

City of Takoma Park, Maryland

Housing and Community Development Department

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7500 Maple Avenue
 Takoma Park, MD 20912

Gwen Wright, Director
 Montgomery County Planning Department
 2425 Reddie Drive
 Wheaton, MD 20902

January 7, 2022

Re: Takoma Junction: Site Plan No. 820190090; Preliminary Plan No. 120190150

Dear Director Wright:

I write in response to Montgomery Planning's January 3, 2022, request for the City's position regarding NDC's expressed desire for the Montgomery County Planning Board to issue an approval for the above-referenced plan conditioned on approval of the plan by the State Highway Administration. It must be emphasized that the below is articulated in the context of the unique procedural posture of this matter.

The Takoma Junction project (the "Project") will be before the Montgomery County Planning Board ("MCPB" or "Planning Board") on January 20, 2022. As both the Montgomery County Planning Board and Montgomery County Planning staff ("Staff") well know, the Takoma Park City Council voted unanimously to recommend that the Planning Board not approve the current plan. The [City Council resolution](#) is clear in its reasoning for the disapproval. Additionally, the Council was deliberate in not recommending approval of the site plan conditioned upon State Highway Administration ("SHA") approval of the lay-by.

As of this writing, SHA has still not approved the lay-by as currently presented by NDC. Among others things, the terms of the City's Development Agreement with NDC require that the Project's tenants have a viable means to receive deliveries and have their trash picked up. Not surprisingly, this is critical to the success of the project. NDC has determined that the proposed lay-by is the best option for complying with the delivery/trash pickup requirement. For the reasons articulated in the City's Resolution not recommending approval, any changes required to the Project by SHA (or made by NDC to obtain SHA approval) are likely to have an impact on several issues of fundamental concern to the City (which should be of significant concern to Staff and the MCPB). Again, those issues are described in Council's Resolution and in more detail in the related Council discussions.

Prior to the Montgomery Planning Board meeting on January 20th, the City requests that Planning Board Staff view the [June 16, 2021 Takoma Park City Council meeting](#) (video starts at 3:28:29) to better inform its report. Former City Manager Suzanne Ludlow provided a statement as to why

the City staff could not recommend approval of the site plan per the Development Agreement with NDC. During that same Takoma Park City Council meeting, councilmembers discussed two versions of the resolution, one version that recommended approval of the site plan with the condition that SHA approve the lay-by, and another version which recommended disapproval of the plan. The City Council specifically rejected the version of the resolution recommending that MCPB approve the plan conditioned upon SHA approval of the lay-by for the reasons summarized herein.

As the City has not recommended approval of the project in its current form, the City of Takoma Park must be able to review any SHA required changes (or changes made by NDC) to the plan prior to an approval by the Montgomery County Planning Board issuing. Moreover, should MCPB issue an approval conditioned upon SHA approval, any change required by SHA combined with the resultant impact on the plan could change the Project to such a degree that it is different than the one approved by MCPB, thereby undermining MCPB's review authority. Finally, in the present procedural circumstances, if MCPB issues a conditional approval and SHA issues an approval (with or without changes), NDC would still have to return the matter to the City for review pursuant to the relevant controlling enactments and documents. The resultant procedural posture would present unique challenges to the developer, the City, and the MCPB.

It is, therefore, the City Staff's position that it would be improper for the MCPB to issue the conditional approval requested under the present circumstances. Should the circumstances change, the City reserves the option to reopen the review of the site plan as new information is provided by NDC or by MDOT-SHA or other reviewing agencies, as was stated in the City Council's resolution recommending disapproval.

Sincerely,

Alex Cross

Director, Housing and Community Development
City of Takoma Park

Cc: Robert Kronenburg
Elza Hisel-McCoy
Stephanie Dickel
Grace Bogdan