

**JUSTIFICATION STATEMENT FOR
BURTONSVILLE CROSSING SHOPPING CENTER
LIMITED MAJOR SITE PLAN AMENDMENT NO. 81985104A**

June 2022

I. INTRODUCTION

The Applicant, Burtonsville (E&A), LLC (“Applicant”), by their attorneys, Miles & Stockbridge, P.C., submits this Justification Statement to demonstrate conformance of the proposed amendment with all applicable review requirements and criteria. The subject property, known in the community as the Burtonsville Crossing Shopping Center, is comprised of approximately 15.60 acres located at 15701 Old Columbia Pike, Burtonsville, MD 20866 and is more particularly described as Parcel L, Burtonsville, as shown on Plat No. 16306 recorded among the Land Records of Montgomery County, Maryland (“Land Records”) on December 23, 1986 (the “Property”). The Property is zoned CRT-1.5 C-1.0 R-1.25 H-75 and lies within the boundaries of the *Burtonsville Crossroads Neighborhood Plan* approved and adopted in December 2012 (“Neighborhood Plan”).

The center has been in decline and largely vacant for the past several years, but this Limited Major Site Plan Amendment application (“Site Plan Amendment”) represents an important first step towards its revitalization. As described more fully below, the proposed amendment will demolish a portion of the in-line retail to create a new community gathering space, add two new retail buildings without increasing overall density, make minor adjustments to areas of the building façade, enhance pedestrian and vehicular circulation, and introduce new landscaping, tree cover and improved lighting to the site (the “Project”). Pursuant to Section 59.7.7.1.B.3.a¹ of the

¹ Section 59.7.7.1.B.3.a of the Zoning Ordinance (Amendment of an Approved Plan or Modification of an Application Pending before October 30, 2014) provides, in relevant part:

Until October 30, 2039, an applicant may apply to amend any previously approved plan...under the development standards and procedures of the property's zoning on October 29, 2014, if the amendment:

i. does not increase the approved density or building height, unless allowed under Section 7.7.1.C; and

ii. either:

(a) retains at least the approved setback from property in a Residential Detached zone that is vacant or improved with a Single-Unit Living use; or

Montgomery County Zoning Ordinance (“Zoning Ordinance”), the Site Plan Amendment is being sought pursuant to the standards of the CRT zone from the Zoning Ordinance in effect on October 29, 2014 (“2004 Zoning Ordinance”). The Applicant respectfully requests that the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission (“Planning Board”) grant approval of the requested Site Plan Amendment application (“Application”) to allow for the revitalization of the center to begin.

II. BACKGROUND

Preliminary Plan No. 119842430 was approved for the Property on May 9, 1985, allowing for the construction of a 130,000 square foot shopping center, and was subsequently amended in December 1988 to make adjustments to required intersection improvements. (“Preliminary Plan”). Site Plan No. 819851040 was approved on December 4, 1985 (“Site Plan”) (the Site Plan and Preliminary Plan, collectively, the “Previous Entitlements”). At the time of the Previous Entitlements, the Property was zoned C-1. Pursuant to the required conditions of approval for the Preliminary Plan, an Agreement was later entered into in 1986 that limited the development on the Property to 130,000 square feet of gross leasable area without the successful completion of an adequate public facilities review, which agreement is recorded in the Land Records at liber 7450, folio 759.

Since the approval of the Previous Entitlements, the Property was rezoned to CRT-1.5 C-1.0 R-1.25 H-75 in accordance with the recommendations of the Neighborhood Plan. Subsequently, Montgomery County comprehensively revised its Zoning Ordinance (ZTA 13-04, adopted on March 4, 2014 and effective October 30, 2014) and zoning map (District Map

(b) satisfies the setback required by its zoning on the date the amendment or the permit is submitted; and

iii. does not increase the tract area.

As shown on the materials included with the Application, the amendments to the Previous Entitlements do not increase the approved density or building height, satisfy all applicable setback requirements, and do not increase the tract area.

Amendment G-956, adopted on July 15, 2014, the “2014 District Map Amendment”), which processes altered the provisions of the CRT zone.

III. EXISTING CHARACTERISTICS

The Property is located on the east side of Old Columbia Pike (referred to in the Neighborhood Plan as Business 29), approximately 500 feet north of its intersection with Sandy Spring Road. It is bounded by Old Columbia Pike and confronting single-family detached dwellings in the Rural Cluster (RC) zone and a retail center in the CRT-1.5 C-1.0 R-1.25 H-70 zone to the west, National Drive and utility lines in the RC zone to the north, National Drive and a County Park and Ride and bus station in the CRT-1.5 C-1.0 R-1.25 H-75 zone to the east, and National Drive and confronting office uses with surface parking in the CRT-1.5 C-1.0 R-1.25 H-75 zone to the south.

Existing development on the Property consists of approximately 130,000 square feet of commercial uses located in a main retail strip center and three pad site buildings. There is also a large surface parking lot with 690 parking spaces that serves the existing center. The surface parking lot runs the length of the Property’s Old Columbia Pike frontage and is screened by a green panel with trees.

The main access to the Property is provided via a single curb cut along Old Columbia Pike leading to the main entrance drive. Additional access is provided from National Drive via two curb cuts along the Property’s southern frontage and one curb cut along the Property’s northern frontage. Loading access is provided to the rear of the retail strip center via National Drive.

IV. THE SITE PLAN AMENDMENT

A. Project Description

As noted above, the Site Plan Amendment is the first step in the revitalization of the Burtonsville Crossing Shopping Center. The Project will modernize the appearance of the center through place-making improvements intended to transform it into an activity center for the Burtonsville community. The Project will also lay the groundwork for the Neighborhood Plan’s long-term vision for the Property through incorporation of a design that begins to form the grid of blocks recommended in the plan. Finally, the Project will significantly improve pedestrian and bicycle circulation to and around the Property.

The Project proposes the removal of approximately 7600 square feet from the existing retail center building and the creation of a new community gathering space in the highly visible location at the terminus of the main entrance drive. The community gathering space is anticipated to be flanked by active restaurant and/or retail uses, creating the sense of an inviting outdoor room. It will include varied seating opportunities including tree-shaded seating, more traditional outdoor dining, porch swings, and co-working café-style seating. At the center of the community gathering space will be a multi-purpose green with a stage that can be utilized for community events, performances, and movie nights. As shown on the Site Plan, the community gathering space will provide a direct connection across National Drive to the bus station and Park and Ride.

The Project also proposes replacing the 7600 square feet removed from the center with two new commercial buildings with drive-throughs along a new interior entrance drive, and minor bump-outs of the existing building façade at the north and south ends, as shown on the Site Plan. The new stand-alone buildings will be placed adjacent to Old Columbia Pike and flank the main entry drive to the Property. This placement will activate the Property's Old Columbia Pike frontage, which is currently dominated by surface parking. The proposed drive-throughs and associated queuing lanes will be located to the sides and rear of the buildings so as not to detract from street-activation. Although no tenants have yet been selected for these new buildings, the Site Plan Amendment includes architectural elevations that the Applicant believes will be able to accommodate any user.

Finally, the Project makes several improvements to the public realm. Specifically, the breezeway running the length of the retail strip center will be widened to allow for outdoor dining and other seating opportunities and landscaping will also be added to enhance this area. To accommodate new fast-casual restaurants, "grab-and-go" pick-up areas will be added along the breezeway. New signage is also proposed to enliven the Project and provide wayfinding. Most significantly, a large sign bearing the words "Burtonsville Crossing" is proposed at the end of the main entrance drive and gateway to the new community gathering space. Opportunities for public art and murals will be incorporated into the shopping center as well.

B. Circulation

(1) Vehicular

The Site Plan Amendment maintains the existing access points for the Property and enhances vehicular circulation patterns onsite. The orientation of the new buildings and the

creation of the new entrance street reduce vehicular conflict points and streamline entry into the site. Access to the proposed drive-throughs will be through the surface parking area. Adequate queuing spaces for each drive-through will be provided to avoid overflow.

(2) Pedestrian

The Site Plan Amendment will also enhance on- and off-site pedestrian circulation. There is currently no pedestrian infrastructure serving the Property's Old Columbia Pike frontage. The Applicant is proposing to construct a 8-foot wide sidewalk along the entirety of the Old Columbia Pike frontage to provide pedestrian facilities where none currently exist. This sidewalk will connect to a new sidewalk along the new entrance drive to connect the frontage to both the new commercial buildings and the main retail center. Finally, the new community space will provide pedestrian connection from the front of the center to the Park and Ride and bus station to the rear. All of these improvements will significantly improve pedestrian circulation throughout the site and adjacent area.

(3) Bicycle

Bicycle access to the Property will continue to be provided via the curb cut off of Old Columbia Pike. A new bikeway, with buffer, is proposed to replace a travel lane along the Property's Old Columbia Pike frontage to create a bicycle connection where none currently exist. Finally, as shown on the Site Plan, more than the required number of bicycle parking spaces will be provided on-site.

B. Environmental Protection and Enhancement

(1) Forest Conservation

Pursuant to the exemption letter dated May 26, 2022, a copy of which is included on the Site Plan, the Project is exempt from the forest conservation requirements of Chapter 22A of the Montgomery County Code.

(2) Storm Water Management

The Property currently provides stormwater management controls via an existing pond facility located northeast of the shopping center, which treats the existing impervious surface areas. The Project will significantly improve stormwater management on the Property by incorporating new micro-bioretenion facilities into the existing and proposed development. The new environmentally sensitive practices will provide treatment of existing and proposed rooftop areas

in accordance with the current stormwater management regulations, while also continuing to benefit from the existing stormwater management pond facility.

V. NEIGHBORHOOD PLAN

The Project will further the goals and objectives of the Neighborhood Plan, including applicable plan-wide, neighborhood and Property- specific recommendations, as explained below.

A. Neighborhood Plan-Wide Recommendations

- *Connectivity: Business 29 could serve as the Village Center's "spine," with safe and attractive crossings, a planted median, and a linear green along the roadway, features that will improve the area's character and function.* (Neighborhood Plan at p. 17)

As reviewed above, the Project includes significant improvements to the Property's Old Columbia Pike frontage, including a new eight-foot sidewalk, a new separated bikeway, and landscape buffers. The proposed landscape buffers, in addition to the existing tree-lined green strip adjacent to the right-of-way that will be retained, meet the intent of the Neighborhood Plan's recommendation for a linear green.

- *Connectivity: Connect to the park-and-ride lot and regional transit.* *Id.* at 17.

The Project will provide a new pedestrian connection between the center and the Park and Ride lot and bus station through the new community space.

- *Connectivity: improve street character.* *Id.*

As noted above, the Project will improve the street character along Old Columbia Pike. First, it will locate two new commercial buildings along the Property's Old Columbia Pike frontage to activate the street. The Project will also implement new pedestrian and bicycle facilities and landscapes buffer areas along its Old Columbia Pike frontage, all of which will improve street character and make the Property's frontage friendlier to pedestrian and bicycle activity.

- *Connectivity: improving business 29 - dual bikeway along the east and west sides, and street trees in the median and along both sides Id. at 21.*

The Project includes a proposed 8 foot wide bikeway along the east side of Business 29 (Old Columbia Pike) to be separated from the vehicular travel lanes by a four-foot green strip. An additional six foot landscape buffer will then separate the bike lane from the sidewalk.

- *Design: In addition, public spaces should be located on the two shopping center sites to provide high quality private or public open space as a part of their redevelopment. Id. at 24.*

As described herein, the Project incorporates attractive new open space into the existing shopping center to activate and enliven it. This new space will become a gathering spot for community events, performances, and movie nights. Additionally, as described in detail above, the Project includes the enhancement and widening of the existing breezeway running the length of the retail strip center to accommodate seating and outdoor dining opportunities.

- *Environment: Reducing imperviousness has been established as the appropriate method to protect environmentally sensitive areas. Id. at 32.*

Through the thoughtful redevelopment of the shopping center and implementation of the Bikeway Master Plan, the shopping center will realize a reduction in existing impervious area. The storefront enhancements will include the addition of green areas that will break up the current concrete expanse. Additionally, the overall landscape enhancements throughout the site plan area will provide some additional shade opportunities that will reduce the heat island impact for the Property.

B. Village Center Business 29 Neighborhood

The Property is located within the Village Center Business 29 Neighborhood of the Neighborhood Plan. The Project furthers the recommendations for this specific area as follows:

- *This neighborhood consists of larger properties that can be enhanced to create mixed-use residential and commercial uses with a new grid of streets, pedestrian and bicycle connections, and a more integrated park-and-ride facility. Id. at 39.*

The Project represents an important first step towards achieving these objectives. The Project will revitalize the existing commercial uses on the Property in a manner that also begins to create the desired street grid, and will incorporate significant upgrades to pedestrian and bicycle facilities. The Project also integrates the desired connectivity to the Park and Ride through the new pedestrian connection in the community gathering space.

- *[R]etail visibility from [. . .] Business 29. Id. at 40.*

The Project locates two new commercial buildings along the Property's Business 29 (Old Columbia Pike) frontage, in furtherance of this objective.

- *[I]nterim development should provide growth opportunities for existing businesses. Id.*

As noted, the current center is largely vacant. Those businesses remaining will benefit from the increased activity and enhanced amenities that the Project proposes.

- *[D]ual bikeway along Business 29 with bike lanes and a linear greenway along Business 29 that includes a continuous lawn panel, a sidewalk on the east side, and a shared use path along the west side north to the PEPCO right-of-way.*

As previously noted, the Project achieves these objectives through the incorporation of a new separated bikeway, a pedestrian path, and green buffers.

- *[P]edestrian connections to the park-and-ride lot and future BRT station (under study). Id.*

The Project provides a pedestrian connection to the Park and Ride and BRT station through the community gathering space.

- *[S]treetscape that allows visibility for shops and signs from Business 29. Id.*

The Project locates two new retail buildings directly adjacent to the Property's Old Columbia Pike frontage. To increase visibility of the remainder of the retail strip center from the Property's Old Columbia Pike frontage, new signage will be added by the retail tenants.

C. Property-specific recommendations

The Neighborhood Plan envisions the eventual redevelopment of the Property with a mixed-use Project to include residential uses. However, it also makes a series of interim

recommendations for its revitalization. The Project meets these interim recommendations and lays the groundwork for the Neighborhood Plan's eventual transformative vision, as described below.

- *Since significant redevelopment may not occur in the near-term, the Plan supports interim development that can enhance the economic viability of the center. Id. at 41.*

The very intent of the Site Plan Amendment is to enhance the economic vitality of the center, as described above.

- *In the near-term, the center needs to attract a strong anchor in the old Giant space. Id.*

The Applicant has secured a strong new grocery anchor for a portion of the former Giant space and is in the process of securing additional junior anchors for the Property. The grocery anchor is an impetus for the additional leasing efforts.

- *[T]o facilitate the timely construction of a new anchor tenant, a small increase in the permissible square footage may be necessary subject to review by the Planning Board. Id.*

As described above, the new retail pads will replace the same area removed for the new community space, with no increase in the overall square footage on the Property.

- *New building sites and drive-thru uses with screened parking may be appropriate along Business 29 if they do not compromise the Plan's long-term vision;*

The Project proposes two new building sites with drive-throughs along Old Columbia Pike. The drive-throughs and parking associated with the buildings will be located to the sides and/or rear of the building so as not to compromise the Neighborhood Plan's long-term vision for the Property. These new buildings will serve to activate the Property's Old Columbia Pike frontage, which is currently dominated by surface parking.

- *locating surface parking to the side and behind buildings is recommended in the long term; however, screening surface parking located in the front of retail stores is acceptable in the near term;*

As noted, no new surface parking is proposed between the proposed new buildings and Old Columbia Pike. As shown on the landscape plan included with the Application, significant new plantings will be provided along the Property frontage, which will help screen the existing surface parking areas on the Property.

- *ensure that any site expansions do not compromise the Plan's long term visions for future open spaces and streetscape locations;*

The Project will not compromise the Plan's long-term vision for future open space and streetscape locations, but rather advances them through the incorporation of a new private street spine through the center of the Property and an important new community gathering space at its terminus.

- *[A]dditional access to Business 29. Id.*

The Project does not propose, but also does not preclude, future additional access to Old Columbia Pike in later phases.

- *Transit access improvements to the park-and-ride lot. Id.*

The Project provides pedestrian access to the Park and Ride from the proposed community gathering space.

- *Optional method development should include a visible public gathering space surrounded by active uses that draw pedestrians from the park-and-ride lot and from local streets. The space must be integrated into the streetscape and its final placement is flexible.*

While not an optional method development, the Project provides the community gathering space envisioned, which will be surrounded by active restaurant and/or retail uses. These uses will draw pedestrians from the adjacent BRT station and Park and Ride through the proposed pedestrian connection.

- *Landscaped area along Business 29 between the road and the sidewalk.*

As shown on the street cross-sections included with the Application, a six-foot wide landscape buffer is proposed between the bikeway and the sidewalk, in conformance with this recommendation.

VI. FINDINGS REQUIRED FOR SITE PLAN APPROVAL

Section 59-D-3.4(c) of the Zoning Ordinance provides the findings that the Planning Board must make before approving a site plan application. The following is an analysis of how the Site Plan Amendment satisfies these required findings:²

- (1) *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning board expressly modifies any element of the project plan;*

The Property is not subject to any of the listed entitlements.

- (2) *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;*

As shown on the Development Data Table on the Site Plan Cover Sheet, the Site Plan Amendment meets all of the requirements of the CRT zone. As noted, the principal change proposed with the Amendment is the replacement of approximately 7600 square feet of retail in the middle of the center with a new community amenity space, construction of two new commercial buildings with drive-throughs along the Property's Old Columbia Pike frontage, and minor adjustments to the existing center's façade. The Project will retain the commercial nature of the site, will result in no net increase in density and will remain within the limits of the Property's CRT-1.5 C-1.0 R-1.25 H-75 zoning.

With respect to the proposed drive-throughs associated with the new buildings, the Applicant notes that all requirements of the CRT zone applicable to drive-throughs have been satisfied. Specifically, Section 59-C-15.634 requires that: "(a) no part of any a drive-through facility, including the stacking area, may be located within 100 feet of a property line shared with one-family [. . .] or agriculturally [. . .] zoned land; and (b) no drive-through service window, drive aisle, and stacking area may be located between the street and the main front wall of the main building." 2004 Zoning Ordinance § 59-C-15.634.³ As shown on the Site Plan, neither building

² We note that the Site Plan Amendment is proceeding as a Limited Major Amendment and does not alter the intent or objectives of the Previous Entitlements.

³ 2004 Zoning Ordinance § 59-C-15.634 also requires that: "no drive-through service window, drive aisle, or stacking area may be located between the street and the side wall of the main building

proposes placement of the service window, drive aisle or stacking area between the building and either the internal street or Old Columbia Pike, and all such facilities are located over 100 feet from the closest residentially zoned land, across Old Columbia Pike to the west.

- (3) *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;*

Although the Amendment retains much of the existing center and its related infrastructure, it improves the landscape, open space and safety and efficiency of existing pedestrian and vehicular circulation patterns. With respect to building location, the Project locates two new buildings along the Property's Old Columbia Pike frontage, where they will replace surface parking and activate that streetscape. The drive through and queuing areas for these new buildings are positioned to avoid pedestrian and vehicular conflicts. As shown on the Public Use Space Exhibit, the quantity and quality of open space on the Property will be significantly improved by the Amendment, and will be anchored by the new community gathering space in the heart of the center. The Landscape Plan also depicts the significant improvements to landscaping at the center proposed by the Amendment.

The Project significantly improves pedestrian and bicycle circulation around and through the site by adding both a separated bikeway and sidewalk along Old Columbia Pike and sidewalk along the new main entrance drive to connect the Property frontage to the new commercial buildings and existing center beyond. These improvements will greatly improve the safety, efficiency, and adequacy of circulation patterns, as there is currently no pedestrian or bicycle infrastructure along the Property's Old Columbia Pike frontage or the main entrance drive. A further enhancement to pedestrian safety and efficiency is the connection to the BRT Station and Park and Ride via the community gathering space, which will include a clearly marked crosswalk.

Vehicular circulation patterns will also be safe, efficient, and adequate. Vehicular access and circulation patterns will be simplified through the closure of some curb cuts within the center, reducing potential points of conflict.

- (4) *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development;*

on a corner lot unless permanently screened from any street by a 5-foot or higher wall or fence." The Property is not a corner lot. Therefore, this requirement does not apply.

The proposed new buildings and changes to the existing shopping center are compatible with other uses and other site plans, and with existing and proposed adjacent development. Development in the area surrounding the Property is largely of a commercial character and forms the main commercial center of Burtonsville. As noted above, the Property is currently defined by its aging and partially vacant retail strip center. The Project represents a first step in transforming the Property from its current state to an attractive and vibrant activity center serving the surrounding Burtonsville community. As described in detail herein, the Project will revitalize the existing shopping center by creating new open space, improving pedestrian and bicycle access, and activating the Property's Old Columbia Pike frontage with new commercial uses. In this manner, the Project will not only revitalize the Property, but also will enhance the overall commercial area.

- (5) *The site plan meet all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

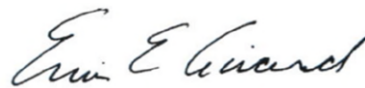
As noted above, the Project is exempt from Forest Conservation (Chapter 22A) requirements. With regard to Stormwater Management (Chapter 19), the Project proposes to enhance stormwater management by introducing new micro-bioretenion facilities throughout the site. These new facilities will provide a level of stormwater management redundancy for the shopping center.

VII. CONCLUSION

Based on the foregoing, the Applicant respectfully requests that the Planning Board approve the Site Plan Amendment.

Respectfully submitted,

Miles & Stockbridge PC



Erin E. Girard
Laura M. Tallerico
11 N. Washington Street, Suite 700
Rockville, Maryland 20850
(301) 517-4804 (Girard)
(301) 517-4833 (Tallerico)