



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of June 13, 2009**

DATE: June 5, 2009

SUBJECT: SP #307 SITE PLAN AMENDMENT to extend the term of the site plan; premises known as 333, 355 Old Jefferson Davis Hwy. (RPC #34-023-001 and -002)

Applicant:

MR Boundary Channel, L.L.C. (Owner)
1700 K Street, N.W.
Washington, D.C. 20006

By:

Martin Walsh
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, VA 22201-3359

C.M. RECOMMENDATION:

Deny the extension of the site plan approval beyond June 30, 2009.

ISSUES: There is an executed exchange agreement that transfers the site to the County in exchange for the County-owned Monument View SP #400 property. The residential, retail and some of the office density approved for SP #307 Twin Bridges Office was reallocated to the Monument View SP #400 property. The County intends to integrate the Twin Bridges Office site into the Long Bridge Park development as provided for in the *North Tract Area Plan*.

SUMMARY: This request to extend the term of the site plan for the Twin Bridges Office site is intended to keep the site plan in effect until the closing can occur under the July 16, 2007 land exchange agreement between the County and MR Boundary Channel.

A lien on the Twin Bridges site is held by Lehman Brothers. On September 15, 2008 Lehman Brothers filed for Chapter 11 bankruptcy protection, complicating the applicant's efforts to gain clear title to the Twin Bridges Office site. However, an executed exchange agreement exists which provides for the transfer of the 7.1 acre subject property to the County for inclusion in the

County Manager: _____

County Attorney: _____

Staff: Neil Thompson, Planning Division, DCPHD

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Long Bridge Park development as provided for in the *North Tract Area Plan*. The transfer would be in exchange for a County-owned 4.84 acre site that is the subject of the County Board's June 24, 2008 Site Plan #400 – Monument View approval. Because of this, the extension is not necessary. In addition, because of recent state code changes an extension of the site plan beyond June 30, 2009 would result in an unwanted automatic extension until 2014.

BACKGROUND: The approved site plan includes two 7-story office buildings containing a total of 345,432 square feet of commercial/office gross floor area and a 10-story hotel containing 198 rooms. The site has been vacant since the Marriott Twin Bridges hotel was demolished in 1990. The site plan approval has previously been extended four times by the County Board, with the last extension to June 30, 2009.

This site plan approval states in Condition #1 that the approval would become null and void if either: the approved plan is not under construction by June 30, 2009; or the Applicant acquires properties located between South Clark Street, 6th Street, South, South Ball Street and 10th Street; or the County acquires 333 and 355 Old Jefferson Davis Highway. Neither the applicant nor the County want the site developed as approved in 1994.

The County Board denied a General Land Use Plan and Site Plan amendment request in June 2004 for a high security, all office site plan on the Twin Bridges site. The new owners of the site, Monument Realty, filed suit over the County's denial of the site plan (*MR Boundary Channel LLC v. County Board of Arlington County, Virginia (in Chancery No. 04-426 Circuit Court of Arlington County)*). In July 2007, the County and Monument Realty entered into a negotiated exchange agreement pursuant to which the applicant would convey the subject site to the County, which would convey to the applicant 4.84 acres of land owned by Arlington County and a portion of former Clark Street, and would vacate an adjacent median. This agreement allows the County to acquire the 7.1 acre Twin Bridges site for indoor aquatics, sports and fitness facilities within a signature building creating an architectural landmark befitting the site. The applicant received County Board approval for Site Plan #400 on the County parcel for a mixed use development of 352 dwelling units, 3,512 sq ft retail, and 323,229 sq ft office in June 2008. The pending lawsuit was subsequently dismissed.

DISCUSSION: The Twin Bridges Office Site Plan was approved in October 1994. The approval was subject to a condition that stated, "This site plan approval expires three (3) years after the date of County Board approval if a footing to grade permit has not been issued for the first building to be constructed pursuant to the approved plan. Extension of this approval shall be at the sole discretion of the County Board. The owner agrees that this discretion shall include a review of this site plan and its conditions for their compliance with then current County policies for land use, zoning and special exception uses." The owners have requested and received Board approval for multiple extensions for the site plan.

Since approval of the site plan in 1994 there have been significant changes in the County's plans for the area of the site plan. First, the General Land Use Plan (GLUP) was changed to encourage moving density from the Twin Bridges site to the area of South Clark Street, 6th Street South and 10th Street South. This was done to facilitate the development of the Master Plan for Long Bridge Park. Second, the Master Plan for Long Bridge Park was approved and included an aquatic

center and open space on the Twin Bridges site. Third, Site Plan #400 was approved that utilized density from the Twin Bridges site. Site Plan #400 was approved under the assumption that the Twin Bridges Site Plan would not be implemented and that the site would be developed as a part of Long Bridge Park. Given the changes to the GLUP, the County's plans for Long Bridge Park and the approval of Site Plan #400, staff recommends that the Twin Bridges Site Plan not be extended.

Furthermore, extending the site plan approval presents a further issue. An amendment to the Virginia Code that will be effective as of July 1, 2009, would automatically extend this site plan approval until July 1, 2014 if the extension request is approved. Such a long extension is not appropriate.

CONCLUSION: An executed exchange agreement is in place between the applicant and the County concerning use of the subject site. Further, any extension of the term of approval beyond the current term of June 30, 2009 would result in an unwanted automatic extension of the site plan until July 1, 2014 because of changes to the Virginia Code. Therefore, staff recommends denial of the request for extension of this site plan.

PREVIOUS COUNTY BOARD ACTIONS:

May 18, 1955	Approved rezoning Z-1189-55-1 from “CM” to “C-3”.
August 12, 1961	Subject area designated “General Business” with an “M” overlay on the General Land Use Plan.
February 9, 1974	Approved General Land use Plan Amendment from “General Commercial” to “High Medium” Residential.
October 3, 1978	Approved rezoning from “C-3” to “RA4.8”.
May 5, 1982	Approved rezoning from “RA-4.8” to “C-O-1.5”.
September 10, 1983	Approved site plan for the renovation of the existing Exxon service station subject to a review in one year.
September 8, 1984	Continued site plan for Exxon service station with a review in three years.
September 9, 1988	Continued site plan for the Exxon service station subject to all previous conditions and with no further review.
March 10, 1990	Deferred site plan (SP #282) and General Land Use Plan Amendment request (G-215-90-1) from “High Medium” Residential to “Low” Office Apartment Hotel to the May 19, 1990 County Board meeting.
May 19, 1990	Defer site plan and General Land Use Plan Amendment requests to the July 7, 1990 County Board meeting.
July 10, 1990	Defer site plan and General Land Use Plan Amendment requests to the September 8, 1990 County Board meeting.
September 8, 1990	Defer site plan and General Land Use Plan Amendment requests to the November 17, 1990 County Board meeting.
November 17, 1990	Defer site plan and General Land Use Plan Amendment requests to the April 6, 1991 County Board meeting.
April 6, 1991	Defer site plan and General Land Use Plan Amendment requests to the May 11, 1991 County Board meeting.
May 11, 1991	Defer site plan and General Land Use Plan Amendment requests to the July 14, 1991 County Board meeting.

July 14, 1991	Defer site plan and General Land Use Plan Amendment requests to the September 14, 1991 County Board meeting.
September 14, 1991	Denied site plan and General Land Use Plan Amendment requests.
September 10, 1994	Defer site plan and General Land Use Plan Amendment requests to the October 1, 1994 County Board meeting.
October 1, 1994	Approved General Land Use Plan Amendment and Site Plan approval requests subject to conditions.
August 14, 1999	Extended the term of site plan approval for three additional years from October 1, 1999 to October 2, 2002.
September 14, 2002	Extended the term of site plan approval from October 2, 2002 to October 21, 2002.
October 19, 2002	Extended the term of site plan approval from October 21, 2002 to January 31, 2003.
January 17, 2003	Extended the term of site plan approval from January 31, 2003 to February 28, 2003.
February 8, 2003	Extended the term of the site plan approval to February 28, 2006, subject to the previous conditions; amended Conditions #1, 7, 8b(1), 8h, 11, 22, 52, 53 and 56; and new Conditions #58, 59 and 60.
June 12, 2004	Denied a General Land Use Plan Amendment from "Low" Office-Apartment-Hotel and Low-Medium Residential to "Low" Office-Apartment-Hotel and Site Plan amendment request for an approximately 463,000 square foot office building.
October 15, 2005	Extended the term of the site plan approval to February 28, 2009, subject to previous conditions and amended Condition #1.
January 24, 2009	Extended the term of the site plan approval to May 31, 2009, subject to previous conditions and amended Condition #1.
May 16, 2009	Extended the term of the site plan approval to June 30, 2009, subject to previous conditions and amended Condition #1.