

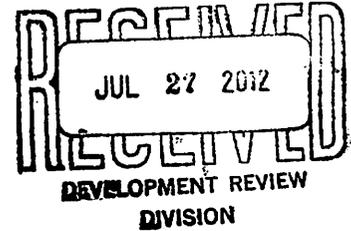


Loiederman
Soltesz Associates, Inc.

July 26, 2012

Ms. Whitney Chellis
Maryland-National Capital Park and Planning Commission
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: Cafritz. 4-12004
Variation from Section 24-121 (a)(4)
LSA No.: 2411-05-01



Dear Whitney:

The following information is provided pursuant to the need to apply for a variation from Section 24-121(a)(4) of the Subdivision Regulations for the residential lot depth requirement of 300' when adjacent to an existing or planned transit right-of-way.

The subject property is located in the developed tier within the Town of Riverdale Park. It is 37.35 acres in size and is zoned MUTC. The site is bordered on the eastern side by an existing CSX right-of-way and tracks. To the north the site adjoins vacant land owned by WMATA there are exposed tracks in the eastern portion of this right-of-way. In the western portion, the tracks are underground. To the west is US route one and to the south the site adjoins the existing post office facility, and existing industrial uses along Maryland Avenue.

The specific variation should be approved for the following reasons:

1. The granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property;

The granting of the variation will not be detrimental to public safety, health or welfare, or injurious to other properties. The lot depth, while less than 300 feet will not prevent the applicant's ability to mitigate detrimental effects from the adjacent transit right-of-way. The adjacent tracks do add to the ambient noise level on the Cafritz property. The unmitigated 65 dba limits for ground level and upper level locations has been identified on the plan via a noise study. The applicant will provide the required noise mitigation per the appropriate COMAR section for interior and external use of the property. This could include both landscape noise reduction measures such as berming, fences, or broad leaf vegetation to reduce noise impacts as well as architectural measures including treated or thicker windows. Taken together these measures will provide the necessary protection against nuisance noise impacts from the adjacent tracks.

The adjacent tracks can also be considered a less desirable view shed. The applicant will take measures to mitigate the view towards the tracks from ground level and upper level onsite locations by providing significant landscape measures designed to reduce the view impact and by providing interesting architecture and other site elements to divert the attention from the track. This combination will mitigate any unsightly views to the adjacent tracks and just as importantly, provide privacy for the site from the adjacent transit right-of-way.

Finally, safety is of paramount concern to the applicant. The applicant is providing as much separation as practicably available between the lots that do not have the required 300' lot depth and the adjacent transit right-of-way. Stormwater management is proposed in between the residential area onsite and the adjacent right-of-way. This stormwater management system of ponds and landscape will make it difficult to cross towards the tracks discouraging residential/pedestrian conflict with the property limits. Attractive security fencing will be added to create another hindrance.

Taken together, these efforts will mitigate the potential for harm to the public safety, health, or welfare and they will not be injurious to other property.

2. The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties:

The site is located inside the beltway; the areas around the site have been developed in some manor throughout the years, as noted previously. The conditions on which the variation is based are unique to the property because the property is generally much larger than the neighboring properties. It is however, not large enough to allow for a 300' lot depth while creating an efficient site layout. The area of the site nearest the CSX line is long and narrow. Without the ability to provide lots less than the required 300' lot depth adjacent to the transit rights-of-way, the site layout would be hindered by poorly placed roads and off-site connectivity. It would not be possible to develop the site as described in District Council order 11-2012. The ability to cross the adjacent tracks to the east, as desired by the surrounding towns, would be limited to a point where it is unlikely that the appropriate right-of-way could actually be created as the residue property from the dedication of such right-of-way would, by nature, be a residential lot forced to be less than 300'. Therefore the crossing could not be provided.

3. The variation does not constitute a violation of any other applicable law, ordinance, or Regulation;

This variation request does not constitute a known violation to any other applicable law, ordinance, or regulation.

4. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

Without the approval of this variation, the applicant and owner would undergo hardship as opposed to mere inconvenience since the site locate dint he developed tier would be rendered undevelopable. This in-fill site requires a certain level of density, higher than what one might expect from the same site if it were to honor the 300' lot depth requirement. Public agency review and public hearing support the decision to bring a mixed use design to the site that fits with the overall character of the surrounding neighborhoods and this implies a reduction of the lot depth requirements as the vast majority of the adjacent properties include residential properties without a 300' lot depth.

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Finally, the shape of the property dictates that much of the residential portion of the site be pushed towards the rear of the property in order to allow the commercial retail access and proximity to U.S. Route 1 in order to succeed. Site topography requires an extensive earthwork operation to put the development on grade for construction while maintaining the existing WSSC water line and trolley trail through the site.

5. **In the R-30, R-30c, R-18, R-18c, R-10, R-10, and R-H zones, where multi-family dwellings are proposed, the Planning Board may approve a variation if the applicant proposes and demonstrates that, in addition to the criteria in Section 24-113 (a) above, the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by Subtitle 4 of the prince George's County Code.**

The site is not located in any of the listed zones and therefore this condition does not apply.

In conclusion, the requirement for a lot depth of 300' lots for residential uses adjacent to transit rights-of-way would severely limit the efficiency of the development's design. This would cause the site to be inaccessible by vehicle from Maryland Avenue resulting in higher traffic volume at the main site entrance at Baltimore Avenue and the other secondary site access points. It would eliminate the proposed cross over, and would impose a hardship upon the owner.

Therefore, for the above reasons, the applicant respectfully requests that a variation from 24-121(a)(4) be granted for the subject property.

Should you have any further questions, please do not hesitate to contact our office.

Sincerely,

LOIEDERMAN SOLTESZ ASSOCIATES, INC



Timothy H. Davis, RLA, AICP, LEED BD+C
Associate