



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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OFFICE OF
THE GENERAL COUNSEL

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October 26, 2001

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Michele Rosenfeld, Associate General Counsel *MR*

RE: Germantown Town Center Townhouses, Phase III
Site Plan No. 8-00030

Staff Recommendation:

Find Compliance with Condition No. 7.

The Opinion for the above-referenced Site Plan contains a condition of approval that states "the determination as to whether the [applicant's] homeowner's association should be required to join the Churchill Lake Watershed Foundation shall be made by the Planning Board at the time of the home owner's [sic] association document review."

I have attached correspondence from Mr. Metz dated October 5, in which he offered an annual payment of \$25.00/year/household to the Churchill Foundation (attached). Phase III includes 149 units, resulting in an annual payment of \$3,725.00 toward management of the regional stormwater pond.¹ The Foundation did not respond to this offer until yesterday when, according to Alan Siefert (who speaks for the Churchill Foundation), the Foundation counteroffered with a proposal that the \$25.00 fee increase annually based upon a CPI index. Artery has not yet responded to the Foundation on this counteroffer.

If the parties are unable to reach a consensus, I recommend to the Planning Board that it find compliance based on Artery's efforts to date. The Board may, if it so chooses, direct Artery to extend its offer until a reasonable date certain (*i.e.*, ten days), giving the Foundation additional time to accept.

If the parties reach consensus in advance of November 1, I will provide that information to the Board upon receipt.

Attachment

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¹ The monthly fee Churchill assesses its members is \$3.35 for stormwater maintenance, and the Artery HOA will assess its members \$44.00/month, exclusive of the proposed fee to the Churchill Foundation.

LINOWES AND BLOCHER LLP

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October 5, 2001

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Ronald L. Early, Esquire
Lerch, Early & Brewer Chartered
Three Bethesda Metro Center #380
Bethesda, Maryland 20814-5367

Re: Germantown Town Center

Dear Ron:

The purpose of this letter is to reiterate and confirm the offer that we made to you on October 1, 2001 with respect to resolving the issue between The Churchill Foundation and our clients, The Artery Organization. We will offer to pay The Churchill Foundation \$25.00 per year per household for as long as The Churchill Foundation is in existence. This sum of \$25.00 per year per household will not be increased at any time. The Artery group will ask for nothing in return except the resolution of Condition 7 in its Site Plan Opinion by the Montgomery County Planning Board. As you can well imagine, as of last week, we are very anxious to resolve this matter since it has been pending for over one year and building permits are being requested but not released.

My best regards.

Very truly yours,

LINOWES AND BLOCHER LLP



Robert H. Metz

RHM:sbw

cc: Michele M. Rosenfeld, Esquire
#264829