Lareuse, Susan

From: Richard K. Reed, Esq. [RReed@rlls.com]
Sent: Wednesday, February 01, 2012 11:58 AM
To: Lareuse, Susan; Hirsch, Alan
Cc: John Tabori; Sara Imhulse
Subject: Fwd: 1-26-12 Applicant's Response to Supplemental Memorandum
Attachments: 1-26-12 Applicants Response to Supp Memorandum.doc; ATT00001.htm

Susan:

Per our discussion this Response is ready to post.

Chip

Sent from my iPad

Begin forwarded message:

> **From:** Lavinia Derr <LDerr@rlls.com>
> **Date:** February 1, 2012 11:54:08 AM EST
> **To:** "Richard K. Reed, Esq." <RReed@rlls.com>
> **Subject: 1-26-12 Applicant's Response to Supplemental Memorandum**

****

Lavinia E. Derr
Rifkin, Livingston, Levitan & Silver, LLC
7979 Old Georgetown Road, Suite 400
Bethesda, Maryland 20814
(301) 951-0150 office
(301) 951-0172 fax

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

CONFIDENTIALITY NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe you have received this communication in error, please do not print, copy, retransmit, disseminate or otherwise use the information. Also, please indicate to the sender that you have received this message in error and delete the copy you received. Thank you.

CAFRITZ PROPERTY

APPLICANT'S RESPONSE

TO

SUPPLEMENTAL MEMORANDUM

DATED JANUARY 25, 2012

ADDITIONAL FINDINGS

On January 24, 2012, the applicant provided the following proposed findings for Planning Board consideration:

FINDING 1: Request: (the following sentence to be included at the end of this finding) On January 12, 2012, the Applicant amended the zoning request to remove the sliver of land, which crosses the WMATA property to the north, and a triangular shaped area, which lies next to the CSX tracks.

FINDING 2: For informational purposes only, the Applicant stated that it has entered into a private covenant with the Town of Riverdale Park and the Town of University Park providing that the commercial anchor for the Proposed Project will be a Whole Foods specialty grocery store consisting of approximately 32,000 square feet of gross floor area (or comparable specialty grocery store) to be constructed in the location labeled on the Development Plan as "BLOCK 6d RETAIL/COMMERCIAL/OFFICE" on the Development Plan. The Applicant stated that it would diligently pursue obtaining necessary permits and approvals for the development of the grocery store and to construct the grocery store on the Development Plan, with the expectation that the grocery store will be open for business on or before January 1, 2015. the Applicant and Towns stated that they understand that the construction schedule and opening date for the grocery store may be affected by acts of government authorities, acts of *force majeure*, and other acts beyond the control of Applicant, but Applicant ~~shall~~ has committed ~~intends~~ to use commercially reasonable efforts to achieve the opening date on the Development Plan including, but not limited to, approval of a Preliminary Plat of Subdivision, Detailed Site Plan, Final Subdivision Plat and development and construction permits.

RECOMMENDATION

Based on the foregoing evaluations and analysis of the Applicant's Revised Conditions dated January 12, 2012, staff recommends that the Planning Board adopt the additional findings and recommends APPROVAL of Zoning Map Amendment No. A-10018 and APPROVAL of the amendment to the 2004 *Town of Riverdale Park Mixed-Use Town Center Zone Development Plan* for Cafritz Property (Sheets 1-7 hereinafter being referred to as the "Plan Sheets", the

Cafritz Property Design Standard Guidelines hereinafter being referred to as the "Guidelines", and the Plan Sheets and the Guidelines hereinafter collectively being referred to as the "Development Plan") to the District Council with the following modifications and conditions:

1. The Design Review Process set forth at pages 65-66 of the January 2004 approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan applies to the Cafritz Property with the following modifications:

   a. Detailed Site Plan approval, in accordance with Part 3, Division 9 of the Zoning Ordinance, shall be required prior to the approval of a special permit, ~~or~~ final subdivision plat, ~~prior to~~ the issuance of any permit, and concurrently with or after the approval of a special exception for all new development and redevelopment on the property. Each application for a special permit, final subdivision plat, or other permit ~~or special exception~~ must be consistent with an approved Detailed Site Plan for the site.

   b. The Detailed Site Plan and a Special Exception shall be in accordance with the Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan (2004), as amended by the ~~Cafritz Property at Riverdale Park Development Plan~~ subject application (as amended) where applicable and the site design guidelines of Part 3, Division 9, of the Zoning Ordinance. Development depicted on each Detailed Site Plan must be in general conformance with Map 1: Concept Plan A or Concept Plan B, dated January 7, 2012, ~~(attached as Exhibits 1 and 2)~~ particularly with regard to site design and circulation, with the goal of creating a mixed-use community. Flexibility should be allowed in achieving this mixed-use community goal by allowing for a redistribution of the proposed maximum gross floor area of commercial uses throughout the site in order to encourage each phase of the development to include a mix of commercial and residential uses, including consideration of residential uses west of 46th Street and limited supporting retail uses near the intersection of Van Buren Street and Rhode Island Avenue.

   c. All DSPs shall be referred to the Town of Riverdale Park for review by the M-U-TC Design Committee for all phases and types of development. The M-U-TC Committee is authorized to review DSPs as advisory to the Planning Board and the Planning Director as designee of the Planning Board for staff level revisions.

2. Prior to signature approval of the Development Plan the following revisions shall be made:

   a. Revise the general notes on Sheet 1 of 7 of the ~~development plan~~ Plan Sheets to include the adjacent historic site and historic districts, provide the tax map, grid, and parcel number, and clearly indicate if the abandoned right-of-way is a part of the gross tract area.

   b. Revise Sheet 3 of 7 of the Plan Sheets to label the right-of-way for ingress/egress for the post office from Baltimore Avenue (US 1), and that it was conveyed to the

United States of America by quitclaim deed recorded in the Prince George's County Land Records in Liber 3624, Folio 948.

c. Revise the Plan Sheets ~~development plans~~ to delineate the boundary of Aviation Policy Analysis Zone 6 (APA-6) and the municipal boundaries of the City of College Park and the Town of Riverdale Park.

d. Revise the Development Plan ~~design standards and guidelines~~ to include streetscape details as indicated on ~~the applicant's exhibits~~ Gateway Park and Street Sections for Baltimore Avenue (US 1) that provide for a safe and attractive pedestrian zone.

e. Provide information and verify that the right-of-way extending north and south through Parcel 81 and the WMATA property has, in fact, been abandoned and that the issue is settled and/or provided information of the disposition of that area of land, as appropriate.

f. Revise the Development Plan ~~and guidelines~~ to conform to the amended boundary as reflected in the Applicant's January 12, 2012 request.

g. Revise Map 1: Concept Plan A and Concept Plan B and Maps ~~1,~~ 2~~,~~ and 3 so that the townhouses front on ~~a~~ streets, have ~~an~~ ample front yards for tree plantings, and that the units be oriented so that the alleys ~~is~~ are parallel to the roadways serving the fronts of the units.

h. Revise the sign standards to reflect the level of detail provided in the 2004 *Town of Riverdale Park Mixed-Use Town Center Zone Development Plan* and consolidated into one area of the Guidelines ~~development plan~~.

i. Revise the Guidelines ~~Development Plans~~ to add the following:

(1) Development that increases existing gross floor area (GFA) by 5 percent or 2,500 square feet, whichever is smaller, shall subject the site to full review for compliance with the design standards. Lesser changes to the site, and additions to single-family residential dwellings, shall not subject the entire site to review for compliance, only the portion impacted by the improvement.

(2) Gas station may add a maximum of 30 feet to the build-to line in order to place a pump between the station and the sidewalk. The additional setback may not be used for customer parking, loading, or outdoor storage.

(3) All new gas stations shall have a maximum of two 18-foot-wide driveways.

(4) Gas stations should minimize the area of impermeable surface.

(5) Car repair businesses may have a maximum of two curb cuts that are a maximum width of ten feet each.

(6) Buildings shall occupy a minimum of 50 percent of the net lot area for each lot.

(7) The building façade shall occupy a minimum of 66 percent of the build-to-line for each lot.

(8) Drive-through windows are inconsistent with the pedestrian orientation of the town center and are strongly discouraged. Drive-through windows may only be considered if accessed by alleys and located on the rear of the property.

(9) Pedestrian accessed ATMs may be located on the front or side of the building along a street line. Vehicular oriented ATMs shall not be visible from Woodberry Street or Van Buren Street. ~~access should be located such that they are the least visible from the right-of-way of Baltimore Avenue (US 1)~~

(10) The maximum number of off-street parking spaces permitted for commercial (nonresidential) land use type shall be equal 80 percent of the minimum number of required off-street parking spaces in accordance with Section 27-568(a) of the Zoning Ordinance. If structured parking is provided, this maximum number may be increased.

(11) Car repair businesses may not store vehicles in front of or alongside the building, but may store cars inside or in the rear, with appropriate screening if adjacent to a residential use.

(12) Healthy trees shall be preserved within proposed green areas, landscape strips, streetscapes, and parking lots, where feasible. Where they cannot be preserved on-site, a professional arborist may transplant them to a new location on-site or within the Town of Riverdale Park, where feasible.

j. Revise the Development Plan to combine blocks 6d and 6e into one block 6d.

3. Prior to acceptance of any application for a Preliminary Plan of Subdivision, the following information shall be provided:

a. The Preliminary Plan shall reflect the unmitigated 65 dBA Ldn from noise generators.

b. The plan shall delineate the 300-foot lot depth from the right-of-way (CSX railroad tracks) for residential development in accordance with Section 24-121(a)(4) of the Subdivision Regulations. The preliminary plan may establish additional restrictions on the layout if it is determined that noise and vibration issues are associated with the railroad tracks.

c. The Applicant shall provide information and verify that the right-of-way extending north and south through parcel 81 has, in fact, been abandoned and/or provide information of the disposition of that area of land, as appropriate.

d. Documents shall be provided so that the trail will be dedicated to public use within a maintenance easement or other suitable agreement.

e. Provide one east-west bicycle route through the site either along Van Buren Street or Woodbury Street, in order to accommodate east-west bicycle movement through the site, to the trolley trail, to the planned bicycle facilities along Baltimore Avenue (US 1), and across the CSX crossing. ~~(if a bridge is required).~~

f. The Applicant shall provide a draft report detailing the Phase II archeology investigations.

g. The proposed cross sections, roadbeds, streetscape dimensions, and the use of medians ~~should~~ shall be fully incorporated into the application of the preliminary plan so that the width and configuration of the streets can be reduced, yet adequate in design to address the traffic patterns within the development and vehicular and emergency access. The use of public streets in accordance with the standards of the Department of Public Works and Transportation (DPW&T) shall also be considered to serve certain uses and to determine future maintenance of the transportation facilities, including a ~~possible~~ bridge over the CSX railroad.

4. When off-site parking is necessary to meet parking requirements, the Applicant shall provide satisfactory documentation such as affidavits, leases, or other agreements to show that off-site parking is available permanently.

5. The Historic Preservation Commission (HPC) shall review the preliminary plan of subdivision and any subsequent plans of development for their impact on identified archeological features, the impact of a potential vehicular access road on the Engineering Research Corporation (ERCO) Historic Site (#68-022), and the impact of proposed buildings visible from the ERCO historic site and the adjacent National Register historic districts.

6. Prior to approval of any Detailed Site Plan ~~a building permit~~, the following shall be provided:

a. ~~The~~ ~~p~~Plans ~~shall~~ indicate~~ing~~ that the signalized intersection~~(s)~~ at Van Buren Street and Baltimore Avenue (US 1) shall include highly-visible and attractive pedestrian crosswalks, pedestrian signals, and other pedestrian or warning signage as appropriate, subject to State Highway Administration (SHA) approval.

b. The plans shall indicate that crosswalks providing appropriate pedestrian safety features are provided throughout the site.

c. The plans shall indicate that the number and location of bicycle parking is provided throughout the site in accordance with Design Standard 4 of the 2004 *Town of Riverdale Park Mixed-Use Town Center Zone Development Plan* (p.60).

7. Prior to approval of a Detailed Site Plan, the plans shall minimize the amount and location of surface parking lots and parking structures and their impacts on the pedestrian zone and streetscape environment. The surface parking lots located between the buildings and Baltimore Avenue, ~~south of Van Buren Street,~~ shall be mitigated with a buildings along Van Buren Street, a monuments, a clock tower and landscaping in order to create a true gateway into the community and to provide an inviting entrance to pedestrians and vehicles alike, including creation of a "pedestrian oasis" in the middle of the block to improve pedestrian safety and mobility consistent with the Riverdale Park Gateway Park concept dated January 7, 2012.

8. Prior to any ground disturbance or the approval of any grading permits, if Phase III archeological mitigation is proposed, the applicant shall provide a final report detailing the Phase II and Phase III investigations and ensure that all artifacts are curated in a proper manner.

9. Prior to final plat, the Applicant and the Applicant's heirs, successors, and/or assignees shall provide a plan for any interpretive signage to be erected and public outreach measures (based on the findings of the Phase I, Phase II, and Phase III archeological investigations). The location and wording of the signage and the public outreach measures shall be subject to approval by the Historic Preservation Commission (HPC) and the Maryland-National Capital Park and Planning Commission (M-NCPPC) staff archeologist.

10. The Environmental Planning Section recommends the following conditions:

a. All future applications shall include a valid approved natural resources inventory under the current environmental regulations that addresses the required information as outlined in the current Environmental Technical Manual.

b. At the time of Preliminary Plan, the Type 1 tree conservation plan shall demonstrate that the woodland conservation threshold has been met on-site to the fullest extent practicable. At a minimum, preservation shall be focused on the highest priority areas (Forest Stands 1 and 3).

c. At the time of preliminary plan, condition analysis shall be submitted for all specimen trees within Stands 1 and 3 that are outside any proposed woodland conservation area. Every effort shall be made to preserve the healthiest trees on-site.

d. Prior to approval of a special permit, special exception, detailed site plan, or grading permit, whichever is first, every effort shall be made to meet the ten percent tree canopy coverage requirement through the preservation of existing mature woodland, specimen trees and other large existing trees, and landscaping.

e. At the time of preliminary plan, a Phase I noise and vibration study shall be submitted. The study shall determine the location of the unmitigated 65 dBA Ldn noise contour for the adjacent CSX right-of-way, which includes at a minimum, the associated railroad noise and the whistle blower. The 65 dBA Ldn noise contour shall be shown on all future plans.

f. At the time of preliminary plan, a revised stormwater management concept plan shall be submitted. The proposed plan shall show the use of environmental site design techniques such as bioretention, infiltration, and green roofs. The concept shall be correctly reflected on the Type 1 tree conservation plan.

g. At the time of site plan or permit review, whichever is required first, the lighting plan for the subject property shall demonstrate the use of full cut-off optics to ensure that light intrusion into residential and woodland conservation areas is minimized. Details of all lighting fixtures, along with details and specifications that the proposed fixtures are full cut-off optics, and a photometric plan showing proposed light levels at an intensity that minimizes light pollution shall be submitted for review.

PROFERRED CONDITIONS

The applicant has proffered the following conditions that staff has reviewed and modified as appropriate:

11. Revise the ~~Mixed-Use Town Center Development Plan Design~~ Guidelines as follows:

a. To page iii under Overall Design Princip~~als~~les, add the following bullet points to the list of bullet points:

- Low impact design princip~~als~~les shall be incorporated into the overall community design.

- Create a community that respects and supports equally all modes of transportation. The development will encourage pedestrian, bicycles, and transit modes of transportation.

b. On page ii, insert at the end of the section Public Spaces the following language: "Public spaces such as parks, plazas, and squares should promote activity, enfront building or public right-of-ways, and be focal points within the community."

c. Page ii, in the first sentence of the second paragraph under Public Spaces, add "appropriate" between "all" and "intersecting".

d. All standards from the 2004 Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan book relating to gas stations and auto-repair should be reinserted into the standards.

e. On Page 5, remove Intent under building Placement and streetscape, and add the following language:

> Enhance the Town Center's sense of place by developing a coherent identity through buildings that relate to the street and open spaces. Create buildings that frame the street and open spaces, and encourage close proximity of retail, offices, residential units, and services.

f. On Page 7, under Services, Utilities, and Stormwater, replace #1 Standards to read as follows:

All utility lines added during development shall be underground. All utility meters and access points shall be on the rear of the property. Utilities shall include, but are not limited to, electric, natural gas, fiber optic, cable television, telephone, water and sewer service.

~~f.~~ g. On Page 7, under Services Utilities and Stormwater, add the following to the last sentence of Intent: "sidewalks, open spaces, and MARC train."

~~g.~~ h. Page 7, under Services, Utilities, and Stormwater, add to the beginning of #6 under Standards: "All lot-level development shall."

~~h.~~ i. Strike standard #11 from page 10, under Parking and Loading Design.

~~i.~~ j. On Page 11, under Lighting, change standard #5 to add "and design" after "intensity."

~~j.~~ k. Page 11, under Landscaping, add "2004 Approved" before "Town" in the first sentence.

~~k.~~ l. Page 11, under Landscaping, to standard #6 "Appendix B" add "of the 2004 Approved Town of Riverdale Park Mixed-Use Town Center Development Plan."

~~l.~~ m. Page 11, under landscaping, Standard #2, after "green areas" add "and where possible in parking areas."

~~m.~~ n. Page 12, Building Height, add a new Standard #4, to read as follows:

> Single-story buildings shall match or exceed the height of the adjacent buildings bases, and shall be not less than 20 feet in height. However, single-story buildings are discouraged.

~~n.~~ o. Page 14, Architecture, remove Standard #13.

~~o.~~ p. Page 13, Architecture, amend Standard #9 to remove "Townhomes" and replace with "Residences."

~~p.~~ q. Page 13, Architecture, Standard #5 add to the end of the first sentence the following language; "with exception of cementitious siding."

~~q.~~ r. Page 13, Architecture, Standard #5, after the new amendment above, strike the remaining language in the standard and replace it with the following language: "Materials other than masonry, brick, wood, and clear glass may be approved if material samples are provided and examples of existing buildings that use such materials in the proposed way are submitted, and the M-U-TC Design Review Committee (in the review of the SP process) and the ~~p~~Planning Board (in the review of the DSP process) finds that it meets the Intent of this section."

~~r.~~ s. Page 13 Architecture, Standard #6, remove "all" in first sentence, strike "surrounding" in first paragraph, strike C and strike E.

~~s.~~ t. Page 15, Building Openings, strike Standard #5 and replace with "Tinted and colored windows may not be used unless the M-U-TC Design Review Committee (in the review of the SP process) and the Planning Board (in the review of the DSP) finds that the windows meet the intent of this section."

~~t.~~ u. Page 16, Signage, strike Standard #8.

~~u.~~ v. Page 16, Signage, Move all standards (except 8) to page 10.

~~v.~~ w. Page 16, Signage, strike intent.

~~w.~~ x. Page 16, Signage, included all old standards #8 and #10-19 not specific to historical core.

~~x.~~ y. Page 18, Landscaping and Pedestrian Amenity Zone, Standard #5, strike "as irrigation" and replace with "or absorption."

~~y.~~ z Page 20, Parks and Plazas, strike Standard 12 and replace with "Where possible, and continuous lines of habitat through the use and linkages of street trees, landscaping, parks, and yards."

~~z.~~ aa. Page 7, Access and Circulation Standard #4, and "The number of vehicle-oriented ATMs shall be less than the number of pedestrian-oriented ATMs on a building-by-building basis, and vehicle-oriented ATMs shall not be visible from primary streets.

~~aa.~~ bb. Page 7, access and Circulation, Standard #2, change windows to services. Limit number of service lanes to two. Drive-through lanes for restaurants are prohibited.

~~bb.~~ cc. Include provisions for loading dock requirements such that they are screened from the street and any adjacent residential development.

12. Prior to issuance of the third building permit, the Rhode Island Avenue hiker/biker trail portion of the right-of-way shall be completed and open to the public.

13. Prior to approval of a Ddetailed Ssite Pplan, a 90-to-120-foot-wide buffer shall be provided along the entire length of the property frontage on Baltimore Avenue that incorporates retention of existing trees to the maximum extent practicable. This depth of buffer may be reduced north of Van Buren Street with approval by the Planning Board provided the Applicant submits evidence demonstrating that it submitted plans to the Town of University Park prior to the acceptance of the Detailed Site Plan and the Town was afforded sufficient time to comment, and if it is determined to be a superior design solution, by providing berms, retaining walls, landscaping, or other screening of the parking lot from the residences to the west consistent with Parking Sections exhibit dated January 7, 2012 ~~(attached as exhibit 5)~~. In no event shall the buffer be less than 60 feet in width.

14. Prior to acceptance of any application for a preliminary plan of subdivision, the following information shall be provided:

    a. A revised Stormwater Management Concept Plan that designates the property as a new site and complies with the stormwater management provisions contained in CB-15-2011 (Subtitle 32) to provide more Environmental Site Design to the Maximum Extent Practicable, with the goal of no new impact on the tributary drainage into the northeast Branch of the Anacostia River. The proposed plan shall show the use of environmental site design technologies such as bio-retention, infiltration, and especially green roofs to the Maximum Extent Practicable.

    b. The ~~developer~~ Applicant shall provide evidence that copies of all stormwater submittals were provided to the Town of Riverdale Park, the Town of University Park, the City of Hyattsville and the City of College Park, 30 days prior to filing with DPWT and notification of an invitation to all meetings between the ~~developer~~ Applicant, and DPWT.

    c. A Revised Traffic scoping agreement and Impact Study that:

        (1) Accurately reflects the development proposal and anticipated phasing;

        (2) Eliminates corridor averaging for all intersections included in the Study;

        (3) Analyzes midday and Saturday (10:00 a.m. – 6~~8~~:00 p.m.) traffic impacts;

        (4) Analyzes all proposed connections, including ~~all~~ the proposed CSX crossings and Maryland Avenue;

        (5) Analyzes the impact of the development on the intersections as specified in the scoping agreement and those in the July 27, 2011 study, as well as the evaluation of the existing prevailing conditions and traffic impact of the development on ~~using the DPW&T's Neighborhood Traffic~~

~~Management Program to evaluate~~ Queensbury Road, existing Maryland Avenue, Rhode Island Avenue south of Town Center, Lafayette Avenue, Natoli Place, River Road, and other roads as appropriate:

(6) Provides for vehicle trip reduction through measures including but not limited to rideshare, Zipcar (or similar) programs, bikeshare, enhanced transit service such as a shuttle and/or circulator bus, and the CSX crossing.

(7) Considers all future development and its effects on the corridor and intersections as identified in (c)(5) above for any projects that have an approved Detailed Site Plan or Preliminary Plan of Subdivision within the study area to include at a minimum the eastern portion of the 2004 approved M-U-TC Zone area; and

(8) Does not take a discount by redirecting existing traffic on East-West Highway that would not otherwise travel up Baltimore Avenue to the Cafritz Property.

15. After completion of construction and final inspection of on-site public roads, and upon request of the Town of Riverdale Park, such roads shall be dedicated and turned over to the Town, in such manner and subject to such reasonable terms and conditions as the Town may require, for public use. The determination as to which on-site roads will be public roads subject to dedication and turnover to the Town shall be determined at the time of Preliminary Plan of Subdivision. ~~Upon completion of construction, of on-site public roads, as determined to be appropriate at the time of Preliminary Plan of Subdivision, such roads are to be turned over to the Town of Riverdale Park as for public use, upon request by the Town of Riverdale Park rights-of-way.~~

16. The Applicant shall submit evidence of an application submittal to the U.S. Green Building Council (USGBC) under Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND) for a Smart Location and Linkage (SLL) prerequisite review at the time of Preliminary Plan submission and provide the results for review prior to approval of the Preliminary Plan. Upon GBCI/USGBC approval of SLL prerequisites, the Applicant shall pursue and employ commercially reasonable efforts to obtain conditional approval of the plan under LEED-ND 2009 Stage 1 (pre-entitlement) approval. If based on pre-entitlement review, full certification through LEED-ND is not practicable, then Applicant shall at Detailed Site Plan provide a LEED score card that demonstrates a minimum of silver certification for all new construction and that will be enforced through DSP review. If the LEED score card requirements cannot be enforced through the DSP review or other third-party certification acceptable to both the ~~developer~~ Applicant and the ~~municipalities~~ Town of Riverdale Park and the Town of University Park (and pursued by the Applicant at its expense), at minimum the Applicant shall pursue silver certification under LEED-NC and LEED Homes, or if available, equivalent standards as determined at time of DSP by the Planning Board.

17. At the time of Preliminary Plan of Subdivision submission, the Applicant shall submit a Transportation Management Plan ("TMP") for the entire development. ~~at Preliminary~~

~~Plan of Subdivisions.~~ The TMP will include provisions to provide for the full funding of the TMP by the owners of the property. The TMP and funding obligations shall run with the land until such time as a Transportation Demand Management District ("TDMD") is established and includes the property. The TMP will identify and establish a series of measures to achieve a maximally efficient use of the adjacent transportation facilities. As the project is developed and occupied, modifications and additions to the TMP shall establish vehicle trip reduction goals with reporting and monitoring provisions subject to independent verification by DPW&T. Specifics of the TMP shall include the following elements referenced in the Applicant's letter to Susan Lareuse dated November 15, 2011, pages 9-10, and car and bike share and residential and employee subsidies. The TMP shall also provide for a private shuttle to be provided as the Applicant and the applicant's heirs, successors, and/or assignees' expense.

18. Prior to approval of a Preliminary Plan of Subdivision the Applicant will provide a commitment to organize and achieve a private shuttle vehicle to and from the Prince George's Plaza Metro station and the College Park Metro station as necessary to achieve a 15-minute headway between 6:30 a.m. to 9:00 a.m. and 4:30 p.m. to 7:00 p.m., Monday through Friday. This requirement may be provided as part of the TMP and may be satisfied privately or by participating in one or a combination of existing or future adjacent public transportation services. Specifications and assurances for any shuttle service shall be provided prior to issuance of any use and occupancy permit. Service is to continue until there is a preferred alternative approved by the municipalities and the applicant may substitute an equivalent to the private shuttle service.

19. Prior to approval of the Preliminary Plan, Applicant shall provide details of its commitment to participate in a circulator bus program, whether as part of a TDMD or other effort, and shall contribute funds for this purpose.

20. Prior to approval of any DSP for the project, the applicant shall submit a traffic signal warrant study following the accepted methodology of DPW&T or the Maryland State Highway Administration for the intersection of Baltimore Avenue and Van Buren Street with channelization as shown on Sheet 4 of the Development Plan. ~~attached hereto as Exhibit 6.~~ This analysis will examine both existing and total projected traffic volumes. If signals are deemed warranted by the appropriate agency, the Applicant shall initiate a bond to secure the entire cost prior to the release of any building permits within the subject property and shall agree to install the signals directed by DPW&T or the State Highway Administration. Further, subject to SHA approval, Applicant shall install the traffic control devices as noted on the Development Plan (Pork Chop Islands) or as modified by SHA to direct traffic so that no traffic may directly access or egress the property across Baltimore Avenue along Van Buren Street. Both entrances and exits at Woodberry and Wells Parkway, respectively north and south of the Van Buren "gateway," must be right turn only in and out. Prior to the issuance of a grading permit, the applicant shall demonstrate that the State Highway Administration has preliminarily approved the installation of the traffic signal and other traffic control devices at Van Buren Street and Baltimore Avenue, subject to approval of the final construction plan and permit by SHA. If for any reason, including lack of warrants or SHA or other required governmental approval, the traffic signal and other traffic control devices described in

this paragraph are not installed or cannot be installed at Van Buren and Baltimore Avenue, no permits may be issued.

21. Prior to approval of a Detailed Site Plan the plans shall provide or demonstrate:

    a. After completion of construction of the first multi-family building in the project, ~~the goal~~ (1) ~~of ensuring that~~ at least 80 percent of the parking for the overall development ~~is~~ ultimately will be in structured parking~~, as well as~~ and (2) ~~the nonresidential design standard that~~ the maximum number of off-street surface parking spaces permitted for each nonresidential land use type shall be equal to 80 percent of the minimum number of required off-street parking spaces in accordance with Section 27-568(a) of the Zoning Ordinance.~~, shall be achieved.~~

    b. ~~Includes~~ Design features for sustainability that address environmental health, air and water quality, energy efficiency, and carbon neutrality; and

    c. Terminate~~s~~ion of Van Buren Street at a building or enhanced park feature.

    d. ~~Prior to DSP, a~~ A soils study identifying the top soils and subsoils and their appropriateness to support the use of porous pavements.

22. Establish a trip cap of 548 AM new peak hour trips and 902 PM new peak hour trips for full build-out of the development that may be amended, but not increased at the time of Preliminary Plan. The trip cap will not include purely internal trips.

23. Prohibit clear-cutting or re-grading any portion of the development until a Detailed Site Plan for that portion of the site has been approved.

24. ~~Prior to the approval of the Preliminary Plan, the applicant shall make provisions at Preliminary Plan of Subdivision to construct, to at least a similar standard as the existing Maryland Avenue roadway to the immediate south of the Property, an extension of Maryland Avenue from the southern boundary to where the existing roadway ends north of Tuckerman Street. Within the existing right-of-way, the applicant shall construct the Maryland Avenue extension and it must be completed before Prince George's County issues the first use and occupancy permit for any retail, office or hotel use on the Property. No portion of any building on the Property may be used or occupied for retail, office, or hotel use until construction of the Maryland Avenue extension has been completed and opened for travel.~~

    Prior to the approval of the Preliminary Plan of Subdivision, the Applicant shall do the following, all in a manner acceptable to the Town of Riverdale Park:

    a. The Preliminary Plan shall show a roadway connection from the first phase of the development on the property to existing Maryland Avenue at the southern boundary of the property (the "Van Buren Extension").

    b. Applicant shall make provisions at Preliminary Plan of Subdivision to construct, to at least a similar standard as the existing Maryland Avenue roadway to the

immediate south of the property, an extension of Maryland Avenue from the southern boundary of the property to where the existing roadway ends north of Tuckerman Street (the "Maryland Avenue Extension"). Provided that right-of-way exists, construction of the Maryland Avenue Extension must be completed before Prince George's County issues the first use and occupancy permit for any retail, office or hotel use on the Property. No portion of any building on the Property may be used or occupied for retail, office, or hotel use until construction of the Maryland Avenue Extension has been completed and opened for travel by public safety and emergency service vehicles.

c. Prior to the issuance of use and occupancy permits for more than 100,000 square feet of commercial (retail, office or hotel) space and more than 120 residential dwelling units, the construction of the Van Buren Extension shall be complete as verified by the Town of Riverdale Park.

25. Prior to the approval of a Preliminary Plan of Subdivision (the "Preliminary Plan"), the Applicant shall do the following, all in a manner acceptable to Prince George's County and the Town of Riverdale Park:

a. ~~On~~ The Preliminary Plan shall show a crossing over the adjacent CSX railroad tracks (the "CSX Crossing"). The "CSX Crossing" shall mean a bridge, raised roadway, underpass or any other type of way, including on-site and off-site approaches, for vehicles, bicycles and pedestrians to pass across the railroad right-of-way to travel between the subject property and lands to the east of the property with a connection to a public road.

b. Establish a funding mechanism using a combination of public and private funds, subject to any required governmental approval, which must be obtained prior to the first detailed site plan; establish system of financial assurances, performance bonds or other security to ensure completion of construction and establish a timetable for construction, of the CSX Crossing in accordance with the Preliminary Plan.

c. Provide letters from the CSX and University of Maryland, (or the affected land owner) that recommends approval of the CSX Crossing as shown on the Preliminary Plan and identifies the land or right-of-way acquisition cost, if any, necessary for the construction of the CSX Crossing on land owned by the University.

d. Provide cost estimates for the design, permitting and construction of the CSX Crossing, including off-site land or right-of-way acquisition costs, if any.

The applicant shall participate in the design, provision and acquisition of rights-of-way, permitting, funding and construction of the CSX Crossing, equal to half the complete costs, but not to exceed Five Million Dollars ($5,000,000). The Applicant, its successors and assigns, shall make all reasonable efforts to obtain public funding (federal, state, county, municipal) as necessary in addition to its CSX contribution to construct the CSX Crossing. Public funding may include all or a portion supported by tax increment financing as may be authorized in

accordance with state and local laws. 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.

26. The implementation of the CSX Crossing shall be in accordance with the following:

a. Prior to the issuance of any permits for development on the property, the Applicant (1~~a~~) shall submit a roadway plan for the location and design of the CSX Crossing to CSX, or to AECOM or other agent designated by CSX, and to the University Maryland, (or the affected land owner) and (2~~b~~) shall submit letters received from both of them that approve the construction of the CSX Crossing in accordance with the roadway plan, subject to approval and authorization of the final construction plan, and verification by the Department of Public Works and Transportation that the roadway plan meets AASHTO standards and is appropriate for construction of the CSX Crossing and has been approved by CSX and the University of Maryland, (or the affected land owner).

b. Prior to the issuance of building permits for more than 100,000 square feet of commercial (retail, office or hotel) space~~)~~ and ~~no~~ more than 120 residential dwelling units, the Applicant (1) ~~has~~ shall have received all necessary permits and approvals for construction of the CSX Crossing, (2) ~~has~~ shall have provided the Prince George's County Department of Public Works and Transportation with all approved financial assurances and performance security to ensure completion of construction of the Crossing, and (3) ~~has~~ shall have commenced construction of the CSX Crossing as verified by the Prince George's County Department of Public Works and Transportation.

c. Prior to the issuance of use and occupancy permits for more than 100,000 square feet of commercial (retail, office or hotel) space~~)~~ and ~~no~~ more than 120 residential dwelling units, ~~until~~ the construction of the CSX Crossing ~~is~~ shall be at least 50% complete as verified by the Prince George's County Department of Public Works and Transportation, and the Department of Department of Public Works and Transportation shall have ~~has~~ verified that all approved financial assurances and performance security to ensure completion of construction of the crossing remain in full force and effect.

d. Prior to the issuance of building permits for more than 382 residential dwelling units, the CSX Crossing shall be open for use by public vehicular traffic as verified by the Prince George's County Department of Public Works and Transportation.

e. Applicant shall timely provide the Towns of Riverdale Park and University Park, the City of College Park, and the Prince George's County Department of Public Works and Transportation with copies of all submittals, notices, approvals and determinations made pursuant to this condition.

~~4.~~ 27. The Aapplicant ~~shall participate in establishing~~ and the Town of Riverdale Park and the Town of University Park will work together to petition the District Council to initiate and establish a Transportation Demand Management District ("TDMD") program under the Prince George's County Transportation Demand Management District Ordinance Subtitle 20A. ~~the timing for which shall be determined at Preliminary Plan~~ Consideration should be given to establishing the boundaries of the TDMD to extend from Paint Branch Parkway to Queensbury Road. Once a TDMD is established, the Applicant will provide financial support and the TMP ~~would~~ will become part of the District and ~~would~~ will be monitored by the ~~Transit~~ Transportation Management Authority ("TMA"). ~~Subtitle 20A~~. The TDMD ~~shall~~ should provide for traffic reduction goals and periodic independent verification of monitoring whether the goals have been met ~~as provided in subtitle 20A~~, including restricting the maximum allowable density to a level that will generate average net additional daily vehicle trips on Baltimore Avenue that are not more than 20% above current levels and net additional peak hour trips that are no more than 20% above current peak-hour vehicle trips at AM (06:00-09:00), mid-day (11:00-14:00), PM (16:00-19:00), Saturday (10:00-18:00). These counts will be performed at a fixed location ~~located~~ specified in the TDMD between East-West Highway and the southern entrance, and between Queens Chapel Road and the northern entrance, to the project and will be based upon traffic estimates that have been reviewed and determined to be ~~appropriate~~ reasonably accurate by the Transportation Planning Section of M-NCPPC. If the goals of the TDMD are not met, additional vehicle trip reduction measures to resolve the problem will be required pursuant to ~~but not limited to~~ the requirements of Subtitle 20A.

CONSIDERATIONS:

1. Extending the Rhode Island Avenue Trolley Trail across the Washington Metropolitan Area Transit Authority (WMATA) property, connecting to the terminus of the existing trail at Albion Street and south to Tuckerman Avenue.

2. Establishing a parking district to promote shared parking within the Town of Riverdale Park town center.

3. Provide residential uses above commercial uses in order to create a vertical mix of uses.