

**ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**

RE: Application of Stonebridge Associates,)
5401, LLC, on behalf of 5401 Western)
Avenue Associates, LLC, and the Louise) Case No. 02-17
Lisner Home for Aged Women, for)
Approval of a Consolidated Planned Unit)
Unit Development and Zoning Map)
Amendment for Property at Western Ave,)
N.W., and Military Road, N.W.)
Square 1663, Lots 7 and 805.)
)

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**SUPPLEMENT MEMORANDUM IN SUPPORT OF MOTION OF FRIENDSHIP
HEIGHTS ORGANIZATION FOR REASONABLE DEVELOPMENT TO DISMISS
APPLICATION**

Friendship Heights Organization for Responsible Development ("FHORD"), which has requested party status in this Planned Unit Development ("PUD") case, has filed pending motions to postpone the hearing and also to dismiss the application for legal insufficiency. Both motions were filed in the wake of the decision by the applicants, Stonebridge Associates 5401, LLC, on behalf of 5401 Western Avenue Associates, LLP, and the Abraham and Louise Lisner Home for Aged Women (collectively "Stonebridge"), to file an entirely new proposal on October 25, 2002, less than three weeks before the hearing date. FHORD continues to believe and will assert that postponement is appropriate, given the Applicants' penchant for continually revising its application. Should the hearing go forward as scheduled on November 14, this memorandum will supplement FHORD's motion to dismiss, based on FHORD's analysis that there are three additional and independent defects that preclude consideration of this PUD application.

Stonebridge requests approval for a Map Amendment for the Clinic site to R-5-C; for a maximum allowable PUD under the R-5-C designation; and for additional height of 5% and additional density of 5%, pursuant to DCMR 11, 2405.3. *See* Stonebridge Revised Pre-

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Exhibit 132

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EXHIBIT NO.132**

Submission Drawings, D-1, October 25, 2002. Under this scenario, if approved, Stonebridge states that the maximum allowable gross square footage would be 184,128 for the Clinic site. Stonebridge asserts that the proposed residential building would be 182,000 square feet.¹

These calculations present the first two deficiencies identified by FHORD. Specifically, Stonebridge *excludes* from its square footage calculation "bays projecting over the property line on Western Avenue" and *deducts* two percent of the measured square footage to account for a "mechanical shaft deduction." See Stonebridge Revised Pre-Submission Drawings, D-1, note 2(A) and 2(B), October 25, 2002. Each calculation is in error.

This exclusion and this deduction are directly contrary to the clear language of the Zoning Regulations. Without this deduction and this exclusion, the Stonebridge proposal exceeds what is legally permissible under the requested R-5-C zoning – even with a maximum PUD and with 5% additional density – and thus the application, as submitted, must be dismissed.

The Zoning Regulations, Title 11, Chapter 1, Section 199.1, define the term "Gross floor area" as "the sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls" Further,

"The term "gross floor area" shall *include* basements, *elevator shafts, and stairwells at each story*; floor space used for mechanical equipment (with structural headroom of six feet six inches (6 ft. 6 in.) or more); penthouses; attic space (whether or not a floor has actually been laid, providing structural headroom of six feet six inches (6 ft. 6 in.) or more); *interior balconies*; and mezzanines.

¹ FHORD has no method to verify this, as it has never seen floor by floor drawings with the claimed square footage by floor. Further, Stonebridge in prior versions of this application claims to use the "perimeter method" to calculate square footage for the ground floor, which has the main lobby, residential units, and "underground" enclosed parking, but has never provided any information about the "perimeter method" formula it used or how it applied such formula to its specific proposed ground floor. The bottom line is that FHORD has trouble calculating how much square footage for the ground floor is included, or how this amount is legally justified.

The term "gross floor area" shall not include cellars, and outside balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building."

11 DCMR § 199.1 (emphasis added.).

Stonebridge appears to have four interior "bay windows" plus one interior "bay" on the Western Avenue side of the proposed building on each of the third to seventh, and the eighth, floors. *See Stonebridge Revised Pre-Submission Drawings, A2 (Third to Seventh Level Floor Plan) and A3 (Eighth Level Floor Plan), October 25, 2002.*² As shown on drawing A3, each of these five projections are interior spaces, each has a projection of 4' beyond the property line (according to the Roof Floor Plan on Drawing A3), and the cumulative length of these interior bays appears to be 101' 6". Thus, the total interior square footage of these bays appears to be 2436 square feet and, as stated on Drawing D1, appear to be excluded in their totality from the square footage calculation.

Though these "bay windows" extend beyond the property line, they are obviously part of the floor area of a "building on the lot" and thus are clearly within the definition of "gross floor area" as including the "gross horizontal areas of the several floors of all buildings on the lot." 11 DCMR § 199.1³. Under the exclusions, likewise, there is no doubt that these "bays" are not "outside balconies" that can be excluded – they are entirely indoor space *See 11 DCMR 199.1.*

² Stonebridge presented additional elevations and drawings at the ANC3E meeting on November 7, 2002, but has refused to provide them to FHORD, notwithstanding a request to do so, prior to the November 14, 2002 hearing in this matter. Stonebridge purports that the elevations presented publicly at the ANC3E are "drafts." These elevations and drawings, when available, may provide additional depictions of these "bay windows" and the "bay" at that time.

³ In fact, it appears that about half of these "bay windows" on the eighth floor level are within the property line of the lot, but still appear to be excluded from the calculations. *See Stonebridge Revised Pre-Submission Drawing, A3, October 25, 2002.*

Second, under the Zoning Regulations, "elevator shafts, and stairwells at each story" must be *included* in the calculation of gross floor area. On the other hand, "floor space used for mechanical equipment (with structural headroom of six feet six inches (6 ft. 6 in.) or more)" may be excluded. 11 DCMR §199.1 Stonebridge takes a 2% reduction of "gross measured area" for a "mechanical shaft deduction," Drawing D1, footnote 2(A), but never provides a legal basis for doing so. We note that Stonebridge also separately deducts the square footage of all "spaces with structural headroom clearance of less than 6' 6\"", Drawing D1, footnote 2(A), which would include all spaces within the "mechanical equipment" exception. Thus, the "mechanical shaft" deduction is not permitted under the Zoning Regulations, and this square footage must be included. Including the square footage improperly deducted by Stonebridge adds approximately 3714 square feet to the gross floor area.⁴

The Stonebridge Application requests 182,000 square feet of gross floor area for the residential building, excluding the "bays" and excluding the "mechanical shaft" approximation. Including the "bays" and the "mechanical shaft" square footage, as unequivocally required by the Zoning Regulations, adds 6150 square feet to the gross floor area for the Washington Clinic site, Lot 805, for a total gross square feet of 188,150. Using the lot size of 43,840, Drawing D1, the corrected FAR is 4.29. A FAR of 4.29 is not permitted in a R-5-C zone, which provides for a maximum FAR of 3.0, a maximum FAR of 4.0 with a PUD, and if "essential" for the functioning of a project, an additional 5% FAR to a maximum of 4.2. The Stonebridge Application does not under any approach, fit within the requested R-5-C zone, and thus it must be dismissed.

⁴ This is arrived at by applying a factor of 1.0204081 to 182,000 square feet, which is the mathematically appropriate way to add back the improper 2% reduction.

Third, the Washington Clinic site has frontage on two streets, Western Avenue and Military Road, with the main residential entrance on Military Road. *See* Stonebridge Revised Pre-Submission Drawings, S5. Thus, under the Zoning Regulations, "[i]f a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building."

DCMR 11, 199.1 Once that frontage is selected, the Zoning Regulations provide that the "building height" is the "vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet." 11 DCMR § 199.1.

Stonebridge, as it is entitled to do, appears to have selected the Military Road frontage as the frontage to use for height measurement purposes. Drawing S4. However, Stonebridge appears not to have taken the height measurement from "the level of the curb opposite the middle of the front of the building" on Military Road, *i.e.*, the "front" being that portion of the building that runs along and parallel to Military Road., exclusive of the part of the building east of the residential entry on Military Road that runs parallel to Western Avenue. Instead, Stonebridge chose a measuring point at Elevation 322, which is almost aligned with the edge of the frontage on Military Road, not the middle.⁵ Using the proper measuring point, which is at least a few feet lower elevation than 322 feet, the corrected Stonebridge height (over 78.75 feet) cannot be allowed in an R-5-C zone under any interpretation. For this reason as well, the Stonebridge application must be dismissed.

⁵ Stonebridge provides no explanation its methodology. However, it is possible that Stonebridge may have used the entire rear of the Western Avenue frontage as the Military Road frontage, then projected through the "courtyard" and the "rear yard" to jigger the measuring point to achieve the desired 78.75' legal height. If this is the case, there is no basis in law for using the back of the building on one side of a corner lot as the "frontage" on the other street.

Respectfully submitted:

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November 14, 2002

CERTIFICATE OF SERVICE

I hereby certify this 14th day of November 2002 that this Supplemental Memorandum was served by first-class mail, except as otherwise indicated, upon:

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