



Erin E. Girard
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December 30, 2021

Casey Anderson, Chair
 and Members of the Montgomery County Planning Board
 Maryland-National Capital Park and Planning Commission
 2425 Reddie Drive
 Wheaton, MD 20902

Re: Site Plan No. 820190090 (“Site Plan”) and Preliminary Plan No. 120190150
 (“Preliminary Plan”)

Dear Chairman Anderson and Members of the Montgomery County Planning Board:

On behalf of our client, NDC Takoma, LLC (“NDC”), the applicant for the above-referenced Site and Preliminary Plan Applications, we request the Board’s approval of the Takoma Junction Site and Preliminary Plans, conditioned upon future State Highway Administration (“SHA”) approvals, when this matter is before the Board on January 20, 2022.

When the Site and Preliminary Plan applications were last before the Planning Board on September 15, 2021, the Board was made aware of, and witnessed first-hand, the obfuscatory role the State Highway Administration (“SHA”) has been playing in the review of the applications. As detailed in our previous correspondence to you, although the applications were initially submitted on February 14, 2019, SHA did not approve the traffic study for the project for over two years, and did not provide its first design comments until this past April. Since then, NDC and its traffic consultant have been trapped in a continuous cycle of resubmissions to SHA attempting to address their comments and have SHA clarify their concerns.

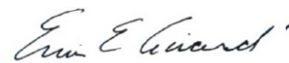
In an attempt to help facilitate communications and bring the matter to some type of resolution, Chairman Anderson and your Staff intervened and Staff hosted a meeting with NDC and SHA on December 15, 2021. Unfortunately, at this meeting representatives of SHA continued their pattern of avoiding pointed questions and refusing to commit to any position in favor of further delay. For example, instead of directly answering a question regarding whether the removal of vegetation on a neighboring property would resolve their stated sight distance concerns, as NDC’s expert traffic consultant believes it should, they remained elusive and stated for the first time that NDC would have to cause the vegetation to be removed, then SHA would re-evaluate the sight distance. We note here that we believe SHA has the authority under state law to remove any vegetation causing a hazard on state roads by seeking an easement for that purpose, and that NDC has asked

the City of Takoma Park to take action to remove the vegetation under its City Code in the attached letter dated December 21, 2021.

Based on this recent meeting, and SHA's insistence on further slow-walking its review of the project, it is clear that NDC will be unable to secure SHA's approval of its proposed access point and lay-by lane prior to the expiration of the latest regulatory review extension on January 20th. Rather than extend the regulatory review timeframe for a sixth time, NDC requests that the Board instead act to approve the Site Plan and Preliminary Plan applications, subject to a condition that NDC must secure SHA's approval of the lay-by lane and proposed access point prior to plan certifications. As detailed in the Staff Report, the sole basis for Staff's recommendation of denial is the lack of these SHA approvals, as all other aspects of the Site and Preliminary Plans conform to the required standards and findings. Thus, conditioning the approval of the Site and Preliminary Plans on SHA's approval of the access and lay-by would address these only deficiencies and allow them to be addressed in due time¹, without further holding up the approval of a project that clearly conforms to the goals and objectives of the County in all other respects.

Thank you for your consideration of this request. We will be available at the hearing on January 20th to address any questions you may have.

Sincerely,



Erin E. Girard

cc: Grace Bogdan
Elza Hisel-McCoy
Katherine Mencarini

¹ In this regard, we note that it is common practice for site and preliminary plan approvals to be conditioned upon future approvals by other agencies. A common condition for projects fronting state roads is that "Applicant must satisfy the provisions for access and improvements as required by Maryland State Highway Administration." Approval of the Site and Preliminary Plans conditioned on future SHA approval of the lay-by lane and site access would be akin to this type of standard condition.



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December 21, 2021

Mr. Jamal T. Fox
 City Manager
 City of Takoma Park
 7500 Maple Avenue
 Takoma Park, MD 20912
 Email: jamal.fox@takomaparkmd.gov

Mr. Alexander Cross
 Director
 Housing & Community Development
 7500 Maple Avenue
 Takoma Park, MD 20912
 Email: alexander.cross@takomaparkmd.gov

Re: Takoma Junction Project

Dear Mr. Fox and Mr. Cross:

On Wednesday, October 15, 2021, the Montgomery County Planning Board (“MCPB”) initiated a video conference call attended by representatives of the Maryland State Highway Administration (“SHA”), representatives of Neighborhood Development Company (“NDC”), and Mr. Cross and Ms. Grigsby on behalf of the City of Takoma Park (the “City”). The purpose of the call was to gain clarity on SHA’s position on the proposed layby and site access sight line issues related to the Takoma Junction Project (the “Project”).

SHA reiterated during the call that the Project’s access point on Carroll Avenue does not meet the AASHTO “Intersection Sight Distance” guideline of 335 feet and that the sight line for cars travelling east on Carroll Avenue, including the current sight line to the entrance of the City Parking Lot, is obstructed by vegetation (trees and shrubs) located on the Healey Building property at 7211 Carroll Avenue, thereby posing a danger to public safety.

While NDC had already committed to negotiate with the owner of the Healey Building for the removal of the trees and shrubs, SHA took the position for the first time during the video conference that it will not measure the site line and consider the waiver request until the obstructions on the Healey property are removed.

We have now learned from the Healey Building owner that he is not willing to speak to us and, therefore, turn to you. We believe the City has the ability to address the vegetation problem as it applies to current traffic conditions and to the Project and we request you do so. City Code §12.08.030 prohibits any person to permit vegetation on private property “to encroach on,



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Mr. Jamal T. Fox
Mr. Alexander Cross
December 21, 2021
Page 2

impede vehicular...passage upon, or to overhang...any street or sidewalk..." The City Manager is authorized to give notice to the owner of such property, and if such person fails or refuses to correct the condition, the City may do so at the expense of the property owner. City Code §12.08.070(A) and §12.08.070(B).

Clearly, as shown in the attached photograph and drawings, the existing trees and shrubs are posing a current hazard and should be removed. Please advise us of the City's intentions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Michaela Kelinsky', with a long horizontal flourish extending to the right.

Michaela Kelinsky
Vice President

Attachment

cc: Mayor Kate Stewart
Rosalind Grigsby, Manager
E.I. Cornbrooks, IV, Esq.