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

November 08, 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

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 D-40.
- 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 by 15 to 25%, reduces annual real estate taxes by 12%, and 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 that 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 23% higher than Bolan Smart estimate and the estimated annual real estate taxes would be 22% higher than the Bolan Smart estimate.

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

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[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 by 15 to 25%. If some units are rented, new residential income taxes associated with the proposal would be reduced by up to 53%.

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 $800,000 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. A 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. Further, the Stonebridge

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[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.

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. It is not clear that those units would be assessed at $480,000 each.

9. Based on 120 units assessed at $480,000, and 5 units assessed $240,000, and assuming a homestead exemption for 120 units, real estate taxes would be $529,920. 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 appears as though 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.

## IV. INCOME TAXES

12. Stonebridge estimates $944,784 a year in new District income taxes. If no more than 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 $700,000 to $800,000, fifteen to twenty-five percent less than that amount.[3] If all the units are rented and half of the households consists of two-earner families,[4] new District income taxes would be $471,015, less than half the Stonebridge estimate. Moreover, matter-of-right, owner-occupied development of the site could produce approximately $500,000 in annual District income taxes.

13. 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

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[3] I reviewed the tax assessment records for a condominium building in 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 is it 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.]

[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]

total taxable income of $108,000 would be approximately $8,464 for two tenants filing separately.

14. 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.

15. 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. According to the Census, median income for the District in 2000 was $38,752. [See www.census.gov/income/income00/statemhi.html] Median income for the Metropolitan area for the year 2000 is not yet available, but in 1989, median income for the Metropolitan area was $45,901, while median income for the District was $30,727. Assuming that median income for the Metropolitan area in 2000 is still approximately 25% higher than median income for the District, median income for the Metropolitan area can be estimated at $57,889, and the maximum income to qualify for the units set aside for affordable housing is $46,311, 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.

16. By contrast, the hypothetical, matter of right, owner-occupied[6] development would generate annual District income taxes of approximately $500,000, 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.

17. 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 $500,000 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 $800,000 in annual District income and real estate taxes.

## V. NEW RESIDENT RETAIL SALES TAX

18. 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

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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.

expenditures, 41% is assumed to be taxed at the 10% restaurant rate[7] 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.

19. 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 $50,000, 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 associated with the residents' employment locations, the blended tax rate chosen by Stonebridge is clearly too high.

20. 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 that 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

21. 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

22. 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

[7] Stonebridge assumes that each household spends and 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.

realistic. However, it is reasonable to assume that other development of this site will also involve recordation and transfer fees and temporary construction jobs.

23. 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.

24. 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 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

25. 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 the direct impact of the proposed project on District tax revenues would be 21% lower than the Stonebridge estimate. If a significant number of units are rented, the direct impact of the proposed project on District tax revenues would be up to 35% or 40% lower than the Stonebridge estimate. 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.

26. 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 version 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 or modest PUD in R-5-B and R-2 zones.