

5241 43rd Street, NW
Washington, D.C. 20015
December 12, 2002

Carol Mitten, Chairman
Zoning Commission
District of Columbia Office of Zoning
441 Fourth Street, NW, Suite 210-S
Washington, D.C. 20001

**RE: ZC # 02-17 (STONEBRIDGE ASSOCIATES)
[AMENITIES]**

I am a District homeowner, residing at 5241 43rd Street NW. I am writing to express my concerns about the proposed city and neighborhood amenities associated with this Application. Specifically, I have particular concerns about the two purported main amenities, the "affordable housing" and the new building and rent-free space proposed to be provided for the benefit of one private, market-rate day care operator, the Chevy Chase Plaza Childrens' Center ["CCPCC"].

My concerns are twofold:

- Evaluated as citywide or Ward-wide benefits, the proposed amenities have minimal value and do not reflect efficient economic planning; and
- As a purported neighborhood amenity, the space for the CCPCC has little value and significant costs, as currently proposed.

Notwithstanding these deep reservations about the specific purported amenities of this proposed project, I support the general District policy of increasing the availability of "affordable, quality child care" as an "essential precondition for parents with children under the age of fifteen (15) to enable them to work, seek employment, complete school, and participate in job training programs"¹ and creating affordable housing. In addition, the Applicants claim tree preservation as an amenity. Yet a comparison of the drawings S4 and A4 and the topographic survey, S1 in the March 22 submission, shows that few, if any, mature trees on the site will be preserved.

As a general principle, all amenities and benefits should be structured to get the most "bang for the buck," i.e., the maximum possible public benefit for any level of costs imposed on the developer. Thus:

- For citywide benefits, the Zoning Commission should seek a structure that provides the highest possible benefit to the city given the cost to the developer.
- For the neighborhood amenities, the Zoning Commission should seek a structure that efficiently provides amenities that meet specific needs of the homeowners and residents who are directly affected by increased density of the proposed development.

Thus, as a general public benefit, an agreement to provide affordable housing should maximize the number of households that will directly benefit from the affordable housing, given the cost of

¹ Comprehensive Plan, Economic Development Element, Declaration of Major Policies, §200.14.

ZONING COMMISSION
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Exhibit 201
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EXHIBIT NO.201

to the developer of providing affordable housing. The developer is offering to sell four to six condominium units to households with incomes below 80% of the Metropolitan area median income.² It is, however, easy to see that *affordable housing could be provided to a larger number of families at a lower cost through other means*. Although the affordable housing would likely be off-site, it would provide a benefit to a larger number of families and thus provide a substantially larger public benefit. In addition, *the proposed affordable housing benefit will be short lived*, since the restricted selling period is limited to 20 years, and after that time, the qualifying purchaser can resell the unit at market rates. Further, there is no provision for monitoring sales in the twenty-year affordability restriction period to determine whether the sales price is below the maximum allowed, that all eligible purchasers are aware of the opportunity and that the selected purchaser is, in fact, eligible and would, in fact, reside in the unit. In the description of the proposal, it is stated that the Applicant will hold the lottery and there are no assurances that all eligible purchasers will be aware of the opportunity and that

As to the proposed day care amenity, neighborhood amenities should be tailored to the needs of the neighborhood and be provided at the lowest cost possible.³ In this letter, I address several issues:

- The Applicants have provided no information to support the claim that an increase in available market-rate day care is an “amenity of special value to the neighborhood.” Without such evidence, it is, at best a Ward 3 amenity. In addition, there are substantial reasons for believing that the proposed amenity is not of special value to the neighborhood. Though CCPCC claims to have a wait list of 100, this does not reflect how many of these children live within walkable reach of CCPCC (a major component in the definition of neighborhood serving under the existing PUD for CCPCC) or how many on the waitlist are actually currently seeking day care spaces.
- While the Comprehensive plan recognizes, as a major policy, a need for more “(a)ffordable, quality child care” as “an essential precondition for parents with children under the age of fifteen (15) to enable them to work, seek employment, complete school, and participate in job training programs.” [Comprehensive Plane, §200.14], the Ward 3 Chapter clarifies its application in Ward 3: “The objectives and policies for land use/zoning in Ward 3 are as follows: . . . (m) Increase the supply of child care facilities in commercial areas within the ward.” [Comprehensive Plan, §1409.2, emphasis added.]
- The Abrams PUD, under which the CCPCC was created, has provisions that make it likely that the current day care space will remain in that use for the life of the PUD, whether managed by CCPCC or another provider.
- If the Zoning Commission believes that additional day care space would be appropriate as an amenity of special value to the neighborhood, the amenity should be provided in the most cost effective manner and the PUD should include conditions that insure that the

² In this instance, the developer is offering to sell to four to six households, with incomes below approximately \$54,400, condominiums which would otherwise have a claimed market value and opportunity cost of \$480,000 net of the additional features that would be included in market rate units, but not in affordable housing units. Without additional information about the assumed features of the market rate and affordable housing units and the cost of those features, it is difficult to estimate the cost to the developer of providing four to six affordable housing units.

³ The proposal is to build a day care center with a capacity to serve 44 children, who do not necessarily reside in the immediate area, on 15,000 square feet of valuable R-2 land near a Metrorail station, and providing that facility rent-free for fifty years to CCPCC, a market rate day care provider. This is not a cost-effective way to provide day care to serve residents of the immediate area.

additional day care capacity will be available to local residents. I provide below general principles and specific language for the efficient inclusion of day care space in a PUD.

Also, as proposed, the day care amenity would be provided in a manner that will impose a substantial cost to the District. In providing this amenity, Stonebridge is permanently eliminating potential residential development of 15,000 square feet of valuable land zoned R-2 in this Housing Opportunity Area. Matter of right housing, when developed, on 15,000 square feet of land zoned R-2 in this neighborhood can generate \$76,000 per year in income taxes and \$40,000 per year in real estate taxes, both measured in 2002 dollars. Thus, this proposed day care building is likely to have a direct, and negative, impact on future District revenue. In addition, by permanently removing the option to develop housing on this residentially zoned land, the proposed day care center is in direct conflict with the Housing Opportunity Area designation.

1. AN AMENITY OF SPECIAL VALUE TO THE NEIGHBORHOOD.

My reservations about this amenity are based, in part, on provisions of the Abrams PUD under which the CCPCC was established.⁴ There are two basic facts that are relevant to the evaluation of the proposed amenity as an amenity of special value to the neighborhood:

- There were a series of conditions meant to assure that 50% of the capacity of the day care center would be used by neighborhood children.⁵
- There are additional provisions that assure that a child care center is likely to continue in the Abrams space for the life of the PUD.

There also is substantial evidence that the CCPCC is not satisfying the requirement of the Abrams PUD reserving at least half its space for children that reside in the immediate area.⁶ This

⁴ Zoning Commission Order No. 519, Case No. 85-20C, February 9, 1987 ("ZC Order-Abrams") includes the following:

23. The applicants propose to locate within the PUD a child care center comprising approximately 2,530 square feet. The applicants testified that they will provide the space free of charge and will spend an estimated \$100,000 to prepare the space. The rent concession is worth approximately \$42,900 per year. The applicants also stated that they would be willing to structure the center so that the child care population will be split evenly between project tenants and the neighborhood families. [ZC Order-Abrams, at p. 6, Findings of Fact.]

In the Decision, the Order states:

29. The Project shall include the amenities package proposed as part of this application, as described in Findings No. 21, 22, and 23 of this Order, excluding any plantings on the residential component, consistent with plans marked Exhibit No. 168 of the Record." [ZC Order-Abrams, at p. 22.]

⁵ In the Decision, ZC Order-Abrams includes the following:

13. The child care facility shall be organized as a non-profit organization pursuant to the provisions of the Internal Revenue Code and operated so that enrollment is open to children of employees of the projects in Square 1661 and to children of community residents on an equal basis with the goal of achieving a 50-50 ratio between the two groups. If the child care facility must make an organizational or other change to maintain its non-profit status, the child care facility will continue to promote the 50-50 mix between neighborhood children and children of employees of the projects on an equal or preferred basis with children of employees. [ZC Order-Abrams, Decision, at p. 20.]

While the Order does not define "neighborhood children," the Findings of Fact include the following description: "The child care center would be used 50 percent by members of the neighborhood, who would be walking to the Metro or carpooling, and 50 percent by employees of the proposed development" [ZC Order-Abrams, at p. 7.] This implies that the neighborhood children were to be drawn from the immediate area.

brings into question the assumption that there are a sufficient number of parents in the immediate neighborhood unsuccessfully seeking market-rate day care within the neighborhood to justify creation of additional slots to serve that purpose. Based on this, I believe that it is unlikely that the additional child care capacity, as proposed, is a pressing need for the immediate neighborhood. The inability of CCPCC to find local residents to fill the required slots calls into questions whether further subsidy could possibly constitute a neighborhood public interest benefit. The recent Census has provided additional information about the day care needs of the immediate area. In 2000, there were a total of 244 children under the age of 6 in Census Tract 11,⁷ and of those, 118 children had no parents outside the labor force.

2. TERMS OF ZONING COMMISSION ORDER NO. 519 ASSURE THAT SPACE IN THE ABRAMS PUD WILL CONTINUE TO BE USED AS A DAY CARE CENTER WITH 50% OF THE CAPACITY SERVING RESIDENTS OF THE IMMEDIATE NEIGHBORHOOD AND 50% OF THE CAPACITY SERVING TENANTS OF THE PUD.

The Zoning Commission Order under which the Abrams PUD was approved has several provisions that assure the likely continued provision of day care at that location whether managed by the CCPCC or by another provider. The Decision has the following provision:

14. In the event that the child care facility fails to operate, the applicant shall re-convert the space to residential use, excluding any use for any professional office, e.g. doctors, dentists, attorneys, and other professions.” [ZC Order-Abrams, at p. 20.]⁸

This provision assures the likely continued existence of a day care facility at that location. Substantial renovations would be necessary to convert that space to a residential condominium, and given that it is at street level, over an open garage entrance and only has windows facing the street, it is unlikely that that unit or units would command a premium price, which would be necessary to justify the renovation, the forgone day-care rent and the value of the day care center to the tenants of the Abrams PUD.

3. ALL AMENITIES IN A PUD SHOULD BE PROVIDED IN AN EFFICIENT MANNER AND NEIGHBORHOOD AMENITIES SHOULD SERVE THE LOCAL COMMUNITY

As noted above, a general principle amenities and benefits should be that they are provided in an efficient manner. I suggest the following basic principles for determining what conditions are appropriate for inclusion in a ZC Order, if it is determined that additional day care capacity is an amenity of special value to the neighborhood. Using these principles and proposed conditions,

⁶ On April 2, 2002, the CCPCC submitted a petition in support of the Stonebridge proposal, signed by clients and employees of the CCPCC. 22 households seemed to have been represented. Many of the names were illegible, and 8 families listed their home address as the day care center. Of the remaining 14 households, one was on the 5300 block of 41st Street and one was on the 4400 block of Harrison Street. No other addresses were in the neighborhood of the Abrams PUD.

An examination of the 2000-2001 CCPCC Directory of Children/Parents shows that of the 33 children at the center in that time frame, children within walking distance accounted for four FTEs. Eleven children resided in Zip code 20015, an area significantly larger than the neighborhood near the Abrams PUD.

⁷ Census Tract 11 includes an area slightly larger than the area between Connecticut Avenue and Wisconsin Avenue from Nebraska Avenue on the south to Western Avenue on the north.

⁸ An additional condition in the Decision also states: “2. The PUD shall be a mixed-use project consisting of general office and retail components, and a residential component including a childcare facility, and excluding any use for any professional office, e.g. doctors, dentists, attorneys, and other professionals.” [ZC Order-Abrams, at p 19]. This makes it clear that the childcare space cannot be converted to involve any use as a professional office, thus limiting its value of a condominium.

44 day care spaces can be provided. However, the provision of those spaces would not be considered a major amenity, that would justify a major increase in density, but rather would be a minor amenity, justifying a modest increase in density.

The guiding principles are:

- Local parents deserve additional choice. If day care is provided as an amenity of special value to the neighborhood, it must also provide parents with a choice of local day care providers.
- The day care center, as an amenity of special value to the neighborhood, should serve the local community, those District households most affected by the increase in density as a result of the rezoning and/or PUD flexibility.
- The day care amenity should be provided in the most effective manner, providing the largest number of spaces possible for any given implicit subsidy from the developer.
- The PUD Order should include explicit conditions as to how the space and promised amenity will be handled if the day care center fails to operate or ceases to operate. Such conditions were included in the Abrams Order,
- A reporting requirement should be included to assure that the childcare center is serving the immediate neighborhood.

4. PROPOSED LANGUAGE FOR A DAY CARE AMENITY

Further research is necessary to determine whether additional day-care capacity is of special value to the immediate area affected by the Stonebridge proposal. However, if it is determined to be of special value to the affected neighborhood, with these principles in mind, I propose the following conditions under which the provision of increased day care space constitutes a minor neighborhood amenity⁹:

1. The space made available for day care will be rented only to a licensed day care provider who will serve a minimum of 44 [or some other appropriate number, as determined by the Commission] full time equivalent children.

Note that, while the space probably would not be granted rent-free, the requirement that it be used only for day care will guarantee that rent would not be excessive and a day care provider would be able to operate. If the developer chooses to allocate more space to day care and thereby provide more day care slots, the value of this amenity increases.

2. At least 80% of the full time equivalent children should reside in the SMD ANC 3E04 or the SMD ANC 3E03. At least 90% of the full time equivalent children should reside in ANC 3E. This neighborhood preference must be the primary admission criteria, not to be trumped by "sibling preference" or other policies. In addition, to keep the impact on traffic low and to maximize the number of households affected by the development that benefit from this subsidy, strict preference should be given to children who reside in the District, within walking distance of the day care center.

The purpose of this section is to assure that the day care center would serve the neighborhood. With respect to the area served, the Commission may choose

⁹ If, on the other hand, it is determined that day care capacity is an appropriate city-wide benefit, similar conditions should be included. The geographic areas for the area served and the reporting requirements would need to be changed to reflect the area which is to benefit.

to list the squares that would be given this preference. In the alternative, if we are to use the Abrams PUD as a model, all the children should be District residents and reside in SMD ANC 3E04 or SMD ANC 3E03, with no more than 50% of the children being residents of the Stonebridge PUD or children of employees at the Stonebridge PUD.

3. If there is sufficient interest among other day care providers, incumbent neighborhood day care providers would not be eligible.

The purpose of this section is to provide local parents with a choice of day care providers. Preference might also be given to licensed District residents, provided there is sufficient interest among licensed providers that are District residents who are, or who would become, licensed providers.¹⁰

4. If the developer chooses to provide a small outdoor play area for the day care center, that play area will be open to neighborhood children when not in use by the day care center. The developer will be responsible for any insurance issues that arise from the availability of that play area to neighborhood children. Access to the play area may be restricted after dark or after 9 p.m., whichever is later.

5. There is no limit on the duration of this requirement, and if the day care center fails to operate or ceases to operate during the term of this PUD, both the following conditions would apply.

- a. In the event that the child care facility fails or ceases to operate, the applicant shall re-convert the space to residential use, excluding any use for any professional office, e.g., doctors, dentists, attorneys, and other professions. [This is based on the Abrams PUD, ZC Order 85-20C, under which the CCPCC was formed.]

- b. Further, in the event that the child care facility fails or ceases to operate, the developer will make a contribution to another neighborhood amenity, such as a local park, recreation program or library, which would be the equivalent of the remaining value of this amenity. If the project is to be developed for owner-occupancy, some additional provision is necessary to assure that the developer will make this contribution in the event the child care facility ceases to operate.

6. Once a year, the day care operator shall report the following information to ANC 3E and to the Zoning Enforcement Office:

- a. Names and addresses of children, along with the number of weeks they attended and days per week.

- b. For each child residing in ANC 3E, they should report the ANC SMD, and for each other District resident, they should report the ANC. [Exact language of this requirement and the following requirements would depend on the geographic area defined in 2, above.]

- c. The operator should calculate the full time equivalents for the each of the two SMDs, ANC 3E04 and ANC 3E03, and the full time equivalents for ANC 3E

¹⁰ CCPCC appears to be in material violation of the applicable PUD, and thus, instead of being the sole beneficiary of any new benefit, should be disqualified from consideration as the operator of any new space.

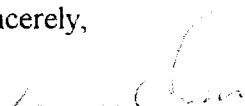
d. If the full time equivalents fall below the 80% and 90% required, they should provide evidence that no parents in the ANC SMDs or ANC were on the waiting list or requested that their children be placed on the waiting list in that time frame, and an item should be placed on the ANC agenda, or other notice given, to allow parents in those ANC SMDs to provide evidence that they requested placement on the waiting list during the relevant time period.

e. If parents residing in the ANC SMDs or ANC requested placement when the targets were not met, the matter will be referred to the zoning enforcement office.

5. TREE PRESERVATION

Finally, I note that the Applicants and OP have included the preservation of trees as an amenity. An examination of the topographic survey, submitted as Attachment S1 of the March 22 Application and the drawings A4 and S4 submitted on October 25, 2002, shows that there will not be significant preservation of trees on the subject property. Much of the subject property will be excavated for underground parking or covered with surface parking or the day care center building. On the remaining property, there appear to be four 6-inch trees along the eastern edge of the property, two trees. Each of these trees is probably within 20 feet of the excavation or finished building.

Sincerely,


Marilyn J. Simon

5241 43rd Street, N.W.
Washington, D.C. 20015-2005

December 12, 2002

Carol J. Mitten, Chair
Zoning Commission
District of Columbia Office of Zoning
Suite 210-S
441 Fourth Street, N.W.
Washington, D.C. 20001

Re: Zoning Commission Case No. 02-17, A Proposed One-Stage Planned Unit Development with Related Map Amendment at 5401 Western Avenue, NW – Square 1663, Lot 805 and a Portion of Lot 7

Revised Review of Economic Impact Analysis

Dear Chair Mitten:

I am writing as a neighbor and economist in response to the Economic Impact Analysis prepared by Bolan Smart Associates and filed with the Prehearing Statement by Stonebridge Associates, Inc., submitted on August 19, 2002 and designated as Case # ZC 02-17.

The Office of Planning in reaching their conclusion relied upon this submitted economic analysis. In particular, they assumed that the Stonebridge project would produce net annual revenue gains over matter of right development of \$800,000 to \$1,200,000. However, that submitted analysis was seriously flawed. Correction of the five most egregious errors, and in particular errors mostly known to both the Applicants and the Office of Planning, reduces the net annual revenue gains over matter of right development to \$400,000 to \$500,000. This represents a substantial difference in determining whether, on balance, the proposal is in the public interest. As you can see from the summary of these errors, their correction does not constitute “quibbl(ing) over specific assumptions in economic models,” as assumed by the Office of Planning. Given that the analysis is fatally flawed, any conclusions by the Office of Planning based on this analysis should be viewed with skepticism.

I reviewed the calculations in the Economic Impact Analysis and determined that the Bolan Smart estimates cannot reasonably be supported. Bolan Smart has continued to make the following serious errors in their analysis:

- As with the other two analyses, Bolan Smart did not base their estimate on annual income taxes on the D.C. tax rates in Form D40.
- Bolan Smart assumed that all units were owner-occupied, but in estimating annual real estate taxes, did not include a homestead exemption for any of the units.
- Bolan Smart assumed that the four to six units dedicated to affordable housing will be occupied by households with an annual income of \$144,000.
- Bolan Smart, in calculating resident retail sales tax, overstated expenditures on goods taxable in the District, and assumed that all taxable expenditures were related to the decision to live at 5401 Western Avenue, and not to the residents’ employment locations. For example, residents are assumed to spend an additional \$800 a month in D.C. restaurants due to their decision to live on Western Avenue.

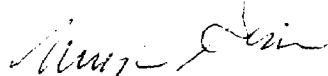
Correcting for these errors reduces the estimates of annual income taxes. The Bolan Smart estimate of annual income taxes is at least 13% higher than the corrected estimate. Correcting for these errors reduces annual real estate taxes. The Bolan Smart estimate of annual income taxes is 10% higher than the corrected estimate. Correcting for these errors also reduces annual resident sales tax by well over 50%.

In computing the annual tax impact of matter of right development under current R-5-B and R-2 zoning, Bolan Smart used a smaller version of the Stonebridge proposal, rather than the matter of right development described in my August 6, 2002 letter. The matter of right development I analyzed was similar to infill housing along Military Road and a development near the Bethesda Metrorail Station. If we were to analyze the type of development that would likely occur under current zoning, the estimated annual income taxes would be 26% higher than Bolan Smart estimate and the estimated annual real estate taxes would be 22% higher than the Bolan Smart estimate. I also considered a modest PUD under current zoning, and determined that estimated income and real estate taxes for a modest PUD under current zoning would be even higher.

Further, Bolan Smart assumes that all units in the Stonebridge development would be owner-occupied, yet no conditions were offered to assure that all units, other than the affordable housing units, would in fact be sold and would be owner-occupied. Stonebridge changed the proposal to condominiums in response to changes in market conditions, and absent conditions that assure that these units will be sold to owner-occupants, the District and the neighborhood has no guarantee that current market conditions that prompted this change will be in effect when the units are completed. If some or all of the 120 units that are not owner-occupied, estimated annual real estate taxes increase slightly, but estimated annual income taxes decrease substantially. If the building is rental, rather than condominium, but assuming that no units are rented to students, annual income taxes decrease by 45% to well under half the Bolan Smart estimate of annual income taxes. If some units are rented to students, with little income taxable in the District, the estimate of annual tax revenue from this project would be significantly lower.

Since I am concerned about the Stonebridge proposal and about the quality of analyses available to the Zoning Commission and the Office of Planning, I urge you to review the attached submission, and hope that it will be informative and useful. I greatly appreciate the Office of Planning's professional work, and the Zoning Commission's serious attention to the Stonebridge Application and responses to it.

Respectfully submitted,



Marilyn Simon, Ph.D.

cc: Douglas M. Firstenberg
Stonebridge Associates, Inc.

I. QUALIFICATIONS

1. My name is Marilyn Simon. I have a Ph.D. in Economics from Princeton University and was an Assistant Professor of Economics at Massachusetts Institute of Technology from 1977 to 1983. I was a Professorial Lecturer at Georgetown University from 1989 to 1990 and in 1993, teaching a graduate course in Microeconomic Theory, and I testified as an expert on behalf of the Antitrust Division of the U.S. Department of Justice in Application by Detroit Free Press, Incorporated, and The Detroit News, Inc., for Approval of a Joint Newspaper Operating Agreement Pursuant to the Newspaper Preservation Act, 15 U.S.C. §§ 1801, et seq. (1987) Before the Attorney General of the United States (Docket No. 44-03-24-8).¹

II. PURPOSE AND SUMMARY

2. The Applicants (hereinafter referred to as "Stonebridge") submitted a revised economic impact statement with their October 25, 2002 Prehearing Statement that estimates the economic benefit in annual direct District tax revenue of the proposed development to be approximately \$1,819,674 per year. Major components included

- i) \$576,000 in real estate taxes per year, based on a finished property valuation of \$60,000,000, 125 condominium units assessed at \$480,000 each;
- ii) \$1,243,674 in new resident District income taxes;
- iii) \$221,130 in new retail sales tax revenues based on new DC residents; and
- iv) \$77,760 in new DC resident use taxes and fees.

They also calculated the tax benefits of a smaller version of the same development, assuming an 54-unit rental building, compared with the proposed 125-unit rental building, and concluded that District revenue would proportionately lower. They did not compute District tax revenue for an owner-occupied townhouse development that could be developed as a matter-of-right under current zoning.

3. I reviewed their revised calculations and determined that they continued to use the same flawed methodology as was used in the Application and the August 19 Pre-hearing Submission. These errors had been brought to the attention of the Applicants, the Office of Planning and the Commission in my August 5 letter. I determined that these estimates cannot reasonably be supported, and that a reasonable estimate would be that the benefit would be significantly less than that amount.

4. In addition, I provided an estimate of annual revenue for development that might be built as a matter of right or with a modest PUD under current zoning.

5. Stonebridge did not provide data to support the assumptions underlying their claims, their methodology is flawed and Stonebridge's claims are clearly inconsistent with the description of the project in this filing and with the District's real estate and income tax schedules. I reviewed these estimates and concluded that:

- i) Real Estate Taxes: The estimate given by Bolan Smart Associates, relied on by Stonebridge, does not include a homestead exemption for any of the units.

¹ I live at 5241 43rd Street, N.W., and oppose the Stonebridge Application.

It is also based on an assessment of \$480,000 for each 1,200 s.f. unit. Given the late filing of this information, I have not been able to get information on assessments and sales of comparable condominiums. However, if the units would be assessed at \$480,000 each, annual real estate taxes would be up to \$36,000 less than the Stonebridge estimate, depending on how many units claim the homestead exemption.

- ii) New Resident Income Taxes: Bolan Smart did not consider, in its tax calculation, the units that are set aside for affordable housing and did not base the resident income tax calculation on District tax rates, as given in Form D-40. They also assumed that all units would be owner-occupied and no units would be occupied by two or more individuals filing separately on their District tax returns. If all units are owner-occupied, but correcting for the other errors, the estimate of the new resident income taxes associated with the proposal would be reduced by 11.4%. If some units are rented, new residential income taxes associated with the proposal would be reduced by up to 50%.
- iii) New Retail Sales Tax Revenue: New retail sales revenue is also likely to be significantly lower than the estimate, given that the tenants' choice of housing is unlikely to affect their school or work locations and taxable spending near those locations.
- iv) New D.C. Resident Use Taxes: Bolan Smart has not provided any basis for their estimate of D.C. resident use taxes.

6. Stonebridge also made unsupported claims about one-time construction related benefits, additional project-related DC residents, long term employment benefits, neighborhood enhancement, and net Washington Clinic relocation benefits. These claims are also discussed below and to the extent that the Stonebridge project might provide any benefits in these areas, matter of right development could provide equal or better benefits. In addition, it is clear that in reviewing claims of neighborhood enhancement, the Stonebridge proposal is more likely to cause substantial harm to the surrounding neighborhood and reduce area property values, while owner-occupied housing at matter-of-right, current zoning density would likely provide substantial benefits.

7. I also considered the economic benefit in annual direct District tax revenue that might be associated with matter of right development of this site, assuming owner-occupied units, and determined that matter of right development of this site would produce direct District tax revenues substantially higher than the Stonebridge estimate. Specifically, a conservative analysis of a hypothetical matter of right development at this site could generate approximately \$820,000 in additional District real estate and income tax revenue annually plus a small amount of other direct District tax revenue annually,² significantly more than Stonebridge's estimate of \$656,979. Based on error correction, a more reasonable estimate of such additional revenue from the Stonebridge proposal is \$1,200,000 to \$1,300,000 in real estate and income taxes plus a small amount of other direct District tax revenue, significantly less than Stonebridge's estimated \$1,520,784 for

² As discussed below, this amount is based on a detailed assessment of real estate and income tax revenues. The other sources of direct District tax revenue are also discussed below.

income and real estate taxes and \$1,741,914 for income, real estate and retail sales taxes. Further, the Stonebridge project would also negatively impact the quality of life in the surrounding residential neighborhood, negatively impact property values in the surrounding residential neighborhood and change the character of the area.

III. REAL ESTATE TAXES

8. Stonebridge claims that real estate taxes will be \$576,000 in real estate taxes per year, based on a finished property valuation of \$60,000,000. This is based on 125 condominiums, each assessed at \$480,000, with annual taxes of \$4,608. An owner-occupied unit assessed at \$480,000, assuming a standard homestead exemption, would pay annual real estate taxes of \$4,320. Four to six units are being set aside for affordable housing. According to the Stonebridge submission, the annual real estate tax for each of those units is estimated to be \$1,283. Bolan Smart assumed that the annual real estate tax for those units would be \$4,608.

9. Based on 120 units assessed at \$480,000, and 5 units taxed at \$1,283, and assuming a homestead exemption for 120 units, real estate taxes would be \$524,880. The estimate would increase by \$288 for each unit that does not qualify for the homestead exemption. However, as seen below, rental units will generate, on average, less income tax. In addition, the estimate would be reduced if some of the homeowners qualify for a senior exemption.

10. In addition, the District could receive substantial real estate taxes if the site were to be developed as owner-occupied housing with current zoning, R-5-B on the Clinic site and R-2 on the Lisner land. The following is just one example of what would be possible under matter of right development:

- i) If a developer were acquiring 15,000 square feet of Lisner land, the developer could, as a matter of right, build 5 detached or semi-detached houses on 3,000 sq. ft. lots. In July 2001 and May 2002, two new semi-detached houses at the corner of Military Road and 42nd Street, 5344 and 5346 43rd Street, sold for \$850,000 and \$885,000, respectively. These houses were each on 3,182 sq. ft. of land. Another semi-detached house, 5342 42nd Street, is also on 3,182 sq. ft. of land and is assessed for \$824,000. More recently, it a new semi-detached house at 4200 Military Road sold for \$965,000. Conservatively, I will assume that the hypothetical development would include 5 detached or semi-detached owner-occupied houses, each on 3,000 sq. ft. of land, and each assessed at \$995,000.
- ii) The portion of the land zoned R-5-B consists of 43,840 square feet and could, as a matter of right, be developed as a townhouse development with underground parking and a single entrance off Western Avenue. This would be patterned after the Villages of Bethesda built in 2000, which is a half block from the Bethesda Metro Center garage with the escalators to the Bethesda Metrorail station. With matter-of-right development under current zoning, approximately 35-40 such townhouses could be built on this site, each with over 2,000 square feet of living space. As with the Villages of Bethesda, in this example, each townhouse would have both a front and rear yard.

Conservatively, I will assume that the hypothetical development would include 40 owner-occupied townhouses, each assessed at \$700,000.

11. To calculate the real estate tax on this hypothetical development, I will assume that each unit is owner-occupied and claims the homestead exemption.

- i) The real estate taxes on each of the detached or semi-detached houses would be \$9,264, for a total of \$46,320 on the R-2 portion of the site.
- ii) The real estate taxes on each of the townhouses would be \$6,432, with a total of \$257,280 on the R-5-B portion of the site.
- iii) Total real estate taxes for this hypothetical, matter-of-right development would be \$303,600.

12. I also calculated the real estate tax on a hypothetical modest PUD, with a small 6-story condominium with 29 units, similar to the Stonebridge units, 27 townhouses on the remainder of the clinic site, each with 2,500 square feet above grade and 5 single family houses on the Lisner land [differently configured.] This PUD would have approximately 106,000 square feet gross floor area on the Clinic site, with an FAR of 2.4 on the Clinic site. The 61 dwelling units in this modest PUD would sell for a total of \$42,223,000. Total real estate taxes for this hypothetical, modest PUD under current zoning would be approximately \$345,250.

IV. INCOME TAXES

13. Stonebridge estimates \$944,784 a year in new District income taxes. If 10 to 30% of the market rate units are rented and if none of the residents are students, a more reasonable estimate of new District income taxes would be \$725,000 to \$800,000. Stonebridge overestimates by 18 to 30%.³ If all the units are rented and half of the households consist of two-earner families,⁴ new District income taxes would be \$472,992, approximately half the Stonebridge estimate. Moreover, matter-of-right,

³ I reviewed the tax assessment records for a condominium building in Ward 3 on Square 1601. The D.C. Real Property Sales Database showed sales ranging from \$150,000 to \$1,075,000, with the bulk of the sales in the \$400,000 to \$600,000 range. There were 118 tax records for units. Of the 118 records, 38 homeowners, or 32% of the units, claimed no homestead exemption, 26 homeowners, or 22% of the units, claimed a senior exemption, and 54 homeowners, or 46% of the units, claimed a standard homestead exemption. To claim a senior exemption, the total adjusted income of everyone living in the property, excluding tenants, must have been less than \$100,000 for the prior year. The average assessment for units with a standard homestead exemption was \$400,745. The average assessment for units with a senior exemption was \$398,057, and the average assessment for units with no homestead exemption was \$380,764. Sale prices of most of the units sold since January 1999 were 10 to 40% above the assessments. Thus it is reasonable to assume that as many as 30% of the units would have no homestead exemption in this price range. Further, note that the income and real estate taxes generated by homeowners claiming a senior exemption would be less than that assumed in my estimate for renters or owner-occupants of market rate units. To be conservative and overestimate the taxes associated with the Stonebridge proposal, I assumed no owner-occupants of market rate units would qualify for the senior exemption.

⁴ On Form D-40, two earner couples will generally pay lower taxes by using the filing status "married filing separately." The instructions state: "More than one status may apply to you. Choose the one that will give you the lowest tax." [2001 D-40, p. 7.]

owner-occupied development of the site could produce approximately \$515,000 in annual District income taxes.

14. Stonebridge computes the estimated income taxes by assuming each unit sells for \$480,000, or \$400 a square foot, and calculating the income required as 30% of the price. They assume a 96% occupancy rate, and assume that no units are occupied by two or more individuals filing separately on their District income tax returns. They incorrectly state that the District income tax on a taxable income of \$108,000 would be \$9,720. Based on Form 2001 D-40, it actually would be \$9,254 if no tenants were filing separately.⁵ If, however, two residents were filing separately, then the income tax on a total taxable income of \$108,000 would be approximately \$8,464 for two tenants filing separately.

15. Given the late filing of the submission, I have not had an opportunity to research comparable properties and determine whether \$480,000 is a reasonable estimate for the sale price and tax assessment of these units. If the market price of 1,200 square foot units is less than \$480,000, the estimate would need to be adjusted downward.

16. According to the Supplemental Prehearing Statement, four to six units will be set aside "for affordable housing for those households who make no more than eighty percent of the average median income for the Washington metropolitan area." [Supplemental Prehearing Statement, p. 13.] Bolan Smart assumed an income of \$144,000 for each of the 125 units. Stonebridge states that those units will be purchased by households with an income below 80% of the median income for the Metropolitan area. In their November 18th submission, Stonebridge estimates the maximum annual income to qualify for the units set aside for affordable housing at \$54,400, not \$144,000 as assumed by Bolan Smart. For the purposes of this correction, I assumed that 5 units are set aside for affordable housing and 120 units are available at market rates.

17. I also reviewed the tax records for a condominium at 4200 Massachusetts Avenue, NW, Square 1601. There are 118 units in that building. Fifty-four units, 46%, have a standard homestead exemption, while twenty-six units, 22%, receive senior citizen property tax relief. The remaining 32% of the units claim neither exemption. To qualify for the senior citizen property tax relief, the total adjusted gross income of everyone residing in the unit, excluding tenants, cannot exceed \$100,000 in the prior calendar year. The average assessment for the units with the senior or standard exemptions was approximately \$400,000, and the average assessment for the other units was approximately \$380,000. Recent sales in the building were significantly higher than the assessment of those units. I calculated the taxes that would be generated by the Stonebridge project, assuming that 32% of the market rate units were owner-occupied, with incomes of \$144,000, 22% of the units were occupied by senior citizens with incomes of \$100,000, and the remainder of the units were rented to households with incomes of \$88,000. If the Stonebridge market-rate units have the same profile as 4200 Massachusetts Avenue, the annual income tax generated would be \$536,996, 43% lower than the Bolan Smart estimate. Further, the real estate tax would be \$482,705, 16% lower than the Bolan Smart estimate.

⁵ The calculation for tax on income over \$100,000 is: \$2,000 plus 9.3% of the income over \$30,000. For lower incomes, taxes are given on the tables. [2001 D-40, p. 11]

18. By contrast, the hypothetical, matter of right, owner-occupied⁶ development would generate annual District income taxes of approximately \$516,000, assuming that the 40 townhouses on the Clinic site sell for \$700,000 each and five detached or semi-detached houses on the Lisner site sell for \$995,000 each. To make the calculations comparable, I assumed that the income for each unit is equal to 30% of the purchase price. The calculation of the District taxes is based on Form 2001 D-40.

19. For the hypothetical modest PUD under current zoning described in paragraph 12, above, annual District income tax would be \$648,883.

20. In summary, the Stonebridge project is unlikely to generate more than \$700,000 to \$800,000 in District income taxes, while matter of right development with owner-occupied housing can generate \$516,000 in annual District income taxes. Income and real estate taxes associated with the Stonebridge proposal might reasonably be estimated to be no more than \$1,200,000 to 1,300,000, while the matter-of-right, owner-occupied development described above would generate \$819,000 in annual District income and real estate taxes. A modest PUD under current zoning would generate \$994,000 in annual District income and real estate taxes. If a substantial portion of the units are rented or purchased by retirees with lower taxable incomes, the annual income and real estate taxes associated with the Stonebridge proposal falls to \$1,000,000.

V. NEW RESIDENT RETAIL SALES TAX

21. The Applicants claim \$221,130 in District sales taxes attributable to new residents. This is based on the tenants spending 40% of their taxable income on goods subject to sales tax, with 65% of those expenditures in the District. Of those expenditures, 41% is assumed to be taxed at the 10% restaurant rate⁷ and the remaining 59% would be taxed at the 5.75% general sales tax. Thus, Stonebridge assumes that, since they are residing at 5401 Western Avenue, each household in their project will spend an average of \$1,240 each month in restaurants, of which over \$800 per month is new District restaurant expenditures, unrelated to their employment location.

22. First, this estimate is based on Stonebridge's assumption that all units will be owner occupied and that the units will sell for \$480,000, as well as their failure to consider the fact that the units designated as "affordable" will be occupied by taxpayers with incomes of no more than \$54,400, rather than the \$144,000 that is assumed for all unit. In addition, actual expenditure patterns for an individual household would be based in part on the resident's employment location. This would not change with the decision to buy or rent at the Stonebridge project. Therefore, a smaller portion of the taxable income spent on goods subject to sales tax should be considered as new to the District and included in this calculation. In addition, when one excludes restaurant meals that are

⁶ I am assuming that each of these houses will be owner-occupied. For example, The Courts of Chevy Chase consists of 29 townhouses. Of these, 25 claim a standard homestead exemption and one claims a senior homestead exemption. Of the remaining three units, two are owner-occupied and the third is not.

⁷ Stonebridge assumes that each household spends an average of \$1,240 each month in restaurants, of which over \$800 per month is new District restaurant expenditures, unrelated to their school or work location.

associated with the residents' employment locations, the blended tax rate chosen by Stonebridge is clearly too high.

23. I did not recalculate the District sales tax associated with new tenants in the Stonebridge project, but simply note that a reasonable estimate would be significantly less than the \$221,130 estimated by Stonebridge and that the hypothetical matter-of-right development with current zoning would produce District sales taxes significantly less than the \$95,528 estimated by Stonebridge, but comparable to a reasonable estimate of the taxes produced by the Stonebridge project.

VI. RESIDENT USE TAXES AND FEES

24. Stonebridge estimates that the tenants of the Stonebridge project will pay 0.6% of their taxable income in use taxes and fees, including resident DMV fees, utility and telecommunications fees and other licensing fees and charges. Their estimate of these fees and taxes is \$77,760. Given that they have provided no basis for their estimate, it is impossible to determine whether this is reasonable, except to note that, if they overestimated the price of the units or if some of the units are not owner-occupied, the estimate would be lower, even using their methodology. As with the sales tax, I do not recalculate the likely economic benefit in resident use taxes and fees, but simply note that a reasonable estimate would be significantly lower and that matter-of-right development would produce District sales taxes that would be comparable to a reasonable estimate of the taxes produced by the Stonebridge project.

VII. OTHER CLAIMED BENEFITS

25. Stonebridge claims \$1,200,000 in direct District fee revenues from recordation and transfer fees, development processing fees and permits. They also estimate almost 150 construction jobs and anticipate a construction budget of over \$33 million. They have not provided sufficient detail for me to determine whether these estimates are realistic. However, it is reasonable to assume that other development of this site will also involve recordation and transfer fees and temporary construction jobs.

26. Stonebridge claims long term employment benefits based on 4 employees for the residential component and 8 employees associated with the daycare component. If there were townhouses and semi-detached and/or detached houses constructed on the site with matter-of-right current zoning or a modest PUD with current zoning, the homeowners would not necessarily have any direct employees. However, the homeowners will be employing individuals or firms licensed by the District to perform many of the services that would be handled by the four employees claimed by Stonebridge.

27. Stonebridge claims that the project will provide "neighborhood enhancement." In fact, it is clear that the proposed project would have a large negative effect on the surrounding area. These harms are discussed more fully in Response to Stonebridge Application and Remarks Concerning Drawings, both filed on June 26, as well as other testimony and filings in this record. However, lower density development, particularly development that is compatible with the surrounding low-density residential, single family and townhouse neighborhood, would enhance that neighborhood and bring to the area citizens committed to the community and to the District.

VIII. CONCLUSION

28. Clearly, Stonebridge's Economic Impact Analysis is inconsistent with the description of the project and with District tax rates. Correcting the analysis leads to a conclusion that Stonebridge overestimated direct impact of the proposed project on District tax revenues by 33%. If a significant number of units were assumed to be rented, recalculation of the estimated direct impact of the proposed project on District tax revenues would show that Stonebridge overestimated the impact of this project by up to 68%. Further, the new retail sales tax would be a small fraction of the \$221,130 that Stonebridge assumed. A separate analysis of the direct impact of a matter-of-right development of the site shows that income and real estate taxes associated with matter-of-right development are 22% higher than the Stonebridge estimate of annual income and real estate taxes for matter-of-right development.

29. Stonebridge's claim that the proposed development would produce significantly more revenue for the District than matter-of-right development or development as a PUD under current zoning is based on a comparison of the Stonebridge proposal and a smaller versions of the Stonebridge proposal. A more appropriate comparison would be to compare the Stonebridge proposal with owner-occupied townhouse and semi-detached or detached houses which could be developed as a matter-of-right in R-5-B and R-2 zones.