

MAR 15 2011



## MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB No. 11-09**

**Preliminary Plan No. 11987271B**

**Milestone Business Park**

**Date of Hearing: February 3, 2011**

### MONTGOMERY COUNTY PLANNING BOARD

#### RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on January 4, 2011, Milestone Industrial L.C. ("Applicant"), filed an application for approval of a limited amendment to a preliminary plan of subdivision that created 5 lots for 1,378,778 square feet of office use, 22,050 square feet of retail use, and 25,000 square feet of restaurant use on approximately 44 acres of land located in the north-northeast quadrant of the intersection of Ridge Road and Interstate 270 ("Property" or "Subject Property"), in the Germantown Employment Area Sector Plan area ("Master Plan"); and

WHEREAS, the Adequate Public Facilities ("APF") approval for the originally approved preliminary plan ("Preliminary Plan No. 119872710") was valid until May 16, 2003, and approximately 440,000 square feet of development had been built prior to April, 2003, when the applicant applied for a preliminary plan amendment ("Preliminary Plan No. 11987217A") to request extension of the APF approval; and

WHEREAS, the Board approved Preliminary Plan No. 11987271A by Opinion dated May 30, 2003 to give additional time for construction of approximately 563,700 square feet of the remaining development, however, as of May 16, 2008, the APF validity for the project expired after a total of only approximately 480,000 square feet of the development had been constructed on the property; and

WHEREAS, the current preliminary plan amendment was filed for the limited purpose of obtaining a new APF approval for 428,000 square feet of office use, or for a combination of uses that are otherwise permitted in the I-3 zone and that would not exceed the total number of peak-hour vehicle trips for that much office use; and

WHEREAS, the Applicant's current preliminary plan application was designated Preliminary Plan No. 11987271B, Milestone Business Park ("Preliminary Plan" or "Application"); and

Approved as to  
Legal Sufficiency:

*Christina Sonnet* 2/24/11

8787 Georgia Avenue, N.C. 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

WHEREAS, Staff issued a memorandum to the Planning Board, dated January 14, 2011, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions (“Staff Report”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and the staff of other governmental agencies, on February 3, 2011, the Planning Board held a public hearing on the Application (the “Hearing”); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on February 3, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Presley; with a vote of 4-0, Commissioners Alfandre, Carrier, Presley, and Wells-Harley voting in favor; Commissioner Dreyfuss was absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 11987271B to amend a previously approved preliminary plan to grant a new validity period for the Adequate Public Facilities (APF) review, subject to the following conditions:

1. Total development under the subject Preliminary Plan and future site plan is limited to 175,000 square feet of office use under Phase I and 253,000 square feet of office use under Phase II for a total development of 428,000 square feet of office, or a combination of other uses that are permitted in the zone. These other uses must be approved as part of a site plan, and when combined, must not generate more peak-hour vehicle trips than 428,000 square feet of office use.
2. The Applicant must provide the following roadway improvements prior to release of any use and occupancy permit for Phase I development:
  - a. Restripe the existing pavement to provide an exclusive dual left-turn lane from northbound Observation Drive to westbound Ridge Road.
  - b. Restripe the existing pavement on the west leg of the MD 355/MD 118 intersection to provide two eastbound through lanes across MD 355, and transition the two through lanes back to a single eastbound lane.
  - c. Restripe the single eastbound MD 118 to northbound I-270 left-turn lane to provide for dual left-turn lanes.
3. Prior to the first use and occupancy permit for Phase I, the amount required for PAMR in Phase I must be calculated and its payment must be applied against

the cost of the required Phase I road improvements and the Applicant's Transportation Impact Tax Credit.

4. The Applicant must post a bond to cover the cost of the following roadway improvements prior to the release of any building permit for Phase II development:
  - a. Channelize southbound Observation Drive to the westbound Ridge Road right-turn lane and provide associated westbound acceleration lane.

This improvement must be complete and open to traffic prior to the issuance of the first use and occupancy permit for Phase II.

5. Prior to issuance of any building permit for Phase II, the amount required for PAMR in Phase II must be calculated and its payment must be applied against the cost of the Phase II road improvements and the Applicant's Transportation Impact Tax Credit.
6. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
7. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Montgomery County Department of Transportation (MCDOT) and M-NCPPC at the time of site plan to satisfy the I-3 zone 10% trip reduction requirement if development occurs under the I-3 development standards.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

#### Roads and Transportation Facilities

The site has existing access from Observation Drive and Dorsey Mill Road via Milestone Center Drive which is a business street. Regional access to the site is via the I-270 interchange with Father Hurley Boulevard, MD 355, MD 27, and MD 118/MD 119. Pedestrian circulation is accommodated by sidewalks along

Milestone Center Drive and other private internal streets. The road access accommodates the site-generated traffic, and the internal traffic/pedestrian circulation system is safe and adequate.

#### Local Area Transportation Review (LATR)

Thirteen intersections were identified by the newly submitted traffic study as critical intersections affected by the proposed office development, and these were examined to determine whether they meet the applicable congestion standard for this area. The congestion standard in the Germantown East and Germantown West Policy Areas is 1,425 Critical Lane Volumes (CLV). All intersections are currently operating at an acceptable CLV level of 1,425 except the PM peak hour condition at the MD 355/MD 118 intersection.

Under the background development (the existing traffic plus traffic from the approved/unbuilt developments), the MD 355/MD 118 and the MD 118/I-270 northbound on-ramp intersections are projected to operate at unacceptable CLV levels during the weekday PM peak hours. Under the total future development (the background traffic plus traffic from the site), with implementation of the required intersection improvements that will be provided by the Applicant under Phase I and Phase II, the MD 355/MD 118 intersection, the MD 118/I-270 northbound on-ramp intersection, and the Ridge road (MD 27)/Observation Drive intersection would operate either at an acceptable CLV or at a number of trips equal to 150 percent of the CLV impact attributable to the development during both the weekday AM and PM peak hours. Therefore, this Application meets the LATR requirements of the APF review.

#### Policy Area Mobility Review (PAMR)

The site is located within the Germantown East Policy Area where there is a 50% PAMR requirement according to the current Growth Policy. The site will generate 570 new peak hour trips (232 trips for Phase I and 338 trips for Phase II) that are subject to PAMR, and the Applicant is required to mitigate 50% or 285 of these trips, at \$11,300 per trip, to meet the PAMR requirement. However, the Applicant is required to provide intersection improvements to meet the LATR requirements, and the cost of these improvements is applicable toward PAMR mitigation. In addition, on October 21, 2010, the County Council passed Expedited Bill No. 55-10 with an amendment that permits certain development projects to use Transportation Impact Tax Credit to satisfy PAMR mitigation requirements if a project is identified as a "strategic economic development project" by the County Executive. Under this legislation, Milestone Business Park may use up to \$1.7 million of its remaining (approximately \$15.5 million) Impact Tax Credits for PAMR obligations associated with this request for APF

capacity. The Milestone Business Park is currently in the process of applying for this status and expects that it will be granted.

To determine the amount of the PAMR mitigation required for this Application, the Applicant must calculate and submit the estimated cost of the required LATR improvements to the Montgomery County Department of Transportation for their approval. This amount may then be deducted from the PAMR mitigation requirement, and then the Transportation Impact Tax Credit may be applied to establish the Applicant's actual PAMR obligation. To address the phased development envisioned by this Application, this analysis must be completed prior to the issuance of any use and occupancy permits for Phase I, and prior to issuance of any building permit for Phase II. The PAMR mitigation obligation for this Application, therefore, will be satisfied in this non-typical manner.

#### Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. Public sewer and water service is available to the Property. Proposed buildings will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy resolution currently in effect. Gas, electrical and telecommunications services are also available to serve the Property.

*2. All previous conditions remain in full force and effect.*

The Planning Board further finds that the Preliminary Plan amendment does not affect the previous findings of the Board regarding the preliminary plan, and all other previous conditions of approval remain in full force and effect.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 15 2011 (which is the date that this Resolution is mailed to all parties of record); and

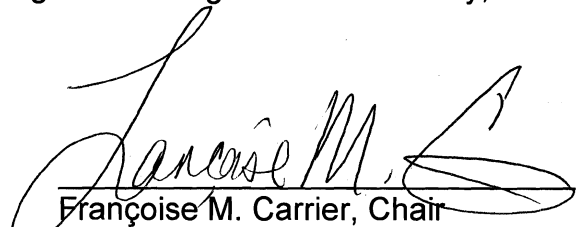
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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

\* \* \* \* \*

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 Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss voting in favor of the motion, and with Commissioner Presley absent, at its regular meeting held on Thursday, March 3, 2011, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board