



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

MCPB
Item #5
10/14/10

MEMORANDUM

DATE: October 4, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *R.K.*
Development Review Division
Catherine Conlon, Supervisor 301-495-4542 *CC*
Development Review Division
Shahriar Etemadi, Supervisor 301-495-2168
Transportation Planning Division

FROM: Patrick Butler, Planner 301-495-4561 *P.B.*
Development Review Division
Ki Kim, Planner Coordinator 301-495-4538
Transportation Planning Division

SUBJECT: Preliminary Plan No. 119961120, DANAC Stiles Property – Request for extension of the validity period for the adequate public facilities (APF) approval.



STAFF RECOMMENDATION: Approval of a 6-year extension of the APF validity period subject to the following:

1. Total development under the subject preliminary plan APF Approval Validity Period Extension including the 367,681 square feet already built is limited to 669,538 square feet of office space.
2. The APF validity period for the remaining density of 301,857 square feet will expire on July 9, 2017.

BACKGROUND

The subject property is located in the northeast quadrant of the intersection of Great Seneca Highway (MD 119) and Key West Avenue (MD 28) in the Great Seneca Science Corridor Master Plan Area. The preliminary plan for DANAC Stiles was approved by the Planning Board at a regularly scheduled public hearing on May 15, 1997. The date of mailing of

the Planning Board Opinion for the plan was June 9, 1997 (Attachment A). Pursuant to Section 50-20(c)(3)(A)(i), a determination of adequate public facilities for this plan would remain valid for 145 months, or July 9, 2009. Before the APF expired, the County Council took action to grant all valid plans an automatic two-year extension. Thus, the APF approval for the subject plan remains valid until July 9, 2011. On July 30, 2009 staff received a timely request for a 6-year extension of the APF validity period. To date, 367,681 square feet of office use have been developed leaving 301,857 square feet of the Approved Density to be constructed on the property. The remaining density is planned to be located on Lot 7 of the Subject Property, which is located in the northwest quadrant of the intersection of Diamondback Drive and Key West Avenue.

REQUIRED FINDINGS FOR APF EXTENSION

This request for APF extension was filed pursuant to Section 50-20(c)(5)(A-C) of the Subdivision Regulations. This section states:

The Planning Board may extend a determination of adequate public facilities for a preliminary plan of subdivision for nonresidential development beyond the otherwise applicable validity period if:

- A. At least 40% of the approved development has been built, is under construction, or building permits have been issued, such that the cumulative amount of development will meet or exceed 40%;
- B. All of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and
- C. The development is an "active" project, meaning that either occupancy permits have been issued or a final building permit inspection has passed for at least 10 percent of the project within the 4 years before an extension request is filed, or occupancy permits have been issued for at least 5 percent of the project within the 4 years before an extension request is filed if 60 percent of the project has been built or is under construction. If occupancy permits are not typically issued for the type of development for which an extension is requested, a part of the development can be treated as complete when its final inspection has been approved. The Board may treat a building as complete even if occupancy permits have been issued for only part of the building.

Section 50-20(c)(5)(A)

Based on the building permit information submitted by the applicant, 367,681 square feet of the total approved 669,538 square feet of density, or approximately 55%, has been built.

Section 50-20(c)(5)(B)

According to information provided by the applicant, and verified by staff, all the off-site Infrastructure Improvements required under the Preliminary Plan have been either completed by

the Applicant, or funded by the Applicant as required by the applicable Road Club Participation Agreement.

Section 50-20(c)(5)(C)

Based on the information submitted by the applicant, and confirmed by staff, the final building permit was issued for one of the onsite buildings on February 7, 2008. The permit was issued within the last 4 years, and the building constitutes 71,870 square feet or 10.7% of the total approved project.

SUPPORTING INFORMATION

As required under Section 50-20(c)(7)(A), the applicant submitted a new phasing schedule to implement the remaining density of 301,857 square feet and support the request for the full 6-year extension. The applicant proposes to develop the remaining density on Lot 7 in one phase. They can't proceed with that development, however, until after the State determines the Locally Preferred Alternative for the Corridor Cities Transitway (CCT) - a decision which might not be made until the Spring of 2011. The DANAC Property, and Lot 7 in particular, will be a key location for a transit stop and a portion of the CCT right-of-way. The Applicant notes, and staff agrees, that the requested 6-year extension is needed to provide time for the extra coordination with public agencies that will be needed to ensure that the private and public improvements are well integrated into the remaining development.

As required under Section 50-20(c)(7)(E), the applicant submitted a traffic study to help the Board decide if the extension would promote the public interest. DANAC constructed or contributed to the construction of eleven roadway intersections. With improved roadway conditions, the eleven intersections analyzed are currently operating within the congestion standard. However, under the background development condition, i.e., the existing traffic plus traffic from all unbuilt developments in this area that have been approved since the DANAC approval, three intersections; Great Seneca Highway/Sam Eig Highway, Key West Avenue/Omega Drive/Medical Center Drive, and Shady Grove Road/Key West Avenue, are projected to exceed the congestion standard. Under the total future development condition for DANAC only, i.e., the background development plus DANAC's remaining development, there would be an insignificant impact to the three intersections that already exceed the congestion standard, and DANAC's remaining trip capacity would not cause any other intersections to exceed the congestion standard. Therefore, granting the extension to permit development of the remaining density on the DANAC property is not against the public interest. Additionally, the extension is specifically in the public interest because it will allow adequate time to ensure that private and public improvements are well integrated into the remaining development, and therefore, promotes the transportation goals of the Great Seneca Science Corridor Master Plan.

CONCLUSION

Staff finds that the subject extension request meets the requirements of Sections 50-20(c)(5)(A-C) of the Subdivision Regulations, and that sufficient justification has been given by the applicant to support a six-year extension of the APF validity period for Preliminary Plan

119961120 DANAC's Stiles Property. Therefore, staff recommends extending the validity period for six-years to July 9, 2017.

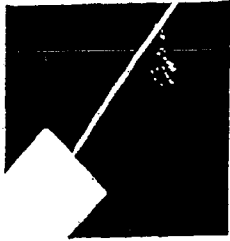
Attachments:

Attachment A – Planning Board Opinion Dated June 9, 1997

Attachment B – Applicant's Letter supporting extension of the APF validity period

Date Mail June 9, 1997

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation Motion of Comm. Holmes, seconded by Comm. Aron with a vote of 4-0; Comms. Holmes, Aron, Baptiste and Richardson voting in favor, Comm. Hussmann temporarily absent.

MONTGOMERY COUNTY PLANNING BOARD
OPINION

Preliminary Plan 1-96112
NAME OF PLAN: DANAC'S STILES PROPERTY

On 06-11-96, DANAC CORPORATION, submitted an application for the approval of a preliminary plan of subdivision of property in the I-3 zone. The application proposed to create 4 lots and 1 outlot on 25.48 acres of land. The application was designated Preliminary Plan 1-96112. On 05-15-97, Preliminary Plan 1-96112 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-96112 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-96112, subject to the following conditions:

The County Council has indicated its intent to initiate legislation to create a Transportation Management Organization (TMO) for the Shady Grove Area at a future date. When such legislation is proposed, the County Council may seek to include preliminary plans approved prior to the effective date of the legislation. By approving this preliminary plan, the Planning Board does not intend to exempt this property from consideration by the County Council for inclusion in a TMO at a future date.

STAFF RECOMMENDATION: Approval, subject to the following:

- (1) Agreement with Planning Board to limit development to 669,538 square feet of office development. The proposed development shall be in three phases with roadway improvements coordinated with each phase, as outlined in the Transportation Planning Division memo dated 5-6-97 (Attached as Exhibit 1). The Adequate Public Facilities Agreement must include language that states that measures must be taken to address the Special Trip Reduction requirements for development in the I-3 zone as part of site plan approval. The specific trip reduction measures as well as a schedule for achieving trip mitigation goals will be identified at site plan, in accordance with the provisions of 59-C-5.436 of the Montgomery County Zoning Ordinance.
- (2) Record plats for this large scale project may be recorded in stages that allow for a nine (9) year validity period for the preliminary plan based on the following phases:

- Phase 1: During Phase 1, the applicant will record final record plats for not less than 200,000 square feet of development. The initiation date will commence 30 days after the mailing of the Planning Board's opinion or the end of any appeal period, as provided in the subdivision regulations
- Phase 2: Phase 2 will commence 36 months after the Initiation Date. During Phase 2, the applicant will record final record plats for not less than an additional 200,000 square feet of development. Thus, at the end of Phase 2 subdivision record plats for a total of not less than 400,000 square feet will have been recorded
- Phase 3: Phase 3 will commence 72 months after the Initiation Date. During Phase 3, the applicant will record final record plats for the remainder of the gross square footage for the DANAC project. Thus, at the end of Phase 3, final record plats for a total of 669,538 square feet of gross floor area will have been recorded

As part of this phasing requirement, applicant must enter into an agreement with the Planning Board to provide for payment of pro rata share for any required APFO roadway improvements, consistent with applicant's APFO phasing requirement, prior to the release of building permit, if the improvement has been constructed by another applicant with the same APFO off site requirement. (This stipulation is to be placed on other preliminary plan approvals requiring participation in the same roadway improvements)

- (3) Dedication of right of way for Key West Avenue and Great Seneca Highway for diamond interchange and provide easement area for possible future dedication of a possible one-half clover-leaf configuration as shown on the preliminary plan drawing
- (4) Dedication of Master Plan transit alignment (minimum 50' wide) as shown on plan, adjacent to Discoverly Drive. In the area of alternative transit alignments, as shown on the preliminary plan, provide an easement for possible future dedication to accommodate the alternative alignments. In the event that the final transit alignment is approved adjacent to Discoverly Drive, then the easement shall be extinguished for that portion of the easement area no longer needed for right of way to allow for the reconfiguration of development on lot 4. In the event that the final transit alignment is approved so that it loops into the DANAC property, as shown on the preliminary plan, then the easement shall be extinguished for that portion of the easement area no longer needed for the right of way.
- (5) At site plan review address the compatibility between the townhouse development, confronting the project across Discoverly Drive, and the height of the proposed office buildings. In addition, careful attention must be paid to the design of the on-site pedestrian circulation system with connections to transit

- (6) Dedications as shown on the revised preliminary plan for the following streets:
- a) Decoverly Drive for 100 feet
 - b) Diamondback Drive for 100 feet
 - c) Key West Avenue for 150 feet
 - d) Great Seneca Highway for 150 feet
- (7) Record plat(s) to reflect denial of access along Great Seneca Highway
- (8) Access and improvements as required and approved by MDSHA and MCDPW&T. Prior to initiation of Phase II development, applicant to submit an updated traffic study to be reviewed by MDSHA addressing the full movement access on Key West Avenue to and from the site
- (9) Compliance with conditions of approval of the preliminary forest conservation plan, to be approved at site plan, prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permit, as appropriate
- (10) Record plat to reflect delineation of a conservation easement over the areas of wetlands and stream valley buffers
- (11) Conditions of MCDPS stormwater management approval dated 5-8-97 (Attached as Exhibit 2).
- (12) Other necessary easements
- (13) No clearing and grading of site prior to site plan approval
- (14) No recording of lots prior to site plan approval
- (15) Final site layout and amount of development to be determined at site plan

PRELIMINARY SUBDIVISION PLAN APPLICATION FILE NO: 1-96112
withdrew or superseded: N another plan on property? fileno: -
NAME OF SUBDIVISION: DANAC'S STILES PROPERTY DATE OF APPLIC: 06-11-96
SPECIAL EXCEPTION OR ZONING CASE NO: DATE OF SRC: - -
THRESHOLD: PRE-PRELIMINARY PLAN FOR THIS PROPERTY, ENTER IT: -

LOCATION
B. NE QUADRANT OF INTERSECTION OF KEY WEST AVENUE & GREAT SENECA HIGHWAY

200 BASE MAP NO: 220NW10 MPDUS PROPOSED: 0
NO. LOTS PROPOSED: 4 NUMBER OF RESIDENTIAL UNITS PROPOSED: 0
TYPE OF UNITS: CM, , , , ZONING: I3
NUMBER OF UNITS: 0 0 0 0 0 ZONING: ,
PROPOSED SANITARY FACILITIES: WATER: PUBLIC SEWER: PUBLIC
NUMBER OF TDRS: 0 REQUEST CLUSTER OPT: N REQUEST MPDU WAIVER: N
REQUEST STORM WATER MANAGEMENT WAIVER: N HISTORIC SITE OR DISTRICT?: N
OWNER NAME: DANAC CORPORATION
ADDRESS: 7200 WISCONSIN #901 AVE TELEPHONE NO: 301-657-2800
BETHESDA ,MD,20814
CONTRACT PURCHASER NAME:
ADDRESS: 0 TELEPHONE NO: - -

,00000
CONVEY AREA: 25.48 ACRES INCLUDE AREA: 25.48 ACRES PLAN FEE: \$3.00

RESTRICTIONS:
WSSC RIGHT-OF-WAY RECORDED IN LIBER 2697, FOLIO 546
15' SLOPE EASEMENT PER PLAT 12906 (DIAMONBACK DRIVE)

ENGINEER OR SURVEYOR: MACRIS, HENDRICKS, GLASCOCK
ADDRESS: 9220 WIGHTMAN #120 RD. TELEPHONE: 301-670-0840
GAITHERSBURG ,MD,20879

MPDU REQUIRED: 0 MPDU APPROVED: 0 NO. OF LOTS APPROVED: 4
UNITS APPROVED: TYPE OF UNITS: , , , ,
NUMBER OF UNITS: 0 0 0 0 0
DATE OF PLAN ACTION: 05-15-97 PLANNING BOARD ACTION: APPROVED
PLAN EXTENSION: N DATE GRANTED: 00-00-00 EXPIRATION: 00-00-00

200 BASE MAP NO: 220NW10 MASTER PLAN AREA: 20 TAX MAP NO: FS341
X COORDINATE 742051 TAX MAP YEAR: CENSUS TRACT & BLOCK:
Y COORDINATE 463331 PLANNING AREA: 20 TRAFFIC ZONE: 282

SEWERSHED NO: SEWER AUTHORIZATION NO:
STORM WATER MGMT. WAIVER GRANTED: STREAM CHANNEL MODIFICATION:

WRA PERMIT NEEDED:
PARKLAND ACRES: REC FACIL: PLAYGROUND: PLAYFIELD: OTHER:



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

May 6, 1997

MEMORANDUM

TO: Joe Davis, Coordinator
Development Review Division

VIA: Ron Welke, Transportation Coordinator
Transportation Planning Division *R. Welke*

FROM: Ki H. Kim, Transportation Planner
Transportation Planning Division *KHK*

SUBJECT: Transportation APF Review for
Stiles-DANAC Property
Preliminary Plan No. 1-96112

This memorandum represents Transportation Planning staff's APF review of the full development of the subject property, which is located along the north side of Key West Avenue east of Great Seneca Highway. The proposed development under this preliminary plan includes a total of 669,538 square feet of office space under the I-3 zone. It is noted that there are major site access issues on Key West Avenue and on Diamondback Drive which are discussed in this memo. Key West Avenue was transferred to the Maryland State Highway Administration (SHA) on May 6, 1997, and designated as MD 28. There are differences in recommendations regarding site access on Key West Avenue between the County and SHA.

RECOMMENDATIONS

Based on our review of the submitted traffic impact study, staff recommends approval of the proposed development in the Shady Grove area with the following conditions:

1. Total development under this preliminary plan does not exceed 669,538 square feet of office space, to be constructed in three phases, as follows:

Phase I - 200,000 square feet
Phase II - 200,000 square feet
Phase III - 269,538 square feet

2. The applicant shall construct a second westbound left-turn lane along Key West Avenue at Diamondback Drive/Broschart Drive.

3. The applicant shall construct a second westbound left-turn lane along Key West Avenue at Omega Drive.
4. The applicant shall construct a second southbound left-turn lane along Great Seneca Highway at Sam Eig Highway and an additional lane on eastbound Sam Eig Highway at Great Seneca Highway.
5. The applicant shall extend the existing westbound right-turn lane on Key West Avenue from the site entrance to Great Seneca Highway.
6. The applicant shall participate in constructing a separate right-turn lane along northbound Shady Grove Road at MD 28.
7. The applicant shall participate in constructing a second southbound left-turn lane along Great Seneca Highway at Key West Avenue.
8. The applicant shall participate in constructing a second left-turn lane along northbound Shady Grove Road at Key West Avenue.
9. The applicant shall participate in constructing a second left-turn lane along southbound Shady Grove Road at Research Boulevard.
10. The applicant shall construct a second southbound left-turn lane and a second southbound through lane along Diamondback Drive at Key West Avenue.
11. The applicant shall participate in constructing a third through lane along westbound Key West Avenue at Shady Grove Road.
12. The applicant shall agree that the following roadway improvements listed as conditions of approval are under construction prior to issuance of building permit for the phased development as described below:
 - a. 200,000 square feet of office space (Phase I) which can proceed with roadway conditions 2 through 9 listed above and three of four movements at site access on Key West Avenue: right-in, right-out and left-in.
 - b. 400,000 square feet of office space (Phase II) with the same roadway conditions as listed for Phase I and, subject to an updated traffic study to be reviewed by SHA, the full movement access on Key West Avenue to and from the site.
 - c. 669,538 square feet of office space (Phase III) with roadway conditions 2 through 11 listed above.
13. The applicant shall agree that all necessary roadway design work must be complete and approved by the Montgomery County Planning Board prior to issuance of building permits as identified in the above staging.

14. The applicant shall address the Trip Reduction Guidelines as required by Sec. 59-C-5.436 of the Zoning Ordinance at the time of the site plan review.

Summary of Local Area Transportation Review

The critical lane volume (CLV) impacts of the proposed development on critical intersections in the Shady Grove Area are presented in Table I. The following summarizes the Local Area Review.

1. Under existing traffic conditions, all intersections analyzed are operating at an acceptable CLV. (Line 1 of Table I)
2. Under background conditions (approved development traffic plus existing traffic with roadway improvements contained in the Approved Road Program), unacceptable CLVs are projected at all of the intersections analyzed. (Line 2 of Table I)
3. With the addition of the site traffic to the background condition and the proposed roadway improvements by the applicant in conjunction with approval of the subject site, all intersections analyzed in the Shady Grove area are projected to operate either at an acceptable level or at better than the background traffic conditions. (Line 3 of Table I for Phase I & II, Line 4 of Table I for Phase III development)

The acceptable CLV for the Germantown West Policy Area is 1,525 according to the FY 97 Annual Growth Policy (AGP).

Site Access Issues

1. The applicant proposed a full access on Key West Avenue from the site. As indicated earlier, Key West Avenue is now under the jurisdiction of the SHA with the opening of Key West Avenue extension from Gude Drive to Darnestown Road (MD 28). As described in the May 1, 1997 letter (copy attached), SHA recommends a right-in, right-out and left-in for the Phase I & II development and full access to be reviewed during Phase III of the subject development. Based on our analysis, we recommend that full access be reviewed at the time of Phase II development subject to a traffic analysis including a traffic signal warrant study. Our analysis indicates that beyond Phase I development, the site needs either a full access on Key West Avenue or additional roadway improvements along Diamondback Drive at Key West Avenue. We recommend full access on Key West Avenue since this option would provide better traffic circulation for the site as well as more efficient traffic operation in this area than widening Diamondback Drive. As indicated in the May 7, 1997 memorandum (copy attached), DPWT supports our recommendation.
2. A single access onto Diamondback Drive to and from the site is included in the submitted site development. Due to the distance on Diamondback Drive between the entrance and Key West Avenue and the distance needed for the storage lanes to accommodate the site-generated southbound left-turn traffic at Key West Avenue, DPWT requires this access to be right-in and right-out only. We support DPWT's recommendations on this access.

Staging Ceiling Capacity Review

Based on the FY 97 AGP Staging Ceiling capacity for the R&D Village Policy Area as of May 1, 1997, there is capacity available for 2,650 jobs of employment development which should be sufficient ceiling capacity to accommodate the full development of this preliminary plan (2,410 jobs).

CONCLUSION

Staff concludes that, with implementation of all roadway improvements currently programmed in the Approved Road Program and proposed by the applicant in conjunction with the phased development of the subject preliminary plan, all nearby intersections are anticipated to operate either within an acceptable CLV or better than the background development conditions. With staging ceiling capacity currently available in the R&D Village Policy Area for the subject preliminary plan, staff concludes that the subject preliminary plan meets the APF review requirements.

KHK:kcw
Attachments

Table 1: Intersection Capacity Analysis with Critical Lane Volumes Under Various Development Schemes
Preliminary Plan No. 1-95112

	1. Existing		2. Background with ARP Roadways		3. Phase I & II Traffic Condition with ARP and Proposed Roadway*		4. Total Traffic Condition with ARP and Proposed Roadways*	
	AM	PM	AM	PM	AM	PM	AM	PM
Key West Avenue/ Omega Drive	680	687	1742	1462	1537	1476	1601	1475
Key West Avenue/ Diamondback Drive	906	816	1857	1436	1703	1509	1613	1493
MD 28/Shady Grove Road	1195	1434	1695	2006	1695	1956	1695	1998
Great Seneca Highway/Key West Avenue	1289	930	2423	1670	1777	1477	1714	1491
Shady Grove Road/Key West Avenue	793	891	1580	1983	1510	1980	1512	1802
Shady Grove Road/Research Boulevard	1230	688	1580	1122	1214	1115	1222	1160

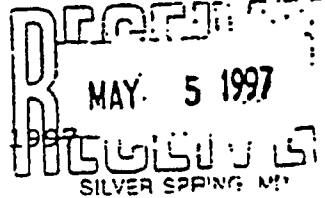


**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary

Parker F. Williams
Administrator

TRANSPORTATION DEPARTMENT OF THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION



May 1, 1997

Mr. Ron Welke
Maryland National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Re: Montgomery County
MD 28
Key West Avenue at
Great Seneca Highway
Stiles/Danac Property
File No. 1-96112

Dear Mr. Welke:

This is in reference to our ongoing review of the subject development.

Our office, in conjunction with the District Traffic Engineering Section, has reviewed the revised traffic impact analysis and offer the following comments:

- Proposed access to Key West Avenue shall be a right-in, right-out and left-in.
- A deceleration lane will not be required.
- An acceleration lane will be required. This lane will also serve as a deceleration lane for Great Seneca Highway.
- Full access at Key West Avenue will be reviewed during Phase III of the subject development. A revised traffic impact study will be required at that time.

Thank you for your continued cooperation. Please contact Greg Cooke at 410-545-5595 if additional information is needed.

Very truly yours,

Ronald Burns
Ronald Burns, Chief
Engineering Access Permits
Division

RB/GC/maw

cc: Jean Chait
Robert L. Morris, Inc.
My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

5/7/97
To: Ki Kim
From: David Adams
301 217-2907

MEMORANDUM

May 7, 1997

To: Ki H. Kim, Transportation Planner
Transportation Planning Department
Maryland-National Capital Park and Planning Commission

Via: John J. Clark, Director
Office of Project Development

Via: Jean E. Chait, Senior Planning Specialist

From: David C. Adams, Engineer III *DA*
Office of Project Development

Subject: Review of the Traffic Impact Study for
DANAC-Stiles Property
Preliminary Plan # 1-96112

Summary:

1. The March 21, 1997 TIS and the April 23, 1997 addendum provided for the mitigation of site traffic as of that time. The consultant had assumed full access onto Key West Avenue for both the TIS and the addendum.
2. Ron Burns, Chief of the SHA's Engineering Access Permit Division, has specified the access conditions for the proposed access onto Key West Avenue in a letter of May 1, 1997 which will permit right-in, right-out and left-in movements at this time. The SHA will require A new TIS is required for Phase 3 development.
3. Page 68 of the TIS shows one left turn lane for westbound Key West Avenue onto Brochart Road for calculating CLVs. If the consultant had used a double left turn for this movement as shown on page 30, the CLVs would have been

improved over those listed in the TIS. Hence, Phase 1 site traffic is mitigated even with the SHA's egress restriction at the Key West Avenue entrance for the intersection of Broschart Road/Diamondback Drive and Key West Avenue with the second left turn lane from Key West Avenue onto Broschart Road. MCDPW&T supports the granting of full access onto Key West Avenue for Phase 2 so that site traffic may be mitigated.

Background:

The DANAC-Stiles property is located between Key West Avenue and Discoverly Drive, east of Great Seneca Highway. The consultant had assumed a full-movement access onto Key West Avenue. SHA's May 1, 1997 letter does not permit left turns from the site onto Key West Avenue. The proposed level of development is for a total 669,538 square feet of office space, to be built in three phases of 200,000 square feet, 200,000 square feet and with a final 269,538 square feet. We understand the developer proposes to enter into a trip mitigation agreement with MCDPW&T (and M-NCPPC) since the site is within the R & D Village policy area of the Shady Grove Study Area of the Gaithersburg Vicinity planning area. The TMA will reduce his effective level of development to 602,584 square feet of office space. Under a TMA, the peak hour trips would be:

	IN	OUT
AM	901	148
PM	179	816

Review of the improvements proposed in the April 21, 1997 TIS:

The consultant proposes a number of improvements in the March 21, 1997 TIS and the April 23, 1997 addendum to mitigate Site Traffic. The proposed improvements are discussed by intersection as listed below:

1. Key West Avenue and Shady Grove Road - The consultant proposes a second left turn lane for northbound Shady Grove Road for phase 1 development to mitigate site traffic at this intersection. This improvement can be implemented by narrowing Shady Grove Road's median and reducing the lane widths to 11 feet for both north and southbound roadways. The consultant proposes to add a third through lane for westbound Key West Avenue For Phase 3 development. Currently the third through lane on the westbound approach of Key West Avenue is striped-out because there are only two lanes west of Shady Grove Road to receive westbound traffic. The median for Key West Avenue west

of Shady Grove Road initially is 18 feet wide so it could be narrowed to permit three westbound departure lanes while retaining the reserved right turn receiving lane from southbound Shady Grove Road which is projected to carry an AM right turn movement of 1,687 for the total peak hour traffic. Details on the lane alignments on Key West Avenue between Shady Grove Road and Medical Center Drive/Omega Drive can be worked out in the future.

2. Research Boulevard and Shady Grove Road - The consultant proposes to add a second left turn lane for southbound Shady Grove Road onto Research Boulevard as part of the Phase 1 improvements to mitigate site traffic at this intersection. The proposed second left turn lane is already in place but striped out. It will result in a substantial improvement in CLV numbers and the Levels of Service provided. Some reduction of the median on Research Boulevard east of Shady Grove Road will improve the operation of the proposed double left turn lanes.
3. Darnestown Road and Shady Grove Road - the proposed new exclusive right turn lane for northbound Shady Grove Road will mitigate Phase 1 site traffic at this intersection. The Banks Farm has already committed to make this improvement.
4. Key West Avenue and Great Seneca Highway - the proposed second left turn lane for southbound Great Seneca Highway will mitigate Phase 1 site traffic at this intersection. At the present time, it is striped out. The SHA is requiring the developer to construct an acceleration lane from the site access to merge with the deceleration lane for Great Seneca Highway.
5. Great Seneca Highway and Sam Eig Highway - the proposed second left turn lane for Great Seneca Highway onto Sam Eig Highway will mitigate Phase 1 site traffic at this intersection. Sufficient right-of-way is available in the median of Great Seneca Highway to implement the second left turn lane as is sufficient right-of-way along Sam Eig Highway to create a second receiving lane for the double left turns.
6. Key West Avenue and Medical Center Drive/Omega Drive - the proposed second left turn lane from westbound Key West Highway onto Medical Center Drive will be effective in mitigating Phase 1 site traffic at this intersection. At the present time, it is striped out. Medical Center Drive has two receiving lanes to accept the proposed double left turns.
7. Broschart Road/Diamondback Drive and Key West Avenue - the proposed second left turn lane from westbound Key West Avenue onto Broschart Road will mitigate Phase 1 site traffic. Full access and egress onto Key West Avenue is needed for Phase 2 site traffic. The proposed double left turn lanes for Diamondback Drive will mitigate Phase 3

Ki Kim
DANAC-Stiles
Page 4

site traffic below background traffic CLV levels. Diamondback Drive currently has 48 feet of pavement between curbsides. The consultant proposes double left turn lanes, one through and a through/right lane with a median to separate northbound from southbound traffic. The two through lanes for Diamondback Drive are necessary to maintain its integrity as an arterial road. All curb lanes on improved Diamondback Drive should have a minimum width of 12 feet and all interior lanes should have a minimum width of 11 feet. The proposed construction of a continuous median on Diamondback Drive from Discoverly Drive to Key West Avenue will improve this segment of Diamondback Drive as well as complement the existing median on Broschart Road. It appears that the proposed lateral shift for the through and through/right lanes to meet the southbound lanes of Broschart Road will be acceptable.

I:\opd\dc\196112tis.507

cc: W. Scott Wainwright, Traffic and Parking
M. G. Habib, Traffic and Parking
Sarah Navid, Department of Permitting Services
Greg Leck

MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES
250 Hungerford Drive, 2nd Floor, Rockville, Maryland 20850-4153

Date: 5/8/97

MEMO TO: Joseph Davis, Chairman
Development Review Committee, MNCPPC

FROM: [Signature]
Permitting and Plan Review Section, MCDPS

SUBJECT: Stormwater Management Concept Plan/Floodplain Review
Preliminary Plan # 1-96112 Diverse's Stiles Property
Subdivision Review Meeting of 11/12/96

The subject plan has been reviewed to determine if it meets the requirements of Executive Regulation 5-90 for stormwater management and Executive Regulation 108-92 AM for Floodplain. The following summarizes our findings:

Area covered by plan 24.9 acres Number of lots proposed _____
Zone L-3 Proposed use: Commercial/Industrial

SM CONCEPT PLAN PROPOSED:

On-site: On Off Both
 On-site/Joint Use Central (Regional): waived under 2.a.2.b.

Existing Design Approved or Pending, Submitted on _____

Type Proposed: Infiltration Retention Detention Wetland Sand Filter

Ex. Detention: O/G Sand Filter Other _____

Waiver: On Off Both
 Approved on _____ Pending, requested on _____

Exempt Other _____

FLOODPLAIN STATUS: 100-Year Floodplain On-Site Yes No

Source of 100 Year Floodplain Delineation: M.H.F. Approved Under Review

Dam Breach Analysis Approved Under Review

SUBMISSION ADEQUACY COMMENTS:

Adequate as submitted Inadequate for evaluation

Downstream notification Floodplain

The following additional information is required for review: _____

RECOMMENDATIONS:

Approve as submitted with conditions (see comments below).

Incomplete; recommend not scheduling for Planning Board at this time.

Hold for additional information.

Comments/Recommendations: Show the SWS structures with setbacks
on the preliminary plan. Also SWS structures are
at the PUE.

cc: Steve Federline, Environmental Planning Division, MNCPPC
Morris Henderson & Schickel

enm.F:\SYMFP\RW.07/96

(301) 230-5228
tdugan@srgpe.com

July 21, 2009

Ms. Catherine Conlon
Development Review
The Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: DANAC Stiles Corporate Campus (the "DANAC Property")
Preliminary Plan No. 119961120
Key West Avenue and Great Seneca Highway
Application for APFO Validity Period Extension to July 9, 2017

Dear Ms. Conlon:

We represent DANAC Corporation, the developer of the DANAC Property located in the Gaithersburg West Master Plan area. We are enclosing with the application copies of Preliminary Plan Opinion No. 1-96112, mailed June 9, 1997,¹ and a Revised Preliminary Plan Opinion No. 1-96112R, mailed April 26, 2001. All record plats have been recorded. All infrastructure improvements have been installed.

Many external factors are affecting DANAC's ability to plan, have approved, and implement a development in substantial compliance with the applicable Master Plan and zoning classification. They include: (1) the pending Gaithersburg West Master Plan; (2) the ensuing Sectional Map Amendment; (3) the deliberations concerning the proposed CR Zone; (4) the pending State of Maryland I-270/U.S. 15 Multi-Modal Study for the existing CCT alignment; and (5) Maryland's analysis of the Planning Board's and the County Council's expected recommendation for the different, locally preferred alternative for the CCT. Once such issues are resolved, time will be necessary for DANAC to plan, have approved, and implement the development. For such reasons, we respectfully request a six (6) year extension to July 9, 2017, as explained below.

¹ The Preliminary Plan was not appealed. The Initiation Date for commencing the period during which time the plan must have been validated was originally July 9, 1997, thirty (30) days from the date of mailing of the opinion, Section 50-35(h)(1)(A). Subdivision Regulation Amendment No. 09-01 automatically extended the APFO Validity Period to July 9, 2011.

1) Background

The DANAC Property is bounded by Key West Avenue to the south, Great Seneca Highway to the west, Diamondback Drive to the east, and Decoverly Drive to the north. The DANAC Property is improved with about 367,681 SF of Gross Floor Area ("GFA"), slightly over one-half of the total 669,538 SF GFA, all approved as office development. A 295,811 SF GFA, three-building, complex sits at the southwest corner, near the corner of Key West Avenue and Great Seneca Highway. The corner complex houses two businesses. JDL Software, the successor to Manugistics, develops business solutions software, including inventory software, an essential tool in today's worldwide competitive marketplace. The other user, Theracom Pharmaceuticals, is a leading provider of services to pharmaceutical and biotech manufacturers. On the north side of the DANAC Property, next to the existing dedicated CCT right of way and planned CCT transitway stop, the Metropolitan Regional Informational Systems has its 71,870 SF GFA headquarters. It develops and maintains the computer databases for the multiple listing service for all residential realtors. Thus, the DANAC Property built density is as follows:

Description	Gross Floor Area
9707 Key West Ave. Metropolitan Regional Informational Systems, Inc.	71,870
9713, 9715, and 9717 Key West Ave. JDL Software/Theracom Pharmaceuticals	295,811
Subtotal	367,681
Remaining Unbuilt Density	301,857
Total Approved Density	669,538

The DANAC Property is improved pursuant to Preliminary Plan 119961120 (formerly 1-96112), as amended, and Site Plan 82000018 (formerly 8-800018), as amended.

2) Subdivision Regulations

The pertinent Subdivision Regulation provisions follow:

a) Section 50-35(h)(2)(B). Duration of validity period.

An approved preliminary plan for a multi-phase project remains valid for the period of time allowed in the phasing schedule approved by the Planning Board. Each phase must be assigned a validity period, the duration of which must be proposed by the applicant as part of an application for preliminary plan approval

or for preliminary plan revision or amendment, and approved on a case-by-case basis by the Planning Board, after considering such factors as the size, type, and location of the project. The time allocated to any phase must not exceed 60 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2009, but before April 1, 2011, and 36 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2001. The cumulative validity period of all phases must not exceed the APFO validity period which runs from the date of the initial preliminary plan approval, including any extension granted under Section 50-20(c)(5). A preliminary plan for a phase is validated when a final record plat for all property delineated in that phase of the approved preliminary plan is recorded in the County Land Records.

b) Section 50-20(c)(5)(A-C):

The Planning Board may extend a determination of adequate public facilities for a preliminary plan of subdivision for non-residential development beyond the otherwise applicable validity period if:

- (A) at least 40% of the approved development has been built, is under construction, or building permits have been issued, such that the cumulative amount of development will meet or exceed 40%;
- (B) all of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and
- (C) the development is an "active" project, meaning that either occupancy permits have been issued or a final building permit inspection has been passed for at least 10 percent of the project within the 4 years before an extension request is filed,

....

c) Section 50-20(c)(7):

- (7) For each extension of an adequate public facilities determination;
 - (A) The applicant must submit a new development schedule or phasing plan for completion of the project to the Board for approval;
 - (B) the applicant must not propose any additional development beyond the amount approved in the original determination;
 - (C) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;
 - (D) the applicant must file an application for an extension with the Board before the applicable validity period has expired; and
 - (E) the Board may require the applicant to submit a traffic study to help the Board decide if the extension would promote the public interest.

d) Section 50-20(c)(8):

- (8) The length of any extension of the validity period, or all extensions taken together if more than one extension is allowed, under paragraph (5) must be based on the approved new development schedule under paragraph 7(A), but must not exceed 2 ½ years for any development with less than 150,000 square feet, or 6 years for any development with 150,000 square feet or greater. The extension expires if the development is not proceeding in accordance with the phasing plan unless the Board has approved a revision to the schedule or phasing plan.

3) Explanation

a) Compliance with 50-35(h)(2)(B)

The applicant secured all governmental approvals necessary as conditions precedent for plat recordation, as explained below. The preliminary plan conditions of approval pertaining to the timing for recording final record plats is

provided at pages 1 and 2 of the June 9, 1997 Opinion. The conditions have not changed since and read as follows:

(2) Record plats for this large scale project may be recorded in stages that allow for a nine (9) year validity period for the preliminary plan based on the following phases:

Phase 1: During Phase 1, the applicant will record final record plats for not less than 200,000 square feet of development. The initiation date will commence 30 days after mailing of the Planning Board's opinion or the end of any appeal period, as provided in the subdivision regulations.

Phase 2: Phase 2 will commence 36 months after the Initiation Date. During Phase 2, the applicant will record final record plats for not less than an additional 200,000 square feet of development. Thus, at the end of Phase 2 subdivision record plats for a total of not less than 400,000 square feet will have been recorded.

Phase 3: Phase 3 will commence 72 months after the Initiation Date. During Phase 3, the applicant will record final record plats for the remainder of the gross square footage for the DANAC project. Thus, at the end of Phase 3, final record plats for a total of 669,538 square feet of gross floor area will have been recorded.

The final record plats were recorded for all property delineated on the approved preliminary plan, as follows:

Plats Recorded on 6/8/2000, Plat Book 198:

Plat No. 21468 for Lot 3, Block D, Decoverly Hall

Plat No. 21469 for Lots 1&2, Parcel A, and Outlot 1, Block D, Decoverly Hall

Resubdivision Plat Recorded 1/30/01

Plat No. 21719 for Lot 4, Block D, (which is a resubdivision of Lots 1&2 into a single record plat)

Thus, the preliminary plan was validated well within the APFO Validity Period.

b) Compliance with Section 50-20(c)(5)(A-C).

DANAC meets the criteria for Section 50-20(c)(5)(A-C) whereby the Planning Board may grant the requested six (6) year extension.

Approximately 55% of the project has been built, which obviously is greater than the minimum of 40%, (which translates to approximately 587 AM peak hour and 524 PM peak hour trips of the total number of trips projected), based on the Traffic Study enclosed with the application.²

All required infrastructure under the Preliminary Plan conditions of approval have been installed. Please see the Infrastructure Improvements Status memorandum enclosed with the application.

The development is "active." On or about February 2008, i.e., within the last 4 years, the final building permit inspection was issued for 9707 Key West Avenue. The building constitutes 71,870 SF of gross floor area or 10.7% of the total approved project, which is greater than the minimum threshold requirement of 10%. Please see the Development Status Summary enclosed with the application. Such recently permitted area translates to about 122 AM peak hour and 107 PM peak hour trips of the total number of trips. Please note that such 122 AM peak hour and 107 PM peak hour trips are part of the 587 AM peak hour and 524 PM peak hour trips, described earlier.

c) Grounds for Granting the Extension.

As noted earlier, many external factors are affecting DANAC's ability to plan, have approved, and implement a development in substantial compliance with the applicable Master Plan and zoning classification. They include: (1) the pending Gaithersburg West Master Plan; (2) the ensuing Sectional Map Amendment; (3) the deliberations concerning the proposed CR Zone; (4) the pending State of Maryland I-270/U.S. 15 Multi-Modal Study for the existing CCT alignment; and (5) Maryland's analysis of the Planning Board's and the County

² The enclosed traffic study assumes that the existing, built project is comprised of about 350,000 SF of gross floor area and that the unbuilt, remaining density is about 309,000 SF of gross floor area, for a total of 659,000 SF of gross floor area. As explained above, the actual existing, built project is comprised of about 367,681 SF of gross floor area and that the unbuilt, remaining density is 301,857 SF of gross floor area, for a total of 669,538 SF of gross floor area. The differences produce slightly different trip generation numbers as follows:

Description	AM Peak Hour	PM Peak Hour
Traffic Study Assumed Existing On Site	587	524
Actual Existing On Site	617	549
Traffic Study Assumed Unbuilt Density	525	445
Actual Unbuilt Density	513	435

Council's expected recommendation for the different, locally preferred alternative for the CCT alignment.

The Gaithersburg West Master Plan deliberations include the possibility of both preserving and eliminating the existing CCT alignment and the related transitway stop to be located on the north side of the DANAC Property. Such location is the current planned location under the 1990 Approved and Adopted Shady Grove Study Area Master Plan. It is also the planned location under the I-270/U.S. 15 Multi-Modal Study. However, the Gaithersburg West Master Plan deliberations also address locating the CCT alignment and the related transit stop at or near the east side of the DANAC Property.

In addition to discussions about the different locations of the CCT alignment and the transit stop, the pending Master Plan update is addressing that the DANAC Property should take better advantage of the transitway stop. DANAC's current I-3 Zoning classification, with a density of 0.5 FAR, might be changed to a higher density, mixed use zone such as the pending new CR Zone, with an overall greater density, a different mix of uses and density of uses, and a greater maximum height. Such considerations affect DANAC's ability to plan, have approved, and implement a development that would comply with the Zoning Ordinance and that would be in substantial compliance with the Gaithersburg West Master Plan.

We understand that the Gaithersburg West Master Plan process and the related I-270/U.S. 15 Multi-Modal Study are expected to proceed as follows:

Description	Timing
Planning Board transmits its Draft and the County Executive Reviews it	July and August of 2009
Council Hearing Notice Period, and Council Review of the Gaithersburg West Master Plan; I-270/U.S. 15 Multi-Modal Study report including the locally preferred alternative	September 2009 through March 2010
Planning Commission Adoption of the Master Plan, the subsequent Sectional Map Amendment, and Publication	April 2010 through August 2010
I-270/U.S. 15 Multi-Modal Study continuation if the Governor and Secretary of Transportation adopt the	Winter/Spring 2010 through Winter/Spring 2011

locally preferred alternative	
I-270/U.S. 15 Multi-Modal Study public hearings as a follow on to the environmental and other studies for the locally preferred alternative	Winter/Spring 2011 through Spring 2012

Messrs. Russ Anderson and Rich Kiegel, Maryland's representatives for the I-270/U.S. 15 Multi-Modal Study, recently testified before the Planning Board on June 11, 2009 that if the Planning Board's locally preferred alternative were adopted for further analysis by the Governor and the Secretary of Transportation, the completion of the Study could be delayed for an additional year. Following such a one-year environmental study, and the subsequent round of public hearings and governmental deliberations, the Study might not be completed and accepted until sometime near the end of 2011 or into 2012.

Also, we are assuming that the pending legislation associated with the proposed changes to the LSC Zone and with the recently proposed CR Zone will have been completed during such time frame. As provided in the current draft legislation changing the LSC Zone and the draft legislation for the new CR Zone, DANAC would have the choice of developing under the existing I-3 Zone or under the new zone. We anticipate that the new zoning classification would be the CR Zone.

The DANAC project will be of a scope and level of complexity that would require several years to implement. Once the above governmental matters are resolved, and with a six (6) year extension from July 9, 2011, the DANAC folks would have time to plan, have approved, and implement a development through the subdivision process.

d) Compliance with Section 50-20(c)(7):

i) Phasing Schedule.

In accordance with Section 50-20(c)(7), DANAC provides the following Phasing Schedule for the remaining density:

- (1) Phase 1: Building permits for 75,000 SF of the Remaining Density to be issued on or before July 9, 2015. Please note that if the I-270/U.S. 15 Multi-Modal Study is not concluded until the spring of 2012, a deadline of July 9, 2015 would leave DANAC with only a three (3) year window in which to plan, have approved, and implement the square footage. If the Phase 1 were to include even greater density,

it is likely that even greater time than three (3) years would be necessary.

- (2) Phase 2: Building permits for 100,000 SF of the Remaining Density to be issued on or before July 9, 2016. Such deadline would only be four (4) years after the I-270/U.S. 15 Multi-Modal Study would have been concluded in the spring of 2012.
- (3) Phase 3: Building permits for 133,738 SF of the Remaining Density to be issued on or before July 9, 2017. Such deadline would only be five (5) years after the I-270/U.S. 15 Multi-Modal Study would have been concluded in the spring of 2012.

ii) In the Public Interest

Granting the extension would promote the public interest.

DANAC constructed or contributed to the construction of eleven (11) roadway intersections. As evidenced by the enclosed Traffic Study, granting the requested extension for DANAC's project would have little additional impact on the roadway system.

The circumstances underlying the purpose of the traffic study are not the same as a typical LATR analysis. A typical LATR analysis considers a proposed project that has not satisfied the County's Adequate Public Facilities Ordinance. By contrast, the DANAC Stiles site already obtained preliminary plan and site plan approval. About one-half of the project has been developed. DANAC Stiles constructed or participated in 11 intersection improvements and thereby provided the necessary additional capacity to the transportation system caused by the entire project of about 669,538 square feet of office space. In estimating such capacity needs, the earlier LATR study considered: (1) existing conditions; (2) background traffic of then existing or proposed projects; and (3) the then proposed DANAC Stiles project. In the instant case, the analysis "places" projects approved after DANAC "in front of" DANAC's remaining, not yet developed, capacity. Such positioning allocates capacity (formerly allocated to and/or provided by DANAC for DANAC's remaining capacity) to those projects approved later than DANAC. Notwithstanding the merits/equity (or not) of such an analytical approach, the traffic report concludes that the traffic to be added to the transportation system by DANAC's remaining, not yet developed, capacity would have an immaterial impact to the three intersections that already exceed the congestion standard. Further, DANAC's additional capacity would not cause any other intersections to exceed the congestion standard.

Also, DANAC has already dedicated right of way for the CCT, and in light of the pending CCT deliberations concerning the locally preferred alternative, it is possible that DANAC would be required to dedicate even more of its property for a right of way to accommodate the locally preferred alternative. Imposing additional infrastructure as a condition of approval for extending DANAC's APFO Validity Period, therefore, would be unduly burdensome, contrary to Subdivision Regulation 50-20(c)(7)(C), and *not* in the public interest.

For the above reasons, extending DANAC's APFO Validity Period as requested, without the imposition of additional off site improvements, would be fair and would promote the public interest.

- 4) The Requested Extension Is In Line With the Extension Granted a Similar Project, the Traville Project, in the Life Sciences Center

As explained below, the requested extension to July 9, 2017, with phasing of improvements occurring before the final deadline, is consistent with the extension that the Planning Board has granted for the Traville project. Thus, granting DANAC a similar extension would be fair and consistent.

Traville Project = Preliminary Plan No. 119970220

The Planning Board granted an extension until October 12, 2015 based upon the Traville project being subject to the Gaithersburg West Master Plan deliberations. With the enactment of SRA 09-01, Traville's APFO Validity Period deadline is now October 12, 2017. As noted in the April 25, 2008 Planning Staff memorandum,³ at pages 2-3:

[T]he implementation of [the Gaithersburg West Master Plan] recommendation in the master plan would likely require significant changes to land uses and infrastructure improvements for many properties in the planning area, including the [Traville] property. In the event that significant land use changes are recommended for the [Traville] property, the applicant would likely not be able to develop the property accordingly before the current APF validity period expires. The APF validity extension requested by the applicant will allow the applicant to more fully participate in the long-term goals of the master plan update without the short-term concern of the expiration of its APF validity.

³ MCPB Item #10, 5/8/08.

Participation by the applicant will advance both the County's planning and economic objectives and the applicant's ability to successfully develop the property as a significant component of the County's life sciences industry.

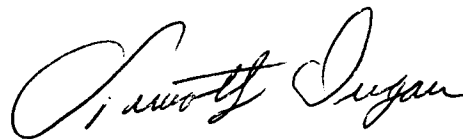
The DANAC Property's future development depends even more on the outcome of the pending government deliberations than the Traville project, because a CCT transitway stop and the CCT right of way will be located on the DANAC Property. DANAC must participate in the Gaithersburg West Master Plan update, which is expected to conclude sometime in the spring or early summer of 2010, through the enactment of a Sectional Map Amendment. Because of its location with reference to the CCT alignment and the DANAC transitway stop, DANAC must actively participate in the I-270/U.S. 15 Multi-Modal Study, which, as noted earlier, is not expected to be concluded until the end of 2011 or the spring of 2012, because an additional environmental study is expected if the local preferred alternative is adopted. Nonetheless, DANAC is only requesting an extension that would provide roughly the same APFO Validity Period as the nearby Traville project.

5) Conclusion

Many external factors are affecting DANAC's ability to plan, have approved, and implement a development in substantial compliance with the applicable Master Plan and zoning classification. They include: (1) the pending Gaithersburg West Master Plan; (2) the ensuing Sectional Map Amendment; (3) the deliberations concerning the proposed CR Zone; (4) the pending State of Maryland I-270/U.S. 15 Multi-Modal Study for the existing CCT alignment; and (5) Maryland's analysis of the Planning Board's and the County Council's expected recommendation for the different, locally preferred alternative for the CCT. Once such issues are resolved, time will be necessary for DANAC to plan, have approved, and implement the development. For the above reasons, DANAC respectfully requests that the Planning Board extend DANAC's existing APFO Validity Period to July 9, 2017, which would otherwise expire on June 9, 2011, so that DANAC may have adequate time to adapt to and conform with what Montgomery County and the State of Maryland ultimately decide.

Please call with any comments, questions and instructions. Thank you.

Very truly yours,



Timothy Dugan

Enclosures

cc: Mr. Eugene A. Carlin
Mr. John F. Jaeger
Mr. John F. Jaeger, Jr.
Mr. C. Marty Bates
Mr. Raymond Burns
Mr. James Hendricks
Mr. Edward Papazian

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AUG -9 2010

(301) 230-5228
tdugan@srgpe.com

DEVELOPMENT

August 2, 2010

Ms. Catherine Conlon
Development Review
The Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Cover Sheet for Supplement to the APFO Validity Period Extension Application
DANAC Stiles Corporate Campus (the "DANAC Property")
Preliminary Plan No. 119961120
Key West Avenue and Great Seneca Highway
Application for APFO Validity Period Extension
From July 9, 2011 to July 9, 2017

Dear Ms. Conlon:

I am submitting materials to supplement the materials already submitted with the July 21, 2009 APFO Validity Period Extension application. The following chart indicates the new submittals and those that I trust are already in M-NCPPC's file. Should you need any documents, please so inform me. I understand that the likely Planning Board hearing will be scheduled for late September or early October.

Document	Comment
Extension Request Form	Submitted with this package
Filing fee	Already submitted
Copy of approved preliminary plan	Already submitted
Notice List	None required.
Current valid Planning Board Opinion(s)	Already submitted.
Letter justifying request	Submitted with this package.
Prior extension approvals	None.
Traffic study	Already submitted.
June 9, 1997 Preliminary Plan Opinion	Already submitted.

Document	Comment
April 26, 2001 Preliminary Plan Opinion	Already submitted.
July 8, 2009 Development Status Summary prepared by Urie Bates	Already submitted.
Infrastructure Improvements Status prepared by Macris, Hendricks and Glascock	Already submitted.
July 2009 Traffic Impact Analysis	Already submitted.

Thank you for your consideration. Please call with any comments, questions and instructions.

Very truly yours,



Timothy Dugan

cc: Mr. Eugene A. Carlin
Mr. John F. Jaeger
Mr. John F. Jaeger, Jr.
Mr. C. Marty Bates
Mr. Raymond Burns
Mr. James Hendricks
Mr. Edward Papazian

RECEIVED
AUG -9 2010

DEVELOPMENT

August 2, 2010

Ms. Catherine Conlon
Development Review
The Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Supplemental Letter of Explanation
DANAC Stiles Corporate Campus (the "DANAC Property")
Preliminary Plan No. 119961120
Key West Avenue and Great Seneca Highway
Application for APFO Validity Period Extension
From July 9, 2011 to July 9, 2017

Dear Ms. Conlon:

We represent DANAC Corporation, the developer of the DANAC Property located in the "Great Seneca Science Corridor Master Plan" (formerly known as the "Gaithersburg West Master Plan") (the "Great Seneca Master Plan"). DANAC's undeveloped Lot 7, of about 7 acres, remains to be developed. About one year ago, we filed an application for an extension the APFO Validity Period to July 9, 2017. DANAC satisfies the preconditions for applying for the extension, as explained below. Since last year, the Great Seneca Master Plan has been approved and adopted. Lot 7 has been rezoned to the CR Zone (CR 2, C 1.5, R 1.5, H 150). The State of Maryland I-270/U.S. 15 Multi-Modal Study for the location of the CCT alignment continues. Thus, the selection of the Locally Preferred Alternative (the "LPA") remains a threshold issue. Once resolved, DANAC must have time to plan, to have approved, and to implement the development of Lot 7. For such reasons, we respectfully request a six (6) year extension to July 9, 2017, as explained below. Without the extension, the APFO Validity Period would expire on July 9, 2011.

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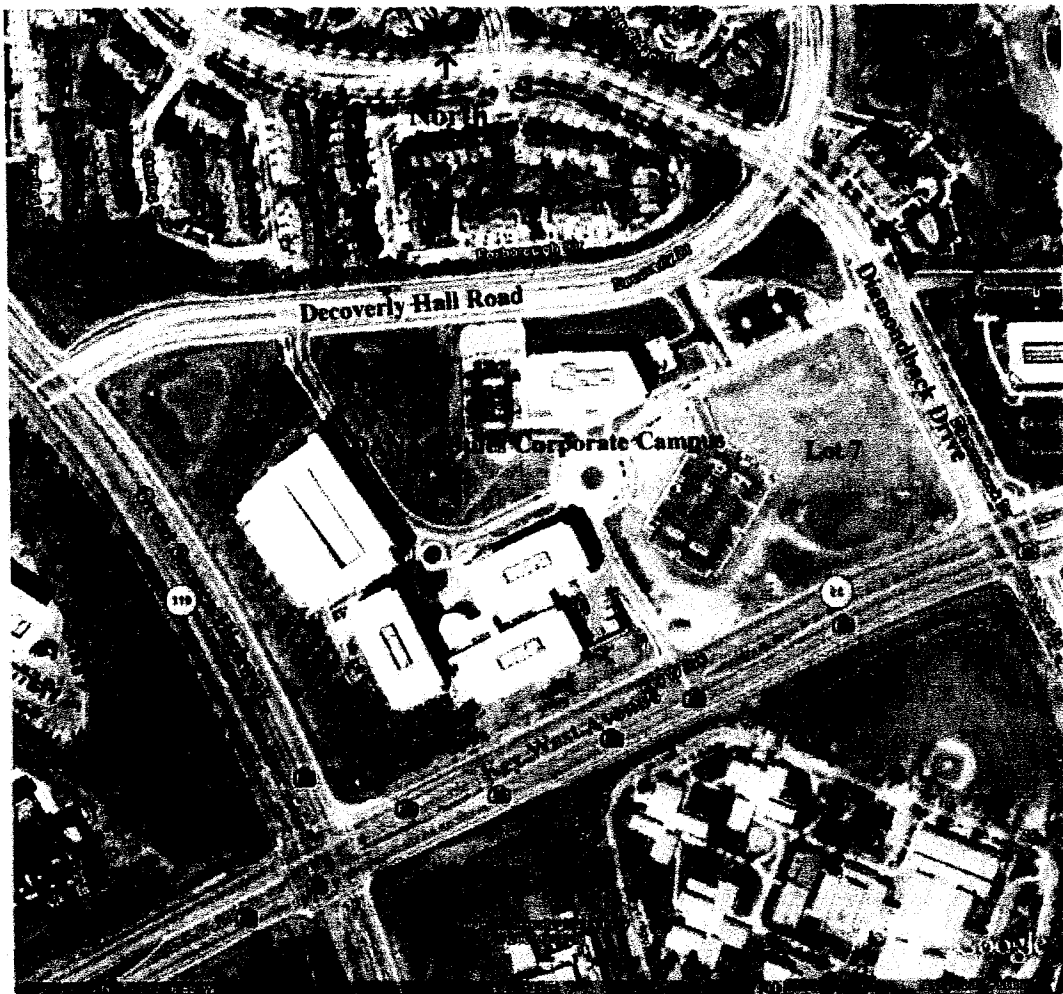
1) Background

The DANAC Property is bounded by Key West Avenue to the south, Great Seneca Highway to the west, Decoverly Drive to the north and Diamondback Drive to the east. ~~The DANAC Property is improved with about 367,681 SF of Gross Floor Area ("GFA"), slightly over one-half of the total 669,538 SF GFA. All of the existing development was approved as office.~~ A 295,811 SF GFA, three-building, complex sits at the southwest corner, near the corner of Key West Avenue and Great Seneca Highway. The corner complex houses two businesses. One is JDL Software, the successor to Manugistics. It develops business solutions software, such as inventory software, an essential tool in today's worldwide competitive marketplace. The other business is Theracom Pharmaceuticals. It is a leading provider of services to pharmaceutical and biotech manufacturers. On the north side of the DANAC Property, next to the existing dedicated CCT right of way and planned CCT transitway stop, the Metropolitan Regional Informational Systems, Inc. ("MRIS") has its 71,870 SF GFA headquarters. It develops and maintains the computer databases for the multiple listing service for all residential realtors.

The DANAC Property built density is as follows:

Description	Gross Floor Area
9707 Key West Ave. Metropolitan Regional Informational Systems, Inc.	71,870
9713, 9715, and 9717 Key West Ave. JDL Software/Theracom Pharmaceuticals	295,811
Subtotal	367,681
Remaining Unbuilt Density	301,857
Total Approved Density	669,538

An aerial follows:



The DANAC Property is improved pursuant to Preliminary Plan 119961120 (formerly 1-96112), as amended, and Site Plan 82000018 (formerly 8-800018), as amended.

2) Subdivision Regulations

The pertinent Subdivision Regulation provisions follow:

a) Section 50-35(h)(2)(B). Duration of validity period.

An approved preliminary plan for a multi-phase project remains valid for the period of time allowed in the phasing schedule approved by the Planning Board. Each phase must be assigned a validity period, the duration of which must be proposed by the applicant as part of an application for preliminary plan approval or for preliminary plan revision or amendment, and approved on a case-by-case basis by the Planning Board, after considering such factors as the size, type, and location of the project. The time allocated to any phase must not exceed 60 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2009, but before April 1, 2011, and 36 months after the initiation date for that particular phase for any preliminary plan approved on or after April 1, 2001. The cumulative validity period of all phases must not exceed the APFO validity period which runs from the date of the initial preliminary plan approval, including any extension granted under Section 50-20(c)(5). A preliminary plan for a phase is validated when a final record plat for all property delineated in that phase of the approved preliminary plan is recorded in the County Land Records.

b) Section 50-20(c)(5)(A-C):

The Planning Board may extend a determination of adequate public facilities for a preliminary plan of subdivision for non-residential development beyond the otherwise applicable validity period if:

- (A) at least 40% of the approved development has been built, is under construction, or building permits have been issued, such that the cumulative amount of development will meet or exceed 40%;
- (B) all of the infrastructure required by the conditions of the original preliminary plan approval has been

constructed, or payments for its construction have been made; and

- (C) the development is an "active" project, meaning that either occupancy permits have been issued or a final building permit inspection has been passed for at least 10 percent of the project within the 4 years before an extension request is filed,

....

c) Section 50-20(c)(7):

(7) For each extension of an adequate public facilities determination;

- (A) The applicant must submit a new development schedule or phasing plan for completion of the project to the Board for approval;
- (B) the applicant must not propose any additional development beyond the amount approved in the original determination;
- (C) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;
- (D) the applicant must file an application for an extension with the Board before the applicable validity period has expired; and
- (E) the Board may require the applicant to submit a traffic study to help the Board decide if the extension would promote the public interest.

d) Section 50-20(c)(8):

- (8) The length of any extension of the validity period, or all extensions taken together if more than one extension is allowed, under paragraph (5) must be based on the approved new development schedule under paragraph 7(A), but must not exceed 2 ½ years for any development with less than 150,000 square feet, or 6 years for any development with 150,000 square feet or greater. The extension expires if the development is not proceeding in

accordance with the phasing plan unless the Board has approved a revision to the schedule or phasing plan.

3) Explanation

a) Compliance with 50-35(h)(2)(B)

DANAC secured all governmental approvals necessary as conditions precedent for plat recordation. The final record plats were recorded for all property delineated on the approved preliminary plan, as follows:

Plats Recorded on 6/8/2000, Plat Book 198:

Plat No. 21468 for Lot 3, Block D, Decoverly Hall

Plat No. 21469 for Lots 1&2, Parcel A, and Outlot 1, Block D, Decoverly Hall

Resubdivision Plat Recorded 1/30/01

Plat No. 21719 for Lot 4, Block D, (which is a resubdivision of Lots 1&2 into a single record plat)

Thus, the preliminary plan was validated well within the record plat validity period.

b) Compliance with Section 50-20(c)(5)(A-C).

~~DANAC meets the criteria for Section 50-20(c)(5)(A-C) whereby the Planning Board may grant the requested six (6) year extension.~~

~~Approximately 55% of the project has been built, which exceeds the 40% minimum, (which translates to approximately 587 AM peak hour and 524 PM peak hour trips of the total number of trips projected), based on the Traffic Study enclosed with the application.¹~~

~~All required infrastructure under the Preliminary Plan conditions of approval have been installed. Please see the Infrastructure Improvements Status memorandum enclosed with the application.~~

¹ The enclosed traffic study assumes that the existing, built project is comprised of about 350,000 SF of gross floor area and that the unbuilt, remaining density is about 309,000 SF of gross floor area, for a total of 659,000SF of gross floor area. As explained above, the actual existing, built project is comprised of about 367,681 SF of gross floor area and that the unbuilt, remaining density is 301,857 SF of gross floor area, for a total of 669,538SF of gross floor area. The differences produce slightly different trip generation numbers as follows:

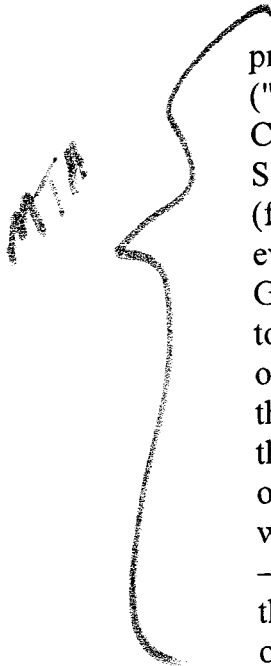
Description	AM Peak Hour	PM Peak Hour
Traffic Study Assumed Existing On Site	587	524
Actual Existing On Site	617	549
Traffic Study Assumed Unbuilt Density	525	445
Actual Unbuilt Density	513	435

The development is "active." On or about February 2008, i.e., within the last 4 years, the final building permit inspection was issued for 9707 Key West Avenue. The building constitutes 71,870 SF of gross floor area or 10.7% of the total approved project, which is greater than the minimum threshold requirement of 10%. Please see the Development Status Summary enclosed with the application. Such recently permitted area translates to about 122 AM peak hour and 107 PM peak hour trips of the total number of trips. Please note that such 122 AM peak hour and 107 PM peak hour trips are part of the 587 AM peak hour and 524 PM peak hour trips, described earlier.

 c) Grounds for Granting the Extension.

As explained below, the development of Lot 7 may only proceed after the State determines the Locally Preferred Alternative for the CCT. Further, Lot 7's development will be of a scope and level of complexity that will require several years to implement.

i) State Determination of the Location of the Locally Preferred Alternative for the CCT Alignment

 The Maryland Mass Transit Administration (the "MTA") is in the process of preparing a Supplemental Draft Environmental Impact Study ("DEIS"). It is evaluating the CCT alternative alignments provided by the County Council through the approved and adopted Master Plan for the Life Sciences Center, i.e., the "Great Seneca Science Corridor Master Plan" (formerly known as the "Gaithersburg West Master Plan"). It is also evaluating the CCT alternative alignments provided by the City of Gaithersburg for the Crown Farm and the Kentlands. The MTA is planning to hold a public hearing about the DEIS in late September or early October of 2010. After the MTA obtains all comments, and carefully considers them, they will prepare a summary of the CCT project, from its inception to the present, to be considered by Governor Martin O'Malley and Secretary of Transportation Beverley Swaim-Staley. The Governor and the Secretary will choose the "locally preferred alternative" ("LPA") (generally speaking - the mode and the alignment). We do not know when the Governor and the Secretary will choose an alignment. We can only predict that it might occur by the end of 2010 or the spring of 2011.

The alignment options through or near the Crown Farm affect the alignment through or near the DANAC Property as follows:

1. One option would run the CCT alignment through the Crown Farm and continue on the east side of the DANAC Property along Diamondback Drive. A station would be located on the DANAC

Property's east side. The alignment would continue further southward into the rest of the Life Sciences Center. Such alignment would follow the recommendation of the recently approved and adopted Great Seneca Science Corridor Master Plan (formerly known as the "Gaithersburg West Master Plan").

2. Another alignment option would run through the Crown Farm and continue on the north side of the DANAC Property along Decoverly Drive. Through such section, it would follow the alignment described in the 1990 Shady Grove and Vicinity Master Plan. A station would be located on the DANAC Property's north side. Such alignment would not follow entirely the recommendation of the recently approved and adopted Great Seneca Science Corridor Master Plan (formerly known as the "Gaithersburg West Master Plan").
3. The Crown Farm property is not yet developed. The Maryland Historical Trust ("MHT") considers it historic, in its entirety. Crown Farm is expected to begin this fall. The MHT will be asked to reduce the historic boundary. A generally-supported farm house preservation plan exists would reduce the historic boundary and facilitate the CCT passing through the Crown Farm. I understand from the MHT that their reconsideration process takes about six months, once started. The process has not started. Unless the historic boundary is reduced, the MTA must continue to include alignment options that avoid the Crown Farm entirely. Avoidance options locate the CCT alignment along Omega Drive and Key West Avenue. At the intersection of Key West Avenue and Diamondback Drive (to the north of the intersection)/Broschart Road (to the south of the intersection), the alignment might continue in one of two different directions:
 - A. One would continue northward along Diamondback Drive and then westward along Decoverly Drive with both "legs" located along the DANAC Property.
 - B. Another would continue southward, and not touch the DANAC Property. it would proceed southward to the rest of the Life Sciences Center area.

The MHT is expected to reduce the historic boundary; therefore, the CCT alignment will pass through the Crown Farm and along either the north side or the east side of the DANAC Property.

Once the State selects the Locally Preferred Alternative ("LPA"), the LPA will be the basis for the MTA's first submittal to the Federal Transit Administration ("FTA"). If the FTA considers the CCT project worthwhile, it will permit Maryland to proceed to the next stage of review. The MTA hopes to have FTA's approval to continue and to proceed with preliminary engineering by the summer of 2011.

~~Similar to the MTA process, the time necessary for determining the LPA suspends DANAC's ability to plan for and develop Lot 7, because the CCT alignment will occupy a significant amount of space on Lot 7. Without knowing the CCT's location, DANAC is unable to make critical development decisions.~~

Clearly, DANAC has no control over the pace of Maryland's or the FTA's decision-making.

ii) CR Zone

The DANAC Property is one of two properties zoned CR in the Great Seneca Master Plan area. We are not aware of any pending subdivision applications for a CR Zone development. Although we welcome the opportunity to develop Lot 7, given the expected "give and take" inherent to the CR Zone process, we anticipate that its newness and its complexity will cause the subdivision process to take more time than a traditional subdivision application, such as under the I-3 Zone, Lot 7's former zoning classification.²

iii) DANAC's Location

Providing adequate time to plan and develop the DANAC Property, and particularly Lot 7, is a prudent course of action and in the public interest.

DANAC's central location in the Life Sciences Center area warrants careful planning to take the best advantage of available and future infrastructure improvements with private improvements on the DANAC Property and those nearby.

As for roadways, it is at the corner of Great Seneca Highway and Key West Avenue, two highways that feed the Life Sciences Center. The Sam Eig Highway and its connection to I-270 are just north of the property. As much as the public transit infrastructure will complement the area,

² DANAC does not waive its option to proceed under the I-3 Zone pursuant to Section 59-C-15.9.

roadways will remain a significant infrastructure element to the development of the area. We should be sure to allow for adequate time to develop a property such as Lot 7 which is located near several key roadways.

As for public transportation, as explained elsewhere, the DANAC Property and Lot 7, in particular, will be a key location for a transit stop and for the location of the CCT right of way. Such a significant infrastructure improvement will require extra coordination with public agencies so that the private and public improvements are integrated as well as possible.

~~Granting the APFO extension to July 9, 2017 is in the public interest because it will provide time to plan for and integrate the private and public investment in and around the DANAC Property.~~

d) Compliance with Section 50-20(c)(7):

i) Phasing Schedule.

~~In accordance with Section 50-20(c)(7), and in light of the above explanation, DANAC expects that the remaining density would be developed in one phase on Lot 7. Therefore, building permits for the remaining density would have to be issued on or before July 9, 2017.~~

ii) In the Public Interest

~~Granting the extension would promote the public interest.~~

~~DANAC constructed or contributed to the construction of eleven (11) roadway intersections. As evidenced by the Traffic Study, granting the requested extension for DANAC's project would have little additional impact on the roadway system.~~

The circumstances underlying the purpose of the traffic study are not the same as a typical LATR analysis. A typical LATR analysis considers a proposed project that has never satisfied the County's Adequate Public Facilities Ordinance. By contrast, the DANAC Stiles site already obtained preliminary plan and site plan approval. About one-half of the project has been developed. DANAC Stiles constructed or participated in 11 intersection improvements and thereby provided the necessary additional capacity to the transportation system caused by the entire project of about 669,538 square feet of office space. In estimating such capacity needs, the earlier LATR study considered: (1) existing conditions; (2) background traffic of then existing or proposed projects; and (3) the then proposed DANAC Stiles project. In the instant case, the analysis "places" projects approved after DANAC "in front of" DANAC's remaining, not yet developed, capacity. Such

positioning allocates capacity (formerly allocated to and/or provided by DANAC for DANAC's remaining capacity) to those projects approved later than DANAC. Notwithstanding the merits/equity (or not) of such an analytical approach, the traffic report concludes that the traffic to be added to the transportation system by DANAC's remaining, not yet developed, capacity would have an immaterial impact to the three intersections that already exceed the congestion standard. Further, DANAC's additional capacity would not cause any other intersections to exceed the congestion standard.

DANAC has already dedicated right of way for the CCT along the north side of the DANAC Property. In light of the pending CCT deliberations concerning the Locally Preferred Alternative, it is possible that DANAC would be required to dedicate even more of its property for a right of way to accommodate the locally preferred alternative. Imposing additional infrastructure as a condition of approval for extending DANAC's APFO Validity Period, therefore, would be unduly burdensome, contrary to Subdivision Regulation 50-20(c)(7)(C), and *not* in the public interest.

For the above reasons, extending DANAC's APFO Validity Period as requested, without the imposition of additional off site improvements, would be fair and would promote the public interest.

4) ~~The Requested Extension Is In Line With the Extension Granted a Similar Project, the Traville Project, in the Life Sciences Center~~

As explained below, the requested extension to July 9, 2017, with phasing of improvements occurring before the final deadline, is consistent with the extension that the Planning Board has granted for the Traville project, Preliminary Plan No. 119970220. Granting DANAC a similar extension period would be fair and consistent.

The Planning Board granted an extension until October 12, 2015 based upon the Traville project being subject to the Gaithersburg West Master Plan deliberations. With the enactment of SRA 09-01, Traville's APFO Validity Period deadline is now October 12, 2017. As noted in the April 25, 2008 Planning Staff memorandum,³ at pages 2-3:

[T]he implementation of [the Gaithersburg West Master Plan] recommendation in the master plan would likely require significant changes to land uses and infrastructure improvements for many properties in the planning area,

³ MCPB Item #10, 5/8/08.

including the [Traville] property. In the event that significant land use changes are recommended for the [Traville] property, the applicant would likely not be able to develop the property accordingly before the current APFO validity period expires. The APFO validity extension requested by the applicant will allow the applicant to more fully participate in the long-term goals of the master plan update without the short-term concern of the expiration of its APFO validity. Participation by the applicant will advance both the County's planning and economic objectives and the applicant's ability to successfully develop the property as a significant component of the County's life sciences industry.

DANAC's development of Lot 7 depends even more on the outcome of the pending government deliberations than the Traville project, because a CCT transitway stop and the CCT right of way will be located on the DANAC Property.

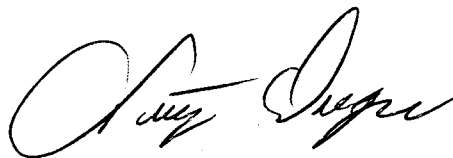
Because of the DANAC Property's location with reference to the CCT alignment and the DANAC transitway stop, DANAC must continue to actively participate in the I-270/U.S. 15 Multi-Modal Study. Nonetheless, DANAC is only requesting an extension that would provide roughly the same APFO Validity Period as the nearby Traville project holds.

5) Conclusion

DANAC satisfies the preconditions for requesting a 6 year APFO Validity Period extension. ~~DANAC must wait for decisions concerning the pending State of Maryland I-270/U.S. 15 Multi-Modal Study for the existing CCT alignment. After the State's decision, DANAC may then plan, have approved, and implement the development of Lot 7, which will be a complex process.~~ For all of the above reasons, we respectfully request the extension to July 9, 2017.

Thank you for your consideration. Please call with any comments, questions and instructions.

Very truly yours,



Timothy Dugan

cc: Mr. Eugene A. Carlin

SHULMAN
ROGERS

GANDAL
PORDY
ECKER

Ms. Catherine Conlon
August 2, 2010
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Mr. John F. Jaeger
Mr. John F. Jaeger, Jr.
Mr. C. Marty Bates
Mr. Raymond Burns
Mr. James Hendricks
Mr. Edward Papazian

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