



TOWN OF UNIVERSITY PARK

John Rogard Tabori
Mayor

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May 15, 2013

Honorable Elizabeth M. Hewlett
Chairman
Prince George's County Planning Board
14741 Governor Oden Bowie Drive
Upper Marlboro, MD 20772

Re: Preliminary Plan of Subdivision 4-13002
Cafritz Development

Dear Chairman Hewlett:

The University Park Mayor and Town Council (hereinafter the Council) have spent many hours reviewing the plans and specifications submitted by the Applicant in Preliminary Plan of Subdivision 4-13002 (the "Preliminary Plan") for the proposed development on the Cafritz property. Town representatives have attended all of the Subdivision Review meetings held by Maryland-National Capital Park and Planning Commission ("M-NCPPC") staff. We have appreciated the cooperation of M-NCPPC staff in keeping us informed of the status of the project.

Unfortunately, the application process for this project has been plagued by late filings and last minute changes, many within the week prior to and even after the Town Council's initial vote on May 13, 2013. The Town is a small municipality and has encountered extensive problems in processing the information as a result. Our ability to stay informed, respond appropriately, and keep the public up to date has been severely compromised. There is a reference in the May 9, 2013 M-NCPPC staff report that neither the Town, nor other surrounding municipalities, had replied to referrals prior to issuance of the report. This is directly attributable to these delays. The Mayor and Town Council have done their best to absorb this late received information from the Applicant and an M-NCPPC staff report issued one week before this hearing. We understand that staff has done its best to report as required on "old" information while attempting to absorb, organize and comment on "new" information, but this process has left Town elected officials and residents unable to participate in this process as fully as they are entitled to.

Further, with the Detailed Site Plan hearing following the Preliminary Plan hearing by one week, it is extremely difficult to engage in the separate evaluations that each of these stages normally require. As a result, the Town is providing in this letter the response that it has been able to

generate to date. In doing so, the Town has not had the benefit of being able to review the responses of the other municipalities, which have been working under the same limitations.

On May 13, 2013 the Town Council voted unanimously to recommend **disapproval** of Preliminary Plan 4-13002 based on the fact that the Plan fails to satisfy the requirements of Conditions 5 and 25 of Zoning Ordinance No. 11-2012, Case No. A-10018, both of which must be satisfied at this stage. This recommendation was reaffirmed on May 15, 2013 by a unanimous vote of the Town Council after it reviewed additional information it received related to Condition 25.

Requirements of Zoning Ordinance No. 11-2012, Case No. A-10018

The requirements of A-10018 are specifically spelled out in the District Council's Order. The Council has reviewed the submissions by the Applicant with respect to whether the requirements have been met. The Council has determined as follows:

1. The Town notes the following concerns with respect to Condition 25a. The street alignments and connections on the eastern side of the bridge have not been determined (See Exhibit 1 (Map of four options). There is also a 13-foot discrepancy noted in pages 5-6, and 79 of the Planning Staff Report. Moreover, it is not clear which bridge alignment Dr. Mokthari is referring to in his report.
2. Condition 25b has not been met. The funding mechanism for the bridge has not been established as of the time of the Town's review and was not established at the time of the writing of the Planning Staff report. While the applicant has petitioned for and as of May 14, 2013, received County Council approval for a special taxing district, that does not necessarily establish a funding mechanism sufficient to cover the costs associated with the bridge. If that funding mechanism is used, we have no basis to ascertain or verify that the funding stream is sufficient to cover all associated costs, including acquisition of land, costs of capital, design, engineering, and construction. In addition, none of the requirements to "establish a system of financial assurances, performance bonds or other security to ensure completion of construction and establish a timetable for construction." which must be met prior to approval of the Preliminary Plan, have been met.
3. With respect to Condition 25c, the Town notes that it received an additional clarifying letter on May 15, 2013 from the University of Maryland and an additional clarifying email from CSX on May 14, 2013. The Town notes that the original May 7, 2013 letter from the University of Maryland is replete with conditions and as a result, the Town has concerns about the ability of the Applicant to meet the requirements of Condition 26a. The Town also expresses its concern that with respect to the requirement that the University of Maryland letter "identify the land or right-of-way acquisition cost," the May 7, 2013 letter only estimates the land impact at "approximately 3.2 acres" and acknowledges that the land acquisition costs, which University of Maryland estimates to be "as high as \$1,000,000 per acre" is "non-binding" and "based upon dated appraisals." .

4. Condition 25d has not been met. While estimates of the cost of design, permitting and construction have been received via a letter dated May 6, 2013, there is no reliable cost for land acquisition. The land to be acquired has not been identified and there has been no appraisal of the land since 2008.
5. The Historic Preservation Commission did not complete the review required in Condition 5 of A-10018. The bridge crossing had not been located in sufficient time to allow for their review of the impact of the bridge on the adjacent National Register historic districts.

Preliminary Plan of Subdivision.

The Town Council adopted a number of conditions in January, 2013 when it first reviewed the Preliminary Plan, which it wished to see adopted by the Planning Board. It reviewed and approved these conditions again on May 13, 2013. These conditions are as follows:

1. Prior to approval of the Detailed Site Plan, the landscape plan for the buffer required in Condition 13 of Zoning Ordinance No. 11-2012 for Zoning Map Amendment A-10018, shall be submitted to the Town of University Park and the Town of Riverdale Park for review and approval. The landscape plan for the buffer abutting US 1 shall include woodland retention to the fullest extent practicable and make provision for deciduous tree canopy and shrub plantings. A schedule for the timing of the installation for the landscaping plan shall be provided as part of the review.
2. Prior to approval of the Detailed Site Plan, the 90 to 120 foot wide buffer required by Condition 13 of Zoning Ordinance No. 11-2012 for Zoning Map Amendment A-10018 shall be located within separate parcels as reflected on the approved preliminary plan of subdivision.
3. Prior to acceptance of the Detailed Site Plan, the applicant shall submit a draft easement for the protection and maintenance of the 90 to 120 foot wide buffer required by Condition 13 of Zoning Ordinance No. 11-2012 for Zoning Map Amendment A-10018 to the benefit of the Town of University Park and the Town of Riverdale Park. The easement for the protection and maintenance, which is subject to approval by the Town of University Park and Town of Riverdale Park, shall include language that sets forth the rights, responsibilities, and liabilities of the applicant and the applicant's heirs, successors, and/or assignees with respect to maintenance of the buffer, consistent with the requirements of the detailed site plan.

The easement shall be reviewed and approved by the Planning Board or its designee.

4. Prior to approval of the final plat, the applicant, and the applicant's heirs, successors, and/or assignees, shall submit a fully executed easement for the protection and maintenance to the benefit of the Town of University Park and the Town of Riverdale Park for the entire buffer delineated on the approved detailed site plan. The liber/folio of the easement shall be reflected on the final plat prior to recordation.

5. The TMP submitted by the Town of University Park shall be substituted in its entirety for the TMP provided by the applicant in response to Condition 17 of Zoning Ordinance No. 11-2012 for Zoning Map Amendment A-10018 and approved as having complied with the said condition.

6. Prior to issuance of the first building permit for the development, the following road improvements shall (a) have been constructed, (b) fully funded and scheduled for construction in the adopted CIP or current CTP, (c) fully bonded and permitted for construction with agreed-upon time table for construction by the applicant and the applicant's heirs, successors, assignees, and/or others:

- a. The proposed CSX crossing, including its connections to River Road via Rivertech Court and associated improvements for the intersections of the access road with Rivertech Court and Rivertech with River Road, consisting of at least two travel lanes, on-road bike lanes, and sidewalks, per Department of Public Works and Transportation (DPW&T) standards and specifications.

Further, with respect to the Preliminary Plan, Town Council voted May 9, 2013 to support the following:

1. Support the condition in the Preliminary Plan and DSP that bike lanes be moved to Van Buren Street.
2. Request that the Historic Preservation Commission complete the review required in Condition 5 of A-10018 now that the bridge crossing has been located.
3. Support the condition that all roads within the project are dedicated to the public except alleys and the service road for Whole Foods.
4. Support the LEED condition suggested by College Park, which reads as follows:

Prior to signature approval of the Detailed Site Plan, the Applicant shall apply and show results of LEED-ND Stage 1 review. If conditional approval is obtained, the Applicant shall employ every effort to obtain full LEED-ND certification and provide documentation of such. If conditional approval is not obtained, the Applicant shall make every effort to achieve U.S. Green Building Council (USGBC) LEED-Silver certification under LEED-NC and LEED Homes, or if available, equivalent standards for all buildings. Specifically the Applicant shall follow the process below:

a. Prior to DSP certification, the Applicant shall:

- 1) Designate a LEED-accredited professional ("LEED-AP") who is also a professional engineer or architect, as a member of their design team. The Applicant shall provide the name and contact information for the LEED AP to the municipalities and M-NCPPC.
- 2) Designate a representative from M-NCPPC and each municipality, should they wish to participate, as a team member in the USGBC's LEED Online system. These team members will have privileges to review the project status and monitor the progress of all documents submitted by the project team.

b. Prior to the issuance of the first use and occupancy permit, the Applicant shall provide documentation that the project has obtained the appropriate LEED certification. If certification has not been completed, the Applicant shall submit certification statements

from their LEED-AP that confirms the project list of specific LEED credits will meet at least the minimum number of credits necessary to attain the appropriate LEED certification.

The following conditions are also suggested:

1. Prior to approval of final plat, that the Applicant enter into a covenant or transportation management agreement for approval by M-NCPPC and the Department of Public Works & Transportation, after review and approval by the three municipalities of College Park, Riverdale Park and University Park to be recorded and run with the land with respect to the TMP requirements, the shuttle bus requirements and the circulator bus requirements, as recommended in paragraph 29 on page 103 of the Planning Staff Report.
2. At the time of the Detailed Site Plan, that the Town shall have an opportunity to review the TMP to ensure that the version of the TMP the Applicant negotiated with the Town is the version that has been included in the final plans.
3. That the 90 to 110 foot width of the buffer shown on the Preliminary Plan be maintained regardless of the final decision with respect to SHA required right of way.
4. That the Applicant provide a public access easement for the buffer prior to approval of the final plat.
5. That the Applicant be required to provide a police substation on the Property for the Town of Riverdale Park. If the Applicant fails to do so, that the Applicant be required to compensate the Town of University Park's Police Department for services provided on the Property.
6. Prior to the issuance of the first building permit, the Historic Preservation Commission shall review the bridge for its impact on the adjacent National Register historic districts.
7. That the escalated schedule for completion of the bridge as recommended by Dr. Mokthari be made an additional condition.

Respectfully submitted, on behalf of the Mayor and Common Council of the Town of University Park.

Very truly yours,



John Rogard Tabori
Mayor