



TOWN OF UNIVERSITY PARK

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May 22, 2013

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

Re: Detailed Site Plan DSP-13309
Special Permit SP-130002
Secondary Amendment SA-1330001
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 as part of DSP-13309, Special Permit SP-13002 and the Secondary Amendment. We note again that the Council's review of these plans has been hampered by late filings, which have then resulted in submission of referral responses from Maryland National-Capital Park and Planning Commission ("M-NCPPC") staff and others well after the issuance of the technical staff report, including several received on May 22, 2013. We have appreciated the cooperation of M-NCPPC staff in keeping us informed of the status of the project, however, it is not possible to be fully informed of important aspects of this case for the reasons previously stated in our letter with respect to the Preliminary Plan.

Further, with the Detailed Site Plan hearing following the Preliminary Plan hearing by one week, we have not had the benefit of seeing the Board's Resolution with respect to the Preliminary Plan. The Board's vote was taken after a hearing that took many hours and involved numerous changes to proposed conditions and submission of documents. This has further complicated our review of the applications in this case, especially in view of the fact that the Town was not represented by counsel at that hearing due to a conflict. The Town Council has met on three separate occasions in the last week to discuss these development issues, in addition to attending an M-NCPPC staff meeting and the May 16 Planning Board hearing.

As the Board knows, the Town supported the rezoning application for this property, which resulted in Zoning Ordinance No. 11-2012, Case No. A-10018 ("A-10018"). This support was specifically based on the conditions that were adopted as a part of that Ordinance. Based on the failure of the Preliminary Plan of Subdivision to comply with those conditions, the Council voted last week to recommend disapproval. For the same reasons, as much as we would like to be able to support this project on May 22, 2013 the Town Council voted 6-0 to recommend denial of

Detailed Site Plan DSP-13309, Special Permit SP-130002 and Secondary Amendment SA-130001, based on the fact that the Plans fail to satisfy the requirements of Condition 25 of Zoning Ordinance No. 11-2012, Case No. A-10018. Further, it appears that the wording adopted by the Board in the Preliminary Plan, and proposed for adoption as part of the DSP, would redefine the requirement in Condition 25 of A-0018 that if the manner of public finding required for the CSX crossing requires approval of the County Council or other government body or entity, "the approval of the County Council and all other government bodies or entities must be obtained prior to the approval of any detailed site plan for the subject property".

The Town's concerns with the Applicant's development have been presented to the Board throughout this process. As noted, these concerns were addressed in A-10018 through certain conditions. These concerns, in sum, are:

1. **Traffic management through the provision of a shuttle, circulator bus, effective traffic management plan ("TMP") and a TDMD.** The Town worked with the Applicant, and the Towns of College Park and Riverdale Park to come to agreement on the wording for the TMP, which included shuttle bus, circulator bus and bikeshare provisions. This TMP was presented to the Planning Board at the Preliminary Plan hearing, with a request that it be substituted in its entirety for the TMP provided by the Applicant in response to Condition 17 of A-10018. We understand that the TMP submitted by the Town has been substituted for the TMP originally submitted by the Applicant to comply with Conditions 17 and 18 of A-10018. However, the Town's request that it be involved in the process for final approval of the plans was not granted by the Board.
2. **A required "buffer" or gateway entrance feature along the Route 1 frontage facing University Park.** The required buffer, ranging in width from 90' to 110' and shown on the Preliminary Plan approved by the Board, is now represented in the proposed DSP as a 90' wide buffer, which is not consistent with the adopted Preliminary Plan. The width of the buffer on the Preliminary Plan is consistent with the dimensions shown to the Town by the Applicant on plans dated 3/13/2013. For whatever reason, it is now inconsistent with the Board decision, which we believe adopted the staff recommendation as follows:

The PPS reflects the buffer along Baltimore Avenue (US 1) extending east from the right-of-way. The PPS proposes two streets (Woodberry and Van Buren) extending east into the site from US 1. The buffer is shown as a part of development Parcels A, B, and C.

As recommended as requested by the Maryland State Highway Administration (SHA) and the master plan. In conformance with this condition, and as recommended by staff, the buffer should be shifted in its entirety to the east consistent to the amount of right-of-way dedication with no reduction in its size and configuration (size and width), prior to signature approval of the PPS."

3. **Construction of the CSX Crossing.**

As noted in the Town' letter concerning the Preliminary Plan, Condition 25b of A-10018 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 received County Council approval for a special taxing district on May 14, 2013, this does not 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. As noted in the May 21, 2013 report from the Transportation Planning Section:

The submitted plan includes the approved University of Maryland J-Crossing (Version J.3.300) for this proposed CSX crossing, as recommended by the Planning Board on May 16, 2013. However, as of this writing, the applicant has not provided staff with the required governmental approvals for every component of the proffered funding mechanism to the Planning Board in the approved Preliminary Plan. . . . (at p. 4).

The Transportation Planning Section recommends a condition that requires submission of the required government approvals prior to signature approval of the DSP. However, Condition 25 of A-10018 requires this to be provided prior to approval of the DSP.

In its deliberations on the Applicant's Preliminary Plan of Subdivision on May 16, the Planning Board adopted a revised Condition 37 proposed by Staff in their Report of May 9, 2013. This condition appears to expand the infrastructure improvements eligible for funding, particularly those that are on Baltimore Avenue. In addition, it requires that the condition be met by the time of the "approval of a building permit". The Town would note that when the A-10018 Conditions were developed, none of the parties involved contemplated any form of public infrastructure funding or subsidy beyond the CSX crossing. More importantly, the negotiating parties established a series of triggers that are embodied in Conditions 25 and 26, to insure that the CSX crossing would actually be constructed. This was done in order to ensure that the ground was not graded if the CSX Crossing could not be achieved. If the land were to be graded and the CSX Crossing could not be permitted by the time of the approval of "a building permit," then that would leave both the surrounding communities and the Applicant in a difficult position.

In addition, the Town notes that Condition 25 contains a sub condition that is relevant at the DSP stage, i.e., the second part of Condition 25d requires that "if the manner of public funding is tax increment financing, or any other funding mechanism that requires the approval of the County Council or other government body or entity, the approval of the County Council and all other government bodies or entities *must be obtained prior to the approval of any detailed site plan for the subject property.*" (emphasis added.) While the staff argues that this condition has been met, the Town would note that the Special Taxing District authorizing process contains two steps, the first of which is to authorize a Special Taxing District and define its boundaries, the second of which is to implement the taxing district by establishing the cost of the project and the ad valorem tax to be assessed. The first step of this process was met by vote of the County

Council on May 14 to establish a Special Taxing District covering substantial portions of the Applicant's property. The second part of the process has not yet been initiated.

After review of the M-NCPPC staff reports with respect to the Detailed Site Plan, Special Permit and Secondary Amendment, the Town Council voted as follows. We apologize for using what may be "old" paragraph numbers and other references from the staff report, which we understand may be amended.

SECONDARY AMENDMENT

1. In place of Staff Amendment "J" –

Approve the amendment to Landscaping and Pedestrian Amenity Zone for the purpose of eliminating the standard sidewalk, subject to SHA approval, and providing only a publicly owned and maintained serpentine sidewalk and bike path to increase the likelihood of tree preservation.

2. In place of Staff Amendment "N" –

Delete "N" and allow no variance from MUTC sign standards.

3. Delete Staff recommended Condition 5 and insert:

Require a minimum four foot high wall and dense evergreen shrubs along the parking edge for Parcels A and B where the edge is adjacent to the greenway entrance feature, sufficient to properly screen the lighting due to cars in the parking lot. Details, specifications and specific plantings shall be provided for review and approval by the Urban Design Section.

We are informed that the requested wall is not possible due to storm water management issues. If this is in fact the case, then the Town requests that the word "fence" be inserted in place of "wall".

DETAILED SITE PLAN

1. The Town supports City of College Park conditions 1(b), 3 and 5.
2. The Town requests the following condition:

Applicant shall be required to phase the grading of the property, to the fullest extent practicable, to maintain as much of the mature tree canopy and other screening in the greenway entrance feature, Parcels A, B and C in place until grading is required by construction activity on adjacent parcels.

3. The Town requests the following condition:

Prior to the issuance of the first grading permit, the Applicant, its heirs, successors and assigns shall demonstrate that the extension of the approved J-Crossing (Version J.3.300) over the CSX tracks to Rivertech Court with at least 36 feet of road pavement, five foot sidewalks and on-road bike lanes, plus a two foot barrier (a) have been constructed, (b) fully bonded and permitted for construction with an agreed-upon time table for construction by the Applicant and/or the applicant's heirs, successors, or assigns, (c) otherwise incorporated in a specific public facilities financing and implementation program as defined in Section 27-107.01(186.1) of the Zoning Ordinance or (d) there is incorporated within the adopted County Capital Improvements Program (CIP) or the current State Consolidated Transportation Program (CTP) with one hundred percent (100%) construction funding allocated during the six years. In addition, the Applicant must submit for review and comment the completed, revised funding plan for the CSX Crossing (Bridge) to the Office of the Executive, Prince George's County; the Office of the Mayor, Town of Riverdale Park; and the Office of the Mayor, Town of University Park, which shall be allowed 10 days to review and comment prior to the issuance of a grading permit. If no comment is received, the permit may be issued.

4. Delete Condition (C)(34) and substitute the following:

Demonstrate the full 90 to 110' depth requirement of the gateway entrance feature on Parcels A, B, and C, consistent with the approved Preliminary Plan of Subdivision.

ADDITIONAL CONDITIONS

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 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.

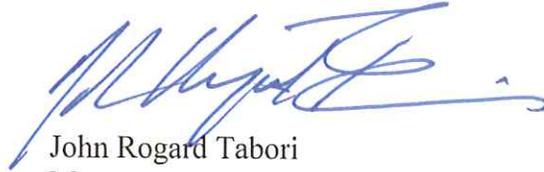
The easement shall be reviewed and approved by the Planning Board or its designee.

2. 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.

Representatives from the Town will be present at the Planning Board hearing on May 23, 2013.

Very truly yours,



John Rogard Tabori
Mayor