



**FREDERICK COUNTY GOVERNMENT
DIVISION OF COMMUNITY DEVELOPMENT**

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ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Tilted Kilt Pub & Eatery

Site Plan #SP 96-28 AP #14454

In General: The following Letter of Understanding (“**Letter**”) between the Frederick County Planning Commission (“**Commission**”) and Farruggio Properties, III (the “**Developer**”), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Tilted Kilt Pub & Eatery Site Plan (the “**Project**”), in compliance with the Frederick County Adequate Public Facilities Ordinance (“**APFO**”).

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (land conveyance and contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer’s proposal to enclose an existing 425 sq. ft. area as well as add a new 700 sq. ft. patio for outdoor dining onto an existing 5,490 square foot restaurant, which is zoned General Commercial (GC), and located in the southern quadrant of MD 355 and Lowes Lane, with access on Lowes Lane and Spectrum Drive. This APFO approval will be for the re-development of this restaurant as a Type 2 site plan, which would be approved by staff subsequent to Commission approval of this Letter on May 14, 2014.

Schools: Schools are not impacted because the development of the property is a non-residential use.

Water and Sewer: The Property has a water and sewer classification of W-1 (Connected), S-1 (Connected). While the public sewer and water facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable county regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

Road Improvements: No traffic impact analysis was performed for this Project because it did not meet the 50 new trip threshold for study. Based on the ITE trip generation rates for high turnover sit down restaurants, the expansion of the restaurant would result in 11 additional pm and 16 additional Saturday peak hour trips. The Developer is required to provide fair share contributions to existing escrow accounts, per §1-20-12(H), for the following accounts:

1. Existing Escrow Account #3976 for MD 85/Guilford Drive Intersection: Addition of a second northbound left turn lane on MD 85 - The estimated cost of the Road Improvement is \$439,527. The Developer's proportionate share of this Road Improvement is 0.23%. Therefore the Developer hereby agrees to pay \$1,011 to the escrow account for this Road Improvement.
2. Existing Escrow Account #4025 for MD 85/Spectrum Dr. Intersection: Addition of a third southbound through lane, outside lane being a through/right turn lane. The estimated cost of right-of-way and construction for this improvement is \$1,474,010. The Developer's proportionate share of this Road Improvement is 1.08%. Therefore the Developer hereby agrees to pay \$15,919 to the escrow account for this Road Improvement.
3. Existing Escrow Account #3259 for MD 85/I-270 NB Ramp Intersection: Second NB left and SB right turn lanes on MD 85. The estimated cost of the Road Improvement is \$2,856,000 as determined by DPDR-Traffic Engineering Staff, and the Developer's proportionate share of this Road Improvement is 0.013%. Therefore the Developer hereby agrees to pay \$371 to the existing escrow account for this Road Improvement.

Therefore, prior to the issuance of any building permits, the Developer hereby agrees to pay \$17,301 to the escrow accounts described above for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on May 14, 2017.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures Next Page]

Farrugio Properties, III:

By: _____ Date:

Name:

FREDERICK COUNTY PLANNING COMMISSION:

By: _____ Date:

Robert Lawrence, Chair or Dwaine E. Robbins, Secretary

ATTEST:

By: _____ Date:

Gary Hessong, Director, Permits & Inspections

Planner's Initials / Date _____

County Attorney's Office Initials / Date _____

(Approved as to legal form)