

ZONING CHANGE REVIEW SHEET

CASE: C14-2011-0089 (CBL Walden Park)

Z.A.P. DATE: September 6, 2011

ADDRESS: 13300 North FM 620 Road

OWNER/APPLICANT: CBL Walden Park, LLC (Ken W. Wittler)

AGENT: Coats Rose Yale Ryman & Lee (John M. Joseph)

ZONING FROM: GR

TO: CH

AREA: 28.843 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant CH, Commercial Highway District, zoning.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

9/06/11: Approved the staff's recommendation of CH district zoning on consent (5-0, S. Baldrige-absent); P. Seager-1st, C. Banks-2nd.

DEPARTMENT COMMENTS:

The property in question is an undeveloped tract of land located between Lakeline Mall Drive, North Lake Creek Parkway and North FM 620/ North SH 45. The applicants are requesting 'CH' zoning at this site because they believe that the Commercial Highway zoning district is the appropriate designation for a property located near the intersection of several arterial roadways within an area of intense commercial and retail development.

The staff is recommending the applicant's request for 'CH' zoning because the property meets the intent of the Commercial Highway District as it has frontage along a state maintained highway and is considered part of the North U.S. 183 corridor. The CH zoning district would be consistent with the surrounding uses because there is existing CH zoning located to the north and west. In addition, there is CH-PDA zoning at the northeast intersection of U. S. Highway 183 North and Lakeline Mall Drive. There is also GR, CS-CO and CS zoning to west, fronting U.S. Highway 183 North and GR zoning to the south and southeast, fronting North FM 620/ North SH 45. The proposed zoning is compatible with the commercial character of this area of the city.

More intensive commercial zoning is appropriate for a retail center located at the intersection of two major retail highways within an area of concentrated commercial and retail development.

The applicant agrees with the staff recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR	Undeveloped
<i>North</i>	CH, GR	Retail Shopping Center (Denny's Restaurant, Panera Bread Restaurant, Target, Michael's Craft store, Kim Phung Restaurant, etc.)
<i>South</i>	GR	North FM 620 Road/N SH 45, Automotive Repair (Firestone Tire), Financial Services (Bank of America)
<i>East</i>	CH, PUD	Undeveloped
<i>West</i>	CH-PDA, GR, CS-1-CO, CS	Northfork Plaza Retail Shopping Center (Factory Mattress, Strait Music, Gold's Gym, Tan Etc, Sport Clips, Muang Thai Restaurant, Chair King, Austin School of Music)

AREA STUDY: N/A**TIA:** Waived**WATERSHED:** Lake Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A**HILL COUNTRY ROADWAY:** N/A**NEIGHBORHOOD ORGANIZATIONS:**

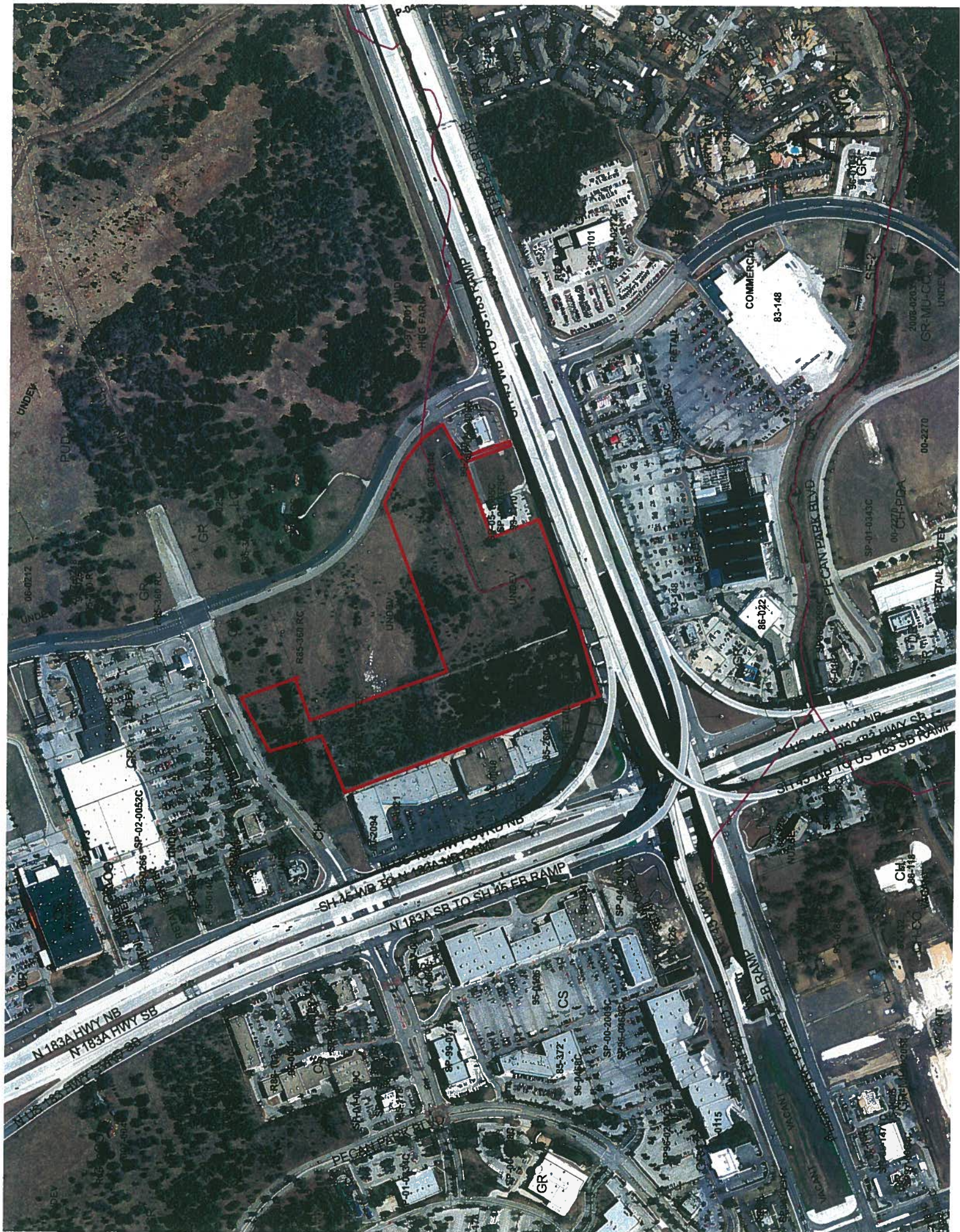
Austin Monorail Project
 Austin Northwest Association
 Austin Parks Foundation
 Davis Spring HOA
 Davis Springs President
 Homebuilders Association of Greater Austin
 Homeless Neighborhood Association
 League of Bicycling Voters
 Neighborhood Association of SW Williamson County
 Sierra Club, Austin Regional Group
 Super Duper Neighborhood Objectors and Appeals Organization
 The Real Estate Council of Austin, Inc.

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2010-0085 (Northfork Plaza Shopping Center: 13945 U.S. Highway 183 North)	GR to CS-1	8/17/10: Approved CS-1-CO zoning by consent, with the following conditions agreed to by the applicant and the neighborhood: prohibit Drop-Off Recycling Collection Facility, Adult Oriented Businesses, Bail Bond Services, Commercial Blood Plasma Center and Transitional Housing (6-0, P. Seeger-absent); D. Tiemann-1 st , G. Bourgeois-2 nd .	8/26/10: Approved first reading for CS-1- CO zoning on consent, with the following prohibited uses: drop off recycling, adult oriented businesses, bail bond services, commercial blood plasma centers and transitional housing (7-0); Spelman-1 st , Martinez-2 nd . 9/30/10: Approved CS-1-CO zoning by consent on 2 nd /3 rd readings (7-0); Spelman-1 st , Martinez-2 nd .

C14-2008-0091 (2W Homestead Zoning: 14000 Block of U.S. HWY 183 N)	GR-CO, CS to CH	5/20/08: Approved staff's recommendation for CH district zoning by consent (7-0, J. Martinez-absent); K. Jackson-1 st , T. Rabago-2 nd .	7/24/08: Approved CH district zoning by consent (5-0, Cole and Shade-off the dais)
C14-2007-0046 (Wolf Hester Tract: 14000 U.S. Highway 183 North)	DR to GR	6/05/07: Approved GR-CO with condition to prohibit Pawn Shops by consent (7-0, S. Hale, J. Martinez-absent); J. Pinnelli- 1 st , J. Shieh-2 nd .	7/26/07: Approved GR-CO by consent on all 3 readings (6-0); J. Kim-1 st , B. Dunkerely-2 nd .
C14-05-0140 (Hutto Place, L.P.: U.S. Highway 183 North at Lakeline Mall Drive)	CS-1-CO to GR	9/06/05: Approved staff's recommendation of GR zoning by consent (9-0); J. Martinez-1 st , J. Gohil-2 nd .	10/06/05: Approved GR zoning by consent (7-0); all 3 readings
C14-05-0006 (Hutto Place, L.P.: Lakeline Mall Drive & Highway 183 North)	GR to CS-1	2/15/05: Approved staff's recommendation of CS-1-CO on consent with the following additional conditions: 1) Limit size of structure to 12,000 sq. ft., 2) Prohibit Pawn Shop Services, Commercial Blood Plasma Center, Exterminating Services, Restaurant (General) and Cocktail Lounge. Vote: (8-0, K. Jackson-absent)	3/10/05: Approved CS-1-CO on all 3 readings (7-0)
C14-04-0121 (Northfork Plaza: 13945 U.S. Highway 183 North)	DR, GR to GR	9/7/04: Approved staff's recommendation of GR zoning by consent (8-0, J. Martinez- absent); J. Gohil-1 st , T. Rabago- 2 nd .	9/30/04: Granted GR zoning (7-0); all 3 readings
C14-03-0048 (Highland Resources, Inc.: U.S. HWY 183 North and FM 620 Road North)	DR to GR	4/1/03: Approved staff's recommendation of GR zoning by consent (9-0); J. Martinez-1 st , J. Gohil-2 nd .	5/08/03: Granted GR on 3 readings (7-0)
C14-03-0046 (Northfork Plaza: 13945 U.S. Highway 183 North)	DR to GR	3/25/03: Approved staff's recommendation of GR zoning by consent (7-0, K. Jackson-not yet arrived, J. Martinez-absent); M. Whaley-1 st , J. Gohil-2 nd .	3/24/03: Granted GR on all 3 readings (6-0-1, Garcia-absent)
C14-01-0173	DR to GR	1/15/02: Approved GR-CO, w/ condition prohibiting Pawn Shops (8-0)	2/14/02: Approved GR-CO (7-0); all 3 readings





STAFF RECOMMENDATION

The staff's recommendation is to grant CH, Commercial Highway District, zoning.

BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

Commercial highway services (CH) district is the designation for a use that has operating and traffic generation characteristics that require that the use be located at the intersection of state maintained highways other than scenic arterial roadways. A CH district designation may be applied to a single major mixed use development of a service nature that includes any combination of office, retail, commercial, and residential uses. A CH district may include a high density residential use. Site development regulations and performance standards applicable to a CH district are designed to ensure adequate access to and from all uses.

(B) A CH district may be located along the following highway corridors:

- (1) IH-35;
- (2) US-183;
- (3) US-290 (including Ben White Boulevard);
- (4) SH-71;
- (5) FM-1325 north of US-183; and
- (6) Loop 1, at least 400 feet north of the northernmost right-of-way line of US 183.

2. *The proposed zoning should promote consistency and orderly planning.*

The 'CH' zoning district would be consistent with the zoning in this area because there is commercial zoning (CH-PDA, GR, CH, CS, CS-1-CO and CS-CO) surrounding the property in question to the north, east, south and west.

The CH zoning district would be compatible with the surrounding uses because the property is adjacent to existing commercial retail centers to the north, south and west. CH zoning is appropriate for this location because of the commercial character of the area and the frontage of the property along a state maintained highway.

3. *Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.*

The site under consideration has frontage on FM 620 and is located near the intersection of FM 620 and U. S. Highway 183.

EXISTING CONDITIONS

Site Characteristics

The property in question is currently an undeveloped area located west of an existing retail shopping center that fronts Highway 101.

Environmental

The site is located over the North Edwards Aquifer Recharge Zone. The site is in the Lake Creek Watershed. The site is subject to Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is no flood hazard on the site.

Standard landscaping and tree protection will be required for all development and/or redevelopment.

Numerous trees will likely be impacted with a proposed development. Please be aware that an approved rezoning application must meet the intent of the tree ordinance. For more information, please contact the City Arborist at 974-1876. The site also contains other vegetation, areas of steep slopes, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development must comply with the following water quality control requirements:

- Structural controls: Sedimentation and filtration, and detention.

At this time, no information has been provided regarding any proposed approvals that preempt current water quality or CWA requirements.

Impervious Cover

The maximum impervious cover allowed by the City is 10% because the watershed impervious cover is more than 10%. Because the watershed impervious cover is more than 10%, the impervious cover is limited to 10%.

Under current watershed regulations, development must comply with the following impervious cover limits:

<i>Development Classification</i>	<i>Impervious Cover Limit (%)</i>
Single-Family Residential (min. lot size 5750 sq. ft.)	10
One or Two Family Residential (lot size < 5750 sq. ft.)	10
Multifamily Residential	10
Commercial	10

In the Water Quality Transition Zones, impervious cover is limited to 30%.

Note: The zoning change will not impact the impervious cover allowed pursuant to the 245 accommodation (Please see Attachment A).

Site Plan/Compatibility Standards

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Transportation

No additional right-of-way is needed at this time.

This site is within the area covered by State legislation (S.B. 1396), which went into effect September 1, 1995. Under this legislation, the City may not "deny, limit, delay, or condition the use of development of land...because of traffic or traffic operations that would result from the proposed use or development of the land." A traffic impact analysis is not required for any development within this area, and traffic issues may not be considered in the approval of the application. Right-of-way dedication, however, may still be required.

SH-45 is classified in the Bicycle Plan as Bike Route No. 401. Lake Creek Parkway is classified in the Bicycle Plan as Bike Route No. 21. Lakeline Mall Drive is classified in the Bicycle Plan as Bike Route No. 105

Capital Metro bus service (Routes No. 214, 383, 983, 984, and 987) is available along Lakeline Mall Drive and Lake Creek Parkway.

There are existing sidewalks along SH-45, Lake Creek Parkway, and Lakeline Mall Drive.

Existing Street Characteristics:

<u>Name</u>	<u>ROW</u>	<u>Pavement</u>	<u>Classification</u>	<u>ADT</u>
SH-45	Varies	Varies	Freeway	17,452
Lakeline Mall Dr.	Varies	2 @ 36'	Collector	2,170
Lake Creek Pkwy.	Varies	2 @ 36'	Collector	7,670

Water and Wastewater

FYI: The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility

for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.



City of Austin

Founded by Congress, Republic of Texas, 1839
Watershed Protection and Development Review Department
P.O. Box 1088, Austin, Texas 78767

July 31, 2008

Mr. John M. Joseph
Clark, Thomas & Winters, P.C.
P.O. Box 1148
300 W. 6th Street, 15th Floor
Austin, Texas 78701

Re: Development of Lots 13-19 and 21 of Walden Park at Lakeline (the "Lots")

Dear Mr. Joseph:


On May 6, 2008, the City's Chapter 245 Committee (the "Committee") reviewed CBL's application for Chapter 245 grandfathering of its final plat of the Lots (the "Final Plat"), and, although the City recognizes that this case presents difficult issues regarding the application of Chapter 245, the City does not believe that the Final Plat is entitled to be developed under the development regulations in effect in 1985. However, by way of accommodation, the City is willing to grant a limited recognition of Chapter 245 protection of the Final Plat for the purpose of the determination of allowable impervious cover. Accordingly, this letter sets out the understanding between the City of Austin ("City") and CBL Walden Park, LLC ("CBL").

The City and CBL acknowledge and agree that the total acreage of the Lots is 28.7 acres, which is shown in Exhibit A hereto and incorporated by this reference. The City agrees to allow 76% impervious cover based on the net site area of the Lots. Alternatively, CBL shall be entitled to develop the Lots with 78% impervious cover based on the net site area, on the condition that CBL demonstrates to the satisfaction of the City of Austin Environmental Officer, Pat Murphy, that the design of the water quality facilities will not result in a pollutant load discharge that would exceed the resulting discharge from development of the Lots with 76% impervious cover. CBL agrees that other than impervious cover limits, the development will comply with current City of Austin regulations. The terms of this letter apply to the area shown on Exhibit A and shall be effective regardless of the number of lots ultimately platted.

To the extent there are changes in the project as reviewed by the Committee, the determination made in this letter is subject to change. Once construction of retail development on a lot is finished, that part of the project will be complete and subsequent construction on the lot will constitute a new project subject to then-current City regulations. This letter and the position of the Review Team and the City concerning the appropriateness of the development of the property and any rights Chapter 245 or other laws asserted by you are not precedent for future development of this or any other property.

To signify its acceptance of the terms of this letter, please have your client sign it where indicated below. If you have any questions about this matter, please contact me at 974-9195.

Sincerely,



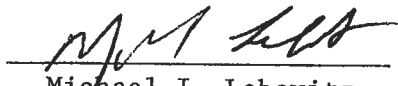
Victoria J. Li, P.E., Director

Watershed Protection and Development Review Department

C: Greg Guernsey, Director, NPZD
Bobby Ray, AICP
Pat Murphy
Tom Nuckols, Law Department
Susan Scallon

ACCEPTED AND AGREED TO:

CBL Walden Park, LLC:

By: 
Michael I. Lebovitz

Name: ~~Jon Andrus~~

Title: Chief Development Officer &
Sr. Vice President