

MEMORANDUM OF UNDERSTANDING

WHEREAS CMK DEV, LLC (“Cafritz”) owns the property at 5333 Connecticut, N.W., in the District of Columbia between Military Road and Kanawha Street (“5333 Connecticut”) and seeks to build a multi-family residential building (“the Building”) with approximately 261 dwelling units on the property;

WHEREAS Cafritz prepared designs for the proposed Building and in 2012 applied for the necessary permits from agencies of the District of Columbia based on its belief that the proposed Building could be built “as of right” under the zoning rules and regulations of the District of Columbia;

WHEREAS, a number of the residents near 5333 Connecticut objected to some aspects of the proposed design of the Building and formed a coalition (the “5333 Coalition”) opposing issuance of the permits and contending that the proposed design did not conform to the zoning rules and regulations of the District of Columbia and that permits could not be lawfully issued “as of right”;

WHEREAS the Chevy Chase Advisory Neighborhood Commission 3/4G for the District of Columbia (the “ANC”) also raised concerns about whether some aspects of the proposed design conformed to applicable zoning rules and regulations and whether permits could be issued “as of right”;

WHEREAS Cafritz made presentations on its proposed design and construction plans at a public meeting on January 23, 2013, and at an ANC meeting on April 8, 2013;

WHEREAS the ANC and the 5333 Coalition had multiple meetings with Vincent Gray, the Mayor of the District of Columbia, with Mary Cheh, Council Member for Ward 3, and with various officials from the agencies that review permit applications for 5333 Connecticut;

WHEREAS the ANC, the 5333 Coalition, and Cafritz met on multiple occasions during 2013 to discuss the proposed design and construction plans in an effort to resolve differences;

WHEREAS the relevant agencies of the District of Columbia approved various permits authorizing Cafritz to begin construction of the proposed Building at 5333 Connecticut;

WHEREAS the ANC and the 5333 Coalition have filed appeals with the Board of Zoning Adjustments of the District of Columbia (“BZA”) and with the Office of Administrative Hearings (“OAH”) from the grant of permits for construction of the proposed Building at 5333 Connecticut;

WHEREAS the ANC believes that it is in the best interests of the Chevy Chase community and the District of Columbia as a whole to resolve differences about the design of the proposed Building on terms that will provide substantial benefits to the community while permitting the project to proceed on a lawful basis; and

WHEREAS Cafritz is willing to make certain changes to the proposed design, construction, and operation of the Building for the benefit of the community; and

WHEREAS the ANC and Cafritz have agreed on a package of changes to the Building's design, construction, and operation in order to provide significant benefits to the Chevy Chase community and the District of Columbia as a whole,

THEREFORE, the ANC and Cafritz agree to the following terms in this MEMORANDUM OF UNDERSTANDING that will be binding on both parties:

1. Cafritz agrees to a major redesign of the Building compared with the design that was presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit applications, including reduction in the glass surface area, increase in the amount of masonry, additional setbacks, nominally less square footage, and two fewer residential units, all as depicted in the concept drawings that Cafritz provided to the ANC at meetings on June 14, 2013, and July 19, 2013.

Confirmed: The facade and building massing have been re-designed – revisions include reduced glass, added masonry piers, less square footage, a reduction from 263 to 261 residential units, and setbacks at upper floors, Façade revisions are in keeping with the concept drawings provided to the ANC. The North tower facade was brought closer to Conn Ave, and the glazing system has been revised with added articulation and mullion profiles/covers. The Penthouse structure has been reduced and shifted South per setback revisions.

2. Cafritz agrees to lower the height of the Building by approximately two feet relative to the design that was presented at the community meeting on January 23, 2013 and was the basis for the 2012 permit applications.

Confirmed: Building height has been lowered from 90'-0" to 88'-2" for an overall 1'-10" reduction in height.

3. Cafritz will propose and the ANC will support an application to provide a circular driveway from Connecticut Avenue that will provide a pick-up and drop-off point so as to reduce traffic on Kanawha Street and Military Road and that will also avoid removal of an additional major tree on Connecticut Avenue.

Confirmed: Presently in process. Landscaped area at north end will be expanded. The existing tree originally slated for removal is currently protected and has been incorporated into the new plans. See notes to 6. below.

4. Cafritz agrees to provide approximately 40 additional parking spaces for tenants and visitors above the approximately 174 parking spaces included in the design that was

presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit applications;

Confirmed: Permitted building provided 173 spaces for cars and 20 motorcycle spaces - Redesigned/Constructed building will provide 213 spaces for cars and 29 for motorcycles,- 40 additional car spaces and 8 additional motorcycle spaces.

5. Cafritz agrees that it will request that the District of Columbia Department of Transportation (“DDOT”) restrict the ability of tenants of the Building at 5333 Connecticut to obtain Residential Parking Permits and that Cafritz will make reasonable best efforts to obtain DDOT agreement to exempt Inclusionary Zoning tenants from this restriction.

Confirmed: Request to DDOT has not yet been made.

6. Cafritz agrees to install additional landscaping beyond that included in the design that was presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit applications, including (a) the options that were presented in a June 27 meeting with the ANC and the 5333 Coalition and (b) reasonable best efforts to potentially preserve additional trees on Military Road, as presented at a July 14 meeting with Cafritz’s landscape architect (with advice from its arborist) and the most affected members of the 5333 Coalition and information included in a revised proposed landscape plan that Cafritz’s landscape architect provided on August 12, 2013.

Confirmed:

The MOU refers to the attached graphic labeled “130807 Perimeter Trees”.

The key components of that exhibit are the following:

- **The preservation of 4 trees along Military (since then one of the trees was not possible to be preserved and was removed, neighbors and ANC were notified). Construction secured the services of the Care of Trees for the preservation of the remaining trees.**
- **This exhibit also showed the trees that were proposed as part of the new proposed landscape buffer for both Military Rd. and Kanawha St. (the two street edges about which that the neighbors were concerned). Plans will make sure all the planting in these edges are consistent with this exhibit.**
- **Neighbors requested using Southern Magnolias or other evergreen trees in order to provide buffer along the Kanawha Street edge. Plans will make sure that all the planting in these edges are consistent with this exhibit.**

- **We also discussed the use of screens for the stretch of Kanawha Road where the units came very close to the sidewalk. The graphic labels them as “potential contemporary lattice panels”. . The plantings in this area will provide visual buffer/screen between the building and the sidewalk. ECA suggests that metal screens will detract from the added landscaping. Screens could be added later if the landscaping is not enough of a visual buffer.**

In addition to our MOU, the ANC provided support for the circular drive and participated in those negotiations. The attached memo and supporting graphics were part of the final approval for the circular drive. The construction team has already secured the services of an arborist for the implementation of the circular drive.

Additional landscaping is being provided between the sidewalk and driveway at the North side of the driveway. This provides more landscaping in foreground/front of building. ECA believes that no screens along Kanawha would look better from across the street so that landscaping/greenery is visible to the street.

7. In order to benefit the Building's tenants and to reduce vehicular traffic in the neighborhood, Cafritz agrees that it will offer to make available up to two parking spaces for a car share company (e.g., Zipcar) and will offer to provide for the installation of a Capital Bike Share station, but Cafritz shall have no obligations if, after a reasonable effort, either (a) Cafritz reasonably determines that security, logistical, or locational considerations make the car share or Capital Bike Share station impractical, or (b) its offer is not accepted by the car share company or by Capital Bike Share. Cafritz shall further have no obligation with regard to car share or bike share facilities that are not located at 5333 Connecticut Avenue (including the associated public space).

Confirmed:

Cafritz will offer to make available up to two spaces for a car share company for use at first occupancy of the building. Cafritz will work with Capital Bikeshare to determine the space required for a Bikeshare station on site. If a location is agreed upon between Cafritz and Capital Bikeshare, space will be made available for the installation of a Capital Bikeshare station.

8. Cafritz agrees to institute traffic controls and signage, as requested and advised by the DDOT, so that traffic entering and exiting the building will not use the narrow alley that runs from behind the Building to Chevy Chase Parkway, including physical construction of a raised “pork chop” traffic control device to impede a right-hand turn from the Building’s garage.

Confirmed: Cafritz is constructing the building with traffic controls, signage, and physical construction of a raised traffic control device to impede

vehicles exiting the parking garage from making a right hand turn. See attached for proposed layout of the raised traffic control device.

9. Cafritz agrees to move the exhaust fan for the below-ground parking vent approximately 30 feet to the north relative to the concept design that was presented at the community meeting on January 23, 2013, and that was the basis for the 2012 permit application and to reconfirm with the District of Columbia Department of the Environment that the exhaust will meet all applicable standards.

Confirmed: The Garage Exhaust shaft has been relocated approximately 30 ft. North from original location.

10. Cafritz agrees to include built-in shades and directed lighting designed to reduce light emanating from the Building at night and to make reasonable effort to encourage tenants to use the built-in shades.

Confirmed: All apartment units will have Mecho Shades/roll down shades at windows. Light fixtures have been placed away from building facade/exterior wall.

11. Cafritz agrees to implement the specific site-generated traffic controls during construction that were approved by DDOT and presented to the ANC on April 8, 2013.

Confirmed: These are being implemented.

12. Cafritz agrees to include the following sustainability features in the Building:

- a. Green roof technology with planters, green garage roof, and other rooftop areas; **Confirmed: There are planters on Roof surrounding pool, and along the North side of the terrace on North tower. The courtyard is heavily landscaped with an extensive green lawn space, and several large planters.**
- b. Storm water management, including slowing runoff of storm water; **Confirmed: Stormwater Management system is being installed – there is a vault at the NE corner of the building.**
- c. Plantings that use less water for irrigation; **Confirmed.**
- d. Use as many energy star appliances as possible; **Confirmed: Energy Star appliances will be provided as available (dishwasher, refrigerator, washer)**
- e. High efficiency HVAC systems; **Confirmed: HVAC for the units have 15 SEER rating, HVAC for common areas have 14.5 SEER rating - both systems are above code requirements and comparable to systems used in LEED accredited projects.**

- f. Separate metering of all heating, air conditioning, electricity, and hot water to encourage tenants' conservation: **Confirmed: There will be separate metering in the units.**
 - g. Adhesives and paints to have minimum or no volatile organic chemicals; **Confirmed: Adhesives and paints have minimum or no VOC's.**
 - h. Energy efficient light fixtures; **Confirmed: Many of the light fixtures in units, public areas, and on the exterior are LED fixtures.**
 - i. Provision of separate chutes for trash and for recyclables on each tenanted floor; **Confirmed: There are separate chutes on each floor.**
 - j. Use of local and recycled materials wherever possible; **Confirmed: Many of the fabricators/manufacturers are located less than 200 miles and considered local.**
 - k. Sorted construction debris when readily achievable; **Confirmed: Materials are being sorted at the construction site as is feasible.**
 - l. Low-flow plumbing fixtures; and **Confirmed: The plumbing fixtures are low-flow where feasible (toilets, urinals).**
 - m. More efficient unit layouts with less wasted space and lower energy usage. **Confirmed: Apartment unit sizes are modest for all unit types.**
13. The ANC agrees to withdraw as a party to any appeals to the BZA or the Office of Administrative Hearings relating to the permits for the Building as of the effective date of this MEMORANDUM OF UNDERSTANDING, and the ANC will not challenge future permits or zoning for the Building so long as construction pursuant to those permits or zoning is undertaken in accordance with the provisions of this MEMORANDUM OF UNDERSTANDING.
14. The ANC agrees to represent to the BZA that, while the ANC would have preferred to have been involved earlier in the design and review process – despite assertions by Cafritz, the Zoning Administrator, and the District of Columbia Department of Consumer and Regulatory Affairs that the Building application was technically a “matter-of-right” process – given the conditions as they exist now, the proposed design, construction, and operation of the Building under the terms of this MEMORANDUM OF UNDERSTANDING will provide significant benefits to the Chevy Chase community and the District of Columbia as a whole.
15. The ANC agrees that, while any resident has the right to pursue whatever remedies that may be available to them, the ANC will continue to encourage all of the parties to reach

February 20, 2015

an agreement that includes the terms of this MEMORANDUM OF UNDERSTANDING
and to avoid unproductive litigation.

Effective: August 28, 2013

Jim McCarthy
Chair, Chevy Chase ANC (3G)

Calvin Cafritz
CMK DEV, LLC