

APPENDIX C

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October 28, 2002

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Mr. Malcolm Shaneman
Subdivision Review Coordinator
Maryland National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 02910

Re: Fortune Parc (the "Property") - Application for Preliminary Plan of Subdivision, and Requests for a Setback Reduction from Section 59-C-5.4392(b)(2)(D) of the Zoning Ordinance, Abandonment of Right-of-Way, and Establishment of an APFO Validity Period Pursuant to 50-20(c)(3)(iii) and Preliminary Plan Validity Period Pursuant to 50-35(h)(2)b ("Phasing Schedule") of 12 Years Each

Dear Mr. Shaneman:

On behalf of Fortune Parc Development Partners, LLC, a partnership that includes the Truland Family, owners of approximately 50 acres of property zoned I-3 (Technology and business park) and located in the northwest quadrant of the I-270 interchange with Montrose Road (the "Property"), and Eakin/Youngentob Associates and Foulger/Pratt Development, Inc., development partners (collectively, the "Partnership"), we are submitting this Application for Preliminary Plan of Subdivision for mixed use development on the Property pursuant to Section 59-C-5.439 of the Zoning Ordinance for Optional Method in the I-3 Zone. The Preliminary Plan also includes approximately 1.85 acres of land zoned O-M (Office, moderate intensity) located adjacent to the Property on Montrose Road and owned by Lot 40 Limited Partnership. Lot 40 Limited Partnership has consented to including its property in the Preliminary Plan Application as indicated in the attached letter. In accordance with the recently adopted Potomac Master Plan, the Preliminary Plan proposes development of 850,000 square feet of commercial uses, including between 820,000 and 835,000 square feet of office uses between 15,000 and 30,000 square feet of retail/restaurant uses, 150 single family attached units, 450 multi-family units and associated parking facilities.

Pursuant to Section 59-C-5.4392(b)(2)(F) of the Zoning Ordinance, which provides the Planning Board can approve a reduction from required setbacks if the reduction is compatible with adjacent development, the Partnership requests a reduction from the required setbacks from I-270 (a limited access freeway) for a small section of a structured parking facility and an

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office building located adjacent to I-270 between stations 541 + 01.93 and 541 + 55.95 (approximately 54 feet in length). The right-of-way for I-270 at this point extends into the Property approximately 30 feet (maximum) in the shape of a small triangle. Section 59-C-5.4392(b)(2)(C) of the Zoning Ordinance requires a 100 foot building setback from a limited access freeway and a 50 foot parking setback. In order to maintain a sensible layout for the buildings and parking facilities proposed for this section of the project along I-270, the edge of the parking facility is proposed to be setback approximately 30 feet from the closest point of the property line and the edge of the adjacent building is setback approximately 85 feet from the closest point of the property line. As shown on the Preliminary Plan, all other parking facilities, circulation areas and office buildings proposed along I-270 meet or exceed the setback requirements. It is our understanding that there is no road surface, equipment or signage in this area of the I-270 right-of-way. Accordingly, a reduction of the required setbacks in this small section of the project is appropriate and compatible with the adjacent highway use.

Pursuant to Section 49-67A of the Montgomery County Code, the Partnership requests that the Planning Board approve the abandonment of 2,250 square foot (15 feet by 150 feet) of unused road right-of-way located in the southeastern section of the Property and shown on the Preliminary Plan in the center of proposed Parcel "P". The area was dedicated to the County in 1957 in Plat No. 5111 (the "Abandonment Area"). The Abandonment Area has not been in public use and is not necessary for anticipated future public use. Further, the abandonment will not adversely affect the public interest.

Finally, the Partnership requests approval of a 12-year APFO validity period and Phasing Schedule for the project. Given the complexity of development and market issues that are inherent in a mixed-use project of this size with a large segment of the development in office use, we believe a 12-year APFO validity period and the Phasing Schedule are warranted. The office market is not one where speculative office construction is ongoing. Therefore, it is reasonable and in the public interest to allow sufficient flexibility to respond to users in an intelligent fashion. Accordingly, we propose the following Phasing Schedule within the 12-year APFO validity period:

Phase I (expires 3 years from date of Preliminary Plan approval): 120,000 square feet of commercial development OR 150 dwelling units.

Phase II (expires 6 years from date of Preliminary Plan approval): 120,000 square feet of commercial development OR 150 dwelling units.

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Phase III (expires 9 years from date of Preliminary Plan approval): 120,000 square feet of commercial development OR 150 dwelling units.

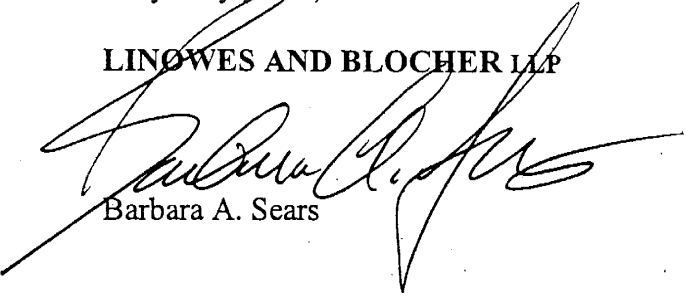
Phase IV (expires 12 years from date of Preliminary Plan approval): Remaining development.

Enclosed are the following: (1) the Application and all required plans and exhibits; (2) a check in the amount of \$44,720 for the filing fee; and (3) two sets of mailing labels for the adjoining and confronting property owners.

Upon review, if you have any questions, please do not hesitate to contact us. Thank you.

Very truly yours,

LINOWES AND BLOCHER LLP



Barbara A. Sears

cc: Mr. Robert W. Truland
Mr. Sven Sahkul
Mr. Robert Youngentob
Mr. Terry Eakin
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