

## MEMORANDUM

DATE: MAY 15, 2013

TO: TOWN OF UNIVERSITY PARK COMMON COUNCIL

FROM: JOHN ROGARD TABORI, MAYOR

RE: CAFRITZ COUNCIL MEETING, WEDNESDAY, MAY 15

Dear Council Members,

I have asked for the Council to reconsider our decision of Monday that conditions 25a, 25c and 25d were not met. I would also like us to modify and strengthen the language of our motion on 25b in light of the decision by the County Council to grant the petition to establish a special taxing district. I do not want our argument that this condition was not met to melt away in the eyes of the Planning Board because the petition for a STD was granted. Below you will find my reasons for removing conditions 25a, 25b and 25d from our "conditions not met list.:

1. Although late, the Cafritz Team has submitted a modified Preliminary Plan showing "a crossing over the adjacent CSX railroad tracks (the "CSX Crossing"). Both the Planning Board Staff and the College Park Staff believe that the supplemental plans submitted are sufficient to meet this requirement. In their motion of last night disapproving the PPS, College Park, with the agreement of the sponsor, Stephanie Stulich, deleted this condition from those that were unmet. Other than the explicit requirement to be able to carry "vehicles, bicycles and pedestrians" no specifics are required of the applicant under this condition. Such specifics are, however, implicitly required at the DSP stage and explicitly required at the permit level as described in Condition 26a. To require such detail at this stage would be to add a condition or requirement that was not contemplated at this stage and substitutes our judgment for what the plain language and intent of Condition 25a says. I would request that Council remove this condition from the list of unmet conditions.
2. Although the clarifications surrounding the CSX and Maryland letter from those respective organizations did not arrive until today, they clearly indicate that (a) both signatures are authorized, and (b) within the scope of their powers. Both also contemplate that the development team must meet additional detailed requirements at the permit stage under Condition 26a. This is consistent with how those conditions were written and their intent. I am happy that the Council's concerns prompted the clarification, but would be reluctant to continue to challenge the two organizations on their own internal procedures. By doing so, we burden this condition with additional requirements, which I strongly believe is inappropriate. Moreover, we lack the authority to do so.
3. In our discussion on Monday night we argued that Cafritz did not meet the requirements of condition 25d. This condition is in two parts, the first of which is at PPS and the second at DSP. The first part requires that the applicant estimate the costs of building the bridge, including

construction costs and the cost of acquiring the land on the east side of the CSX tracks. It is the land costs that the Council has concerns over. The Council is uncomfortable with using the 2008 appraisal cited by Maryland University in roughly estimating the price of the land. Normally, I would be too; however, the 2008 appraisal came from the period when land prices were at their height during the housing bubble. Since then, both residential and commercial land and property prices/values have gone down significantly or remained stagnant. They certainly have not gone up. As a consequence, it is not unreasonable (or put in positive terms, it is reasonable) to use the 2008 prices as a rough guide to the likely cost of acquiring the land. Current tax assessment records show the price of improved land to range between 350 and 650K. If we assume that these assessment values under value the land by up to 50 percent, the 1 million dollar per acre value suggested by the University of Maryland may possibly be high. The more important point is that the estimate is a reasonable estimate. Again, for us to demand a more exact figure is to burden the condition and require the applicant to provide more precise information than required by the condition. Again, we lack the authority to do so. I would ask the council to reconsider this condition and remove it from the list of unmet conditions.

4. Condition 24b remains unmet in my estimation. However, in light of the vote of the County Council by a vote of 6-2 to grant the petition for the establishment of a State Taxing District, we need to modify our language. We need to take the vote into account and more firmly establish our objection. In addition, the requirement to establish a system of assurances, etc. appears to float and does not reappear until condition 26b. I suggest that if the Planning Board does not accept our reading of this condition, it would be helpful to have a condition placed on the applicant that explicitly states when they must have such a system in place. My suggestion is that it be before the issuance of the first permit, thus tying it to 26a. In talking to Riverdale Park this afternoon, it appears they may be willing to support such a condition.
5. As to the failure of the HPC to review the new bridge under Condition 5, may I suggest that we ask for a condition that HPC review the bridge design for its impact on the historical sites and neighborhoods at some suitable time prior to the issuance of the first permit, so as to allow modifications to the bridge design in a timely manner if required.
6. Finally, I would like us to insert as a condition support for Dr. Mohktari's condition that accelerates the building of the bridge.

I strongly believe that if we take these actions, we will be heard much more loudly and clearly at the hearing tomorrow.

I will be glad to expound on my concerns and views at the meeting this evening.

Thank you for your time and attention.