

Case No. SA-130001 Cafritz Property at
Riverdale Park Town Center
Development Plan

Applicant: Calvert Tract, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ORDER AFFIRMING PLANNING BOARD DECISION,
WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 13-57, to approve with conditions a secondary amendment to the Cafritz Property at Riverdale Park Town Center Development Plan dated July 12, 2012, for the M-U-TC zoned portion of the Cafritz Property in order to create a town center on 35.71 acres of land located approximately 1,400 feet north of the intersection of Baltimore Avenue (US 1) and East-West Highway (MD 410), on the east side of Baltimore Avenue, the amendments do not propose to change the Mixed Use Town Center (M-U-TC) Zone boundary; therefore, the request meets the definition of a secondary amendment pursuant to Section 27-546.14(b)(1) of the Zoning Ordinance, and is, AFFIRMED, subject to the District Council's original jurisdiction, pursuant to §27-132(f)(1), over SA-130001, and its authority to modify the decision of the Planning Board pursuant to §27-280 of the Zoning Ordinance.

As the basis for this action, the District Council, pursuant to §§ 27-132(f)(1), 27-546.14, 27-276, and 27-280 of the Zoning Ordinance, states its findings and conclusions in Attachment A of this Order. The District Council also adopts and incorporates by reference as if fully stated herein, the findings and conclusions stated by the Planning Board in its Resolution, PGCPB No. 13-63, except as otherwise stated in Attachment A.

ORDERED this 30th day of September, 2013, by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Harrison, Lehman, Olson, Patterson,
and Toles.

Opposed:

Abstained:

Absent: Council Member Turner.

Vote: 8-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

BY: _____
Andrea C. Harrison, Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

ATTACHMENT A**ORDER OF APPROVAL WITH CONDITIONS SA-130001****FINDINGS, CONCLUSIONS, AND CONDITIONS****Procedural History**

This case involves the 2012 rezoning of 35.71± acres of vacant property from the R-55 Zone (One-Family Detached Residential) to the M-U-TC Zone (Mixed-Use Town Center) by the District Council in Zoning Ordinance No. 11-2012, which has been appealed to the Circuit Court for Prince George's County.¹ Calvert Tract, LLC is the applicant. The subject property and the name of the project are known as the Cafritz Property, legally described as Parcel 81, Tax Map 42, Grid D-1. The Cafritz Property is located approximately 1,400 feet north of the intersections of Baltimore Avenue (MD 410), on the east side of Baltimore Avenue, and it is within the municipal boundaries of the Town of Riverdale Park and the City of College Park. The 2012 rezoning expanded the 2004 Town of Riverdale Park Mixed-Use Town Center Zone Development Plan to include the 35.71± acres of the Cafritz Property for proposed commercial and residential development. *See* Zoning Ordinance No. 11-2012, PGCPB Resolution No. 12-09.

This secondary amendment (SA-130001) requests to amend the Cafritz Property at Riverdale Park Town Center Development Plan (Development Plan) dated July 12, 2012.² On

¹ Several citizens opposed the rezoning of the Cafritz Property and filed timely petitions for judicial review in the Circuit Court, case numbers: CAL12-25136 and CAL12-25243 (consolidated). Pursuant to Md. Rule 7-205, the filing of a petition for judicial review does not stay the order or action of the administrative agency, *i.e.*, the District Council adoption of Zoning Ordinance 11-2012. On September 17, 2013, the Honorable Krystal Q. Alves, of the Circuit Court for Prince George's County, in a 20-page written opinion, AFFIRMED the 2012 rezoning of the Cafritz Property. *See Jason Amster, et. al and Dr. Carol S. Nezzo, et al., v. County Council*, (September 17, 2013, Cir. Ct., J. Alves). *See also* Prince George's County Code, Subtitle 27, §27-141, (2008-09 ed., as amended) (hereinafter "§ 27- __") (The Council may take judicial notice of any evidence contained in the record of any earlier phase of the approval process relating to all or a portion of the same property, including the approval of a preliminary plat of subdivision).

² The applicant also filed applications for a Special Permit (SP-130002), approved, and adopted by Planning Board on June 20, 2013, (Special Permits are governed by §27.239.02, and are reviewable only by the Planning Board), in PGCPB No. 13-64, a Detailed Site Plan (DSP-13009), approved, and adopted by Planning Board on June

June 6, 2013, the Planning Board adopted PGCPB No. 13-57, which approved SA-130001, subject to conditions.

On June 17, 2013, the District Council, pursuant to §27-280, elected to review SA-130001.

On July 8, 2013, the Town of University Park (Town), pursuant to §27-280, filed an appeal to the District Council in SA-130001, and requested oral argument.

On September 9, 2013, the District Council held oral arguments pursuant to §27-132 and the District Council Rules of Procedure. At the conclusion of oral arguments, the District Council took this matter under advisement.

For clarity, the Council will restate each of the appeal issues raised by the Town, as they relate to SA-130001, and respond accordingly.

Appeal Issues

- **With respect to the Secondary Amendment, the Town asserts that it was legal error:**
 1. To adopt Condition H of the Secondary Amendment **instead** of the following condition:
Approve the amendment to Landscaping and Pedestrian Amenity Zone for the purpose of eliminating the standard sidewalk, subject to SHA approval, and providing only a publicly owned and maintained serpentine sidewalk and bike path to increase the likelihood of tree preservation. (Emphasis added.)
 2. To grant a variance from MUTC sign standard for the requested Whole Foods sign (Standard 9 on page 11 and Building 3) as it is not in conformance with Section 27-546.14 of the Zoning Ordinance.

20, 2013, in PGCPB No. 13-63, and a Preliminary Plan of Subdivision (4-13002), approved, and adopted by Planning Board on May 30, 2013, in PGCPB No. 13-55.

3. To adopt Condition 5 of the Secondary Amendment instead of the following conditions:
Require a minimum four foot high, attractive brick wall and dense evergreen shrub hedge which will address crime prevention through environmental design, block ambient light from motor vehicles, and is consistent with the storm water management along the parking edge for Parcels A and B, also referenced as Lots 1, 2 and 3, where the edge is adjacent to the greenway entrance feature. Details, specifications and specific plantings shall be provided for review and approval by the Urban Design Section.

Response: The authority to impose conditions on the approval of a zoning map amendment is expressly conferred upon the Council by the Regional District Act, Md. Code Ann., Land Use § 22-214 (2012). We may adopt any reasonable requirements, safeguards, and conditions that 1) may be necessary to protect surrounding properties from adverse effects that might accrue from the zoning map amendment; or 2) would further enhance the coordinated, harmonious, and systematic development of the regional district.

As to the allegation by the Town that a condition that dispenses with a standard sidewalk and, rather, that imposes requirement for a meandering path subject to all appropriate approvals by SHA, we find that the proposed language suggested by the Town has merit and augments both tree preservation and will more readily comply with ADA requirements applicable to the development proposed for the subject property. As a result, and in accordance with the purposes of promoting the public safety, health, and welfare under the auspices of §§ 27-102 and 27-281 of the Zoning Ordinance, find that an 8-to-10-foot multiuse path, subject to pertinent approval by SHA, will better serve the public interest, as provided in Condition H, below.

Regarding the Town's allegation concerning Applicant's request for a variance from the M-U-TC sign standard as to the Whole Foods sign, we find that the Town does not state how it believes that the proposed Secondary Amendment is not in conformance with Section 27-546.14 of the Zoning Ordinance. The Applicant set forth its justification for this requested Secondary Amendment, including compliance with Section 27-546.14 of the Ordinance, and the M-U-TC Development Review Committee, the Town of Riverdale Park, and the Planning Board agreed that it satisfied the required conditions for its approval, including compliance with that section of the Ordinance. Accordingly, and given the dearth of evidence in the record to substantiate the arguments advanced by the Town as to the Whole Foods sign, we find no reasonable basis to support disapproval.

This Secondary Amendment was the subject of a justification statement by the Applicant, was fully evaluated and recommended for approval by both the M-U-TC Design Review Committee, and the Town of Riverdale Park, and was approved by the Planning Board. University Park provides no basis to overturn this determination, and the mere fact that it disagrees with this issue is insufficient to justify its reversal.

As a practical matter, the Town's stated concern regarding ambient light from motor vehicles will be best addressed through a wall with evergreen landscaping. A review of the evidence in the record supports incorporation of portions of the language advanced by the Town as to the method of buffering portions of the site from adjacent uses meets the purposes of Sections 27-102 and 27-281 of the Zoning Ordinance. As such, the Council is persuaded by evidence in the record supporting the use of three-to-four-foot-high wall and evergreen shrub landscaping along the parking edge of Lots 1, 2, and 3, where the edge is adjacent to the greenway entrance feature, as imposed by the conditions of approval set forth in this Order.

Conditions of Approval

The District Council may only approve a requested secondary amendment of a Development Plan if 1) the requested secondary amendment is in compliance with the requirements for the approval of a Development Plan, 2) the requested secondary amendment is in conformance with the purposes of the M-U-TC Zone; and 3) the original intent of the Development Plan element or mandatory requirement being amended is still fulfilled with the approval of the requested secondary amendment. *See* §§ 27-280, 27-546.14. The specific purposes of the M-U-TC Zone are (1) to create with the community a development framework that can capitalize on the existing fabric of the County's older commercial/mixed-use centers and corridors, (2) to promote reinvestment in, and the appropriate redevelopment of, older commercial areas, to create attractive and distinctive community centers for shopping, socializing, entertaining, living, and to promote economic vitality, (3) to promote the preservation and adaptive reuse of selected buildings in older commercial areas, (4) to ensure a mix of compatible uses which compliments concentrations of retail and service uses, including institutional uses, encourages pedestrian activity, and promotes shared parking, (5) to provide a mix of commercial and residential uses which establish a safe and vibrant twenty-four hour environment, (6) to establish a flexible regulatory framework, based upon community input, to encourage compatible development and redevelopment, including shared parking facilities, that

will enhance the Town Center, and (7) to preserve and promote those distinctive physical characteristics that are identified by the community as essential to the community's identity, including building character, special landmarks, small parks and other gathering places, and wide sidewalks. *See* §27-546.09

With this statutory framework in mind, our original jurisdiction over SA-130001 pursuant to §27-132(f)(1), and our authority to modify the decision of the Planning Board pursuant to 27-280, affirmance of the Planning Board's decision is subject to the following conditions:

- A. Approve the amendment to street configurations subject to showing two four to five-foot-wide bike lanes within Van Buren Street spanning the distance between Baltimore Avenue (US 1) and Rhode Island Avenue staying within the right-of-way and paving sections shown on the preliminary plan and detailed site plan. Van Buren Street from Rhode Island around the Village Green to and from the CSX Crossing shall show a four-foot wide bike lane.
- B. Approve the amendment to reduce the parallel parking width to a minimum of seven feet (from a minimum of eight feet) when parking is not directly adjacent to a bike lane; when adjacent to a bike lane, a minimum of eight feet is required, throughout the site.
- C. Approve the amendment to tree zone area to widen planting strips to a minimum of five feet in width and a minimum of eight feet in length. Street trees shall be planted approximately 30 feet on center throughout the site, where feasible.
- D. Amendments to "Proposed Roadbed and Streetscape Dimensions" as set forth in Table 3, as proposed by the applicant, notwithstanding the amendments of A, B, and C above, as follows:
 - 1. Approve the amendment to Location 1, Van Buren Street at Village Square, width of roadbed 65–85 feet, distance from centerline 51–72 feet, subject to Condition 1 below.
 - 2. Approve the amendment to Location 2, Van Buren Street at Residential, distance from centerline 51–72 feet, subject to Condition 1 below.

3. Approve the amendment to Location 3, 45th Street, distance from centerline 29–40 feet, streetscape dimension 12–20 feet, subject to Condition 2 below.
4. At Location 4, Woodberry Street at Commercial Uses, the width of roadbed is to be adjusted from a range of 20–24 feet plus an 8-foot-wide on-street parking lane and a 5foot-wide bike lane, to 29 feet total, including a 22-foot driving surface and a 7foot onstreet parking lane. The drive lane dimensions are to be adjusted from a range of 1012 feet to 11 feet; the distance from centerline to building is to be adjusted from a range of 29–39 feet to a range of 25.5–43 feet; and the streetscape dimension is proposed to be adjusted from a range of 12–20 feet, to a range of 14.5–25 feet.
5. At Location 5, Woodberry Street at Residential Uses, the width of roadbed is to be adjusted from a range of 20–24 feet, plus an 8-foot-wide on-street parking lane and a 5foot-wide bike lane, to 36-feet total, including a 22-foot driving surface and two 7foot on-street parking lanes; the drive lane dimensions are to be adjusted from a range of 1012 feet to 11 feet; the distance from centerline to building is to be adjusted from a range of 32–44 feet to a range of 34.5–53 feet; and the streetscape dimension is to be adjusted from a range of 15–25 feet to a range of 16.5–35 feet.
6. Approve the amendment to Location 6, 46th Street, distance from centerline 29–40 feet, streetscape dimension 12–20 feet.
7. Approve the amendment at Location 8, Rhode Island Avenue, as requested.
8. Approve the amendment to Location 9, Maryland Avenue, width of roadbed 18–26 feet, distance from centerline 19–53 feet, streetscape dimension 10–40 feet.

9. Approve the amendment to 47th Street, with the width of roadbed of 22 feet total, including a 15-foot driving surface and a 7-foot on-street parking lane; the drive lane dimension is to be 15 feet; the distance from centerline to building dimension is to be a range of 29–51.5 feet; and the streetscape dimension is to be a range of 21.5–27 feet, subject to Condition 3 below.
- E. Approve the amendment to Table 1, Building Recommendations, to allow a one-story building for Locations 6a and 6b (Buildings 1, 2A, and 2B), subject to Condition 4 below.
 - F. Approve the amendments to Building Placement and Streetscape Standard 1 for Location 6a (Parcel A), from the standard minimum of 50 percent of the net lot area to 25.7 percent, and for Location 6d (Parcel C), from the standard minimum of 50 percent of the net lot area to 22 percent; and approve the amendments to Building Placement and Streetscape Standard 2 for Location 6a, from the standard minimum of 66 percent of the build-to line for the Woodberry Street frontage to 45 percent, and for Location 6d, from the standard minimum of 66 percent of the build-to line for the Van Buren Street frontage to 45 percent, subject to Condition 5 below.
 - G. Amend the Development Plan to increase the number of townhouses proposed from 109 to a maximum of 119, in accordance with Condition 24 of DSP-13009. The seven (7) lots in the northeastern corner near the stormwater management pond adjacent to parcel “J” as shown on the preliminary plan shall be removed as set forth in Condition 24 of DSP-13009 in furtherance of the public safety, health, and welfare and pursuant to §§ 27-102 and 27-281 of the Zoning Ordinance.
 - H. Approve the amendment to Landscaping and Pedestrian Amenity Zone to provide for a 8-10 foot meandering multi-use (bike and pedestrian) path that is ADA compliant between the landscaping/pedestrian amenity strip and the east edge of the PUE, subject to Maryland State Highway Administration (SHA) approval. The wider multi-use path replaces the original 7 foot sidewalk as well as the parallel sidewalk shown north of Van Buren Street and allows for tree preservation and ADA compliance to address grade concerns.
 - I. Approve the amendment to Parking and Loading Design for interior parking lot landscaping on Location 6d (Parcel C), subject to Condition 7 below.
 - J. Approve the amendment to Architecture Standard 7 to allow ground-level residential units to be less than a minimum of three feet above grade, subject to Condition 8 below.

- K. Approve the amendment to Noise Mitigation to allow HVAC to not be required to be enclosed by a wall or fence, unless said units are visible from a public street.
- L. Approve the amendment to Signage to allow for the use of internally-lit channel letters on Location 6d (Building 3), as per Applicant's Exhibit No. 4 (Building 3 Signage Sheet 3A300S).
- M. Approve the amendment to Building Openings Standards 1 and 2 for a reduction of the minimum of 60 percent of the ground floor to be transparent for Location 6c (Building 4) along the 46th Street and Woodberry Street frontages, subject to Condition 9 below.
- N. Approve the amendment to Building Open Space Standard 11 for a reduction of the minimum 40 percent of the façade to be windows for Location 7a (Building 5) for the building frontage, except the corners of 46th and Van Buren Streets and 46th and Woodberry Streets street frontages, subject to Condition 9 below.
- O. Disapprove the amendment to Parking and Loading Design Standard 11 for Location 7a (Building 5) to allow the parking garage to use a green screen to screen the parking.

The above amendments are subject to the following conditions, to be demonstrated on Detailed Site Plan DSP-13009 or Special Permit SP-130002, as appropriate:

- 1. The plans shall be revised to provide two four to five-foot-wide bike lanes within Van Buren Street spanning the distance between Baltimore Avenue (US 1) and Rhode Island Avenue staying within the right-of-way and paving sections shown on the preliminary plan and detailed site plan. Van Buren Street from Rhode Island around the town square to and from the CSX Crossing shall show a four-foot wide bike lane.
- 2. Landscaping along the streetscape on the east side of Building 2A shall be as shown on Sheet L.1.01 of the landscape plan, as per Applicant's Exhibit No. 3 (Building 2A, Landscape Plan).
- 3. The parallel parking spaces shown on the detailed site plan along the west side of 47th Street shall be eliminated in front of multifamily Buildings 7, 8, and 9, and the seven-foot area previously proposed for on-street parking will be distributed between additional front yard for the residential structures on the east side, and street tree plantings at approximately 30 feet on center, to the extent practicable, the exact distribution to be approved by the Urban Design Section.

4. Building 1 shall be increased in height for a minimum of 20 feet, and enhance the western elevation with more fenestration, openings, a trellis, and/or architectural elements, so that it has a more aesthetically pleasing visual presence when viewed from Baltimore Avenue (US 1). The roof of the towering element on the south elevation shall be a slate or tile roof.
5. For the three-to-four-foot-high wall and evergreen shrub landscaping proposed along the parking edge of Lots 1, 2, and 3, where the edge is adjacent to the greenway entrance feature, details and specifications for the wall and evergreen landscaping shall be provided for review and approval by the Urban Design Section.
6. Provide a buffer/screen between the Commercial Building One's loading and trash area and the adjacent proposed townhouses located in the northwest corner of the site. A loss of one or two dwelling units, or alternatively a reduction in the footprint of Building One may be necessary in order to achieve appropriate mitigation. The loading and the trash access shall be contained within the limits of the commercial parcel and shall not co-mingle with the residential alley.
7. Landscaping shall be implemented for Parcel C as shown on the revised landscape plan.
8. Investigate ways to provide separation for the townhouse unit from the streetscape through landscaping, fencing, or walls if feasible.
9. Prior to signature approval of the detailed site plan:
 - a. The architectural plans and/or an exhibit shall be provided for Building 4 to demonstrate that the ground façade is at least 60 percent transparent material (glass) along Van Buren Street and 45th Street.
 - b. The architectural plans and/or an exhibit shall be provided for Building 4 to demonstrate that the second floor along 46th Street is at least 60 percent transparent.
 - c. The architectural plans and/or an exhibit shall be provided for Building 5 to demonstrate that windows will occupy at least 40 percent of wall area for façades other than a parking garage, and façade other than the corners of 46th and Van Buren, and 46th and Woodberry Streets.

10. The 46th Street parking garage shall be developed and constructed as shown on the revised architectural plan, as per Applicant's Exhibit No. 1.
11. Woodberry Street, from its intersection with the Baltimore Avenue (US 1) right-of-way to its terminus, will be a 46-foot right-of-way, to be distributed as follows: two 11-foot travel lanes; two 7-foot on-street parking lanes; and the balance of ten feet to be distributed on the north or south sides, as follows: green area added to the front yards of the townhouse units and/or street tree plantings at approximately 30 feet on center, to the extent practicable, the exact distribution to be approved by the Urban Design Section. The right-of-way for Woodberry Street as described herein may be adjusted to allow for the adequate curve radii.