

8300 Wisconsin Ave (AKA Trillium), Reconsideration Request for Preliminary Plan Amendment, 12006040A



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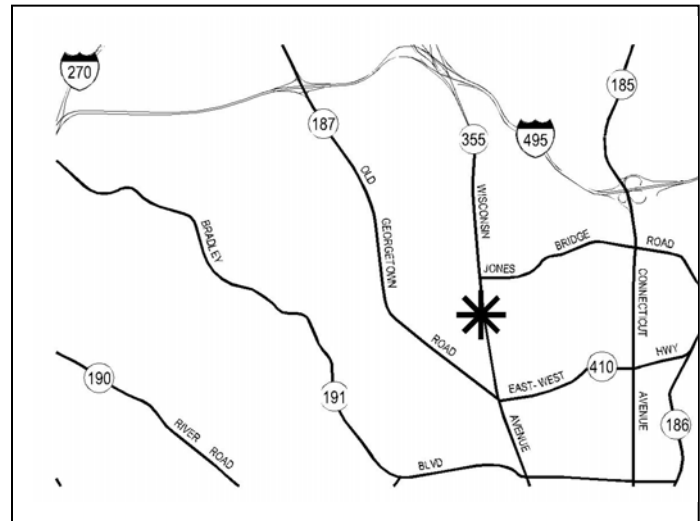
Date of Staff Report: 04/22/2013

Description

- Address: 8320 Wisconsin Avenue
- 1.6 acres, zoned CBD- 1 located in the Bethesda CBD Sector Plan,
- Reconsideration Request for Limited Preliminary Plan Amendment
- Applicant: Stonebridge Carras, LLC, SC
- Submitted date: January 10, 2013

Staff Recommendation:

Approval with conditions



Summary

On February 7, 2013, the Planning Board approved a reconsideration request by the applicant specifically to modify Condition #4 of the Preliminary Plan Amendment related to PAMR requirements. The request was a result of staff's reinterpretation of pass-by trips related to the CBD Special Trip Rates for grocery stores within the Bethesda CBD. This reconsideration is unique to this project and is specifically related to the previously approved grocery store.

All of the findings and evaluation of the case previously approved by the Planning Board remain in full force and effect except as modified by condition #4.

BACKGROUND

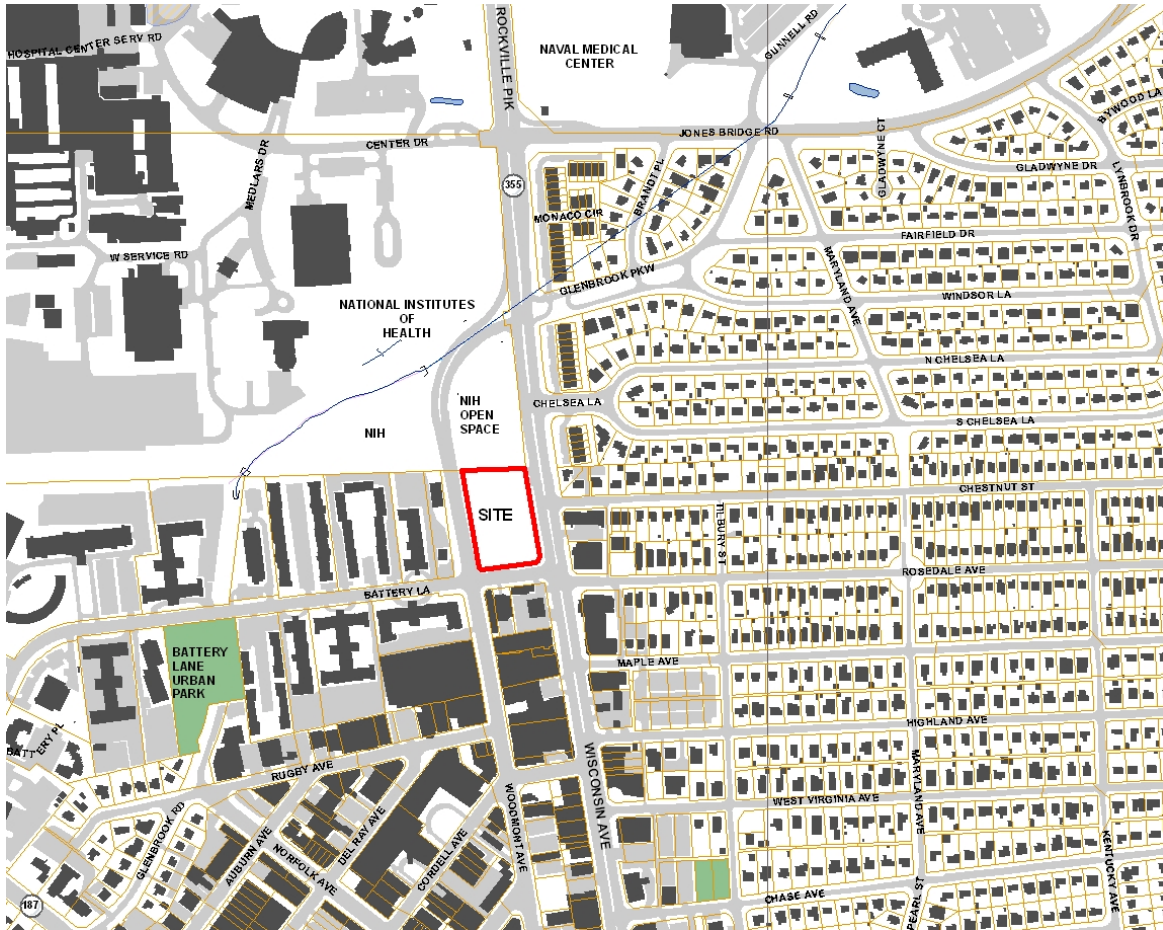
On December 22, 2005, the Montgomery County Planning Board approved a combined Project Plan (920060060) and Preliminary Plan (120060400) application, for a maximum of 200 multi-family dwelling units and approximately 2,000 square feet of arts incubator space within the main building. On July 6, 2006, the Board approved a Site Plan (820060360) for a maximum of 198 multi-family dwelling units and approximately 2,000 square feet of arts incubator space within the main building. That site plan was amended on May 10, 2007, via Site Plan Amendment 82006036A, to reduce the number of parking spaces and correct a typo in the data table for building setbacks along Wisconsin Avenue. The plans were further amended on May 3, 2012, via concurrent applications for Project Plan Amendment 92006006A, Preliminary Plan Amendment 12006040A and Site Plan Amendment 82006036B, to reconfigure the previously approved buildings and associated public use space into a new site design that featured one “U” shaped, multi-family residential building with up to 360 dwelling units and a maximum of 55,000 sf. of non-residential space intended for a grocery store.

The Reconsideration request, submitted by the Applicant on January 10, 2013, requests that the Planning Board reconsider the manner in which vehicular pass-by trips within the Bethesda CBD were determined and eliminate the remaining Policy Area Mobility Review (PAMR) trip mitigation requirement. The Planning Board agreed to waive Rules of Procedure requirement 4.12.1, on February 7, 2013, so that the Applicant could petition for reconsideration of the approved Preliminary Plan Amendment. If the Planning Board approves the methodology proposed in the Applicant’s reconsideration petition, the Project’s PAMR requirements will be satisfied without further mitigation.

SITE DESCRIPTION

Vicinity

The proposed development is peripherally located within the Bethesda CBD at a gateway location on the north side of Battery Lane, between Wisconsin and Woodmont Avenues. The 1.6 acre site, which is zoned CBD-1, is currently vacant. The hotel and associated parking structure, which previously occupied the site, were demolished in 2009. The site is directly adjacent to an open space area of the National Institutes of Health (NIH) campus. Townhomes in the R-60 zone are located across Wisconsin Avenue towards the northeast. Towards the east and southeast there are additional townhomes, the Rosedale Park condominiums and a one-family home serving as a real estate settlement office. Along Battery Lane to the south, there is an existing low-rise office building and a gas station, which currently occupies the Woodmont Central site which was approved for a six story office building with ground floor retail. To the west, further along Battery Lane, there are numerous garden apartments, some of which are proposed for replacement with 5-11 story multi-family buildings. Due west of the site, there is a one-family detached home operating as a philanthropic institution and a three-story office building which will be demolished and replaced with a multi-story residential building with 46 units and a restaurant at the ground floor. The subject property is within 2,000 feet (a six-minute walk) of the Medical Center Metro Station and within 3,000 feet of the Bethesda Metro station.



Vicinity Map

PROPOSED AMENDMENT

On January 10, 2013, the Applicant submitted a petition requesting a reconsideration of the Planning Board’s approval related to PAMR requirements described in Preliminary Plan 12006040A Condition #4. The Board approved the applicant’s reconsideration request and directed Staff to provide a re-evaluation of the Application, specifically regarding the manner in which staff interpreted pass-by trips as a result of the CBD Special Trip Rate for a grocery store. If the Planning Board approves the Applicant’s reconsideration request, PAMR requirements will be satisfied with no additional mitigation required. The Applicant believes this Application, as amended, should be granted because staff determined that the original method over-counted new vehicular trips expected to be generated by the proposed development. This determination is unique to the subject project and tied directly to the previously approved grocery store component of that project.

The approved Condition #4 of the preliminary plan amendment stated:

“The Applicant, to satisfy the Policy Area Mobility Review (“PAMR”) requirement of the Adequate Public Facilities (“APF”) test of mitigating 52 peak-hour trips, must enter into a binding Trip Reduction Agreement (“Agreement”) with the Planning Board and MCDOT. The Applicant must execute the Agreement and record the Agreement in the Land Records for Montgomery County prior to the release of a building permit associated with any development on the site, exclusive of the sheeting and shoring permit.”

Staff recommends that this condition be revised to state:

“The Applicant, to satisfy the Policy Area Mobility Review (“PAMR”) requirement of the Adequate Public Facilities (“APF”) test of mitigating 52 peak hour trips, must enter into a binding Trip Reduction Agreement (“Agreement”) Traffic Mitigation Agreement (“TMAg”) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD) and must execute the TMAg prior to the release of any residential building permit for development on the site. ~~The Applicant must execute the Agreement and record the Agreement in the Land Records for Montgomery County prior to the release of a building permit associated with any development on the site, exclusive of the sheeting and shoring permit.~~” The TMAg must include those trip mitigation measures recommended by MCDOT, except as modified herein.

ANALYSIS AND DISCUSSION

Staff supports the Applicant’s petition for reconsideration. The issues at the center of this request are unique to this project and tied specifically to the previously approved grocery store. Reduction of the Applicant’s PAMR mitigation requirement would result in a consistent application of the PAMR review of pass-by trips within the Bethesda CBD and staff believes that reduction is reasonable and acceptable. As a result, this reconsideration would comply with the Adequate Public Facilities requirement, would not result in adverse impacts to the surrounding transportation network, and would remain in conformance with the findings, standards and intent of the approved plan. The Application also remains in conformance with the master plan and other conditions of approval, except as modified by Condition #4. Tables 1 and 2, provided below, were previously provided in the approved Preliminary Plan Amendment staff report and have been modified to indicate the changes related to pass-by trips and trip credits.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
PROPOSED 8300 WISCONSIN AVENUE DEVELOPMENT (CURRENT AMENDMENT)**

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
Proposed: 160 High-Rise Dwelling Units	10	38	48	32	16	48
Proposed 55,000 SF Grocery Store	47	20	67	171	170	341
Net “New” Trips	57	58	115	203	186	389

Source: Wells and Associates, Inc. LATR/PAMR Traffic Study. April 2, 2012.

**TABLE 2
PAMR MITIGATION REQUIREMENT CALCULATION
PROPOSED 8300 WISCONSIN AVENUE DEVELOPMENT**

	Morning Peak-Hour	Evening Peak-Hour
A. Proposed Density – (Countywide Rates)		
Residential – 160 HRDU's	57	66
Supermarket – 55,000 SF	197	599
Pass-by trips (36% of retail)	--	216
Primary trips (64% of retail)	197	383
Total Trips (A1)	254	449
B. PAMR Mitigation Requirement (B1 = A1 x 0.25)	64	112
C. Proposed Density – (CBD Rates)		
Residential – 160 HRDU's	48	48
Supermarket – 55,000 SF	67	341
Total Trips (C1)	115	389
D. Trip Credit for CBD Location		
Trip Credit (D1 = A1 – C1)	139	60
E. Adjusted PAMR Mitigation Requirement		
(E1 = D1 – B1)	75	-52
[PAMR: Excess/Pass = +ve; Deficit/Fail = -ve]	(Pass PAMR)	(Fail PAMR)

Other than the change to the language regarding the PAMR requirement and modification of the condition, the Application remains in conformance with the other conditions of approval. Further, as originally approved by the Planning Board on May 3, 2012 (Resolution mailing date July 19, 2012), the Application is in general conformance with the Bethesda CBD Master Plan and Woodmont Triangle Sector Plan; complies with the Adequate Public Facilities Ordinance; and findings for subdivision specific to Chapter 50, the Subdivision Regulations.

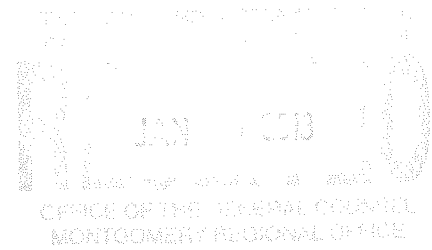
CONCLUSION

Staff recommends that the Planning Board reconsider its decision on the PAMR mitigation requirements and revise Condition #4 of Preliminary Plan 12006040A to reflect staff's interpretation of pass-by trips within the Bethesda CBD. The attached draft resolution has been modified to reflect the change to condition #4 and necessary language for the discussion related to LATR and PAMR.

APPENDICES

- A. Applicant's Reconsideration Petition, dated January 10, 2013

APPENDIX A



January 10, 2013

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VIA EMAIL AND HAND DELIVERY

Francoise Carrier, Chairman and
Members of the Planning Board
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Petition for Reconsideration – 8300 Wisconsin Avenue (the “Project”) Preliminary Plan
Amendment No. 12006040A (the “Preliminary Plan”)

Dear Chairman Carrier and Members of the Planning Board:

On behalf of StonebridgeCarras, LLC (the “Applicant”) and pursuant to Section 4.12.1 of the Planning Board’s Rules of Procedure (the “Rules of Procedure”), we hereby submit this Petition for Reconsideration of the Montgomery County Planning Board (the “Planning Board”) Resolution mailed on July 19, 2012 (the “Resolution,” a copy of which is attached as Exhibit “A”) with respect to approval of the Preliminary Plan for the Project, and specifically reconsideration of Preliminary Plan condition #4 as it pertains to the Project’s Policy Area Mobility Review (“PAMR”) requirements. For “good cause shown” as discussed below, the Applicant respectfully requests a waiver of the requirement set forth in Section 4.12.1 of the Rules of Procedure (which same section also permits the Chairman to waive the filing deadline for good cause shown) that a petition for reconsideration be filed within ten (10) days after the date of mailing of the Resolution.¹

The subject of this reconsideration request, as discussed further below, is an interpretation of whether or not “pass-by” trips for a proposed grocery store have been factored into “trip” rates that are applied in a traffic impact study (“TIS”) for proposed redevelopment in the Bethesda Central Business District (“CBD”). The Applicant’s request for Maryland-National Capital Park

¹ The decision to pursue this as a petition for reconsideration rather than as an amendment to the Preliminary Plan was a joint procedural decision made by the Applicant and Staff (including Rose Krasnow and Carol Rubin). Staff has authorized us to indicate that both the Applicant and Staff believe that having this reviewed as a reconsideration is the most efficient manner to have this matter resolved and that it is timely given the continued interactive process that the Applicant and Staff have been involved with since prior to the initial Planning Board hearing and leading up to the current time.

Chairman Carrier and Members of the Planning Board

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and Planning Commission (“M-NCPPC”) Staff (“Staff”) interpretation of this issue began prior to the initial Planning Board hearing held on May 3, 2012, was raised for discussion by the Applicant during the hearing, and discussion has continued in good faith between Staff and the Applicant to the present. Now that an interpretation by Staff has been made on this issue (no interpretation had been previously made), and because with this interpretation the outcome of the initial May 3, 2012 Planning Board public hearing would likely have been different, the issue is just now ripe for reconsideration by the Planning Board. Thus the Applicant is submitting this petition for reconsideration and request for a waiver of the Rules of Procedure with respect to filing time, with what we believe to be full concurrence as to the course and timing of proceedings by Staff.

In greater detail, the Applicant bases this petition for reconsideration upon a further interpretation by Staff regarding the administration of the Local Area Transportation Review (LATR)/PAMR Guidelines to account for “pass-by” trips in the special trip generation rates applied to CBDs (the “CBD Special Trip Rates”), including the Bethesda CBD. It has been the Applicant’s view that the CBD Special Trip Rates did not factor in trips already on the road (pass-by trips) for a proposed grocery store, and thus that applying the CBD Special Trip Rates without discounting the new trips by the pass-by trips results in a flawed TIS (by over-counting new trips to be generated by the redevelopment). Upon further consideration of this matter based upon a review process that started before the May 3rd Planning Board hearing on the Preliminary Plan and ending just last week, we understand that Staff now agrees that pass-by trips must be accounted for in applying the CBD Special Trip Rates to a proposed redevelopment that includes a grocery store use. We further understand that Staff agrees that this should have been how the CBD Special Trip Rates were considered for the TIS considered by the Planning Board during the May 3rd public hearing and that had this occurred, the Preliminary Plan condition of approval related to the Project’s PAMR requirements would have been different. Preliminary Plan condition #4 provides: “The Applicant, to satisfy the Policy Area Mobility Review (“PAMR”) requirement of the Adequate Public Facilities (“APF”) test of mitigation 52 peak-hour trips, must enter into a binding Trip Reduction Agreement (“Agreement”) with the Planning Board and MCDOT. The Applicant must execute the Agreement and record the Agreement in the Land Records for Montgomery County prior to release of a building permit associated with any development on the site, exclusive of the sheeting and shoring permit.” With proper consideration of the CBD Special Trip Rates accounting for pass-by trips for the proposed grocery store, PAMR would have been satisfied with no additional mitigation required.

As can be seen in the enclosed materials, the Applicant sought a Staff interpretation on the application of the CBD Special Trip Rates on a number of occasions prior to the Planning Board hearing, during the Planning Board hearing, and in the months that have followed. On several occasions and during the Planning Board hearing itself, the Applicant requested that the Project’s Preliminary Plan condition of approval related to PAMR requirements include language allowing

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for this requested interpretation to be addressed and corrected should Staff become convinced that changes to the peak-hour trips required to be mitigated under PAMR are appropriate as a result of applying the CBD Special Trip Rates with an accounting for pass-by trips for the grocery store.² This added language providing for flexibility was not permitted to be included in the relevant Preliminary Plan condition of approval, largely (we contend) because of a lack of complete understanding of the Applicant's position (based upon numerous factors, not the least of which was circumstantial due to other PAMR issues that were concurrently before the Planning Board relating to other matters).

The May 3rd Planning Board hearing discussion regarding the Project's PAMR requirements can be found at the following link (the PAMR discussion begins at 04:55:02 and runs to 05:01:19): http://mncppc.granicus.com/MediaPlayer.php?view_id=2&clip_id=865. Despite the materials provided by the Applicant to Staff in advance of the Planning Board hearing and the Applicant's attempt to discuss the Project's PAMR requirements at the hearing, the Planning Board would not permit discussion on these items at the hearing itself. As a result, the issue of interpretation of treatment of pass-by trips in applying the CBD Special Trip Rates was never really decided by the Planning Board. This notwithstanding, Staff agreed to continue to evaluate the Applicant's position and upon consideration of all relevant materials (summarized below) and further Staff analysis, it is our understanding that Staff has now arrived upon a new interpretation of how the pass-by trips should have been factored into the application of the CBD Special Trip Rates for the grocery store component of the Project with the TIS considered with the Preliminary Plan. The result should have been a finding that PAMR is fully satisfied without further mitigation requirements.

It is important to note that the issues at the center of this reconsideration request are unique to this particular project and tied directly to the grocery store component of the Project. The result of the Applicant's request for further interpretation of the issues was ongoing from prior to the May 3rd public hearing until now; accordingly, the use of reconsideration to allow the proper findings to be made by the Planning Board based upon a later interpretation by Staff that was nevertheless relevant when this matter was initially before the Planning Board on May 3rd is an appropriate, fair, and administratively efficient manner in which to insert the proper conclusion.

Enclosed, please find the following materials (in addition to the above-referenced link to the relevant Planning Board discussion during the May 3rd hearing) that were submitted by the Applicant to Staff both prior to and following the May 3rd Planning Board hearing and that

² The language the Applicant proposed in the April 27, 2012 email described below is as follows: "Should additional information or Planning Board policy guidance be provided to staff that impacts the 53 [sic – 52] peak-hour trip number, staff is authorized to reflect any changes to the peak-hour trips being mitigated in the Agreement."

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served to allow the Staff to arrive upon the interpretation of accounting for pass-by trips in the application of the CBD Special Trip Rates to the grocery store component of the project that is now properly the subject of this reconsideration request:

- April 25, 2012 email from Bob Dalrymple to Cherian Eapen regarding the need to account for pass-by trips in the trip generation rates for CBDs, and/or the need to include language in the relevant Preliminary Plan condition of approval allowing for Staff to reflect any changes to the peak-hour trips required to be mitigated under PAMR for the Project. (Exhibit "B")
- April 27, 2012 email from Bob Dalrymple to Robert Kronenberg and Marco Fuster containing the Applicant's proposed revisions to the conditions of approval and additional language in the PAMR condition providing Staff with flexibility to adjust the PAMR requirement should additional information or guidance be provided. (Exhibit "C")
- May 2, 2012 email from Bob Dalrymple to Rose Krasnow and Robert Kronenberg forwarding the results of the Applicant's driveway counts and field interviews at grocery stores, which confirm that the trip generation rates for CBDs do not factor in that many of the trips are pass-by trips and should thus be excluded from the trip generation rates for CBDs. (Exhibit "D")
- May 2, 2012 email from Chris Kabatt to Cherian Eapen forwarding the results of the Applicant's driveway counts and concluding that pass-by trips are not accounted for in the trip generation rates for CBDs, and that it is erroneous not to exclude these pass-by trips from the trip generation rates for CBDs and when calculating PAMR requirements. (Exhibit "E")
- May 18, 2012 letter from Wells + Associates to Cherian Eapen detailing the Applicant's studies and analysis which conclude that pass-by trips are not accounted for in the trip generation rates for CBDs and that adjustments were required to be made to the LATR/PAMR Guidelines to correctly exclude these pass-by trips from the trip generation rates for CBDs. This letter also enclosed several recent traffic studies for projects in the Bethesda CBD in which pass-by trips were excluded from the given project's trip generation. (Exhibit "F")
- August 7, 2012 email from Shahriar Etemadi to Rose Krasnow detailing the Applicant's analysis that pass-by trips should be excluded from the trip generation rates for CBDs, and requesting confirmation that a revision to the Project's PAMR requirement would best be handled administratively. (Exhibit "G")
- September 4, 2012 letter from Wells + Associates to Mary Dolan forwarding the May 18th Wells + Associates letter and analysis. (Exhibit "H")

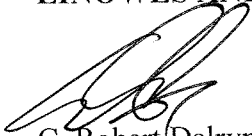
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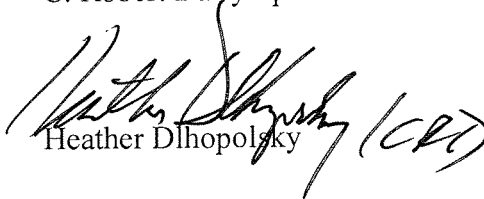
- September 12, 2012 email from Mary Dolan to the Applicant and Staff concluding that the LATR/PAMR Guidelines should be amended to exclude pass-by trips from the trip generation rates for CBDs. (Exhibit "I")

Thus, for the reasons explained above, on behalf of the Applicant we respectfully submit this Petition for Reconsideration of the Resolution, and specifically reconsideration of condition #4 as it pertains to the Project's PAMR requirements, and we respectfully request a waiver of the Rules of Procedure with respect to filing time for this Petition in recognition of all of the facts and circumstances unique to this matter. If you have any questions or require any additional information, please feel free to contact the undersigned.

Very truly yours,

LINOWES AND BLOCHER LLP


C. Robert Dalrymple


Heather Dlhopsky (CPD)

Enclosures

cc: Ms. Rose Krasnow, Acting Planning Director, M-NCPPC
Ms. Carol Rubin, Esq., M-NCPPC
Mr. Douglas Firstenberg
Ms. Ellen Miller
All Parties of Record (via first-class mail)



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

MCPB No. 12-82
Preliminary Plan No. 12006040A
Project Name: 8300 Wisconsin Avenue
Date of Hearing: May 3, 2012

JUL 19 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on March 7, 2006 the Planning Board approved Preliminary Plan No. 120060400, creating one lot on 1.6 acres of land in the CBD-1 zone, located at the northwest quadrant of the Battery Lane and Wisconsin Avenue intersection ("Subject Property"), in the Approved and Adopted 1994 Bethesda CBD Sector Plan and the 2006 Woodmont Triangle Amendment Sector Plan area; and

WHEREAS, on February 6, 2012, Stonebridge Carras, LLC, SC ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan to change the density from dwelling units per acre to a Floor Area Ratio ("FAR") of 3.0, including a total of up to 380 multi-family dwelling units and up to 65,000 sf of commercial space on the Property; and

WHEREAS, the application was designated Preliminary Plan No. 12006040A, 8300 Wisconsin Avenue ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 23, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 3, 2012, the Planning Board held a public hearing on the Application, and, after hearing testimony and receiving evidence on the Application, voted to approve the Application subject to conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Wells-Harley; with a vote of 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12006040A to change the density from dwelling units per acre to an FAR of 3.0, including a total of up to 360 multi-family dwelling units and up to 55,000

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Bethesda, Maryland 20814 Chairman's Office: 301.495.4605 Fax: 301.495.1320

MNCPPC Legal Department
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

sf of non-residential space with the following conditions which replace the previous conditions of approval in their entirety:¹

- 1) Approval under this Preliminary Plan is limited to a maximum of 360 high-rise, multi-family residential units, including a minimum of 12.5% moderately priced dwelling units (MPDUs), and up to 55,000 square feet of non-residential.
- 2) The Applicant must show on the plan the following rights-of-way along property frontage consistent with the 1994 Approved and Adopted Bethesda CBD Sector Plan:
 - a. Wisconsin Avenue – minimum of 52 feet from the roadway right-of-way centerline or 104 feet from the opposite roadway right-of-way line.
 - b. Woodmont Avenue – minimum of 40 feet from the roadway right-of-way centerline or 80 feet from the roadway right-of-way line.
 - c. Battery Lane – minimum of 35 feet from the roadway right-of-way centerline or 70 feet from the roadway right-of-way line.
- 3) The Applicant must set back the building within the southwest corner of the site at Woodmont Avenue and Battery Lane intersection and within the southeast corner of the property at Wisconsin Avenue and Battery Lane intersection to the locations which would be dictated by full truncation. In lieu of truncation first and second floors of the building must not project into the setback area. The Applicant must grant a public improvement easement to allow for future construction and maintenance of the public sidewalk in that area as conditioned in the 1:40pm email from Greg Leck of Montgomery County Department of Transportation (“MCDOT”) dated May 3, 2012, unless amended.
- 4) The Applicant, to satisfy the Policy Area Mobility Review (“PAMR”) requirement of the Adequate Public Facilities (“APF”) test of mitigating 52 peak-hour trips, must enter into a binding Trip Reduction Agreement (“Agreement”) with the Planning Board and MCDOT. The Applicant must execute the Agreement and record the Agreement in the Land Records for Montgomery County prior to the release of a building permit associated with any development on the site, exclusive of the sheeting and shoring permit.

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- 5) The Applicant must enter into a Traffic Mitigation Agreement (“TMAg”) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District and must execute the TMAg prior to the release of any building permit for development on the site, exclusive of the sheeting and shoring permit. The TMAg must include trip mitigation measures recommended by MCDOT.
- 6) The Applicant, as part of the TMAg or separately, must coordinate with MCDOT to accommodate an area for a future bikeshare station on the site, or within the county right-of-way, preferably with orientation towards Woodmont Avenue. The location of the bikeshare station and execution of any access/maintenance easement agreement that may be required with MCDOT for the proposed bikeshare station must be finalized prior to the release of any building permit for development on the site exclusive of the sheeting and shoring permit.
- 7) The Applicant must comply with the conditions of the MCDOT letter dated April 23, 2012 and email dated May 3, 2012 regarding preliminary plan review and traffic impact study review. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 8) The Applicant must align the handicap ramps with the pedestrian crossings across the streets.
- 9) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated February 17, 2012. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 10) Prior to approval of the certified site plan, the Applicant must submit a revised noise analysis prepared by an engineer specializing in acoustics that addresses details and locations of noise mitigation techniques to appropriately attenuate noise levels for the affected dwelling units and areas of common outdoor activity in the public plaza.
- 11) No clearing or grading prior to certified site plan approval, except as may be necessary for the undergrounding of utilities in advance of the onsite work.
- 12) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks, will be determined at site plan.

- 13) Final number of MPDUs as per condition #1 above to be determined at the time of certified site plan.
- 14) Applicant must comply with the conditions of the DHCA letter dated April 13, 2012 unless amended.
- 15) The Adequate Public Facility (APF) review for the preliminary plan for 360 residential dwelling units, and up to 55,000 square feet of retail use will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.*

The amendment provides up to 160 more residential units than the previous approval and a 55,000 sq. ft. a non-residential component for a maximum 3.0 FAR, in lieu of the units per acre development previously approved. The increase in density associated with the amendment both substantially conforms to the Master Plan, and satisfies adequate public facilities requirements.

The additional housing associated with the amendment meets the Master Plan's goal of providing more housing. Moreover, as discussed in greater detail in the resolution approving the site plan for this project, the amendment will satisfy the requirement in the Master Plan for this site to be developed as a gateway to downtown Bethesda. Finally, the addition of a grocery store, public space, and art at this site, which are also discussed in greater detail in the site plan resolution, are consistent with the general goal of establishing a lively pedestrian environment in this area.

The current proposal will satisfy the Local Area Transportation Review requirements. As shown in traffic study, under Total (Build) traffic conditions, CLV values for intersections included in the study were estimated to be below the respective policy area congestion standards (1,600 CLV for the Bethesda-Chevy Chase Policy Area and 1,800 CLV for the Bethesda CBD Policy Area).

To satisfy the Policy Area Mobility Review ("PAMR") requirements of the APF test, and per the policy in place that offers a PAMR trip credit for CBD developments, a

development located within the Bethesda CBD Policy Area is required to mitigate 25 percent of "new" peak-hour trips generated by the development using Countywide trip generation rates, and is then offered a credit on the PAMR trip mitigation requirement equivalent to any reduction in peak-hour trips achieved by the development as a result of its location within the CBD.

Based on the analysis presented in the traffic study, the Planning Board finds that the current proposal will satisfy PAMR requirements. As shown in the traffic study, this amendment would generate 254 "new" peak-hour trips during the weekday morning peak period and 449 "new" peak-hour trips during the weekday evening peak period using countywide trip generation rates. With the requirement to mitigate 25 percent of the "new" peak-hour trips, the PAMR mitigation requirement for the development is 64 peak-hour trips during the weekday morning peak period and 112 peak-hour trips during the weekday evening peak period.

Using the Bethesda CBD trip generation rates, as shown in traffic study, this amendment would generate 115 "new" peak-hour trips during the weekday morning peak period and 389 "new" peak-hour trips during the weekday evening peak period.

The PAMR CBD trip credit, which is the difference in "new" trips between the Countywide and CBD trip generation for the density proposed on the site, is 139 peak-hour trips during the weekday morning peak period and 60 peak-hour trips during the weekday evening peak period. With the above credits, the PAMR mitigation requirement is fully mitigated during the morning peak-hour (64 trip PAMR mitigation requirement vs. 139 trip CBD PAMR credit) and is partially mitigated during the evening peak-hour (112 trip PAMR mitigation requirement versus 60 trip CBD PAMR credit, for a mitigation requirement of 52 peak-hour trips).

The Applicant will satisfy the PAMR mitigation requirements of the APF test by reducing 52 peak-hour trips on the site by entering in to a binding Trip Reduction Agreement with the Planning Board and MCDOT.

Pursuant to Section 50-26(c)(3) of the Subdivision Regulations, a 25-foot truncation at the corners must be shown, unless the Planning Board determines that a different amount is needed for safe site distance or traffic channelization. The truncation was not required under the original plan approval, and the property corners relative to the intersections were platted with an approximately 20-foot radius.

However, there are numerous factors that warrant full truncation-like setting of the intersections. The Applicant has proposed a design that functions similarly to truncation. The Applicant must set back the building within the southwest corner of the site at Woodmont Avenue and Battery Lane intersection and within the southeast corner of the property at Wisconsin Avenue and Battery Lane intersection to the locations that

full truncation would dictate. In lieu of truncation first and second floors of the building must not project into the setback area. The Applicant must grant a public improvement easement to allow for future construction and maintenance of the public sidewalk in that area.

The findings for non-transportation related adequate public facilities still apply to the extent of the previous approval. However, a number of changes have occurred in the availability of public facilities under the proposed plan. The original plan approval for 200 units was in 2006, which was prior to the current APF requirements for schools, which took effect in 2007. The previously approved units are still valid per Council resolution, and are not subject to the schools test as part of the current amendments. The 200 units were already captured in the pipeline of approved development which Montgomery County Public Schools (MCPS) uses in estimating projected enrollment.

Since all three school levels in the Bethesda Chevy-Chase (BCC) cluster (elementary, middle and high school) are currently operating above capacity, the additional students generated by the amendment (an increase of up to 160 dwelling units) are not covered under the current APF. Therefore, the development will be required to make a School Facility Payment for each unit exceeding the previous approval.

The Planning Board finds that the project provides adequate Stormwater Management. The site has a new Stormwater Management Concept Plan approved on February 17, 2012 by the Department of Permitting Services (DPS). The approved concept proposes to meet required stormwater management goals by the use of green roofs (30% minimum), micro biofiltration, and a waiver of quantity control. Furthermore, Planning Department Staff and DPS Staff requested that the Applicant explore the potential for increasing the green roof area beyond the 30 percent proposed, and the Applicant has committed to do so at the time of final roof design.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 19 2012 (which is the date that this Resolution is mailed to all parties of record); and

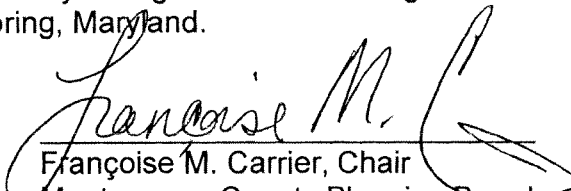
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 12, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board