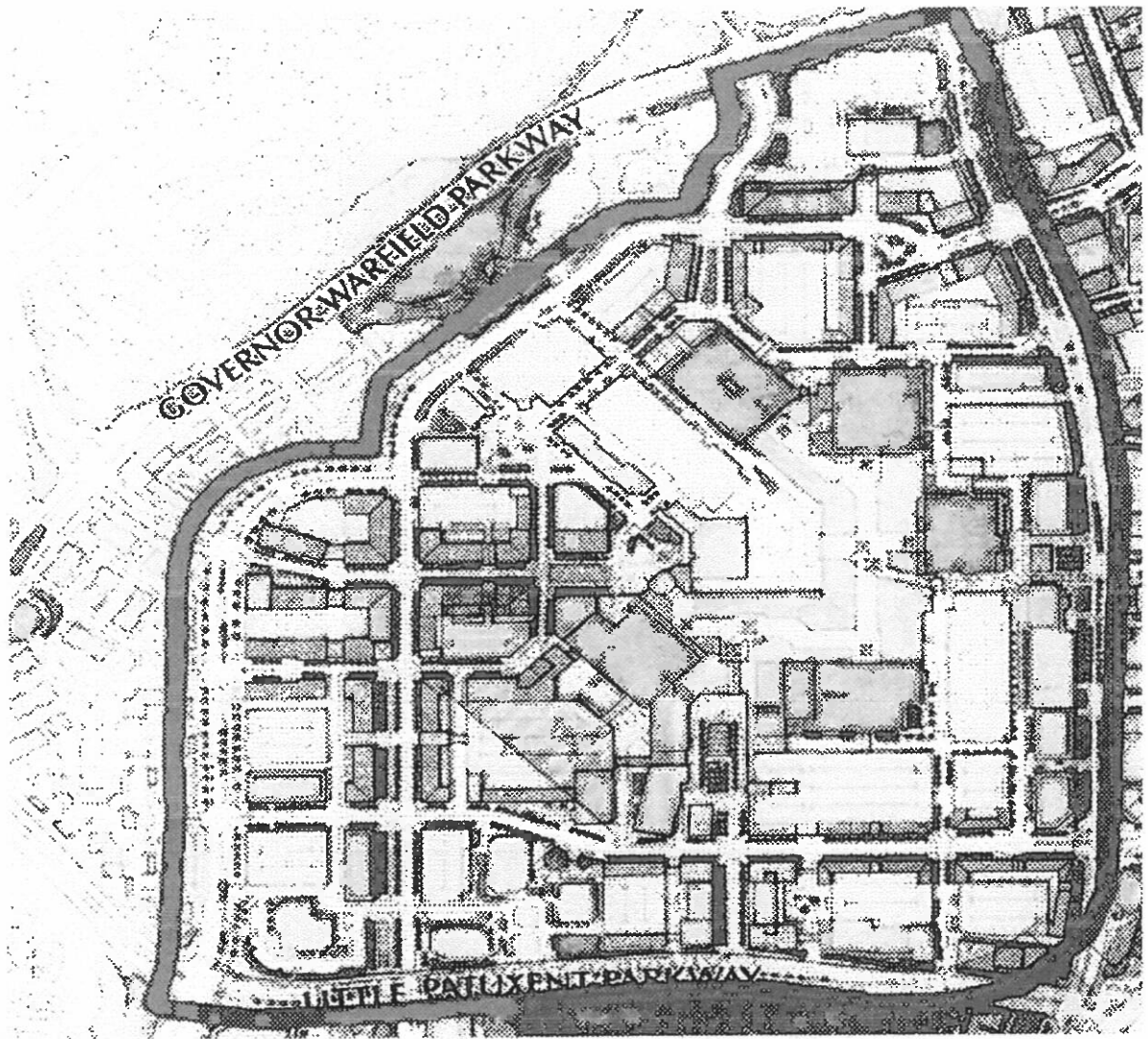
	PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE 3,900,000th SF OF DEVELOPMENT
21.	GGP will complete Phase III redevelopment of Merriweather Post Pavilion based on the redevelopment program scope and phasing as outlined in CEPPA No. 16.
22.	At least one Downtown Neighborhood Square as defined in the Zoning Regulations shall be completed and deeded to Howard County for public land.
	PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE 5,000,000th SF OF DEVELOPMENT
23.	GGP will provide \$1,000,000 towards the initial funding of a Downtown Circulator Shuttle.
24.	Transfer of ownership of Merriweather Post Pavilion to the Downtown Arts and Culture Commission for zero dollar consideration.

	PRIOR TO THE APPROVAL OF EACH FINAL DEVELOPMENT PLAN
25.	Each owner of property developed with commercial uses pursuant to the Downtown Revitalization Zoning Regulations shall participate as a member in the Downtown Columbia Partnership established pursuant to CEPPA No. 6 and provide an annual per-square-foot charge in an amount of twenty-five cents (\$0.25) per square foot of Gross Leasable Area for office and retail uses and twenty-five cents (\$0.25) per square foot of net floor area for hotels to the Downtown Columbia Partnership. Each Final Development Plan shall show a consistent means of calculating and providing this charge, and require that the first annual charge be paid prior to issuance of occupancy permits for those buildings constructed pursuant to that Final Development Plan and subsequent Site Development Plans under Downtown Revitalization. This per-square-foot charge shall be calculated at the time of Site Development Plan approval and shall include an annual CPI escalator to be specified in each Site Development Plan.

	UPON ISSUANCE OF ANY BUILDING PERMIT FOR A BUILDING CONTAINING DWELLING UNITS
26.	<p>To fulfill an affordable housing obligation each developer will provide a one-time per unit payment to the DCCHF in the following amounts to be imposed upon the issuance of any building permit for a building containing dwelling units. Payment will be contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit:</p> <ol style="list-style-type: none"> 1). \$2,000/unit for each unit up to and including the 1,500th unit. 2). \$7,000/unit for each unit between the 1,501th unit up to and including the 3,500th unit. 3). \$9,000/unit for each unit between the 3,501st unit up to and including the 5,500th unit. <p>The amounts to be paid under 1), 2) and 3) above will be subject to annual adjustment based on a builder's index, land value or other index provided in the implementing legislation.</p>

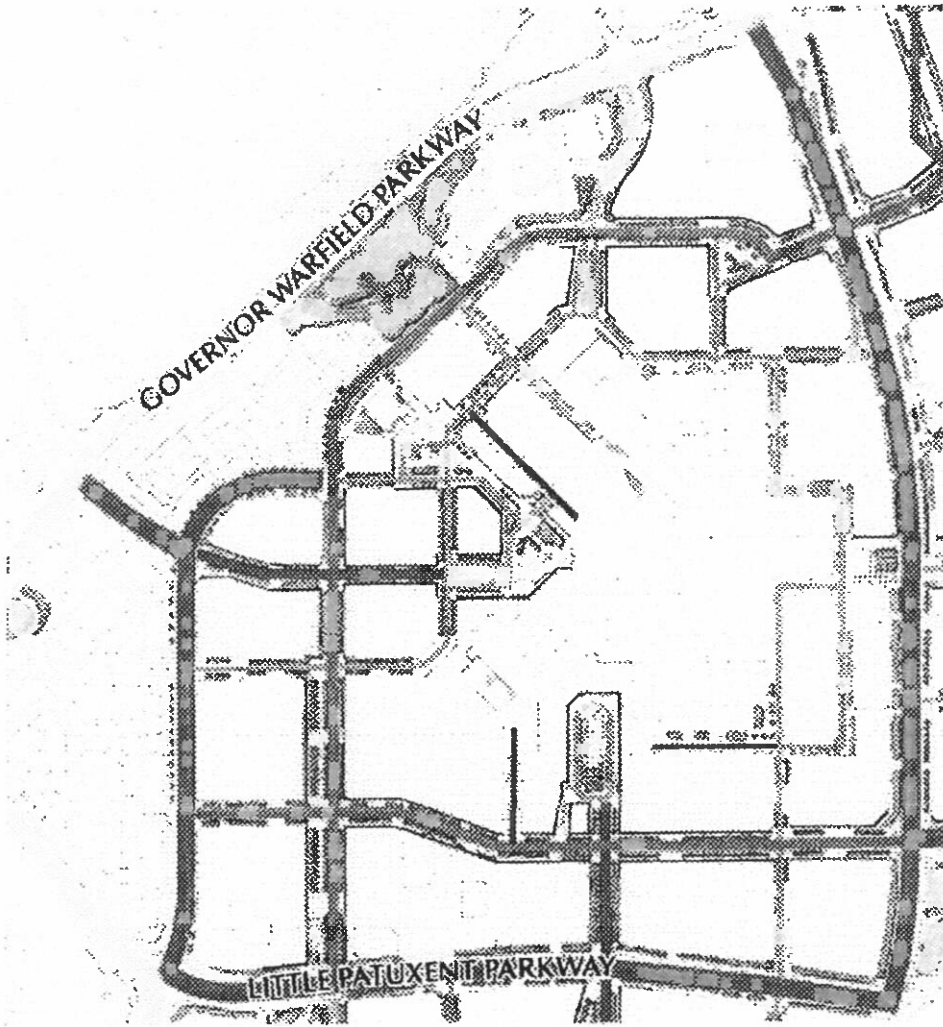
ADDITIONAL CEPPA CONTRIBUTION	
27.	Each owner of property developed with commercial uses pursuant to the Downtown Revitalization Zoning Regulations shall provide an annual payment to the DCCHF in the amount of five cents (\$0.05) per square foot of Gross Leasable Area for office and retail uses and five cents (\$0.05) per square foot of net floor area for hotels. The payment will be made annually by the property owner with the initial payment being made prior to the issuance of an occupancy permit for net new commercial development on the property. The amount of the charge will be subject to annual adjustment based on a builder's index land value or other index provided in the implementing legislation.

EXHIBIT E



■ Core Development Zone - Columbia Town Center

EXHIBIT F









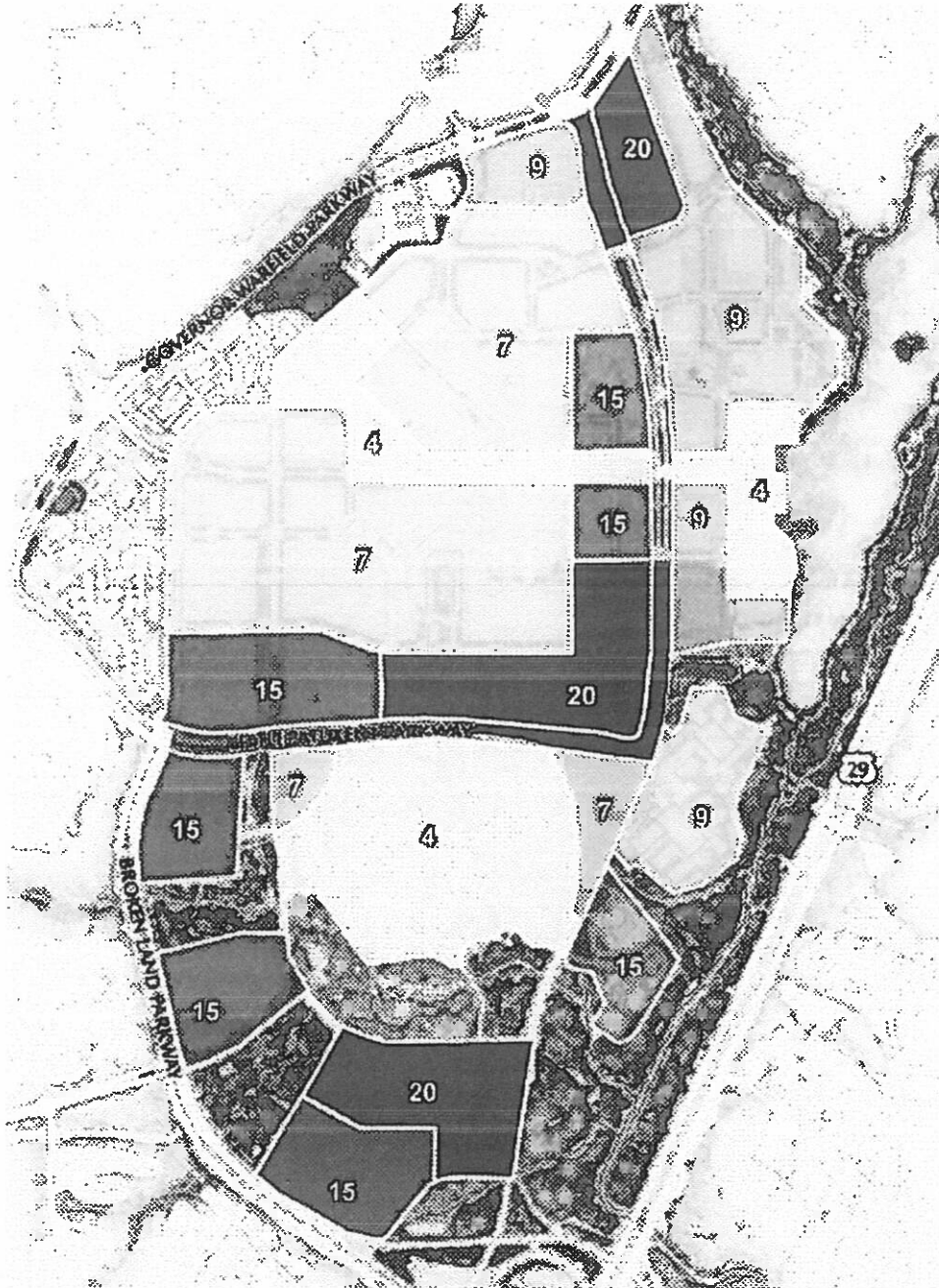
- | | | |
|---|---|--|
|  Parkway |  Avenue Type 1 |  Avenue Type 3 |
|  Boulevard |  Avenue Type 2 |  Street |

EXHIBIT G
ROFO and Option Property

<u>PROPERTY</u>	<u>ENTITY</u>
Columbia Bank Drive Thru (p/o Parcel E, TC Sec. 2, Area 8)	CMI Corporate Parking Business Trust
Columbia Corporate Center Offices (Fifty Columbia Corporate Center – Parcel C-1 TC Sec. 2, Area 5)	Parkside Limited Partnership
Columbia Corporate Center Offices (Forty Columbia Corporate Center – Parcel B TC Sec. 2, Area 5)	Parkview Office Building Limited Partnership
Columbia Corporate Center Offices (Seventy Columbia Corporate Center – Parcel B TC Sec. 2, Area 6)	Seventy Columbia Corporate Center Limited Partnership
Columbia Corporate Center Offices (Sixty Columbia Corporate Center – Parcel C-4, TC Sec. 2, Area 5)	Park Square Limited Partnership
Columbia Corporate Center Offices (Ten Columbia Corporate Center – Parcel A-2, TC Sec. 2, Area 4)	10 CCC Business Trust
Columbia Corporate Center Offices (Thirty Columbia Corporate Center – Parcel A-7, TC Sec. 2, Area 4)	30 CCC Business Trust
Columbia Corporate Center Offices (Twenty Columbia Corporate Center – Parcel A-4, TC Sec. 2, Area 4)	20 CCC Business Trust
Parcel A-6, TC Sec. 2, Area 4 (Deck for 10, 20, 30 CCC)	CMI Corporate Parking Business Trust
Parcel A TC Sec. 2	CMI Corporate Parking Business Trust
Parcel E, TC Sec. 2 (Deck for 70 CCC)	CMI Corporate Parking Business Trust

Exhibit H

Height Limits



Up to:	And not to exceed:	Up to:	And not to exceed:
4 Stories	60 feet	15 Stories	170 feet
7 Stories	100 feet	20 Stories	250 feet
9 Stories	120 feet		

August 9, 2019

RECEIVED

VIA HAND-DELIVERY

AUG - 9 2019

Phil Engelke, Chair
And Members of the Howard County Planning Board
3430 Court House Drive
Ellicott City, Maryland 21043

DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

Re: PB 435 – Request for Rehearing by Jervis Dorton – Response of Petitioner,
The Howard Research And Development Corporation

Dear Mr. Engelke and Members of the Planning Board:

On behalf of Petitioner, The Howard Research And Development Corporation (“HRD”), this letter responds to the August 1, 2019 letter of Jervis Dorton (“Dorton”) requesting the Planning Board revise and rehear PB Case No. 435 for FDP-DC-L-1 due to mistake, fraud or irregularity (“Request”). HRD opposes the Request for the reasons stated below.

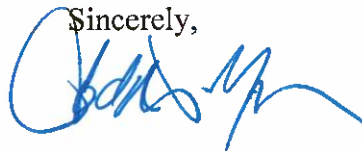
1. Dorton wrongfully suggests that on cross-examination Mr. Fitchitt answered untruthfully. In support, Dorton purports to summarize Mr. Fitchitt’s testimony and then quotes a passage from page 6 of the Board’s Decision and Order (“Decision”). *Request at 2*. Dorton’s summary of Mr. Fitchitt’s testimony is itself inaccurate. On cross-examination Mr. Fitchitt testified: (i) the FDP stopped at the eastern border of Little Patuxent Parkway; (ii) HRD did not own The Mall; (iii) HRD designed the Lakefront Connection so that it could connect across Little Patuxent; (iv) the control of when that connection outside the FDP area occurred was dependent on another party; and (v) HRD cannot build on somebody else’s property. *February 1, 2018 testimony at 1:27:12*. Each of these statements is truthful and accurate.
2. In substance, Dorton reargues the position taken by him in his testimony and in his February 1, 2018 letter to the Board on behalf of the Howard County Citizens Association (“HCCA Letter”) (Attachment 1); namely, that the Lakefront Connection alignment proposed by HRD did not conform to the Downtown Columbia Plan Primary Amenity Space Diagram. *HCCA Letter at 2*. The Board rejected this argument finding instead that the proposed Lakefront Connection provided the amenity framework as illustrated in the Downtown Columbia Plan. *Decision at 16*.
3. The alignment of the Lakefront Connection was shown on the FDP and Neighborhood Documents and in other materials presented at the hearing by HRD and its consultants. Mr. Fitchitt and HRD’s urban designer, Cecily Bedwell, each testified about the proposed alignment, explained the rationale for its location, and were cross-examined. The Board considered this evidence, along with evidence presented by Dorton and others. The

Board then concluded the FDP Neighborhood Specific Design Guidelines and the FDP conformed with the Downtown Columbia Plan, including the Primary Amenity Space Framework Diagram. *Decision at 17.*

4. Dorton relies on an agreement he states provides for The Howard Hughes Corporation and General Growth Properties to closely cooperate on the Lakefront. *Request at 2 and attachment.* However, the Board understood the FDP did not include improvements on the west side of Little Patuxent Parkway and that the design and development of the western portion of the Lakefront Connection would be determined at a future date. Accordingly, the existence of an agreement concerning cooperation with a property owner west of Little Patuxent Parkway is irrelevant. In this regard, the Board expressly acknowledged that while the FDP established the framework for a connection to the properties west of Little Patuxent Parkway, such improvements were beyond the scope of the FDP and that the responsibility of the Petitioner is to set the framework for the connection. *Decision at 15, paragraph f.* As noted, the Board expressly found the proposed Lakefront Connection provided the amenity framework illustrated in the Downtown Columbia Plan. *Decision at 16.*
5. When the Lakefront Connection is extended to the west, the cooperation of property owners on the west side of Little Patuxent Parkway will be essential. However, with respect to the instant FDP, it is irrelevant since the scope of the FDP was limited to the eastern side of Little Patuxent Parkway, and the Board found the Lakefront Connection as proposed provided the required amenity space framework.
6. The Request fails to identify a single instance of fraud, mistake or irregularity. Instead, Dorton reargues a position expressly rejected by the Board.
7. The Board's Decision was not appealed and is final.

For the foregoing reasons, Petitioner requests that the Request to Revise and Rehear the matter be **DENIED**.

Sincerely,



Todd D. Brown

cc: Valdis Lazdins
Gary W. Kuc, County Solicitor
David Moore
Jervis Dorton
Attached List

Certificate of Mailing

I hereby certify that a copy of this Response was provided to all parties to the case or to their designated legal representative or spokesperson.



Todd D. Brown
Attorney for Petitioner



HCCA

Howard County Citizens Association

Since 1951...

The Voice Of The People of Howard County

1 Feb 2018

Jervis Dorton
5963 Gales Lane
Columbia, MD

Re: PB 435 Downtown Columbia Lakefront Core

Chairperson Engelke and Planning Board Members

I am here tonight testifying and as authorized on behalf of the Howard County Citizens, HCCA. I have read the documents and contend that this FDP for the Downtown Lakefront Core does not satisfy the Planning Board Review and Approval Criteria as follows:

The Neighborhood Design Guidelines submitted are not in accordance with the 2010 Downtown Columbia Plan. For example: on page 31 - The Maximum Building Height Plan limits the height to 9 stories, but this petition proposes to raise this to 15 stories. Under the New Town Zoning Section 125, FDP submission requirements on page 240 paragraph b "limited change in height is allowed based on compatibility and height of nearby existing or planned development." The proposed change in height from nine to fifteen stories is a 66% change and can in no way be considered a "limited change". It is a SUBSTANTIAL change. Therefore 15 stories violate the Downtown Columbia Plan.

Note also that the word "compatible" in planning language does not mean that increasing height to match nearby existing buildings is desirable. In fact the opposite applies in this case. The 10-story Merrill Lynch and the 9-story Little Patuxent Square Building Tenants enjoy lake views that will be obstructed by the 15-story buildings proposed. The 9-story limit on the Lakefront Core is commensurate with good planning practices to maximize lake views from all properties surrounding the Lake Front Core.

Also, I must point out that the HRD's cover letter, page 16 second and last paragraphs are exceptionally misleading. In the Downtown Columbia Design Guidelines for the Lakefront Neighborhood maximum heights are stipulated on page 33 as 9 stories. Other neighborhood maximum heights are capped at 7, 9, 15, and 20 stories. The Zoning Regulations allow "limited change" to the lower maximum heights: not that changes to 20 stories are allowed by right in all neighborhoods which is what the letter infers.

Another violation of the Downtown Columbia Plan page 36, Street Framework Diagram shows the N-S leg of Wincopin Circle terminated at the existing traffic circle in front of the Teachers Building. The proposed FDP extends Wincopin Circle south to Whole Foods. Not only is this a violation, but it destroys The Hug sculpture vest pocket park which under New Town Zoning Section 125 page 241 paragraph n should be considered a location of historic and cultural significance being contiguous with CA's Lakefront Fountain Plaza. It also creates another street crossing, adding another impediment discouraging rather than encouraging pedestrian access to the lake. This is contrary to the Neighborhood Design Guidelines Vision for the Lakefront Core, page 5, to enhance connectivity between the Lakefront, The Mall, and other downtown destinations.

Another concern is the relocation of the Lakefront Connector 100 feet further south than on the Downtown Columbia Plan Primary Amenity Framework Diagram. This no longer places the Connector on the access of The Mall entrance, consequently the terraced plaza featured in the Downtown Columbia Plan page 10 is compromised irrevocably.

Turning to page 9, paragraph J of the Technical Staff Report the development is NOT adequately served by public facilities. No parking spaces are provided for the general public visiting the lakefront just to enjoy the open space amenities. Neither is there any parking for those attending the many CA lakefront events. At least a reciprocal easement agreement between Howard Hughes Corporation, Whole Foods, and CA should be included with this petition to secure the right for CA and the public to use on-grade and garage parking.

Concerning the Planning Board's Review Criteria, the petition does not satisfy the following criteria in the Technical Staff Report page 6 paragraph A. It does not conform to the Downtown Columbia Plan, specifically the Street and Block Plan the Maximum Building Height Plan, the Street Framework Diagram, and the Primary Amenity Space Diagram. The Neighborhood Specific Design Guidelines referred to do NOT conform to the Downtown-wide Design Guidelines.

Consequently, I urge this Planning Board to only Approve with Conditions this petition: conditions that require submission of the plan and criteria revisions I have presented here.

Thank you for your attention.

Jervis Dorton
HCCA Board Director
Rouse Company employee 33 years
Royal Institute of British Architects Charter Member

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6110 Covington Road
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Mr. David Phillips
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Mr. Robert Gillette
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Mr. Richard Talkin
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Ellicott City, MD 21043

Mr. Milton Matthews, President & CEO
The Columbia Association, Inc.
6310 Hillside Drive, Suite 100
Columbia, MD 21045

Jervis Dorton
5963 Gales Lane
Columbia MD 21045

August 14 2019

Mr. Phil Engelke, Chair and Members of the Planning Board
% Mr. Valdis Lazdins, Executive Secretary
3430 Courthouse Drive
Ellicott City, MD 21043

Re: PB 435 Request For Ruling

Dear Mr. Engelke

With reference to Mr. Todd Brown's letter dated August 13, 2019 addressed to you and the Planning Board, the request for a ruling tomorrow leaves neither time nor opportunity for parties to respond. I request that a ruling be postponed to a more appropriate date.

Sincerely

A handwritten signature in black ink that reads "Jervis Dorton". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Jervis Dorton
410 992 5218 jervisdorton@yahoo.com

RECEIVED

August 30, 2019

AUG 30 2019

Mr. Jervis Dorton
5963 Gales Lane
Columbia MD 21045
410-992-5218, jervisdorton@yahoo.com

DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

Mr. Phil Engleke, Chair, Howard County Planning Board
c/o Mr. Valdis Lazdins, Executive Secretary
3430 Courthouse Drive
Ellicott City, MD 21043

Re: Reply to Petitioner's Response, PB 435 Revisory and Rehearing Request to be heard September 5, 2019 Under Section 1.105.G.1.c, Case of Fraud, mistake...

Dear Mr. Engleke:

While it is not compulsory, I felt duty bound to formally reply to Mr. Brown's response to my revisory and rehearing request because of his apparent misapprehension of this request. I am sending this in advance, but I respectfully request the opportunity to present this at the hearing. First of all, the sole issue at hand here is if the newly discovered Development Cooperation Agreement is sufficient for the Planning Board to grant a rehearing of this case under section 105.G.1.e.(1), wherein the Board may reconsider or rehear a matter, and may modify a decision, only if evidence is submitted which could not reasonably have been presented at the original hearing, or if some mistake or misrepresentation of fact or law was made at the original hearing. The evidence in question here is not publicly available, and neither the petitioner nor DPZ introduced it at the hearing. It is apparent that I or any other party to the case could not have reasonably known about the existence of this agreement. The absence of this evidence resulted in mistakes of facts and ultimately led to the misapplication and mistakes of the law. It doesn't matter if Mr. Fitchitt's was truthful or accurate. Mr. Brown attempt to parse Mr. Fitchitt's statement from the D&O fails to address the standard the Planning Board is considering here. I only need to persuade the Board that they should grant a rehearing of this case considering the new evidence.

Mr. Brown confined his response to the FDP, but the D&O for PB 435 not only grants approval for the FDP it also grants CEPPA alternative compliance to swap the timing of CEPPA #19 and

CEPPA #22. The newly discovered evidence bears directly on this alternative compliance grant. "Mr. Fitchitt's testimony 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."* Mr. Brown does not address the fact that this statement is refuted by the Development Agreement. This fact was critical to the Planning Board's decision to grant the Alternative Compliance. There are three (3) situations under the Zoning Regulations that permit HHC to petition for alternative compliance of CEPPA. Based on the new evidence that shows HHC does indeed control the land on the west side of Little Patuxent, in fact, **CEPPA #19 is not eligible for alternative compliance, as it does not qualify under any of the three situations.**

In the event that CEPPA #19 was eligible for alternative compliance (**and it's not**), there are 2 alternatives under the Zoning Regulations: 1.) bond it; or 2.) approve alternate CEPPA or timing. If an alternate CEPPA is substituted the PB must find that it is a. comparable, not piecemeal and inconsistent with the plan; b.) advances public interest; or c.) conforms to the goals of the Downtown Plan.

The public square, CEPPA #22 is in no way comparable and the timing to 3.9 MSF is not appropriate. The Downtown plan may never reach 3.9 MSF, it is piecemeal and inconsistent with the plan, it does not advance the public interest, and it does not conform to the goals of the Downtown Plan.

Here the text from the D&O:

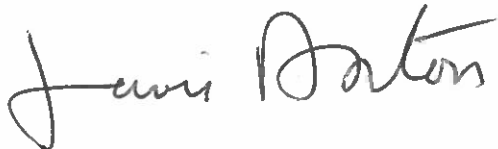
4. The Planning Board has the decision-making ability to alter the timing of CEPPA requirements under Section 125.0.A.9.h.3, that the parameters for justification have been met, specifically that factors existing that are beyond the Petitioner's reasonable control, and that the alternative timing proposed 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.

The new evidence shows that there are no factors that exist beyond their reasonable control, CEPPA #19 is **not** eligible for alternative compliance, and even if it was, they have not justified alternative timing. "Extenuating circumstances" is not a standard to grant alternative compliance under the Zoning Regulations.

Accordingly, I hereby respectfully submit that the Planning Board is bound by their Rules of Procedure to rehear PB no. 435, for FDP DC -L-1 due to mistake, fraud or irregularity

Sincerely

A handwritten signature in black ink that reads "Jervis Dorton". The signature is written in a cursive, flowing style.

Jervis Dorton, Architect

CC: The Columbia Association Board of Directors, via email

[CERTIFICATES OF MAILING FOLLOW]

CERTIFICATES OF MAILING


I HEREBY CERTIFY that on this 30th day of August 2019 a copy of the foregoing Revisory and Rehearing request and enclosure was mailed, postage prepaid, to Counsel.

Todd Brown, Esq.
Shulman Rogers
12505 Park Potomac Avenue
Potomac, MD 20854

Counsel for Petitioner
12505 Park Potomac Avenue, Potomac, MD 20854

David Moore, Esq
Howard County Office of Law
3450 Courthouse Drive
Ellicott City, Maryland 21043

Counsel for the Howard County Planning Board



Jervis Dorton

September 5, 2019

VIA HAND-DELIVERY

Phil Engelke, Chair
And Members of the Howard County Planning Board
3430 Court House Drive
Ellicott City, Maryland 21043

Re: PB 435 – Request for Rehearing by Jervis Dorton – Response of Petitioner,
The Howard Research And Development Corporation, to August 30, 2019 Letter

Dear Mr. Engelke and Members of the Planning Board:

On behalf of Petitioner, The Howard Research And Development Corporation (“HRD”), this letter responds to the August 30, 2019 letter of Jervis Dorton (“Dorton”) concerning his request and states:

1. Confronted with the specific summary of (and hearing citation to) Mr. Fitchitt’s testimony provided in our August 9, 2019 letter to the Board, Dorton is compelled to abandon his earlier contention that “material misstatements [were] made by Petitioner at the hearing.” *See August 1 Letter at 1*. Dorton now states “It doesn’t matter if Mr. Fitchitt’s [sic] was truthful or accurate.” *August 30 Letter at 1*. This is an incredible statement. Moreover, it matters a great deal to Mr. Fitchitt and Petitioner. As indicated in our August 9 letter and as evidenced by the testimony cited to therein, Mr. Fitchitt’s testimony was entirely truthful and accurate. Furthermore, Dorton’s purported quote of Mr. Fitchitt (*August 30 Letter at 2*) is not accurate. It is a repeat of language from the Board’s Decision at 6 but misleadingly ascribed by Dorton as verbatim testimony. It is not. Mr. Fitchitt’s testimony was accurately summarized in our August 9 letter and can be reviewed at 1:27:12 of the video of the Board’s February 1, 2018 hearing.
2. Dorton introduces a new contention that challenges the Board’s grant of alternative CEPPA compliance. Dorton seemingly conflates his erroneous assertions regarding the Lakefront Connection and its alignment with The Mall west of Little Patuxent Parkway with the Steps to the Lake (*i.e.*, the Lakefront Terrace – CEPPA 19). The Board granted alternative compliance for CEPPA 19 because “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 construction of a future roadway leading to the 3rd interchange with Route 29 within the same approximate location [*i.e.*, next to the Whole Foods parcel on the EAST side of Little Patuxent Parkway] and that timing and design of that roadway would be in part determined by the County and State agencies.” *Decision at 15*. Contrary to Dorton’s assertion, Petitioner’s control *vel non* of land WEST of Little Patuxent Parkway had nothing to do with the Board’s decision, and most certainly was not

“critical” to the grant of alternative compliance as asserted. Dorton’s claim to the contrary is entirely unsupported and is directly contradicted by the Board’s Decision.

3. As stated previously, cooperation among property owners west of Little Patuxent Parkway will be needed to implement those elements of the Downtown Columbia Plan that are located west of Little Patuxent Parkway. As the Board noted in its Decision, such improvements were beyond the scope of the FDP. *Decision at 15, paragraph f.* The existence of an agreement concerning such cooperation is irrelevant, whether or not such evidence could have been presented at the hearing. Furthermore, Dorton’s assertion that the existence of a cooperation agreement means that “HHC does indeed control the land on the west side of Little Patuxent” is absurd, even if it was relevant, which it is not. Cooperation between separate property owners does not imply that one property owner therefore “controls the land” of another property owner.
4. Lastly, the matter of Dorton’s Request is now squarely before the Board, including Dorton’s most recent assertions and Petitioner’s response thereto. Petitioner objects to Dorton’s request to assert his position further when the Board considers the matter at its meeting on September 5, 2019. The Record in the case is closed and taking of additional testimony would be inappropriate.

For the foregoing reasons, and for those reasons set forth in our August 9, 2019 letter, Petitioner requests that the Request to Revise and Rehear the matter be **DENIED**.

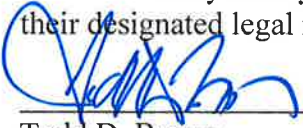
Sincerely,


Todd D. Brown

cc: Valdis Lazdins
Gary W. Kuc, County Solicitor
David Moore
Jervis Dorton
Attached List

Certificate of Mailing

I hereby certify that a copy of this Response was provided to all parties to the case or to their designated legal representative or spokesperson.



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