



Chevy Chase

Advisory Neighborhood Commission 3/4G

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September 9, 2013

Sara Bardin, Director
D.C. Office of Zoning
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 210
Washington, D.C. 20001

Re: BZA Appeal No. 18615

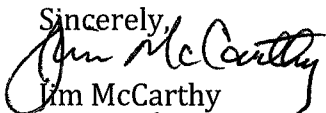
Dear Sir or Madam:

This is to inform you that at a duly noticed public meeting, August 27, 2013, Advisory Neighborhood Commission 3/4G voted 4-2, with one abstention (a quorum being 4) to withdraw its appeals of permits issued by the Department of Consumer and Regulatory Affairs for construction of an apartment building at 5333 Connecticut Avenue, N.W., including those of permits numbered B1208792, FD1200052, and SH1200128

Attached is a Memorandum of Understanding negotiated with the developer, CMK DEV, LLC, that binds the developer to take certain actions in return for the ANC's agreement to withdraw its appeals.

Should you have any questions concerning this matter, please feel free to contact me at (202) 707-7225.

Sincerely,


Jim McCarthy
Chair, ANC 3/4G

cc: Andrea Ferster
Wayne Quin

Board of Zoning Adjustment
District of Columbia
CASE NO.18615
EXHIBIT NO.31

MEMORANDUM OF UNDERSTANDING

WHEREAS CMK DEV, LLC ("Cafritz") owns the property at 5333 Connecticut, N.W., in the District of Columbia between Military Road and Kanawha Street ("5333 Connecticut") and seeks to build a multi-family residential building ("the Building") with approximately 261 dwelling units on the property;

WHEREAS Cafritz prepared designs for the proposed Building and in 2012 applied for the necessary permits from agencies of the District of Columbia based on its belief that the proposed Building could be built "as of right" under the zoning rules and regulations of the District of Columbia;

WHEREAS, a number of the residents near 5333 Connecticut objected to some aspects of the proposed design of the Building and formed a coalition (the "5333 Coalition") opposing issuance of the permits and contending that the proposed design did not conform to the zoning rules and regulations of the District of Columbia and that permits could not be lawfully issued "as of right";

WHEREAS the Chevy Chase Advisory Neighborhood Commission 3/4G for the District of Columbia (the "ANC") also raised concerns about whether some aspects of the proposed design conformed to applicable zoning rules and regulations and whether permits could be issued "as of right";

WHEREAS Cafritz made presentations on its proposed design and construction plans at a public meeting on January 23, 2013, and at an ANC meeting on April 8, 2013;

WHEREAS the ANC and the 5333 Coalition had multiple meetings with Vincent Gray, the Mayor of the District of Columbia, with Mary Cheh, Council Member for Ward 3, and with various officials from the agencies that review permit applications for 5333 Connecticut;

WHEREAS the ANC, the 5333 Coalition, and Cafritz met on multiple occasions during 2013 to discuss the proposed design and construction plans in an effort to resolve differences;

WHEREAS the relevant agencies of the District of Columbia approved various permits authorizing Cafritz to begin construction of the proposed Building at 5333 Connecticut;

WHEREAS the ANC and the 5333 Coalition have filed appeals with the Board of Zoning Adjustments of the District of Columbia ("BZA") and with the Office of Administrative Hearings ("OAH") from the grant of permits for construction of the proposed Building at 5333 Connecticut;

WHEREAS the ANC believes that it is in the best interests of the Chevy Chase community and the District of Columbia as a whole to resolve differences about the design of the proposed Building on terms that will provide substantial benefits to the community while permitting the project to proceed on a lawful basis; and

WHEREAS Cafritz is willing to make certain changes to the proposed design, construction, and operation of the Building for the benefit of the community; and

WHEREAS the ANC and Cafritz have agreed on a package of changes to the Building's design, construction, and operation in order to provide significant benefits to the Chevy Chase community and the District of Columbia as a whole,

THEREFORE, the ANC and Cafritz agree to the following terms in this MEMORANDUM OF UNDERSTANDING that will be binding on both parties:

1. Cafritz agrees to a major redesign of the Building compared with the design that was presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit applications, including reduction in the glass surface area, increase in the amount of masonry, additional setbacks, nominally less square footage, and two fewer residential units, all as depicted in the concept drawings that Cafritz provided to the ANC at meetings on June 14, 2013, and July 19, 2013.
2. Cafritz agrees to lower the height of the Building by approximately two feet relative to the design that was presented at the community meeting on January 23, 2013 and was the basis for the 2012 permit applications.
3. Cafritz will propose and the ANC will support an application to provide a circular driveway from Connecticut Avenue that will provide a pick-up and drop-off point so as to reduce traffic on Kanawha Street and Military Road and that will also avoid removal of an additional major tree on Connecticut Avenue.
4. Cafritz agrees to provide approximately 40 additional parking spaces for tenants and visitors above the approximately 174 parking spaces included in the design that was presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit applications;
5. Cafritz agrees that it will request that the District of Columbia Department of Transportation ("DDOT") restrict the ability of tenants of the Building at 5333 Connecticut to obtain Residential Parking Permits and that Cafritz will make reasonable best efforts to obtain DDOT agreement to exempt Inclusionary Zoning tenants from this restriction.
6. Cafritz agrees to install additional landscaping beyond that included in the design that was presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit applications, including (a) the options that were presented in a June 27 meeting with the ANC and the 5333 Coalition and (b) reasonable best efforts to potentially preserve additional trees on Military Road, as presented at a July 14 meeting with Cafritz's landscape architect (with advice from its arborist) and the most affected members of the 5333 Coalition and information included in a revised proposed landscape plan that Cafritz's landscape architect provided on August 12, 2013.
7. In order to benefit the Building's tenants and to reduce vehicular traffic in the neighborhood, Cafritz agrees that it will offer to make available up to two parking spaces for a car share company (e.g., Zipcar) and will offer to provide for the

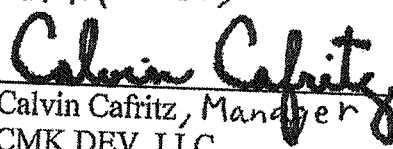
installation of a Capital Bike Share station, but Cafritz shall have no obligations if, after a reasonable effort, either (a) Cafritz reasonably determines that security, logistical, or locational considerations make the car share or Capital Bike Share station impractical, or (b) its offer is not accepted by the car share company or by Capital Bike Share. Cafritz shall further have no obligation with regard to car share or bike share facilities that are not located at 5333 Connecticut Avenue (including the associated public space).

8. Cafritz agrees to institute traffic controls and signage, as requested and advised by the DDOT, so that traffic entering and exiting the building will not use the narrow alley that runs from behind the Building to Chevy Chase Parkway, including physical construction of a raised "pork chop" traffic control device to impede a right-hand turn from the Building's garage.
9. Cafritz agrees to move the exhaust fan for the below-ground parking vent approximately 30 feet to the north relative to the concept design that was presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit application and to reconfirm with the District of Columbia Department of the Environment that the exhaust will meet all applicable standards.
10. Cafritz agrees to include built-in shades and directed lighting designed to reduce light emanating from the Building at night and to make reasonable effort to encourage tenants to use the built-in shades.
11. Cafritz agrees to implement the specific site-generated traffic controls during construction that were approved by DDOT and presented to the ANC on April 8, 2013.
12. Cafritz agrees to include the following sustainability features in the Building:
 - a. Green roof technology with planters, green garage roof, and other rooftop areas;
 - b. Storm water management, including slowing runoff of storm water;
 - c. Plantings that use less water for irrigation;
 - d. Use as many energy star appliances as possible;
 - e. High efficiency HVAC systems;
 - f. Separate metering of all heating, air conditioning, electricity, and hot water to encourage tenants' conservation;
 - g. Adhesives and paints to have minimum or no volatile organic chemicals;
 - h. Energy efficient light fixtures;

- i. Provision of separate chutes for trash and for recyclables on each tenanted floor;
 - j. Use of local and recycled materials wherever possible;
 - k. Sorted construction debris when readily achievable;
 - l. Low-flow plumbing fixtures; and
 - m. More efficient unit layouts with less wasted space and lower energy usage.
13. The ANC agrees to withdraw as a party to any appeals to the BZA or the Office of Administrative Hearings relating to the permits for the Building as of the effective date of this MEMORANDUM OF UNDERSTANDING, and the ANC will not challenge future permits or zoning for the Building so long as construction pursuant to those permits or zoning is undertaken in accordance with the provisions of this MEMORANDUM OF UNDERSTANDING.
14. The ANC agrees to represent to the BZA that, while the ANC would have preferred to have been involved earlier in the design and review process – despite assertions by Cafritz, the Zoning Administrator, and the District of Columbia Department of Consumer and Regulatory Affairs that the Building application was technically a “matter-of-right” process – given the conditions as they exist now, the proposed design, construction, and operation of the Building under the terms of this MEMORANDUM OF UNDERSTANDING will provide significant benefits to the Chevy Chase community and the District of Columbia as a whole.
15. The ANC agrees that, while any resident has the right to pursue whatever remedies that may be available to them, the ANC will continue to encourage all of the parties to reach an agreement that includes the terms of this MEMORANDUM OF UNDERSTANDING and to avoid unproductive litigation.

Effective: August 28, 2013


Jim McCarthy
Chair, Chevy Chase ANC (3G)

CMK DEV, LLC

By: Calvin Cafritz, Manager
CMK DEV, LLC