



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Consent Item #
MCPB

MEMORANDUM

DATE: June 12, 2009
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
Development Review Division
FROM: Joshua Sloan, Coordinator *JS*
Development Review Division
(301) 495-4597
Joshua.Sloan@mncppc-mc.org

REVIEW TYPE: **Project Plan Validity Period Extension**
CASE #: **920070090**
PROJECT NAME: **Auburn Avenue**

APPLYING FOR: 3 Year Extension of the project plan validity period.
REVIEW BASIS: Div. 59-D-2.7(b) of Montgomery County Zoning Ordinance

ZONE: CBD-1
LOCATION: Southwestern corner of the intersection of Norfolk Avenue and Auburn Avenue
MASTER PLAN: Woodmont Triangle Amendment to the Bethesda CBD Sector Plan

APPLICANT: Auburn Building Associates, LP
REQUEST DATE: April 13, 2009
HEARING DATE: June 25, 2009

Background

Project plan 920070090 was approved by the Board by an Opinion dated December 5, 2007. The project calls for up to 30,500 square feet of retail and office space and up to 60 dwelling units, including 15% MPDUs. The site consists of 0.83 acres of land in the CBD-1 zone in the Woodmont Triangle Study Area of the Bethesda Central Business District.

Analysis

Section 59-D-2.7 of the Zoning Ordinance establishes the actions required to validate a project plan. Specifically, a project plan is initiated 30 days from the date of mailing of the written opinion, and "will remain valid for up to 24 months from the initiation date, provided applicant has filed a complete site plan application, as determined by the Planning Board staff within 18 months of the initiation date; and in the absence of governmental delay, received site plan approval within 6 months of the assigned complete application date. The timely approval of a site plan validates a project plan. Based on this language, the Auburn Avenue project plan,

920070090, will become invalid unless a site plan application is accepted by July 5, 2009 and site plan approval is received by January 5, 2010. The Planning Board may, however, extend this period.

In this case the Applicant is requesting a three-year extension for the following reasons:

1. A portion of the subject property has been sold to a different entity and further negotiations or major design revisions will be required;
2. Economic circumstances are requiring a longer period to secure financing; and
3. The preliminary plan, in addition to the site plan, must be prepared within this time frame.

Staff supports only a two-year extension, commensurate with the universal Adequate Public Facility extension recently approved by the County Council.

Recommendation

Staff recommends approval of an extension of the validity period for project plan 920070090, Auburn Avenue, for two years. This extension would require that a site plan application be accepted by Planning Board staff by July 5, 2011, and a site plan be approved by the Planning Board by January 5, 2012.

Appendices

- A. Applicant's request letter

April 8, 2009

Stacy P. Silber
301 664 7621
stacy.silber@hklaw.com

Dr. Royce Hanson
Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Auburn Avenue Project Plan
Project Plan No. 920070090
Request for Extension

Dear Chairman Hanson:

I am writing this letter on behalf of Auburn Building Associates, LP (the "Applicant"). Pursuant to Section 59-D-2.7(c) of the Montgomery County Code, we hereby request a three (3) year extension of the Validity Period of the subject Project Plan.

On December 5, 2007, the Planning Board approved Project Plan No. 920070090, allowing 126,049 square feet of mixed use development, including 60 multi-family residential dwelling units, of which 15 percent will be MPDUs. The approved Plan complements the surrounding neighborhood and offers public use and amenity space along both Auburn and Norfolk Avenues, with a focal area at the corner of these two streets. (See attached Illustrative Landscape Plan, submitted as part of the subject Project Plan). The building also follows and implements the Woodmont Triangle Amendment to the Sector Plan for the Bethesda CBD's recommendations to respect and implement Norfolk as a main street in this area of Bethesda.

The Validity Period of the subject Project Plan begins on January 5, 2008, which is 30 days from the date of mailing of the Resolution. Under Section 59-D-2.7(b), an approved Project Plan remains valid for up to 24 months, provided that a complete Site Plan application is filed within 18 months of the initiation date of January 5, 2008. As such, the Plan remains valid through January 5, 2010. We ask for a 3 year extension, thereby allowing the applicable Site Plan to be filed by July 5, 2012, and the Project Plan to remain valid through January 5, 2013.

A three (3) year extension is needed for the following reasons:

Dr. Royce Hanson
April 8, 2009
Page 2

First, a portion of the Property (Lots 401 and 402, Woodmont Subdivision), which is a subject of the Project Plan, has been sold to a new entity. The Applicant needs additional time to work with this new ownership to discern whether a consolidated scheme of development can still be achieved on the multiple lots. If a new relationship among the owners cannot be resolved, Auburn Building Associates LP will need to analyze modification of its plans to exclude certain land areas.

Second, in light of the economic downturn, financing for development of the Property is not feasible in the foreseeable future. The Applicant needs additional time to secure financing for both the soft costs of pursuing both Preliminary Plan and Site Plan approvals as well as the hard costs to commence construction.

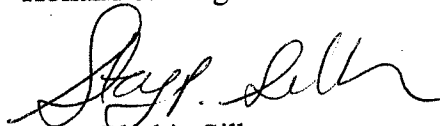
Third, the Applicant needs the additional time to prepare and obtain Preliminary Plan approval for development, and then prepare and obtain Site Plan approval. Because of the above referenced circumstances, the Applicant will be delayed in being able to prepare these plans, and then commence the Preliminary Plan approval process, which approval is a prerequisite to Site Plan approval.

We believe that this three year extension is the minimum necessary to negotiate a deal with the new owner, or determine if a modified development will need to be proposed. In addition, this time frame is the minimum necessary to prepare required Preliminary Plan and Site Plan documents and obtain requisite approvals prior to filing. Finally, it is the minimum necessary to obtain financing for both the soft and hard costs for this type of development.

We respectfully request that the three (3) year extension be granted.

Sincerely,

Holland & Knight LLP



Stacy Plotkin Silber

Enclosure

cc: Mr. Robert Kronenberg

6199916_v1